

Town of Surfside Regular Town Commission Meeting AGENDA March 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. Presentation of \$1.00 Salary to the mayor and the members of the Town Commission Andrew Hyatt, Town Manager
 - **G. Champlain Towers South Status Update -** Andrew Hyatt, Town Manager
- 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 1-126)
 - April 27, 2022 Zoning Code Workshop Meeting Minutes
 - May 26, 2022 Zoning Code Workshop Meeting Minutes
 - 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
 - February 8, 2022 Regular Town Commission Meeting Minutes

- *B. Town Manager's Report Andrew Hyatt, Town Manager (Pages 127-147)
- *C. Town Attorney's Report Weiss Serota, Town Attorney (Pages 148-164)
- D. Committee Reports Andrew Hyatt, Town Manager (Pages 165-204)
 - January 24, 2022 Parks and Recreation Committee Meeting Minutes
 - January 27, 2022 Planning and Zoning Board Meeting Minutes

4. Ordinances

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

- A. Second Reading Ordinances (Pages 205-216)
 - 1. 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.

 Amending Zoning Definitions to Remove Development Loopholes – Commissioner Eliana Salzhauer (Pages 217-225)

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.

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

B. First Reading Ordinances

1. Ordinance Amending Section 90-47-Scope of 24 Inch Setback Encroachment – Commissioner Eliana Salzhauer (Pages 226-229)

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-47. - "YARDS, GENERALLY ALLOWABLE PROJECTIONS", SPECIFICALLY SUB-SECTION 90-47.1 TO RESTRICT PROJECTIONS FOR CERTAIN ARCHITECTURAL ELEMENTS AND TO PROHIBIT COMBINING ALLOWED ENCROACHMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

 Ordinance Amending Section 54-2-Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws" – Mayor Charles W. Burkett (Pages 230-235)

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 54-2. - "CONSIDERATION OF ANTI-SEMITISM AND HATE CRIMES IN ENFORCING LAWS", TO STRENGTHEN AND AMEND THE DEFINITION AND EXAMPLES OF ANTI-SEMITISM THAT MAY BE CONSIDERED IN THE EVALUATION OF EVIDENCE OF ANTI-SEMITISM IN ENFORCING LAWS, INCLUIDING EXAMPLES OF ANTI-SEMITISM RELATED TO ISRAEL; 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___p.m.) (Note: Depends upon length of Good and Welfare)
 - A. Resolution Urging the Court to Consider Disbursing a Portion of Funds to Living Former Residents of the Champlain Towers South Commissioner Eliana Salzhauer (Pages 236-239)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; URGING THE COURT TO CONSIDER DISBURSING A PORTION OF FUNDS ALREADY COLLECTED TO LIVING FORMER RESIDENTS OF THE CHAMPLAIN TOWERS SOUTH AND TO CONSIDER DISBURSING NEW FUNDS TO VICTIMS AS THEY ARE COLLECTED; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO TRANSMIT THIS RESOLUTION TO THE COURT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Resolution Opposing Proposed Florida Senate Bill 1024 and House Bill 741 – Vice Mayor Tina Paul (Pages 240-244)

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, EXPRESSING OPPOSITION TO PROPOSED FLORIDA SENATE BILL 1024 AND HOUSE BILL 741, "NET METERING," REVISING LEGISLATIVE FINDINGS RELATING TO REDESIGN OF NET METERING TO AVOID CROSS-SUBSIDIZATION OF ELECTRIC SERVICE COSTS BETWEEN CLASSES OF RATEPAYERS; PROVIDING FOR TRANSMITTAL; 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. Raising Houses in Surfside to Make our Town More Resilient and Sustainable Mayor Charles W. Burkett (Pages 245-288)
 - B. Amending the Town's Purchasing Code (Chapter 3) Commissioner Nelly Velasquez (Pages 289-301)
 - C. Community Center Pool Deck Lighting Staff Report Andrew Hyatt, Town Manager (Pages 302-303)
 - D. Art in Public Spaces Committee Commissioner Charles Kesl (Pages 304-305)
 - E. Demolition by Neglect Mayor Charles W. Burkett (Pages 306-308)
 - F. Excessive Homeless Contribution Made by the Former Commission Mayor Charles W. Burkett (Pages 309-316)
 - **G. Lowering of Property Taxes and Water Bills Staff Report –** Andrew Hyatt, Town Manager (Page 317)
 - H. Amending Town Code Section 2-237 Business Relationships Commissioner Eliana Salzhauer (Pages 318-323)
 - I. Community Center Second Floor Possibility- Andrew Hyatt, Town Manager (Pages 324-325)
 - J. Amend Tourist Board Ordinance Commissioner Nelly Velasquez (Page 326)
 - K. Legally Defective Charter Amendment Vote in 2012 Mayor Charles W. Burkett (Pages 327-354)

- L. Cone of Silence/Secrecy Mayor Charles W. Burkett (Page 355)
- M. License Plate Readers Mayor Charles W. Burkett (Page 356)
- N. Cancel Culture in Surfside Mayor Charles W. Burkett (Pages 357-363)
- O. Permit Process Mayor Charles W. Burkett (Pages 364-375)
- P. High Water Bill Mayor Charles W. Burkett (Pages 376-377)
- Q. Increased Commercial Airliner Flights over Surfside Mayor Charles W. Burkett (Page 378)
- R. Purchase of Electric Vehicles Mayor Charles W. Burkett (Page 379)
- S. One-way Automatic Gate at 96th Street and Bay Drive Mayor Charles W. Burkett (Page 380)
- T. Draconian Fines for Residents Mayor Charles W. Burkett (Pages 381-387)
- U. Surfside's Brand Name, Miami's Uptown Beach Town Mayor Charles W. Burkett (Page 388)
- V. Epinephrine Auto-Injectors (EpiPen) Policy Discussion Commissioner Eliana Salzhauer (Pages 389-392)
- W. Private Security Service Mayor Charles W. Burkett (Page 393)
- X. Remote Participation by Commissioners Commissioner Charles Kesl (Page 394)
- Y. Budget Meeting Fiasco Commissioner Eliana Salzhauer (Page 395)
- Z. Tree Program Andrew Hyatt, Town Manager (Pages 396-397)
- AA. Farmer's Market Mayor Charles W. Burkett (Page 398)
- BB. Zoning In Progress Extension Tony Recio, Town Attorney (Pages 399-405)
- CC. Marine Structures in Neighboring Municipalities Vice Mayor Tina Paul (Page 406)

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 www.townofsurfsidefl.gov.

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

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



Town of Surfside Zoning Code Workshop MINUTES April 27, 2021 6 p.m.

1. Opening

A. Call to Order

Mayor Burkett called the meeting to order at 6:00 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 Charles Kesl (arrived at 6:03 p.m.), Commissioner Eliana Salzhauer (arrived at 6:07 p.m.) and Commissioner Nelly Velasquez (arrived at 6:02 p.m.).

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

Mayor Burkett spoke regarding the process for tonight's workshop and where they left off from the last workshop meeting. He stated that the next item was oceanfront lots on Collins Avenue.

2. Community Digital Sign

3. Working List of Open Issues for Discussion

4. Proposals from Individual Commissioners

Mayor Burkett went over the next item which is capping the size of the lots on Collins Avenue to 120 feet. He provided his suggestions. He stated that they need more quality buildings in Surfside. He proposed to stay at 120 feet from the crown of the road.

Vice Mayor Paul agrees with Mr. Kousoulas and stated that the issue is what they allow on the roof. She spoke regarding the flood designation and that should be the area which they should measure from.

Commissioner Kesl stated he agreed with the Mayor and Vice Mayor and he provided his suggestions and stated this is a very important issue that needs to be addressed.

Commissioner Velasquez stated that her concern is that they already are having a certain type of building in Town and if you reduce the height of the buildings, it would look different. She spoke regarding sea level rise. She stated that the problem is what is being put on the roof.

Mayor Burkett stated that he agrees with the commission and they do have a certain profile in Surfside. He also spoke regarding sea level rise.

Commissioner Salzhauer stated that what makes Surfside beautiful are the low buildings and the different heights. She stated that they need to be careful because there will be no more low buildings because those will be replaced. She spoke regarding what is being placed on the top of the buildings. She also spoke regarding the buildings casting shadows on the beach.

Commissioner Kesl asked for point of order and spoke regarding George Kousoulas and stated he is not an elected official and him being a lobbyist and was not in agreement of having Mr. Kousoulas making the presentation.

Commissioner Velasquez spoke regarding the Seaway site plans and stated that building has 3 floors above the 120 feet.

Mayor Burkett stated that building was approved under the old code.

Vice Mayor Paul discussed both codes allowing these types of buildings and the issue is what is allowed on the rooftops.

Commissioner Salzhauer spoke regarding this code needing to be amended and address what is allowed on the roof.

Mayor Burkett addressed the comments made by Commissioner Salzhauer and spoke regarding what the height of the building should be ultimately and where you measure from.

Commissioner Velasquez agrees that this needs to be fixed but they need a fixed number set in stone.

Town Attorney Recio addressed the comments made by the Commission.

Mayor Burkett addressed the comments made by the speakers. He stated that one's building should not be taller then the lowest 12 story building.

Commissioner Salzhauer stated her concern regarding the historical skyline of Surfside.

Commissioner Kesl spoke regarding presentations and equal time when speaking. He spoke regarding how unique Surfside is and the tax base of the Surfside.

Commissioner Velasquez spoke regarding the skyline on Collins Avenue.

Vice Mayor Paul addressed the comments made regarding what the beach looks like when the buildings cast a shadow and spoke regarding the skyline of Surfside.

Commissioner Salzhauer spoke regarding the lower buildings that are left and trying to safe those buildings.

Building Official McGuinness addressed the comments made regarding the flood plain map and FEMA requirements.

Commissioner Velasquez asked Building Official McGuinness regarding the elevation for the coastal buildings.

Commissioner Salzhauer commented on the vision for the Town and the guidance needed on how to mandate the change in code to reflect the changes.

Building Official McGuinness addressed the comments made by the Commission.

Commissioner Kesl stated that he likes having a plan that in long term will achieve the goals set.

Town Planner Keller spoke regarding the coastal side of the Town and stated the basic level from the 120 that was measured.

Mayor Burkett commented on the 120 height and what he is hoping to see in Surfside.

Commissioner Velasquez spoke regarding properties in Town that will be developed. She asked how many stories can be built on a specific lot.

Mayor Burkett stated it is not a good idea to talk about a specific property and what they are allowed to build.

Town Attorney Recio stated you can speak on it as an abstract but they should not be speaking about a specific property or development.

Commissioner Salzhauer asked what is a small lot and there are only 3 of the low buildings left and how high they can go up based on the code.

Mayor Burkett addressed the comment made by Commissioner Salzhauer and the different codes.

Town Attorney Recio addressed the guestion from Commissioner Salzhauer.

Vice Mayor Paul stated that the wedding cake does address height and stated it was intended for redevelopment of the properties that want to be redeveloped.

Mayor Burkett spoke regarding the Surf Club.

Town Planner Keller clarified the comments made and spoke regarding the Seaway Building and how it was measured from the Florida DEP line and that is one way of doing it. He stated that he does not have a problem with what the Commission wants to do.

Mayor Burkett addressed the comments made by the public speakers as it pertains to the height of the building and the wedding cake design.

Mayor Burkett stated that Vice Mayor Paul is proposing the 18 feet plus 120 feet and he is proposing that buildings not be higher than the lowest 12 story existing building.

After a lengthy discussion the Commission came to the below consensus.

Mayor Burkett stated that consensus was reached that they do not want the height higher then the lowest 12 story existing building in Surfside (Mayor Burkett, Commissioner Kesl, Commissioner Velasquez voted in agreement, Commissioner Salzhauer was not sure and Vice Mayor Paul voted in opposition).

Mayor Burkett started the discussion regarding wedding cake design and the daily plane concept. He also asked the Town Planner the reasoning for doing that.

Town Planner Keller explained what the definition of daily plane concept and stated it is a requirement in the code.

Commissioner Salzhauer stated that the goal is to provide more light, air and sunshine.

Commissioner Salzhauer disconnected at 7:43 p.m.

Commissioner Kesl spoke regarding the daily plane concept.

Commissioner Velasquez stated that sunshine and air flowing into the Town is important and would like to see different styles of buildings.

Mayor Burkett addressed the comments made and stated that they are trying to come up with language that will address the wedding cake design and setbacks.

Vice Mayor Paul spoke regarding setbacks and redevelopment of buildings on smaller lots.

Town Attorney Recio addressed the comments made regarding the side setbacks and daily plane and explained the setbacks.

Town Planner Keller spoke regarding language to provide more flexibility and still get the quality you want.

Mayor Burkett stated that what they want is to bring some language that would address that.

Mayor Burkett stated there is consensus to direct the Town Attorney to come up with language to come up with alternative designs other than the wedding cake.

Vice Mayor Paul stated that is fine looking at alternatives to the wedding cake without giving away height and exceeding the square footage that is allowed with the wedding cake design.

Mayor Burkett addressed the comments made by Vice Mayor Paul.

Commissioner Salzhauer reconnected at 8:05 p.m.

Mayor Burkett spoke about density and believes they do not need to increase the population in Surfside because it destroys the quality of life. He stated they want to enhance the quality of life. He proposed to cut the density in ½ from 109 to 45. He stated that would give you the same size building but with fewer units within those buildings.

Vice Mayor Paul stated that her issue is reducing the number of units and you are not addressing the number of rooms. She spoke regarding pages 93-96 on the book.

Mayor Burkett addressed the comments made by Vice Mayor Paul.

Town Attorney Recio addressed the comments regarding density.

Commissioner Velasquez stated that she does not want efficiencies but beautiful apartments.

Mayor Burkett addressed the comments made by the public speakers as it pertains to the density and number of units.

Commissioner Salzhauer addressed the comments made by the public speakers and stated that she loves Surfside the way it is and they have diversity.

Commissioner Velasquez spoke regarding having less density.

Commissioner Kesl spoke regarding impactful decisions and the concept of density.

Vice Mayor Paul stated that by reducing density is not reducing the size of the building.

Mayor Burkett stated that they were not talking about reducing the size of the building.

Further discussion took place among the Commission regarding density and the size of the buildings.

Mayor Burkett requested from the Commission if they have consensus in reducing the density from 109 units to 45 units.

Commissioner Kesl would like 25 units.

Commissioner Salzhauer would like to hear from the Town Planner.

Town Planner Keller stated that he could not recommend on this area.

Town Attorney Recio stated that density around the County range differently.

Vice Mayor Paul stated that they need guidance and referred to page number 96.

After a lengthy discussion among the Commission and staff regarding density and the size of the buildings the Commission reached the following consensus.

Consensus was reached to reduce the density from 109 units to 65 units per acre with Mayor Burkett, Vice Mayor Burkett, Commissioner Velasquez, Commissioner Kesl and Commissioner Salzhauer voting in agreement.

Mayor Burkett spoke regarding modifying allowable building materials.

Commissioner Velasquez asked if they are referring to the Four Seasons as it pertains to the glass.

Mayor Burkett stated they are encouraging the opposite.

Vice Mayor Paul asked if this is already in the current code and why it is not being adhered to.

Town Attorney Recio addressed the comment made by Vice Mayor Paul.

Commissioner Velasquez stated she is fine with it and likes glass buildings but not those that are reflective.

Town Planner Keller recommended with the LEAD materials.

Building Official McGuinness stated to stay away from the stucco and go with more LEAD materials.

Vice Mayor Paul asked regarding the materials and the issue is the nonreflective glass.

Consensus was reached on this item.

Mayor Burkett addressed the next item which is require rooftop equipment concealed, activate rooftop with pools and other amenities in the business district not residential.

Commissioner Kesl asked if the things on the roof go beyond the height maximum.

Mayor Burkett stated that it will have to and address what is necessary on the roof.

Vice Mayor Paul stated that they are seeing this already with the new buildings. She stated what she would like to see the mechanicals to be concealed and have the concealed mechanicals retroactive.

Commissioner Salzhauer stated that they should also be concealed in the residential homes as well.

Mayor Burkett stated the idea is to utilize the space efficiently and make visually better for the neighbors.

Commissioner Kesl spoke regarding the sustainability impact.

Commissioner Velasquez asked if rooftop pools are allowed.

Town Attorney Recio stated that they are allowed currently in the code.

After a lengthy discussion among the Commission and staff, consensus was reached with the following.

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Consensus was reached to have the rooftop equipment concealed, rooftop with pools is already allowed and other amenities allowed on the rooftop related to the pool function must be below the mechanical equipment.

Mayor Burkett spoke on the next item which is allowing concierge service on the beach.

Vice Mayor Paul stated it is already being done and you will see it behind the Fendi.

Commissioner Salzhauer is not in agreement with this item.

Consensus was reached to not allow concierge service on the beach.

Mayor Burkett spoke regarding the next item which is underground parking and spoke regarding the parking issue in Surfside.

Commissioner Kesl spoke regarding the flooding issue in Town and is not sustainable and is not in agreement.

After a lengthy discussion the following consensus was reached.

Consensus was reached among the Commission on this item with Commissioner Kesl and Vice Mayor Paul voting in opposition.

Mayor Burkett spoke regarding the next item which is revisiting restrictions on restaurants for oceanfront buildings.

Commissioner Salzhauer stated that they do not have to give more restaurants for the oceanfront buildings would bring more traffic.

Commissioner Velasquez asked if this is for the hotels or condominiums. She does not agree with this.

Mayor Burkett addressed the comments made by the Commissioners.

Vice Mayor Paul stated that there are older buildings that do not have enough parking and the concierge on the beach is another issue.

Mayor Burkett stated that he is fine finishing at 10:00 p.m.

Consensus was reached to remove this item.

Mayor Burkett addressed the next item which is under certain circumstances allowing larger balconies to exceed current allowances.

Commissioner Velasquez stated that they need to be specific.

Vice Mayor Paul spoke regarding any corner unit will have a large balcony and does not understand why they will allow them to exceed.

Commissioner Kesl stated that balconies are a different category. He stated he likes the concept.

Commissioner Salzhauer stated that they need to make sure it is not being exploited and end up with more shadow.

Mayor Burkett stated letting this item go.

5. Public Comment

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

6. Question & Answer (based on public comment)

7. Adjournment

The workshop adjourned at 10:00 p.m.	
Accepted thisday of	, 2021.
Attest:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC Town Clerk	



Town of Surfside Zoning Code Workshop MINUTES May 26, 2021 6 p.m.

1. Opening

A. Call to Order

Mayor Burkett called the meeting to order at 6:46 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 Charles Kesl, and Commissioner Nelly Velasquez.

Absent: Commissioner Eliana Salzhauer

Also present were Town Manager Andrew Hyatt, Town Attorney Lillian Arango, Town Attorney Tony Recio Town Planner Lisa Maack and Building Official James McGuinness.

2. Community Digital Sign

3. Working List of Open Issues for Discussion

4. Proposals from Individual Commissioners

Mayor Burkett spoke regarding the commercial projects on properties on the water and the setbacks of the buildings to get away from the wedding cake.

George Kousoulas provided a presentation on a formula that can provide smaller, more interesting buildings and not end up with wedding cake style of buildings.

Mayor Burkett spoke regarding the outline of the blue area in the presentation and the red would go away.

Commissioner Kesl asked regarding holes in the middle of the design and possible impact and the setbacks on the ground levels.

Commissioner Velasquez likes the different design options provided.

Consensus was reached to bring back on the code average setback concept for H120 to provide for narrower buildings with more variable architecture.

The following individual from the public spoke: Jeff Rose
Joshua Epstein

Mayor Burkett discussed the single-Family lots (H30A and H30B), raising the interior, raise the floor, and raise the top. Increase height allowance for accommodation increased elevation of lowest habitable floor.

Commissioner Velasquez asked if this is take a foot – give a foot.

Discussion took place regarding the item as it pertains to increasing height and elevation.

Mayor Burkett stated he is speaking about existing homes, lifting it up and filling it with dirt of pilings.

Commissioner Velasquez stated that her fear is that they build enormous houses that will tower over the single floor homes.

Building Official McGuinness stated that most of the Town except the ones east of Collins are at a flood elevation of 8 feet and to be FEMA compliant you have to be at a 10-foot elevation.

George Kousoulas addressed comments made regarding the raising of the homes and crown of road. He stated that the code should be clarified.

Mayor Burkett spoke regarding the raising of the homes and different opportunities offered.

Further discussion took place explaining the elevation of the properties and base flood.

Commissioner Kesl asked what the average crown of road is in Town.

Building Official McGuinness stated the very lowest is 3.75 and the highest 5.75 and average 4.5 to 5 feet.

Further discussion took place regarding the crown of road and what the current code reads for second floor setbacks.

Discussion among the Commission took place regarding the item and existing homes.

Commissioner Velasquez spoke regarding homes that have been passed down and in terms of old construction it is a good idea to raise those homes and not go over 30 feet.

Mr. Epstein spoke regarding the cost involved and how hard it would be to raise the older homes. He spoke regarding storage on the bottom of the house and with sea level rise the storage and items would be flooded.

Mr. Rose spoke regarding how raising the homes and the difference from a two story and one-story home and how much they can raise it.

Commissioner Velasquez asked if this will be mandatory or if when they update the home, they would then have to raise the house without going 50% of the FEMA building value of your home.

Discussion took place regarding the FEMA building value and the percentage of the mandatory update; base flood requirement.

Town Attorney Recio stated that the code speaks about the crown of the road.

Mayor Burkett stated that to change the crown of the road would have to be changed by a referendum. He asked the Commission to work with Town Attorney Recio to work on that part of the code to go to a maximum number of 32 feet based on a pitched roof to be measured from crown of the road.

Yoann Andreu clarified it is from the crown of the road and it makes a huge difference if the roof is flat or pitched.

Discussion took place on the difference in measurement based on the style of the roof.

Mr. Epstein spoke regarding the measuring from the crown of the road and raising it will change the characteristics of the Town.

Vice Mayor Paul recommends looking at this part of the code carefully.

Mayor Burkett stated that they are not talking about rebuilding due to a catastrophic event, but individuals trying to rebuild and raising the homes.

Further discussion took place regarding raising the home and the measurement of how high one can go up and measuring from the crown of the road.

Commissioner Kesl suggested doing a working group to discuss this further and possible revising the charter.

Mayor Burkett spoke regarding not addressing height allowance in the new zoning code.

Commissioner Velasquez spoke regarding allowing roof decks where appropriate and she is not in agreement with roof top deck.

Mayor Burkett stated that for someone to put a roof top deck they would need to get permission from the neighbors.

Vice Mayor Paul stated that there is a resident that contacts her regarding a roof deck and if she believes if one has a property that is not on the water would like a roof deck, they should be able to have one. She also stated it should be limited on size and be allowed Town wide.

Commissioner Salzhauer arrived at 8:00 p.m.

Commissioner Velasquez spoke regarding the difference between a roof top deck and balcony.

Commissioner Kesl stated that he would not support them in a residential district.

Commissioner Salzhauer stated that she does not support roof top decks and the waterfront properties should not get special treatment.

Mr. Kousoulas spoke regarding the sizes of the possible roof top decks and how to get up to the deck is also an issue and some might not find it viable to build.

Mayor Burkett spoke regarding encouraging or requirement rooftop mechanical with conditions. He stated that this is primarily for new construction but would like to hear suggestions that would work with all homes.

Commissioner Velasquez stated that she agrees with this item.

Commissioner Kesl stated that he leans towards providing an envelope where the mechanicals that the people can do whatever they want with that envelope.

Vice Mayor Paul agrees with Commissioner Kesl and how much extra height is allowed if you allow this.

Mayor Burkett stated that they are trying to give their neighbors the best quality of life as possible without having the noise from that mechanical equipment with new construction.

Commissioner Salzhauer agrees with Commissioner Kesl and would like to know about the wind and the mechanicals on a roof. She spoke regarding screening it in to reduce the noise and the ambient noise on the roof. She believes they should keep it on the property and screen it in. Mayor Burkett stated he would agree with solar panels if they are clear and close to the roof.

Commissioner Velasquez stated that she supports mechanicals on the roof and believes they would be less noisy on the roof. She stated that they need to determine the size of the mechanicals.

Mr. Rose stated that per code they need to have certain efficiency levels of the air conditioning. He spoke regarding the building and placing of mechanical equipment and they must go above 30 feet.

Mr. Kousoulas spoke regarding the noise level of the air conditioning units and you do not want to put them on the side of the homes. He stated that the roof top is the best place to put it.

Mayor Burkett stated on the roof top mechanicals on new construction and on old constructions there are different constraints.

Vice Mayor Paul stated that there needs to be a cap on the height.

Commissioner Salzhauer asked how many air conditioning units would be on a house that is 4,000 square feet.

Building Official McGuinness stated that all building envelopes based on the 2020 building code requires maximum wind, and sound proofing of mechanical equipment on the roof.

Mayor Burkett asked how height it would project.

Mr. Rose stated 5 feet and screened properly.

Mayor Burkett asked Town Attorney Recio to place that language in the code as it pertains to mechanical equipment on the roof.

Mr. Epstein stated that they should have an option to have it on the roof or on the ground.

Mayor Burkett is asking if they would like to give them options. Where else can they put the noisy equipment on new construction.

Mr. Rose stated that you have to give them options if not everyone will build a flat roof. The screening should be the mandatory part regardless where it is going.

Mayor Burkett stated that they will have the option to put on the roof but it must be screened and disappear both visually and audibly.

Vice Mayor Paul stated that they should not make it mandatory to put on the roof.

Mr. Andreu stated that they should consider a more sustainable air conditioning unit that would give incentives.

Mayor Burkett asked for some language in giving an incentive to build it into their hip roof and if they want to put it anywhere in the property it cannot impact the neighbors with a seer of minimum 13 for the air conditioning units.

Commissioner Salzhauer left the dais at 8:32 p.m.

Commissioner Salzhauer returned to the dais at 8:33 p.m.

Commissioner Velasquez requested clarification on existing homes having to screen in the air conditioning units and does not agree with that. She does not want the "don't hear it don't see it" on existing homes.

Vice Mayor Paul states that should include with the ones that have them in the backyard as well.

Commissioner Salzhauer asked when someone places an air conditioning unit who would have to be doing the fencing around the unit and how you sound proof it.

Building Official McGuinness stated that there is a minimum clearance on each conditioning unit.

Mayor Burkett stated that they want language for roof top units on new construction, incentives for gable and hip roofs, existing homes should be not heard not seen, require them to deal with existing roof top units and not be heard, with respect to units on the back or side of the property do nothing with them, but in front if they are visible, they have to screen them.

Mayor Burkett discussed allowing large privacy hedges around and in front of their homes and placing them in the right of way with the written understanding that if the Town needs to do work, the cost of removal and replacement is up to the owner of the property.

Commissioner Salzhauer stated that if you put anything in the right of way is a deal breaker with the undergrounding because it will be difficult to obtain the easement. She is not in support of this item.

Commissioner Velasquez stated that she is fine with hedges between neighbors but not in the front of the house, or corner lots and backyards.

Commissioner Kesl spoke stated that hedges close to the curb prevent people from parking and agrees with the hedges.

Vice Mayor Paul stated that the privacy concern is with the corner lots and believes that the code is fine the way it is. She spoke regarding not encouraging hedges on the corner lots and what happens when there is a new owner and you can't rely putting something in place and expect the new owner to know the previous agreement.

Mayor Burkett stated this is a mute issue due to lack of Commission support.

Mayor Burkett spoke regarding allowing attractive fencing and gating around and in front of the homes.

Commissioner Salzhauer stated that she is not in agreement with this and they should stay away from it and is the same as the hedges.

Commissioner Velasquez agrees with fencing on the back of the house but not in the front.

Commissioner Kesl agrees with the code the way it currently is written.

Vice Mayor Paul is also in agreement with the current code.

Mayor Burkett spoke regarding eliminating the option to buy out of parking requirements by contributing to parking trust fund. He stated everyone that builds must provide their own parking.

Commissioner Velasquez supports this change.

Commissioner Kesl supports this change.

Vice Mayor Paul supports this change.

Commissioner Salzhauer support this change.

Mayor Burkett spoke regarding prohibiting hotels on the west side of Collins and gave examples of boutique hotels and stated that the Marriott Hotel has not done good and what is good for the Town is oceanfront hotels. He stated that what they need in the corridor are high end residential use and that is why he does not support those hotels. He supports gutting the old buildings and turn them into one or two residential units.

Vice Mayor Paul supports no hotels west of Collins but is not as easy to achieve.

Commissioner Kesl differs from the group and believes boutique hotels serve a very lively and dynamic feel to the Town.

The following individuals from the public spoke:

George Kousoulas stated boutique hotels are difficult and do not work.

Joshua Epstein spoke regarding no more hotels in Surfside.

Mr. Superstein spoke to allow hotels in Surfside.

Further discussion took place regarding maintaining the current commercial buildings and hotels.

Commissioner Velasquez asked how long has they advertised the meeting and lawyers that wanted to come and show their displeasure, they had the opportunity and the residents do not want any more hotels.

Commissioner Salzhauer stated that hotels are allowed south of 93rd but agrees that residents don't want any more hotels in Town.

Vice Mayor Paul stated that she supports the no hotels but the historic district should be exempt for anything. She only supports hotels for the historic district portion.

Consensus was reached to not allow hotels on the west side and asked Town Attorney Recio to put in the code.

Mayor Burkett spoke regarding adding design incentives for property owners on the west side of Collins to preserve historic facades, aggregate lots in order to building high end condominiums that incorporate those facades and design those new projects so they have parking, security, views, open spaces and overall low-density, high-quality units.

The following individual spoke: George Kousoulas

Mayor Burkett stated that they are restricted to the size and they have to preserve the façade in the front.

Commissioner Salzhauer stated if they would be able to build a large building.

Mayor Burkett stated that they would have requirements on the building size. What he is proposing is the best of everything and put language together for that vision and see how it looks when it comes back.

Commissioner Kesl said if someone has a viable business plan and has a rental lodging operation, they can have a business plan that will be efficient.

Vice Mayor Paul stated she is not in favor of aggregating properties. She spoke regarding giving historic buildings flexibility and does not work for existing condominiums.

Commissioner Kesl left the dais at 9:19 p.m.

Vice Mayor Paul believes that the historic area should have a different criteria.

Mayor Burkett addressed the comments made by Vice Mayor Paul.

George Kousoulas stated that he will create a 3D visualization so they can have an idea.

Commissioner Salzhauer commented on setbacks of the building.

Commissioner Kesl returned to the dais at 9:21 p.m.

Mayor Burkett stated that it's a package to preserve the building.

Commissioner Salzhauer stated that open spaces do not make money and no one will be doing that and spoke regarding aggregation of lots/buildings.

Vice Mayor Paul left the dais at 9:22 p.m.

Mayor Burkett stated that before the next election they will put some charter questions for the residents.

Jeff Rose spoke regarding trying to make the best viable option.

Mayor Burkett stated what he would like is having viable buildings that are fixed and having individuals living in those buildings.

Vice Mayor Paul returned to the dais at 9:35 p.m.

Commissioner Salzhauer spoke regarding affordable housing.

Mayor Burkett spoke regarding affordable housing that are not high-end apartments. He explained how affordable housing works and it helps more people. He would not like to see that in Surfside.

Further discussion took place regarding affordable housing in Surfside.

Commissioner Salzhauer spoke regarding the social and real implications that will impact those individuals living currently in Surfside.

Mr. Andreu spoke regarding the cost of renovation and if you want to maintain it is giving incentives and supports this and where is the master plan.

Mayor Burkett stated this is to put together a set of incentives to revitalize the historic district and make it shine.

Vice Mayor Paul stated that staff does not have a clear idea of what incentives to provide.

Mayor Burkett stated that they will eliminate everything except the façade of the building and recreate new building that will be functional.

Commissioner Kesl states that he believes this might be a bit frightening to the owners of those building and does believe they should have a comprehensive plan.

Mayor Burkett stated what they are talking about is fixing five ugly buildings.

Mayor Burkett stated that the buildings will stay the way they are since the Commission did not support this item.

Mayor Burkett stated that their function is to maintain the Town.

Vice Mayor Paul stated that they are talking about designing incentives.

Mr. Superstein stated that to give them incentive to raise their economics.

Commissioner Salzhauer asked if Mr. Superstein would he prefer aggregation of lots or boutique hotel.

Mayor Burkett stated that what Mr. Superstein wants is to maximize their revenues.

Commissioner Kesl is voting against this item.

Vice Mayor Paul asked if there is anything in the new code that prohibits what is in the code right now.

Town Attorney Recio responded to Vice Mayor Paul's question as to what is allowed in the Code.

Commissioner Salzhauer wanted clarification with this item and the façade preservation. She would like for the Town Planner to come up with a plan.

Mayor Burkett stated that they can come back with a final draft. He stated that the Planner and the Town Attorney work together.

Vice Mayor Paul stated that they will come up with words, but the Planner will come up with information that they can see and understand. She spoke regarding a corridor study that was done in the past.

Mayor Burkett stated that if they have a proposal when they present their items then he can see their ideas.

Further discussion took place regarding incentives

Commissioner Velasquez left the dais at 9:43 p.m.

Mayor Burkett stated that they left the projects the way they are.

Commissioner Salzhauer stated that she would like the Planner to bring back some ideas that can help the historic area in order to have it discussed.

Vice Mayor Paul stated that she suggests the Planner to look at the documents to see what has been done.

Commissioner Kesl supports that idea as well.

Commissioner Salzhauer spoke regarding the house not taking up more than 40% of the lot.

Town Attorney Recio commented that is already on the code.

Commissioner Salzhauer stated that they need a strict standardized clearly laid out what documents that are required to go before the Planning and Zoning Board. Strict and consolidated standards.

Consensus all agreed.

Commissioner Salzhauer spoke regarding the setbacks on the huge lots should be more than the 10%.

Town Attorney Recio stated that they kept it at 10% for deep lots and provided possibilities.

Commissioner Velasquez returned to the dais at 9:48 p.m.

Commissioner Salzhauer would like more of a setback on larger lots.

Mr. Kousoulas spoke regarding the item and setbacks.

Further discussion took place on the setback of the lots.

Mr. Rose spoke regarding the 6% on covered terrace now conflicts and make sure they adopt the correct one.

Discussion continued regarding the setbacks and which one is more appropriate and maintains the character of the Town as well as lot coverage.

Commissioner Velasquez left the dais at 9:58 p.m.

Mr. Kousoulas spoke regarding lot coverage; lot line and the house can only be 40% of the 100% and upstairs you only are allowed 80% of the ground floor.

Discussion continued regarding the average set back and lot coverage.

Commissioner Salzhauer commented on the percentage of the size of houses and percentage.

Mr. Rose spoke regarding reducing the second floor and that will destroy the zoning code. He spoke regarding the math not working and they are purposely leaving two things on the code that conflict.

Commissioner Velasquez returned to the dais at 10:14 p.m.

Town Attorney Recio explained the current code and the maxing out of the 40% and how it pertains to the second floor and first floor.

Further discussion took place regarding the setbacks and square footage.

Mayor Burkett stated that they need to come up with a solution.

Commissioner Salzhauer would like to keep the houses in a way that is not a box.

Mayor Burkett asked to bring this back in a draft and look at the three options and have some pictures sent to the Commission.

Commissioner Velasquez spoke regarding 50-foot setbacks from the seawall and the house that has caused them to make this change to the code.

Mayor Burkett asked Town Attorney Recio to put the language discussed tonight and see how it will look like on the lot they had concerns about.

Commissioner Salzhauer discussed limited parking garage to two car garage.

Commissioner Kesl commented on this community being more walkable and pedestrian friendly.

Vice Mayor Paul asked if there was an issue. She stated that there are people that collect cars and need garages and the majority of the lots cannot hold multiple garages.

Commissioner Velasquez stated that it depends on the size of the lot. She stated she is fine with this one.

Mr. Kousoulas stated that on an interior lot they will not see more than 2 car garage and there are restrictions on how many car garages are allowed.

Commissioner Kesl supports this item.

Vice Mayor Paul supports this item.

Commissioner Velasquez asked if it pertains to existing homes that will do a second floor. She supports the item.

Town Attorney Recio stated if it does not change anything then it would not pertain to an existing home making an addition.

Commissioner Salzhauer would like to build on no more hotels in Town except in the historic district.

Vice Mayor Paul states that the historic district should be exempt.

Commissioner Velasquez agrees with no more hotels with the exemption of the historic district.

Commissioner Kesl stated that the market can change in the future.

Mayor Burkett stated that his item was no hotels on the west side and will vote against this item. The code would need to be changed to no more hotels.

Consensus was not to have more new hotels subject to the historic district and current hotels be grandfathered in an event of a catastrophic incident would retain their right to rebuild.

Town Attorney Arango advised the Commission on the zoning in progress expiring June 8, 2021 and requested consensus from the Commission to extend the zoning in progress.

Consensus was reached by the Commission to extend the zoning in progress for 90 days.

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The workshop adjourned at 11:09 p.r	m.
Accepted thisday of	, 2021.
Attest:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC Town Clerk	



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

1. Opening

A. Call to Order

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

B. Roll Call of Members

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commissioner Velasquez stated that the Town Manager has been doing a great job and his review should be done at a special 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.

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

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

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

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

- E. Community Notes Mayor Charles W. Burkett
- F. Appointment to Boards and Committees Sandra N. McCready, Town Clerk
 - **Budget Committee** Mayor Burkett

Mayor Burkett did not make an appointment.

- Personnel Appeals Board – Mayor Burkett

Mayor Burkett did not make an appointment.

Personnel Appeals Board – Commissioner Kesl

Commissioner Kesl appointed Andrea Travani to the Personnel Appeals Board.

Personnel Appeals Board – Commissioner Salzhauer

Commissioner Salzhauer did not make an appointment.

- **Personnel Appeals Board** – Commissioner Velasquez

Commissioner Velasquez did not make an appointment.

Planning and Zoning Board – At Large

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

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

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

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

Commissioner Salzhauer thanked Mr. Fisher for doing this.

Commissioner Velasquez thanked Mr. Fisher for doing this.

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

Mr. Fisher thanked everyone.

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

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

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

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

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

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

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

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

2. Quasi-Judicial Hearings - N/A

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

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

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

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

- A. Minutes Sandra N. McCready, MMC, Town Clerk
 - November 9, 2021 Regular Town Commission Meeting Minutes
 - November 17, 2021 Town Commission Workshop Minutes

Deferred to the January 11, 2022 meeting.

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

Approved on consent.

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

Approved on consent.

- **D. Committee Reports -** Andrew Hyatt, Town Manager
 - October 4, 2021 Tourist Board Meeting Minutes
 - October 25, 2021 Parks and Recreation Committee Meeting Minutes
 - November 18, 2021 Special Tourist Board Meeting Minutes

Approved on consent.

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

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

Approved on consent.

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

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE. FLORIDA. APPROVING THE PURCHASE OF NEW CELLULAR ENCODERS TOGETHER WITH CLOUD-BASED HOSTING SERVICES FROM BADGER METER, INC. TO REPLACE EXISTING ENCODERS USED TO TRANSMIT WATER METER INFORMATION TO TOWN HALL: FINDING THAT THE PURCHASE IS EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTIONS 3-13(6) AND (7)F OF THE TOWN CODE AS SERVICES AVAILABLE FROM A SOLE SOURCE AND AS A PUBLIC WORKS AND UTILITIES PURCHASE FOR TOWN FACILITY MAINTENANCE AND REPLACEMENT **WORK; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A PURCHASE** ORDER AND/OR OTHER AGREEMENTS AS MAY BE APPROVED BY THE TOWN MANAGER AND TOWN ATTORNEY: **PROVIDING** 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 "MARINE 90-57. STRUCTURES", TO PROVIDE FOR REGULATIONS **FOR** OF PIERS AND CONSTRUCTION DOCKS. MOORINGS WATERFRONT LOTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND

PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

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

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

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

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

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

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

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

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

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

Town Attorney Recio stated many years.

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

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

Jaime Rubinson

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

Town Attorney Recio stated that it is.

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

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

Town Attorney Recio stated that Bay Drive is 35 feet.

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

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

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

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

5. Resolutions and Proclamations (Set for approximately 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.

Minutes Regular Commission Meeting December 14, 2021

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

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

Town Clerk McCready read the title into the record.

Commissioner Velasquez commented there not being an amount.

Commissioner Salzhauer stated that it is in the ballot language.

Town Attorney Arango clarified the language is on page 191.

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

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

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

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

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

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

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

D Prohibition on Storage of Privately-Owned Property Overnight on Beach – Andrew Hyatt, Town Manager

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

Town Clerk McCready read the title into the record.

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

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

Commissioner Salzhauer stated that private property is anything. She stated they cannot store anything that is private on the beach.

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

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

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

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

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

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

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

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

Town Clerk McCready read the title into the record.

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

Commissioner Salzhauer stated that she spoke with Town Attorney Recio that what they are doing is accomplishing what they are looking for. She asked the Town Planner and Building Official stating that what they are doing will keep the skylines in check.

Commissioner Kesl stated that he supports this ballot question and the measuring it from the bulkhead line. He spoke regarding elevation and crown of road.

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

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

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

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

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

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

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

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

Commissioner Kesl asked regarding the NAVD and NGVD measurements.

Building Official McGuinness explained the difference of NAVD and NGVD.

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

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

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

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

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calculations.

The following individuals from the public spoke: George Kousoulas

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

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

Mayor Burkett suggested a sampling of the buildings.

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

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

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

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

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

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

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

The motion was withdrawn by Commissioner Kesl and Commissioner Velasquez rescinded her second.

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

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

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

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

F. Hedges in Single-Family Lots – Town Attorney

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

Town Clerk McCready read the title into the record.

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

Vice Mayor Paul has an issue on page 210 to change the language from "along"

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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 protect 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 as long as they are not blocking traffic visibility.

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

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

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

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

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

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

The following individuals from the public spoke:

George Kousoulas spoke regarding working together on the zoning code.

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

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

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

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

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

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

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

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

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

Vice Mayor Paul spoke regarding her tenure on the Commission and did admit it is at times painful to be here but she is here to support and work for the residents. She addressed the comment made about the trees and spoke regarding a tree give-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 our Town has many larger problems that need to be addressed like 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 each condominium building to help with the cost 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 88th 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 families 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 96th Street and Bay Drive - Mayor Charles W. Burkett

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Deferred to the next meeting.

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

Moved to the next zoning code workshop.

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

Removed from the agenda.

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

Deferred to the next meeting.

BB. Private Security Service – Mayor Charles W. Burkett

Deferred to the next meeting.

CC. Remote Participation by Commissioners – Commissioner Charles Kesl

Deferred to the next meeting.

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

Deferred to the next meeting.

EE. Champlain South Memorial Park at 88th 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 but prefers November because more voters come to the polls.

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

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

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

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

Commissioner Velasquez disagrees with Commissioner Salzhauer because these questions are important and there are different ways of seeing things. Commissioner Kesl stated that the ballots questions need to be things that will go in the Town Charter.

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

Mayor Burkett stated this is not silly and it is an option for the residents and it can be talked about and debated. He stated that if the residents want it in March, then he is fine with that but it would be better in November for more participation.

The following individuals from the public spoke: George Kousoulas Jaime Rubinson

Mayor Burkett passed the gavel to Vice Mayor Paul.

Town Attorney Arango stated this is a time sensitive item.

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

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

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

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

10. Adjournment

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

Accepted thisday	/ of	_, 2022.
Attest:	Charles V	V. Burkett, Mayor
Sandra N. McCready, M Town Clerk	1MC	



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.

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 96TH 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.

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 96th 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.

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.

- **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

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. 89th **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 89TH 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

1. 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 asked for 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.

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, but the code on single family should be treated separately.

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 regarding single family homes as these are two different districts.

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 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 are fully occupied by 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 and would put an enormous financial burden on the small buildings on the Collins and Harding Avenue corridor. 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.

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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 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.

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 88th 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

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 sidewalks.

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 88th Street—Commissioner Eliana Salzhauer

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA: DIRECTING THE MANAGER TO PURSUE THE CLOSURE OF 88TH 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 88th 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

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

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

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 96th 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

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 this	_day of	, 2022.
Attest:		Charles W. Burkett, Mayor
Sandra N. McCread	dy, MMC	



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

Town Hall Commission Chambers - 9293 Harding Ave, 2nd 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 non-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 preserve the original home while adding more square footage, this will allow them to be 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.

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 unsafe. A vacant home can attract squatters and be vandalized.

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 of vacant homes that are in the process of demolition. She stated that they need to allow the homeowner to demolish a property that is vacant and in unsafe conditions.

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.

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 existing 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 a landscaper 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 workshop	adjourned at	11:03 p.m.
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Accepted thisday of	, 2022.
Attest:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC Town Clerk	



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

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 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 1/9th 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 1/9th and would keep us independent.

Town Attorney Recio wanted to clarify that 1/9th 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 of Surfside Regular Town Commission Meeting MINUTES February 8, 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 Charles Kesl (arrived 7:02 p.m.) and Commissioner Eliana Salzhauer (arrived 7:15 p.m.).

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

- 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

Vice Mayor Paul spoke regarding the Third Thursday event.

- 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.

2. Quasi-Judicial Hearings

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

A motion was made by Commissioner Velasquez to approve the Consent Agenda minus the minutes, seconded by Commissioner Kesl. The motion carried with a 4-0 vote with Commissioner Salzhauer absent.

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

Deferred to the March 8, 2022 Town Commission 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
 - 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

Approved on consent.

E. FY 2022 Budget Amendment Resolution No. 3 - Andrew Hyatt, Town Manager

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.

Approved on consent.

4. Ordinances

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

A. Second Reading Ordinances

1. Ordinance Amending Section 90-57 "Marine Structures" - Andrew Hyatt, Town Manager

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.

Town Clerk McCready read the title into the record.

Commissioner Kesl spoke regarding the item and the limitation of the extension of the dock to be no more than 10% of the property width. He stated that he believes that the existing code and ordinance being proposed will work fine as long as they change the code, so it does not limit the length of the dock to be 10% of dock in the case of the 50-foot docks. He stated that the ones facing Indian Creek should not be limited.

Vice Mayor Paul spoke regarding the item and is comfortable with the way the ordinance is written.

Town Attorney Recio explained the item and the situations being addressed and what the ordinance in the agenda packet describes and provided different options.

Commissioner Velasquez commented on the individuals living on Point Lake and if they are not being affected by this ordinance, then she is fine with the ordinance.

Mayor Burkett spoke regarding the item and provided his input as it pertains to Point Lake and Indian Creek waterway.

The following individuals from the public spoke:
Shannon Gallagher
Jeff Rose
Carolyn Baumel
Trisha Fowley
Anthony Blate
Jennifer Hill
Jalil Thurber
Shlomo Danzinger
Jaime Rubinson
Mel Schlesser

Commissioner Salzhauer apologized for the mistakes on first reading, she stated she has been working with Town Attorney Recio along with the residents to see what they wanted. She stated that what they are interested in doing is preserving the quality of life for everyone especially with the kayak launch at 96th Street Park. She stated that it has always been interpreted as 10 feet and that is what you see right now. She spoke regarding her suggested changes and it would change from 15 feet to 10 feet on Point Lake and the 10 feet on Indian Creek.

Mayor Burkett is fine with the ordinance as it is, he stated that the people on the lake area will have a problem because they have an issue with space.

Commissioner Kesl stated the reason they are dealing with this and is glad the debate is between 10 feet and 15 feet. He stated that they have to think that there are different structures relating to a shore station. He is good with the way the ordinance is written.

Vice Mayor Paul stated that she understood controversy over the length of the dock and looked at what the neighboring municipalities are allowing. She stated that originally it was 35 feet and she does not want to limit our residents to less then their neighboring municipalities have and went on to state what the other municipalities are allowing.

Mayor Burkett stated that the bulk of the ordinance is fine. He asked Vice Mayor Paul if she is fine with the ordinance or does she want the 15 feet on the lake.

Vice Mayor Paul stated she is fine with 15 feet on the lake.

Commissioner Velasquez stated that they should consider on the canal going in and out of Point Lake to 10 feet, maybe on the wider part of the lake 15 feet and on the corner 10 feet. She stated that definitely the canal should be 10 feet. She stated that 35 feet in the rest of the Town, Biscayne Bay and Indian Creek, she is fine with and other municipalities are doing the same. She stated that there is enough space for kayakers.

Commissioner Salzhauer stated that the rest of the residents have to navigate around 35-foot docks that they never had to do that. She stated that the Commission was elected to protect the residents and they are not doing that. She spoke against the 35-foot docks.

Commissioner Velasquez would like to know if the motion maker would like to amend their motion.

Commissioner Kesl stated that 15 feet on Indian Creek would be fine and cap the others at 15 feet.

Vice Mayor Paul is not fine with the amended motion because she would like more information on the adjacent water bodies.

Vice Mayor Paul asked the Town Attorney regarding the docks in Town and the larger docks in the other municipalities.

A motion was made by Commissioner Kesl to approve the Ordinance on second reading, seconded by Vice Mayor Paul.

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

Town Attorney Recio spoke regarding the other docks in Town and explained what the maximum projections would be.

Commissioner Kesl spoke regarding the scaling and how conducive it would be for kayaking.

Commissioner Velasquez stated that she is fine with the ordinance and spoke regarding the kayak.

Mayor Burkett agrees with the Vice Mayor and would like to see the 10foot docks on the lake, otherwise he is good the way it is.

Mayor Burkett stated the 35 foot has been in the zoning code since 2008. Commissioner Kesl appreciates the speakers, he stated that whatever they decide, they still need DERM. He asked for the Town Attorney to clarify

that.

Town Attorney Recio stated that if DERM states you cannot build a dock that close to a seawall and our code stated you can only go so far, then you cannot project out and therefore cannot have a dock. He stated the provisions on the proposed draft from Commissioner Salzhauer addresses DERM.

Town Attorney Arango suggested for the Town Planner to provide his input.

Town Planner Keller stated that he is comfortable with the draft of the ordinance and with the minor changes done tonight.

After a lengthy discussion regarding the amendment to the language of the ordinance, the following motion was made.

A motion was made by Commissioner Kesl to approve the Ordinance on second reading as amended to read that line 80 will say 10 feet instead of 15 feet for Point Lake, line 83 and 84 to say: "constructed to project into the waterway no more than the lesser of 10% of the width of the adjacent waterway or 15 feet unless DERM/DEP determines that environmental resources require a further dock extension, in which case a finger pier not to exceed 8 feet in width, and any mooring piles, boat lifts, or other appurtenances, shall be allowed to project into the waterway no more than 35 feet, and vessels shall be required to dock along the side of the finger pier rather than at the end of the finger pier." seconded by Commissioner Salzhauer. The motion carried with a 4-1 vote with Mayor Burkett voting in opposition.

2. 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 into the record.

Commissioner Velasquez asked if they could add on the part where she mentions vehicles blocking the street in residential area. She would like for it to read if it is a vehicle that is dropping of materials or machinery that they do not have to contact the Town and gave an example of what took place when she was doing her pool.

Vice Mayor Paul stated that came from a complaint she received which was a concrete truck blocking the street on Biscaya and the roads need to be open to emergency vehicles and people going to work and coming home.

Commissioner Velasquez stated that if they are vehicles that are dropping materials or machinery should not have to go through Town Hall because they do not know when the materials will be dropped off.

Town Attorney Recio read how it is currently written states "shall not be allowed to block the right of way, unless for temporary delivery of machinery and materials".

Vice Mayor Paul stated that she is trying to avoid what took place in Biscaya.

Mayor Burkett stated that is a police matter and it is good that it is in the code.

Commissioner Velasquez stated that there are trucks that need to deliver materials and will need to block one portion of the road.

Town Attorney Recio read the amendments into the record.

The following individuals from the public spoke:

Jeff Rose

Shlomo Danzinger

Bill Thompson regarding some comments he provided Building Official McGuinness and other suggested changes to the ordinance.

Shannon Gallagher

Trisha Fowley

Vice Mayor Paul addressed the comments made by the speakers.

Commissioner Velasquez addressed the comments made and having an ordinance for residential and for H120 and they should have never been combined.

Mayor Burkett asked Ms. Gallagher regarding the gross negligence reported by the Judge and asked her to send him a copy.

Ms. Gallagher stated it was in a court in Maryland and explained what the court stated.

Town Attorney Arango stated that she would like to get a copy and see how it would apply to the CTS case in Miami-Dade County.

Building Official McGuinness provided his recommendations.

Vice Mayor Paul stated that she would like to work with the Building Official and defer the item.

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

A motion was made by Vice Mayor Paul to defer this item to the next month at a time certain, seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

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

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.

Town Clerk McCready read the title into the record.

Commissioner Salzhauer introduced the item and provided an overview of the ordinance and stated that what they are doing is adopting what the County put into place.

Building Official McGuinness spoke regarding the ordinance and how it pertains to the buildings in Surfside and the County provisions.

Commissioner Velasquez asked if this ordinance is stricter then the County is providing.

Building Official McGuinness stated yes.

Commissioner Velasquez agrees with the life safety issue and notification and condominium associations need to be more responsible to their residents and this is a good step towards the right direction.

Vice Mayor Paul stated that there is a correction in line 64 and 65, page 217, where it says, "to include and add", it should say "recommended" and add "recommended geotechnical studies".

Commissioner Salzhauer accepts that correction.

Vice Mayor Paul spoke regarding the BORA report section of loading and the loads need to be evaluated. She suggested if Building Official McGuinness would like to strengthen that.

Commissioner Kesl stated that there were additional items identified that would be looked at and inspected that were left out. He agrees that all engineering reports should be reported.

Vice Mayor Paul stated that she agrees with Commissioner Kesl and there was a recommendation of 20 years and painting the buildings. She stated that the ordinance was a little watered down from before.

Mayor Burkett asked Building Official McGuinness that this is a great idea and has evolved into a great effort. He asked what is specifically different and do they need to have an entire ordinance that adopts and reiterates what the County says or do they need a small ordinance that in addition to the county ordinance, they believe they need these additional items.

Building Official McGuinness addressed the comments made by Mayor Burkett.

Commissioner Salzhauer stated that they can move forward with this and make sure they are stricter.

Town Attorney Arango agrees that once the County adopts their ordinance we can revisit it once the County passes it.

The following individuals from the public spoke: Shlomo Danzinger Jeff Rose Shannon Gallagher Further discussion took place regarding the provisions of this ordinance and the language as well as what the County ordinance would state.

A motion was made by Commissioner Salzhauer to approve the Ordinance on second reading, seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

(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

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.

Town Clerk McCready read the title into the record.

Commissioner Salzhauer provided a summary of the item and explained that this is in order to close the loopholes in the zoning code while the zoning code is being rewritten.

Commissioner Velasquez asked if this is for new construction only.

Commissioner Salzhauer addressed the comments and questions by Commissioner Velasquez.

The following individuals from the public spoke: George Kousoulas Shannon Gallagher Jennifer Zawid

Vice Mayor Paul asked regarding NAVD and would like to confirm NAVD from 92nd to 91st Street.

Building Official McGuinness addressed the question from Vice Mayor Paul.

Mayor Burkett provided his suggestions and comments on the item. He stated he was very annoyed that all the work put into this has been hijacked by three on this commission and does not appreciate it. He asked Town Attorney Recio if the lot coverage is stricter and asked if it is part of the 40. He spoke regarding the magic acre and that allowed for hanky panky. He spoke regarding the measuring as it pertains to NAVD and NGVD. He stated that he is satisfied that this is the right solution but is annoyed that this process has done what it has done.

Town Attorney Recio stated it is stricter and is not part of the 40.

Commissioner Kesl stated that he was not able to read the memo. He spoke regarding the zoning code workshops and how these were identified as loopholes. He spoke regarding the amount of zoning code workshops.

Vice Mayor Paul asked how much more restrictive compared to how it was allowed in the past. She spoke regarding the cover memo and when the lot coverage was changed. She would like an explanation of the lot coverage and her concern is the landscaping and having the right percentage of landscaping.

Town Attorney Recio stated this is more restrictive when you look in MuniCode.

Mayor Burkett stated that it is more restrictive, and they are increasing now the restriction.

Commissioner Salzhauer stated that there were loopholes that were allowing people to build bigger homes.

After a lengthy discussion the following motion was made.

A motion was made by Commissioner Salzhauer to approve the Ordinance on first reading as amended to 8%, seconded by Commissioner Velasquez. 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. Resolution Reaffirming the Town's Commitment to Condemn Anti-Semitic, Hateful and Hurtful Messages and Behavior – Mayor Charles W. Burkett 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" SUPPORTING AN AMENDMENT TO SECTION 54-2 TO BROADEN THE DEFINITION OF ANTI-SEMITISM AS OUTLINED HEREIN; PROVIDING SEVERABILITY CONFLICTS: AND PROVIDING FOR IMPLEMENTATION AND AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk McCready read the title into the record.

Vice Mayor Paul spoke regarding her circulation of the existing ordinance and compared it to the definition of anti-Semitism and stated that the new one makes it more general and removes other protections that were in the ordinance. She stated that section 3 is new and can be added, she would like to keep the language that is in section 54-2.

Mayor Burkett stated that this item is to support the definition from the US State Department and this is from a different organization that deal in this. He stated that there are differences but incorporates everything in the old ordinance and supplements the old ordinance with additional language.

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

The following individual from the public spoke: Naday Alkoby spoke regarding the item and regarding the 3D test.

Commissioner Kesl spoke regarding the language in the resolution and has an issue with some of the language.

Commissioner Salzhauer also commented on the language in the resolution.

Vice Mayor Paul commented on the language in the resolution and that certain language is not being mentioned.

Commissioner Velasquez stated that she supports this and that this should have been part of the consent agenda.

Mayor Burkett stated it does not state replace but amend.

Town Attorney Arango spoke regarding the suggested changes by the

Commission.

Commissioner Salzhauer asked regarding the changes.

Mayor Burkett stated that there will be a proposed ordinance and it will not change the original language it will amend it.

Town Attorney Arango stated that when they prepare the ordinance it will show with underlining the additions and it will show that it will not be changing the original ordinance.

The following individual from the public spoke: Shlomo Danzinger
Jeff Rose

Further discussion took place among the Commission regarding the suggested changes.

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

B. Resolution Urging the Florida Legislature to Oppose Senate Bill 280 – Commissioner Eliana Salzhauer

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.

Town Clerk McCready read the title into the record.

Commissioner Salzhauer introduced the item and explained what this resolution would accomplish.

Commissioner Kesl agrees and hopes every town and municipality would pass this as well.

Vice Mayor Paul also agrees with this resolution.

Mayor Burkett asked if it is a grab bag.

Town Attorney Arango stated that it specifically addresses Senate Bill 280. She read the bill into the record. She explained what would happen if someone would challenge this ordinance.

A motion was made by Commissioner Salzhauer to extend the meeting for 5 minutes, seconded by Commissioner Velasquez.

The following individuals from the public spoke: Jennifer Zawid Shlomo Danzinger George Kousoulas

Vice Mayor Paul spoke regarding an issue with regulation in Hollywood and agrees with this resolution.

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

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

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.

The following individuals from the public spoke:

Deborah Duvdevani spoke regarding the Hillcrest project that was heard at the January 27, 2022 Planning and Zoning Board Meeting.

Roch Dube spoke regarding Hillcrest project and spoke regarding marine dock. George Kousoulas spoke regarding the Surfside from the 1970s are gone and spoke regarding the history of Surfside.

Mary Swane spoke regarding the Hillcrest project and the effects that it will have to her building.

Lars Skaarup spoke on behalf of Horace Henderson regarding referendum no. 5 of the March 15, 2022 election. He encourages the commission to remove the Zoning in Progress that has to do with pools.

Jaime Rubinson spoke regarding accomplishing things and working on behalf of the residents.

Jalil Thurber spoke regarding the marine docks.

Jeffrey Platt thanked the Commission for their service and spoke regarding development in the Town.

Marianne Meischeid spoke regarding walkability in Town.

Shannon Gallagher spoke regarding something circulated about her residency and she assured that since 2020 all her information shows her being a resident of Surfside. She also spoke regarding development in Town.

Shlomo Danzinger addressed the comments made by Ms. Gallagher.

Jeff Rose spoke regarding development and nobody wants Surfside to become Sunny Isles. He spoke regarding the zoning code and agenda items that they have not been able to address.

Tricia Fowley spoke regarding the Hillcrest and was glad to see some of the new ordinances. She spoke regarding seismic monitors and who is reading and receiving those reports.

Bizar Torche's email was read into the record regarding the Four Seasons excavation.

Bob Fisher spoke regarding the Town seal and spoke regarding a scam alert. Jennifer Zawid spoke regarding a comment made by a previous speaker about this being the holocaust and little Jerusalem and is asking the Commission to speak out.

Commissioner Salzhauer addressed the comments made and it is unacceptable to compare anything to the holocaust and addressed the development comments made.

Commissioner Kesl addressed comments made by the public as it pertains to the docks and putting closure to that topic. He stated he likes the diversity of the people in Surfside. He also spoke regarding the development comments made.

Commissioner Velasquez addressed the concerns from the public and spoke regarding development and looking at it and for it to be done in a manner that would not affect other buildings but to stop development completely is not feasible. She stated that they do not know how long it will take to determine what happened at the Champlain Tower South because our specialist has not been able to obtain access to the site. She stated that she does believe that there are some things that can be done to protect the property that can be implemented. She also addressed the comments made regarding the docks.

Vice Mayor Paul addressed the comments made by the different public speakers.

Mayor Burkett addressed the comments made by the public speakers as it pertains to development.

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 next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

E. Art in Public Spaces Committee – Commissioner Charles Kesl

Deferred to next meeting.

F. Demolition by Neglect - Mayor Charles W. Burkett

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

K. Amend Tourist Board Ordinance – Commissioner Nelly Velasquez

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

N. License Plate Readers – Mayor Charles W. Burkett

Deferred to next meeting.

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

Deferred to next meeting.

P. Permit Process - Mayor Charles W. Burkett

Deferred to next meeting.

Q. High Water Bill – Mayor Charles W. Burkett

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

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

Deferred to next meeting.

X. Private Security Service – Mayor Charles W. Burkett

Deferred to next meeting.

Y. Remote Participation by Commissioners – Commissioner Charles Kesl Deferred to next meeting.

Z. Budget Meeting Fiasco - Commissioner Eliana Salzhauer

Deferred to next meeting.

AA. Tree Program - Andrew Hyatt, Town Manager

Deferred to next meeting.

BB. Farmer's Market – Mayor Charles W. Burkett

Deferred to next meeting.

10. Adjournment

A motion was made by Commissioner objection at 11:35 p.m. The motion ca	,
Accepted thisday of	, 2022.
Attest:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC Town Clerk	



TOWN MANAGER'S REPORT MARCH 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 are coming into the Building Department lobby in record numbers to inquire about and apply for building permits for a wide variety of construction projects. As anticipated, permit numbers have significantly increased over prior year again this past February. This also means many more plans reviews and inspections for our entire Building Team.
- **B.** Building Department Permit and Inspection numbers for the month to date continue to soar over prior months as follows: February 2021: 128 Building Permits issued; 260 Inspections performed; 27 lien searches completed. These numbers continue to increase over prior year.
- **C.** Maria Tribin and the entire permitting staff continue to rise to this challenge as permitting workload continues to grow. Thanks to their diligent work in expediting building permits through the permitting process, our backlog of pending permit applications has been significantly reduced. Building Inspections continue to soar over prior years with February marking the largest number of inspections ever. Staffing levels will need to be adjusted to meet this increase in customer demand.
- D. The Building Department is grateful to announce the adoption into law by Miami-Dade County of the acceleration of the 40 Year Building Recertification Program amending Miami-Dade Code Chapter 8 Section 11 Recertification of Buildings. To commence on second reading later this month, this landmark legislation accelerates the recertification period of multi-family and commercial buildings from 40 years to 30 years of age. Champlain Towers South collapsed at only 39 years of age. Finally answering the Building Department's call for responsible change, this historic move will dramatically increase life safety in buildings throughout Miami-Dade County, and make sure this tragedy never happens again. This is the most significant change in building code safety in Florida since the consolidation of the Florida Building Codes 22 years ago in response to Hurricane Andrew which decimated Homestead. We anticipate this major change, not

only at the county level to the Miami-Dade Code, but also a change at the state level amending the 2023 Florida Existing Building Code with the addition of a chapter entitled: "Buildings 30 Years or Older".

E. The Building Department has begun an internal implementation of Tyler Software, customer service/contractor portal, for online permitting, inspections requests and plans review. This will greatly increase speed and efficiency of permits issued, raise levels of service and eliminate most lobby traffic which now takes up much of our staff's time. Roll out to the public is expected in the next few months.

Code Compliance Division

- A. Code Compliance Cases: As of February 24, 2022, the total number of active, open cases being managed is 179. Of these cases, 66 cases are still under investigation and are working towards compliance; 13 cases are on-hold; 23 cases are in the Special Master hearing queue; 13 cases are in post-hearing status; 23 code cases have been issued liens and remain unpaid; 41 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 February, the Code Compliance staff has conducted an approximate of 117 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 February 24, 2022, 40 cases have paid/settle for a total monetary collection of \$21,381.76.
- 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 96 Code lien searches for the month of February 2022.
- **D.** Th Code Compliance Division has continued to assist the Town Clerk's Office with public records requests.
 - **E.** The Division presented 13 Code Compliance cases to the Special Master.

Community Services & Public Communications Department

- A. The Tourist Bureau successfully hosted the second Third Thursdays event for 2022. With 350+ attendees, the event was a success despite some rain. The FullMoonTown March event will take place on Thursday, March 17.
- **B.** In February, CSPC completed three videos related to the Town election and ballot questions, as well as assisted with a community workshop. Additional messaging was provided to all multi-family units and sent out with the water bills to provide residents with more information on the upcoming election. Information has also been shared on the Town's new digital sign and email newsletters.
- **C.** The Town has partnered, for the second year, with the Village of Bal Harbour to hold a shoe drive for the homeless in Miami-Dade County. CSPC has created new collateral and marketing items to promote the drive, which runs March 1 31.

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. AFSCME Florida Council 79**: AFSCME and the Town held its second collective bargaining on February 16th, 2022. The third collective bargaining meeting is scheduled for in 1:30pm on March 21st, 2022.
- **D.** Training: Facilitated a Post Union Election Issues training for department directors.
- **E.** Classification and Compensation Study: Reviewed and discussed initial draft solution file with Evergreen.
- **F.** *EEOC Discrimination Complaints:* Awaiting on response with regards to EEOC complaints filed by Mr. Victor May.
- **G. 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 and other related questions.

- **H. Interviews:** Conducted interviews for Assistant Public Works Director, Refuse Collector, General Service Worker and Maintenance Worker W & S.
- I. **Promotions:** Facilitated information and participated in discussions regarding Parks and Recreation promotions.

J. 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 January 31, 2022 – Attachment "A"

Parks and Recreation Department

Parks and Recreation continued to operate the following facilities: The 96th 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.

Our 14th Annual 5k run/walk on the beach was a success! There was a total of 164 participants. After a 2 year hiatus due to beach renourishment and COVID-19, everyone was happy to participate in the event once again.

Spring programing session II is underway. Tennis and Soccer Registration continue to be full and are the most popular programs currently. Spring Camp Registration is also underway. Spring Camp will be run by PEAR Programs and will take place from March 21st – March 25th, 8am – 6pm at the Community Center. Our VOLT program continues to attract new teens. Thanks to Pelican Harbor, our native neighbors Mowgli the Owl and Basil the Opossum recently visited VOLT, Surfside's teen program, for an exciting evening. Our teens learned about the importance of preserving and protecting our native species and ecosystem through educational and scientific means.

The 96th Street Park design continues to move forward. The LEED part of the design process is under way and going into final review. The Town has received the 90% CD Draft. Legal and Building department have reviewed the document and made the necessary changes. Town administration has approved the RFQ & Evaluation timeframe. Savino Miller is working on the scope of services and will submit a draft for the Town to review. 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.

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.

Our new Parks and Recreation website is set to go live the week of February 28th, 2022.

Planning Department

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

Police Department

A. Police Department Statistics (February 1 – February 21, 2022)

- o Traffic Citations 223
- o Parking Citations 566
- o Arrests 3
- Dispatch Events 765
- o Incident/Crime Reports 44

B. Commission for Florida Law Enforcement Re-Accreditation

Town Manager Andrew Hyatt, Chief Rogelio J. Torres Jr., Captain John Healy and Accreditation Manager Jill Smith represented the Police Department at the Commission for Florida Law Enforcement Accreditation (CFA) conference in St. Augustine, Florida on February 24, 2022. The Police Department proudly achieved re-accreditation status for the fourth consecutive cycle.

C. Enhanced Parking Enforcement Details in the Abbott Lot

Enhanced parking enforcement details commenced in January to address the continuing issue of construction workers and/or commercial vehicles parking in the Abbott Municipal Parking Lot. The detail included dissemination of flyers, communicating with the construction companies regarding the Town code, and parking personnel continually monitored the lot. Since January 25, 2022, eight vehicles in violation have been towed. New signage in reference to construction parking have been displayed throughout the Abbott Lot. These parking enforcement efforts will be continued and monitored daily.

D. Police Events/Community Outreach

- o The Florida Department of Transportation (FDOT) District Six in conjunction with the Miami Beach Police Department will host a multi-agency traffic safety enforcement and educational detail on March 3, 2022 from 8:00 a.m. to 1:00 p.m. Law enforcement will be focusing primarily on aggressive driving (as part of the Drive Safe campaign), distracted driving, red-light running, speeding, seatbelt use, move-over law compliance, bike/pedestrian safety compliance and general traffic safety. Sergeant Jay Matelis, Officer Loxley Arch and Officer Jose Valino will participate in this event.
- o The Town of Surfside's Third Thursday event will take place March 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 Police Department is honoring Surfside Police Officer Donald McGavern on the two-year anniversary of his passing with a Memorial Service on March 19, 2022 at 10:00 a.m. at the Paws Up Dog Park.
- o Code Enforcement will host their monthly Special Master Hearing March 23, 2022 from 10:00 a.m. 2:00 p.m. in the Commission Chambers.
- The Surfside Police Department will host a community blood drive on March 30, 2022
 from 11:00 a.m. 4:30 p.m. in the Town Hall municipal parking lot.
- o The Bike with the Chief community initiative will return on March 30, 2022 at 5:00 p.m. at Town Hall.
- o The monthly Coffee with the Cops is March 31, 2022 at 10:00 a.m. at Starbucks.

II. SEE CLICK FIX REPORT

Requests filtered by request category that have been created 02/01/2022 - 02/28/2022

Request Category	Created in period	Closed in period	Average days to close
96 Street Park (P & R)	1	1	0
Beach Issue	1	0	
Dog Stations (P & R)	1	1	2.4
Other	3	0	
Police (Safety Concern)	1	1	0

Requests filtered by request category that have been created 01/01/2014 - 02/28/2022

Request Category	Created in period	Closed in period	Average days to close
96 Street Park (P & R)	12	12	1.9
Beach Issue	239	219	24.7
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)	20	20	2.5
Drainage/Flooding (PW)	46	38	67.6
Graffiti (PW)	5	3	17.5
Hawthorne Tot-Lot (P & R)	7	7	22.5
Other	343	304	19.5
Police (Safety Concern)	109	108	5.9
Pothole (PW)	8	8	23.8
Solid Waste (Commercial) (PW)	8	7	4.8
Solid Waste (Residential) (PW)	39	29	16.4
Street lights (PW)	81	64	92.1
Surfside Dog Park (P & R)	12	12	15.9
Utilities (Water/Sewer) (PW)	49	36	23.9
Barking Dog	13	13	12.2
Beach Patrol	8	7	2.6
Parking Issue	113	108	4.1
Construction Issues	51	41	13.7
Dead Animal	8	6	10.4

III. TOWN PROJECTS

96th Street Park

Construction Documents are submitted, the Construction RFQ will be advertised and the Park permits applied for. The kayak launch permit applications have already been submitted and are under review. When the RFQ process is complete, the Town Commission will be asked to approve the selected construction price proposal or require value engineering. Construction can begin once the price proposal is approved and all permits are obtained and is expected to last approximately 18 months.

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 JANUARY 31, 2022

33% OF YEAR EXPIRED (BENCHMARK)

Agenda Item#

1 of 3

March 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-January 31, 2022 (Reserves)	\$ 10,103,055 6,108,953 3,994,102 20,920,841 \$ 24,914,943	\$16,592,940 \$16,592,940	1
TOURIST RESORT FUND - 102 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-January 31, 2022 (Reserves)	\$ 1,735,996 1,095,455 640,541 4,063,018 \$ 4,703,559	\$3,517,323 \$3,517,323	
POLICE FORFEITURE FUND - 105 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-January 31, 2022 (Reserves)	\$ 32,887 \$ (32,887) 221,034 \$ 188,147	\$107,159 \$107,159	
TRANSPORTATION SURTAX FUND - 107 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-January 31, 2022 (Reserves)	\$ 51,682 167,085 (115,403) 547,674 \$ 432,271	\$287,097 \$287,097	
BUILDING FUND - 150 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-January 31, 2022 (Reserves)	\$ 429,977 484,442 (54,465) 1,913,914 \$ 1,859,449	\$1,125,468 \$1,125,468	
CAPITAL PROJECTS FUND - 301 REVENUE EXPENDITURES Net Change in Fund Balance Fund Balance-September 30, 2021 (Unaudited) Fund Balance-January 31, 2022 (Reserves)	\$ 616,600 527,685 88,915 5,894,823 \$ 5,983,738	\$332,500 \$332,500	

NOTES:

- 1) Many revenues for January 2022 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-January 31, 2022 (Reserves)	\$ 1,343,555 998,187 345,368 (1,383,444) \$ (1,038,076)	\$4,473,190 \$4,473,190	30% 22%
MUNICIPAL PARKING FUND - 402 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-January 31, 2022 (Reserves)	\$ 571,167 451,278 119,889 1,754,091 \$ 1,873,980	\$1,264,180 \$1,264,180	45% 36%
SOLID WASTE FUND - 403 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-January 31, 2022 (Reserves)	\$ 696,583 625,517 71,066 (247,933) \$ (176,867)	\$1,811,003 \$1,811,003	38% 35%
STORMWATER FUND - 404 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-January 31, 2022 (Reserves)	\$ 289,138 617,052 (327,914) 3,654,490 \$ 3,326,576	\$889,000 \$889,000	33% 69%
FLEET MANAGEMENT FUND - 501 REVENUE EXPENDITURES Change in Net Position Unrestricted Net Position-September 30, 2021 (Unaudited) Unrestricted Net Position-January 31, 2022 (Reserves)	\$ 212,344 470,912 (258,568) 1,091,990 \$ 833,422	\$780,044 \$780,044	27% 60%

Jason D. Greene, Assistant Town Manager/CFO

Andrew Hyatt, Town Manager

Town of Surfside Net Funds Historical Balances Period 2018 - January 2022

FUND	9/30/2018	9/30/2019	9/30/2020	9/30/2021	1/31/2022	CAGR (a)
General	\$ 10,902,050	\$ 14,984,105	\$ 18,286,748	\$ 20,920,841	\$ 24,914,943	24.3%
Tourist Resort	356,313	1,640,525	2,109,658	4,063,018	4,703,559	125.1%
Police Forfeiture	159,527	105,725	168,289	221,034	188,147	11.5%
Transportation Surtax	263,292	328,377	442,856	547,674	432,271	27.7%
Building	2,760,673	2,563,517	1,991,388	1,913,914	1,859,449	-2.0%
Capital Projects	2,158,902	3,048,582	4,899,128	5,894,823	5,983,738	39.8%
Water & Sewer	(2,546,398)	(2,367,098)	(1,733,610)	(1,383,444)	(1,038,076)	-18.4%
Municipal Parking	943,315	1,198,948	1,293,993	1,754,091	1,873,980	23.0%
Solid Waste	601,201	641,636	219,615	(247,933)	(176,867)	-174.4%
Stormwater	3,203,878	3,200,132	3,205,050	3,654,490	3,326,576	4.5%
Fleet Management	-	585,363	825,468	1,091,990	833,422	N/A
Total	\$ 18,802,753	\$ 25,929,812	\$ 31,708,583	\$ 38,430,498	\$ 42,901,142	22.9%

⁽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.

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		DEVELOPMENT APPLICATION PROCESS (2012 - PRESENT)	LICATION PI	ROCESS (2012 - I	PRESENT)				
			Densit	Density/Intensity	Variances	2	Building Permit	ermit	
Application Date Location	Project Description	Zoning Process	Allowed	Approved	Requested	Received A	Received Application No.	Status	Status
Ongnal submittal: 7/13/2012 Site plan amendment: 4/16/16 9011 Collins Avenue	Ongnal submittal: 7/13/2012 Surf Club - restoration of the famous Site plan amendment: surf club histone structure and for the surf club histone structure and for the construction of new improvements	DRG -7/31/7012, 8/23/7012, site plan amendment: 5/16/2016, 8/4/2016, 3/9/2017, 5/11/2017 PRZ - Original site plan: 9/27/2012, site plan amendment: 8/31/2011 R/31/2011 10/10/2017 Site Plan Ext -	762 units	257 units	None	None	13-727	Issued	fort Pariners has indicated a desire to obtain a final CO and Landscape Landscape approval needs to be resolved. A landscape the approximation 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 - 1/27/2014 TC - 10/28/2014 Str Plan Ext -	3 story expa squ	3 story expansion of 8,558.9 square feet	None	None	14-509	Issued	The Applicant is requesting revisions in the landscape plan. The Bidg 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 9133 Colins Ave & 9149 Colins Ave	Surf Club II - Redevelopment of program of property with a multi-family residential progret and renovation of existing Tr. 2/13/2018, 4/13/21, 6/8/21 Sche bistoor structure. Reduction of Step Plan Erd - Step Plan Erd - Step dwelling units and hotel cooms. Meeting, Applicant requested retreast Revisions to expand underground parking and revisions to balkony design Permit Due Date December 56, 2021.	4.29/2021 duled pproved by TC on 7/28 TC no of site plan due to FL Covid extension - New	199 units	Reduced to 31 condo units, 26 hotel rooms	None	None	20-536	Foundation 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	JONS - VOR para summent. 3 FJ 02/10.01 v 12/10.01 Nevised submittals (627/2018, 8/28/2018, 11/1/18 P&Z Onginal approval: 11/18/2016, Revised approval: 11/29/18 TC - Original approval: 11/19/2016, Approved February 26, 2019 Site Plan Eur. Request submitted to extend approval due to emergency declaration (Hurricane Dorlan). Additional Cowid and Tropical Storm Elsa extensions - New Permit Due Date February	250 units	Request is for 205 units	None	None	18-610	Has not applied for permit yet	information supplied by the Eden Surfside LLC to Town Bidg Dept on 11/30/21 indicates desire to obtain a foundation for permit; MDC receipts for impact fees of \$1,105,679.93 [Pd. have been received.
5/4/2016 8955 Collins Ave	Residential Condominiums	DRG - 6/20/2016, 7/27/2016 P&Z - 10/27/2016 11/10/2016 TC - 11/10/2016 Stre Plan Ext -	110 units	16 units	None	None	16-602	issued	A handscape 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 comments in has the comments in the comments in the comments and plant in the comments and plant in the comments and plant in the comments and comments and comments and comments are consistent or comments.

		Q	PEVELOPA	IENT APPLICATION	DEVELOPMENT APPLICATION PROCESS (2012 - PRESENT), Cont.				
Application Date			De	Density/Intensity	Variances		Buildir	Building Permit	
Location	Project Description	Zoning Process	Allowed	Approved	Requested	Received	Application No.	Status	Status
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 TT - 4/14/2018, Approval Expired Site Plan Ext -	8 units	4 units	None	None		Site Plan approval has expired	
5/19/2017 8995 Collins Ave	Surf House - site plan approval for expansion to existing multi-family building deemed architecturally significant per Sec. 90-33(3) of the Town Code.	06G - 6/19/2017, 8/24/2017, 9/24/2017, 9/24/2017 10 existing multi-family building deemed 10/27/19 10-12/10/19 10-12/10/19 10-12/10/19 Site Plan Ex - 2 COVID Extensions New Permit Deadline of the Town Code.	99 units	Resolution # 19-2661 approved by Town Commission on December 10, 2019 for 12 stories, 34 units and 72 parking spaces.	Resolution # 19-2661 approved by Town Original application requested 3 Variances. Commission on December 10, 2019 for 12 Final application did not include any Variances. stories, 34 usits and 72 parking spaces.	None		Has not applied for permit yet	The Town Planner propared a Final Sign-Off for Planning and Zoning on November 17, 2021. The Building Deartment will need to approve the structural portion of the project, including the retention and or incorporation of features described in the Applicant's submission in support of the building permit submitted to the Town.
Orignal 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, 11/19/2018 Meeting Fending, 2/25/2017, 03/23/2018, DRZ - 01/31/19 PRZ recommended approval (Requires PRZ Recondiside) 12/25/2021 PRZ Denied Plan 17 Denied by the Commission (requires reconsideration by 17 To Approval 5/26/21	33 units	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 \$/26/2.1
7/3/2019 9580 Abbott Ave	Young Israel Variance Request to eliminate landscaping to provide for a handicaped accessible ramp	DRG - N/A P&Z - 8/29/2019 TC - 10/29/19 SRe Plan Ext -			1 requested: eliminate landscaping along the north side of the building	None			
1/7/2020 8926 Collins Avenue	DRG - N/A Arte request to have FPL vault encroach into Pa22 - 1/30/2020 landscape buffer. Site Plun Ext -	DRG - N/A PRZ - 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 DRG - 1/14/72 - Via Zoom - Approved Pro unit ME Bidg with 33 parking spaces in the Paz 1/27/72 - Deferred to 2/24/32 R& H12 Zoonley District on the north side of the Paz 3/24/22 - Recommended approval Stasway and south side of the Carlisle.	Site Plan approval to develop an 11 story, 14 DRG - 1/14/22 - Via Zoom - Approved Proceeding to P & Z unth MF Bidg with 31 parking spaces in the P&L - 1/17/22 - Deferred to 2/24/22 R&Z Migg Extra Coning District on the north side of P&L - 2/24/22 - Recommended approval Soaway and south side of the Carliste.	58 units	Proposing 14 units	None				DRG recommended on January 14, 2022 proceeding to P&Z on January 13, 2027. After discussion, P&Z decided to continue the Item to the February 24, 2022. P&Z recommended approval at the February 24, 2022 meeting.



February 25, 2021

Jason D. Greene, CGFO, CFE, CPFIM Assistant Town Manager / Chief Financial Officer Town of Surfside 9293 Harding Avenue Surfside, Florida 33154 Phone (305) 861-4863 Ext. 225

RE: KEITH Progress Report – February 25, 2022

Project Name: Abbott Avenue Drainage Improvements - Phase 2

Project Location: Town of Surfside
Our Project/Proposal Number: 11494.01

Section 1 - Surveying Services - (e)

Task 101 Topographic Survey (e)

✓ Survey Completed (02/02/2022).

Section 2 - Subsurface Utility Engineering Services - (e)

Task 201 Horizontal Designation Services (e)

✓ Field Work Completed (12/29/2021).

Task 202 Location Services (e)

On-hold pending completion of Preliminary Engineering Design.

Task 203 Utility Mapping (e)

✓ Field Work Completed (12/29/2021).

Section 3 - Geotechnical Engineering Services (Subconsultant - UES) - (f)

Task 301 Geotechnical Exploration and Report (f)

✓ Dig Ticket request underway.

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

Section 4 – Civil Engineering Design Services- (c)

Task 401 Preliminary (30%) Civil Engineering Design (c)

✓ Preliminary Design is 75% Complete

- On-going existing utility record search underway.
- ✓ Preliminary Stormwater Report is 75% Complete.
- ✓ On-going CAD drawings.
- Permit Application setup.
- ✓ Stormwater Permitting Pre-Application to be Schedule on March.

Task 402 Design Development 60% Civil Design Documents (c)

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

Task 403 Design Development 90% Civil Design Documents (c)

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

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

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

www.KEITHteam.com

Task 405 Engineering Permitting (c)

- ✓ 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 (c)

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

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

✓ Received FDOT GIS Access.

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

Task 501 Preliminary (30%) Mechanical and Electrical Engineering Design (c)

✓ On-hold pending completion of Survey.

Task 502 Design Development 60% Mechanical and Electrical Design Documents (c)

On-hold pending completion of Preliminary Engineering Design Task 501.

Task 503 Design Development 90% Mechanical and Electrical Design Documents (c)

✓ On-hold pending completion of 60% Documents Task 503.

Task 504 Final (100%) Mechanical and Electrical Construction Documents (c)

On-hold pending completion of 90% Documents Task 504.

Section 6 – Structural Engineering Design Services (Subconsultant – Ingelmo Associates) (c)

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

✓ On-hold pending completion of Survey

Task 602 Design Development 60% Structural Design Documents (c)

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

Task 603 Design Development 90% Structural Design Documents (c)

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

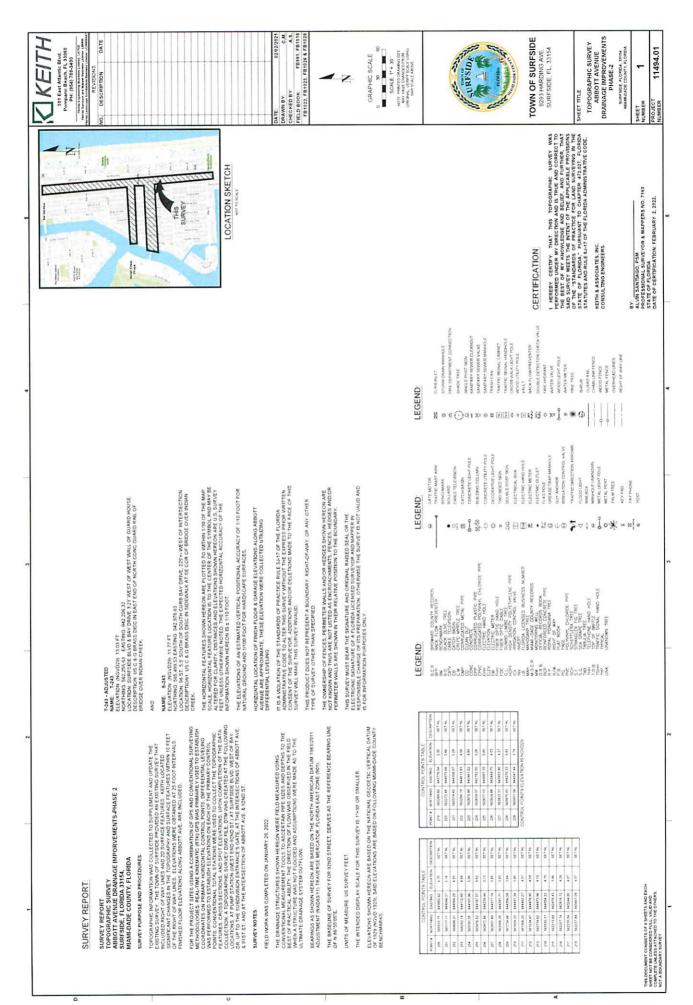
Task 604 Final (100%) Structural Construction Documents (c)

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

Section 7 – Bid Assistance Services – (h)

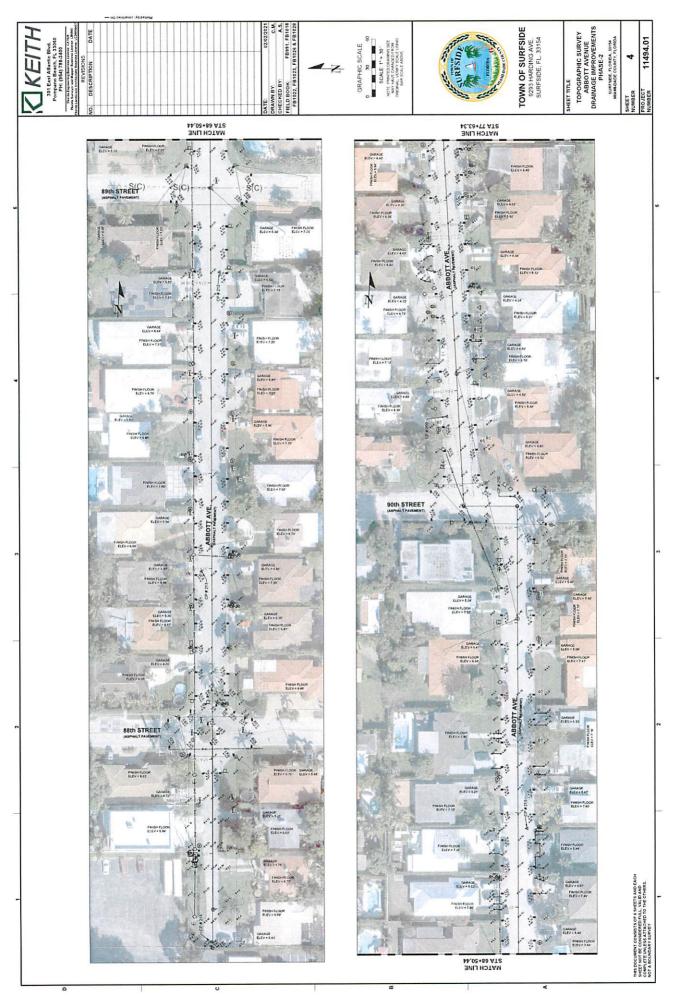
Task 701 Bidding Services (h)

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

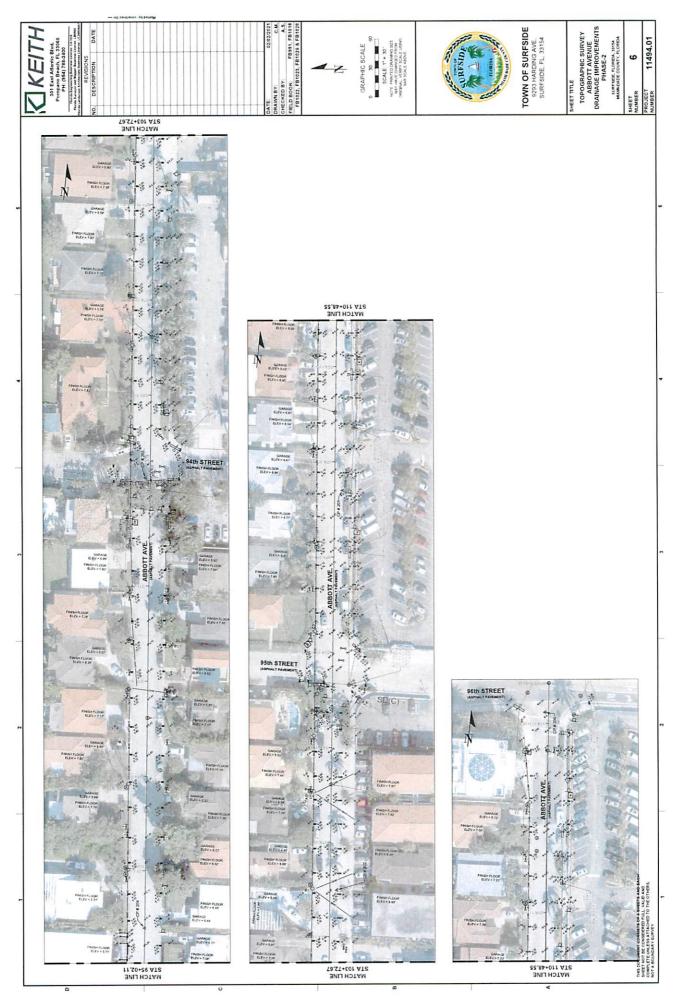














TOWN OF SURFSIDE Office of the Town Attorney MUNICIPAL BUILDING 9293 HARDING AVENUE SURFSIDE, FLORIDA 33154-3009 Telephone (305) 993-1065

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: March 1, 2022

SUBJECT: Office of the Town Attorney Report for March 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:

February 7, 2022 - Tourist Board Meeting (No quorum when roll call occurred)

February 8, 2022 - Regular Town Commission Meeting

February 23, 2022 - Joint Town Commission and Planning and Zoning Board Meeting

February 24, 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. 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.

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, as well as continued efforts to investigate the cause of the CTS collapse.

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, 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, assisted with the State of Florida FIND agency on determination of resident kayak launch at seawall at 96th Street Park, kayak permitting and contracts associated with design and construction 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 96th 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 88th 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 96th 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 (1st Budget Hearing)
- Resolutions Approving Final Millage Rate and Budget for FY 2022 (2nd 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 89th 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 96th Street Park Renovations
- Resolution Directing the Manager to Pursue the Closure of 88th 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 Implementing "Accelerate, Don't' Wait", Approach for 30-year Recertification of Threshold Buildings
- 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"
- Ordinance Amending 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
- Ordinance Amending Town of Surfside Code of Ordinances By Amending Section 54-2.
 "Consideration of Anti-Semitism and Hate Crimes In Enforcing Laws", to Strengthen and Amend the Definition and Examples of Anti-Semitism that may be Considered in the Evaluation of Evidence of Anti-Semitism in Enforcing Laws, Including Examples Of Anti-Semitism Related To Israel
- Resolution Expressing Opposition to Proposed Florida Senate Bill 1024 and House Bill 741, "Net Metering," Revising Legislative Findings Relating to Redesign of Net Metering to Avoid Cross-Subsidization of Electric Service Costs Between Classes of Ratepayers

Resolution Urging the Court to Consider Disbursing a Portion of Funds Already
Collected to Living Former Residents of The Champlain Towers South and to Consider
Disbursing New Funds to Victims as Collected.

<u>Litigation:</u> 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 11th 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. Discovery is ongoing.

Solimar Condominium Association, Inc. v. Town of Surfside, Case No. 2019-025481-CA-01 in the Circuit Court 11th 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. An Executive Session with the Town Commission occurred on January 6, 2022 as part of the mediation process. The Court will set a hearing to hear motions for summary judgement expected in April, 2022.

<u>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.</u>

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 February 9, 2022, the FAA filed its response brief to the Town's consolidated Opening Brief. The FAA argues in its response that the FAA satisfied all the requirements of law in adopting the Metroplex, and other procedural/standing arguments against petitioners' claims. Reply briefs are due by March 9, 2022. The Town has engaged a sound consultant firm to assess the actual increases in noise at designated location(s) in Town from the new flight procedures. The Town's aviation consultant is evaluating the data against the FAA's assessment regarding such impacts.

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 current 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, continued efforts to access the CTS Site and Off-Site Facilities for Investigations as to the cause of the collapse, all in connection with 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, 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; 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 96th Street park permitting and implementation; approval and implementation of Savino Miller design for 96th Street Park and construction contract for 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, and post-election transition; Memorial site for CTS and closure of vehicular access on 88th Street; Ordinance implementing "Accelerate, Don't' Wait", approach for 30-year recertification of threshold buildings".



Town of Surfside

PARKS & RECREATION COMMITTEE MEETING

MINUTES

January 24, 2022 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 Frank MacBride, Jr.

Committee Member Marta Olchyk

Committee Member Lara Frank (arrived at 7:01 p.m.)

Absent: Commissioner Nelly Velasquez, Commission Liaison

Also, present: Tim Milian, Parks and Recreation Director

Evelyn Herbello, Deputy Town Clerk

2. Agenda and Order of Business

3. Appointment of Vice Chair

A motion was made by Chair Logan to appoint Committee Member MacBride as Vice Chair of the Parks and Recreation Committee, seconded by Committee Member Frank. The motion carried with a 5-0 vote.

4. Approval of Minutes:

November 15, 2021 Parks and Recreation Committee Meeting

A motion was made by Vice Chair MacBride to approve the November 15, 2021 Parks and Recreation Committee Meeting Minutes, seconded by Committee Member Olchyk. The motion carried with a 5-0 vote.

5. 96th Street Park Update

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 spoke regarding the permitting process and RFP process. He stated they will get the draft by Friday. He spoke regarding the LEED certification meeting he attended. He stated that mid-February is the time frame they are looking at in putting out the RFP.

Chair Logan stated that it would then take about 60 days after that.

Parks and Recreation Director Milian addressed the comment made by Chair Logan and the obstacles during the summer months but they will start as soon as they are able to.

6. Rescheduling Family Fun Day (March 13, 2022)

Parks and Recreation Director Milian advised the Committee Members that the Family Fun Day was being rescheduled and stated the reason for the rescheduling. He stated that they ran into some issues in the last couple of weeks with the vendors. He stated that he met with the Tourism Bureau and they also were having issues with their vendors. He stated that food is the most important part of this event but needed to have full commitment from the vendors. He stated that hopefully moving it to March, they will have good weather and have the food vendors available. He also stated that staffing was also an issue.

Vice Chair MacBride stated it would be better since the children will be excited for Spring Break.

Parks and Recreation Director Milian also gave an update on the upcoming 5K race. He stated that special events are very program oriented and they program months in advance and his concern was the food vendors.

7. Winter Camp Recap

Parks and Recreation Director Milian gave a recap of the Winter Camp that took place. He stated that they had a lot of issues in December due to COVID but they were able to work with PEAR which helped them with the camp in the past and they assisted tremendously.

8. Winter Wonderland Recap

Parks and Recreation Director Milian gave a recap of the Winter Wonderland event that took place. He stated that they had 478 people that attended which was a good showing and a steady flow. He stated that they received a lot of positive feedback.

Chair Logan stated it was the hottest Winter Wonderland ever. She asked how the number compared to pre-COVID.

Parks and Recreation Director Milian stated that pre-COVID was 500.

Committee Member Olchyk stated that it was surprising that so many people attended.

Parks and Recreation Director Milian spoke regarding the Halloween event and the reservation system they started which worked very well and is considering making the reservation process permanent.

9. Spring and Summer Camp Update

Parks and Recreation Director Milian gave an update of the upcoming Summer Camp. He stated that last year they used PEAR and stated that if they did not have PEAR in place, especially after the collapse, it would have been difficult to staff. He stated that they were able to help with staffing. He stated that they were a huge benefit to have them here and will use them for Spring Camp and possibly for Summer as well.

Committee Member Frank asked if the Town has a budget to have more staffing.

Parks and Recreation Director Milian stated that they do have a pay study out there that they are waiting to have completed and they are also in the process of creating a union but until that process is complete, they are in a holding pattern.

Chair Logan commented on the staffing issues all around and the issue with the increase of pay.

Parks and Recreation Director Milian stated that there is always a shortage on lifeguards due to the skills and course they need to take to be certified. He stated that they will be starting a junior lifeguard program as well. He spoke regarding the course and certification process for lifeguards.

Committee Member Frank spoke regarding the aquatics and whatever can be done to help that area.

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

The following individual from the public spoke:

Jeff Rose spoke regarding starting the new park in the Summer, that way you only loose one fall season instead of two. He stated that for the Family Fund Day to have

some kosher food. He spoke regarding opening up the street ends since the parks will be closed.

Parks and Recreation Director Milian stated that they do have a Kosher corner.

Chair Logan asked if there are other parks that will allow us to use their facilities during the time the park is closed.

Parks and Recreation Director Milian stated that they are looking at Haulover but they are not zoned for athletic activities. He stated they might also have a possibility of others, but they are limited and they are looking to see what can be done.

11. Next Meeting: February 28, 2022 – Change of Date Due to President's Day Holiday

Deputy Town Clerk Herbello asked the Committee that due to the President's Day holiday, the meeting needed to be changed from February 21, 2022 to February 28, 2022.

Consensus was reached by the Committee Members to have the meeting on February 28, 2022.

Vice Chair MacBride asked Parks and Recreation Director Milian if he needed anything for the Community Center before this Commission leaves.

Parks and Recreation Director Milian stated that they will be putting in for new air conditioning units and minor painting. He stated the major things have been taken care of.

Vice Chair MacBride asked regarding additional equipment for the park and if the snack bar is coming back and when his contract is up.

Parks and Recreation Director Milian stated that his contract comes up next year.

Committee Member Tatum commented on his prices being too expensive and suggested for them to be more affordable.

Parks and Recreation Director Milian addressed the comments made by Committee Member Tatum.

Committee Member Olchyk asked why all the classes are on the same schedule, starting and ending at the same time. She asked if the Senior Programs are going to take place.

Parks and Recreation Director Milian stated that they try to keep everything uniformed as possible. He stated that the Senior Programs are going to take place

and there was a survey that was done. He stated that they gave out a survey to see what the seniors wanted.

Chair Logan asked how big the bus is for the senior program trips.

Parks and Recreation Director Milian addressed the comment made by Chair Logan.

Committee Member Frank asked regarding the bike racks.

Parks and Recreation Director Milian stated that they did order the bike racks and they will hold 8-10 bikes and will have a fish design.

Committee Member Frank asked regarding the concession stand and the contract. She mentioned that she understands that kosher food is more expensive and asked if the Committee is able to weigh in on which vendor is chosen for the concession stand.

Parks and Recreation Director Milian stated that there is an RFP process and that RFP goes out and the Committee does have an input.

Discussion took place among the Committee Members regarding the process of the RFP for the concession stand and if there is a possibility of running it inhouse.

12. Adjournment

A motion was made by Vice Chair MacBride to adjourn the meeting without objection at 7:41 p.m. The motion received a second from Committee Member Olchyk. The motion carried with a 5-0 vote.

Respectfully submitted:

Accepted this 28 day of 4 bevale, 202

Retta Logan, Chair

Attest:

Evelyn Herbello Deputy Town Clerk



Town of Surfside PLANNING & ZONING BOARD AGENDA

JANUARY 27, 2022 - 6:00 p.m.

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

1. Call to Order/Roll Call

Chair Frankel called the meeting to order at 6:00 p.m.

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

Bravo, Board Member Randi MacBride, Board Member James

MacKenzie and Alternate Board Member Carolyn Baumel.

Absent: Mayor Charles W. Burkett

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

2. Town Commission Liaison Report – Mayor Charles Burkett

No Liaison report was provided due to Mayor Burkett being absent.

3. Approval of Minutes – November 16, 2021 and December 16, 2021

A motion was made Vice Chair Landsman to approve the November 16, 2021 as amended and December 16, 2021 Planning and Zoning Board Meeting Minutes as amended, seconded by Board Member Bravo. The motion carried with a 5-0.

Chair Frankel advised the Board that due to the first item on the agenda and in an effort to save time, she would like to request a motion to extend the meeting now.

A motion was made by Vice Chair Landsman to extend the meeting to 10:00 p.m., seconded by Board Member Bravo. The motion carried with a 5-0 vote.

Town Attorney Recio read the quasi-judicial statement into the record.

Deputy Town Clerk confirmed notice requirements.

Town Attorney Recio polled the Board Members.

Chair Frankel stated that she spoke with Mr. Thompson.

Vice Chair Landsman stated that everyone received an email from Horace Henderson.

Board Member Bravo was contacted by Four Partners to explain the project.

Board Member Baumel was contacted by Bill Thompson to explain the project.

Board Member MacKenzie was contacted by Neisen Kasdin to explain the project.

No other Board Members had any communication with any of the applicants.

Deputy Town Clerk Herbello swore in all applicants.

4. Applications:

A. 9165 Collins Avenue – Site Plan Approval

Background: This application is a request for Site Plan Approval for proposed development for the property commonly known as the Hillcrest by the Sea Co-op Apartments. The existing two 2-story buildings with 24 units will be demolished. The developable portion of the site is located from the Collins Avenue east right of way line to the Town of Surfside Bulkhead Line and totals 0.54 acres. The area east of the Bulkhead line to the Erosion Control Line (ECL) is a private recreation area totaling 0.33 acres. A 11-story structure with 13 apartments units and 33 parking spaces in an underground garage is proposed.

The project site is located on the north side of the Seaway Villas and on the south side of the Carlisle on the Ocean. The project frontage on Collins Avenue is 100 feet. The project is proposing to utilize Ordinance 21-1716 which was adopted on second reading on November 9, 2021. The Ordinance provides an additional option to address side setbacks in the H120 Zoning district when lots are 100 feet or wider. The new option allows a 20-foot setback on each side with an additional 5-foot average setback. The average setback may be applied at any point along the floor of the building, mixed and matched among floors, and /or joined with setbacks taken from the opposite side elevation. The option requires determination of the aggregate volume of the average setback. The resulting building envelope under this option produces a building with less volume than that derived from the Inclined Side Setback option where a 10-foot side setback increases 1 foot for each 3 feet of height above 30 feet.

The use of the new setback option allows the building design to provide large balconies on the east, south and west while minimizing the balconies on the north. The first floor of the building provides for a lobby, stairwells and non-habitable spaces, cabanas and pool for a majority of the residents. Additionally, a large

cabana space is provided for the apartment above on level 2 with private garden spaces, large deck area and private pool.

Level 2 includes a fitness center and one apartment. The building is designed to provide very large apartments with the possibility that on floors which have two apartments a purchaser may combine the two units into a larger apartment. This could happen on levels 3, 4 and 5.

Levels 6, 7, and 8 provide for one large apartment with approximately 12,555 SF including the balconies. Levels 9 and 10 are considered penthouses with apartments with approximately 12, 500 SF including the balconies.

The rooftop is level 11 with mechanical equipment in an enclosed area and private decks and pool for the penthouse below. Table 1 below, summarizes site characteristics and zoning requirements.

The Design Review Group (DRG) met on Friday, January 14, 2022 to discuss and review the proposed site plan request. The DRG was satisfied the impacts of the proposed site plan amendments reduce the impacts to public services and do not negatively impact the Town. A copy of the minutes of the DRG meeting will be provided prior to the meeting.

Staff Recommendation: Staff finds the proposal generally complies with intent Ordinance 21-1716 and the Town's Zoning in Progress although portions of the staff review are being finalized. It is recommended the Applicant's Site Plan package be reviewed. Staff is working to summarize graphics to assist on key characteristics. An updated report with additional site information, proposal details and staff suggested conditions will be provided prior to the meeting.

Board Member MacKenzie asked who participated in the DRG on the part of the Town.

Town Planner Keller stated the individuals that participated, and the last pages of the memo are the minutes from that meeting.

Ian DeMello, Shubin and Bass, on behalf of the applicant provided a summary of the project along with a PowerPoint presentation. He stated that they are not requesting any variances or special exceptions.

James Galvin, Four Partners development team, went over the facts of the Hillcrest and the timeline of the development plan and vibration mitigation plan of the project. He stated that they are anticipating demolition in March 2022. He provided the timeline of the commencement of the project and the completion of the project. He spoke regarding the traffic study that was performed.

Kurt Dowel, for the Seaway project spoke regarding the building envelope and landscaping. He also went over the site plan as it pertains to the landscaping and the canopies.

Town Planner Keller went over the criteria that should be utilized in review of approving a project of this level. He stated that it does conform to the comprehensive plan and spoke regarding the location of the land. He stated that these are not typical units but very large units. He stated from a density number they do conform with our Land Use Plan and conforms with the Zoning Code and the Zoning In Progress (ZIP) as well as with the ordinance that regulates this type of project. They meet the requirements of the Comprehensive Plan and Zoning Code. He also stated that the building will have more open spaces and air. He stated this will also have a positive economical impact to the Town and will not have a big impact on public safety and traffic. He stated that there is not much of a setback and that is because the underground garage extends to the first level setback. His other concern is the setbacks on the balconies, they meet them, but they have a decorate portion that extends out above the balcony setbacks. He stated that there are minor differences in the landscape plan and the architectural plan. He continued going over the staff recommendations.

The following individuals from the public spoke:

Horace Henderson (Deputy Town Clerk Herbello read his email sent into the record)

Gilberto Garcia, a resident of the Carlyle Building, spoke regarding safety of the construction of the building. He stated that Bill Thompson and his group kept their promise with what the residents requested and safety is of the utmost and he thanks Bill Thompson for that. He is in support of the project.

Sebastian Garcia, spoke about meeting with Bill Thompson and his group and they have done nothing more than cooperate with them and go the extra mile to make sure safety is first and they had their structural engineer with theirs approving and monitoring the process along the way. He is in support of the project.

Shannon Gallagher, spoke against the project and has safety concerns with this project and what took place with the Champlain Tower South and 87th Park.

Chair Frankel explained that they are here as a design review board and their comments have to go to the Commission as it relates to the reports, testing and funding spent on the Champlain Towers.

Town Attorney Recio stated this Board is making a recommendation and the final decision rests on the Commission and they can take their concerns to the Commission.

Vice Chair Landsman stated that this Board has no impact on timing or when this project should go forward, they are only looking at the design and setbacks. He explained again the role of this Board.

Chair Frankel reiterated that they are limited to what they are able to do and if they approve the design, it still has to go before the Commission for their approval.

Deborah Duvdevani, Carlyle Building, spoke in opposition of the project and stated her concerns.

Jeff Rose spoke regarding the design and likes the design; he spoke regarding the text amendment and setbacks. He spoke in support of the project.

George Kousoulas spoke regarding the text amendment that keeps being mentioned. He stated that he is pleased with the design of the building.

Lard Scarab stated that it is a beautiful building but the Board has a responsibility to wait for the results of what happened with Champlain Towers before having this move forward.

Chair Frankel closed the public comment portion.

Chair Frankel spoke regarding addressing the safety and hear again the process of how it is going to work and get the comments from the Building Official. She spoke regarding the decorative nose of the balcony and would like to hear about the parking garage and how that would be functioning and would like clarity on that subject.

Vice Chair Landsman thanked all the residents for participating and asked if there are any other residents from the Carlyle and asked who are against or in favor of the project. He stated that he needs input from the architect, designer and the Building Official.

Chair Frankel reopened the floor to public comment.

The following individuals from the public spoke:

Deborah Duvdevani asked regarding the spacing between the buildings.

Shannon Gallagher asked where are the people parking that attend the second pool.

Vice Chair Landsman spoke regarding the timing of the building going up and the Commission will have more input on the timing of the project. He asked regarding the setback as the building goes up and as a design aspect. He stated that the developer and architect took into consideration the recommendations that the Board has asked for in the past.

Chair Frankel stated that the code changed and spoke regarding the requirements in the new code as it pertains to this project. She explained how the zoning code change plays into this project.

Chair Frankel closed the floor to public comments.

Mr. Gavin addressed the questions regarding the setbacks.

Mr. DeMello explained the setbacks and the balconies and spoke regarding the H120 and provided an ornamental design to the balconies. He spoke regarding the ornamental features.

Board Member MacKenzie asked regarding the ordinance that it allows them on top of meeting the setback requirements and they are allowed to extend 2 feet and not count it towards that envelope.

Town Attorney Recio explained the setback and the allowable projections as it pertains to the zoning code requirements. He also explained what the applicant is proposing.

Board Member MacKenzie asked legally what the answer would be and it sounds to him that they are getting the benefit.

Town Attorney Recio stated that the concern is double dipping into the projections.

Board Member MacKenzie stated that he would not like to approve something and then their attorney sues the Town. He stated he is afraid of setting a precedent with this project. He was expecting more of a variation.

Mr. DeMello stated that they are legally able to do it under the code and the text amendment as it pertains to the ornamental feature of the balconies and the balconies are not extending out.

Board Member Bravo asked if they could show how it is protruding.

Town Planner Keller stated this is the first time they use this ordinance. He stated that to him it is an extension of the balcony even though it is decorative and that is his concern.

Board Member Baumel spoke regarding the architect and designers using the flexibility and design element and this is decorative inspired by someone with a creative design. She stated this is not usable space, it is strictly decorative.

Mr. Galvin stated that the code they are following states exactly that and went over the decorative feature and façade. He read the section of the code that allows them to have that feature.

Chair Frankel stated that in reviewing the zoning code they have come across similar issues. She stated that when they find discrepancies then they need to address it.

Board Member MacKenzie asked Mr. Galvin to show the setback on the floor that is being presented.

Mr. Galvin showed the setback line on the presentation as well as the bulkhead line.

Board Member MacKenzie spoke regarding the setback line and the balcony.

Chair Frankel stated that on the site plan it shows there are two lines and looks slightly off.

Mr. Galvin stated that the design intent is for it to be on the setback.

Board Member MacKenzie spoke regarding discrepancies on the site plan with the setback lines. He spoke regarding the landscape plans and the project. He spoke regarding the civil plans and his concerns with them.

Mr. Dowel stated that it meets code.

Board Member MacKenzie stated that he knows that they will meet code because the Building Department will make sure of that. He stated that his point is a question of trust. He would like to request a continuance of this project. He stated that the drawings are not correct and has mistakes in them.

Mr. Dowel, stated that the drawings meet code and the engineers will make sure everything works.

Board Member Bravo understands what Board MacKenzie stated. He stated that he has seen these buildings before and how many sheets and is assuming this is the final set.

Mr. Galvin stated that once they receive approval of some form of design they will then work on the final set.

Board Member Bravo stated that they are trying to represent based on the code what is best for the Town. He asked if they have an estimate when they would have the final set.

Mr. Galvin responded to Board Member Bravo's question and provided a step by step of the process in getting the final design based on recommendations.

Bill Thompson, Four Partners, stated that they will do whatever the Board would like them to do and explained that they do the final design once they have

recommendations and ready for the final project. He stated that he values Board Member MacKenzie's comments.

Board Member Bravo stated that he wants to have their neighbors understand what the process is. He asked what is the process with FDOT.

Mr. Galvin advised that they are already working with FDOT. He stated that the formal approval will come after.

Board Member Bravo asked when does the Town need the formal approval.

Town Planner Keller stated that will take place when they go for the permits and right now, they would have a preliminary approval.

Mr. Thompson stated that they do need a permit.

Town Attorney Recio reiterated that they are here for a site plan approval and they are looking at the criteria based on the code and if the development conforms with the zoning code and read the requirement into the record.

Chair Frankel stated that in the interest of moving this forward. She stated the only issue with the zoning code is the decorative nose and it meets the code and clarify it and it is decorative and not impacting the zoning code. She spoke regarding the environmental impact, impact on the economy it meets that as well. She spoke regarding the water plan and flood criteria and clarify the flood requirements.

Mr. Galvin addressed the comments made regarding the flood criteria and requirements and they have addressed the Building Official's concerns.

Chair Frankel stated that she does not believe the project will have a negative impact with traffic and the look of the building and it makes a nice look and spoke regarding the feature of the historic building portion. She stated that decorative extension and the windblown look provides a nice contrast. She spoke regarding the landscaping. She stated that she appreciates them being proactive to the safety concerns and issues.

Board Member MacKenzie went through the different criteria and provided his comments and concerns. He does not want to create a precedent.

Mr. Galvin and Mr. Thompson addressed the comments and concerns as it pertains to the access of the Fire Department and their equipment.

Board Member MacKenzie addressed his concerns with the issue of the Fire trucks.

Mr. Thompson addressed those concerns and his issues with the Fire Department with the Surf Club with an incident as it relates to the trucks.

Board Member MacKenzie continued with the criteria and provided his input.

Mr. Thompson spoke regarding the zoning code and the measurement of the height and where it is being measured from. He stated that they are taller than the Carlyle and are in compliance with the old code and the recommended new code.

Town Attorney Recio explained how it is written in the code, it is from the wave crest and the clarification as what it means and the Commission decided to set a point. He read how it is written in the code. He stated it is set at that level and 120 feet from there.

Town Planner Keller explained the height level and their plan is consistent with what the Town Attorney said and what the Commission approved.

Board Member MacKenzie asked for a definition of habitable space.

Town Attorney Recio stated that we do not have it on our code, it is defined in the Florida Building Code.

Vice Chair Landsman agrees to move on with the agenda. He asked Town Attorney Recio if the Commission has any expectations of them hearing it.

Mr. Thompson stated that they would like to be able to go in front of the Commission.

Chair Frankel would like to focus on the design and if appropriate, to speak to the Commission separately on setting up the time line. She spoke regarding the decorative element and is aware it is a potential precedent and is comfortable with it.

Town Planner Keller provided staff recommendations as it pertains to the plans and verify the landscaping over the garage.

Board Member MacKenzie asked if they continue this project could they come back next month.

Town Attorney Recio stated that if they are continuing this then they need to articulate what the changes are in order for the applicant to come back with those changes.

Board Member MacKenzie spoke regarding drainage, drywells and water infiltration trench.

A motion was made by Board Member MacKenzie to continue this item to February and for the applicant to meet with Town Planner Keller to comply with the recommendations made by the Town Planner, seconded by Board Member MacBride. The motion carried with a 3-2 vote with Chair Frankel and Vice Chair Landsman voting in opposition.

Town Planner Keller stated that conceptionally the project is good to move forward and they can take care of the minor recommendations before going to the Commission.

A motion was made by Board Member MacKenzie to reconsider the previous motion made in order to defer the item to a date certain, seconded by Board Member MacBride. The motion carried with a 5-0 vote.

A motion was made by Board Member MacKenzie to defer the item to the February 24, 2022 agenda, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

Board Member Baumel asked if they can hear the ordinance.

Chair Frankel stated that they will get to the ordinance but would like to continue with the agenda.

B. 8943 Hawthorne Avenue - New Two-Story Residence

Background: This application is a request to demolish an existing 1-story single family residence and pool, constructing a new 2-story single family residence with an open trellis (107 SF) located in the side yard, a concrete driveway with grass inlay in the front; A/C unit on the north side of the second-floor balcony, a covered terrace (298 SF) and pool with deck (264 SF) in the rear yard. The parcel is located in the H30B Zoning District at 8943 Hawthorne 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 2,250 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 setback with a rear setback of 20 feet and a 5-foot side setback. Total lot pervious area is 1,972 SF or 35.1% where 35% is required. The front yard setback pervious area is 516 SF or 51.6% where 50% is required. The rear yard setback pervious area is 571 SF or 57% where 40% is required. The second floor under ac is proposed at 1,772 SF or 78.5% of the first floor where 80% is the maximum. The maximum allowed roof height is 30 feet and the maximum height of the parapet is 3 feet,

the proposed plans meet the requirements. 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 garage door, black wood entrance door, black impact doors and windows, black metal railing, exterior gray masonry tiles, and simulated wood accents on the front of the house. The exterior will be painted white stucco with a gray stucco base. The plans also include a concrete driveway with 4-inch grass inlay and walkway with landscaping. Detailed drawings were provided by the applicant with limited information on the pool.

The applicant is proposing two palm trees for the street tree requirement, where 2 street trees are required (Palm Trees are counted 3:1). The applicant is also proposing 6 new royal palm trees with a total of 25 shrubs for the lot, where 5 trees of two different species and 25 shrubs are required for single-family homes. It is unclear whether the proposed palm trees meet the requirements of the code. A total of 100% of the trees on site are palm trees, where 40% is the allowed maximum. The site plan shows one species of palm trees proposed and no species of shade tree, where there must be a minimum total of 2 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 8 drawings and an application was submitted by the Applicant with a recent survey dated 9/29/2021.

Staff Recommendation: It is recommended the Application be approved conditionally 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.
- 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**.
- 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.

- Please refer to **Sec. 90-95** for H30B landscape requirements. A total of four (4) different tree species is recommended, the code requires: 30% shade trees, 30% small trees, and a maximum 40% palm trees. Palm trees are counted on a 3:1 ratio and must meet the requirements set forth in the above referenced section.
- A tree removal permit is required prior to the removal or relocation of existing site trees, per **Sec. 90-97**.

Note, this report maybe updated prior to the meeting.

George Kousoulas, representing the applicant provided an overview of the project.

Vice Chair Landsman asked if this came before them before.

Mr. Kousoulas stated that it is a new application.

Vice Chair Landsman stated it looks very familiar.

Chair Frankel stated that if these two properties were next to each other she would have a problem because of the uniformity. She does not have a problem with the design but would caution the public to not build the same thing next door.

Mr. Kousoulas addressed the comments made regarding the uniformity of homes.

Board Member MacBride stated that she has a concern with the cable lines and the trees being too close.

Building Official McGuinness provided his recommendation on the project.

Board Member Baumel commented on how the landscape has changed and it was very attractive.

Board Member Bravo was under the same impression that he had reviewed this before. He stated the home is beautiful and he would appreciate something different but that is his taste. He asked regarding the trash area outside and sees only the slab.

Mr. Kousoulas stated it is the side step slab.

Board Member MacKenzie asked about the space between the second floor and the ceiling of the first floor and how much space they would have. He asked about the elevation of the north side and commended him for doing that. He asked regarding the terrace coming off the master bedroom on the second floor and the articulation when it meets the massing on the street.

Mr. Kousoulas stated that there would be about 30 inches including the slab and the entire home will be poured concrete. He addressed the questions made by Board Member MacKenzie.

Board Member MacKenzie asked regarding the pool and the steps and cannot agree with those steps.

Mr. Kousoulas stated that these pools are becoming more difficult and commented on the location of the pool. He addressed the comments made by Board Member MacKenzie as it relates to the steps.

Chair Frankel does not understand what Board Member MacKenzie means regarding context.

Board Member MacKenzie discussed the context of the pools sticking out of the ground.

Town Attorney Recio stated that Board Member MacKenzie is making his thoughts known.

Board Member Baumel stated that the challenge is the context of the pool has become integrated.

Vice Chair Landsman stated that if the owner would like stairs for a certain reason which is not visible, we as a Board cannot deny them if it meets code.

Town Planner Keller provided staff recommendations.

A motion was made by Vice Chair Landsman to approve the application with staff recommendations, seconded by Board Member Bravo. The motion carried with a 4-1 vote with Board Member MacKenzie voting in opposition.

C. 9049 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 an open trellis (107 SF) located in the side yard, a concrete driveway with grass inlay in the front; A/C unit on the south side of the second-floor balcony, a covered terrace (298 SF) and pool with deck (264 SF) in the rear yard. The parcel is located in the H30B Zoning District at 8943 Hawthorne 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 2,250 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 9-inch front setback with a rear setback of 20 feet and a 5-foot side setback. Total lot pervious area is 1,972 SF or 35.1% where 35% is required. The front yard setback pervious area is 516 SF or 51.6% where 50% is required. The rear yard setback pervious area is 571 SF or 57% where 40% is required. The second floor under ac is proposed at 1,772 SF or 78.5% of the first floor where 80% is the maximum. The maximum roof height is allowed at 30 feet and the maximum height of the parapet is 3 feet, the proposed plans meet these requirements. 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 garage metal door, black wood entrance door, black aluminum impact doors and windows, black metal railing, exterior gray masonry tiles, and wood accents on the front of the house. The exterior will be painted smooth white with a stucco finish. The plans also include a concrete driveway with 4-inch grass inlay and walkway with landscaping. The proposed A/C unit is located on the second floor and screened behind a portion of the house. Detailed drawings were provided by the applicant with limited information on the pool. Figure 1 is an aerial view of the existing property.

The applicant is proposing two palm trees for the street tree requirement where 2 street trees are required (Palm Trees are counted 3:1). The applicant is also proposing 6 new royal palms trees (2 trees total) and a total of 25 shrubs for the lot, where 5 trees of two different species and 25 shrubs are required for single-family homes. 100% of proposed trees are palm trees and 75% of proposed trees are of the same species where the code requires a maximum 40% palm trees and no more than 30% of proposed trees can be of the same species. It is unclear whether the proposed palm trees 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 8 drawings and an application was submitted by the Applicant with a recent survey dated 9/28/2021.

Staff Recommendation: It is recommended the Application be approved conditionally 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.
- Per the **Design Guidelines for Single family residential properties**, building forms should be varied enough to avoid monotony and to avoid pyramidal massing and should be compatible with surrounding houses.

- 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**.
- 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 equal one tree.
- Please refer to **Sec. 90-95** for H30B landscape requirements. A total of two (2) different tree species is required: 30% shade trees, 30% small trees, and 40% palm trees. Palm trees are counted on a 3:1 ratio and must meet the requirements set forth in the above referenced section. Provide details and calculations to show this requirement is met.
- A tree removal permit is required prior to the removal or relocation of existing site trees, per **Sec. 90-97**.

Note, this report may be updated prior to the meeting.

George Kousoulas, representing the applicant provided an overview of the project.

The following individual from the public spoke: Jeff Rose

Building Official McGuinness provided his recommendations.

Vice Chair Landsman spoke regarding the way it is looking is that there are homes that are looking similar and spoke regarding the setbacks and many homeowners want to maximize their square footage but they need to have some flexibility so that the average setback can be changed to give some alternatives.

Board Member MacKenzie spoke regarding the pool and understory.

Board Member Baumel spoke regarding the understory and appreciates a house with this type of design.

Chair Frankel addressed comments made by Board Member MacKenzie regarding the pool and spoke regarding the understory.

A motion was made by Vice Chair Landsman to approve the application with staff recommendations, seconded by Board Member Bravo. The motion carried with a 4-1 vote with Board Member MacKenzie voting in opposition.

A motion was made by Vice Chair Landsman to move Item 5 to be heard now, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

D. 600 88th Street - New Two-Story Residence

Background: This application is a request to demolish an existing 2-story single family residence and construct a new 2-story single family residence with a covered patio, cabana, terrace, trellis, garage, a concrete driveway; A/C unit located on the roof, and a pool with deck and fire pit located in the rear yard. The application also includes turf grass on both roofs of the garage and cabana with pool equipment adjacent to the proposed garage. The parcel is located in the H30A Zoning District at 600 88TH Street. The average lot depth is 201.2 feet with a width of 50.06 to 75 feet. The site plan indicates the lot size is 14,962 square feet (SF). The proposed air-conditioned floor space totals 9,914 SF.

The setback requirements for the H30A Zoning District for a corner lot are 20-feet front, 7.5-foot interior side, 10-foot secondary frontage, and 20-foot rear. The Applicant is proposing a 20-foot front setback, a 10-foot secondary frontage setback, and a rear setback of 20 feet with a 7.5-foot interior side setback. Total lot pervious area is 5,377 SF or 35.93% where 35% is required. The front and rear yard pervious area was not provided. The second floor under ac is proposed at 4,405 SF or 79.96% of the first floor where 80% is the maximum. The required roof height is 30 feet and the maximum height of the parapet is 3 feet, the proposed roof height is 30 feet with a 1-foot parapet. Table 1 on page 2 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed; however, the plans do not provide details on the materials or colors that will be used. The applicant is proposing to remove (24) trees and relocate (11) palm trees and (2) trees. A total of nine (9) street trees are proposed where 11 street trees are required. The applicant is also proposing an additional 14 site trees of 4 different species where a minimum of 9 trees of 5 different species are required, in addition to a total of 128 shrubs for the lot, where 65 shrubs are required. A total of 42% of proposed trees are shade/canopy trees where the code requires shade/canopy trees constitute 20%, intermediate trees constitute 20%, small trees constitute 20%, and palm trees constitute no more than 40% of required trees. Per the code, no more than 30% of required trees shall be of the same species, the site plan is proposing 34% of site trees as a single species (green button). Figure 1 is an aerial view of the existing property.

Applicant Package: A package of 13 drawings and landscape plans with an application that was submitted by the Applicant with a recent survey dated 6/14/2021.

Staff Recommendation: It is recommended the Application be approved conditionally subject to the following comments:

- Per the **Zoning in Progress**, each lot must provide 50% of front yards and 40% of rear yards must be landscaped; all landscaped areas must include 40% of Florida-Friendly materials. Provide calculations to show this requirement is met.
- Per the **Zoning in progress**, hedges for single-family lots shall be permitted within front yards of all lots and on secondary front (side street) yards of corner lots, at a height not to exceed six (6) feet as measured from grade.
- Per the **Zoning in Progress**, roof decks are not permitted, proposed "gym" area on the garage is not permitted.
- Per the **Zoning in Progress**, proposed roof top mechanical equipment shall not be visible from eye-level view from a grade at a distance of 75 feet from any property line, provide line-of-sight drawings for zoning approval. Additionally, the equipment must be screen in a way that adequately hides the equipment from view from all angles, including above, and matches surrounding texture, color and appearance. The equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line.
- 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**.
- 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. Proposed trees should meet the diversification requirements of the code, no more than 30% of required trees can constitute the same species. It is suggested the trees be planted along the property lines.
- Per **Sec. 90.89 and 90-95** for H30A landscape requirements. A total of five (5) different tree species is required: 20% shade trees, 20% intermediate trees, 20% small trees, and no more than 40% palm trees. Palm trees are counted on a 3:1 ratio and must meet the requirements set forth in the above referenced section.

- A tree removal permit is required prior to the removal or relocation of existing site trees, per **Sec. 90-97**.
- Please provide architectural plans to include the proposed materials and colors to be used.

Note, this report may be updated prior to the meeting.

Kobe Karp, representing the applicant, confirmed there is a landscape area and they do comply with the 15% requirement.

Building Official McGuinness provided his recommendations.

Mr. Karp agrees with the recommendations provided by the Town.

The following individuals from the public spoke: Jeff Rose

Board Member MacKenzie commented on a great job done. He asked regarding the overflow and projecting off the façade. He asked if the pool overflows in a channel below the grass. He asked possibly lifting the area to not see the pump.

Mr. Karp stated yes and no leaders. He also confirmed the question regarding the pool overflow. He stated that he agrees with the recommendation to hide the pump.

Board Member Bravo asked regarding a wall on the rendering and how high is the wall. He wanted to confirm there are no gates.

Mr. Karp stated it is 6 feet and within the setback. No gates.

A motion was made by Board Member MacKenzie to approve the application with staff recommendations, seconded by Vice Chair Landsman. The motion carried with a 5-0 vote.

E. 9540 Bay Drive - New Two-Story Residence

Background: This application is a request to demolish an existing 1-story single family residence, pool with garage, and construct a new 2-story single family residence with two attached garages on the north and south side of the property, a covered outdoor dining area (125 SF), covered lounge, cabana, firepit, covered porch (850 SF), paver driveway, and a pool with a deck located in the rear yard. The application also includes a concrete wall around the entire property and an ADA ramp located on the north side of the property attached to the garage. The parcel is located in the H30A Zoning District at 9540 Bay Drive. The average lot depth is 182 feet with a width of 125 feet. The site plan indicates the lot size is

22,726 square feet (SF). The proposed air-conditioned floor space totals 13,803 SF.

The setback requirements for the H30A Zoning District are 20-foot front, 20 feet rear and a side setback of 12.5 feet The Applicant is proposing a 20-foot front setback, 12-foot 6-inch side setback, with a rear setback of 50 feet. Total lot pervious area is 8,170 SF or 36% where 35% is required for the lot. The front and rear yard setback pervious area was not provided. The second floor under ac is proposed at 6,103 SF or 79% of the first floor where 80% is the maximum. The maximum allowed roof height is 30 feet and the maximum height of a parapet is 3 feet, the proposed roof height is 30 feet with a 1-foot parapet. Rooftop mechanical equipment is being proposed with a 3-foot screen, no other details have been provided. Table 1 on page 2 provides information on site characteristics and zoning requirements.

A variety of architectural enhancements are proposed, however details regarding proposed materials and colors were not provided. The applicant is proposing to remove 30 trees and relocate 43 palm trees. A total of 8 street trees are proposed where 6 street trees are required. The applicant is also proposing an additional 19 site trees and 4 new palm trees of 6 different species where a minimum of 12 trees of 5 different species are required, in addition to a total of 204 shrubs for the lot, where 95 shrubs are required. The site plan indicates a total of 66% of site trees are palm trees, per the code no more than 40% of required trees can be palms. Additionally, a minimum of 30% of required trees shall be shade trees, small trees can be a maximum of 30%. Site plan does not provide a breakdown of the landscape requirements per the code.

Applicant Package: A package of 8 drawings and an application was submitted by the Applicant with a recent survey dated 08/10/2021.

Staff Recommendation: It is recommended the Application be approved conditionally subject to the following comments:

- Per the **Zoning in Progress**, the front yard is required to be 50% pervious/landscaping and the rear yard is required to be 40% pervious/landscaping, all landscaped areas must include 40% of Florida-Friendly materials. Provide calculations/workshop to show the requirements are met.
- Per the **Zoning in Progress**, rooftop mechanical equipment shall be set back from the roof perimeter so that the equipment or screening elements are not visible from eye-level view from grade at the property line; screen by an enclosure of sufficient height which completely hides the equipment from view from all angles, including from above and matches surrounding in texture, color, and appearance; shall be acoustically screened to reduce noise to no more than 55 dBA when

measured from any property line. Please submit line-of-sight drawings for zoning approval.

- Per the **Design Guidelines** for Single family residential properties, building forms should be varied enough to avoid monotony and to avoid pyramidal massing and should be compatible with surrounding houses.
- 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**.
- Per **Sec 90-54.3** an open, uncovered porch, patio, or terrace may occupy are or interior side setback requirements. The required setbacks are an interior and rear side of 5 feet. The future firepit should be defined to ensure the rear setback requirement is met.
- Provide the style and height dimension for the concrete wall. Maximum height for an ornamental wall is limited to 6 feet. Ornamental walls placed within the front yard must be approved by the Planning and Zoning Board. Walls and fences above 2 feet shall maintain a maximum opacity of 50%, see **Sec. 90-56.**
- Per **Sec. 90.89 and 90-95** for H30A landscape requirements. A total of five (5) different tree species is required: a minimum of 30% shade trees, a maximum of 30% small trees, and no more than 40% palm trees. Palm trees are counted on a 3:1 ratio and must meet the requirements set forth in the above referenced section.
- A tree removal permit is required prior to the removal or relocation of existing site trees, per **Sec. 90-97**.
- Please provide architectural plans to include the proposed materials and colors to be used.
- Provide the setbacks for the proposed lounge, firepit and outdoor dining area.

Note, this report may be updated prior to the meeting.

Kobe Karp, representing applicant, accepts all recommendations and provided an overview of the project.

Building Official McGuinness provided recommendations.

Chair Frankel wanted to point out the design review guidelines has special consideration for gateway properties and does consider this property as a gateway property.

Board Member MacBride asked if the seawall will be replaced.

Amit Kort, Waterview Holding, LLC, owners of the property stated that they have the permits for replacing the seawall.

Chair Frankel has a question on the gate in the front and would like to have seen more of a landscaping plan, but you do not see it from the rendering.

Mr. Karp stated that they do have large specimens of trees in the front of the house.

Chair Frankel asked the height of the wall.

Mr. Karp stated it is 6 feet on the property line.

Town Attorney Recio stated that they can do a 6-foot wall and read the requirement per the code.

Further discussion took place among the Board, staff and Mr. Karp regarding if there will be a gate, hedging and landscaping as well as the trees and their location.

Mr. Karp stated that they would like to keep the pickets to allow the landscaping to grow on both sides.

Town Attorney Recio stated that if they could keep the trees out of the right of way it would be preferable.

Chair Frankel spoke regarding the spacing for the trees.

Town Attorney Recio stated that the proposed wall which is there still has space without going into the right of way.

Discussion took place regarding the picket fence and the distance from the property line and the wall.

Mr. Karp stated it is 5 feet from the property line.

Board Member MacKenzie asked regarding the ramp and it should be a slope and not a ramp.

Mr. Karp stated that they will call it a slope.

Board Member MacKenzie stated that they should put a curb for their liability and the slope is sticking out of the property line. He asked regarding the firepit being really close to the seawall and would that cause a problem or is it allowed.

Town Planner Keller stated that it is closer than they would like it, he has seen that before, he does not believe they have enough detail on the firepit.

Mr. Karp stated it is 14 x 14 but he can reduce it.

Board Member MacKenzie asked regarding the roof and the slopes. He also discussed drainage.

A motion was made by Board Member MacKenzie to approve the application with staff recommendations including that the wall be at 6 feet as a picket fence with vertical pickets, that the stairs will not project from the roof line, to create a curb far enough from the edge so the architecture can maintain its integrity, shade trees on both sides of the wall within the property line and no gates, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

F. 8866 Carlyle Avenue - Garage Conversion

Background: This application is a request to convert an existing garage to living space and install a pool with a deck in the front yard. The application also includes a new concrete driveway with grass inlay. The garage door will be replaced by a solid exterior wall with two 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. 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 may be 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 6/21/21. An update of the plans which includes the pool was submitted 1/4/22.

Staff Recommendation: The proposed improvements appear to be generally consistent with the Town's Land Development Regulations. Recommend approval subject to the following conditions:

- Provide calculations, worksheet and information to determine pervious area requirements for the total lot, front and rear setback requirements:
 - o 35% of total lot must be pervious/landscaping
 - o 40% of total landscaping must be Florida-Friendly
- One street tree is required for every 20 linear feet of street frontage, therefore a total of two street trees are required along the right-of-way per **Sec. 90-89.4(6)**.
- Mechanical equipment must be screened per Sec. 90-95 (3) (b).
- A tree removal permit is obtained for the removal of existing trees in the location of the proposed pool per **Sec. 90-97**.

Note, this report may be updated prior to the meeting.

Jose Garazo, applicant stated he accepts all recommendations.

Vice Chair Landsman asked if there are two applicants.

Town Planner Keller stated that the owner must have contracted two different parties.

Building Official McGuinness provided recommendations.

Board Member MacKenzie stated that part of the guidelines speaks about context that additions look as part of the home. He suggested making it look like the rest of the house.

Mr. Garazo stated that is something that they can consider.

A motion was made by Board Member MacKenzie to approve the application with staff recommendations and replicate the windows like the rest of the house, seconded by Vice Chair Landsman. The motion carried with a 5-0 vote.

G. 9340 Harding Avenue – Garage Conversion

Background: This application is a request to legalize a garage conversion. The applicant is also proposing to relocate the front door to the previous garage space area and replace the current front door with a window. Additionally, the previous garage door is to be replaced by a solid exterior wall with one window. The plans also show the replacement of the existing window near the existing front door. The interior lot is zoned H30B totaling 5,600 square feet (SF) per MDCPA.

An aerial is provided on the following page and a Google Street View is located on page 3. The proposed conversion and changes will not increase the buildings footprint or setbacks. In addition to this Memorandum, a package of a floor plan, elevations, 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 survey, floor plan and elevation plans were submitted by the Applicant on 1/6/2022

Staff Recommendation: The proposed improvements appear to be generally consistent with the Town's Land Development Regulations. Recommend approval subject to the following conditions:

 Proposed garage conversion is missing landscaping at the base of the new wall, provide details per requirements.

Note, this report may be updated prior to the meeting.

Jorge Martinez, representing the applicant provided an overview of the project.

Building Official McGuinness provided recommendations.

Vice Chair Landsman asked what they meant by putting it back.

Town Planner Keller stated that it was an agreement and provided a history of the application.

Vice Chair Landsman asked what the applicant will do now, if they will tear it down and redo it to code.

Town Planner Keller stated that it will be up to the Building Official to resolve it to their liking.

Vice Chair Landsman has a problem with retroactive projects.

Board Member MacKenzie asked regarding the front façade and if the picket fence was always there or was it put without permits.

Mr. Martinez stated that he does not know if the picket fence was already there.

Board Member MacKenzie asked if the Board members like the fence and if they do, they could make it part of the approval. He does not think it goes with the house and believes it is a brand-new element of the façade.

Chair Frankel stated that since the homeowner is not here, we do not know how they feel on the picket railing.

Town Planner Keller stated that he does not have an issue if part of the approval is removing the picket.

Chair Frankel asked if there are stairs going on the front.

Town Planner Keller stated that it is a front porch.

A motion was made by Board Member MacKenzie to approve the application with staff recommendations and the removal of the picket guard, seconded by Vice Chair Landsman. The motion carried with a 5-0 vote.

A motion was made by Vice Chair Landsman to extend the meeting 15 minutes to 11:00 p.m., seconded by Board Member MacKenzie. The motion carried with a 5-0 vote.

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.

Applicant Package: A package of drawings and the application was submitted by the Applicant with a recent survey dated 10/28/2021.

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 and/or worksheets for the lot coverage.

• Per the **Zoning in Progress**, the H30B district, second story lot coverage is limited to 32% of the lot area, or 80% of the first-floor area, whichever is less. Provide calculations and/or worksheets verifying the second story addition meets code.

• Per the **Zoning in Progress**, only the following projections/encroachments shall be permitted: • In the H30A and H30B districts, and in H30C districts west of Harding Avenue, 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.

Provide dimensions of the roof eaves and/or projection.

- 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. 90-19.5**, the town has adopted design guidelines intended to provide direction and suggestions for all development. The purpose of the planning and zoning board when conducting design review is to interpret those guidelines and provide guidance to the applicants as to how the design should be revised to more closely approximate or reflect the town's adopted guidelines. The applicant shall then incorporate those suggestions prior to proceeding to building permit.
- Sec. 90-45, the development of new single-family structures and additions to existing single-family structures shall abide by height and massing regulations. Massing regulations are based on the height of the structure and are delineated between:
 - A. Single and multi-story structures;
 - o B. Bew structures or additions to existing structures; and
 - o C. The ratio of area of the first story to the area of the upper stories.

The area of the upper stories (wall plane greater than 15 feet in height) for new structures and additions to existing single-story structures shall not exceed 80 percent of the area of the first story, **Sec. 90-45 (a)(1)**. Please refer to the setback tables and provide information on the architectural features being changed or added.

• 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.

Note, this report may be updated prior to the meeting.

Building Official McGuinness provided his recommendations.

Lehy Karp, representing applicant provided an overview of the project.

Chair Frankel asked if they have to raise it to 10 feet.

Building Official McGuinness stated that yes, it has to be raised to 10 feet.

Chair Frankel stated that her concern is that the project would be undoable due to having to raise the home.

Architect for the applicant is aware that the home needs to be raised.

Board Member Bravo stated that it might make more sense to demolish and build a new home.

Board Member Baumel asked if they obtained a soil report.

Chair Frankel stated that from experience, this will be a great expense to raise the existing structure 1½ feet, it might make more sense financially to start from scratch.

Mr. Karp, stated that he understands and if the owner wants to maintain the front of the house and understands that they might have an issue later on and they understand.

Board Member Baumel does not know how they can make a decision without a soil report.

Town Planner Keller stated that is the responsibility of the applicant, they are here for the remodeling and addition.

Chair Frankel asked if they are maintaining the existing façade, the second floor in the back does not match the front and if they keep the front façade the second floor needs to match including the windows.

Mr. Karp agrees to keep the windows and façade the same as the front.

Board Member Bravo stated that as per the site plans, they are changing the façade.

Architect for the project addressed the comments made by the Board.

Board Member MacKenzie stated that the guidelines ask them to look at the context and the context is being completely destroyed.

Chair Frankel stated that they need to still consider it as a new design, she still believes the view from the front needs to be consistent. She stated that they need to treat this as a new home. She stated that they need to see what the front façade is going to look like.

Mr. Karp stated that they are aware that they might have to restart from scratch.

Chair Frankel feels they need to defer it because they do not have enough information since they feel this should be considered a new home.

After a lengthy discussion regarding the application and the concerns by the Board, and if the preference is denial or deferral, the following motion was made.

A motion was made by Board Member Bravo to defer the item to March 31, 2022 meeting, seconded by Vice Chair Landsman. The motion carried with a 5-0 vote.

I. 9463 Harding Avenue - Sign

Background: This application is a request to install one (1) permanent wall sign at 9463 Harding Avenue. The property is located within the SD-B40 zoning district.

The proposed wall sign is an illuminated channel letter with back return and trim, total sign area is proposed at 22.95 SF where 25 SF is the maximum allowable sign area.

Governing Codes:

Current Municode:

Sec 90-73.a(3)(b)(1-3)— Provides a wall sign of 1 square foot (SF) for each 1 foot of frontage. In the Business District for stores with less than 25 feet of frontage, a 22.95 SF sign is allowed. This store has 12 feet 6 inches of frontage. The maximum size of any one sign is 45 SF. The Code has further restrictions including requiring a 1/4 inch to 2-inch offset from the wall to allow rainwater to drain and limits illumination to white LEDs. All signage to be lit with white illumination from dusk to dawn.

Applicant Package: A building sign permit was submitted by the Applicant.

Staff Recommendation: Approval of the proposed sign as per the attached plans. The Planning and Zoning Board needs to give design approval for the wall sign.

Note, this report may be updated prior to the meeting.

Board Member Baumel left the meeting at 11:09 p.m.

Steven Zeller, representing the applicant is available for questions.

A motion was made by Vice Chair Landsman to approve the application with staff recommendations, seconded by Board Member MacKenzie. The motion carried with a 5-0 vote.

J. 9491 Harding Avenue – Sign

Background The application is a request to install one (1) permanent wall sign at 9491 Harding Avenue. The property is located within the SD-B40 zoning district. The proposed wall sign is an illuminated halolit channel letter. The total sign area is prosed at 26.7 SF where 25 SF is the maximum allowable sign area.

Governing Codes:

Current Municode:

Sec 90-73.a(3)(b)(1-3)— Provides a wall sign of 1 square foot (SF) for each 1 foot of frontage. In the Business District for stores with less than 25 feet

of frontage This store has 26.01 feet of frontage according to the provided survey. The maximum size of any one sign is 45 SF. The Code has further restrictions including requiring a 1/4 inch to 2-inch offset from the wall to allow rainwater to drain and limits illumination to white LEDs. All signage to be lit with white illumination from dusk to dawn.

Applicant Package: A building permit for the sign was submitted by the Applicant. Sign details are attached.

Staff Recommendation: Approval of the application.

The Planning and Zoning Board needs to give design approval for wall signs.

Note, this report may be updated prior to the meeting.

Board Member MacKenzie asked if they are off the wall and requested it to be in his comments.

Fela Morales, applicant stated it is separated from the wall.

A motion was made by Vice Chair Landsman to approve the application with staff recommendations, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

K. 9441 Harding Avenue – Sign

Background: This application is a request to install one (1) permanent wall sign at 9441 Harding Avenue. The property is located within the SD-B40 zoning district. The proposed wall sign does not provide mounting details or the type of sign being proposed at this time, but is proposing a sign area of 17.17 SF, where 25 SF is the maximum allowable wall sign permitted.

Governing Codes:

Current Municode:

Sec 90-73. a(3)(b)(1-3)— Provides a wall sign of 1 square foot (SF) for each 1 foot of frontage. In the Business District for stores with less than 25 feet of frontage, a 17.17 SF sign is allowed. This store has 24 feet of frontage. The Code has further restrictions including requiring a 1/4 inch to 2-inch offset from the wall to allow rainwater to drain and limits illumination to white LEDs. All signage to be lit with white illumination from dusk to dawn.

Applicant Package: A building sign permit was submitted by the Applicant. A copy of the Applicant's site plan is attached.

Staff Recommendation: Approval subject to the sign packet stating the type of sign, illumination details, and offset details for the proposed sign. Type, illumination and offset must meet the requirements set forth in the code of ordinances. The Planning and Zoning Board needs to give design approval for the wall sign.

Note, this report may be updated prior to the meeting.

A motion was made by Vice Chair Landsman to approve the application with staff recommendations, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

5. Ordinance - 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 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.

Deputy Town Clerk Herbello read the title of the ordinance into the record.

Town Attorney Recio introduced the item and explained after the Board's recommendation it would go before the Commission at their next Town Commission meeting. He stated that this rewrites the marine structure ordinance and explained what the ordinance entails. He went over the lots identified on Point Lake and provided a slide of the lot map.

Board Member MacKenzie asked what happens to lots 7, 8 and 9.

Town Attorney Recio stated that there is no boat traffic that affects those lots. He stated the limitation for those lots on the waterway. He stated it is to keep vessels able to get to lots 8 and 9.

Board Member MacBride asked what is under the bridge.

Town Attorney Recio stated that water is able to get through but no boats.

Board Member MacBride asked if there is something that would prevent a kayak to go through there.

Town Attorney Recio stated that he is unable to answer that question. He stated that they have been advised that there is no vessel traffic.

Town Attorney Recio continued explaining the different types of lots and what they are permitted to have. He explained the setback requirements. He also went over the notice requirements and they must provide it in order to obtain a permit.

Board Member Bravo asked within how many days does the neighbors have to be noticed.

Town Attorney Recio stated 15 days.

Board Member MacBride asked if the Town has anything in the code as it relates to the size of the vessel. She asked regarding the parking of a vessel.

Town Attorney Recio addressed the comments made by Board Member MacBride.

Board Member Baumel stated that the County will require you to fill out an application.

The following individuals from the public spoke:

Anthony Blake asked what is the maximum dock projection the Town allows.

Jeff Rose stated that there are utilities underneath 88th street and it is totally closed off. He stated that on 88th Street it is very shallow and is a wider bay there and he has seen docks project out more than 10 feet because how shallow the water is.

Town Attorney Recio addressed the comment made by Mr. Blade.

Chair Frankel asked if there is a separate language for the dock.

Town Attorney Recio stated that it is limited to 10% of the width of that waterway.

Board Member Baumel stated that this conversation has been going on for months.

Building Official McGuinness spoke regarding the navigability of the waterway.

Chair Frankel spoke regarding the navigability on the waterway.

Vice Chair Landsman stated that the primary reason of this ordinance is the navigability of north canal for those that are on Point Lake.

Building Official McGuinness stated that this ordinance has been worked on and is an improvement.

Chair Frankel stated that if the channel is wide enough there will be no issue navigating the Indian Creek waterway.

Board Member MacKenzie stated that according to Dade County all plans have to go through Dade County and DERM and the rule is if your property is 100 feet and there is a 45-degree angle on both sides of your seawall, it will limit how far out your property goes out. He stated that they send out individuals to survey the ground underneath. He explained the requirements from DERM. He asked Town Attorney Recio if the Town takes a risk of allowing the 10% of the width of the waterway, without additional factual information. He believes the Town is taking a risk. He asked if they can carve out Bay Drive and not include the properties on 88th Street and Bay Drive, which are the waterways that are not having this problem. He commented that things should be simple.

Town Attorney Recio addressed the question by Board Member MacKenzie and explained the ramifications and currently there are conflicting language in the code and read the section. He stated that the reason they addressed everything is to resolve the ambiguity.

A motion was made by Vice Chair Landsman to recommend approval of this Ordinance as written to the Town Commission for approval on second reading at their February 8, 2022 Town Commission Meeting, seconded by Board Member Bravo. The motion carried with a 4-1 vote with Board Member MacBride voting in opposition.

6. Draft Proposed Zoning Code

7. Next Meeting Date: February 24, 2022

Consensus was reached to hold the next meeting on February 24, 2022.

- 8. Discussion Items:
 - A. Pools
 - B. Future Agenda Items
- 9. Adjournment.

A motion was made Vice Chair Landsman to adjourn the meeting without objection at 11:15 p.m. The motion received a second from Board Member Bravo. The motion carried with a 5-0 vote.

Respectfully submitted,

Accepted this 24 day of __

2022

Judith Frankel, Chai

X AND

Sandra McCready, MMC

Town Clerk



Town of Surfside Town Commission Meeting

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

MEMORANDUM

Agenda #: 4A1

Date: March 8, 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 needed reevaluation.

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 analysis.

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 should be required to estimate impacts to neighboring properties adjacent to new building projects. These monitoring activities shall be shared with neighbors directly and posted on an 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 the February 8, 2022 Commission meeting, the Ordinance was deferred until the March 8, 2022 meeting for further review and input by the Building Official and Town Attorney. The attached Ordinance has been revised to incorporate additional input and comments received

from the Building Official. Changes to the Ordinance between first and second reading are shown in double underlining and highlighted in grey.

Recommendation – Adopt this Ordinance on second reading to require specific safety practices, standards and accountability for protection and monitoring of existing buildings adjacent to new building projects during all phases of demolition and new construction.



BY JUSTIN M. SPIVEY

Senior Associate Wiss, Janney, Elstner Associates, Inc.

BY ALEXANDAR J. MLYNARCZYK

Senior Associate Wiss, Janney, Elstner Associates, Inc.

Planning for new building projects should consider the impacts of demolition, excavation, dewatering, and construction on adjacent buildings.

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Wiss, Janney, Elstner Associates, Inc.

An Overview of Risks in Adjacent Demolition and Construction

With effective planning and communication, the risks of demolition and construction next to existing buildings can be evaluated and managed, reducing the likelihood of damage and disputes between adjacent property owners. Many of the same physical risks also apply where a building is demolished or constructed next to an existing one with the same owner.

Construction activities next to existing buildings are a common occurrence, not only in urban environments where buildings adjoin property lines or share party walls, but also in many projects involving building additions. Demolition, excavation, dewatering, and construction carry greater risk of causing damage when performed close to existing buildings (Figure 1), especially if the new building is taller or extends deeper into the ground than its predecessor. New buildings can also move differently in response to wind or earthquake loading, redirect the flow of water from precipitation, or alter the pattern of snow drift formation, creating new demands that existing buildings might not have the capacity to accommodate.

The Need for Communication

The risk of damage to existing buildings is typically lower on projects where adjacent property owners proactively communicate, where experienced design professionals are engaged to evaluate risks and develop mitigation strategies, and where qualified contractors are hired to implement them. A peer review of the proposed adjacent design can identify potential risks to the adjacent property. Mitigation strategies often include monitoring of building movement and/or ground vibration, which could be performed by a design professional, subcontractor, or

third-party consultant. It is recommended that owners of existing buildings retain their own consultants for an independent review of the risk mitigation strategies proposed by the new building design team and any issues that arise during project execution.



Figure 1. Cracking and displacement of existing stone arches due to foundation settlement associated with adjacent construction. New floor slabs also extend into a required seismic gap, where they can apply damaging earthquake loads to the existing building.



An Overview of Risks in Adjacent Demolition and Construction (CONTINUED)



Figure 2. Inadequately secured sheets of plywood, intended for roof protection, can be dislodged by wind. This city's building code requires the plywood to be fastened over a layer of scaffold plank.



Figure 3. Installation of seismograph (at right) and monitoring data logger (at left) in progress at foundation wall of existing building.

The property owner and design team for the new building should be aware of the vulnerabilities of existing buildings and minimum building code requirements for protection of adjacent properties (Figure 2). Experienced consultants and knowledgeable attorneys can help inform existing building owners about their rights to protection and their duties to provide access for installing monitoring and protection measures. These rights and duties are established in the building code and can be further defined through legal contracts such as a license or access agreement between adjacent property

owners. In some instances, these agreements include payment of a license fee by the developer for use of an adjacent property.

Although consultants and attorneys should remain involved throughout the duration of a project, it is critical to engage them during the planning phase to help set expectations, limit miscommunication, and mitigate risks posed by demolition, excavation, dewatering, and construction.¹ Negotiating an access agreement requires adjacent property owners to achieve compromise on the scope of monitoring and protection measures, which may increase project cost but reduce the risk of even greater expenditures in the event of damage or collapse. Access agreements should include provisions for independent review of all proposed construction details affecting the existing building, including those discussed in the following sections. Failure to reach an agreement may result in litigation, with the new building project proceeding without communication between parties. In some cities, failure to reach an agreement can result in the responsibility for underpinning and other protections being assigned to the owners of existing adjacent buildings.

If the opportunity for communication is missed during project planning, e.g., due to adversarial relationships or limited knowledge of building code requirements, schedule and budget pressures may discourage consideration of risk mitigation measures, or make them more challenging or costly to implement, once work is under way. Also, the rising new building can obstruct access to existing walls along property lines, making it significantly more difficult and expensive to perform needed bracing or weatherproofing work. Although

it may still be possible to mitigate risks to existing buildings later in the project, this often comes at an increased cost due to litigation, work stoppage or delay, and inefficient out-of-sequence work.

Typical Risks and Mitigation Strategies

Project plans should anticipate how the new building could impact adjacent properties, not only during demolition, excavation, and construction, but also in its completed state. Typical risks and mitigation strategies to be considered by the new building design team, and the adjacent property owners and consultants reviewing their work, include the following:

Preparation: Before starting work, monitoring of background (ambient) vibrations, pre-construction condition assessments of existing buildings, installation of crack width gauges or monitors, and optical surveying or laser scanning can identify vulnerabilities and set a baseline for evaluation of any subsequent reports of adjacent building movement or damage. Some building codes include limits on building movement and vibration. For existing buildings of exceptional sensitivity or significance, preemptive stabilization or bracing, temporary removal of fragile contents, or lower-than-typical movement and vibration limits may be appropriate.² Access should be arranged for installing monitoring and protection measures before work begins (Figure 3).

Demolition: Where demolition is necessary to clear the site for the new building, plans should consider limiting vibration from demolition equipment and falling material, protecting lower roof surfaces and adjacent areas from uncontrolled debris, carefully removing joists from party walls and filling the resulting pockets, and preventing collapse due to structural instability



An Overview of Risks in Adjacent Demolition and Construction (CONTINUED)



Figure 4. Timber sheeting at underpinning approach pit with adjacent areas improperly excavated alongside the existing foundation, increasing the risk of soil movement.

as bracing elements are removed. If temporary backfill of the basement or cellar is required after demolition, existing adjacent foundation walls should be evaluated and braced as necessary to resist lateral earth pressure imposed by the backfill. Water management measures, such as pumps with backup power, should be considered to prevent water from precipitation, dust control, or other construction operations from collecting in open cellars and infiltrating through foundation walls of adjacent buildings. Existing wall surfaces and roof edges exposed by demolition should be assessed for air and water penetration resistance and weatherproofed, at least for the duration of temporary exposure, if not also to provide a continuous weathertight building envelope for each adjacent building.

Excavation and Foundations: Removal of soil from beneath an existing foundation (undermining) is generally unacceptable, except in controlled underpinning operations. Excavating vertically downward alongside an existing foundation (Figure 4) should also be avoided, as it removes lateral support provided by the soil beneath or adjacent to the foundation, which may slide downward or buckle outward into the excavation. Excavation support systems (e.g., sequential underpinning with concrete piers, soldier piles with timber lagging, secant piles, and soil berms or benches) and associated dewatering schemes should be selected to keep vertical and lateral soil movement within acceptable limits. Equipment for installing excavation support systems, drilling or driving deep foundation elements, and removing rock should be selected to prevent excessive vibrations from damaging adjacent buildings. Water management measures should be considered to prevent precipitation, groundwater, drilling fluids, and water leaking from utility lines from infiltrating through foundation walls of adjacent buildings, promoting settlement of supporting soil, or causing erosion of soil berms or benches within the excavation.

Superstructure Construction: The risks of adjacent building movement and damage due to foundation settlement or lateral displacement may decrease once the new building's foundation walls are braced by the permanent structure of the first floor, allowing monitoring to be reduced or discontinued. However, it may be prudent to continue some monitoring until after the new building is "topped out," as the increasing dead load on its foundations may cause additional settlement of soil supporting the foundations of adjacent buildings. Building code may also require horizontal separations, also called seismic

gaps, to allow new and existing buildings to displace independently in response to wind and earthquake forces without impacting each other or transferring loads between lateral force-resisting systems. Required separations may be filled with compressible material but should be clear of rigid protrusions that reduce their width. As in the demolition phase, the need to protect lower roof surfaces and adjacent areas from falling material should be considered.

Building Interfaces: Vertical and skywardfacing interfaces between new and existing buildings should be detailed to exclude water and vermin. Where the new building rises above adjacent buildings, existing roof drainage systems should be evaluated for additional flow from precipitation running down rising walls onto lower roof surfaces (Figure 5). Existing roof structures should be evaluated for the additional weight of snow sliding from higher roof surfaces or forming drifts against rising walls. The need for extending or redirecting existing chimney flues, exhaust ducts, plumbing vents, fire escapes, means of egress, and similar items should also be evaluated. Openings in walls covered by the new building typically require infill; fire resistance considerations may apply to the detailing of infill or to the protection of existing openings in adjacent walls.



Figure 5. This interface between a rising wall and an existing roof will require careful detailing to exclude water. Any active chimney flues will also need to be extended above the new, higher roof line.



An Overview of Risks in Adjacent Demolition and Construction (CONTINUED)



Figure 6. Former shared wall following demolition of existing building, with short lengths of steel channel attached to anchors bracing the masonry to floor structure at each level.

Additional Considerations for Party Walls

Party walls, also known as shared walls, are located along property lines and provide support shared by the buildings on either side. If the building on one side is demolished, the party wall must be maintained in good condition to provide continuing support to the adjacent building (Figure 6). Responsibilities related to party walls may be defined in the building code, property easements, and/or access agreements.

Party walls are common in rows of homes or small commercial buildings that were built concurrently and intended to function together as one structure. As with many structures constructed prior to the development of modern building codes, row structures were not designed to resist wind pressure and other lateral loads. Instead, designers or builders chose wall thicknesses and floor and roof joist sizes and spacings based on empirical rules, which would allow relatively slender party

walls with as little as two wythes (vertical layers) of brick masonry between adjacent buildings in a row.

In row structures, party walls carry primarily gravity loads, are not exposed to wind pressure, and are braced against buckling by the floor and roof joists on both sides. The combined length of the front and rear facades helps compensate for the lateral resistance lost to door and window openings and gives the group a greater lateral resistance than the sum of its parts, which is known as the "bookend effect."

The demolition of one or more buildings in a row structure can have several negative impacts on structural stability.³ The removal of floor and roof joists from one side of a party wall often means that the wall is no longer effectively braced against buckling in that direction, unless joist-to-wall anchors are installed as demolition proceeds. The resulting discontinuity in the front and rear facades disrupts the "bookend effect," reducing the overall lateral resistance of the buildings that remain.

Disruption of the "bookend effect" can occur even when a building is removed from the end of a row structure, as the connections between front and rear facades and party walls at the interior of a row are typically not as strong as the exterior wall corners of end units. Disturbance of masonry at facade-toparty wall intersections during demolition can also reduce the bracing of party walls against buckling. Given that party walls were typically built of lower-quality materials not intended for exposure to weather, exposure by demolition can result in rapid deterioration of masonry, deterioration of wood framing embedded in masonry, moisture infiltration, and damage to interior finishes.

Bracing and waterproofing are typically recommended when existing party walls are exposed, especially if the new building is structurally independent and separated from adjacent buildings. If a former party wall is not properly anchored to the remaining floor and roof joists after the corresponding joists are removed from the opposite side, it could buckle into the gap between the buildings and/or collapse. While it may be less disruptive to install joist-to-wall anchors from the exposed face of a former party wall, they can also be installed from the interior, even after the exposed face is obstructed by the new building. Connections between front and rear facades and exposed party walls should also be reviewed and reinforced if necessary. If waterproofing of the exposed face is either temporary or omitted, it will be particularly critical to ensure that interfaces between new and existing buildings are properly sealed in accordance with details developed and reviewed by qualified design professionals.

Conclusions

Planning for new building projects should consider the impacts of demolition, excavation, dewatering, and construction on adjacent buildings. New buildings that rise above or extend below adjacent ones present additional risks and increase the need for evaluation. Where a new building replaces a demolished portion of a row structure, there are additional considerations related to bracing and weatherproofing of former party walls. In all cases, communication between adjacent property owners and independent review of proposed monitoring and protection measures by a qualified consultant can help limit the risk of damage to existing buildings.



An Overview of Risks in Adjacent Demolition and Construction (CONTINUED)

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¹ For a more detailed discussion focused on historic buildings, see Chad Randl, *Preservation Tech Note 3: Protecting a Historic Structure During Adjacent Construction* (Washington, D.C.: National Park Service, 2001), https://www.nps.gov/tps/how-to-preserve/tech-notes/Tech-Notes-Protection03.pdf

² See Arne P. Johnson and W. Robert Hannen, "Vibration Limits for Historic Buildings and Art Collections," *APT Bulletin* 46:2-3 (2015), pp. 66-74, https://www.apti.org/assets/docs/Johnson-HannenHiRes SampleArt 46.2-3.pdf

³ See Dan Eschenasy, "Cases of Failure of Unreinforced Brick Walls Due to Out-of-Plane Loads," Structure (May 2011), pp. 14-17, https://www.structuremag.org/wp-content/uploads/2011/08/C-StrucForensics-Eschenasy-May111.pdf; Dan Eschenasy, "Development Along Old Party Walls," *Structure* (June 2017), pp. 12-15, https://www.structuremag.org/wp-content/uploads/2017/05/C-StrucPractices-Eschensay-Jun17.pdf

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

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida

Statutes, provide municipalities with the authority to exercise any power for municipal purposes,

except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, the Town Commission of the Town of Surfside ("Town Commission") finds it periodically necessary to amend its Code of Ordinances ("Code") in order to update regulations and procedures to maintain consistency with state law and to implement municipal goals and objectives for the general health, safety and welfare of the Town residents and occupants; and

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

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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 <u>highlighted double strikethrough</u> and <u>double underline</u>.

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 February 8, 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	Section 2. Town Code Amended. 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 ¹ :
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:

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 <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

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 third-party 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 vibration-sensing 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

- 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. 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.

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2 <u>Section 6. Effective Date.</u> This ordinance shall become ex	ffective upon adoption.
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4 PASSED and ADOPTED on first reading this 11 th day of Ja	anuary, 2022.
5	·
PASSED and ADOPTED on second reading thisda	v 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	
Charles W. Bur	kett
Mayor	
ATTEST:	
Can dua N. MaCuaa du MMC	
Sandra N. McCready, MMC Town Clerk	
TOWIT CIETK	
APPROVED AS TO FORM AND LEGALITY FOR THE USE	
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:	
THE BEHEFIT OF THE TOWN OF SUMPSIDE OILLI.	
Weiss Serota Helfman Cole & Bierman, P.L.	
Town Attorney	



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

Date: March 8, 2022

Prepared by: Commissioner Eliana Salzhauer

Subject: Ordinance (2nd 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 1st habitable floor can be. Unfortunately, DEP only sets a MINIMUM starting point and NOT a maximum. Consequently, if a developer wants to build their 1st 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 1st 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



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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. https://library.municode.com/fl/surfside/codes/code 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) <u>"Lot Area"</u>

Recent code changes in 2009 expanded the beachfront lot area measurement to include the entire portion of property to the Erosion Control Line, which is further EAST than the Bulkhead Line. The Bulkhead Line had historically been the true boundary of measurement. This 2009 change results in a larger lot area that is used to calculate density, lot coverage, and floor area. This allows for greater density, lot coverage, and floor area.

By re-establishing the boundary to the "Bulkhead Line" we are returning to the 2004 Code as the Charter intended.

This is consistent with the Town's Comprehensive Plan which designates property west of the Bulkhead Line different than property east of the Bulkhead Line.



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4) "Lot Coverage"

Excluding items from the definition of "lot coverage" creates loopholes for additional construction. These loopholes are what has enabled the 2nd 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.

**NOTE: There was some confusion at the Feb 8th meeting regarding the % and it was negotiated from 6% to 8%. This detail was discussed again at the Feb 23rd Joint Commission & P &Z meeting. That discussion resulted in Commission direction to amend the Lot Coverage "goodies" from 8% back to 6%.

Second reading should incorporate the 6% as originally intended.

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.



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- (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.

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. Uncovered steps and exterior balconies;
- ii. <u>Uncovered terraces</u>, patios, breezeways, or porches which are open on two (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. 22 -

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-2. - "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

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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20	the definition of "gross acre," and revise the definitions of "height," "lot area," and "lot coverage;"
21	and
22	WHEREAS, the Town Commission held its first public hearing on February 8, 2022 and
23	recommended approval of the proposed amendments to the Code of Ordinances having complied
24	with the notice requirements in the Florida Statutes; and
25	WHEREAS, at a joint special meeting of the Town Commission and the Planning and Zoning
26	Board held on February 23, 2022, changes to the Zoning Code were addressed, including revisions
27	to the definition of lot coverage; and
28	WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held
29	its hearing on the proposed amendment on February 24, 2022 with due public notice and input; and
30	WHEREAS, the Town Commission has conducted a second duly noticed public hearing on
31	these regulations as required by law on March 8, 2022 and further finds the proposed changes to
32	the Code are necessary and in the best interest of the community.
333 334 335 336 337 338 339 440 441 442 443 445 446 447	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: Section 2. Town Code Amended. Section 90-2. – "Definitions", of the Surfside Town Code of Ordinances is hereby amended, and repealed and replaced, with the following¹: Sec. 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.
48 49 50 51	

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52	Height:
53	(1) Flat roofs: The vertical distance from the average datum or elevation of
54	the crown of the road fronting the lot or building site, to the highest point of the
55	roof.
56	(2) <i>Pitched roofs:</i> The vertical distance from the average datum or elevation
57	of the crown of the road fronting the lot or building site, to the top of the tie
58	beam. A pitched roof shall have a maximum pitch of 4/12.
59	(3) H120 District: For the H120 district, the maximum building height of 120
60	feet is measured from the current elevation established by the Florida Department
61	of Environmental Protection for the first habitable floor as of the effective date of
62	this ordinance, which is set at +16.63 NAVD88 (or +18.2 feet NGVD29). The
63	maximum building height shall not exceed +136.63 NAVD88 (or +138.2
64	NGVD29) to the highest point of the structural roof for a flat roof or the top of
65	the tie beam for a pitched roof.
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67	* * *
68	
69	Lot area: The total horizontal area within the lot lines of the lot. In determining usable
70	<u>HL</u> ot area in the H120 district, it shall be <u>calculated based on the area bounded by from</u>
71	the west, north, and south lot lines and to the bulkhead line on the east. The area
72	between the erosion control line and the bulkhead line shall not be counted as part of the
73	lot area for calculation of density, lot coverage, or any other zoning calculation used to
74	and the north lot line shall be the north boundary and the south lot line shall be the south
75 76	boundary .
76	* * *
77	ጥ ጥ ጥ
78 70	I at a sure as The meanantees of the total area of a let that when viewed from above
79	Lot coverage: The percentage of the total area of a lot that, when viewed from above,
80	would be covered by all principal and accessory buildings and structures (except
81	swimming pools, fences, screen enclosures, and pergolas), or portions thereof. In the
82	H30A and H30B single family districts, the lot coverage is limited to a maximum forty
83 84	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
85	building area.
86	i.Uncovered steps and exterior balconies;
87	ii. Uncovered terraces, patios, breezeways, or porches which are open on two (2)
88	
89	sides; and iii.Covered terraces, patios, breezeways, or porches which are open on two (2) sides.
90	in. Covered terraces, patios, breezeways, or porches which are open on two (2) sides.
91	In no instance may the sum of the lot coverage and all exemptions listed in i-iii exceed 6
92	46% of the lot area.
93	TO /O OF the lot area.
94	* * *
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95	Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance	is
96	held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding sh	ıall
97	in no way affect the validity of the remaining portions of this Ordinance.	
98	Section 4. Inclusion in the Code. It is the intention of the Town Commission, and i	
99	hereby ordained that the provisions of this Ordinance shall become and made a part of the Town	
100	Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered	
101 102	accomplish such intentions; and the word "Ordinance" may be changed to "Section" or of	ner
102	appropriate word.	
103	Section 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances	or
104	resolutions in conflict herewith are hereby repealed.	OI
105	resolutions in conflict herewith are hereby repealed.	
107	Section 6. Effective Date. This ordinance shall become effective upon adoption on se	conc
108	reading.	JOH
109	reading.	
110	PASSED and ADOPTED on first reading this 8th day of February, 2022.	
	ASSED and ADOI 1ED on first reading this our day of reordary, 2022.	
111	PACCED 1ADOPTED 1 1 1 1 1 1 0000	
112	PASSED and ADOPTED on second reading this day of March, 2022.	
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114		
115	On Final Reading Moved by:	
116		
117	On Final Reading Second by:	
118		
119	First Reading:	
120	Motion by:	
121	Second by:	
122		
123		
124	Second Reading:	
125	Motion by:	
126	Second by:	
127 128		
128	FINAL VOTE ON ADOPTION	
130	Commissioner Charles Kesl	
131	Commissioner Eliana R. Salzhauer	
132	Commissioner Nelly Velasquez	
133	Vice Mayor Tina Paul	
134		
135		
136	Charles W. Burkett	_
100	Charles W. Dankett	

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	Mayor
ATTEST:	
Sandra N. McCready, MMC	
Town Clerk	
Town Clerk	
APPROVED AS TO FORM AND LEG	GALITY FOR THE USE
AND BENEFIT OF THE TOWN OF S	SURFSIDE ONLY:
Weiss Serota Helfman Cole & Bierman,	P.L.
Town Attorney	

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Town of Surfside Town Commission Meeting DATE 7:00 pm

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

Date: Tuesday March 8th, 2022 Commission Meeting

Prepared by: Commissioner Eliana Salzhauer

Subject: Memo in Support of Ordinance Amending Scope of 24 Inch Setback Encroachment

Objective: Amend Zoning code to reflect the impact of the recent text amendment that removed the requirement of a wedding-cake design in the H-120 district.

Consideration: Our recent joint meeting with the P&Z Board revealed a design problem created by the text amendment removing the requirement of a wedding-cake design in the H-120. Removing that requirement without revising Section 90-47 resulted in designs in which an ADDITIONAL 24 inches were allowed to encroach into the setbacks on top of the balconies already permitted. This error unintentionally created larger encroachments into the setback that were not intended by the code. This Ordinance revises Section 90-47 to specify that projections cannot be combined to encroach further into the setback. It specifies that only roof eves may project 24 inches, while other ornamental features cannot project more than 8 inches, and that these types or projections cannot be combined. This protects the light and air of the surrounding neighbors and reaffirms the sanctity of the setback requirements. This revised Ordinance reflects the direction given at the end of the Joint Commission & Planning and Zoning Board meeting on Wed Feb 23, 2022.

Recommendation: Adopt this (1st Reading) Ordinance Amending Scope of 24 Inch Setback Encroachment

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 90-47. - "YARDS, GENERALLY ALLOWABLE PROJECTIONS", SPECIFICALLY SUB-SECTION 90-47.1 **PROJECTIONS** TO RESTRICT **FOR CERTAIN** ARCHITECTURAL ELEMENTS AND TO PROHIBIT **COMBINING ALLOWED ENCROACHMENTS**; PROVIDING FOR SEVERABILITY; PROVIDING FOR **INCLUSION** IN THE **CODE**; **PROVIDING FOR** CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1	WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida
2	Statutes, provide municipalities with the authority to exercise any power for municipal purposes,
3	except where prohibited by law, and to adopt ordinances in furtherance of such authority; and
4	WHEREAS, the Town Commission of the Town of Surfside ("Town Commission") finds it
5	periodically necessary to amend its Code of Ordinances and Land Development Code ("Code") in
6	order to update regulations and procedures to maintain consistency with state law, to implement
7	municipal goals and objectives, to clarify regulations and address specific issues and needs that
8	may arise; and
9	WHEREAS, sub-section 90-47.1 provides for a maximum 24-inch encroachment into the
10	setback for certain architectural features; and
11	WHEREAS, other sub-sections of Section 90-47 allow for other types of projections; and
12	WHEREAS, a potential ambiguity has been raised regarding whether the encroachment
13	allowed by sub-section 90-47.1 can be combined with other encroachments, such as those allowed
14	by the recently adopted ordinance which permits balcony encroachments; and
15	WHEREAS, the Town seeks to restrict the projections of certain ornamental features and
16	clarify that encroachments permitted under the zoning code cannot be combined to extend further
17	into the setback; and
18	WHEREAS, the Town Commission held its first public hearing on March, 2022 and
19	recommended approval of the proposed amendments to the Code of Ordinances having complied
20	with the notice requirements in the Florida Statutes; and

21	WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held
22	its hearing on the proposed amendment on, 2022 with due public notice and input;
23	and
24	WHEREAS, the Town Commission has conducted a second duly noticed public hearing on
25	these regulations as required by law on, 2022 and further finds the proposed
26	changes to the Code are necessary and in the best interest of the community.
27 28 29 30	NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA¹:
31 32 33	Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference:
34 35 36	<u>Section 2.</u> <u>Town Code Amended.</u> Section 90-47. – "Yards, Generally Allowable Projections", of the Surfside Town Code of Ordinances is hereby amended, and repealed and replaced, with the following ¹ :
37 38 39 40 41 42 43	Sec. 90-47.1 Every part of a required yard shall be open to the sky, except <u>for (1)</u> ordinary projections of sills, cornices, <u>roof eaves</u> and ornamental features <u>that may</u> project not more than <u>8 inches and roof eaves that project not more than</u> 24 inches into any required yard, and (2) any encroachment permitted in this section. <u>Individual types of projections permitted in this section shall not be combined with another type of permitted projection to encroach further into the setback.</u>
+3 44	* * *
45 46 47	<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.
48 49 50 51 52	<u>Section 4.</u> <u>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.
53 54 55	<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.
56 57 58	<u>Section 6.</u> <u>Effective Date.</u> This ordinance shall become effective upon adoption on second reading.

¹ Additions to the text are shown in <u>underline</u>. Deletions to the text are shown in strikethrough.

PASSED and ADOPTED on first readi	ng this day of, 2022.
PASSED and ADOPTED on second re	eading this day of , 20
	,
On Final Reading Moved by:	
<u> </u>	
On Final Reading Second by:	
ξ ,	
First Reading:	
Motion by:	
Second by:	
	
Second Reading:	
Motion by:	
Second by:	
TINAL MOTE ON A DODONOM	
FINAL VOTE ON ADOPTION	
Commissioner Charles Kesl Commissioner Eliana R. Salzhauer	
~	
Vice Mayor Tina Paul	
vice iviayor rina radi	
	Charles W. Burkett
	Mayor
ATTEST:	
Conduc N. McCucada MMC	
Sandra N. McCready, MMC	
Town Clerk	
APPROVED AS TO FORM AND LEGALIT	TY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFS	
Weiss Serota Helfman Cole & Bierman, P.L.	
Town Attorney	



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

Date: 2/27/22

Prepared by: Mayor

Subject: Anti-Semitism Flyer

Objective: Support victimized Surfsiders and others victimized by similar flyers.

Recommendation: Support the attached ordinance

Solution: Stand together with our victimized friends and neighbors in a show of strength and unity against

aggression and intimidation.

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 54-2. - "CONSIDERATION OF ANTI-SEMITISM** AND HATE CRIMES IN ENFORCING LAWS", TO STRENGTHEN AND AMEND THE DEFINITION AND ANTI-SEMITISM **THAT EXAMPLES** OF MAY CONSIDERED IN THE EVALUATION OF EVIDENCE OF ANTI-SEMITISM IN ENFORCING LAWS, INCLUIDNG **EXAMPLES OF ANTI-SEMITISM RELATED TO ISRAEL;** PROVIDING FOR SEVERABILITY; PROVIDING FOR **INCLUSION** IN THE CODE; **PROVIDING FOR** CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

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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, to implement municipal goals and objectives, to clarify regulations and address specific issues and needs that may arise; and

WHEREAS, on February 8, 2022, the Town Commission adopted Resolution No. 2022-2857 which reaffirmed the Town's Commitment to combat anti-Semitic, hateful and hurtful messages and behavior, and reaffirmed Section 54-2 of the Town Code "Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws" by supporting an amendment thereto to strengthen and broaden the definition and examples of anti-Semitism, including the addition of examples of anti-Semitism related to Israel; and

WHEREAS, the Town Commission finds that amending Section 54-2 of the Town Code to strengthen and broaden the definition and examples of anti-Semitism is necessary and in the best interests of the Town and its residents; 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, the Town Commission believes that every human being is born in the image of
18	the Almighty God and has fundamental human rights to live and prosper endowed by our Creator;
19	and
20	WHEREAS, the Town Commission held its first public hearing on March 8, 2022 and
21	recommended approval of the proposed amendments to Section 54-2 of the Town Code having
22	complied with the notice requirements in the Florida Statutes; and
23	WHEREAS, the Town Commission has conducted a second duly noticed public hearing on
24	these regulations as required by law on, 2022 and further finds the proposed changes
25	to the Town Code are necessary and in the best interest of the community.
26 27	NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE
28	TOWN OF SURFSIDE, FLORIDA ¹ :
29 30 31	Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference:
32 33 34 35	<u>Section 2.</u> <u>Town Code Amended.</u> Section 54-2. – "Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws" of the Surfside Town Code of Ordinances is hereby amended, and repealed and replaced, with the following ¹ :
36	Sec. 54-2. – Consideration of Anti-Semitism and Hate Crimes in Enforcing Laws.
37 38 39	* * *
40	(a) The following definitions shall apply for purposes of this section:
41 42 43 44	Anti-Semitism means a certain perception of Jews, which may be expressed as hatred or bias toward Jews. Rhetorical and physical manifestations ## may be present in acts or offenses against Jewish or non-Jewish individuals and/or their property, and toward Jewish institutions and religious facilities.
15 16 17 18	Hate crime means the commission of a felony or misdemeanor that evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, or advanced age of the victim, based on the standards used to determine whether penalties for crimes shall be reclassified based on evidence of prejudice during the commission of said crimes according to F.S. § 775.085.

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 (b) In investigating whether there has been a violation of law, the town police department 51 shall take into consideration the definitions of anti-Semitism and hate crime for purposes of 52 determining whether the alleged violation was motivated by anti-Semitic intent or intent to 53 commit a hate crime, consistent with the federal and state statutes prohibiting hate crimes. 54 (c) The following contemporary examples of anti-Semitism, including those identified by the United States Department of State, may be considered among others in the evaluation of 55 56 whether there is evidence of anti-Semitism [2]: 57 (1) Calling for, aiding, or justifying the killing or harming of Jews (often in the 58 name of a radical ideology or an extremist view of religion). 59 (2) Making mendacious, dehumanizing, demonizing, or stereotypical allegations 60 about Jews as such or the power of Jews as a collective, especially, but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling 61 62 the media, economy, government or other societal institutions. 63 (3) Accusing Jews as a people of being responsible for real or imagined wrongdoing 64 committed by a single Jewish person or group, the state of Israel, or even for 65 acts committed by non-Jews. 66 (4) Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust. 67 68 (5) Accusing Jewish citizens of being <u>anti-American and more loyal</u> to Israel, or to the alleged priorities of Jews worldwide, than to the interest of their own 69 70 nations. 71 (6) Anti-Semitism related to Israel includes: 72 a. Demonizing Israel by using the hateful symbols and images associated with 73 classic anti-Semitism to characterize Israel or Israelis, drawing comparisons of 74 contemporary Israeli policy to that of the Nazis, or blaming Israel for all inter-75 religious or political tensions; 76 77 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 78 79 rights investigations only on Israel and not all others for the same reasons; or 80 81 c. Delegitimizing Israel by denying the Jewish people their right to self-82 determination, and denying Israel the right to exist. 83 84 d. However, notwithstanding the foregoing, criticism of Israel similar to that levied 85 against any other country cannot be regarded as anti-Semitic.

86 87 88 89	(d) Nothing in this section may be construed to diminish or infringe upon any right protected under the First Amendment to the Constitution of the United States, or the State of Florida's Constitution. Nothing in this section may be construed to conflict with federal or state discrimination laws.
90	* * *
91 92 93	<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.
94 95 96 97 98 99	<u>Section 4.</u> <u>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.
100 101 102	<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.
103 104 105	Section 6. Effective Date. This ordinance shall become effective upon adoption on second reading.
106 107	PASSED and ADOPTED on first reading this 8th day of March, 2022.
108 109	PASSED and ADOPTED on second reading this day of, 2022.
110 111	On Final Reading Moved by:
112 113	On Final Reading Second by:
114	First Reading:
115	Motion by:
116 117	Second by:
118	
119	Second Reading:
120	Motion by:
121	Second by:
122	
123	EINAL WOME ON A DODMION
124	FINAL VOTE ON ADOPTION
125	Commissioner Charles Kesl
126 127	Commissioner Eliana R. Salzhauer Commissioner Nelly Velasquez
141	COMMINATORE INCHV VEIGNUUCA

Vice Mayor Tina Paul	<u>.</u>
	Charles W. Burkett
	Mayor
	·
ATTEST:	
Sandra N. McCready, MMC	•
Town Clerk	
APPROVED AS TO FORM AND LEGAL	LITY FOR THE USE
AND BENEFIT OF THE TOWN OF SUR	RFSIDE ONLY:
Weiss Serota Helfman Cole & Bierman, P.L.	-
Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney	



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

Date: Tuesday March 8th, 2022

Prepared by: Commissioner Eliana Salzhauer

Subject: Resolution Urging Court and Parties to Disburse Funds to CTS Victims

Objective: It's been over 8 months since the June 24, 2021 Champlain Towers South ("CTS") collapse that resulted in 98 fatalities as well as injuries to many others. In addition to the psychological and emotional toll that the CTS collapse has taken on surviving victims, the financial burdens of losing their homes and starting their life over has greatly impacted the victims that have survived. The Court's original stated goal was to compensate these victims as generously and quickly as possible. This original intent was the reason families were not given the opportunity they deserved to pursue a memorial on-site. The Court ordered the property sold ASAP with the goal of compensating victims "quickly." Attorneys were encouraged to work on a pro-bono capacity so that all limited funds could go to those who lost lives and property.

Eight months later, the victims have not received significant monies, any resolution via trial continues to be postponed, while the attorneys continue to rack up billable hours and attorneys' fees that the Courts itself stated would likely be tens of millions of dollars.

This Commission owes a duty to its impacted residents to speak out and urge the court to disperse funds along the way. The Court has already collected funds through insurance settlement claims and other avenues. While we understand that the Court is seeking to augment those funds through the sale of the CTS property, it is unnecessarily cruel for CTS's victims to financially suffer for an unknown duration until a "final sum" is reached. I respectfully ask my fellow Commissioners to join me in urging the court to prioritize the victims' financial needs and use its discretion to authorize immediate assistance.

Consideration: Resolution is self-explanatory. Our CTS residents have suffered enough. Waiting until "all" funds are collected prior to any disbursement is causing additional unnecessary suffering. The Court can order such disbursements immediately, and thus ease their suffering through a legal process that will surely take years to resolve.

Recommendation: Adopt this Resolution Urging the Court and Parties to Disburse Funds to Champlain Towers South Victims Immediately.

RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA; URGING THE COURT TO CONSIDER DISBURSING A PORTION OF **FUNDS** ALREADY COLLECTED TO LIVING FORMER RESIDENTS OF THE **CHAMPLAIN** TOWERS SOUTH AND TO CONSIDER DISBURSING NEW FUNDS TO VICTIMS AS THEY ARE **COLLECTED**; **AUTHORIZING** THE **TOWN** MANAGER AND TOWN ATTORNEY TO TRANSMIT THIS RESOLUTION TO THE COURT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Champlain Towers South (the "CTS") condominium building collapsed on June 24, 2021, resulting in the deaths of 98 people and injuries to many others; and

WHEREAS, the CTS was located in the Town of Surfside, a majority of the victims were residents of the Town, and the Town and its residents were deeply affected by the collapse; and

WHEREAS, in addition to the psychological and emotional toll that the CTS collapse has taken on surviving victims, the financial burdens of losing their home and starting their life over has greatly impacted the victims that have survived; and

WHEREAS, the court in the case of In Re: Champlain Towers South Collapse Litigation, Case No. 2021-015089-CA-01, has already collected certain funds through insurance settlements and other avenues, and is looking to augment those funds in the future through the sale of the CTS property, litigation, and/or settlements in order to distribute shares of those funds to victims of different classes (such as those incurring losses to real and personal property, victims of wrongful death, and injury victims); and

WHEREAS, the sale of the property, litigation, and any settlements may take weeks to years to finally be completed; and

WHEREAS, the victims have current financial needs and could benefit from some financial assistance immediately.

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

SECTION 1. RECITALS. All recitals set forth above are incorporated into the body of this Resolution as if same were fully set forth herein.

PORTION OF FUNDS ALREADY COLLECTED IMMEDIATELY TO VICTIMS AND TO CONSIDER DISBURSING NEW FUNDS TO VICTIMS AS THEY ARE COLLECTED. The Town Commission urges the court in the case of In Re: Champlain Towers South Collapse Litigation, Case No. 2021-015089-CA-01, to determine an equitable apportionment of funds already collected, subject to adjustment based on future sums collected via the litigation and sale of the CTS property, and to distribute a portion of the funds already collected to surviving victims of the CTS collapse. The Commission further urges the court to consider disbursement of funds collected in the future to surviving victims as soon after they are collected as possible.

SECTION 3. TRANSMITTAL TO THE COURT. The Town Manager and Town Attorney are authorized to transmit a copy of this Resolution to the court, and to explain the rationale supporting this Resolution to the court.

SECTION 4. IMPLEMENTATION. The Town Manager and Town Officials are authorized to take any and all action to implement this Resolution and seek the court's disbursement of funds already collected.

SECTION 5. EFFECTIVE DATE. This Resolution shall become effective upon adoption.

PASSED AND ADOPTED this ____ day of March, 2022.

FINAL VOTE ON ADOPTION

Commissioner Charles Kesl	
Commissioner Eliana Salzhauer	
Commissioner Nelly Velazquez	
Vice Mayor Tina Paul	
Mayor Charles W. Burkett	

ATTEST:	Charles W. Burkett, Mayor
Sandra N. McCready, MMC, Town Clerk	
APPROVED AS TO FORM AND LEGAL SUFFIFOR THE TOWN OF SURFSIDE ONLY:	CIENCY
Weiss Serota Helfman Cole & Bierman, P.L. Town Attorney	



Town of Surfside Town Commission Meeting

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

MEMORANDUM

Agenda #: 5B

Date: February 25, 2022 From: Vice Mayor Tina Paul

Subject: A Resolution opposing SB 1024 and HB 741, which would severely limit net

energy metering and the benefits of rooftop solar energy.

Consideration – Solar power has become increasingly accessible, empowering Floridians to have choices in how they receive and pay for electricity, as one of 47 states that allows homeowners and business owners to produce power and sell it back to the energy grid providers.

Florida's rooftop solar industry supports sustained economic development throughout the State by generating over \$18 billion to the state economy, supporting over 40,500 direct and indirect jobs in Florida alone₁, because of the existing net metering law.

SB 1024 and HB 741, as introduced, would slash the credits that customers receive for sharing their excess electricity with the power grid, thereby making customer-sited renewable energy more expensive. Legislation that restricts the expansion of rooftop solar in Florida and organizations opposing these proposed measures include but are not limited to the League of Women Voters Florida, Florida Conservation Voters, the Southern Alliance for Clean Energy, Solar United Neighbors, Catalyst Miami, the CLEO Institute, and Vote Solar.

Currently, power customers rely on outdated, dangerous sources of energy that put Florida closer to the devastating consequences of climate change. Florida must ensure that important clean energy policies are preserved and advanced. The Legislature should stop this unwarranted proposal that limits net metering and the Florida communities who benefit from it. The Town of Surfside is committed to reducing emissions and promoting environmentally sustainable practices that advocate for renewable energy, which includes solar.

¹ The Washington Economics Group, Inc., on behalf of Conservatives for Clean Energy Florida, "The Comprehensive Economic Development Impacts of the Rooftop Solar Power Industry on the State of Florida," November 2,2021, https://lwww.cleanenergyconservatives.com/wp-content/uploads/2021/II/CCE-Rooftop-Solar-Report-November-2021-1.pdf

Net metering is, a system in which solar panels or other renewable energy generators are connected to a public-utility power grid and surplus power is transferred onto the grid, which allows customers to offset the cost of power drawn from the utility.

According to FPL's own cost of service study, which shows how much it costs to serve each class of customers and how much rates would increase if all classes paid their fair share, there is over a billion-dollar subsidy to the largest commercial and industrial customers over the next 4 years that is being paid by residential customers and small businesses.

FPL gives a credit to rooftop solar customers for excess electricity that they provide to the electrical grid (the Grid): however, the credit is only at wholesale rates (1.5458 cents per kwh). FPL is reselling that power to all the other residential customers at the retail rate of 10.44-cents per kilowatt hour.

The Public Service Commission ("PSC") makes sure that Florida's consumers receive some of their most essential services, electric, natural gas, telephone, water, and wastewater in a safe, reasonable, and reliable manner. In doing so, the PSC exercises regulatory authority over utilities in one or more of three key areas: rate base/economic regulation; competitive market oversight; and monitoring of safety, reliability, and service.

Protecting net metering and expanding access to rooftop solar in Surfside will support resiliency and provide environmental and public health benefits by reducing air emissions and lessen the impacts of the climate crisis. This can prevent the need to build costly electricity generation, adding value directly to the local economy, and contributing to the achievements of reliability and clean energy goals.

Recommendation – Adopt this Resolution to promote renewable energy through solar power.

⁷ Bradley Marshall, attorney with Earthjustice. We represented Florida Rising, the League of United Latin American Citizens of Florida, and the Environmental Confederation of Southwest Florida in the most recent FPL rate case and who states that these numbers are from FPL's own projections.

RESOLUTION NO. 2022-

A RESOLUTION OF THE TOWN COMMISSION OF THE **TOWN OF** SURFSIDE, FLORIDA. EXPRESSING **OPPOSITION** TO **PROPOSED** FLORIDA SENATE BILL 1024 AND HOUSE BILL 741, "NET METERING," REVISING LEGISLATIVE FINDINGS RELATING TO REDESIGN OF NET METERING TO AVOID CROSS-SUBSIDIZATION ELECTRIC SERVICE COSTS BETWEEN CLASSES OF RATEPAYERS; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") supports the existing net metering system that allows residents with solar panels or other renewable energy generators connected to a public-utility power grid to transfer surplus power onto the grid and offset the cost of power drawn from the utility; and

WHEREAS, on November 22, 2021, Senate Bill 1024 ("SB 1024"), entitled "Net Metering," was filed in the Florida Senate, seeking to revise legislative findings relating to redesign of net metering to avoid cross-subsidization of electric service costs between classes of ratepayers, require the Public Service Commission to propose new net metering rules to comply with specified criteria by a certain date, and authorize certain customers who own or lease renewable generation before a specified date to remain under the existing net metering rules for a specified time; and

WHEREAS, on November 29, 2021, the companion House Bill 741 ("HB 741") was filed; and

WHEREAS, if SB 1024 and/or HB 741 (collectively, the "Bills") were to pass as written, utilities will be allowed to add in base facilities charges, electric grid access fees, monthly minimum bills, or other fixed charges to customers' bills; and

WHEREAS, the Town Commission opposes the Bills and recommends that the State Legislature oppose the Bills, as currently proposed; and

WHEREAS, the Town Commission finds that the adoption of this Resolution is in the best interest and welfare of the residents of the Town.

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

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

Section 2. Opposition. The Town Commission hereby opposes SB 1024 and/or HB 741, and recommends that the State Legislature oppose the Bills.

Section 3. Transmittal. The Town Clerk is hereby directed to transmit a copy of this Resolution to Governor Ron DeSantis, the Senate President, the House Speaker, the Florida League of Cities, the Miami-Dade County League of Cities, and the Miami-Dade County State Legislative Delegation.

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

PASSED AND ADOPTED on this 8th of March, 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	<u>-</u>
APPROVED AS TO FORM AND LEGAL	SUFFICIENCY:
Weiss Serota Helfman Cole & Bierman, P.L	-
Town Attorney	



Town of Surfside Town Commission Meeting MARCH 8, 2022 7:00 pm

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd 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

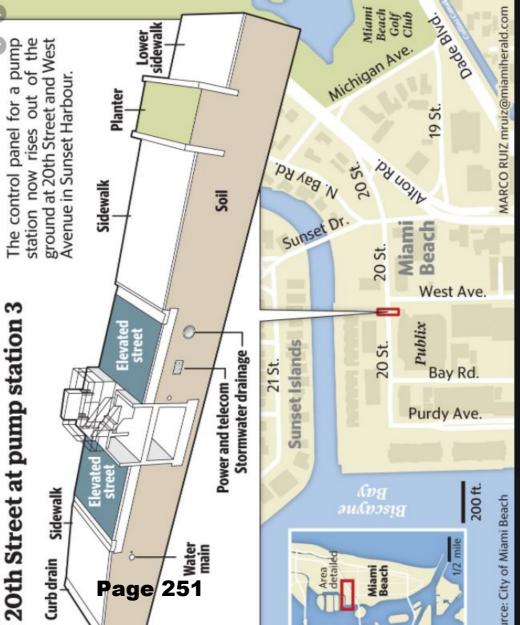




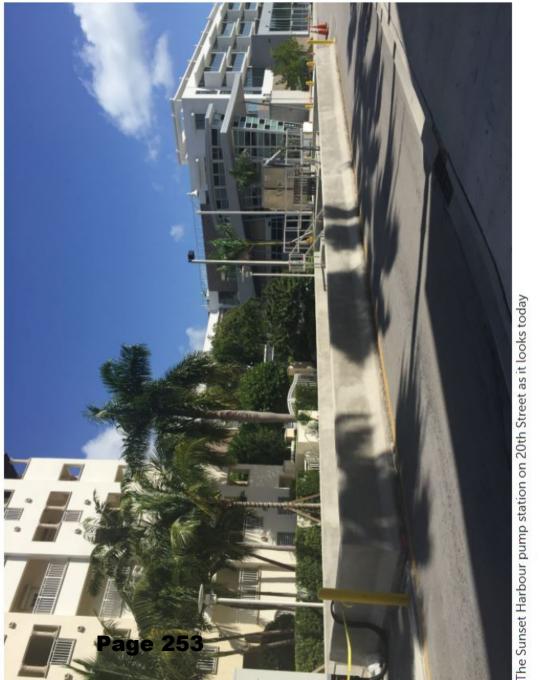












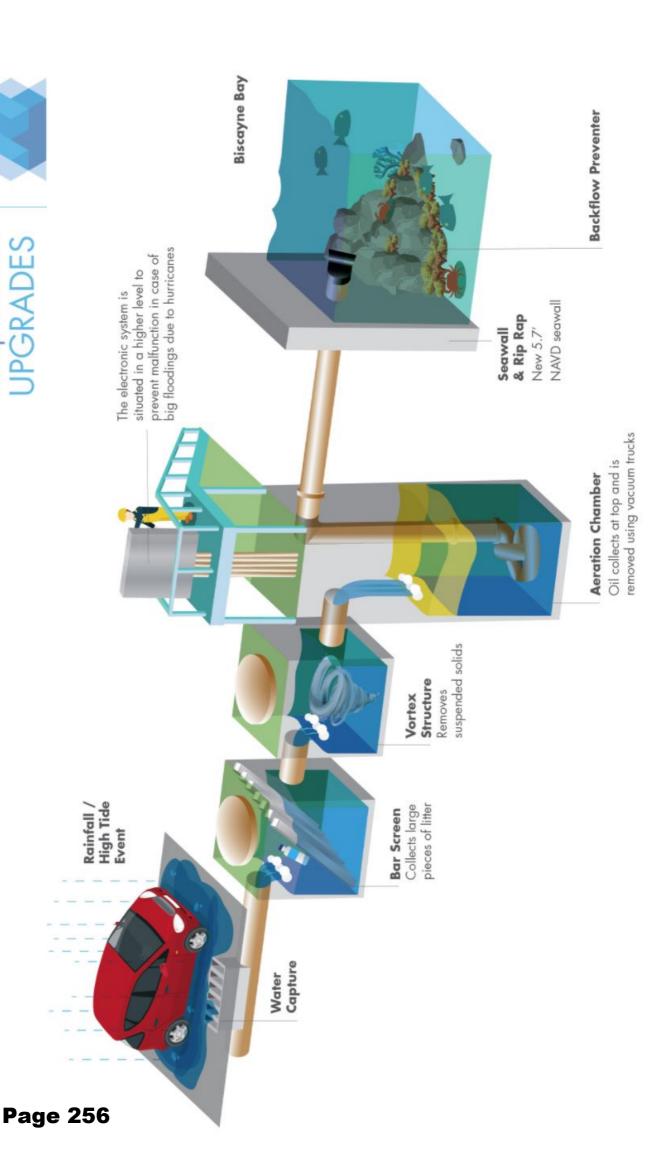


Page 254





Stormwater Pump Station UPGRADES





AUCAGO OCU U XIII OH MOT SURFSIDE'S once and for all! August 2020 Page 258



Giant structures are moved all the time...



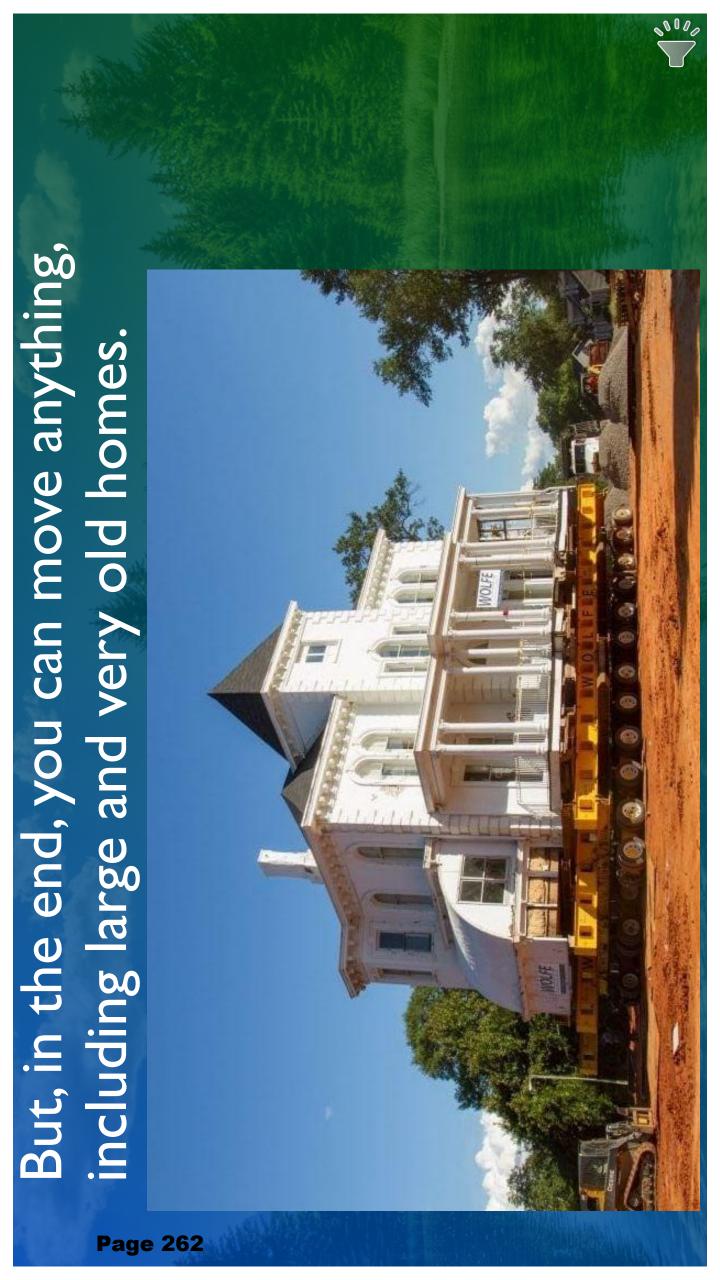
2

Lighthouse being moved away from a cliff

Not only can giant structures be moved, they can be raised.

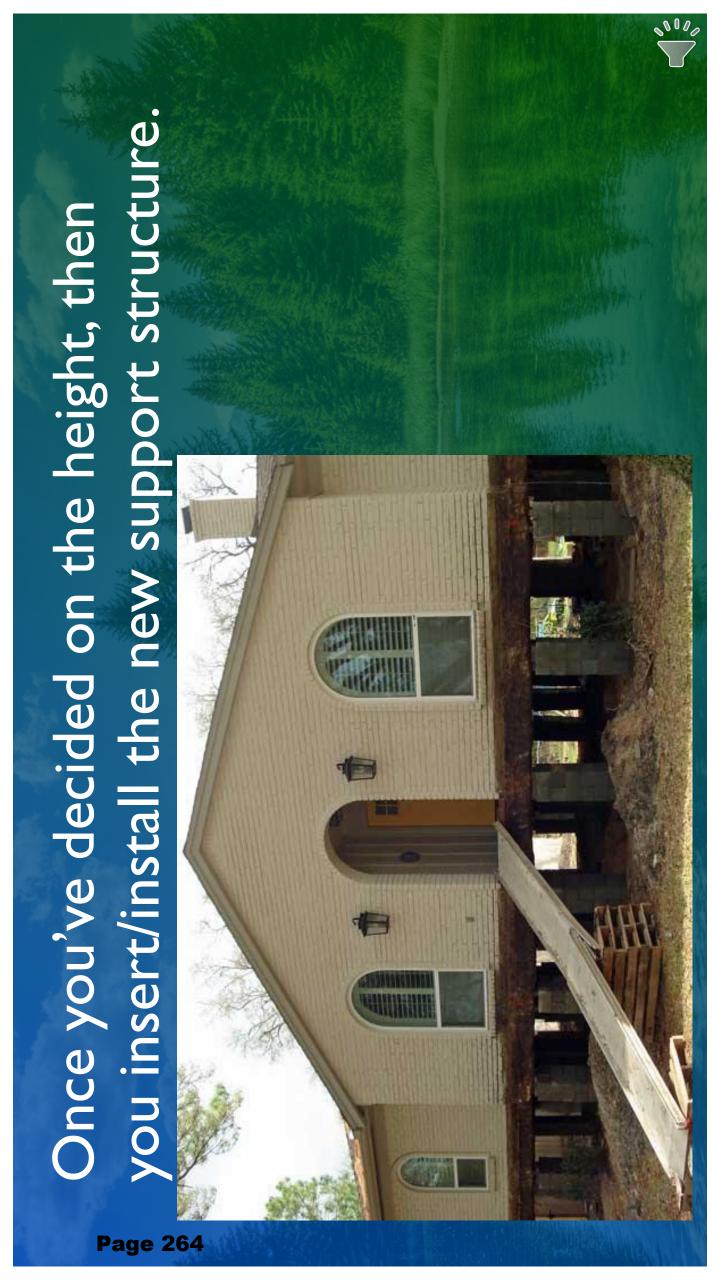


Moving structures is much harder, than raising them, however that's done all the time too.



The question is...not <u>can</u> you raise a home, but how high do you want to raise it?

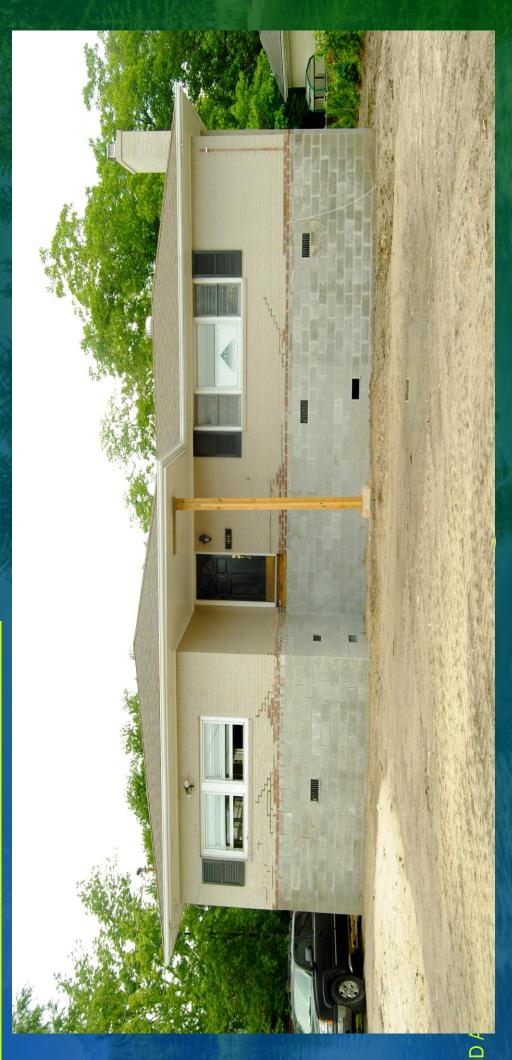




Some homeowners will build storage or entrance features in The new "elevation space" that are "flood risk" uses.



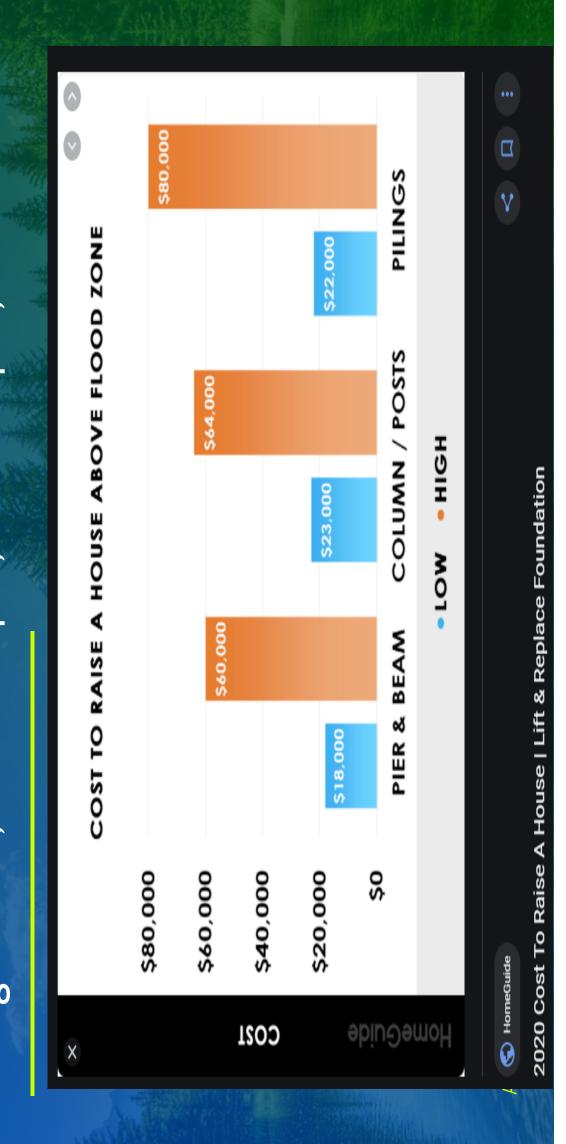
underneath their home, satisfied that their home is now out of Some will just have empty space and a large open area flood danger.



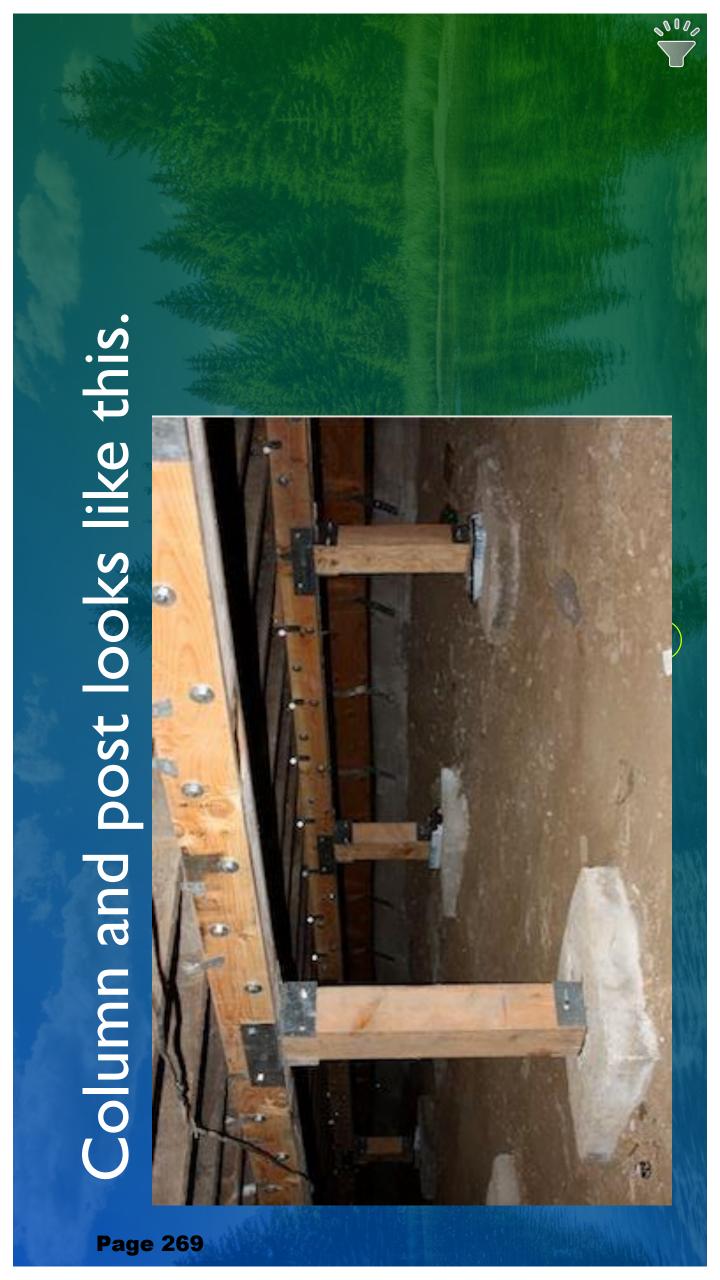
In the end, once all the work is done, the project coks like it was designed to be elevated.

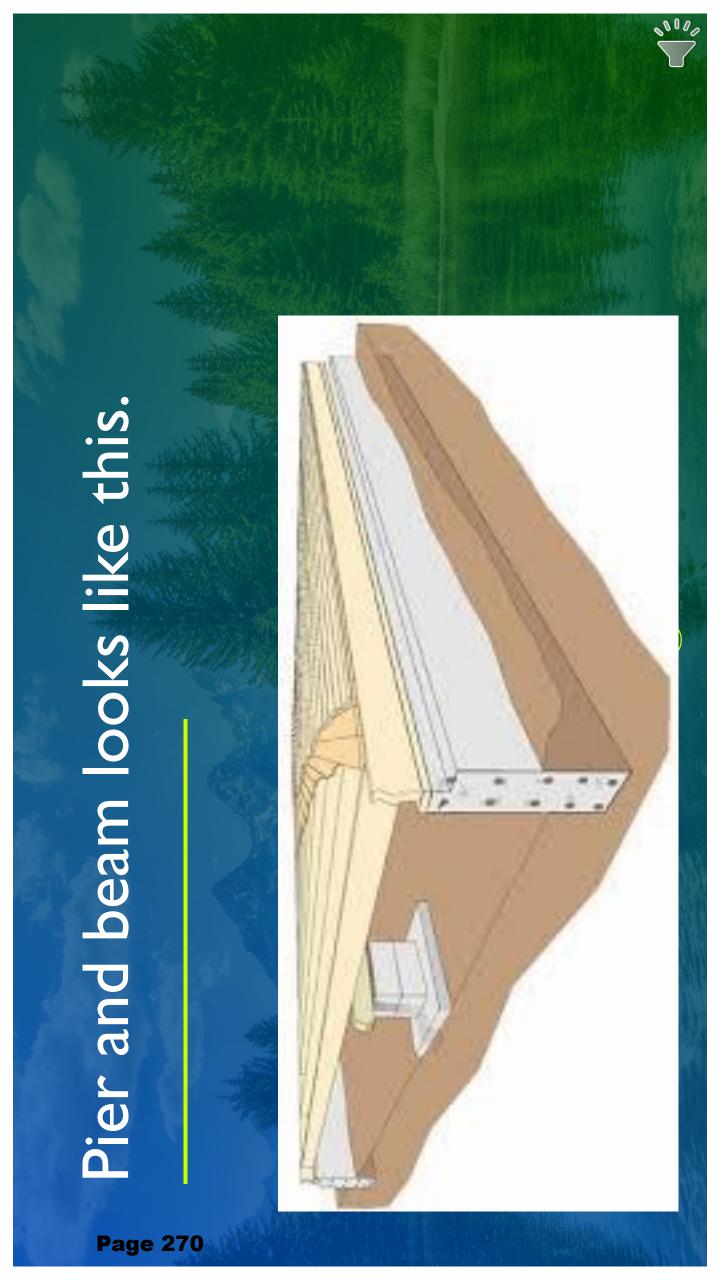


What are the costs and the 3 types of elevation options? For an average home, between \$18,000 and \$80,000 to raise it.

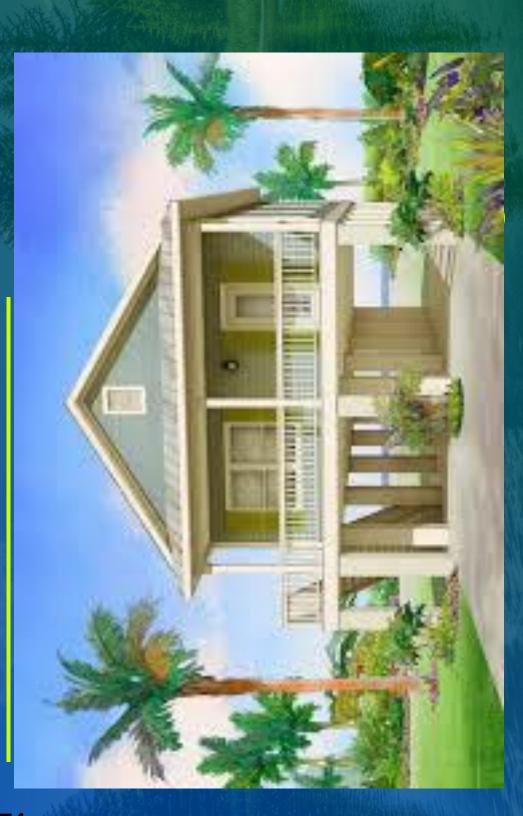








Finally, Pilings foundation looks like this.



What are the cost savings for raising a home besides 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





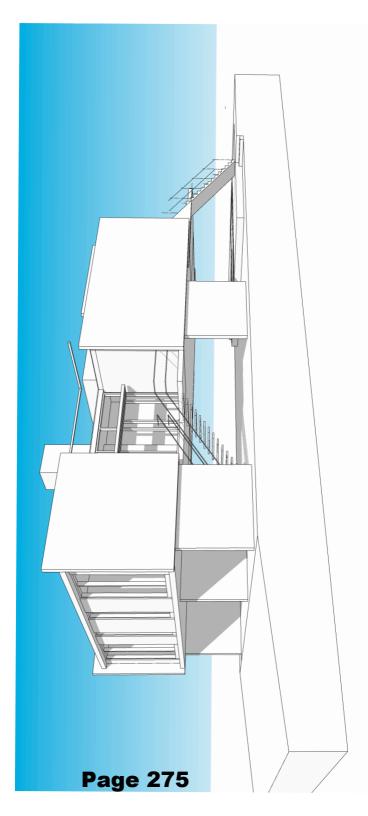
*\$250,000 building coverage only (does not include contents), AE (high to moderate risk) zone, single-family, one-story structure without a basement at: 4 feet below Base Flood Elevation (BFE); at BFE; and at 3 feet above BFE. (Rating per FEMA flood insurance manual, October 1, 2012). The illustration 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 (112.5×50). 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.

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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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, 2nd 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:¹

<u>Section 1.</u> Recitals Adopted. That the above-stated recitals are hereby adopted and confirmed.

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 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 shall not be broken down to amounts less than \$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, but limited to, 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:
 - a. Academic program reviews or lectures or seminars by individuals Postage, 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	rk	\bigvee		

Approved as to Form and Legal Sufficiency:

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

FINAL VOTE ON ADOPTION

Commissioner Daniel Gielchinsky	Yes
Commissioner Michael Karukin	Yes
Commissioner Tina Paul	Yes
Vice Mayor Barry Cohen	Absent
Mayor Daniel Dietch	Yes



MEMORANDUM

ITEM NO. 9C

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.

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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, 2nd 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, 2nd 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?

Does this item utilize G.O. Bond Funds?

No

Yes

Departments

Planning

ATTACHMENTS:

Description

Draft ORD - Building Registry

Type

Memo

9F



T T C April 13

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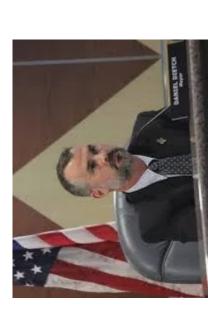
																							Double what most paid									
Contribution per resident	\$0.00	\$1.42	\$1.79	\$1.94	\$2.03	\$4.02	\$4.04	\$4.40	\$4.72	\$4.87	\$5.66	\$6.40	\$6.72	\$6.87	\$8.66	\$9.18	\$9.30	\$9.80	\$11.63	\$11.74	\$12.82	\$16.64	\$18.26	\$18.60	\$20.01	\$21.10	\$21.55	\$22.67	\$35.33	\$36.46	\$42.88	\$43.68
Population 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	2)662	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

be Mayor gives \$\$ to his choice of charities ...with taxpayers money \$\mathbb{E}\$ January 18, 2020



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,

be he's sent money to victims in Oklahoma, be be'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 "in memory of" gifts, AND,

a he's given \$100,000 to fund homeless relief **6**

- Even 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.

15 January 16, 2020

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



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 5/80.00 from every Surfside resident...a gift for which the Mayor is thanked and recognized personally. **Page**

*****UPDATE:

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

Share this post:

C

Recent Posts

Following the Covid-19 Science, Reveals Some Hope...

Oct 29, 2020





E A D

TE 9G

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

From: Guillermo Olmedillo, Town Manager

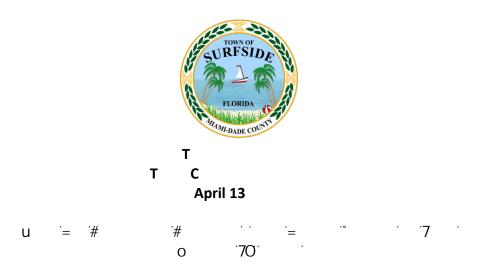
Date: April 21, 2020

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;



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- 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)

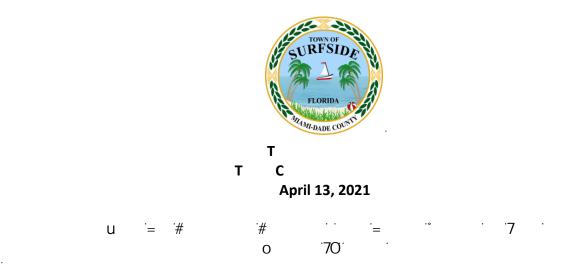
Establishment of business relationship after appearance. Except as prohibited by law, if a member of the town commission or any town board or committee establishes a business relationship with any applicant or interested person within 12 months after the applicant or interested person appeared before 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. 91

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

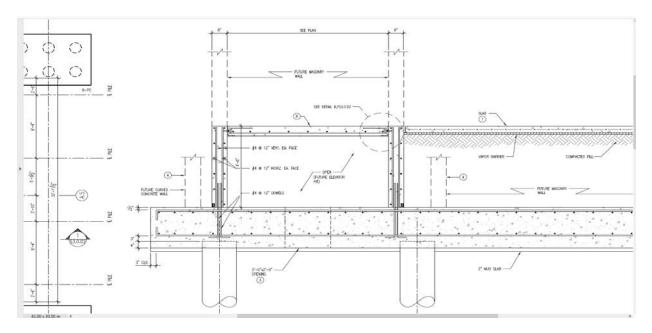
From: Andrew Hyatt, Town Manager

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 3rd 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 7th 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

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

9K



T T C April 13

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TBD^{*}

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.

Tools

Charter Amendme...

reso-12-2096-ame..

2012-10-gazette.pdf ×

































TOWN SURFSIDE



Page 329

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 331

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 [

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 \mathbf{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

¹ 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

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 Comm	nission.
Public Inspe Supervisor of amendments	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 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 (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?

Charter?

2.

Yes No

Yes

No

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 Glerk 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

<u>VES</u>

Commissioner Marta Olchyk

YES

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 M. Dannheisser

Town Attorney

ORDINANCE NO. 15 - 1640

AN **ORDINANCE** OF THE **TOWN** COMMISSION OF THE **TOWN** OF SURFSIDE. FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 **ZONING:** SPECIFICALLY **AMENDING** SECTION 90-43 MAXIMUM BUILDING HEIGHTS: PROVIDING FOR INCLUSION IN THE CODE; **PROVIDING** FOR SEVERABILITY: REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Sec. 4 of the Town Charter states:

Sec. 4. - General powers of town; powers not deemed exclusive.

The density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable units per acre, floor area ratios or the maximum allowable building heights in stories and feet that are set out in the Town of Surfside Comprehensive Plan or the Code of the Town of Surfside, whichever provisions are most restrictive, which were in effect in 2004. This amendment to the Town of Surfside Charter shall not be repealed, revised, amended, or superseded unless repeal, revision, amendment, or superseding provisions are placed on the ballot at a regularly scheduled election of the Town of Surfside and approved by a vote of the electors of the Town of Surfside.

WHEREAS, Sec. 4 of the Town Charter was amended by the electors by approval of the November 6, 2012 ballot question which modified height to be restricted to the number of feet and the number of stories described in the more restrictive of the 2004 Zoning Code or 2004 Comprehensive Plan; and

WHEREAS, amending Sec. 90-43 Maximum building heights provides consistency between the Code and the Charter amendment; and

WHEREAS, the Town Commission held its first duly noticed public hearing on these regulations on September 8, 2015; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the revisions to the code for consistency with the Town's Comprehensive Plan at a duly noticed public hearing on November 19, 2015 and recommended approval; and

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.

<u>Section 2</u>. <u>Code Amendment.</u> 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	<u>2</u>
H30C	30 FT	2
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.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or 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 September, 2015. PASSED and ADOPTED on second reading this day of December, 2015.
PASSED and ADOPTED on second reading this day of <u>December</u> , 2015.
Daniel Dietch, Mayor
ATTEST: 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 Kacukio, 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 Abstroll 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: ddietch@townofsurfsidefl.gov
Web: http://www.townofsurfsidefl.gov/

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 4¹ 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.

¹ 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 ballot²--this amendment was for the sole purpose of "defining and clarifying³" 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 Legislature⁴ as expressed in the law's plain language. *See Starr Tyme, Inc. v. Cohen,* 659 So.2d 1064

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² Surfside Resolution No. 2012-2096 called the subject 2012 Election.

³ 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..."

⁴ 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)⁵. However, a law's plain and ordinary meaning will not control if it leads to an unreasonable result⁶ 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 one⁷ (*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 effect⁸.

B. Legal Analysis.

We begin the analysis with Charter Section 4's language: "regularly scheduled election of the Town of Surfside" ⁹. On its face, the Charter requires that the election be a "Town of

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⁵ 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.

⁶ 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..."

⁷ State v. Bodden, 877 So.2d 680, 685: ("[T]he legislature is presumed to know the meaning of words and the rules of grammar[.]")

⁸ 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.

⁹ 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.",11

and obvious meaning to words used in statute, it should not interpret statute so as to produce unreasonable or absurd result).

¹⁰ 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).

¹¹ 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 5¹² 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 meaning¹³.

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 voters¹⁴. Therefore, as a matter of law, Charter section 4 prevails over Charter sections 97 and

 $^{^{12}}$ Due to County Charter revisions, the correct citation is Article 6, section 6.03 of the Miami-Dade County Charter.

¹³ "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)).

¹⁴ 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 Election¹⁵. 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.

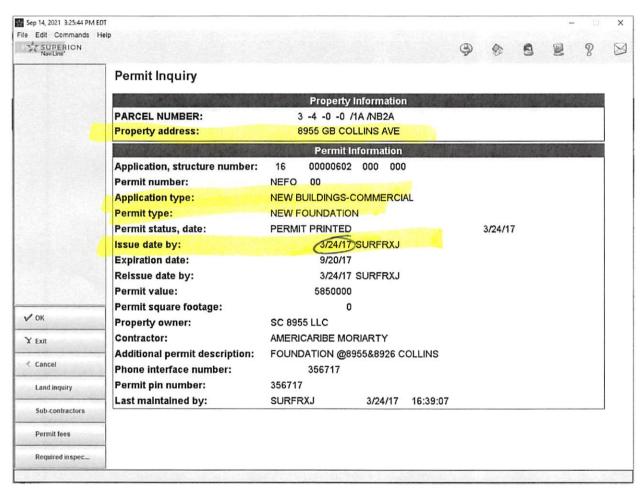
Based upon the above analysis, it is my opinion that the language in the final paragraph of Town Charter Section 4, requiring elections to amend such language occur at a "regularly scheduled election of the Town of Surfside", constitutes a restraint (albeit lawful) upon the Town with regard to the scheduling 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. ¹⁶-¹⁷.

¹⁵ 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.

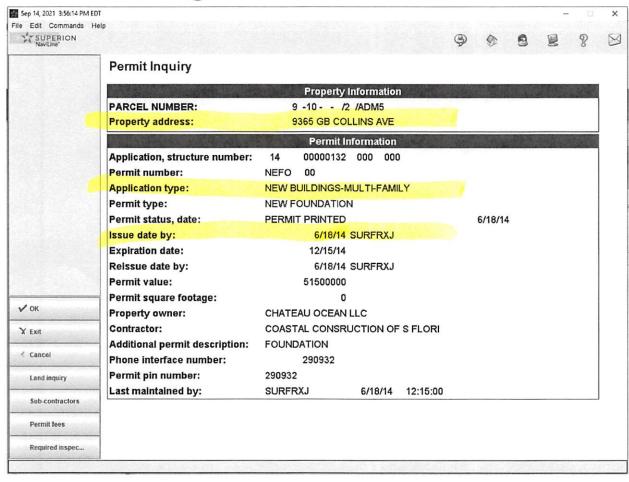
¹⁶ Nowhere else in the Town Charter is there a provision restricting placement of a particular Charter amendment to a specific ballot.

¹⁷ Final postscript relative to future Town elections: in general, a private party may pay the Town's election expenses related to proposed Charter amendments. See, Florida State Division of Elections Opinion 13-06.

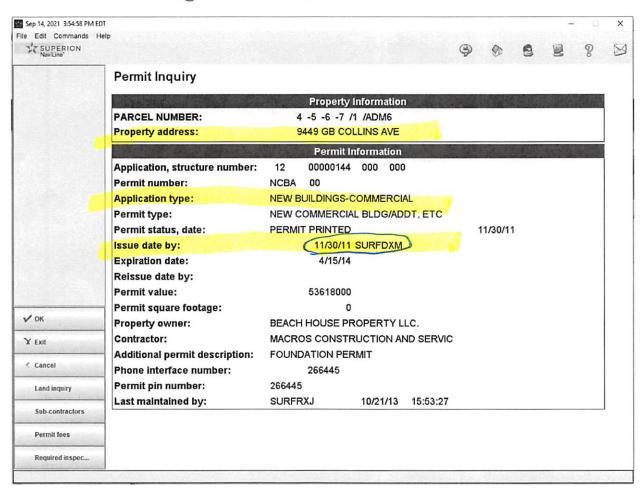
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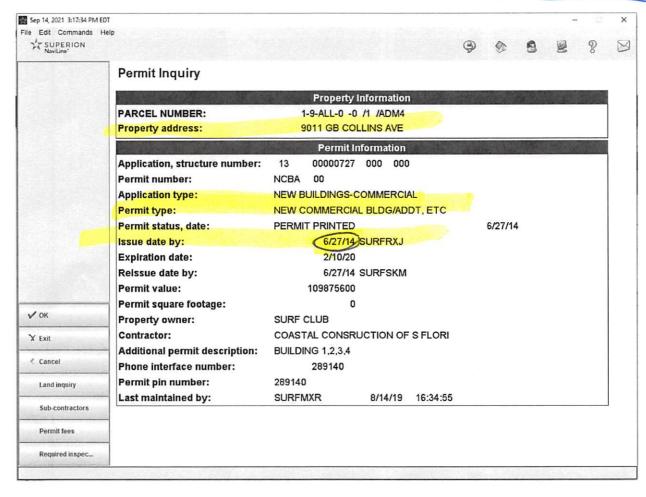
Chaleau



Grand Beach



Suffer / 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)



T T C April 13

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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

https://miamiherald.newspapers.com/download/image/?id=658056820&height=1718&width=2788&x=282&y=85&print=1&fcftoken=1.24em for the contraction of the contraction of





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 Sahweil's April 23 letter states that Ariel Sharon ``was condemned even by his own government as responsible for the slaughter of Palestinian women and children in the Sabra and Shatila refugee camps."

This isn't the case. Both the Israeli investigation and a New York court found that Lebanese Christian forces, not Sharon, perpetrated the massacre.

The Kahan Commission did reprimand him for not stopping the massacre once word leaked out. However, no evidence ever was produced that Sharon knew in advance that Christian militants were going to kill Muslim civilians as well as Muslim terrorists known to be in the camps.

As Menachem Begin said at the time: ``Christians kill Muslims, and everyone blames the Jews."

DAVI	D HOSTYK
	Hollywood

Posted on Fri, Apr. 26, 2002

British role in Mideast tragedies

IN RESPONSE

In his April 23 letter, *Israel created through terrorism*, Peter Sahwell wrote of the bombing of the King David Hotel as an example of ``Zionist terrorism."

It is interesting to note that in the 1940s the King David Hotel was the British military headquarters, not a civilian target.

It is fascinating to note that the "Jewish terrorists" were called to the King David before the explosion so that everyone could evacuate the building.

Unfortunately, the British responded by barring the doors and re- fusing to let people leave because they were indignant that a Jew should dictate to his majesty's government.

Sahwell's anger might be better directed toward the British, not only for the death of his grandfather but for their treatment of the Arabs, particularly in Jenin. Following the assassination of a British district commissioner by a Palestinian in Jenin in the summer of 1938, British authorities decided that a large portion of the town should be blown up as punishment.

On Aug. 25, 1938, a British convoy brought 4,200 kilos of explosives to Jenin for that purpose. According to a recently declassified British report, in that operation and on other occasions, Arabs were forced to drive "mine-sweeping taxis" ahead of British vehicles where Palestinian terrorists were believed to have planted mines, in order to reduce British casualties.

Last, the letter's headline is misleading -- unless one considers the United Nations's vote that created the state of Israel an act of terrorism.

RABBI KALMAN PACKOUZ

Miami Beach

Most recently, Sahwell criticized a column in the Miami Herald about Yasser Arafat.

Arafat didn't err

The Herald's Nov. 12 editorial *Death of Yasser Arafat* was one-sided. Three Israeli prime ministers, including the current one, engaged in terrorist acts. Also, the editorial repeats the belief that Arafat rejected a great opportunity at Camp David. In fact, the offer was a West Bank crisscrossed with roads under Israeli control, Israeli-controlled water resources and scattered Israeli Defense Force outposts.

The editorial calls the West Bank and Gaza Strip "disputed territories." Historically, the only countries using the term have been Israel and the United States. Ariel Sharon in 2003 finally uttered the truth when he told the Knesset, ``You may not like the word, but what's happening [in the West Bank and Gaza Strip] is occupation."

Some of Sahwell's more "local" writings

HERE'S HOPING MAYOR'S

RESPITE IS SHORT-LIVED

Editor,

Surfside Mayor Paul Novack deserves better. After years of honest and outstanding service in a county and state where politicians generally are slimeballs, he regrettably is not seeking reelection.

One can only hope this respite from elected office will be short-lived and that he comes back to a leadership position in county government or the School Board, or maybe even back to lead Surfside.

One cause of Mayor Novack exiting the stage at this time no doubt stems from the abuse heaped upon him by the Friends of Surfside Cats.

In a country that spends \$30 billion annually on pet care, yet allows one-quarter of its children to live in poverty, where many people have such a warped view of animals that they throw birthday parties for them, dress them up in cute outfits, and send them to spas, Friends of Surfside Cats typifies this sense of confused priorities.

Jay Senter, one of the group's main supporters, who doesn't even live in Surfside, wrote a Dec. 7. letter to Neighbors is which he waxed emotionally and nauseatingly about PeeWee, Bippy, Boppy, Ding-a-Ling (I'm not making this up) and all the other cute, frolicking feral cats.

That such a truly minor issue as feral cat colonies is used as a club to help drive one of Florida's only progressive public servants from continuing in office is irresponsible.

PETER SAHWELL
Surfside

SURFSIDE

RESIDENTS LOVE TOWN'S

CURRENT SENSE OF SELF

Editor,

Last week's obligatory negative letter about Surfside came care of real estate broker Marion Ott (Cheapest is not always the best, Surfside, Aug. 8).

You have to hand it to them, the forces of disgruntlement learned after the 2002 election at least to take the trouble of feigning interest in the town.

Apart from their generally whining tone, these carping letters show little sense of Surfside as a community of human beings; they do, however, betray their authors' wide-ranging obsession with property values.

Page 362

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.

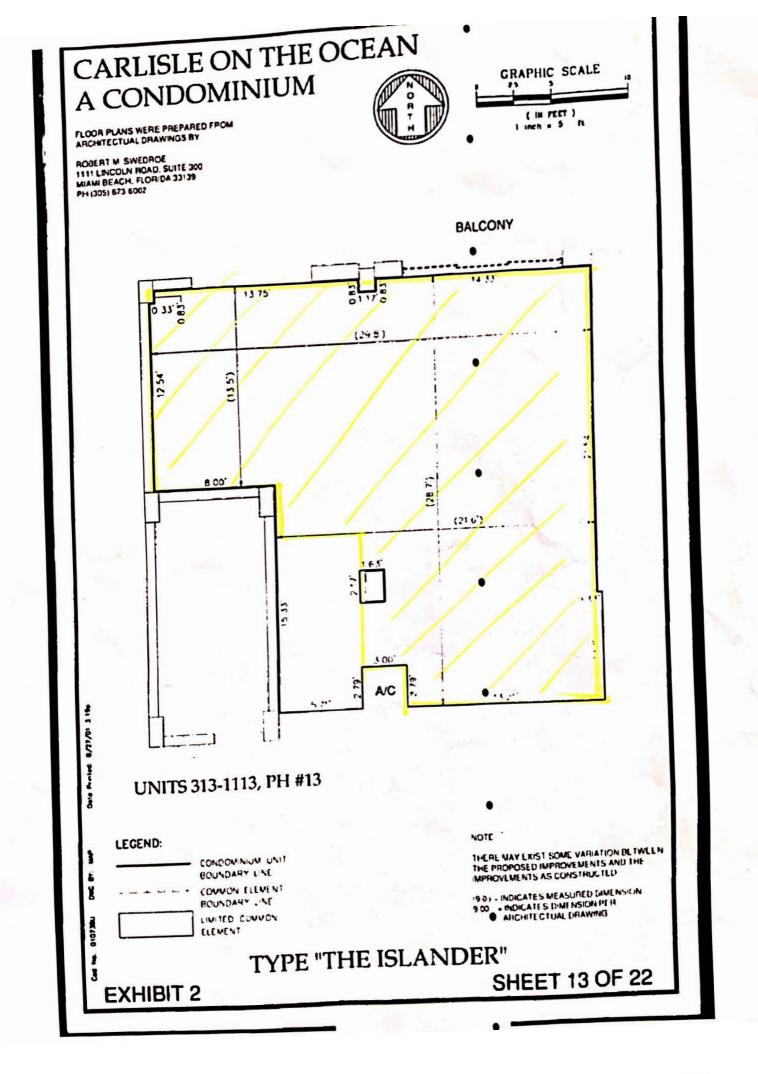
Could Peter Sahwell be dangerous?



T T C 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.

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PROI	DUC	ER				CONTA NAME:	ст Marianna	Morandi		
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		Sunny Isles Beach			FL 33160-4743	INSURE	RF:			
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	X	COMMERCIAL GENERAL LIABILITY							EACH OCCURRENCE \$ 1,	000,000

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A			ľ	N	SIZGL1003B233094	04/05/2020	04/05/2021	PERSONAL & ADV INJURY	\$ 1,000,000
	GEN	I'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$ 2,000,000
	X	POLICY PRO- JECT LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
		OTHER:							\$
	AUT	OMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
		ANY AUTO						BODILY INJURY (Per person)	\$
		OWNED SCHEDULED AUTOS ONLY						BODILY INJURY (Per accident)	\$
		HIRED NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
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	(Man	datory in NH)						E.L. DISEASE - EA EMPLOYEE	\$
	DES	s, describe under CRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$
DESC	RIPT	ION OF OPERATIONS / LOCATIONS / VEHICL	ES (A	CORD	0 101, Additional Remarks Schedule, may be	attached if more	e space is require	ed)	

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

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2175	0 Hardy Oak Blvd Ste 104			E-MAIL ADDRES	marianna	@farmerbrowi	n.com	
					INS	URER(S) AFFOR	RDING COVERAGE	NAIC#
San A	Antonio		TX 78258-4946	INSURE	RA: AIX Spec	ialty Insurance	e Company	12833
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	MF7 Services Corp			INSURE	RC:			
	100 Bayview Dr Apt 1930			INSURE	RD:			
				INSURE	RE:			
	Sunny Isles Beach		FL 33160-4743	INSURE	RF:			
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	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
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	X	POLICY PRO- JECT LOC						PRODUCTS - COMP/OP AGG	\$ 2,000,000
		OTHER:							\$
	AUT	OMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
		ANY AUTO						BODILY INJURY (Per person)	\$
		OWNED SCHEDULED AUTOS ONLY						BODILY INJURY (Per accident)	\$
		HIRED NON-OWNED AUTOS ONLY AUTOS ONLY						PROPERTY DAMAGE (Per accident)	\$
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		EXCESS LIAB CLAIMS-MADE						AGGREGATE	\$
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	ANY	PROPRIETOR/PARTNER/EXECUTIVE ICER/MEMBER EXCLUDED?	N/A					E.L. EACH ACCIDENT	\$
	(Man	ndatory in NH)						E.L. DISEASE - EA EMPLOYEE	\$
	DES	s, describe under CRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	\$
DES	CRIPT	TION OF OPERATIONS / LOCATIONS / VEHICL	ES (A	CORD	101, Additional Remarks Schedule, may be	attached if more	e space is require	ed)	

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
	A1000 2045 ACORD CORRODATION. All virules recognised

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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
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IN INC, 566 FBC 2617, BLOG, 107, 1 107, 2-1
11/23/20 305-216-9276
11/23/20 305-216-9276
(1) 1) 6/2/10
3 PCL 129.20



PERMIT NO.	
APPLICATION NO.	
AMOUNT DUE	_

BUILDING PERMIT APPLICATION

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AIVILI	11/1/1	1 1	,_

Dermit Type: (Check one) Structural Mechanical Electrical Plumbing Other Roof			2017	LOKIDA BU	JILDING COD	E IN EFFECT	AMOUNT DUE		
OWNER'S NAME: A AND M TEAM OWNER'S ADDRESS: 700 TATUM WATERWAY R # 108, Miami Beach, FC 33191 CITY: Miami Beach PHONE# (240) 421 - 6466 FAX # FEE SIMPLE TITLE HOLDER'S NAME: ADDRESS: CONTACT PERSON: MARINA KOSTIC PHONE# (240) 421 - 6466 EMAIL ADDRESS: MKOSTIC 2020 @gmail.com CONTRACTOR: FLAVIOURE SANT ANNA M ANASTACIO MAIL ADDRESS: 100 BAYNICU R # 1930 CITY: SUDING JSTES Beach STATE FT ZIP CODE: 33160 PHONE# (186) 780 - 17166 FAX # EMAIL: md 7 savices @gmail to CERT COMPETENCY: DEPR STATE REGISTRATION: FL C6C 1527 388 LOT BLOCK PRESENT USE: PROPOSED USE: FOLIO NUMBER: 14 - 2235 - 043 - 0940 SUBDIVISION: NO. OF STORIES OFFICES: FAMILIES: BEDROOMS: BATHS: TYPE OF WORK: ADD NEW ALTER REPAIR REPLACE FT OTHER VALUE OF WORK: (Total all Trades): SG, 000 LINEAR FEET DESCRIBE WORK: REMOVE AND INSTALL TILE FLOORING, EXCEPT BALCONY ARCHITECT/ENGINEER'S NAME ADDRESS:	PERMIT TYPE: (Check one)	Structu	ral	☐ Mechan	nical 🗌 Ele	ectrical	Plumbing Other Roof		
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OWNER'S ADDRESS: 7900 TATUM WATERWAY & # 108 Miami &coch FC 33141 CITY: Miami &coch Phone# (240) 421 - 6466 FAX # FEE SIMPLE TITLE HOLDER'S NAME: ADDRESS: CONTACT PERSON: MARINA KOSTIC PHONE# (240) 421 - 6466 EMAIL ADDRESS: MKOSTIC 2020 @gmail.com CONTRACTOR: FLANIGUE SANT ANNA M ANASTACIO MAIL ADDRESS: 100 BAUGIEU DE # 1930 CITY: Slong JS &coch STATE FL ZIP CODE: 33160 PHONE # (186) 780 - 1766 FAX # EMAIL: md 7 seavices @gmail.co CERT COMPETENCY: DEPR STATE REGISTRATION: FL C6C 1527 388 LOT BLOCK PRESENT USE: PROPOSED USE: FOLIO NUMBER: 14 - 2235 - 043 - 0940 SUBDIVISION: NO. OF STORIES OFFICES: FAMILIES: BEDROOMS: BATHS: TYPE OF WORK: ADD NEW ALTER REPAIR REPLACE IT OTHER DESCRIBE VALUE OF WORK: (Total all Trades): \$6,000 SOLET FALCENY AND BATHLOOM. ARCHITECT/ENGINEER'S NAME ADDRESS:	The Drief State of the Control of the								
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MAIL ADDRESS: 100 BAYNIEW DL # 1930 CITY: SURING JSIES BEACH STATE FT ZIP CODE: 33160 PHONE # (1760) 780-71766 FAX # EMAIL: m.f.7 services @ gmailto CERT COMPETENCY: DBPR STATE REGISTRATION: FL C6C 1527 388 LOT BLOCK PRESENT USE: PROPOSED USE: FOLIO NUMBER: 14 - 2235 - 043 - 0940 SUBDIVISION: NO. OF STORIES OFFICES: FAMILIES: BEDROOMS: BATHS: TYPE OF WORK: ADD NEW ALTER REPAIR REPLACE THE OTHER VALUE OF WORK: (Total all Trades): \$6,000 SQ. FT: (TOTAL) LINEAR FEET DESCRIBE WORK: REMOVE AND TASTALL TILE FLOREND, EXCEPT BALLONY ARCHITECT/ENGINEER'S NAME ADDRESS:	EMAIL ADDRESS:	m Kosti	. 2020	@gmoul	. (DM				
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ADDRESS:	- 4								
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TOTAL LINEAR			105	FAX#			FMAIL		
MORTGAGE LENDER NAME:		ER NAME:		. Poti	2.0				

MO	RTG	AGF I	ENDER'S	ADDRESS:
IAIC		AGL	- FIADEL O	MUURESS.

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 applica permit must be secured for ELECTRICAL, PLUMBING, WELLS, POOLS, F The information provided herein by the Applicant is not evaluated for issi 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:	
OWNER'S AFFIDAVIT: I certify that all information provide compliance with all applicable laws regulating construction a issuance of the permit applied with this application, and all waccompanying document and plans.	nd zoning. No work has been commenced prior to the
NOTICE: 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	ay 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 TO 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 SANTANNA	OWNER: (Print Name): MARINA LOSTIC/
SIGNATURE Flouisant anna	SIGNATURE: Alle
FLORIDA COUNTY OF Browald	STATE OF FLORIDA COUNTY OF Sworn to (or affirmed) and subscribed before
Sworn to (or affirmed) and subscribed before me this 20th day of May, 20 20 by FLAVIENNE SENTANNA	this Z2 day of May , 20 20 by Marin A Wishir.
NOTARY:	NOTARY:
THALES GUIMARÁES Notary Fúbric - State of Florida Compassion # GG 18213 My Comm. Expires Aug 3, 2020	SEAL: JAIRO GUTIERREZ Notary Public - State of Florida Commission # GG 325341
Personally known	Personally known Personal Persona
OR Produced Identification_	OR Produce Heartification
Type of Identification Produced	Type of Identification Produced Mary and Misus li
The Permit is not valid until signed by an authorized representat fees 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						
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 Information							
Benefit	Туре	2019	2018	2017			
Non-Homestead Cap	Assessment Reduction	\$112,657	\$112,677	\$122,920			
Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).							

Short Legal Description
CARLISLE ON THE OCEAN CONDO
UNIT 1013
UNDIV 0.69832%
INT IN COMMON ELEMENTS
OFF REC 20196-4139

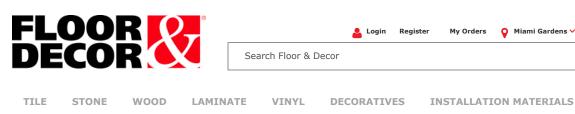


Taxable Value Information							
	2019	2018	2017				
County							
Exemption Value	\$0	\$0	\$0				
Taxable Value	\$123,943	\$112,676	\$102,433				
School Board	School Board						
Exemption Value	\$0	\$0	\$0				
Taxable Value	\$236,600	\$225,353	\$225,353				
City	City						
Exemption Value	\$0	\$0	\$0				
Taxable Value	\$123,943	\$112,676	\$102,433				
Regional							
Exemption Value	\$0	\$0	\$0				
Taxable Value	\$123,943	\$112,676	\$102,433				

Sales Information						
Previous Sale	Price	OR Book- Page	Qualification Description			
11/06/2019	\$100	31697-2956	Corrective, tax or QCD; min consideration			
10/02/2019	\$274,900	31672-2065	Qual by exam of deed			
03/01/2004	\$257,000	22168-1008	Sales which are qualified			
03/01/2003	\$189,700	21120-2846	Sales which are qualified			

The Office of the Property Appraiser is continually editing and updating the tax roll. This website may not reflect the most current information on record. The Property Appraiser and Miami-Dade County assumes no liability, see full disclaimer and User Agreement at http://www.miamidade.gov/info/disclaimer.asp

Version:



Get Inspired Inspiration Center Free Design Services My Project Lists Blog Product Visualizer

HOME > INSTALLATION MATERIALS > WOOD & LAMINATE > UNDERLAYMENT

SIMILAR PRODUCTS

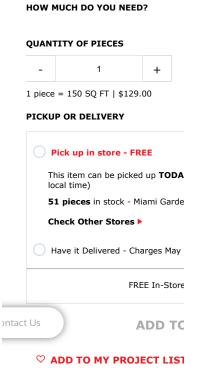


Whisper Mat Underlayment

Size: 150 SQ FT | SKU: 954205535 \$129.00 / piece Miami Gardens's everyday low price!







Contact Us





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



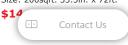
Eco Ultra Quiet Premium **Acoustical Underlayment** Size: 450sqft. 6ft. x 75ft. \$297.00 / piece



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, 2nd 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	05-05050-00	01/26/2021
CYCLE #	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





Town Hall Commission Chambers - 9293 Harding Avenue, 2nd 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, 2nd 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, 2nd 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 96th Street and provide a 'freeze gate' button for children crossing Bay Drive at 96th Street.

Recommendation: Approve the gate.



Town Hall Commission Chambers - 9293 Harding Avenue, 2nd 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 10, 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

HOSENT HES HES HES

Daniel Dietch, Mayo

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	Bulkheads	Construct any groin, bulkhead, seawall, jetty, breakwater or other protective work or to place any permanent or temporary structure of any nature whatsoever east of the ocean bulkhead line.	\$250.00	\$500.00
Section 14-87	Bulkheads	Repair, extend, alter or replace any existing structure lying east of the ocean bulkhead line.	\$250.00	\$500.00
Section 14-88	Bulkheads	Erect any structure within 20 feet west of the ocean bulkhead line.	\$250.00	\$500.00
Section 14-88	Bulkheads	Repair, extend, alter or replace any existing structure lying within 20 feet west of the ocean buikhead line.	\$250.00	\$500.00
Section 14-102	Bulkheads	Erect any structure within 20 feet landward of the Indian Creek bulkhead line.	\$250.00	\$500.00
Section 14-102	Bulkheads	Repair, extend, alter or replace any existing structure lying seaward of the Indian Creek waterway or existing bulkhead or within 20 feet landward of such bulkhead line	\$250.00	\$500.00

SCHEDULE OF DAILY CIVIL FINES FOR CERTAIN VIOLATION TYPES

(All violation types not listed herein shall be subject to a \$25.00 per day fine for a first time offense and a \$50.00 per day fine for a 2nd or repeat offense)

			Daily Fine	Daily Fine
Chapter	Section Name	Description of Violation	First Offense	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)

Section 90-187 Bulkhe	Name	Description of Violation	Daily Fine First Offense	Daily Fine Second/Repeat Offense
	ads	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.

^{**} 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, 2nd 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 96th 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 96th 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 1st of odd years (ex. 2021).

Number of Staff	Location	Equipment (1 = 2 pack)	Costs
13 FT Employees	Community	1 adult, 1 junior at CC	Staff \$1,480*(**)
27 PT Employees	Center	1 adult, 1 junior at park	Equipment \$1,440

^{*}Excluding turnover and is subject to change based on department staffing. **Excluding the additional cost of having facilities staffed during all hours of operation.

From May 2020 to May 2021, the town has had a turnover of 3 full time and 12 part time employees.

Estimated cost of EpiPens (the two pens listed below have a duration or life of 12 months):

Product	Strengths	Price (quote received)
EpiPen; EpiPen Jr.	.15 mg; 3 mg	\$786.78 (.3mg)
		\$963.39 (.15mg)
Auvi-Q	.1 mg; .15 mg; .3mg	\$5,125 (.1mg)
		\$5,125 (.15mg)
		\$5,125 (.3mg)
Generic Brand	.15 mg; 3 mg	\$449.99 (.3mg)
		\$449.99 (.15mg)

If the EpiPen program were to be implemented, First, the Town would need to obtain additional direction and confirmation from the State Department of Health on how to obtain a prescription for the EpiPens in the name of the Town under Section 381.88, Florida Statutes (the most current State Department of Health opinion provides that the prescription would need to be issued to the certified individual). Secondly, staff would have to be properly trained and certified for the program. Thirdly, the Town would need to identify and engage an "authorized health care practitioner" (unknown cost) to prescribe the EpiPens. Fourth, the Town would need to schedule and have certified individuals on hand during all days of operation, authorized to administer the EpiPens. An estimated start date cannot be adequately provided, due to the unknown resources that are necessitated by the program and the ability to secure them. If the program was developed and implemented, it would be a continuous program with no end date. Factors such as an agreement with an "authorized health care practitioner" or unknown policies could affect the term of the program.

The Administration is seeking direction from the Town Commission on whether to conduct further evaluation of the EpiPen program and create a plan for the implementation of the program.

Reviewed by: TM/AH/LA Prepared by: TM/EH



Town of Surfside Town Commission Meeting August 10, 2021 7:00 pm

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

Date: October 12th, 2021

Prepared by: Commissioner Eliana R. Salzhauer

Subject: Budget Meeting Fiasco

Objective: The September 30th 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 30th meeting must occur in this public setting.

Recommendation: Set expectations for more pro-active factual presentation of options at Commission meetings.

MEMORANDUM

ITEM NO.

9Z

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, 2nd 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, 1st, the Town sanctioned farmers market should not be completing with our other businesses and 2nd, 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.



Town of Surfside Town Commission Meeting March 8, 2022 7:00 pm

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

Agenda #: 9BB

Date: February 28, 2022

From: Tony Recio, Esq., Assistant Town Attorney

Lily Arango, Esq., Town Attorney

Subject: Zoning in Progress

Objective: At the joint Town Commission and Planning and Zoning Board meeting of February 23, 2022 (the "Joint Meeting"), the Town Commission was unable to reach the agenda item to consider renewing the Zoning in Progress. The last Zoning in Progress notice was published on December 7, 2021, and expires on March 7, 2022. If the Commission wises to renew Zoning in Progress beyond that date, the Commission may direct staff to publish a new Zoning in Progress notice which will last for 90 days or through the adoption of a new Zoning Code, whichever occurs first.

Consideration: The Town Commission has been considering the adoption of a new Zoning Code for almost two years. To this end, the Town Commission has discussed the Zoning Code at publicly noticed regular and special Commission meetings held on April 28, 2020, May 14, 2020, July 28, 2020, November 19, 2020, January 14, 2021, March 2, 2021, and most recently in the Joint Meeting.. Additionally, the Town Commission has discussed the new Zoning Code at public workshops on June 3, 2020, July 1, 2020, February 4, 2021, February 18, 2021, April 20, 2021, April 27, 2021, May 26, 2021, June 22, 2021, September 9, 2021, October 26, 2021, December 7, 2021, and January 18, 2021.

Zoning in Progress can be triggered when a Notice of Zoning in Progress is published. The Town has published a series of Notices of Zoning in Progress pursuant to Section 90-6 of the Town Code on August 9, 2020, November 24, 2020, March 8, 2021, June 7, 2021, September 7, 2021, and December 7, 2021. Each notice provided for 90 days of Zoning in Progress.

When Zoning in Progress is in effect, development applications cannot proceed to approval unless they meet the stricter of the current code or the code referenced in the notice. Zoning in Progress thus acts to limit which development applications can be considered during the time the new zoning code is being considered by the Commission. Irrespective of the contents of the Zoning in Progress notice, the Commission retains full authority to revise the draft Zoning Code prior to adoption.

Although substantial progress has been made in drafting the new Zoning Code, the adoption process still requires Commission review and consideration and additional procedural steps before final adoption can be considered, including at least three public hearings (two before the Town Commission and one before the Planning and Zoning Board). For that reason, the Town Commission may consider extending the Zoning in Progress for an additional 90 days but may wish to modify specific topics included in previous versions of the notice to reflect the consensus or majority positions that have emerged at the various Zoning Code Workshops.

The additional topics are highlighted in the draft notice and include:

- 1. The definition of "Lot Coverage" has been revised to more closely align with an ordinance being presented at second reading.
- 2. The allowable height in the H120 District has been revised to more closely align with an ordinance being presented at second reading.
- 3. Rooftop improvements, including mechanical, habitable, and open-air roof decks is provided consistent with Town Commission direction at a workshop.
- 4. Rooftop mechanical, infrastructure and open air uses in the H120 District.
- 5. Roof decks are prohibited only in the H30B district.

Recommendation: Consider publishing a new notice to extend the Zoning in Progress subject to review and acceptance of the added topics.

TOWN OF SURFSIDE

NOTICE OF ZONING IN PROGRESS

Chapter 90 - Zoning Code

Pursuant to Section 90-6 of the Code of the Town of Surfside, Florida (the "Code"), the Town of Surfside published a Notice of Zoning in Progress on May 10, 2020 relative to a proposed repeal and replacement of Chapter 90 of the Code titled "Zoning" (the "Current Zoning Code"). The Town issued new Notices of Zoning in Progress on August 9, 2020, November 24, 2020, March 8, 2021, June 7, 2021, September 7, 2021, and December 7, 2021. The Town of Surfside hereby provides new Notice of Zoning in Progress effective upon the date of publication of this Notice.

At publicly noticed special meetings held on April 28, 2020, May 14, 2020, July 28, 2020, November 19, 2020, January 14, 2021, and March 2, 2021 and workshops on June 3, 2020, July 1, 2020, February 4, 2021, February 18, 2021, April 20, 2021, April 27, 2021, May 26, 2021, June 22, 2021, September 9, 2021, October 26, 2021, December 7, 2021, and January 18, 2021, the Town of Surfside Commission considered the proposed repeal and replacement of the Current Zoning Code, and instructed Staff to prepare an ordinance repealing the Current Zoning Code and replacing it with a zoning code that reflects land development regulations in effect on or about August, 2006 (the "2006 Zoning Code"), and certain modifications including, but not limited to, the following:

- Lot coverage means the percentage of the lot area 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; provided however that the following exemptions shall not be included in determining the lot coverage:
 - 1. Uncovered steps and exterior balconies; and
 - 2. Uncovered terraces, patios, breezeways, or porches which are open on two (2) or more sides; and
 - 3. Covered terraces, patios, breezeways, or porches which are open on two (2) or more sides.

In no instance may the sum of the *lot coverage* and all exemptions permitted by (1) through (3) listed above exceed 46% of the lot area.

For avoidance of doubt, architectural elements extending beyond the vertical plan of exterior *walls*, such as roof eaves, shall not be counted as *lot coverage*. In the H30A and H30B districts, second story *lot coverage* is limited to 32% of the lot area, or 80% of the first floor area, whichever is less.

- Existing setback requirements set forth in the Current Zoning Code will continue to apply, unless there is a greater restriction in the 2006 Zoning Code, except that only the following projections/encroachments shall be permitted:
 - 1. In the H30A and H30B districts, and in H30C districts west of Harding Avenue, 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.
 - 2. In the H30A and H30B districts, lots with a depth greater than 112.5 feet will be required to provide front and rear yards that combine to equal at least thirty-six percent (36%) of the lot's depth. This requirement shall not be read to alter or justify reduction of front and rear setbacks for the first and second stories. The intention of this provision is to ensure that adequate yards are provided.
- In the H30A and H30B districts, each lot must provide:
 - 1. 35% of each lot must be pervious area; and
 - 2. 50% of front yards and 40% of rear yards must be landscaped; and
 - 3. 40% of all landscaped area must be Florida Friendly as defined in the Current Zoning Code.
- The Current Zoning Code's definition of building height will continue to apply to single family districts. For the H120 district only, the maximum building height of 120 feet is measured from the 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). Spires, steeples, stair access ways, antennas, cupolas, chimneys, *flagpoles*, ventilators, tanks, elevator equipment rooms and similar architectural features, mechanical equipment spaces, enclosures for building infrastructure and/or limited rooftop outdoor amenity spaces, may collectively occupy no more than 30% of the roof area in the aggregate. Enclosures for building infrastructure or mechanical equipment and any other nonhabitable spaces shall not exceed 20 feet in height measured from the structural roof. A maximum 200 square feet of enclosed habitable space nor more than 10 feet in height measured from the structural roof may be provided for bathroom facilities serving a rooftop outdoor amenity space. Structures open on two or more sides such as trellises or pergolas shall be permitted within any outdoor amenity space provided they do not exceed 10 feet in height measured from the structural roof. All rooftops and elements shall be designed in such a way that said elements meet the spirit and intent of the Design Guidelines, do not present a cluttered or drab appearance, and are consistent with the overall aesthetics of the property, as determined by the Planning and Zoning Board as part of Design Review. Rooftop mechanical equipment spaces and limited rooftop outdoor amenity spaces shall be: (1) set back from the perimeter of the roof so

that they are not visible from eye-level from grade at any property line, nor discernible from eye-level from grade at any distance outside of the property lines; or (2) be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance; or (3) be set into the roof structure itself without changing the visible contour of the roof as seen from the street so that no equipment or screening is visible from eye-level from grade at any property line, nor discernible from eye-level from grade at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line. A green roof shall be permitted on any portion of the roof not encumbered by mechanical or outdoor amenity enclosures, and on the roof of any such enclosure, subject to building code requirements. Rooftop photovoltaic systems may be approved by the Planning and Zoning Board subject to the Design Guidelines provided they do not exceed the height and massing limitations of the underlying district applicable to rooftop mechanical elements.

- Density and intensity in the H120 district shall be calculated based on property westward of the ocean bulkhead line. Notwithstanding anything to the contrary in either the Current Zoning Code or 2006 Zoning Code, the erosion control line shall not be used to determine the lot area, and shall not serve as a basis for density and intensity calculations on a given lot.
- The calculation of lot area shall be limited to the actual acreage within the property lines, or in the case of the H120 district, the actual acreage within the area bounded by north, west, and south property lines and the ocean bulkhead line on the east. The term "gross acreage" shall be deleted and shall have no force or effect. Notwithstanding anything to the contrary in either the Current Zoning Code or the 2006 Zoning Code, an acre is 43,560 square feet.
- All permitted and accessory uses shall be as permitted in the 2006 Zoning Code, except that new hotel or motel uses of any type shall not be permitted except in the historic district. Any use in the commercial district not expressly permitted in the 2006 Code shall not be permitted.
- Awning and canopies shall be regulated as in the Current Zoning Code, except that the Planning and Zoning Board may authorize an awning or canopy without a required break or articulation where a more integrated design would result.
- Except as modified herein, the Town's existing sign code, landscape code, and
 existing regulations regarding religious accommodations, reasonable accommodation
 procedures, curb cuts, vision clearance, aggregation of lots, materials and finishes,
 underground utilities, architecture, zoning in progress, beach sand quality, design
 standards for off-street parking, standards for fences, and short-term rentals will be
 retained.

- Roof decks as defined in the Current Zoning Code shall not be permitted in the H30B district.
- In the H30A district, no building shall be erected within 25 feet of the sea wall on Point Lake, north canal, or south canal, nor within 50 feet of the sea wall on any other body of water.
- Existing single family or duplex driveways in front yards that are nonconforming as to front yard landscape and/or pervious area requirements may be maintained, repaired, or rebuilt with any approved material without needing to comply with the front yard landscape and pervious area requirements. Such driveways can be altered so long as the degree of nonconformity is not enlarged.
- Hedges for single-family lots shall be permitted within front yards of all lots and on secondary front (side street) yards of corner lots, at a height not to exceed six (6) feet as measured from grade.
- Mechanical equipment shall be permitted on any roof in the H30A and H30B districts, subject to the following requirements:
 - 1. Setback from roof perimeter. All equipment and enclosures shall be set back from the roof perimeter so that it is not visible from eye-level view from grade at a distance of 75 feet from any property line of the subject lot. This shall be demonstrated by line-of-sight drawings submitted as part of a zoning approval or design review package.
 - 2. Screening. All equipment shall be screened by an enclosure of sufficient height which adequately hides the equipment from view from all angles (including from above) and matches closely to its immediate surroundings in texture, color, and appearance, or is set into the roof structure itself without changing the visible contour of the roof as seen from the street. In either instance, neither equipment nor screening shall be visible from eye-level from grade at any property line, nor discernible from eye-level from grade at any distance outside of the property lines. Additionally, the equipment shall be acoustically screened to reduce noise to no more than 55 dBA when measured from any property line of the subject lot.
 - 3. The footprint area of the equipment, as defined by the perimeter of the decorative and acoustic screen enclosure, shall not exceed 7.5% of the total area of the roof upon which it is placed.
 - 4. Rooftop equipment and all screening elements shall not exceed six (6) feet above the roof slab for a flat roof or above the truss for a pitched roof.
 - 5. Any rooftop mechanical equipment installed prior to the effective date of this ordinance shall meet the requirements of this section for any replacement of equipment.
- All rooftop mechanical equipment in any district shall be screened by an enclosure of
 sufficient height which adequately hides the equipment from view from all angles
 (including from above) and matches closely to its immediate surroundings in texture,
 color, and appearance, or is set into the roof structure itself without changing the visible
 contour of the roof as seen from the street; and shall be acoustically screened to reduce
 noise to no more than 55 dBA when measured from any property line of the subject lot.

Neither equipment nor screening shall be visible from eye-level from grade at any property line, nor discernible from eye-level from grade at any distance outside of the property lines.

 Required parking shall not be reduced based on contributions to the Parking Trust Fund.

Pursuant to Section 90-6 of the Code, Zoning in Progress based on the above parameters <u>shall</u> apply to applications for development approvals filed after the date of this notice's publication in the Miami Herald. Pending applications may be heard by the appropriate Town board only where they meet the more restrictive of the Current Zoning Code and the 2006 Zoning Code as modified above.

Public hearings for first reading by the Town Commission, review by the Planning and Zoning Board and Local Planning Agency, and second reading by the Town Commission will be noticed and held in the coming weeks. Interested parties may appear at the Public Hearings and be heard with respect to the proposed Ordinance.

Dated this __ day of March, 2022

Sandra McCready, MMC Town Clerk



Town of Surfside Town Commission Meeting

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

DISCUSSION ITEM MEMORANDUM

Agenda #: 9CC

Date: February 28, 2022 From: Vice Mayor Tina Paul

Subject: Marine Structures in neighboring Municipalities

Consideration – At the February 8, 2022 Town Commission meeting, the Commission voted and passed an Ordinance to amend Section 90-57 Marine Structures to provide regulations for construction of Docks, Piers, and Moorings on Waterfront Lots. This was necessary to guarantee unobstructed passage on waterways, with more specificity of location and size of marine structures based on the water bodies of lots on Point Lake, Biscayne Bay, Indian Creek and Indian Creek opposite Bay Harbor Islands.

In discussions with our Town Attorneys, I requested information regarding Dock sizes in all neighboring municipalities that front the same bodies of water on the opposite side of Surfside. My intention was to be sure our residents were receiving the same waterway access as residents of neighboring municipalities on the other side of the waterways.

Since the February 8, 2022 Town Commission meeting and passage of the amended Ordinance for Section 90-57 Marine Structures, which limits the dock lengths in Surfside, it has come to my attention that some of the new developments in Bay Harbor Islands are applying for variances to build a marina, or yacht club type of large structure. Concerns from across the bay regarding the possibility of these large Marine Structures in our neighboring municipality requires analysis of the potential impacts to the quality of use and access to waterways that residents and waterfront properties in Surfside currently enjoy, including our anticipated 96th Street Park Kayak launch.

Recommendation – It is prudent that our Town Manager and Town Attorneys evaluate the effects of any Dock expansions in neighboring municipalities, specifically those being proposed in Bay Harbor Islands and take any appropriate actions to protect the quality of the waterways in Surfside.