



**Town of Surfside  
Town Commission Meeting  
MINUTES  
July 12, 2011  
7 p.m.**

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

**1. Opening**

- A. Call to Order:** Mayor Daniel Dietch called the meeting to order at 7:01 pm.
- B. Roll Call of Members:** Town Clerk Debra Eastman called the roll and the following members of the Commission were present upon roll call: Commissioner Michael Karukin, Commissioner Edward Kopelman, Commissioner Marta Olchyk, Vice Mayor Joe Graubart and Mayor Daniel Dietch.
- C. Pledge of Allegiance:** Police Chief Dave Allen led the Pledge of Allegiance.
- D. Mayor and Commission Remarks –** Mayor Daniel Dietch  
Vice Mayor Joe Graubart read a Thank You note from the Wounded Warriors Support Group to the Town Commission for their \$500 contribution to the organization.

Commissioner Marta Olchyk expressed objection to the supplementary item added to the agenda by the Mayor stating that she did not see the urgency. She suggested that it be deferred to next month's meeting. Mayor Dietch agreed, but noted that it is on the consent agenda and should not take too much additional time.

Commissioner Edward Kopelman commented that he takes umbrage with what has been taking place recently with the Vice Mayor. Commissioner Kopelman stated Vice Mayor Graubart went to the Commission of Ethics and Public Trust behind the Commission's back. He further noted that the Vice Mayor was dishonest in his report to the organization adding that he did not give a full disclosure. He added that the Commission had a meeting about the matter in June and found that there was no quid pro quo regarding the gift.

Commissioner Kopelman also mentioned that the reason why the current Commission receives so much documentation in preparation for the meetings is that the current Commission has to deal with projects that have been postponed for so long.

Commissioner Kopelman spoke about the picture that had been hanging in the Town Attorney's office. He noted that the Vice Mayor took the picture down and said it belonged to someone else. Commissioner Kopelman added that the picture had been in storeroom and was therefore Town property. Commissioner Kopelman stated that he would like to see the picture returned to the Town Attorney's office.

Commissioner Kopelman stated that the Vice Mayor is consistently knocking the past and present Surfside administrations in the newspapers. He added that if this was the US Congress, the Vice Mayor would be up for censure at this point.

Vice Mayor Graubart stated that he contacted the Commission on Ethics after the anonymous contribution made to the Town was voted upon after-the-fact without divulging to the Commission who the anonymous donor was prior to the vote. Mayor Dietch interjected that this relates to an item in the evening's agenda.

Mayor Dietch stated that Surfside is a great community and has a lot to be proud of. He noted that a resident mentioned to him that she had received an anonymous letter that was left in her mailbox. The Mayor noted that the resident was concerned with the content of the letter and that someone had trespassed on her property. Mayor Dietch stated that he shares this neighbor's concerns and would like to repudiate such act. He asked that residents to report receipts of anonymous letters to the proper authorities.

Mayor Dietch clarified a statement the Vice Mayor made to the Miami Sun Post regarding the Community Center. The Mayor expressed concern about the Vice Mayor's comments regarding a request for a forensic performance audit. Mayor Dietch noted that this was addressed more than six months ago. He noted that the Vice Mayor was advised of all kinds of audits and was asked to come back to the Commission, but nothing has come forward from the Vice Mayor. Mayor Dietch also expressed concern that the Vice Mayor omitted a distinction between the past Commission and the present Commission in that there has been neither corruption nor incompetence. Vice Mayor Graubart noted that the Sun Post sent seven questions, which he answered. He further stated that the newspaper pulled out what they wanted to print. He added that the forensic audit he was referring to was for the amount of money that went into the project prior to the present Commission. He added that he feels that the Town's residents deserve a full accounting of how much the Community Center cost.

**E. Agenda and Order of Business** Additions, deletions and linkages

Commissioner Olchyk requested to pull the following items: Pg 1, Budget to actual – requested explanation on the Resort tax, police forfeiture fund and municipal parking. Pg 5 – requested to know why the issue regarding dogs and cats is still being developed as an ordinance. Number 12 – requested explanation on the education program on the tourist tax program. Requested to know why administration is moving ahead with the bike racks and not the other items. Pg 7 - #19 Requested information on the leaning poles. Pg 99 – Request information on how this will affect the opt out pension plan.

Commissioner Michael Karukin requested to pull the following items: Item 5, pg 4 – Red light camera.

Commissioner Kopelman requested to pull items: Pg 5, #8 – Community garden. Pg 5, #12. Pg6, #17 – electric car charging stations. Pg 8, #25 – Bike rental stations. Pg 10, #35 – kite surfers.

Vice Mayor Graubart requested to pull the following items: Pg 4, #5 – Red light cameras. Pg9, #31 – short term rentals. Pg 15 – American Enterprise Bank vs. Bishop Partners. Pg 17 – Community Center project close-out. Pg 33 – hanging baskets.

Town Manager Roger Carlton noted that when discussing item 9(B) regarding the FDOT repaving program, they also need to discuss the contribution the Town needs to make to upgrade the crosswalks.

**Commissioner Olchyk made a motion to adopt the consent agenda. Commissioner Karukin seconded the motion. The motion carried unanimously.**

**F. Community Notes – Mayor Daniel Dietch**

**Mayor Dietch mentioned the following community notes:**

- Welcomed Officer Jonathan Alvarez to the Police force.
- Eye on Surfside Crime prevention program – the next meeting will be July 19<sup>th</sup> at 6 pm.
- Commended Chief Allen for the Bike with the Chief initiative
- Announced community blood drive on August 15<sup>th</sup>
- Surfside/Bay Harbor/Bal Harbor farmers market – will take place in Surfside this Sunday
- Session 2 of Learn to swim program is open for registration. Program begins Aug 2<sup>nd</sup>
- Pool hours of operations are available.

Vice Mayor Graubart announced, from the Tourist Board, about the Surfside Spice at local restaurants.

**G. Employees of the Quarter Tim Milian, Paul Gioia, Bill Evans – Roger M. Carlton, Town Manager**

Roger Carlton, Town Manager announced the employees of the quarter. He noted that these are employees who have gone beyond what is expected of them. He announced that the employees of the quarter are Parks and Recreation Director Tim Milian, Building Director Paul Gioia and Public Works Director Bill Evans. Roger Carlton, Town Manager added that they were selected due to their work in getting the Community Center open on time.

**H. Police Officer of the Month Antonio Mesa -David Allen, Chief of Police**

Chief Allen presented the Police Officer on the Month Commendation to Officer Antonio Mesa. Chief Allen noted the Officer Mesa spotted a car with a suspicious individual. He arrested the individual on a DUI. After additional investigation, Officer Mesa discovered that the suspect was on probation for burglary and had an extensive criminal history. He added that during the search two firearms, one of which was stolen, were discovered. The Chief also added that Officer Mesa made two felony arrests for fraud in June.

**2. Quasi-Judicial Hearings (None)**

**3. Consent Agenda**

**A. Budget to Actual Summary as of April 30, 2011 – Martin Sherwood, Finance Director**

**B. Town Manager's Report (Points of Light) – Roger M. Carlton, Town Manager**

**C. Town Attorney's Report – Lynn M. Dannheisser, Town Attorney**

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

**E. Miami-Dade Fire Rescue Report – Roger M. Carlton, Town Manager**

**F. Beautification Committee Meeting June 13, 2011 Notes- Commissioner Marta Olchyk**

**G. Supporting and Endorsing South Florida Parks Coalition Charter – Mayor Daniel Dietch**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, SUPPORTING AND ENDORSING THE SOUTH FLORIDA PARKS COALITION CHARTER AND THE PRINCIPLES ON WHICH IT STANDS; PROVIDING FOR AN EFFECTIVE DATE.**

**Pulled Items:**

Pg 1: Roger Carlton, Town Manager began the discussion on the Resort Tax. He noted that the Resort Tax is based on a combination of hotel services and some restaurant related services. He added that the taxes are collected by the state. He addressed the Resort Tax report and stated that it reflects the collections through April of \$77,600 in revenue. Chief Allen then explained the Police Forfeiture fund. He noted that the money received is divided and shared between different agencies and can only be used for certain items. The Chief stated that the money is used to fund crime prevention

programs, to purchase police equipment, laptops, K-9, bicycles, ATVs, tasers, firearms, etc. Roger Carlton, Town Manager then spoke about the Parking fund. He noted that it is not generated through property taxes. He added that the fund has done very well since the new meters were installed. Roger Carlton, Town Manager noted that the expenses incurred include the purchase of new parking lot and for improving the 95<sup>th</sup> Street lot.

Pg 4, #5: Commissioner Karukin mentioned that he requested an accounting of what the Town's revenues are from the red light cameras. Roger Carlton, Town Manager stated that the amount provided is the Town's share and the expenses are being covered. He added that a complete report will be provided in August. Vice Mayor Graubart asked for a quarterly report on this item going forward. He added that the Town has the option to cancel the contract based on advice of the Town Manager and Chief.

Pg 5, #8: Commissioner Kopelman inquired how many plots are planned, the cost and if they are self-sustaining. Mayor Dietch mentioned that the Town's contribution is the land at the pump station. He added that the Commission approved seed money to get it going and then it will be self-supporting. The Mayor mentioned that if the Town cannot get a Garden Club to take over the project, the initiative will lose his support. Roger Carlton, Town Manager suggested September 30<sup>th</sup> as a deadline for the Garden Club. The Commission agreed.

Pg 5, #11: Commissioner Olchyk mentioned that she thought that the Commission would have a feral cats and dog ordinance this month. Town Manager, Roger Carlton added that he met with a very knowledgeable individual on this issue and shared ideas. He noted that he will report back to the Commission next month with a program and an ordinance amendment that will help get the issue under control in a humane and acceptable way. Vice Mayor Graubart asked that it focus in the Community Center area.

Pg 5, # 12: Commissioner Olchyk inquired about the Resort Auditor program and the education process. Roger Carlton, Town Manager spoke about the recent change to the Resort Tax ordinance and noted that it is a broad base and systemic change in how the taxes are collected. He added that rather than just imposing the changes, several months of education are needed for the businesses.

Pg 6, #15: Commissioner Olchyk inquired as to why the bike racks were given priority over the bus shelters and benches. Roger Carlton, Town Manager mentioned that the bike racks are very inexpensive and the other items are much more. He added that he can reprioritize and suggest other funding sources for these items.

Pg 6, #17: Commissioner Kopelman inquired about this item. Mayor Dietch stated that Sunny Isles is not participating and Miami Beach is issuing an RFP. He mentioned that the Town, at no cost, would be helping to build the infrastructure for electric vehicles.

Pg 7, #19: Commissioner Olchyk mentioned that she thought the Commission would be provided with photos of the leaning electrical poles. Bill Evans, Public Works Director stated that a P&R intern is working with him in inventorying all the leaning poles. He noted that a photographic record of each will be gathered along with the leaning degree to

be presented to the Commission and to the pole owners. Roger Carlton, Town Manager suggested that Bill Evans, Public Works Director meet with the pole owners and then report back to the Commission.

Pg 8, #25: Commissioner Kopelman spoke about the bike racks with bikes for rent on Lincoln Road. He stated that they were not been used very much and noted that he is opposed to these bikes in Surfside if they are going to have a cost to the Town.

Pg 10, #35: Commissioner Kopelman expressed concern about the safety of kite surfers. He spoke about the accident he witnessed between a kite surfer and a jet ski.

Pg 9, #30: Vice Mayor Graubart inquired about the short term rental education program and how the program would curtail the short term rental.

Pg 15: Vice Mayor Graubart inquired about the American Enterprise Bank v Bishop Partners. Ms. Dannheisser noted that the Town was sued as a defendant in this foreclosure suit. She noted that there is a title error and she is trying to get the Town out of the case.

Pg 17: Vice Mayor Graubart expressed concern about the 210 items on the Community Center close-out punch list and the 30 days the sub-contractors have to address the issues. Roger Carlton, Town Manager stated that the punch list is essentially done. He added that once Paul Gioia certifies that the life safety things are fixed, the building becomes essentially complete.

Pg 33: Vice Mayor Graubart noted that the City of Miami Beach takes down their hanging baskets seasonally and suggested that Surfside do the same. Commissioner Olchyk expressed concern about the cost and the maintenance of the baskets and spoke against the issue. She added that the Beautification Committee already discussed this.

**Commissioner Kopelman made a motion to approve the items that were pulled from the consent agenda. Commissioner Karukin seconded the motion, which carried unanimously.**

## **4. Ordinances**

### **A. Second Readings (Ordinances and Public Hearing)**

#### **1. Repeal of Moratorium – Lynn M. Dannheisser, Town Attorney**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, REPEALING ORDINANCE 2011-1571 “TEMPORARY MORATORIUM ON THE PROCESSING OF SITE PLANS, BUILDING PERMITS, AND THE ISSUANCE OF CERTIFICATES OF USE OR OCCUPANCY FOR NON- RETAIL, NON-RESTAURANT USES FOR THE PROPERTIES GENERALLY LOCATED BETWEEN 96<sup>TH</sup> AND 94<sup>TH</sup> STREET AND HARDING AVENUE” AS WAS FURTHER DELINEATED IN THE MAP ATTACHED AS EXHIBIT “A” TO ORDINANCE 2011-1571;**

**REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.**

[This Ordinance repeals the moratorium on downtown uses that are non-retail, non restaurant and acknowledges a package of recommendations from the Downtown Vision Advisory Committee.]

Town Clerk Debra Eastman read the ordinance by title.

Commissioner Karukin made a motion to approve the ordinance. Commissioner Kopelman seconded the motion.

Roger Carlton, Town Manager stated that this ordinance is a compromise worked by the Downtown Vision Committee and discussed by the Planning Board and on first reading by the Commission to rescind the moratorium.

Mayor Dietch opened the Public Hearing. Seeing none, the Mayor closed the Public Hearing.

The motion carried unanimously on roll call.

2. Special Events Permit – Lynn M. Dannheisser, Town Attorney  
**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA CREATING CHAPTER 35 “EVENTS” AND ARTICLE I “SPECIAL EVENTS” AND SPECIFICALLY CREATING SECTIONS 35-1 “PERMITS FOR SPECIAL EVENTS”, SECTION 35-2 “EXEMPTIONS”; SECTION 35-3 “ENFORCEMENT AND SPECIAL EVENTS RECYCLING”; AND 35-4 “COORDINATION WITH TOWN POLICE DEPARTMENT” 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.**

[This Ordinance requires the issuance of permits for special events in order to regulate and address issues such as additional policing, imposition of bonds or insurance coverage, traffic and noise.]

Town Clerk Debra Eastman read the ordinance by title.

Commissioner Kopelman made a motion to approve the ordinance. Commissioner Karukin seconded the motion.

Vice Mayor Graubart inquired about how this ordinance will affect the residential neighborhoods west of Harding Ave. Roger Carlton, Town Manager noted that it does not indicate any special events west of Harding, but noted that it does tighten

the rules about what is required.

The Mayor opened the Public Hearing. Seeing none, the Mayor closed the Public Hearing.

**The motion to approve the ordinance carried unanimously on roll call.**

3. Vacant Storefronts -- Lynn M. Dannheisser, Town Attorney

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 14 BUILDINGS AND BUILDING REGULATIONS; SECTION 14-52 COMMERCIAL STANDARDS ESTABLISHED RELATING TO THE APPEARANCE OF VACANT STOREFRONTS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

[This Ordinance provides for the installation of regulated window coverings in vacant storefronts designed to give an appealing and uniform appearance.]

**Town Clerk Debra Eastman read the ordinance by title.**

**Commissioner Kopelman made a motion to approve the ordinance. Commissioner Karukin seconded the motion.**

Vice Mayor Graubart mentioned that Coral Gables shows something more pertinent to downtown dining. He noted that he would like to see silhouettes that represent something more of a vibrant district.

Commissioner Olchyk noted that the Beautification Committee did not want to have figures of people.

The Mayor opened the Public Hearing.

Barbara McLaughlin agreed that something more attractive than what the Beautification Committee recommended is in order. She suggested that it should be an image of an active storefront.

Mayor Dietch closed the Public Hearing.

**The motion carried unanimously on roll call.**

4. Newsracks – Lynn M. Dannheisser, Town Attorney

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 14 “BUILDINGS AND BUILDING REGULATIONS” AND SPECIFICALLY ARTICLE III “PROPERTY MAINTENANCE STANDARDS”; CREATING SECTION 14-**

**57 “NEWSRACKS ON PUBLIC RIGHTS-OF-WAY” 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.**

[This Ordinance regulates the size, placement and appearance of newsracks throughout the Town for aesthetic and safety purposes.]

**Town Clerk Debra Eastman read the ordinance by title.**

**Commissioner Kopelman made a motion to approve the ordinance. Commissioner Karukin seconded the motion.**

Vice Mayor Graubart expressed concern with small start-up papers being unduly burdened. Roger Carlton, Town Manager noted that if this is a concern of the Commission, criteria can be created, but noted that the goal is to have a better look for the Town.

The Mayor opened the Public Hearing. Seeing none, the Mayor closed the Public Hearing.

**The motion carried unanimously on roll call.**

5. Retirement Plan Opt Out – Roger M. Carlton, Town Manager  
**AN ORDINANCE AMENDING THE CODE OF THE TOWN OF SURFSIDE; RELATING TO THE RETIREMENT PLAN FOR EMPLOYEES OF THE TOWN OF SURFSIDE; AMENDING SECTION 2-171 OF THE CODE TO REVISE THE DEFINITION OF EMPLOYEE TO PERMIT CHARTER OFFICERS TO OPT OUT OF THE PLAN; AMENDING SECTION 2-174 TO CREATE A MECHANISM FOR CHARTER OFFICERS TO OPT OUT OF THE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

[This Ordinance permits Charter Officers to opt out of the Town’s pension plan. Both Charter Officers have previously contractually opted out. This codifies a situation already in place.]

**Town Clerk Debra Eastman read the ordinance by title.**

**Commissioner Kopelman made a motion to approve the ordinance. Commissioner Karukin seconded the motion.**

Roger Carlton, Town Manager stated that the Town Manager and the Town Attorney have agreements and have already opted out. He added that this is making

official something that is already in place and is at no cost to the Town.

The Mayor opened the Public Hearing. Seeing none, the Mayor closed the Public Hearing.

**The motion carried unanimously on roll call.**

**B. First Readings Ordinances**

NONE

**5. Resolutions and Proclamations**

**A. Proposed Ad-Valorem Budget Millage for Fiscal Year 2011-2012 – Roger M Carlton, Town Manager Page 104-109**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, DETERMINING A PROPOSED OPERATING MILLAGE RATE, DETERMINING THE CURRENT YEAR ROLLED-BACK RATE; ESTABLISHING THE DATE, TIME AND PLACE FOR THE FIRST AND SECOND PUBLIC HEARINGS AS REQUIRED BY LAW; DIRECTING THE TOWN CLERK TO FILE SAID RESOLUTION WITH THE PROPERTY APPRAISER OF MIAMI-DADE COUNTY PURSUANT TO THE REQUIREMENTS OF FLORIDA STATUTES AND THE RULES AND REGULATIONS OF THE DEPARTMENT OF REVENUE FOR THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.**

**Town Clerk Debra Eastman read the resolution by title.**

**Commissioner Kopelman made a motion to approve the resolution. Commissioner Karukin seconded the motion.**

Roger Carlton, Town Manager explained that this resolution sets the millage that was recommended during the budget workshop. He noted that the millage is 5.5000, which is lower than the previous year. Roger Carlton, Town Manager mentioned that there have been changes. He noted that the Property Appraiser has given the final roll and the property values in Surfside increased. He further added that the State of Florida Department of Revenue projected no net changes in their June revenue projection report. Roger Carlton, Town Manager also noted that the Town is looking at an increase of about 5% in sewage charges for which the Town anticipated would have no increase. He mentioned that the rate stabilization fund can absorb that additional cost without the need to increase the water and sewer rates to the residents.

Roger Carlton, Town Manager spoke about the electric franchise revenues from FP&L.

Roger Carlton, Town Manager spoke about the Agent of Record, Mr. Stan Bershard and noted that Mr. Bershard feels that the Town could have a significant rate increase. He noted that once the Town knows what the actual increase will be, there are other options for medical insurance.

Roger Carlton, Town Manager also mentioned that there is \$65,000 worth of uncollected parking tickets in Surfside. He suggested increasing collection efforts.

Roger Carlton, Town Manager stated that when the Commission approves the 5.5000 millage rate, the County will be advised so that it can proceed to print the TRIM notices. Roger Carlton, Town Manager noted that after this is done the Town can decrease the millage, but cannot raise it without extraordinary notices or votes. Vice Mayor Graubart opined that the millage rate could be lowered. Commissioner Karukin mentioned that he feels comfortable with the millage rate. He noted that he had asked for a reduction in the budget of \$169,500, but realizes that the process is ongoing and changes. Commissioner Olchyk asked if expenses are cut, will the millage be lowered. Roger Carlton, Town Manager noted that cutting the budget would indicate putting the savings into the reserves and would not lower the millage rate. Vice Mayor Graubart mentioned that the millage rate is lowered from 5.63 to 5.5, but the cost of living has gone up.

**The motion to accept the millage rate of 5.5000 carried 4 to 1 on roll call with Vice Mayor Graubart dissenting.**

**B. Expansion of Gambling Initiative –Mayor Daniel Dietch  
A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF  
SURFSIDE, FLORIDA, OPPOSING ANY INITIATIVE TO AMEND  
FLORIDA’S CONSTITUTION TO ALLOW CASINO GAMBLING IN  
SURFSIDE; PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Dietch mentioned that the past Legislative Session discussed gambling areas. The Mayor wants that it be crystal clear that the Commission is opposed to gambling in the Town of Surfside and the State of Florida.

**Commissioner Karukin made a motion to approve the resolution. Commissioner Kopelman seconded the motion. The motion carried unanimously with Vice Mayor Graubart being absent.**

**6. Good and Welfare**

Mayor Dietch mentioned that the Commission is limited in discussing certain matters concerning the Young Israel case since it is currently in litigation.

Doreth Weintraub spoke in favor of Young Israel and mentioned that she has been a member of the Young Israel Congregation for eight years. She spoke about what having

a home for the community of congregants means to her. She added that Rabbi Bromstein and his family are helping to build a better community.

Jennifer Zewid stated that she is not a member of the Congregation, but spoke in favor of Young Israel. She spoke about this having been a ten year battle and stated that a Temple will be built there on the site somehow.

Leon Braum spoke in favor of Young Israel and briefly spoke about the history of Young Israel and their legal battle.

Rabbi Moshe Bromstein stated that he was voicing his disappointment in Surfside. He spoke about past litigation and that his Congregation has been as accommodating to the Town as possible. He added that his Congregation has sued Surfside for \$5 million. He opined that the Town will not win and asked the Town to come together with Young Israel and spare the Town the expense and asked the Commission to allow the construction of the House of worship.

Max Deckelbaum spoke in favor of Young Israel and asked if the Town and citizens have been notified of the 8-page Court document.

Soloman Emed stated that he is not affiliated with the Young Israel Congregation, but questioned why the Town is denying Young Israel the building of the Temple.

Adrian Wanderbrum spoke about the beauty of Surfside. She added that when Orthodox people move to an area, property values increase. She spoke in favor of building the Young Israel Synagogue and spoke against using tax money in the litigation.

Peter Neville stated that he is disgusted with what he is hearing.

Barbara McLaughlin opined that the last two Town meetings have not been very successful. She suggested changing the name to Residents Town Meeting and the Commissioners and Committees should be present to discuss things with residents. She further added that the agendas should be advertised in advance.

Mayor Dietch stated that the Town was sued and it is the Commission's responsibility to defend the Town. He added that he has not heard anyone on the Commission state that Young Israel does not deserve a home in Surfside, despite what is alleged in the complain or the motion to dismiss. Mayor Dietch stated that the land that Young Israel land has restrictions. He added that the Town has done extraordinary things by creating RLUIPA overlay, but there are still underlying zoning that must be followed. The Mayor expressed concern that the members of the Congregation feel that the Commission is doing something that is offensive. He added that he would never deny anyone the right to worship, but under the same rules that any party would be held to. He stated that he is committed to solutions.

Town Attorney Lynn Dannheisser stated that contrary to the past and past administrations that did not invite Young Israel to the community, this Commission and the past

Commission drafted the zoning ordinance so that Young Israel could come to the community and drafted their maps around the parcel. She added that size is the sole issue. Ms. Dannheisser noted that the court issued an order not granting the motion to dismiss. She added that the court is obligated to look at Young Israel's complaints and allegations that were made such as that the Town Commission voted "not to have a synagogue in Surfside" and despite recommendations one Commissioner voted against amendments because "another synagogue in Surfside brings no benefit to the Town". Ms. Dannheisser stated that no record of such comment can be found, but if a court takes the allegations as truth, they will move forward. Ms. Dannheisser stated that she is happy to see members of the Shul present because the Town has been puzzled as to why the issue has not been resolved. She added that Young Israel has been invited to the Town and the only issue is the size of the Shul, not whether or not it can exist or whether or not it is welcome. She added that the Town has certain constraints such as the Charter and Zoning Ordinances and noted that if they work together they can resolve it, but if not the courts will have to result it.

Commissioner Olchyk stated that she tries to makes her decisions on issues based on the rule of law and what she thinks is the best thing for the Town in a sincere and ethical way.

Jack Gluck stated that he worked with the Town Attorney for two and a half years and spent a long time trying to make the situation amicable for both sides. He added that his Congregation believes that Young Israel brings a benefit to the Town of Surfside. He stated that the property that Young Israel purchased was designated for public assembly. He noted that in using the current zoning code, the building could only hold 13 people. He noted that the Congregation has 172 members. Mr. Gluck asked the Town to not say that they are allowing Young Israel to build a synagogue because that is not correct. Mr. Gluck also stated that he was present at the meeting when one of the Commissioners stated that another synagogue would bring no benefit to the Town.

Commissioner Kopelman stated that he did not want to discuss the matter in detail because the Town is in litigation, but noted that he has friends in the Congregation and added that it hurts him deeply to be in the middle. He added that he was elected to serve the Town and the chips have to fall where they do and the Commission has to go by the charter and zoning codes.

**7. Town Manager and Town Attorney Reports**

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

**8. Unfinished Business and New Business**

NONE

**9. Mayor, Commission and Staff Communications**

**A. Community Center Fee Structure for Non Residents – Commissioner Marta Olchyk**

Commissioner Olchyk mentioned that the new Community Center has been very well accepted. She noted that she has been approached by residents who wish to bring guests to the Community Center. Commissioner Olchyk proposed that the Commission look into this so that the residents and guests could use the center right away. She suggested reviewing the fee structure. Commissioner Kopelman noted that Mr. Milian, Parks and Recreation Director will present a study on this issue to the Commission in September.

Mayor Dietch spoke about the Community Center's hours of operation and noted that some residents would like to keep it open until 8pm in the summer. Commissioner Olchyk also suggested opening earlier. Tim Milian, Parks and Recreation Director noted that they have many activities going on and this could be a staffing issue. Mayor Dietch noted that this can be addressed down the line.

**B. Collins Avenue Sewer Main Project Traffic Management Plan-** Roger M. Carlton, Town Manager and Assistant Police Chief John Di Censo

Roger Carlton, Town Manager spoke about the Collins Ave force main project and its impact on traffic. He noted that for a number of months this will have a significant impact on the traffic flow through Surfside.

Bill Evans, Public Works Director stated that this is a directional boring job with the City of Bal Harbor. He added that there will be 60 days of impact. Bill Evans, Public Works Director also stated that there will be 4 or 5 bore pits in the Town, which will encompass 2 lanes of traffic. He added that the far west lane and the parking lane will be utilized as through lanes. Bill Evans, Public Works Director mentioned that the workers will drill and pull pipe at night and when the bore pits are drilled, the road will be completely re-established to include final paving and traffic striping for the lanes. He added that the bore pits will be located at 96<sup>th</sup> Street, between 94<sup>th</sup> and 95<sup>th</sup> Street, 93<sup>rd</sup> Street, 90/89<sup>th</sup> Street and another possibly at 88<sup>th</sup> Street.

Bill Evans, Public Works Director noted that Bal Harbor has put out an RFP to hire a Public Relations firm to handle all concerns and questions regarding the project and traffic. He noted that the project should be commencing in two weeks. He added that Miami Beach will be providing a staging area from 87<sup>th</sup> to 78<sup>th</sup> Street.

Bill Evans, Public Works Director explained that the directional boring consists of drilling 25 feet underneath the pavement and pull a new line in, which will provide a new sewer force main.

Commissioner Karukin asked how long each pit will be open. Bill Evans, Public Works Director responded that they will be open 7 to 10 days. He noted that issues such as residents moving to and from condominiums should be sent to the PR so that accommodations can be made. Commissioner Olchyk inquired about who is paying the PR firm. Roger Carlton, Town Manager stated that it is part of the shared project cost with Bal Harbor.

Chief Allen mentioned that there will be an off-duty police officer present on the job site 24/7.

Commissioner Kopelman inquired about the noise. Bill Evans, Public Works Director mentioned that there will be noise associated with pulling the pipe.

Roger Carlton, Town Manager mentioned that the item will be on the agenda every month to keep the Commission and residents are updated.

Roger Carlton, Town Manager mentioned that once the pipe project is finished, the state will come in with a major repaving of Collins Ave from Surfside's Southern limits to 96<sup>th</sup> Street and through the business district. He noted that this Commission approved \$140,000 to do the new and better crosswalks on Harding. He added that the same crosswalk upgrades will be made for the rest of the project. He noted that through extreme negotiations by Bill Evans, Public Works Director, the cost of doing all the crosswalks along Collins will be \$225,000. Roger Carlton, Town Manager stated that the Town needs to make the advanced payment and noted that the money is in the PTP Fund. He asked for authorization to make the payment and noted that he will bring a resolution to the Commission next month.

**Commissioner Kopelman made a motion to approve the payment. Commissioner Karukin seconded the motion. The motion carried unanimously.**

**C. End of Session Report-** Fausto Gomez, Legislative Consultant

Town Lobbyist, Mr. Fausto Gomez opined that this has been the worst legislative session he has been involved in. He noted, however, that Surfside had an exceptional year. He mentioned that the Town was able to secure a \$100,000 grant for sewer rehabilitation. Mr. Gomez provided a report of various legislative actions.

**D. Streetscape –Tree lined – Tree Canopy for 88<sup>th</sup>, 95<sup>th</sup> streets and Surfside Boulevard** Vice Mayor Joe Graubart

Vice Mayor Graubart noted that a member of the Beautification Committee expressed wanting to see more treescaping. Commissioner Olchyk stated that the person the Vice Mayor is referring to presented the idea to the Beautification Committee and the idea was turned down. She added that this person mentioned that he would send the Vice Mayor an e-mail informing of the decision. Commissioner Olchyk added that the committee felt that this would involve singling out one section of Town over the others. Vice Mayor Graubart suggested using Surfside Blvd as a model of what the streetscaping could be like in Surfside. Roger Carlton, Town Manager noted that there are additive alternates in the sewer project and when the bids came in the oversight committee for water/sewer/ storm drainage and their recommendation was to wait until about a year into the project to see how the contingency account was

doing. Roger Carlton, Town Manager further noted that the developer of the Beach House Hotel has agreed to make a very significant contribution to the upgrade and beautification of 95<sup>th</sup> Street. Roger Carlton, Town Manager stated that he asked the Town Clerk to check through the Town's records to see if the commitment from Indian Creek is codified anywhere. He noted that it cannot be found. He added that the managers meet every month and he will bring up the idea to see if there is any interest. Roger Carlton, Town Manager stated that he will keep the issue open as a point of light.

**E. Contributions/Donations/Gifts accepted by the Town of Surfside- Vice Mayor Joe Graubart**

Vice Mayor Graubart stated that he sent an e-mail to the Director of the Miami-Dade County Commission on Ethics, Tuesday, June 23<sup>rd</sup>, asking about donations and contributions to a Town. He added that he sent follow-up e-mail advising that he was not sending the e-mail with the intention of submitting a complaint against anyone. He noted that the Town Manager thought that he was doing this for a horrible reason. Vice Mayor Graubart opined that the Town Manager overstepped his boundaries by including it in an agenda item that he must respond to as Vice Mayor and long-time resident. Vice Mayor Graubart noted that at the last meeting, during the discussion on the fireworks item, the Town Manager mentioned that there was a sponsor for the fireworks, who would be delivering a check and then requested a motion to accept the donation. Vice Mayor Graubart summarized the discussion on the item and indicated that the manager had known the identity of the donor since May and should have disclosed the identity. Vice Mayor Graubart added that the Commission was not told, on the night of the vote, the identity of the donor. He added that he only became aware of the donor's identity when he received a copy of the brochure.

Vice Mayor Graubart read the following statement into the record: "Mr. Town Manager, first the contribution was presented to the Commission as an anonymous donation and voted upon as an after-the-fact approval. This without, as far as I know, divulging to any of us whom the donor was before we voted on it. Second, I only learned the contribution was being given to the Town by a developer to soon come before this Commission, the Planning and Zoning Board and Development Impact Committee looking for approval to build a beachfront hotel three days after the Commission meeting vote when reading it in the Grand Opening Brochure. Had I known this, I believe that others would have been more than concerned and perhaps, hopefully followed Commissioner Olchyk's leadership by questioning the identity and the potential conflicts involved in this type of transaction. I believe Commissioner Olchyk and I particularly would have voted "No", perhaps along with others. You have attempted to berate and humiliate me for simply going to an outside source, the Commission on Ethics, for advice. Shouldn't we all be open to advice from others on what is right or wrong? I think so. I am troubled by my vote and I remain even more troubled by the vitriolic and divisive response you have chosen to make. It is not only uncalled for and disrespectful, it indicates your desire to set policy, to determine who you want and do not want to sit up here by politicizing a matter that needs to be addressed. My fellow residents, I only brought this matter up of accepting anonymous checks and donations up this evening as an agenda item to have an open discussion

about establishing policies and procedures for accepting contributions, donations in the future especially when considering the statement on the Ethics Commission website gifts can create an appearance of impropriety and contribute to the erosion of the public's trust. Mr. Manager, I believe you owe me an apology. May I remind you that the organizational chart, the Town's government structure, clearly indicates that the Mayor and Commissioners work for the residents and the Town Manager and Town Attorney, both, work for us – the Commission. Once again, you owe me and the community an apology. Thank you.”

Commissioner Olchyk asked the Roger Carlton, Town Manager to include her in his apology as well.

Mayor Dietch questioned what would come out of this that could be productive and expressed concern about the matter escalating. He further noted that if the Vice Mayor's goal is to establish policies, he did not need to go through this because it only raises more questions. Vice Mayor Graubart reiterated that he wanted to learn more on the issue.

Commissioner Olchyk mentioned that she would have liked to have known the identity of the donor, although she would have voted the same way since the Manager informed the Commission that they would not be in any situation where the Commission would be obligated to this individual. Commissioner Olchyk also noted that she did not like to vote on something that had already been approved. She added that in the future, if an item appears to possibly give the Commission a conflict of interest, the Commission will ask the Manager for specific details as to why the money was accepted.

Commissioner Kopelman read a section of Vice Mayor Graubart's e-mail to Mr. Myers that he expressed concern about. He noted that the Town may be accepting \$450,000 for the same individual, who is spending money on property to build a hotel. Commissioner Kopelman opined that the gentleman will be a model citizen for the Town.

Roger Carlton, Town Manager responded that each time a request for a conflict of interest is issued to the Ethics Commission, a file is created, open to the public, attached to his name forever more. He added that regardless of the outcome, the website will show that a question was raised by a Commissioner about something he was a participant in. He noted that that rides with him after forty years of ethical behavior in the community. Roger Carlton, Town Manager stated that the information that was given to the Ethics Commission was inaccurate and had no information about what the Commission had discussed. He added that they wrote an opinion stating that they have dealt with the similar situations before and found nothing wrong. Roger Carlton, Town Manager stated that if anyone has any questions about a conflict of interest from the administration, they should bring it up in a public meeting rather than do it individually and put a black mark on somebody's name. Roger Carlton, Town Manager mentioned that Mr. Murray approached him about doing something for the Town and he suggested doing something for the Community Center opening. He

further noted that the contribution saved the Town \$15,000. Roger Carlton, Town Manager also mentioned that the Town will receive more from this development in upfront, off site cost than any other development in the history of Surfside.

Roger Carlton, Town Manager stated that his problem with this is that a record was created next to his name in the Commission of Ethics file, when any concerns should have been brought to the Commission for a decision on how proceed.

**10. Adjournment:** The meeting adjourned at 10:52 p.m.

Accepted this 9 day of Aug., 2011

  
\_\_\_\_\_  
Daniel Dietch, Mayor

Attest:

  
\_\_\_\_\_  
Debra E. Eastman, MMC  
Town Clerk