

# Town of Surfside Regular Town Commission Meeting AGENDA February 8, 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
- 2. Quasi-Judicial Hearings
- 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 1-84)
    - December 14, 2022 Regular Town Commission Meeting Minutes
    - January 11, 2022 Regular Town Commission Meeting Minutes
    - January 18, 2022 Zoning Code Workshop Meeting Minutes
    - January 26, 2022 Special Town Commission Meeting Minutes

- **\*B. Town Manager's Report –** Andrew Hyatt, Town Manager (Pages 85-98)
- \*C. Town Attorney's Report Weiss Serota, Town Attorney (Pages 99-115)
- **D. Committee Reports -** Andrew Hyatt, Town Manager (Pages 116-160)
  - November 15, 2021 Parks and Recreation Committee Meeting Minutes
  - November 16, 2021 Planning and Zoning Board Zoning Code Workshop Meeting Minutes
  - December 16, 2021 Planning and Zoning Board Meeting Minutes
- **DI. FY 2022 Budget Amendment Resolution No. 3 -** Andrew Hyatt, Town Manager (Pages 161-166)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING BUDGET AMENDMENT NO. 3 FOR THE FISCAL YEAR 2022 BUDGET; PROVIDING FOR IMPLEMENTATION; 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
  - 1. Ordinance Amending Section 90-57 "Marine Structures" Andrew Hyatt, Town Manager (Pages 167-173)

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

2. Ordinance Securing Construction Sites, Safety and Other Requirements – Vice Mayor Tina Paul (Pages 174-185)

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.

3. 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 186-247)

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 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.

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

### B. First Reading Ordinances

 Amending Zoning Definitions to Remove Development Loopholes – Commissioner Eliana Salzhauer (Pages 248-256)

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-2. - "DEFINITIONS", TO DELETE THE DEFINITION FOR "GROSS ACRE" AND TO REVISE THE DEFINITIONS FOR "HEIGHT," "LOT AREA," AND "LOT COVERAGE"; 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 9:45 p.m.) (Note: Depends upon length of Good and Welfare)
  - A. Resolution Reaffirming the Town's Commitment to Condemn Anti-Semitic, Hateful and Hurtful Messages and Behavior – Mayor Charles W. Burkett (Pages 257-262)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, REAFFIRMING THE TOWN'S COMMITMENT TO CONDEMN ANTI-SEMITIC, HATEFUL AND HURTFUL MESSAGES AND BEHAVIOR, INCLUDING THE REAFFIRMATION OF THE PROVISIONS OF SECTION 54-2 OF THE TOWN'S CODE, "CONSIDERATION OF ANTI-SEMITISM AND HATE CRIMES IN ENFORCING LAWS" AND SUPPORTING AN AMENDMENT TO SECTION 54-2 TO BROADEN THE DEFINITION OF ANTI-SEMITISM AS OUTLINED HEREIN; PROVIDING FOR SEVERABILITY AND CONFLICTS; PROVIDING FOR IMPLEMENTATION AND AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Resolution Urging the Florida Legislature to Oppose Senate Bill 280 – Commissioner Eliana Salzhauer (Pages 263-285)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, URGING THE FLORIDA LEGISLATURE TO OPPOSE SENATE BILL 280, WHICH UNDERMINES LOCAL AUTHORITY'S ABILITY AND ELECTED DUTY TO PROTECT THE HEALTH, SAFETY AND WELFARE OF SURFSIDE RESIDENTS, AND WOULD ALLOW INDIVIDUALS AND ENTITIES TO DELAY ENACTMENT OF LOCAL ORDINANCES BY FILING LAWSUITS THAT ALLEGE AN ORDINANCE IS ARBITRARY OR UNREASONABLE; AUTHORIZING THE TOWN CLERK TO TRANSMIT THIS RESOLUTION TO THE OFFICIALS NAMED HEREIN; 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 286-329)
  - C. Amending the Town's Purchasing Code (Chapter 3) Commissioner Nelly Velasquez (Pages 330-342)
  - D. Community Center Pool Deck Lighting Staff Report Andrew Hyatt, Town Manager (Pages 343-344)
  - E. Art in Public Spaces Committee Commissioner Charles Kesl (Pages 345-346)
  - F. Demolition by Neglect Mayor Charles W. Burkett (Pages 347-349)
  - G. Excessive Homeless Contribution Made by the Former Commission -Mayor Charles W. Burkett (Pages 350-357)
  - H. Lowering of Property Taxes and Water Bills Staff Report Andrew Hyatt, Town Manager (Page 358)
  - I. Amending Town Code Section 2-237 Business Relationships Commissioner Eliana Salzhauer (Pages 359-364)
  - J. Community Center Second Floor Possibility- Andrew Hyatt, Town Manager (Pages 365-366)
  - K. Amend Tourist Board Ordinance Commissioner Nelly Velasquez (Page 367)
  - L. Legally Defective Charter Amendment Vote in 2012 Mayor Charles W. Burkett (Pages 368-395)
  - M. Cone of Silence/Secrecy Mayor Charles W. Burkett (Page 396)
  - N. License Plate Readers Mayor Charles W. Burkett (Page 397)
  - O. Cancel Culture in Surfside Mayor Charles W. Burkett (Pages 398-404)
  - P. Permit Process Mayor Charles W. Burkett (Pages 405-416)
  - Q. High Water Bill Mayor Charles W. Burkett (Pages 417-418)
  - R. Increased Commercial Airliner Flights over Surfside Mayor Charles W. Burkett (Page 419)
  - S. Purchase of Electric Vehicles Mayor Charles W. Burkett (Page 420)
  - T. One-way Automatic Gate at 96<sup>th</sup> Street and Bay Drive Mayor Charles W. Burkett (Page 421)
  - U. Draconian Fines for Residents Mayor Charles W. Burkett (Pages 422-428)
  - V. Surfside's Brand Name, Miami's Uptown Beach Town Mayor Charles W. Burkett (Page 429)
  - W. Epinephrine Auto-Injectors (EpiPen) Policy Discussion Commissioner Eliana Salzhauer (Pages 430-433)
  - X. Private Security Service Mayor Charles W. Burkett (Page 434)

- Y. Remote Participation by Commissioners Commissioner Charles Kesl (Page 435)
- Z. Budget Meeting Fiasco Commissioner Eliana Salzhauer (Page 436)
- AA. Tree Program Andrew Hyatt, Town Manager (Pages 437-438)
- BB. Farmer's Market Mayor Charles W. Burkett (Page 439)

### 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 <a href="https://www.townofsurfsidefl.gov">www.townofsurfsidefl.gov</a>.

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

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



# Town of Surfside 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.

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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 de 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.

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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.

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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** 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 N/A 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 90-57. "MARINE STRUCTURES", TO **PROVIDE** FOR REGULATIONS **FOR** OF DOCKS, PIERS AND CONSTRUCTION MOORINGS WATERFRONT LOTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND

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### 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 9:45 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.

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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 MIAMIDADE 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

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# 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.

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

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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

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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.

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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.

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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-away 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 reiterated what Commissioner Salzhauer, Vice Mayor Paul, Commissioner Kesl and Commissioner Velasquez stated.

Mayor Burkett stated that, regarding the collapse, there is no conclusion yet from our experts. He said making judgements is silly and a waste of our time because this is something that serious people are taking serious steps to seriously look at. He stated that we (Surfside) should be following the County and the State and he knows it sounds nice that Surfside should lead and sounds good and it may make you feel good but the bottom line is that there are experts, there are professionals and they are looking at this and they are going to solve this problem. He stated since we do not know the reason why the building fell down to this day. He stated that we are all sort of angry because again we (Surfside) are being blocked from getting those answers, and that is just his opinion and he is going to vote against this because he wants the right information. He stated that he wants to do the right thing and he does not want people fixing the things that necessarily we do not know are broken yet.

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.

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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.

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Accepted thisday of	, 2022.
Attest:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC Town Clerk	



# Town of Surfside Revised Regular Town Commission Meeting MINUTES January 11, 2022 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 Eliana Salzhauer (arrived at 7:01 p.m.) and Commissioner Charles Kesl (arrived at 7:02 p.m.).

Also present were Assistant Town Manager Jason Greene, Town Attorney Lillian Arango and Town Attorney Tony Recio.

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

Vice Mayor Paul wished everyone a Happy New Year and thanked Town Attorney Recio and Town Attorney Arango for their work preparing many resolutions and ordinances during holiday season, as well as the Town Clerk's for working so hard. She extended condolences to former Commissioner Michael Karukin for the passing of his mother. She encouraged everyone to attend the Tourist Board Third Thursdays event and to wear their masks. She thanked Captain Healy for his dedicated work as Interim Chief and welcomed Police Chief Torres.

Commissioner Salzhauer also thanked Town Attorney Arango and Town Attorney Recio for working through the holidays on the different resolutions and ordinances. She stated that she would like to be able to get things done tonight.

Commissioner Velasquez wished everyone a Happy New Year and welcomed new Police Chief Torres.

Mayor Burkett welcomed new Police Chief Torres and thanked Captain John Healy for his hard work. He thanked staff for their dedication and hard work.

Commissioner Kesl appreciates the civility they had at the last meeting and would like it to continue.

- 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

No appointment was made by the Town Commission.

- Budget Committee - Mayor Burkett

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

- **Personnel Appeals Board** – Mayor Burkett

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

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. Champlain Towers South Status Update - Andrew Hyatt, Town Manager

Allyn Kilsheimer gave an update and commented on the status of the last court hearing. He stated that the trial date was moved to March 2023.

Vice Mayor Paul asked if there was any update on the investigation status of any findings and how often he has visited the site and storage facility.

Mr. Kilsheimer stated that they have not been allowed on the site and nobody has been allowed to go to the storage facility. He stated that without being able to get on the site to perform the testing, it is difficult to know what has occurred. He spoke regarding the protocol process.

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Vice Mayor Paul stated that if they will not have the opportunity to get the testing of the materials soon it may become tainted.

Mayor Burkett stated that Surfside has not been given the access needed.

Mr. Kilsheimer stated that the Judge stated that if he would do something to the site that would hinder it then he would no longer have access to the site.

Further discussion took place regarding the protocol process and what the Judge has stated as it pertains to Mr. Kilsheimer's access to the site.

Mr. Kilsheimer stated that at the last zoom hearing there were over 366 people on the call.

Commissioner Salzhauer asked regarding the time frame and his experience investigating other properties and the hurdles he is running into. She stated that they will not stop or give up and thanked Mr. Kilsheimer.

Commissioner Kesl asked based on his experience does he see the situation where Surfside has been wronged.

Mr. Kilsheimer addressed the comment made by Commissioner Kesl.

Mayor Burkett asked how many notices the Town has received.

Town Attorney Arango stated 25.

#### 2. Quasi-Judicial Hearings

A. 9011 Collins Avenue/Surf Club-Amendment to Resolution 13-Z-06 - Andrew Hyatt, Town Manager

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.

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Town Clerk McCready read the title into the record.

Mayor Burkett read the quasi-judicial statement into the record.

Town Attorney Arango read the development order requirement into the record and stated this is not an amendment to the site plan.

Town Attorney Arango asked Town Clerk McCready to confirm notice requirements.

Town Clerk McCready confirmed notice requirement was met.

Town Attorney Arango polled the Commission.

Vice Mayor Paul stated that she spoke with Bill Thompson briefly and staff.

Mayor Burkett stated that he spoke with Bill Thompson briefly and staff.

Commissioner Velasquez had no communication with anyone on this matter.

Commissioner Salzhauer had no communication with anyone on this matter.

Commissioner Kesl had no communication with anyone on this matter.

Town Clerk McCready stated there was no one from the public that wanted to speak, therefore no one was sworn in.

Mayor Burkett commented on the development order and the funds being used towards the 96<sup>th</sup> Street Project.

Commissioner Kesl stated that he supports the idea of the lifeguard station there.

Vice Mayor Paul stated that in theory she supports the lifeguard station but it was stated that it needed to be staffed fulltime and that needed to be reevaluated.

Commissioner Salzhauer stated that the lifeguard station could be placed later by the Surf Club.

Commissioner Velasquez agreed with Commissioner Salzhauer.

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

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

A motion was made by Vice Mayor Paul to approve the Consent Agenda with the amended minutes minus the December 14, 2021 meeting minutes, seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

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

Approved on consent minus the December 14, 2021 Meeting Minutes.

**\*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 28, 2021 Planning and Zoning Board Meeting Minutes
  - November 18, 2021 Special Tourist Board Meeting Minutes
  - December 6, 2021 Tourist Board Meeting Minutes

Approved on consent.

E. One-Year Extension of Curative Testing Site Outside Town Hall - Andrew Hyatt, Town Manager

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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.

Approved on consent.

F. FY 2022 Budget Amendment No. 2- Andrew Hyatt, Town Manager

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.

Approved on consent.

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

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.

Approved on consent.

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

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.

Approved on consent.

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.

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

## **B.** First Reading Ordinances

 Ordinance Securing Construction Sites, Safety and Other Requirements – Vice Mayor Tina Paul

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.

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

Commissioner Velasquez stated that there are a lot of changes than what they received and believes it should be deferred to next month. She stated that they are placing something on the agenda that she has not been able to read in detail and sit with the attorneys and understand what the ordinance entails. She stated this affects not only the condominiums but single-family homes. She stated this is not what was on last month. She stated that anything that happens in the H120 should be separate.

Commissioner Kesl agrees if there are additions that it should be deferred.

Commissioner Salzhauer stated that this is an important item and the safety is important. She stated that the only changes made are the yellow highlighted sections. She stated that things change between first and second reading of ordinances.

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Vice Mayor Paul stated that the idea is to provide standard safety measures that will protect the neighboring properties in the H120 district and that the new additions are not new additions and were elaborated by Mr. Kilsheimer to be more specific to what they are requesting. She spoke regarding the highlighted additions and read a detailed article from an engineering and architectural firm. She stated that the article she read applies to H120 structures and there are some respectful practices that will help the entire Town by including single family homes.

Mayor Burkett stated that this is a zoning issue and spoke regarding this being discussed in a workshop and some of the terms they are not familiar with and she is asking this Commission to make significant changes to the Code. He stated that the process is bad and the idea that she is trying to change procedures without having a workshop is not right.

Commissioner Kesl stated that this is not related to the zoning code and it is about protecting construction sites to be safe. He stated that the Vice Mayor has done a great job and believes this should be discussed and there are areas that they need to discuss.

Commissioner Salzhauer thanked Vice Mayor Paul for putting this together and this is exactly what they needed to put together. She stated that this requires work to be done and is worth talking about. She spoke regarding the portion that was added is minor.

Commissioner Velasquez stated that she agreed to it last time because she stated that it was to discuss the construction east of Collins Avenue to protect the other buildings. She stated that now it is adding single family homes. She stated she is fine with the part of east of Collins Avenue.

Further discussion took place among the Commission regarding the new language in the Ordinance.

Mayor Burkett asked if the Building Official was able to review it.

Town Attorney Recio stated that he did review it and he did have concerns with a preconstruction survey, the systemic monitoring and the water table monitoring.

Mayor Burkett asked Mr. Kilsheimer if he is fine with the document.

Allyn Kilsheimer stated that he agrees with the preconstruction survey, the systemic monitoring and the water table monitoring but has not seen the other areas of the ordinance.

Commissioner Salzhauer stated that the victims and relatives of Champlain Towers want change and want to make sure that they are safe. She stated that these are the safety requirements needed. She stated that she is fine with the item and everything that is in the ordinance.

The following individuals from the public spoke:

George Kousoulas stated that they have time between first and second reading to fine tune it. He stated that if you have a workshop you are talking about the next commission voting on the item. He stated that during the next month to speak to staff and experts.

Jeff Rose stated that this is a good initiative but agrees with Commissioner Velasquez that this was never discussed to include single family homes. He stated that many residents do read the agenda and are unable to see these changes that they were not able to look at.

Joshua Epstein stated that the process is to get things on the agenda two weeks prior and the obligation is to have it on time.

Randy Rose stated that he agrees with working smart and proper notice is important with adding new items.

Commissioner Velasquez would like to take out all the additions.

Commissioner Salzhauer stated that the additions are general in nature.

Commissioner Kesl asked regarding the additional requirements.

Vice Mayor Paul addressed the comments made by Commissioner Kesl.

Town Attorney Recio addressed the comments made by Commissioner Kesl as it pertains to the additions.

After a lengthy discussion regarding the item, the following motion was made.

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

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

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

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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.

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

Commissioner Salzhauer presented the item and explained what they are trying to do, and the information came from our experts, Mr. McGuinness and Mr. Kilsheimer. She spoke regarding what is in place is not accurate.

Commissioner Velasquez stated that she supports this. She stated that the problem she sees is that they bring things for H120 and then it spills into something else. She stated that Commissioner Salzhauer is adding geotechnical studies and Mr. Kilsheimer stated those are dangerous studies to be done with buildings that have residents. She would like a change to put in line 109 to add after the word and "of buildings East of Collins Avenue 4 stories and above" and in the area of geotechnical studies should also state that it is for "buildings East of Collins Avenue 4 stories and above". She stated these tests are very expensive. She would accept this with those changes.

Commissioner Kesl spoke regarding building requirements for buildings over 3 years to be inspected every 5 years. He read the grand jury report. He believes 30 years is too long.

Vice Mayor Paul spoke regarding the general considerations and guidelines and read the section. She stated that condominiums are hiring structural engineers that are specialized in recertification. She proposed to change the word on line 113 from requirement to "additional recommendation" and change the word "shall" to "may".

Mayor Burkett stated that he agrees with it. He spoke regarding the grand jury report. He stated that they do not know why the building fell down and for them to sit there and pretend they are going to solve a problem they do not know exists yet is not prudent. He spoke regarding geotechnical studies. He stated that he agrees with the comments made by Vice Mayor Paul. He asked regarding page 5 of 6 at the top, page 217 in line 119 what does that mean.

Commissioner Salzhauer stated that came from Mr. Kilsheimer and that is what he recommended. She clarified that everything came from Mr. Kilsheimer and he stated that he stands on his recommendation and what

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they are looking in the geotechnical are using waves. She also stated that she is happy to incorporate what the Grand Jury is recommending.

Commissioner Velasquez stated that this should be a suggestion if they want to engage in these studies as well as item B. She stated that this was to lower the recertification period and now it has other items that are costly.

Commissioner Kesl spoke regarding the geotechnical requirements. He agrees to get the language from experts.

Vice Mayor Paul reiterated what she stated and stated line 119 is part of the geotechnical studies.

Mayor Burkett agrees that the geotechnical is a comprehensive thing and the way it is written it could be interpreted to be a destructive testing.

The following members from the public spoke: George Kousoulas Shlomo Danzinger Jeff Rose Joshua Epstein Randy Rose

Commissioner Salzhauer stated that she would not mind incorporating the Grand Jury recommendation.

Commissioner Kesl would like to encourage the geotechnical requirement rather than mandate the requirement.

Vice Mayor Paul would like to make it a recommendation not a requirement. She stated to change requirements to additional recommendations as it pertains to the geotechnical study on line 113 of the proposed ordinance. She would like to lower it to 20 years.

Commissioner Velasquez asked Town Attorney Recio if the word should be "shall".

Town Attorney Recio reiterated the amendments to the ordinance.

Mayor Burkett asked if it is 20 years now.

Town Attorney Recio stated that since it is first reading, to allow the Building Official to look it over.

Town Attorney Arango advised the Commission the requirements

A motion was made by Commissioner Kesl to approve the Ordinance on first reading as amended to 20 years. The motion died for lack of a second.

After a lengthy discussion the following motion was made incorporating the grand jury report as it pertains to the inspections.

A motion was made by Commissioner Salzhauer to approve the Ordinance on first reading as amended to have recertification to 30 years and geotechnical requirements as recommendations and try to incorporate the recommendations from the Grand Jury Report, seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

The meeting took a recess at 9:45 p.m. The meeting reconvened at 9:56 p.m.

Town Clerk McCready called the roll and all members of the Commission were present.

A motion was made by Vice Mayor Paul to move item 5D (Champlain Towers South Memorial Park & Pedestrian Plaza at 88<sup>th</sup> Street) to be heard now and then have the discussion regarding the hedges right after, seconded by Commissioner Velasquez. The motion carried with a 4-1 vote with Commissioner Kesl voting in opposition.

- 5. Resolutions and Proclamations (Set for approximately 9:45 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

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 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

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#### SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

Mayor Burkett stated that they all have been working hard on this. He read his recommended changes.

Commissioner Salzhauer spoke regarding the NGVD calculation and she is fine with the ballot question with NGVD if you get rid of the "5". Her concerns are with the revisions he submitted today, and it is that it reduces the size of the building.

Commissioner Kesl stated that he has spoken to other officials regarding flood zoning. He stated this ballot question talks about restricting density. He spoke regarding the wave crest.

Mayor Burkett spoke regarding conversations he had with residents who state that the developers will force them out of their buildings. He explained what his language states. He stated that he is trying to let the people say enough and that they do not want the skyline moving up.

Discussion took place among the Commission regarding locking this in the Charter to prevent another commission from coming and changing it.

Vice Mayor Paul spoke regarding the different workshops where this was discussed. She stated that the document in front of them is the same one that was in front of them a month ago. She spoke regarding wave crest.

Town Attorney Recio stated that wave crest could change.

The following individuals from the public spoke: George Kousoulas Jeff Rose Randy Rose

A motion was made by Commissioner Velasquez to extend the meeting 30 minutes until 11:30 p.m., seconded by Commissioner Salzhauer. The motion carried with a 5-0 vote.

After a lengthy discussion the following motion was made.

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

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

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.

Town Clerk McCready read the title into the record.

Commissioner Kesl stated that he is concerned moving forward with this and it is an uphill battle and is ready to not fund it past tonight.

Town Attorney Arango responded to Commissioner Kesl's question and the bulk of the work has been done and the brief is over 150 pages and explained the process.

Vice Mayor Paul asked how much more are they expected to spend and supports moving forward with this to the appeal stage.

Mayor Burkett stated this is not safe and spoke regarding the memorandum from Miami Beach and the flight path of the planes over Surfside. He stated that he asked the Town Attorney to get the bills to see how the money is being spent and requested the billings. He requested to have it deferred to the next meeting for him to get the bills to review. He stated that they need to be diligent.

Vice Mayor Paul stated that she also questioned the bills and believes they spent more then they are being billed and would like to move forward with the appeal.

Commissioner Velasquez stated this is a small price to pay for peace of mind. She stated this is something that she would support.

Commissioner Salzhauer stated that they need to be more proactive.

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

A motion was made by Commissioner Kesl to extend the meeting for 10 minutes until 11:40 p.m., seconded by Vice Mayor Paul. The motion carried with a 5-0

vote.

C. Downtown Walkability and Design Study Scope of Work Approval – Andrew Hyatt, Town Manager

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.

Town Clerk McCready read the title into the record.

Assistant Town Manager Greene provided an overview of the item and the funds are coming from the Transportation Fund which comes from the County ½ penny sales tax. He stated that this item has gone before DVAC and they support it.

Town Planner Keller explained the project and the study.

Mayor Burkett asked if there will be a drawing and they need results.

Commissioner Velasquez asked if they need the study to be able to obtain more parking and are permits needed. She stated that she would like to spend the money to widen the streets.

Town Planner Keller stated that they need to provide the study to the State.

Further discussion took place regarding the item and the need for the study that has to be forwarded to the State.

The following individuals from the public spoke:
Jeff Rose
George Kousoulas
Shlomo Danzinger
Marianne Meischeid

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

A motion was made by Commissioner Velasquez to extend the meeting for 15 minutes until 11:55 p.m., seconded by Vice Mayor Paul and to discuss item 9C (Amending Zoning Definitions to Remove Development Loopholes). The motion carried with a 4-1 vote with Mayor Burkett voting in opposition.

D. Champlain Towers South Memorial Park & Pedestrian Plaza at 88<sup>th</sup> Street-Commissioner Eliana Salzhauer

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 MIAMI-DADE COUNTY AND/OR FLORIDA DEPARTMENT 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.

Town Clerk McCready read the title into the record.

Commissioner Salzhauer introduced the item and is happy to move this forward. She stated this came about by Randy Rose and it has been frustrating that the judge was not interested in a memorial. She spoke regarding taking the land the Town owns that is closest to the property and use it for a memorial.

Commissioner Kesl stated that he supports this item and spoke regarding his concern with this section is having egress.

Commissioner Velasquez asked if another Commission could change their decision.

Town Attorney Arango stated that any Commission could come and reverse the decision.

Commissioner Velasquez wants to make sure they can do something beautiful for the families.

Vice Mayor Paul stated she cannot see anyone reversing this and wishes they could do more. She suggested having a committee to work on the memorial.

Mayor Burkett agrees with all the comments and they have all said the same thing. He stated that they have constantly made an effort to support the families.

The following individuals from the public spoke: Randy Rose

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David Rodan
Nussen Ainsworth
Jeff Rose
Joshua Epstein
Pablo Langesfeld
Levy Ainsworth
Shlomo Danzinger

Commissioner Salzhauer stated that this will get done and it would have to be a ballot question to stop it being reversed.

Vice Mayor Paul spoke regarding the egress and stated that the Blue Green Building is existing and they have to find an egress area.

Mayor Burkett stated this is important, but they need to start the process.

Town Attorney Recio stated that the item before them is not closing the roads.

Commissioner Salzhauer stated that they are closing it like Lincoln Road.

Mayor Burkett stated they are all committed to having this happen.

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

#### 5.E ADD ON ITEM:

A motion was made by Commissioner Salzhauer to reconsider the motion on Resolution Number 2021-2843, seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

Town Attorney Arango read the title of the resolution that was adopted and being reconsidered.

Mayor Burkett stated that the language should read that the hedges should be no less than 6 feet.

The following individual from the public spoke: Jeff Rose

Town Attorney Arango read the new language. She stated that it reads "shall the Charter be amended to prohibit any limitation on the height of hedges to single family lots to less than 6 feet". She stated that is the language for the ballot and she read the text amendment to be placed on the ballot.

Commissioner Kesl asked if this will tie the hands of the Commission when action is

taken on visibility to corner lots.

Commissioner Salzhauer stated her concerns with this being on the ballot. Her concern is that the voters will get confused.

Town Attorney Arango stated that the correct language for the motion should be to amend Resolution Number 2021-2843 to incorporate the language for the ballot question to read "Shall the Charter be amended to prohibit any limitation on the height of hedges in single family lots to less than six (6) feet?" and the text amendment to read "Subject to required vision clearance for lots, hedges shall be permitted within any property line or any required yard or setback on a single family lot and no limitation shall be enacted to restrict the height of hedges to less than six (6) feet."

A motion was made by Commissioner Velasquez be to amend Resolution Number 2021-2843 to incorporate the language for the ballot question and the text amendment, seconded by Vice Mayor Paul. The motion carried with a 4-0 vote with Commissioner Kesl absent.

# 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.

Marianne Meischeid spoke regarding the corridor in the Downtown area. She spoke regarding the ballot questions regarding the hedges.

Shmuly Ainsworth spoke regarding the memorial and having a memorial at the site. Jeff Rose spoke regarding the hedges.

George Kousoulas spoke regarding the hedges and the intent being expressed. Randy Rose spoke regarding the ballot questions and would like something placed on the ballot for Champlain Tower South to increase it to 18 floors.

Joshua Epstein spoke regarding staying focused on the victims of Champlain Towers.

Robert Fisher spoke regarding undergrounding and an issue he had with an illegally parked car at his home.

Mayor Burkett addressed the comments made regarding the memorial site.

Commissioner Salzhauer stated that there is an item on the agenda regarding the memorial and explained it is at least as close as possible.

Commissioner Salzhauer agrees with Mr. Epstein that the important thing to be focused on is the memorial for the victims and their families. He stated that it is upsetting that money is more important than the families lost.

Commissioner Kesl spoke regarding undergrounding and problems with power

grids. He also addressed the comments made regarding the memorial.

Commissioner Velasquez spoke regarding the hedges and believes this is important and the ballot questions should be clear. She spoke regarding the memorial and it is important to remember the lives lost.

Vice Mayor Paul addressed the comments made and spoke regarding the workshops attended regarding the ballot questions and if it was not written properly then it is on them. She stated that she supported it because she knows that a lot of residents had issues with the hedges. She stated that more importantly is having the memorial and wishes it could be on the property but supports it being on 88<sup>th</sup> Street.

Mayor Burkett spoke regarding the hedges. He stated that the memorial is easy and they are doing something next to the site because they do not own the site. He addressed the comments made by Commissioner Kesl and stated that the hedges need to be on the ballot and the reason why it should be on the ballot to put a cap on the height of the hedges. He stated that it should read that the hedges should not be less than 6 feet.

Commissioner Velasquez stated that the correction was made last month and the correction should have been reflected now.

Town Attorney Arango clarified the charter ballot question regarding the hedges which was approved 4-1 at the last meeting and read what it currently reads. She stated that it was written in the affirmative and in the positive. She stated that the 6 feet was directed by this Commission. She spoke regarding the rule for reconsideration.

#### 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

Deferred to the next meeting.

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

Deferred to the next meeting.

# C. Amending Zoning Definitions to Remove Development Loopholes – Commissioner Eliana Salzhauer

Commissioner Salzhauer introduced the item and explained these are for the H120 definitions and the gross acres applies to the beachfronts and the lot areas is to be moved from the bulk line to the erosion area. She spoke regarding lot coverage applying to residential which was the 40% they discussed previously.

Mayor Burkett stated that he supports this but is aggravated that she comes in and jumps in front of the line. He asked if the lot coverage language is the same as the ZIP.

Town Attorney Recio stated it is the same language in the ZIP.

Mayor Burkett asked if the second page is the actual language in the Code.

Commissioner Salzhauer stated that they will use NAVD.

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

A motion was made by Commissioner Salzhauer to direct the Town Attorney to bring to the next meeting an Ordinance with the definitions, seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

L. Amend Tourist Board Ordinance – Commissioner Nelly Velasquez

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

O. License Plate Readers – Mayor Charles W. Burkett

Deferred to the next meeting.

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

Deferred to the next meeting.

Q. Permit Process - Mayor Charles W. Burkett

Deferred to the next meeting.

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R. High Water Bill - Mayor Charles W. Burkett

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

Y. Private Security Service – Mayor Charles W. Burkett

Deferred to the next meeting.

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

Deferred to the next meeting.

AA. Budget Meeting Fiasco - Commissioner Eliana Salzhauer

Deferred to the next meeting.

## BB. Tree Program - Andrew Hyatt, Town Manager

Deferred to the next meeting.

# 10. Adjournment

A motion was made by Commissioner Kesl to adjourn the meeting without objection at 11:40 p.m. seconded by Vice Mayor Paul. The motion was rescinded.

A motion was made by Commissioner Velasquez to adjourn the meeting without objection at 11:53 p.m. seconded by Vice Mayor Paul. The motion carried with a 5-0 vote.

Accepted thisday of	, 2022.
Attest:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC Town Clerk	

23



## Town of Surfside Zoning Code Workshop AGENDA January 18, 2022 6 p.m.

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor Surfside, FL 33154

#### 1. Opening

Mayor Burkett called the meeting to order at 6:08 p.m.

#### A. Roll Call of Members

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

Present: Mayor Charles Burkett, Vice Mayor Tina Paul (arrived at 6:12 p.m.), Commissioner Nelly Velasquez, Commissioner Charles Kesl and Commissioner Eliana Salzhauer (arrived at 6:49 p.m.)

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

## 2. Summary of Changes from September and October Workshops

Mayor Burkett gave an overview and history of the reason for the zoning code rewrite. He stated that what he has proposed to the Commission is that they had a zoning code that worked in the past and they would like to go back to that code and use that code as the foundation for the rewrite. He stated that they have the protective code the Town had for decades. He stated that they have been trying to get the code rewrite using the foundation as stated.

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

Town Attorney Recio went through where they left off in the last workshop and gave an overview of what they have discussed previously. He stated that he will have some questions for the Commission.

The Commission agreed to allow synthetic turf only in pervious areas.

Town Attorney Recio spoke regarding additional flooring area for addition or alterations to family homes known as the practical areas. He stated do they want to allow an exception or have the homeowner come for a variance.

Commissioner Velasquez asked if that would still require the 50% rule.

Town Attorney Recio stated that they still have to follow that rule.

Town Attorney Recio stated that on page 63, they decided the blank is 1970 and what you get is an extra 5% lot coverage. They capped lot coverage at 40% and this would allow them 45%.

Mayor Burkett asked if that would be the build on the first floor.

Town Attorney Recio stated that it currently is not limited to the first floor but they could limit to the first floor.

Mayor Burkett spoke regarding the lot coverage and building under the existing rules.

Vice Mayor Paul stated that she is fine with that because they are preserving the home and the character of the Town.

Commissioner Kesl spoke regarding incentivizing individuals to keep the original home.

The following individuals from the public spoke:

George Kousoulas Jeff Rose Carolyn Baumel

Commissioner Velasquez asked regarding the 45% rule.

Town Attorney Recio answered Commissioner Velasquez' question.

Commissioner Velasquez agrees giving an incentive to have them bigger on the first floor to avoid going to a second home.

Vice Mayor Paul spoke regarding some wanting a second floor.

Town Attorney Recio responded to the comments made by the Commission as it pertains to additions.

Discussion took place among the Commission and the Town Attorney regarding the 50% rule as it pertains to renovations and tear downs.

Building Official McGuinness spoke regarding FEMA's flood requirements and replacement costs.

Mayor Burkett stated consensus was reached to add the extra 5% and the houses are required to be compatible and sensitive to existing designs.

#### Roof top decks in H30C and H30B

Town Attorney Recio gave an overview of the item and spoke regarding roof top decks in a certain area.

Commissioner Velasquez stated she was fine with them on the water lots because they are bigger but the smaller lots you are already having loss of privacy.

Vice Mayor Paul stated that she was not for the prohibition.

Town Attorney Recio stated that on the water they can have it but not in the interior lots.

Vice Mayor Paul asked if the corridor lots are limited.

Town Attorney Recio read the limits of the interior lots.

Discussion took place among the Commission and Town Attorney Recio regarding the height requirements for the roof top decks.

Mayor Burkett gave an update to Commissioner Salzhauer on what has been discussed tonight.

Town Attorney Recio stated the way it currently is written as it pertains to the roof top decks.

Commissioner Velasquez asked regarding the homes that already have roof top decks.

Town Attorney Recio addressed the question asked by Commissioner Velasquez.

Commissioner Salzhauer spoke regarding roof top decks in residential areas and it should not be allowed.

Commissioner Kesl spoke regarding the roof top decks and the noise they can bring and that the key is to have peaceful neighborhoods.

Vice Mayor Paul stated that the roof top decks need to be controlled by size. She expressed her concerns with the ones on Harding Avenue. She stated that having a roof top deck is like having a balcony and needs to be limited by size.

Mayor Burkett, Vice Mayor Paul and Commissioner Velasquez are fine with the roof top decks on the waterfront properties. Further discussion took place among the Commission regarding the roof top decks and noise.

The following individuals from the public spoke:

George Kousoulas Jeff Rose Carolyn Baumel Randy Rose Shlomo Danzinger Marianne Meischeid

Mayor Burkett stated that he could set this aside and come back to it.

Vice Mayor Paul stated that the H30C should be looked at similar to the H120.

Champlain Tower South stays as is.

#### **Use Restrictions**

Town Attorney Recio stated the Commission desire was no new hotels in the historic district.

Mayor Burkett stated that those smaller hotels will not be successful.

Mayor Burkett asked Commissioner Kesl if he wants ratty hotels. He stated what they are trying to do is get the units renovated into viable units.

Discussion took place among the Commission regarding the hotels in the historic district.

The following individuals from the public spoke: Randy Rose Jeff Rose George Kousoulas

Commissioner Salzhauer spoke regarding the quality of life.

Vice Mayor Paul stated she supports the hotels option to give flexibility to the property owners in the historic district to revitalize their property.

Commissioner Velasquez likes it with conditional use but would prefer no more hotels in Town.

Town Attorney Recio explained the process of conditional use.

Consensus was reached by the Commission to allow hotels in the historic district with serious conditions.

5A is a procedural issue-When you have conditions on conditional uses and site plan approvals to require them to get a temporary occupational license – Consensus was reached among all.

# 5B-original put 45 days from submittal day, they changed it to go down to 30 days.

Vice Mayor Paul asked why the amount of days was changed because they might need more time. She wanted to know the previous timeline.

Town Attorney Recio stated it used to be 21 days and they added more time to allow the Town Planner more time to be able to review the applications.

Mayor Burkett stated that the Town Planner needs more help and there is still a level of frustration out there on the time that it is taking.

Commissioner Velasquez asked that it was being done within 21 days and does not understand why the Town Planner cannot do it within 21 days. She stated that if he cannot do it within 21 days then we need to find someone that can do it within 21 days.

Town Planner Keller addressed the comment made by Commissioner Velasquez and explained why there is need for more than 21 days.

Town Attorney Recio stated that he suggested 45 days because it is not only the Town Planner that has to review the applications.

Commissioner Kesl understands why they need 45 days.

Commissioner Salzhauer asked Town Planner if he can do it within 30 days.

Town Planner Keller stated that in some projects would take 45 days.

Commissioner Salzhauer stated if they would like to divide it to certain ones in 30 days and some in 45 days.

Consensus was reached among the Commission to allow for 30 days for residential and 45 days for high rise and commercial.

The following individuals from the public spoke:

Jeff Rose Carolyn Baumel

#### 6B -

Town Attorney Recio introduced the item regarding clarification of understory area beneath first finished floor to make code internally consistent.

The following individuals from the public spoke

George Kousoulas

Jeff Rose Carolyn Baumel

Commissioner Salzhauer stated that this is not something to rush into and they could address it later.

Commissioner Kesl stated this did need clarification. He does support increasing the height limit but is in support of the understory and having a pervious area that will absorb the water.

Commissioner Velasquez agrees with Commissioner Salzhauer and believes this is opening a pandora's box. She does not support this at the moment and believes this is something that needs to be looked at. She spoke regarding increasing the homes by 5 feet and that is too much.

Building Official McGuinness addressed the comments made by Commissioner Velasquez.

Vice Mayor Paul supports this and has heard the discussion at the Planning and Zoning Board Meetings. She stated this is being progressive. She does not support the extra 5 feet of height because their goal is to try and incentivize individuals from tearing down the homes.

Mayor Burkett agrees with Vice Mayor Paul and Commissioner Kesl. He noted the concerns of the Commissioners and spoke regarding Lindsey Lecour's home and that it is a very nice home. He spoke about conditions that would address Commissioner Velasquez and Salzhauer's concerns.

Further discussion took place among the Commission and staff regarding this item.

The following individuals from the public spoke:

George Kousoulas Jeff Rose Joel Lapidus Carolyn Baumel Allen Davoudpour

Mayor Burkett asked if there would be certain provisions in place would they feel comfortable.

Commissioner Velasquez would like to explore this more and speak with Town Attorney Recio.

Commissioner Salzhauer believes this item is too big of a topic to tackle and believes it can be changed later and does not want to open this box.

Commissioner Velasquez stated that she feels the same way as Commissioner Salzhauer and this item just came up. She stated that they need to understand it better and sit with the Town Attorney and Town Planner to see how it changes the aspect of the Town.

Commissioner Kesl spoke regarding the understory and supports this item.

Vice Mayor Paul stated this not a new concept and it was not considered by the previous commission because it was not brought to their attention. She spoke regarding Lindsey Lecour's house. She supports everything except the extra 5 feet in height.

Mayor Burkett stated to bring this back with the package that they will be approving at their next commission meeting. The commissioners can talk with the Town Attorney and Town Planner and have a discussion.

Page 93 of the Bold-Chart with Notes for the next 6 pages that is one way of presenting the information and asked which way they would like to have it presented.

Mayor Burkett asked if it was presented this way before.

Town Attorney Recio stated that one way to present it could be H30A and H30B all the rules there. He stated that himself and Town Planner Keller could work with this current chart but understands how placing it all in one area would be easier for others to understand.

Mayor Burkett asked regarding the way it was previously in the code.

Town Attorney Recio's recommendation is to have it in separate pieces, all single family under one section.

Commissioner Velasquez would prefer to have it the way it is being presented tonight.

The following individuals from the public spoke:

George Kousoulas

Commissioner Salzhauer stated that the version they have is very confusing. She stated that whatever would be easier for him to explain to the people. She does not have an opinion. She stated that it would be good to have it separate.

Commissioner Velasquez asked for clarification.

Town Attorney Recio clarified his recommendations on the two forms of presenting the item.

Commissioner Kesl stated that what is confusing to him is the minimum floor requirement. He is fine with Town Attorney Recio's recommendation.

Vice Mayor Paul agrees with Town Attorney Recio's recommendation.

Consensus was reached by the Commission to have Town Attorney Recio's recommendation of placing all similar items under each section (example all single-family homes under one section).

#### 17. Demolition

Commissioner Velasquez stated that she prefers to have a vacant lot than a property that is in bad condition.

Building Official McGuinness addressed the comments made by the Commission.

The following individuals from the public spoke:

Jeff Rose George Kousoulas Randy Rose

Commissioner Salzhauer addressed the comments from the public and spoke regarding the article she had distributed to the Commission.

Commissioner Velasquez asked if they will be citing the homeowner if the Town wants to preserve the home because you want to preserve it because it is historic. She stated that they need to allow the homeowner to demolish a property that is vacant and in bad condition.

Commissioner Kesl spoke regarding the item and does not believe it fits in.

Vice Mayor Paul spoke regarding the intention which is the commitment of the property owner to build what they stated they would build.

Mayor Burkett agrees with Commissioner Velasquez as it relates to properties that are in bad condition.

Commissioner Salzhauer asked what has changed.

Further discussion took place among the Commission regarding the item.

## 20 Sustainability and Permit Fees for Rooftop solar

Town Attorney Recio provided an overview of the item and the concept.

Commissioner Velasquez commented on the item and believes that there are sections that need to be discussed further.

Commissioner Kesl spoke regarding the guidelines provided to link to the standards and believes this is very important.

Vice Mayor Paul stated that she supports this and would like to know the number for what the requirement should be.

Mayor Burkett spoke regarding if there is a criteria and if it is in the Building Code.

The following individuals from the public spoke:

George Kousoulas Jeff Rose

Commissioner Salzhauer stated that she is for having standards. She is in agreement with the Silver LEED.

Commissioner Velasquez stated she is fine with this but would like to know more about it.

Further discussion took place among the Commission on this topic.

Consensus was reached among the Commission to request Silver LEED as a minimum standard requirement everywhere except in residential.

#### Item 21 - Permit Fees for Rooftops solar

Vice Mayor Paul spoke about the ordinance that was adopted previously and that it was taken care of with that process and that the fees will be waived.

Town Attorney Recio confirmed that all solar panels are required to go in front of the Planning and Zoning Board for Design Review.

## Item 22- Fences, walls and gates

Town Attorney Recio asked for direction regarding fences in front yards specifically. He explained that the Planning and Zoning Board does not placing fences in front yards. He explained the front and side of the property and how to treat it as it pertains to walls and fences.

9

Commissioner Salzhauer spoke regarding fences and gates being a problem for her because it changes the neighborhoods and the dynamic of the neighborhood. She stated that she does not want walls or fences.

Commissioner Velasquez spoke regarding many houses that have fences and they should not have to take down their fences.

Commissioner Salzhauer stated the lots Commissioner Velasquez is talking about are corner lots.

Commissioner Kesl stated that the front of the homes should not have fences or gates.

Vice Mayor Paul stated they should allow the existing gates and fences and any new ones should follow the design guidelines.

Town Attorney Recio stated that Planning and Zoning Board would like to not have to see these applications before them. They recommended up to 4 feet in height and no fences or gates in the front yard.

Mayor Burkett stated that he is not happy that they limited the hedges to 6 feet. He stated that there are very lovely homes with gates in the front.

Town Planner Keller explained the Planning and Zoning Board's frustration is due to the fences and gates not being in the code.

The following individuals from the public spoke:

Jeff Rose Carolyn Baumel Shlomo Danzinger Shaya Schneider

Commissioner Salzhauer stated this is exactly why she did not want to be part of the zoning rewrite. She spoke regarding the fences, gates and hedges.

Commissioner Velasquez spoke regarding the comments made by Commissioner Salzhauer.

Commissioner Kesl spoke regarding the low walls in Town. He stated that Commissioner Salzhauer speaks for many of the residents and they need to be careful because it will change the character of the Town.

Vice Mayor Paul stated that they need the recommendation of the Town Planner and the Board. It is not about restricting people but what will fit in the community. She stated that there needs to be regulation on how it will look.

Mayor Burkett stated that they are here to make a decision. He stated there is nothing wrong with gates and a gate that is beautiful adds beautiful architectural components to the house.

Commissioner Salzhauer stated that it started with corner lots allowing this and supports that but the problem is when it grows.

Commissioner Velasquez spoke regarding the fences and gates.

Further discussion took place among the Commission regarding their position on gates and fences.

Mayor Burkett summarized the comments made by the Commission.

The following individuals from the public spoke:

Jeff Rose George Kousoulas Carolyn Baumel Shlomo Danzinger

Commissioner Salzhauer addressed the comments made by the Commission and the public and does not want fences and gates.

Commissioner Velasquez stated that the fences and gates in the inner lots should be smaller and passing fences and supports them on the corner lots.

Further discussion took place among the Commission regarding the item and having the Town Attorney and Town Planner place this into the code.

Mayor Burkett gave a summary of the item and asked each member of the Commission for their input.

Consensus was reached by the Commission with the direction given to the Town Attorney regarding gates and fences (Commissioner Velasquez, Vice Mayor Paul and Mayor Burkett).

# 23: Design Review of additions and renovations to existing single-family homes -

Town Attorney Recio spoke regarding the agenda process for the Planning and Zoning Board.

Consensus was reached by the Commission to go with Town Attorney Recio's suggestions.

# 24 Florida Friendly Landscaping

Town Attorney Recio gave an overview of the item.

Town Planner Keller addressed the difference of the trees as it pertains to the code. He stated that they need to look at the landscape code as it pertains to single family homes.

Commissioner Velasquez asked regarding different forms of the plants. She asked if this change means that the homeowner has to go with an individual to place a tree in their home. She does not agree with additional expense to the homeowner. She believes that this needs to be looked at more.

Vice Mayor Paul stated the way she interpreted this portion of the code.

The following individual from the public spoke:

Carolyn Baumel Shlomo Danzinger Allen Davoudpour Jeff Rose George Kousoulas Linden Nelson

Commissioner Salzhauer supports this item.

Commissioner Velasquez stated that if the plants mentioned are Florida friendly then she is in support of the item.

Commissioner Kesl spoke regarding his experience and spoke regarding sustainability and believes 40% is a low benchmark.

Vice Mayor Paul agrees with the 40% and what Commissioner Kesl stated regarding the list.

Mayor Burkett spoke regarding the comment made by Commissioner Kesl and does not believe they should have plants that do not need water like Arizona. He stated that he supports what they have.

Consensus was reached by the Commission on the changes made.

# 25. Practical Difficulty Variance

Town Attorney Recio explained the item and what would be allowed under a practical difficulty variance.

Commissioner Velasquez agrees with the proposal.

Commissioner Salzhauer agrees with the proposal.

Commissioner Kesl agrees with the proposal.

Vice Mayor Paul agrees with the proposal and it is up to the owner where the front door is.

Discussion among the Commission and the Town Attorney took place regarding what constitutes the front of the property.

The following individuals from the public spoke:

George Kousoulas

Consensus was reached among the Commission to leave this section the way it is.

#### 26. Variance

Town Attorney Recio stated that the Commission requested 4 votes of the Commission is needed to grant a variance.

Commissioner Salzhauer asked in the 2004 code how many votes was needed.

Town Attorney Recio stated 3 votes.

Mayor Burkett stated that the Town does not give variances.

Consensus was reached by the Commission to go with 4 votes out of 5.

#### 2. Substantial Compliance Provision.

Town Attorney Recio stated that this will allow the Town Planner discretion for a minor change. He stated that as long as what you want to do complies with the code. He provided a summary of this section of the code and provided an example.

Commissioner Salzhauer asked why this was placed in the code.

Town Attorney Recio explained the reasoning and why he provided this proposal.

Vice Mayor Paul believes they do not have enough information. She asked what is being allowed under b. She stated that c, d, e and f she could agree with because they seem minimal. She stated that she says no to g and h.

Mayor Burkett asked Town Attorney Recio to explain why this section is needed.

Commissioner Salzhauer spoke regarding these sections coming in front of them and believes it was written very developer friendly. She believes that it opens the door and many things go wrong with South Florida and would like to keep a tight lid on the code.

Commissioner Velasquez stated that she cannot agree to this because there are many things that are not clear.

Commissioner Kesl believes this would open up another can of worms. He thanked the Town Attorney for trying to streamline things.

The following individuals from the public spoke:

George Kousoulas Linden Nelson Jeff Rose

Mayor Burkett stated consensus is to set this provision to the side. He stated that the draft would go to the Commission for first reading and then go to the Planning and Zoning Board and fine tune it. It would then come to the Commission for second reading.

Commissioner Salzhauer would like to have a joint meeting with the Planning and Zoning Board.

Commissioner Velasquez stated that this particular item was not requested by the Commission.

Commissioner Kesl stated that he wishes they were not rushed to get this done within the next 60 days.

Vice Mayor Paul stated that she is not completely against it, she just has issues with the vagueness.

Mayor Burkett stated that the idea is to put things into the code that would fix the old code.

The following individual from the public spoke:

George Kousoulas

Mayor Burkett asked Town Attorney Recio to put the draft together for the next meeting.

Commissioner Kesl asked to speak about the roof top deck.

Mayor Burkett reiterated the votes for the roof top decks.

Town Attorney Recio stated that if you are putting a deck on a roof 20 feet or less you would be at least 5 feet from the perimeter. He stated if you are higher, you would be required to be 10 feet from each perimeter. The one thing discussed at one point was to not require that on the waterfront side, so they could go right to the edge of the building.

Commissioner Kesl asked what the maximum 30 feet measurement is from and if the deck is above the 30 feet to what maximum.

Town Attorney Recio stated it does not add to the height and the railing is an extra feature.

Commissioner Velasquez stated that the setbacks should be greater in the front and back of the property on the water and the front. She spoke regarding the size of the roof top deck.

Mayor Burkett asked what the problem for the deck would be to project to the back of the water.

Commissioner Salzhauer spoke regarding lobbyist notice and they are speaking without registering. She would like to have a joint session with the Planning and Zoning Board.

Vice Mayor Paul would like to discuss the waterfront setbacks. She is in favor of the decks.

Mayor Burkett stated that he is in favor of the decks without disturbing the neighbors.

The following individuals from the public spoke:

Linden Nelson Allen Davoudpour Randy Rose Jeff Rose George Kousoulas Shlomo Danzinger

Commissioner Salzhauer addressed the comments made by the public.

Commissioner Kesl stated that he believes the height limit is also intended to limit uses and applications. He stated that he will not support roof top decks.

Consensus was reached by the Commission to allow roof top decks on waterfront properties with the setbacks stated.

- 4. Recommendations from Planning and Zoning Board for Single Family Districts
- 5. Public Comment
- 6. Question & Answer (based on public comment)

# 7. Adjournment

The	work	shop	adjou	rned	at 11	:03	p.m.

Accepted thisday	<sup>,</sup> of	_, 2022.
Attest:	Charles	s W. Burkett, Mayor
Sandra N. McCready, M	IMC	



# Town of Surfside Special Town Commission Meeting MINUTES January 26, 2022 6 p.m.

#### 1. Opening

#### A. Call to Order

Mayor Burkett called the meeting to order at 6:08 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, Assistant Town Manager Jason Greene, Town Attorney Lillian Arango, Town Attorney Tony Recio and Town Attorney Erick Hockman.

# 2. Champlain Towers South (CTS) Building Collapse – Inspection Protocol, Process and Cost Allocation

Mayor Burkett advised the public of the reason for this special meeting.

Town Manager Hyatt stated the reason why he called this meeting, which is to discuss the inspection protocol for the Champlain Towers South process and cost allocation.

#### **EXHIBITS:**

- A. Order Granting Town's Motion to Authorize Town as a Participant under Protocol for Inspection Invasive Testing
- B. Order Re Joint Protocol for Testing and Material Sampling;
- C. Joint Protocol for Testing and Material Sampling (Court Approved)

#### D. Geosyntec Consultants CTS Joint Testing Protocol Budget Estimate.

Town Attorney Arango introduced the item and stated that they are seeking direction on how to proceed with the cost allocation for inspection and testing of the Champlain Tower South site. She spoke regarding what has transpired at the status hearings with the judge. She gave an overview of what the Town is seeking, and this has been done for closure for the family members and not for litigation purposes. She provided a history of what has taken place and what the Town has been doing in order to get access to the site for the testing and for Mr. Kilsheimer to be able to have access. She stated that the Town is not party to this litigation. She continued giving an overview with the outcomes of several hearings. She explained the different exhibits in the agenda. She went over the cost analysis and the percentage for the defendant categories and the number of defendants. She stated that the cost allocation is 85% to be divided among the defendants. She explained what was presented before the court by Town Attorney Hockman as it pertains to the Town.

Mayor Burkett stated that the Commission will hear from Mr. Allyn Kilsheimer and then questions and comments will follow.

Mr. Allyn Kilsheimer provided an overview of what has been taking place. He spoke regarding the outline protocol he put together on the site on Collins Avenue which has nothing to do with the offsite area because they do not know what is there or the condition the materials are in. He stated that he put together a protocol of the types of testing that needed to take place on the site. He gave an update of what has been taking place up to now. He spoke regarding the protocol that they have received so far. He provided a summary of how the testing would take place. He stated that the defendants are the ones that have added more things to the protocol. He stated that his plan is to come Sunday and stay for 16 weeks. He spoke regarding the use of videographers and knowing the schedule for the testing. He explained his plan as it pertains to his team being here for the testing. He spoke regarding the cost and there is no way for him to verify the cost because he has no backup for the cost. He spoke on how the process works and what would happen if more individuals are added to the suit and what would occur when some drop out and what it would mean to those that remain as it relates to their portion of the cost. He explained what they are looking for is the trigger. He stated that they need to look at what is onsite as well as offsite. He stated that in life you need to follow and do what you think is morally and ethically right. He stated that they need this information to be able to do the work needed to find out what happened.

Mayor Burkett asked if the Commission would like to go around for 5 minutes a piece on the first round.

Commissioner Salzhauer stated that she requested the transcript of the court hearing because you have to look at what was said to know what took place. She stated that there are portions that are disturbing. She thanked Town Attorney

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Hockman for the great arguments he made and they fell on deaf ears. She spoke regarding statements made by the judge that are shown on the transcript. She stated that the goal of this court is to get the money for those that lost property and not about getting to the truth of what happened. She stated that our residents need to know what happened and get closure and peace. She stated that if they need to be a party to get access, then they might need to be a party.

Mr. Kilsheimer stated that there is no way of testing after they are done because the material will not exist anymore. He stated that they moved the sale date 3 weeks because they are doing boring for the buyer.

Commissioner Salzhauer stated that they are shutting us down and does not appreciate this. She stated that the court stated that the attorneys are working pro bono and the judge stated on page 44, line 18 he stated the amount in attorneys' fees. She stated that they cannot wait until NIST is done.

Commissioner Kesl asked if they do get involved and are a paying participant, will Mr. Kilsheimer be able to access what he needs to access to make a determination.

Mr. Kilsheimer stated that if he sees them doing something that is backwards and says it to them, they can either accept it or tell him to leave. He stated that most of the experts will agree with him. He stated that from his understanding they get to see whatever everyone else sees.

Commissioner Kesl asked how confident Mr. Kilsheimer is that all pieces will be hit.

Mr. Kilsheimer answered Commissioner Kesl's question.

Commissioner Kesl asked what is the likelihood that after all the tests are done that the investigation will be inconclusive at the end.

Mr. Kilsheimer stated that there are missing pieces in any puzzle. He further explained the process of the testing.

Town Attorney Hockman stated that if you are not a participant or a party in the case you have no powers to enter to a private property. You also have no rights to subpoena anyone.

Vice Mayor Paul thanked Mr. Kilsheimer for being with the Town since June 25, 2021 and for his persistence in representing Surfside and all the people who want to know what happened here.

Mr. Kilsheimer stated that he gets phone calls every week from residents asking if there is a problem in Town.

Vice Mayor Paul believes that it is our moral and ethical obligation to know what

happened. She stated that she has an issue with the Town being lumped in with the defendants instead of just being an interested party, since we are the municipality where this happened.

Mr. Kilsheimer spoke regarding the process of the response time and what will take place.

Vice Mayor Paul asked if they had any information regarding the criminal investigation.

Town Attorney Hockman stated that what the court has approved and the order entered by the judge regarding the testing and what is stated by them is that it is an ongoing criminal investigation.

Commissioner Velasquez stated that her biggest concern is handing over a blank check and believes it is very irresponsible. She asked Mr. Kilsheimer why is that his answer to the cost for the testing is \$2 million and their answer is \$4 million to do the testing to find out why the building collapsed.

Mr. Kilsheimer stated that the total cost of testing they estimated on and off the site. He stated that the onsite testing is \$4 million and the only two reasons he could find is that his guys are more efficient and the other thing is that the defendants added a large amount of very expensive testing.

Commissioner Velasquez stated that it seems like the court does not want him representing the Town. She stated that her feeling is that by him going through the process with them would they allow him to go with the other individuals and will they be paying Mr. Kilsheimer as well as the other experts.

Mr. Kilsheimer stated that the sampling and testing is what everyone is sharing in, then what he does with that information and what they are paying him to do is watch the collection of the data and make sure that the correct data is being collected and they will go through the data.

Commissioner Velasquez stated that what the judge wants is for the testing and then we pay Mr. Kilsheimer to examine the testing.

Mr. Kilsheimer asked Assistant Town Manager Greene what has been paid so far and what is still available.

Assistant Town Manager Greene stated that there is still \$877,000 left to be paid against the total amount.

Commissioner Velasquez stated that if they want the information, they have to play the way the judge wants, so in reality they are paying twice because you have to pay what the judge is requesting and then Mr. Kilsheimer and then you don't know

how much they are charging.

Mr. Kilsheimer stated that the sampling and testing is given to each expert to interpret the data, so you are not paying twice. He commented on the statements made by the receiver, Mr. Goldberg.

Mayor Burkett thanked Mr. Kilsheimer for his diligent efforts in guiding this Commission in giving incredible advice and knowing that they have the best expert in the Country and are happy to have him here. He asked that following the investigation and protocol, would he say that after the investigation outlining the protocol takes place would the materials be contaminated and not fit for further investigation.

Mr. Kilsheimer stated that you cannot take a sample of something that no longer exists. He stated that they are supposed to be taking soil and concrete samples that they must take spares, but you have no way of knowing how many spares they will have for other defendants to test.

Mayor Burkett asked if there will be special areas on the site that would be of more interest than others.

Mr. Kilsheimer stated that you might be more specific to understand a certain area more than another one.

Mayor Burkett asked regarding the protocol and wish list of all participants wanting the testing and stated that it is important to state that the Town has been blocked from doing what they need to do. He asked if the County ever hired a specialist engineer to assist the Police Department in this criminal investigation they are talking about.

Mr. Kilsheimer stated that as far as he knows they did not hire a specialist to assist in any criminal investigation and addressed the question regarding the testing in certain areas.

Town Attorney Hockman clarified some comments that were made regarding the court process and the judge's decisions.

Commissioner Salzhauer appreciates what Town Attorney Hockman stated and asked if they are likely that they will get sued and what is the deadline when they will know if they will get sued.

Town Attorney Hockman addressed the comment made by Commissioner Salzhauer and the process if the Town would be sued.

Commissioner Salzhauer asked if by March 7 we would have the possibility of being sued.

Town Attorney Hockman stated that he is willing to speak to her privately but not in the public since there is no attorney client privilege.

Commissioner Salzhauer stated that they should be able to get a court order to be able to get on the property based on a life and safety issue.

Town Attorney Hockman stated that they tried that and the judge denied it. He stated that they are not at the stage of anything being appealable and currently nothing has been done that can be appealed.

Commissioner Salzhauer stated that their goal is to get to the truth of what happened.

Town Attorney Hockman stated that he believes they are afraid of what Mr. Kilsheimer might find and say.

Commissioner Kesl stated that they have a moral and ethical duty to spend taxpayer dollars responsibly. He stated that this mission is more to satisfy the fight between the plaintiffs and defendants then actually finding the truth. He stated that the County criminal investigation has not happened and they are not seeing movement.

Commissioner Velasquez asked about the specific testing that he needs to do in order to get the answers.

Mr. Kilsheimer stated that they are doing everything he wants but more of it. They are trying to figure out what happened. However, the defendants are trying to figure out that their clients were not the cause of what happened.

Commissioner Velasquez asked if they do not give a blank check if their hands are tied.

Mr. Kilsheimer stated no.

Vice Mayor Paul asked if any of the testing is dangerous to the roadway or neighboring properties.

Mr. Kilsheimer stated that there are some tests to be done outside the footprint of Champlain Tower South that are in the property owned by Miami Beach and they need permission. There are tests to be done in the Town that need permits. He provided information on the areas where the testing will be done.

Vice Mayor Paul asked regarding the seismic testing and if he would be able to compare that to the seismic testing that was done during construction of the neighboring property.

Mr. Kilsheimer stated that if they are able to get their information based on the subpoenas served, then once they get that information, they will be able to understand more.

Vice Mayor Paul asked regarding the cost and concerns as to what the Town's percentage would be and does not like standing with the defendants and wants to be on our own as the Town. She stated that she would like to go back to the Court with our request and go as far as we can. She asked what the Town's percentage would be because we don't have a firm number.

Town Attorney Recio stated that what was presented to the Court is the 85% which would be divided between 9 defendants and the Town, but that is subject to some caveat. If any parties pull out then the remaining parties have to share in the cost.

Vice Mayor Paul stated that she believes they need more information and they should come up with a recommendation to represent to the Court to ask for a better balance.

Town Attorney Arango addressed the comment made by Vice Mayor Paul and the 85% was provided by the defendant and not the court.

Town Attorney Recio read what Mr. Thomas stated as it pertains to those withdrawing or settling, this was proposed by the defendants. He stated that what the court stated was for them to work it out.

Commissioner Velasquez asked if what they are asking is for them to give a blank check.

Town Attorney Recio stated they are asking for direction on what the Commission would like to do.

Commissioner Velasquez stated that they can give suggestion as to not giving a blank check and go back and tell them we will not do this unless there is a specific amount of money on the table and have our expert be able to get on the site.

Town Attorney Hockman stated that if other parties agree to something, we can object. He stated that what the parties agree to does not mean the court will accept it. He stated that what they agree to, the Town will be stuck with it.

Commissioner Velasquez stated that she does not want to give a blank check to them and to come up with a counteroffer that will not hurt the Town.

Mayor Burkett asked Town Attorney Hockman if we are not in much of a position to negotiate.

Town Attorney Hockman stated that he will state that they are not a party and there should be some type of consideration for us.

Mayor Burkett asked if we know if the site on 88th street is still a crime scene.

Mr. Kilsheimer stated that he believes it was released.

Mayor Burkett believes the same thing and it was turned over to the receiver. He stated that if it was a waste site leaking radioactive materials they would allow access. He spoke regarding having to find out as to why it collapsed. He asked Mr. Kilsheimer if everything he wants to do is in the protocol and feels that at the end, they will have data that can be interpreted, analyzed and used is what will be needed. He agrees with the notion of not giving a blank check and the entirety of the cost is still not available. He stated that without some sort of fixed cost, this commission could not make a determination of proceeding.

Vice Mayor Paul stated that they need more information to make a decision and they cannot do so with the information they currently have.

Commissioner Salzhauer stated that the truth is not part of the agenda and the attorneys have some options as to what they have heard. She would like to hear the four options that the Town could consider and what they would recommend. She stated that as a resident wanting there to be truth and some closure for the families and the residents feel safe, and the family getting a memorial and that is the one thing the court is not taking into consideration.

Town Attorney Arango read the different options and asked Town Attorney Hockman to provide explanation.

Town Attorney Hockman stated that he read the insurance policy the Town has and explained the policy the Town has and the duty the insurance company has to the Town.

Town Attorney Recio provided some options that were discussed. One option is being a participant for now and determine as you go along and the option to withdraw. He stated that these options are potential options they have looked at and the court has the final answer to accept the option chosen. The other option is wait until everyone is done and petition the court to go on the site and do what they want to do.

Town Attorney Hockman stated that second option is what he provided to the court last week and explained what the court stated.

Town Attorney Recio provided another alternative and Mr. Kilsheimer wants to see how the evidence is being collected. The alternative is Mr. Kilsheimer observes but we are not part of the collection of the data, and then we are sued, and we need to

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access the data then we petition the court to access that data and we would pay later not now. The other option is the a la carte option. He stated the less defendants there are then the bigger the chunk each one must pay and if the Town is not part of it, they are paying a bigger chunk. He opined what about contributing to the overall cost to reduce the cost.

Commissioner Kesl appreciates the different options and as he sees it, if they wait for a buy in option later, we have no guarantee it will be there later, and we need to pay now. He does not understand why they won't accept a lump sum approach. He is for advocating that the Town has not had to defend themselves because they do not assume they are wrong in any of this. He stated that they could also be neutral. He does not like being lumped into with the defendants.

Commissioner Velasquez asked if there is an option on being a plaintiff. She asked regarding the amount of money we would be paying.

Town Attorney Arango spoke regarding the division of the cost.

Mr. Kilsheimer stated that all the defendants were evaluating the cost.

Vice Mayor Paul recommended going back to the Court with the value engineering Mr. Kilsheimer mentioned and pay for the testing that Mr. Kilsheimer and the plaintiffs would like to have done.

Mayor Burkett stated that we do not know what the numbers and results will be. He feels better with what Mr. Kilsheimer stated that they will get the data needed. He stated that Commissioner Velasquez brought up a good point stating that we only have a certain amount of money and join the protocol and be a member. He asked if they could limit their exposure to \$2 million dollars and Mr. Kilsheimer would have to analyze the data. He stated that they want an answer but do not want to go over the \$2 million. He would like to make a deal acceptable to the judge and understands it is a give and take proposition.

Mr. Kilsheimer stated that they had \$200,000 for the testing, to stick with the \$2 million we will limit what we are doing here to \$200,000.

The following individuals from the public spoke:

Randy Rose thanked the Commission for trying to get to the end of what really happened.

Marianne Meischeid stated that they need to move forward with the process and get to the truth.

Jeff Rose agrees that they all want answers and not have a blank check. He asked why a criminal investigation would require destructive testing.

George Kousoulas stated why do so many people want to keep Mr. Kilsheimer off the field. He stated you want him to be able to get the information he needs and you want him on the field. Shannon Gallagher stated that she does believe the Town will be a defendant. She asked what investigation they have done to look into their insurance policy.

Mayor Burkett stated what direction they want to provide to the Town Attorney and staff.

Commissioner Salzhauer stated that they need to be on top of this and be able to get access and a warrant. She would like to get their residents answers and need to step up. Her suggestion is to drag it out until the March 7 deadline until we are a party. Her direction is to see how to get the insurance to pay for this. She stated that whatever options moving forward is what she is supporting.

Commissioner Kesl stated that he is grateful that the Commission focused on safety and not defending themselves. He clarified if they commit to paying 1/9<sup>th</sup> of the 85% of the testing fees, can they exit because they deem it is no longer beneficial to us.

Town Attorney Recio stated one of the options is withdrawing from the protocol and they do not know how the split would be.

Commissioner Kesl spoke regarding the different options provided. He stated they do want to have Mr. Kilsheimer's team.

Town Attorney Hockman clarified that no one has suggested that this will occur on Friday, but if we decide not to be part of this protocol, there is a chance that the plaintiffs will ask the court to remove him from the protocol process.

Commissioner Velasquez stated that to think they will be sued, they do not know that yet, in the meantime if they want to continue with the investigation there needs to be a number put on the counter that is being given to the attorneys and the judge. She stated that if the cost is still not determined, they need to determine how much of the money they are going to pay but she will not approve giving a blank check. If you put a dollar amount on it then she will ask for Mr. Kilsheimer to be part of this.

Vice Mayor Paul agrees that they need a set number and the number used in the past for Mr. Kilsheimer has been \$750,000. She would go with spending up to \$750,000 which is aligned with what their share might be. She would like for the court to provide more details if others pull out, if they have an option to pull out. She would like Mr. Kilsheimer's recommendations to be considered more with the testing. She stated they are not trying to settle anything and want the truth to get the facts of what happened.

A motion was made by Vice Mayor Paul to have the attorneys present the amount up to \$750,000 and Mr. Kilsheimer's recommendation for the testing and to clarify the procedure, seconded by Commissioner Kesl.

Mayor Burkett stated that they need to put a number on the protocol and other things have not been priced yet. They need to know the entire price tag of that protocol and then make a decision on that. He disagrees with Vice Mayor Paul with the \$750,000 amount. He stated that you either commit to continue or stop right now.

Mr. Kilsheimer stated that based on the numbers provided, they do not have all the numbers.

Mayor Burkett asked what is the percentage of the entire protocol and remaining cost.

Mr. Kilsheimer stated that if you do all the protocol on the site, his guess would be, if stored and marked in a way you know what they are, you are are not going to spend as much on the warehouse as on the site. He stated it will be under \$10 million.

Commissioner Velasquez left the meeting at 8:37 p.m.

Commissioner Salzhauer would like to use resources to pursue other avenues and public safety argument to get access. She would like to know if there are government grants, funds that will contribute as well as reaching out to the Governor.

Assistant Town Manager Greene stated that they have looked at that option and there is nothing that will assist in funding it. He stated that the budget prepared by Mr. Kilsheimer was \$2.5 million to complete the entire investigation and the Commission went in interim steps. He stated that if the Commission goes with the \$750,000 will you be raising the \$1.5 million to \$2.5 million and the additional funds will be used for the testing and a second protocol for the offsite will be a different number that will be unknown at this time.

Commissioner Kesl spoke regarding the \$750,000 current proposal; he would consider to go with \$500,000.

Vice Mayor Paul stated that the motion is for the attorneys to also separate the Town from the defendants and would amend her motion to \$500,000.

Town Attorney Arango stated that the number is the estimate that has been provided.

Commissioner Kesl stated do they have to consider what Mr. Kilsheimer is getting paid.

Mayor Burkett stated that if we move forward with this motion you are accepting the

blank check because this will only fund a partial of the protocol and a list of all the other costs to be determined were read. He stated that he would propose to tell the judge they are willing to participate as a participant but would like to have an amount.

Commissioner Salzhauer would like to know why the State of Florida is not doing anything for Surfside. She stated that there needs to be more ownership and we will get sued.

Commissioner Kesl stated that they need to have something on the table in order to not be powerless. He stated that we want Mr. Kilsheimer there but not write a blank check.

Vice Mayor Paul stated that there is no way to stay in the game if we do not put forward some money. We need Mr. Kilsheimer to be there to make sure the testing is done properly. She stated to come back with a firm amount and procedure.

Mayor Burkett stated he sees it as a blank check. He stated that the Mr. Kilsheimer stated that with the protocol we can get the answers.

Commissioner Salzhauer asked what the original budget was, and the amount expended.

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

Commissioner Kesl stated that the reason why they are here tonight is because the Town Attorneys need direction as to what money they can expend and that is why \$500,000 is what he proposed.

Mayor Burkett stated that what they need is to have a framework and the piece meal approach is getting a potential no from the court and provided his reasoning.

Commissioner Salzhauer would like Mr. Kilsheimer present during the testing.

Further discussion took place regarding the funding for the testing and the protocol as it pertains to the Town's involvement and Mr. Kilsheimer being on site.

Town Attorney Hockman stated the reasons why the court is doing what they are doing. He stated that the court is trying not to destroy any evidence when testing and if the Town becomes a defendant, then how can you say we are not prejudiced after the testing has been done and the evidence has been destroyed.

Vice Mayor Paul stated we have a moral and ethical obligation to find out what happened and asked if the \$500,000 is enough to negotiate.

Town Attorney Arango addressed the comment made by Vice Mayor Paul and explained not being aligned by the defendants and what it would mean for the Town and they would need to work with the other parties.

Mayor Burkett asked if the other parties would agree.

Town Attorney Arango stated that they objected to the \$200,000, all they can do is propose it to them and work with them before the Friday hearing.

Mayor Burkett asked the Town Attorneys if they have a direction on the sentiment from the Commission.

Town Attorney Arango stated that they need a fallout position if the court does not accept the first proposal.

Commissioner Salzhauer stated that she agrees with not getting lumped in. She stated that she would like to figure out some other areas that they can explore.

Commissioner Kesl stated that the proposal should be for \$500,000. He asked if they get sued what happens to that money. He stated if that falls through then go with the original plan.

Town Attorney Recio stated that would be part of the negotiations.

Vice Mayor Paul stated they are in a spot, but they need to do what needs to be done to keep Mr. Kilsheimer there. She would go with the full \$500,000 and hope that will be acceptable and would like to know the recommendation for a fallback.

Town Attorney Recio stated that the fallback option is delegating the decision making to someone or pull out.

Vice Mayor Paul understands what is being said and if our offer is not accepted she would like to determine these costs and we cannot agree to a blank amount and if the \$500,000 is not accepted then what amount would be.

Mayor Burkett asked what if everyone settles and we still want the answers. He spoke regarding the objective is finding out if the other buildings are at risk. He stated that they need to stay in the game and keep Mr. Kilsheimer on but we cannot do it at any cost. He stated if they get bumped out then they can come back and decide. He believes the \$500,000 is reasonable and believes the judge will accept it.

Town Attorney Arango reiterated the fallback position if they do not accept the \$500,000, they need a more determined amount of the cost to move forward.

Commissioner Salzhauer stated if we are not part of the defendants, then our

percentage would be less.

Town Attorney Recio explained that the plaintiff's 15% goes to 10% and then the defendant's percentage also changes.

Commissioner Kesl stated he likes the idea and spoke regarding the percentage and the \$500,000 is much better based on the current numbers. He stated that as a backup he would agree to allow the Town Attorney to allow us to be 1/9<sup>th</sup> and would keep us independent.

Town Attorney Recio wanted to clarify that 1/9<sup>th</sup> is what we would be capped at.

Town Attorney Arango stated that as the parties drop our percentage goes up.

Vice Mayor Paul stated that she would not agree to the backup and we need the data for Mr. Kilsheimer. She would advocate for the 10% and the \$500,000 might be enough to cover or they need to come up with a firm amount. She stated for a backup plan she would up the amount to \$750,000 and keep us separate from the defendants.

Mayor Burkett stated that what he is hearing is spending \$500,000 to start and then make another offer to be involved. He stated what they are trying to do is limit their investment. He stated when you put a limit on something, you are no longer a 10% partner.

Commissioner Salzhauer is confused as to why we are discussing backup plans.

Mayor Burkett stated they will commit to be capped at \$500,000 and capped at 10% while keeping Mr. Kilsheimer involved. If we are out, then we need to have another meeting to strategize.

Commissioner Salzhauer asked if they are 10% separate, then they are in \$5 million.

Mayor Burkett explained what the geotechnical is being priced and what is included in the protocol.

Commissioner Salzhauer asked if they do this plan and then they become a defendant what would happen. She stated they are authorizing the funding not spending.

Vice Mayor Paul withdrew her previous motion and Commissioner Kesl withdrew his second.

Assistant Town Manager Greene explained the allocation of the funding and what has been budgeted and do they want to go to \$1.8 million to add to the budget.

Mayor Burkett stated that staff needs to have a conversation with Mr. Kilsheimer as to the funding for the testing.

Assistant Town Manager Greene asked if the increase in the budget is \$300,000 or \$500,000.

Mr. Kilsheimer explained the cost and what is needed and explained the amount.

A motion was made by Vice Mayor Paul for the Town Attorney to go to court for the Town to become its own entity at 10% of the cost of the inspection or \$500,000, whichever is less and have Mr. Kilsheimer involved in the testing and protocol, and allow the Town Attorney to file a motion with the courts if this is not accepted by the courts, seconded by Commissioner Kesl. The motion carried with a 4-0 vote with Commissioner Velasquez absent.

#### 3. Adjournment

A motion was made by Commissioner Kesl to adjourn the meeting without objection at 9:34 p.m. seconded by Vice Mayor Paul. The motion carried with a 4-0 vote with Commissioner Velasquez absent.

Accepted thisday of	, 2022.
Attest:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC Town Clerk	



# TOWN MANAGER'S REPORT FEBRUARY 8, 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 continue to come 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 January. 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 years as follows: January 2021: 141 Building Permits issued (a 50% increase!); 231 Inspections performed; 23 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 Official's 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 our Town's Tyler Software platform in early 2022 so that we can open a customer service portal for online permitting, inspections requests/results and plans review. This will greatly increase speed and efficiency of permits issued, raise levels of service and eliminate most of the lobby traffic and paper only building permit applications which now take up much of our staff's time.

#### **Code Compliance Division**

- **A.** Code Compliance Cases: As of January 28, 2022, the total number of active, open cases being managed is 202. Of these cases, 87 cases are still under investigation and are working towards compliance; 13 cases are on-hold; 25 cases are in the Special Master hearing queue; 8 cases are in post-hearing status; 25 code cases have been issued liens and remain unpaid; 43 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 January, the Code Compliance staff has conducted an approximate of 176 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 January 28, 2022, 29 cases have paid/settle for a total monetary collection of \$17,142.38
- FY 21: 86 cases paid/settled 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 29 Code lien searches for the month of January 2022.
- **D.** Th Code Compliance Division has continued to assist the Town Clerk's Office with public records requests.
  - **E.** The Division presented 15 Code Compliance cases to the Special Master.

# Community Services & Public Communications Department

- **A.** The Tourist Bureau successfully hosted the first Third Thursdays event for 2022. With nearly 425 attendees, this event surpassed attendance in years past, which had an estimated average attendance rate of 388. Events will continue in February and March.
- **B.** The CSPC department fleshed out an educational/informational campaign around the 2022 election season and ballot questions. Information has been shared in weekly eblasts, prominently displayed on the Town's website, individually being sent to Town addresses, videos will air on the Town Channel 663 and voting information flyers will be provided to condos and multi-family units to display in common areas.

- **C.** Additional progress has been made on what will be the Town's newest turtle statute to be on display at 95<sup>th</sup> Street based on efforts from the Tourist Board. An expected unveiling is being planned and will likely be held in March 2022.
- **D.** The Town's first digital sign has been installed and is in use at 94<sup>th</sup> Street and Harding Avenue near Publix. The sign will be used to share Town-specific information of a non-commercial and educational purpose.

#### 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 health initiatives and exercise classes.
- **C.** *EEOC Discrimination Complaints*: Awaiting on response with regards to EEOC complaints filed by Mr. Victor May.
- **D. Workers Compensation**: Facilitated response to the Town's legal representative regarding workers compensation case to include: preliminary defense survey, personnel file, wage statements, payroll records.
- **E. Interviews:** Conducted interviews for Assistant Public Works Director, Lifeguard (PT), and Maintenance Worker II (PW).
- **F. Promotions:** Facilitated information and participated in discussions regarding Public Works promotions.
- **G. Classification and Compensation Study**: Participated in a market data discussion with Evergreen.
- **H. AFSCME Florida Council 79**: AFSCME and the Town held its first collective bargaining on January 31<sup>st</sup>, 2022.

#### I. Other Human Resources Functions to include:

- 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 December 31, 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 continues to operate with court reservations during prime hours. The pool continues to operate with lap swimming registrations during all hours of operation. Pool hours continue to be adjusted month to month to maximize day light hours.

Winter programing session II registration has begun. Tennis and Soccer Registration continue to be full and the most popular programs at this time. Parks and Recreation has developed a new Teen Program (VOLT) to help promote teen participation in community actives along with leadership training and group activities.

The 96<sup>th</sup> Street Park design continues to move forward. The LEED part of the design process is under way and going into final review. The Town is expecting a draft of the construction documents at 90% to be available for review on Friday 1/28/22. This process is the next step in developing the final RFP for construction. Biweekly Park Design meetings between Savino & Miller Design Team and Town Staff continue to be held to help move the project forward.

Surf-N-Sides Community Center Concession has reopened under a soft opening as of January 25, 2022. Family Fun Day has been rescheduled for Sunday March 13, 2022. The 14<sup>th</sup> Annual Winter Beach 5K Run will be held on February 27, 2022.

Annual Community Center and Pool Maintenance is scheduled for March 1, 2 and 3. This will be cleaning, repairs and warranty repairs on items as needed. Pool and Community Center hours will be adjusted and advertised as needed.

#### Planning Department

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

#### **Police Department**

#### A. Police Department Statistics (January 1 – January 24, 2022)

- Traffic Citations 413
- o Parking Citations 569
- Arrests 7
- Dispatch Events 1183
- Incident/Crime Reports 51

#### B. Commission for Florida Law Enforcement Accreditation Conference

Chief Rogelio J. Torres Jr., Captain John Healy and Accreditation Manager Jill Smith will represent the Police Department at the Commission for Florida Law Enforcement Accreditation (CFA) conference in St. Augustine, Florida on February 24, 2022. They will appear in front of a Panel Review along with the team of CFA assessors that conducted our onsite Re-Accreditation assessment December 7<sup>th</sup> - 9<sup>th</sup>, 2021. The assessors examined all aspects of the Surfside Police Department's policies and procedures, management, operations, and support services proclaiming the PD complied with more than 250 standards in order to receive reaccredited status. The assessors will be recommending re-accreditation status for the fourth consecutive cycle with no conditions.

# C. Police Events/Community Outreach

- The Surfside Police Department will host two community bloods drive on February 6<sup>th</sup> and February 23<sup>rd</sup>, 2022 from 11:00 a.m. 4:30 p.m. in the Town Hall municipal parking lot.
- Code Enforcement will host their monthly Special Master Hearing February 16, 2022 from 10:00 a.m. 2:00 p.m. in the Commission Chambers.

- The Town of Surfside's Third Thursday event will take place February 17, 2022 from 6:00 p.m. to 9:00 p.m. at 9500 Collins Avenue (200 block of 95th Street). Three police officers/or parking enforcement officers with assist with the street closures and pedestrian safety.
- o The monthly Coffee with the Cops is February 24, 2022 at 10:00 a.m. at Starbucks.

#### II. SEE CLICK FIX REPORT

Requests filtered by request category that have been created 01/01/2022 - 01/31/2022

Request Category	Created in period	Closed in period	Average days to close
Code Compliance (Safety Concern)	2	2	0.4
Code Compliance (Violation)	2	2	0
Other	6	2	0.5
Police (Safety Concern)	3	3	0.4
Street lights (PW)	1	0	
Parking Issue	2	2	0.1

Requests filtered by request category that have been created 01/01/2014 - 01/31/2022

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)	115	112	19.3
Code Compliance (Violation)	193	189	17.4
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	340	297	18.5
Police (Safety Concern)	108	107	6
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)	81	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	113	107	2
Construction Issues	51	41	13.7
Dead Animal	8	6	10.4

#### III. TOWN PROJECTS

#### 96th Street Park

The Design Team continues to push forward with Construction Documents, LEED and SITES certification processes. A Draft of the 90% Construction Documents has been submitted to the Town and LEED/SITES Consultant for review and coordination. The Civil Engineer has begun the permitting process for the kayak launch and is preparing the permit applications for the rest of the Park. Following this round of coordination and review by the Town, LEED/SITES Consultant and Design Team, the Construction Documents will be submitted for permitting and bidding.

## 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. Administration has begun a public information campaign including two townhalls on March 2 (virtual) and March 3 (in-person.)

Respectfully submitted by:

Andrew E. Hyatt, Town Manager

# TOWN OF SURFSIDE, FLORIDA MONTHLY BUDGET TO ACTUAL SUMMARY FISCAL YEAR 2022

## As of DECEMBER 31, 2021

#### 25% OF YEAR EXPIRED (BENCHMARK)

Agenda Item# Page 1 of 3

#### February 8, 2022

GOVERNMENTAL FUNDS	ACTUAL	ANNUAL BUDGET	% BUDGET
GENERAL FUND - 001 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-December 31, 2021 (Reserves)	\$ 9,045,449 5,145,625 3,899,824 20,920,841 A \$ 24,820,665	\$16,592,940 \$16,592,940	55% 31%
TOURIST RESORT FUND - 102 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-December 31, 2021 (Reserves)	\$ 1,243,651 811,621 432,030 4,063,018 \$ 4,495,048	\$3,517,323 \$3,517,323	35% 23%
POLICE FORFEITURE FUND - 105 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-December 31, 2021 (Reserves)	\$ - 32,710 \$ (32,710) 221,034 \$ 188,324	\$107,159 \$107,159	0% 31%
TRANSPORTATION SURTAX FUND - 107 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-December 31, 2021 (Reserves)	\$ 30,571 101,077 (70,506) 547,674 \$ 477,168	\$287,097 \$287,097	11% 35%
BUILDING FUND - 150 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-December 31, 2021 (Reserves)	\$ 340,205 420,703 (80,498) 1,913,914 \$ 1,833,416	\$1,125,469 \$1,125,469	30% 37%
CAPITAL PROJECTS FUND - 301 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-December 31, 2021 (Reserves)	\$ 501,107 518,485 (17,378) 5,894,823 \$ 5,877,445	\$332,500 \$332,500	151% 156%

#### NOTES:

- 1) Many revenues for December 2021 are received in subsequent months (timing difference) and are recorded on a cash basis in the month received.
- 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-December 31, 2021 (Reserves)	\$ 966,833 747,867 218,966 (1,383,444) \$ (1,164,478)	\$4,473,190 \$4,473,190	22% 17%
MUNICIPAL PARKING FUND - 402 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-December 31, 2021 (Reserves)	\$ 346,237 396,420 (50,183) 1,754,091 \$ 1,703,908	\$1,264,180 \$1,264,180	27% 31%
SOLID WASTE FUND - 403 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-December 31, 2021 (Reserves)	\$ 566,229 487,270 78,959 (247,933) \$ (168,974)	\$1,811,003 \$1,811,003	31% 27%
STORMWATER FUND - 404 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-December 31, 2021 (Reserves)	\$ 214,469 596,859 (382,390) 3,654,490 \$ 3,272,100	000,e88\$ 000,e88\$	24% 67%
FLEET MANAGEMENT FUND - 501 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-December 31, 2021 (Reserves)	\$ 159,504 262,936 (103,432) 1,091,990 \$ 988,558	\$780,044 \$780,044	20% 34%

Jason D. Greene, Assistant Town Manager/CFO

Andrew Hyatt, Town Manager

Town of Surfside

Net Funds Historical Balances

Period 2018 - December 2021

FUND	9/30/2018	9/30/2019	9/30/2020	9/30/2021	12/31/2021	CAGR (a)
General	\$ 10,902,050	\$ 14,984,105	\$ 18,286,748	\$ 20,920,841	\$ 24,820,665	24.3%
Tourist Resort	356,313	1,640,525	2,109,658	4,063,018	4,495,048	125.1%
Police Forfeiture	159,527	105,725	168,289	221,034	188,324	11.5%
Transportation Surtax	263,292	328,377	442,856	547,674	477,168	27.7%
Building	2,760,673	2,563,517	1,991,388	1,913,914	1,833,416	-2.0%
Capital Projects	2,158,902	3,048,582	4,899,128	5,894,823	5,877,445	39.8%
Water & Sewer	(2,546,398)	(2,367,098)	(1,733,610)	(1,383,444)	(1,164,478)	-18.4%
Municipal Parking	943,315	1,198,948	1,293,993	1,754,091	1,703,908	23.0%
Solid Waste	601,201	641,636	219,615	(247,933)	(168,974)	-174.4%
Stormwater	3,203,878	3,200,132	3,205,050	3,654,490	3,272,100	4.5%
Fleet Management	-	585,363	825,468	1,091,990	988,558	N/A
Total	\$ 18,802,753	\$ 25,929,812	\$ 31,708,583	\$ 38,430,498	\$ 42,323,180	22.5%

<sup>(</sup>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.

		DEVELOPMENT APPLICA	ATION PRO	<b>JCESS (2012 - PR</b>	RESENT)				
			Densit	y/Intensity	Varianc	es	Building	Permit	
J		<u>ත</u>	Allowed	Approved	Requested	Received Ap	plication No.	Status	
Original submittal: 7/13/2012 te plan amendment: 4/16/16 011 Collins Avenue	Surf Club - restoration of the famous surf club historic structure and for the construction of new improvements	<ul> <li>DRG - 7/31/2012, 8/23/2012, site plan amendment: 5/16/2016, 8/4/2016, 3/9/2017, 5/11/2017</li> <li>P&amp;Z - Original site plan: 9/27/2012, site plan amendment: 8/31/2017</li> <li>TC - Original site plan: 10/15/2012, site plan amendment: 5/16/2017</li> <li>Plan Ext -</li> </ul>	762 units	257 units	None	Non	13-727	Issued	Fort Partners has indicated a desire to obtain a final CO and Landscape approval needs to be resolved. A landscape 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 stories)	DRG - 2/11/2013, 3/27/2013, 7/9/2013  P&Z - 2/27/2014  TC - 10/28/2014  Site Plan Ext -	3 story expa	ansion of 8,558.9 lare feet	None	None	14-509	Issued	The Applicant is requesting revisions in the landscape plan. The Bldg Dept is processing a TCO issuance. The landscape comments will be finalized after performing an on-site inspection prior to a Final CO.
8/12/2015 12/23/20 Site Plan Amendment 133 Collins Ave & 9149 Collins Ave	Surf Club II - Redevelopment of property with a multi-family residential project and renovation of existing historic structure. Reduction of dwelling units and hotel rooms. Revisions to expand underground parking and revisions to balcony design	<ul> <li>DRG - 9/4/2015, 3/9/2017, 9/17/2017, 2/9/2021</li> <li>P&amp;Z - 12/7/2017, 2/11/2021, 4/29/21</li> <li>TC - 2/13/2018, 4/13/21, 6/8/21 Scheduled</li> <li>Site Plan Ext - Site Plan Extension of approved by TC on 7/28 TC</li> <li>Meeting. Applicant requested extension of site plan due to FL</li> <li>Declaration of Emergency. Additional Covid extension - New Permit</li> <li>Due Date December 26, 2021</li> </ul>	199 units	Reduced to 31 condo units, 26 hotel rooms	Non	Non	50-536	-oundation Only Permit Issued	
Original submittal: 2/11/2016 Revised submittal: 5/31/18 9380, 9372, 9364, 9348, 9340, 9322, 9316 & 9300 Collins Ave	9300 Collins Ave - demolition of all existing improvements, construction of 3-story building	DRG - Original submittal: 3/10/2016, 4/27/2016 Revised submittal: 6/27/2018, 8/28/2018, 11/1/18 P&Z - Original approval: 7/18/2016, Revised approval: 11/29/18 TC - Original approval: 11/10/2016, Approved February 26, 2019 Site Plan Ext - Request submitted to extend approval due to emergency declaration (Hurricane Dorian). Additional Covid and Tropical Storm Elsa extensions - New Permit Due Date February 4, 2024	250 units	Request is for 205 units	Non	Non	18-610	Has not applied for permit yet	Information supplied by the Eden Surfside LLC to Town Bldg Dept on 11/30/21 indicates desire to obtain a foundation permit. MDC receipts for impact fees of \$1,105,679.93 (Pd. 8/3/21) and 20% Water and Sewer fees (Pd. 10/26/21) have been received.
5/4/2016 5 Collins Ave	Residential Condominiums	DRG - 6/20/2016, 7/27/2016 P&Z - 10/27/2016 11/10/2016 TC - 11/10/2016 Site 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, 2021. The Applicant has revised 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

			/ELOPMENT APPLICATION	V PROCESS (2012 - PRESENT), Cont.		
Application Date		•	Density/Intensity	Variances		Building Permit
Location	Project Description	Zoning Process Allc	owed	Requested	Received	Application Status Status No.
10/1/2016, 5/6/21 9116 Harding Ave	303 Surfside - 4 Townhouses (2018) 303 Surfside - 6 Townhouses (2021)	DRG - 11/2/2016, 2/7/2017, 5/18/2017, 6/21 TBD P&Z - 6/27/2018, 6/21 TBD TC - 4/14/2018 Approval Expired Site Plan Ext -	units 4 units	None	None	Site Plan approval has expired
5/19/2017 8995 Collins Ave	Surf House - site plan approval for expansior to existing multi-family building deemed architecturally significant per <i>Sec. 90-33(3)</i> of the Town Code.	<ul> <li>DRG - 6/19/2017, 8/24/2017, 9/28/2017</li> <li>n P&amp;Z - 2/22/2018, 4/26/2018, 5/31/2018, approved on 10/27/19</li> <li>TC - 12/10/19</li> <li>Site Plan Ext - 2 COVID Extensions New Permit Deadline 9/27/23</li> </ul>	Resolution # 19-2661 approved by Town Commission on Decemb 10, 2019 for 12 stories, 3 units and 72 parking spaces.	oer Original application requested 3 Variances. 34 Final application did not include any Variances.	None	The Town Planner prepared a Final Sign-Off for Planning and Zoning on November 17, 2021. The Building Department will has not applied need to approve the structural portion of the project, including for permit yet the retention and or incorporation of features described in the Applicant's submission in support of the building permit submitted to the Town.
Original Submittal: 1/06/2015 Revised submittals: 8/01/2016, 12/23/2016, 03/09/2018 10/29/2018 9/25/2020 8851 Harding Avenue	18 multi-family units	DRG - 01/22/2015, 08/18/2016, 01/23/2017, 03/23/2018,         11/29/2018 Meeting Pending, 2/25/2021         P&Z - 01/31/19 P&Z recommended approval (Requires P&Z Recondsider)         12/25/2021 P&Z Denied Plan         13/25/2021 P&Z Denied Plan         14/29/2014 P&Z Denied Plan         15/25/2021 P&Z Denied Plan         16/27/2021 P&Z Denied Plan         17/2 Denied by the Commission (requires reconsideration by TC), TC Approval 5/26/21         16/27/2021 P&Z Denied Plan         17/2 PAPPROVAL F/26/21	Current request is for 18 units. Town Planner, DRG recommended approval, P&Z recommended denial	1 requested: Section 90-82. – Off-street loading requirements (Loading Space Size).  Not Required in 2021 Plan	Not needed in 2021 request	Site Plan Approval 5/26/21
7/3/2019 9580 Abbott Ave	Young Israel Variance Request to eliminate landscaping to provide for a handicapped accessible ramp	DRG - N/A P&Z - 8/29/2019 TC - 10/29/19 Site Plan Ext -		1 requested: eliminate landscaping along the north side of the building	None	
1/7/2020 8926 Collins Avenue	Arte request to have FPL vault encroach into landscape buffer.	DRG - N/A P&Z - 1/30/2020 TC - 2/11/2020 Site Plan Ext -		Landscape buffer	Approved	This parcel on the west side of Collins Avenue was also inspected along with the residential component on the east side of Collins Avenue. See discussion on first page speadsheet.
11/18/2021 9165 Collins Avenue	Site Plan approval to develop an 11 story, 14 unit MF Bldg with 33 parking spaces in the H120 Zoning District on the north side of the Seaway and south side of the Carlisle.	<ul> <li>DRG - 1/14/22 - Via Zoom - Approved Proceeding to P &amp; Z</li> <li>P&amp;Z - 1/27/22 - Deferred to 2/24/22 P&amp;Z Mtg</li> <li>TC - N/A</li> </ul>	units Proposing 14 units	None		DRG recommmended on January 14, 2022 proceeding to P&Z on January 27, 2022. After discussion, P&Z decided to continue the item to the February 24, 2022 P&Z meeting so a deferral to that specific date was made.

Page 2 of 2

# **Attachment "C"**



January 21, 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 – January 21, 2022

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

✓ Field on Work Completed (12/29/2022).

Continuing work on Electronic Survey

#### Section 2 – Subsurface Utility Engineering Services

Task 201 Horizontal Designation Services

✓ Field Work Completed (12/29/2022).

Task 202 Location Services

✓ On-hold pending completion of Preliminary Engineering Design.

Task 203 Utility Mapping

✓ Field Work Completed (12/29/2022).

#### 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.
- ✓ Permit Application setup.

Task 402 Design Development 60% Civil Design Documents

✓ On-hold pending completion of Preliminary Engineering Design Task 401.

Task 403 Design Development 90% Civil Design Documents

✓ On-hold pending completion of 60% Documents Task 402.

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#### Task 404 Final (100%) Civil Construction Documents

✓ On-hold pending completion of 90% Documents Task 403.

#### Task 405 Engineering Permitting

- ✓ Attempting to schedule initial coordination meetings with jurisdictional agencies (including MDC DERM, FDOT, FDEP, etc.).
- ✓ Permit Submittals on-hold pending completion of Tasks 401 and 402.

#### Task 406 Stormwater Model Animation

✓ On-hold pending completion of 90% Documents Task 403.

#### Task 407 FDOT Coordination (Scenario #1)

✓ Received FDOT GIS Access.

# Section 5 – Mechanical and Electrical Engineering Design Services (Subconsultant – ME Engineering)

#### 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 – Structural Engineering Design Services (Subconsultant – Ingelmo Associates)

#### Task 601 Preliminary (30%) Structural Engineering Design

✓ On-hold pending completion of Survey

#### Task 602 Design Development 60% Structural Design Documents

✓ On-hold pending completion of Preliminary Engineering Design Task 601.

#### Task 603 Design Development 90% Structural Design Documents

✓ On-hold pending completion of 60% Documents Task 602.

#### Task 604 Final (100%) Structural Construction Documents

✓ On-hold pending completion of 90% Documents Task 603.

#### Section 7 - Bid Assistance Services

#### Task 701 Bidding Services

✓ On-hold pending completion of Final (100%) Documents.





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

**TO:** Mayor and Town Commission

FROM: Lillian M. Arango, Town Attorney

Weiss Serota Helfman Cole & Bierman, P.L.

**CC:** Andrew Hyatt, Town Manager

Jason Greene, Assistant Town Manager

DATE: February 1, 2022

SUBJECT: Office of the Town Attorney Report for February 8, 2022 Regular

**Commission Meeting** 

# This Firm attended/prepared and/or rendered advice for the following Commission meetings and workshops, and Board and Committee meetings during the past month:

January 3, 2022 - Tourist Board Meeting

January 6, 2022 - Solimar Litigation Executive Session

January 11, 2022 - Regular Town Commission Meeting

January 18, 2022 - Zoning Code Workshop

January 26, 2022 - Special Town Commission Meeting – CTS Inspection Protocol

January 27, 2022 - Planning and Zoning Board Meeting

Members of the firm assisted with the agendas and drafted the resolutions and ordinances for the above noted meetings, in addition to drafting or assisting with the preparation of a number of the communications and reviewing, revising and, as appropriate, negotiating the legal requirements of the relative agreements and supporting documents.

Members of the Firm were instrumental in assisting the Town with the COVID-19 pandemic, including working with Governor DeSantis' office early in the COVID-19 pandemic to seek approval by Emergency Order 20-69 for virtual commission meetings to ensure that the Town Commission could continue meeting and conducting essential Town business and implementing policy. The Firm assisted with the preparation and adoption of rules governing virtual meeting or communications media technology for public meetings during the COVID-19 health emergency, as required by Governor DeSantis' Executive Order 20-69, "Emergency Management - COVID-19 Local Government Public Meetings." The Firm also assisted the Town with the preparation of numerous emergency measures or orders due to the COVID-19 health pandemic, and continues to assist the Town with ongoing COVID-19 related issues and documents. Most recently, the Firm assisted the Town with Governor DeSantis Executive Orders 21-101 and 21-102, suspending or invalidating local government emergency actions based on the COVID-19 state of emergency, suspending all local COVID-19 "restrictions and mandates on individuals and businesses." The Firm also assisted the Town with a temporary kiosk license agreement with Curative for COVID-19 Testing. The Firm will continue to assist the Town with COVID-19 issues and the implementation of any emergency or executive orders issued by Governor DeSantis and the County.

Various members of the Firm have and continue to assist the Town with the response and emergency actions needed in the aftermath of the CTS Collapse, including public records and media requests, contracts and agreements for services necessitated by the CTS Collapse, address and respond to legal demands and questions, subpoenas and deposition requests received pursuant to *In re: Champlain Towers South Collapse Litigation*, Case No. 2021-015089-CA-01 and related cases, assisting the Town and Building Department with courtesy review and inspections of oceanfront buildings, and interaction with KCE Engineering (Allyn Kilsheimer), County, FEMA and NIST representatives. Most recently, our office was successful with the granting by the Court of the Town's "Motion to Authorize Town as a Participant under the

Protocol for Inspection, Documentation, and Storage of Components, Remnants, and Debris of the Champlain Towers South Collapse", which stopped the Plaintiff's attempt to exclude the Town from participating in the invasive inspection testing at the CTS Site and allowed the Town to participate as a non-party to the litigation in upcoming invasive testing on the CTS site. Our efforts are ongoing in responding to various demands arising from the CTS Building Collapse, including attending weekly status hearings before Judge Hanzman and addressing numerous questions and issues from the Court and appointed Receiver, Michael Goldberg, including continued transition of the CTS Site from the County to the Receiver and necessary permits for operation of the CTS Site.

#### **Commission Support:**

Attorneys of the firm have worked with members of the Town Commission to address concerns and research specific issues and are always available, either in the office or by phone or email. We have worked with the Town administration and staff to transition Commission and board meetings to in-person meetings, while still transitioning from COVID-19 health and safety protocols. We continue to work the Town Commission in support of any needs arising from the CTS Building Collapse. We appreciate your support as we continue our fifth year of service and work in implementing the Commission's policy directives.

#### **Staff Support:**

Members of the Firm continue to provide support to Town administration and staff during the COVID-19 health pandemic, and continue to address a variety of issues and assistance with the Town's response to the crisis and compliance with the Governor DeSantis' directives and orders. Various members of the Firm continue to work with Town administration and staff responding to various needs arising from the CTS Building Collapse.

As typical, members of the Firm continue to assist the Town administration and staff, as well assist boards and committees, with application review, contract and agreement review, preparation of ordinances as directed by the Commission, procurement and purchasing, budgetary requirements and approval process and amendments to FY 2022 budget, various solicitations for Town services and providers (RFQs and RFPs) and agreements, IT related agreements, Parks & Recreation Department contracts and services, Code enforcement and

interpretation, attendance at Special Master Hearings upon request, beach furniture operator permits and administration, ethics issues and requirements, police related issues and matters, building permit and enforcement issues, subpoenas and public records requests, research, litigation representation and support, oversight and case management, Town Code interpretation and application, labor, employee and pension matters, assistance with and response to Union Representation Certification Petition filed by AFSCME Florida Council 79 for Town civilian employees, EEOC complaints, employee complaints of discrimination, and various procurements and service provider contracts for Town Departments, including CCNA engineering services, street sweeping services, and RFPs for debris collection and debris monitoring; assisted with the State of Florida FIND agency on determination of resident kayak launch at seawall at 96th Street Park; contracts and agreements necessitated by the CTS Building Collapse; public records and media requests due to the CTS Building Collapse, continued subpoenas and document requests from litigants in the CTS litigation, and respond to permit and operational issues on the CTS Site; Election related matters and issues; Zoning Code issues and ordinances; Charter Amendment Referendums and Referendum for Issuance of General Obligation Bonds for Undergrounding of Utilities.

### **Key Issues:**

The workload has been diverse and has included specific issue support to every department. Key issues over the past year have included:

- Emergency Declaration and Emergency Measures and Orders related to the COVID-19 health pandemic; continued review and implementation of Governor DeSantis' Executive Orders pertaining to COVID-19.
- Contract Review Related to COVID-19 health pandemic.
- Repeal of Ch. 90 Zoning Code and Map and Adoption of New Zoning Code (2006 Code with modifications).
- Resolution Combatting Hate Due to COVID-19 Health Pandemic
- Resolutions Approving Interlocal Agreements with Miami-Dade County for Access to Exempt Information and Enforcement of Miami-Dade County Code
- Resolution for the Purchase of Police Body-Worn Cameras and Preparation of Agreement

- Resolution Regarding Nurse Initiative Ruth K. Broad
- Beach Furniture Ordinance and Regulations
- Rate Resolutions Solid Waste Assessment
- RFQs for Abbott Avenue Drainage, Planning Services and Engineering Services
- Resolutions Calling Special Election and Referendum for Undergrounding of Utilities,
   Restricting Sale, Lease or Exchange of Town Land, and Indebtedness Restrictions
- Resolution Approving Waste Connections for Recycling Services
- Resolution Approving Interlocal Agreement with Miami-Dade County CARES Act
- Resolution Approving Miami-DADE County Local Mitigation Strategy 2020 (LMS)
- Resolution Approving a MOU with the Florida State Lodge Fraternal Order of Police to Provide 1% Hazard Pay to First Responders Due to COVID-19
- Resolution Authorizing Negotiations with Highest Ranked Firm Pursuant to RFQ Seeking General Planning Services
- Resolution Authorizing Negotiations with the Highest-Ranked Qualified Firm Pursuant to RFQ 2020-04 Seeking Engineering Services for Abbott Avenue Drainage Improvements.
- Resolution Approving Purchase and Installation of Lighting Regarding Holiday and Downtown District
- Resolution Approving MOU with Bay Harbor Islands for School Address Verification Program
- Resolutions Approving Proposed and Final Millage Rates and Budget for FY 2020-2021
- Resolution Urging FAA Regarding Metroplex/NextGen Flight Paths
- Resolution Selecting and Awarding Contractors to provide General Landscape Maintenance Services, Additional On-Demand Services and Disaster Debris Recovery Serves, and corresponding agreements.
- Resolution Approving Agreement with Marlin Engineering, Inc. for General Planning Services.
- Resolution Adopting Program for Public Information (PPI) in connection with the National Flood Insurance Program
- Resolution Approving MOU with Florida Department of Highway Safety and Motor Vehicles Regarding Access to Biometric Facial Analysis System

- Resolution Approving FY 20-21 Police Forfeiture Fund Expenditures
- Assistance and Response to AFSCME Florida Council 79 Union Representation Certification Petition for Civilian Town Employees
- Resolution in Support of Closing Byron Avenue at 96 Street and/or Other Traffic Mitigation Measures
- Resolution Urging Bahamian Government to Ban Off Shore Oil Drilling
- Resolution Approving First Amendment to Agreement with PayByPhone Technologies for Mobile Payment Services for Town Parking Facilities
- Resolution Approving and Authorizing Expenditure of Funds to FPL for Binding Estimate on Undergrounding of Electric Distribution Facilities
- Resolution Certifying Election Results for November 3, 2020 Special Election on Three Referendum/Ballot Questions
- Resolutions Approving Budget Amendments No. 3 and No. 4
- Resolution Approving Interlocal Agreement with MDPD Regarding for 911 Answering Points
- Resolution Approving Police Mutual Aid Agreement with Bay Harbor Islands
- Resolution Approving Agreement with Savino Miller for Design of 96<sup>th</sup> Street Park, and corresponding Professional Services Agreement
- Resolution Approving Agreement with HPF Associates for Project Management Support Services for Undergrounding of FPL and Utilities Project, and corresponding Professional Services Agreement
- Resolution in Support of Closing Bay Drive at 96 Street and/or Other Traffic Mitigation Measures
- Resolution Approving Installation of Above Ground Fuel Storage Tank at Town Hall Facilities
- Resolution Approving Purchase of Four Police Vehicles and Equipment
- Resolution Approving Youth Tennis and Soccer Agreements
- Resolution Approving Diamond Brite Pool Resurfacing for Community Center Pool/Spa
- First Amendment to License Agreement with Wavey Acai for Farmer's Market
- Resolution Directing Manager to Coordinate and Schedule a Process for Proposed New Zoning Code

- Ordinance Permitting Pet Grooming Services as Accessory to Pet Retail in the SD-B40 District
- Resolutions Approving Eight (8) Continuing Services Agreements with Engineering Firms Pursuant to CCNA for Engineering Services
- Resolution Approving an Agreement with Keith and Associates for Study and Design of Abbott Avenue Drainage Improvements
- Resolution Approving Legislative Priorities 2021
- Resolution Amending Resolution 2020-2746 in Support of Closing Byron Avenue and Bay Drive and/or Traffic Mitigation Measures
- Resolution Approving Police Mutual Aid Agreement with North Bay Village
- Agreement with Cintas Uniforms for PW Department
- Agreements with Lexis-Nexis for Police Services
- RFP for Street Sweeping Services
- Resolution Selecting and Awarding Contract for Construction of Point Lake Subaqueous
   Water Main Crossing to Biscaya Island
- Resolution Adopting a Civility Pledge for Public Discourse By Elected Officials
- Resolution Approving Installation and Maintenance of Community Digital Signs with Don Bell, Inc.
- Resolution Urging Governor DeSantis Regarding Vaccine Allocations to Miami-Dade County and Town
- Zoning in Progress Extension and Continued Work on Revisions to Zoning Code
- Resolution Proclaiming Arbor Day for 2021
- Resolution Approving Budget Amendment No. 7
- Resolution Urging the Florida Legislature and Governor Ron DeSantis to Support Home Rule for Local Municipalities and Counties, and Reject 2021 Legislation that Erodes Local Government Home Rule Authority
- Resolution Authorizing Additional Expenditure of Funds in an amount not to exceed
   \$10,500 to Expand the Youth Tennis Program Operated by GM Sports Tennis, LLC
- Resolution Authoring Additional Expenditure of Funds to Special Counsel, Leech Tishman Fuscaldo & Lampl, in Connection with Appeal of Federal Aviation Administration's (FAA's) South Central Florida Metroplex Project, including the

- Engagement by Special Counsel of a Consultant for Phase 1, Metroplex Flight Procedure Assessment
- Resolution Approving Memorandum of Understanding with the Florida Department of Children and Families for Sharing of Florida Criminal History and Local Criminal History Information for Child Protective Investigations and Emergency Child Placement
- Resolution Approving Project Agreement with KCI Technologies, Inc. for Utility
  Undergrounding Services for Phase I Preparation of Utility Coordination Plans Pursuant
  to Continuing Services Agreement for Professional Engineering Services; Preparation of
  Project Agreement
- Resolution Approving Project Agreement with Nova Consulting, Inc. for Utilities
   Engineering Retainer Services Pursuant to Continuing Services Agreement for

   Professional Engineering Services; Preparation of Project Agreement
- Resolution Approving Project Agreement with Keith and Associates, Inc. for Stormwater Engineering Retainer Services Pursuant to the Continuing Services Agreement for Professional Engineering Services; Preparation of Project Agreement
- Resolution Approving First Amendment to the Agreement with Zambelli Fireworks
   Manufacturing Co. for 2021 Fourth of July Fireworks Show Services; Preparation of
   First Amendment to Agreement
- Resolution for Quasi-Judicial Hearing Regarding Amended Site Plan Application for the Property Located at 9133-0149 Collins Avenue (Seaway)
- Resolution for Quasi-Judicial Hearing Approving and Accepting Waiver of Plat for 8712
   Byron Avenue
- Resolution for Quasi-Judicial Hearing Approving/Denying Site Plan Application for 8851 Harding Avenue
- Resolution Condemning Extremism and Hate
- Resolution Approving Donation Agreement with Gerald B Cramer Family Foundation Regarding Tennis Funding
- Resolution Approving Police Mutual Aid Agreement with the City of North Miami Beach
- Resolution Approving Amendment No, 4 to MOU with Participating Municipalities for School Nurse Initiative
- Contract for Construction for Biscaya Subaqueous Water Main Crossing

- Resolution Approving Project Agreement with Alvarez Engineers, Inc. for Structural Plan Review Services Pursuant to Continuing Services Agreement for Professional Engineering Services; Authorizing Expenditure of Funds
- Resolution Approving Renewal of Term of Agreement for Food and Beverage Concession Services with Hamsa, LLC D/B/A Surf-N-Sides for the Surfside Community Center; Authorizing the Town Manager To Execute a Second Amendment to the Agreement; Preparation of Second Amendment to Concession Agreement
- Resolution Approving Emergency Repair Work for the Town Hall Air Conditioning System's Chiller and Coils Replacement from Smart Air Systems, Inc.
- Resolution Ratifying an Amendment to the Off-Street Variable Parking Rate and Time Limitation Schedule for Municipal Parking Lots
- Resolution Approving an Engagement Letter with Marcum LLP for Financial Auditing Services for Fiscal Year Ending September 30, 2021
- Resolution Approving a Memorandum of Understanding Between the Town and The Florida Department of Law Enforcement Relating to Investigations of Incidents Involving the Use of Deadly Force by Law Enforcement Officers
- Resolution for Quasi-Judicial Hearing Waiver of Plat for 8712 Byron Avenue
- Resolution for Quasi-Judicial Hearing Site Plan Approval for 8851 Harding Avenue
- Resolution for Quasi-Judicial Hearing Site Plan Amendment for Seaway Condominium 9133-9149 Collins Avenue (2019 Historical Certificate of Appropriateness)
- Temporary Revocable License Agreement with Curative for Covid-19 Testing at Town Hall, and Corresponding Resolution Approving Same
- Debris Monitoring Procurement and Contract
- Resolution Approving Project Agreement with Alvarez Engineers, Inc. for Structural Plan Review Services
- Resolution Approving Declaration of State of Emergency for CTS Building Collapse
- PSA Agreement with Haggerty Consulting (FEMA compliance)
- PSA Agreement with KCE Structural Engineers for Structural Engineering Consultation CTS Building Collapse
- PSA Agreement with The News Directors (Communications and Media Response)
- Agreement with the Italian Space Agency Re Images on the CTS Building Collapse

- Annual Sold Waste Assessment FY 2021/22
- Resolution Urging Biden Administration to Condemn Cuban Government's Handling of Pro-Democracy Protests and Support of the Cuban People
- Resolution Approving Keith Engineering for Design Phase of Abbott Avenue Drainage Improvements
- Resolution Awarding Star Cleaning USA for Street Sweeping Services and Agreement
- Agreement with BOOST Media for Emergency Response Website CTS Building Collapse
- Agreement with JUST FOIA for Public Records Request Software
- Resolution Approving a Purchase Order to The Corradino Group, Inc. to Perform Traffic Engineering Services for 88<sup>th</sup> Street Corridor Multiway Stop Warrant Study
- Resolution Approving Pelican Harbor Donation
- Resolution Accepting a \$107,500 Community Development Block Grant Mitigation Program (CDBG-MIT) from the Florida Department of Economic Opportunity (DEO) to Develop a Drainage Improvement Plan for the Town's Stormwater System
- MOU and Resolution Approving the Memorandum of Understanding (MOU) Between the Town, the Village of Bal Harbour, and the Town of Bay Harbor Islands to Fund the Cost of a School Resource Officer for Ruth K. Broad K-8 Center School
- Resolution Approving the Final Design Development Plans for 96<sup>th</sup> Street Park Project
   Prepared by Savino & Miller Design Studio, P.A.
- Resolution Approving Employee Health Benefits Contracts for Fiscal Year 2021/2022
- Resolution Accepting an Allocation of \$2,830,324 in Coronavirus State and Local Fiscal Recovery Funds from the U.S. Department of Treasury Under the American Rescue Plan Act; Review of American Rescue Plan Act Coronavirus Local Fiscal Recovery Fund Agreement
- Ordinance Side Setbacks for H120 District
- Resolutions Approving Tentative Millage Rate and Budget for FY 2022 (1<sup>st</sup> Budget Hearing)
- Resolutions Approving Final Millage Rate and Budget for FY 2022 (2<sup>nd</sup> Budget Hearing)
- Resolution Authoring Expenditure of Funds to KCE Structural Engineers for Task 2
   Engineering Analysis and Destructive Testing

- Resolution Approving Project Agreement with 300 Engineering Group, P.A. for Sanitation Sewer Evaluation Survey and Smoke Testing Services for the Town's Sanitary Sewer System
- Resolution Approving a Federally Funded Subaward and Grant Agreement with Florida
  Department of Emergency Management (FDEM) for Public Assistance Grant Program
  Eligibility in Connection with Federal Emergency Management Agency (FEMA)
  Disaster Declaration No. 2560-EM-FL Relating Champlain Towers Building Collapse.
- Resolution Approving the Submission of Grant Applications For Town Projects Between October 1, 2021 and September 30, 2022; Subject to and Pending Final Acceptance of Awarded Funds and Approval of Grant Agreements by Town Commission
- Resolution Expressing Support for the Sister Bays Program and Urging Coastal
  Communities Throughout the County to Support the Program; Encouraging the MiamiDade County Board of County Commissioners to Develop a Memorandum Of
  Understanding for The Sister Bays Program
- Resolution Approving a Voluntary Cooperation and Operational Assistance Mutual Aid Agreement with the City of North Miami
- Resolution Approving Fiscal Year 2021/2022 Police Forfeiture Fund Expenditures
- Resolution Approving Budget Amendment No. 11 for Fiscal Year 2020/2021 Budget
- Resolution Approving Purchase of Services from Kofile Technologies, Inc. for Preservation. Archival and Digitization of Historical Town Documents
- Resolution Approving the Purchase of a Town Hall Fire Alarm System Upgrade from Sciens Building Solutions, LLC c/o Empire Fire Safety
- Resolution 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 \$25 Per Month Minimum Charge
- Resolution Approving Budget Amendment No. 1 for Fiscal Year 2022 Budget
- Resolution Approving the Renewal of Agreement with Thomson Reuters West
   Publishing Corporation for Clear Investigative Tool for Fiscal Years 2022-2024
- Resolution 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
- Resolution 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 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
- Resolution 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
- Resolution Calling for a Town of Surfside Special Election to be Held on March 15, 2022 or 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 thee Storage of Privately-Owned Property overnight on the Beach
- Resolution 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 Section 7 - "Salary", to Provide for Payment of an Annual Salary for Mayor and Commissioners and Single Health Insurance Benefit
- Resolution Approving an Agreement with Alves Sports Group, LLC for the Town's Youth Soccer Program and with GM Sports Tennis, LLC for the Town's Youth Tennis Program
- Resolution 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
- Resolution 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
- Ordinance Securing Construction Sites, Safety and Other Requirements

- Ordinance Creating a 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.
- Resolution 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
- Resolution Approving a First Amendment to the Revocable, Non-Exclusive License
  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
- Resolution 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)
- Resolution 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
- Resolution 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.
- Resolution Approving Budget Amendment No. 2 for Fiscal Year 2022 Budget
- Resolution Approving an Amendment to Resolution No. 13-Z-06 for the Surf Club Property Located at 9011 Collins Avenue 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

- Resolution 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
- Resolution Approving Budget Amendment No. 3 for Fiscal Year 2022 Budget
- Resolution Urging the Florida Legislature to Oppose Senate Bill 280, Which Would Allow Individuals and Entities to Delay Enactment of Local Ordinances by Filing Lawsuits that Allege an Ordinance is Arbitrary or Unreasonable
- Resolution Reaffirming Town's Commitment to Condemn Anti-Semitic, Hateful And Hurtful Messages And Behavior, Including Reaffirmation of the Provisions of Section 54-2 of Town's Code, "Consideration Of Anti-Semitism And Hate Crimes In Enforcing Laws" and Supporting an Amendment to Section 54-2 to Broaden the Definition of Anti-Semitism as Outlined Herein
- Ordinance Amending the Town Code Of Ordinances by Amending Section 90-57.
   "Marine Structures", to Provide for Regulations for Construction of Docks, Piers and Moorings on Waterfront Lots;
- Ordinance Amending Town of Surfside Code of Ordinances by Amending Section 90-2.
   "Definitions", to Delete the Definition for "Gross Acre" and to Revise Definitions for "Height," "Lot Area," And "Lot Coverage"

**Litigation:** New or supplemental information is provided for the following case:

Beach House Hotel, LLC vs. Town of Surfside, Case No. 2020-025405-CA-06 in the Circuit Court 11<sup>th</sup> Judicial Circuit, Miami-Dade County, Florida. On December 7, 2020, the Town was served with a Complaint for Declaratory Relief, Preliminary and Permanent Injunction in connection with the Town's Beach Furniture Ordinance. On December 23, 2020, the Town filed a Motion for Extension of Time to Respond to the Complaint for 30 days. An Executive Session pursuant to Section 286.011(8), F.S., was held with the Town Commission on January 22, 2021. The Town filed its Answer and Affirmative Defenses on February 4, 2021. On May 4, 2021, the Plaintiff filed its initial discovery requests, including "First Set of Interrogatories to Defendant" and "First Request for Production of Documents to Defendant", both due within 30 days of the filing. The Town responded to the Interrogatories and Request for Documents. The parties have agreed to hold off on further discovery and the Court has approved a case management report.

Solimar Condominium Association, Inc. v. Town of Surfside, Case No. 2019-025481-CA-01 in the Circuit Court 11<sup>th</sup> Judicial Circuit, Miami-Dade County, Florida. On September 18, 2019, the Town was served with a Complaint for Declaratory Judgment, Injunctive Relief, and Restitution in connection with the Town's implementation of its 1998 stormwater fee ordinance. The plaintiff contends that the method of calculating stormwater fees is not fair to condominium unit owners, who are charged 1.0 equivalent residential units ("ERU"), the same as a single family

home. The Town moved for dismissal of the Complaint on March 12, 2020, which was denied. The Town then moved for summary judgment on October 27, 2020, which remains pending. The summary judgment motion has been delayed due to court availability for a hearing and the plaintiff's desire to conduct expert witness discovery. The Town has engaged its own expert witness to rebut the opinions of the plaintiff's expert. Expert discovery is completed, except for expert depositions, which are anticipated in January 2022. Mediation of the dispute occurred on December 6, 2021 with Retired Judge Joseph Farina. The parties jointly moved to continue the trial, and the Court granted the motion and placed deadlines for a trial in June, 2022 and complete expert discovery by February 17, 2022. The Court will set a hearing to hear motions for summary judgement. An Executive Session with the Town Commission occurred on January 6, 2022 as part of the mediation process.

Village of Indian Creek, Florida, Town of Surfside, Florida and Charles Burkett, Petitioners, v. Federal Aviation Administration and Stephen M. Dickson, in his official capacity as Administrator, Federal Aviation Administration, Respondents. On December 14, 2020, 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 South-Central Florida Metroplex. The FAA announced that it implemented Phase 2 of the Metroplex project on August 12, 2021; implementation of the new flight procedures commenced over the Bay. On October 26, 2021, the Town's Special Counsel filed the consolidated Opening Brief. The Opening Brief which, among other matters, contends that aircraft noise jeopardizes public health and welfare and that the FAA is not accurately evaluating aircraft noise or its impact to persons on the ground; that the South-Central Florida Metroplex Project is in violation of the National Environmental Policy Act; and that as such the FAA is violating the constitutional rights of the citizens of the affected communities. On December 22, 2021, the Eleventh Circuit Court granted the FAA's motion for an extension of time to file its response brief in reply to the Town's Opening Brief. The Town has engaged a sound engineer or firm to assess the impacts of increased noise at a designated location in Town from the new flight procedures and compare such data against the FAA's assessment and report regarding such impacts. Sound collection is ongoing.

Information on other pending litigation matters has or will be provided individually to members of the Town Commission, as needed or requested.

• Special Matters: Continued monitoring of new case law and legislation from Federal, State and County, challenging local home rule authority and implementation of Town legislative priorities for the upcoming Florida Legislative Session. Matters which we will continue to work on and anticipate in the upcoming months include: continued public records and media requests regarding the CTS Building Collapse; continue work with the County and Court Appointed Receiver regarding issues pertaining to the CTS Building Collapse Site, including transition of the CTS Site from the County to the Receiver and addressing operational and permitting requests; respond to legal demands and lawsuits, and requests for production of records, resulting from the CTS Building

Collapse; public records requests and ethics inquiries; implementation of various policy directives from the Mayor and Town Commissioners; implementation of beach furniture ordinance and permits; short term rentals ordinance; review of revenue utility bonds and reduction of water/sewer rates; review and analysis of Resort Tax and Tourist Board legislation; procurement of professional services and contracts; appeal of FAA South-Central Florida Metroplex Finding of No Significant Impact and Record of Decision; defense and response to discovery requests in connection with Beach House Hotel beach furniture litigation; continued review and monitoring of all Development Orders and approvals; police matters and agreements; implementation of agreements resulting from RFQs for Engineering Services, Abbott Avenue Drainage project, landscaping services, shuttle and transportation, and undergrounding of utilities plan design; various procurements and service or provider agreements for Town improvements, facilities and programs, including preparation of RFPs for street sweeping services, RFPs for emergency debris collection and monitoring services, and RFQ for drainage study engineers compliant with State and Federal procurement and funding requirements; implementation of undergrounding of utilities and engagement of consultants to implement the utilities undergrounding project; continued assistance with and response to AFSCME Florida Council 79 Union Representation Certification Petition to unionize Town civilian employees; Response to EEOC complaints; Assist with process and independent third party investigations of employee discrimination complaints; application to Miami-Dade County for the closure and/or other traffic mitigation measures for Byron Avenue and Bay Drive; assistance with kayak launch at 96<sup>th</sup> Street park permitting and implementation; approval and implementation of Savino Miller design for 96<sup>th</sup> Street Park; implementation of design phase for Abbott Avenue Drainage Improvements; Zoning in Progress and continued review and policy implementation of revisions to Zoning Code; short term rental enforcement and Notice of Appeal received on behalf of 1249 Biscaya LLC; RFP for construction of 96th Street Park; ongoing public records and media requests, Court and CTS Receiver requests, zoning requests, subpoenas, depositions and lawsuits regarding In re: Champlain Towers South Collapse Litigation, Case No. 2021-015089-CA-01 and related cases; various Charter Referendum Amendments as directed by the Town Commission, Bond Referendum resolution and legal work needed in connection with the approval and issuance of General Obligation

Bonds for undergrounding of utilities; election related issues and matters for the upcoming March 15, 2022 general and special elections; Memorial site for CTS and closure of vehicular access on 88<sup>th</sup> Street; Ordinance Amending Town Code by Amending Section 90-57 "Marine Structures", to Provide for Regulations for Construction of Docks, Piers and Moorings on Waterfront Lots; Ordinance implementing "Accelerate, Don't' Wait", approach for 30-year recertification of threshold buildings; and Ordinance Securing Construction Sites, Safety and Other Requirements; Ordinance Amending Zoning Code "Definitions", "Gross Acre", "Height," "Lot Area," and "Lot Coverage"



# PARKS & RECREATION COMMITTEE MEETING

#### **MINUTES**

November 15, 2021 at 7:00 p.m.

Surfside Community Center 9301 Collins Avenue, Surfside, FL 33154

#### 1. Call to Order/Roll Call

The meeting was called to order by Chair Logan at 7:00 p.m.

The following were present: Chair Retta Logan

Committee Member Janice Tatum Committee Member Marta Olchyk Committee Member Lara Frank

Absent: Committee Member Frank MacBride, Jr.

Commissioner Nelly Velasquez, Commission Liaison

Also, present: Tim Milian, Parks and Recreation Director

Evelyn Herbello, Deputy Town Clerk

#### 2. Agenda and Order of Business

Chair Logan welcomed and introduced the newly appointed member, Lara Frank, to the Parks and Recreation Committee.

Committee Member Lara Frank introduced herself to the rest of the Committee Members. She stated that she had attended the zoom meetings for Parks and Recreation and that Nicole Travis brought her up to date on the projects.

Parks and Recreation Director Milian gave an update to the Committee Members on former Vice Chair Travis. He stated that she will be moving to New Jersey this weekend and sends her regards.

#### 3. Approval of Minutes:

- October 25, 2021 Parks and Recreation Committee Meeting Minutes

A motion was made by Committee Member Tatum to approve the October 25, 2021 Parks and Recreation Committee Meeting Minutes, seconded by Committee Member Olchyk. The motion carried with a 4-0 vote with Committee Member MacBride absent.

## 4. 96<sup>th</sup> Street Park Design Development – Parks and Recreation Committee Review and Design Team for Feedback.

Parks and Recreation Director Milian provided an update on the project and advised the Committee that he will keep this item on the agenda in order to keep the Committee Members up to date on the progress of the project. He also stated that they are working on the RFQ process with the construction portion of the project.

Parks and Recreation Director Milian thanked the Committee Members for their dedication and commitment to the project and that at the next meeting they will be adding to the agenda the item to appoint a new Vice Chair for this Committee.

Committee Member Tatum asked if the kayak launch is still budgeted to take place and be part of this project.

Parks and Recreation Director Milian stated that it is still in the plans.

#### 5. Halloween Event Recap

Parks and Recreation Director Milian gave a recap of the Halloween event that took place. He stated that this year they did it differently where they took reservations. He spoke regarding the planning and staffing of the event and they had 750 people attend the event this year. He stated that they did it in time slots that way there was never a time where they had to ask people to leave due to capacity. He showed a drone aerial of the maze field that was made with hay. He stated that after the event the hay was donated to different organizations, one being a special needs horse ranch.

Chair Logan asked regarding the next event which is Winter Wonderland.

Parks and Recreation Director Milian stated that the next event is Winter Wonderland and he gave a summary of what that event will entail. He also stated that he will not be doing reservations for this event since it is a steady flow of people coming in and out.

Parks and Recreation Director Milian spoke regarding the upcoming Winter Camp and spoke regarding the Veteran's Day Parade that took place. He stated that Miami Dade County Mayor Levine Cava attended the event.

Chair Logan asked if Mayor Levine Cava spoke regarding the Champlain Tower South.

Parks and Recreation Director Milian stated that she did mention Champlain Tower South. He stated that Vice Mayor Paul spoke regarding Coach who was a staple in the Town. He stated that it was sad because Coach was always at the Veteran's Day Parade Event and was a big part of the Parks and Recreation Committee. He also stated that they did honor Coach at this event.

Chair Logan asked if the Town was going to do something in memoriam of Coach like a stone at the Community Center.

Parks and Recreation Director Milian stated that he was not sure but he would look into that possibility.

#### 6. Public Comments - (2-minute time limit per speaker)

The following individual from the public spoke:

Jeff Rose spoke regarding the kayak launch and to make sure that the mulch placed on the 96<sup>th</sup> Street Park is nontoxic.

#### 7. Next Meeting: December 20, 2021

Parks and Recreation Director Milian asked the Committee that due to the Christmas holidays, and the fact that at this time he has no items to be placed on the December agenda, if the Committee prefers to hold their next meeting January, 2022.

Chair Logan stated that she would prefer to cancel the December 20, 2021 meeting and change the January 17, 2022 meeting since it falls on Martin Luther King Holiday to January 24, 2022.

A motion was made by Committee Member Tatum to cancel the December 20, 2021 Parks and Recreation Committee Meeting and move the January 17, 2022 Parks and Recreation Committee Meeting to January 24, 2022 at 7:00 p.m., seconded by Committee Member Olchyk. The motion carried with a 4-0 vote with Committee Member MacBride absent.

Parks and Recreation Director Milian requested approval from the Committee to purchase new bike racks that will replace the older ones and the new ones will have a nice design. He stated that the old racks would be moved to the park and the new racks are already budgeted for.

Consensus by the Committee was reached to allow Parks and Recreation Director Milian to move forward with purchasing the new bike racks for the Community Center.

#### 8. Adjournment

A motion was made by Committee Member Tatum to adjourn the meeting without objection at 7:21 p.m. The motion received a second from Committee Member Olchyk. The motion carried with a 4-0 vote with Committee Member MacBride absent.

Respectfully submitted:

Accepted this 24 day of January

2022

Retta Logan, Chair

Attest:

Evelyn Herbello Deputy Town Clerk



# Town of Surfside PLANNING & ZONING BOARD Zoning Code Workshop MINUTES

November 16, 2021 - 6 p.m.

Town Hall Commission Chambers 9293 Harding Ave, 2<sup>nd</sup> Floor, Surfside, FL 33154

#### Call to Order/Roll Call

Chair Frankel called the meeting to order at 6:01 p.m.

**Present:** Chair Judith Frankel, Board Member Fred Landsman, Member James Mackenzie, Board Member Ruben Bravo, and Alternate Board Member Carolyn Baumel.

**Absent**: Mayor Charles W. Burkett, Board Member Randi MacBride and Alternate Board Member Horace Henderson.

**Also, Present:** Town Attorney Tony Recio, Town Planner Walter Keller and Building Official Jim McGuiness.

#### 2. Town Commission Liaison Remarks

No Liaison remarks were given since Mayor Burkett was absent.

#### 3. Review of List of Changes

Town Attorney Recio went over the list of changes that were provided.

#### 4. Additional Single Family Discussion

- A. Setbacks and Encroachments
- B. Lot Coverage and Floor Area
- C. Landscaping and Pervious Area
- D. Rooftop Uses Decks and Mechanical
- E. Accessory Structures; Pool Location
- F. Understory Parking

#### Under Section 19. Single Family Home Volumes

Town Attorney Recio stated that the Town Commission decided to move away from this.

Vice Chair Landsman stated his disappointment with the Town Commission as it relates to the recommendations that the Planning and Zoning Board provided.

The following member of the public spoke:

Jeff Rose spoke regarding making recommendations to the Commission and ballot questions of possibly raising the homes.

George Kousoulas stated that the Commission did not want to bother with this portion.

Town Attorney Recio explained the concept of this section and what areas it limits. He provided an overview of the proposed changes to that section of the code.

Board Member Baumel discussed individuals wanting to demolish and rebuild.

Town Attorney Recio spoke regarding the intent of that section of the code as it pertains to building second floor homes.

Board Member MacKenzie asked regarding the requirement when it comes to articulation of the façade.

Vice Chair Landsman commented that the Commission decided to vote against it because they did not understand it.

Town Attorney Recio stated that the Commission is not accustomed to looking at plans.

Board Member Baumel stated that understory is very important.

Board Member MacKenzie asked where they go from here since the majority of the Board is on the same page. He asked if they can go ahead and approve the Town Attorney's proposal.

Town Attorney Recio stated that he will be passing out his proposed notes that basically encompasses what the recommendations of the Board was, and he will present it to the Commission for their consideration. He provided the process of it going before the Commission for a first reading and then coming back to the Board and there is no reason why they cannot give the Commission their recommendations.

Chair Frankel stated that they should provide their recommendations. She stated that it provides incentives in keeping one story homes and building one story homes. She stated that for those that want to build a two-story

home, the developers should give options and to the benefit of the Town they would get homes that are less imposing.

Vice Chair Landsman spoke regarding the understory and those that want two story homes and does not disagree that this is a good incentive but people will push the two story.

Chair Frankel asked what recommendation the Board wants to make to the Commission.

Consensus was reached to move forward with the Board's previous recommendation and to have those provided to the Town Commission.

#### G. Fences, Walls, Gates, and Hedges

Vice Chair Landsman asked regarding the Commission recommendations on the hedges.

Town Attorney Recio provided the requirements for the hedges for the front of the house and the Commission has not taken a position on gates.

Chair Frankel mentioned that the hedges are not enforceable, and Code Enforcement cannot even go and cite the owner of the property.

Vice Chair Landsman stated that if a Commissioner asks Code Enforcement to go and measure and cite, they will have to.

Chair Frankel stated that if the hedges are in your right of way and in the event the hedges are blocking the view to the street, she does not believe it should be changed from 4 feet.

Board Member Baumel asked that an interior lot house is allowed to have a 6-foot hedge.

Town Attorney Recio stated that nothing is formalized or adopted but they have come to a decision to go with a 6-foot hedge and it is going in the Zoning in Progress.

Chair Frankel stated that the only time the hedges are coming before the Board is when it is a new building.

Town Planner Keller believes that the hedges should be on the property line.

Board Member MacKenzie stated that is because they do not require a landscape architect to provide a signed plan. He stated that they need to have that and a coordinated effort with the design review. He also suggested any new home or major renovation above 50% to come with a landscaping plan.

Board Member Bravo stated it also affects the safety and security of the neighborhood.

Town Planner Keller agrees with having a landscape plan as part of the requirements.

Further discussion took place among the Board regarding hedges and the requirements being proposed.

The following members of the public spoke: Jeff Rose George Kousoulas

Board Member MacKenzie stated that the Town must develop a guideline and for it to be better then what they have in place now. He spoke regarding the 10-foot setback.

Chair Frankel stated one of their recommendations would be to require a landscape plan proposal certified by a landscape architect incorporating the other recommendations on number of trees, pervious and Florida friendly as well as time taken to evaluate landscape requirements to be a comprehensive document. She stated that they would like to see the landscape plan go before the design review board.

Town Planner Keller spoke how they look at each project depending on the work they will be doing as it pertains to the pervious area.

Chair Frankel asked if they wanted to provide a recommendation and reiterated what the Commission proposed.

Vice Chair Landsman would advocate 8 feet because it gives some level of security or safety.

Board Member MacKenzie is supportive of the 4-foot hedge.

Board Member Bravo is supportive of the 4-foot hedge.

Vice Chair Landsman stated that if the Commission wants 6 feet, he will not fight them.

Consensus was reached to leave the hedges at 6 feet.

Chair Frankel spoke regarding gates and walls and stated that anything 2 feet and zero opacity she does not have an issue. She stated that when they get to the 4 feet in the front, it gets trickier because a fence without a gate is useless and to her a 4-foot fence is not keeping children in or anyone coming over. She stated that a 4-foot fence is more decorative and not for security.

Discussion took place regarding the height and the necessity of having gates and fence.

Vice Chair Landsman asked what the Commission decided on this.

Town Attorney Recio stated that the recommendation was back in June, but they have not discussed it again.

Vice Chair Landsman spoke regarding having ideas and possibilities of designs. He spoke regarding updating the design review guidelines. He stated that he would prefer fences and gates not to go before this Board.

Further discussion took place regarding the gates and fences and strict guidelines.

The following individuals from the public spoke: George Kousoulas Jeff Rose

Board Member MacKenzie spoke regarding a house on a specific location and that some need it and others do not.

Chair Frankel stated that she agrees with Vice Chair Landsman that they do not want to deal with this issue. She spoke regarding some meeting a hardship requirement.

Town Attorney Recio stated that this can fall under special exception and not necessarily a variance but does have to meet certain criteria.

Town Planner Keller spoke regarding fences of the front house and some of the older homes do not have much of a front set back.

Discussion took place regarding the front setbacks and those wanting a fence in order for children to play in the front yard and fences in the backyard has never been a problem.

Vice Chair Landsman suggested that for the H30B they do not allow for any gates for interior lots, for corner lots you let them come to this Board and make their argument for hardship, for H30A they let them come to this Board to make their case and they can consider the gates.

Chair Frankel asked regarding the secondary frontage.

Town Planner Keller stated that with those they cannot put up a fence without approval.

Chair Frankel stated that the front door cannot be blocked by gates.

Town Attorney Recio reiterated, H30B allows decorative walls of 2 feet with 100% opacity, if you put a fence, it is a 4-foot hedge blocking the fence with 2 feet solid and anything above that cannot be solid. No gates on any of these. On a corner lot for secondary frontage only, gates with Planning and Zoning Board approval. One situation is the boat example, which is perpendicular to the road, so you are not facing it as a pedestrian. One of the defining things is that when you are on the street you aren't looking at it, so are there going to be the same rules for both. Corner lots no gates on the front door; if parallel to the street with board approval and perpendicular to the street to go before the board.

Board Member MacKenzie stated that part of the discussion has to be that most of the corner lots have their front door on side of street.

The following member of the public spoke: Jared Superstein

Chair Frankel asked what the setback would be for H30A.

Further discussion took place regarding the H30A homes and gates and those coming before the Board for a hardship approval.

Town Attorney Recio spoke regarding corner lots and they are saying for H30B that they can have them in some areas.

Chair Frankel stated that all in H30A they are saying no gates.

Town Attorney Recio asked if they want to couple it with a variance and explained what they are allowed to ask for in the variance application.

Board Member MacKenzie stated that if these properties truly have a hardship they can come before the Board for a variance.

Chair Frankel stated that when presenting this to the Commission it is important to explain that the intent is to keep the feel of Surfside.

Town Attorney Recio suggested having a designated board member to look over his notes to make sure he has all the information.

Chair Frankel suggested to forward it to the Board through the Deputy Town Clerk.

Vice Chair Landsman suggested that the Chair would be the best person to serve as the designate.

Consensus was reached to have Chair Frankel and Board Member MacKenzie to be the designated members to review the recommendations and provide any input.

## Item 23. Design Review of additions and renovations to existing single-family home.

Discussion took place regarding which items should be placed first on the agenda.

Town Attorney Recio stated the current way the agenda is done is the way that it has been done in the past. He also stated that a recommendation was made to place small projects before large projects.

#### **Item 24 Florida Friendly Landscaping**

Town Attorney Recio stated that this falls under the previously discussed Item number 4 and it was approved.

#### Item 25. Practical Difficulty Variance

Town Attorney Recio spoke regarding the proposal they had, He stated that they can get rid of this but the second part of this which is the part which adds a variance to determine the front of a corner lot. He stated that the Commission decided to make a variance to determine the front portion of the house.

Town Planner Keller stated it only makes sense on a new vacant lot.

Board Member MacKenzie stated that if you are using the front of the lot and enforce the front to be the long side, they end up putting 20 feet instead of 5 feet because they would be losing 15 feet of property. He stated it needs to be kept the way it is which is the front being the short side of the lot.

Town Attorney Recio explained that this became an issue with the gates and fences and that has been covered.

#### Item 26. Variance

Chair Frankel asked if they only need to have three votes to approve a variance.

Town Attorney Recio stated that right now you only need three votes but at one time it was requested to be unanimous, but it has been brought down to four and not five votes.

Chair Frankel stated that it is fine the way it is with three votes.

The following member of the public spoke: George Kousoulas

Vice Chair Landsman believes that it is fine with the four votes.

Town Attorney Recio stated it should also be limited to what they can ask for and mentioned them.

Consensus was reached to leave it at four votes.

A motion was made by Vice Chair Landsman to extend the meeting for 15 minutes until (8:20 p.m.), seconded by Board Member Bravo. The motion carried with a 5-0 vote.

#### **H. Additional Concerns**

The following individuals from the public spoke:
George Kousoulas spoke regarding number 5 – definition of story.
Jeff Rose spoke regarding higher ceilings.

Board Member MacKenzie stated that the Building Code speaks regarding what is allowed and the space allocated for storage.

Chair Frankel would recommend to the Commission to be clear that it is not allowing more habitable space but only to increase the height from the crown of the road to allow higher freeboard but only if you are doing an open side concept.

Further discussion took place among the Board members regarding the height.

Board Member MacKenzie stated that if they want to incentivize pitched roofs, they only penalize flat roof architecture and that is what people are trying to discourage. He believes that in 30 feet you can meet the freeboard and meet the requirements. He just believes that they should not go on the referendum because it will fail.

A motion was made by Vice Chair Landsman to extend the meeting for an additional 10 minutes (until 8:30 p.m.), seconded by Board Member MacKenzie. The motion carried with a 5-0 vote.

Building Official McGuinness suggested changing it from where you measure it from which is from design flood elevation.

Town Attorney Recio stated that right now the charter states you cannot increase the height and it would have to go to a ballot question because you are changing the point in the sky. He read what the current code states.

Chair Frankel believes they should present both point of views.

Town Attorney Recio stated that he cannot have this by tomorrow. If the Chair would like to provide language, then he can give it to the Town Attorney tomorrow.

Chair Frankel asked for Building Official McGuinness to come up with the language and provide it to the Town Attorney by tomorrow. She just wants Mr. McGuinness to put the concept together.

#### 5. Additional Public Comment

No additional public comments.

#### 6. Additional Question and Answer

#### 7. Scheduling Additional Workshop (if necessary)

No future workshop meeting dates were requested.

### 8. Adjournment

The workshop adjourned at 8:34 p.m.

Respectfully submitted,

Accepted this 27 day of 2022

\_, 2022.

Judith Frankel, Chair

Attest:

Sandra McCready, MMC

Town Clerk



## Town of Surfside PLANNING & ZONING BOARD MINUTES

DECEMBER 16, 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 6:06 p.m.

Present: Chair Judith Frankel, Board Member Fred Landsman, Board Member

Ruben Bravo, Board Member Randi MacBride and Alternate Board

Member Carolyn Baumel.

**Absent**: Mayor Charles W. Burkett and Board Member James MacKenzie

**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 – October 28, 2021

A motion was made Vice Chair Landsman to approve the October 28, 2021 Planning and Zoning Board Meeting Minutes, seconded by Board Member Bravo. 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 for all applicants with the exception of 9281 Byron Avenue. That applicant did not meet the notice requirement.

Town Attorney Recio advised the Board that the item, 9281 Byron Avenue, has to be deferred due to not meeting notice requirements.

Deputy Town Clerk Herbello swore in all applicants.

#### A. 9000 Abbott Avenue – New Two-Story Residence

**Background:** This application is a request to demolish an existing 1-story single-family residence and construct a new 2-story single-family residence with concrete driveway including grass inlay in the front; covered terrace (284 SF), open trellis (80 SF) and pool with a deck (322 SF) in the rear, there is no information provided on the deck at this time. The parcel is located in the H30B Zoning District at 9000 Abbott Avenue and is a corner lot. The average lot depth is 112.5 feet with a width of 55.08 feet. The site plan indicates the lot size is 6,037 square feet (SF). The proposed air-conditioned floor space totals 2,119 SF.

The setback requirements for the H30B Zoning District are 20-foot front, 10-foot secondary front, 5.5-foot side and 20-feet rear. The applicant is proposing a 20-foot front yard setback with a 20-foot rear yard setback, a 5.5-foot interior side setback and a 10-foot secondary front setback. Total lot pervious area is proposed at 2,286 SF or 38% where 35% is required. The front yard setback pervious area is proposed at 59.8% where 50% is required. The rear yard setback pervious area is 70.8% where 40% is required. The second floor under a/c is proposed at 1,689 SF or 77% of the first floor where 80% is the maximum. A pitched roof is proposed at the 30-foot maximum height allowed. Table 1 on page 3 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include a black metal garage door, black impact doors and windows, black aluminum railings, black metal drip and fascia, board formed architectural concrete, white ash finished front door, raised smooth stucco band painted in charcoal gray at the base of the building, and the building is painted with smooth stucco white paint. The plans also include a concrete driveway and walkway with grass in between. A cement roof tile in the color 'Dove Gray' is proposed. Detailed drawings were provided by the applicant with limited information on the pool.

The applicant is proposing three street trees where 6 street trees are required (Palm Trees are counted 3:1). The applicant is proposing less than 2 trees and a total of 35 shrubs for the lot, where 6 trees and 35 shrubs are required for single-family homes on corner lots. A total of 100% of the trees on site are palm trees, where 40% is the allowed maximum. The site plan shows two species of palm trees proposed, where there must be a total of 5 different tree species, of which a minimum of 30% must be shade trees that meet the requirements of the code. A total of 20% of all landscaping is proposed to be Florida-Friendly

where the zoning in progress requires 40%. Figure 1 is an aerial view of the existing property.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 11/12/2021.

**Staff Recommendation:** The site plan package is consistent with the Zoning in Progress. It is recommended the application be approved subject to the following comments:

- Clarify the height of the residence. One dimension has 30 feet 2 inches and another 30 feet. Maximum height per Zoning in Progress is 30 feet.
- Per the **Zoning in Progress**, all landscaped areas must include 40% of Florida-Friendly materials. Provide calculations to show this requirement is met. Please refer to **Sec. 90-95** for H30B single family landscape requirements. A total of 6 trees made of five (5) different tree species is required onsite: 30% shade trees, 30% small trees and no more than 40% palm trees
- Street trees are required along the public street frontage of the property, see **Sec. 90-89**. Street trees shall be required at one shade tree per 20 linear feet of street frontage thereof along all public or private street rights-of-way in all zoning districts. It is suggested the trees be planted along the property lines. Palm trees count as 3:1; therefore, three palm trees equals one tree.
- The future pool deck should be defined to ensure rear setback requirements are met in addition to landscape/pervious area, per **Sec. 90-54.2**. Pool decks must meet the 5-foot rear and side yard setback requirements.
- Provide the style and height dimension for the fence. Maximum fence height is limited to 6 feet, see **Sec. 90-56**.
- A tree removal permit is provided prior to the removal or relocation of existing site trees, see **Sec. 90-97**.

Jeff Rose, representing the applicant provided an overview of the project and advised there was a typo and it will be 30 feet.

Vice Chair Landsman stated he recalls this application from a few months ago and appreciates that Mr. Kousoulas came up with something different. He spoke regarding the design and appreciates the rendering and for the applicant to make sure he has 30 feet.

Board Member Bravo spoke regarding a fence that is mentioned.

Town Planner Keller stated that there is a gate that goes with the fence for the pool that is in the back.

Mr. Rose stated it will be submitted once they do the pool and fence, it will be submitted separately.

Board Member Bravo agrees with the comments and that the height is the correct one.

Vice Chair Landsman asked how much more will the pitch add.

Mr. Rose addressed the comments made by Vice Chair Landsman.

Chair Frankel stated that if you add the landscaping up front in advance it humanizes the scale adding the trees. She asked architecturally on the house on the secondfloor balcony and the corner pillar if there is a reason why it was not made of glass.

Mr. Rose stated that was what the client wanted.

Chair Frankel stated that what they are trying to do is make the houses look lighter.

George Kousoulas, architect for the applicant, stated that what the client wants to get at is making the house look more traditional and a complete glass balcony makes it more modern.

Board Member Baumel agrees with Mr. Kousoulas and likes seeing the separation and it gives it a Mediterranean feel.

Building Official McGuinness added conditions regarding the floor plan being properly marked at elevation marking of 10 feet and the air conditioning equipment must be at the same elevation which is 10 feet and all elevations need to be read in NAVD instead of NGVD.

Board Member Bravo appreciates the roof being gray and not black.

Mr. Rose addressed the comments made by Board Member Bravo.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations excluding the fence, gate and pool which will be submitted separately and adding the Building Officials conditions which include: base flood elevation on the site plan and in NAVD calculation, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

#### B. 9045 Hawthorne Avenue - New Two-Story Residence

**Background:** This application is a request to demolish an existing 1-story single-family residence and construct a new 2-story single-family residence with a cabana (300 SF) located in the side yard, a concrete driveway with grass inlay in the front; covered terrace (325 SF) and pool with deck in the side yard. The double lot parcel is located in the H30B Zoning District at 9045 Hawthorne Avenue. The average lot depth is 112.5 feet with a width of 100.08 feet. The site plan indicates the lot size is 11,259 square feet (SF). The proposed airconditioned floor space totals 3,604 SF.

The setback requirements for the H30B Zoning District are 20-foot front, side is 10% the lot width (10 foot) and 20-feet rear. The applicant is proposing a 20'-1" front yard setback with a 20-foot rear yard setback, and a 10-foot side setback. Total lot pervious area is proposed at 5,053 SF or 44.9% where 35% is required. The front yard setback pervious area is proposed at 72.4% where 50% is required. The rear yard setback pervious area is 97.8% where 40% is required. The second floor under a/c is proposed at 3,025 SF or 67.2% of the first floor where 80% is the maximum. A pitched roof is proposed at the 30-foot maximum height allowed. Table 1 on page 3 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include a black metal garage door with raised stucco around it, black impact windows, glass railings, gray natural stone cladding, wood screening, wood door, phenolic panel, and board formed concrete. The building will be painted with smooth stucco white paint. The plans also include a concrete driveway and walkway with grass in between. A pitched gray aluminum metal roof is proposed with black fascia. The plans show the exterior of the cabana to have gray natural stone cladding. Detailed drawings were provided by the applicant with limited information on the pool. The pool and deck are proposed at 1,476 SF; there is no other information provided on the pool and deck.

The applicant is proposing six (6) street trees although additional information needs to be provided on the species. The applicant is keeping 2 large existing oak trees and proposing 6 new trees (species unknown) with a total of 26 shrubs for the lot, where 7 trees and 41 shrubs are. It is unclear whether the proposed palm trees meet the requirements of the code. A total of 60% of the trees on site are palm trees, where 40% is the allowed maximum. The site plan shows two-three species of palm trees proposed and one species of shade tree, where there must be a total of 4 different tree species. A total of 20% of all landscaping is proposed to be Florida-Friendly where the zoning in progress requires 40%. Figure 1 is an aerial view of the existing property.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 11/12/2021.

**Staff Recommendation:** The submitted site plan package is consistent with the Zoning in Progress except as noted. It is recommended the Application be approved subject to the following comments:

- Per the **Zoning in Progress**, all landscaped areas must include 40% of Florida-Friendly materials. Seven (7) on-site trees and 41 shrubs are required for this lot size. Provide a table or separate calculations to show the landscape requirement is met. Please refer to **Sec. 90-95** for H30B landscape requirements. A total of four (4) different tree species are required: 30% shade trees, 30% small trees, and 40% palm trees. Note, some Palm trees are counted on a 3:1 ratio and must meet the requirements set forth in the above referenced section.
- Five (5) street trees are also required along the public street frontage of the property, see **Sec. 90-89**. Street trees shall be required at one shade tree per 20 linear feet of street frontage thereof along all public or private street rights-of-way in all zoning districts. It is suggested the trees be planted along the property lines.
- Per **Sec. 90-54.1** the maximum height for an accessory building shall not exceed 12 feet. Please provide the height of the cabana roof on the site plan package.
- Provide the style and height dimension for the fence. Maximum fence height is limited to 6 feet, see **Sec. 90-56**.
- A tree removal permit is required prior to the removal or relocation of existing site trees, per **Sec. 90-97**.

Jeff Rose, representing the applicant provided an overview of the project.

George Kousoulas representing the applicant spoke regarding the project and the site plan. He spoke regarding the benchmarks that surveyors rely on are NGVD and a conversion needs to take place.

Building Official McGuinness requested for the calculations to be in NAVD as well as having flood vents and proper elevation that applies to the cabana as well.

Town Attorney Recio stated that the Building Official would like to move towards NAVD and suggested that surveys be done on both.

Board Member Baumel stated that architecturally it is very pleasing and they were sensitive to the area.

Vice Chair Landsman stated that this structure is bigger than allowed in a single lot and appreciates the separation since they have a double lot. He stated that he likes the cabana's location.

Board Member Bravo stated that it is a beautiful home and modern. He spoke regarding the wood screen and its constructability and believes it will be a challenge. He commented on the cabana and the north side articulation is questionable for him. He stated that overall the house is very nice and appreciates him not using the entire site for building.

Chair Frankel spoke regarding the project and setbacks.

Mr. Rose addressed the comments made by Chair Frankel.

Mr. Kousoulas spoke regarding the elevation and being close to the neighbors you do not want too much glass and spoke regarding the terrarium.

Board Member Bravo likes the exterior lighting.

A motion was made by Board Member Bravo to approve the item with staff recommendations and conditions minus the fence which will be submitted separately, seconded by Board Member Baumel. The motion carried with a 5-0 vote.

#### C. 9248 Emerson Avenue - New Two-Story Residence

**Background:** This application is a request to demolish an existing 1-story single-family residence and construct a new 2-story single-family residence with a concrete driveway with grass inlay in the front yard; covered terrace (331 SF), a trellis (89 SF) and pool with a deck in the rear yard. The parcel is located in the H30B Zoning District at 9248 Emerson Avenue and is currently vacant. The lot depth is 141.11 feet with a width of 56.08 feet. The site plan indicates the lot size is 6,368.15 square feet (SF). The proposed airconditioned floor space totals 2,398 SF.

The setback requirements for the H30B Zoning District are 20-foot front, 5-foot side and 20-feet rear. The applicant is proposing a 20-foot front yard setback with a 22'-11" rear yard setback, and a 5-foot side setback. Total lot pervious area is proposed at 2,451 SF or 38.5% where 35% is required. The front yard setback pervious area is proposed at 63% where 50% is required. The rear yard setback pervious area is 74.4% where 40% is required. The second floor under a/c is proposed at 1,901 SF or 79% of the first floor where 80% is the maximum. A flat roof is proposed at the maximum 30-foot height allowed. Table 1 on page 3 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include a black metal garage door with orange/tan cladding and black front door. Orange/tan and gray stone cladding are used throughout the architectural design. A water feature located at the front of the house is also proposed adjacent to the concrete steps. Other elements include black impact windows, glass guardrails with black trim, a wood trellis over the front entry and concrete overhang. The building will be painted with a stucco finish in genesis white. The plans also include a concrete driveway with a grass inlay walkway. A flat white roof is proposed. Detailed drawings were provided by the applicant with limited information on the pool. The pool and deck are proposed at 609 SF; there is no other information provided on the pool and deck.

The applicant is proposing two (2) street trees where 5 street trees are required (Palm Trees are counted 3:1). The applicant has noted they are keeping 2 existing trees, but aerial imagery indicates all trees have been removed from the site, the applicant is proposing no additional trees and 25 shrubs for the lot, where 5 trees and 25 shrubs are required for single-family homes. The applicant is proposing palm trees for the site to account for the street tree requirement; there are no other trees proposed on site. A total of 20% of all landscaping is proposed to be Florida-Friendly where the zoning in progress requires 40%. Figure 1 is an aerial view of the existing vacant property.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 11/08/2021.

**Staff Recommendation:** The site plan package is consistent with the Zoning in Progress. It is recommended the application be approved subject to the following comments:

- Per the **Zoning in Progress**, all landscaped areas must include 40% of Florida-Friendly materials. Provide calculations to show this requirement is met. Please refer to **Sec. 90-95** for H30B landscape requirements. A total of four (4) different tree species is required: a minimum of 30% shade trees and 30% small trees, and a maximum of 40% palm trees can be counted towards the tree requirement. Palm trees are counted on a 3:1 ratio and must meet the requirements set forth in the above referenced section.
- Street trees are required along the public street frontage of the property, see **Sec. 90-89**. Street trees shall be required at one shade tree per 20 linear feet of street frontage thereof along all public or private street rights-of-way in all zoning districts. It is suggested the trees be planted along the property lines. Palm trees count as 3:1; therefore, three palm trees equals one tree.
- The future pool and deck should be defined to ensure rear setback requirements are met in addition to landscape/pervious area, per **Sec. 90-54.2**.

- Provide the style and height dimension for the fence. Maximum fence height is limited to 6 feet, see **Sec. 90-56**.
- A tree removal permit was required **prior** to the removal of existing site trees, per **Sec. 90-97.** The permit will need to be applied for as soon as possible for the removal of at least 2 or more trees that were on site.
- Verify and note the location of the proposed mechanical equipment is at least 15 feet from the nearest adjacent residence.

Chair Frankel asked regarding a glaring mistake that confused her. She stated that the rendering on the colors does not match A101 and A201, it is a mirror image on the front and then A301 reflects the rendering and it does not add up.

Jeff Rose, representing applicant, stated that A201 and A101 are flipped around and the driveway has to be flipped over which did not take place.

Town Attorney Recio spoke regarding a tree in the rendering.

Mr. Rose stated that the tree is no longer there.

Town Attorney Recio stated that the survey is outdated.

Mr. Rose stated that the survey was from a year ago and the tree is no longer there, and they wanted to hire Mr. Kousoulas.

Chair Frankel asked if the interior drawings are correct.

Mr. Rose stated that the interior drawings are correct.

Chair Frankel stated that the landscaping is incorrect.

Mr. Kousoulas stated that it is the driveway in the front and any front yard landscaping and the rear stays the same.

Chair Frankel stated that any approval needs to state that any landscaping needs to be up to code. She asked if it is the same client.

Mr. Rose stated it is a new property owner.

Mr. Kousoulas stated that the home is modern and spoke regarding the design.

Board Member Bravo spoke regarding the trash containers and if they are movable. He asked if there is a fence or pool as part of the application. He asked regarding the trees and landscaping.

Mr. Rose stated it is movable and for them to put their trash. He stated that there is no fence or pool. He addressed the comments made by Board Member Bravo regarding the trees.

Board Member Bravo commented on this home being a modern home which is the trend now in Surfside.

Chair Frankel believes there are opportunities to reduce massing without reducing the square footage. She spoke regarding the beam and if they hang an awning it will feel like a closed space. She stated that if they could leave the beam out, it will give you the same affect without it being bulky. She spoke regarding the canopy and hedges on the plan.

Board Member Baumel likes the idea and the fact that it can be a privacy wall.

Chair Frankel spoke regarding the design guideline and it reducing massing without impacting interior space and footage.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member Baumel. The motion carried with a 5-0 vote.

Town Attorney Recio asked to have the motion maker reconsider the motion made in order to add the additional conditions.

A motion was made by Vice Chair Landsman to reconsider the previous motion, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

Chair Frankel stated that if it is the S.E. corner beam for staff to make changes to minimize it to reduce the massing.

A motion was made by Vice Chair Landsman to approve the application with staff recommendations, and conditions stated before plus a reduction to the southeast corner beam in order to reduce the impact of the massing, seconded by Board Member Baumel. The motion carried with a 5-0 vote.

## D. 9565 Carlyle Avenue - New Two-Story Residence

**Background:** This application is a request to demolish an existing 1-story single family residence and construct a new 2-story single family residence with concrete driveway including 4-inch grass inlay in the front; covered terrace, open trellis and pool with pool deck in the rear. The parcel is located in the H30B Zoning District at 9565 Carlyle Avenue. The average lot depth is 112.5 feet with a width of 50 feet. The site plan indicates the lot size is 5,625 square feet (SF). The proposed air-conditioned floor space totals 2,210 SF.

The setback requirements for the H30B Zoning District are 20-foot front, 5-foot side and 20-feet rear. The Applicant is proposing a 20-foot front yard setback with a setback on the rear yard of 20-feet and a 5-foot side setback. Total lot pervious area proposed is 1,968 SF where 1968.75 or 35% of 5,625 SF is required. The front yard setback pervious area is proposed at 63% where 50% is required. The rear yard setback pervious area is 50% where 40% is required. The second floor under a/c is proposed at 1,783 SF which is 32% where 32% is the maximum. A pitched roof is proposed at the 30 feet height requirement. Table 1 on page 2 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed. These items include a black metal garage door, black impact doors and windows, black aluminum railings, dark gray natural slate exterior tiles for the concrete planter, white stucco, and a composite wood screen. The plans also include a concrete driveway with 4-inch grass inlay and walkway with grass, trees. A cement roof tile in the color 'Sierra Madre' is proposed. Detailed drawings were provided by the Applicant with limited information on the pool.

The applicant is proposing less than 2 street trees where 2 street trees are required (Palm Trees are counted 3:1). The applicant is also preserving several palm trees onsite in addition to meeting the requirement for shrubs. A total of 20% of all landscaping is proposed to be Florida-Friendly where the zoning in progress is requiring 40%.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 10/25/2021.

**Staff Recommendation:** This application is consistent with the Zoning in Progress. It is recommended the application be approved subject to the following comments:

- Per the **Zoning in Progress** all landscaped area must include 40% of Florida-Friendly materials. Provide calculations to show this requirement is met. Please refer to **Sec. 90-95** for H30B landscape requirements. A total of five (5) different tree species is required: 20% shade trees, 20% intermediate trees and 20% small tree. Palm trees cannot constitute no more than 20% of the required trees, see **Sec. 90-89**.
- Street trees area are required along the public street frontage of the property, see **Sec. 90-89**. Street trees shall be required at one shade tree per 20 linear feet of street frontage thereof along all public or private street rights-of-way in all zoning districts. It is suggested the trees be planted along the property lines. Palm trees count as 3:1; therefore, three palm trees equals one tree.

- The future pool deck should be defined to ensure rear setback requirements are met in addition to landscape/pervious area, per **Sec. 90-54.2**.
- Provide a height dimension for the fence. Maximum fence height is limited to 6 feet, see **Sec. 90-56**.
- A tree removal permit is provided prior to the removal of existing site trees, per **Sec. 90-97**.

Jeff Rose, representing the applicant spoke regarding the tie beam and parapet and provided an overview of the project.

Building Official McGuinness provided recommendations regarding the design flood of 10 feet and the required elevation mark on the plans.

Board Member Bravo asked regarding the fence.

Mr. Rose stated that they will not be having a fence.

Board Member Bravo spoke regarding two story homes in Town.

Chair Frankel spoke regarding the railing on the second floor and how it meets the transparency requirement.

Mr. Rose stated that this is the 6<sup>th</sup> two-story home on the block and they are becoming more prevalent.

Board Member Bravo asked where they are applying the tie.

Mr. Rose stated that it is where the band would be in order to have a straight wall.

Chair Frankel stated that the vertical banding makes it look smoother. She asked regarding the railing on the balcony and its setback.

Vice Chair Landsman asked if the neighbors are getting the noticing of the home being built.

Deputy Town Clerk Herbello stated that Mr. Rose does send out the notice requirements to the neighbors as required.

Board Member Bravo spoke regarding the new designs of the homes.

Board Member Baumel commented on the projects meeting the code requirements and if the neighbors want to comment they can. She stated that she walks through these streets and all these improvements are healthy, good and are needed. She stated that for those that want to renovate it becomes a mess. She stated that any improvement to a home, regardless if she likes it or not, is good for the community and this application meets all the requirements of the code and this community.

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. 9157 Froude Avenue – Garage Conversion

**Background:** This application is a request to demolish a sunroom (323 SF) with a metal roof located in the rear yard. The concrete slab from the sunroom will remain. The applicant is also requesting approval for the conversion of an existing garage to a living space. The applicant converted the garage previously without receiving Planning and Zoning Board approval. The garage conversion is associated with a code violation. The existing living space has three existing windows. The interior lot is zoned H30B totaling 5,600 square feet (SF) per MDCPA.

Figure 1 on the next page is an aerial view of the property. Figure 2 is a Google Street View depicting the existing front yard condition. In addition to this Memorandum, a package of a floor plan, elevations and survey was submitted by the applicant.

## **Governing Code:**

**MuniCode:** 90-50.1 (7) – allows for a garage conversion and the garage door maybe replaced with a solid exterior wall with at least one window and with access internally from the main premises. Landscaping shall be provided along the base of the new exterior wall.

**Applicant Package:** A package of the survey and floor plan was submitted by the Applicant dated October 25, 2020.

**Staff Recommendation:** The proposed improvement and demolition appear to be generally consistent with the Town's Land Development Regulations. Recommend approval subject to the following conditions:

- Provide information and or add to site plan that the floor of the garage conversion matches the existing Finished Floor Elevation of the residence.
- Provide calculations, worksheet and or information verifying the front yard landscape/pervious area.

Chair Frankel asked if someone will go there and check it.

Town Planner Keller stated that the Building Department will go out to inspect.

Jeff Rose, representing the application provided an overview of the project and they will meet all recommendations and requirements.

Vice Chair Landsman asked if the sunroom is still there.

Mr. Rose stated that it still exists and they have applied for the removal of it.

Further discussion took place regarding the design and applying for the required permits to remove what does not meet code.

Town Attorney Recio stated they are only approving the design of the garage conversion that was already there.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member Baumel. The motion carried with a 5-0 vote.

## F. 1420 Biscaya Drive – New Two-Story Residence

Background: The residence for this location was approved by the Planning and Zoning Board at the October meeting. Preliminary discussion of the front yard wall and gate took place with the Applicant and the Board at the October meeting. This application is a request to build a concrete wall and fence with gates in the front yard. The proposed wall is 3 feet 6 inches in height with two (2) aluminum motorized gates and one (1) self-closing aluminum pedestrian gate. The proposed wall will be painted with smooth stucco and includes aluminum posts with wood grain paint finished fence and gas wall sconces. The parcel is in the H30A Zoning District at 1420 SW Biscaya Drive. The average lot depth is 200 feet with a width of 92 feet. The site plan indicates the lot size is 18,400 square feet (SF).

The maximum height for walls on a lot wider than 50 feet and less than 100 feet is 5 feet. The Applicant is proposing a height of 3 feet 6 inches for the concrete wall and fence. The proposed elevations show a 50 percent opacity along the fence portions, the wall portions do not appear opaque. The code requires surfaces above 2 feet measured from grade are required to maintain a minimum opacity of fifty (50) percent.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 11/17/2021.

## **Governing Codes:**

Per Sec. 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.

Per **Sec. 90-56.5**, Shrubs shall be installed at the time the fence or wall is installed. 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.

**Staff Recommendation:** The Applicant provided a detailed landscape plan in October providing street trees in the right of way and Palm trees behind the wall. The Board has indicated a preference for providing a hedge in front of the wall in the front yard. Staff would be supportive of the addition of a hedge in front of the wall – fence on the property line provided the Planning and Zoning Board gives design approval.

Town Attorney Recio clarified this is not for a new two-story house.

Town Planner Keller stated it is not, it is for the fence and is within the design review of the Board.

Chair Frankel asked that the zoning requires it to be opaque and asked if they can overrule it.

Town Attorney Recio stated it is the way they look at and parts of the fence are 50%.

Chair Frankel asked regarding the wall and its opacity.

Town Planner Keller addressed the comments made by Chair Frankel.

Chair Frankel asked what they are bound by here.

Town Attorney Recio read what the code requires regarding the fence and the opacity requirement.

Town Planner Keller spoke regarding an example and will it average out.

Further discussion took place regarding what the code states as it pertains to the 50% opacity.

Cesar Molina, representing the applicant, spoke regarding the project and addressed the questions by the Board.

Chair Frankel asked what the opacity is and they feel it is more than 50%.

Vice Chair Landsman stated how much does it setback on the property line. He stated that they again are looking at if they want to see a gate instead of the design.

Chair Frankel asked the size of the gate and this is not intrusive. She stated that this is the best version they can look at. She spoke regarding the landscaping in front of the fence.

Mr. Molina stated that 28% is the wall.

Chair Frankel spoke regarding gates being contentious as well as the Commission not allowing gates at all. She stated that because this is a large property with a large front area, they have room to place the gates in another area. She stated that they have a nice design and they need to consider the Town as a whole.

Mr. Molina stated that they are meeting the code and this should not be based on aesthetics.

Vice Chair Landsman stated that it is in the code and this is not about aesthetics.

Chair Frankel stated that their recommendations to the Commission is not allowing gates at all.

Board Member Bravo stated it is nice but just does not see the need.

Mr. Molina stated that the owners will only spend 5 months out of the year here and would like to have their house secured.

Vice Chair Landsman reiterated that he has stated that they would like for gates and fences not to have to come before this Board.

Board Member MacBride stated that it is difficult on the design to see what they are going to vote on.

Chair Frankel gave Board Member MacBride an overview of the project and the house was approved.

Town Attorney Recio read the requirement per the code regarding the gates, fences and opacity.

Board Member Baumel asked Town Planner Keller for his recommendation.

Town Planner Keller recommended a hedge to be placed in front of the fence. He stated that in the past the Board has made the gates as open as possible.

Chair Frankel spoke regarding the design.

Board Member Baumel commented on Town Planner Keller's recommendation.

Vice Chair Landsman asked if they can require the gates of the driveway and walkway to be 80% opacity.

Chair Frankel stated that the homeowner wants it for security.

Further discussion took place among the Board, Town Attorney Recio and Mr. Molina regarding the gate, the need for the gate for security and privacy as it pertains to the code.

A motion was made by Board Member Baumel to approve the item with staff recommendations and conditions, seconded by Vice Chair Landsman. The motion failed with a 1-4 vote with Board Member Bravo, Board Member MacBride, Vice Chair Landsman and Chair Frankel voting in opposition.

Vice Chair Landsman advised the applicant to come back without the gate and bring it back as a fence and move the setback.

Town Planner Keller stated that there is not much space.

Mr. Molina asked if they can approve the application without the gate.

Jeff Rose gave suggestions on the opacity and airspace.

A motion was made by Vice Chair Landsman approve application to allow wall, fence with appropriate 50% opacity approved by Town Planner, removing the gates, (one pedestrian, two vehicular), seconded by Board Member Baumel. The motion carried with a 3-2 vote with Board Member Bravo and Board Member MacBride voting in opposition.

## G. 9049 Abbott Avenue – Remodeling & New Addition

Background: This application includes the demolition of the landscaping, hardscape, and carport in the front yard, concrete within the side yards, rear patio and fence. The applicant is proposing a new addition to the front of the home, new driveway, new fence, landscaping, relocation of mechanical equipment, pool and deck in addition to architectural modifications at 9049 Abbott Avenue located in the H30B Zoning District. The addition includes 498 square feet of living space added to the front, a new driveway with concrete slabs, a 6' wood slatted fence with gates, landscaping to include water retention area, trees and shrubs. In the rear yard, the applicant is proposing a pool with deck, water retention area and mechanical equipment in the rear and side yards. Concrete stepping stones with pebbles are proposed in the side

yards. The application also includes alterations to the exterior and interior of the existing single-family home. The lot depth is 112.5 feet with a width of 50 feet. The site plan indicates the lot size is 5,625 square feet (SF).

The setback requirements for the H30B Zoning District are 20-foot front, 5-foot side, and 20-foot for the rear. The applicant is proposing a 31'-6" front yard setback with a 5'-1" side setback and 20'-11" rear yard setback. Total lot pervious area is proposed at 2,094 SF or 37.4% where 35% is required. The front yard pervious area is proposed at 1,069 SF or 68% where 50% is required. The rear yard pervious area is proposed at 449 SF or 42% where 40% is required. The proposed building lot coverage is 2,240 SF or 40% where 40% is the maximum allowed.

Alterations include removal of the existing roof and replacing it with a new tiled pitched roof. The roof height will remain at 19'-6" where the maximum roof height is 30 feet. Windows and doors are to be removed and replaced. Table 1 on page 4 provides information on site characteristics and zoning requirements.

Various architectural features are proposed. These features include a new concrete roof tile in the colors tan and charcoal with a wood eave and wood fascia painted tan. The new roof will incorporate the addition to the front of the home. Other features include new windows and doors with a grey trim. The front of the house includes an 8-foot by 12-foot tubular steel beam for the front porch with grey finish. A new frosted front glass door with grey trim and three (3) ornamental medallions on each of the roof peaks are also proposed, the size of the medallions is not provided. The house will have a smooth stucco finish painted 'antique white'. Grey finished sconce lighting is proposed for the front and rear of the house. Concrete steps with small black beach pebbles are proposed in the side yards. A 207 SF pool with deck is proposed in the rear, no additional information was provided at this time.

The applicant is proposing removing all trees and relocating one palm tree to the rear yard. Less than two (2) street trees are proposed where two (2) street trees are required (Palm Trees are counted 3:1). The applicant is proposing 2 small to intermediate trees of two species and an unknown number of shrubs for the lot, where a minimum of five (5) trees of four (4) different species and 25 shrubs are required for single-family homes. Two additional palms are proposed on site, but may not meet the minimum requirements of the code to be counted. Proposed Florida-Friendly landscaping is unknown where the zoning in progress requires 40%. Figure 1 on page 3 is an aerial view of the existing property.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 11/11/2021.

**Staff Recommendation:** It is recommended the Application be approved conditionally subject to the following comments:

- Per the **Zoning in Progress**, Lot coverage shall mean 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 shall not be included in determining the lot coverage:
  - 1. Uncovered steps and exterior balconies;
  - 2. Uncovered terraces, patios, breezeways, or porches which are open on two (2) sides; and
  - 3. Covered terraces, patios, breezeways, or porches which are open on two (2) sides.

In no instance may the exemptions listed here exceed 15% of the total footprint of all principal and accessory buildings and structures. Please provide calculations for the lot coverage, which should include the concrete side pavers and black beach pebbles.

- Per the **Zoning in Progress**, eaves of sloped roofs may project up to twenty-four (24) inches into any required yard. All other ornamental or screening features in the H30A and H30B districts, including cornices, sills, frames, and fins, may project no more than six (6) inches into any required yard.
- Per Sec. 90-47.3 air conditioning equipment, pool pump or other mechanical equipment shall maintain at least a five-foot setback from the rear and side yards and is not visible from any street or waterway. Shrubs shall be incorporated in a manner on the site so as to be a visual screen for mechanical equipment or other accessories to the residence, per Sec. 90-95(3). The proposed air conditioning equipment must be relocated to meet setback requirements.
- Accessory swimming pools and decks may occupy a rear and side setback subject to the minimum 5-foot rear and side setback, per **Sec. 90-54(2)**. The site plan shows the future pool deck encroaching into the rear and side yard setbacks to the water's edge. The proposed deck must meet the required 5-foot setback.
- Per **Sec. 90-89**, one street tree/palm tree is required for every 20 linear feet of street frontage. Palm Trees utilized as street trees shall have at least 8 feet of clear wood. It is recommended that street trees be planted along the property line or within the swale area at least 4-feet off the interior pavement edge. Verify the proposed palm trees meet the minimum

requirements of the code. Trees planted in the swale require a building permit.

- Per **Sec. 90-95**, single-family homes must provide a minimum five (5) trees on site made of a minimum four (4) different species. Trees must meet the planting requirements of the code and be a mix of at least 30% shade trees, 30% small to intermediate trees and no more than 40% palm trees. Palm trees are counted on a 3:1 ratio and must have at least 6-feet of clear or grey wood to be counted towards the requirement.
- Per **Sec. 90-97**, any trees relocated or removed require a tree removal permit.

Board Member Bravo stated that this is his neighbor, and should he recuse himself.

Town Attorney Recio advised Board Member Bravo to recuse himself on this item.

Board Member Bravo recused himself.

Juan David, architect representing the applicant provided an overview of the project.

Board Member Baumel stated that Mr. David is her architect.

Town Attorney Recio asked if she feels that she can be impartial and if she believes that she will not be impacted negatively if the application is not approved, then Board Member Baumel does not need to recuse herself.

Vice Chair Landsman asked if they meet the code requirements and likes that design and it will be an upgrade to the property and Town.

Chair Frankel asked if the rear of the roof is flat.

Mr. David stated that the front roof is in bad condition and they are keeping a gable roof in the front and in the back. He stated the style and material of the roof tile.

Board Member Baumel stated this is a perfect example of a home that can be renovated.

Building Official McGuinness provided his recommendations.

A motion was made by Vice Chair Landsman to approve the item with staff recommendations and conditions, seconded by Board Member Baumel. The motion carried with a 4-0 vote with Board Member Bravo recusing himself.

## H. 9281 Byron Avenue - Remodeling & Addition

**Background:** This application is a request to demolish the existing roof to build an addition in the rear and side of the first floor and add a second floor to the existing single-family home. The additions will increase the living space by a total of 1,489 square feet. Additional improvements include a new pool with deck and patio in the rear, a fence with gates, relocation of mechanical equipment and architectural modifications. The parcel is located in the H30B Zoning District at 9281 Byron Avenue. The lot depth is 112.5 feet with a width of 50 feet. The site plan indicates the lot size is 5,625 square feet (SF).

The setback requirements for the H30B Zoning District are 20-foot front, 5-foot side, and 20-foot rear. The proposed alterations and additions will maintain the existing setbacks. Total lot pervious area is proposed at 2,012 SF or 35.7% where 35% is required. The front yard pervious area was not provided. The rear yard pervious area is proposed at 44%, where 40% is required. The proposed building lot coverage is 39.7% where 40% is the allowed maximum.

Architectural materials and details, roof height, fence details and patio/deck materials were not provided at this time. Table 1 on page 3 provides information on site characteristics and zoning requirements.

This staff report may be updated prior to the Planning and Zoning Board Meeting.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 10/28/2021. A survey was not submitted with the application package.

**Staff Recommendation:** It is recommended the Application be approved conditionally subject to the following comments:

- Provide a current survey of the property.
- Per the **Zoning in Progress**, Lot coverage shall mean 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 shall not be included in determining the lot coverage:
  - 1. Uncovered steps and exterior balconies;
  - 2. Uncovered terraces, patios, breezeways, or porches which are open on two (2) sides; and
  - 3. Covered terraces, patios, breezeways, or porches which are open on two (2) sides.

In no instance may the exemptions listed here exceed 15% of the total footprint of all principal and accessory buildings and structures. Please provide calculations and/or worksheets for the lot coverage.

- The Applicant has not provided the landscape/pervious area of the front yard setback area. Fifty percent (50%) of this area needs to be in landscape/pervious with 40% Florida Friendly landscape material. Provide a tabulation of this item on sheet C-2. The area of driveway and walkways in this area should also be calculated.
- Per *Design Guidelines for Single family residential properties*, *multifamily, and commercial properties*, the overall style of each house should be consistent on all sides of the building, as well as among all portions of the roof. Particular care should be taken that building elevations and roof elements visible from streets and other public or adjacent spaces are stylistically consistent. Consistency should be determined by evaluating each of the building's elevations' components. Roof materials should be appropriate to the style of the house and, except for flat roofs or flat roof portions, should be the same product for the entire roof system.
- Per **Sec. 90-47.3** air conditioning equipment, pool pump or other mechanical equipment shall maintain at least a five-foot setback from the rear and side yards and is not visible from any street or waterway. Shrubs shall be incorporated in a manner on the site so as to be a visual screen for mechanical equipment or other accessories to the residence, **Sec. 90-95(3)**. Provide setbacks for the proposed mechanical equipment.
- Per **Sec. 90-54**, all accessory buildings and structures, swimming pools, and accompanying fences shall meet all applicable requirements of the Florida Building Code. Accessory swimming pools and decks may occupy a rear and side setback subject to the minimum 5-foot rear and side setback. The proposed deck and patio encroach the 5-foot required side setback, revise plans to show the deck will be outside the required 5-foot setback.
- Per **Sec. 90-56**, the maximum fence height is 6 feet. Provide fence/gate details and dimensions. The finished side must face outward and away from the property.
- Per **Sec. 90-95**, single-family homes must provide a minimum five (5) trees on site made of a minimum four (4) different species. Trees must meet the planting requirements of the code and be a mix of at least 30% shade trees, 30% small to intermediate trees and no more than 40% palm trees. Palm trees are counted on a 3:1 ratio and must have at least 6-foot of clear or grey wood to be counted towards the requirement.
- Per Sec. 90-97, any trees removed require a tree removal permit.

A motion was made by Vice Chair Landsman to defer the item to the January 27, 2022 meeting due to the applicant not meeting notice requirements and applicant must do proper advertisement and noticing for the January 27, 2022 meeting, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

## I. 8811 Dickens Avenue – Remodeling of Residence

Background: This application includes partial demolition and removal of existing exterior wall and window, removal of building materials, partial roof demolition, a 193.67 square foot addition, demolition of existing shed and a new roof. The application also includes a request to build a new concrete driveway with a 4-inch river stone infill, a pool, and a concrete roof-covered wood deck patio with an outdoor BBQ kitchen in the rear. Alterations are also included to the exterior and interior of the existing single-family home located at 8811 Dickens Avenue within the H30B Zoning District. A portion of the new addition will be located in the rear side yard, while the additional living space will be located in the front. The lot depth is 112.5 feet with a width of 50 feet. The site plan indicates the lot size is 5,625 square feet (SF).

The setback requirements for the H30B Zoning District are 20 feet in the front yard, 5 feet in the side yard, and 20 feet in the rear yard. The applicant proposes a 25-foot front yard setback and a 5-foot side setback, the rear yard setback is unclear. The total lot pervious area was not provided. The front yard and rear yard pervious area was also not provided. The removal of the existing concrete tile and flat roof is proposed for a new concrete pitched roof. The roof height is proposed at 17 feet 2 inches where 30 feet is the maximum. Table 1 on page 3 includes information on site characteristics and zoning requirements.

The new addition and alterations include various architectural features. These features include a new concrete roof tile in the color 'gray flat' with roof trim color in 'caviar'. Other features include bronze aluminum impact windows and doors, and stone cladding around the front entry; the exterior walls will be painted in 'extra white'. A Tesla solar paneled roof is proposed as a secondary roof option in addition to coral stone wall for the front. Black aluminum gates are also proposed in the side yards. A new concrete driveway with stone infill is proposed with two curb cuts. The plans do not provide any landscaping information.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 10/20/2021.

**Staff Recommendation:** It is recommended the Application be deferred pending resolution of the following comments:

- Per the **Zoning in Progress**, Lot coverage shall mean 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 shall not be included in determining the lot coverage:
  - 1. Uncovered steps and exterior balconies;
  - 2. Uncovered terraces, patios, breezeways, or porches which are open on two (2) sides; and
  - 3. Covered terraces, patios, breezeways, or porches which are open on two (2) sides.

In no instance may the exemptions listed here exceed 15% of the total footprint of all principal and accessory buildings and structures.

Provide verifiable information, calculations and/or worksheets for existing lot coverage, proposed floor area of additions and provide sufficient dimensions on drawings.

The proposed expansion and reconstruction of the driveway exceeds the impervious hardscape allowed in the front yard. Fifty percent (50%) of the front yard setback area should be in landscape/pervious area. Forty percent (40%) of the landscape material must be Florida Friendly material. The existing driveway is able to accommodate two parking spaces and can be reconstructed provided it is not increased. Provide information on a driveway proposal which is consistent with these comments.

- Per the **Zoning in Progress**, the H30A and H30B districts require:
- 35% of each lot must be pervious area; and
- o 50% of front yards and 40% of rear yards must be landscaped; and
- 40% of all landscaped areas must be Florida-Friendly as defined in the Current Zoning Code.

Provide calculations and/or worksheets demonstrating the above-mentioned requirements.

- Per **Sec. 90-45**, the required minimum setbacks for single-story structures in the H30B zoning district are:
- o Front yard setback: 20 Feet
- Side yard setback: 5 feet
- o Rear yard setback: 20 feet. Provide the setbacks on the site plan. Existing zoning information appears inconsistent with the plans provided.

- Per Sec. 90-47.3 air conditioning equipment, pool pump or other mechanical equipment shall maintain at least a five-foot setback from the rear and side yards and is not visible from any street or waterway. Mechanical equipment within the rear yard setback must be located at least 15-feet from the nearest single-family home. Shrubs shall be incorporated in a manner on the site so as to be a visual screen for mechanical equipment or other accessories to the residence, Sec. 90- 95(3). Existing location of mechanical equipment is now allowed, mechanical equipment must be relocated to meet the requirements of the code.
- Per **Sec. 90-54(2)**, accessory swimming pools and decks may occupy a rear and side setback subject to the minimum 5-foot rear and side setback. Provide the setbacks for the wood deck. **Sec. 90-54.9**, all accessory buildings and structures, swimming pools, and accompanying fences shall meet all applicable requirements of the Florida Building Code.
- Per **Sec. 90.89.4(6)**, Street trees shall be required at one shade tree/palm tree per 20 linear feet of street frontage thereof along all public or private street right-of-ways in all zoning districts. Street trees are recommended to be planted along the property line or within the right-of-way, trees planted along the right-of-way require a building permit. Palm trees utilized as street trees must meet the requirements of the code. No more than 30 percent of required trees shall be of the same species. Please refer to the table in the Town's Land development code.
- Per **Sec. 90-95**, a minimum of five trees of four different species and 25 shrubs shall be planted per lot. Tree requirements must include at least 30% shade trees, a minimum of 30% small to intermediate trees and no more than 40% palm trees. Some Palm trees are counted on a 3:1 ratio. Where possible, a minimum of two trees shall be required in the front of the lot. Shrubs shall be incorporated in a manner on the site so as to be a visual screen for mechanical equipment or other accessories to the residence.
- Per **Sec. 90-97**, any trees are to be removed or relocated, a tree removal permit is required prior to the removal or relocation of trees.

This staff report maybe updated prior to the December 16th Planning and Zoning Board meeting.

Adrian Price, architect representing the applicant stated the changes.

Chair Frankel stated that they might not have enough information to be able to approve this item.

Mr. Price addressed the questions regarding the front of the house and it will remain the same. He stated that the only thing being adjusted is on the left side which extension is being reduced. He stated that they eliminated the storage room.

Board Member Bravo asked regarding the floor plan and the changes being made.

Mr. Price explained the changes and stated that the storage area is being eliminated.

Board Member Bravo stated that it will make the home a 3-bedroom 2-bathroom home.

Mr. Price stated the terrace in the back was made in order to meet the setback requirements.

Board Member Bravo asked which pages are being substituted.

Mr. Price stated which sheets will be substituted.

Chair Frankel stated that the look of the home will not be substantially different with the changes and from the street perspective does not impact too much and they are keeping the landscaping.

Mr. Price stated that the landscaping will be modified.

Board Member Bravo stated that the house does not affect in a negative way the neighborhood but is concerned with the changes.

Vice Chair Landsman stated that they do need to see the changes and Town Planner Keller needs to approve them and make sure that it meets code.

Town Planner Keller stated that it will not make a difference to the look of the house but will meet pervious.

Building Official McGuinness gave his recommendations.

A motion was made by Board Member Bravo to approve the item with staff recommendations and conditions, seconded by Board Member Vice Chair Landsman. The motion carried with a 5-0 vote.

#### J. 8934 Froude Avenue – Addition

**Background:** This application is a request to build a new +/-153 SF addition with mechanical equipment, and addition to the front porch to an existing single-family home. The new addition will be located in the front on the northeast corner of the property. A portion of the driveway will be demolished for the addition. The parcel is located in the H30B Zoning District at 8934

Froude Avenue. The lot depth is 112.5 feet with a width of 50 feet. The site plan indicates the lot size is 5,625 square feet (SF).

The setback requirements for the H30B Zoning District are 20-foot front and 5-foot sides. The applicant is proposing a 20.22-foot front yard setback and a 5.15-foot side setback. Total lot pervious area is proposed at 1,969 SF or 35% where 35% is required. The front yard pervious area was not provided. A pitched roof matching the existing roof is proposed for the addition; the maximum height permitted is 30 feet. The height was not provided, but the addition will not exceed the existing roof height. Table 1 on page 3 provides information on site characteristics and zoning requirements.

The new addition will have a smooth stucco and be painted to match the rest of the house. The addition will have concrete roof tiles to match the existing structure. The east and south elevations show the installation of two (2) new windows for the addition. Mechanical equipment for a new A/C unit will be installed on a four (4) inch concrete slab located within the side setback.

**Applicant Package:** A package of drawings and the application was submitted by the Applicant with a recent survey dated 10/27/2021.

**Staff Recommendation:** It is recommended the Application be approved subject to the following comments:

- Provide a current or relevant survey.
- Maximum floor area percent is 40% of the total lot area. Provide basic zoning information on the site plan indicating the floor area in square feet of the existing residence, the addition floor area and the total floor area percent of the total lot area.
- Per the **Zoning in Progress**, the H30B district must provide:
  - o 35% of each lot must be pervious area; and
  - o 50% of front yards and 40% of rear yards must be landscaped; and
  - o 40% of all landscaped areas must be Florida-Friendly.

Please provide a table on the plan sheets or worksheets and/or calculations for the front yard and total lot landscape/pervious areas.

- Provide the height of the building on the elevations (including the height of the addition) from the crown of the adjacent street.
- Per **Sec. 90-47.3** air conditioning equipment, pool pump or other mechanical equipment shall maintain at least a five-foot setback from the rear and side yards and is not visible from any street or waterway. Additionally, mechanical equipment must be at least 15 from an adjacent

residence. If visible from the street, shrubs shall be incorporated as a visual screen for mechanical equipment or other accessories to the residence, **Sec. 90-95(3)**. The proposed mechanical equipment is not allowed in the side setback and must be relocated.

- Per **Sec. 90-89**, one street tree is required for every 20 feet of linear street frontage. Street trees are recommended along the property line.
- Per **Sec. 90-97**, if any trees are to be removed and/or relocated, a tree removal permit will be required.

Phillip Azule, applicant gave an overview of the project.

Vice Chair Landsman asked what the addition will be.

Mr. Azule stated it will be a bedroom.

Board Member Bravo stated it is only an addition and it will not be changing the aesthetics and the look of the home.

Mr. Azule stated it will look nicer.

Board Member MacBride asked where the location of the air conditioning equipment will be placed.

Mr. Azule stated that they will move it where the existing air conditioning unit is and create an area for all the equipment which will be tucked away.

Chair Frankel stated she has no concerns with this application.

A motion was made by Board Member Bravo to approve the item with staff recommendations and conditions, seconded by Vice Chair Landsman. The motion carried with a 5-0 vote.

## K. 8866 Carlyle Avenue – Garage Conversion

**Background:** This application is a request to convert an existing garage to living space. The garage door will be replaced by a solid exterior wall with a window. The interior lot is zoned H30B totaling 5,600 square feet (SF) per MDCPA.

Figure 1 on the next page is an aerial view of the property. Figure 2 on page 3 provides a Google Street View of the front of the residence. In addition to this Memorandum, a package of a floor plan and survey was submitted by the applicant.

**Governing Codes:** The December 2021 **Zoning in Progress** relevant requirements for lots in the H30B District are:

Maximum lot coverage is 40% of the lot (except swimming pools, screen enclosures and pergolas). Uncovered steps and exterior balconies; uncovered terraces, patios, breezeways, or porches open on two sides; and covered terraces, patios, breezeways, or porches open on two sides are not included but cannot exceed 15% of the total footprint.

Each lot must provide 35% pervious area and 50% of front yards and 40% of rear yards must be landscaped, and 40% of the landscaped area must be Florida Friendly as defined in the current Zoning Code.

**MuniCode:** 90-50.1 (7) – allows for a garage conversion and the garage door maybe replaced with a solid exterior wall with at least one window and with access internally from the main premises. Landscaping shall be provided along the base of the new exterior wall.

**Applicant Package:** A package of the floor plan and elevation certificate was submitted by the Applicant dated 6/21/21. The plan package did not include a typical site plan depicting setbacks, driveway improvements, property lot lines and zoning characteristics. A relevant survey was also not submitted.

**Staff Recommendation:** Recommend this application be deferred unless the following comments can be addressed:

- Provide an updated Survey.
- Provide existing and proposed elevations for the east and north side of the residence indicating existing and proposed changes in the elevations.
- Proposed garage conversion is missing landscaping at the base of the new wall. Provide 2-foot landscape strip or landscape planter with irrigation in front of the new wall.
- Indicate on the site plan that the garage floor will be raised to match the existing residence Finished Floor Elevation.
- Provide 18-foot-wide driveway to accommodate two 9 feet by 18-foot parking spaces on the site plan.
- Provide calculations, worksheet and or information on the site plan or detail sheets verifying 50% front yard landscape/pervious area requirements with 40% of the landscape material Florida Friendly.

Town Planner Keller recommends deferral of the item until they come back with the pool application.

Jose Arrajo, representing the applicant agrees with Town Planner Keller's recommendations.

Chair Frankel explained why the Board does not like front yard pools.

Board Member Bravo asked to what meeting the item would be deferred to.

Town Planner Keller stated to the January 27, 2022 meeting.

Mr. Arrajo asked if they do not include the pool if they will approve the application.

Town Planner Keller stated that the pool should be reflected in the drawing as well as the issue with the front yard pool and requirements for pervious areas.

A motion was made by Board Member Bravo to defer the item to the January 27, 2022 meeting, seconded by Vice Chair Landsman. The motion carried with a 5-0 vote.

## 5. Draft Proposed Zoning Code

Town Attorney Recio gave an update on the December 7, 2021 Commission Zoning Code Workshop and the Commission has not gone through the Board's recommendation but is in their agenda packet.

Chair Frankel spoke regarding the notes to be presented to the Town Attorney.

Town Attorney Recio stated that he did receive the information.

## 6. Next Meeting Date: January 27, 2022

Consensus was reached to hold the next meeting on January 27, 2022.

The following individuals from the public spoke:

George Kousoulas handed out a document with the definitions as it pertains to setbacks and understory. He also spoke regarding the change recommended by the Town Commission under the 7 ½ foot setback.

Jeff Rose spoke regarding an issue that arose that FPL is requiring side stairs for the new home in order to get to the electric section. He also stated that the Commission wanted to go back to the zoning in progress and is proposing to have two options, the wedding cake and the text amendment. He asked for the Board to put it forward as a recommendation to the Town Commission.

Discussion took place among the Board, Town Attorney Recio and staff regarding the requirement by FPL and the side stairs and this being brought before the Town Commission.

Chair Frankel commented on the statement made by Mr. Rose regarding the comment made by the Town Commission.

Town Attorney Recio explained what the Town Commission discussed and the proposals they spoke about.

A motion was made by Board Member Baumel to make a recommendation to the Town Commission to have the flexibility to use the status quo, current code, or take the average setback of 7.5 feet applied to the first and second floor, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

Chair Frankel stated that they have discussed the understory and they agree with that.

A motion was made by Vice Chair Landsman to recommend to the Town Commission that the language that Mr. George Kousoulas provided regarding understory be incorporated in the new zoning code, seconded by Board Member Baumel. The motion carried with a 4-1 vote with Board Member MacBride voting in opposition.

- 7. Discussion Items:
  - A. Pools
  - B. Future Agenda Items
- 8. Adjournment.

A motion was made Vice Chair Landsman to adjourn the meeting without objection at 9:09 p.m. The motion received a second from Board Member Baumel. The motion carried with a 5-0 vote.

Respectfully submitted,

Accepted this 27 day of 2022,

Attest:

Sandra McCready, MMC

Town Clerk



## **MEMORANDUM**

ITEM NO. 3E

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

From: Andrew Hyatt, Town Manager

Date: February 8, 2022

**Subject:** FY 2022 Budget Amendment Resolution No. 3

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. Appropriate \$413,128 of current year's reserves for the following Champlain Towers South (CTS) related needs:
  - a. \$300,000 for professional engineering services for destructive testing related to Protocol #1 (Onsite) needed to continue the CTS investigation;
  - b. \$113,128 for FEMA cost recovery support services.

## **CAPITAL IMPROVEMENT PROJECTS FUND (Attachment A)**

The Capital Improvement Projects Fund is being amended to:

- 1. Record the receipt of \$615,000 from developer contributions;
- 2. Appropriate those funds as follows:
  - c. \$115,000 for the 96<sup>th</sup> Street Park renovation project;
  - d. \$500,000 for the 91st Street Improvement project.
- 3. Re-appropriate fund balance carryovers from capital improvement projects funded in prior years in the amount of \$3,327,743 as follows:
  - a. \$128,017 for Town Hall renovations;
  - b. \$3,169,726 for the 96th Street Park renovation project;
  - c. \$25,000 to merge the kayak launch project funding with the 96<sup>th</sup> Street Park renovation project;
  - d. \$5,000 for the Community Digital Sign.

Reviewed by: JG

Prepared by AM

## TOWN OF SURFSIDE BUDGET AMENDMENT ATTACHMENT A

Fiscal Year 2021/2022 2/8/2022

BA No.

Fund Nos. 001 General Fund 301 Capital Projects Fund

			Original/ Adjusted			Adjusted
Account Number	Account Description	Justification	Budget	Increase	Decrease	Budget
GENERAL FUND						
EXPENDITURES						
001-7900-590-99-10	Return to Reserves		\$1,596,627		\$413,128	\$1,183,499
	Professional Services-Engineering	Destructive testing needed to				
001-6700-525-31-15	Svcs	complete the CTS investigation.	\$1,314,507	\$300,000		\$1,614,507
004 0700 505 04 40	Desferaises I Comisses	Additional needs - CTS related FEMA				
001-6700-525-31-10	Professional Services	consulting	\$ -	\$ 113,128	2112122	\$ 113,128
TOTAL	GENERAL FUND EXPENDITURES			\$413,128	\$413,128	
CAPITAL PROJECTS	FUND					
REVENUES						
-		Cartifortian Day N. 0000 0050				
204 500 200 00 20	Davidonar Contributions Surf Club	Contribution - Reso No. 2022-2850 TCM 01/11/2022	<b>*</b> 0	¢11E 000		¢445.000
301-590-389-80-30	Developer Contributions - Surf Club	Contribution - Reso No. 12-Z-21 -IV-	\$0	\$115,000		\$115,000
301-590-389-80-30	Developer Contributions - Surf Club	22	\$115,000	\$500,000		\$615,000
301-590-392-00-00	Appropriated Fund Balance	Reapproriate fund balances - carryover for capital projects funded in prior years	\$778,661	\$3,327,743		\$4,106,404
TOTAL	CAPITAL PROJECTS FUND			\$3,942,743	\$0	
EXPENDITURES						
301-4400-572-63-80	96th Street Park	Appropriate developer contribution for 96th St. Park renovation	\$416,618	\$115,000		\$531,618
301-4400-541-63-91	91st Street Improvements	Appropriate developer contribution for 91st Street Improvement Project	\$0	\$500,000		\$500,000
301-4400-539-62-20	Town Hall Renovations	Reappropriate fund balance - carryover Town Hall renovations	\$4,613	\$128,017		\$132,630
301-4400-572-63-80	96th Street Park	Reappropriate fund balance - carryover 96th Street Park renovation	\$531,618	\$3,169,726		\$3,701,344
301-4400-572-63-80	96th Street Park	Reappropriate fund balance - carryover of kayak launch funding to 96th Street Park renovation	\$3,701,344	\$25,000		\$3,726,344
301-4400-539-64-10	Capital Outlay - Machinery & Equipment	Appropriate fund balance for Community Digital Sign	\$97,430	\$5,000		\$102,430
TOTAL	CAPITAL PROJECTS FUND EXPEN	IDITURES		\$3,942,743	\$0	

## RESOLUTION NO. 2022-\_\_\_\_

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING BUDGET AMENDMENT NO. 3 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 appropriate \$413,128 of current year reserves for Champlain Towers South related needs including the appropriation of (1) \$300,000 for professional engineering services for destructive testing related to Protocol #1 needed to continue the Champlain Towers South investigation and (2) \$113,128 for FEMA cost recovery support services, as detailed in Attachment "A" attached hereto; and

WHEREAS, the Capital Improvement Projects Fund is being amended to (1) record the receipt of \$615,000 from developer contributions; (2) appropriate developer contributions in the amount of \$115,000 for the 96<sup>th</sup> Street Park renovation project and \$500,000 for the 91<sup>st</sup> Street improvement project; and (3) re-appropriate fund balance carryovers from capital improvement projects funded in prior years in the amount of \$128,017 for Town Hall renovations, \$3,169,726 for the 96<sup>th</sup> Street Park renovation project, \$25,000 to merge the kayak launch project funding with the 96<sup>th</sup> Street Park renovation project, and \$5,000 for the Community Digital Sign, for a total of \$3,327,743, as detailed in Attachment "A" attached hereto; and

**WHEREAS,** an increase to the budgeted revenue estimates and expenditure estimates is required for the Capital Improvement Projects 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 Capital Improvement Projects 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:

<u>Section 1.</u> <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. 3. 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.

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

**PASSED AND ADOPTED** on this 8<sup>th</sup> day of February, 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 OF SURFSIDE BUDGET AMENDMENT ATTACHMENT A

Fiscal Year 2021/2022 2/8/2022

BA No. 3

Fund Nos. 001 General Fund 301 Capital Projects Fund

			Original/ Adjusted			Adjusted
Account Number	Account Description	Justification	Budget	Increase	Decrease	Budget
GENERAL FUND						
EXPENDITURES						
001-7900-590-99-10	Return to Reserves		\$1,596,627		\$413,128	\$1,183,499
	Professional Services-Engineering	Destructive testing needed to				
001-6700-525-31-15	Svcs	complete the CTS investigation.	\$1,314,507	\$300,000		\$1,614,507
004 0700 505 04 40	Desferaises I Comisses	Additional needs - CTS related FEMA				
001-6700-525-31-10	Professional Services	consulting	\$ -	\$ 113,128	2112122	\$ 113,128
TOTAL	GENERAL FUND EXPENDITURES			\$413,128	\$413,128	
CAPITAL PROJECTS	FUND					
REVENUES						
-		Cartifortian Day N. 0000 0050				
204 500 200 00 20	Davidonar Contributions Surf Club	Contribution - Reso No. 2022-2850 TCM 01/11/2022	<b>*</b> 0	¢11E 000		¢445.000
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301-590-392-00-00	Appropriated Fund Balance	Reapproriate fund balances - carryover for capital projects funded in prior years	\$778,661	\$3,327,743		\$4,106,404
TOTAL	CAPITAL PROJECTS FUND			\$3,942,743	\$0	
EXPENDITURES						
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301-4400-539-62-20	Town Hall Renovations	Reappropriate fund balance - carryover Town Hall renovations	\$4,613	\$128,017		\$132,630
301-4400-572-63-80	96th Street Park	Reappropriate fund balance - carryover 96th Street Park renovation	\$531,618	\$3,169,726		\$3,701,344
301-4400-572-63-80	96th Street Park	Reappropriate fund balance - carryover of kayak launch funding to 96th Street Park renovation	\$3,701,344	\$25,000		\$3,726,344
301-4400-539-64-10	Capital Outlay - Machinery & Equipment	Appropriate fund balance for Community Digital Sign	\$97,430	\$5,000		\$102,430
TOTAL	CAPITAL PROJECTS FUND EXPEN	IDITURES		\$3,942,743	\$0	



# Town of Surfside Town Commission Meeting December 14, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Agenda #:

Date: February 1, 2022

From: Lillian M. Arango and Tony Recio, Town Attorneys

Subject: Ordinance to Amend Section 90-57 Marine Structures

**Objective:** At the Town Commission meeting of November 9, 2021, the Commission directed the Town Attorney to prepare an amendment of the Town Code to regulate marine structures such as docks, piers, and mooring piles. Specifically, the Commission directed the drafting of proposed regulations, including Point Lake, to (i) govern the projection of marine structures into waterways; (ii) regulate the placement of marine structures for waterfront lots with water frontage on two sides; (iii) provide for side setbacks for docks; (iv) protect unobstructed passage on waterways; and (iv) require owners to provide courtesy notices of a building permit application for a dock to all owners within 300 feet prior to building permit. The Town Commission also directed the publication of a Zoning in Progress Notice containing the marine structures proposed regulations.

**Consideration:** The attached Ordinance proposes regulations to address the Commission's objectives. General criteria applicable to all lots includes a provision to ensure unobstructed passage of navigable traffic via a channel at least 25 feet wide parallel to the water frontage of any lot, setbacks for docks to keep appropriate distance from neighboring lots, and notice requirements for dock applications.

With respect to the projection of docks and promoting safe and convenient navigability, the Town's waterfront single family lots face three distinct classes of waterways: those fronting Biscayne Bay and Indian Creek, those fronting Point Lake generally, and those fronting particularly tight areas of Point Lake where navigability could be compromised without more aggressive regulation. For this third category of lots, two sets of limitations act to protect navigability: lots with water frontage on two sides may only place a marine structure on the side facing the wider waterway, and lots fronting North Canal or the southwest corner of Point Lake may only project up to 10 feet into Point Lake (or less if the lot's frontage on the lake is under 100 feet). Lots on other portions of Point Lake may project no more than the lesser of 15 feet or 10% of the width of Point Lake perpendicular to the subject lot. Lots on Biscayne Bay and Indian Creek may project no more than the lesser of 35 feet or 10% of the width of the waterway perpendicular to such lot.

Finally, the regulations include directions regarding the measurement of the "width of the waterway" width and "maximum projection."

At first reading of the Ordinance before the Commission on January 11, 2022, there were no changes directed by the Commission and the ordnance was approved on first reading as presented. The Ordinance was considered by the Planning and Zoning Board/Local Planning Agency at its January 27, 2022 meeting, which Board/LPA recommended approval of the Ordinance as presented without any changes.

**Recommendation:** Consider the Ordinance on second reading for adoption.

## ORDINANCE NO. 22 -

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-57. - "MARINE STRUCTURES", TO PROVIDE FOR REGULATIONS FOR CONSTRUCTION OF DOCKS, PIERS AND MOORINGS ON WATERFRONT LOTS; 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 and Land Development Code ("Code") in order to update regulations and procedures to maintain consistency with state law, to implement municipal goals and objectives, to clarify regulations and address specific issues and needs that may arise; and

WHEREAS, the Town has waterfront lots along its perimeter and within Point Lake and is in need of updating its dock or marine structure regulations in order to ensure safe and adequate navigation of Town waterways and water bodies; and

WHEREAS, the Town Commission wishes to amend the Town Code, by repealing and replacing Section 90-57. – Marine Structures, to provide for specific regulations for waterfront lots with water frontage on two sides, specific waterfront lots fronting portions of Point Lake that are particularly vulnerable to obstructions to navigation, other waterfront lots on Point Lake, waterfront lots on Biscayne Bay and Indian Creek, adding setbacks for docks, protecting unobstructed passage on waterways, and requiring owners to provide courtesy notices of a building permit application for a dock to all owners within 300 feet prior to building permit; and

WHEREAS, the Town Commission finds that revising and updating its dock or marine structures regulations to provide for more specificity of location and size of marine structures based on location of waterfront lots, coupled with protections for unobstructed passage of vessels on Coding: Strikethrough words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted double strikethrough and double underline.

22	waterways, setbacks and notices to adjoining owners, is necessary and in the best interests of the
23	Town and its residents; and
24	WHEREAS, on November 9, 2021 at its regular monthly meeting, the Town Commission
25	directed staff to evaluate and prepare an ordinance amending Section 90-57 Marine Structures,
26	to address numerous concerns raised by residents along waterfront lots; and
27	WHEREAS, the Town Commission held its first public hearing on December 14, 2021 and
28	recommended approval of the proposed amendments to the Code of Ordinances having complied
29	with the notice requirements in the Florida Statutes; and
30	WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held
31	its hearing on the proposed amendment on January 27, 2022, with due public notice and input; and
32	WHEREAS, the Town Commission has conducted a second duly noticed public hearing on
33	these regulations as required by law on February 8, 2022, and further finds the proposed changes
34	to the Code are necessary and in the best interest of the community.
35 36 37 38	NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA¹:
39 40 41	<b>Section 1. Recitals.</b> The above Recitals are true and correct and are incorporated herein by this reference:
42 43	Section 2. Town Code Amended. Section 90-57. – "Marine Structures", of the Surfside Town Code of Ordinances is hereby amended, and repealed and replaced, with the following <sup>1</sup> :
44	Sec. 90-57. – Marine Structures.
45 46	The following regulations shall apply to boat docks, piers, and mooring piles, in any district:
47 48 49	(1) Projection of docks and piers into waterways beyond the waterway line, lot line, or established bulkhead lines shall be limited as follows, subject to final approval by Miami Dade County and any other authority having jurisdiction:

 $<sup>^1</sup>$  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 indicated with highlighted double strikethrough and <u>double underline</u>.

50	£	a. Biscayne Bay: 35 feet except if the applicant provides evidence that Miami-Dade
51	County	requires a greater dock length to avoid or minimize adverse environmental impact to
52	marine 1	resources.
53	ł	o. Indian Creek: 35 feet.
54	$\epsilon$	Point Lake: 35 feet.
55		2) Under no circumstances shall any dock or pier be constructed so as to project into
56 57	any wat frontage	erway for a distance equal to more than ten percent of the width of such waterway's
58		3) For all properties requesting a marine structure permit as described in this section,
59 60		manager or designee shall send a mailed courtesy notification to all property owners 00 feet of the property requesting the permit submitted to the building department.
61		struction of a dock, pier, or mooring structure (each is a "marine structure") for a
62 63	<u>7</u>	waterfront lot may be permitted subject to the following:
64	(a)	Lots with Water Frontage on Two Sides. For any lot that has water frontage on
65		two or more sides, a marine structure shall be permitted only on the side fronting
66		on the widest adjacent waterway.
67	(b)	Maximum Projection of Specific Lots on Point Lake. For the following lots with
68		water frontage on Point Lake, a marine structure may be constructed to project
69		into a waterway no more than the lesser of either (1) 10% of the width of the
70		lot's frontage on the waterway, or (2) 10 feet:
71		(i) Lots 1-4, Block 23A, of Second Amended Plat of Normandy Beach
72		(recorded in Plat Book 16, Page 44); and
73		(ii) Lots 9-18, Block 27 of Second Amended Plat of Normandy Beach
74		(recorded in Plat Book 16, Page 44), as amended by the Second
75		Revised Plat of Blocks 26-27, Second Amended Plat of Normandy
76		Beach (recorded Plat Book 41, Page 6)
77	(c)	Maximum Projection of Other Lots on Point Lake. For any other lot with water
78		frontage on Point Lake, or North Canal or South Canal, a marine structure may
79		be constructed to project into the waterway no more than the lesser of either (i)
80		10% of the width of the adjacent waterway, or (ii) 15 feet.
81	(d)	Maximum Projection of Lots on Biscayne Bay and Indian Creek. For any lot
82		with water frontage on Biscayne Bay or Indian Creek, a marine structure may be
83		constructed to project into the waterway no more than the lesser of either (i) 10%
84		of the width of the adjacent waterway, or (ii) 35 feet.
85	(e)	Unobstructed Passage. No marine structure shall be permitted where the dock
86	• •	projection and moored vessel together would reduce the adjacent waterway to

87		less than a 25 foot-wide channel at any point along the entire width of the lot's			
88		water frontage, in order to ensure that the adjacent waterway allows for the free			
89	and safe navigability of typical waterborne vessels in the adjacent waterway.				
90	(f)	Setbacks. Any marine structure shall be set back at least ten (10) feet from the			
91	waterward extension of any property line of the subject lot.				
92	(g)	Determination of the "width of the waterway." For the purpose of this section,			
93		the "width of the waterway" shall be the narrowest lineal distance from the			
94		waterward side of the sea wall of the subject lot to the nearest land mass or sea			
95		wall that is perpendicular to any portion of the subject lot's water frontage.			
96	(h)	Determination of "maximum projection." The projection of a marine structure			
97		shall be measured from the waterward side of the seawall of the subject lot.			
98	(i)	Notice. The owner of the subject lot shall provide courtesy notices of a building			
99		permit application for a marine structure to all owners within 300 feet of the lot			
100		by first class mail return receipt requested, and shall provide evidence of such			
101		mailing to the Town Planner. A building permit for the marine structure shall			
102		not be issued earlier than fifteen (15) calendar days from the date that proof of			
103		courtesy notices is submitted to the Town Planner.			
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105	:	* * *			
106		Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is			
107	-	be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall			
108		ay affect the validity of the remaining portions of this Ordinance.			
109		Section 4. Inclusion in the Code. It is the intention of the Town Commission, and it is			
110 111	hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of				
111		Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to lish such intentions; and the word "Ordinance" may be changed to "Section" or other			
113	-	late word.			
114	wpp10p1				
115	<u> </u>	Section 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances or			
116	resolution	ons in conflict herewith are hereby repealed.			
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118	<u> </u>	Section 6. Effective Date. This ordinance shall become effective upon adoption.			
119					
120	]	PASSED and ADOPTED on first reading on December 14, 2021.			
121	•				
122	1	<b>PASSED</b> and <b>ADOPTED</b> on second reading this 8 <sup>th</sup> day of February, 2022.			
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25	On Final Reading Moved by:		_
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27	On Final Reading Second by:		_
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29	First Reading:		
30	Motion by:		
31	Second by:		
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34	Second Reading:		
35	Motion by:		
36	Second by:		
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39	FINAL VOTE ON ADOPTION		
40	Commissioner Charles Kesl		
41	Commissioner Eliana R. Salzhauer		
42	Commissioner Nelly Velasquez		
43	Vice Mayor Tina Paul		
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45			
46			
47		Charles W. Burkett	
48		Mayor	
49	ATTEST:	<i>y</i>	
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53	Sandra N. McCready, MMC		
54	Town Clerk		
55			
56	APPROVED AS TO FORM AND LEGALIT	Y FOR THE USE	
57	AND BENEFIT OF THE TOWN OF SURFSI		
58			
59			
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61	Weiss Serota Helfman Cole & Bierman, P.L.		
62	Town Attorney		
63	· · ·		



## Town of Surfside Town Commission Meeting February 8, 2022

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor Surfside, FL 33154

Agenda #:

Date: February 1, 2022
From: Vice Mayor Tina Paul

**Subject:** 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.

At first reading before the Commission on January 11. 2022, the revised ordinance (as presented in a handout) was adopted by the Commission including "Protection of Neighbors" provisions in section 8 therein.

The attached version of the ordinance for second reading contains clarifications or revisions from the Town Attorneys.

**Recommendation** – Adopt this Ordinance on second reading to require uniform 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.

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.

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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

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida

WHEREAS, the Town Commission desires to adopt an ordinance to provide for uniform requirements for construction sites so as to address impacts and enhance the protection of public health, safety and welfare and preserve and protect the quality of life within the Town for residents 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

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 indicated with highlighted double strikethrough and double underline.

17	WHEREAS, on December 14, 2021 at its regular monthly meeting, the Town Commission		
18	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		
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 11, 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 <u>February 8</u> , 2022 and further finds the proposed changes to		
28	the Code are necessary and in the best interest of the community.		
29 30 31 32 33 34 35	NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA¹:  Section 1. Recitals. 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	CHAPTER 14 – BUILDINGS AND BUILDING REGULATIONS		
41	* * *		
42	ARTICLE V CONSTRUCTION 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:		

<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 indicated with highlighted double strikethrough and <u>double underline</u>.

- 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.
- 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.
- 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.
- 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.
- e. "Town" means the Town of Surfside, Florida.
- f. "Neighbor" means 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.
- (2) Security of Construction Site: Prohibitions; Requirements.
  - 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.
  - 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 debris onto neighboring properties and rights-of-way. The fence shall be maintained in good condition throughout the construction process. For construction sites fronting on Collins and Harding Avenues, the fence shall be structured, high quality fencing with openings for viewing from each property line.
  - 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.

- d. *Hurricanes; Tropical Storm*. In the event that a hurricane watch or tropical 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.
- 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 including maintenance of a passage for emergency vehicles, 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. Construction of single family and duplex construction sites shall not be allowed to block the right-of-way.
- f. *Noise*. Owner and contractor of a construction site, including single family and duplex sites, 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 permitted pursuant to section 14-32 of the Town Code.
- (3) *Construction Site Maintenance*. Owner and contractor of a construction site, including single family and duplex, 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:
  - a. Sweeping of public roadways which are directly affected by construction site dust, debris or activities;
  - b. Pick up and disposal of litter at or generated by the construction site;
  - c. Washing down of any street signs or public facilities which are impacted by dust or debris from the construction site activity;
  - d. Stacking of materials and equipment which are visible from a public right-of-way in an orderly appearance;
  - 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;
  - f. Watering of exposed loose earth at the site so as to minimize off-site transport of particulate matter;
  - g. Remove standing water and provide pest control on the site, as needed; and

- h. A contact number shall be placed on the construction site in a conspicuous location for neighbors to call the owner or contractor to report issues or suspicious activity.
  - (4) *Debris Control*. All properties with on-going construction activities, including single-family or duplex, shall maintain the Site in a neat and orderly manner. A trash 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 debris containers during periods when no construction activity is taking place.
  - (5) Erosion and Dust Control. In compliance with the Town's National Pollution Discharge Elimination System (NDPES) permit requirements, prior to beginning any demolition, clearing, grubbing or construction activities, as part of the building permit process, the contractor shall submit a plan detailing the location and handling of materials, soils and outlining the actions that will be taken to prohibit run-off of 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 Department of Public Works and Miami-Dade County with respect to storm drainage.
  - (6) Compliance. Any person receiving notice from the Town's Building Official or 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 or revocation of the building permit. This section shall apply to all construction sites, including single family and duplex.
  - (8) (7) Additional Requirements. The following shall be required of all Construction Sites fronting on Collins Avenue and multifamily residential construction sites on Harding Avenue during all phases of construction, unless waived or not required by the Town Manager based on specific site conditions or terms of development, to address impacts from development and construction sites for the protection of neighboring properties:
    - a. *Protection of Neighbors*. Prior to demolition, support of excavation, investigation pits or dewatering operations, the owner or contractor shall notify each neighbor in writing and describe the following owner and contractor requirements and offers for monitoring. The notice shall provide that any neighbor may accept and approve any or all of the following offered protections by providing written consent to same to the owner or contractor no more than seven (7) days from the date of the owner or contractor's notification.
      - i. *Pre-construction Survey*. Owner or contractor shall retain an independent third-party structural inspection agency to perform a pre-construction survey of any consenting neighbor's building(s). The preconstruction survey shall include videography, photography, and narration to document the condition of the building and note apparent physical issues such as cracks, spalling, water intrusion, and deterioration. The inspection agency shall use measuring devices such

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as dated scaled pencil marks or Avanguard monitors placed on cracks greater than the width of a credit card. A report of the inspection with a copy of the videography, photographs, and narration shall be provided to the neighbor prior to commencing construction. As a condition to issuance of a temporary or permanent certificate of occupancy, the owner or contractor shall retain the same or similar independent thirdparty structural inspection agency to perform a post-construction survey of the neighbor's building. The post-construction survey shall note any damage identified in the pre-construction survey and shall note whether and to what extent such damage has worsened, and any new apparent damage to the neighbor's building. The post-construction survey shall be provided to the neighbor prior to issuance of a temporary or permanent certificate of occupancy.

- ii. Seismic Monitoring. Prior to demolition and continuing through any construction activity that involves driving piles, interlocked sheeting, grouting or any form of dynamic compaction, the owner or contractor shall have a third-party specialty monitoring firm install vibrationsensing equipment, such as seismic monitors, on any consenting neighbor's property within 300 feet of the construction site. The equipment shall be monitored electronically and forwarded to the consenting neighbor on a weekly basis. The seismic monitor(s) shall also be able to be monitored via the internet by the owner, contractor, consenting neighbor, or any property owner upon which a seismic monitor is placed.
- iii. Water Table Monitoring. Where the method of "support of excavation" construction does not result in the construction site being cut off and sealed into the rock from all abutting property, owner or contractor shall, prior to issuance of the first building permit, including a demolition permit, retain a third-party company to install monitoring wells such as piezometers on-site within one foot of any abutting neighbor's property. Monthly reports of the water table monitoring shall be provided to each neighbor.
- iv. Nothing in this subsection 7(a) shall require supervisory action or enforcement by the Town, and, notwithstanding this subsection 7(a), the Town may issue a temporary or permanent certificate of occupancy upon the Building Official's confirmation of compliance with all applicable requirements.
- b. Contact Information; Complaints. Owner or contractor shall provide contact information to the Town Manager for the designated manager or supervisor on duty for construction operations on the site. Owner or contractor shall maintain an interactive website and provide a telephone contact number for 24-hour

access during construction and provide a response within 24 hours of the posting of any complaint by a neighbor to the website. The website URL will be advertised by the owner or contractor to Town residents. Owner or contractor shall provide weekly reports of complaints filed and their resolution to the Town Manager.

- c. Restoration of Adjacent Roadways. Owner and contractor shall restore all adjacent roadways damaged by construction to Town of Surfside and FDOT standards prior to issuance of a certificate of occupancy. Owner or contractor shall maintain adjacent right-of-ways in a clean, passable condition throughout all construction and shall immediately repair divots and potholes that appear thereon.
- d. *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.
- e. *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.
- f. 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 provide more frequent reports and develop additional preventive measures to protect the residential neighborhoods.
- g. Permit Requirements of Other Jurisdictions. The owner and contractor shall comply with all applicable conditions and permit requirements of Miami-Dade County's Department Regulatory and Environmental Resources, the Miami-Dade County Fire/Rescue Department, the Water and Sewer Department, Florida Department of Environmental Protection (FDEP), the Florida Department of Transportation (FDOT) and all other applicable regulatory agencies, prior to and during construction of the project.
- h. *Construction Schedule*. Owner or contractor shall provide the Town Manager with a detailed schedule for the construction of the project to be submitted concurrently with the first building permit application (the "Construction Schedule"). Any modification to the Construction Schedule shall be submitted to the Town Manager at least 72 hours before the modification takes effect.
- i. Construction Staging. Owner or contractor shall stage construction on the construction site to minimize traffic interruption and lane closures, except for temporary instances where it is demonstrated to the satisfaction of the Town Manager that temporary off-site staging is necessary to effectuate the construction. Owner and contractor shall ensure that no loads are suspended over right-of-ways or a neighbor's property.
- (7) (8) Overall Construction Job-Site Plan. Owner and contractor of any construction site for a commercial or institutional project of greater than 10,000 square feet of floor area and for any construction site for a residential project of greater than ten dwelling units shall prepare and submit a comply with additional overall job-site plan maintenance components setting forth the manner in which compliance with the requirements of this section will be achieved (the "Plan"). The owner and contractor of any construction site, shall be required to present a Plan to the Town Manager or his designee for approval prior to the issuance of a building permit by the Town Building Official. The

Plan shall include all plans required in this Section, including the Erosion and Dust Control Plan required in subsection 5, the demolition plan required in subsection 7e., the Construction Parking Plan required in subsection 7f., and the Construction Schedule required in subsection 7h. The Plan shall include the detailed plan of the owner and contractor of the construction site for compliance with each of the requirements of this section. For those construction sites for which an active building permit has already been issued, prior to the final adoption of this section on February 8, 2022, the Plan addressing applicable components shall be submitted on or before 60 days from the adoption of this ordinance  $\frac{}{}$ , 2022. i. The Town Manager or his designee shall review the Plan to determine 

- 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 requirements of this section and otherwise provides for the protection of the public health, safety and welfare. The Town Manager or his designee shall approve or reject any Plan within 30 days of its submission by notifying the owner or contractor identified in the Plan. The Town Manager or his designee shall identify the reasons for rejection and provide an opportunity to cure the deficiencies noted.
- ii. Owner or contractor of the construction site shall, at all times, abide by 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 issuance of a Town certificate of occupancy. The Town may periodically require revisions to the Plan if problems arise with compliance or if there is a change of conditions in the locale.
- 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 shall be communicated to the Town Manager in writing, for the Town Manager's approval, in advance of the proposed change. Revisions shall be processed in the same manner as the initial Plan.

<u>Section 3.</u> <u>Severability</u>. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

<u>Section 4. Inclusion in the Code</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 re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

<u>Section 5.</u> <u>Conflicts.</u> Any and all ordinances and resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date.	This ordinance shall be	ecome effective u	pon adoption
PASSED and ADOPTED	on first reading this 11 <sup>th</sup>	day of January, 2	022.
	C		
PASSED and ADOPTED	on second reading this	day of	2022
1110022 4114 112 01 122	on second reading tims _	auj or	, 2022.
First Reading:			
Motion by:			
Second by:			
Second by .			
Second Reading:			
Motion by:			
Second by:			
, <u> </u>			
FINAL VOTE ON ADOPTION			
Commissioner Charles Kesl			
Commissioner Eliana R. Salzhaue	er		
Commissioner Nelly Velasquez			
Vice Mayor Tina Paul			
Mayor Charles W. Burkett			
		s W. Burkett	
	Mayor		
ATTEST:			
Can do N. MaCara da MMC			
Sandra N. McCready, MMC			
Town Clerk			
APPROVED AS TO FORM AN	ND LEGALITY FOR TH	IE USE	
AND BENEFIT OF THE TOW	N OF SURFSIDE ONLY	Y <b>:</b>	
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Weiss Serota Helfman Cole & Bio	erman, P.L.		
Town Attorney			



# Town of Surfside Town Commission Meeting February 8, 2022 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date: Tuesday February 8, 2022, Commission Meeting

Prepared by: Commissioner Eliana R. Salzhauer

Subject: 2<sup>nd</sup> Reading Ordinance re: Building Recertification "Don't

Wait...Accelerate!"

**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.

### **IMPORTANT UPDATE**

\*\*\*\*SINCE the 1<sup>st</sup> reading of this Ordinance the County finally took the initiative to update their own recertification requirements. Our REVISED Ordinance adopts the County's NEW updated regulations and adds a few important increased protections to ensure that Surfside's residents are among the safest in the County.

We have added additional notification requirements to ensure that both our town's Building Official and ALL condo unit owners & residents are made AWARE of all engineering and inspection reports. This added level of information sharing can help prevent potential problems from growing unnoticed.

We also encourage the use of geotechnical testing and inspections as recommended by KCE Engineering. I would urge this Commission to adopt this Ordinance as revised.

# **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 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 life-altering 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.

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)
- 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 (2nd 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.

### **IMPORTANT UPDATE**

\*\*\*\*SINCE the 1st reading of this Ordinance the County finally took the initiative to update their own recertification requirements. Our REVISED Ordinance adopts the County's NEW updated regulations and adds a few important increased protections to ensure that Surfside's residents are among the safest in the County.

We have added additional notification requirements to ensure that both our town's Building Official and ALL condo unit owners & residents are made AWARE of all engineering and inspection reports. This added level of information sharing can help prevent potential problems from growing unnoticed.

We also encourage the use of geotechnical testing and inspections as recommended by KCE Engineering. I would urge this Commission to adopt this Ordinance as revised.



# Town of Surfside Town Commission Meeting FEBRUARY 8, 2022 7:00 pm

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor Surfside, FL 33154

### **COMMISSION COMMUNICATION**

Agenda #: 4A3 Date: 2-8-2022

From: James McGuinness, Building Official Through: Andrew Hyatt, Town Manager

Subject: Building Recertification "Don't Wait..Accelerate!" Town Ordinance Incorporating Miami-Dade Ordinance amending County Code Chapter 8, Section 11: Recertification of

**Buildings** 

### Title – OPINION OF BUILDING OFFICIAL OF PROPOSED LEGISLATION

Objective – To obtain the recommendation of the Town Building Official as to the above proposed legislation.

Consideration – See email attached below.

Recommendation - See email attached below.

### Good Morning Surfside Team:

As your Building Official I fully support and recommend the adoption of the Town of Surfside Ordinance Recertification of Buildings (attached hereto) as amended by our legal team for 2<sup>nd</sup> reading on 2-8-2022. This amended ordinance fully incorporates the components of the historic and landmark legislation passed on first reading yesterday by the Board of County Commissioners (attached hereto), accelerating the 40-year recertification period to 30 years and adding other new more restrictive measures to Miami-Dade County Code Chapter 8, Section 11.

This critically important legislation represents months of hard work and collaboration with the Building Officials Association of Miami-Dade County. Together we were able to amend the critical elements of the standing recertification rule and work these proposed changes up through the Miami-Dade County Board of Rules and Appeals. It represents a significant victory in the improvement of Life Safety in Buildings for the Town of Surfside and Miami-Dade County, and will no doubt result in a rewrite of the Florida Building Code statewide.

Thank you in advance for your professionalism in the progression of this important legislation designed to ensure that the Champlain Towers South tragedy which occurred last June 24<sup>th</sup>, 2021 never happens again.

# **MEMORANDUM**

Agenda Item No. 4(C)

**TO:** Honorable Chairman Jose "Pepe" Diaz

and Members, Board of County Commissioners

**DATE:** February 1, 2022

FROM: Geri Bonzon-Keenan

County Attorney

**SUBJECT:** 

Ordinance relating to existing buildings and unsafe structures; amending chapter 8 and chapter 8CC of the Code; revising procedures relating to recertification of buildings and components, including amending recertification periods, providing for advance notification to property owners, specifying certain qualifications for professionals submitting certification reports for threshold buildings, requiring certain safe occupancy statements during recertification process, providing timelines for completion of necessary repairs, specifying conditions for extensions, providing for disconnect of electrical utilities under certain conditions; authorizing revocation of recertification status when based on misrepresentations; establishing duty to report adverse findings or unsafe conditions of a building or structure when performing inspection; requiring condominium associations to notify all unit owner and residents when building or structure has been declared unsafe; providing for penalties

The accompanying ordinance was prepared by the Regulatory and Economic Resources Department and placed on the agenda at the request of Prime Sponsor Senator René García.

Geri Bonzon-Keenan County Attorney

GBK/smm





February 1, 2022 Date:

To: Honorable Chairman Jose "Pepe" Diaz

and Members, Board of County Commissioners

Daniella Levine Cava Manuella Levine Cava From:

Mayor

Ordinance Relating to Chapter 8 - Existing Buildings and Unsafe Structures and **Subject:** 

Chapter 8CC -Schedule of Civil Penalties – Pertaining to Recertification and Unsafe

Structures Procedures

### Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance sponsored by Senator René García modifying Chapters 8 and 8CC of the Code of Miami-Dade County (the Code) pertaining to recertification procedures for existing buildings and the treatment of unsafe structures. The ordinance is consistent with the recommendations made during the sunshine meetings co-hosted by myself and Chairman Diaz on Building Safety in August and December 2021, and with actions already taken by the administration to improve recertification procedures.

### Scope

This ordinance is of countywide impact and will apply to building jurisdictions throughout Miami-Dade, including any municipality that may have adopted its own administrative procedures to address Unsafe Structures pursuant to Section 8-5(a) of the Code.

### **Delegation of Authority**

There is no delegation of authority associated with this item.

# **Fiscal Impact/Funding Source**

Because these revised procedures require additional notifications to property owners subject to recertification, the cost of these additional notices may create a fiscal impact for the building jurisdiction. However, all building jurisdictions are authorized by statute to collect permit fees in connection with discharging their functions. The cost of additional noticing is not anticipated to create a significant fiscal impact in the unincorporated municipal service area (UMSA) which serves approximately 44% of the population of Miami-Dade and approximately 50% percent of its building inventory; therefore, no fee increase is anticipated in connection with the noticing. To the extent that any individual municipal building jurisdiction requires a fee adjustment to accommodate their notice, such adjustments would be implemented through that jurisdiction's governing body and fee procedures.

### **Social Equity**

Owners of buildings presently aged less than 40 years will experience a fiscal impact because of this ordinance due to the cost of commissioning a recertification report sooner (at year 30) than what would have been anticipated under existing recertification mandates. Buildings such as apartments, hotels, or condominiums with substandard or poor up-keep in maintenance and records can expect recertification reports (combined structural and electrical) to average \$200 to \$250 per living unit. Buildings of these types with excellent maintenance and records can expect nearly half of this cost for their inspection reports. Commercial buildings like warehouses, strip malls, or service garages can expect inspection reports to average \$0.15 to \$0.20 per square foot. While these reports

and the subsequent repairs may necessitate additional investment by property owners, earlier investment in maintenance reduces costs long-term for these structures.

The addition of these requirements is anticipated to benefit all residents countywide. These measures will assist in safeguarding the public and act to highlight the importance of building safety and raise the confidence level of our buildings. The ordinance also adds a range of protective measures to the administration of the recertification and unsafe structures procedures. Many of these proposals were first unveiled by my administration during the sunshine meeting held on Building Safety cohosted by myself and Chairman Diaz on August 30, 2021.

# Track Record/Monitor

The Boards and Code Division of the Department of Regulatory and Economic Resources (RER) will be responsible for dissemination of this ordinance to building jurisdictions countywide and individual building jurisdictions will be responsible for its implementation into the future.

# **Background**

The collapse of the Champlain South Tower has brought a renewed attention to building safety and procedures around the recertification and unsafe structures process. Through the provisions of Chapter 8 of the Code, the County is the jurisdictional entity for the local administration of the Building Code and sets the standard countywide for procedures around the recertification process. It also provides procedures for the handling of unsafe structures.

The Champlain tragedy highlighted that a key impediment towards timely action on recertification of buildings is the lack of preparation on the part of property owners. The impact of years of deferred maintenance catches property owners by surprise as assessments from recertification reports highlight building deficiencies. These deficiencies often prevent timely recertification, particularly when they require unanticipated financial investments. Properties under the condominium form of ownership of real property pursuant to Chapter 718 of the Florida Statutes may find themselves needing even more time to adopt special assessments on unit owners and raise the funds necessary to implement needed improvements.

Since the collapse, much work has been done by many public and private professional organizations in search of positive actions that will help ensure that a disaster such as the one we witnessed at Surfside is never repeated. While we await the findings of the continuing National Institute of Standards and Technology (NIST) investigation, this County has gathered important information and discussed areas in need of reform through many forums over the last several months. Many citizens and experts contacted the County in the aftermath of Surfside to offer their thoughts and suggestions for changes. We have conferenced with the Building Officials and staff from a number of cities, including Coral Gables, Doral, Miami, Miami Beach and Surfside. Our County staff has made presentations and offered testimony to groups such as the American Society of Civil Engineers, the Florida County and City Managers Association, the Florida Engineering Society, the recent Florida Discussion Panel moderated by the International Code Council, and the Hurricane Research Advisory Committee to the Florida Building Commission. The Board of County

Commissioners subcommittee has also heard important testimony from experts, professional groups and stakeholders over the last several months.

The Champlain disaster also prompted a flurry of audits and inspections by building jurisdictions, along with calls from concerned citizens seeking assurance that their structures were safe. Building jurisdictions observed deteriorated conditions on properties not yet due for recertification due to lack of maintenance. These observations, along with the ample public testimony from many public and private professional organizations in search of positive actions towards building safety, have led to the series of code changes presented herein as summarized below.

- An early notification mandate will be codified so that all jurisdictions advise property
  owners one and two years prior to their recertification anniversary of the need to
  submit the report. Early noticing is anticipated to help property owners prepare financially
  for any necessary building repairs and allow for more timely completion of the recertification
  process.
- The recertification mandate is shortened to 30 years. Commencement of the process at year 30 is warranted based on the observations of deterioration of structures by building jurisdictions countywide, which begin to show signs well before year 40 that could lead to unsafe conditions when buildings lack proper maintenance. Importantly, research on the carbonation of concrete also illustrates that an earlier commencement milestone for recertification assessments is warranted. Scientifically, as the PH level of concrete drops, the rate of chloride penetration at 30-years is approximately 1.2 inch out of the 1.5-inch concrete covering the rebars. Concrete carbonation is a common cause of reinforcement corrosion in structures. As steel reinforcements rust, this internal corrosion manifests itself on concrete as cracking and spalling. Commencement of recertification at year 30 will aide in preventing or halting the advancement of corrosion. Because adoption of this recommendation will cause there to be a group of buildings from the year 1982-1991 that will now become "due" for recertification all at once, procedures for a two-year implementation period are included to accommodate a one-time transition for these buildings. Thereafter, recertification will occur at the structures' respective decennial anniversaries.
- Mandate the use of structural engineers for the structural component of threshold buildings. Mandating the exclusive use of structural engineers for the structural component on threshold buildings is also recommended. A "threshold building" is a building greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons. Requiring structural engineers to certify the structural inspection of threshold buildings is expected to bring an added measure of safety to the recertification assessment for these buildings given the specialized knowledge, training and experience presented by a structural engineer. Statutes today allow design professionals latitude to qualify more broadly to submit in multiple building code trade disciplines.
- Mandate the use of electrical engineers for the electrical component of recertification. The electrical component of recertification reports for threshold buildings will similarly

- require that electrical engineers be used in assessing threshold buildings given the life-safety threat posed by having electrical systems in disrepair.
- **Procedures for handling requests for extensions**. When requests for extensions of time to submit reports are made by property owners, these should be limited to 60 days and an engineer's letter certifying that the buildings may be safely kept in their legal occupancy while reports are being completed will be required.
- **Procedures for handling extended repair timeframes.** When repair work requires extended time frames, continued statements for safe occupancy should be required in at least 6-month increments.
- Legislate an affirmative "duty to report." The attached ordinance includes an affirmative "duty to report" findings on structures that prevent their safe occupancy by licensed professionals engaging in building assessments to the building official of the jurisdiction. This ordinance also provides penalties for the failure to abide by this mandate in the amount of \$1000.00 and requires reporting of the violation to the appropriate board or licensing agency.
- Provides for potential action on utility disconnect by the building official. When the failure to submit a recertification report causes uncertainty as to the safety of the continued occupancy of a building, the attached ordinance provides that the building official may order electrical utilities to be disconnected. This provision may be employed only after appropriate noticing to property owners who have become delinquent on recertification and have not provided a safe occupancy statement from a qualified professional. The code currently allows building officials to order utility disconnects in cases of building emergencies. It also requires that structures be vacated due to the failure to recertify. Adding a provision for utility disconnect in cases where properties fail to recertify is intended as a more practicable alternative to the present mandate to vacate buildings. This provision does not authorize electrical utility disconnect if the building official has been advised of a potential health or medical issue that could be impacted by the disconnect and has not yet taken reasonable efforts to address such issue.
- **Revocation of recertification**. The attached ordinance adds a provision to affirm that issued recertifications may be revoked due to any misrepresentation of the actual conditions of the building.

Section 8-5 presently outlines procedures for Unsafe Structures. As you are aware, failure of a building to recertify causes the structure to be moved into unsafe enforcement procedures. This ordinance adds the provision that in buildings or structures where there are multiple unit owners or tenants but responsibility to correct deficiencies associated with an unsafe posting is carried by an association, management company, landlord, or other responsible party, the responsible party shall, within 24 hours of the posting, notify all building-unit owners and tenants of the unsafe declaration in writing. The unsafe notice must also be posted in a conspicuous location. Furthermore, the responsible party shall, within three business days, provide the Building Official with proof that the notice was timely disseminated to all unit owners and tenants on a form acceptable to the Building

Official. This ordinance also provides penalties for the failure of a responsible party to abide by this mandate in the amount of \$200.00 per unit.

# Actions to Adopt Staff Recommended Revisions by the Board of Rules and Appeals

Many local experts also took it upon themselves to testify before our local Board of Rules and Appeals (BORA) to advocate for improved recertification procedures. BORA is the entity charged with setting the minimum inspection procedural guidelines that are used to prepare recertification report. At its November meeting, BORA adopted the strengthened inspection reporting templates recommended by County staff which provide more robust recertification guidelines. BORA's action to adopt these revised General Considerations & Guidelines means that these more scrutinous recertification standards are now in effect as minimum procedural guidelines for all 35 building jurisdictions countywide for recertifications that will become due in 2022.

The General Considerations & Guidelines are the basic instructions and procedural outline for performing a building recertification inspection - now expanded into more detail concerning the various building components covered by the recertification inspection. These revised minimum guidelines include new provisions for inspections of facades and structural glazing, specific questions pertaining to a building's foundation system, and specific structural condition questions pertaining to threshold buildings (buildings taller than 3 stories). Examples of the strengthening found in the guidelines include:

- Expansion joints exposed to the weather must now be examined for deterioration. Water infiltration through faulty expansion joints is one of the major causes of concrete spalling and weakening of slabs.
- Exterior doors are now required to be inspected. Much like windows, doors must be kept weathertight to keep water from filtering into the structure. Regular maintenance is necessary for exterior doors.
- Those threshold buildings containing structural glazing, exterior glass that is adhered to a
  frame, must be linked with the requirements for regular inspections as mandated in
  Miami-Dade County Code of Ordinances and Florida Building Code. The structural glue
  used to keep glass panels in place must be checked regularly to make sure there is no
  deterioration.
- A new category for building façade has been added. This category is intended to capture the entire exterior façade of a building to make sure that various components of the building that are adhered or mechanically attachment don't come loose and fall. This new category considers many miscellaneous building components that once were not considered in recertification.
- Infrared thermography inspection is now required on electrical systems operating at 400 amperes or greater. This is an inspection performed using an instrument operated by a certified technician which identifies thermal anomalies throughout the electrical system. Thus, potentially discovering issues in the electrical system over what the normal eye could detect.

The guidelines now have a section on historical documents and permitting. An attempt must now be made to research any plans of a building so that the design professional can understand how the building may react to certain distress. Violations issued by the building official must be investigated to learn how the existing building has been affected. Specific guidance on discovering unpermitted work, performing repairs, and completing the reports are now newly explained in the guidelines. The inspection templates developed to report on structural and electrical components of the building have also been expanded to cover additional components:

- Foundation is a new category added to the structural report. Investigating excessive settlement or ground subsidence must now be considered.
- Indicating signs of overloading within the various load carrying building components must now be investigated and reported on.
- Top of building conditions such as parapet walls and hanging mansards must be closely looked at for signs of deterioration.
- Special or unusual features of a building such as membrane structures, chimneys, retaining walls and seawalls are now part of those components that need to be inspected.
- Photo documentation is now part of the reporting the design professional must submit together with their written reports.

BORA also considered a number of the recommended revisions to Chapter 8 being presented through this ordinance. Although the attached code changes were largely endorsed, BORA departed from the County recommendation regarding the use of electrical engineers exclusively for the electrical reports (BORA endorsed allowing engineers in Florida licensed under other disciplines to perform electrical recertification inspections; i.e. mechanical engineers). BORA also endorsed allowing special inspectors who are licensed engineers (rather than exclusively structural engineers) to conduct structural inspections on threshold buildings. The specific scope of their considerations on Chapter 8 is attached.

# **Additional County Actions**

The County has also created the online 40-year portal adding transparency for the public to the information about the status of a building's recertification for structures in the unincorporated area. Staff is working with municipal jurisdictions to implement the Board's directive that all recertification data, regardless of building jurisdiction, be made available online.

We also voluntarily commenced this fall with the mail out of courtesy advanced early notification letters for structures that will become due in 2022. Early noticing as contemplated by this ordinance 1 and 2 years in advance is also underway for UMSA structures that will become due for recertification in 2023 and 2024.

As you are aware many jurisdictions, including Miami-Dade, launched proactive reviews of aging structures in the wake of Surfside. Jurisdictions were also flooded with calls from concerned residents about the condition of buildings. These activities in some cases led to building jurisdictions acting to vacate structures that posed an imminent danger. While these measures were intended to safeguard the welfare of our citizens, they also have led in some cases to prolonged displacements that have required the coordination of public safety and social services. To that end, my administration has proposed an ordinance that requires building officials to notify the County's Office of Emergency Management of ordered evacuations to ensure that these services continue to be coordinated into the future. The Board is also considering legislation requiring building owners to pay relocation costs for displaced residents in structures that have failed to be properly maintained by their owners.

Eight positions were also added to RER's budget to enhance the County's ability to support the recertification process and its associated activities. These positions include licensed electrical and structural professionals and building staff.

While much has been accomplished since the Champlain tragedy, County actions will not end with this ordinance. RER staff will continue to monitor the activities of professional organizations, the State Legislature and Building Commission, and the NIST investigation. Our review of procedures and best practices to enhance building safety will continue, and any further recommendations to safeguard the public will be brought promptly before this Board for action.

Jimmy Morales

Chief Operations Officer

Date: October 21<sup>st</sup>, 2021

**To:** Honorable Chairman Jose "Pepe" Diaz

and Members, Board of County Commissioners

From: Chairperson Gregory Pierce

and Members, Board of Rules and Appeals

**Subject:** Board of Rules and Appeals Recommended Modifications to the Current 40 Year

Building and Components Recertification Provisions under Chapter 8 Section 8-11(f)

of the Miami Dade County Code

The Miami-Dade Board of Rules and Appeals (BORA) is the local countywide construction regulatory board as defined and contemplated in Florida Statute 553 and authorized in Chapter 8 of the Code of Miami Dade County. Comprised of members appointed by the Board of County Commissioners, BORA meets regularly to consider building code appeals, certify Building Officials, plans examiners and inspectors as well as to function to serve and safeguard the community through adequate uniform application of the Building Code. Chapter 8 Section 8-11 (f), which currently outlines the process for recertification of buildings and components at age 40 and subsequently in 10-year intervals, also charges the Board of Rules and Appeals with the issuance of the minimum inspection procedural guidelines to be used in the building recertification inspection process. In the wake of the Champlain South Tower collapse, BORA conducted a series of public meetings and discussions with the Building Officials and industry to consider whether any enhancements to the existing building recertification process in Miami - Dade County were advisable.

### **RECCOMMENDATIONS**

At their September 23<sup>rd</sup>, 2021 meeting, the Board of Rules and Appeals ratified the following recommendations for modifications to Miami Dade County Code Chapter 8-11(f) Recertification of Buildings and Components:

- 1. Require all jurisdictions to send advanced notices on building recertification two years, one year and 90 days prior to their official due date. (Subsequent initial recertification notices for the following 10-year increments would also follow the same notification schedule.)
- 2. Mandate the exclusive use of <u>Florida licensed professional engineers that are also Florida licensed special inspectors for</u> issuing the structural reports of <u>threshold buildings</u> as defined in the FBC.
  - (THRESHOLD BUILDING. In accordance with Florida Statute, any building which is greater than 3 stories or 50 feet (15 240 mm) in height, or which has an assembly occupancy classification that exceeds 5,000 square feet (464.52 m2) in area and an occupant content of greater than 500 persons.)
- 3. Include <u>code mandated stricter criteria for</u> applicants requesting <u>extensions</u> to the report filing deadline. <u>A Building Official can consider extensions of not more than 60 days for just cause, and request must contain a signed and sealed 'safe to occupy' statement from the engineer or architect commissioned for this service.</u>

Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners Board of Rules and Appeals Recommended Modifications to the Current 40 Year Building Recertification Provisions under Chapter 8 Section 8-11 of the Miami Dade County Code Page 2

- 4. Legislate a professional's <u>affirmative "duty to report"</u> to the Building Official any <u>adverse findings</u> on a building whether within or outside of a 40-year evaluation <u>no later than 10 days after informing the owner or if there is imminent danger reporting must be done within 24 hours.</u>
- 5. In condominiums with multiple unit ownership scenarios where recertification requirements fall to an <u>association</u>, require that unsafe <u>notices</u> be posted in a conspicuous location and require that associations notify all <u>building unit owners and residents</u> of the declaration.
- 6. Require the <u>first recertification of buildings and components</u> to occur, instead of at the 40-year age, at the <u>30-year age</u> of the building as recorded by the County's Property Appraiser.
- 7. When submitting <u>reports early</u>, modify section 8-11(f)(ii)(3) to require the <u>recertification</u> shall not be required for a minimum of 10 years from that time, or age thirty (30), whichever is the <u>shorter</u> period of time.

The Board of Rules and Appeals, therefore, recommends to the Board of County Commissioners that the above procedural improvements be amended into Miami Dade County Code, Chapter 8-11(f) Recertification of Buildings and Components. The proposed modifications are being presented in a continued effort by BORA to ensure that local building code regulations provide for the necessary safety and protection of all the residents of Miami-Dade County.

Gregory Pierce Board Chairperson

Board of Rules and Appeals



# **MEMORANDUM**

	(Revised)						
TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	DATE:	February 1, 2022				
FROM:	Bonzon-Keenan County Attorney	SUBJECT:	Agenda Item No. 4(C)				
Please note any items checked.							
	"3-Day Rule" for committees applicable if I	raised					
	6 weeks required between first reading and public hearing						
	4 weeks notification to municipal officials required prior to public hearing						
	Decreases revenues or increases expenditur	es without bal	ancing budget				
	Budget required						
	Statement of fiscal impact required						

Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote

Statement of social equity required

report for public hearing

requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_\_) to approve

Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Ordinance creating a new board requires detailed County Mayor's

Approved	Mayor	Agenda Item No. 4(C)
Veto		2-1-22
Override		
	ORDINANCE NO.	

ORDINANCE RELATING TO EXISTING BUILDINGS AND UNSAFE STRUCTURES; AMENDING CHAPTER 8 AND CHAPTER 8CC OF THE CODE OF MIAMI-DADE COUNTY. FLORIDA (CODE); REVISING PROCEDURES RELATING TO RECERTIFICATION OF BUILDINGS AND COMPONENTS. INCLUDING AMENDING RECERTIFICATION PERIODS. PROVIDING FOR ADVANCE NOTIFICATION TO PROPERTY OWNERS, SPECIFYING CERTAIN QUALIFICATIONS FOR PROFESSIONALS SUBMITTING CERTIFICATION REPORTS FOR THRESHOLD BUILDINGS, REQUIRING CERTAIN SAFE OCCUPANCY STATEMENTS DURING RECERTIFICATION PROCESS, PROVIDING TIMELINES FOR COMPLETION OF NECESSARY REPAIRS, SPECIFYING CONDITIONS FOR EXTENSIONS, **PROVIDING** FOR DISCONNECT ELECTRICAL UTILITIES UNDER CERTAIN CONDITIONS: AUTHORIZING REVOCATION OF RECERTIFICATION STATUS WHEN BASED ON MISREPRESENTATIONS: ESTABLISHING DUTY TO REPORT ADVERSE FINDINGS OR UNSAFE CONDITIONS OF A BUILDING OR STRUCTURE **WHEN** PERFORMING INSPECTION; **REQUIRING** CONDOMINIUM ASSOCIATIONS TO NOTIFY ALL UNIT RESIDENTS **WHEN BUILDING** AND STRUCTURE HAS BEEN DECLARED UNSAFE; PROVIDING FOR PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Chapter 8-11 of the Code of Miami-Dade County, Florida is hereby amended as follows:<sup>1</sup>

# **Chapter 8-11 – EXISTING BUILDINGS**

\* \* \*

# >><u>(d)</u> *Reserved*.

- Duty to Report. Any engineer or architect who performs an (e) inspection of an existing building or structure has a duty to report to the Building Official any findings that, if left unaddressed, would endanger life or property no later than ten (10) days after informing the building owner of such findings unless the engineer or architect is made aware that action has been taken to address such findings in accordance with applicable code. However, if such engineer or architect finds that there are conditions in the building or structure causing an actual or immediate danger of the failure or collapse of a building or structure, or there is a health, windstorm or fire hazard, such engineer or architect shall report such conditions to the Building Official within twenty-four (24) hours of the time of discovery. In addition to assessing any fines or penalties provided in Chapter 8CC of the Code of Miami-Dade County, the Building Official shall also report any violations of this provision to the appropriate licensing agency, regulatory board, and professional organization of such engineer or architect.<<
- (f) Recertification of buildings and components.

# $[[\frac{1}{2}]] >> (1)$ Definitions.

- (A) "Recertification" shall be defined as<<[[For the purpose of this Subsection, recertification shall be construed to mean]] the requirement for specific inspection of existing buildings and structures and furnishing the Building Official with a written report of such inspection as prescribed herein.
- >>(B) "Minor buildings or structures" shall be defined as buildings or structures in any occupancy group having an occupant load of 10 or less, as determined

Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

- by Table 1004.5 (FBC) Minimum Occupant Load of the Florida Building Code and having a gross area of 2,000 sq. ft. or less.
- (C) "Threshold Building" shall be defined as any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons, or as otherwise defined by section 553.71, Florida Statutes, which may be amended from time to time.
- (D) "Building Age" shall be defined as the difference between (a) the present year and (b) the year-built information recorded with the County Property Appraiser notwithstanding any renovations or modifications that have been made to the building or structure since the year built.

# (2) <u>Recertification Procedures.</u>

- (A) All buildings, except single-family residences, duplexes, and minor structures as defined above, are required to undergo recertification in the manner described below once such building or structure has reached a Building Age of 30 years and every 10 years thereafter.
  - (i) However, all buildings and structures built between 1983-1992 shall be required to undergo the recertification for their 30-year period no later than March 31, 2024. These buildings and structures shall not be subject to the early notification requirement outlined in Section 8-11(f)(2)(E).
  - (ii) A building or structure built between 19831986 shall be exempt from the 30-year recertification requirement described above in subsection (i) if a 40-year recertification report for such building or structure would be otherwise due on or before March 31, 2024 and it is timely submitted.

- (B)<< [[(1)]] Inspection procedures shall conform[[, in general,]] with the minimum inspection procedural guidelines as issued by the Board of Rules and Appeals.
- >>(C)<< [[(2)]] 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 designed live load, and the general condition of its electrical systems pursuant to the Building Code.
- >>(D) The Building Official shall provide the owner of the building or structure with a Notice of Required Inspection relating to the required recertification once the Building Official has determined that a building or structure has a Building Age of 30 years and every 10-year interval thereafter (i.e. Building Ages of 40, 50, etc.). In addition, the Building Official shall provide the owner with advance courtesy notices relating to their forthcoming building recertification two years and one year prior their recertification anniversary year. Notwithstanding the foregoing, the failure by a Building Official to provide courtesy advance notices shall not affect a building owner's requirement to timely recertify a building or structure.<<

[[<del>(ii)</del>

- (1) All buildings, except single family residences, duplexes and minor structures as defined below, shall be recertified in the manner described below where such buildings or structures have been in existence for forty (40) years or longer, as determined by the Building Official, who shall at such time issue a Notice of Required Inspection to the building owner.
- (2) Subsequent recertification shall be required at ten (10) years interval.

- (3) In the event a building is determined to be structurally and electrically safe under the conditions set forth herein, and such building or structure is less than forty (40) years of age, recertification shall not be required for a minimum of ten (10) years from that time, or age forty (40), whichever is the longer period of time.
- (iii) Minor buildings or structures shall, for the purpose of this subsection, be buildings or structures in any occupancy group having an occupant load of ten (10) or less, as determined by Table 1003.1 (FBC) Minimum Occupant Load of the Florida Building Code and having a gross area of 2,000 sq. ft. or less.

(iv)

- (1)]] >>(E)<< The owner of a building or structure subject to recertification shall furnish, or cause to be furnished, within ninety (90) days of Notice of Required Inspection, a written report to the Building Official[[, prepared by a Professional Engineer or Architect registered in the State of Florida,]] certifying that each such building or structure is structurally and electrically safe, or has been made structurally and electrically safe>,<< for the specified use for continued occupancy, in conformity with the minimum inspection procedural guidelines as issued by the Board of Rules and Appeals.
  - >>(i) If the building or structure is not a Threshold Building, as defined above, such report must be prepared by a Professional Engineer or Architect registered in the State of Florida.
    - (ii) If the building or structure is a Threshold Building, as defined above, then (a) the structural portion of such report must be prepared by a Professional Engineer registered in the State of Florida specializing in structural design and (b) the electrical portion of such written report must be prepared by a Professional Engineer registered in the State of Florida specializing in electrical design. A self-qualification letter shall be submitted as part of the structural report for threshold buildings, stating that the

engineer is a practicing structural engineer and has worked with buildings equivalent to the building being certified and shall be accompanied by proof of the engineer's state Department of Business and Professional Regulation (DPBR) structural specialization.

- (iii)<<[[(2)]] Such written report shall bear the impressed seal and signature of the responsible Engineer or Architect who has performed the inspection>>, unless submitted electronically with a verifiable digital signature as described in section 668.001, Florida Statutes.
- (iv)<<[[(3)]] Such Engineer or Architect shall undertake such assignments only where qualified by training and experience in the specific technical field involved in the inspection and report.
- >>(v)<<[[(4)]] Such report shall indicate the manner and type of inspection forming the basis for the report and description of any matters identified as requiring remedial action.
- >>(vi) Such report shall be deemed timely if submitted any time between (a) two years prior to the building or structure's applicable recertification anniversary, and (b) 90 days after the Notice of Required Inspection, including any applicable extension periods provided by the Building Official.
- (F)<< [[(5)]] In the event that repairs or modifications are found to be necessary >>as a result of<< [[resulting from]]] the recertification inspection, the owner shall have a total of 150 days from the date of Notice of Required Inspection in which to >>(a)<< complete indicated repairs or modifications which >>do not require permits, and (b) acquire any necessary permits. Repairs or modifications requiring permits<<< shall be executed in conformance with all applicable Sections of the Building Code >>and shall follow the timeline provided in the applicable active permit.

- (G) When any electrical or structural repairs or modifications are required, the responsible engineer or architect who has performed the recertification inspection shall provide the Building Official with a letter indicating whether the building or structure may continue to be safely occupied while the building or structure is undergoing repairs. Such letter shall be valid for no more than 180 days, and a new letter shall be issued if repairs or modifications remain ongoing.
- (H) Once all applicable repairs, whether structural or electrical or both, are completed, the engineer(s) or architect(s) providing the initial recertification report must provide an amended report indicating that the building or structure has been recertified for continued use under the present occupancy.
- (I) The Building Official may issue an extension of not more than 60 days to submit a recertification report or to obtain any necessary permits upon a written extension request from an engineer or architect. Such request must contain a signed and sealed statement from the engineer or architect that the building may continue to be occupied while undergoing recertification.
- (J) If the owner of a building or structure has failed to timely furnish the Building Official with a recertification report or seek an extension request in accordance with this subsection, the Building Official may order that electrical utilities be disconnected for that building or structure if the Building Official determines that such inaction creates uncertainty in the opinion of the Building Official as to whether the building or structure may continue to be safely occupied. Before a Building Official may order electrical utilities to be disconnected under this subsection, the Building Official must provide notice to the owner of a building or structure via certified mail and posted or affixed in a conspicuous location on the building or structure. The posted or affixed notice shall read substantially as follows:

NOTICE OF INTENT TO DISCONNECT ELECTRICAL UTILITIES. This building or structure has not complied with the recertification procedures under Section 8-11 of the Miami-Dade County Code. As a result, there is uncertainty in the opinion of the Building Official as to whether this building or structure may continue to be safely occupied. IF PROPER ACTION IS NOT TIMELY TAKEN, THE ELECTRICAL UTILITIES TO THIS BUILDING MAY BE DISCONNECTED ON [INSERT DATE OF POTENTIAL DISCONNECT]. The owner should contact the Building Official immediately. Also, any resident that has a health or medical issue that could be impacted by the disconnection of electrical utilities should contact the Building Official immediately. THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. [INSERT DATE POSTED1

In buildings or structures where there are multiple unit owners or tenants but responsibility to correct deficiencies associated with said posting is carried by an association, management company, landlord, or other responsible party (collectively, the "Responsible Party"), the Responsible Party shall, within 24 hours of the posting, notify all buildingunit owners and tenants of the NOTICE OF INTENT TO DISCONNECT ELECTRICAL UTILITIES in writing. The Responsible Party shall, within three business days, provide the Building Official with proof that the notice was timely disseminated to all unit owners and tenants on a form acceptable to the Building Official. For any building or structure with multiple Responsible Parties, each Responsible Party shall be jointly and severally liable for any failure to provide timely notice to all unit owners and tenants, regardless of fault and regardless of knowledge of the violation.

In addition, the Building Official may not order electrical utilities to be disconnected under this subsection if (a) the posted or affixed notice

described above has been posted or affixed on the building or structure for less than 5 business days; (b) the Building Official has been advised of a potential health or medical issue that could be impacted by the disconnection of electrical utilities and has not yet taken reasonable efforts to address such issue(s); or (c) the owner of a building or structure provides the Building Official with a signed and sealed statement from an applicable engineer or architect that the building or structure may continue to be occupied while undergoing recertification.

(K) The Building Official may revoke any recertifications if the Building Official determines that the written recertification report contains any misrepresentation of the actual conditions of the building or structure.<<

\* \* \*

Section 2. Chapter 8-5 of the Code of Miami-Dade County, Florida is hereby amended as follows:

# **Chapter 8-5 – Unsafe Structures**

\* \* \*

- (g) Unsafe structures meeting valuation criteria for immediate demolition.
  - (1) The provisions of this Subsection (f) shall apply to structures meeting the valuation criteria for demolition set forth above.
  - (2) The Building Official shall prepare a notice of violation. The notice shall state in summary form the nature of the defects which constitute a violation of this Section and shall order the structure to be demolished within such time as is reasonable, subject to extension when requested in writing within the reasonable discretion of the Building Official. The notice shall state that the specific details concerning the violations can be obtained in writing from the Building Official upon request. In addition, the notice will explain the right of appeal of the decision of the Building Official to the Unsafe Structures Board or an Unsafe Structures Appeal

- Panel, and advise that unless the decision is appealed, the building or structure shall be demolished without further notice.
- (3) The notice of violation shall be affixed to the structure concerned. The Building Official shall also affix to the structure notice of the hearing of the Unsafe Structures Board or Unsafe Structures Appeal Panel scheduled to consider any appeal of the decision of the Building Official in connection with the structure. The notice of hearing shall be issued by the Secretary of the Unsafe Structures Board where applicable and the Director of the Building Department or his designee for appeals to an Unsafe Structures Appeal Panel advising persons to appear before the board or panel to show cause why the decision of the Building Official should not be carried out. The hearing shall not be scheduled earlier than thirty days following the date of posting of the notice of hearing and notice of violation.
- (4) The Building Official shall post a notice bearing his or her facsimile signature in a conspicuous location on the building or structure that has been determined to be unsafe. The posted notice shall read substantially as follows: "UNSAFE BUILDING". This building or structure is, in the opinion of the Building Official, unsafe. "THIS BUILDING SHALL BE VACATED—SHALL NOT BE OCCUPIED." Action shall be taken by the owner as prescribed by written notice. "THIS NOTICE SHALL NOT BE REMOVED EXCEPT BY THE BUILDING OFFICIAL. DATE...." >>In buildings or structures where there are multiple unit owners or tenants but responsibility to correct deficiencies associated with said posting is carried by an association, management company, landlord, or other responsible party (collectively, the "Responsible Party"), the Responsible Party shall, within 24 hours of the posting, notify all building-unit owners and tenants of the unsafe declaration in writing. The Responsible Party shall, within three business days, provide the Building Official with proof that the notice was timely disseminated to all unit owners and tenants on a form acceptable to the Building Official. For any building or structure with multiple Responsible Parties, each Responsible Party shall be jointly and severally liable for any failure to provide timely notice to all unit owners and tenants, regardless of fault and regardless of knowledge of the violation.<<

\* \* \*

- (h) Unsafe Structures not meeting the valuation criteria for immediate demolition.
  - (1) If a building or structure may be repaired and made safe pursuant to the valuation criteria set forth above, and the building or structure is otherwise unsafe in accordance with the physical criteria set forth in this section, the Building Official may order such building or structure to be temporarily secured in the manner and subject to the limitations set forth in this Section. Such building must be completed and brought into full compliance with the Building Code within such time as the Building Official, an Unsafe Structures Appeal Panel or the Unsafe Structures Board may determine to be reasonable for such completion. If the building or structure is not temporarily secured, or once served, not completed and brought into compliance with the Building Code within the reasonable periods allowed, such building or structure shall be demolished and removed from the premises.
  - (2) The Building Official shall prepare a notice of violation. This written notice shall state in summary form the nature of defects which constitute a violation of this section and shall prescribe the action to be taken to comply and the time within which compliance must be accomplished, such time not to exceed ten (10) days to secure an open structure to the reasonable satisfaction of the Building Official ninety (90) days to obtain permits to repair the structure and one hundred and twenty (120) days bring it into compliance with the Building Code. This notice shall also state that the specific details concerning the violations can be obtained in writing from the Building Official on request. In addition, this notice will explain the right of appeal of the decision of the Building Official to the Unsafe Structures Board or an Unsafe Structures Appeal Panel, and also advise that unless there is compliance with the directions of the Building Official a case will be commenced before the Unsafe Structures Board or an Unsafe Structures Appeal Panel after time for compliance has expired, or that the Building Official's order will be enforced.
  - (3) The notice of violation shall be affixed to the structure concerned. >> In buildings or structures where there are multiple unit owners or tenants but responsibility to correct deficiencies associated with said posting is carried by an association, management company, landlord, or other responsible party (collectively, the "Responsible Party"), the

Responsible Party shall, within 24 hours of the posting, notify all building-unit owners and tenants of the unsafe declaration in writing. The Responsible Party shall, within three business days, provide the Building Official with proof that the notice was timely disseminated to all unit owners and tenants on a form acceptable to the Building Official. For any building or structure with multiple Responsible Parties, each Responsible Party shall be jointly and severally liable for any failure to provide timely notice to all unit owners and tenants, regardless of fault and regardless of knowledge of the violation.<

\* \* \*

**Section 3.** Chapter 8CC-10 of the Code of Miami-Dade County, Florida is hereby amended as follows:

Sec. 8CC-10. - Schedule of civil penalties

\* \* \*

	2007 FBCR § 4404.1.2: Unlawfully making an excavation	1,000.00
8-1	which endangers adjoining property or buildings or is a	,
	menace to public health or safety	
>> 8-5(g)(4) and	Failure to provide unsafe notification to unit owners and	200.00 per unit
(h)(3); 8-	<u>tenants</u>	<u>to be</u>
11(f)(2)(G)		notified<<
8-11(a)	Failure to maintain a building or structure in a safe	500.00
	condition; failure to maintain devices or safeguards in good	
	working order	
8-11(c)	Failure to obtain a certificate of inspection prior to placing	1,000.00
	in operation or continuing in operation any boiler or	
	pressure vessel	
8-11(c)(5)	Failure to post the required certificate of inspection for a	500.00
	boiler or pressure vessel	
>> <u>8-11(e)</u>	Failure to timely report life safety concern	1,000.00<<<
8-11(f)[[ <del>(iv)(1)</del> ]]	Failure of the owner [[of a 40 year old building]] to	500.00
	>> <u>timely</u> << furnish required written >> <u>recertification</u> <<	
	report to the Building Official	
8-11(f)[[ <del>(iv)(5)</del> ]]	Failure of the owner [[of a 40 year old building]] to	500.00
	>> <u>timely</u> << complete required repairs or modifications	
	>> <u>relating to recertification</u> <<	

Agenda Item No. 4(C) Page 13

**Section 4.** If any section, subsection, sentence, clause or provision of this ordinance is

held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 5.** It is the intention of the Board of County Commissioners, and it is hereby

ordained that the provisions of this ordinance, including any sunset provision, shall become and

be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may

be renumbered or relettered to accomplish such intention, and the word "ordinance" may be

changed to "section," "article," or other appropriate word.

**Section 6.** This ordinance shall become effective ten (10) days after the date of

enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override

by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

Eduardo W. Gonzalez Michael B. Valdes

**PAGE 214** 

### 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 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

**WHEREAS**, following the tragic collapse of the Champlain Towers South Condominium building, the Town Commission recognizes the importance of providing enhanced monitoring of certain aging buildings within the Town that may put residents, guests, invitees, and others at increased risk; and

WHEREAS, Section 8-11. – "Existing Buildings" of the Miami-Dade County Code of Ordinances (the "County Code") <u>currently</u> 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

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 indicated with highlighted double strikethrough and double underline.

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Building Code, and furnishing the Building Official with a written report of such inspection as prescribed therein; and

WHEREAS, in the aftermath of the Champlain Towers South collapse, a consortium of building officials based in Miami-Dade County convened to discuss improvements and make recommendations to the recertification requirements contained in Section 8-11 of the County Code and have recommended the following requirements, culminating in the attached Miami-Dade County Ordinance, Item 4C on the Board of County Commissioners ("BCC") Agenda dated February 1, 2022, File Number 220166, "Existing Buildings and Unsafe Structures, as approved on first reading by the BCC on February 1, 2022 Recommendations of the consortium of building officials in Miami-Dade County (the "County Ordinance") attached as (Exhibit "A") which addresses the Town's concerns except for requirements to share and disseminate engineering report to the Building Official and owner and residents of a building undergoing recertification: as provided in Exhibit "A": (1) Building official to provide notice of recertification requirements to the owner at least two years prior to the due date for recertification; (2) The first building recertification to occur on or before 30 years from the issuance of the Certificate of Occupancy; (3) Recertification reports for structural matters to be performed by a licensed structural engineer; (4) A structural engineer's letter certifying continued occupancy for any extensions of recertification deadlines or during repairs, and renewed certifications of safe occupancy every six months thereafter; (5) Engineer evaluating a building for recertification to submit any reports or comments to the building official with jurisdiction upon issuance to the owner; and (6) Posting of unsafe structure notices in a conspicuous location for buildings owned by multiple owners such as condominiums and co-operatives; and

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WHEREAS, the Board of County Commissioners has not yet acted by adopting on first reading the an the County Ordinance attached as Exhibit "A" amending Section 8-11 of the County Code based 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 <u>County Ordinance based on the</u> recommendations of the consortium of building officials, and the <u>recommendations or guidance of</u> <u>the Miami-Dade County Board of Rules and Appeals provides an enhanced and acceptable framework for monitoring the integrity of threshold buildings; and</u>

1. 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 indicated with highlighted double strikethrough and double underline.

54	WHEREAS, the Town Commission wishes to amend the Town Code to adopt and incorporate
55	existing County Code requirements for recertification of buildings as set forth in Section 8-11 of
56	the County Code, as modified by the (i) County Ordinance attached hereto as Exhibit "A" based on
57	the recommendations of the consortium of building officials and (ii) the Miami-Dade County Board
58	of Rules and Appeals guidelines attached as Exhibit "B" and the recommendations for structural
59	studies and inspections consistent with KCE Structural Engineers, P.C. Memo #1 attached as
60	Exhibit "C", and as directed by the Town Commission; and
61	WHEREAS, on December 14, 2021 at its regular monthly meeting, the Town Commission
62	directed staff to evaluate and prepare an ordinance implementing the County Code requirements
63	for building recertification, as modified by the recommendations of the consortium of building
64	officials and the Miami-Dade County Board of Rules and Appeals and to include and add
65	geotechnical studies and inspections; and
66	WHEREAS, this ordinance proposes to amend Chapter 14 - Buildings and Building
67	Regulations", Article I "In General", of the Code, to add Section 14-3 "Recertification of
68	Existing Buildings" to adopt and incorporate Section 8-11 of the County Code as modified by the
69	County Ordinance based on the recommendations of the consortium of building officials attached
70	as (Exhibit "A") and the Miami-Dade County Board of Rules and Appeals attached as (Exhibit
71	"B") and to include and add recommendations for geotechnical studies and inspections consistent
72	with KCE Structural Engineers, P.C. Memo #1 (Exhibit "C") as directed by the Town Commission;
73	and
74	WHEREAS, the Town Commission held its first public hearing on January 11, 2022 and
75	recommended approval of the proposed amendments to the Code having complied with the notice
76	requirements in the Florida Statutes; and
77	WHEREAS, the Town Commission has conducted a second duly noticed public hearing on
78	these regulations as required by law on February 8, 2022 and further finds the proposed changes to

the Code are necessary and in the best interest of the community.

79

80

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 indicated with highlighted double strikethrough and <u>double underline</u>.

81	NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
82	TOWN OF SURFSIDE, FLORIDA <sup>1</sup> :
83	
84	Section 1. Recitals. The above Recitals are true and correct and are incorporated herein
85	by this reference.
86	
87	Section 2. Town Code Amended. Chapter 14 – "Buildings and Building Regulations"
88 89	Article I. – "In General", of the Surfside Town Code of Ordinances, is hereby amended to create a new Section 14-3 - "Recertification of Existing Buildings" which shall read as follows <sup>1</sup> :
90	Sec. 14-3. – Recertification of Existing Buildings.
91	
92 93	Section 8-11 "Existing Buildings" of the Miami-Dade County Code of Ordinances, as may be amended from time to time, is hereby adopted and incorporated by reference, with
94	the following modifications:
95	
96	(1) Provisions of the attached Miami-Dade County Ordinance, Item 4C on the Board
97	of County Commissioners ("BCC") Agenda dated February 1, 2022, File Number
98	220166, "Existing Buildings and Unsafe Structures, as approved on first reading
99	by the BCC on February 1, 2022 Recommendations of the consortium of building
100	officials in Miami-Dade County (Exhibit "A") and, in addition:
101	a. , the engineer(s) evaluating a building for recertification is required to submit
102	any reports or comments to the building official with jurisdiction and to all
103	owners and residents of the building upon issuance to the owner; and
104	b. Any owner of a multifamily building or the condominium association, as
105	applicable, shall disseminate any report received from the engineer to all
106	owners and residents of the building .:
107	a. The building official shall provide notice of recertification requirements to the
108	owner of buildings at least two years prior to the due date for recertification; and
109	b. The first building recertification shall be required on or before the lesser of 30
110	years from the issuance of the Certificate of Occupancy or whatever time frame
111 112	is required by the Miami-Dade County Code of Ordinances; and c. Any recertification reports for structural matters shall be performed by a
112	licensed structural engineer; and
113	d. A structural engineer's letter certifying continued occupancy shall be required
115	for any extensions of recertification deadlines or during repairs, and renewed
116	certifications of safe occupancy every six months thereafter; and
117	e. The engineer(s) evaluating a building for recertification is required to submit
118	any reports or comments to the building official with jurisdiction upon issuance
119	to the owner; and

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120 f. The building official shall post any notice of unsafe structure notices in a 121 conspicuous location for buildings owned by multiple owners such as 122 condominiums and co-operatives. 123 124 (2) Recommendations of the Miami-Dade County Board of Rules and Appeals (Exhibit "B") and Town Engineering Consultant (Exhibit "C"). Reports for building 125 recertification shall, at a minimum, meet the requirements of the November 23, 2021 126 127 memorandum regarding the "Board of Rules and Appeals 40-year Building Recertification General Considerations and Guidelines", as may be amended and 128 129 updated from time to time, and the structural investigation recommendations 130 contained in Memo #1 by KCE Structural Engineers, P.C., and any subsequent 131 guidelines issued by the Town or Miami-Dade County retained on file in the building department. 132 133 Town of Surfside Geotechnical Recommendations Requirements. It is recommended 134 (3) 135 that Recertification shall include analysis of geotechnical conditions by a registered 136 practicing geotechnical engineer who shall may: 137 138 a. Review original geotechnical report for the original building design and confirm 139 that it is consistent with what was built; and 140 b. Complete and submit a multichannel analysis of surface waves (MASW) or 141 electrical resistivity testing geophysical study. 142 143 *Penalties.* The failure to meet the deadlines for certification and compliance with the above 144 requirements shall constitute a civil violation in addition to potential designation as an 145 unsafe structure and other remedies as provided in the Miami-Dade County Code of Ordinances. 146 147 Implementation. Any building subject to recertification requirements that is more than 30 148 149 years old on the effective date of this Ordinance and which has not previously been 150 recertified, shall be recertified by the owner within two (2) years from the effective date of 151 this Ordinance. 152 If any section, sentence, clause or phrase of this Ordinance is Section 3. Severability. 153 held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall 154 in no way affect the validity of the remaining portions of this Ordinance. 155 **Section 4. Inclusion in the Code**. 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 156 157 Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other 158 159 appropriate word. 160

<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 indicated with highlighted double strikethrough and double underline.

Section 5. Conflicts. Any and all ord	inances and resolutions or part	ts of ordin
resolutions in conflict herewith are hereby repea	iled.	
• •		
<b>Section 6. Effective Date.</b> This ordinates	ance shall become effective upo	on adoption
DASSED and ADODTED on first reading	ng this 11th day of January 202	2
PASSED and ADOPTED on first reading	ng this 11 <sup>th</sup> day of January, 202.	2.
DAGGED LADOPTED L	1: 41:	2022
PASSED and ADOPTED on second rea	ading tinsday of	, 2022
First Reading:		
Motion by:		
Second by:		
second by		
Second Reading:		
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		
<u> </u>		
	Charles W. Burkett	
	Mayor	
ATTEST:		
Sandra N. McCready, MMC		
Town Clerk		
APPROVED AS TO FORM AND LEGALIT	Y FOR THE USE	
AND BENEFIT OF THE TOWN OF SURFS	SIDE ONLY:	
Woice Scrote Halfman Cale & Diaman D.I		
Weiss Serota Helfman Cole & Bierman, P.L.		
Town Attorney		

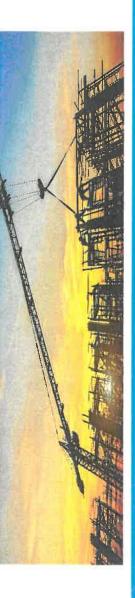
or

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# Improvements to 40 Year Process

- 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.







Department of Regulatory and Economic Resources
Board Administration Section
11805 S.W. 26 Street (Coral Way) Rm. 230
Miami, Florida 33175
Tel (786) 315-2573 Fax (786) 315-2570
www.miamidade.gov/development

### **MEMO**

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.

xcellence Every Day

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

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.

### **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.

### Roofs

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

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.

### **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-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.

### **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

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.

# MINIMUM INSPECTION PROCEDURAL GUIDELINES FOR BUILDING STRUCTURAL RECERTIFICATION

# 1. **Description of Structure:** Α. 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. 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 \_\_\_\_ Total Building Area of all floors: L. 2. **Present Condition of Structure:** A. General alignment (note good, fair, poor, explain if significant) 1. Bulging \_\_\_\_

Settlement \_\_\_\_\_

Defections \_\_\_\_\_

Contraction

Expansion \_\_\_\_\_

BORA Approved – Revised November 18, 2021

2.

3.

4.

5.

	——————————————————————————————————————
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.
<u>Insp</u>	ections:
A.	Date of notice of required inspection
B. C.	Date(s) of actual inspection
	1 Dissipling of Dragging
	1. Discipline of Practice:
D.	Description of any laboratory or other formal testing, if required, rather than manual or visual procedures.
D. E.	Description of any laboratory or other formal testing, if required, rather than manual or

	1. Explanation/Commer	nts:
Sup	oorting data:	
A.		sheets written data
B.		photographs
C.		drawings or sketches
D.		test reports
Four	ndation:	
A. D	escribe building foundation:	
E. Is	water drained away from found	lation? (Yes/No):
1 . 15		gation required: (Tes/110).
Mas	onry Bearing Walls - indicate	good, fair, poor on appropriate lines:
A.	Concrete masonry units	_
B.	Clay tile or terra cotta units _	
C.		mns
D.	Reinforced concrete tie beam	ns
E.	Lintels	
	Other type hand beems	

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. Cracks: 1. Location - note beams, columns, other:  2. Description:  2. Description:  2. Description:	
3. Paint only	
3. Paint only	
H. Masonry finishes - interior:  1. Vapor barrier	
1. Vapor barrier  2. Furring and plaster  3. Paneling  4. Paint only  5. Other (describe)  I. Cracks:  1. Location - note beams, columns, other:  2. Description:  J. Spalling:  1. Location - note beams, columns, other:	
2. Furring and plaster	
3. Paneling	
3. Paneling	
4. Paint only	
5. Other (describe)	
1. Location - note beams, columns, other:  2. Description:  J. Spalling:  1. Location - note beams, columns, other:	
<ul> <li>Description:</li></ul>	
<ul> <li>Description:</li></ul>	
1. Location - note beams, columns, other:	
2. Description:	
K. Rebar 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. Samples chipped out for examination in spall areas	
1. No	
2. Yes - describe color texture, aggregate, general quality	

# 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 hea equipment and condition of supports:
3.	Note types of drains and scuppers and condition:
l.	Describe parapet construction and current conditions:
5.	Describe mansard construction and current conditions:
<b>ó</b> .	Describe roofing membrane/covering and current conditions:
7.	Describe any roof framing member with obvious overloading, overstress,
	deterioration, or excessive deflection:
3.	Note any expansion joints and condition:
	r system(s):
(lool	

B.

	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:
С.	-	ection - note exposed areas available for inspection, and where it was found necessary pen ceilings, etc. for inspection of typical framing members.
Steel	Fram	ing Systems:
Α.	Desc	cription
В.	Exp	osed Steel - describe condition of paint & degree of corrosion:
C.	Stee	l connections: describe type and condition:
D.		crete or other fireproofing - note any cracking or spalling, and note where any coverwas removed for inspection
E.		
		tify any steel framing member with obvious overloading, overstress, deterioration, or essive deflection (provide location):

Conc	<u>crete F</u>	raming Systems:
A.	Full	description of structural system
В.	Crac	eking:
	1.	Not significant
	2.	Location and description of members affected and type cracking:
C.	Gen	eral condition:
D.	Reba	ar 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)
Е.	Sam	ples chipped out in spall areas:
	1.	No
	2.	Yes, describe color, texture, aggregate, general quality:
		tify any concrete framing member with obvious overloading, overstress, deter

## 10. Windows, Storefronts, Curtainwalls, and Exterior Doors:

A. W	indows	s, Storefronts, Curtainwalls:
	1.	Type (Wood, steel, aluminum, jalousie, single hung, double hung, casement, awn
		ing, 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;
В.	Struc	ctural 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.	Exte	rior 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:

В.	Indicate condition of the following:
	1. Walls:
	2. Floors:
C	3. Roof Member, roof trusses:  Note motel fittings is a smalles plates helts callit pintles pintles without and note and it
C.	Note metal fittings i.e., angles, plates, bolts, split pintles, pintles, other, and note condition:
D.	Joints - note if well fitted and still closed:
Е.	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>Buile</u>	ding Façade Inspection (Threshold Buildings)
Build A.	Identify and describe the exterior walls and appurtenances on all sides of the building.  (Cladding type, corbels, precast appliques, etc.)
<b>A.</b>	Identify and describe the exterior walls and appurtenances on all sides of the building.
	Identify and describe the exterior walls and appurtenances on all sides of the building.  (Cladding type, corbels, precast appliques, etc.)

11.

**Wood Framing:** 

<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:

# MINIMUM INSPECTION PROCEDURAL GUIDELINES FOR BUILDING ELECTRICAL RECERTIFICATION

		ON COMMENCED	INSPECTION MADE BY:						
Date: INSPECTION COMPLETED			PRINT NAME:						
							Date		
			ADDRESS:						
1.	DES	SCRIPTION OF STRUCTURI	Σ:						
	<b>A.</b>	NAME OF TITLE							
	В.	STREET ADDRESS							
	C.								
	D.								
	<b>E.</b>	OWNER'S MAILING ADDI	RESS						
	F.		DING:						
	G.		ANCY CLASSIFICATION:						
	Н.	PRESENT USE:							
	I.	GENERAL DESCRIPTION,	TYPE OF CONSTRUCTION, SIZE, NUMBER OF STO-						
		RIES, AND SPECIAL FEAT	TURES. (OVERALL DESCRIPTION, STRUCTURAL SYSTEMS, SPECIAL						
	J.	NUMBER OF STORIES:							
	K.		UILDING AS PER 553.71(12) F.S. (YES/NO):						
	L.		THE PROPERTY IDENTIFYING THE BUILDING BEING TE SHEET. ATTACHED: □						
	<b>M.</b>	ADDITIONAL COMMENT	:						

2.	INSP	ECTIONS:								
	<b>A.</b>	DATE OF NOTICE OF REQUIRED INSPECTION:								
	В.	DATE(S) OF ACTUAL INSPECTION:								
	C.	NAME AND QUALIFICATIONS OF LICENSEE SUBMITTING REPORT:								
	D.	ARE ANY ELECTRICAL REPAIRS REQUIRED? (YES/NO):  IF REQUIRED, DESCRIBE NATURE OF REPAIRS:								
	Е.	PROVIDE PHOTO CONDITIONS AND					TO REFLECT RELEVANT			
3.	ELEC	CTRIC SERVICE:								
	A. SIZ	E: VOLTAGE: (	) A	MPERAGE:	(	)	FUSES: ( ) BREAKER:( )			
	B. PH.	ASE: 3\$\phi\$ (	)	1φ	(	)				
		NDITION: GOOD( MMENTS:					NEEDS REPAIR ( )			
4.	MET:	METERING EQUIPMENT:								
		EARANCES: GOOD ( DMMENTS:				_	S CORRECTION ( )			
5.	ELEC	CTRIC ROOMS:								
		EARANCES: GOOD ( )MMENTS:				_	S CORRECTION ( )			
6.	<u>GUT</u>	ΓERS:								
	A. LC	OCATION:			GO	OOD (	) REQUIRES REPAIR ( )			
	В			<del>-</del>	GO	OOD (	): REQUIRES REPAIR ( )			
	C. C	OMMENTS:								

7.	ELECTRICAL PAN	ELS:								
				): NEEDS REPAIR		)				
			GOOD (	): NEEDS REPAIR		)				
	B. PANEL# (	):		): NEEDS REPAIR	( )	)				
	C. PANEL# (	):		): NEEDS REPAIR		)				
	D. PANEL# (	):		): NEEDS REPAIR		)				
	E. PANEL# (	):		): NEEDS REPAIR						
	F. COMMENTS:		•	•	,					
8.	BRANCH CIRCUITS:									
	A. IDENTIFIED:	YES ( ):	MUST BE IDEN	TIFIED ( )						
	B. CONDUCTORS: G				EPLACEI	O( )				
	C. COMMENTS:									
9.	GROUNDING OF SI COMMENTS:	ERVICE	: GOOD	( ): REPAIRS REQ	QUIRED (	)				
10.	GROUNDING OF E	QUIPMENT:	GOOD	( ): REPAIRS REQ	UIRED (	)				
	COMMENTS:									
11.	SERVICE CONDUIT/RACEWAYS: CONDITION: GOOD ( ): REPAIRS REQUIRED ( )									
	COMMENTS:									
12.	GENERAL CONDU					QUIRED ( )				
13.	COMMENTS: WIRE AND CABLE					)				
13,	COMMENTS.	3. CONDITIO	11. GOOD (	). KEPAIKS REC	ANTED (	)				

BUSWAYS: CONDITION	ON: GOOD (	): REPAIRS REQUIRED (	)						
COMMENTS:									
(ADD SHEETS AS REQUIRED & PICTURES IF	HERMOGRAPHY INSPECTION RESULTS: DD SHEETS AS REQUIRED & PICTURES IF NEEDED) DMMENTS:								
OTHER CONDUCTORS: CONDITION COMMENTS:			)						
TYPES OF WIRING METHODS: C									
CONDUIT RACEWAYS: RIGID:	GOOD (	): REPAIRS REQUIRED (	)						
CONDUIT PVC:	GOOD (	): REPAIRS REQUIRED (	)						
NM CABLE:	GOOD (	): REPAIRS REQUIRED (	)						
OTHER:	•	): REPAIRS REQUIRED (	)						
EMERGENCY LIGHTING:	GOOD (	): REPAIRS REQUIRED (	)						
COMMENTS:									
BLDG. EGRESS ILLUMINATION:	GOOD (	): REPAIRS REQUIRED (	)						
COMMENTS:									
FIRE ALARM SYSTEM:  COMMENTS:	•	): REPAIRS REQUIRED (	)						
SMOKE DETECTORS:		): REPAIRS REQUIRED (	)						
COMMENTS:									
EXIT LIGHTS:	GOOD (	): REPAIRS REQUIRED (	)						
COMMENTS:									
EMERGENCY GENERATOR:	GOOD (	): REPAIRS REQUIRED (	)						

24.	WIRING IN OPEN OR UNDER COVER PARKING GARAGE AREAS:	REQUIRE ADDITIONAL GOOD ( ): ILLUMINATION ( )	
	COMMENTS:		
25.		REQUIRE ADDITIONAL GOOD ( ): ILLUMINATION ( )	
26.	COMMENTS:SWIMMING POOL WIRING:	GOOD ( ): REPAIRS REQUIRED ( )	
-0.	COMMENTS:		
27.	WIRING TO MECHANICAL EQUIPM COMMENTS:	MENT: GOOD ( ): REPAIRS REQUIRED ( )	
28.	GENERAL ADDITIONAL COMMEN		

# KCE STRUCTURAL ENGINEERS, P.C.

CONSULTING ENGINEERS • 1818 JEFFERSON PLACE, N.W. • WASHINGTON, D.C. 20036

PHONE: 202-833-8622

WWW.KCESTRUCTURAL.COM

FAX: 202-833-3877

# Memo #1

Date: July 7, 2021

To: Town of Surfside Building Official

**RE:** Recommended Structural Engineering Evaluations

KCE Job No. 2021-11-05

For 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.



KEE

#### First Floor

- 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.
- o 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)
  - o 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.
  - o 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

- o Peel back roofing in three areas to expose structural slab.
- o If post-tension slabs, then confirm waterproofing protection of pull/dead ends at exterior and anchors
- 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.
- o 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

Check elevator sheave beam (machine beam) supports.

#### **PAGE 217**



# Town of Surfside Town Commission Meeting February 8, 2022 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date: February 8, 2022

Prepared by: Commissioner Eliana Salzhauer

Subject: Ordinance (1st Reading): 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) "Gross Acre"

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) "Height"

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 1st floors at +31 & +29, respectively – they then measured 120 feet from those points, resulting in roof heights that



# 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

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.

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. <a href="https://library.municode.com/fl/surfside/codes/code">https://library.municode.com/fl/surfside/codes/code</a> of ordinances?nodeId=PTICH ARTIIN FOGOPO S4GEPOTOPONODEEX

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) "Lot Area"

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.



# 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

# 4) "Lot Coverage"

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. It also limits the additional coverage areas to a maximum of 6%.

**Recommendation:** Adopt this Ordinance which amends 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 adopted by the Commission.

#### 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.
- (3) H120 District: For the H120 district, the maximum building height of 120 feet is measured from the current elevation established by the Florida Department of Environmental Protection for the first habitable floor as of the effective date of this ordinance, which is set at +16.63 NAVD88 (or +18.2 feet NGVD29). The maximum building height shall not exceed +136.63 NAVD88 (or +138.2 NGVD29) to the highest point of the structural roof for a flat roof or the top of the tie beam for a pitched roof.



# 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

**Lot area:** The total horizontal area within the lot lines of the lot. In determining usable ILot area in the H120 district, it shall be calculated based on the area bounded by from the west, north, and south lot lines and to the bulkhead line on the east. The area between the erosion control line and the bulkhead line shall not be counted as part of the lot area for calculation of density, lot coverage, or any other zoning calculation used to 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. In the H30A and H30B single family districts, the lot coverage is limited to a maximum forty percent (40%) of the lot 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. <u>Uncovered steps and exterior balconies;</u>
- 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) sides.</u>

In no instance may the exemptions listed in i-iii exceed 6% of the lot area.

\* \* \* \* \* \* \* \* \* \*

### ORDINANCE NO. 21 -

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-2. - "DEFINITIONS", TO DELETE THE DEFINITION FOR "GROSS ACRE" AND TO REVISE THE DEFINITIONS FOR "HEIGHT," "LOT AREA," AND "LOT **COVERAGE"**; **PROVIDING FOR SEVERABILITY**; **PROVIDING FOR INCLUSION** IN THE 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 and Land Development Code ("Code") in order to update regulations and procedures to maintain consistency with state law, to implement municipal goals and objectives, to clarify regulations and address specific issues and needs that may arise; and

**WHEREAS**, Section 4 of the Town Charter limits the density, intensity, and height of development and structures to that permitted under the Comprehensive Plan or Zoning Code in effect in 2004; and

**WHEREAS**, the Town finds that certain definitions in the Code have been interpreted to allow development that is out of scale and incompatible with the Town's land development objectives and that may potentially exceed the limitations of Section 4 of the Town Charter; and

**WHEREAS**, the Town Commission finds that amending Section 90-2 of the Town Code to delete the definition of "gross acre," and revise the definitions of "height," "lot area," and "lot coverage," is necessary and in the best interests of the Town and its residents; and

**WHEREAS**, on January 11, 2022 at its regular monthly meeting, the Town Commission directed staff to evaluate and prepare an ordinance amending Section 90-2. – Definitions, to delete the definition of "gross acre," and revise the definitions of "height," "lot area," and "lot coverage;" and

<sup>1</sup>Additions to the text are shown in <u>underline</u>. Deletions are shown in <del>strikethrough</del>.

Page **1** of **5** 

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<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>.

59	NGVD29) to the highest point of the structural roof for a flat roof or the top of
60	the tie beam for a pitched roof.
61	
62	* * *
63	
64	Lot area: The total horizontal area within the lot lines of the lot. In determining usable
65	<u>Lot area in the H120 district, it shall be calculated based on the area bounded by from</u>
66	the west, north, and south lot lines and to the bulkhead line on the east. The area
67	between the erosion control line and the bulkhead line shall not be counted as part of the
68	lot area for calculation of density, lot coverage, or any other zoning calculation used to
69	and the north lot line shall be the north boundary and the south lot line shall be the south
70	<del>boundary</del> .
71	
72	* * *
73	
74	Lot coverage: The percentage of the total area of a lot that, when viewed from above,
75	would be covered by all principal and accessory buildings and structures (except
76	swimming pools, fences, screen enclosures, and pergolas), or portions thereof. In the
77	H30A and H30B single family districts, the lot coverage is limited to a maximum forty
78	percent (40%) of the lot; provided however that the following allowable exclusions, as
79	described under "floor area," shall not be included in determining the lot coverage: the
80	building area.
81	i. Uncovered steps and exterior balconies;
82	ii. Uncovered terraces, patios, breezeways, or porches which are open on two (2)
83	sides; and
84	iii. Covered terraces, patios, breezeways, or porches which are open on two (2) sides.
85	
86	In no instance may the exemptions listed in i-iii exceed 6% of the lot area.
87	
88	* * *
00	
89	Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is
90	held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
91	in no way affect the validity of the remaining portions of this Ordinance.
92	Section 4. Inclusion in the Code. It is the intention of the Town Commission, and it is
93	hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of
94	Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to
95	accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other
96	appropriate word.
97	
98	Section 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances or
99	resolutions in conflict herewith are hereby repealed.
100	V 1

PASSED and ADOPTED on second re	eading this	day of	, 2022
On Final Reading Moved by:			
On Final Booding Second by			
On Final Reading Second by:			
First Reading:			
Motion by:			
Second by:			
,			
Second Reading:			
Motion by:			
Second by:			
TINIAT MOTE ON ADODUTON			
FINAL VOTE ON ADOPTION Commissioner Charles Kosl			
Commissioner Charles Kesl Commissioner Eliana R. Salzhauer			
I' M T' D1			
vice Mayor Tina Paul			
	Charles W.	Burkett	
	Mayor		
ATTEST:			
Sandra N. McCready, MMC			
Sandra N. McCready, MMC Fown Clerk			
IOWII CITIN			

- 145 Weiss Serota Helfman Cole & Bierman, P.L.
- 146 147 Town Attorney



# Town of Surfside Town Commission Meeting February 8, 2022 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date: 1/10/22

Prepared by: Mayor

**Subject: Anti-Jewish Flyer** 

**Objective:** Support victimized Surfsiders and others victimized by similar flyers.

**Recommendation:** Support the attached resolution

**Solution:** Stand together with our victimized friends and neighbors in a show of strength and unity against

aggression and intimidation.

### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, REAFFIRMING THE TOWN'S COMMITMENT TO CONDEMN ANTI-SEMITIC, HATEFUL AND HURTFUL MESSAGES AND BEHAVIOR, **INCLUDING** THE REAFFIRMATION **OF** THE PROVISIONS OF SECTION 54-2 OF THE TOWN'S CODE, "CONSIDERATION OF ANTI-SEMITISM AND HATE CRIMES IN ENFORCING LAWS" AND SUPPORTING AN AMENDMENT TO SECTION 54-2 TO BROADEN THE DEFINITION OF ANTI-SEMITISM AS OUTLINED HEREIN: PROVIDING FOR SEVERABILITY AND CONFLICTS; PROVIDING FOR IMPLEMENTATION AND **AUTHORIZATION**; AND **PROVIDING FOR** ANEFFECTIVE DATE.

WHEREAS, recently the Town of Surfside ("Town") was blanketed with anti-Semitic flyers which were offensive and hurtful to many Surfside residents; and

**WHEREAS**, the Town Commission of the Town of Surfside ("Town Commission") abhors the distribution of anti-Semitic, hurtful or hateful messages within its jurisdiction; and

**WHEREAS,** the Town has recently adopted anti-hate resolutions in order to ensure the safety and well-being of any of its victimized community members; and

WHEREAS, in the process of adopting the foregoing resolutions, the Town demonstrated that it desires to underscore its commitment to rejecting anti-Semitic, hurtful and hateful messages, whatever their bases; and

**WHEREAS**, in addition to the foregoing, the Town supports its Police Department in its consideration of the definitions of anti-Semitism and hate crimes for the purposes of determining whether a violation is motivated by the intent to commit a hate crime in a manner consistent with federal and state statutes, and Section 54-2 of the Town Code, prohibiting hate crimes; and

WHEREAS, every human being is born in the image of Almighty God and has fundamental human rights to live and prosper endowed by our Creator; and

**WHEREAS,** the Town Commission reaffirms the provisions of Section 54-2 of the Town's Code, "Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws" and supports an amendment to Section 54-2 to broaden the definition of anti-Semitism as outlined herein and wishes to direct the Town administration and staff to prepare an ordinance for such purpose; and

**WHEREAS,** the Town Commission hereby finds and determines that this Resolution is in the best interest of its residents.

NOW, THEREFORE, IT IS RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS<sup>1</sup>:

**Section 1. Recitals Adopted.** Each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Reaffirming the Town's Commitment to Condemn Anti-Semitic, Hateful and Hurtful Messages and Behavior, Including Reaffirmation of Section 54-2 of the Town's Code, "Consideration of Anti-Semitism and Hate Crimes In Enforcing Laws" and Supporting an Amendment to Section 54-2 to Broaden the Definition of Anti-Semitism as Outlined Herein. The Town Commission reaffirms its commitment to condemn Anti-Semitic, hateful and hurtful messages, and reaffirms Section 54-2 of the Town Code, "Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws". The Town Commission further supports an amendment to Section 54-2 of the Town's Code to broaden the definition of Anti-Semitism to include substantially the following changes:

The term definition of "Anti-Semitism:' includes the following:

(1) Anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals or their property, or toward Jewish community institutions and religious facilities.

# (2) Examples of anti-Semitism include:

- a. Calling for, aiding, or justifying the killing or harming of Jews (often in the name of a radical ideology or an extremist view of religion);
- b. Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective—especially, but the media, economy, government or other societal institutions;
- c. Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, the state of Israel, or even for acts committed by non-Jews;
- d. Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust; or
- e. Accusing Jewish citizens of being anti-American because of loyalty to <a href="Israel.">Israel.</a>
- (3) Examples of anti-Semitism related to Israel include:
- <u>a.</u> Demonizing Israel by using the hateful symbols and images associated with classic anti-Semitism to characterize Israel or Israelis, drawing comparisons of contemporary Israeli policy to that of the Nazis, or blaming Israel for all interreligious or political tensions;

b. Applying a double standard to Israel by requiring behavior of Israel that

is not expected or demanded of any other democratic nation, or focusing peace or

human rights investigations only on Israel and not all others for the same reasons;

or

c. Delegitimizing Israel by denying the Jewish people their right to self-

determination, and denying Israel the right to exist.

d. However, notwithstanding the foregoing, criticism of Israel similar to that

levied against any other country cannot be regarded as anti-Semitic.

**Section 3. Severability and Conflicts.** That the provisions of this Resolution are

declared to be severable and if any section, sentence, clause or phrase of this Resolution 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 Resolution but they shall remain in

effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity

of any part.

**Section 4. Implementation.** The Town Manager and Town Officials are authorized

to take all necessary or further action to implement the purposes of this Resolution. The Town

administration and staff are further directed to prepare an ordinance amending section 54-2 of the

Town Code as outlined herein.

**Section 5. Effective Date.** That this Resolution shall be effective immediately upon

adoption.

PASSED AND ADOPTED this 8<sup>th</sup> day of February, 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 AND BENEFIT OF THE TOWN (	
Weiss Serota Helfman Cole & Bierm	nan, P.L.
Town Attorney	



# Town of Surfside Town Commission Meeting February 8, 2022 7:00 pm

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor Surfside, FL 33154

#### **COMMISSION COMMUNICATION**

Agenda #: Resolution Opposing FL State Senate Bill 280

Date: February 8, 2022

From: Commissioner Eliana Salzhauer

**Subject: Resolution Opposing FL State Senate Bill 280** 

### Title – Resolution Opposing FL State Senate Bill 280

**Objective** -- In recent years, the Florida Legislature has increasingly sought to tie the hands of local elected officials by contemplating and implementing legislation that restricts municipal and county home rule. These unacceptable restrictions prevent cities and counties from legislating on issues ranging from vacation rentals to the distribution of plastic bags at stores in coastal communities. The Florida Legislature is currently considering Senate Bill 280 ("SB 280"), which would severely limit ALL local elected officials' ability to fulfil their elected duty to serve their communities and to protect the health, safety, and welfare of their residents. This trampling of our community's rights to self-determination & of this Commission's elected duties is unacceptable and must be opposed.

**Consideration** – Resolution is self-explanatory. Many other local municipalities have filed similar resolutions and objections.

**Recommendation** – Adopt this Resolution Opposing FL State Senate Bill 280 as written to best fulfill our elected duty to serve in the best interests of Surfside's residents.

#### **RESOLUTION NO. 012-22-15765**

A Resolution of the Mayor and City Commission of the City of South Miami, Florida, opposing Senate Bill 280.

WHEREAS, Senate Bill 280 essentially blocks the enactment or enforcement of new county and municipal ordinances when they are challenged; and

WHEREAS, SB 280 is an extreme overreach of state government and severely restricts the authority of local government officials to protect the health, safety, and welfare of the people they were sworn to protect; and

WHEREAS, the bill would give local businesses, and others, the ability to delay new ordinances by suing and merely alleging, without proof or citation to any legal authority, that the measure appears to be preempted by State law or the state Constitution, or merely alleging that the ordinance is arbitrary or unreasonable, without any proof of the allegations; and

WHEREAS, SB 208 will allow a frivolous lawsuit to trigger an automatic court stay which would prevent the ordinance from taking effect and cause harm to the health, safety, and welfare of the people; and

WHEREAS, the bill does not provide for any consequence to the person challenging the ordinance if the allegations are not proven and yet the person could hold up the enforcement of ordinance and cause harm to the health, safety and welfare of businesses and the people residing and working within the local government's jurisdiction; and

WHEREAS, the bill would require counties and municipalities to produce a complicated and very expensive "business impact statement" before even making minor or clarifying amendments to an ordinance and to suspend enforcement of the entire ordinance amid legal challenges; and

WHEREAS, SB 280 will cause extensive delays in local elected officials carrying out the duties they were elected to carry out by their constituents; and

WHEREAS, there is no language in the bill preventing individuals from filing suits for frivolous purposes and the local government would be required to defend itself in the lawsuits and pay substantial amounts of taxpayer dollars in attorney's fees and costs defending frivolous lawsuits.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSIONERS OF THE CITY OF SOUTH MIAMI, FLORIDA:

<u>Section 1.</u> The foregoing recitals are hereby ratified and confirmed as being true and they are incorporated into this resolution by reference as if set forth in full herein.

<u>Section 2.</u> The Mayor and Commission for the City of South Miami hereby oppose Senate Bill 280.

<u>Section 3.</u> Corrections. Conforming language or technical scrivener-type corrections may be made by the City Attorney for any conforming amendments to be incorporated into the final resolution for signature.

<u>Section 4.</u> Instructions to the City Clerk. The City Clerk is instructed to forward a copy of this resolution to:

All municipalities in Miami-Dade County

Florida League of Cities;

Miami-Dade County League of Cities;

All members of the Miami-Dade Legislative Delegation;

All members of the Miami-Dade County Board of County Commissioners; and

Miami-Dade County Mayor

<u>Section 5.</u> Severability. If any section clause, sentence, or phrase of this resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding will not affect the validity of the remaining portions of this resolution.

<u>Section 6.</u> Effective Date. This resolution will become effective immediately upon enactment.

PASSED AND ADOPTED this 18th day of January, 2022.

ATTEST:

CITY CLERK

READ AND APPROVED AS TO FORM,

LANGUAGE, LEGALITY, AND

**EXECUTION THEREOF** 

APPROVED:

MAYOR

**COMMISSION VOTE:** 

5-0

Mayor Philips:

Yea

Commissioner Corey:

Yea

Commissioner Harris:

Yea

Commissioner Liebman:

Yea

Commissioner Gil:

Yea

CITY ATTORNEY

# **City Commission Agenda Item Report**

Meeting Date: January 18, 2022

Submitted by: Samantha Fraga-Lopez Submitting Department: City Manager

Item Type: Resolution Agenda Section:

### Subject:

A Resolution of the Mayor and City Commission of the City of South Miami, Florida, opposing Senate Bill 280. 3/5 (Mayor Philips)

# Suggested Action:

### Attachments:

Reso\_Opposing\_Senate\_Bill\_280\_CArev.doc

SB280.pdf

**PAGE 266** 1

By Senator Hutson

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A bill to be entitled An act relating to local ordinances; amending s. 57.112, F.S.; authorizing courts to assess and award attorney fees and costs and damages in certain civil actions filed against local governments; providing construction; amending s. 125.66, F.S.; requiring a board of county commissioners to prepare a business impact statement before the adoption of a proposed ordinance; specifying requirements for the posting and content of the statement; providing applicability; creating s. 125.675, F.S.; requiring a county to suspend enforcement of an ordinance that is the subject of a certain legal action if certain conditions are met; requiring courts to give priority to certain cases; specifying factors a court must consider in determining whether an ordinance is arbitrary or unreasonable; providing applicability; authorizing courts to award attorney fees and costs under certain circumstances; amending s. 166.041, F.S.; requiring a governing body of a municipality to prepare a business impact statement before the adoption of a proposed ordinance; specifying requirements for the posting and content of the statement; providing applicability; creating s. 166.0411, F.S.; requiring a municipality to suspend enforcement of an ordinance that is the subject of a certain legal action if certain conditions are met; requiring courts to give priority to certain cases; specifying factors a court must consider in

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determining whether an ordinance is arbitrary or unreasonable; providing applicability; authorizing courts to award attorney fees and costs under certain circumstances; amending ss. 163.2517, 163.3181, 163.3215, 376.80, 497.270, 562.45, and 847.0134, F.S.; conforming cross-references; providing a declaration of important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 57.112, Florida Statutes, is amended to read:

57.112 Attorney fees and costs and damages; preempted local actions.—

(1) As used in this section, the term "attorney fees and costs" means the reasonable and necessary attorney fees and costs incurred for all preparations, motions, hearings, trials, and appeals in a proceeding.

(2) If a civil action is filed against a local government to challenge the adoption or enforcement of a local ordinance on the grounds that it is expressly preempted by the State Constitution or by state law, the court shall assess and award reasonable attorney fees and costs and damages to the prevailing party.

(3) If a civil action is filed against a local government to challenge the adoption or enforcement of a local ordinance on the grounds that the ordinance is arbitrary or unreasonable, or is prohibited by law other than via express preemption, the

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court may assess and award reasonable attorney fees and costs and damages to the complainant if successful.

- (4) Attorney fees and costs may not be awarded pursuant to this section if:
- (a) The governing body of a local governmental entity receives written notice that an ordinance that has been publicly noticed or adopted is expressly preempted by the State Constitution or state law, is arbitrary or unreasonable, or is otherwise prohibited by law; and
- (b) The governing body of the local governmental entity withdraws the proposed ordinance within 30 days; or, in the case of an adopted ordinance, the governing body of a local government notices an intent to repeal the ordinance within 30 days of receipt of the notice and repeals the ordinance within 30 days thereafter.
- $\underline{(5)}$  (4) The provisions in this section are supplemental to all other sanctions or remedies available under law or court rule.
- $\underline{(6)}$  (5) This section does not apply to local ordinances adopted pursuant to part II of chapter 163, s. 553.73, or s. 633.202.
- (7) (6) Subsections (1), (2), (4), (5), and (6) are This section is intended to be prospective in nature and shall apply only to cases commenced on or after July 1, 2019. Subsection (3) is intended to be prospective in nature and applies only to cases commenced on or after October 1, 2022.
- Section 2. Present subsections (3) through (6) of section 125.66, Florida Statutes, are redesignated as subsections (4) through (7), respectively, a new subsection (3) is added to that

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section, and paragraph (a) of subsection (2) of that section is amended, to read:

- 125.66 Ordinances; enactment procedure; emergency ordinances; rezoning or change of land use ordinances or resolutions.—
- (2) (a) The regular enactment procedure shall be as follows: The board of county commissioners at any regular or special meeting may enact or amend any ordinance, except as provided in subsection (5) (4), if notice of intent to consider such ordinance is given at least 10 days before such meeting by publication as provided in chapter 50. A copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (3) (a) Before the adoption of each proposed ordinance, the board of county commissioners shall prepare a business impact statement in accordance with this subsection. The business impact statement must be posted on the county's website on the same day the notice of proposed enactment is published pursuant to paragraph (2) (a) and must include:
- 1. A statement of the public purpose to be served by the proposed ordinance, such as serving the public health, safety, or welfare of the county;

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2. A statement of the reasonable connection between the public purpose and the expected effects of the ordinance;

- 3. The estimated economic effect of the proposed ordinance on businesses both within and outside the county, including both adverse and beneficial effects and both direct and indirect effects;
- 4. A good faith estimate of the number of businesses likely to be affected by the ordinance;
- 5. An analysis of the extent to which the proposed ordinance is likely to deter or encourage the formation of new businesses within the county's jurisdiction;
- 6. An analysis of the extent to which the proposed ordinance will impede the ability of businesses within the county to compete with other businesses in other areas of this state or other domestic markets;
- 7. If applicable, the scientific basis for the proposed ordinance;
- 8. Alternatives considered by the county which would reduce the impact of the proposed ordinance on businesses; and
- 9. Any additional information the board determines may be useful.
- (b) This subsection does not apply to an emergency ordinance enacted pursuant to this section.
- Section 3. Section 125.675, Florida Statutes, is created to read:
- 125.675 Legal challenges to certain recently enacted ordinances.—
- (1) A county must suspend enforcement of an ordinance that is the subject of an action, including appeals, challenging the

in s. 57.112.

7-00478-22 2022280 146 ordinance's validity on the grounds that it is preempted by the 147 State Constitution or by state law, is arbitrary or 148 unreasonable, or is otherwise prohibited by law, if: 149 (a) The action was filed with the court no later than 20 150 days after the effective date of the ordinance; 151 (b) The plaintiff or petitioner requests suspension in the 152 initial complaint or petition, citing this section; and 153 (c) The county has been served with a copy of the complaint 154 or petition. 155 (2) The court shall give cases in which the enforcement of 156 an ordinance is suspended under this section priority over other 157 pending cases and shall render a preliminary or final decision 158 on the validity of the ordinance as expeditiously as possible. 159 (3) In determining whether an ordinance is arbitrary or unreasonable, the court shall consider, but is not limited to, 160 161 the following factors: 162 (a) The extent to which the ordinance protects the health, 163 welfare, safety, and quality of life of the residents of the 164 county; 165 (b) The impact of the ordinance on the personal rights and 166 privileges of the residents of the county; 167 (c) The total economic impact of the ordinance; and (d) The business impact statement prepared by the county as 168 169 required by s. 125.66(3). (4) This section does not apply to an emergency ordinance 170 171 or an ordinance governed by part II of chapter 163, s. 553.73, 172 or s. 633.202. 173 (5) The court may award attorney fees and costs as provided

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Section 4. Present subsections (4) through (8) of section 166.041, Florida Statutes, are redesignated as subsections (5) through (9), respectively, and a new subsection (4) is added to that section, to read:

166.041 Procedures for adoption of ordinances and resolutions.—

- (4) (a) Before the adoption of each proposed ordinance, the governing body of a municipality shall prepare a business impact statement in accordance with this subsection. The business impact statement must be posted on the municipality's website on the same day the notice of proposed enactment is published pursuant to paragraph (3) (a) and must include:
- 1. A statement of the public purpose to be served by the proposed ordinance, such as serving the public health, safety, or welfare of the municipality;
- 2. A statement of the reasonable connection between the public purpose and the expected effects of the ordinance;
- 3. The estimated economic effect of the proposed ordinance on businesses both within and outside the municipality, including both adverse and beneficial effects and both direct and indirect effects;
- 4. A good faith estimate of the number of businesses likely to be affected by the ordinance;
- 5. An analysis of the extent to which the proposed ordinance is likely to deter or encourage the formation of new businesses within the municipality's jurisdiction;
- 6. An analysis of the extent to which the proposed ordinance will impede the ability of businesses within the municipality to compete with other businesses in other areas of

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7-00478-22 2022280 this state or other domestic markets; 7. If applicable, the scientific basis for the proposed ordinance; 8. Alternatives considered by the municipality which would reduce the impact of the proposed ordinance on businesses; and 9. Any additional information the governing body determines may be useful. (b) This subsection does not apply to an emergency ordinance enacted pursuant to this section. Section 5. Section 166.0411, Florida Statutes, is created to read: 166.0411 Legal challenges to certain recently enacted ordinances.-(1) A municipality must suspend enforcement of an ordinance that is the subject of an action, including appeals, challenging the ordinance's validity on the grounds that it is preempted by the State Constitution or by state law, is arbitrary or unreasonable, or is otherwise prohibited by law, if: (a) The action was filed with the court no later than 20 days after the effective date of the ordinance; (b) The plaintiff or petitioner requests suspension in the initial complaint or petition, citing this section; and (c) The municipality has been served with a copy of the complaint or petition. (2) The court shall give cases in which the enforcement of an ordinance is suspended under this section priority over other pending cases and shall render a preliminary or final decision on the validity of the ordinance as expeditiously as possible.

(3) In determining whether an ordinance is arbitrary or

7-00478-22 2022280 unreasonable, the court shall consider, but is not limited to, 233 234 the following factors: 235 (a) The extent to which the ordinance protects the health, 236 welfare, safety, and quality of life of the residents of the 237 municipality; 238 (b) The impact of the ordinance on the personal rights and 239 privileges of the residents of the municipality; 240 (c) The total economic impact of the ordinance; and 241 (d) The business impact statement prepared by the 242 municipality as required by s. 166.041(4). 243 (4) This section does not apply to an emergency ordinance 244 or an ordinance governed by part II of chapter 163, s. 553.73, or s. 633.202. 245 246 (5) The court may award attorney fees and costs as provided in s. 57.112. 247 248 Section 6. Subsection (5) of section 163.2517, Florida 249 Statutes, is amended to read: 250 163.2517 Designation of urban infill and redevelopment 251 area.-252 (5) After the preparation of an urban infill and 253 redevelopment plan or designation of an existing plan, the local 254 government shall adopt the plan by ordinance. Notice for the 255 public hearing on the ordinance must be in the form established 256 in s. 166.041(3)(c)2. for municipalities, and s. 125.66(5)(b)2. s. 125.66(4)(b)2. for counties. 257 258 Section 7. Paragraph (a) of subsection (3) of section 259 163.3181, Florida Statutes, is amended to read: 260 163.3181 Public participation in the comprehensive planning

process; intent; alternative dispute resolution.-

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(3) A local government considering undertaking a publicly financed capital improvement project may elect to use the procedures set forth in this subsection for the purpose of allowing public participation in the decision and resolution of disputes. For purposes of this subsection, a publicly financed capital improvement project is a physical structure or structures, the funding for construction, operation, and maintenance of which is financed entirely from public funds.

- (a) Prior to the date of a public hearing on the decision on whether to proceed with the proposed project, the local government shall publish public notice of its intent to decide the issue according to the notice procedures described by  $\underline{s}$ .  $\underline{125.66(5)(b)2}$ .  $\underline{s}$ .  $\underline{125.66(4)(b)2}$ . for a county or  $\underline{s}$ .
- 166.041(3)(c)2.b. for a municipality.
  - Section 8. Paragraph (a) of subsection (4) of section 163.3215, Florida Statutes, is amended to read:
  - 163.3215 Standing to enforce local comprehensive plans through development orders.—
  - (4) If a local government elects to adopt or has adopted an ordinance establishing, at a minimum, the requirements listed in this subsection, the sole method by which an aggrieved and adversely affected party may challenge any decision of local government granting or denying an application for a development order, as defined in s. 163.3164, which materially alters the use or density or intensity of use on a particular piece of property, on the basis that it is not consistent with the comprehensive plan adopted under this part, is by an appeal filed by a petition for writ of certiorari filed in circuit court no later than 30 days following rendition of a development

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order or other written decision of the local government, or when all local administrative appeals, if any, are exhausted, whichever occurs later. An action for injunctive or other relief may be joined with the petition for certiorari. Principles of judicial or administrative res judicata and collateral estoppel apply to these proceedings. Minimum components of the local process are as follows:

(a) The local process must make provision for notice of an application for a development order that materially alters the use or density or intensity of use on a particular piece of property, including notice by publication or mailed notice consistent with the provisions of ss. 125.66(5)(b)2. and 3. and 166.041(3)(c)2.b. and c. ss. 125.66(4)(b)2. and 3. and 166.041(3)(c)2.b. and e., and must require prominent posting at the job site. The notice must be given within 10 days after the filing of an application for a development order; however, notice under this subsection is not required for an application for a building permit or any other official action of local government which does not materially alter the use or density or intensity of use on a particular piece of property. The notice must clearly delineate that an aggrieved or adversely affected person has the right to request a quasi-judicial hearing before the local government for which the application is made, must explain the conditions precedent to the appeal of any development order ultimately rendered upon the application, and must specify the location where written procedures can be obtained that describe the process, including how to initiate the quasi-judicial process, the timeframes for initiating the process, and the location of the hearing. The process may

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include an opportunity for an alternative dispute resolution.

Section 9. Paragraph (c) of subsection (1) of section 376.80, Florida Statutes, is amended to read:

376.80 Brownfield program administration process.-

- (1) The following general procedures apply to brownfield designations:
- (c) Except as otherwise provided, the following provisions apply to all proposed brownfield area designations:
- 1. Notification to department following adoption.—A local government with jurisdiction over the brownfield area must notify the department, and, if applicable, the local pollution control program under s. 403.182, of its decision to designate a brownfield area for rehabilitation for the purposes of ss. 376.77-376.86. The notification must include a resolution adopted by the local government body. The local government shall notify the department, and, if applicable, the local pollution control program under s. 403.182, of the designation within 30 days after adoption of the resolution.
- 2. Resolution adoption.—The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, which includes a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 166.041, except that the procedures for the public hearings on the proposed resolution must be in the form established in s. 166.041(3)(c)2. For counties, the governing body shall adopt the

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resolution in accordance with the procedures outlined in s. 125.66, except that the procedures for the public hearings on the proposed resolution shall be in the form established in  $\underline{s}$ . 125.66(5)(b)  $\underline{s}$ . 125.66(4)(b).

- 3. Right to be removed from proposed brownfield area.—If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.
- 4. Notice and public hearing requirements for designation of a proposed brownfield area outside a redevelopment area or by a nongovernmental entity. Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(c):
- a. At least one of the required public hearings shall be conducted as closely as is reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.
- b. Notice of a public hearing must be made in a newspaper of general circulation in the area, must be made in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.
- Section 10. Paragraph (a) of subsection (3) of section 497.270, Florida Statutes, is amended to read:
  - 497.270 Minimum acreage; sale or disposition of cemetery

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lands.-

(3) (a) If the property to be sold, conveyed, or disposed of under subsection (2) has been or is being used for the permanent interment of human remains, the applicant for approval of such sale, conveyance, or disposition shall cause to be published, at least once a week for 4 consecutive weeks, a notice meeting the standards of publication set forth in s. 125.66(5)(b)2. s. 125.66(4)(b)2. The notice shall describe the property in question and the proposed noncemetery use and shall advise substantially affected persons that they may file a written request for a hearing pursuant to chapter 120, within 14 days after the date of last publication of the notice, with the department if they object to granting the applicant's request to sell, convey, or dispose of the subject property for noncemetery uses.

Section 11. Paragraph (a) of subsection (2) of section 562.45, Florida Statutes, is amended to read:

- 562.45 Penalties for violating Beverage Law; local ordinances; prohibiting regulation of certain activities or business transactions; requiring nondiscriminatory treatment; providing exceptions.—
- (2) (a) Nothing contained in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the Beverage Law within the county or corporate limits of such municipality. However, except for premises licensed on or before July 1, 1999, and except for locations

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that are licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509, a location for on-premises consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. 125.66(5) s.  $\frac{125.66(4)}{1}$ , for counties, and s. 166.041(3)(c), for municipalities. This restriction shall not, however, be construed to prohibit the issuance of temporary permits to certain nonprofit organizations as provided for in s. 561.422. The division may not issue a change in the series of a license or approve a change of a licensee's location unless the licensee provides documentation of proper zoning from the appropriate county or municipal zoning authorities.

Section 12. Subsection (1) of section 847.0134, Florida Statutes, is amended to read:

847.0134 Prohibition of adult entertainment establishment that displays, sells, or distributes materials harmful to minors within 2,500 feet of a school.—

(1) Except for those establishments that are legally operating or have been granted a permit from a local government to operate as adult entertainment establishments on or before July 1, 2001, an adult entertainment establishment that sells, rents, loans, distributes, transmits, shows, or exhibits any obscene material, as described in s. 847.0133, or presents live entertainment or a motion picture, slide, or other exhibit that,

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436 in whole or in part, depicts nudity, sexual conduct, sexual 437 excitement, sexual battery, sexual bestiality, or 438 sadomasochistic abuse and that is harmful to minors, as 439 described in s. 847.001, may not be located within 2,500 feet of 440 the real property that comprises a public or private elementary 441 school, middle school, or secondary school unless the county or 442 municipality approves the location under proceedings as provided 443 in s. 125.66(5) s. 125.66(4) for counties or s. 166.041(3)(c)444 for municipalities. 445 Section 13. The Legislature finds and declares that this 446 act fulfills an important state interest. 447 Section 14. This act shall take effect October 1, 2022.

Page 16 of 16

### RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, URGING THE FLORIDA LEGISLATURE TO OPPOSE SENATE BILL 280, WHICH UNDERMINES LOCAL AUTHORITY'S ABILITY AND ELECTED DUTY TO PROTECT THE HEALTH, SAFETY AND WELFARE OF SURFSIDE RESIDENTS, AND WOULD ALLOW INDIVIDUALS AND ENTITIES TO DELAY ENACTMENT OF LOCAL ORDINANCES BY FILING LAWSUITS THAT ALLEGE  $\mathbf{A}\mathbf{N}$ **ORDINANCE** ARBITRARY OR UNREASONABLE: AUTHORIZING THE TOWN CLERK TO TRANSMIT THIS RESOLUTION TO THE OFFICIALS NAMED HEREIN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in recent years, the Florida Legislature has increasingly contemplated and implemented legislation that restricts municipal and county home rule and designed to restrict cities and counties from legislating on issues ranging from vacation rentals to the distribution of plastic bags at stores in coastal communities; and

**WHEREAS**, the Florida Legislature is currently considering Senate Bill 280 ("SB 280"), which allows individuals and entities to delay enforcement of an ordinance by merely alleging that the ordinance is arbitrary or unreasonable; and

WHEREAS, the Town Commission of the Town of Surfside (the "Town") finds that SB 280 serves to limit home rule authority by empowering individuals and entities with the ability to put forth frivolous lawsuits in order to trigger automatic court stays of local ordinances; and

**WHEREAS,** the Town Commission urges the Florida Governor, Florida Legislature, and the Miami-Dade County Legislative Delegation to oppose SB 280; and

WHEREAS, The Town Commission finds that SB 280 undermines local elected official's duty of self-determination and protection of local interests and the health, safety and welfare of its residents; and

**WHEREAS,** the Town Commission finds that this Resolution is in the best interest and welfare of the citizens of the Town.

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

**Section 1**. **Recitals Adopted**. The recitals are true and correct and incorporated in the Resolution.

**Section 2. Urging Resolution**. The Town Commission urges the Florida Governor, Florida Legislature, and the Miami-Dade County Legislative Delegation to oppose SB 280.

Section 3. Transmittal. The Town Commission authorizes the Town Clerk to transmit a copy of the Resolution to Governor Ron DeSantis, Florida Senate President Wilton Simpson, the Florida Speaker of the House Chris Sprowls, the Miami-Dade County Legislative Delegation, the Florida League of Cities, the Miami-Dade County League of Cities, and all municipalities in Miami-Dade County, Florida.

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

**PASSED AND ADOPTED** on this 8<sup>th</sup> day of February, 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 SU	FFICIENCY:	
Weiss Serota Helfman Cole & Bierman, P.L.		
Town Attorney		

### Town Manager Performance Evaluation Rating Summary January 2022

Town Manager: Andrew Hyatt

1/11/2022

Elected Official Commissioner Mayor Burkett         Individual Skills and Commissioner Mayor Burkett         Relations with Official Characteristics Status         Relations with Lead of Commission Commission of Commissioner Mayor Burkett         Relations Management (Characteristics Status)         Relations with Lead (Characteristics Status)         Resolution (Characteristi	-									1/11/7077		
Elected Deficial Skills and Status or Burkett         Relations with Skills and Skills an					Evaluati	on Criter	ia/Rating	şs				
Or Burkett         5         4	Elected Official	Individual Characteristics	Professional Skills and Status	Relations with the Town Commission	Policy Execution	Reporting	Citizen Relations	Staffing	Supervision	Fiscal Management	Community	Average Rating
Mayor Paul missioner autors of mussioner squez         4.6         4.8         4.6         4.6         4.6         4.6         4.6         4.6         4.6         4.4         4.4         4.4         4.4         4.6         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.2 <td>Mayor Burkett</td> <td>5</td> <td>5</td> <td>5</td> <td>5</td> <td>5</td> <td>5</td> <td>5</td> <td>2</td> <td>5</td> <td>2</td> <td>5</td>	Mayor Burkett	5	5	5	5	5	5	5	2	5	2	5
missioner missioner missioner auter missioner auter missioner A 4 B 4.4         4.6         4.6         3.8         4.4         4.4         4.6         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.8         4.2         3.8         3.8         3.6         4.2         3.8         4.2         4.	Vice Mayor Paul	4.6	4	3.8	3.6	3.8	4.4	4.2	4.2	3.8	4	4.04
ner         4         4         3.2         3.8         3.8         3.6         3.8         4           ner         4.2         4.4         3.6         4.2         3.8         3.6         4.2         3.8         4           3e         4.35         4.35         4.3         4.15         4.15         4.15         4.15	Commissioner Kesl	4.6	4.8	4.6	3.8	4.4	4.4	4.4	4.6	4.8	4.8	4.52
ner         4.2         3.6         4.2         3.8         3.6         4.2         3.8         4           3e         4.35         4.35         4.35         4.35         4.15         4.15         4.15         4.15	Commissioner Salzhauer	4	4	4	3.2	3.8	3.8	3.6	3.8	4	3.8	3.8
4.35 4.3 4 3.7 3.95 4.05 4.1 4.15	Commissioner Velasquez	4.2	4.4	3.6	4.2	3.8	3.6	4.2	3.8	4	4	3.98
	Average Rating	4.35	4.3	4	3.7	3.95	4.05	4.1	4.1	4.15	4.15	4.268



### 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** 

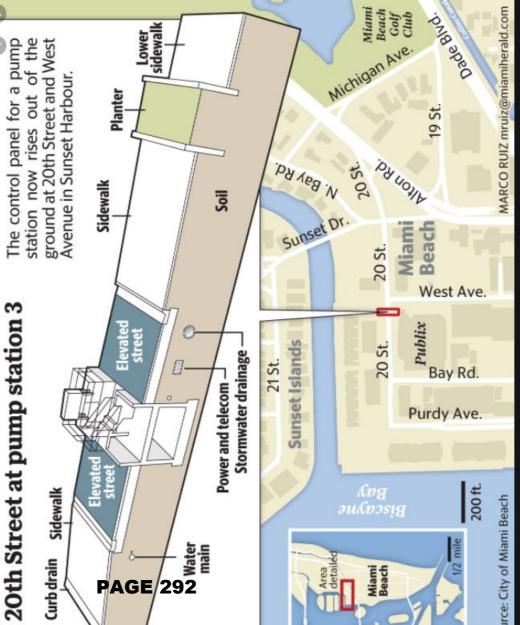




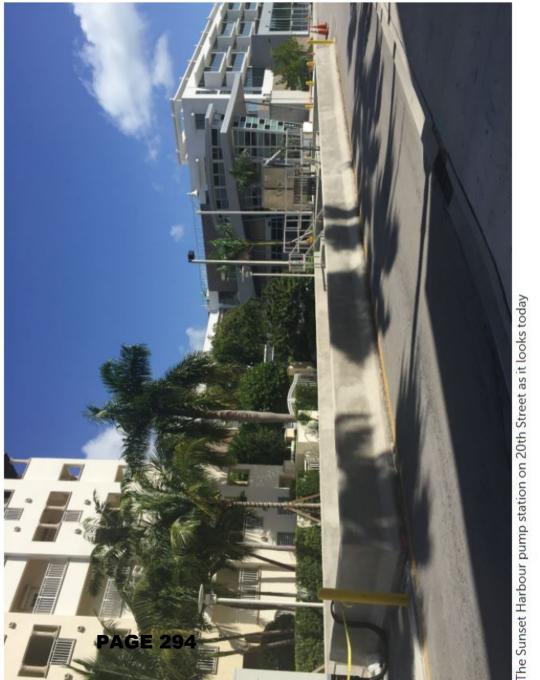










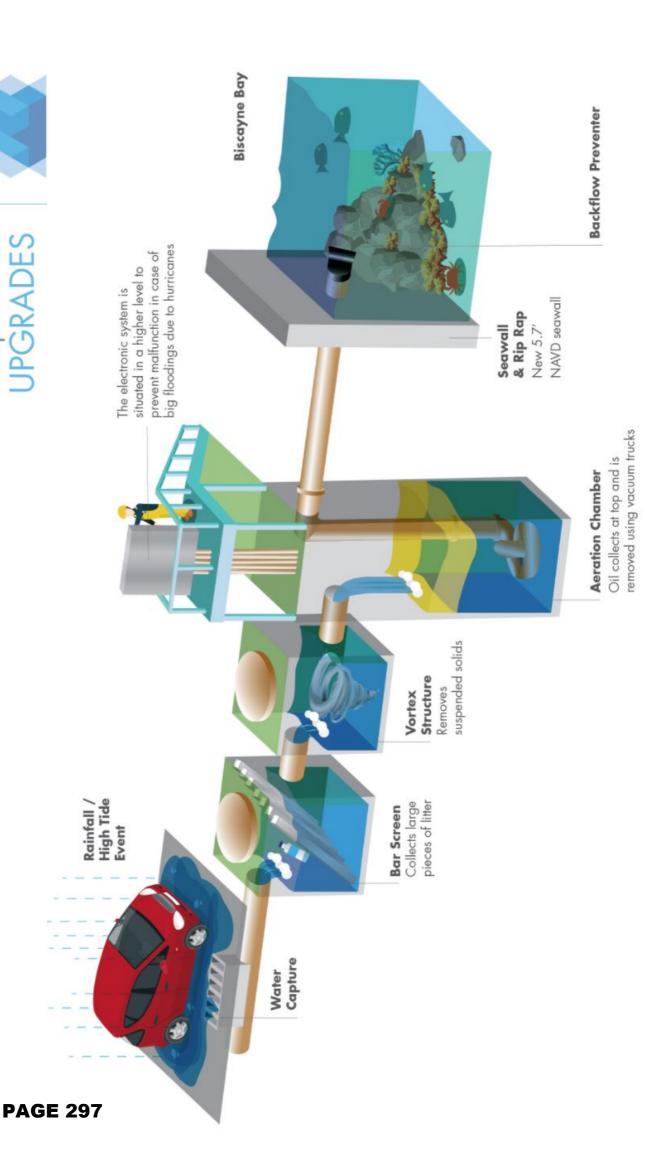


Miami Beach adds pumps and raises





### Stormwater Pump Station UPGRADES





XIII OH MOT SURFSIDE'S once and for all! August 2020 **PAGE 299** 



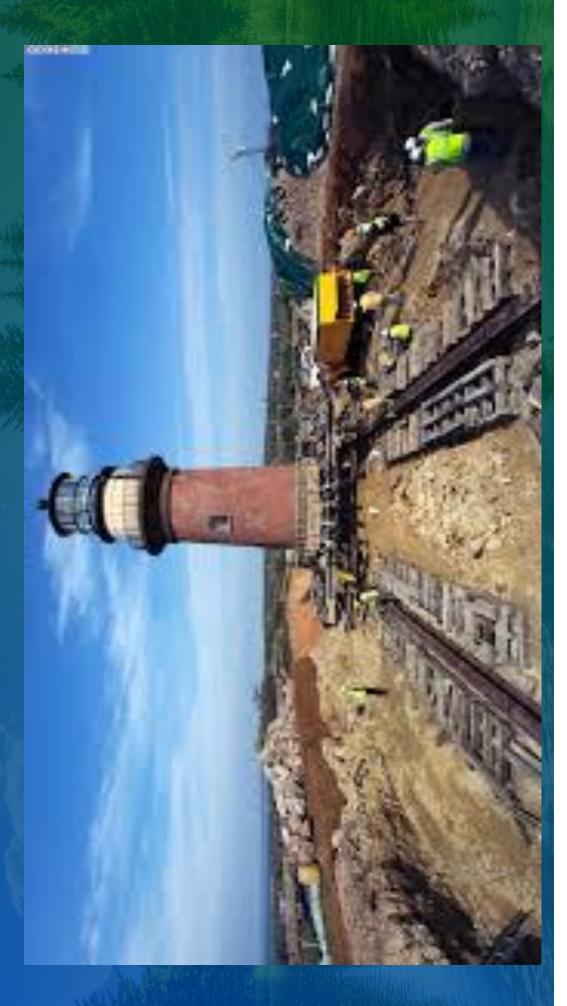
# Giant structures are moved all the time...



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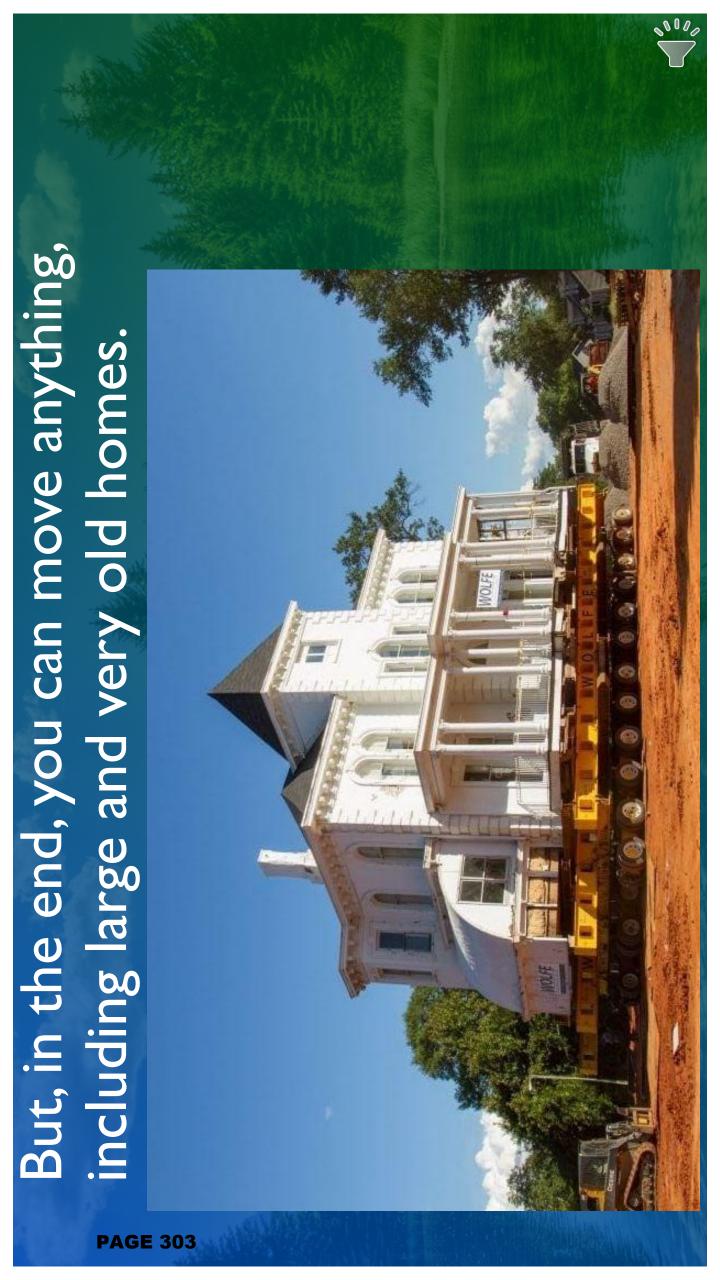
Lighthouse being moved away from a cliff

### Not only can giant structures be moved, they can be raised.



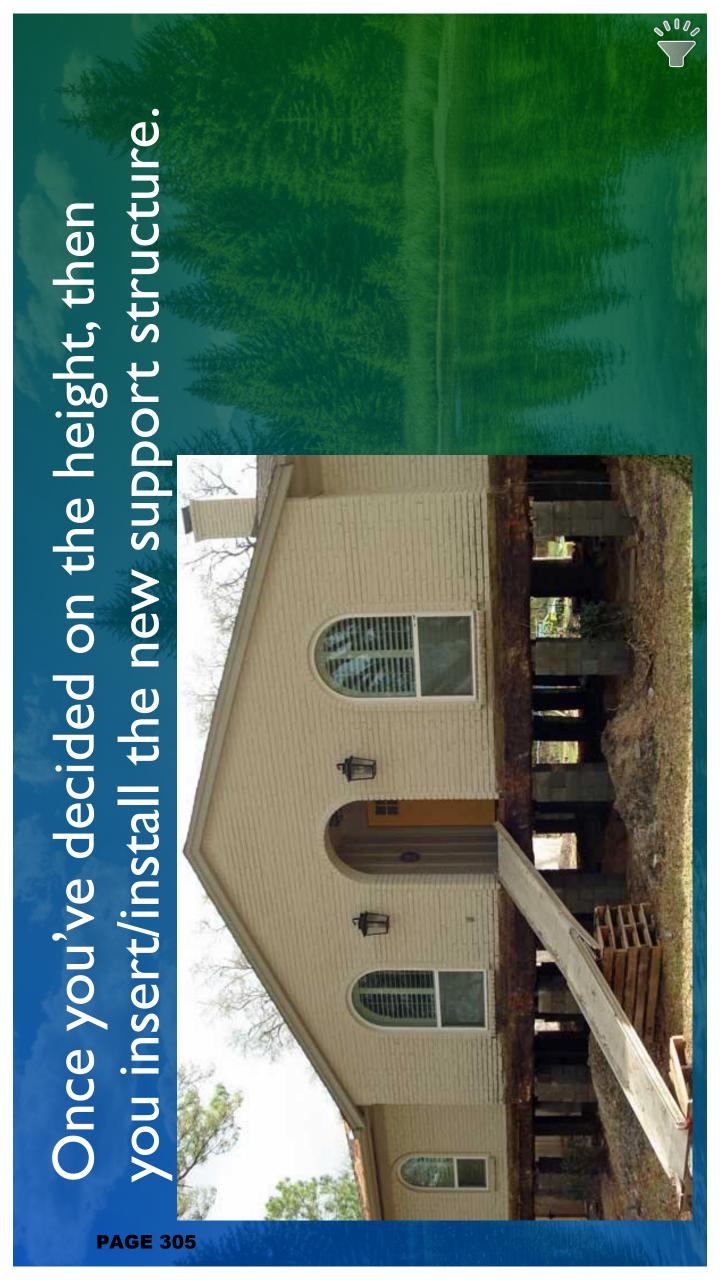
Moving structures is much harder, than raising

Them, however that's done all the time too.



### The question is...not <u>can</u> you raise a home, but how high do you want to raise it?

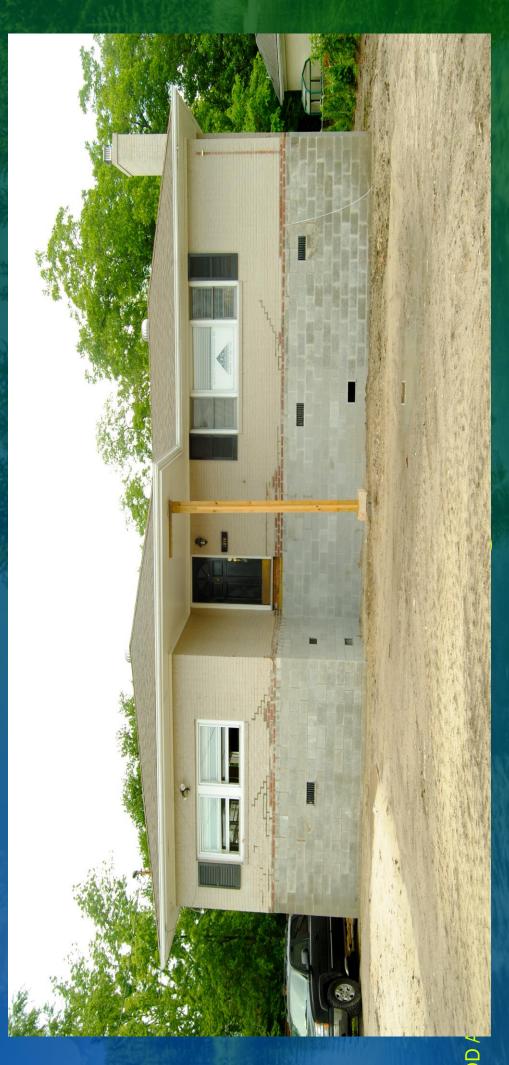




Some homeowners will build storage or entrance features in The new "elevation space" that are "flood risk" uses.



underneath their home, satisfied that their home is now out of Some will just have empty space and a large open area flood danger.



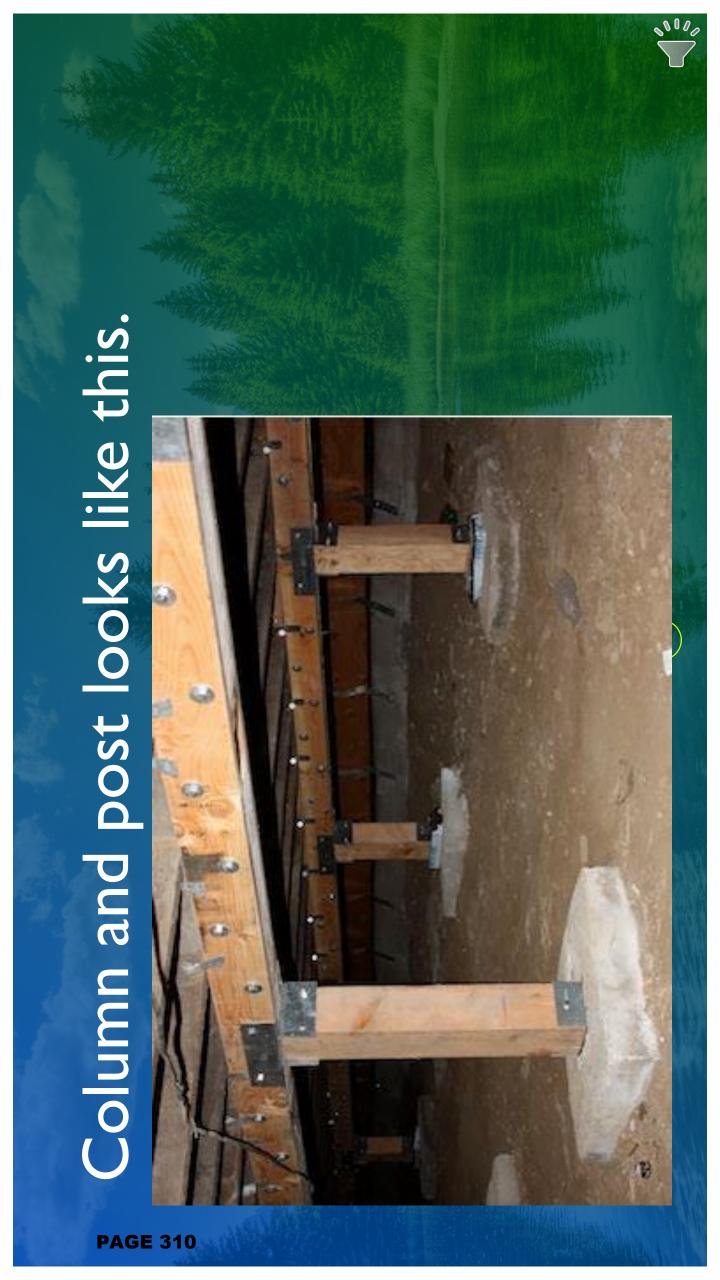
In the end, once all the work is done, the project sooks like it was designed to be elevated.

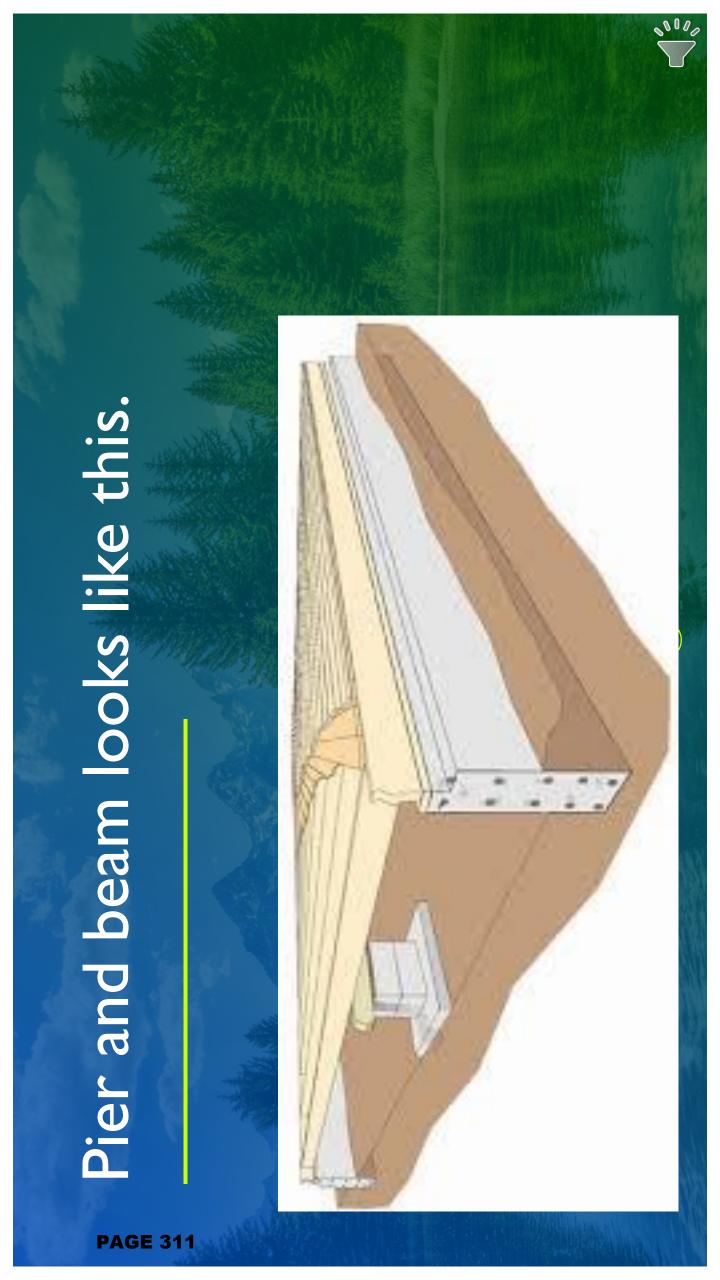


### What are the costs and the 3 types of elevation options? For an average home, between \$18,000 and \$80,000 to raise it.

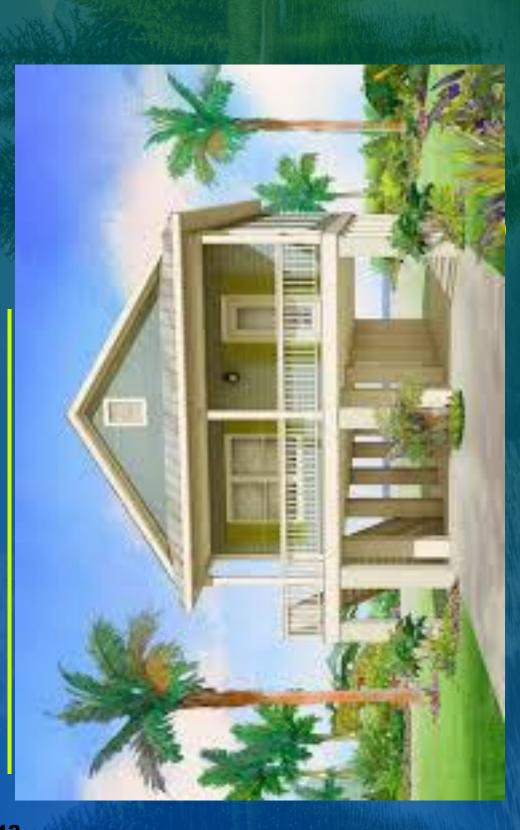








# Finally, Pilings foundation looks like this.



### What are the cost savings for raising a home Desides the increase in value of the home?

PREMIUM AT 4 FEET BELOW BASE FLOOD ELEVATION

\$95,000/10 years \$9.500/year

BASE FLOOD ELEVATION

\$14,100/10 years \$1,410/year

BASE FLOOD ELEVATION

\$4,270/10 years \$427/year



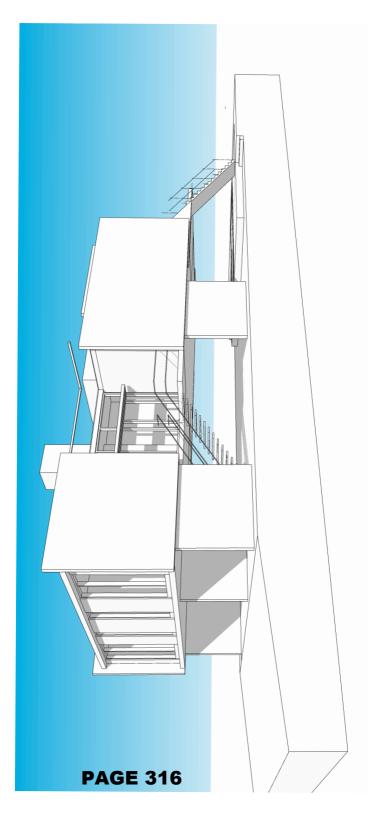


\*\$250,000 building coverage only (does not include contents), AE (high to moderate risk) zone, single-family, one-story structure without a basement at: 4 feet below Base Flood Elevation (BFE); at BFE; and at 3 feet above BFE. (Rating per FEMA flood insurance manual, October 1, 2012). The illustration 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
- the home, for 35% of the cost to raise the home. The loan will be due and payable to the Town upon 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 water from going into homes, we could raise over 85 homes in Surfside!





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 BLOCK**53** 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 320** 

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."



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."



A canal in Siesta Key, Fla.  $\,$  Eve Edelheit for The New York Times



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."



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

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### 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 October 12, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

**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 INCORPORATION 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>

Section 1. Recitals Adopted. 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 double underline.

<u>Section 2.</u> <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 \$15,000.00 2,500.00 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 \$15,000.00. 2,500.00 to avoid the requirements of this section.
- (b) Purchases of \$15,000.00 2,500.00 or more but less than \$8,500.0025,000.00. 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 \$2,500.0015,000.00 or more, but which do not exceed \$8,500.0025,000.00 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 \$25,000.00 8,500.00 shall not be broken down to amounts less than \$25,000.00 8,500.00 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 \$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 \$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) Purchases of \$15,000.00 or more but less than \$25,000.00 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 3(a) 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 through cooperative purchasing.
- (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:
  - <u>a.</u> Academic program reviews or lectures or seminars by individuals <u>Postage</u>, common carrier shipments, paralegal services, expert witnesses, court reporters, abstracts of titles for real property, 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 entertainment, 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 sanctioned activityfunction.
  - d.e. Advertising, legal notices, promotional materials, and patented and/or copyrighted materials;
  - e.f. A Ppublic 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;
  - 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.

\* \* \*

Section 3. Codification. 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. Severability.</u> 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 10 day of December, 2019.

PASSED AND ADOPTED on second reading on the 14 day of January, 2020.

First Reading:

Motion by: Vice Mayor Girlchinsky Second by: Commissioner Karukin

**Second Reading:** 

Motion by: Commissioner Karukin Second by: Commissioner Cohen

Daniel Dietch, Mayor

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Town Cle	1	¿٧	X

Approved as to Form and Legal Sufficiency:

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

### FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky
Commissioner Michael Karukin
Commissioner Tina Paul
Vice Mayor Barry Cohen
Mayor Daniel Dietch

Yes

Yes

Absent
Yes



### **MEMORANDUM**

ITEM NO. 9D

**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.

k ' 1/8' h ' 'uU'

Pool Lighting
Surfside, Florida
2020-05-06
RC Engineering Inc.
David Rice PE

### Requirements:

Florida Building Code (FBC) 454.1.4.2 Lighting

454.1.4.2.1 Outdoor Pool Lighting

3 footcandles at pool water surface and pool wet deck and underwater lighting ½ watt per sq. ft.

454.1.4.2.3 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.



# Town of Surfside Town Commission Meeting November 9, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

**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.



# Town of Surfside Town Commission Meeting April 13, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

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?

No

**Bond Funds?** 

Does this item utilize G.O.

Yes

Departments

Planning

### ATTACHMENTS:

Description

Draft ORD - Building Registry

Type

Memo



u April 13

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Contribution per resident	\$0.00	\$1.42	\$1.79	\$1.94	\$2.03	\$4.02	\$4.04	\$4.40	\$4.72	\$4.87	\$5.66	\$6.40	\$6.72	\$6.87	\$8.66	\$9.18	\$9.30	\$9.80	\$11.63	\$11.74	\$12.82	\$16.64	\$18.26	\$18.60	\$20.01	\$21.10	\$21.55	\$22.67	\$35.33	\$36.46	\$42.88	\$43.68
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	\$11,419.99	\$9,547.86	\$307,686.78	\$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	\$242,190.33	\$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		\$4,281.22	\$6,608.88	\$2,350.66	\$3,334.56	\$286,224.14	\$120,007.81	\$61,408.60	\$84,401.72	\$41,967.99	\$0.00	\$2,012,194.27	\$142,606.87	\$23,427.87	\$2,359.33	\$74,340.12	\$19,207.73	\$76,985.89	\$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	\$81,181.59	\$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	Bay Harbour Islands	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

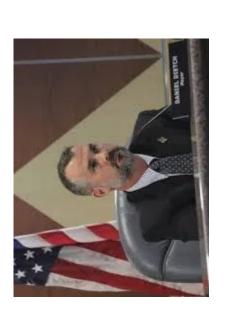
a population exceeding one million people, the unincorporated area, if declared a city, would form the largest city in Florida and one of the largest in the nation.

Median paid per resident

\$9.24

# Mayor gives \$\$ to his choice of charities ...with taxpayers money \$\frac{9}{2}\]





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, his generosity with Surfside taxpayer dollars doesn't stop there:

he's subsidized public school programs,

he's funded injured pelicans,

**B** he's sent money to victims in Oklahoma,

**25** he's funded blindness,

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,

**B** he's given <u>\$100,000</u> to fund homeless relief

**Leteous** before there was a homeless tax created in 1993, Surfside had restaurant taxes that went toward municipal **b** services.

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 mone</u>y) <u>here</u>:

Political advertisement paid for & approved by Charles W. Burkett, no party affiliation, for Surfside Mayor

Share this post:



# Surfside's Mayor is VERY generous with Surfside residents' money.

UPDATE 1/24/20:

All the while, taking the credit for the good deed personally!





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 @oscarib2 #miamidade



10:57 AM - 19 Jul 2019

1 Retweet 3 Likes

Above is Surfside's Mayor getting credit personally 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.

# The donation from the <u>State of Florida represents a gift of one half a penny per person</u>.

The Mayor's & Commission's donation from the Town of Surfside, represents about successive surfside resident...a gift for which the Mayor is thanked and **PAGE** 

\*\*\*\*\*UPDATE:

recognized personally.

Last month Mayor Dietch & his allies on the Commission gave an ADDITIONAL \$50,000 to the Dade County Homeless Shelter.

Political advertisement paid for & approved by Charles W. Burkett, no party affiliation, for Surfside Mayor

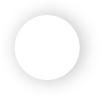
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C

Recent Posts

Following the Covid-19 Science, Reveals Some Hope...

Oct 29, 2020





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

From: Guillermo Olmedillo, Town Manager

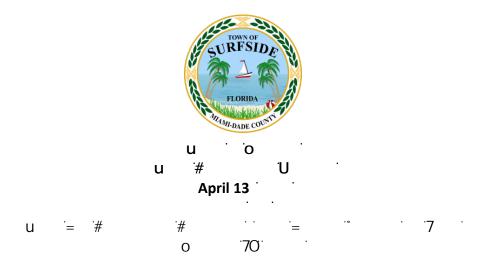
**Date:** April 21, 2020

**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: 10-5-2020

Prepared by: Commissioner Eliana Salzhauer Subject: 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;



Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

- 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)



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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.



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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



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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, he or she shall disclose such business relationship in writing to the town clerk that was not disclosed at the initial meeting.

(3)

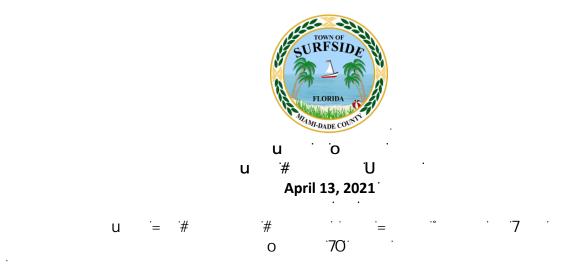
Establishment of business relationship after appearance. Except as prohibited by law, if a member of the town commission or any town board or committee establishes a business relationship with any applicant or interested person within 12 months after the applicant or interested person appeared before 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 board 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.

(Ord. No. 19-1695, ;s 2, 3-12-19)



### **MEMORANDUM**

ITEM NO. 9J

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

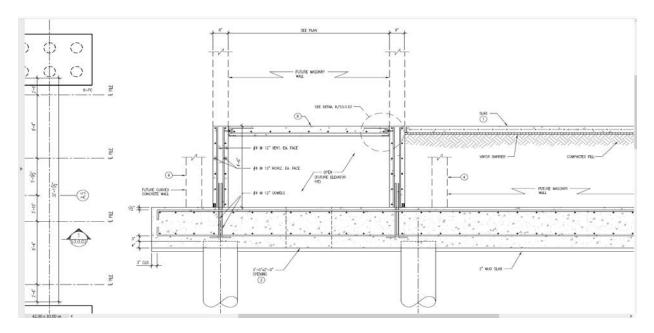
From: Andrew Hyatt, Town Manager

Date: December 2, 2021

**Subject:** Community Center Second Floor Possibility

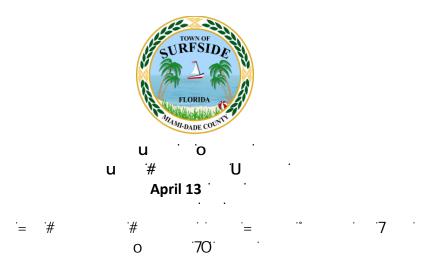
The Town of Surfside Community Center was designed and constructed under the provisions of the 2007 Florida Building Code 3<sup>rd</sup> Edition (2007) on auger cast pile foundations. These piles are developed to a depth of 35 feet and support a concrete reinforced structure with a ground floor slab, 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, 2020

u

Prepared by: Commissioner Nelly Velasquez Subject: 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



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April 13

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From: Mayor

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.

ome Tools

Charter Amendme...

reso-12-2096-ame..

2012-10-gazette.pdf ×

































# TOWN OF SURFSIDE



**PAGE 370** 

# 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	[1

### 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.

### **PAGE 372**

### 4. 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?

Yes	[
No	ĺ

## RESOLUTION NO. 2012 - <u>209</u>4

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA **AMENDING** TOWN CHARTER TO PROVIDE REQUISITE BALLOT LANGUAGE FOR **SUBMISSION** TO **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** 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:

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

### Section 2. Proposed Amendments:

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. 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.
- 2. Truth in Government. No Town official or employee shall knowingly furnish false 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. Minutes and Ordinance Register. 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. Right to be Heard. So far as the orderly conduct of public business permits, any 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. No Unreasonable Postponements. 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. 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.

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 cross-examination 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 periodically make public status reports on all material matters pending or concluded within their respective areas of concern.</u>
- 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. Representation of Public. The Town Commission shall endeavor, when deemed 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 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 and approved by a vote of the electors 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

	NO [ ]
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?
	Yes [ ] No [ ]
В.	That the form of ballot set forth above may be revised by a Resolution of the
Town Comn	nission.
Public Inspe Supervisor amendments	ion 4. Available for Public Inspection. Charter Amendment to be Available for ection, and for the Town Clerk to Utilize the Services of Miami-Dade County of Elections: The place, information and the full text of the proposed charter is are available at the Office of the Town Clerk located at 9293 Harding Avenue, orida. Copies of this Resolution providing for this charter amendment subject to this

guarantees those rights to citizens of Surfside be added to the Town

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<sup>th</sup>) 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?

Charter?

2.

Yes No

Yes

MANDATORY CHARTER REVIEW

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.

Section 5. Providing for Inclusion in the Town Charter: 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.

Section 6. Notice of Election. 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. 12-2096 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 \$223 Harding Avenue, Surfside, Florida.

Fown Gent Sandra Nova

Section 7. <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.

Motion by Commissioner Kligman Second by Commissioner Olchy K.

### FINAL VOTE ON ADOPTION

Commissioner Michelle Kligman

185

Commissioner Marta Olchyk

125

Vice Mayor Michael Karukin

Ves

Mayor Daniel Dietch

Abseni

Daniel Dietch, Mayor

Attest

Sandra Novoa, Town Clerk

Approved as to form and legal sufficiency

For the Town of Surfside only:

Lynn yl. 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

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:

<u>Section 1. Recitals.</u> 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	<u>2</u>
H30B	30 FT	2
H30C	30 FT	<u>2</u>
H40	40 FT	1 and 2 family = 2 stories, multifamily and hotel = 3 stories
H120	120 FT	<u>12</u>
SD-B40	40 FT	<u>3</u>
MU	Surrounding Designation	
CF	70 FT	

<u>Section 3. 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.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective upon adoption on second reading.
PASSED and ADOPTED on first reading this gth day of September, 2015.  PASSED and ADOPTED on second reading this gth day of December, 2015.
PASSED and ADOPTED on second reading this 2 day of December, 2015.
Daniel Dietch, Mayor
Sandra Novoa, MMC, Town Clerk
APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:
Linda Miller, Town Attorney
On Final Reading Moved by: Commissioner Karukio,
On Final Reading Seconded by: Commissioner Cohen.
VOTE ON ADOPTION:
Commissioner Barry R. Cohen yes no Commissioner Michael Karukin yes no Commissioner Marta Olchyk yes no Vice Mayor Eli Tourgeman yes Abstroit Mayor Daniel Dietch yes no

From: <u>Linda Miller</u>
To: <u>Daniel Dietch</u>

Subject: RE: Charter: Height, Density and Intensity Date: Tuesday, July 12, 2016 2:43:31 PM

Attachments: 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

=========

Daniel E. Dietch

Mayor

Town of Surfside 9293 Harding Avenue Surfside, FL 33154 Tel: 305 861-4863

Fax: 305 861-1302 Cell: 305 992-7965

E-mail: <a href="mailto:ddietch@townofsurfsidefl.gov">ddietch@townofsurfsidefl.gov</a></a>
Web: <a href="mailto:http://www.townofsurfsidefl.gov/">http://www.townofsurfsidefl.gov/</a>

### **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<sup>1</sup> 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.

<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.

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.

(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

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<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

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<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 10, 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).

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<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 above-cited 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.

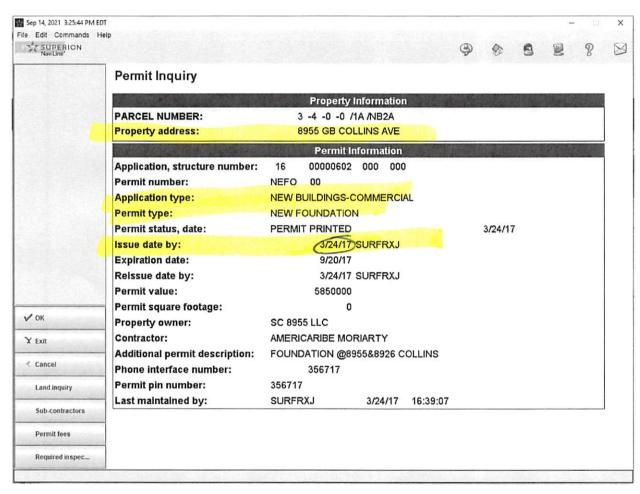
Based upon the above analysis, it is my opinion that the language in the final paragraph of Town Charter Section 4, requiring elections to amend such language occur at a "regularly scheduled election of the Town of Surfside", constitutes a restraint (albeit lawful) upon the Town with regard to the scheduling 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.

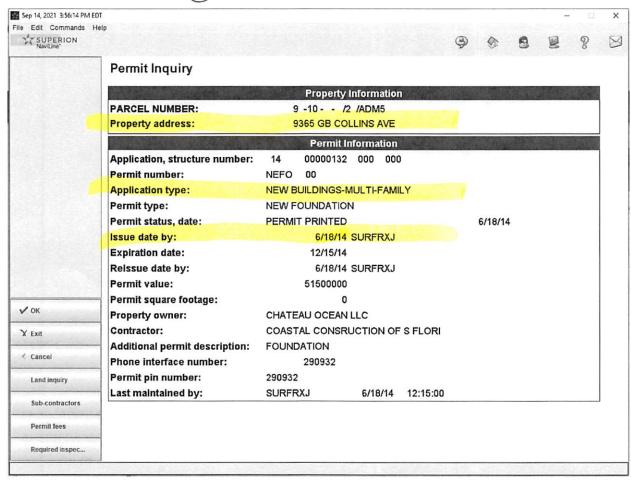
<sup>&</sup>lt;sup>16</sup> Nowhere else in the Town Charter is there a provision restricting placement of a particular Charter amendment to a specific ballot.

<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.

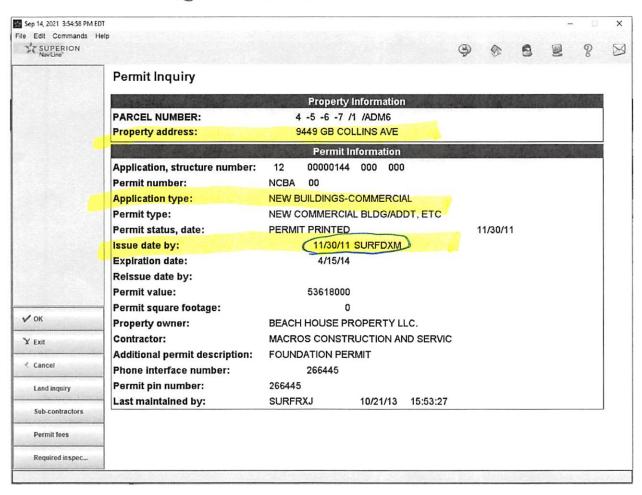
## Arte



Chaleau



Grand Beach



Surfelas/Four EASONS



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 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 section 1-8 of the Town Code.

(Ord. No. <u>1651</u>, § 2, 9-13-16)



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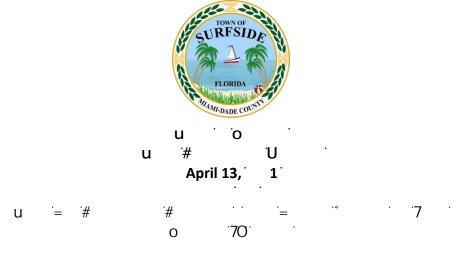
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Date: December 8, 2020

Prepared by: Mayor

**Subject:** 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.

# Officials fed up with 'Mayor's View'

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 resident'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 undertake," 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: www.dying2live.com.

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:
Re: It's Hard to Argue with Facts

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 Sahwell'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
ŀ	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.

**PAGE 403** 

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?



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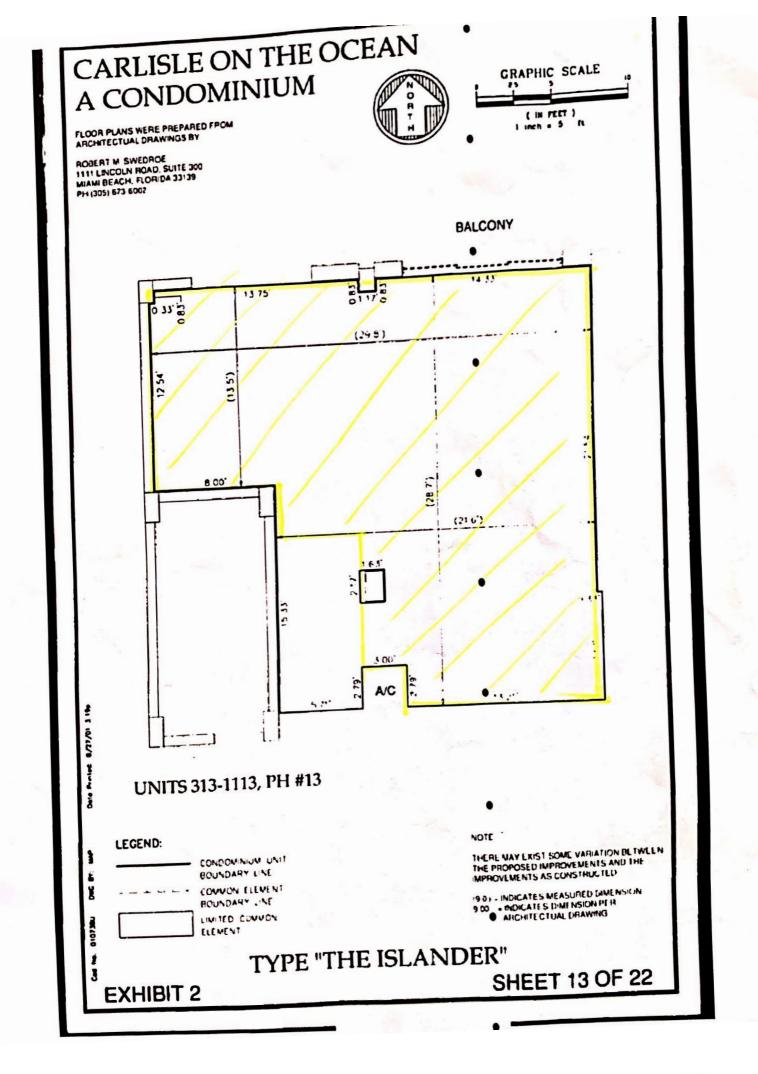
April 13

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#### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 05/19/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on

this certificate does not confer rights to the certificate	holder in lieu of s	uch endorsement(s).		
PRODUCER		CONTACT Marianna Morandi		
JOHN M BROWN INSURANCE AGENCY INC		PHONE (A/C, No, Ext): 888-973-0016	FAX (A/C, No): 773-657	-2010
21750 Hardy Oak Blvd Ste 104		E-MAIL ADDRESS: marianna@farmerbrown.com		
		INSURER(S) AFFORDING COVERAGE		NAIC#
San Antonio	TX 78258-4946	INSURER A: AIX Specialty Insurance Company		12833
INSURED		INSURER B:		
MF7 Services Corp		INSURER C:		
100 Bayview Dr Apt 1930		INSURER D:		
		INSURER E :		
Sunny Isles Beach	FL 33160-4743	INSURER F:		
COVERAGES CERTIFICATE NUM	IBER:	REVISION NU	MBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TE		VE BEEN ISSUED TO THE INSURED NAMED ABO' OF ANY CONTRACT OR OTHER DOCUMENT WIT		

CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,

		DSIONS AND CONDITIONS OF SUCH		SUBR					
INSR LTR		TYPE OF INSURANCE	INSD	WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	
1	X	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	\$ 1,000,000
		CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000
								MED EXP (Any one person)	\$ 5,000
Α			Υ	N	SIZGL1003B233094	04/05/2020	04/05/2021	PERSONAL & ADV INJURY	\$ 1,000,000
	GEI	N'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
	X	POLICY PRO- JECT LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
		OTHER:							\$
	ΑU	TOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
		ANY AUTO						BODILY INJURY (Per person)	\$
		OWNED SCHEDULED AUTOS						BODILY INJURY (Per accident)	\$
		HIRED NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
								·	\$
		UMBRELLA LIAB OCCUR						EACH OCCURRENCE	\$
		EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$
		DED RETENTION\$							\$
		RKERS COMPENSATION DEMPLOYERS' LIABILITY						PER OTH- STATUTE ER	
	ANY	PROPRIETOR/PARTNER/EXECUTIVE ICER/MEMBER EXCLUDED?	N/A					E.L. EACH ACCIDENT	\$
	(Mai	ndatory in NH)	,					E.L. DISEASE - EA EMPLOYEE	\$
	If ye DES	s, describe under CRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$
DES	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)								

CERTIFICATE HOLDER		CANCELLATION
Town of Surfside Building Department 9293 Harding Avenue,		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
Surfside	FL 33154	AUTHORIZED REPRESENTATIVE
		© 1000 2015 ACORD CORDORATION All rights received



#### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 05/19/2020

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IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed.

If SUBROGATION IS WAIVED, subject to the terms and conditions o this certificate does not confer rights to the certificate holder in lieu o	f such endorsement(s).	atement on
PRODUCER	CONTACT Marianna Morandi	
JOHN M BROWN INSURANCE AGENCY INC	PHONE (A/C, No, Ext): 888-973-0016 FAX (A/C, No): 773-65	7-2010
21750 Hardy Oak Blvd Ste 104	E-MAIL ADDRESS: marianna@farmerbrown.com	
	INSURER(S) AFFORDING COVERAGE	NAIC#
San Antonio TX 78258-4946	INSURER A: AIX Specialty Insurance Company	12833
INSURED	INSURER B:	
MF7 Services Corp	INSURER C:	
100 Bayview Dr Apt 1930	INSURER D:	
	INSURER E :	
Sunny Isles Beach FL 33160-4743	INSURER F:	
COVERAGES CERTIFICATE NUMBER:	REVISION NUMBER:	
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITICERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFO EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HA	ON OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO VIRDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL T	WHICH THIS
INSR LTR TYPE OF INSURANCE ADDL SUBR INSD WVD POLICY NUMBER	R POLICY EFF POLICY EXP (MM/DD/YYYY) LIMITS	
X COMMERCIAL GENERAL LIABILITY	EACH OCCURRENCE \$ 1,000	0,000
CLAIMS-MADE X OCCUR	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,00	00
	F 000	

INSR LTR		TYPE OF INSURANCE	ADDL	SUBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	(MM/DD/YYYY)	LIMIT	S
	X	COMMERCIAL GENERAL LIABILITY							\$ 1,000,000
		CLAIMS-MADE X OCCUR							\$ 50,000
								MED EXP (Any one person)	\$ 5,000
Α			Υ	N	SIZGL1003B233094	04/05/2020	04/05/2021	PERSONAL & ADV INJURY	\$ 1,000,000
	GEN	N'L AGGREGATE LIMIT APPLIES PER:							\$ 2,000,000
	X	POLICY PRO- LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
		OTHER:							\$
	AUT	TOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
		ANY AUTO						BODILY INJURY (Per person)	\$
		OWNED SCHEDULED AUTOS						BODILY INJURY (Per accident)	\$
		HIRED NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
								·	\$
		UMBRELLA LIAB OCCUR						EACH OCCURRENCE	\$
		EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$
		DED RETENTION\$							\$
		RKERS COMPENSATION EMPLOYERS' LIABILITY						PER OTH- STATUTE ER	
.	ANY	PROPRIETOR/PARTNER/EXECUTIVE ICER/MEMBER EXCLUDED?	N/A					E.L. EACH ACCIDENT	\$
	(Mar	ndatory in NH)	II., A					E.L. DISEASE - EA EMPLOYEE	\$
	If yes DES	s, describe under CRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$
DESC	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)								

CERTIFICATE HOLDER	CANCELLATION
Carlisle on the Ocean 9195 Collins Ave Surfside, FL 33154	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  My anarytic

# JOB GUN

IOAM OF SURESID	<u> </u>
APPROVED Permit No	
Address 9195 Collin	5 thre # 1013
Planning & Zening Bpager	_ Date
Building Official	Date 1. /LO
Chief Electrical Inspector	_ Date
Chief Plumbing Inspector	Date
Chief Mechanical Inspector	_ Date
Structural Engineer	_Date
Public Works Director	_ Date



#### TOWN OF SURFSIDE 9293 HARDING AVENUE SURFSIDE, FLORIDA 33154

#### **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:

- 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:
ADDRESS: 9195 Collins Also TYPE OF CONSTRUCTION: PLBC
(i) DEEM
(2) PLANS LACK CLARITY, PROVIDE 2 SETS OF PLANS
AS PER THE FLORIDA BUILDING CODE, 2017, BLD
SECTION 107.1, 167.2.1,
(3) SHOW LOCATION OF BATHEODYS) ON PLANS.
10 PROVIDE & SCOPE OF WORK FOR PLBG ON
PLANS
PCC.
Contental 11 16 2
O DEEM
a PLANS LACK CLARITY PROVIDE PLANS NOT WEITTEN
IN INC, 566 FBC 2617, BLOG, 107, 1 107, 2-1
11/23/20 305-216-9276
11/23/20 305-216-9276
( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( )
3 PCL 129.20



### **BUILDING PERMIT APPLICATION**

A B	$A \cap I$	1 6 1	r r	UE
$\Delta N$	/11 11	11/1		

		2017 F	-LORIDA BU	JILDING COD	E IN EFFECT	AMOUNT DUE		
PERMIT TYPE: (Check one)	Structu	ral	☐ Mechan	nical 🗌 Ele	ctrical	Plumbing Other Roof		
JOB ADDRESS:	9195 C	ollin	s Ave	unit 10	13, Surf	side PL 33/154		
OWNER'S NAME:	A AN			Array Property				
					0.14 \ 0	# 108, Miami Beach, FL 33141		
					<b>\</b>			
CITY: Miami &				(240) 421		FAX#		
FEE SIMPLE TITLE					DRESS:	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \		
CONTACT PERSON	V: MARIN	AK	OSTIC	PHO	ONE# (240)	1 421 - 6466		
EMAIL ADDRESS:	m Kosti	. 2020	@gmail	, (om				
CONTRACTOR: F	LAVIENNE	SAN	T ANNA	M ANAST	Acio	20 1 24 LTF 36 2 1 LTC		
MAIL ADDRESS:	OO RAUN	ifw	DR #10	130	•	•		
CITY: SUDDY JS	0			FL		ZIP CODE: 33160		
PHONE # ( 1786) *								
,	•	6	FAX#			EMAIL: mf7 services @gmail a		
CERT COMPETENC	CY: JUSTR	_		S	TATE REGIS	TRATION: FL CSC1527388		
LOT	BLOCK		PRESENT	USE:		PROPOSED USE:		
FOLIO NUMBER:								
NO. OF STORIES		OFFIC	Elevation of	FAMILIES:		DROOMS: BATHS:		
TYPE OF WORK:	ADD	NE	N 🗆 📗	ALTER	REPAIR [	REPLACE OTHER		
VALUE OF WORK: Trades): \$6,00	De Blaza			s	Q. FT: (TOTA	LINEAR FEET		
DESCRIBE WORK:	REMOJE	AND		ALL TIL	E Francis	WE PT PREMIN		
ANS BATHLOOM		1102	_ 100	1100 110	C FLOVE	NG, EXCEPT BALLONY		
ARCHITECT/ENGIN		F						
ADDRESS:	ILLI O ITAIN	1						
					EMAIL			
MORTGAGE LEND	ER NAME:		· rou					

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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, F The information provided herein by the Applicant is not evaluated for issu- condition any proposed use of the property pursuant to provisions of the	URNACES, BOILERS, HEATERS, TANKS, AIR CONDITIONERS, etc. uance of a Certificate of Use. The City reserves the right to deny or
Initial this Page:	
<b>OWNER'S AFFIDAVIT:</b> I certify that all information provide compliance with all applicable laws regulating construction at issuance of the permit applied with this application, and all waccompanying document and plans.	nd zoning. No work has been commenced prior to the
<b>NOTICE:</b> In addition to the requirements of this permit, there may be found in the public records of the county, and there may entities such as water management districts, state or federal age	by be additional permits required from other governmental
WARNING TO OWNER: YOUR FAILURE TO RECORD A NO PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPRECORDED AND POSTED ON THE JOB SITE BEFORE THE FINANCING, CONSULT YOUR LENDER OR AN ATTORNEY NOTICE OF COMMENCMENT.	ERTY. A NOTICE OF COMMENCEMENT MUST BE HE FIRST INSPECTION. IF YOU INTEND TO OBTAIN
CONTRACTOR: (Print Name): FLAVIENNE SANTANIA	OWNER: (Print Name): MARINA LOSTIC
SIGNATURE FROUIDAT AMA STATE OF FLORIDA COUNTY OF  BIOMARIA	SIGNATURE: STATE OF FLORIDA COUNTY OF
Sworn to (or affirmed) and subscribed before me this 20th day of May , 20 20 by FLAVIENCE SENTANA	Sworn to (or affirmed) and subscribed before me thisZ_ day of, 20, 20
NOTARY:	NOTARY:
SEAL:  THALPS 9 GUIMARÁES  Notary Júbite - State of Florida  Commission # GG 18213  My Comm. Expires Aug 3, 2020	SEAL:  JAIRO GUTIERREZ  Notary Public - State of Florida  Commission # GG 325341
Personally known	Personally known ros My Comm. Expires Apr 18, 2023
OR Produced Identification_	OR Produce Lidentification
Type of Identification Produced	Type of Identification Produced Mary land Misushi
The Permit is not valid until signed by an authorized representatives are paid.	ive of the TOWN OF SURFSIDE BUILDING DEPT. and all
ACCEPTED BY	AUTHORIZED BY



# OFFICE OF THE PROPERTY APPRAISER

## **Summary Report**

Generated On: 5/20/2020

Property Information	
Folio:	14-2235-043-0940
Property Address:	9195 COLLINS AVE UNIT: 1013 Surfside, FL 33154-3155
Owner	A AND M TEAM LLC
Mailing Address	7900 TATUM WATERWAY DR 108 MIAMI BEACH, FL 33141 USA
PA Primary Zone	3000 MULTI-FAMILY - GENERAL
Primary Land Use	0407 RESIDENTIAL - TOTAL VALUE : CONDOMINIUM - RESIDENTIAL
Beds / Baths / Half	1/1/0
Floors	0
Living Units	1
Actual Area	Sq.Ft
Living Area	720 Sq.Ft
Adjusted Area	720 Sq.Ft
Lot Size	0 Sq.Ft
Year Built	1965

Assessment Information	1		
Year	2019	2018	2017
Land Value	\$0	\$0	\$0
Building Value	\$0	\$0	\$0
XF Value	\$0	\$0	\$0
Market Value	\$236,600	\$225,353	\$225,353
Assessed Value	\$123,943	\$112,676	\$102,433

Benefits Informat	ion			
Benefit	Туре	2019	2018	2017
Non-Homestead Cap	Assessment Reduction	\$112,657	\$112,677	\$122,920
Note: Not all benefit	s are applicable to all Taxa	able Values	(i.e. Coun	ty, School

Short Legal Description
CARLISLE ON THE OCEAN CONDO
UNIT 1013
UNDIV 0.69832%
INT IN COMMON ELEMENTS
OFF REC 20196-4139



Taxable Value Information	on		
	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 Infor	mation		
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:

Board, City, Regional).





TILE

STONE

WOOD

LAMINATE

VINYL

**DECORATIVES** 

**INSTALLATION MATERIALS** 



**Get Inspired** 

**Inspiration Center** 

Free Design Services

My Project Lists

Plea

**Product Visualizer** 

HOME > INSTALLATION MATERIALS > WOOD & LAMINATE > UNDERLAYMENT

#### **SIMILAR PRODUCTS**



#### Whisper Mat Underlayment

Size: 150 SQ FT | SKU: 954205535

\$129.00 / piece Miami Gardens's everyday low price!





# - 1 + 1 piece = 150 SQ FT | \$129.00 PICKUP OR DELIVERY Pick up in store - FREE This item can be picked up TODA local time) 51 pieces in stock - Miami Garde Check Other Stores > Have it Delivered - Charges May

**HOW MUCH DO YOU NEED?** 

**QUANTITY OF PIECES** 

 $\heartsuit$  ADD TO MY PROJECT LIS1

ontact Us

FREE In-Store

ADD TO





TILE

STONE

WOOD

LAMINATE

VINYL

**DECORATIVES** 

**INSTALLATION MATERIALS** 



#### **PRODUCT DETAILS**

SOUND CONTROL AND MOISTURE RESISTANT MEMBRANE FOR ENGINEERED HARDWOOD, PARQUET AND LAMINATE FLOORING Whisper Mat® HW is a peel and stick non-permeable sheet membrane, which reduces impact and airborne sound transmissions. Designed for use with engineered wood plank, wood parquet and 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**

#### YOU MAY ALSO LIKE



**EZ Foam Underlayment** Size: 100sqft. 4ft. x 25ft. \$26.99 / piece



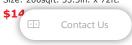
Eco Ultra Quiet Premium **Acoustical Underlayment** Size: 450sqft. 6ft. x 75ft. \$297.00 / piece



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



Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

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.



## Town of Surfside

Charles W Burkett 1332 Biscaya Drive Surfside FL 33154

Water

Sprinkler

For payments or questions: 9293 Harding Avenue Surfside Florida 33154

Mon - Fri 9:00 AM - 5:00 PM Phone: 305-861-4863

16980382

16999817

#### FAILURE TO RECEIVE THE BILL DOES NOT EXCUSE SERVICE DISCONNECTION AND ADDITIONAL FEES.

61

61

SERVICE ADDRESS: 1332 Biscaya Dr

RATE CLASS: RESIDENTIAL

09/25/20 - 11/25/20

09/25/20 - 11/25/20

ACCOUNT NUMBER	05-05050-00
BILLING DATE	12/18/20
LAST BILL AMOUNT	\$621.93
YOUR LAST PAYMENT	-\$621.93
ADJUSTMENTS	\$0.00
BALANCE FORWARD	\$0.00
CURRENT CHARGES	\$483.90
TOTAL AMOUNT DUE	\$483.90
DATE DUE	01/26/2021

407

1706

420

1733

13

27

DETAIL OF C	HARGES			IMPORTANT INFORMATION
WA BASE METER CHARGE WA COUNTY TAX	Consumption	Charge \$83.83 \$8.19	Total	Important Notice from the Town of Surfside Utility Department:
WA USAGE LEVEL 1 (0 12,000 GAL) TOTAL WATER SP BASE METER CHARGE SP COUNTY TAX SP USAGE LEVEL 1 (0 12,000 GAL)	13	\$52.65 \$55.13 \$9.87 \$109.35	\$144.67	The Town of Surfside will be implementing the final Utility rate increase for customers effective for meter readings occurring after October 1, 2020, as per Resolution 17-2467
TOTAL SPRINKLER SW COUNTY TAX SW BASE FIXED CHARGE SW SERVICE CHARGE BASED ON WATER CONSUMPT	1	\$7.40 \$11.00 \$112.32	\$174.35	and 17-2468 adopted on November 14, 2017. The rate increase will assist in recovering the cost of providing utility services, promote equity in utility rates, encourage water
TOTAL SEWER STORMWATER UTILITY TOTAL STORMWATER		\$34.16	\$130.72 \$34.16	conservation throughout Town, and improve the Town's water and sewer infrastructure. For more information please contact 305-861-4863.

PLEASE DETACH AND RETURN BOTTOM PORTION IF PAYING BY MAIL. PLEASE DO NOT STAPLE OR FOLD. PLEASE WRITE YOUR ACCOUNT NUMBER ON YOUR CHECK.



9293 Harding Avenue Surfside Florida 33154

ADDRESS SERVICE REQUESTED

լիկիրը բերանական արևարիկան հանդիրանին ար

949 1 AV 0.389

CHARLES W BURKETT 1332 BISCAYA DR SURFSIDE FL 33154-3318

12/18/20	ACCOUNT NUMBER	01/26/2021
CYCLE #	05-05050-00 SERVICE ADDRESS	TOTAL DUE
001	1332 Biscaya Dr	\$483.90

Amount Enclosed \$

Please remit and make checks in US funds payable to:

TOWN OF SURFSIDE 9293 HARDING AVENUE SURFSIDE FL 33154-3009

<u> հուլիակիրորդիի իրակիրի իրակագիսիի</u>



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Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

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.



Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

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:...





Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date: 3/17/2021
Prepared by: Mayor

Subject: One-way automatic gate at 96th 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.



Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

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 ADMINISTRATIVE FEES TO BE ASSESSED FOR VIOLATION OF THE CODE OF THE TOWN OF SURFSIDE, AS PROVIDED IN CHAPTER 1 "GENERAL PROVISIONS", SPECIFICALLY SECTION "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:

<u>Section 1</u>. <u>Recitals Adopted</u>. That the foregoing recitals are true and correct and incorporated herein by this reference.

<u>Section 2</u>. <u>Authorization and Approval</u>. 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.

<u>Section 3.</u> <u>Effective Date</u>. 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 Olchyk Vice Mayor Eli Tourgeman Mayor Daniel Dietch

YES YES

Daniel Dietch, Mayor

Attest:

Sandra Novoa, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Linda Miller, Town Attorney

#### 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 Section 10-33	Animals  Animals	Failure to remove fecal excrement  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.	\$100.00 \$50.00	\$200.00 \$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	Buikheads	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 bulkhead 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

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#### 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 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.

<sup>\*\*</sup> Also subject to revocation of sidewalk café pemit for the remaining portion of the permit year.

	ADMINISTRATIVE FEES,	ABATEMENT COSTS, AND OTHER CIVIL FINES		
Issue	Description	Fee	Fine	Note
Code Compliance Abatement	Fees based on acual costs incured	Contractor Costs		
	and staff time	and/or staff hourly costs		
Code Compliance Abatement	Fees based on acual costs incured	Fees based on actual staff hourly costs for		
Related Administrative Fees	and staff time	administrative process		
Lawn Cutting & Clearing Cost	Per Lawn Cutting Service	Fees based on actual Contractor costs		
		and/or staff hourly costs		
Code Compliance Lawn	Per Lawn Cutting Service	\$125.00	\$25.00	per occurrence
Cutting Administrative Fee				
Trash & Debris Over-the-Limit	Per cubic yard fee:	\$15.50	\$25.00	per occurrence
Pick-Up Fees & Fines				
Construction Debris Pick-Up	Per cubic yard fee:	\$30.00	\$25.00	per occurrence
Fee & Fines				

Also subject to suspension of sidewalk café permit for one weekend (Saturday & Sunday).



## Town of Surfside Town Commission Meeting April 13, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

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;
- 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.
  - o 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

<sup>\*</sup>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 Prepared by: TM/EH



## Town of Surfside Town Commission Meeting August 10, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

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.



# Town of Surfside Town Commission Meeting August 10, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

**Date:** July 13, 2021

**Prepared by:** Commissioner Charles Kesl

**Subject:** 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.



# Town of Surfside Town Commission Meeting October 12, 2021 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

**Date:** October 12<sup>th</sup>, 2021

Prepared by: Commissioner Eliana R. Salzhauer

**Subject:** 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. 9AA

**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



**Options Provided** 

Gumbo Limbo Pink Trumpet Green Buttonwood Oak Tree



**\$50,000** Budgeted

\$30,250 Actual Expenditure



**93 Homes** Participated

Tree and planting kit distributed (with instructions)



Submitted project for **2019** Tree City USA Certification

#### 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.



# Town of Surfside Town Commission Meeting February 8, 2022 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor Surfside, FL 33154

Date: 6/7/21

Prepared by: Mayor

**Subject: Farmer's Market** 

**Objective:** Improve the Farmer's market

**Recommendation:** I have had complaints – which I have confirmed myself, about what is being sold there – mostly things you can buy in any one of our local stores.

This is bad for two reasons, 1<sup>st</sup>, the Town sanctioned farmers market should not be completing with our other businesses and 2<sup>nd</sup>, they should be offering products that residents cannot obtain in our other businesses.

Unique and interesting goods are what our residents **should** find in the market, not things they already have access to in Town.

**Solution:** The organizers of the Farmer's market should **only** feature unique goods and which are not otherwise able to be found in town.