



**Town of Surfside
Town Commission Meeting
March 9, 2010**

7 p.m.

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

AGENDA

1. Opening

A. Call to Order

B. Roll Call of Members

C. Pledge of Allegiance

D. Agenda and Order of Business (Additions, Deletions)

E. Special Presentations

1. Officer of the Month – Chief David Allen

2. Special Recognition – Sarah Johnston, Legal Intern, Town Attorney, Lynn Dannheisser

3. Special Recognition – Town Committees and Boards for past two years, Vice Mayor Marc Imberman

4. Special Presentation – Eli Touregman, Surfside Business Association

5. Special Presentation – Barbara Cohen, Census

6. Community Center Update – CGA/AECOM

7. Presentation of Report of Charter Review Board- Town Attorney, Lynn Dannheisser

2. Quasi-Judicial Hearings

3. Consent Agenda

All items on the consent agenda are considered routine by the Town Commission and will be approved by one motion. There will be no separate discussion of these items unless a Commissioner so requests, in which event, the item will be moved to the main agenda under the appropriate heading for consideration.

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

A. Minutes – Town Commission Meeting, February 9, 2010

B. Monthly Budget to Actual Summary - Martin Sherwood, Finance Support Services Department Head

C. Projects Progress Report – George Keller, Calvin, Giordano & Associates

- D. Mutual Aid Agreement between City of Miami Beach Police Department and Town of Surfside – Chief David Allen

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND DIRECTING THE TOWN MANAGER AND TOWN CLERK TO EXECUTE A MUTUAL AID AGREEMENT FOR VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE WITH THE CITY OF MIAMI BEACH POLICE DEPARTMENT.

- E. Mutual Aid Agreement between Village of Indian Creek and the Town of Surfside – Chief David Allen

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND DIRECTING THE TOWN MANAGER AND TOWN CLERK TO EXECUTE A MUTUAL AID AGREEMENT FOR VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE WITH THE VILLAGE OF INDIAN CREEK PUBLIC SAFETY DEPARTMENT.

4. Ordinances and Public Hearings

A. Second Readings (Ordinances)

1. Fences, Walls and Hedges Amendment – Town Attorney, Lynn Dannheisser
AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90.56.17 “FENCES, WALLS AND HEDGES” TO PROVIDE REGULATIONS RELATED TO TEMPORARY CONSTRUCTION FENCING; PROVIDING FOR REPEAL; SEVERABILITY, INCLUSION INTO THE CODE; AND AN EFFECTIVE DATE.

2. Municipal Use Ordinance – Town Planner, Sarah Sinatra and Town Attorney, Lynn Dannheisser
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 AND SPECIFICALLY SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

B. First Readings (Public Hearings on Ordinances)

1. Regulated Use Ordinance – Town Planner, Sarah Sinatra and Town Attorney, Lynn Dannheisser
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 AND SPECIFICALLY SECTION 90-2 “DEFINITIONS” AND ARTICLE IV SECTION 90-41

“REGULATED USES” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

5. Resolutions and Proclamations

A. The Surf Club historic preservation – Lynn Dannheisser, Town Attorney

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, SUPPORTING THE DESIGNATION OF THE SURF CLUB AS AN HISTORIC STRUCTURE; AND DIRECTING THE TOWN CLERK TO TRANSMIT THIS RESOLUTION TO THE MIAMI DADE COUNTY HISTORIC PRESERVATION BOARD; PROVIDING FOR AN EFFECTIVE DATE.

B. Proposed Hotel 92nd & Collins – Lynn Dannheisser, Town Attorney

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, (“TOWN”) APPROVING THE SITE PLAN APPLICATION SUBMITTED BY TRANSACTA LANAI DEVELOPERS, LTD., (THE “APPLICANT”), FOR A SITE PLAN APPROVAL PURSUANT TO SECTION 90-41 ET. SEQ. OF THE ZONING CODE, TO PERMIT THE DEVELOPMENT OF “PROPOSED SURFSIDE HOTEL”, A FOUR (4) STORY, 178 HOTEL ROOM AND FIVE (5) SUITE HOTEL PROJECT, ON THE PROPERTY LOCATED AT 9200 COLLINS AVENUE, SUBJECT TO CERTAIN CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

C. Proposed Water and Sewer Fund Utility Rate Study – Martin Sherwood, Finance Support Services Department Head

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING THE FIRM OF TISCHLERBISE, INC. TO PERFORM A COMPREHENSIVE WATER AND SEWER COST OF SERVICE AND RATE DESIGN STUDY; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

D. Sanitary Sewer Pump Stations Improvements – John Messarian, Calvin, Giordano, & Associates, Inc.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING WORK AUTHORIZATION WITH CALVIN, GIORDANO & ASSOCIATES, INC. FOR SANITARY PUMP STATIONS NOS. 1 AND 2 IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO EXECUTE ALL REQUIRED DOCUMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

E. Sanitary Sewer Lining and Replacement – John Messarian, Calvin, Giordano, & Associates, Inc.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING WORK AUTHORIZATION WITH CALVIN, GIORDANO & ASSOCIATES, INC. FOR THE PREPARATION OF CONSTRUCTION PLANS AND DOCUMENTS, PERMIT PROCESSING AND CONSTRUCTION MANAGEMENT SERVICES REQUIRED FOR THE LINING AND REPLACEMENT OF SANITARY SEWER LINES; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO EXECUTE ALL REQUIRED DOCUMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

6. Good and Welfare

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

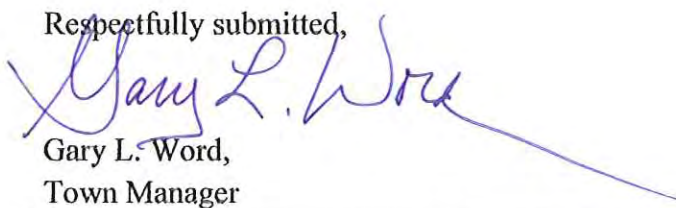
8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

- A. FEMA problem – Mayor Charles Burkett
- B. Spring Egg Hunt – Vice Mayor Marc Imberman
- C. Status of Beach House Property Maintenance – Vice Mayor Marc Imberman
- D. Status of Circulator Bus Schedule Discussions with Neighboring Municipalities – Vice Mayor Marc Imberman

10. Adjournment

Respectfully submitted,


Gary L. Word,
Town Manager

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

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

RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

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

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

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



TOWN OF SURFSIDE
Office of the Town Attorney
MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009


Lynn M. Dannheisser
Town Attorney

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REPORT

TO: TOWN COMMISSION

FROM: CHARTER REVIEW BOARD

VIA: LYNN M. DANNHEISSER, TOWN ATTORNEY 

CC: GARY L. WORD, TOWN MANAGER
DEBRA E. EASTMAN, TOWN CLERK

DATE: MARCH 9, 2010

SUBJECT: RECOMMENDATIONS FOR AMENDMENTS TO CHARTER

Background:

By Resolution 2008-1840, the Town Commission established the Town of Surfside Charter Review Board. The following members were appointed: Ken Arnold, Michael Karukin, Lou Cohen, Barbara McLaughlin subsequently replaced by Shoshana Feingold, and Marta Olchyck. The Board convened seven (7) separate occasions at publicly noticed meetings:

October 6, 2008
November 24, 2008
January 5, 2009
February 23, 2009
June 1, 2009
November 2, 2009
February 16, 2010

(Minutes are attached to this report.)

All meetings were facilitated and documentation prepared by the Town Attorney. The Town Manager and Town Clerk also attended and participated in these meetings. Members of the public were invited to speak at the televised, public meetings. At the initial meeting of the Board, Ken Arnold was selected as the Chair, Lou Cohen was nominated as the Vice-Chair, and the Board discussed its mission.

Goals and Objectives:

1. To review the Town Charter in order to update, modernize, and streamline the document with the goal being to make the document more readable and easier to understand by the lay public.
2. Once the Charter was streamlined, to review and analyze all remaining provisions and to recommend to the Town Commission for adoption and for placement on the ballot for only those changes which would affirmatively add value and benefit to the Town.

Process:

The Board engaged in the following process:

1. The Charter Review Board considered the applicable Florida Statutes and Home Rule Charter provisions, the Model City Charter produced by the National League of Cities, several existing Charters from municipalities in the State of Florida. In addition, on Mr. Karukin's initiative, Robert E. Lee, Ph.D., the Executive Director of Florida Local Government for Excellence, spoke to the Board and offered his opinions and views on issues relating to method of election of officials, staggered terms, direction of mayor, voting by district vs. at-large, and other topics.
2. At each meeting, the Board reviewed and debated each section of the Charter after being provided with information on the rationale for each section. Subsequent to the debate and public hearing, the Town Attorney drafted and distributed a draft charter revised in accordance with the decisions of the Board at the prior meeting. Those changes were then re-reviewed once again and finally adopted or rejected. The Board then went on to consider a new set of charter sections or subjects.
3. Following each meeting, the Town Attorney drafted (and re-drafted) the changes proposed by the Committee for consideration at the next meeting and so on.

General Substantive Issues Debated:

The following issues were debated at length:

1. Form of municipal government (strong mayor vs. commissioner-manager form of government).
2. Elected officials and their boards (number of officials, qualifications, roles of officials, boards and committees, effect of retaining personnel appeals board on good management practices, salaries and expenses for officials).

3. Charter officers (Duties, roles and responsibilities of the Town Manager and Town Attorney including the Town Clerk and (whether the Clerk should be a Charter Officer rather than a Town employee under the employ of the Manager).
4. Voting issues i.e., requiring supermajority votes on certain issues, elections, terms of office, staggering terms, at large vs. district representation. Elongation of the two (2) year terms of office was debated at several meetings. Ultimately, the final debate at the last meeting of the Board resulted in a motion to change the term to three (3) years. This motion failed on a tie (2-2) vote, since one member of the Board was absent. (The Town Commission may wish to revisit this issue.)
5. Ethics issues including the addition of language and restrictions on campaign finances, restrictions on lobbyists, limitation on financial interests.
6. Addition of a Preamble and Citizen’s Bill of Rights to set the tone and intention of the document as well as a recommendation for a formalized charter review process to be initiated every ten (10) years.
7. Retention of Height, Density, and Intensity Restriction: Due to evolving case law, an early draft *removed a reference to the Town’s Comprehensive Plan and deleted the terms “intensities” and “densities”* from the text. It was posited that such changes can enhance the restrictions from a legal perspective. However, there was a concern that any change in the language could be perceived by the electorate as a lessening or relaxation of the limitations or other unintended consequences. This created reluctance on the part of the committee to make any substantial changes to this section. The committee agreed to retain the reference to the Town Comprehensive Plan and the words “intensities” and “densities”. Alternative wording was adopted.
8. Of the approximately 175 provisions of the Charter, most all were discussed or debated, except those that were superseded and no longer in force or effect.
9. Miscellaneous issues such as charitable contributions by the Town.

Summary of Recommended Changes and Action:

The following changes were adopted by the Charter Review Board and are recommended to the Town Commission for consideration:

1. Re-organize and Streamline the Charter.
 - A. The current Surfside Charter is a cumbersome, antiquated document that has been superseded in large part by the Home Rule Powers established by the Florida Legislature and other laws in 1973. The first act of the Charter Review Board was to eliminate all provisions of the current charter that have been updated and superseded and are no longer valid under the law. This reduced the size of the Charter document from **83** pages to **27** pages. This one revision alone produced a more manageable, readable document.

- B. The second thing the Charter Review Board did was to simplify, re-number and re-organize the Charter so that all provisions followed logically and are easy to follow. They appear as follows:

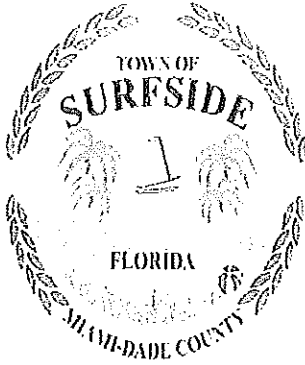
Article I.	Incorporation; Form of Government; Powers
Article II.	Town Commission
Article III.	Administration
Article IV.	Annual Budget and Tax Levy
Article V.	Elections
Article VI.	Initiatives; Referendum and Recall
Article VII.	Miscellaneous Provisions

2. Propose the following seven (7) material or substantive changes:

- A. **Bill of Rights.** Include a new Preamble expressing the intent of the drafters and a Bill of Rights which provides for greater rights of citizens to access/ participate in government.
- B. **Salary of Commissioners.** The Charter Board is recommending that the Commission have the ability to vote for a salary not to exceed six hundred (\$600) dollars but in no event be given to the Board that actually enacts the change. Receipted expenses approved by the Manager will be reimbursable.
- C. **Regular Charter Review.** A regular Charter Review Board shall be convened every ten (10) years. This does not inhibit the Town Commission from requesting charter review and changes prior to that time. If that occurs, the mandated charter review is deferred for ten (10) years.
- D. **Elimination of Personnel Review Board.** Effective and responsive management is impaired by this Board's existence and many other remedies are now available to employees who believe they are aggrieved.
- E. **No charitable Contributions.** There shall be no charitable contributions made except as approved by a supermajority of the Commission.
- F. **Ethics.** No Commissioner shall have a financial interest direct or indirect in any contract or in any sale to the Town or contractor or supplier to the Town or any land or rights or interest whatsoever.
- G. **Campaign Finance Reform.** The Town Commission shall adopt an ordinance relating to campaign financing to, among other things, mandate a limitation on both the amount of campaign contributions allowable as well as limit total spending by any candidate for Town Commission.

The Charter Review Board recommends the attached Proposed Charter be adopted by the Town Commission for transmission to the electorate.

As a final note, the Charter Review Board wishes to acknowledge the diligence, time, effort, and expertise offered by the Town Attorney in assisting this Board. The Town Attorney also wishes to acknowledge and thank the Manager and Clerk for their effort and input.



CHARTER REVIEW COMMITTEE MEETING - 7:00 P.M. - MINUTES

Date: Monday, October 6, 2008
TOWN OF SURFSIDE
TOWN HALL COMMISSION CHAMBERS
2ND FLOOR, 9293 HARDING AVENUE
SURFSIDE FL 33154

Clerk

Meeting called by: Town Commission **Facilitator:** Lynn Dannheisser,
Town Attorney

Note taker: Town Clerk Beatris Arguelles

Required Attendees: Committee Members: Ken Arnold, Michael Karukin, Lou Cohen, Barbara McLaughlin and Marta Olchyk,

----- Minutes -----

CALL TO ORDER: Lynn Dannheisser called the meeting to order at 7:04 p.m. The following members were present: Ken Arnold, Michael Karukin, Lou Cohen, Barbara McLaughlin and Marta Olchyk. Staff members present were: Lynn Dannheisser, Town Attorney; Gary L. Word, Town Manager, and Beatris Arguelles, Town Clerk

APPOINTMENT OF CHAIR: *The Chair presides over Committee Meetings, prepares Agenda, calls meetings of the Committee, and makes reports to the Commission.* Marta Olchyk nominated Ken Arnold as Chair. Barbara McLaughlin seconded the nomination. Hearing no additional nominations, Ken Arnold was elected Chair by unanimous vote of the Committee.

APPOINTMENT OF VICE CHAIR: *Acts in the capacity of the Chair when the Chair is not available.* Barbara McLaughlin nominated Lou Cohen as Vice Chair. The nomination was seconded by Marta Olchyk. Hearing no additional nominations, Lou Cohen was elected Vice Chair by unanimous vote of the Committee.

APPOINTMENT OF SECRETARY: *Takes minutes of the meetings and records them with the Town Clerk, and notifies the Town Clerk of future meeting dates and times – regular or special for posting on the Town Website.* Marta Olchyk nominated Barbara McLaughlin to serve as Secretary. Hearing no additional nominations, Barbara McLaughlin was elected Secretary by unanimous vote of the Committee.

DISCUSSION RE; COMMITTEE GOALS AND OBJECTIVES: The Town Attorney suggested that the first goal of the Committee be to review the Town Charter to order to update, modernize, and streamline the document with the goal of making the document more legible and easy to follow. This would include eliminating the superseded provisions and looking at the Model City Charter to assist in this goal. She suggested a second goal would be to recommend to the Commission specific issues for consideration or reconsideration by the Commission

Regarding the Model City Charter, the Town attorney stated that the Model City Charter was created by the National League of Cities to assist municipalities in creating their charter (based on a Council/Manager form of Government). The Charter is used to identify the structure of the form of government; definition of the powers, duties and restrictions on the Commission; definition of the powers, duties and restrictions of Charter Officers, Town Manager, Town Attorney and other charter officers; financial management; elections; charter amendments; and general provisions.

The Town Attorney suggested that she create the agenda for the Committee as follows: she will take a portion of the Charter for the Committee to review and make changes to be reviewed at the following meeting, together with the next set of provisions and so on until the entire Charter is reviewed. She stated she would provide the changes to the Committee members one week prior to the meetings.

Chair Ken Arnold suggested starting with the Model Charter and adding those sections applicable to the Town in order to streamline the process.

For the next meeting the Town Attorney will provide a copy of the Charter, crossing out all the sections that have been superseded and streamlined, leaving what is left along with a proposed set of changes based on the Model City Charter.

Marta Olchyk suggested including in the revised charter a provision restricting the amount of money the Commission will receive for salary and/or expenses. The Town Attorney stated the Charter Review Committee is the perfect place to include such restrictions, etc.

The Town Attorney stated she would provide copies of the Tierra Verde Charter (a recently incorporated municipality) to the Committee for comparison.

Lou Cohen moved to have the Committee move forward with the process as outlined by the Town Attorney. The motion was seconded by: Barbara McLaughlin and carried unanimously.

Regarding the Sunshine laws, the Town Attorney gave a brief review noting that Committee members may not discuss amongst themselves any matter that may come before the Charter Review Committee. She clarified that the Members may discuss matters with the Town Commission and may correspond with the Town Attorney, the Town Manager and the Town Clerk and residents.

SELECTION OF FUTURE MEETING DATE/TIME: The Town Attorney suggested the Committee meet every three weeks in order to get the changes turned around in time for the next meeting. Following discussion, the Committee agreed to meet at 7:00 p.m. on Monday, November 24, 2008 in the Commission Chambers.

ADJOURNMENT: The Chairman adjourned the meeting at 8:01 p.m. following a motion by Lou Cohen.

Accepted by the Committee this _____ day of _____, 2008

Ken Arnold, Chair

Barbara McLaughlin, Secretary

The Committee proceeded to review the Charter section by section and addressed changes as follows:

Chair, Ken Arnold asked that the Attorney make the charter as concise as possible throughout the document and make it as readable and user friendly as possible.

ARTICLE I. INCORPORATION; FORM OF GOVERNMENT; POWERS

Sections 1, Incorporation – add the date of Incorporation (the Town Clerk was asked to research the exact date, subsequently, the Clerk found the date of incorporation is May 17, 1935)

Section 2, Corporate limits - not amended.

Section 3, Form of Government – include that the Town shall have all the powers permitted under the Constitution and laws of the State of Florida. Chairman Arnold suggested that the language in the Palm Coast Charter be adapted for the Town. There was no objection.

Section 4, General Powers of town; powers not deemed exclusive – the Attorney recommended the third paragraph be amended so as to make the provision enforceable. She recommended the third paragraph read as follows:

“The Town Commission shall not adopt a text amendment to the Town Code which would directly or indirectly increase the maximum allowable floor areas, maximum allowable floor area ratios or the maximum allowable building heights that are set out in the Town Code which are in effect on the date that this amendment is approved by a vote of the electors of the Town of Surfside. Upon becoming effective, 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.”

Chairman Ken Arnold suggested that “Commission” be changed to “Council” Following brief discussion, there was no consensus on the change.

The Town Attorney proposed that the language be included regarding the Town Seal as follows:

“The Town shall have the right to adopt, use and Change the Corporate Town Seal. Such seal shall be the official Seal of The Town and shall be used for said purpose or for such other purpose as the Town Commission would authorize.” There were no objections to the change.

ARTICLE II. TOWN COMMISSION

Sec. 5 Number; selection; term – the board directed the Town Attorney to include language in this section which states that whenever in the document the word Commission is used that such reference will include the Mayor as part of the Commission.

Sec. 6 Qualifications - the Town Attorney recommended the following change: Eliminate the first three lines and the fourth line through the word "who: and add "Only electors of the Town who are at least twenty-one (21) years of age and have resided continuously and have been a registered voter in the Town for at least one (1) year preceding the date of such filing shall be eligible to hold the office of Commission Member or Mayor. Such an elector..." . The remainder of the paragraph from the word "shall" remains unchanged. There were no objections to the Change.

Sec. 7. Salary – the Committee discussed remuneration and whether or not it should be included in the Charter. Following lengthy discussion, Committee Chair Ken Arnold passed the Gavel to Lou Cohen in order to make a motion. Mr. Arnold moved to include a salary for Commissioners and receipted expenses in the Charter. Lou Cohen seconded the motion. The motion failed with 2-2 with Marta Olchyk and Shoshanna Feingold Studnik dissenting.

By Consensus, the Committee reserved bringing the salary discussion back to the table, once the entire committee is seated, including member Karukin. They also agreed to include receipted expenses in the discussion.

The time for commencement of the meeting was changed from 8:00 p.m. to 7:00 p.m.

Sec. 9, 10 and 11, Chairman Arnold suggested using the verbiage in the Palm Coast Charter (number 3, 4 & 5) describing the powers and duties of the Commission. There was no opposition to this suggestion.

Sec. 12, Appointment of the Town Manager, the Committee accepted the recommendation of the Town Attorney with regard to the surety bond.

Sec. 13 and 14, there were no changes.

Sec. 15. Change vague language to read "a Majority of the remaining Commissioners"

Sec. 16, - 30 there were no changes.

Sec. 31 – Change the word "Commissions" to be the word "Committees" And clarify that Committees are advisory in nature and that Boards are quasi-judicial bodies with decision-making powers. Remove the provision that the Manager and the Mayor shall be ex-officio members of Boards and Committees.

Sec. 31.1 Personnel appeals board – was deleted.

Sec. 32, general laws to apply – was deleted.

15 Sec. 33, was not changed.

The Town Attorney stated that she would re-draft the sections as amended for presentation at the next meeting and give the Committee another set of sections to review.

SAMPLE CHARTERS: The Town Attorney provided copies of Charters for the City of Palm Coast and the Town of Tierra Verde.

SELECTION OF FUTURE MEETING DATE/TIME: Following discussion, the Committee agreed to meet at 7:00 p.m. on Monday, January 5, 2009 in the Commission Chambers.

ADJOURNMENT: The Chairman adjourned the meeting at 9:11 p.m.

Accepted by the Committee this _____ day of _____, 2009

Ken Arnold, Chair

Beatris M. Arguelles, Town Clerk
Acting Secretary for the Committee



CHARTER REVIEW COMMITTEE MEETING - 7:00 P.M. - MINUTES

Date: Monday, January 5, 2009
TOWN OF SURFSIDE
TOWN HALL COMMISSION CHAMBERS
2ND FLOOR, 9293 HARDING AVENUE
SURFSIDE FL 33154

Chat

Meeting called by: Committee **Facilitator:** Lynn Dannheisser,
Town Attorney

Note taker: Town Clerk Beatris Arguelles

Required Attendees: Committee Members: Ken Arnold, Michael Karukin, Lou Cohen, Shoshanna Feingold Studnik and Marta Olchyk,

----- Minutes -----

CALL TO ORDER: Chair Ken Arnold called the meeting to order at 7:00 p.m. The following members were also present: Michael Karukin and Lou Cohen. Shoshanna Feingold Studnik arrived shortly after commencement of the meeting. Staff members present were: Lynn Dannheisser, Town Attorney and Beatris Arguelles, Town Clerk

APPROVAL OF THE MINUTES: Lou Cohen moved to approve the minutes. Michael Karukin seconded the motion for purposes of discussion and requested clarification, on page three, section 16 – 30 which states there were no changes, however he noted that 21, 22, 25a, 26, 27, and 30 were all deleted and asked the minutes reflect those sections were deleted. Approval of the minutes was deferred to the next meeting to include that the sections were deleted from the original charter.

TOPICS FOR DISCUSSION:

- A. REVIEW MODIFICATION AND ADOPTION ALL REVISIONS AND REORGANIZATION OF ARTICLES BASED ON DECEMBER MEETING DIRECTION FROM SECTION 1 UP THROUGH SECTION 33 (EXCEPT FOR SECTION 7 “SALARY” TO BE DISCUSSED IN ITEM B BELOW AND ADOPT CHANGES** – The Town Attorney disseminated a redline version of the Charter which included all changes from the previous meetings. She recommended the Committee adopt all revisions as presented.

Chairman Arnold requested that Citizen’s Bill of Rights, item 3, Public Records, include a statement that inspection refers to Town Records. In Item 5, he asked that the word “board” be capitalized and defined later in the document. In item 7, delete the word “Mayor” in the third line. Item 11, change the reference to the Mayor to reflect the Commission. In Section 1-3, item b, move the words “(as more specifically set forth in Article II) to the end of the sentence.

There was no consensus as to Mr. Arnold’s request that the word “periodically” be removed in item 10 and that a detailed job description for each employee be included in item 12.

The Committee recommended relocating item c in section 1-3; however, there was no direction as to where the item should be moved.

Regarding Sec. 2-2(b) Presiding officers, there was discussion regarding re-writing the section, however the Town Attorney noted that this section was recently voted on and was written exactly as was approved by the Electorate. By consensus, the Committee agreed to revisit the language and perhaps present an alternative to electing the Mayor as a separate seat.

Sec. 2-3 Salary, the committee discussed compensation. Following discussion, Lou Cohen moved that the Elected officials be compensated and that in addition to the compensation, expenses would be paid upon submission of receipts, and approval by the Town Manager. Shoshanna Studnick seconded the motion. Additional discussion ensued, and subsequently the motion was withdrawn.

Subsequently, the Committee agreed that the Town Attorney would come back with language that would establish an initial salary of \$600 per month to begin following the General Election in 2010 and thereafter to be amended by Ordinance by a super-majority vote of the commission to take effect following the next general election following the vote of the Commission.

Sec. 2-6 the last sentence of the paragraph the word "Commissioners" should be singular "Commissioner."

Sec. 2-8 – line 6, change 120 days to be 60 days.

Sec. 2-10 - The Town Attorney will review and research other charters to determine alternative language as to the powers of the Mayor during times of public danger or emergency.

Sec. 2-11 – Duties of the Town Clerk there was discussion regarding further delineating the duties of the Town Clerk and it was suggested that one of the duties of the Clerk should be to be the secretariat of Committees.

Sec. 2-12 – Town Attorney – it was agreed that the language mirror the language for the Town Manager with regard to appointments, removal, etc.

Relocate the Clerk to be under the Town Manager in Article III

Sec. 2-13 remove the word "Mayor" leaving that a "Majority of Commissioners"

Sec. 2-16 Change from a 3/5ths vote to read a majority.

Sec. 2-17 Advisory Boards – the Committee agreed that further delineation of the definition of a Board and a Committee should be outlined. The Town Attorney was directed to draft language clearly defining both.

Article III – Administration - the Town Clerk appointment will be listed here.

Sec. 3-1 (d) clarify redundancy.

Sec. 3-2 (b)14 to change the language to eliminate the requirement that the Mayor and Commissioners sign jointly with the Manager.

B. DISCUSSION OF SALARY AND EXPENSES – previously discussed.

C. DISCUSSION OF PROPOSED ARTICLES III (ADMINISTRATION) AND ARTICLE IV (LEGISLATION) – Previously discussed.

SELECTION OF FUTURE MEETING DATE/TIME: Following discussion, the Committee agreed to meet at 7:00 p.m. on Monday, February 23, 2009 in the Commission Chambers.

ADJOURNMENT: The Chairman adjourned the meeting at 9:54 p.m. following a motion by Lou Cohen.

Accepted by the Committee this _____ day of _____, 2008

Ken Arnold, Chair

Barbara McLaughlin, Secretary

Charter Review Committee Meeting Minutes

February 23, 2009

**Town of Surfside
Town Hall Commission Chambers
2nd Floor, 9293 Harding Avenue
Surfside, Florida 33154**

Minutes:

Call to Order: Chairperson Ken Arnold called the meeting of the Surfside Charter Commission to order at 7:00 p.m. The following members were also present: Michael Karukin, Lou Cohen, and Marta Olchyk. Committee member Shoshanna Feingold Studnik arrived at 7:15 p.m. Staff members present were Lynn M. Dannheisser, Town Attorney, Jody Roodman, Special Projects Coordinator, and Gary L. Word, Town Manager.

Approval of Minutes: The January 5th meeting minutes were amended to show that Barbara McLaughlin is no longer a member nor is she the Secretary to the Charter Review Committee. Lou Cohen moved, Michael Karukin seconded, to approve the minutes of January 5, 2009, as amended. Motion passed 4-0.

Topics for Discussion: The Charter Review Committee commenced review of the revised draft Surfside Charter presented by the Town Attorney. Michael Karukin submitted a flyer summarizing future land use elements. He expressed concern with density and intensity of land development without restrictive language. Following discussion the Town Attorney indicated that she would review the language, send it to other attorneys who have faced challenges in the courts and report back to the Charter Committee at a future date.

Page 5, Article I, Section 1-3(B) was modified to read, "The general duties of the Town Commission shall be to set policy as more specifically set forth in Article II; the general duties of the Town Manager shall be to carry out these policies."

Discussion ensued relative to process of selecting the Mayor and Vice Mayor. Comments were received by Commissioners Steve Levine and Elizabeth Calderon. The discussion focused on electing the Mayor separately by the general electorate or whether the Mayor and Vice Mayor should be selected by the Commission from within itself.

Committee member Olchyk left the meeting at 7:53 p.m.

The Town Attorney referenced a section from the International City Management Model Charter regarding the role of the Mayor in the council-manager form of government. Following further discussion the Charter Review Committee agreed to recommend to the Commission that the electorate be given three (3) choices regarding the selection of a Mayor:

- 1) All Commission candidates would run at large with the candidate receiving the highest votes becoming the Mayor and the candidate receiving the second highest total becoming Vice Mayor.
- 2) All Commission candidates would run at large for four open seats. The Mayor would run, separately, at large. The Vice Mayor would be selected by the Mayor and Commission when seated.
- 3) All commission candidates would run at large for five open seats. When seated, the Mayor and Vice Mayor would be selected by the Commission from its members.

Page 20, Article II, Section 2-16 Advisory Boards was modified to expand the definition of a committee as a recommending body as distinct from a board. It was suggested that the Commission define the mission of each Board and Committee.

The Charter Review Committee discussed portions of Article III (Administration) as it pertained to the Town Manager and Town Clerk. Further, discussion ensued regarding placing language in Article IV, Section 4-2 Annual Budget Adoption requiring long-term budgeting for capital projects, equipment replacement and fund balances. No recommendation for change was made.

Page 50, Article V, Section 5-1 (D) was modified to remove the words, "the Mayor" and will read: "**D. Nonpartisan Elections.** All elections for the Town Commission shall be conducted on a nonpartisan basis and no ballot shall show the party designation of any candidate."

Page 52, Article V, Section 4 (?), delete the 25 qualified elector signatures needed for a petition of nomination.

Page 53, Article V, Section 5.5 (1), change 8:00 p.m. to 7:00 p.m. in second to the last line to be consistent.

Page 53, Article V, Section 5.5 (4), add term "regular" election at the beginning of the sentence.

Following discussion on the subject of term of office it became the consensus of the Charter Review Committee to recommend three (3) year terms for the Mayor and Commissioners.

Page 64, Article IX, Section 140.1 (Reimbursement of defense costs) concern was expressed regarding coverage for Town board and committee members. The Town Attorney agreed to review insurance coverage for ethical behavior with application to advisory board and committee members.

The Charter Review Committee returned to page 6, Article II, Section 2-3 (Compensation; reimbursement of expenses). It was determined that discussion related to Mayor/Commissioner salary would be held at a later time with all Charter Review Committee members present.

Selection of Future Meeting Date/Time: Following discussion, the Committee agreed to meet at 7:00 p.m. on Monday, April 27, 2009.

Adjournment: It was moved by Lou Cohen, seconded by Michael Karukin, to adjourn the meeting at 9:38 p.m. Motion passed 4-0.

Accepted by the Committee this ____ day of _____, 2009.

Ken Arnold, Chairperson

Gary L. Word, Acting Secretary



TOWN OF SURFSIDE, FLORIDA
Town Charter Committee Meeting
9293 Harding Avenue
Surfside, FL 33154
Monday, June 1, 2009
7:00 p.m.

Mayor Charles W. Burkett
Vice Mayor Marc Imberman
Commissioner Howard S. Weinberg
Commissioner Steve Levine
Commissioner Elizabeth Calderon

Town Manager Gary Word
Town Attorney Lynn M. Dannheisser
Town Clerk Debra E. Eastman, MMC

MINUTES

1. **CALL TO ORDER / ROLL CALL OF MEMBERS**

The meeting was called to order by Chairman Ken Arnold at 7 p.m.

Town Clerk, Debra Eastman called the roll with the following members of the Committee present: Chairman Ken Arnold, Members Lou Cohen, Michael Karukin, Marta Olchyk. Member Shoshana Feingold-Studnik was absent. Town Attorney, Lynn Dannheisser and Town Manager, Gary Word were also present.

2. **APPROVAL OF THE MINUTES**

Michael Karukin made a motion to accept the minutes of the February 23, 2009 meeting. The motion received a second from Lou Cohen. Chairman Ken Arnold called for the vote and all were in favor.

3. **TOPICS:**

A. REVIEW OF REVISIONS FROM FEBRUARY, 2009 MEETING

Chairman Ken Arnold reviewed of the proposed charter language with the Committee as follows:

Citizen's Bill of Rights

A. This government has been created to protect the governed people, not the governing.

1. . . . 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 registration and voting, for required inspections of Town record, access to notice of public meetings and for. . .

3. . . . Town and its boards, agencies, committees, departments and authorities. . .

4. . . . from minutes showing the votes of each member of the commission on all ordinances. . .

In all the text, the words Board and Committees should be capitalized.

9. With regard to the term “when the decision is reserved”, the Town Attorney, Lynn Dannheisser will review and rewrite.

10. . . . shall periodically make public status report on all major material matters pending or concluded. . .

11. and reflecting the personnel for each department, ~~the purposes therefore, the personnel and their role,~~ and the amount . . .

Chairman Ken Arnold suggested that there might be language to include qualifications for candidates who wish to run for office. There was no support from the Committee.

C. Successful, shall be entitled to recover costs and attorney fees as fixed by the court.

Section 1.2 Corporate Limits

It was agreed that Town Attorney, Lynn Dannheisser would add a general description of the boundaries, such as, 96th Street, Intracoastal and Atlantic Ocean.

Section 1-3 General Powers

. . . known as the Commissioners-Manager form of government (sometimes referred to as the ~~Commission~~ Council/Manager form of . . .

It was decided that the following paragraphs should be switched:

~~C.~~D. Paragraph C becomes paragraph D.

~~D.~~C. Paragraph D becomes paragraph C.

Section 6. A. Qualifications

The Commissioners shall be qualified electors of Miami-Dade County . .

It was decided that Town Attorney, Lynn Dannheisser would review the entire paragraph for clarity.

B. Presiding Officers and Term

It was decided that Town Attorney, Lynn Dannheisser will provided the Charter Committee with information regarding this topic from the “Model City” Charter. The members of the Charter Committee concurred to remove Option 2.

Section 9 10 2-5 Duties of Mayor.

B. Duties.

In addition to the Mayor's regular duties required by any Commission member, the Mayor shall. . .

Sec. 2.7 Vacancies: forfeiture of office; suspension; recall; filling of vacancies
Town Attorney, Lynn Dannheisser will review section(c)
Filling of vacancies (i) (ii) (iii)

Sec 2-8 Appointment of Town Manager

Add letter "A" before first paragraph, clean up extra spaces.

Proposed section 2-9 should become paragraph B and from then on sections need to be renumbered 2-9, etc.

Section 2-11 Town Attorney: appointment and duties of. (Paragraph in red font) . . . Town Attorney, the Commission must either appoint a permanent Town Attorney or re-appoint an acting Town Attorney.

Section 2-13 Rules of Procedure; journal.

The Committee agreed to combine sections A, B and C.

B. Quorum and Voting. . . . Charter, unless adopted by the affirmative vote of a minimum of three (3) Commissioners.

Section 2-14 Ordinances

The Charter Commission requested that in the definition of ordinance there be a reference to Florida Statutes.

6. aAuthorize the borrowing of money;

Sec. 2-16. Advisory Boards.

The Commission may appoint boards (a deliberative assembly appointed by the Commission known as a Committee)

. . . of all such boards and ~~Commissions~~ Committees shall serve without compensation . . .

Sec. 2-17 Independent Audits

. . . through the appointment of a citizen's committee, and individual, or other . . .

Sec 3-3 Town Attorney.

- A. Powers and Duties.
1. Serve as chief legal advisor to the Town Commission and Committees.

In the cleaned up version:

Section 5-1 Election

The Charter Committee asked that Town Attorney, Lynn Dannheisser review this section and discussed a potential three-year term.

Sec 5.5 General and special elections of Commission members.

The Charter Committee requested that Town Attorney, Lynn Dannheisser review this section for the term of office.

Sec 6.1 It was pointed out that subsections lettered as B and C needs the correct spacing.

**B. DISCUSSION OF SALARY, REIMBURSEMENT OF EXPENSES
ARTICLES II, SECTION 2.3**

Section 7: 2-3 Salary

Compensation; reimbursement of expenses.

Commencing with the term of office beginning at 7 p.m. on the day following the General Election in 2010 the members of the Commission shall be paid \$1.00 per fiscal year which sum may be amended by ordinance adopted by a unanimous vote of the Town Commission not to exceed \$600, which salary shall not commence until the following term.

The Mayor and Commission shall receive reimbursement for actual reasonable expenses incurred in the performance of their official duties as evidence by valid receipts, approved by the Town Manager in accordance with the published reimbursement policy.

C. RATIFICATION OF SECTION 1.3C

Agenda Item 3C: Ratification of Section 1.3C.

Committee member, Michael Karukin gave a PowerPoint presentation and requested that the reference to the Comprehensive Plan stay in the Town Charter and pointed out that changing it could have unintended consequences. As a compromise, Town Attorney, Lynn Dannheisser suggested that both the Comprehensive Plan and the Zoning Code be included. The Charter Committee agreed to include both the Comprehensive Plan and Zoning Code.

D. DISCUSSION OF GENERAL PROVISIONS (ARTICLE VII)

Sec 7-8 Campaign Finance

The Charter Committee requested that the Town Attorney, Lynn Dannheisser obtain more information with regard to campaign finance.

E. CLEANED-UP DRAFT OF CHARTER See item A.

F. RECOMMENDATION BY CHAIRPERSON AND PROCESS

Town Attorney Lynn Dannheisser suggested that the next meeting be scheduled at 7 p.m on July 9, 2009 to review changes and information on campaign finance. Subsequently, at the end of the summer, the Committee can meet to review final language and ballot questions.

4. **ADJOURNMENT:** The meeting adjourned at 10:10 p.m.

Approved by the Committee this _____ day of _____, 2009.

Ken Arnold, Chairman

Debra E. Eastman, MMC
Town Clerk



TOWN OF SURFSIDE, FLORIDA
Town Charter Committee Meeting
9293 Harding Avenue
Surfside, FL 33154
Monday, November 2, 2009
7:00 p.m.

Mayor Charles W. Burkett
Vice Mayor Marc Imberman
Commissioner Howard S. Weinberg
Commissioner Steve Levine
Commissioner Elizabeth Calderon

Town Manager Gary Word
Town Attorney Lynn M. Dannheisser
Town Clerk Debra E. Eastman, MMC

MINUTES

1. CALL TO ORDER / ROLL CALL OF MEMBERS

The meeting was called to order by Chairman Ken Arnold at 7:05 p.m.

Town Clerk, Debra Eastman called the roll with the following members of the Committee present: Chairman Ken Arnold, Members Lou Cohen, Michael Karukin, Marta Olchyk. Member Shoshana Feingold-Studnik arrived at 7:20 p.m. Town Attorney, Lynn Dannheisser and Town Manager, Gary Word were also present.

2. GUEST SPEAKER, ROBERT E. LEE, PH.D. EXECUTIVE DIRECTOR, THE CENTER FOR FLORIDA LOCAL GOVERNMENT EXCELLENCE

Michael Karukin introduced Dr. Robert Lee who spoke about the criteria and consideration for selecting the best method of election of officials, staggered terms, selection of a Mayor, voting by district and at large and other administrative topics.

3. APPROVAL OF THE MINUTES

Lou Cohen made a motion to accept the minutes of the June 1, 2009 meeting. The motion received a second from Michael Karukin. Chairman Ken Arnold called for the vote and all were in favor.

4. TOPICS:

A. REVIEW OF REVISIONS FROM JUNE 1, 2009 MEETING

Town Attorney, Lynn Dannheisser informed the Committee that an index is being developed for the proposed Charter.

There was a discussion of voting methods for selection Mayor and Town Commission. It was agreed that the voters should be able to choose whether to keep the current system of one race for Mayor and one race for four Town Commissioners or the method of voting for five Commissioners and allowing the Commission to choose amongst themselves who will serve as Mayor.

B. DISCUSSION OF MODEL CITY CHARTER RELATING TO SECTION 2.2B.

There was a discussion regarding staggering of the terms for Town Commission. It was agreed that the Charter Committee would not recommend staggered terms.

There was a discussion regarding the length of the term of office for the Town Commission. Michael Karukin made a motion for two-year terms. The motion received a second from Marta Olchyk. Chairman Ken Arnold called for the vote and the motion passed 3-2 with Lou Cohen and Shoshana Feingold-Studnick voting in opposition.

There was a discussion on whether the Town Clerk position should be changed from the current status to a Charter Officer such as the Town Attorney and Town Manager. There was no change.

It was decided to add language regarding the town seal in section C add “and logo” and add, “no other entity or person shall be authorized to use the seal and logo unless authorized by ordinance”.

It was decided to remove the word “people” from “A” in the Citizen’s Bill of Rights.

There was a discussion regarding whether the Charter Committee should dictate language preventing elected officials from sending out direct mailings with town funds. Town Attorney, Lynn Dannheisser suggested rather than use the Charter, the Committee could develop a policy and ask that the Town Commission put the subject on their agenda.

There was a discussion regarding adding language to the duties of the Town Manager. Ken Arnold will create language for consideration of the Committee and will bring back to the next meeting.

C. CAMPAIGN FINANCING/LOBBYING/NO DISCRIMINATION PROVISIONS.

The provisions above were added.

D. RECOMMENDATIONS FOR PROCESS AND ELECTION DATES.

It was decided that the changes and review required would not take place in time for the March Town Election. A motion was made by Lou Cohen to adopt the charter as amended though this meeting. The motion received a second from Michael Karukin. The Chairman called for the vote and all were in favor.

A motion was made by Lou Cohen to direct the Town Attorney to prepare a draft report for the review of the Charter Committee, which will include a clean version of the Charter, a copy of the ordinance to go before the Town Commission and ballot questions. The motion received a second from Marta Olchyk. The Chairman called for the vote and all were in favor.

The next meeting was set for January 25, 2010 at 7 p.m.

5. **ADJOURNMENT:** The meeting adjourned at 9:25 p.m.

Approved by the Committee this _____ day of _____, 2009.

Ken Arnold, Chairman

Debra E. Eastman, MMC
Town Clerk



TOWN OF SURFSIDE, FLORIDA
Town Charter Committee Meeting
9293 Harding Avenue
Surfside, FL 33154

Tuesday, February 16, 2010

6:00 p.m.

Mayor Charles W. Burkett
Vice Mayor Marc Imberman
Commissioner Howard S. Weinberg
Commissioner Steve Levine
Commissioner Elizabeth Calderon

Town Manager Gary Word
Town Attorney Lynn M. Dannheisser
Town Clerk Debra E. Eastman, MMC

MINUTES

1. CALL TO ORDER / ROLL CALL OF MEMBERS

The meeting was called to order at 6:15 p.m. The Town Clerk called the roll and the following members were in attendance: Chairman, Ken Arnold, Lou Cohen, Michael Karukin and Marta Olchyk. Shoshana Feingold-Studnik was absent. Also in attendance was Town Attorney, Lynn Dannheisser and Town Manager, Gary Word.

2. APPROVAL OF THE MINUTES

There was a motion by Lou Cohen to approve the minutes of the November 2, 2009 meeting. The motion received a second from Marta Olchyk. The Chairman called for the vote and all were in favor.

3. TOPICS:

A. REVIEW OF REVISIONS FROM NOVEMBER 2, 2009 MEETING (INCLUDING RECOMMENDATIONS FROM CHAIR RE: MGR).

B. CAMPAIGN FINANCING/LOBBYING PROVISIONS (SEC. 7-6, 7-7, 7-8, 7-9).

The Board reviewed the Charter and changed and corrected various terms previously discussed.

Commissioner Elizabeth Calderon spoke and suggested that the Charter Review Board consider a longer term for the office of Town Commissioner.

Lou Cohen made a motion to have a three-year term for Mayor and Town Commissioner. The motion received a second from Michael Karukin. Town Clerk, Debra Eastman called the roll and the motion failed 2-2 with Ken Arnold and Marta Olchyk voting in opposition.

There was a discussion regarding that in the event of less than five members in attendance at a Commission Meeting, whether they recommend a majority of those present or three votes would be required for passage of a motion. A motion was made by Lou Cohen to recommend that the majority of those present at a Commission meeting be able to make a decision, rather than the necessity for three affirmative votes. The motion received a second from Marta Olchyk. The Chairman called for the vote and the motion passed 3-1 with Michael Karukin voting in opposition.

It was agreed that the Charter Review Board should meet every ten years rather than six.

The Board discussed recommending to the Town Commission that they pass an ordinance addressing the issue of limitation of campaign contributions.

C. APPROVAL OF FINAL REPORT TO COMMISSION.

Town Attorney, Lynn Dannheisser suggested and it was that her office will make the changes discussed at this meeting and will transmit the document to the Board members. The Board members will report back any corrections or deletions for final preparation and transmittal to the Town Commission at the March 9, 2010 meeting.

Lou Cohen thanked Town Attorney, Lynn Dannheisser for all of her hard work during this process. Vice Mayor Marc Imberman thanked the Charter Review Board for their time and work during this process.

4. ADOPTION OF RESOLUTION TRANSMITTING AND RECOMMENDING PROPOSED CHARTER TO COMMISSION.

There was a motion by Marta Olchyk to adopt the resolution to adopt the proposed Charter as amended and to direct the Town Attorney and Town Clerk to transmit the Charter to the Town Commission with any final edits. The motion received a second from Lou Cohen. Michael Karukin moved to amend the motion to reinsert reference in item #7 referencing the Comprehensive Plan. The maker and second of the motion agreed. The Chairman called for the vote and all were in favor.

5. ADJOURNMENT The meeting adjourned at 9:40 p.m.

Approved this ____ day of _____, 2010.

Ken Arnold, Chairman

Attest:

Debra Eastman, MMC, Town Clerk

RESOLUTION

A RESOLUTION OF THE CHARTER REVIEW BOARD OF THE TOWN OF SURFSIDE, FLORIDA, TRANSMITTING AND RECOMMENDING TO THE TOWN COMMISSION THE PROPOSED REVISED CHARTER ATTACHED AS EXHIBIT "A."

WHEREAS, by Resolution 2008-1840 of the Town Commission established the Charter Review Board; and

WHEREAS, the Charter Review Board met on October 6, 2008, November 24, 2008, January 5, 2009, January 23, 2009, June 1, 2009, November 2, 2009, and February 16, 2010 and considered all sections of the Town Charter;

WHEREAS, the results of the debate and discussion has resulted in the proposed Charter attached here to as "Exhibit "A" ("Proposed Charter") and the Board believes that it is in the best interest of the Town Commission to adopt the changes recommended by this Board:

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

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

Section 2. Transmittal and Recommendation for Adoption. The Charter Review Board hereby recommends adoption of the Proposed Charter by the Town Commission, and directs the Town Attorney and Town Clerk to transmit the said Charter to the Town Commission.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED on this 16th day of February, 2010.

Motion by Marta Olchyk, second by Lou Cohen.

FINAL VOTE ON ADOPTION

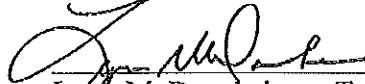
Board member Lou Cohen	<i>yes</i>
Board member Michael Karuchin	<i>yes</i>
Board member Shoshana Feingold	<i>absent</i>
Board member Marta Olchyk	<i>yes</i>
Chairperson Ken Arnold	<i>yes</i>

Ken Arnold, Chairperson

Attest:

Debra B. Eastman, MMC
Town Clerk

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



Lynn M. Dannheisser, Town Attorney

**CHARTER
TOWN OF SURFSIDE, FLORIDA**

PROPOSED TO:

TOWN COMMISSION
Mayor Charles W. Burkett
Vice Mayor Marc Imberman
Commissioner Elizabeth Calderon
Commissioner Steven Levine
Commissioner Howard Weinberg

BY:

CHARTER REVIEW BOARD
Chairperson Ken Arnold
Board Member Lou Cohen
Board Member Michael Karukin
Board Member Shoshana Feingold-Studnik
Board Member Marta Olchyck

Gary L. Word
Town Manager

Lynn M. Dannheisser
Town Attorney

Debra E. Eastman, MMC
Town Clerk

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CHARTER
TOWN OF SURFSIDE, FLORIDA

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 management, 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 registration and voting, 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. 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.
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 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. 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. Manager's and Attorney's Reports. The Town Manager and Town Attorney shall periodically make public status report on all material matters pending or concluded within their respective areas of concern.

11. Budgeting. In addition to any budget required by state statute, the Town Manager at the direction of the Town Commission shall prepare a budget showing the projected revenues and expenses of each department for each budget year. Prior to the Town Commission's first public meeting on the proposed budget required by state law, the Town Manager shall make public a budget summary setting forth the projected revenue and expenses of the department 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 a quarterly 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 ~~Mayor~~ 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 costs and attorneys' fees as fixed by the court. Any public official or employee who is found by the court to have willfully violated this Article shall forthwith forfeit his or her office or employment.

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.

ARTICLE I. INCORPORATION; FORM OF GOVERNMENT; POWERS

Sec. 1-1. Incorporation.

~~The inhabitants of the Town of Surfside, within the corporate limits as now established or as hereafter established, shall continue to be a municipal body politic and corporate in perpetuity, under the name of "Town of Surfside."~~

The municipal corporation known as the Town of Surfside, formed on May 17, 1935 within the corporate limits as now established, continues under the name of the Town of Surfside in perpetuity and under the terms of this Charter, as may be amended, from time to time.

Sec. 2 1-2. Corporate limits boundaries.

The corporate boundaries of the Town of Surfside, hereinafter referred to as "the Town," shall be as described below:

~~Until modified by subsequent annexation or exclusions in the manner provided by law, the municipal corporation of the Town of Surfside shall comprise, and have full municipal jurisdiction, powers, rights and privileges over the territory and persons now and from time to time hereafter within the following boundaries in Dade County, Florida, to-wit:~~

~~Beginning at a point on the south line of Township 52 South, Range 42 East of Tallahassee Meridian in Florida, at the low water line of the Atlantic Ocean;~~

~~Thence west along the south line of said Township 52 South, Range 42 East, to the waters of Biscayne Bay and/or Indian Creek;~~

~~Thence easterly and northerly meandering the present east shore of Biscayne Bay and/or Indian Creek to the north line of Government Lot 1, Fractional Section 35, Township 52 South, Range 42 East, produced westerly to its intersection with the present East Shore of Indian Creek;~~

~~Thence east along the north line of said Government Lot 1, Fractional Section 35, Township 52 South, Range 42 East, or the prolongation thereof, to the low water line of the Atlantic Ocean;~~

~~Thence southerly meandering the low water line of the Atlantic Ocean to the point [of] beginning excepting therefrom, however, Lots "V," "W" and "X" of the amended plat of a portion of Altos Del Mar No. 4, according to plat thereof recorded in Plat Book 34, at page 7, of the Public Records of Miami-Dade County, Florida.~~

~~Otherwise, the Town is generally bounded on the south by 87th Terrace, on the East by the Atlantic Ocean, on the west by the Intracoastal Waterway, and on the north by 96th Street.~~

Sec. 3 1-3. General Powers: Form of government; powers are vested in commission; exercise of powers.

~~The municipal government provided by this Charter shall be known as the "commission-manager government." Pursuant to the provisions of this Charter, and subject only to the limitations imposed by the state constitution, all powers of the town shall be vested in an elective council, hereinafter referred to as "the commission," which shall enact local legislation, adopt budgets, determine policies and appoint the Town Manager who shall execute the laws and administer the government of the town. All powers of the town shall be exercised in the manner prescribed in this Charter or, if the manner be not prescribed, then in such manner as may be prescribed by ordinance.~~

The Town shall have and may exercise all available governmental, corporate and proprietary powers. Through the adoption of this Charter, it is the intent of the electors of the Town to grant to the municipal government established herein the broadest exercise of home rule powers

permitted under the Constitution and laws of the State, as fully and completely as though they were specifically enumerated in this Charter.

A. The powers of the Town shall be liberally construed in favor of the Town. All powers of the Town, however, shall be proscribed by this Charter, or if manner be not proscribed, then in such manner as may be described by ordinance or as provided in the general laws of the State of Florida.

B. The municipal form of government shall be known as the Commission-Manager form of government (sometimes referred to as the Council/Manager form of government). The general duties of the Town Commission shall be to set policy (as set forth in Article II hereinbelow); the general duties of the manager shall be to carry out these policies (as more specifically described in Article III).

C. The Town shall have the right to adopt, use and change the corporate seal and/or logo. Such seal shall be the official seal of the Town and such logo shall be the official logo and neither shall be used for any purpose other than an official purpose or as the Town Commission may authorize by ordinance. No other entity or person shall be authorized to use same except as authorized by ordinance.

Sec. 4. ~~1-4. Reserved. 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 floor areas, maximum allowable floor area ratios maximum allowable building heights 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 in effect on the date that this amendment is approved by a vote of the electors of the Town of Surfside. Upon becoming effective, 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.~~

ARTICLE II. TOWN COMMISSION

~~Sec. 5. Sec. 2-1. Number; selection; term Town Commission.~~

~~The Commission shall have five (5) members elected from the town at large in the manner and for terms provided herein and in Article VI hereinbelow, or until their successors have been elected and take office. Whenever the term Commissioner or Commission member is used in the Charter, it shall be deemed to mean and include the Mayor, unless specifically otherwise provided.~~

~~Sec. 6. 2-2. Qualifications. Eligibility; Composition; Terms.~~

~~A. Qualifications-Eligibility.~~

~~Only qualified electors of Miami-Dade County (as further defined in Article V. hereinbelow) The Commissioners shall be qualified electors of Dade County whose (1) legal residence is in the Town of Surfside; (2) who shall be are citizens of the United States;; (3) who are at least twenty-one years of age and residents of the State of Florida and Town of Surfside for at least one year next preceding registration, and (4) who shall have resided continuously and been a registered voter in the Town for at least one (1) year preceding the date of filing shall be eligible to hold office of Commissioner or Mayor. no other public office except notary public, local civilian defense or war emergency appointments, membership in the National Guard, naval or military reserve, or membership or memberships on State of Florida or National Boards providing that the duties of the members of such Board shall not interfere with the duties of the Town Commissioners.~~

~~B. Election At-Large; selection of Mayor and Vice-Mayor.~~

~~Option 1:~~

~~All Commission candidates shall run at-large for the five (5) open seats. The Commission, when seated at its first meeting after each general election, shall elect from its members the Mayor and Vice Mayor for the remainder of the term. (Recommended by Charter Board)~~

~~Option 2:~~

~~If Option 1 is not selected, then the Charter Board recommends retaining the newly but already adopted charter provision as follows in this reorganized format:~~

The Mayor shall be elected separately from his/her own group. The four Commissioners shall run at-large and the Commissioner receiving the highest number of votes in the general election shall, for a term of two (2) years immediately following thereafter, have the title of Vice-Mayor. The Commissioners receiving the second, third and fourth highest number of votes in the general election shall, for a term of two (2) years immediately following thereafter, serve as the remaining Commissioners.

C. Term.

The term of office of elected officials shall be for two (2) years.

Sec. 7. 2-3. Salary. Compensation; reimbursement of expenses.

~~Commencing with the term of office, beginning at 8:00 p.m. on the day following the General Election in 1978, the Mayor and members of Commission shall be paid the sum of one dollar (\$1.00) per fiscal year for attendance at monthly Commission meetings, irrespective of the number of regular or special meetings attended within such fiscal year.~~

Commencing with the term of office beginning at 7 p.m. on the day following the General Election in 2010, the members of the Commission shall be paid \$1.00 per fiscal year which sum may be amended by passage of ordinance addressing this issue adopted by a unanimous vote of the Town Commission but, in any event, such salary is not to exceed six hundred(\$600) dollars per year and shall not commence until the following term. Notwithstanding the foregoing, the Mayor and Commission shall receive reimbursement for actual reasonable expenses incurred in the performance of their official duties as evidenced by valid receipts, and approved by the Town Manager in accordance with the published reimbursement policy.

Sec. 8. Reserved.

~~The Mayor shall be elected separately from his/her own group. The four Commissioners shall run at-large and the Commissioners receiving the highest number of votes in the general election shall, for a term of two years immediately following thereafter, have the title of Vice Mayor. The Commissioners receiving the second, third and fourth highest number of votes in the general election shall, for a term of two years immediately following thereafter, serve as the remaining Commissioners.~~

Sec. 9. 2-4. Powers of the Commission.

Except as otherwise prescribed herein, and as provided by law, legislative and police powers of the Town shall be vested with the Commission. All powers conferred upon the Commission shall be exercised by ordinance, resolution, or motion, adopted by the Commission in accordance with the law, except as otherwise permitted or required by Charter.

Sec. 9. 2-5. Duties of Mayor.

~~The Mayor shall preside at all meetings of the Commission and perform such other duties consistent with his office as may be imposed by the Commission, and he shall have a voice and vote in the proceedings of the Commission, but no veto power. He shall be considered as the official head of the town for ceremonial purposes and he shall be so recognized by the courts for the purpose of serving civil processes and by the state and federal governments in the exercise of military laws. He shall have such other powers and duties as are conferred upon him by this Charter and by the Commission in pursuance of the provisions of this Charter and no other.~~

A. Powers.

In addition to the regular duties required by and invested in any other Commission member, the Mayor shall be recognized by the governor for purposes of military law; have the power to declare an emergency situation; have the power for service of process, and execution of contracts, deeds and other documents; have the power to represent the Town in all agreements with other governmental entities or certifications to other governmental entities that the Commission has approved.

B. Duties.

In addition to the Mayor's regular duties, the Mayor shall preside at meetings of the Commission and be recognized as the head of Town government for all ceremonial occasions. The Mayor shall have no administrative duties other than those necessary to accomplish these actions, or such other actions as may be authorized by the Town Commission, consistent with general or special law.

Sec. 10 2-6. Duties of the Vice Mayor.

The Vice Mayor shall act as Mayor during the absence or disability of the Mayor, and, if a vacancy occurs in the office of Mayor, shall succeed to that office for the remainder of the unexpired term. ~~Counsel shall then elect from among its members, as soon thereafter as practicable, an assistant Mayor to fill the vacancy thereby created in that office.~~ In absence of the Mayor or Vice Mayor, the remaining Commission shall select a Commissioner to serve as Acting Mayor.

Sec. 11 2-7. Powers of Commission. Vacancies; forfeiture of office; suspension; recall; filling of vacancies.

~~All powers of the town not specifically conferred on other officers and employees and the determination of all matters of policy shall be vested in the Commission. Without limitation of the foregoing, the Commission shall have power to:~~

- ~~(1) Appoint and remove the Town Manager, municipal judge, associate municipal judge, Town Attorneys, prosecuting attorney and certified public accountants for audits.~~
- ~~(2) Establish administrative departments as designated and described in the budget adopted under Sections 65 and 66.~~
- ~~(3) Adopt the budget of the town.~~

- ~~(4) Levy, assess and collect such general and special taxes and fees on all property within the town, and such special assessments for special and local improvements, and such excise, occupational, privilege and special service fees and taxes, within the limits herein provided, as shall be lawful for carrying out the purpose and powers of the town.~~
- ~~(5) Authorize the issuance of bonds.~~
- ~~(6) Adopt plats.~~
- ~~(7) Appoint members of any or all advisory Boards or Commission s the Commission may establish under this Charter and prescribe by ordinance their duties, responsibilities, authorized procedures and tenure of office.~~
- ~~(8) Adopt and modify the official map of the town.~~
- ~~(9) Regulate and restrict: (a) location, number of stories, height, size, cubic contents, construction, appearance and area of buildings and other structures (including billboards, signs and other advertising devices); (b) the percentage and portion of lots and lands that may be occupied or built on; (c) the density of population; (d) the use of buildings, structures and land for trade, industries, residence, apartment houses and all and any other purposes; (e) no authorization or permit shall be issued for the construction, repair, alteration, extension or replacement of any structure or building east of the "ocean bulkhead line" of the Town of Surfside, which "ocean bulkhead line" was established by ordinance no. 95, approved and adopted on the 8th day of February, 1943, and is presently set forth and described as section 6-20 [now section 14-76 et seq.] of the Code of the Town of Surfside, except that the Commission may provide for the construction of groins, bulkheads, seawalls, jetties, breakwaters or other protective work east of the "ocean bulkhead line" by ordinance.~~
- ~~(10) Adopt, modify and carry out plans for the clearance of slum districts and the rehabilitation of blighted areas.~~
- ~~(11) Adopt, modify and carry out plans for the improvement and redevelopment of neighborhoods and for the replanning, reconstruction or redevelopment of any area or district which may have been destroyed in whole or in part by disaster.~~
- ~~(12) Grant public utility franchises and regulate the exercise thereof.~~
- ~~(13) Provide for annual, monthly, continuing or special audits by independent certified public accountants.~~
- ~~(14) Provide for life and/or disability insurance for employees of the Town of Surfside and/or its agents and/or its officers on a group insurance plan, and to pay all or such portions of the premium or premiums thereon as it may by ordinance determine; and to establish and create by ordinance a pension, annuity and retirement system for any or all groups of officers, or agents or employees of the Town of Surfside. Any pension or retirement system established under the provisions of this section shall be administered by a pension Board appointed by the Commission~~
- ~~(15) Regulate and license the sale, possession and custody of firearms within the town.~~

Sec. 11.1. Right of Commission to order inquiry; subpoena.

~~The Commission, or any person or Committee authorized, shall have power to inquire into the conduct of any office, department, agency or officer of the town and to make investigations as to municipal affairs, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidence. Failure to obey such subpoena or to produce books, papers or other evidence as ordered under the provisions of this~~

~~section shall constitute a misdemeanor and shall be punished by a fine not to exceed five hundred dollars or by imprisonment not to exceed sixty days, or both.~~

(a) Vacancies. The office of a Commissioner shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law, or by forfeiture of his/her office.

(b) Forfeiture of office.

(i) Forfeiture by disqualification. A Commissioner shall forfeit his/her office if at any time during his/her term s/he ceases to maintain his/her permanent residence in the Town or otherwise ceases to be a qualified elector of the Town.

(ii) Forfeiture by absence. A Commissioner shall be subject to forfeiture of his/her office, in the discretion of the remaining Commissioners, if s/he is absent without good cause from any three (3) consecutive regular meetings, or has been absent from three five (35) regular monthly meetings of the Commission with good cause or has been absent from five regular monthly meetings of the Commission during any calendar year.

(iii) Procedures. The Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Commissioner's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Commissioner in question; provided, however, that any Commissioner may at any time during any duly held meeting move to establish good cause for the absence of himself or any other Commissioner, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Commissioner whose qualifications are in question or who is otherwise subject to forfeiture of his/her office shall not vote on any such matters. The Commissioner in question shall be entitled to a public hearing(s) on request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the Town at least one week in advance of the hearing. Any final determination by the Commission that a Commissioner has forfeited his/her office shall be made by resolution. All votes and other acts of the Commissioner in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(c) Filling of vacancies. A vacancy on the Commission including the Mayor's position shall be filled as follows:

(i) If the vacancy occurs on the Commission and no more than six months remain in the unexpired term, the vacancy shall be filled by vote of the Commission. If the vacancy occurs in the office of Mayor and no more than six (6) months remain in the unexpired term, the vacancy shall be filled as provided by subparagraph (iii) below. If a majority of the remaining members are unable to agree on filling the vacancy, an election to fill such vacancy shall be held in accordance with the terms set forth in subsection (ii) hereinbelow.

(ii) If more than six (6) months remains in the unexpired term of the Mayor or Commissioner, the vacancy shall be filled by a special election to be held not sooner than ninety (90) days or more than one hundred and twenty (120) days following the occurrence of the vacancy, unless there is a Town, County, State or a national election scheduled to take place on any date(s) within 60 days beyond such 90 day period, in which case the vacancy shall be filled by special election on the first such election date.

(iii) If the Mayor's position becomes vacant, and no more than six (6) months remain in the unexpired term of Mayor, the Vice-Mayor shall complete the term of Mayor. The vacancy thus

created on the Commission shall be filled in the manner that the vacancy of a Commissioner is generally filled under this Charter. The Commission shall then appoint a new Vice-Mayor.
(iv) Persons filling vacancies shall meet the qualifications specified in this Article II.
(v) If no candidate for a vacancy meets the qualifications under this Article for that vacancy, the Commission shall appoint a person qualified under this Article to fill the vacancy.
(vi) Notwithstanding any quorum requirements established herein, if at any time the full membership of the Commission is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members to the extent otherwise permitted or required under this subsection (c).
(vii) In the event that all the members of the Commission are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint interim Commissioners who shall call a special election within not less than thirty (30) days or more than sixty (60) days after such appointment. Such election shall be held in the same manner as the first elections under this Charter; provided however, that if there are less than six (6) months remaining in the unexpired terms, the interim Commission appointed by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in Article II.

Sec. 12-2-8. Appointment of ~~€~~Town ~~m~~Manager.

A. The ~~e~~Commission, by a majority vote of all its members, shall appoint an officer of the town who shall have the title of ~~€~~Town ~~m~~Manager and shall have the powers and perform the duties in this Charter provided in Article III hereinbelow. The ~~€~~Town ~~m~~Manager may designate the ~~town clerk or other~~ a town employee to perform the duties of the Town Manager during a brief absence or incapacity of the ~~€~~Town ~~m~~Manager. Nevertheless, the ~~e~~Commission shall have the power to appoint an acting ~~e~~Town ~~m~~Manager in the event of the absence in excess of ~~sixty (60) days, one hundred twenty (120) days~~ thirty (30) days illness, death, discharge or resignation of the Town Manager. Within ninety (90) days ~~periods [sic]~~ after the appointment of an acting Town Manager, the Commission must either appoint a permanent Town Manager or re-appoint an acting Town Manager.

Sec. 13 2-9. Removal of Town Manager, Surety Bond. ~~The town manager shall serve at the will of the commission and may be removed by a majority vote of all of its members. The Town Manager shall furnish a surety bond, paid by the Town, which bond shall be approved by the Commission, and in such amount as set by the Commission.~~

Sec. 14 2-10. Commission ~~not to interfere in appointments or removals.~~ Prohibitions.

A. Interference with Administration. Neither the Commission nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the Town Manager or by any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the town. However, in time of public danger or emergency, the Mayor may, with the consent of the Commission, take command of the police department and maintain order and enforce the law. Except for the purpose of inquiry, the Commission and its members shall deal with the administrative service solely through the Town Manager and neither the Commission nor any member thereof shall give orders to any subordinates of the Town Manager, either publicly or

~~privately. The act of any Commissioners in violating the provisions of this section shall constitute an act of misfeasance in office. Any willful violation of this section by any Commissioner shall be grounds for his/her removal from office by an action brought in circuit court by the state attorney of Miami-Dade County.~~

B. Holding any Other Office. ~~No elected official shall hold any Town appointive office or Town employment while in office. No former elected official shall hold any compensated appointive Town office or employment until one (1) year after the expiration of his/her term.~~

~~Sec. 15 .-Vacancies on Commission—When deemed to exist.~~

~~Vacancies on the Commission may be created by reason of any one of the following circumstances:~~

~~(1) By death or resignation of a member.~~

~~(2) By recall.~~

~~(3) By a member ceasing to possess the qualification for the office prescribed in section 6 of this Charter, or by disqualification as provided in clause (c) of this section.~~

~~(4) By a member being convicted of a felony or crime involving moral turpitude.~~

~~(5) By legal declaration of mental incompetence of a member.~~

~~(a) A vacancy on the Commission shall be deemed to exist from the date of death of a member, or, in the event of the oral or written resignation of a member, from the date of the announcement of such resignation at the first regular Commission meeting following its receipt unless it has previously been withdrawn.~~

~~(b) A vacancy on the Commission shall be deemed to exist on the date a Commissioners is recalled under the provisions of Article VII of this Charter.~~

~~(c) A vacancy on the Commission shall be deemed to exist on the date a Commissioners has maintained and resided in, a regular place of abode outside the corporate limits of the Town of Surfside for a longer period of time than thirty days; or a vacancy shall exist on the Commission on the date a member ceases to be a qualified elector as defined in section 6 of this Charter; or a vacancy on the Commission shall be deemed to exist on the date a Commissioners ceases to be a resident of the Town of Surfside; or has been absent from three consecutive regular monthly meetings of the Commission, or has been absent from five regular monthly meetings of the Commission within a calendar year.~~

~~(d) A vacancy on the Commission shall be deemed to exist on the date a Commissioners is convicted of a felony or a crime involving moral turpitude, or on the date he is declared mentally incompetent by a court of proper jurisdiction.~~

~~Sec. 16. Same—Procedure in filling.~~

~~Vacancies on the Commission shall be filled within twenty (20) days by the remaining members of the Commission if for an unexpired term of six (6) months or less. If a majority of the remaining members of the Commission are unable to agree within the said twenty-day period on a Commissioners to fill such vacancy, then an election to fill the vacancy shall be held within thirty (30) days thereafter.~~

~~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 if one is scheduled to be held within one hundred twenty (120) days of such vacancy.~~

~~Should the Commission fail or refuse to order an election as herein provided within the time required, such election may be ordered by any court of competent jurisdiction.~~

~~The qualifying of candidates for a special election to fill a vacancy shall be the same as provided for regular elections in Article VI of this Charter.~~

~~Sec. 17. Creation of new departments or offices; change of duties.~~

~~The Commission by ordinance may create, change and abolish offices, departments or agencies, other than the offices, departments or agencies established by this Charter. The Commission by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.~~

Sec. 2-11. Appointment of Town Attorney

The Commission, by a majority vote of all its members, shall appoint an officer of the town who shall have the title of Town Attorney and shall have the powers and perform the duties in this Charter provided in Article III hereinbelow. The Town Attorney may designate a Deputy Town Attorney to perform the duties of the Town Attorney during a brief absence or incapacity of the Town Attorney. Nevertheless, the Commission shall have the power to appoint an acting Town Attorney in the event of the absence in excess of sixty (60) thirty (30) days, illness, death, discharge or resignation of the Town Attorney. Within ninety (90) days after the appointment of an acting Town Attorney, the Commission must either appoint a permanent Town Attorney or reappoint an acting Town Attorney.

Sec. 18. Reserved

Sec. 19. 2-12. Induction of Commission into office; meetings of Commission.

~~The term of newly-elected Commissioners shall commence at 8 7:00 p.m., on the day following their election at which time they shall be administered the oath of office. The Commission shall meet monthly at 8 7:00 in the evening of the second Tuesday of each month, and on such other days or at such other time or times as may be prescribed by the Commission. but not less frequently than once each month. All meetings of the Town Commission shall conform to the "Sunshine Law" of Dade County and of the State of Florida. The Commission shall hold at least eleven (11) monthly meetings in each calendar year. Special meetings may be held on the call of the majority of the Commissioners and upon no less than forty-eight (48) hours notice to each member and the public, or such shorter time as the majority of the Commission shall deem necessary in the event of an emergency affecting life, health, safety, or welfare, property or public peace.~~

~~All meetings of the Commission at which ordinances are passed, resolutions adopted, motions are carried, budgets are approved, the tax rate is established, money is appropriated or official action of any kind or character is taken, shall be open to the public.~~

Sec. 20 2-13. Rules of procedure; journal.

- A.** **Rules.** The Commission shall fix its rules of procedure and shall act in all matters upon a majority vote of those present unless otherwise provided in this Charter. It shall keep a journal of its proceedings and the journal shall be open to public inspection. A majority of the Commission shall be necessary to constitute a quorum, but less than a quorum may adjourn or recess to a specified time. The Commission shall not act on any amendment of its rules of procedure during the meeting in which the amendment is made.
- B.** **Quorum and Voting.** A majority of the Commission shall constitute a quorum but a smaller number may adjourn from time to time and may compel attendance of absent members in the manner and subject to the penalties as described by the rules of the Commission. No action of the Commission shall be valid or binding, except as may be otherwise provided in this Charter, unless adopted by the affirmative vote of a ~~minimum~~ the majority present. ~~of three (3) Commissioners.~~
- C.** **Meeting Time Limits.** No meeting of the Commission shall extend later than midnight except upon the affirmative vote of a majority of the Commissioners present at the meeting.

Sec. 2-14. Ordinances.

An ordinance means an official legislative action of a government body which action is a regulation adopted after two readings in accordance with Chapter 166 of the Florida Statutes and enforceable in a court of law.

In addition to other acts required by law or by specific provision of this Charter to be effected or authorized by ordinance, those acts of the Town Commission shall be by ordinance which:

- (1) Adopt or amend an administrative regulation or establish, alter or abolish any Town office, department, Board or agency;
- (2) Establish a rule or regulation the violation of which carries a penalty;
- (3) Levy taxes or appropriate funds;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or grant administrative authority to set such charges;
- (6) Authorize the borrowing of money;
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the Town; or
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.

Sec. 2-15. Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Commission may adopt, in the manner provided in this Section, one or more emergency

ordinances, but such ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter if applicable.

(a) Form. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(b) Procedure. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and shall be enacted by majority of the membership of the Commission. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.

(c) Effective Date. An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.

(d) Repeal. Every emergency ordinance except emergency appropriation ordinances shall automatically be repealed as of the sixty-first (61st) day following its effective date, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this Section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this Section for adoption of emergency ordinances.

(e) Emergency Appropriations. The Commission may make emergency appropriations in the manner provided in this Section. To the extent that there are no available unappropriated revenues to meet such appropriations, the Commission may by such emergency ordinance (subject to Section 2-17 hereinbelow) authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable not later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted.

Sec. 21. Ordinances--Generally; enacting clause.

~~In addition to such acts of the Commission as are required by statute or by this Charter to be by ordinance, every act of the Commission establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness, shall be by ordinance. The enacting clause of all ordinances shall be, "THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:" Provided, however, that nothing herein contained shall be construed to prevent the sale, by resolution of bonds issued by the town and previously authorized by ordinance.~~

Sec. 22. Same Procedure for passage of ordinances.

~~Ordinances and resolutions shall be adopted in accordance with Florida Statutes. Each ordinance shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended article, section, subsection or paragraph.~~

~~Except as provided in section 25, a proposed ordinance may be read by title, or in full, on at least two (2) separate days and shall, at least seven (7) days prior to adoption, be noticed once in a newspaper of general circulation in the town. The notice of proposed enactment shall state the date, time and place of the meeting, the title or titles of proposed ordinances and the place or places within the town where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.~~

~~Sec.23. Reserved~~

~~Sec. 24. Reserved~~

~~Sec. 25. Publication of ordinances after final passage; permissive referendum.~~

~~After final passage every ordinance shall be published by title or posted in full in a conspicuous place in the town hall. Except as otherwise provided in this Charter, every ordinance shall be subject to permissive referendum as provided in Article VIII hereof. Every ordinance, unless it shall specify a later date or is adopted as an emergency measure, shall become effective at the expiration of twenty (20) days after such publication following final passage, or, if the ordinance be submitted at a referendum election, then upon favorable vote of a majority of those voting thereon, except as otherwise expressly provided in this Charter.~~

~~An emergency ordinance may be adopted by a vote of not less than four fifths of all of the members of the Commission on the ground of urgent public need for the preservation of peace, health, welfare, safety or property. An emergency ordinance shall become effective upon publication by title, or upon posting in full on the bulletin Board of the Town Hall, but no ordinance granting or amending any public utility franchise or amending or repealing any ordinance adopted by the people at the polls or by the Commission in compliance with an initiative petition shall be regarded as an emergency measure.~~

~~Anything to the contrary contained herein notwithstanding, an ordinance adopting the annual budget may be adopted by a vote of the majority of the members of the Commission and become effective immediately upon publication by title only or by posting in full on the bulletin Board in the town hall.~~

~~Sec. 25a. Penalty for violation of ordinances.~~

~~The Commission shall have and hereby is given the power to enforce the observance of the ordinances of the Town and to provide penalties for the violation of such ordinances by a fine not exceeding \$1,000.00 or by imprisonment in the Town Jail for a term not exceeding ninety days, or by both such fine and imprisonment in the discretion of the municipal judge.~~

~~Sec. 26. Municipal court.~~

~~(a) There shall be and hereby is established in the Town of Surfside a municipal court to be known as "The Municipal Court of the Town of Surfside", for the trial of all offenders against municipal ordinances. Such court shall be presided over by a municipal judge who may or may not be a resident of the Town. He shall have been licensed to and have been practicing law in the~~

State of Florida for not less than five years prior to his appointment. He shall be a member in good standing of The Florida Bar. He shall be appointed by the Commission ; and, subject to the provisions of paragraph (d) of the section, shall be appointed for a term of two years. Sessions of the Municipal Court shall be held as provided by ordinance.

~~(b) The Commission shall appoint an associate municipal judge to serve in the absence, sickness or disqualification of the municipal judge. He shall possess the same qualifications as the municipal judge, and, subject to the provisions of paragraph (d) of this section, shall be appointed for a term of two years. In the event of the absence, sickness or disqualification of both the municipal judge and the associate municipal judge the Commission may appoint an acting municipal judge to serve only during such absence, sickness or disqualification of the municipal judge and the associate municipal judge.~~

~~(c) Subject to the provisions of paragraph (d) of this section, the terms of the first municipal judge and the first associate municipal judge shall commence with the date of their respective appointments following the enactment into law of this provision by the 1955 Session of the Florida State Legislature, and shall expire at midnight May 31, 1957. Subsequent appointments shall be for a term of two years each.~~

~~(d) Either the municipal judge or the associate municipal judge may be removed by the Town Commission at any time, but only for cause and by not less than a three-fifths vote of the members of Commission.~~

~~(Laws of Fla. ch. 31285(1955), § 4; Res. No. 620, §§ 1m-1p, 4-14-64)~~

~~Editor's note: The provisions of § 26 are superseded by Fla. Const. art. V, § 20 (d)(4).~~

Sec. 27. Powers of municipal judge; search warrants.

~~The municipal judge shall have power by his warrant to have brought before him any person or persons charged with the violation of town ordinances and shall have original jurisdiction over all proceedings of a criminal nature for the violation of any ordinance of the town.~~

~~A sworn or verified complaint shall not be necessary to give the municipal court jurisdiction of offenses triable in that court, but the accused may be tried for the offense as docketed provided such docket entry is sufficient to put the accused upon notice of the offense with which he is charged.~~

~~The municipal judge shall have power to set and take bail for the appearance of all accused persons, to administer oaths, to take affidavits, to decide on the guilt or innocence of the accused and to fix and impose such penalties or sentences as are prescribed and provided for under the ordinances of the town and to have all powers incidental and usual to the due enforcement of such town ordinances. He shall also have power to punish for contempt of court by a fine not exceeding fifty dollars, or imprisonment not exceeding thirty days, or both. The cost of prosecution in said court shall be the same as are allowed by law in criminal courts of record, being taxed against persons convicted and collected by the Town Clerk to be paid over by him to a town depository and placed to the credit of the fines and forfeitures account.~~

~~The municipal judge shall have power to issue search warrants upon any of the following grounds:~~

- ~~(1) When the property shall have been stolen or embezzled in violation of law.~~
- ~~(2) When any property shall have been used:~~
- ~~(a) As a means to commit any misdemeanor, or~~

- ~~(b) In connection with gambling, gambling implements and appliances, or~~
- ~~(3) When any property is being held or possessed:~~
- ~~(a) In violation of any of the laws prohibiting the manufacture, sale and transportation of narcotics or intoxicating liquors;~~
- ~~(b) In violation of any of the federal or state laws, or ordinances of the Town of Surfside.~~
- ~~(4) A search warrant cannot be issued except upon probable cause supported by affidavit or affidavits, naming or describing the person, place or thing to be searched and particularly describing the property or thing to be seized; no such warrant shall be issued in blank and any such warrant shall be returned within ten days after issuance thereof.~~
- ~~(5) The municipal judge, before issuing the warrant, must have the application of some person for said warrant duly sworn to and subscribed and may receive further testimony from witnesses or supporting affidavits, or depositions in writing, to support the application. The affidavit and further proof, if same be had or required, must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.~~
- ~~(6) The judge of the municipal court, upon examination of the application and proofs submitted, if satisfied that probable cause exists for the issuing of the search warrant, shall thereupon issue a search warrant signed by him with his name and office, to any sheriff and his deputies or police officer or other person authorized by law to execute process, commanding the officer or person forthwith to search the property described in the warrant, or the person named, for the property specified and to bring the same before him.~~
- ~~(7) The search warrant shall, in all cases, be served by any of the officers mentioned in its direction, but by no other person except in aid of the officer requiring it, said officer being present and acting in its execution.~~
- ~~(8) The officer may break open any outer door, inner door or window of a house or other building, or any part of a house or other building or anything therein, to execute the warrant, if after due notice of his authority and purpose, he is refused admittance to said house or other building or access to anything therein.~~
- ~~(9) A search warrant issued under the provisions of this Article may, if expressly authorized in such warrant by the judge issuing the same, be executed by being served either in the daytime or in the nighttime, as the exigencies of the occasion may demand or require.~~
- ~~(10) All search warrants shall be issued in duplicate. The duplicate shall be delivered to the officer with the original warrant, and when the officer serves the warrant, he shall deliver a copy to the person named in the warrant, or, in his absence, to some person in charge of or living on the premises. When property is taken under the warrant the officer shall deliver to such person a written inventory of the property taken and receipt for same, specifying the same in detail, and if no person is found in possession of the premises where such property is found, shall leave the said receipt on the premises.~~
- ~~(11) Upon the return of the warrant, which shall be as soon as practicable after service, the officer shall attach thereto or thereon a true inventory of the property taken under this warrant, and at the foot of the inventory shall verify the same by affidavit taken before some officer authorized to administer oaths, or before the issuing officer, said verification to be to the following effect:~~
- ~~I, _____, the officer by whom the warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on said warrant.~~
- ~~(12) The judge to whom the warrant is returned, upon the request of any claimant or any person from whom said property is taken, or the officer who executed the search warrant, shall deliver~~

~~to said applicant a true copy of the inventory of the property mentioned in the return on said warrant.~~

~~(13) If it appears to the judge before whom the warrant is returned that the property or papers taken are not the same as described in the warrant, or that there is no probable cause for believing the existence of the grounds upon which the warrant was issued, the judge may order a return of the property taken.~~

~~(14) Whoever shall knowingly and wilfully obstruct, resist or oppose any officer or person aiding such officer, in serving or attempting to serve or execute any search warrant, or shall assault, beat or wound any person or officer, or his deputies or assistants, knowing him to be such an officer or person so authorized, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment in the discretion of the municipal judge.~~

~~(15) Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment in the discretion of the municipal judge.~~

~~(Res. No. 620, § 1q, 4-14-64)~~

~~Editor's note: The provisions of § 27 are superseded by Fla. Const. art. V, § 20 (d)(4).~~

Sec. 28 ~~Town attorney; appointment and duties of.~~

~~The Commission shall appoint a Town Attorney, and a substitute to act in his absence, who shall act as the legal adviser to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties. He may or may not be a resident of the Town of Surfside, shall be a lawyer of at least five (5) years experience, admitted in and having authority to practice in all courts of the state, and in all Federal District Courts of the State, and be a member in good standing of the Florida Bar. He shall prepare all ordinances, contracts, bonds and other instruments in writing in which the municipality is concerned, and shall endorse on each his approval of the correctness thereof; and no contract with the municipality shall take effect until his approval as to its legality is so endorsed thereon. When required to do so by resolution of the Town Commission, he shall prosecute and defend for and in behalf of the town all complaints, suits and controversies to which the town is a party, and it shall be his duty to carry out all bond validation proceedings. He shall furnish the Commission, or, by direction of the Commission, any town officer or town Board, his opinion on any question of law relating to their respective duties and powers, when request for such opinion is officially presented to him in writing.~~

~~In addition to the duties specifically imposed under this Charter, the Town Attorney shall perform such other professional duties as may be required of him by ordinance or resolution of the Commission, or as prescribed for Town Attorneys under the general laws of the state, which are not inconsistent with this Charter or any ordinance or resolution which may be passed by the Commission.~~

~~(Ord. No. 250, § 1(e), 3-17-53; Laws of Fla. ch. 29543(1953), § 3; Res. No. 620, §§ 1r-1s, 4-14-64; Res. No. 867, Amd. No. 4, 3-20-74)~~

~~Editor's note: The provisions of § 28 (first sentence excepted) appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status~~

~~pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 29. Eligibility of the employee.~~

~~No member of the immediate family of a Commissioners shall be eligible to hold a salary position with the town.~~

~~Any person or persons violating any of the provisions of this section shall be deemed guilty of a misdemeanor and punished accordingly.~~

~~Any town official or employee, whether elected, hired or appointed, who shall knowingly employ or appoint to a remunerative position with the town, either directly or indirectly, any person related by consanguinity to the third degree or by affinity to any town official or employee, shall be deemed guilty of misfeasance and malfeasance in office, subject to removal therefor, and shall forfeit all unpaid compensation, salary, and emoluments of his office, and the person so employed shall be discharged immediately.~~

~~No member of the Commission or any officer or employee of the town shall, directly or indirectly, nor by reason of ownership of stock in any corporation, have a financial interest in any contract or in the sale to the town, or in any land or any rights or interests in any land, material, supplies or services, except, this section shall not apply to ownership of stock in a bank, trust company, public utility or corporation listed on national stock exchanges. Any willful violation of this section shall constitute malfeasance in office and any officer or employee of the town found guilty thereof shall thereby forfeit his office or position. Any violation hereof with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the Town Manager or the Commission.~~

~~(Ord. No. 250, § 1(e), 3-17-53; Laws of Fla. ch. 29543(1953), § 1; Res. No. 620, § 1u, 4-14-64; Ord. No. 1368, § 1, 2-3-97)~~

~~**Editor's note:** The provisions of § 29 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 30. Delegation of powers.~~

~~The Commission shall have and exercise all powers of the town not specifically conferred upon other officers and employees. It may delegate any powers except those specifically enumerated in section 11 of this Charter.~~

~~(Res. No. 620, § 1v, 4-14-64)~~

~~**Editor's note:** The provisions of § 30 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 31 2-16. Advisory Boards.~~

~~The Commission may appoint boards (a deliberative assembly appointed by the Commission) or commissions committees (a subordinate group to which a deliberative assembly~~

refers business for consideration, oversight, or action) to be composed of citizens who are registered qualified electors of Miami-Dade County, Florida, whose legal residence is in the Town of Surfside, as the Commission may deem expedient, to act in an advisory capacity or in conjunction with any one or more of the departments created or authorized hereby. The members of all such Boards and Committees shall serve without compensation and may be removed at any time by a majority vote of the Commission. ~~The Mayor and Town Manager shall serve as ex officio members of all Boards or Commission s appointed by the Commission.~~

~~Sec. 31.1. Personnel appeals Board.~~

~~The Town Commission shall appoint a Personnel Appeals Board consisting of five qualified electors of Dade County, Florida, whose legal residence is in the Town of Surfside, to serve without compensation for two year terms, and to fill vacancies thereon for unexpired terms. Any employee of the town, except the Town Manager, Town Clerk, town prosecutor, Town Attorneys and town judges, who immediately prior thereto have been continuously employed by the Town of Surfside for at least two years, if he claims to have been discharged or reduced in pay or rank without cause, may file within twenty days from his discharge or reduction in pay or rank, with the Personnel Appeals Board, a statement of appeal which must allege that he has been continuously employed by the Town of Surfside for at least two years next preceding the filing of the statement of appeal set forth the facts regarding the discharge or reduction in pay or rank and request a hearing. Within fourteen days after the filing of such appeal, the Personnel Appeals Board shall notify the employee of the date for formal hearing, which shall be no later than thirty days after the date of the filing of the statement of appeal.~~

~~The decision of the Personnel Appeals Board, if concurred in by four members of said Board, shall be binding upon the town and the employee. Such decision may either order a new hearing, or dismiss the appeal on the merits, or order the reinstatement of the employee absolutely or on terms and conditions, or may require such other action as may be just.~~

~~The Town Commission shall make such rules of procedure for the Personnel Appeals Board, by ordinance, from time to time as it may deem necessary.~~

~~Sec. 32. General laws to apply.~~

~~All general laws of the state applicable to municipal corporations heretofore or hereafter enacted, and which are not in conflict with the provisions of this Charter or with ordinances or resolutions hereafter enacted by the Commission pursuant to authority conferred by this Charter, shall be applicable to the Town of Surfside; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the Commission to enact any ordinance or resolution not in conflict with the constitution of the state or with the express provisions of this Charter.~~

~~In addition to the powers set forth herein, the Town of Surfside is specifically empowered to impose a license tax upon occupations, professions, or businesses and collect the same and provide a penalty for the conduct of any occupation, profession or business so taxed without the payment of such tax. The town shall also be empowered to license privileges, businesses, occupations and professions carried on and engaged in within the town limits, the amount of such license taxes shall be fixed by ordinance, which amounts of said taxes shall not be dependent upon a general state revenue law.~~

Sec. 33. Sec. 2-17. Independent audits.

~~Prior to the end of each fiscal year the Commission shall designate one or more qualified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the town government and shall submit their report to the Commission. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the town government or of any of its officers. They shall not maintain any accounts or records of the town's business, but, within specifications approved by the Commission, shall post-audit the books and documents kept by or under the direction of the Town Manager and any and all separate or subordinate accounts kept by any other office, department or agency of the town government. Commission may also designate one or more qualified public accountants to conduct special audits at other times or monthly or continuing audits as it may consider in the public interest.~~

The Town Commission shall hire an independent auditor who shall provide an annual independent audit of all town accounts and may provide more frequent audits as it deems necessary. Those audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants (hereinafter referred to as the "auditors"), designated annually, who have no personal interest in the fiscal affairs of the town government or any of its officers. (Residency, per se, shall not constitute a direct or indirect interest.) A summary of the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on propriety facilities shall be accrued so the public may determine the amount of any direct or any indirect subsidy. If a designated auditor has conducted the annual independent audit of the town for a period of three consecutive (3) years, the Town Commission shall review, either through the appointment of a citizen's Committee, an individual, or other certified public accountant or firm of such accounts, the adequacy of the auditors' performance.

ARTICLE III. TOWN MANAGER ADMINISTRATION.

Sec. 3-1. Designated Charter Officers.

The Town Administration shall consist of two designated Charter Officers: the Town Manager and the Town Attorney.

- A. Appointment. The Charter Officers shall be appointed by a majority vote of the full Commission and shall serve at the pleasure of the Commission, subject to the terms of any negotiated agreement.
- B. Removal. The Charter Officers shall be removed from office only by a majority vote of the full Commission. If the vote is less than unanimous, the Charter Officer may, within seven days of the dismissal motion by the Commission, submit to the Mayor a written request for reconsideration. Any action taken by the Commission at the reconsideration hearing shall be final.

C. Compensation. The compensation of the Charter Officers shall be fixed by the Town Commission.

Sec. 3-2. Town Manager.

The Town Manager shall be the chief Administrative Officer of the Town.

A. Qualifications. The Town Manager shall be selected on the basis of experience, expertise, and management ability as it pertains to running municipal government.

B. Power and Duties. The Town Manager shall be responsible to the Commission for carrying out the policies of the Commission and for the proper administration of all affairs of the town. To that end; he shall have power and shall be required to:

- (1) Appoint and remove officers and employees of the town except as otherwise provided by this Charter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office.
- (2) Prepare the budget and budget message annually and submit it to the Commission and be responsible for its administration after adoption.
- (3) Prepare and submit to the Commission as of the end of the fiscal year a complete report on the finances and administrative activities of the town for the preceding year.
- (4) Keep the Commission advised of the financial condition and future needs of the town as well as make recommendations to the Town Commission concerning all the affairs of the Town and facilitate the work of the Town Commission in developing policy, including enhancing the value of the Town.
- (5) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded.
- (6) Maintain a general accounting system for the town government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the town budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the town government to be made daily or at such intervals as he may deem expedient.
- (7) Submit to the Commission a monthly statement of all receipts and disbursements revenues and expenses in sufficient detail to show the exact financial condition of the town.
- (8) Prepare for the Commission, as of the end of each fiscal year, a complete financial statement and report.
- (9) Give such notice of taxes and special assessments as may be required by law.
- (10) Collect all taxes, special assessments, license fees and other revenues of the town or for whose collection the town is responsible and receive all money receivable by the town from the state or federal government, or from any court, or from any office, department or agency of the town.

(11) Have custody of all public funds belonging to or under the control of the town, or any office, department or agent of the town government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the Commission, or, if no such resolution be adopted, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the town and shall be accounted for and credited to the proper account.

(12) Have custody of all investments and invested funds of the town government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the town and the receipt and delivery of town bonds and notes for transfer, registration, or exchange, subject at all times to the direction of the Commission by resolution or ordinance.

(13) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the town government.

(14) Perform such other duties as may be prescribed by this Charter or required of him by the Commission, not inconsistent with this Charter.

(15) Prepare and submit in writing to the Commission a complete financial statement and a report upon the completion of any material capital improvement project.

~~(16) Be responsible for the enhancement of the value of the Town.~~

C. Appointment, removal and duties generally of Town Clerk.

An officer of the town with the title of Town Clerk shall be appointed and may be removed at will by the Town Manager, and shall be and remain at all times under the supervision of and subordinate to the Town Manager. The Town Clerk provides secretariat services for the Town Commission, the Local Planning Agency, the Planning and Zoning Board, and for other Committees as the Commission or Town Manager may require. The Town Clerk is responsible for giving notice of public meetings and maintaining an accurate record of all proceedings. S/he also serves as the municipal Supervisor of Elections, administers the publication of the Town Code and Charter, and maintains custody of the Town's vital records including agreements, contracts, minutes, ordinances, proclamations, and resolutions and shall perform such other duties as the Town Manager may prescribe from time to time. He shall be clerk of the municipal court, charged with the duty to collect and account for fines, costs of court and bond forfeitures. He shall also be the registration officer of the town and supervisor of elections and shall have power and is hereby authorized to administer oaths. He shall also perform such other duties as are required by this Charter, by ordinance or by the Town Manager. Deputy clerks may be appointed by the Town Manager and said deputies shall have and exercise the same power as the Town Clerk himself. The Town Clerk shall give notice of Commission meetings by posting such notice on the bulletin Board in the town hall; shall keep the journal of its proceedings, shall authenticate by his signature and record in full, in a book kept for the purpose, all ordinances and resolutions. The Town Manager may also act as Town Clerk during any vacancy in the office of Town Clerk. No compensation shall be paid to the Town Manager for serving as Town Clerk.

Sec. 3-3. Town Attorney.

The Town Attorney shall be the chief Legal Officer of the Town.

A. Qualifications. The Town Attorney shall be a member in good standing of the Florida Bar and must have practiced municipal law for no less than five (5) years preceding his/her retention as Town Attorney.

B. Powers and Duties. The Town Attorney shall:

1. Serve as chief legal advisor to the Town Commission and include other Boards or Committees as the Commission delegates. In service to the Town Commission, the Town Attorney shall advise the Town Manager, and all Town departments, offices, Town advisory Boards, and agencies as deemed necessary by the Town Commission or Town Attorney.

2. Appoint, suspend or remove such assistant attorneys or special counsel as may be required. The remainder of the staff of the Office of Town Attorney shall be employees of the Town, under the direction and supervision of the Town Attorney, but subject to the regular personnel policies and procedures of the Town.

3. The Town Attorney or designee shall attend all Town Commission meetings, and/or such other meetings as requested by the Town Commission, unless excused by the Town Commission, and shall perform such professional duties as may be required by law or by the Commission in furtherance of the law.

4. The Town Attorney shall prepare an annual budget for the operation of the Office of the Town Attorney and shall submit this budget to the Town Manager for inclusion in the annual Town budget, in accordance with uniform Town procedures.

TOWN MANAGER

Sec. 34. Qualifications:

~~The Town Manager shall be chosen by the Commission solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as hereinafter set forth. At the time of his appointment and thereafter, he need not be a resident of the town. He shall be at least twenty six (26) years of age and a citizen of the United States.~~

~~(Res. No. 620, § 13, 4-14-64; Ord. No. 1039, § 1, 1-12-82)~~

~~**Editor's note:** The qualifications of the Town Manager appearing in § 34 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 35. Powers and duties:

~~The Town Manager shall be the chief executive officer and the head of the administrative branch of the town government. He shall be responsible to the Commission for the proper administration of all affairs of the town and to that end he shall have power and shall be required to:~~

- ~~(1) Appoint and remove officers and employees of the town except as otherwise provided by this Charter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office.~~
- ~~(2) Prepare the budget annually and submit it to the Commission and be responsible for its administration after adoption.~~
- ~~(3) Prepare and submit to the Commission as of the end of the fiscal year a complete report on the finances and administrative activities of the town for the preceding year.~~
- ~~(4) Keep the Commission advised of the financial condition and future needs of the town and make such recommendations as may seem to him desirable.~~
- ~~(5) Supervise and be responsible for the disbursement of all moneys and have control over all expenditures to ensure that budget appropriations are not exceeded.~~
- ~~(6) Maintain a general accounting system for the town government and each of its offices, departments and agencies; keep books for and exercise financial budgetary control over each office, department and agency; keep separate accounts for the items of appropriation contained in the town budget, each of which accounts shall show the amount of the appropriation, the amounts paid therefrom, the unpaid obligations against it and the unencumbered balance; require reports of receipts and disbursements from each receiving and spending agency of the town government to be made daily or at such intervals as he may deem expedient.~~
- ~~(7) Submit to the Commission a monthly statement of all receipts and disbursements in sufficient detail to show the exact financial condition of the town.~~
- ~~(8) Prepare for the Commission, as of the end of each fiscal year, a complete financial statement and report.~~
- ~~(9) Give such notice of taxes and special assessments as may be required by law.~~
- ~~(10) Collect all taxes, special assessments, license fees and other revenues of the town or for whose collection the town is responsible and receive all money receivable by the town from the state or federal government, or from any court, or from any office, department or agency of the town.~~
- ~~(11) Have custody of all public funds belonging to or under the control of the town, or any office, department or agent of the town government, and deposit all funds coming into his hands in such depositories as may be designated by resolution of the Commission, or, if no such resolution be adopted, subject to the requirements of law as to surety and the payment of interest on deposits, but all such interest shall be the property of the town and shall be accounted for and credited to the proper account.~~
- ~~(12) Have custody of all investments and invested funds of the town government, or in possession of such government in a fiduciary capacity, and have the safekeeping of all bonds and notes of the town and the receipt and delivery of town bonds and notes for transfer, registration, or exchange, subject at all times to the direction of the Commission by resolution or ordinance.~~
- ~~(13) Supervise and be responsible for the purchase, storage and distribution of all supplies, materials, equipment and other articles used by any office, department or agency of the town government.~~
- ~~(14) Approve all proposed purchases and other expenditures and certify that there is an unencumbered balance of appropriated and available funds. No appropriation shall be encumbered and no expenditure shall be made without such certification. Provided, however, that sealed bids shall be submitted to and opened by the Town Commission for any purchase of~~

~~eight thousand five hundred dollars (\$8,500.00) or more. The Town Commission may waive the sealed bid requirement~~

~~(15) Sign jointly with the Mayor or any one of the other Commissioners all checks drawn on the town's depositories, unless such signing of checks is otherwise directed by a resolution adopted by the Commission designating two (2) elected officials or the Town Clerk and an elected official as authorized signatories.~~

~~(16) Perform such other duties as may be prescribed by this Charter or required of him by the Commission, not inconsistent with this Charter.~~

~~(17) Prepare and submit in writing to the Commission a complete financial statement and a report upon the completion of any capital improvement project involving the expenditure of \$2,500 or more.~~

~~Sec. 35.1. Right of Town Manager to sit on Commission.~~

~~The Town Manager shall be entitled to a seat on the Commission and shall have the right to take part in the discussions on all matters coming before the Commission, but shall have no vote therein.~~

~~Sec. 36. Reserved.~~

~~Sec. 37. Appointments by manager.~~

~~The Town Manager shall appoint a Town Clerk, a chief of police, a superintendent of outside services and the heads of such other departments as the Commission may from time to time establish by ordinance as subordinate to the Town Manager. The Town Manager may delegate to each such department head the power to hire and discharge employees of his department with or without specific approval of the Town Manager.~~

~~Sec. 38. Reserved.~~

~~**Editor's note:** Section 38 was repealed pursuant to Res. No. 62, § 1j, ratified by the electors at a referendum held June 6, 1964.~~

~~Sec. 39. Duties of other Town Manager appointees.~~

~~The chief of police shall be responsible for the enforcement of order in the town under the direction of the Town Manager. He shall execute the orders of the Town Manager and all processes issued to him by the Town Manager. He shall attend in person, or by deputy, the municipal court during its sittings; execute the commands and processes of said court, aid in the enforcement of order therein, and perform such other duties as may be imposed upon him by law, the ordinances of the town, and the direction of the Town Manager consistent with this Charter. When such power has been delegated to him by the Town Manager, he may hire and discharge his subordinates without specific approval of the Town Manager.~~

~~The superintendent of the water department shall be responsible for the efficient and economical operation of the municipal water department, and for the purity and safety of the~~

~~water supplied to the municipality and to other individuals or communities to whom water is sold. He shall perform such other duties, both with respect to the water department or other department or departments of the town, as may be imposed upon him by law, the ordinances of the town, and the direction of the Town Manager consistent with this Charter. When such power has been delegated to him by the Town Manager, he may hire and discharge his subordinates without specific approval of the Town Manager.~~

~~The superintendent of outside services shall be responsible, under the direction of the Town Manager, for the collection and disposal of garbage and refuse; for the maintenance of the garbage disposal site; for the mowing and cleanup of vacant lots, boulevards, public parks, playgrounds and other public property; and for the maintenance of pavements, bridges and traffic signs; and for such other duties as may be prescribed by ordinance or directed by the Town Manager. When such power has been delegated to him by the Town Manager, he may hire and discharge his subordinates without specific approval of the Town Manager.~~

~~(Res. No. 620, § 1cc, 4-14-64; Res. No. 867, Amd. No. 9, 3-20-74)~~

~~Editor's note: All references in § 39 to municipal court are superseded by Fla. Const. Art. V, § 20(d)(4).~~

~~Sec. 40. Reserved.~~

~~Editor's note: Section 40 was repealed pursuant to Res. No. 620, § 1u, ratified by the electors at a referendum held June 6, 1964.~~

~~Sec. 40.1. Nepotism.~~

~~Any town official or employee, whether elected, hired or appointed, who shall knowingly employ or appoint to a remunerative position with the town, either directly or indirectly, any person related [by consanguinity to the third degree or by] affinity to any town official or employee, shall be deemed guilty of misfeasance and malfeasance in office, subject to removal therefor, and shall forfeit all unpaid compensation, salary, and emoluments of his office, and the person so employed shall be discharged immediately.~~

~~(Ord. No. 312, § 1(10), 3-22-55; Laws of Fla. ch. 31285(1955), § 5; Ord. No. 398, § 1(d), 2-26-57; Res. No. 500, § 1(e), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County)~~

~~Editor's note: The provisions of § 40 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166). See F.S. § 166.021.~~

ARTICLE IV. ANNUAL BUDGET AND TAX LEVY

~~Sec. 41. 4-1. Fiscal year.~~

~~The fiscal year of the town government shall begin on the first day of October of each calendar year and shall end on the last day of September in the following calendar year. Such fiscal year shall also constitute the budget and accounting year. As used in this Charter, the term "budget year" shall mean the fiscal year for which any particular budget is adopted and in which it is administered.~~

Sec. 42. Preparation and submission of budget.

~~The Town Manager, at least ninety days prior to the beginning of each budget year, shall submit to the Commission a budget and an explanatory budget message in the form and with the contents provided by sections 43 to 58 inclusive, of this Charter. For such purpose, at such date as he shall determine, he, or an officer designated by him, shall obtain from the head of each office, department or agency of the town, estimates of revenue and expenditure of that office, department or agency detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all municipal projects pending or which such department head believes should be undertaken (a) within the budget year and (b) within the five next succeeding years. In preparing the budget, the Town Manager shall review and revise the estimates as he may deem advisable.~~

~~(Res. No. 620, § 1dd, 4-14-64)~~

~~**Editor's note:** The provisions of § 42 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 43. Budget message—To explain budget plan; to set forth reasons for changes, etc.

~~The budget message submitted by the Town Manager to the Commission shall be explanatory of the budget, shall contain a table of contents and an outline of the proposed financial policies of the town for the budget year and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any proposed major changes in financial policy.~~

~~(Res. No. 620, § 1ee, 4-14-64)~~

~~**Editor's note:** The provisions of § 43 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 44. Same—Municipal improvements.

~~As a part of the budget message, with relation to the proposed expenditures for down payments and other proposed expenditures for municipal projects stated in the budget, the Town Manager shall include a statement of pending municipal projects, and proposed new municipal projects for the budget year and for the five fiscal years succeeding the budget year, together with his comments thereon and any estimates of costs prepared by him or by any other office, department or agency of the town. The budget message shall also detail the prospective amounts for municipal projects it is proposed be raised by appropriation in the budget, and the respective amounts, if any, it is proposed be raised by the issuance of bonds during the budget year or thereafter.~~

~~**Editor's note:** The provisions of § 44 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See~~

~~F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 45. Same—Supporting schedules, etc.**~~

~~Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and municipal projects, as the Town Manager shall believe useful to the Commission.~~

~~**Editor's note:** The provisions of § 45 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 46. Scope of budget; contents.**~~

~~The budget shall provide a complete financial plan for the budget hearing which shall contain in tabular form:~~

- ~~(a) A table of contents;~~
- ~~(b) A general summary;~~
- ~~(c) Detailed estimates of all anticipated income and revenue from any sources;~~
- ~~(d) Detailed estimates of all anticipated revenues applicable to proposed expenditures;~~
- ~~(e) Detailed estimates of proposed expenditures;~~
- ~~(f) Estimated statement of surplus for the current fiscal year.~~

~~The total of such anticipated sums should equal the total of such proposed expenditures and allocations.~~

~~(Res. No. 620, § 1ff, 4-14-64)~~

~~**Editor's note:** The provisions of § 46 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 47. Anticipated revenues—Classification.**~~

~~Anticipated revenues and receipts from any source shall be classified as "surplus", "miscellaneous revenues" and "amount to be raised by property tax"; "miscellaneous revenues" shall be subclassified by sources and shall be estimated as prescribed in sections 48 to 54, inclusive, of this Article.~~

~~(Res. No. 620, § 1gg, 4-14-64)~~

~~**Editor's note:** The provisions of § 47 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 48. Same—Comparison with other years.**~~

~~In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amounts of such items actually received during the fiscal year, the amount of each such item in the budget of the current fiscal year and the amount actually received to the time of preparing the budget plus receipts for the remainder of the current fiscal year estimated as accurately as may be.~~

~~**Editor's note:** The provisions of § 48 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 49. Surplus.~~

~~Surplus shall include:~~

- ~~(a) Revenue receipts made available by the lapsing of unencumbered appropriation balances at the beginning of the budget year;~~
- ~~(b) Receipts from unanticipated miscellaneous revenues of the preceding fiscal year;~~
- ~~(c) Receipts from anticipated miscellaneous revenues of the preceding fiscal year in excess of the estimates in the budget;~~
- ~~(d) Receipts during the previous fiscal year from taxes or liens against which a complete reserve has been established;~~
- ~~(e) Unexpended, unencumbered and unappropriated funds derived from any source whatsoever, except that this provision shall not be in derogation of any agreement in any indenture entered into by the Town of Surfside in connection with any of its bonded indebtedness.~~

~~(Res. No. 543, 1-8-62)~~

~~**Editor's note:** The provisions of § 49 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 50. Miscellaneous receipts--Enumerated.~~

~~Miscellaneous revenues shall include anticipated receipts from the collection of taxes other than the general property tax; the amount of state aid to be received; the amount by which the town is expected to benefit from taxes collected by the state; the amounts estimated to be received from leases, services and sales, fines and forfeitures, pension assessments, special assessments and any other special or nonrecurring sources.~~

~~(Res. No. 620, § 1hh, 4-14-64)~~

~~**Editor's note:** The provisions of § 50 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 51. Same--From utilities and public service enterprises.~~

~~The anticipated revenues and proposed expenditures of each utility or other public service enterprise owned, leased or operated by the town shall be stated in a separate section of the~~

budget (each bearing the name of the utility); and as to each such utility, an anticipated surplus, if legally available for general purposes, shall be stated as an item of miscellaneous revenue in the budget.

~~**Editor's note:** The provisions of § 51 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 52. Same--Measure of estimates.**~~

~~No miscellaneous revenue from any source shall be included as an anticipated revenue in the budget in an amount in excess of the average of the amount actually realized in cash from the same source in the next preceding fiscal year, or that actually realized in the first nine months of the current fiscal year plus that to be received in the remaining three months of the year estimated as accurately as may be, unless the Town Manager shall determine that facts clearly warrant the expectation that such excess amount will actually be realized in cash during the budget year and shall certify such determination in writing to the Commission.~~

~~**Editor's note:** The provisions of § 52 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 53. Same--From special assessments.**~~

~~Revenues from the collection of special assessments on property specially benefited shall not be stated in an amount which is in excess of the amount of the receipts which it is estimated will be held in cash on the first day of the budget year.~~

~~(Res. No. 620, § 1ii, 4-14-64)~~

~~**Editor's note:** The provisions of § 53 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 54. Same--From new sources.**~~

~~No revenue from a new source not previously stated in the budget shall be included unless the Town Manager shall determine that the facts clearly warrant the expectation that such revenue will be actually realized in cash during the budget year in the amount stated and shall certify such determination in writing to the Commission. If the new revenue is to be received from the state, the anticipated amount shall not exceed the amount which the proper officer of the state shall declare in writing to be the amount which may reasonably be anticipated in the budget year.~~

~~**Editor's note:** The provisions of § 54 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 55. Proposed expenditures—To be itemized; enumeration of items for which separate provisions required.

The proposed expenditures shall be itemized in such form and to such extent as shall be provided by law, and in the absence of such provision, by regulations established by ordinance. Separate provision shall be included in the budget for at least:

- (a) Interest, amortization and redemption charges on the public debt for which the faith and credit of the town is pledged;
- (b) Other statutory expenditures;
- (c) The payment of all judgments;
- (d) The amount by which the total receipts of miscellaneous revenues in the last completed fiscal year failed to equal the total of the budget estimates of receipts from miscellaneous revenues in that year;
- (e) An amount equal to the aggregate of all taxes levied for the third fiscal year prior to the budget year which are delinquent and outstanding on the ninetieth day prior to the beginning of the budget year, except to the extent the town may have made provision therefor by reserving the full amount of said delinquent taxes;
- (f) An amount equal to the aggregate of all cancellations, remissions, abatements and refunds of taxes, that have been made during the current fiscal year;
- (g) An amount equal to the aggregate of all special revenue notes which it is estimated will be outstanding at the end of the current year in anticipation of the collection of revenues other than the property tax;
- (h) An amount equal to the aggregate of all emergency notes which it is estimated will be outstanding at the end of the current year;
- (i) If the town is required to make up the deficit arising from the operations of utility or other public service enterprises, an amount equal to the deficit from such operations during the last completed fiscal year, separately stated for each utility or other public service enterprise which appears in a separate section of the budget;
- (j) Administration, operation and maintenance of each office, department or agency of the town itemized by character and object of expenditure;
- (k) Contingent expense in an amount not more than three per centum of the total amount stated pursuant to subsection (j) of this section;
- (l) Expenditures proposed for municipal projects.

(Ord. No. 312, § 1(4), 3-22-55; Laws of Fla. ch. 31285(1955), § 6; Ord. No. 398, § 1(h), 2-26-57; Res. No. 500, § 1(f), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Rees. of Dade County)

Editor's note: The provisions of § 55 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.

Sec. 56. Same—Comparison with other years.

In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount

~~of such items actually expended during such year, the amount of each such item in the budget of the current year and the amount actually expended to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.~~

~~**Editor's note:** The provisions of § 56 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 57. Appropriation of surplus funds for capital expenditures.

~~Surplus funds, as defined in Section 49 hereof, may, from time to time, be appropriated for capital expenditures.~~

~~(Ord. No. 312, § 1(7), 3-22-55; Laws of Fla. ch. 31285(1955), § 8)~~

~~**Editor's note:** The provisions of § 57 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 57a. Appropriation of proceeds from real property sale or lease.

~~Any or all proceeds from the sale or leasing of real property owned by the town may, from time to time, be appropriated to purchase and retire bonds or other securities issued by the town, or to retire or pay any indebtedness of the town, notwithstanding anything in this Charter to the contrary.~~

~~(Res. No. 543, 1-8-62)~~

~~**Editor's note:** The provisions of § 57a appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 58. Budget summary.

~~At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of anticipated revenue, stating separately the amount to be raised by property tax, and by departments and kinds of expenditures, in such manner as to present to taxpayers a simple and clear summary of the detailed estimates of the budget.~~

~~**Editor's note:** The provisions of § 58 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 59. Budget and message to be public record.

~~The budget and budget message and all supporting schedules shall be a public record in the office of the Town Clerk, open to public inspection by anyone.~~

~~**Editor's note:** The provisions of § 59 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 60. Publication of notice of public hearing.**~~

~~At the meeting of the Commission at which the budget and budget message are submitted, the Commission shall determine the place and time of the public hearing on the budget, and shall cause to be published, or posted on the town hall bulletin Board, a notice of the place and time at which the Commission will hold a public hearing, which hearing shall commence not later than thirty days from the submission of the budget and budget message provided for in section 42.~~

~~(Res. No. 620, § 1jj, 4-14-64)~~

~~**Editor's note:** The provisions of § 60 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10. In addition, the provisions of § 60 appear inconsistent with F.S. § 200.065(2)(e).~~

~~**Sec. 61. Public hearing.**~~

~~At the time and place so advertised, or at any time and place to which such public hearing shall from time to time adjourn, the Commission shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard, for or against the estimates or any item thereof.~~

~~**Editor's note:** The provisions of § 61 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 62. Changes in budget after public hearing.**~~

~~After the conclusion of such public hearing, the Commission may insert new items or may increase or decrease the items of the budget, except items in proposed expenditures fixed by law or prescribed by subsections (a), (b), (c), (d), (e), (f), (g), (h) and (i) of section 55. The Commission may not vary the titles, descriptions or conditions of administration specified in the budget. Before inserting any additional item or increasing any item of appropriation, it must cause to be published or posted a notice setting forth the nature of the proposed increases and fixing a place and time, not less than five days after publication, at which the Commission will hold a public hearing thereon.~~

~~**Editor's note:** The provisions of § 62 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 63. Anticipated revenue to at least equal proposed expenditures.~~

~~After such further hearing, the Commission may insert the additional item or items, and provide for an increase in each case indicated by the published or posted notice, or to a lesser amount, but where it shall increase the total proposed expenditures, it shall also increase the total anticipated revenue to at least equal such total proposed expenditures.~~

~~(Res. No. 620, § 1iii, 4-14-64)~~

~~**Editor's note:** The provisions of § 63 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 64. Vote required to adopt budget.~~

~~The budget shall be adopted by ordinance or resolution of the Commission.~~
~~(Ord. No. 1329, § 1, 11-9-93)~~

~~**Editor's note:** The provisions of § 64 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The amendment made by Ord. No. 1329 was not subject to referendum. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 65. When budget shall be adopted; failure to adopt.~~

~~The budget shall be finally adopted not later than the last day of the last month of the fiscal year. Should the Commission take no final action on or prior to such day, the budget, as submitted, shall be deemed to have been finally adopted by the Commission.~~

~~(Res. No. 744, § 1(i), 1-15-70)~~

~~**Editor's note:** The provisions of § 65 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 66. Effective date of budget; certification; copies to be made available.~~

~~Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget, as finally adopted, shall be certified by the Town Manager and Town Clerk. The budget so certified shall be printed, mimeographed or otherwise reproduced and copies thereof shall be made available for the use of all offices, departments and agencies of the town and for the use of interested residents of the town and local civic organizations.~~

~~(Res. No. 620, § 1kk, 4-14-64)~~

~~**Editor's note:** The provisions of § 66 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 67. Proposed expenditures shall become appropriated after effective date.~~

~~From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriated to the several objects and purposes therein named.~~

~~**Editor's note:** The provisions of § 67 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 68. Millage for ordinary purposes.~~

~~The Commission shall have power to assess not to exceed ten mills upon the taxable property of the town for ordinary purposes. The words "ordinary purposes" shall be construed to mean all expenses for salaries of officers and employees, police force maintenance, cleaning and upkeep of streets, illumination, incidental expenses of administration of the public business, and all other purposes strictly municipal in their character, which are annual and continuing, including reasonable expenditures for promoting the interest of the municipality, and for the promotion of the welfare and the protection of the health of the people of the town by such means as will contribute towards making the town more attractive as a place of residence, and including in such ordinary purposes shall be that of maintaining public reading rooms, public buildings and beautifying and keeping up public beaches, public playgrounds, public parks, public boulevards and areas belonging to the town that adjoin street and alley pavements.~~

~~The words "ordinary purposes" shall also be construed to mean and include reasonable annual expenditures, not to exceed one-half mill, for promoting the interest of the municipality and for advertising through legitimate and recognized channels and media for the accomplishment of such purposes.~~

~~The words "ordinary purposes" shall also be construed to mean and include public libraries maintained and operated by the town or by a municipal or nonprofit library corporation contracting with the town.~~

~~(Res. No. 500, § 1(g, h), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County; Res. No. 620, § 111, 4-14-64; Res. No. 867, Amd. Nos. 10, 11, 3-20-74)~~

~~**Editor's note:** Assuming the 1974 amendment was not approved at referendum, the provisions of § 68 appear to have been repealed by the Municipal Home Rule Powers Act. See F.S. § 166.021. See also F.S. § 166.211.~~

~~Sec. 68.1. Payment of appropriations in installments; expenditure of appropriations beyond five years; contracts to be approved by ordinance.~~

~~Appropriations of any one year for ordinary purposes (as defined in section 68 hereof) shall not be paid in installments or otherwise expended beyond a period of five years; nor shall any written contract involving expenditures not provided for in the budget be valid unless made or approved by ordinance.~~

~~(Res. No. 620, § 111, 4-14-64)~~

~~Editor's note: The provisions of § 68.1 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166). See F.S. § 166.021.~~

~~**Sec. 69. Millage to pay bonds and interest.**~~

~~The Commission shall also have power to levy and collect annually upon its taxable property aforesaid such sums as may be necessary to pay interest upon the bonded indebtedness of the town as it now exists or as may be incurred, pursuant to the provisions of the Charter, as to pay off the bonds of the town already issued or any additional bonds which may be issued in accordance with law.~~

~~(Res. No. 620, § 1m, 4-14-64)~~

~~Editor's note: The provisions of § 69 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166). See F.S. § 166.021.~~

Sec. 4-2. Annual Budget Adoption.

(a) *Balanced Budget.* Each annual budget adopted by the Commission shall be a balanced budget.

(b) *Budget Adoption.* The Commission shall by ordinance adopt the annual budget on or before the thirtieth (30th) day of September of each year. If it fails to adopt the annual budget by this date, the Commission may by resolution direct that the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days, with all items in it prorated accordingly, until such time as the Commission adopts annual budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriation of the amounts specified therein.

(c) *Specific Appropriation.* The budget shall be specific as to the nature of each category of appropriations therein. Reasonable appropriations may be made for contingencies, but only within defined spending categories.

Sec. 4-3. Appropriation Amendments During the Fiscal Year.

(a) *Supplemental Appropriations.* If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the Commission may by ordinance make supplemental appropriations for the fiscal year up to the amount of such excess.

(b) *Reduction of Appropriations.* If, at any time during the fiscal year, it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report in writing to the Commission without delay, indicating the estimated amount of the deficit, and his/her recommendations as to the remedial action to be taken. The Commission shall then take such action as it deems appropriate to prevent any deficit spending.

Sec. 69-A. 4-4. Resort tax.

The Town of Surfside shall have the right, pursuant to the provisions of Laws of Fla. ch. 67-930, as amended by Laws of Fla. ch. 83-363, to impose, levy and collect a municipal resort tax, not to exceed four per cent (4%) upon the rent of rooms in any hotel, motel, apartment

house, rooming house, tourist or trailer camp as same are defined in F.S. ch. 212, and not to exceed two per cent (2%) upon the retail sale of all items of food, beverages and alcoholic beverages, other than beer or malt beverages, sold at retail for consumption on the premises, provided that the tax shall not apply to sales which are less than fifty cents (50¢). The total receipts from the above tax levy shall be kept and maintained in a separate fund and shall in no event be transferred to the general fund. Said fund shall be used for the following purposes only: payment of necessary expenses of collecting, handling and processing of said tax; creating and maintenance of convention and Town bureaus, cultural and art centers; enhancement of tourism; Town and advertising purposes; for the future cost, purchase, building, designing, engineering, planning, repairing, reconditioning, altering, expanding, maintaining, servicing and otherwise operating auditoriums, community houses, convention halls, convention buildings or other structures; and other related purposes, including relief from ad valorem taxes heretofore levied for such purposes.

~~(Res. No. 677, § 1, 10-12-67; Ord. No. 1285, § 1, 8-11-92)~~

~~Sec. 70. Assessment roll.~~

~~The Town Manager, annually, shall submit to the Town Commission, with the tentative budget, the assessment roll for all real and personal property in Surfside.~~

~~Nothing contained herein, however, shall be construed to affect the terms and conditions of franchises granted by the town to public utilities.~~

~~(Res. No. 620, § 100, 4-14-64; Res. No. 867, Amd. No. 12, 3-20-74)~~

~~Editor's note: The provisions of § 70 appear to have been preempted to general law by F.S. § 166.211(2).~~

~~Sec. 71. Repealed.~~

~~Editor's note: Section 71, providing for a Board of equalization, was repealed pursuant to Res. No. 744, § 1(j) adopted Jan. 15, 1970, ratified by the electors March 17, 1970.~~

~~Sec. 72. Repealed.~~

~~Editor's note: Section 72 providing for a tax return and penalty for failure to make a return, was repealed pursuant to Res. No. 744, § 1(k) enacted Jan. 15, 1970, ratified March 17, 1970.~~

~~Sec. 73. When taxes due and payable; discounts; when delinquent.~~

~~All general taxes shall become due and payable at the town office on November 1st of each year, and the following discounts shall be allowed for prompt payments thereof:~~

~~4% in November;~~

~~3% in December;~~

~~2% in January;~~

~~1% in February;~~

~~No discount in March.~~

~~Taxes shall become delinquent April 1st of the year following the assessment.~~

~~Editor's note: The provisions of § 73 appear to have been preempted to general law by F.S. § 166.211(2).~~

Sec. 74. State law to apply to taxation.

~~The general laws of the State of Florida upon the subject of taxation shall apply to and govern in the assessment, levy and collection of taxes in the Town of Surfside and in the return and sale of property delinquent therefor; and shall also apply and govern in respect to the powers, duties and liabilities of persons and property touching and concerning such taxes, and shall have full force and effect in said town as far as same may be applicable, except as herein otherwise provided.~~

~~(Ord. No. 398, § 1(i), 2-26-57; Res. No. 500, § 1(i), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County)~~

~~Editor's note: The provisions of § 74 appear to have been preempted to general law by F.S. § 166.211(2).~~

Sec. 75. Tax sale notices.

~~It shall not be necessary to publish the lists of land to be offered for sale for the nonpayment of taxes or local assessments, but the Town Manager shall, at the time provided by general law for the publication of notice of sale for delinquent taxes, cause to be published once each week for four successive weeks in a newspaper published in Dade County, Florida, a notice stating that all lots and lands delinquent for nonpayment of taxes or local assessments will be offered for sale at the time specified in such notice and that a complete list of such delinquent lots and lands is available for public inspection at the office of said Town Manager.~~

~~Editor's note: The provisions of § 75 appear to have been preempted to general law by F.S. § 166.211(2).~~

Sec. 76. Correcting assessments, etc.

~~All provisions in the Charter relating to the assessment and enforcement of taxes and special assessments are directory and any errors, defects, or omissions in levies, assessments, sales or proceedings may be corrected at any time.~~

~~Editor's note: The provisions of § 76 appear to have been preempted to general law by F.S. § 166.211(2).~~

Sec. 77. Tax deeds presumed valid.

~~Deeds made by the Town of Surfside pursuant to tax sale shall be deemed prima facie valid in all proceedings wherein such deeds may be questioned.~~

~~Editor's note: The provisions of § 77 appear to have been preempted to general law by F.S. § 166.211(2).~~

Sec. 78. Redemption before loss of title by delinquent tax proceedings.

~~Prior to loss of title in proceedings to enforce delinquent taxes or liens, the property involved may be redeemed by any party interested therein paying to the town, or to the circuit court clerk of Dade County, or to the master or officer of the court, as the case may be, all~~

~~amounts due on all town tax sale certificates, liens or deeds on such land, with interest to such date, and the costs or prorated costs of suit, together with all expenses incurred, including cost of abstract and title searches, attorney's fees, notices and postage, but no land shall be redeemed after delivery of a tax deed by the town nor after delivery of a deed by the master or other officer pursuant to foreclosure decree and sale.~~

~~Editor's note: The provisions of § 78 appear to have been preempted to general law by F.S. § 166.211(2).~~

~~Sec. 79. Purchase of land sold for delinquent taxes by town.~~

~~The Town of Surfside is authorized and may purchase lands offered for sale by its Town Manager for delinquent taxes owing the town, to the same extent and in the same manner as private persons and corporations are by the general law permitted and authorized to purchase lands offered for sale for delinquent taxes.~~

~~Editor's note: The provisions of § 79 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166). See F.S. § 166.021.~~

~~ARTICLE V. BORROWING FOR MUNICIPAL PROJECTS*~~

~~*Editor's note: The provisions of article V appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10. In addition, they are covered by F.S. ch. 166, pt. II (F.S. § 166.101 et seq.). See F.S. § 166.241.~~

~~Sec. 80. Municipal projects enumerated; definitions.~~

~~For the purpose of this Charter the term "municipal project" shall cover only any one or more or any combination of the following: Heliports, auditoria, bridges, tunnels, buildings, hospitals, viaducts, community houses or centers and all facilities therein, dispensaries, jails, gas, electric and/or water distribution systems, memorials, parking lots and garages, garbage and trash disposal, parks including recreational facilities, playgrounds, recreation centers, structures, buildings, piers, public buildings and plazas, reservoirs, schools, sewers, sewerage or drainage systems and sewage disposal or treatment plants, stadia, streets, roads, avenues, alleys and highways, sidewalks and curbs, gutters and stormwater sewers or drains, toll bridges or causeways, swimming pools and public emergency or disaster shelters; and all property real and personal appurtenant thereto or connected with such work, undertaking or project and the existing work, undertaking or project, if any, to which such work, undertaking or project is an extension, addition, betterment or improvement.~~

~~(a) The term "to construct" shall mean to build, to construct, to reconstruct, to erect, to replace, to extend, to repair, to better, to equip, to develop, to embellish, to improve, to acquire by gift, purchase or the exercise of the right of eminent domain, or any one or more of all of the foregoing.~~

~~(b) The term "construction" shall mean building, construction, reconstruction, erection, replacement, extension, repairing, betterment, equipment, development, embellishments,~~

improvements, acquisition, by gift, purchase, or the exercise of the right of eminent domain, or any one or more or all of the foregoing.

(e) ~~The term "pending" when applied to a municipal project, means authorized but not yet completed.~~

(Res. No. 620, § 1qq, 4-14-64)

Sec. 81. Enumeration of projects, etc., for which indebtedness may be incurred.

The Town of Surfside shall have power and is hereby authorized:

(a) ~~To construct any municipal project, as defined in section 80 hereof, within or without the municipality, or partially within and partially without the municipality;~~

(b) ~~To operate and maintain any municipal project for public and private users and consumers within and without the municipality;~~

(c) ~~To issue bonds as provided in this Charter to finance such construction, and to provide for the rights of the holders of the bonds and to secure the bonds all as hereinafter provided;~~

(d) ~~To enter into a trust agreement with any bank or trust company within or outside the state, or with any agency of the state or federal government in connection with the construction of a project as may be required to facilitate the sale of bonds to be refunded exclusively from revenues;~~

(e) ~~To fix, levy and collect fees, rents, tolls, or other charges for the use of or in connection with any municipal project, and in the event any trust agreement with holders of bonds shall be made as hereinafter provided, to fix, levy and collect such fees, rents, tolls and other charges in accordance with such agreements and subject thereto;~~

(f) ~~To acquire by purchase, gift or the exercise of the right of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property, in connection with any municipal project, whether or not subject to mortgages, liens, charges or other encumbrances, and to construct any municipal project subject thereto, and whether within or without the municipality, or partially within and partially without the municipality, subject to the limitations imposed by section 4 of article I;~~

(g) ~~To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in or for the furtherance of any municipal project;~~

(h) ~~To perform any acts authorized under this article through or by means of its own officers, agents and employees, or by contracts with private corporations, firms or individuals;~~

(i) ~~To award any contract for the construction of any municipal project or any part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality;~~

(j) ~~To do all acts and things necessary or convenient to carry out the powers expressly given in this article.~~

(Res. No. 502, § 1, 1-12-59; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Rees. of Dade County)

Sec. 82. Initial ordinance for issuance of bonds; determination of municipal project costs.

~~Before any bonds are issued under this Article, the Commission of the Town of Surfside shall adopt an ordinance (herein referred to as the "initial ordinance") determining to issue the bonds, which ordinance shall state in substance (a) the amount or maximum amount of bonds to~~

~~be issued; (b) the purpose or purposes for which such bonds are to be issued; (c) the rate or maximum rate of interest which such bonds are to bear; (d) a brief concise statement of the fact whether such bonds will be payable (1) exclusively from revenues, and if so payable the ordinance shall provide that the Town of Surfside shall have no power to levy or to pledge any form of taxation for the payment of such bonds, or (2) exclusively from taxes, or (3) from revenues, and in the event of a deficiency in such revenues from taxes, or (4) from taxes and additionally secured by a pledge of revenues.~~

~~In determining the cost of any municipal project, the following items may be included as a part of the cost of such municipal project and financed by the issuance of the bonds; (a) engineering, inspection, accounting, fiscal and legal expenses; (b) the cost of issuance of the bonds, including engraving, printing, advertising and other similar expenses; (c) any interest cost during the period of construction of such municipal project and for six months thereafter on money borrowed or estimated to be borrowed.~~

~~Sec. 83. Election not required for revenue bonds.~~

~~No election shall be required for the issuance of bonds by the Town of Surfside under this Charter if the initial ordinance authorized the issuance of bonds payable exclusively from the revenue of a municipal project.~~

~~Sec. 84. Revenue bonds not general obligations.~~

~~No holder or holders of any bonds payable exclusively from the revenue of a municipal project shall ever have the right to compel any exercise of taxing power of the Town of Surfside to pay said bonds or the interest thereon, and the issuance of bonds payable exclusively from revenues shall not directly or indirectly or contingently obligate the Town of Surfside to levy or pledge any form of taxation whatever therefore. Each such bond issued under this Article shall recite in substance that said bond, including interest thereon, is payable from the revenue pledged to the payment thereof, and that the holder of said bonds shall have no recourse to the power of taxation.~~

~~Sec. 85. General obligation bonds subject to referendum; each individual proposal to be approved.~~

~~If the initial ordinance authorized the issuance of bonds not payable exclusively from the revenue of a municipal project, such bonds may be issued only after the issuance of such bonds shall have been approved by a majority of the vote cast at an election at which a majority of the freeholders who are qualified electors, residing in the Town of Surfside, shall participate. Such election shall be called and held as provided for by law.~~

~~Where two or more bond proposals are submitted to the freeholders on the same ballot or in the same election, only those individual and specific proposals on which a majority of the freeholders vote (as distinguished from general participation in the election) shall qualify for approval, as prescribed in the foregoing.~~

~~Sec. 86. Tax ordinance required on general obligation bonds.~~

~~At any time before delivering any bonds to be issued pursuant to this Article, not payable exclusively from the revenue of a municipal project, the Commission of the Town of Surfside shall pass an ordinance (herein called the "tax ordinance") which shall recite in substance that adequate provision will be made for raising annually by tax upon all property subject to taxation by the Town of Surfside a sum sufficient to pay the interest on and principal of such bonds as the same shall become due. A tax sufficient to pay when due such principal and such interest shall be levied annually and assessed, collected and paid, in like manner with the other taxes of the Town of Surfside, and shall be in addition to all other taxes authorized or limited by law.~~

~~It shall be the duty of the Commission of the Town of Surfside to include in the annual levy a tax sufficient to pay the interest on and principal of such bonds as the same become due; provided, however, that if the bonds are payable from taxes only in the event of a deficiency in revenues or are payable from taxes and additionally secured by a pledge of revenues, and if the tax ordinances shall so provide, then in such events, the tax to be levied and assessed by the Commission of the Town of Surfside may be reduced by such amount and under such conditions as may be determined in such tax ordinance. When for any reason all or any part of the principal of or interest on any bonds issued by the Town of Surfside pursuant to this Article, not payable exclusively from the revenues of a municipal project, shall not be paid when due there shall be levied and assessed by the Town of Surfside and collected by the proper collecting officers at the first assessment, levy and collection of taxes in the Town of Surfside, after such omission or failure, a tax sufficient to pay the same.~~

Sec. 87. Form and general requirements of bonds.

~~Bonds may be issued under this Charter in one or more series, may bear such date or dates; may bear interest at such rate or rates, not exceeding seven and one-half per centum per annum, payable semi-annually; may be in such denomination; may be in such form, either coupon or registered; may be payable at such place or places; may carry such registration and conversion privileges; may be executed in such manner; may be payable in such medium of payment at such times and places; may be subject to such terms and redemption, with or without premium; and may be declared or become due before the maturity date thereof, as may be provided by ordinance of the Commission of the Town of Surfside.
(Res. No. 744, § 1(1), 1-15-70)~~

Sec. 88. Maximum period of bonds.

~~Bonds may be issued for terms not exceeding thirty years.
(Ord. No. 312, § 1(3), 3-22-55; Laws of Fla. ch. 31285(1955), § 9)~~

Sec. 89. Sale of bonds; all bonds to be negotiable instruments.

~~The bonds authorized to be issued by this Article shall be sold in the manner provided by law. The bonds may be sold in any such manner and for such price as the Commission of the Town of Surfside may by ordinance determine to be for the interests of the town, but no bonds shall be sold at a price so low as to require the payment of interest on the money received therefor at more than seven and one-half per centum per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding,~~

~~however, from such computation the amount of any redemption premium. The bonds shall be fully negotiable for all purposes.~~

~~All bonds issued under the provisions of this Charter shall have, and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments laws of the State of Florida. Bonds issued under this Article bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the Town of Surfside.
(Res. No. 744, § 1(m), 1-15-70)~~

~~Sec. 90. Interim certificates, etc.~~

~~Pending the preparation or delivery of the definitive bonds for the purpose of financing the construction of a municipal project, interim certificates or other temporary obligations may be issued by the Town of Surfside to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form and contain such terms, conditions and provisions as the Commission of the Town of Surfside may determine.~~

~~Sec. 91. Refunding bond issue.~~

~~Editor's note: Section 91 was repealed by Ord. No. 312, § 1(5), 3-22-55 and Laws of Fla. ch. 31285(1955), § 10.~~

~~Sec. 92. Municipal projects to be self-supporting when financed by revenue bonds; fixing project rates, etc.~~

~~The Commission of the Town of Surfside issuing bonds payable exclusively from the revenue of a municipal project shall prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities of such municipal projects, and shall revise such rates, fees or charges from time to time whenever necessary so that such municipal projects shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce at least sufficient revenue to (a) pay when due all bonds and interest thereon, for the payment of which such revenue is or shall be pledged, charged or otherwise incumbered, including reserves therefor, and (b) provide for all expense of operation and maintenance of such municipal project, including reserves therefor.~~

~~Sec. 93. Limitations on bonds and bonded indebtedness.~~

~~Bonds issued by the Town of Surfside may or may not be limited as follows:~~

- ~~(a) The total amount of general obligation bonds of the Town of Surfside outstanding in any one fiscal year shall not exceed fifteen per centum of the assessed value of the taxable property of the town according to the assessment roll;~~
- ~~(b) Bonds payable exclusively from the revenue of a municipal project may be issued under this Article notwithstanding and without regard to any limitation on indebtedness prescribed by this or any other law;~~

~~(c) Bonds, other than bonds payable exclusively from the revenue of a municipal project, issued by the Town of Surfside under this Article shall be considered in computing the amount of indebtedness which the town may incur under any other law; and~~

~~(d) Bonds, payable exclusively from the revenue of a municipal project or from special assessments, issued by the Town of Surfside under this Article shall not be considered in computing the amount of indebtedness which the Town of Surfside may incur under any other law.~~

~~(Res. No. 620, § 1rr, 4-14-64; Res. No. 744, § 1(n), 1-15-70)~~

~~Sec. 94. Pledge of security for payment of bonds.~~

~~In order to secure the payment of any of the bonds issued pursuant to this Article and interest thereon, or in connection with such bonds, the Town of Surfside shall have all power as to such bonds:~~

~~(a) To pledge the full faith and credit and unlimited taxing power of the town to the punctual payment of the principal of and interest on such bonds.~~

~~(b) To pledge all or any part of the fees, rents, tolls or other charges, received or receivable by the Town of Surfside, from any municipal project then existing or thereafter to be constructed to the punctual payment of bonds issued for such municipal project, and interest thereon, and to covenant against thereafter pledging any such fees, rents, tolls, or charges to any other bonds or any other obligations of the Town of Surfside for any other purposes.~~

~~(c) To provide for the terms, form, registration, exchange, execution and authentication of such bonds.~~

~~(d) To provide for the replacement of lost, destroyed or mutilated bonds.~~

~~(e) To covenant as to the use and disposition of the proceeds from the sale of such bonds.~~

~~(f) To covenant as to the fees, rents or tolls to be charged in connection with the municipal project for which such bonds are to be issued, and as to the use and disposition to be made thereof.~~

~~(g) To covenant to set aside or pay reserves and sinking funds for such bonds and as to the disposition thereof.~~

~~(h) To redeem such bonds, as to covenant for their redemption, and to provide the terms and conditions thereof.~~

~~(i) To covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods.~~

~~(j) To make covenants other than, and in addition to, the covenants herein authorized.~~

~~(k) To execute all instruments necessary or convenient in the exercise for the powers herein granted or in the performance of its covenants or duties, including trust indentures to secure bonds payable exclusively from revenues.~~

~~(l) To make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or in the absolute discretion of the Commission of the Town of Surfside tends to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the purpose hereof to give the Town of Surfside power to do all things in the issuance of the bonds and for their security that may be consistent with the constitution of the State of Florida.~~

~~(Res. No. 620, § 1ss, 4-14-64)~~

Sec. 95. ~~Rights of bondholders.~~

~~Any holder or holders of the bonds shall have the right in addition to all other rights:~~

- ~~(a) By mandamus or other suit, action or proceedings in any court of competent jurisdiction to enforce his or their rights against the town and the Commission of the Town of Surfside, and any officer, agent or employee of the town, including, but not limited to, the right to require the town and the Commission and any proper officer, agent or employee of the town to assess, levy, and collect taxes, and to collect fees, rents, tolls, or other charges adequate to carry out any agreement as to, or pledge of, such taxes, fees, rents, tolls or other charges, and to require the town and the Commission and any officer, agent or employee of the Town of Surfside to carry out any other covenants and agreements and to perform its and their duties under this law.~~
- ~~(b) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of such holder of bonds.~~

Sec. 96. ~~Procedure for issuance of bonds.~~

~~All action required or authorized to be taken under this Article by the Commission of the Town of Surfside shall be by ordinance in accordance with the provisions of this Charter respecting the passing of ordinances.~~

~~Any ordinance authorizing bonds under this Article may provide that such bonds shall contain a recital that they are issued pursuant to this Article, which recital shall be conclusive evidence of their validity and the regularity of their issuance. Bonds to be issued under this Article may be validated as provided in Article 7 of Chapter IX of Title III of the Second Division of the Compiled General Laws of Florida, 1927, and amendments thereto.~~

~~The powers conferred by this Article shall be in addition to and the limitations imposed by this Article shall not affect the powers conferred by any other law and not in substitution for the powers conferred by any other law. Bonds may be issued hereunder for any municipal project not withstanding that any other law may provide for the issuance of bonds for like purposes, and without regard to the requirements, restrictions of procedural provisions contained in any other law. Any proceedings heretofore taken by the Town of Surfside relating to the subject matters of this Article, whether or not commenced under any other law, may be continued under this Article, or, at the option of the Commission of the Town of Surfside, may be discontinued and new proceedings instituted under this Article.~~

~~If any provisions of this Article, or the application of such provisions to any person, body or circumstances shall be held invalid, the remainder of this Article, or the application of such provisions to persons, bodies or circumstances other than those as to which it shall have been invalid, shall not be affected thereby.~~

Sec. 96.01. ~~State election code applicable to bond elections.~~

~~All bond elections called pursuant to this Article V shall be held in accordance with the Election Code of the State of Florida.
(Res. No. 620, § 1tt, 4-14-64)~~

ARTICLE Va. ~~REFUNDING BONDS*~~

~~*Editor's note: The provisions of article Va appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code 1-10. In addition, they are covered by F.S. ch. 166, pt. II (F.S. § 166.101 et seq.). See F.S. § 166.241.~~

~~Sec. 96.1. Definitions and statement of purpose.~~

~~(a) Town as used in this Article shall mean the Town of Surfside, Florida.~~

~~(b) The words *net interest cost* when referring to a proposed issue of refunding bonds as used herein, mean the total amount of interest to accrue on the refunding bonds from their date to their respective maturities, without regard to any retained options of redemption, plus the amount of any discount below par or less the amount of any premium above par at which the bonds may be sold.~~

~~(c) The words *net interest cost* when referring to an outstanding issue of bonds to be refunded, as used herein, mean the total amount of interest which would accrue on such bonds from the date of the refunding bonds to the respective maturity dates of the outstanding bonds to be refunded, without regard to any retained options of redemption.~~

~~(d) The words *net effective interest rate* when referring to a proposed issue of refunding bonds, mean the net interest cost of said refunding bonds divided by the product obtained by multiplying the aggregate principal amount of such refunding bonds maturing on each maturity date by the number of years from the date of the refunding bonds to their respective maturities, without regard to any retained options of redemption.~~

~~(e) The words *net effective interest rate* when referring to an outstanding issue of bonds to be refunded, mean the net interest cost of such bonds divided by the product obtained by multiplying the aggregate principal amount of such bonds maturing on each maturity date by the number of years from the date of the proposed refunding bonds to the respective maturities of the bonds to be refunded, without regard to any retained options of redemption.~~

~~(f) For the purpose of the foregoing computation as to bonds which, pursuant to the proceedings authorizing their issuance, are subject to mandatory redemption prior to maturity, the amount of any premium required to be paid upon such redemption shall be included as interest and the interest which would accrue on said bonds from the mandatory call date to maturity shall not be included.~~

~~(g) It is the purpose of this Article to make it possible for the Town to refinance all or part of its outstanding general obligation bonds in accordance with modern principles of municipal finance, whenever such refinancing can be effected to the benefit of the Town, and this Article is adopted for such purpose.~~

~~(Res. No. 620, § 1a, 4-14-64)~~

~~Sec. 96.2. Authority to refund.~~

~~The Town may issue refunding bonds for the purpose of refunding all or any part of its general obligation bonds now or hereafter outstanding, whether or not such bonds are at the time of the refunding due or optional for redemption, under the circumstances and restrictions hereinafter set forth. An issue of refunding bonds may refund part or all of one or more issues of~~

~~outstanding general obligation bonds, but only those payable from taxes levied on the same taxable property may be refunded into a single issue of refunding bonds. Refunding bonds may be issued in one or more series, either alone or in combination with general obligation bonds issued for any other lawful purpose which are payable in whole or in part from the same source.~~

~~Refunding bonds may be issued hereunder whenever the Town Commission deem it expedient, provided that the issuance thereof is approved at a freeholders election. The net effective interest rate on the refunding bonds shall not exceed that of the bonds being refunded. This requirement shall be satisfied if, because a smaller principal amount of refunding bonds is being issued than the total principal amount of bonds being refunded, the aggregate amount of principal and interest payable on said refunding bonds will not in any year exceed the aggregate amount of principal of and interest on the bonds being refunded which would have fallen due in such year. As used above, "year" means any twelve month period. If two or more issues of outstanding bonds are to be refunded, in whole or in part, by the issuance of a single issue of refunding bonds, the net interest cost and net effective interest rate of the bonds to be refunded shall, for the purpose of this section, be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the individual issues, and the net interest cost and net effective interest rate of the combined issue shall be compared with the net interest cost and net effective interest rate of the refunding issue to determine compliance with this section.~~
(Res. No. 620, § 1a, 4-14-64)

~~Sec. 96.3. Refunding bond details.~~

~~Refunding bonds issued hereunder shall, consistent with the other provisions of this Article, be in coupon form but may be made registrable as to principal or as to principal and interest, may be in the denomination of \$100 or any multiple thereof, shall not bear interest at a rate or rates in excess of seven and one half per cent (7 1/2%) per annum, shall mature serially or otherwise, but not later than thirty (30) years from their date, may be made redeemable at the option of the Town prior to maturity at a premium of not more than seven and one half per cent (7 1/2%) of the principal amount thereof, and shall otherwise have such details and shall be executed and issued in such manner as may be provided by the Town Commission . Such changes in the security and revenues pledged to the payment of the bonds refunded may be made by the Town Commission as may be provided by it in the proceeding authorizing the refunding bonds.~~

~~(Res. No. 620, § 1a, 4-14-64; Res. No. 744, § 1(o), 1-15-70)~~

~~Sec. 96.4. Issuance of refunding bonds.~~

~~Refunding bonds issued hereunder may be exchanged for not less than a like principal amount of the bonds to be refunded, may be sold in such manner as may be determined by the Town Commission , but at not less than ninety-five per cent of the par value thereof, or may be exchanged in part and sold in part. The principal amount of the refunding bonds may be the same or less, but not greater than the aggregate principal amount of the bonds to be refunded plus interest accrued to the date or dates on which the bonds being refunded are scheduled to be redeemed and redemption premiums which must be paid in order to refund said bonds. If the principal amount of the refunding bonds exceeds the aggregate principal amount of the bonds to be refunded, the net interest cost of the refunding bonds may not exceed the net interest cost of the bonds being refunded. If sold, the net proceeds shall either be immediately applied to the~~

~~payment or redemption and retirement of the bonds to be refunded and the cost and expense incident thereto and to the authorization and issuance of the bonds, or the net proceeds of the refunding bonds may be invested, in whole or in part, (a) in direct obligations issued by the United States Government or one of its agencies, (b) in obligations fully guaranteed by the United States Government as to principal and interest, or (c) in certificates of deposit of a banking corporation or association which is a member of the Federal Deposit Insurance Corporation, or successor; but said certificates of deposit must be fully secured as to both principal and interest by pledged collateral consisting of direct obligations of the United States of America having a market value at all times at least equal to the amount of such principal of and accrued interest on such certificates of deposit. Any such investments must mature or be payable in advance of maturity at the option of the holder and must bear interest in such manner as to provide funds which, together with uninvested money placed in the hereinafter mentioned escrow, will be sufficient to pay when due or called for redemption the bonds refunded, together with interest accrued and to accrue thereon and redemption premiums, if any, and such refunding bond proceeds or obligations so purchased therewith shall, and other funds legally available to the Town for such purpose may be deposited in escrow with a banking corporation or association which is a member of the Federal Deposit Insurance Corporation or any successor thereto, to be held in trust for the payment and redemption of the bonds refunded, and such money and obligations and any re-investment thereof shall be held in trust by such escrow agent for the payment of interest on the refunded bonds when due, and principal thereof and applicable redemption premiums, if any, when due, or upon the date or dates for which they shall have been called for redemption, or upon an earlier voluntary surrender with the consent of the Town Commission. If the outstanding bonds are optional for redemption on more than one date, the Town Commission may determine which redemption date or dates shall be used when calling bonds for redemption. The term "net proceeds" as used above shall mean the gross proceeds of the refunding bonds after the deduction therefrom of all accrued interest, and expenses incurred in connection with the authorization and issuance of the refunding bonds and the refunding of the outstanding obligations, including all cost and expenses resulting from price variations to par or otherwise incurred in the purchase of obligations for escrow and in the disposition of the refunding bonds.~~

~~(Res. No. 620, § 1a, 4-14-64)~~

Sec. 96.5. Determination to be conclusive.

~~The determination of the Town Commission that the limitations herein imposed upon the issuance of refunding bonds have been met, shall be conclusive in the absence of fraud.~~

~~(Res. No. 620, § 1a, 4-14-64)~~

Sec. 96.6. Authority for escrow agreement.

~~The Town Commission shall have power to enter into such escrow agreement and to insert therein such protective and other covenants and provisions as it may consider necessary to permit the carrying out of the provisions of this Article and to insure the prompt payment of principal of and interest and redemption premiums on the bonds refunded.~~

~~(Res. No. 620, § 1a, 4-14-64)~~

Sec. 96.7. Application of debt limits.

~~If there shall be applicable to the bonds of the Town to be refunded under this Article, any statutory, Charter or other limitation on the amount of such indebtedness, the bonds which have been refunded hereunder by the placing of money or obligations, or both, in escrow as above provided, shall not be deemed to be outstanding bonds or indebtedness of the Town within the meaning of or subject to such limitation from and after the date of the issuance of the refunding bonds.~~

~~(Res. No. 620, § 1a, 4-14-64)~~

Sec. 96.8. Time limitation.

~~No bonds not voluntarily surrendered by the holders thereof for immediate exchange or payment may be refunded hereunder unless such bonds either mature or are callable for redemption prior to maturity under their terms not later than fifteen (15) years from the date of issuance of the refunding bonds.~~

~~(Res. No. 620, § 1a, 4-14-64)~~

Sec. 96.9. Negotiability.

~~All bonds issued under the provisions of this Article shall constitute negotiable instruments for all purposes of the laws of Florida relating to negotiable instruments.~~

~~(Res. No. 620, § 1a, 4-14-64)~~

Sec. 96.10. Security provisions.

~~All acts required to be authorized hereunder may be authorized by resolution. Any such resolution shall provide for the creation of a fund into which shall be paid money fully sufficient to pay principal and interest on the refunding bonds promptly as principal and interest become due. Money paid into such fund may be derived from ad valorem taxes and other sources described in Article V of this Charter, together with those which are specifically available to municipalities under the laws of Florida. The resolution authorizing the issuance of the bonds may contain such covenants with the future holders of the bonds as to the management and operation of any utility or facility the revenues of which are pledged, the imposition and collection of fees and charges for the products, commodities or services furnished by such utility or facility, the collection, keeping and disposition of all revenues pledged, the issuance of future bonds, the creation of future liens and encumbrances against the revenues pledged or utilities and facilities producing such revenues, the carrying of insurance on such utilities or facilities, and the disposition of insurance proceeds, the keeping of books and records, remedies in the event of default, including the appointment of a receiver for utilities or revenue producing facilities, the appointment and duties of a trustee, the priority of the lien of the bonds on the pledged revenues, and other pertinent matters, as may be deemed necessary or proper by the Town Commission to assure the marketability of the refunding bonds at the most favorable price. If the revenues of any ability or other revenue producing facility have been pledged to the payment of the bonds, it shall be the duty of the Town Commission to impose and collect fees and charges for the~~

~~products, commodities, and services furnished by the utility or facility in such amounts and at such rates as shall be fully sufficient to pay the expenses of the operation and maintenance thereof, and, with the other pledged revenues, provide a sinking fund sufficient to assure the prompt payment of principal and interest on the bonds and to provide such reasonable funds for contingencies, reserves and renewals, extensions and improvements as may be considered desirable. No Board or Commission other than the Town Commission shall have authority to fix or supervise the making of such fees and charges.~~
(Res. No. 620, § 1a, 4-14-64)

~~Sec. 96.11. Call of bonds for redemption.~~

~~Where any bonds to be refunded are not to be surrendered for exchange or repayment and are not to be paid at maturity with escrowed refunding bond proceeds or money derived from escrowed obligations, but are to be paid from such source prior to maturity pursuant to call for redemption exercised under a right of redemption reserved in such bonds, the Town shall, prior to the issuance of the refunding bonds, call such bonds for redemption and provide for the giving of the notice of redemption required by the proceedings authorizing such bonds. Where such notice is to be given at a time subsequent to the issuance of the refunding bonds, the necessary notices may be deposited with the bank acting as escrow agent of the refunding bond proceeds and the bank appropriately instructed and authorized to give the required notices at the prescribed time or times. If any officer of the Town signing any such notice shall be no longer in office at the time of the utilization of the notice, the notice shall nevertheless be valid and effective for its intended purpose.~~
(Res. No. 620, § 1a, 4-14-64)

~~Sec. 96.12. Convertibility.~~

~~In authorizing refunding bonds hereunder, the Town Commission may provide for the exchange of any such bonds after issuance for bonds of larger or smaller denominations in such manner as may be provided in the authorizing resolution, provided the bonds in changed denominations shall be exchanged for the original bonds in like aggregate principal amounts and in such manner that no overlapping interest is paid, and such bonds in changed denominations shall bear interest at the same rate or rates, shall mature on the same date or dates, shall be in the same form except for an appropriate recital as to the exchange, and shall in all other respects except as to denominations and numbers, be identical with the original bonds surrendered for exchange. Where any exchange is made pursuant to this paragraph, the bonds surrendered by the holders at the time of exchange shall be cancelled, any such exchange shall be made only at the request of the holders of the bonds to be surrendered, and the Town Commission may require all expenses incurred in connection with such exchange, including the authorization and issuance of the new bonds, to be paid by such holders.~~
(Res. No. 620, § 1a, 4-14-64)

~~Sec. 96.13. Election.~~

~~An election shall be necessary to the issuance of refunding bonds hereunder and such bonds shall be issued only after having been approved by the majority of the votes cast in an~~

~~election in which a majority of the free holders who are qualified electors residing in such Town shall participate, which election may be held under the provisions of F.S. §§ 100.201–100.351, inclusive, as such sections now or may hereafter exist.
(Res. No. 620, § 1a, 4-14-64)~~

~~Sec. 96.14. Circuit court validation.~~

~~Any bonds issued pursuant hereto and the proceedings pursuant to which they are to be issued, may be validated under the provisions of F.S. ch. 75, as amended, in the manner and with the effect now or hereafter provided in said chapter.
(Res. No. 620, § 1a, 4-14-64)~~

~~Sec. 96.15. Article complete in itself.~~

~~This Article is an alternate and additional means of effecting the acts herein authorized and shall constitute full authority for the accomplishment of all acts herein authorized to be done. Any resolution adopted pursuant hereto may be adopted on a single reading at any regular meeting, and need not be published. No act or proceeding other than those specifically herein required shall be necessary to the carrying out of the powers herein granted. No other law restricting or affecting the carrying out of any such act shall be construed as applying to any proceeding had or act done under this Article.
(Res. No. 620, § 1a, 4-14-64)~~

ARTICLE VI. V. NOMINATIONS AND ELECTIONS.

Sec. 97. 5-1. Time of holding elections. Elections.

- A. Electors.** Qualified electors of Miami-Dade County, Florida, residing in the Town of Surfside, shall constitute the electors qualified to vote in Surfside elections; provided, however, s/he has registered to vote in a manner prescribed by law.
- B. Regular Election.** 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. The Commission shall order special elections on other dates to fill vacancies on the Commission when such elections are mandatory under Article II, sections 16 and 110 of this Charter. ~~Special elections may also be called on thirty days notice at any time to validate general obligation bond issues, to initiate ordinances or secure an expression from the electors on referred ordinances in the manner prescribed in this Charter, or for any or all other lawful purposes. 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. Not less than fifteen days prior to a special charter amendment election, the Town Clerk shall mail a copy of the proposed amendment or amendments to each qualified elector of Dade County residing in the Town of Surfside whose name then appears upon the registration books.~~

- C. Special Elections.** Special elections, when required, shall be scheduled by the Commission at such times and in such manner as shall be consistent with this Charter.
- D. Nonpartisan Elections.** All elections for the Town Commission shall be conducted on a nonpartisan basis and no ballot shall show the party designation of any candidate.

Sec. ~~97.1.~~ 5-2. Charter amendments.

Amendments to this Charter shall be proposed, presented or initiated and implemented in accordance with the requirements of the applicable sections ~~section 5.03 of Article 5~~ of The Home Rule Charter for Metropolitan Miami-Dade County.

Sec. ~~98.~~ Qualifications of electors.

~~Any person who is at least eighteen years of age, or any person who will attain the age of eighteen prior to the next succeeding special or general election of the town, who is a citizen of the United States and a resident of the State of Florida and Town of Surfside, and who is registered to vote on the registration books of Dade County, Florida, shall be eligible to vote in Surfside elections.~~

~~(Ord. No. 398, § 1(j), 2-26-57; Res. No. 500, § 1(j), 12-17-58; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County; Res. No. 867, Amd. No. 14, 3-20-74)~~

~~Editor's note: The provisions of § 98 are superseded by F.S. §§ 166.042, 97.041.~~

Sec. ~~99~~ 5-3. Rules and regulations, supervision, etc. governing of elections.

The Commission shall by ordinance establish such rules and regulations as it considers needful or desirable, not inconsistent with this Charter, governing the conduct of municipal elections, for the prevention of fraud in such elections, and for the recount of ballots in case of doubt or fraud. Municipal elections shall be supervised by the Town Clerk and conducted by an election Board consisting of an election clerk and four or more qualified electors appointed by the Mayor who shall act as inspectors of the election.

Sec. ~~100.~~ Electors qualified to vote.

~~Qualified electors of Dade County, Florida, residing in the Town of Surfside, shall constitute the electors qualified to vote in Surfside elections; provided, however, that any person qualifying as an elector less than thirty days prior to the date of a Surfside election shall not be qualified to vote in such election.~~

~~(Res. No. 620, § 1ww, 4-14-64; Res. No. 744, § 1(p), 1-15-70; Res. No. 867, Am'd. No. 15, 3-20-74)~~

~~Editor's note: The provisions of § 100 are superseded by F.S. §§ 166.042, 97.041.~~

Sec. ~~101.~~ Nomination of Mayor and Commission members ~~Generally.~~

~~Any citizen who can qualify for the office of Mayor or Commissioners of the town, as provided in section 6 of this Charter, may nominate himself or herself or may be nominated for~~

~~the Commission by a petition for this purpose signed by not less than twenty-five qualified electors and filed with the Town Clerk not more than fifty-five days and not less than thirty-five days prior to the election date. No elector shall sign nominating petitions for more than one person for each office or group, and should an elector do so, his or her signature shall be void except as to the petition or petitions first filed.~~

~~The signatures on the nominating petition need not all be subscribed to one paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature, including the signature of the circulator, shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify it. The form of the nominating petition shall be substantially as follows:~~

~~We, the undersigned electors of the Town of Surfside, hereby nominate _____ for the office of Commissioners:~~

~~Name _____
Street and Address _____
Date of signing _____~~

~~_____
(spaces for signatures and required data)~~

Statement of Circulator

~~The undersigned is the circulator of the foregoing paper containing _____ signatures. Each signature appended thereto was made in my presence and is the genuine signature of the person whose name it purports to be.~~

TABLE INSET:

—	Signature of Circulator _____
—	Address _____

~~Within five days after the filing of a nominating petition the Town Clerk shall notify through the United States mail the candidate and the person who filed the petition whether or not it is found to be signed by the required number of qualified electors. If a petition is found insufficient, the Town Clerk shall return it immediately to the person who filed it with a statement certifying wherein the petition is found insufficient. Such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate, not less than twenty-five days before election. Such petitions shall be preserved by the Town Clerk for two years from the date such petitions are filed.~~

~~(Res. No. 620, § 1jjj, 4-14-64; Res. No. 1389, § 2, 6-14-94)~~

Sec. 102.5.4 ~~Same~~ Qualifying, fee. Qualifying.

~~The name of each nominee for Commission, who has complied with all the requirements hereinbefore prescribed, shall be printed on the ballot as a candidate for the office of Commissioners of the Town of Surfside upon such nominee paying to the Town of Surfside simultaneously with the filing of his nominating petition the sum of twenty-five dollars as a qualifying fee, and upon submitting concurrently therewith a sworn statement of his or her name,~~

~~address, occupation and willingness to serve if elected. No refund shall be made of the qualifying fee.~~

~~Candidates for Commissioner or Mayor shall qualify for election by the filing of a written notice of candidacy with the Clerk of the Town at such time and in such manner as may be prescribed by ordinance and payment to the Town Clerk of the sum of one hundred dollars (\$100.00) as a qualifying fee. A person may not be a candidate for Commission and Mayor in the same election. Only qualified electors of the Town who have resided continuously in the Town for at least one (1) year preceding the date of such filing shall be eligible to hold the Office of Commissioner, including Mayor. Any qualified elector as defined in Article II hereinabove may be a candidate for Town Commission.~~

Sec. 103. Ballots.

~~All ballots used in any general or special election of Commissioners held under authority of this Charter shall be without party mark or designation and without any insignia or mark of any association or organization thereon and shall be substantially in the same form as the election ballot used in all general state elections. The following additional provisions with respect to ballots used in any general or special election of Commissioners shall also apply:~~

~~(a) The full names of all candidates nominated for the Commission as hereinbefore provided, except such as may have withdrawn, died or become ineligible, shall be printed on the official ballots. If two candidates with the same surname, or with names so similar as to be likely to cause confusion, are nominated, the addresses of their places of residences may be placed with their names on the ballot.~~

~~(b) The names of the candidates shall be arranged in the alphabetical order of their surnames.~~

~~(c) Where voting machines are not used, Commissioners shall be voted for on ballots separate and distinct from ballots used for any other office or question and the ballot boxes used for the election of Commissioners shall be separate and distinct from ballot boxes used for any other office or question.~~

~~(d) Absentee voting shall be as provided under the authority of F.S. § 101.70.~~

~~(Res. No. 620, § 1xx, 4-14-64)~~

Sec. 104. Voting machines.

~~When voting machines are used the laws of the State of Florida shall be applicable and the Commission may modify the form of the ballot, the method of expressing choices and the arrangements for conducting the election and the count, but no change shall be made which will alter or impair the principles of the voting or of the counting.~~

Sec. 105. 5.5 General and special elections of Commission members.

~~(1) On the third Tuesday in March in every even numbered calendar year, all members of the Town Commission shall be elected for terms of TWO (2) two (2) years as provided in Section 2.2C hereinabove; provided, however, that Commission members elected for FOUR (4) year terms at the 1974 Election pursuant to the Charter provisions in existence prior to the adoption of this Amendment, shall remain in office until the expiration of the term to which they were elected under such prior provisions. At the Election to be held in the year 1976, and biennially~~

thereafter, all members of the Town Commission shall be elected for terms of TWO (2) years; terms to begin at 8 7 o'clock P.M. on the day following the Election.

(2) Should a vacancy on the Commission be filled at a general municipal election, pursuant to Article II, section 13, [~~codified as section 16~~], Article II, section 2.7, the term of such vacancy shall be considered to have expired and the candidate elected to fill such vacancy shall be elected for a two (2) year term. The Commission may implement the provisions of this section or other provisions of this Charter governing the filling of vacancies, by ordinance, not inconsistent with the provisions of this Charter.

(3) If two (2) or more vacancies occur at approximately the same time they shall be filled separately in the order in which they occur. If all the places on the Commission, or a majority of the places on the Commission shall become vacant at once, the Town Manager shall within sixty days call a special election of members to serve for the remainder of the unexpired terms; the candidates receiving the highest number of votes shall be elected for the longest unexpired terms and the candidates receiving the next highest number of votes shall be elected for the shortest unexpired terms. Should the Town Manager fail or refuse to order an election as herein provided within the time required, such election may be ordered by any court of competent jurisdiction.

(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.~~

(5) ~~(4) At the regular election held in 1996-2010 and biennially thereafter there shall be elected a Mayor and four members of the Town Commission, one being elected for each of groups numbered 1,2, 3, and 4, each of whom shall hold office for a term of two years. The Mayor and all Town Commissioners shall be elected from the Town at Large. Each candidate shall designate the specific office or group for which he is qualifying, and no candidate for the office of Commissioner shall be permitted to qualify in more than one group or for the office of Mayor. There shall be but one general election for Mayor and the respective groups of Commissioners, and the candidates receiving the highest number of votes each at said election shall be deemed elected to their respective offices. The Town Commission shall, at its first meeting at its first meeting after each election, elect from its membership a vice Mayor, except for the Mayor who shall run in a separate group, all other Commissioners shall be elected in accordance with Section 8 hereinabove. A tie between two or more candidates for the fifth Commission seat shall be decided in a run-off election to be held the first Tuesday of April following the general election. The runoff election shall be held in the same manner and form as the general municipal election.~~

~~6) All elections shall be conducted by secret ballot, with or without the use of voting machines as the Commission by ordinance may direct, and under rules to be fixed by ordinance not inconsistent herewith.~~

~~(7) No general or special election of the Town of Surfside shall be held on a national or state legal holiday. Should the third Tuesday in March in any even numbered calendar year be declared such a legal holiday, then the regular election scheduled for that day shall be postponed to the first day thereafter that is not a legal holiday, and the induction of Commissioners into office shall be deferred to the next business day following such postponed election, but such deferred induction shall not change the expiration dates of the terms of office of the candidates elected.~~

~~(8) If more than five (5) candidates qualify for the general Commission election, and if after the last date for qualifying and before the date of the election the number of candidates is reduced~~

~~for any lawful reason to five (5) or less, the election shall be postponed by the Commission to a date not less than twenty-eight (28) days nor more than thirty-five (35) days from the scheduled date. Qualifying of candidates shall be reopened until fourteen (14) days before the new election date. The terms of all incumbent Commissioners shall be extended until their successors are duly elected.~~

~~Sec. 106. Watchers at election of Commissioners.~~

~~At each election of the Commission any regularly nominated candidate shall be entitled upon written application to the Town Clerk at least five days before the election to appoint one person and one alternate to represent him as watcher and challenger at each polling place. Any person appointed shall have all the rights and privileges prescribed by law for other watchers and challengers at any election in the same place, but no watcher and his alternate shall have the right both to remain within the voting place at the same time.~~

~~Sec. 107. Hours of voting.~~

~~The polls shall open at seven o'clock a.m. and close at seven o'clock p.m., by whatever time is officially used by the town.~~

~~Sec. 108. 5.6 Canvass of returns.~~

The result of the voting, when ascertained, shall be certified by returns in duplicate, signed by the Clerks and a majority of the inspectors of the election, one copy being retained by the Town Clerk and the other being delivered to the Canvassing Board. The Canvassing Board shall consist of the Town Manager, Town Clerk and a resident of the Town appointed by a majority of the Commission ~~one Commissioner~~, who shall be selected by the Town Commission at the time the election is called. If any of the foregoing are unable or unwilling to serve on the Canvassing Board, the Town Attorney shall serve as an alternate. However, two members of the Canvassing Board shall constitute a quorum for all purposes hereunder. The Canvassing Board shall meet after the polls close. At such meeting, the Canvassing Board shall canvass the returns and shall declare the results of the election as shown by the returns made by the clerk and inspectors of said election.

~~Sec. 109. Commission to judge qualifications, etc., of members.~~

~~The Commission shall be the judge of the election and qualifications of its members and for such purpose shall have power to subpoena witnesses and require the production of records, but the decision of the Commission in any such case shall be subject to review by the courts.~~

~~Sec. 109.1. Reserved.~~

~~Editor's note: Res. No. 867, Amd. No. 16, dated March 20, 1974, repealed former § 109.1, derived from Res. No. 620, § 1zz, dated April 14, 1964.~~

~~Sec. 109.1 Reserved.~~

ARTICLE VII. RECALL

Sec. 110. Procedure generally.

~~Any Commissioners shall be subject to removal from office upon the filing of a recall petition and the affirmative vote of a majority of those voting on the question of removal at any regular or special municipal election.~~

~~No less than ten per cent of the qualified electors of the town may make and file with the Town Clerk a petition containing the name or names of the Commissioners or Commissioners whose removal is sought.~~

~~The recall petition, to be effective, must be completed within sixty days after the filing of the petition, and, if sufficient, the Town Clerk shall forthwith attach his certificate of sufficiency and within forty-eight hours thereafter actify in writing the Commissioners or Commissioners whose recall is sought in said petition. The Town Clerk shall also submit the petition, together with his certificate, to the Commission at its next regular meeting and the Commission shall, within ten days of the receipt of the clerk's certificate, order an election to be held not less than thirty days nor more than forty-five days thereafter. Provided, that if any other municipal election is to occur within sixty days after the receipt of the said clerk's certificate, the Commission may in its discretion provide for the holding of the recall election on the date of such other municipal election.~~

~~Unless the Commissioners or Commissioners whose removal is sought shall have resigned within ten days after the receipt by the Commission of the clerk's certificate, the form of ballot at such election shall be as nearly as may be: "Shall A be recalled?" "Shall B be recalled?" etc., the name of the Commissioners or Commissioners whose recall is sought being inserted in place of A, B, etc., and the ballot shall also contain the names of the candidates to be elected in place of the Commissioners or Commissioners recalled, as follows: "Candidates for the place of A, if recalled; candidates for the place of B, if recalled," etc., but the Commissioners or Commissioners whose recall is sought shall not themselves be candidates upon such ballot. Candidates to succeed a Commissioners, if recalled, shall qualify in the same manner as provided for candidates in sections 101 and 102 hereof, except that the last day for qualifying shall be fifteen days before the date of the election rather than twenty days.~~

~~If a majority of votes in connection with the recall of any Commissioners be in favor of the recall, the term of office of such Commissioners shall terminate upon the certification of the results of election by the Town Commission which shall canvass the results the day following the election.~~

~~If the canvassing of the results of such recall election shall be shown to be against the recall of the Commissioners he shall continue in office as if no recall election had been held, and the vote for the election of the successor of such Commissioners taken at the time of such attempted recall shall be void.~~

~~No court shall stay or enjoin any proceeding hereunder unless the person seeking such process shall first file with the clerk of the court having jurisdiction of such a case a bond in the penal sum of four thousand dollars with sufficient security, and conditioned to pay to the town all costs, damages and expenses, including reasonable attorney fees, if such order is thereafter set aside or the case dismissed.~~

~~Should the Commission fail or refuse to order an election as herein provided within the time required such election may be ordered by any court of competent jurisdiction.~~

~~(Res. No. 744, § 1(q), 1-15-70; Res. No. 847, Amd. No. 1, 4-11-73)~~

~~Editor's note: The provisions of § 110 are superseded by F.S. § 100.361.~~

~~ARTICLE VIII. ARTICLE VI. INITIATIVE, REFERENDUM AND RECALL.~~

~~Sec. 111. Power of initiative.~~

~~The electors shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the Commission by a petition signed by qualified electors of the town equal in number to at least fifteen per centum of the registered voters at the last regular municipal election.~~

~~*Editor's note: The provisions of article VIII appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. See also AGO 90-2. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 112. Power of referendum.~~

~~The electors shall have power to approve or reject at the polls any ordinance passed by the Commission, or submitted by the Commission to a vote of the electors, except as provided in sections 25 and 111 of this Charter, such power being known as the referendum. Ordinances submitted to the Commission by initiative petition and passed by the Commission without change shall be subject to the referendum in the same manner as other ordinances. Within twenty days after the enactment by the Commission of any ordinance which is subject to a referendum, a petition, signed by at least fifteen per centum of the registered voters at the last regular municipal election, may be filed with the Town Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.~~

~~Sec. 113. Form of petition; Committee of petitioners; circulator's affidavit.~~

~~All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text [text] of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof as provided by this section. Each signer of any such petition paper shall sign his name in ink or indelible pencil and shall indicate after his name his place of residence by street and number, or other description sufficient to identify the place.~~

~~There shall appear on each petition the names and addresses of five electors, who, as a Committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. Attached to each separate petition paper there shall be an affidavit of the circulator thereof that he, and he only, personally circulated the foregoing paper, that it bears a stated number of signatures, that all the signatures appended thereto were made in his presence, and that he believes them to be the genuine signatures of the persons whose names they purport to be.~~

~~Sec. 114. Filing, examination and certification of petitions.~~

~~All petition papers comprising an initiative or referendum petition shall be assembled and filed with the Town Clerk as one instrument. Within twenty days after a petition is filed, the Town Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The Town Clerk shall declare any petition paper entirely invalid which does not have attached thereto an affidavit signed by the circulator thereof.~~

~~If a petition paper is found to be signed by more persons than the number of signatures certified by the circulator, the last signature in excess of the number certified shall be disregarded. If a petition paper is found to be signed by fewer persons than the number certified, the signatures shall be accepted unless void on other grounds. After completing his examination of the petition the Town Clerk shall certify the result thereof to the Commission at its next regular meeting. If he shall certify that the petition is insufficient he shall set forth in his certificate the particulars in which it is defective and shall at once notify the Committee of the petitioners of his findings.~~

~~Sec. 115. Amendment of petitions; insufficiency after amendment.~~

~~An initiative or referendum petition may be amended at any time within ten days after the notification of insufficiency has been sent by the Town Clerk, by filing a supplementary petition upon additional papers signed and filed as provided in case of an original petition. The Town Clerk shall, within ten days after such an amendment is filed, make examination of the amended petition, and if the petition be still insufficient, he shall file his certificate to that effect in his office and notify the Committee of the petitioners of his findings and no further action shall be had on such insufficient petition. The findings of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.~~

~~Sec. 116. Effect of certification of referendum petitions.~~

~~When a referendum petition, or amended petition as defined in sections 112 to 115, inclusive, of this Charter, has been certified as sufficient by the Town Clerk, the ordinance specified in the petition shall not go into effect, or further action thereunder shall be suspended if it shall have gone into effect, until and unless approved by the electors, as hereinafter provided.~~

~~Sec. 117. Consideration of petitions by Commission.~~

~~Whenever Commission receives a certified initiative or referendum petition from the Town Clerk, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The Commission shall take final action on the ordinance not later than sixty days after the date on which such ordinance was submitted to the Commission by the Town Clerk. A referred ordinance shall be reconsidered by the Commission and its final vote upon such reconsideration shall be within thirty days upon the question, "Shall the ordinance specified in the referendum petition be repealed?"~~

~~Sec. 118. Submission to electors of initiative petition.~~

~~If the Commission shall fail to pass an ordinance proposed by initiative petition, or shall pass it in a form different from that set forth in the petition therefor, or if the Commission fail to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the electors not less than thirty days nor more than ninety days from the date the Commission takes its final vote thereon. If no regular election is to be held within such period, the Commission shall provide for a special election.~~

~~Should the Commission fail or refuse to order an election as herein provided within the time required, such election may be ordered by any state court of general jurisdiction.~~

~~Sec. 119. Ballots; use of voting machines.~~

~~Ordinances submitted to vote of the electors in accordance with the initiative and referendum provisions of this Charter shall be submitted by ballot title, which shall be prepared in all cases by the legal advisor of the town. The ballot title may be different from the legal title of any such initiated or referred ordinance and shall be a clear, concise statement, without argument or prejudice, descriptive of the substance of such ordinance. The ballot used in voting upon any ordinance, if a paper ballot, shall have below the ballot title the following propositions; one above the other, in the order indicated: "For the Ordinance," and "Against the Ordinance."~~

~~Immediately at the left of each proposition there shall be a square in which by making a cross (X) the elector may vote for or against the ordinance. Any number of ordinances may be voted on at the same election and may be submitted on the same ballot, but any paper ballot used for voting thereon shall be for that purpose only. If voting machines are used, the ballot title of any ordinance shall have below it the same two propositions, one above the other or one preceding the other in the order indicated, and the elector shall be given an opportunity to vote for either of the two propositions and thereby to vote for or against the ordinance.~~

~~Sec. 120. Lists of qualified voters to be furnished.~~

~~If any organization or group of town electors requests it for the purpose of circulating descriptive matter relating to the ordinance to be voted on, the Town Clerk as supervisor of registrations, or other office, department or agency of the town having the list of qualified electors, shall either permit such organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof at cost.~~

~~Sec. 121. Results of elections.~~

~~If a majority of the electors voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the town. A referred ordinance which is not approved by a majority of the electors voting thereon shall thereupon be deemed repealed. If conflicting ordinances are approved by the electors at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.~~

~~Sec. 122. Publication of approved ordinances.~~

~~Initiative and referendum ordinances adopted or approved by the electors shall be published or posted as provided for other ordinances in section 25 of this Charter.~~

Sec. 6.1. Initiatives; and Referendum; Recall.

A. Power to Initiate and to Reconsider Ordinances and to Recall Officials.

1. Initiative. The electors of the Town shall have power to propose ordinances to the Commission and, if the Commission fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a Town election, *provided* that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of Town officers or employees, pursuant to such annual budget.
2. Referendum. The electors of the Town shall have power to require reconsideration by the Commission of any adopted ordinance and, if the Commission fails to repeal an ordinance so reconsidered, to approve or reject it at a Town election, *provided* that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes or setting salaries of Town officers or employees, pursuant to such annual budget.
3. Recall. The electors of the Town shall have the power to recall elected officials of the Town, in accordance with procedures as set forth in F.S. 100.361.

B. Commencement of Proceedings.

Any ten (10) electors may commence initiative or referendum proceedings by filing with the Clerk or other official designated by the Commission an affidavit stating they will constitute the petitioners' Committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the Committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered, or stating the name and title of the officer sought to be recalled. Promptly after the affidavit of the petitioners' Committee is filed, the Clerk or other official designated by the Commission shall at the Committee's request, issue the appropriate petition blanks to the petitioners' Committee at the Committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the Town Attorney prior to circulation.

C. Petitions.

1. Number of Signatures. Initiative and referendum petitions must be signed by electors of the Town equal in number to at least ten

percent (10%) of the total number of electors registered to vote at the last regular Town election.

2. Form and Content. All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.
3. Affidavit of Circulator. Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that s/he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/her presence that s/he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer has an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
4. Filing Deadline. All initiative or referendum petitions must be filed within sixty (60) days of the date on which proceedings with respect to such initiative or referendum are commenced.

D. Procedure for Filing.

1. Certificate of Clerk; Amendment. Within twenty (20) days after initiative petition is filed or within five (5) days after a referendum petition is filed, the Clerk or other official designated by the Commission shall complete a certificate as to its sufficiency ("the Certificate") specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the Certificate to the petitioners' Committee by registered mail. Grounds for insufficiency are only those specified in subsection (c) of this Section. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' Committee files a notice of intention to amend it with the Clerk or other official designated by the Commission within two (2) business days after receiving the copy of the Certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such Certificate. Such supplementary petition shall comply with the requirements of paragraphs (i), (ii) and (iii) of subsection (c) of this Section, and within five (5) days after it is filed the Clerk or other official designated by the Commission, shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' Committee by registered mail as in the case of an original petition. If a petition or amended petition is

certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' Committee does not elect to amend or request Commission review under paragraph (ii) of this subsection (D) within the time required, the Clerk or other official designated by the Commission shall promptly present his/her certificate to the Commission and within sixty (60) days the Certificate shall then be a final determination as to the sufficiency of the petition.

2. Commission Review. If a petition has been certified insufficient and the petitioners' Committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the Committee may, within two (2) business days after receiving the copy of such certificate, file a request that it be reviewed by the Commission. The Commission shall review the certificate as its next meeting following the filing of such request and approve or disapprove it, and the Commission's determination shall then be a final determination as to the sufficiency of the petition.
3. Court Review; New Petition. A final determination as to the sufficiency of a petition shall be subject to court review a final determination of insufficiency even if sustained upon court review shall not prejudice the filing of a new petition for the same purpose.

E. Action on Petitions.

1.Action by Commission. When an initiative or referendum petition has been finally determined sufficient, the Commission shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal, all in the manner provided in Article 4. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within sixty (60) days or fails to repeal the referred ordinance within sixty (60) days, it shall submit the proposed or referred ordinance to the electors of the Town. If the Commission fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in Paragraph 2.of this Section, the Commission shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the Commission was authorized to act on such matter.

2.Submission to Electors. The vote of the Town on a proposed or referred ordinance shall be held not less than sixty (60) or more than one hundred and twenty (120) days from the date the Commission acted or was deemed to have acted pursuant to Paragraph 1. of this subsection E. that the petition was determined sufficient. If no regular election is to be held within the period described in this paragraph, the Commission shall provide for a special election, except that the

Commission may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or refereed ordinance shall be made available at the polls.

3. Withdrawal of Petitions. An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote by the Town by filing with the Clerk or other official designated by the Commission a request for withdrawal signed by at least eight/tenths (8/10) of the petitioners' Committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

4. Results of Election.

a.) Initiative. If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If the proposed initiative ordinance fails, it or any ordinance that is substantially similar, may not be submitted in accordance with this Article for at least a period of one (1) year from the election.

b.) Referendum. If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Sec. 6.2. Form of Ballots.

A Charter amendment, ordinance or other ballot issue to be voted on by the electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described [amendment/ordinance/proposal] be adopted?" Immediately below such question shall appear, in the following order, the word "YES" and also the word "NO".

ARTICLE VII. MISCELLANEOUS PROVISIONS.

Sec. 123. Short title.

~~This Charter, adopted by the people of the Town of Surfside, shall be known and may be cited as the "Commission manager Charter of Surfside."~~

Sec. 124. Effective date.

~~This Charter shall be in effect from and after the day of its ratification by the electors of the town.~~

~~Editor's note: This Charter was approved by the town electors on July 17, 1951.~~

~~**Sec. 125. Equality of sex, race, religion.**~~

~~Wherever in this Charter the masculine personal pronoun is used, it shall be considered to mean either masculine or feminine. No person shall be disqualified for any position in the town government because of sex, race, religion, origin or color.~~

~~(Res. No. 620, § 1aaa, 4-14-64)~~

~~**Sec. 126. Sec. 7-1. Rights and privileges of officers, etc., not impaired.**~~

~~Nothing in this Charter contained, except as specifically provided, shall affect or impair the rights or privileges of any officer or employee of the town or of any office, department or agency existing at the time when this Charter shall take effect, or any provision of law in force at the time when this Charter shall take effect and not inconsistent with the provisions of this Charter, in relation to the duties, responsibilities and emoluments of officers and employees of the Town of Surfside. This provision shall not be construed to vest in any officer or employee any right or rights not specifically vested herein.~~

~~**Sec. 127. Exercise of duties, etc., of state offices, etc., abolished by Charter.**~~

~~The powers conferred and the duties imposed upon any office, department or agency of the town by the laws of the state shall, if such office, department or agency, be abolished by this Charter, or under its authority be thereafter exercised and discharged by the office, department or agency designated by the Commission unless otherwise provided herein.~~

~~Secs. 128, Reserved. 129.~~

~~Editor's note: Section 128 was repealed pursuant to Res. No. 620, § 1bbb, ratified by the electors at a referendum held June 6, 1964. Section 1ccc of that resolution repealed § 129.~~

~~**Sec. 130. Continuity of offices, departments and agencies.**~~

~~Any office, department or agency provided for in this Charter with a name or with powers and duties the same or substantially the same as those of an office, department or agency heretofore existing shall be deemed to be a continuation of such office, department or agency and shall exercise its powers and duties in continuation of their exercise by the office, department or agency by which the same were heretofore exercised and shall have power to continue any business, proceeding or other matter within the scope of its regular powers and duties commenced by an office, department or agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to such a formerly existing office, department or agency, shall, so far as not inconsistent with the provisions of this Charter, apply to such office, department or agency provided for by this Charter.~~

~~**Sec. 131. Contracts and public improvements unimpaired.**~~

~~All contracts entered into by the town, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which legislative steps have been taken under laws or Charter provisions existing at the time this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws and Charter provisions.~~

~~**Sec. 132. Pending suits and proceedings not affected.**~~

~~No action or proceeding, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the town or any office, department or agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained; but all such actions or proceedings may be continued notwithstanding that functions, powers and duties of any office, department or agency or officer party thereto may by or under this Charter be assigned or transferred to another office, department or agency or officer, but in that event the same may be prosecuted or defended by the head of the office, department or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter.~~

Sec. 7-2. Severability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

~~**Sec. 133. Sec. 7-3. Repeal of conflicting laws; provisions considered as continuations of existing laws.**~~

(a) All laws and parts of laws relating to or affecting the Town of Surfside in force when this Charter shall take effect are hereby repealed and superseded to the extent that the same are inconsistent with the provisions of this Charter.

(b) Insofar as the provisions of this Charter are the same in terms or in substance and effect as provisions of law in force when this Charter shall take effect, relating to or affecting the Town of Surfside, the provisions of this Charter are intended to be not a new enactment but a continuation of such provisions of law and this Charter shall be so construed and applied.

~~**Sec. 134. Section 7-4. Ordinances and state law unimpaired.**~~

Nothing in this Act shall be so construed as to alter, abolish, affect or amend any of the laws of this state now in force, or which may hereafter be enacted, relative to towns and cities of the state, incorporated under the general law, nor any of the ordinances of the Town of Surfside, now in force under the existing municipal government of said Town of Surfside, except such as are in conflict with the provisions of this Act; and all such laws and ordinances are hereby declared to be in full force and effect.

~~Sec. 135. Former acts of officers confirmed.~~

~~All acts and proceedings of the various officers and employees of the said town before the ratification of this Charter are hereby approved, confirmed and validated as of the dates the same were made or done.~~

~~Secs. 136-138. Reserved.~~

~~Editor's note: Section 136 was repealed pursuant to Res. No. 620, § 1bb, ratified by the electors at a referendum held June 6, 1964. Section 1ddd of that resolution repealed § 137, 1mm repealed § 138.~~

~~Sec. 139. Records and accounts to be open to public; exception.~~

~~All records and accounts of every office, department or agency of the town shall be open to inspection by any citizen, any representative of the press, or citizens' organization, or any owner of property within the town, at all reasonable times and under reasonable regulation established by the Town Manager.~~

~~All records, documents and accounts will remain in the affected department or agency of the town, and no such records, documents or accounts will be allowed to be taken from these offices without prior written permission of the Town Manager.~~

~~(Res. No. 744, § 1(r), 1-15-70)~~

~~Editor's note: The provisions of § 139 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 7-5. Retention of Height, Density, and Intensity Restriction. (formerly Section 1-3 D.)

The Town Commission shall not adopt a text amendment to the Town Code and the Town Comprehensive Plan which would directly or indirectly increase the density, intensity, and height of development and structures within the Town of Surfside shall not exceed the maximum allowable densities, intensities floor areas, maximum allowable floor area ratios maximum allowable densities or intensities or the maximum allowable building heights that are set out in the Town of Surfside Comprehensive Plan and the Town Code, of the Town of Surfside whichever provisions are most restrictive, which are in effect on the date that this amendment is approved by a vote of the electors of the Town of Surfside. Upon becoming effective, 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.

Sec. 140. Sec. 7- 6. Commission members, officers, etc., not to have interest in companies, etc., contracting with the town.

No member of the Commission or any officers of the town shall have a financial interest direct or indirect, or by reason of ownership of stock in any corporation, except banks, trust companies, public utilities or corporations listed on national stock exchanges, in any contract or in the sale to the town, or to a contractor supplying the town, of any land or rights or interests in any land, material, supplies or services. Any willful violation of this section shall constitute malfeasance in office and any officer of the town found guilty thereof shall thereby forfeit his office or position.

Any violation of this section with the knowledge express or implied of the person or corporation contracting with the town shall render the contract voidable by the Town Manager or the Commission.

Sec. 7-7. Charitable contributions.

The Town shall not make any charitable contribution to any person or entity, except such contributions as have been approved by a supermajority.

Sec. 7-8. Charter revision Review.

At its first regular meeting in April of every ~~sixth~~ tenth (10th) year after the adoption of this Charter, commencing with December, 2013, or if the Charter is reviewed by a board convened by the Commission for charter review sooner than this time, then in the tenth (10th) year thereafter, the Commission shall appoint a Charter Review Board ~~revision-commission~~ consisting of five (5) persons, one of whom shall have served as a member of the previous Charter commission, and four (4) of whom shall be electors of the Town. If a former Charter ~~commission~~ Review Board member is not available to serve, five (5) electors of the Town, rather than four (4), shall be appointed. The No seated Town Commissioner shall be eligible for appointment to the Review Board. The ~~revision-commission~~ Review Board shall commence its proceedings within fifteen (15) days after appointment by the Commission. If the ~~revision-commission~~ Review Board determines that a revision is needed, it shall draft such amendments to this Charter with the assistance of the Town Attorney, as it deems appropriate and submit the same to the Commission not later than January 1 of the following year after their appointment by the Commission. The Commission shall, not less than sixty (60) days or more than one hundred and fifty (150) days after submission of the proposed amendments to the Commission, submit them to the electors of the City in accordance with the provisions of Section 6-2 hereinabove.

Sec. 7-9. Campaign Finance.

Beginning in March 2010, no campaign contribution in excess of \$250.00 shall be made by any person, business or corporation entitled to make a contribution and no campaign contribution in excess of \$100.00 shall be made by any one individual. In running for office, no candidate shall spend more than \$5000.00 per election.

The Town Commission shall adopt an ordinance relating to campaign financing to, among other things, mandate a limitation on both the amount of campaign contributions allowable as well as limit total spending by any candidate in a Town Commission election.

Sec. 7-9. Lobbyists.

~~In addition to any ordinances passed by the Town Commission on registration and other requirements for lobbyists, all lobbyist shall hereby be required to disclose in writing all Town Officials directly contacted by the lobbyist, any expenditures involved, any fundraising or campaign contributions made directly or indirectly by the lobbyist to any Town officials or on their behalf. Such disclosure shall be disseminated to the Town Commission prior to any public hearing on the event or matter for which such lobbyist may appear. Any violation of this section shall render the decision on the issue being lobbied voidable.~~

Sec. 140.1. Sec. 7-10. Reimbursement of defense costs.

When a member or former member of the Town Commission is charged with any violation of the Florida Code of Ethics for Public Officers and Employees he or she may request the Town Commission for reimbursement of the costs of defense. In its sole discretion, the Town Commission may reimburse said member or former member, in whole or in part, provided that the Town Commission determines that the charges arose out of the member's or former member's official duties as a Commissioners, that said member or former member is found not guilty of all such charges or all such charges are dismissed (without a finding of guilt).

(Ord. No. 1316, § 1, 6-8-93)

~~**Editor's note:** Section 140.1 was added to the Charter by ordinance that was not subject to referendum. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 7-11. Effective date.

This Charter shall take effect immediately upon its becoming a law. Upon approval by the majority of electors voting, the Charter amendments provided for herein shall be effective as provided by the ordinance which submitted the amendments to the electors for approval.

Sec. 141. Bonds of officers and employees.

~~All officers and employees of the town shall give bond in such amount and with such surety as may be approved by the Commission. The premiums on such bonds shall be paid by the town.~~

~~**Editor's note:** The provisions of § 141 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

Sec. 142. Oath of office.

~~Every officer of the town shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Town Clerk:~~

~~"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Florida, and that I will, in all respects, observe the provisions of the Charter and ordinances of the Town of Surfside, and will faithfully discharge the duties of the office of _____."~~

~~(Res. No. 620, § 1ccc, 4-14-64)~~

~~**Editor's note:** The provisions of § 142 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10. Sec. 143. Reserved.~~

~~**Sec. 143. Reserved.**~~

~~**Editor's note:** Section 143 was repealed pursuant to Res. No. 620, § 1zz, ratified by the electors at a referendum held June 6, 1964.~~

~~**Sec. 144. Depositories--Town Commission or Town Manager to designate.**~~

~~The Town Commission or Town Manager shall, from time to time, designate the depository or depositories for the funds of the town; provided, however, that no depository shall be designated that is not approved by the State of Florida Department of Insurance and Treasurer as a depository under the Florida Security for Public Deposits Act, F.S. ch. 280.~~

~~(Ord. No. 1149, § 1, 4-7-87)~~

~~**Sec. 145. Same--When bond or security required.**~~

~~The town depositories of the general fund, water revenue funds derived from special assessments other than sinking funds [sic], shall furnish such bond or security as required by the Town Commission.~~

~~**Editor's note:** The provisions of § 145 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 146. Investment of sinking funds.**~~

~~It shall be the duty of the Town Commission through the Town Manager to invest as savings accounts or otherwise all monies belonging to the town, collected and held as sinking funds; the investment of such funds to be done and made in such manner as, in the judgment of the Town Commission, may be to the best interest of the town. In making investments the Town Commission may purchase only interest-bearing United States Government bonds or bonds of the Town of Surfside, and none of these bonds at a higher price than the market price at the time of purchase. Deposits of the sinking fund cash balances shall be secured in the same manner and to the same extent as required for the general fund, the water revenue fund and funds derived from special assessments.~~

~~**Editor's note:** The provisions of § 146 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See~~

~~F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 147. Deposit of interest; interest to be credited to proper fund.~~

~~All moneys collected as interest shall be placed in a depository and credited by the Town Manager to the fund from which derived.~~

~~**Editor's note:** The provisions of § 147 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Sec. 148. Acceptance of dedicated streets.~~

~~No streets or alleys hereafter dedicated to public use by the owner of land in the town shall be deemed a public street or alley, or under the care and control of the Commission, unless the dedication be accepted and confirmed by ordinance passed for such purpose, or unless the provisions of this Charter or town ordinances relating to subdivisions shall have been complied with.~~

~~**Editor's note:** The provisions of § 148 appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~Secs. 149, Reserved.150.~~

~~**Editor's note:** Sections 149 and 156 were repealed pursuant to Res. No. 620, § 1e, ratified by the electors at a referendum held June 6, 1964. Section 1x of that resolution repealed § 155. Section 1vv of that resolution repealed § 150.~~

~~Sec. 151. Separability clause.~~

~~If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.~~

~~Sec. 152. Sec. 7-12. Resolving conflicts within Charter.~~

~~Should there be a conflict or apparent conflict in the provisions of any one section of this Charter, or between two or more sections thereof, then the Town Attorney shall resolve such conflict or apparent conflict by a written ruling which shall be legal and binding unless invalidated by a court of competent jurisdiction.~~

~~Sec. 153. Reserved.~~

~~Editor's note: Section 153 was repealed pursuant to Res. No. 620, § 1fff, ratified by the electors at a referendum held June 6, 1964.~~

~~**Sec. 154. Notice of damages prior to suits against town.**~~

~~No suit shall be maintained against the Town of Surfside, Florida, for any claim arising out of tort unless it shall be made to appear that written notice of any alleged damages was given within sixty days after the occurrence resulting in the alleged injury or damage.
(Res. No. 620, § 1ggg, 4-14-64)~~

~~Editor's note: The provisions of § 154 appear covered by F.S. § 768.28.~~

~~**Sees. 155, Reserved.156.**~~

~~Editor's note: See editor's note following § 149.~~

~~**ARTICLE X. IMPROVEMENTS AND SPECIAL ASSESSMENTS GENERALLY***~~

~~*Editor's note: The provisions of article X appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10.~~

~~**Sec. 157. Scope of authority.**~~

~~The Town Commission is hereby authorized and empowered in the manner herein provided to cause any waterway within said town to be bulkheaded; to cause groynes or jetties to be constructed along the shore and into the Atlantic Ocean to protect the mainland from the effects of erosion, the tides and winds; to cause Boardwalks or other walks or sea walls to be constructed along any property owned by the town, or in which it has a perpetual easement, or which is dedicated to the town or the public along or near the shore of the Atlantic Ocean; to cause any and all highways and streets, by whatever designation they may be known, or any part thereof, to be lighted, "whiteway" lighted, graded, paved, repaved, and to cause curbs and gutters to be constructed thereupon, and sanitary sewers, storm sewers and other drains to be laid or constructed in any such highway or street, or part thereof, and/or in any right-of-way or easement granted to or acquired by the town or any dedicated way, and may provide for the payment of all or any part of the costs of any such improvements by levying and collecting special assessments on the abutting, adjoining or other specially benefited property.~~

~~(Ord. No. 312, § 1(11), 3-22-55; Laws of Fla. ch. 31285(1955), § 11; Res. No. 543, 1-8-62)~~

~~**Sec. 158. Method of prorating special assessments.**~~

~~Special assessments against property deemed to be specially benefited by the improvements provided for hereinabove shall be assessed upon the property specially benefited by the improvement in proportion to the benefits to be derived therefrom, said special benefits to be determined and prorated according to the front footage of the respective properties specially~~

benefited by said improvement, or by such other method as the Town Commission may prescribe.

(Res. No. 543, 1-8-62)

Sec. 159. Resolution required to declare special assessment.

The initial proceedings for local improvements hereunder shall be the passage, at a regular or special meeting of the Town Commission, of a resolution ordering the same to be made, stating the nature of the proposed improvement, designating the streets, sidewalks, lot, block or other area or property to be so improved or the location of said sanitary sewers, storm sewers or drains, and the part or portion of the expense thereof to be paid by special assessments, the manner in which said assessments shall be made, when said assessments are to be paid, what part, if any, shall be apportioned to be paid from funds of the town, and said resolution shall also designate the lands upon which the special assessments shall be levied, and in describing said lands it shall be sufficient to describe them as "all lots and lands adjoining and contiguous or bounding and abutting upon such improvements or specially benefited thereby and further designated by the assessment plat hereinafter provided for." Nothing herein contained, however, shall be construed to prevent the designation of lots or lands which are not adjoining, contiguous to, bounding or abutting each other in connection with the bulkheading, groynes, jetties, sea walls and other improvements to waterfront properties subject to erosion or tides. Such resolution shall also state the total estimated cost of the improvement.

(Res. No. 543, 1-8-62)

Sec. 160. Plans and specifications, with estimated cost of proposed improvement required before adoption of resolution.

At the time of the adoption of the resolution provided for in section 159, there shall be on file with the Town Clerk, an assessment plat showing the area to be assessed, with plans and specifications, and an estimate of the cost of the proposed improvement, which assessment plat, plans and specifications and estimate shall be open to the inspection of the public.

(Res. No. 543, 1-8-62)

Sec. 161. Publication of resolution.

Following the adoption of the resolution provided for in section 159, the Town Clerk shall cause said resolution to be published once a week for a period of two weeks in a newspaper of general circulation published in Dade County.

(Res. No. 543, 1-8-62)

Sec. 162. Assessment roll.

Upon the adoption of the resolution aforesaid, the Town Manager shall cause to be made an assessment roll in accordance with the method of assessment provided for in said resolution, which assessment roll shall be completed and filed with the Town Commission as promptly as possible; said assessment roll shall show the lots and lands assessed, the amount of the assessment against each lot or parcel of land, and if said assessment is to be paid in installments,

~~the number of annual installments in which the assessment is divided shall also be entered and shown upon said assessment roll.
(Res. No. 543, 1-8-62)~~

~~Sec. 163. Publication of assessment roll.~~

~~Upon the completion of said assessment roll, the Town Commission shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons interested therein may appear and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor and as to the amount thereof to be assessed against each property so improved. Twenty days' notice in writing of such time and place shall be given to such property owners, which shall be served by mailing a copy of such notice to each of such property owners at his last known address, the names and addresses of such property owners to be obtained from the records of the tax assessor or from such other sources as the Town Clerk deems reliable, proof of such mailing to be made by the affidavit of the Town Clerk; provided that failure to mail such notice or notices shall not invalidate any of the proceedings hereunder. Notice of the time and place of such hearing shall also be given by two publications a week apart in a newspaper of general circulation in Dade County, Florida; provided that the last publication shall be at least one week prior to the date of the hearing. Said notice shall describe the nature of the improvement and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the Town Clerk. Such service by publication shall be verified by the affidavit of the publisher and filed with the Town Clerk.
(Res. No. 543, 1-8-62)~~

~~Sec. 164. Equalizing Board to hear complaints and adjust assessments; rebate or difference in cost and assessment.~~

~~At the time and place named in the notice provided for in section 163, the Town Commission shall meet as an equalizing Board to hear and consider any and all complaints as to such special assessments on a basis of justice and right, and when so equalized and approved by resolution or ordinance of the Commission, such assessments shall stand confirmed, and remain legal, valid and binding first liens, upon the property against which such assessments are made, until paid; provided however, that upon completion of the improvement the town shall credit to each of said assessments the difference in the assessment as originally made, approved and confirmed, and the proportionate part of the actual cost of said improvement to be paid by special assessments as finally determined upon the completion of said improvement, provided that in no event shall the final assessments exceed the amount originally assessed. Promptly after such confirmation, the assessments shall be recorded by the Town Clerk in a special book, to be known as the "improvement lien book," and the record of the lien in said book shall constitute prima facie evidence of its validity.
(Res. No. 543, 1-8-62)~~

~~Sec. 165. Priority of lien, interest and method of payment.~~

~~Said assessments shall be payable at the time and in the manner stipulated in the resolution providing for said improvements, and said special assessments shall remain liens, co-equal with the lien of other taxes, superior in dignity to all other liens, titles and claims, until paid, and shall bear interest at the rate of not to exceed seven per cent per annum from the date of the acceptance of said improvement and may, by the resolution aforesaid, be made payable in not more than ten equal yearly installments, to which, if not paid when due, there shall be added a penalty at the rate of one per cent per month, until paid; provided that said assessments may be paid without interest at any time within thirty days after the improvement is completed, and a resolution accepting the same has been adopted by the Town Commission.~~
(Res. No. 543, 1-8-62)

~~Sec. 166. Legal proceedings instituted upon failure of property owner to pay special assessment or interest when due; foreclosure; service of process.~~

~~Each annual installment provided for in section 165 shall be paid upon the dates specified in said resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and upon the failure of any property owner to pay any annual installment due, or any part thereof, or any annual interest upon deferred payments, the Town Commission shall cause to be brought the necessary legal proceedings by a bill in chancery to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable attorney's fee to be assessed as part of the costs, and in the event of default in the payment of any installment of an assessment, or any accrued interest on said assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and the property assessed subject to foreclosure. In the foreclosure of any special assessment, service of process against unknown or non resident defendants may be had by publication, as now provided by law in other chancery suits. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages.~~
(Res. No. 543, 1-8-62)

~~Sec. 167. Bonds may be issued to an amount not exceeding the amount of liens assessed for the cost of improvements to be paid by special assessment.~~

~~After the equalization, approval and confirmation of the levying of the special assessments for improvements as provided by section 164 and as soon as a contract for said improvement has been finally let, the Town Commission may by ordinance authorize the issuance of bonds, to be designated "Improvement Bonds, Series No. _____," in an amount not in excess of the aggregate amount of said liens levied for such improvements. Said bonds shall be payable from a special and separate fund to be known as the "Improvement Fund, Series No. _____," which shall be used solely for the payment of the principal and interest of said "Improvement Bonds, Series No. _____," and for no other purpose. Said fund shall be deposited in a separate bank account and all the proceeds collected by the town from the principal, interest and penalties of said liens shall be deposited and held in said fund. Said bonds so issued shall never exceed the amount of liens assessed, and said bonds shall mature not later than six months after the maturity of the last installment of said liens. Said bonds shall bear certificates signed by the Town Clerk certifying that the amount of liens levied, the proceeds of~~

~~which are pledged to the payment of said bonds, are equal to the amount of the bonds issued. The bonds may be delivered to the contractor in payment for his work or may be sold at public or private sale for not less than par and accrued interest, the proceeds to be used in paying for the cost of the work. Said bonds shall not be a charge on, or payable out of, the general revenues of the town, but shall be payable solely out of said assessments, installments, interest and penalties. Any surplus remaining after payment of all bonds and interest thereon shall revert to the town and shall constitute surplus as defined in section 49 of this Charter.~~
(Res. No. 543, 1-8-62)

~~Sec. 168. Assessments to be made until valid.~~

~~If any special assessment made under the provisions of this article to defray the whole or any part of the expense of any said improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Town Commission shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the Town Commission shall have omitted to make such assessment when it might have done so, the Town Commission shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property specially benefited by any improvement, following as nearly as may be the provisions of this article and in case such second assessment shall be annulled, the Town Commission may obtain and make other assessments until a valid assessment shall be made.~~
(Res. No. 543, 1-8-62)

~~Sec. 169. Portion of cost of improvement and items considered improvement cost may be paid out of general funds or any special fund for the purpose.~~

~~The Town Commission may pay out of its general funds or out of any special fund that may be provided for that purpose such portion of the cost of any improvement as may be provided in the resolution adopted under section 159.~~
(Res. No. 543, 1-8-62)

~~Sec. 170. Assessment roll sufficient evidence of assessment and other proceedings of this article; variance not material unless party objecting materially injured thereby.~~

~~Any informality or irregularity in the proceedings in connection with the levy of any special assessment under the provisions of this article shall not affect the validity of the same where the assessment roll has been confirmed by the Town Commission, and the assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of the said assessment roll were duly had, taken and performed as required by this article; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.~~
(Res. No. 543, 1-8-62)

~~Sec. 171. Denomination of bonds, interest, place of payment, form, signatures, coupons and delivery.~~

~~All bonds issued under this article shall be the denomination of one hundred dollars, or some multiple thereof, and shall bear interest at a uniform rate not exceeding six per cent per annum, payable annually or semi-annually thereafter until maturity, and not exceeding ten per cent per annum after maturity, and both principal and interest shall be payable at such place or places as the Town Commission may determine. The form of such bonds shall be fixed by ordinance of the Town Commission and said bonds shall be signed by the Mayor and the Town Clerk, under the seal of the town; the coupons, if any, shall be executed by the facsimile signatures of said officers. The delivery of any bond and coupons so executed at any time thereafter shall be valid although before the date of delivery the person signing such bonds or coupons shall cease to hold office.~~

~~(Res. No. 543, 1-8-62)~~

~~Sec. 172. Construction and authority of article.~~

~~This article shall, without reference to any other law of Florida, be full authority for the issuance and sale of the bonds by this article authorized, and shall be construed as an additional and alternative method for the financing of the improvements referred to herein. No ordinance, resolution, election or proceedings in respect to the issuance of any bonds hereunder shall be necessary, except such as is required by this article, and no publication of any resolution, ordinance, election, notice or proceeding relating to the issuance of the bonds provided for by this article shall be required, except such as required by this article.~~

~~(Res. No. 543, 1-8-62)~~

~~Sec. 173. Bonds negotiable.~~

~~Bonds issued hereunder shall have all the qualities of negotiable paper under the law merchant, and shall not be invalid for any irregularity or defect in the proceedings for the issue and sale thereof, and shall be incontestible in the hands of bona fide purchasers or holders thereof for value.~~

~~(Res. No. 543, 1-8-62)~~

~~Sec. 174. Provisions of article supplemental, additional and alternative procedure.~~

~~This article shall not preclude the use by the town of any general or special law of the State of Florida relating to the subject matter hereof, but shall be deemed to provide a supplemental, additional and alternative method of procedure for the benefit of the town.~~



**Town of Surfside
Town Commission Meeting
February 9, 2010
7 p.m.**

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

MINUTES

1. Opening

A. Call to Order

The meeting was called to order at 7:03 p.m.

B. Roll Call of Members

Town Clerk, Debra Eastman called the roll and the following were present:
Commissioner Elizabeth Calderon, Commissioner Steven Levine, Commissioner
Howard Weinberg, Vice Mayor Marc Imberman and Mayor Charles Burkett.

C. Pledge of Allegiance

Chief of Police, David Allen led the Pledge of Allegiance.

D. Agenda and Order of Business (Additions, Deletions)

Vice Mayor Marc Imberman requested that the item Citizen's Action Team be moved from Mayor, Commission, Staff Communications to 1E4, Special Presentations.
Vice Mayor Marc Imberman requested that item 9D, In house Landscaper be replaced with an item entitled Vacant Beach House Construction Site.
Commissioner Elizabeth Calderon added item 9J, Investment Policy Committee
Commissioner Howard Weinberg stated that on item 9A, Relief for Haiti he will be seeking action.

E. Special Presentations

1. Officer of the Month – Chief David Allen

Chief David Allen presented the Officer of the Month Award to Sergeant Rory Alberto for his outstanding performance.

2. Community Center Update – CGA/AECOM

Chris Giordano, Calvin Giordano and Associates presented the Community Center update and the status of the permits.

3. Beautification Committee Report

Beautification Committee Member, David Steinfeld reported on the recommendations of the Committee for downtown beautification, including hanging baskets, removal of some smaller palms and replanting. He further indicated that the Committee is willing to commit to a fund raising project. It was

a consensus of the Town Commission to appropriate \$300 for a sketch of the proposed plan and to match the amount of dollars raised through the Committee's fund raising efforts with a match from the Town Parking Fund.

4. **Citizens Action Team** – Vice Mayor Marc Imberman
Vice Mayor Marc Imberman explained the Citizen's Action Team was formed to assist residents with projects. He thanked the group for their recent efforts in cleaning the yard of an elderly resident.
2. **Quasi-Judicial Hearings**
 3. **Consent Agenda**

- A. Minutes – Town Commission Meeting, January 12, 2010
- B. Monthly Budget to Actual Summary - Martin Sherwood, Finance Support Services Department Head
- C. Projects Progress Report – George Keller, Calvin, Giordano & Associates
- D. Bay Harbor Islands Mutual Aid Agreement –Chief David Allen
A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND DIRECTING THE TOWN MANAGER AND TOWN CLERK TO EXECUTE A MUTUAL AID AGREEMENT WITH THE TOWN OF BAY HARBOR ISLANDS, FLORIDA POLICE DEPARTMENT AND THE TOWN OF SURFSIDE POLICE DEPARTMENT.

Vice Mayor Marc Imberman made a motion to adopt the items on the consent agenda. The motion received a second from Commissioner Steven Levine. Mayor Charles Burkett called for the vote and all were in favor.

4. **Ordinances and Public Hearings**
 - A. **Second Readings (Ordinances)**
 1. Downtown Property Maintenance Ordinance – Lynn Dannheisser, Town Attorney
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 14-51 “ESTABLISHED”; AMENDING CHAPTER 14-52 “COMMERCIAL STANDARDS”; CREATING SECTION 14-56 “MAINTENANCE OF SIDEWALKS AND SWALE AREA” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.
Debra Eastman, Town Clerk read the title of the ordinance. Commissioner Steven Levine made a motion to adopt the ordinance on second reading. The motion

received a second from Commissioner Elizabeth Calderon. Mayor Charles Burkett opened the public hearing. There was no comment. Debra Eastman, Town Clerk called the roll and all were in favor.

2. Emergency Management Procedures – Assistant Chief John Di Censo
AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 2 “ADMINISTRATION” BY ADDING ARTICLE VIII. “EMERGENCY MANAGEMENT PROCEDURES”; PROVIDING FOR PURPOSE, PROVIDING FOR DEFINITIONS, AND EMERGENCY MANAGEMENT STRUCTURE; PROVIDING DECLARATION OF A STATE OF EMERGENCY, TERMINATION OF A STATE OF EMERGENCY, THE SUSPENSION OF LOCAL BUILDING REGULATIONS, AND THE CERTIFICATION OF EMERGENCY CONDITIONS; PROVIDING FOR COORDINATION WITH MIAMI-DADE COUNTY; PROVIDING FOR PENALTY; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE.

Debra Eastman, Town Clerk read the title of the ordinance. Commissioner Howard Weinberg made a motion to adopt the ordinance on second reading. The motion received a second from Commissioner Steven Levine. Mayor Charles Burkett opened the public hearing. There was no public comment. Police Chief David Allen spoke in favor of the ordinance. Debra Eastman, Town Clerk called the roll and all were in favor.

B. First Readings (Public Hearings on Ordinances)

1. Noise Ordinance – Town Attorney, Lynn Dannheisser
AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 54-78 “PROHIBITED NOISES” BY PROVIDING FOR RESTRICTIONS ON DECIBEL LEVEL OF EMERGENCY POWER GENERATORS AND ALLOWING FOR TESTING; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE.

Debra Eastman, Town Clerk read the title of the ordinance. Commissioner Steven Levine made a motion to introduce the ordinance on first reading. The motion received a second from Commissioner Elizabeth Calderon. Mayor Charles Burkett requested that the ordinance be amended to include language which would suspend the decibel during periods of emergency. Town Attorney Lynn Dannheisser suggested that the Planning and Zoning Board be invited to attend a future meeting to discuss the ordinance. Commissioner Steven Levine made a motion to defer the ordinance. The motion received a second from Commissioner Elizabeth Calderon. Debra Eastman, Town Clerk called the roll and all were in favor of the deferral.

2. Fences, Walls and Hedges Amendment – Town Attorney, Lynn Dannheisser
AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90.56.17 “FENCES, WALLS AND HEDGES” TO

PROVIDE REGULATIONS RELATED TO TEMPORARY CONSTRUCTION FENCING; PROVIDING FOR REPEAL; SEVERABILITY, INCLUSION INTO THE CODE; AND AN EFFECTIVE DATE.

Debra Eastman, Town Clerk read the title of the ordinance. A motion was made by Commissioner Steven Levine to introduce the ordinance on first reading. The motion received a second from Commissioner Elizabeth Calderon. Debra Eastman, Town Clerk called the roll and all were in favor.

3. Off-Street Parking Ordinance – Town Attorney, Lynn Dannheisser
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 AND SPECIFICALLY SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

Debra Eastman, Town Clerk read the title of the ordinance. A motion was made by Commissioner Elizabeth Calderon to introduce the ordinance on first reading. The motion received a second from Commissioner Elizabeth Calderon. Town Planner, Sarah Sinatra explained that all sites owned by the Town do not comply with the zoning ordinance. Vice Mayor Marc Imberman suggested an amendment to the ordinance that would restrict by use. The maker of the motion and the second agreed to the amendment. Debra Eastman, Town Clerk called the roll and all were in favor of the amended motion.

5. Resolutions and Proclamations

6. Good and Welfare

Richard Iacobacci spoke in favor of increasing the hours previously cut from Code Enforcement.

A resident spoke about the activities and events being held in her condominium building.

7. Town Manager and Town Attorney Reports

A. Historic Preservation of Surf Club – Lynn Dannheisser, Town Attorney

Town Attorney Lynn Dannheisser reported on a meeting with the Surf Club who is seeking historic preservation and advised that she will be bringing a resolution for endorsement to a future meeting.

B. Opposition to FL League of Cities HB 119, Sex Offender Bill – Lynn Dannheisser, Town Attorney

Town Attorney Lynn Dannheisser reported on the impact of HB 119. A motion was made by Vice Mayor Marc Imberman to formally oppose the bill. The motion received a second from Commissioner Howard Weinberg. Mayor Charles Burkett called for the vote and all were in favor.

8. Unfinished Business and New Business

A. Purchase of Proposed Vacant Lot – Gary Word, Town Manager

Town Manager, Gary Word presented the terms of the purchase to the Town Commission. Bennett Feldman spoke on behalf of the owner of the property. A motion was made by Commissioner Elizabeth Calderon to purchase the property with the terms and conditions set forth by the Town Manager. The motion received a second from Commissioner Howard Weinberg. Town Clerk, Debra Eastman called the roll and the motion passed 3-2 with Mayor Charles Burkett and Vice Mayor Marc Imberman voting in opposition.

B. Financing of Lifeguard Stand – Gary Word, Town Manager

Town Manager, Gary Word presented a plan for funding to build the lifeguard stand with funds from Parks and Recreation, Department of Public Works, savings from Special Projects Coordinator position elimination and the Finance Department. A motion to adopt the recommendation was made by Commissioner Elizabeth Calderon. The motion received a second from Commissioner Howard Weinberg. Town Clerk, Debra Eastman called for the vote and the motion was adopted 3-2 with Mayor Charles Burkett and Vice Mayor Marc Imberman voting in opposition.

9. Mayor, Commission and Staff Communications

A. Haitian Relief and Recovery Fund – Commissioner Howard Weinberg

Commissioner Howard Weinberg explained the program set forth by the Miami Dade League of Cities to create a fund on behalf of the Country of Haiti. Commissioner Weinberg made a motion to donate \$7,500 to the fund. The motion received a second from Vice Mayor Marc Imberman. Town Clerk, Debra Eastman called the roll and the motion passed 3-2 with Mayor Charles Burkett and Commissioner Elizabeth Calderon voting in opposition.

C. Home on Carlyle – Mayor Charles Burkett

Town Manager, Gary Word and Building Official, Paul Gioia, explained this is an active construction site and the building is not habitable.

D. Recognition of Committee Members who served from March, 2008 through March, 2010 – Vice Mayor Marc Imberman

Vice Mayor Marc Imberman reported that he is including an item on the March agenda to recognize the members of the Town Committees over the past two years.

E. In-house Landscaper – Vice Mayor Marc Imberman

This item deleted from agenda and Vacant Beach House Construction Site added in its place.

Vacant Beach House Construction Site –

Vice Mayor Marc Imberman reported on the unsightly condition of the Beach House Lot. He made a motion to direct the Town Manager to fence and screen the property adequately and to place a lien on the property for the same. The motion received a second from Commissioner Elizabeth Calderon. After further discussion, the motion was withdrawn and the Town Manager was directed to investigate the property to what can be done.

- F. Town Photos on Website – Vice Mayor Marc Imberman**
Vice Mayor Marc Imberman requested that photos taken be placed on the website and labeled with the name of the event. By consensus the Commission requested that the Town Manager add the photos to the website.
- G. Recognition of Citizen’s Action Team – Vice Mayor Marc Imberman**
Discussed under item 1E4.
- H. Report on Pilot Program on Advertising in Gazette – Vice Mayor Marc Imberman**
Town Manager, Gary Word reported on the revenue from advertising in the Gazette for the month of February.
- I. Committee Vacancies – Debra Eastman, Town Clerk**
Town Clerk, Debra Eastman announced there was one vacancy on the Parks and Recreation Committee.
- J. Investment Policy Committee – Commissioner Elizabeth Calderon**
Commissioner Calderon
Commissioner Elizabeth Calderon spoke in favor of the formation of the Investment Policy Committee. It was suggested that the Town Manager prepare the criteria, qualifications, meeting requirements and authority and report to the Town Commission.

10. Adjournment The meeting adjourned at 10 p.m.

Accepted this ____ day of ____, 2010.

Charles Burkett, Mayor

Attest:

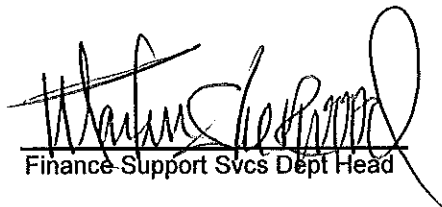
Debra E. Eastman, MMC
Town Clerk

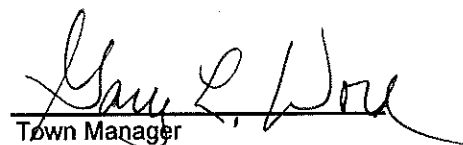
TOWN OF SURFSIDE, FLORIDA
MONTHLY BUDGET TO ACTUAL EXPENSE SUMMARY
FISCAL YEAR 2009/2010
As of December 31, 2009
25% OF YEAR EXPIRED (BENCHMARK)

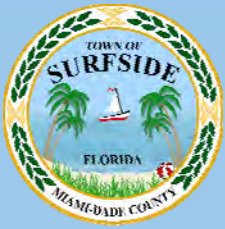
Agenda Item # 3 B

Agenda Date: March 9, 2010

	ACTUAL EXPENSES	ANNUAL BUDGETED EXPENSES	% BUDGET
GOVERNMENTAL FUNDS:			
GENERAL FUND	\$3,600,133	\$13,067,345	28%
RESORT TAX	\$29,155	\$134,000	22%
POLICE FORFEITURE/CONFISCATION	\$17,067	\$73,250	23%
TRANSPORTATION SURTAX	\$22,390	\$223,261	10%
CAPITAL PROJECTS	\$54,172	\$5,035,000	1%
ENTERPRISE FUNDS:			
WATER & SEWER	\$599,378	\$4,850,096	12%
MUNICIPAL PARKING	\$60,560	\$2,097,100	3%
SOLID WASTE	\$277,585	\$1,282,304	22%
STORMWATER	\$31,631	\$246,000	13%


 Finance Support Svcs Dept Head


 Town Manager



TOWN OF SURFSIDE

9293 Harding Avenue
Municipal Building
9293 Harding Avenue
Surfside, Florida 33154
(305) 861-4863
(305) 861-1302

Charles W. Burkett
Mayor

Marc Imberman
Vice Mayor

Howard Weinberg
Commissioner

Steven Levine, ESQ.
Commissioner

Elizabeth Calderon, ESQ.
Commissioner

Gary Word
Town Manager

TOWN OF SURFSIDE PROJECTS PROGRESS REPORT March, 2010

1. **Community Center** – The Architect has responded to the Florida Department of Environmental Protection’s request for additional information. The permit expeditor has stated that this should be the last request from the Florida Department of Environmental Protection. The Architect has also held a meeting with The Miami Dade Fire plan reviewer to come to an understanding. The Architect has submitted revised drawings per their meeting. The Town has received the first round of submittals from West Construction and they are currently under review. These submittals included shop drawings & specifications for proposed equipment.
2. **Planning and Community Development** - Staff has reviewed a site plan application for a hotel on 92nd Street between Collins and Harding Avenues. This application was heard by the Planning and Zoning Board on February 25, 2010 and it was unanimously recommended for approval to the Town Commission. Staff participated in the Business Owners meeting on February 22, 2010 where the future of the business district was discussed. Some code changes may result from discussions at this meeting.
3. **Website, Information Technology, TV Broadcasts** - IT has reviewed the Fixed Asset Schedule and presented an updated inventory report to the finance department. IT has worked with the police department to upgrade the battery backup units supplying the town’s servers and phone system while FPL is looking into the power outages. Some of the town employees’ cell phones have been upgraded to Motorola Droids. A schedule of meetings and activities has been posted to Channel 77 to let residents know when they can view different material. IT is following up on the finance department’s request to price other options for e-mail filtering and archiving.
4. **Public Utilities / Engineering** –

Bay Drive Drainage Improvements

The Bay Drive Drainage Improvements are part of the Florida Department of Environmental Protection grant that included stormwater pumps and drainage wells. This project is scheduled for construction contemporaneously with the proposed water main replacement and the sanitary sewer renovation. In addition, cable TV and telephone (AT&T U-Verse) underground cable is proposed during the construction to further limit disruption of traffic and reduce pavement restoration.

The installation of conduit for future Florida Power and Light undergrounding is considerably expensive, as well as legally encumbering to the property owners and the Town. For instance, Florida Power and Light requires a 10 ft contiguous and exclusive easement outside the right of way - without landscaping, walls or other improvements to accommodate the underground conduit. The strict easement requirements linked with the high individual connection costs is considered prohibitive.

Florida Department of Environmental Protection Stormwater Project

The Florida Department of Environmental Protection project consists of three below grade pump stations, 9 drainage wells, drainage structures, and stormwater collection system to improve both the water quality and quantity before discharging into the Biscayne Bay. The following items are complete:

Task 1: Surveying

Task 2: Engineering Design and Permitting (A Florida Department of Environmental Protection application is required by the contractor, however they have approved the plans)

Task 6: Grant Administration – in process

Task 7: Education – Required for the duration of the project

The Stormwater projects will require several phases to complete to coincide with the grant schedule and other funding sources. Construction of water mains, sanitary sewer and the undergrounding of cable and phone lines should also coincide with the stormwater sewer phases to reduce pavement restoration costs.

Stormwater Master Maintenance

The contractor has cleaned the Town's catch basins and stormwater collection system and the pipes. A community-wide atlas showing each of the improvements, condition and recommendations will be needed to maintain the system on a yearly basis as required by the National Pollution Discharge Elimination System Permit. Repairs and replacement program will coincide with the Florida Department of Environmental Protection Stormwater project and grants will augment the CIP as necessary. The annual National Pollution Discharge Elimination System reports need to be submitted with Miami Dade County as a Co-Permittee.

Wastewater System

The Surfside sanitary sewer meters were found to be reading high and were calibrated. The acceptance Miami Beach invoice will be finalized after receipt of the Town's sewer meter readings. Miami Beach has installed two dedicated Sewer Meters consistent with the tri-party agreement with Miami Beach, Bal Harbor and the Town of Surfside. Currently, three months of daily readings have been obtained and analyzed.

Proposals for wastewater improvements, such as the sanitary sewer pump station replacements, are currently being evaluated for implementation. Costs and unit prices are being established for lining the moderately cracked pipes and point repairs for the broken pipes. Bidding of the repairs is expected this year for lining the existing sanitary lines and manholes. CGA is currently coordinating with the Florida Department of Transportation and

their engineering consultant to determine Harding and Collins overlay impacts to sanitary sewer lining/replacement. Plans (60%) were received from their consultant on March 1, 2010.

The Miami Dade Environmental Resource Management Peak Flow Study was submitted February 4, 2010. The purpose of the study demonstrates the compliance with the current law, codes and Consent Decree.

Water System

The contract documents are complete with permitting in process. Advertisement, bid, award and replacement of the aging system are funded; however, the County has released the \$829,000 General Obligation Bond. The project was scheduled to start by the end of 2009; however, the funding delay will require postponement until March 2010.

Calvin Giordano and Associates is currently coordinating with the Florida Department of Transportation and their consultant to determine Harding and Collins overlay impacts to water main replacement. It is anticipated that 5 water main taps will need to occur on Harding prior to the Florida Department of Transportation overlay work is done. Plans (60%) were received from Florida Department of Transportation's consultant on March 1, 2010.

Florida Department of Transportation Local Agency Program

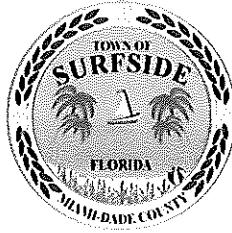
Plans (60%) were received from their consultant on March 1, 2010. Calvin Giordano and Associates is currently investigating any overlap of the handicap ramps or bus stop replacement between the City's Local Agency Program plans and the Florida Department of Transportation plans received from their consultant.

5. **Transportation and Traffic Engineering** - The Town of Surfside Stop Sign/Traffic Intrusion Analysis is 100% complete and accepted by the Town Commission. Traffic calming recommendations will be phased in by priority by the Town Manager and Public Works Director.
 - a. The revised site plan for the Hotel at 9200 Collins has been reviewed with comment. A meeting took place with the applicant on 2/8/10 to discuss the ingress/egress concerns and applicant will resubmit plans. The applicant is proposing to construct a 4-story 183 room hotel with adjacent parking garage at 9200 Collins Avenue within the Town of Surfside. A meeting was held with applicant to address concern.

6. **Parks** - State staff recommended that Surfside create a Town Recreational Trail map
 - a. Identifying all the points of public access to Indian Creek and the Atlantic Ocean, and identify all public parks and green spaces within the Town, including all parks within a 3-mile radius. Staff is currently working with the Miami-Dade Parks and Recreation staff, and the Metropolitan Planning Organization to request that the trail be adopted by the Miami-Dade County Commission.

7. **Grants** -

- a. The FY 2010 an application for the Department of Environmental Protection Section 319 Non-point Source Management Program Grant will be submitted by May 23, 2010 for the stormwater improvements.
 - b. Grants for sanitary and water system improvements, as well as roadway improvements and other Town improvements are being reviewed as possible revenue sources to accomplish the projects.
8. **Capital Improvement Projects** - Calvin Giordano has provided the town with a list of concerns regarding safety issues and American Disability Act access for several Beach Walk Access points in the Capital Improvement Projects reports. Upon request by The Town, the Landscape Architecture Department will provide detailed plans to address these deficient areas.



Town of Surfside Commission Communication

Agenda Item # 3 D

Agenda Date: March 9, 2010

Subject: Proposed Mutual Aid Agreement with the Miami Beach Police Department

Background: The Town staff has received notice that the current Mutual Aid Agreement with the Miami Beach Police Department expired in January 2010. A new agreement has been drafted (attachments A) and will remain in effect until December 31, 2014.

Analysis: The Surfside Police Department requires approval and authorization to enter into the proposed agreement at the request of the Miami Beach Police Department to maintain continuity of voluntary and operational assistance.

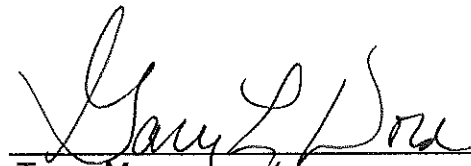
Budget Impact: N/A

Staff Impact: N/A

Recommendation: It is recommended that the Surfside Town Commission approve the Mutual Aid Agreement with the Miami Beach Police Department (attachment A).



Department Head



Town Manager

RESOLUTION NO. 10 - ____

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND DIRECTING THE TOWN MANAGER AND TOWN CLERK TO EXECUTE A MUTUAL AID AGREEMENT FOR VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE WITH THE CITY OF MIAMI BEACH POLICE DEPARTMENT.

WHEREAS, the Town Commission of the Town of Surfside, Florida would like to enter into a Mutual Aid Agreement For Voluntary Cooperation And Operational Assistance Between the Town of Surfside Police Department and the City of Miami Beach Police Department;

WHEREAS, the Town Commission believes that it is in the best interest of the Town to enter into the agreement attached as Exhibit "A";

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

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

Section 2. Authorization. The Town Commission hereby authorizes the execution of the Mutual Aid Agreement For Voluntary Cooperation And Operation Assistance Between the Town of Surfside Police Department and the City of Miami Beach Police Department attached hereto as Exhibit "A" and authorizes the Town Manager and Town Police Chief to do all things necessary to effectuate this Agreement.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED on this ____ day of February, 2010.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

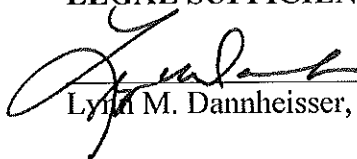
Commissioner Elizabeth Calderon _____
Commissioner Steven Levine _____
Commissioner Howard Weinberg _____
Vice Mayor Marc Imberman _____
Mayor Charles Burkett _____

Charles W. Burkett, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

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



Lynn M. Dannheisser, Town Attorney

**VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE
MUTUAL AID AGREEMENT
BETWEEN THE TOWN OF SURFSIDE, AND
THE CITY OF MIAMI BEACH, FLORIDA**

WHEREAS, it is the responsibility of the governments of the Town of Surfside, Florida, and the City of Miami Beach, Florida, to ensure the public safety of their respective citizens by providing adequate levels of police services to address any foreseeable routine or emergency situation; and

WHEREAS, because of the existing and continuing possibility of the occurrence of law enforcement problems and other natural and man-made conditions which are, or are likely to be, beyond the control of the services, personnel, equipment, or facilities of the Town of Surfside Police Department or the City of Miami Beach Police Department; and

WHEREAS, in order to ensure that preparation of these law enforcement agencies will be adequate to address any and all of these conditions, to protect the public peace and safety, and to preserve the lives and property of the people of the Town of Surfside and the City of Miami Beach; and

WHEREAS, it is to the advantage of each law enforcement agency to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to:

- (1) Continuing, multi jurisdiction law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people; and
- (2) Intensive situations including but not limited to emergencies as defined under §252.34, Florida Statutes, or requests for certain law enforcement services specified herein and as defined under §23.1225, Fla. Stat.; and

WHEREAS, the Town of Surfside and the City of Miami Beach have the voluntary cooperation and assistance authority under the Florida Mutual Aid Act, §23.12-23.127, Fla. Stat., to enter into this voluntary cooperation and assistance Mutual Aid Agreement for law enforcement service which:

- (1) Permits voluntary cooperation and operational assistance of a routine law enforcement nature across jurisdictional lines as allowed under §23.1225, Fla. Stat.; and
- (2) Provides for rendering of assistance in a law enforcement emergency as defined in §252.34, Fla. Stat.,

NOW THEREFORE, BE IT KNOWN that the Town of Surfside, Florida and the City of Miami Beach, Florida, in consideration for mutual promises to render valuable aid in times of necessity, do hereby agree to fully and faithfully abide by and be bound by the following terms and conditions:

SECTION I: PROVISIONS FOR VOLUNTARY COOPERATION

Each of the aforesaid law enforcement agencies hereby approve and enter into this Agreement whereby each of the agencies may request and render law enforcement assistance to the other in dealing with any violations of Florida Statutes to include, but not necessarily be limited to, investigating sex offenses, robberies, assaults, batteries, burglaries, larcenies, gambling, motor vehicle thefts, drug violations pursuant to Chapter 893, F.S., routine traffic offenses, backup services during patrol activities, and interagency task forces and/or joint investigation.

SECTION II: PROVISIONS FOR OPERATIONAL ASSISTANCE

The aforesaid law enforcement agencies hereby approve and enter into this Agreement whereby each of the agencies may request and render law enforcement assistance to the other to include, but not necessarily be limited to dealing with, the following:

1. Joint multi jurisdictional criminal investigations
2. Civil affray or disobedience, disturbances, riots, large protest demonstrations and assemblies, controversial trials, political conventions, labor disputes, and strikes.
3. Any natural disaster.
4. Incidents which require rescue operations and crowd and traffic control measures including, but not limited to, large-scale evacuations, aircraft and shipping disasters, fires, explosions, gas line leaks, radiological incidents, train wrecks and derailments, chemical or hazardous waste spills, and electrical power failures.
5. Terrorist activities including, but not limited to, acts of sabotage.
6. Escapes from, or disturbances within, prisoner processing facilities.
7. Hostage and barricaded subject situations, and aircraft piracy.
8. Control of major crime scenes, area searches, perimeter control, back-ups to emergency and in-progress calls, pursuits, and missing person calls.
9. Enemy attack.
10. Transportation of evidence requiring security.
11. Major events, e.g., sporting events, concerts, parades, fairs, festivals, and conventions.
12. Security and escort duties for dignitaries.
13. Incidents requiring utilization of specialized units; e.g., underwater recovery, aircraft, canine, motorcycle, bomb, crime scene and police information.
14. Emergency situations in which one agency cannot perform its functional objective.
15. Joint training in areas of mutual need.
16. Joint multi jurisdictional marine interdiction operations.

The following procedures will apply in mutual aid operations:

1. Mutual aid requested or rendered will be approved by the Chief of Police, or designee.
2. Specific reporting instructions for personnel rendering mutual aid will be included in the request for mutual aid. In the absence of such instructions, personnel will report to the ranking on-duty supervisor on the scene.
3. Communications instructions will be included in each request for mutual aid and each agency's communications centers will maintain radio contact with each other until the mutual aid situation has ended.
4. Incidents requiring mass processing of arrestees, transporting prisoners, and operating temporary detention facilities will be handled per established procedures of the requesting agency, or directors involved.

SECTION III: PROCEDURE FOR REQUESTING ASSISTANCE

In the event that a party to this Agreement is in need of assistance as set forth above, the Chief of Police or his/her designee, shall notify the agency director or his/her designee from whom such assistance is requested. The director or authorized agency representative whose assistance is sought shall evaluate the situation and the agency's available resources, consult with his/her supervisors if necessary and will respond in a manner he/she deems appropriate.

The director in whose jurisdiction assistance is being rendered may determine who is authorized to lend assistance in his/her jurisdiction, for how long such assistance is authorized and for what purpose such authority is granted. This authority may be granted either verbally or in writing as the particular situation dictates.

Should a law enforcement officer be in another subscribed agency's jurisdiction for matters of a routine nature, such as traveling through the area on routine business, attending a meeting or going to or from work, and a violation of Florida Statutes occurs in the presence of said party, representing his/her respective agency, he/she shall be empowered to render enforcement assistance and act in accordance with law. Should enforcement action be taken, said party shall notify the agency having normal jurisdiction and upon the latter's arrival, turn the situation over to them and offer any assistance requested including but not limited to a follow-up written report documenting the event and the actions taken. This provision so prescribed in this paragraph is not intended to grant general authority to conduct investigations, serve warrants, and/or subpoenas or to respond without request to emergencies already being addressed by the agency of normal jurisdiction, but is intended to address critical, life-threatening or public safety situations, prevent bodily injury to citizens, or secure apprehension of criminals whom the law enforcement officer may encounter.

SECTION IV: COMMAND AND SUPERVISORY RESPONSIBILITY

The personnel and equipment that are assigned by the assisting director shall be under the immediate command of a supervising officer designated by the assisting director. Such supervising officer shall be under the direct supervision and command of the director or his/her designee of the agency requesting assistance.

SECTION V: CONFLICTS

Whenever an officer is rendering assistance pursuant to this Agreement, the officer shall abide by and be subject to the rules and regulations, personnel policies, general orders, and standard operating procedures of his/her own employer. If any such rule, regulation, personnel policy general order or standard operating procedure is contradicted, contravened or otherwise in conflict with a direct order of a superior officer of the requesting agency, then such rule, regulation, policy, general order or procedure shall control and shall supersede the direct order.

SECTION VI: HANDLING COMPLAINTS:

Whenever there is cause to believe that a complaint has arisen as a result of a cooperative effort as it may pertain to this Agreement, the director or his/her designee of the requesting agency shall be responsible for the documentation of said complaint to ascertain at a minimum:

1. The identity of the complainant.
2. An address where the complaining party can be contacted.
3. The specific allegation
4. The identity of the employees accused without regard as to agency affiliation.

If it is determined that the accused is an employee of the assisting agency, the above information, with all pertinent documentation gathered during the receipt and processing of the complaint, shall be forwarded without delay to the agency for administrative review. The requesting agency may conduct a review of the complaint to determine if any factual basis for the complaint exists and/or whether any of the employees of the requesting agency violated any of their agency's policies or procedures.

SECTION VII: LIABILITY

Each party engaging in any mutual cooperation and assistance, pursuant to this Agreement, agrees to assume responsibility for the acts, omissions or conduct of such party's own employees while engaged in rendering such aid pursuant to this Agreement, subject to the provisions of Section 768.28, Florida Statutes, where applicable.

SECTION VIII: POWERS, PRIVILEGES, IMMUNITIES AND EXPENDITURES

(a) Employees of the Town of Surfside and the City of Miami Beach, when actually engaging in mutual cooperation and assistance outside of their normal jurisdictional limits but inside this State, under the terms of this Agreement, shall pursuant to the provisions of Section 23.127(1), Fla. Stat. (as amended), have the same powers, duties, rights, privileges and immunities as if the employee was performing duties inside the employee's political subdivision in which normally employed.

(b) Each party agrees to furnish necessary personnel equipment, resources and facilities and to render services to each other party to the agreement as set forth above; provided however, that no party shall be required to deplete unreasonably its own personnel, equipment, resources, facilities, and services in furnishing such mutual aid.

(c) A party that furnishes equipment pursuant to this Agreement must bear the cost of loss or damage to that equipment and must pay any expense incurred in the operation and maintenance of that equipment.

(d) The agency furnishing aid pursuant to this Agreement shall compensate its appointees/employees during the time such aid is rendered and shall defray the actual travel and maintenance expenses of its employees while they are rendering such aid, including any amounts paid or due for compensation due to personal injury or death while such employees are engaged in rendering such aid.

(e) To the extent provided by applicable law, ordinance, or rule, the privileges and immunities from liability, exemption from laws, ordinances and rules, and all pension, insurance, relief, disability, worker's compensation, salary, death and other benefits that apply to the activity of an employee of an agency when performing the employee's duties within the territorial limits of the employee's agency apply to the employee to the same degree, manner, and extent while engaged in the performance of the employee's duties extraterritorially under the provisions of this Mutual Aid Agreement. The provisions of this section shall apply to paid, volunteer, and reserve employees.

(f) Nothing herein shall prevent the requesting agency from requesting supplemental appropriations from the governing authority having budgeting jurisdiction to reimburse the assisting agency for any actual costs or expenses incurred by the assisting agency performing hereunder.

(g) Should the Town of Surfside receive reimbursement for expenditures from a third party for a mutual aid event covered by this Agreement, the City of Miami Beach Police Department shall be eligible to receive an equitable reimbursement share for any actual costs or expenses incurred that are directly attributable to the event, provided such costs and expenses are authorized by the third party for reimbursement purposes.

SECTION IX: INSURANCE

Each party shall provide satisfactory proof of liability insurance by one or more of the means specified in Section 768.28(16)(a), Florida Statutes (2004), in an amount which is, in the judgment of the governing body of that party, at least adequate to cover the risk to which that party may be exposed. Should the insurance coverage, however provided, of any party be canceled or undergo material change, that party shall notify all parties to this agreement of such change within ten (10) days of receipt of notice or actual knowledge of such change.

SECTION X: EFFECTIVE DATE

This Agreement shall take effect upon execution and approval by both parties and shall continue in full force and effect until December 31, 2014. Under no circumstances may this agreement be renewed, amended, or extended except in writing.

SECTION XI: CANCELLATION

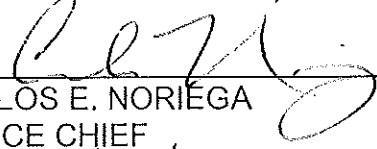
Either party may cancel its participation in this Agreement at any time upon delivery of written notice to the other party.

In witness whereof, the parties hereto cause to these presents to be signed on the date specified.

AGREED TO AND ACKNOWLEDGED this ___ day of _____, 2010.

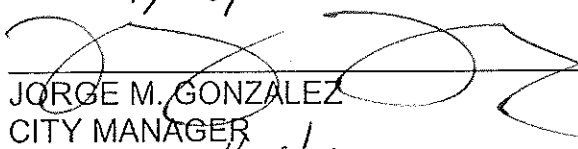
CITY OF MIAMI BEACH, FLORIDA

THE TOWN OF SURFSIDE, FLORIDA



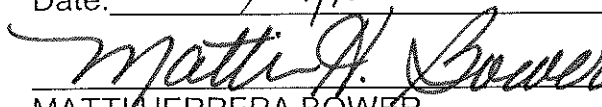
CARLOS E. NORIEGA
POLICE CHIEF
Date: 1/28/10

DAVE ALLEN
POLICE CHIEF
Date: _____



JORGE M. GONZALEZ
CITY MANAGER
Date: 1/29/10

GARY L. WORD
TOWN MANAGER
Date: _____



MATTI HERRERA BOWER
MAYOR
Date: 1/29/10

CHARLES W. BURKETT
TOWN MAYOR
Date: _____


ATTEST:


ROBERT PARCHER
CITY CLERK

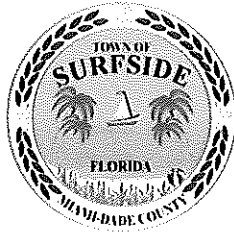
ATTEST:

DEBRA E. EASTMAN
CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney
Date: 1/28/10



Town of Surfside Commission Communication

Agenda Item # 3 E

Agenda Date: March 9, 2010

Subject: Proposed Mutual Aid Agreement with the Village of Indian Creek Public Safety Department

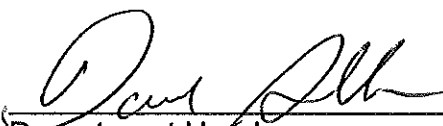
Background: The Town staff has received notice that the current Mutual Aid Agreement with the Village of Indian Creek Public Safety Department expired in January 2010. A new agreement has been drafted (attachments A) and will remain in effect until January 1, 2015.

Analysis: The Surfside Police Department requires approval and authorization to enter into the proposed agreement at the request of the Village of Indian Creek Public Safety Department to maintain continuity of voluntary and operational assistance.

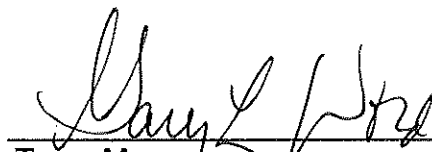
Budget Impact: N/A

Staff Impact: N/A

Recommendation: It is recommended that the Surfside Town Commission approve the Mutual Aid Agreement with the Village of Indian Creek Public Safety Department (attachment A).



Department Head



Town Manager

RESOLUTION NO. 10 - ____

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING AND DIRECTING THE TOWN MANAGER AND TOWN CLERK TO EXECUTE A MUTUAL AID AGREEMENT FOR VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE WITH THE VILLAGE OF INDIAN CREEK PUBLIC SAFETY DEPARTMENT.

WHEREAS, the Town Commission of the Town of Surfside, Florida would like to enter into a Mutual Aid Agreement For Voluntary Cooperation And Operational Assistance Between the Town of Surfside Police Department and the Village of Indian Creek Public Safety Department;

WHEREAS, the Town Commission believes that it is in the best interest of the Town to enter into the agreement attached as Exhibit "A";

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

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

Section 2. Authorization. The Town Commission hereby authorizes the execution of the Mutual Aid Agreement For Voluntary Cooperation And Operation Assistance Between the Town of Surfside Police Department and the Village of Indian Creek Public Safety Department attached hereto as Exhibit "A" and authorizes the Town Manager and Town Police Chief to do all things necessary to effectuate this Agreement.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED and **ADOPTED** on this _____ day of February, 2010.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION


Commissioner Elizabeth Calderon _____
Commissioner Steven Levine _____
Commissioner Howard Weinberg _____
Vice Mayor Marc Imberman _____
Mayor Charles Burkett _____

Charles W. Burkett, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

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



Lynn M. Dannheisser, Town Attorney

MUTUAL AID AGREEMENT**Between the Village of Indian Creek Public Safety Department
And the Town of Surfside Police Department**

WHEREAS, it is the responsibility of the governments of the Village of Indian Creek, Florida and the **Town of Surfside**, Florida to ensure the public safety of their citizens by Providing adequate levels of police services to address any foreseeable routine or Emergency situation; and

WHEREAS, because of the existing and continuing possibility of the occurrence of law enforcement problems and other natural and man-made conditions which are, or likely to be, beyond the control of the services, personnel, equipment or facilities of the participating municipal police departments; and

WHEREAS, in order to ensure the preparation of these law enforcement agencies will be adequate to address any and all of these conditions, to protect the public peace and safety, and to preserve the lives and property of the people of the participating **Miami-Dade County** municipalities; and

WHEREAS, the participating Miami-Dade County municipalities have the authority under Chapter 23, Florida Statutes, Florida Mutual Aid Act, to enter into a mutual aid agreement.

NOW, THEREFORE, BE IT KNOWN, that the Village of Indian Creek, subdivision of the State of Florida, and the Town of Surfside, in consideration for mutual promises to render valuable aid in times of necessity, do hereby agree to fully and faithfully abide by and be bound by the following terms and conditions:

1. Short title: Mutual Aid Agreement
2. Description: Since the Mutual Aid Agreement provides for the requesting rendering of assistance for both routine and law enforcement intensive situation this Mutual Aid Agreement combines the elements of both a voluntary cooperation agreement and a requested operational assistance agreement as described in Chapter 23 Florida Statutes.
3. Definitions:
 - A. **Joint Declaration:** A document which enumerates the various conditions of Situation where aid may be requested or rendered pursuant to this agreement, as concerned agency heads, the joint declaration shall be filed with the clerks of the respective political subdivisions and shall thereafter become part of this Agreement. Said declaration may be amended or supplemented at any time by the agency heads by filing subsequent declaration with the clerks of the respective political subdivisions.

- B. **Agency or participating law enforcement agency.** Either the **Village of Indian Creek Public Safety Department** or the **Town of Surfside Police Department**.
- C. **Agency Head:** Either the Chief of the **Village of Indian Creek Public Safety Department**, or the Chief's designees, and the Chief of Police of the **Town of Surfside Police Department** or the Chief's designees.
- D. **Participating municipal police department:** The police department of any municipality in **Miami-Dade County**, Florida that has approved and executed this Agreement upon the approval of the governing body of the municipality.
- E. **Certified law enforcement employee:** Any law enforcement employee certified as provided in Chapter 943, Florida Statutes.

4. **Operations:**

- A. In the event that a party to this agreement is in need of assistance as specified in the applicable joint declaration, an authorized representative of the police department requiring assistance shall notify the agency from whom such assistance is requested. The authorized agency representative whose assistance is sought shall evaluate the situation and has available resources, and will respond in a manner deemed appropriate.
- B. Each party to this Agreement agrees to furnish necessary manpower, equipment, facilities, and other resources and to render services to the other party as required to assist the requesting party in addressing the situation which caused the request; provided however, that no party shall be required to deplete unreasonably its own manpower, equipment, facilities, and other resources and services in rendering such assistance.
- C. the agency heads of the participating law enforcement agencies, or the requesting agency, and for giving tactical control over accomplishing any such assigned mission and supervisor control over all personnel or equipment provided pursuant to this Agreement to the providing agency.

5. **Powers, Privileges, Immunities, and Costs:**

- A. All employees of the participating municipal police department, certified law enforcement employees as defined in Chapter 943, Florida Statutes, during such time that said employees are actually providing aid outside of the jurisdictional limits of the employing municipality pursuant to a request for aid made in accordance with the Agreement, shall pursuant to the provisions of Chapter 23, Florida Statutes, have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivision in which they are normally employed.

- B. The political subdivision having financial responsibility for the law enforcement agency providing the services, personnel, equipment or facilities pursuant to the provisions of this Agreement shall bear any loss or damage to same and shall pay any and all expenses incurred in the maintenance and operation of same.
 - C. The Political subdivision having financial responsibility for the law enforcement agency providing aid pursuant to the Agreement shall compensate all of its employees rendering aid pursuant to this Agreement, during the time of rendering of such aid and shall defray the actual travel and maintenance expenses of such employees while they are rendering such aid. Such compensation shall include any amounts paid for due for compensation due to personal injury or death while such employees are engaged in rendering such aid. Such compensation shall also include all benefits normally due such employees.
 - D. All exemption from ordinances and rules, and all pension, insurance, relief, disability, workers compensation, salary, death, and other benefits which apply to the activity of such officers, agents, or employees of any such agency, when performing their respective functions within the territorial limits of their respective agencies, shall apply to them to the same degree, manner, and extent while engaged in the performance of their functions and duties extraterritorial under the provisions of this Mutual Aid Agreement. The provision of this Agreement shall apply with equal effect to paid and auxiliary employees.
6. **Indemnification:** The political subdivision having financial responsibility for the law enforcement agency providing aid pursuant to this Agreement agrees to hold harmless, defend, and indemnify the requesting law enforcement agency and its political subdivision in any suit, action or claim for damages resulting from any and all acts or conduct of employees of said providing agency while providing aid pursuant to this Agreement, subject to Chapter 768, Florida Statutes, where applicable.
7. **Forfeitures:** It is recognized that during the course of the operation of the Agreement, property subject to forfeiture under the Florida Contraband Forfeiture Act, Florida Statutes, may be seized. The property shall be seized, forfeited, and equitably distributed among the participating agencies in proportion to the amount of investigation and participation performed by each agency. This shall occur pursuant to the provisions of the Florida Contraband Forfeiture Act.
8. **Conflicts:** Any conflicts between this Agreement and the Florida Mutual Aid Act will be controlled by the provisions of the latter, whenever conditions exist that are within the definitions stated in Chapter 23 Florida Statutes.

9. **Effective Date and Duration:** This Agreement shall be in effect from date of signing, through and including January 1, 2015, under no circumstances may the Agreement be renewed, amended or extended except in writing.
10. **Cancellation:** This Agreement may be canceled by either party upon sixty (60) days written notice to the other party. Cancellation will be at the discretion of the Chief executive officers of the parties hereto.

AGREED AND ACKNOWLEDGED this ____ day of _____ 2010.



C. Samuel Kissinger, Village Manager
Indian Creek Village, Florida

Gary Word, Town Manager
Town of Surfside, Florida

ATTEST:



Marilane Lima, Village Clerk
Indian Creek Village, Florida

ATTEST:


Beatris M. Arguelles, CMC
Town Clerk, Surfside, Florida

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



Steve Helfman, Village Attorney
Indian Creek Village, Florida

**APPROVED AS TO FORM &
LEGAL SUFFICIENCY**



Lynn Dannheisser,
Town Attorney, Surfside, Fl.

JOINT DECLARATION OF THE CHIEF OF INDIAN CREEK VILLAGE PUBLIC SAFETY DEPARTMENT AND THE CHIEF OF POLICE OF THE TOWN OF SURFSIDE POLICE DEPARTMENT PURSUANT TO MUTUAL AID AGREEMENT

A deputy sheriff or police officer of either of the participating law enforcement agencies shall be considered to be operating under the provisions of the mutual aid agreement when:

Participating in law enforcement activities that are pre-planned and Approved by each respective agency head, or

Appropriately dispatched in response to a request for assistance from the other law enforcement agency.

In compliance with, and under the authority of, the Mutual Aid Agreement, hereto entered into by the Town of Surfside, Florida and Indian Creek Village, Florida, it is hereby declared that the following list comprises the circumstances and conditions under which mutual aid may be requested and rendered regarding police operations pursuant to the agreement. Said list may be amended or supplemented from time to time, as needs dictate by subsequent declarations.

1. Joint multi-jurisdictional criminal investigations.
2. Civil affray or disobedience, disturbances, riots, large protest demonstrations, controversial trails, political conventions, labor disputes and strikes.
3. Any natural disaster.
4. Incidents which require rescue operations and crowd and traffic control measures, including, but not limiting to, large-scale evacuations, aircraft and shipping disasters, fires, explosions, gas line leaks, radiological incidents, train wrecks and derailments, chemical or hazardous waste spills, and electrical power failures.
5. terrorist activities including, but not limited to, acts of sabotage.
6. Escapes from or disturbance within detention facilities.
7. Hostage and barricaded subject situations, and aircraft piracy.
8. Control of major crime scenes, area searches, perimeter control, backups to emergency and in-progress calls, pursuits, coordinated off-duty work, and missing person's calls.
9. Participating in exigent situations without a formal request which are spontaneous occurrences such as area searches for wanted subjects,

perimeters, crimes in progress, escaped prisoners. Traffic stops near municipal boundaries, request for assistance and no local unit is available or nearby call or transmissions indicating an officer is injured calls indicating a crime or incident has occurred in which a citizen may likely be injured and the assisting municipality is closer to the area than the officer receiving the call.

10. Enemy attack.
11. Transportation of evidence requiring security.
12. Major events; e.g. sporting events, concerts, parades, fairs, festivals, and conventions.
13. Security and escort duties for dignitaries.
14. Emergency situations in which one agency cannot perform its functional objective.
15. Incidents requiring utilization of specialized units; e.g. underwater recovery, canine, motorcycle, crime scene, marine patrol enforcement or investigation and police information.
16. Joint training in areas of mutual need.
17. Mutual enforcement of all existing applicable laws and ordinances and exercise of arrest powers within the area compromising the jurisdictional waters within respective municipal boundaries.

Date: 02/24/2010

Date: _____

Clarke P. Maher
Clarke P. Maher
Chief of Public Safety
Indian Creek Village Public
Safety Department, Indian Creek, Fl.

David Allen
Chief of Police
Town of Surfside, Florida

ATTEST:

ATTEST:

Marilane Lima
Marilane Lima
Village Clerk
Indian Creek Village, Florida

Beatris M. Arguelles, CMC
Town Clerk
Town of Surfside, Florida

**JOINT DECLARATION AMENDMENT UNDER INDIAN CREEK VILLAGE
PUBLIC SAFETY DEPARTMENT/TOWN OF SURFSIDE POLICE
DEPARTMENT MUTUAL AID AGREEMENT**

This agreement amends the Joint Declaration under the Mutual Aid Agreement of February 5, 2005, to include and permit concurrent marine patrol related jurisdiction between agencies on the waters, waterways, canals, channels, rivers, lakes, streams, and any and all other bodies of waters, including the Intracoastal waterway (ICW) that fall within either jurisdiction at this or any future time during the term of this Mutual Aid Agreement.


It will be agreed between both Chiefs of Police of Indian Creek Village and the Town of Surfside to the following conditions of concurrent marine patrol related jurisdiction:

1. Both agencies will be permitted to patrol jurisdictional waters of either jurisdiction, and to take enforcement actions as deemed appropriate under city, state and federal law, rules, and regulations, and to write boating law violation citations, make arrests, and to attend court on behalf of the other agency.
2. Both agencies agree that any and all incidents, which require an initial (preliminary) police offense incident report (OIR), will be completed by the agency making the initial contact. Any follow-up investigations that are required are to be completed by the jurisdiction the incident occurred regardless of which agency completed the original offense incident report.
3. If an arrest is made by the one agency that is operating in the jurisdictional waters of the other agency, and that arrest results in asset forfeiture proceedings, both agencies agree to a 50-50 share of the final asset distribution following the payment of all expenses relating to the prosecution of the civil case. The jurisdiction of civil forfeiture action shall be filed by the seizing agency.
4. Both agencies have the right to set their own days and hours for marine patrol and agree to provide assistance and aid to the other agency under the spirit of the Mutual Aid Agreement.

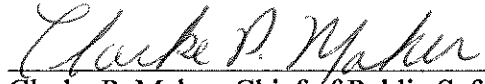
This amendment shall become effective upon the signing of both Chiefs of Police and shall remain in effect until either the current Mutual Aid Agreement and Joint Declaration expires or either agency gives written notice to the other agency to rescind this Amendment.

I accept the terms and conditions of the aforementioned Amendment to the current Mutual Aid Agreement and Joint Declaration between the Town of Surfside Police Department and the Indian Creek Village Public Safety Department.

Date: 02/24/2010



C. Samuel Kissinger, Village Manager
Indian Creek Village, Florida

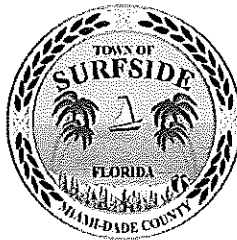


Clarke P. Maher, Chief of Public Safety
Indian Creek Village, Florida

Date: _____

Gary Word, Town Manager
Town of Surfside, Florida

David Allen, Chief of Police
Town of Surfside, Florida



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
Town Attorney

Telephone: 305 861-4863
Facsimile: 305 861-1302
E-mail: ldannheisser@townofsurfsidefl.gov

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney *LD*

cc: Gary Word, Town Manager
Paul Goia, Building Official
Mike Garcia, Code Enforcement

DATE: January 28, 2010

SUBJECT: Proposed Amendment to the Fences, walls and hedges provision

Background. In response to the Mayor's request that we address concerns regarding construction sites and unsightly lots by adopting a new set of requirements for construction fencing, we are proposing this ordinance.

Proposed Legislation. Specifically, this Ordinance proposes that construction sites maintain fencing at all times and restricts types of fencing permitted. Permitted construction fencing will be: wrought iron, stucco and stone, masonry walls, wood pickets, concrete walls, frame plywood panels, or chain-link with canvas (limited to 18 months). Prohibited construction fencing will be barbed wire, chain-link, and canvas. The fencing will be limited to a height maximum of 12 feet and a minimum of 6 feet and will have access gates at the front and rear of the property. A set back requirement with a landscape buffer will be required for property along Collins and Harding Avenues. Murals and graphics will be allowed only as approved by the Town Commission and fees may be imposed for advertisements purposes. Failure to comply will result in civil penalties per our code enforcement ordinance.

ORDINANCE NO. 10-_____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING"; ARTICLE V "DESIGN STANDARDS"; SECTION 90-56 "FENCES, WALLS AND HEDGES"; CREATING SECTION 90-56.1 PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission (the "Commission") recognizes the need to regulate fences, walls and hedges for the health, safety and welfare of the Town; and

WHEREAS, the Commission has attempted to create regulations to address the specific needs of the this unique community and continues to amend these regulations to address the placement of fences, walls and hedges as they may best suit the needs of the community; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendments to the fence, walls and hedges regulations on February 25, 2010 with due public notice and input; and

WHEREAS, the Town Commission held its first public hearing on February 9, 2010, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on March 9, 2010.

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

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

Section 2. Code Amended. The Town Code is hereby amended by amending Section 90-56 "Fences, walls and hedges" and creating Section 90-56.1 "Construction Fencing" included

in Chapter 90 "Zoning," Article V "Design Standards" which shall read as follows:

Sec. 90.56 Fences, walls and hedges

- (n) The following fencing material shall be prohibited:
 - (1) Chain-link and other wire fencing, except as permitted herein.
 - (2) Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.
- (o) No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.
- (p) In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property lone or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the town manager or designee.
- (q) Temporary construction fences shall be permitted pursuant to standards provided in subsection 90-56.1. The maximum height of such fence shall be six feet as measured from crown of road. The fence shall be constructed of wood or chain-link and shall be concealed with a windscreen.

90-56.1 Construction Fencing

A. Temporary construction fencing. No person or entity shall install or construct a temporary construction fence in this Town without first obtaining a permit from the Town's Building Department. Each fence constructed or maintained shall be constructed and anchored in accordance with the Florida Building Code.

B. Permitted fences.

- (1) Except on Harding Avenue and Collins Avenue, the following temporary construction fences are permitted in all the zoning districts:
 - (a) Wrought iron or blackened aluminum.
 - (b) Stucco and stone match main structure.
 - (c) Masonry walls pursuant to section 90-56(1).
 - (d) Wood pickets.
 - (e) Concrete wall pursuant to section 90-56(1).
 - (f) Frame plywood panel.
 - (g) Chain-link fences with canvas (or similar material) are permitted if the property owner or agent has obtained a demolition permit from the Building Department. The chain-link fence shall be permitted to be utilized as a demolition fence for a period of no longer than two months or until expiration of the demolition permit, whichever occurs first. However, such demolition fence shall not be removed until the installation of a permitted construction fence, as defined in this section. The permitted construction fence shall be installed immediately upon removal of the temporary demolition fence. At no time shall the parcel

remain without a protective barrier. Any person or entity found to be in violation of this subsection shall be subject to a fine of \$500 per day.

(2) A temporary construction fence (as defined herein) shall be installed on the front, side, and rear property lines.

(3) Chain-link fences with canvas (or similar material) backing or meshing may be permitted, provided they are neatly designed and maintained as approved by the Building and Zoning Departments.

C. Prohibited fences.

(1) The following fences are not permitted, except as otherwise provided in Code herein below:

(a) Chain-link fences.

(b) Barbed-wire fences.

(c) Fences made of canvas material.

(d) Any fences that fail to meet the requirement of the Florida Building Code.

(2) Chain-link fences with canvas (or similar material) backing or meshing may be permitted to be utilized as a temporary construction fence for a period of no longer than 18 months, provided they are neatly designed and maintained as approved by the Building and Zoning Departments.

D. Maximum and minimum height. A fence is permitted a maximum height of 12 feet and a minimum height of six feet.

E. Setbacks. A temporary fence installed on the front of the property shall be situated six feet from the property line on Harding Avenue and Collins Avenue, unless specifically waived by the Town Commission. The setback area between the temporary fence and the property line shall contain a continuous extensively landscaped buffer which must be maintained in good healthy condition by the property owner. No temporary construction permit shall be issued unless a landscape plan is approved by the Town for the buffer. Failure to maintain the landscaping will result in the Town taking action to replace same and lien the property for the costs of landscaping.

F. Expiration of permit. A temporary construction fence permit issued under this chapter shall expire upon the issuance of a certificate of occupancy. The temporary fence shall remain on the property until the completion of construction, provided that it shall be removed in accordance with the terms of the Florida Building Code.

G. Murals and graphics. Graphics and murals on temporary construction fencing are prohibited unless approved by the Town Commission at site plan review pursuant to section 90-20. The Town Commission, in its discretion, may permit graphics and painted murals on temporary construction fences for aesthetic enhancement of the fence and advertisement of the project to be constructed at site plan review

H. Fees. The Town Manager or designee may impose fees as he/she may determine appropriate for the use of construction fences for advertisement purposes in accordance with the schedule promulgated by the Building Official.

I. Access gates. All temporary construction fences shall contain access gates with a minimum clear opening width of 12 feet. Access gates must be provided at the front and rear of the enclosure. Gates must be kept unlocked during inspection hours.

J. Temporary construction signs. Construction, erection, and maintenance of temporary construction signs shall be governed by Town of Surfside Sign Code

K. Appeals. Any decision made by the Town Manager or designee regarding graphics, advertisement, and murals on a temporary construction fence may be appealed to the Town Commission.

Ordinance No. _____

L. Enforcement and penalties. The Code Enforcement and Building Department shall be responsible for the enforcement of the provisions of this section. Any person or entity found to be in violation of this section shall be subject to a \$500 fine per day.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. It is the intention of the Commission, and it is hereby ordained that this Ordinance shall become and be made a part of the Town of Surfside Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective after adoption on second reading.

PASSED and ADOPTED on First Reading the 9th day of February, 2010.

PASSED and ADOPTED on Second Reading this _____ day of _____, 2010.


Charles W. Burkett, Mayor

Attest:

Ordinance No. _____

Debra E. Eastman, MMC
Town Clerk

**Approved as to form and legality for the use
and benefit of the Town of Surfside only:**



Lynn M. Dannheisser
Town Attorney

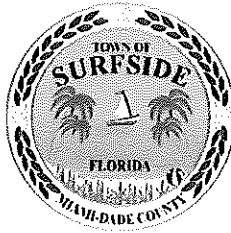
On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Burkett	yes	_____	no	_____
Vice Mayor Imberman	yes	_____	no	_____
Commissioner Calderon	yes	_____	no	_____
Commissioner Levine	yes	_____	no	_____
Commissioner Weinberg	yes	_____	no	_____

Ordinance No. _____



Town of Surfside Commission Communication

Agenda Item # 4A2

Agenda Date: March 9, 2010

Subject: Proposed Municipal Use Ordinance

Background: It has come to Staff's attention that many Municipal sites in the Town are non-conforming in regards to parking, setbacks and lot coverage. Municipal uses, including but not limited to the Town Hall, Community Center and park spaces, are unique due to the fact that they are intended to serve the public and their function often dictates separate development standards than private development.

Analysis: Staff is proposing an Ordinance that exempts Municipal-owned property from the parking, setback and lot coverage sections of the code. The proposed code language is as follows:

(4) Municipal parking. Use of property in Town government capacity. The provisions of this chapter and the Code shall not apply to the use of any property by the Town in any government capacity, function, or purpose. This exemption shall also apply to setbacks and lot coverage requirements as set forth in section 90-45 and section 90-49 hereinabove.

Budget Impact: Planning Staff's time was funded under the general services contract between the Town and CGA. Therefore the Town did not incur an additional budget impact for CGA's time.

Staff Impact: N/A

Recommendation It is recommended that the Surfside Town Commission adopt on second reading the attached Ordinance, amending sections 90.77 of the Town of Surfside Zoning Code.

Department Head

Town Manager

ORDINANCE NO. 10- _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 AND SPECIFICALLY SECTION 90-77 “OFF STREET PARKING REQUIREMENTS” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Surfside (“Town”) proposes to amend its Code of Ordinances to address off street parking requirements and address an issue relating to parking and other requirements for municipal uses.

WHEREAS, The Planning and Zoning Board, as the local planning agency for the Town, has held a public hearing on February 25, 2010 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, The Town Commission held its first public reading on February 9, 2010 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, The Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on March 9, 2010 and further finds the proposed change to the Code necessary and in the best interest of the community.

Ordinance No. _____

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

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 90-77. Off-street parking requirements.

(d) Parking by use.

(4) Municipal parking. Use of property in Town government capacity. The provisions of this chapter and the Code shall not apply to the use of any property by the Town in any government capacity, function, or purpose. This exemption shall also apply to setbacks and lot coverage requirements as set forth in section 90-45 and section 90-49 hereinabove.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

Ordinance No. _____

PASSED and ADOPTED on first reading this 9th day of Feb., 2010.


PASSED and ADOPTED on second reading this ____ day of _____, 2010.

Charles W. Burkett, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: _____

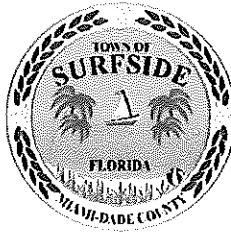
On Second Reading Seconded by: _____

Vote:

Ordinance No. _____

Mayor Burkett	yes _____	no _____
Vice Mayor Imberman	yes _____	no _____
Commissioner Calderon	yes _____	no _____
Commissioner Levine	yes _____	no _____
Commissioner Weinberg	yes _____	no _____

Ordinance No. _____



Town of Surfside Commission Communication

Agenda Item # 4B1

Agenda Date: March 9, 2010

Subject: Regulated Use Ordinance

Background: A resident contacted Staff indicating that the zoning code does not permit for massage therapy in the business district. Staff placed this on the January 28, 2010 Planning and Zoning agenda for the board to discuss this use. The board requested that we modify the code to permit this use. The code also does not specifically exclude items that are not on the permitted use list. Although the code lists items that are permitted, it is the intent of Staff to strengthen the code against unregulated uses.

Analysis: Staff is proposing an Ordinance that permits massage therapy in the business district. This may be through a beauty or spa type facility, a standalone facility or a health club facility. Staff is also proposing to prohibit uses not specifically listed on the permitted use chart. Lastly, Staff has revised the definition for a "Beauty Parlor" to "Beauty/Personal Services" and has permitted Massage Therapy in the Beauty/Personal Services category and in the Health Club category.

Budget Impact: Planning Staff's time was funded under the general services contract between the Town and CGA. Therefore the Town did not incur an additional budget impact for CGA's time.

Staff Impact: N/A

Recommendation It is recommended that the Surfside Town Commission introduce on first reading the attached Ordinance, amending sections 90.2 and 90.41 of the Town of Surfside Zoning Code.

Department Head

Town Manager

ORDINANCE NO. 10- _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 AND SPECIFICALLY SECTION 90-2 "DEFINITIONS" AND ARTICLE IV SECTION 90-41 "REGULATED USES" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Surfside ("Town") proposes to amend its Code of Ordinances to address and define beauty/personal services in the business district and permit licensed massage therapy in areas permitting beauty/personal services and health clubs.

WHEREAS, The Planning and Zoning Board, as the local planning agency for the Town, has held a public hearing on March 25, 2010 and recommended approval of the proposed amendments to the Code of Ordinances and also found the proposed Code amendments to be consistent with the Comprehensive Plan; and

WHEREAS, The Town Commission held its first public reading on March 9, 2010 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

WHEREAS, The Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on April 13, 2010 and further finds the proposed change to the Code necessary and in the best interest of the community.

Ordinance No. _____

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

Section 1. **Recitals.** The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. **Code Amendment.** The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 90-2 **Definitions.**

For the purpose of this chapter, certain terms and words are hereby defined. For convenience, all defined words and terms are set out in different type.

Beauty / Personal Services: An establishment engaged in the provision of frequently or recurrently services of a personal nature: or the provision of informational, instructional, personal improvement or similar professional services which may involve limited accessory retail sale of products. Services are limited to salons that offer hair care, nail care, skin care (not including tattoo or piercing), tanning, hair removal and licensed therapeutic massage.

ArticleIV **District Regulations**

Sec. 90-41 **Regulated uses.**

Applicability and validity of tables. Nothing shall be used to misconstrue or reinterpret the provisions, limitations and allowances made here-in.

- i. *Purpose.* Permitted uses are considered to be fundamentally appropriate within the district in which they are located and are deemed to be consistent with the comprehensive plan. These uses are permitted as of right, subject to the required permits and procedures described in this section. Permitted uses require final site plan review and approval for compliance with the standards applicable to a particular permitted use as provided in this zoning code.
- ii. Permits required. Except as explicitly provided otherwise, no use designated as a permitted use in this chapter shall be established until after the person proposing such use has applied for and received all required development permits.
- iii. Uses other than those specifically permitted in subsection 90.41.3 hereunder are prohibited.

Ordinance No. _____

 (c) Table – Regulated Uses

	H30A	H30B	H30C	H40	H120	SD-B40
Retail and General Commercial Uses						
<u>Barbershops</u>			-	-		P
<u>Beauty Parlors</u>	-	-	-	-	-	P(20)
<u>Beauty / Personal Services</u>	-	-	-	-	-	P(20)
<u>Health Club or Studio</u>						P(16,20)

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes

(d) Uses Table Notes

 7. May provide a ~~barbershop, beauty parlor,~~ beauty / personal services, dining room, and coffee shop, bar or cocktail lounge, telegraph office, tobacco, candy, and newsstand, automobile rentals where rental vehicles are not kept on premises, ready to wear shops, travel agencies, gift and sundry shops, coin operated machines, washing machines, and marble, coin or amusement machines (other than gambling devices), and diet and health spas providing services solely to guests; provided, however, that such facilities may be entered only from the inside of the structure and there shall be no window or evidence of such facilities from outside the hotel or motel.

 20. ~~Exterior windows on the ground floor shall be screened, curtained or otherwise made opaque four feet six inches from the grade of the adjacent sidewalk so as to block the view of the interior premises from the public right-of-way. However, such screening shall not be required where only hair styling and manicures are performed within twenty (20) feet of the public right-of-way. Services including tanning, hair removal (except for shaving normally associated with barbershops) and licensed therapeutic massage shall not be visible from the public right-of-way.~~

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Ordinance No. _____

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word “ordinance” may be changed to “Section” or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this _____ day of _____, 2010.

PASSED and ADOPTED on second reading this ____ day of _____, 2010.

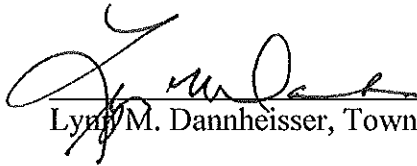
Charles W. Burkett, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

Ordinance No. _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Burkett	yes	_____	no	_____
Vice Mayor Imberman	yes	_____	no	_____
Commissioner Calderon	yes	_____	no	_____
Commissioner Levine	yes	_____	no	_____
Commissioner Weinberg	yes	_____	no	_____

Ordinance No. _____

RESOLUTION NO. 10 - ___

**A RESOLUTION OF THE TOWN COMMISSION
FOR THE TOWN OF SURFSIDE, FLORIDA,
SUPPORTING THE DESIGNATION OF THE SURF
CLUB AS AN HISTORIC STRUCTURE; AND
DIRECTING THE TOWN CLERK TO TRANSMIT
THIS RESOLUTION TO THE MIAMI-DADE
COUNTY HISTORIC PRESERVATION BOARD;
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the Town of Surfside, now celebrating its 75th anniversary, having been established in 1935, takes great pride in its historical and cultural resources; and

WHEREAS, the Miami-Dade County Historic Preservation Board will be considering the historic designation of the Surfside Surf Club, which was built in 1926 and designed by the nationally recognized firm of Russell T. Pancoast; and

WHEREAS, the Surf Club appears to comply with several of the Criteria necessary for designation as adapted from the Miami-Dade County Code for historic designation as noted in Section 16A-10 of the Code of Miami-Dade County; and

WHEREAS, the designation of the Surf Club will protect the historic integrity of the building and its environs; and

WHEREAS, historic designation can also promote the rehabilitation and the restoration of the Surf Club through financial incentives and other funding opportunities that are only available to designated structures; and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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

Section 2. Support of Historic Designation. The Town of Surfside Commission hereby notifies the Miami-Dade County Historic Board that it supports the efforts of the members of the Surf Club to place the Surf Club building on the County's local register of historic places.

Section 3. Transmittal. The Town Clerk is directed to transmit this resolution immediately upon execution to the Historic Board of Miami-Dade County.

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

PASSED and ADOPTED on this 9th day of March, 2010.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

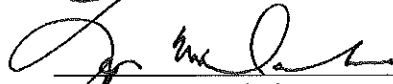
Commissioner Elizabeth Calderon _____
Commissioner Steven Levine _____
Commissioner Howard Weinberg _____
Vice Mayor Marc Imberman _____
Mayor Charles Burkett _____

Charles W. Burkett, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

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



Lynn M. Dannheisser, Town Attorney

RESOLUTION NO. 10-Z-01

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, (“TOWN”) APPROVING THE SITE PLAN APPLICATION SUBMITTED BY TRANSACTA LANAI DEVELOPERS, LTD., (THE “APPLICANT”), FOR A SITE PLAN APPROVAL PURSUANT TO SECTION 90-41 ET. SEQ. OF THE ZONING CODE, TO PERMIT THE DEVELOPMENT OF “PROPOSED SURFSIDE HOTEL”, A FOUR (4) STORY, 178 HOTEL ROOM AND FIVE (5) SUITE HOTEL PROJECT, ON THE PROPERTY LOCATED AT 9200 COLLINS AVENUE, SUBJECT TO CERTAIN CONDITIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

I. RECITALS.

WHEREAS, on December 29, 2009, Applicant submitted an application to the Town of Surfside, Florida (“the Application”) (Z2010-1), requesting the following:

1. Pursuant to Section 90-41 of the Town of Surfside ZONING CODE, the applicant is requesting a site approval for a four (4) story, 178 hotel and five suite-hotel room project with a three (3) story parking garage with 200 spaces, tandem parking, 24 hour valet service roof top deck pool with an entrance on 92nd street and loading entrance on Collins Avenue.
2. Monument signage proposed for the corner of 92nd Street and Collins Avenue and wall signage to be applied for under separate permit.

Plans are on file and may be examined in the Building Department entitled “Proposed Surfside Hotel”, prepared by Revuelta Architecture International PA, dated stamped received February 26, 2010 consisting of 55 sheets total including “Cover Sheet and Index of Drawings” prepared by prepared by Revulta Architecture International dated stamped received February 26, 2010 consisting of 2 sheets; “Boundary Survey” prepared by Florida International Land Surveyors, Inc. dated stamped received February 26, 2010 consisting of 1 sheet; “Civil Sheets C-0, C-1, C-2, C-3, C-4, C-5, C-6, C-7, C-8, and C-9” prepared by V.S.N. Engineering, Inc. dated stamped received February 26, 2010 consisting of 10 sheets; “Architecture Sheets A-01, A-01.1, A-01.2, A-02, A-03, A-04, A-05, A-06, A-07, A-08, A-08.1, A-08.2, A-09, A-09.1, A-09.2, A-10, A-11, A-12, A-13, A-14” prepared by Revulta Architecture International dated stamped received February 26, 2010 consisting of 20 sheets; “Electrical Sheets E-01, E-02, E-03, E-04, E-05, E-06, E-07, E-08, E-09, E-10, E-11, E-12” prepared by Revulta Architecture International and JGP Engineering Group P.A. dated stamped received February 26, 2010 consisting of 12 sheets; and “Landscape L-01, L-02, L-03, L-04, L-05, L-06, L-07, L-08, L-09, L-10” prepared by Revulta Architecture International and Rosenberg Gardner Design dated stamped received February 26, 2010 consisting of 10 sheets; Plans may be modified at public hearing (hereinafter referred to as the “Plans”).

Legal: Lots 1-6 and Lots 20-24 in Block 4 of Altos Del Mar” No. 5 according to the Plat thereof, as recorded in Plat Book 8, Page 92 of the Public Records of Miami-Dade County, Florida.

ADDRESS: 9200 Collins Avenue

WHEREAS, on February 25, 2010, the Design Review Board and the Planning & Zoning Board heard and reviewed this Application and referred this Application for approval by the Town Commission with the conditions of approval attached here to and incorporated herein under Section IV. Conditions; and

WHEREAS, on March 9, 2010, the Town Commission conducted a public hearing on the Application as modified by the Applicant per the conditions of approval; and

WHEREAS, the public hearing of the Town Commission was advertised and held as required by law, all interested parties concerned in the matter were heard, and due and proper consideration was given to the matter and to the positive recommendation contained in the joint memorandum from the Planning and Zoning Administrator and the Planning Consultant; and

WHEREAS, notice was provided to all interested parties regarding the Application; and

WHEREAS, the Town Commission reviewed the Application, the written and oral recommendations of the Town Planners and other consultants who render reports with respect to the Application, including the recommended conditions, and found substantial competent evidence to support a showing by the Applicant that the requests for the transfer of development rights and for site plan approval are in compliance with the ZONING CODE and the Comprehensive Master Plan of the Town and maintain the basic intent and purpose of the zoning, subdivision or other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community; and, further, found that said requests should be granted, subject to all of the conditions set forth in this Resolution and the execution of any attendant agreements including but not limited to the tandem parking agreement.

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

II. INCORPORATION OF RECITALS.

All recitals are incorporated into the body of this Resolution as if same were fully set forth herein.

III. APPROVALS.

The approvals set forth in this Section III are subject to all of the conditions set forth in this Resolution and the execution of all attendant agreements prior to the issuance of the Building Permit for the Project.

- A. The Applicant's request for approval of the site plan submitted for the Proposed Surfside Hotel located at 92nd Street and Collins Avenue be and the same is hereby

granted and said site plan is hereby approved, subject to all of the conditions provided in this Resolution. The failure of performance of any of these conditions shall be deemed a denial of this Application.

- B. The Applicant's request for approval of 34% tandem parking, other than handicapped parking (100% tandem parking permitted) is hereby granted subject to conditions of approval and the execution of a tandem parking agreement which shall be recorded to run with the land.

IV. CONDITIONS.

A. Conditions to be completed before grade or building permits are issued.

1. Applicant shall enter into an agreement, recorded in the public records at the expense of the owner, which shall run with the land and shall bind the heirs, successors, and assigns of said owner, which requires all developments having any tandem parking spaces to provide twenty-four (24) hour valet parking service.
2. New sidewalk and curb and gutter along Collins Avenue and Harding Avenue must be approved and permitted by FDOT. New sidewalk and curb and gutter along 92nd Avenue must be approved and permitted by Miami-Dade County.
3. All pedestrian features shall comply with the Americans with Disabilities Act, including but not limited to detectable warning features at driveway locations and be identified with details of ADA conforming handicapped ramps at the time of engineering permit.
4. All restrictions of vehicle sizes and heights and signage on requested signing and pavement marking plan shall be provided.
5. Prior to construction approvals, applicant must meet with Town Public Works Department and reach a written agreement allowing landscaping to be placed in the new water main easement on the north side of the proposed hotel.
6. Per the survey, FEMA base flood elevation is 8.0 NGVD. Per Code Section 42-92 applicant must flood proof building to one foot above the FEMA base flood elevation and certified flood proofed by a registered professional engineer or architect using a FEMA Flood proofing Certificate.
7. Proof of an FDOT permit for closing the existing driveways, utility construction, and other work on SR A1A shall be required prior to any work being performed within the Right-of-way.
8. Proof of vacation of the onsite Bellsouth easement must be provided prior to commencement of construction.
9. Applicant shall have provided copies of approvals from MD-DERM for storm water and sanitary sewer, MD Public Health UNIT for water.
10. An irrigation plan for the planters to be placed on the eyebrows of the parking garage shall have been provided and approved by the Town.
11. The site plan shall conform to the survey in the following ways: a) legal description; b) the site boundaries shall conform with the angles and distances reflected on the survey; c) the site plan shall show section, township and range with adjacent property owners on its location sketch.
12. Survey needs an owner affidavit that no changes have occurred since the survey.

- B. That upon the submittal of an application for a building permit, the plans submitted shall meet with the approval of the Planning Consultants and shall be consistent with the modified Site Plan approved by the Town Commission. Plans shall include all the required elements of the Site Plan pursuant to the Town's Zoning Code and recommendations and these conditions.
- C. That the Property be developed substantially in accordance with the modified plan for the March 9, 2010 public hearing and the Plans.
- D. That the Applicant shall submit a Declaration of Restrictive Covenants (the "Declaration") in recordable form acceptable to the TOWN, prior to issuance of a building permit relating to tandem parking in perpetuity as well as the provision of twenty-four (24) hour valet parking services for owners and their guests which shall be included in such Declaration.
- E. That the Applicant comply with all conditions and permit requirements of the Department of Environmental Resource and Management (DERM), the Miami-Dade County Fire Department (MDFD), Water and Sewer Department, Department of Environmental Protection (DEP), Florida Department of Transportation (FDOT).
- F. That the Applicant shall submit plans for the construction of an appropriate barrier between the construction site and adjoining properties in order to minimize blowing of sand and debris. The Applicant will comply regulations of the Code of the Town of Surfside relating to construction site operations including construction fencing. The Applicant will use its efforts to minimize vibration and noise during the construction of the project.
- G. That the Applicant has submitted all documents required under this Resolution and all impact fees, and professional fees (cost recovery) incurred in the review and processing of this Application and permitting.
- H. No building permits shall be issued (except for demolition and sales trailers) unless the Applicant has submitted all documents required under this approval and shall have paid all professional and other fees required by the Code of the Town of Surfside (including but not limited to, the connection and development fees in accordance with Section 78-83 of the Code of the Town of Surfside) are paid.

[Other conditions imposed by the Commission i.e., undergrounding of utilities, art in public places]

Conditions to be completed before any Certificate of Occupancy is issued:

- (1) That the Applicant demonstrates that it is in compliance with all terms and conditions under this approval.

The Town Manager and /or his/her designee in review of any application, may refer any such application presented to it to such engineering, planning, legal, technical, or

environmental consultant or professional(s) employed by the Town as the Manager shall deem reasonably necessary to enable him/her to review such application as required by law. Charges made by such consultants or professionals shall be in accord with the charges customarily made for such services in Miami Dade County, and pursuant to an existing contractual agreement by and between the Town and such consultant. Charges made by the Town shall be in accord with the hourly rates charges by such consultants or hourly rates of employed professionals and shall be paid within 30 days on submission of Town voucher.

That Applicant shall furnish payment and performance bond in an amount determined by the Building Official to ensure Applicant's performance of public improvements required pursuant to site plan approval and in accordance with recommendations of the Building Official after review of construction plans submitted based on development approval granted herein. Any such bond shall be issued by a surety having a minimum rating of A-1 in the Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the TOWN, and shall provide that "this bond may not be cancelled or allowed to lapse until 30 days after receipt by the TOWN, by certified mail, return receipt requested, of written notice from the issuer of the bond of intent to cancel or not to renew". As improvements are made the TOWN, within its discretion, may reduce or eliminate the bond amount. These rights reserved by the Town with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the Town may have under this Resolution, in law or in equity.

- (2) That paving within the front setback shall consist of pavers or other decorative materials approved by the Building Official. Under no circumstances shall asphalt concrete or plain concrete be utilized as paving in the front setback.

Other Conditions:

- (1) That the Applicant shall obtain a Certificate of Occupancy and a Certificate of Use from the Town upon compliance with all terms and conditions. The Certificate of Occupancy and Certificate of Use shall be subject to cancellation upon violation of any of the conditions.
- (2) That the approved site plan shall remain valid for a period of 24-months from the date of approval. If no building permit is issued within the 24-month time period, the site plan shall be considered null and void and of no force and effect.
- (3) That the Applicant shall comply with all Town Ordinances applicable to development and permit approvals and in the event the Applicant does not commence construction within six (6) months from the date the a permit issued, it shall be required to comply with Section 14.55 of the Surfside Code in effect at the time of the passage of this Resolution, as may be amended from time to time, including the posting of a bond to defray the cost of the Town having to perform these tasks, if necessary, and as may be required by the Building Official.

- (4) Applicant agrees to the condition subsequent of this approval to achieve a minimum of LEED Silver designation from the U.S. Green Building Council, and to qualify for the Florida Green Lodging Program, which is administered by the Florida Department of Environmental Protection. Failure to so achieve one of both of these designations within six (6) months of the issuance of the Certificate of Occupancy could subject this Property to revocation of said Certificate of Occupancy.

PASSED and ADOPTED this 9th day of March, 2010.

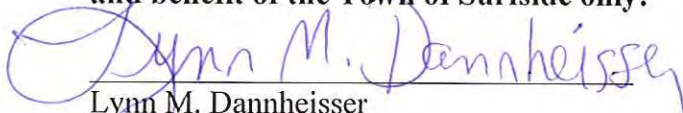
TOWN OF SURFSIDE, FLORIDA
By its Town Commission

By: _____
Charles Burkett, Mayor

Attest:

Debra E. Eastman, MMC
Town Clerk

**Approved as to form and legality for the use
and benefit of the Town of Surfside only:**



Lynn M. Dannheisser
Town Attorney

On Second Reading Moved by: _____

On Second Reading Seconded by : _____

Vote:

Mayor Burkett	yes	no
Vice Mayor Imberman	yes	no
Commissioner Calderon	yes	no
Commissioner Levine	yes	no
Commissioner Weinberg	yes	no

STATE OF FLORIDA)
)ss:
COUNTY OF DADE)

I, Debra Eastman, Town Clerk of the Town of Surfside, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 10-Z-___ adopted by the Town Commission at its meeting held on the 9th day of March, 2010.

Issued: _____

Debra Eastman, Town Clerk



COMMISSION COMMUNICATION

Date: March 9, 2010

Subject: Proposed Water and Sewer Fund Utility Rate Study (RFP #FY 2010-PW 401)

Background: During fall 2009 in accordance with the 2009/2010 budget process, Staff was directed to initiate a study to review utility rates in an effort to make them more equitable. It appears that the Town has never utilized the services of a professional utility rate consultant. Accordingly, Staff solicited request for proposals (RFP) for a professional services consultant to perform a comprehensive water and sewer cost of service and rate design study. The Town received four responses; TischlerBise, Inc., Burton & Associates, Inc, Raftelis, Inc, and Milian, Swain & Associates, Inc (Attachment A). The responses were evaluated by a selection committee appointed by the Town Manager. The selection committee comprised three members: the Finance Support Services Director, the Public Works Director and the Building Official.

Analysis: The overall goal of the study is to ensure a sound water and sewer utility financial policy framework as well as develop a plan that ensures equitable cost recovery, revenue stability, and long-term financial viability. Specifically, the Town needs to;

1. Provide for sufficient revenues to recover operating and capital costs,
2. Minimize than manage debt service for budgeted capital improvements,

3. Establish reserves for future system renewal and replacement needs,
4. Provide a mechanism/incentive for water conservation which would favorably decrease system demand and the resulting maintenance required.

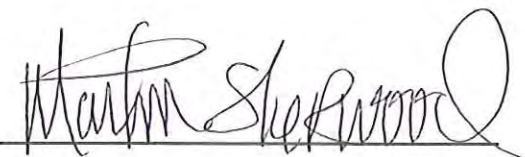
All firms that responded to the RFP are national firms with relevant direct experience in cost of service and rate design. The selection committee based its independent review and analysis on pricing, technical response, qualification and experience, and quality of the proposal. The review committee ranked TischlerBise, Inc. as most qualified candidate (Attachment B) with a grand total average of 92.6 out of 100 points. Attachment C includes the TischlerBise, Inc. letter of transmittal and detailed proposal section including a sample listing of clients.

Most important is that the proposed professional consultant services agreement with TischlerBise, Inc provides that ownership of the established rate model is permanently transferred to the Town. Additionally, five (5) on-site workshops/meetings are included in the proposal which would entail not only data accumulation and fact finding but also Commission policy direction and public input/education.

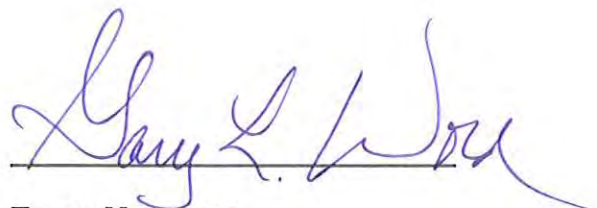
Staff Impact: The hiring of an independent professional rate study consultant will assist the Town by permanently establishing identifiable rate criteria that will determine the Town's water and sewer rates on an annual basis. Additionally, the consultant will work directly with the Finance Director, Public Works Director and the Utilities Coordinator to gather all data then provide training to maintain the model. This project should not adversely impact existing departmental priorities.

Budget Impact: Favorable - The proposed not-to-exceed fee of \$24,850 is slightly less than the amount already adopted in the Water and Sewer Fund's FY 2009/2010 budget.

Recommendation: It is recommended that the Surfside Town Commission adopt the attached resolution selecting TischlerBise, Inc. as its preferred professional cost of service and rate design study consultant (Attachment D).



Finance Support Svs Dept Head



Town Manager



**TOWN OF SURFSIDE
Office of the Town Clerk**

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

**REQUEST FOR PROPOSAL #FY 2010-PW-401
Water and Sewer Comprehensive Cost of Service and Rate Design Study
February 3, 2010**

Town Clerk, Debra Eastman and Finance Support Services Director, Martin Sherwood met at 3:01 p.m. to open RFP packages received for the above proposal. The following submittals were received:

Milian, Swain & Associates, Inc.
2025 SW 32nd Street, Suite #110
Miami, FL 33145

TischlerBise
Fiscal, Economic & Planning Consultants
4701 Sangamore Road, Suite S240
Bethesda, MD 20816

Burton & Associates, Inc.
Utility & Governmental Economics Consultants
200 Business Park Circle, Suite No. 101
St. Augustine, FL 32095

Raftelis Financial Consultants
1031 S. Caldwell St., Suite 100
Charlotte, NC 28203

**Debra E. Eastman, MMC
Town Clerk**

**TOWN OF SURFSIDE, FLORIDA
EVALUATION OF SUBMITTALS
RFP - FY 2010-PW 401
WATER/SEWER COMPREHENSIVE COST OF SVCE AND RATE DESIGN STDY**

EVALUATION CRITERIA	MAX POINTS	FINANCE DIRECTOR			PUBLIC WORKS DIRECTOR			BUILDING OFFICIAL					
		Tischler Bise	BURTON & ASSOC	RAFTELIS	Milian, Swain	Tischler Bise	BURTON & ASSOC	RAFTELIS	Milian, Swain	Tischler Bise	BURTON & ASSOC	RAFTELIS	Milian, Swain
I. COST OF SERVICES	50	50.3	25.1	22.3	16.7	50.3	25.1	22.3	16.7	50.3	25.1	22.3	16.7
II. TECHNICAL RESPONSE	20	18	18	15	16	19	17	15	15	20	20	15	15
III. QUALIFICATION AND EXPERIENCE	20	15	15	18	15	15	18	15	12	17	20	20	20
IV. QUALITY OF PROPOSAL	10	8	8	8	9	9	8	8	10	6	4	6	6
SUB TOTAL	100	91.3	66.1	63.3	56.7	93.3	68.1	60.3	53.7	93.3	69.1	63.3	57.7
V. Preference Points, if any		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Town domicile: 10 mile radius:		N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
GRAND TOTAL	100	91.3	66.1	63.3	56.7	93.3	68.1	60.3	53.7	93.3	69.1	63.3	57.7

92.6	67.8	62.3	56.0
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GRAND TOTAL AVERAGE/3

ATTACHMENT C

PROPOSAL TO PROVIDE WATER AND SEWER COMPREHENSIVE COST OF SERVICE AND RATE DESIGN STUDY SERVICES - RFP NO. 2010-PW 401

Prepared For

Town of Surfside, Florida



February 3, 2010

TischlerBise
Fiscal, Economic & Planning Consultants

4701 Sangamore Road, Suite S240
Bethesda, MD 20816

Letter of Transmittal

February 3, 2010

Mr. Martin D. Sherwood, Finance Director
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

Re: *Proposal to Provide Water and Sewer Comprehensive Cost of Service and Rate Design Study Services for the Town of Surfside – RFP # 2010-PW 401*

Dear Mr. Sherwood:

We are pleased to submit this proposal to the Town of Surfside to provide comprehensive rate study services for the water and sewer enterprise fund.

We understand that a comprehensive rate evaluation has not been conducted for several years. During this time, costs of operations have increased and capital needs are required to ensure the Town can continue providing high quality water and sewer service to its customers. Specifically, the Town requires the following analyses to be undertaken:

- Capital funding analysis to meet the anticipated \$3.5 million capital project requirements over the next five years. Debt financing will likely be required therefore the rate analysis must consider annual debt service and related coverage ratios. Additionally, the Town desires the consultant to have capital funding expertise to prevent “double dipping” of impact fee funds and rate revenues. Without adequate funding for these projects, the enterprise fund balance will be depleted and the Town does not want to subsidize the fund with general tax and fee revenues.
- Operations costs must be met with matching service charge revenues. As part of this analysis, the Town desires to have a thorough review of its General Fund cost allocations to ensure the General Fund is properly reimbursed for central service support.
- A true cost of service analysis to properly allocate revenue requirements of each utility to each customer class. This analysis should utilize the cash basis approach of utility rate setting, a review and selection of the best cost allocation approach (either base extra capacity or commodity demand), a net plant investment analysis to appropriately allocate the costs of future capital projects and debt to each customer class, and a customer characteristic and billing analysis to determine appropriate rate design.
- Rate structures that are equitable, ensure revenue stability for the enterprise fund, are affordable and promote water conservation. Several alternative rate designs should be developed and discussed with Town staff to meet the Town’s fiscal and policy objectives. As an optional service, we

propose to conduct a water budget analysis to determine each customer's water efficiency factor and base a tiered rate structure on this approach. Our scope of services provides greater detail of this proposed rate pricing option.

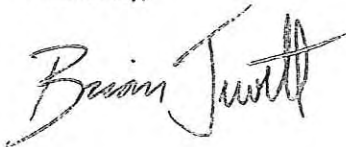
- The Town also desires that the rate study process be an educational one whereby Town staff completely understands the rate setting process and can utilize the final rate models to update assumptions, costs, projections and capital scheduling for future rate adjustments.
- Finally, the Town desires for the rate consultant to participate in the outreach effort once the final rate structure proposal has been identified. In these difficult economic times, successful implementation of increased utility rates is highly dependent upon proper education and demonstration of needs and purpose of both utilities. Utilizing a consulting team that has a tremendous amount of experience with utility revenue measures is critical to the Town to enhance the chances of success in establishing support for the increases.

We believe that the combined strengths of our team will address these needs and outcomes while providing you with the best support. Our attached proposal demonstrates our qualifications to successfully manage and complete this project for you.

Please note that our firm has not defaulted on any other governmental contract and there is no pending litigation or unsatisfied judgments against our firm.

We look forward to working with you and the Town of Surfside and are committed to providing cost-effective, high-quality support for your rate study needs.

Sincerely,



Brian Jewett,
Vice President
TischlerBise, Inc.

Firm Profile

TISCHLERBISE

We are a fiscal, economic and planning consulting firm that specializes in utility rate studies and financial plans, user fees, cost allocation plans, development impact fees, fiscal impact analysis, capital improvement planning, and related revenue strategies. Our firm has been providing consulting services to public agencies for over 30 years. In this time, we have prepared hundreds of utility-related financial analyses throughout the United States. In addition, we have prepared over 700 development impact fee evaluations – more than any other firm. Through our detailed approach, proven methodology and comprehensive product, TischlerBise is established as a national expert on revenue enhancement and cost of growth strategies. The map below illustrates the broad geographic diversity of our client base. Our references demonstrate our ability to successfully manage projects throughout the country from our Maryland and California offices. Our work for this project will be conducted primarily from our California office.



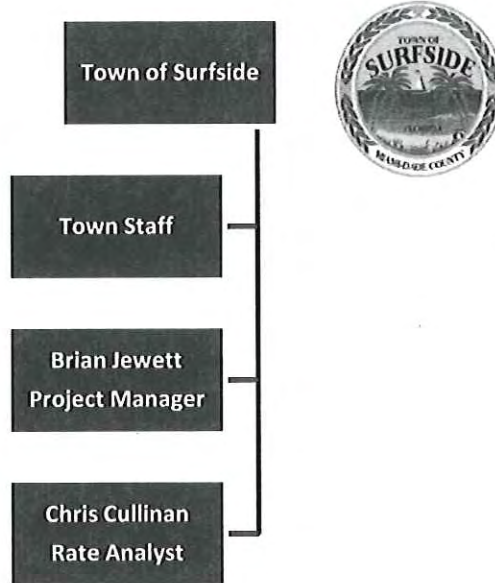
APPROACH TO MANAGING CHALLENGES AND CONTINGENCIES

Seamless support will be provided to the Town. Each member of our team is already aware of their role and responsibilities as part of the project team. Furthermore, the team will meet bi-weekly to assess the status of the project. At these meetings, Mr. Jewett will direct existing and upcoming project tasks. These weekly meetings ensure that staffing resources are well-matched to provide the highest quality of work product, high responsiveness to the Town, and to keep the project on schedule. These meetings also provide a forum for applying the team's collective expertise to solving difficult analytical issues that arise in complex projects.

Project Team and Previous Experience

The following section illustrates our experience and expertise with utility rate and fee studies. Please note that all staff proposed for this project has the capacity to complete the Town's project in a timely and professional manner.

PROJECT TEAM ORGANIZATION CHART



Resumes of team members follow on the next two pages.

BRIAN JEWETT – PROJECT MANAGER

Brian Jewett has 18 years experience in public administration for local government. Much of his work is related to creating and maximizing new and existing revenue sources to maintain and enhance public service delivery and fund capital project needs. Based on this expertise, Mr. Jewett has developed numerous utility financial plans and rate analyses, cost recovery models and a variety of additional funding mechanisms for cities and special districts in several states. He has developed innovative analyses for utility rates and user fees to determine proportional cost structures thus ensuring equity and defensibility in the implementation of funding sources. His expertise has led clients to engage him as a third party reviewer of funding programs and as an expert witness in utility rate cases.

Mr. Jewett is an active member of the American Water Works Association and is a current member of AWWA's Rates and Charge Committee, the industry-leading organization for water rate setting in the United States. In addition, he has presented to various industry groups and government bodies on fiscal and utility related topics. Mr. Jewett has been with TischlerBise since May 2009 and works from the firm's Temecula, California office. Prior to joining TischlerBise, Mr. Jewett was Vice President and Manager of Willdan Financial Services. While at the firm, he led a diverse team of financial and economic experts dedicated to developing sustainable funding programs including impact fee development, fiscal impact analyses, growth planning, special financing district formations, and utility rate and cost of service analyses.

REPRESENTATIVE UTILITY RATE SETTING AND FINANCIAL PLANNING EXPERIENCE

- City of Flagstaff, Arizona – Water, Wastewater and Reclaimed Water Rate and Capacity Fee Study
- Town of Florence, Arizona – Water, Wastewater and Sanitation Rate Study
- City of Avenal, California – Water and Wastewater Rate Study
- City of Covina, California – Water and Wastewater Rate Study
- City of Crescent City, California – Water and Wastewater Rate and Connection Fee Study
- Elsinore Water District, California – Water Rate Study
- Encina Wastewater Authority, California – Wastewater Treatment Facility Asset Allocation Analysis
- City of Fort Bragg, California – Water and Wastewater Rate Study
- City of Fountain Valley, California – Water and Wastewater Rate Study
- Laguna Beach County Water District, California – Water Budget Analysis
- Leucadia Wastewater District, California – Long-term Financial Planning Analysis
- City of Rio Vista, California – Water and Wastewater Rate Study
- Santa Margarita Water District, California – Proposition 218 Peer Review
- City of Stockton, California – Water Utility In-lieu Fee Study
- City of Westminster, California – Water Rate Study
- City of Riviera Beach, Florida – Water and Wastewater Rate Study

EDUCATION

M.P.A., Public Administration, University of Delaware

B.A., Political Science, University of California, Santa Barbara

CHRIS CULLINAN – RATE ANALYST

Chris Cullinan conducts utility rate analyses, utility connection and impact fee studies, fiscal impact analyses, revenue strategy assessments, and capital improvement funding analyses from our Bethesda, Maryland office. He has over ten years of public finance experience in both the public and private sectors. He has worked for TischlerBise for the past 8 years. Mr. Cullinan's utility fee work includes detailed analyses of residential and nonresidential water demand and requirements of average day and peak day usage. His utility rate work includes multi-year analyses of revenue requirements and costs of service resulting in rate structures proportionate to customer demand and collection of appropriate levels of revenue. Additionally, Mr. Cullinan has prepared impact fees for water, wastewater, reclaimed water, and stormwater utilities. His impact fee experience results in new development paying its full, proportionate share of capital costs while minimizing the impact on revenue requirements and rates.

Prior to joining TischlerBise, Mr. Cullinan was previously the Budget Director for the City of Charlottesville, Virginia where he was involved with budgeting, cost analysis, revenue analysis and forecasting, long-term financial planning, and capital improvement planning. His experience included working with the City's water, wastewater, and natural gas utilities.

REPRESENTATIVE PROJECTS

- Flagstaff, Arizona utility rate and capacity fee studies for water, sewer, and reclaimed water.
- Fountain Valley, California water and wastewater rate studies.
- Laguna Beach County Water District, California water budget analysis and rate study.
- Surprise, Arizona utility development fee analyses for multiple service areas.
- City of Goodyear, Arizona water resources, water development, wastewater, and reclaimed water development fee studies for areas within current City limits and separate fees for recently annexed areas.

EDUCATION

M.P.A. Public Finance, Indiana University-Bloomington

B.A. Political Science, Earlham College

SPEAKING ENGAGEMENTS

- "Surviving an Impact Fee Challenge", National Impact Fee Roundtable, 2009.
- "Alternative Impact Fee Calculations", National Impact Fee Roundtable, 2008.
- "Development Fee Calculations", Arizona Chapter of American Planning Association Annual Conference, 2008.
- "Cost of Growth: From Assessment to Implementation", International City/County Management Association Annual Conference, 2008.
- "The Cost of Growth: It's Not Just the Capital Costs", American Planning Association Annual Conference, 2006.

TISCHLERBISE REPRESENTATIVE PROJECT DESCRIPTIONS

City of Flagstaff, AZ – *Water, Wastewater and Reclaimed Water Rate and Capacity Fee Study*

Mr. Jewett currently manages this project for water, wastewater and reclaimed water rate and fee analyses. Mr. Cullinan is assisting Mr. Jewett with the rate study and is the task leader for the capacity fee study for each utility. Due to increasing capital costs and a major downturn in development, the City needs new rate and capacity fee structures that support increasing operations costs, significant debt financing and Water Infrastructure Financing Authority (WIFA) and State Revolving Fund (SRF) loan requirements while encouraging water conservation through a multi-tiered rate system. Mr. Jewett has met with the City's Water Commission a total of six times during the course of this project to facilitate discussion on the needs for the rate analysis and the results of recommended structure changes and rate increases. The result has been a unanimous recommendation to bring the rate proposal to the City Council later this year.

Agency Contact: Mr. Randy Pellatz, Utilities Director, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001; (928) 779-7618; rpellatz@flagstaffaz.gov

City of Fountain Valley, CA - *Water and Wastewater Rate Study*

Mr. Jewett performs ongoing utility consulting services for the City for its water and sewer systems. Most recently, Mr. Jewett and Mr. Cullinan conducted an independent review of the City of Fountain Valley's water rate structure. The City has local access to groundwater and Metropolitan Water District supplies which are resulting in higher water purchase costs for the City. Furthermore, the City is facing significant capital project investment needs. The former rate structure was inadequate in providing sufficient revenue to face these cost pressures. Our team developed a ten-year budget requirement analysis for the City's water utility, identified separate fixed and commodity charges through an intensive cost of service analysis, and developed a reserve policy to provide sufficient funding for future operational and capital needs through an integrated planning process.

Additionally, the City required the rate analysis be completed in 13 weeks from receipt of notice to proceed in order to appropriately implement the proposed rates and collect increasing revenues. Mr. Jewett also consulted with the City regarding design and content of the public hearing notices and procedural requirements.

Agency Contact: Mr. Mark Lewis, Public Works Director, City of Fountain Valley, 10200 Slater Avenue, Fountain Valley, CA 92708; (714) 593-4435; mark.lewis@fountainvalley.org

City of Westminster, CA - Water Rate Study

Mr. Jewett was the project manager of this project for the City involving a water rate study. The City required a long-term analysis of its water fund to ensure the financial stability of the fund in the future. As part of this effort, Mr. Jewett created a 10-year pro forma for the fund, reviewed and revised the City's General Fund reimbursement approach and developed formal reserve policies for operating and capital reserve needs in the future. This approach will help the City plan for its future needs and minimize future debt financing. Mr. Jewett created a tiered rate structure for six separate customer classes based on each customer class' proportionate cost of water service. Finally, Mr. Jewett led a citizen-based Water Ad-Hoc Committee through a series of 6 meetings to establish support of the new rate structure. The Committee unanimously approved the new rate structure.

Agency Contact: Mr. Marwan Youssef, Public Works Director, City of Westminster, 8200 Westminster Boulevard, Westminster, California 92683; (714) 898-3311 x219; marwany@ci.westminster.ca.us

Project Management

For our projects, we utilize a project management process that ensures projects are completed on time, within budget and most importantly yield results that match our clients' expectations. Our project management plan utilizes the following principles common to successful projects:

First, we begin by defining the project to be completed. Mr. Jewett will identify the final project goals and objectives in collaboration with Town staff, list potential challenges to the process, and develop a plan to ensure successful outcomes and effective communication.

Second, we will plan the project schedule. Mr. Jewett will work with you and your staff to create an agreed upon timetable to meet your project schedule. Prior to beginning the project, he will work with team members to assign roles that will ensure the project schedule is met on time and within budget.

Third, we will actively manage the project process. Mr. Jewett has a long history of strong project management skills that are supported by past project successes (we encourage you to contact our references regarding this aspect). He will manage the work in progress, provide guidance and oversight to staff, and will be accountable to you for meeting the schedule, budget, and technical requirements of the project. Mr. Jewett will collaborate and frequently communicate with Town staff by utilizing regularly-scheduled progress memorandums, e-mail status updates, conference calls and meetings at Town offices.

Finally, we will review all project deliverables and communication through a formal **quality assurance process** that requires review at the peer level, project manager level, and executive officer level. Prior to the delivery of work product to you and staff, deliverables will go through a structured quality assurance process involving up to three levels of review and utilizing a formal checklist tool. The first level involves a peer-to-peer review of spreadsheet models and documentation. Next, Mr. Jewett will be responsible for the second set of reviews comparing the work product to the completed quality checklist form. If necessary, a senior manager of the firm not related to the project, may provide a third level review if deemed necessary by Mr. Jewett.

PROJECT WORKLOAD

Brian Jewett, serving as Project Manager, will be the Town's primary contact and will be solely responsible for ensuring compliance with budget and schedule constraints. Mr. Jewett will dedicate approximately 60% of the total workload to this project. Chris Cullinan, our proposed rate analyst, will dedicate approximately 40% of the total workload to this project. Both team members have the workload capacity to be responsive to the Town's requests during the course of the engagement.

APPROACH TO MANAGING CHALLENGES AND CONTINGENCIES

Seamless support will be provided to the Town. Each member of our team is already aware of their role and responsibilities as part of the project team. Furthermore, the team will meet bi-weekly to assess the status of the project. At these meetings, Mr. Jewett will direct existing and upcoming project tasks.

These weekly meetings ensure that staffing resources are well-matched to provide the highest quality of work product, high responsiveness to the Town, and to keep the project on schedule. These meetings also provide a forum for applying the team’s collective expertise to solving difficult analytical issues that arise in complex projects.

Our approach to resolving issues that may be encountered during the project is simple: identify the possible challenges early on and notify all project members in a timely manner. Early identification will allow the team time to strategize a solution from a proactive, rather than reactive, framework.

Due to our contingency approach and our strong project management experience, we have not had a claim of errors and omissions over the past 5 years in our work product.

Project Approach and Scope of Work

PROJECT APPROACH

We will evaluate the impact over the next 10 years of several alternative financial scenarios. The ten-year plan will enable the Town to better evaluate the potential economic and financial impact of the customer, flow and revenue growth on its water and sewer systems. While not a stated purpose in the Town's RFP, we plan for this process to address such questions as whether future system and revenue growth will finance some of these improvements and lessen the need for rate increases. It also will allow the Town to determine whether it may be appropriate to implement rate adjustments over a period of several years in a phased approach.

The primary purpose of many utility rate studies, and most revenue program studies in California, is to provide a recommended set of rates and fees that are based solely on the cost of service for each customer class. However, cost of service will be only one of many important factors that our team will be looking at during the project. Our rate design approach will also balance the sometimes conflicting issues of utility funding requirements, cost of service principles, users' ability to pay, and Town policy goals.

The information developed during the course of this analysis will allow the Town to choose a financial plan that will minimize the impact on all classes of ratepayers while still allowing it to meet growth demands in the future and environmental quality standards. Our team will reach these objectives through the use of financially and technically sound approaches resulting in rates and fees that are equitable and consistent with industry practices, state and federal regulations, and community needs and values.

The following scope of work provides detailed steps to ensure your project is completed successfully. We have designed this work plan to be responsive to your needs and specific local circumstances.

TASK 1: PROJECT INITIATION / DATA ACQUISITION, COMPILATION AND REVIEW

Description: During this task, we will meet with Town staff to establish lines of communication, review and discuss project goals and Town policies related to the project, review the project schedule, and revise if necessary, and to request data and documentation related to the project. The specifics of this initial discussion are outlined below:

Policy Discussion and Pricing Objectives. Our team will catalog existing Town policies and potential strategies which would guide the work of each subsequent element in this task plan. Water and sewer pricing objectives will be conducted with Town staff to prioritize the various objectives. Commentary on these policy parameters will be documented for inclusion in the study report and will be reviewed with Town staff to prepare for the work.

Project Timeline. As needed, modify the timeline to ensure the project’s milestones are met according to your schedule. Through our project management tools, our project plan will minimize effort on your Town staff. Naturally, staff effort will be required for data collection, meetings and review of deliverables. However, we anticipate that our collaborative effort with the Town will keep this effort to a minimum.

Deliverables: 1) Data request memorandum. 2) Policy discussion memorandum. 3) Revised project schedule, if necessary. 4) Project team member contact list including names, location addresses, phone numbers and e-mail addresses.

TASK 2: DATA ANALYSIS / CUSTOMER CHARACTERISTIC ANALYSIS

Description: We will review, understand and apply related data and documentation to the project. Our project team will develop customer characteristics as a pretext to the development of water and sewer rates. We will review the usage of the Town’s customers for the past 5 years and perform a billing analysis to illustrate water usage by blocks, for example in 5 unit increments. This is a standard feature of all of our rate studies, as it provides information that is critical in establishing a framework for determining the appropriateness of potential rate adjustments.

Our project team will develop historical and current data on:

- Number of households
- Median household income for Town and other residents affected by the rates
- Number of water and sewer accounts
- Average water and sewer bills, both total and as a percentage of household income
- Percentage of household income in other municipalities similar to Surfside and in surrounding areas available for and dedicated to water and sewer services
- Comparison of actual billings and collections for water and sewer services

For this analysis, we will utilize data from the Town, State of Florida and US Bureau of the Census.

Evaluate Alternate Rate Designs with Town Staff. Based on the results of the customer characteristics and billing analysis, we will evaluate alternate rate designs that match the results and best meet the Town’s policy and pricing objectives.

Deliverable: Memorandum including demographic and billing analysis and data as well as assumptions and projections to be utilized for the rate study.

TASK 3: CAPITAL IMPROVEMENTS PLANS REVIEW AND FUNDING ANALYSIS

Description: The Town has planned for approximately \$3.5 million in capital needs related to water and sewer maintenance and rehabilitation, and to correct environmental impacts. The plan calls for these expenditures to occur over the next five years. As such, we will develop a capital improvement funding analysis for the water and sewer utilities in conjunction with the rate analysis. Our team will review and comment on the assumptions and methodologies used to assess the basis for the CIP projects and unit costs associated with facility cost improvements and link capital projects to current and future funding sources. This analysis will identify the feasibility of modifying the utility impact fees.

Deliverable: None.

TASK 4: FINANCIAL PLANNING AND REVENUE REQUIREMENTS ANALYSIS

Description: Develop annual revenue requirements for each utility's operations utilizing the cash basis approach (the utility basis is more appropriate for investor owned utilities who are concerned with detailed calculations of rate of return). For this analysis, we will take into consideration the following factors:

- Historical and audited financial data and current budgets to project future operating and capital expenditures. We will escalate expenditures using historical patterns if appropriate or reasonable assumptions based on our experience with other utility studies. We will apply a variety of escalation factors to each budget line item.
- Capital improvement projects and schedule (related to Task 3).
- Regulatory costs of meeting Federal and State requirements.
- Past and future system depreciation schedules.
- Historical asset records for the net plant investment analysis.
- Development of new or updated reserve policies for operations, rate stabilization and capital needs.
- Adequate coverage ratios should the Town decide to issue debt to finance future capital needs.

Indirect Cost Allocation Analysis. The revenue requirement analysis must include a detailed overhead cost allocation analysis to legitimately collect enough revenue to meet the central services support of the water and sewer enterprise fund. This analysis will include looking at all Town departments that support water and sewer operations including but not limited to central service support of Town management, Town Commission, and finance. We recommend the indirect cost analysis utilize commonly accepted cost allocation plan approaches similar to those endorsed by the federal Office

of Management and Budget A-87 Circular for indirect cost calculations. If the Town has a current indirect cost plan, we will utilize the cost layers accordingly and apply them to our revenue requirement analysis.

Alternative Financial Scenarios. Develop three alternative financing scenarios to meet operations and capital needs. The scenarios will consider debt financing and related coverage ratios, other Town fund loans at lower interest rates than formal debt financing, and “pay as you go” approaches via utility charges. Scenarios may utilize a combination of these approaches. Our rate model will allow Town staff to develop several “what if” scenarios utilizing these approaches.

Deliverable: Progress memorandum incorporating results of the revenue requirements analysis and capital funding analysis for each utility.

TASK 5: COST OF SERVICE ANALYSIS

Description: **Generate Functional Cost Analysis.** The Town requires rate structures that provide adequate revenues generated from rates, are defensible and equitable across customer classes, and meet Proposition 218 requirements for rate setting. To create such structures requires a functionalization and cost allocation analysis that distributes the full costs of utility services to customers in proportion to the unique demands they place on the utility systems. As part of this step, we will develop a **net plant investment analysis** to properly allocate future capital costs and debt service obligations to functional categories of each utility.

To achieve these results, the rate structure should utilize allocation methodologies endorsed by leading national industry organizations such as the American Water Works Association (AWWA) and the Water Environment Federation (WEF).

Drawing upon documented system standards and planning criteria, Town staff knowledge, and industry expertise, our project team will determine appropriate cost allocation factors with which to distribute utility requirements to functional cost categories. The two primary allocation approaches are **the base-extra capacity approach** and **the commodity demand approach**. During our evaluation of the utility records and customer characteristics, we will collaborate with staff as to the best approach to use for Surfside. Both methodologies are applicable to municipal rate setting, yet each one has unique results when applied.

For example, the base extra capacity model defines peaking as the difference between a customer’s maximum day or hour demand and the customer’s average daily demand. The result is that customer classes with higher base use will be responsible for a relatively larger portion of utility costs, such as non-residential customers. In the commodity demand method, customer classes with higher total daily peaking

characteristics will be responsible for a larger portion of the cost of facilities designed to meet peak use. These customer classes are typically residential and irrigation.

Develop Customer Cost Allocations. Each functional cost category developed above will be further distributed to each existing customer class, based on their individual demands for the service component or defined system planning requirements for each class. This task will result in the total costs attributable to the requirements of each customer class, and hence, the amount of annual revenue to be recovered from the rates for each class.

Develop Unit Costs. Our project team will calculate unit costs of service for each functional cost component assigned to each customer class, using customer and operating statistics (e.g., customer counts, volumes, etc.). These unit costs will serve as the foundation for designing rates.

TASK 6: RATE DESIGN AND COMPARATIVE ANALYSES

Description: The revenue requirements from each customer class will be recovered through a rate structure designed to stand alone as a separate revenue source. We will design rate structures that provide equity and ease of implementation and will only utilize data and figures that can be supported, thus strengthening equity and defensibility.

Our utility rate model will translate the customer class fair share of the revenue requirement into an actual rate structure for utility services. This type of analysis addresses critical policy criteria such as:

- Financial Sustainability – Does the proposed rate structure reduce the volatility of revenue, and are all program costs met to assure the financial feasibility of the system?
- Equity – Is the new rate structure equitable to all customer classes? There may be social and political concerns that certain customer classes cannot afford a higher rate structure. However, these must be balanced with proportionate cost of service principles.
- Defensibility – Is the new rate structure compliant with existing legal requirements and is it truly cost of service-based?
- Administrative Ease – Is the proposed rate structure easy to administer and simple to explain? Complex rate structures may create unforeseen administrative challenges or may require significant public outreach to educate customers on the need for a new rate structure or updated utility rates.

Alternative Rate Design. We will design up to three alternative rate structures for each utility by incorporating a 100% variable approach, a fixed/variable approach, and a fixed/variable approach with tiered variable rates for customer classes. Our analyses will

present the number of and degree to which different customers are impacted by changes in the structures.

Comparative Analysis. We will analyze differences in rates and rate structure design of surrounding jurisdictions. During this task, we will not only gather the rate structures from other agencies but will ask each agency contact in-depth questions about their rate design to ensure an “apples to apples” comparison. Research will center on such items as last rate update, rate structure type, and goals and policies surrounding that particular agency’s rate schedule. We have found this comparative analysis to be a useful tool for elected officials, Town staff and the community in smoothing the transition to new utility rates and avoiding “rate shock”.

Customer Affordability. We understand the Town is sensitive to customer impact of new rates. Utilizing EPA guidelines, we will develop an affordability index based on the desired rate structure. These guidelines suggest that a residential customer’s utility bill should be no more than 2 percent of median household income. Based on income data generated by the Town or other appropriate sources, we will compare median income and utility bill burden on a monthly basis.

Deliverable: Progress memorandum including proposed rate schedules, rate design alternatives, affordability analysis, and comparative analysis.

OPTIONAL TASK: WATER BUDGET EVALUATION

Description: Water budget allocations for individual customers are becoming more popular in warmer climate jurisdictions, particularly those that rely on water conservation measures to ensure adequate water supply in the future. A water budget-based rate structure utilizes various characteristics of each customer account to determine an efficient amount of water that each account should use on an annual or monthly basis. Customers who exceed their budget allocations pay a significantly higher amount for each subsequent unit of water. Most agencies that have implemented this type of tiered water rate structure have experienced moderate to significant reductions in system-wide water consumption.

Should the Town decide to explore a water budget-based rate approach, we will identify the indoor and outdoor water allocations for each customer account and develop a tiered water rate structure utilizing these allocations. For this analysis we will consider the following factors:

- Density per Household to establish an indoor water allocation based on a 60 to 70 gallon per capita per day factor
- Average water use per capita per day
- Average outdoor water use per household and commercial accounts, if applicable

- Irrigable area data
- Evapotranspiration data for the Town, by year and month

TASK 7: DOCUMENTATION, PRESENTATIONS & RATE MODEL

Description: Our project team will prepare a written report documenting the methodologies, bases, findings, and recommendations of the study. The report will include an executive summary, technical appendices and present information and data in table and graph form where appropriate.

We will develop a draft report and submit copies to Town staff for review and feedback. The contents of the draft report will be delivered in electronic portable document format for distribution to appropriate reviewers. Upon review, the team will finalize the report and will publish five (5) bound copies of the document. Also delivered will be one (1) unbound master reproducible version of the report, as well as one (1) electronic copy in portable document format.

We will meet with Town Commission and staff to present the rate study findings and results. The reports and presentations will be distributed at least ten (10) days in advance of meetings.

User Friendly Rate Model. Following final Town approval of the rate structures, we will prepare a user’s manual of the rate model for Town use. Rate study results are used by many stakeholders during the course of an analysis and often long after project completion. For instance, agency staff implement, use, and communicate resulting rate structures to a variety of interests. The spreadsheet models may be used to perform updates or to conduct “what-if” scenarios. Legislative officials often communicate the need for rate reviews and increases to constituents. Utilizing user-friendly project deliverables such as spreadsheet models, reports, and presentations enhances these efforts and is critical to the smooth implementation of the new rate structures.

Our fee models are spreadsheet-based using Microsoft Excel as the software platform. Mr. Jewett has designed models with the end-user in mind, agency staff. They include full disclosure reporting in the form of coordinated assumption listings, customer rate impacts and a host of graphical representations of results. Our model will be customized to your requirements while the formats, formulas and navigation of our models are familiar to all staff.

Our experience tells us that these features will make it more likely that you and your staff will use and therefore benefit from the project in future years. As staff updates the project structure for changes in future expenditures and processes, they will be able to easily extract the valuable result information they need. At project completion, we will

prepare a user's manual to assist with model navigation and we will conduct an on-site visit with staff to demonstrate model operation.

Deliverables: 1) Draft and final reports and presentation materials for meetings. 2) Spreadsheet model and user's manual.

TASK 8: PUBLIC INVOLVEMENT EFFORT

While no one wishes to see their utility bills increase, well informed customers do understand the need of necessary resources to provide these essential utility services. It is incumbent upon the Town and its consulting team to provide the information needed to ensure customers are well informed.

We view this project as having goals on multiple levels:

- Reinforce awareness of the Town as a customer-service-oriented organization
- Educate the public about the water and sewer utility services the Town provides and the value of those services
- Prepare ratepayers for the fact that rate adjustments may occur, and ensure the reasons for such increases are understood
- Inform ratepayers about actual rate changes

These goals provide an opportunity to tell the story of the good work the Town does with the utilities and reinforces the need to ensure that the needed upgrades are funded adequately. Our project team has years of experience presenting to customer groups, ratepayers and property owners regarding a variety of revenue programs including utility rates. Our project manager, Brian Jewett, has facilitated several utility rate advisory committees, most recently in the City of Flagstaff, Arizona and the City of Westminster, California. In both of these efforts, the committee voted unanimously in support of the significant rate increases.

Should the Town decide to utilize the rate consultant as a facilitator of a formal advisory commission which will include additional meetings beyond those budgeted in this proposal, we will work with Town staff to develop additional scope items and related budget. In addition, should the Town decide to utilize the services of a professional outreach firm, we will work with the Town to select the communications consultant.

PROJECT MEETINGS

A collaborative, iterative process will help to ensure that all client expectations are met. We will strive to make meetings as efficient and productive as possible, and will use e-mail, online meeting services and other devices to minimize miles traveled and to save time. We anticipate a total of five (5) meetings during the course of the project, along with ongoing e-mail and phone correspondence.

RESOLUTION NO. 10-___

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING THE FIRM OF TISCHLERBISE, INC. TO PERFORM A COMPREHENSIVE WATER AND SEWER COST OF SERVICE AND RATE DESIGN STUDY; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on February 3, 2010, the Town publicly opened and read four responses to Request for Proposal #FY 2010-PW 401 for a Water and Sewer Comprehensive Cost of Service and Rate Design Study: TischlerBise, Inc., Burton & Associates, Inc, Raftelis, Inc, and Milian, Swain & Associates, Inc.

WHEREAS, The responses to the Request for Proposal to perform a comprehensive water and sewer cost of service and rate design study were evaluated by a Selection Committee appointed by the Town Manager.

WHEREAS, after reviewing all proposals submitted to the Town and the recommendation of the Selection Committee, the Town Manager recommends the selection of TischlerBise, Inc.; and

WHEREAS, the Town Commission finds TischlerBise, Inc. to be the lowest, most responsible, responsive bidder and finds its bid to be in the best interest of the Town.

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

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

Section 2. Approval. The Town Commission selects TischlerBise, Inc. as the consultant to perform a comprehensive water and sewer cost of service and rate design study as

per the response to the request for proposal dated January 4, 2010.

Section 3. Authorization of Town Official. The Town Manager is hereby authorized to enter into a Professional Consultant Services Agreement with TischlerBise, Inc.

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

PASSED AND ADOPTED this _____ day of March, 2010

Motion by Commissioner _____, Second by Commissioner _____.

FINAL VOTE ON ADOPTION

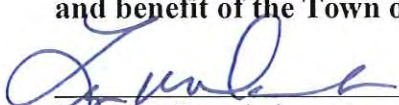
Commissioner Elizabeth Calderon	_____
Commissioner Steven Levine	_____
Commissioner Howard Weinberg	_____
Vice Mayor Marc Imberman	_____
Mayor Charles Burkett	_____

Charles W. Burkett, Mayor

ATTEST:

Debra E. Eastman, MMC
TOWN CLERK

Approved as to form and legality for the use and benefit of the Town of Surfside only:



Lynn M. Dannheisser
Town Attorney



Town of Surfside Commission Communication

Agenda Item # 5D

Agenda Date: March 9, 2010

Subject: Sanitary Sewer Pump Station Improvements

Background: The results of the recent Peak Flow Study determined that the existing pump stations maintain adequate pumping capacity during normal sewage flows; however, during storm events and/or high tides, the pumps run excessively. This condition is noted in the Monthly DERM reports. The Town is mandated by the EPA through a Consent Agreement with DERM to improve the system and reduce the pump run times. The improvement will increase the level of service, as well as increase the capacity of the Sanitary Sewer Collection System to avoid a building moratorium.

In addition, infiltration of ground water through cracks or breaks in the sanitary sewer has resulted in sewer disposal costs that are more than 26% over budget or over \$200,000 per year. Future budgetary re-appropriation from reserves will likely be necessary to cover this ongoing, degradation until the CIP repairs/replacements/relining are fully completed.

Analysis: Staff is proposing to accept a proposal from Calvin Giordano and Associates (CGA) to design and permit the upgrading of the two pumps to bring the Town into compliance with the County and the EPA. In addition, rehabilitation will lower the energy costs associated with operating the pumps. Staff is proposing to move forward with this project to comply with the Consent Agreement.

Budget Impact: The work authorization attached (see Exhibit 1) provides for system assessment, engineering, and design services at a cost not to exceed \$73,340.00. CGA has assisted the Town in obtaining grants in the amounts of \$100,000 and \$125,000 in order to fund CGA's time and a portion of the construction costs. The combination of these grants and the Town's existing capital improvement budget will result in no additional impact to the Town's budget.

Staff Impact: N/A

Recommendation: It is recommended that the Surfside Town Commission approve the attached resolution approving Work Authorization No. 35 for the Sanitary Sewer Pump Station Improvements.


Department Head


Town Manager

RESOLUTION NO. 10-____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING WORK AUTHORIZATION WITH CALVIN, GIORDANO & ASSOCIATES, INC. FOR SANITARY PUMP STATIONS NOS. 1 AND 2 IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO EXECUTE ALL REQUIRED DOCUMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside's sanitary pump stations have been determined to fail meeting peak demand during storm events and/or high tides.

WHEREAS, the Town has been mandated by the Environmental Protection Agency to improve the system and reduce pump run times.

WHEREAS, Town Engineers, Calvin, Giordano and Associates, Inc. (CGA) have developed a proposal for the evaluation, design, and permitting required for the upgrade of both sanitary sewer pump stations.

WHEREAS, the total engineering design and permit processing cost of this proposal will not exceed \$73,340.40, a cost that will be more than offset by two approved grants totalling \$225,000.

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

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

Section 2. Authorization. The Town Commission hereby authorizes the Town Engineers, Calvin, Giordano and Associates, Inc. (CGA) to move forward with the Work Authorization No. 35 (Exhibit 1) at a cost not to exceed \$73,340.40.

Section 3. Implementation. The Town Manager and the Town Attorney are hereby authorized to take any and all action necessary to implement this Resolution and Agreement in

accordance with the terms, conditions and purposes of this Resolution and Agreement.

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

PASSED AND ADOPTED this 9th day of March, 2010.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION

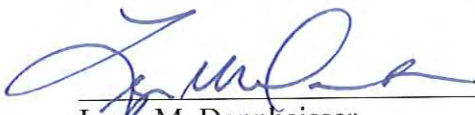
Commissioner Elizabeth Calderon	_____
Commissioner Steven Levine	_____
Commissioner Howard Weinberg	_____
Vice Mayor Marc Imberman	_____
Mayor Charles Burkett	_____

Charles W. Burkett, Mayor

ATTEST:

Debra E. Eastman, MMC
TOWN CLERK

**Approved as to form and legality for the use
and benefit of the Town of Surfside only:**



Lynn M. Dannheisser
Town Attorney



Calvin, Giordano & Associates, Inc.
EXCEPTIONAL SOLUTIONS

Date: January 13, 2010

Mr. Gary Word
Town Manager
TOWN OF SURFSIDE
9293 Harding Avenue
Surfside, FL 33154

RE: Work Authorization No. 35
Surfside Sanitary Sewer Pump Station Improvements - Pump Stations No. 1 & No. 2
CGA Proposal No. 08-2045.2

Dear Mr. Word,

Enclosed for your review and approval is Work Authorization No. 35 for Surfside Sanitary Sewer Pump Station Improvements - Pump Stations No. 1 & No. 2. The scope of the project includes analyzing & upgrading existing pump stations.

The Scope of Services to be furnished under this Work Authorization includes Civil Engineering, Electrical Engineering, Surveying and Construction as shown on the attached Work Authorization.

The Basis of Compensation is hourly based upon the established rates pursuant to the Professional Services Agreement between the Town and CGA, plus reimbursables, for a total not to exceed \$73,340.40.

Sincerely,

CALVIN, GIORDANO & ASSOCIATES, INC.


Dennis J. Giordano
President

- Engineering
- Construction Engineering & Inspection
- Municipal Engineering
- Transportation Planning & Traffic Engineering
- Surveying & Mapping Planning
- Landscape Architecture & Environmental Services
- Construction Services
- Indoor Air Quality
- Data Technologies & Development
- Emergency Management Services
- Building Code Services
- Governmental Services

1800 Eller Drive, Suite 600
Fort Lauderdale, FL 33316
Phone: 954.921.7781
Fax: 954.921.8807

www.calvin-giordano.com

TOWN OF SURFSIDE

Surfside Sanitary Sewer Pump Station Improvements - Pump Stations No. 1 & No. 2

PROJECT DESCRIPTION

1. SCOPE OF SERVICES

Calvin, Giordano & Associates, Inc. will perform the following services based on our understanding of the project requirements:

I. Professional Engineering Services

A. Civil Engineering

1. Preliminary Engineering

- Perform an on-site inspection of the existing pump stations.
- Collect all as-builts and records for the existing pump stations.
- Meet with the City Staff to discuss needed improvements.
- Preparation of Preliminary Engineering Plans to show proposed site improvements and conceptual design.
- Prepare a budgetary cost estimate for the improvements.

2. Final Engineering

- Prepare Final Engineering Plans and technical specifications for:
 - Site preparation and grading
 - Existing equipment demolition and disposal
 - Water and sewer connections
 - Restoration of paving, concrete, fencing, and landscape
 - Pump selection

3. Permitting

- Obtain a permit from the following governmental agencies:
 - Miami-Dade Water and Sewer Department (MDWASD)

- Miami-Dade County Environmental Resource Management
(DERM) - Sanitary Sewer

4. Bidding and Engineering During Construction

- Assist City with bidding the project.
- Attend pre-bid meeting with the City to answer questions.
- Once the bid is awarded, CGA shall assist the contractor with any design related questions.
- Reply to all requests for information (RFI's).
- Review as-builts provided by the contractor.
- Provide a certification to the City and Broward County at the completion of the project.

B. Electrical Engineering

1. Analyze existing electrical installations and provide electrical engineering design services for the rehabilitation of two pumping stations and development of specifications for one portable standby generator capable of operating one pumping station with both pumps in operation.

II. Professional Surveying Services

- A. Locate inside improvements on Pump Stations 1 & 2 and provide vertical datum as directed by CGA Engineers.

III. Professional Construction Services

- A. The following scope is based on 2 Months Construction Time and on total hours specified on attached breakdown. Any additional time beyond will need an approve agreement.
 1. Assist in bidding process, including pre-bid, bid opening, recommendation of award and contract execution.
 2. Meeting with Contractor and appropriate regulatory agencies when requested and necessary for consultation or conferences in regard to construction of the project.
 3. Issue interpretations and clarifications of the Contract Documents, and evaluate requested deviations from the approved design or specifications. In connection therewith, review, prepare and process any work change

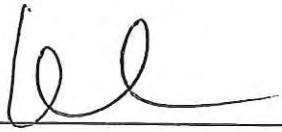
directives or change orders requested by the Contractor, or City.

4. Review and process shop drawings, samples and other data which the Contractor is required to submit.
5. Make weekly inspections(Up to 60 Hours) for compliance with plans and specifications. Make interim inspections for substantial completion; review, approve and process pay requests and perform a final inspection to determine, in general, if the work has been completed in conformance with the intent of the Contract Documents.
6. Review as-built provided by the Contractor.
7. Review and process closeout packages.

2. BASIS OF COMPENSATION:

Hourly rates with an estimated fee of \$69,848.00 plus reimbursables at \$3,492.40 with a total not to exceed amount of \$73,340.40. Payments to be made monthly.

3. SUBMITTED

Submitted by:  Date: 1-11-10
Dennis J. Giordano

4. APPROVAL

Approved by: _____ Date: _____
Gary Word, Town Manager

**TOWN OF SURFSIDE
 WORK AUTHORIZATION ESTIMATE DATE**

WORK AUTHORIZATION NO. 35
PROJECT NAME Surfside Sanitary Sewer Pump Station
 Improvements - Pump Stations No. 1 & No. 2
 CGA Proposal No. 08-2045.2
DESCRIPTION analyzing & upgrading existing pump stations

TITLE	RATE	HOURS/UNITS	COST
Clerical	\$72.10	29	\$2,090.90
Construction Management Director	\$123.60	44	\$5,438.40
Director Engineering V	\$154.50	28	\$4,326.00
Engineer II	\$103.00	194	\$19,982.00
Permit Administrator	\$77.25	10	\$772.50
Project Manager IV	\$133.90	188	\$25,173.20
Sr Inspector	\$92.70	69	\$6,396.30
Sr. Registered Surveyor	\$133.90	2.25	\$301.28
Survey CADD Technician	\$84.20	18	\$1,515.60
Survey Coordinator	\$87.55	19	\$1,663.45
Survey Crew	\$128.75	17	\$2,188.75
			\$69,848.38

SUB-CONSULTANTS	COST
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LABOR SUBTOTAL	\$69,848.37
REIMBURSABLE SUBTOTAL	\$3,492.42
TOTAL	\$73,340.79

Reviewed by: _____
 Gary Word, Town Manager



**TOWN OF SURFSIDE
PROFESSIONAL FEE SCHEDULE**

Principal 212.18
Executive Assistant 74.26

ENGINEERING

Associate, Engineering 185.66
Director, Engineering 159.14
Project Manager 137.92
Resident Inspector 127.31
Project Engineer 127.31
Engineer 106.09
Jr. Engineer 90.18
Senior CADD Technician 106.09
CADD Technician 84.87
Traffic Technician 79.57
Permit Administrator 79.57
Clerical 74.26

DATA TECH DEVELOPMENT

Associate, Data Tech Dev. 159.14
GIS Coordinator 137.92
GIS Specialist 116.70
Multi-Media 3D Developer 95.48
GIS Technician 84.87
Sr. Applications Developer 169.74
Applications Developer 127.31
Network Administration 137.92
System Support Specialist 116.70
IT Support Specialist 84.87

CONSTRUCTION

Associate, Construction 159.14
Construction Management Dir. 127.31
Senior Inspector 95.48

EMERGENCY MANAGEMENT

Director 137.92
Planner 95.48
Jr. Planner 79.57

PLANNING

Associate, Planning 159.14
Director of Planning 137.92
Planning Administrator 127.31
Assistant Director 116.70
Planner 95.48
Jr. Planner 79.57

EXPERT WITNESS

Principal/Associate 318.27
Registered Engineer/Surveyor 265.23
Project Engineer 212.18

LANDSCAPE ARCHITECT

Associate, Landscape 159.14
Senior Landscape Architect 122.00
Environmental Administrator 116.70
Landscape Architect 106.09
Environmental Specialist 95.48
Landscape CADD Technician 84.87
Environmental Assistant 74.26

SURVEYING

Associate, Surveying 169.74
Hydrographic Survey Crew 344.79
G.P.S. Survey Crew 148.53
Survey Crew 132.61
Senior Registered Surveyor 137.92
Survey Coordinator 90.18
CADD Technician 84.87
Submeter G.P.S. 68.96

**MICROBIAL/INDOOR AIR
QUALITY SERVICES**

Sr. Environmental Scientist 106.09
Environmental Scientist 90.18

- Engineering
- Construction Engineering & Inspection
- Municipal Engineering
- Transportation Planning & Traffic Engineering
- Surveying & Mapping
- Planning
- Landscape Architecture & Environmental Services
- Construction Services
- Indoor Air Quality
- Data Technologies & Development
- Emergency Management Services
- Building Code Services
- Governmental Services

In addition to the hourly rates listed above, charges will include direct out-of-pocket expenses such as reproduction, overnight mail, and other reimbursables billed at a multiplier of 1.25.

1800 Eller Drive, Suite 600
Fort Lauderdale, FL 33316
Phone: 954.921.7781
Fax: 954.921.8807



Town of Surfside Commission Communication

Agenda Item # 5E
Agenda Date: March 9, 2010

Subject: Sanitary Sewer Lining and Replacement

Background: As part of the Town-wide improvements to the infrastructure, the sanitary sewer pipes need to be lined or replaced in certain areas. The existing pipes are over 50 years old and are in poor condition. Broken or leaking pipes create additional flow from the infiltration of the groundwater which increases disposal costs and reduces the needed sewer capacity. The Town is mandated by the EPA through a Consent Agreement with DERM to improve the system and reduce water infiltration. The improvement will increase the level of service, as well as increase the capacity of the Sanitary Sewer Collection System to avoid a building moratorium.

In addition, infiltration of ground water through cracks or breaks in the sanitary sewer has resulted in sewer disposal costs that are more than 26% over budget or \$200,000 per year. Future budgetary re-appropriation from reserves will likely be necessary to cover this ongoing, degradation until the CIP repairs/replacements/relining are fully completed.

Analysis: Calvin Giordano and Associates (CGA) has identified the areas of concern and needs to prepare construction documents for the lining and the replacement, obtain permits from the governmental agencies and furnish engineering services during the construction of these improvements. Staff is proposing to move forward with this project to comply with the Consent Agreement.

Budget Impact: The work authorization attached (see Exhibit 1) provides for system assessment, engineering, and design services at a cost not to exceed \$64,153.95. CGA has assisted the Town in obtaining grants in the amounts of \$100,000 and \$125,000 in order to partially fund the design and construction costs. The combination of these grants and the Town's existing CIP budget will result in no additional impact to the Town's budget.

Staff Impact: N/A

Recommendation It is recommended that the Surfside Town Commission approve the attached resolution approving Work Authorization No. 30 for the Sanitary Sewer Line Improvements.


209 Department Head


Town Manager

RESOLUTION NO. 10-____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING WORK AUTHORIZATION WITH CALVIN, GIORDANO & ASSOCIATES, INC. FOR THE PREPARATION OF CONSTRUCTION PLANS AND DOCUMENTS, PERMIT PROCESSING AND CONSTRUCTION MANAGEMENT SERVICES REQUIRED FOR THE LINING AND REPLACEMENT OF SANITARY SEWER LINES; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO EXECUTE ALL REQUIRED DOCUMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside's sanitary sewer lines are over 50 years old and determined from video inspection to be in poor condition.

WHEREAS, broken or leaking pipes allow additional flow of groundwater into the system which increases disposal costs and reduces the sewer system's capacity.

WHEREAS, Town Engineers, Calvin, Giordano and Associates, Inc. (CGA) have developed a proposal for the engineering design, permitting and construction management services during project implementation.

WHEREAS, the total cost associated with this proposal will not exceed \$64,153.95, a cost that will be more than offset by two approved grants totaling \$225,000.

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

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

Section 2. Authorization. The Town Commission hereby authorizes the Town Engineers, Calvin, Giordano and Associates, Inc. (CGA) to move forward with the Work Authorization No. 30 (Exhibit 1) at a cost not to exceed \$64,153.95.

Section 3. Implementation. The Town Manager and the Town Attorney are hereby

authorized to take any and all action necessary to implement this Resolution and Agreement in accordance with the terms, conditions and purposes of this Resolution and Agreement.

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

PASSED AND ADOPTED this 9th day of March, 2010.

Motion by Commissioner _____, second by Commissioner _____.

FINAL VOTE ON ADOPTION


Commissioner Elizabeth Calderon	_____
Commissioner Steven Levine	_____
Commissioner Howard Weinberg	_____
Vice Mayor Marc Imberman	_____
Mayor Charles Burkett	_____

Charles W. Burkett, Mayor

ATTEST:

Debra E. Eastman, MMC
TOWN CLERK

**Approved as to form and legality for the use
and benefit of the Town of Surfside only:**



Lynn M. Dannheisser
Town Attorney



Calvin, Giordano & Associates, Inc.
EXCEPTIONAL SOLUTIONS

Date: January 13, 2010

Mr. Gary Word
Town Manager
TOWN OF SURFSIDE
9293 Harding Avenue
Surfside, FL 33154

RE: Work Authorization No. 30
Sanitary Sewer Lining & Replacement
CGA Proposal No. 08-2045.1

Dear Mr. Word,

Enclosed for your review and approval is Work Authorization No. 30 for Sanitary Sewer Lining & Replacement. The scope of the project includes coordinate construction of lining and sewer replacement .

The Scope of Services to be furnished under this Work Authorization includes Civil Engineering as shown on the attached Work Authorization.

The Basis of Compensation is hourly based upon the established rates pursuant to the Professional Services Agreement between the Town and CGA, plus reimbursables, for a total not to exceed \$64,153.95.

Sincerely,

CALVIN, GIORDANO & ASSOCIATES, INC.

Dennis J. Giordano
President

- Engineering
- Construction Engineering & Inspection
- Municipal Engineering
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www.calvin-giordano.com

Fort Lauderdale

West Palm Beach

Orlando

Homestead

TOWN OF SURFSIDE
Sanitary Sewer Lining & Replacement

PROJECT DESCRIPTION

1. SCOPE OF SERVICES

Calvin, Giordano & Associates, Inc. will perform the following services based on our understanding of the project requirements:

I. Professional Engineering Services

A. Civil Engineering

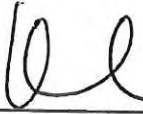
1. Prepare a report identifying areas of concern within the City's sanitary sewer system based upon the televised reports. The areas of concern shall include cracked pipes, broken pipes, manholes in need of repair and sanitary sewer lateral connections to the main gravity sewer line. Provide recommendations for the City in order to improve the sewer system.
2. Review the report with the City's staff and make recommendations regarding repair and/or replacement.
3. Prepare an Engineering Plan identifying the areas that are to be replaced, repaired or lined in place. There is currently 49,000 linear feet of gravity sewer main within the City's limits.
4. Review Engineering Plans with the City's staff to discuss cost, implementation and timing.
 - Prepare Bid Documents including plans and technical specifications.
 - Assist with Advertisement, Bidding and Award
5. Engineering Permitting
 - CGA shall prepare the required permit applications, exhibits and engineering needed for the issuance of permits by the jurisdictional agencies. Permits shall be obtained as necessary from the Miami Dade Water and Sewer Department (MDWASD), the Town of Surfside and Miami Dade County Environmental Resource Management (DERM).
6. Provide engineering services during construction to include:

- Perform periodic on-site engineering inspections as necessary during construction.
- Review as-builts and shop drawings.
- Coordinate with the contractor to answer any design related questions that arise during construction.
- Assist with contractor's payment request.
- Assist with project closeout.
- Review the contractor's change orders.

2. BASIS OF COMPENSATION:

Hourly rates with an estimated fee of \$61,099.00 plus reimbursables at \$3,054.95 with a total not to exceed amount of \$64,153.95. Payments to be made monthly.

3. SUBMITTED

Submitted by: 
Dennis J. Giordano

Date: 1-19-10

4. APPROVAL

Approved by: _____
Gary Word, Town Manager

Date: _____

TOWN OF SURFSIDE
WORK AUTHORIZATION ESTIMATE DATE

WORK AUTHORIZATION NO. 30
PROJECT NAME Sanitary Sewer Lining & Replacement
DESCRIPTION CGA Proposal No. 08-2045.1
coordinate construction of lining and sewer replacement

TITLE	RATE	HOURS/UNITS	COST
Engineer II	\$103.00	276	\$28,428.00
Project Manager IV	\$133.90	244	\$32,671.60
			\$61,099.60

SUB-CONSULTANTS	COST
------------------------	-------------

LABOR SUBTOTAL	\$61,099.60
REIMBURSABLE SUBTOTAL	\$3,054.98
TOTAL	\$64,154.58

Reviewed by: _____
Gary Word, Town Manager



**TOWN OF SURFSIDE
PROFESSIONAL FEE SCHEDULE**

Principal 212.18
Executive Assistant 74.26

ENGINEERING

Associate, Engineering 185.66
Director, Engineering 159.14
Project Manager 137.92
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Project Engineer 127.31
Engineer 106.09
Jr. Engineer 90.18
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In addition to the hourly rates listed above, charges will include direct out-of-pocket expenses such as reproduction, overnight mail, and other reimbursables billed at a multiplier of 1.25.

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Fax: 954.921.8807

www.calvin-giordano.com

http://cgasp01/cga_intranet/Documents/Surfside Prof Fee Schedule eff Dec 2009.doc

Effective December 1, 2009

Fort Lauderdale

West Palm Beach

Orlando

Homestead