

**Town of Surfside  
Town Commission Meeting  
March 8, 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**
- B. Roll Call of Members**
- C. Pledge of Allegiance**
- D. Mayor and Commission Remarks – Mayor Daniel Dietch**
- E. Agenda and Order of Business Additions, deletions and linkages**
- F. Community Notes – Mayor Daniel Dietch**

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

**3. Consent Agenda (*Set for approximately 7:10 p.m.*)**

*All items on the consent agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the Consent Agenda and discussed separately.*

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

- A. 2010 Surfside Census Report – Barbara Cohen Page 1-21**
- B. Budget to Actual Summary as of December 31, 2010 – Martin Sherwood, Finance Director Page 22-23**

*\*Denotes agenda items as “must haves” which means there will be significant impacts if the item is not addressed tonight. If these items have not been heard by 10 p.m., the order of the agenda will be changed to allow them to be heard.*

\*C. Town Manager's Report (Points of Light) – Roger M. Carlton, Town Manager  
Page 24-33

\*D. Town Attorney's Report – Lynn M. Dannheisser, Town Attorney Page 34-38

E. Projects Progress Report – Calvin, Giordano and Associates, Inc. Page 39-41

#### 4. Ordinances

*(Set for approximately 7:30 p.m.) (Note: Good and Welfare must begin at 8:15)*

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

\*1. Boat Storage - Sarah Sinatra Gould, Town Planner Page 42-47

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90.65 BOAT STORAGE, INCLUDING ZONING CODE DEFINITIONS OF "SETBACKS" AND "YARDS" OF THE TOWN OF SURESIDE CODE OF ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

[This Ordinance permits boats to be parked in the front, side and rear yards of a lot, but not in the side or rear setbacks and requires screening of boats in the side or rear yard from neighboring properties.]

##### B. First Readings Ordinances

*(Set for approximately 7:40 p.m.) (Note: Good and Welfare must begin at 8:15)*

\*1. Ordinance Calling for a Temporary Moratorium, Memo of Law and Report by Town Attorney – Lynn M. Dannheisser, Town Attorney *(Need to set date for a Special Meeting for First Reading)* Page 48-64

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ESTABLISHING A 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 96TH AND 94TH STREET AND HARDING AVENUE, MORE PARTICULARLY DEPICTED ON THE DOWNTOWN BUSINESS DISTRICT AREA ZONING MAP ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR A STUDY; PROVIDING FOR A WAIVER; VESTED RIGHTS, APPEAL; EXHAUSTION OF ADMINISTRATIVE REMEDIES AND TERM; PROVIDING FOR DIRECTIONS TO THE TOWN MANAGER; PROVIDING FOR EXCEPTIONS; PROVIDING FOR ADOPTION OF PRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.**

[This ordinance imposes a temporary moratorium on the issuance of Certificates of Use and Certificates of Occupancy for non-retail, non-restaurant uses]

**\*2. Ordinance – Joint Meeting Recommendations Ordinance – Roger M. Carlton, Town Manager, Lynn M. Dannheisser, Town Attorney, Sarah Sinatra Gould, Town Planner Page 65-115**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-2 “DEFINITIONS”, AMENDING SECTION 90-20. “DEVELOPMENT REVIEW REQUIREMENTS” TO ESTABLISH A DEVELOPMENTAL IMPACT COMMITTEE; AMENDING SECTION 90-23 “CONDITIONAL USES”; 90-41 “REGULATED USES”; 90-45. “SETBACKS.”; 90-45.1 “AGGREGATION OF LOTS”; SECTION 90-44 THROUGH SECTION 90-67 RELATING TO DESIGN REVIEW GUIDELINES; SECTION 90-73 “PROHIBITED SIGNS.”; SECTION 90-87 INSTALLATION OF LANDSCAPING AND IRRIGATION; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.**

**\*3. Master Utility Bond Ordinance – Roger M. Carlton, Town Manager Page 116-160**

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$16,000,000 UTILITY SYSTEM REVENUE BONDS, SERIES 2011, TO FINANCE THE COSTS OF WATER, SEWER, STORMWATER AND RELATED CAPITAL IMPROVEMENTS; PLEDGING CERTAIN NET REVENUES OF THE UTILITY SYSTEM FOR THE PAYMENT OF SUCH BONDS; PROVIDING FOR THE RIGHTS OF HOLDERS OF SUCH BONDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

## **5. Resolutions and Proclamations**

*(Set for approximately 9:30 p.m.) (Note: Depends upon length of Good and Welfare)*

**A. Bottle Bill Resolution – Vice Mayor Joe Graubart Page 161-167**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, URGING THE GOVERNOR, STATE REPRESENTATIVE AND STATE SENATORS IN THE FLORIDA LEGISLATURE TO ADOPT A STATE OF FLORIDA “BOTTLE BILL” TO AMONG OTHER THINGS ENCOURAGE THE RETURN OR RECYCLE OF ALL BEVERAGE CONTAINERS AND OTHER RECYCLABLE MATERIALS; FURTHER DIRECTING THE TOWN CLERK TO TRANSMIT THIS RESOLUTION TO CERTAIN PUBLIC OFFICIALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**\*B. Resolution Authorizing the Town Manager to Execute Community Center Change Orders – Roger M. Carlton, Town Manager Page 168-176**  
**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDERS FOR THE COMMUNITY CENTER FROM THE DATE OF THIS RESOLUTION TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY AND RETURN TO THE TOWN COMMISSION FOR AFTER-THE-FACT APPROVALS SO LONG AS THE TOTAL AMOUNT OF CONSTRUCTION COSTS DOES NOT EXCEED FIVE MILLION DOLLARS; PROVIDING FOR AN EFFECTIVE DATE.**

**C. Problem Gambling Awareness Week Proclamation – Mayor Daniel Dietch Page 177-179**

**A RESOLUTION OF THE TOWN OF SURSIDE, FLORIDA PROCLAIMING PROBLEM GAMBLING AWARENESS WEEK TO RAISE PUBLIC AWARENESS ABOUT THE EFFECTS OF GAMBLING AND SPREADING THE MESSAGE OF HOPE.**

**\*D. IT Support Services – Chief David Allen Page 180-192**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE REAPPROPRIATION OF FUND BALANCE (RESERVES) TO THE OFFICE OF TOWN CLERK/DIRECTOR OF ADMINISTRATIVE SERVICES BUDGET; AMENDING THE TOWN'S BUDGET FOR FISCAL YEAR 2010-2011; AND PROVIDING FOR AN EFFECTIVE DATE.**

**\*E. Forfeiture Funds – Chief David Allen Page 193-199**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2010/2011 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF THIRTY EIGHT THOUSAND SEVEN HUNDRED FORTY THREE AND SIXTY-FOUR CENTS (\$38,743.64) TO BE FUNDED BY PROCEEDS OF CONFISCATED FUNDS.**

**\*F. Purchase of Pressure Washer and Trailer – Assistant Police Chief, John DiCenso Page 200-203**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE PURCHASE OF A PRESSURE WASHER AND TRAILER FROM SMITH-HAMILTON INDUSTRIAL TOOLS; AUTHORIZING THE TOWN MANAGER TO EXPEND PARKING FUND PROCEEDS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**6. Good and Welfare (Set for approximately 8:15 p.m.)**

*Public comments for subjects or items not on the agenda. Public comment on agenda items will be allowed when agenda item is discussed by the Commission.*



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

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

*All items on the Consent Agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the consent agenda and discussed separately.*

**8. Unfinished Business and New Business (Set for approximately 9:45 p.m.)**

**\*A. Report of the Ad Hoc Communications Committee – Randi MacBride, Chairperson Page 204-207**

**\*B. Report of the Ad Hoc Code Enforcement Committee - Anthony Blate, Chairperson Page 208**

**9. Mayor, Commission and Staff Communications (Set for approximately 10:15 p.m.)**

**\*A. Community Center Plaque – Vice Mayor Joe Graubart Page 209**

**\*B. Non-resident use of Community Center – Commissioner Marta Olchyk Page 210**

**\*C. Report on Feral Cats and Dog Feces – Roger M. Carlton, Town Manager Page 211-212**

**\*D. FOP Collective Bargaining Agreement Wage Re-opener – Assistant Police Chief, John DiCenso Page 213**

**Call for Executive Session – Lynn M. Dannheisser, Town Attorney**

**E. Status Report – Building Department – Paul Gioia, Building Official Page 214**

**10. Adjournment**

Respectfully submitted,



Roger M. Carlton

Town Manager

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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.townofsursidefl.gov](http://www.townofsursidefl.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.

**BARBARA COHEN**  
9341 Collins Avenue  
Surfside, FL 33154  
Tel. 305-868-3687  
Fax 305-868-3657  
E-mail loubar1008@gmail.com

DATE: February 10, 2011

TO: Roger Carlton, Town Manager

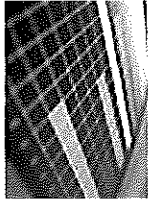
FROM: Barbara Cohen 

Re: 2010 Surfside Census

Attached please find census information concerning Surfside from 2005 until 2009. The final 2010 census figures for our town are estimated to be ready by the end of March. I will follow through as soon as 2010 information becomes available.

Cc: Duncan Taveres

Attachments

**U.S. Census Bureau**  
 American FactFinder

**Surfside town, Florida**  
**Selected Social Characteristics in the United States: 2005-2009**  
 Data Set: 2005-2009 American Community Survey 5-Year Estimates  
 Survey: American Community Survey

NOTE. Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

For more information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey Methodology.

Selected Social Characteristics in the United States	Estimate	Margin of Error	Percent	Margin of Error
<b>HOUSEHOLDS BY TYPE</b>				
<b>Total households</b>	<b>1,960</b>	<b>+/-252</b>	<b>1,960</b>	<b>(X)</b>
Family households (families)	1,157	+/-184	59.0%	+/-8.2
With own children under 18 years	441	+/-118	22.5%	+/-6.7
Married-couple family	974	+/-185	49.7%	+/-8.2
With own children under 18 years	324	+/-97	16.5%	+/-5.4
Male householder, no wife present, family	17	+/-24	0.9%	+/-1.2
With own children under 18 years	0	+/-136	0.0%	+/-2.1
Female householder, no husband present, family	166	+/-78	8.5%	+/-4.0
With own children under 18 years	117	+/-75	6.0%	+/-3.9
Nonfamily households	803	+/-218	41.0%	+/-8.2
Householder living alone	613	+/-217	31.3%	+/-8.0
65 years and over	201	+/-100	10.3%	+/-4.5
Households with one or more people under 18 years	448	+/-118	22.9%	+/-6.7
Households with one or more people 65 years and over	550	+/-155	28.1%	+/-6.2
Average household size	2.39	+/-0.30	(X)	(X)
Average family size	2.85	+/-0.19	(X)	(X)
<b>RELATIONSHIP</b>				
<b>Population in households</b>	<b>4,676</b>	<b>+/-35</b>	<b>4,676</b>	<b>(X)</b>
Householder	1,960	+/-252	41.9%	+/-5.3
Spouse	984	+/-183	21.0%	+/-3.9
Child	1,081	+/-235	23.1%	+/-5.0
Other relatives	70	+/-64	1.5%	+/-1.4
Nonrelatives	581	+/-466	12.4%	+/-10.0
Unmarried partner	90	+/-68	1.9%	+/-1.4
<b>MARITAL STATUS</b>				
<b>Males 15 years and over</b>	<b>2,024</b>	<b>+/-352</b>	<b>2,024</b>	<b>(X)</b>
Never married	817	+/-455	40.4%	+/-16.6
Now married, except separated	1,063	+/-150	52.5%	+/-14.5
Separated	46	+/-60	2.3%	+/-3.0
Widowed	28	+/-33	1.4%	+/-1.7
Divorced	70	+/-60	3.5%	+/-3.1
<b>Females 15 years and over</b>	<b>1,889</b>	<b>+/-282</b>	<b>1,889</b>	<b>(X)</b>
Never married	399	+/-130	21.1%	+/-5.9
Now married, except separated	1,025	+/-189	54.3%	+/-7.4
Separated	37	+/-36	2.0%	+/-1.9
Widowed	250	+/-117	13.2%	+/-5.6
Divorced	178	+/-89	9.4%	+/-4.4
<b>FERTILITY</b>				

Selected Social Characteristics in the United States	Estimate	Margin of Error	Percent	Margin of Error
<b>Number of women 15 to 50 years old who had a birth in the past 12 months</b>	0	+/-136	0	(X)
Unmarried women (widowed, divorced, and never married)	0	+/-136	-	**
Per 1,000 unmarried women	0	+/-90	(X)	(X)
Per 1,000 women 15 to 50 years old	0	+/-39	(X)	(X)
Per 1,000 women 15 to 19 years old	0	+/-434	(X)	(X)
Per 1,000 women 20 to 34 years old	0	+/-113	(X)	(X)
Per 1,000 women 35 to 50 years old	0	+/-64	(X)	(X)
<b>GRANDPARENTS</b>				
<b>Number of grandparents living with own grandchildren under 18 years</b>	19	+/-32	19	(X)
Responsible for grandchildren	0	+/-136	0.0%	+/-77.8
Years responsible for grandchildren				
Less than 1 year	0	+/-136	0.0%	+/-77.8
1 or 2 years	0	+/-136	0.0%	+/-77.8
3 or 4 years	0	+/-136	0.0%	+/-77.8
5 or more years	0	+/-136	0.0%	+/-77.8
<b>Number of grandparents responsible for own grandchildren under 18 years</b>	0	+/-136	0	(X)
Who are female	0	+/-136	-	**
Who are married	0	+/-136	-	**
<b>SCHOOL ENROLLMENT</b>				
<b>Population 3 years and over enrolled in school</b>	988	+/-227	988	(X)
Nursery school, preschool	80	+/-63	8.1%	+/-6.7
Kindergarten	133	+/-124	13.5%	+/-11.6
Elementary school (grades 1-8)	401	+/-153	40.6%	+/-11.4
High school (grades 9-12)	85	+/-63	8.6%	+/-6.4
College or graduate school	289	+/-124	29.3%	+/-10.5
<b>EDUCATIONAL ATTAINMENT</b>				
<b>Population 25 years and over</b>	3,570	+/-210	3,570	(X)
Less than 9th grade	130	+/-91	3.6%	+/-2.5
9th to 12th grade, no diploma	269	+/-140	7.5%	+/-4.0
High school graduate (includes equivalency)	889	+/-378	24.9%	+/-10.4
Some college, no degree	596	+/-176	16.7%	+/-4.8
Associate's degree	193	+/-92	5.4%	+/-2.6
Bachelor's degree	920	+/-225	25.8%	+/-5.9
Graduate or professional degree	573	+/-158	16.1%	+/-4.4
Percent high school graduate or higher	88.8%	+/-4.8	(X)	(X)
Percent bachelor's degree or higher	41.8%	+/-8.3	(X)	(X)
<b>VETERAN STATUS</b>				
<b>Civilian population 18 years and over</b>	3,837	+/-228	3,837	(X)
Civilian veterans	267	+/-118	7.0%	+/-3.1
<b>DISABILITY STATUS OF THE CIVILIAN NONINSTITUTIONALIZED POPULATION</b>				
<b>Total Civilian Noninstitutionalized Population</b>	(X)	(X)	(X)	(X)
With a disability	(X)	(X)	(X)	(X)
<b>Under 18 years</b>	(X)	(X)	(X)	(X)
With a disability	(X)	(X)	(X)	(X)
<b>18 to 64 years</b>	(X)	(X)	(X)	(X)
With a disability	(X)	(X)	(X)	(X)
<b>65 years and over</b>	(X)	(X)	(X)	(X)
With a disability	(X)	(X)	(X)	(X)
<b>RESIDENCE 1 YEAR AGO</b>				
<b>Population 1 year and over</b>	4,676	+/-35	4,676	(X)
Same house	3,665	+/-420	78.4%	+/-8.9
Different house in the U.S.	665	+/-316	14.2%	+/-6.7
Same county	537	+/-316	11.5%	+/-6.7
Different county	128	+/-118	2.7%	+/-2.5
Same state	18	+/-30	0.4%	+/-0.6
Different state	110	+/-113	2.4%	+/-2.4
Abroad	346	+/-380	7.4%	+/-8.1
<b>PLACE OF BIRTH</b>				

Selected Social Characteristics in the United States	Estimate	Margin of Error	Percent	Margin of Error
	4,676	+/-35	4,676	(X)
Native	2,197	+/-370	47.0%	+/-7.8
Born in United States	2,064	+/-356	44.1%	+/-7.5
State of residence	824	+/-250	17.6%	+/-5.3
Different state	1,240	+/-287	26.5%	+/-6.1
Born in Puerto Rico, U.S. Island areas, or born abroad to American parent(s)	133	+/-86	2.8%	+/-1.8
Foreign born	2,479	+/-364	53.0%	+/-7.8
<b>U.S. CITIZENSHIP STATUS</b>				
Foreign-born population	2,479	+/-364	2,479	(X)
Naturalized U.S. citizen	1,015	+/-258	40.9%	+/-13.2
Not a U.S. citizen	1,464	+/-485	59.1%	+/-13.2
<b>YEAR OF ENTRY</b>				
Population born outside the United States	2,612	+/-351	2,612	(X)
Native	133	+/-86	133	(X)
Entered 2000 or later	0	+/-136	0.0%	+/-26.8
Entered before 2000	133	+/-86	100.0%	+/-26.8
Foreign born	2,479	+/-364	2,479	(X)
Entered 2000 or later	926	+/-514	37.4%	+/-16.9
Entered before 2000	1,553	+/-302	62.6%	+/-16.9
<b>WORLD REGION OF BIRTH OF FOREIGN BORN</b>				
Foreign-born population, excluding population born at sea	2,479	+/-364	2,479	(X)
Europe	287	+/-136	11.6%	+/-6.0
Asia	506	+/-510	20.4%	+/-18.8
Africa	10	+/-16	0.4%	+/-0.7
Oceania	0	+/-136	0.0%	+/-1.7
Latin America	1,540	+/-291	62.1%	+/-16.4
Northern America	136	+/-172	5.5%	+/-6.9
<b>LANGUAGE SPOKEN AT HOME</b>				
Population 5 years and over	4,505	+/-97	4,505	(X)
English only	1,640	+/-375	36.4%	+/-8.3
Language other than English	2,865	+/-386	63.6%	+/-8.3
Speak English less than "very well"	1,283	+/-463	28.5%	+/-10.1
Spanish	1,958	+/-425	43.5%	+/-9.6
Speak English less than "very well"	744	+/-226	16.5%	+/-5.1
Other Indo-European languages	857	+/-514	19.0%	+/-11.3
Speak English less than "very well"	526	+/-521	11.7%	+/-11.5
Asian and Pacific Islander languages	41	+/-39	0.9%	+/-0.9
Speak English less than "very well"	13	+/-21	0.3%	+/-0.5
Other languages	9	+/-14	0.2%	+/-0.3
Speak English less than "very well"	0	+/-136	0.0%	+/-0.9
<b>ANCESTRY</b>				
Total population	4,676	+/-35	4,676	(X)
American	261	+/-168	5.6%	+/-3.6
Arab	90	+/-89	1.9%	+/-1.9
Czech	0	+/-136	0.0%	+/-0.9
Danish	57	+/-95	1.2%	+/-2.0
Dutch	119	+/-150	2.5%	+/-3.2
English	103	+/-68	2.2%	+/-1.5
French (except Basque)	185	+/-121	4.0%	+/-2.6
French Canadian	0	+/-136	0.0%	+/-0.9
German	245	+/-124	5.2%	+/-2.6
Greek	61	+/-63	1.3%	+/-1.3
Hungarian	32	+/-31	0.7%	+/-0.7
Irish	308	+/-171	6.6%	+/-3.6
Italian	322	+/-157	6.9%	+/-3.4
Lithuanian	47	+/-54	1.0%	+/-1.1
Norwegian	11	+/-19	0.2%	+/-0.4
Polish	198	+/-109	4.2%	+/-2.3
Portuguese	49	+/-45	1.0%	+/-1.0
Russian	150	+/-80	3.2%	+/-1.7
Scotch-Irish	26	+/-41	0.6%	+/-0.9
Scottish	26	+/-30	0.6%	+/-0.6
Slovak	0	+/-136	0.0%	+/-0.9

Selected Social Characteristics in the United States	Estimate	Margin of Error	Percent	Margin of Error
	72	+/-93	1.5%	+/-2.0
Swedish	39	+/-36	0.8%	+/-0.8
Swiss	0	+/-136	0.0%	+/-0.9
Ukrainian	26	+/-28	0.6%	+/-0.6
Welsh	0	+/-136	0.0%	+/-0.9
West Indian (excluding Hispanic origin groups)	12	+/-21	0.3%	+/-0.4

Source: U.S. Census Bureau, 2005-2009 American Community Survey


Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

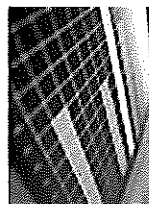
#### Notes:

- Ancestry listed in this table refers to the total number of people who responded with a particular ancestry; for example, the estimate given for Russian represents the number of people who listed Russian as either their first or second ancestry. This table lists only the largest ancestry groups; see the Detailed Tables for more categories. Race and Hispanic origin groups are not included in this table because official data for those groups come from the Race and Hispanic origin questions rather than the ancestry question (see Demographic Table).
- The Census Bureau introduced a new set of disability questions in the 2008 ACS questionnaire. Because of contextual differences between the 2008-2009 disability data and disability data collected in prior years, the Census Bureau is unable to combine the 5 years of disability data in order to produce the multi-year estimate that would appear in this table. Multi-year estimates of disability status will become available once five consecutive years of data are collected. For more information about the differences between the 2008 and prior years' disability questions, see Review of Changes to the Measurement of Disability in the 2008 ACS.
- Data for year of entry of the native population reflect the year of entry into the U.S. by people who were born in Puerto Rico, U.S. Island Areas or born outside the U.S. to a U.S. citizen parent and who subsequently moved to the U.S.
- While the 2005-2009 American Community Survey (ACS) data generally reflect the November 2008 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.
- Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2000 data. Boundaries for urban areas have not been updated since Census 2000. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

#### Explanation of Symbols:

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6. An '\*\*\*\*\*' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
7. An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
8. An '(X)' means that the estimate is not applicable or not available.

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**U.S. Census Bureau**  
 American FactFinder

**Surfside town, Florida**  
**Selected Economic Characteristics: 2005-2009**  
 Data Set: 2005-2009 American Community Survey 5-Year Estimates  
 Survey: American Community Survey

NOTE: Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

For more information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey Methodology.

Selected Economic Characteristics	Estimate	Margin of Error	Percent	Margin of Error
<b>EMPLOYMENT STATUS</b>				
Population 16 years and over	3,874	+/-225	3,874	(X)
In labor force	2,606	+/-353	67.3%	+/-7.5
Civilian labor force	2,606	+/-353	67.3%	+/-7.5
Employed	2,441	+/-357	63.0%	+/-8.0
Unemployed	165	+/-91	4.3%	+/-2.3
Armed Forces	0	+/-136	0.0%	+/-1.1
Not in labor force	1,268	+/-287	32.7%	+/-7.5
Civilian labor force	2,606	+/-353	2,606	(X)
Percent Unemployed	6.3%	+/-3.6	(X)	(X)
<b>Females 16 years and over</b>				
Population 16 years and over	1,889	+/-282	1,889	(X)
In labor force	1,028	+/-205	54.4%	+/-7.6
Civilian labor force	1,028	+/-205	54.4%	+/-7.6
Employed	919	+/-198	48.7%	+/-8.0
<b>Own children under 6 years</b>				
Population 16 years and over	238	+/-123	238	(X)
All parents in family in labor force	186	+/-115	78.2%	+/-25.1
<b>Own children 6 to 17 years</b>				
Population 16 years and over	594	+/-202	594	(X)
All parents in family in labor force	419	+/-201	70.5%	+/-18.7
<b>COMMUTING TO WORK</b>				
Workers 16 years and over	2,378	+/-360	2,378	(X)
Car, truck, or van -- drove alone	1,715	+/-389	72.1%	+/-8.7
Car, truck, or van -- carpooled	174	+/-113	7.3%	+/-4.9
Public transportation (excluding taxicab)	173	+/-92	7.3%	+/-3.6
Walked	148	+/-111	6.2%	+/-4.9
Other means	38	+/-42	1.6%	+/-1.9
Worked at home	130	+/-98	5.5%	+/-4.3
Mean travel time to work (minutes)	27.2	+/-4.2	(X)	(X)
<b>OCCUPATION</b>				
Civilian employed population 16 years and over	2,441	+/-357	2,441	(X)
Management, professional, and related occupations	1,026	+/-195	42.0%	+/-11.4
Service occupations	647	+/-509	26.5%	+/-18.0
Sales and office occupations	505	+/-165	20.7%	+/-7.8
Farming, fishing, and forestry occupations	0	+/-136	0.0%	+/-1.7
Construction, extraction, maintenance, and repair occupations	171	+/-116	7.0%	+/-4.9
Production, transportation, and material moving occupations	92	+/-82	3.8%	+/-3.4
<b>INDUSTRY</b>				
Civilian employed population 16 years and over	2,441	+/-357	2,441	(X)



Selected Economic Characteristics	Estimate	Margin of Error	Percent	Margin of Error
Agriculture, forestry, fishing and hunting, and mining	0	+/-136	0.0%	+/-1.7
Construction	210	+/-138	8.6%	+/-6.0
Manufacturing	63	+/-47	2.6%	+/-2.0
Wholesale trade	83	+/-81	3.4%	+/-3.3
Retail trade	123	+/-74	5.0%	+/-3.3
Transportation and warehousing, and utilities	48	+/-46	2.0%	+/-1.9
Information	66	+/-58	2.7%	+/-2.5
Finance and insurance, and real estate and rental and leasing	592	+/-517	24.3%	+/-18.6
Professional, scientific, and management, and administrative and waste management services	358	+/-130	14.7%	+/-6.2
Educational services, and health care and social assistance	312	+/-109	12.8%	+/-5.1
Arts, entertainment, and recreation, and accommodation and food services	253	+/-111	10.4%	+/-4.8
Other services, except public administration	307	+/-152	12.6%	+/-6.5
Public administration	26	+/-33	1.1%	+/-1.4
<b>CLASS OF WORKER</b>				
Civilian employed population 16 years and over	2,441	+/-357	2,441	(X)
Private wage and salary workers	2,236	+/-373	91.6%	+/-4.1
Government workers	99	+/-70	4.1%	+/-2.9
Self-employed in own not incorporated business workers	106	+/-68	4.3%	+/-2.9
Unpaid family workers	0	+/-136	0.0%	+/-1.7
<b>INCOME AND BENEFITS (IN 2009 INFLATION-ADJUSTED DOLLARS)</b>				
Total households	1,960	+/-252	1,960	(X)
Less than \$10,000	174	+/-92	8.9%	+/-4.2
\$10,000 to \$14,999	56	+/-40	2.9%	+/-2.0
\$15,000 to \$24,999	100	+/-70	5.1%	+/-3.5
\$25,000 to \$34,999	93	+/-57	4.7%	+/-2.7
\$35,000 to \$49,999	320	+/-125	16.3%	+/-5.4
\$50,000 to \$74,999	247	+/-82	12.6%	+/-4.7
\$75,000 to \$99,999	336	+/-128	17.1%	+/-5.9
\$100,000 to \$149,999	229	+/-98	11.7%	+/-4.7
\$150,000 to \$199,999	193	+/-84	9.8%	+/-4.3
\$200,000 or more	212	+/-80	10.8%	+/-4.1
Median household income (dollars)	74,219	+/-18,370	(X)	(X)
Mean household income (dollars)	106,106	+/-22,149	(X)	(X)
With earnings	1,567	+/-203	79.9%	+/-6.6
Mean earnings (dollars)	88,148	+/-11,544	(X)	(X)
With Social Security	519	+/-144	26.5%	+/-6.1
Mean Social Security income (dollars)	17,591	+/-2,419	(X)	(X)
With retirement income	174	+/-90	8.9%	+/-4.1
Mean retirement income (dollars)	43,678	+/-40,644	(X)	(X)
With Supplemental Security Income	41	+/-43	2.1%	+/-2.2
Mean Supplemental Security Income (dollars)	11,051	+/-2,250	(X)	(X)
With cash public assistance income	0	+/-136	0.0%	+/-2.1
Mean cash public assistance income (dollars)	-	**	(X)	(X)
With Food Stamp/SNAP benefits in the past 12 months	70	+/-66	3.6%	+/-3.3
<b>Families</b>	<b>1,157</b>	<b>+/-184</b>	<b>1,157</b>	<b>(X)</b>
Less than \$10,000	23	+/-34	2.0%	+/-3.0
\$10,000 to \$14,999	0	+/-136	0.0%	+/-3.6
\$15,000 to \$24,999	63	+/-54	5.4%	+/-4.7
\$25,000 to \$34,999	58	+/-43	5.0%	+/-3.6
\$35,000 to \$49,999	169	+/-80	14.6%	+/-6.4
\$50,000 to \$74,999	148	+/-78	12.8%	+/-6.3
\$75,000 to \$99,999	187	+/-95	16.2%	+/-7.3
\$100,000 to \$149,999	175	+/-89	15.1%	+/-7.4
\$150,000 to \$199,999	161	+/-76	13.9%	+/-6.3
\$200,000 or more	173	+/-73	15.0%	+/-6.1
Median family income (dollars)	89,063	+/-17,825	(X)	(X)
Mean family income (dollars)	137,642	+/-35,187	(X)	(X)
Per capita income (dollars)	44,933	+/-10,186	(X)	(X)
<b>Nonfamily households</b>	<b>803</b>	<b>+/-218</b>	<b>803</b>	<b>(X)</b>
Median nonfamily income (dollars)	43,219	+/-18,458	(X)	(X)
Mean nonfamily income (dollars)	59,431	+/-11,013	(X)	(X)
Median earnings for workers (dollars)	38,879	+/-13,632	(X)	(X)

Selected Economic Characteristics	Estimate	Margin of Error	Percent	Margin of Error
	67,344	+/-21,594	(X)	(X)
Median earnings for female full-time, year-round workers (dollars)	47,743	+/-14,225	(X)	(X)
<b>HEALTH INSURANCE COVERAGE</b>				
<b>Civilian Noninstitutionalized Population</b>	(X)	(X)	(X)	(X)
<b>With health insurance coverage</b>	(X)	(X)	(X)	(X)
With private health insurance coverage	(X)	(X)	(X)	(X)
With public health coverage	(X)	(X)	(X)	(X)
No health insurance coverage	(X)	(X)	(X)	(X)
<b>Civilian Noninstitutionalized Population Under 18 years</b>	(X)	(X)	(X)	(X)
No health insurance coverage	(X)	(X)	(X)	(X)
<b>PERCENTAGE OF FAMILIES AND PEOPLE WHOSE INCOME IN THE PAST 12 MONTHS IS BELOW THE POVERTY LEVEL</b>				
<b>All families</b>	2.0%	+/-3.0	(X)	(X)
With related children under 18 years	5.1%	+/-7.5	(X)	(X)
With related children under 5 years only	0.0%	+/-34.5	(X)	(X)
<b>Married couple families</b>	0.0%	+/-4.3	(X)	(X)
With related children under 18 years	0.0%	+/-12.3	(X)	(X)
With related children under 5 years only	0.0%	+/-38.9	(X)	(X)
<b>Families with female householder, no husband present</b>	13.9%	+/-19.8	(X)	(X)
With related children under 18 years	19.7%	+/-28.0	(X)	(X)
With related children under 5 years only	0.0%	+/-79.9	(X)	(X)
<b>All people</b>	13.6%	+/-11.0	(X)	(X)
<b>Under 18 years</b>	5.4%	+/-7.6	(X)	(X)
Related children under 18 years	5.4%	+/-7.6	(X)	(X)
Related children under 5 years	0.0%	+/-21.8	(X)	(X)
Related children 5 to 17 years	6.7%	+/-9.6	(X)	(X)
<b>18 years and over</b>	15.4%	+/-12.9	(X)	(X)
18 to 64 years	15.2%	+/-16.0	(X)	(X)
65 years and over	16.3%	+/-9.2	(X)	(X)
<b>People in families</b>	2.1%	+/-3.1	(X)	(X)
Unrelated individuals 15 years and over	41.0%	+/-27.2	(X)	(X)

Source: U.S. Census Bureau, 2005-2009 American Community Survey

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

**Notes:**


- Employment and unemployment estimates may vary from the official labor force data released by the Bureau of Labor Statistics because of differences in survey design and data collection. For guidance on differences in employment and unemployment estimates from different sources go to Labor Force Guidance.
- Workers include members of the Armed Forces and civilians who were at work last week.
- Occupation codes are 4-digit codes and are based on Standard Occupational Classification 2000.
- Industry codes are 4-digit codes and are based on the North American Industry Classification System 2002 and 2007. The 2005, 2006 and 2007 ACS data are coded using NAICS 2002 while the 2008 and 2009 ACS data use NAICS 2007 codes. Categories that differ between 2002 and 2007 NAICS are aggregated so that the 5 years of data are consistent in display and reflect the NAICS 2007 codes. The Industry categories adhere to the guidelines issued in Clarification Memorandum No. 2, "NAICS Alternate Aggregation Structure for Use By U.S. Statistical Agencies," issued by the Office of Management and Budget.
- Selected earnings and income data are not available for certain geographic areas due to problems with group quarters data collection and imputation. See the ACS User Notes for details.
- Logical coverage edits applying a rules-based assignment of Medicaid, Medicare and military health coverage were added in 2009 – please see [http://www.census.gov/hhes/www/hlthins/publications/coverage\\_edits\\_final.pdf](http://www.census.gov/hhes/www/hlthins/publications/coverage_edits_final.pdf) for more details.
- While the 2005-2009 American Community Survey (ACS) data generally reflect the November 2008 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.
- Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2000 data. Boundaries for urban areas have not been updated since Census 2000. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

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**U.S. Census Bureau**  
 American FactFinder

**Surfside town, Florida**  
**Selected Housing Characteristics: 2005-2009**  
 Data Set: 2005-2009 American Community Survey 5-Year Estimates  
 Survey: American Community Survey

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Selected Housing Characteristics	Estimate	Margin of Error	Percent	Margin of Error
<b>HOUSING OCCUPANCY</b>				
Total housing units	3,156	+/-324	3,156	(X)
Occupied housing units	1,960	+/-252	62.1%	+/-5.2
Vacant housing units	1,196	+/-213	37.9%	+/-5.2
Homeowner vacancy rate	10.1	+/-5.8	(X)	(X)
Rental vacancy rate	9.9	+/-9.4	(X)	(X)
<b>UNITS IN STRUCTURE</b>				
Total housing units	3,156	+/-324	3,156	(X)
1-unit, detached	1,019	+/-186	32.3%	+/-4.4
1-unit, attached	20	+/-24	0.6%	+/-0.8
2 units	38	+/-53	1.2%	+/-1.8
3 or 4 units	53	+/-56	1.7%	+/-1.7
5 to 9 units	54	+/-61	1.7%	+/-1.9
10 to 19 units	281	+/-119	8.9%	+/-3.6
20 or more units	1,691	+/-222	53.6%	+/-4.7
Mobile home	0	+/-136	0.0%	+/-1.3
Boat, RV, van, etc.	0	+/-136	0.0%	+/-1.3
<b>YEAR STRUCTURE BUILT</b>				
Total housing units	3,156	+/-324	3,156	(X)
Built 2005 or later	24	+/-39	0.8%	+/-1.2
Built 2000 to 2004	119	+/-58	3.8%	+/-1.8
Built 1990 to 1999	473	+/-149	15.0%	+/-4.5
Built 1980 to 1989	543	+/-173	17.2%	+/-5.1
Built 1970 to 1979	360	+/-139	11.4%	+/-4.1
Built 1960 to 1969	428	+/-148	13.6%	+/-5.1
Built 1950 to 1959	635	+/-173	20.1%	+/-5.0
Built 1940 to 1949	328	+/-130	10.4%	+/-3.9
Built 1939 or earlier	246	+/-111	7.8%	+/-3.4
<b>ROOMS</b>				
Total housing units	3,156	+/-324	3,156	(X)
1 room	202	+/-121	6.4%	+/-3.8
2 rooms	153	+/-83	4.8%	+/-2.5
3 rooms	715	+/-190	22.7%	+/-5.6
4 rooms	753	+/-166	23.9%	+/-4.9
5 rooms	629	+/-187	19.9%	+/-5.6
6 rooms	312	+/-117	9.9%	+/-3.5
7 rooms	285	+/-107	9.0%	+/-3.2
8 rooms	55	+/-54	1.7%	+/-1.7
9 rooms or more	52	+/-52	1.6%	+/-1.7
Median rooms	4.2	+/-0.3	(X)	(X)

Selected Housing Characteristics	Estimate	Margin of Error	Percent	Margin of Error
<b>BEDROOMS</b>				
Total housing units	3,156	+/-324	3,156	(X)
No bedroom	202	+/-121	6.4%	+/-3.8
1 bedroom	938	+/-206	29.7%	+/-5.7
2 bedrooms	1,119	+/-213	35.5%	+/-5.9
3 bedrooms	655	+/-171	20.8%	+/-4.9
4 bedrooms	197	+/-85	6.2%	+/-2.6
5 or more bedrooms	47	+/-52	1.5%	+/-1.6
<b>HOUSING TENURE</b>				
Occupied housing units	1,960	+/-252	1,960	(X)
Owner-occupied	1,388	+/-242	70.7%	+/-7.0
Renter-occupied	574	+/-145	29.3%	+/-7.0
Average household size of owner-occupied unit	2.30	+/-0.20	(X)	(X)
Average household size of renter-occupied unit	2.60	+/-0.84	(X)	(X)
<b>YEAR HOUSEHOLDER MOVED INTO UNIT</b>				
Occupied housing units	1,960	+/-252	1,960	(X)
Moved in 2005 or later	516	+/-156	26.3%	+/-7.5
Moved in 2000 to 2004	672	+/-180	34.3%	+/-8.0
Moved in 1990 to 1999	411	+/-140	21.0%	+/-6.6
Moved in 1980 to 1989	218	+/-104	11.1%	+/-4.7
Moved in 1970 to 1979	49	+/-43	2.5%	+/-2.2
Moved in 1969 or earlier	94	+/-61	4.8%	+/-3.1
<b>VEHICLES AVAILABLE</b>				
Occupied housing units	1,960	+/-252	1,960	(X)
No vehicles available	261	+/-104	13.3%	+/-5.5
1 vehicle available	861	+/-211	43.9%	+/-7.1
2 vehicles available	701	+/-151	35.8%	+/-7.3
3 or more vehicles available	137	+/-77	7.0%	+/-3.8
<b>HOUSE HEATING FUEL</b>				
Occupied housing units	1,960	+/-252	1,960	(X)
Utility gas	129	+/-62	6.6%	+/-3.1
Bottled, tank, or LP gas	0	+/-136	0.0%	+/-2.1
Electricity	1,696	+/-235	86.5%	+/-5.0
Fuel oil, kerosene, etc.	0	+/-136	0.0%	+/-2.1
Coal or coke	0	+/-136	0.0%	+/-2.1
Wood	0	+/-136	0.0%	+/-2.1
Solar energy	0	+/-136	0.0%	+/-2.1
Other fuel	0	+/-136	0.0%	+/-2.1
No fuel used	135	+/-82	6.9%	+/-3.9
<b>SELECTED CHARACTERISTICS</b>				
Occupied housing units	1,960	+/-252	1,960	(X)
Lacking complete plumbing facilities	0	+/-136	0.0%	+/-2.1
Lacking complete kitchen facilities	11	+/-19	0.6%	+/-0.9
No telephone service available	83	+/-64	4.2%	+/-3.1
<b>OCCUPANTS PER ROOM</b>				
Occupied housing units	1,960	+/-252	1,960	(X)
1.00 or less	1,858	+/-306	94.8%	+/-4.5
1.01 to 1.50	58	+/-63	3.0%	+/-3.3
1.51 or more	44	+/-54	2.2%	+/-3.0
<b>VALUE</b>				
Owner-occupied units	1,388	+/-242	1,388	(X)
Less than \$50,000	0	+/-136	0.0%	+/-3.0
\$50,000 to \$99,999	9	+/-15	0.6%	+/-1.1
\$100,000 to \$149,999	29	+/-33	2.1%	+/-2.4
\$150,000 to \$199,999	48	+/-40	3.5%	+/-2.7
\$200,000 to \$299,999	45	+/-44	3.2%	+/-3.1
\$300,000 to \$499,999	542	+/-160	39.1%	+/-8.8
\$500,000 to \$999,999	619	+/-163	44.7%	+/-8.8
\$1,000,000 or more	94	+/-60	6.8%	+/-4.4
Median (dollars)	509,900	+/-49,600	(X)	(X)

Selected Housing Characteristics	Estimate	Margin of Error	Percent	Margin of Error
<b>MORTGAGE STATUS</b>				
Owner-occupied units	1,386	+/-242	1,386	(X)
Housing units with a mortgage	767	+/-185	55.3%	+/-8.4
Housing units without a mortgage	619	+/-151	44.7%	+/-8.4
<b>SELECTED MONTHLY OWNER COSTS (SMOC)</b>				
Housing units with a mortgage	767	+/-185	767	(X)
Less than \$300	0	+/-136	0.0%	+/-5.4
\$300 to \$499	14	+/-24	1.8%	+/-3.0
\$500 to \$699	0	+/-136	0.0%	+/-5.4
\$700 to \$999	10	+/-17	1.3%	+/-2.1
\$1,000 to \$1,499	24	+/-26	3.1%	+/-3.4
\$1,500 to \$1,999	93	+/-69	12.1%	+/-7.9
\$2,000 or more	626	+/-150	81.6%	+/-8.6
Median (dollars)	3,046	+/-327	(X)	(X)
Housing units without a mortgage	619	+/-151	619	(X)
Less than \$100	0	+/-136	0.0%	+/-6.6
\$100 to \$199	0	+/-136	0.0%	+/-6.6
\$200 to \$299	0	+/-136	0.0%	+/-6.6
\$300 to \$399	94	+/-73	15.2%	+/-10.9
\$400 or more	525	+/-144	84.8%	+/-10.9
Median (dollars)	876	+/-152	(X)	(X)
<b>SELECTED MONTHLY OWNER COSTS AS A PERCENTAGE OF HOUSEHOLD INCOME (SMOCAPI)</b>				
Housing units with a mortgage (excluding units where SMOCAPI cannot be computed)	734	+/-175	734	(X)
Less than 20.0 percent	114	+/-68	15.5%	+/-8.8
20.0 to 24.9 percent	109	+/-71	14.9%	+/-9.5
25.0 to 29.9 percent	78	+/-51	10.6%	+/-6.9
30.0 to 34.9 percent	32	+/-39	4.4%	+/-5.2
35.0 percent or more	401	+/-144	54.6%	+/-11.6
Not computed	33	+/-54	(X)	(X)
Housing unit without a mortgage (excluding units where SMOCAPI cannot be computed)	607	+/-150	607	(X)
Less than 10.0 percent	145	+/-75	23.9%	+/-11.3
10.0 to 14.9 percent	120	+/-70	19.8%	+/-10.0
15.0 to 19.9 percent	81	+/-57	13.3%	+/-9.2
20.0 to 24.9 percent	12	+/-19	2.0%	+/-3.0
25.0 to 29.9 percent	74	+/-60	12.2%	+/-9.6
30.0 to 34.9 percent	33	+/-32	5.4%	+/-5.2
35.0 percent or more	142	+/-74	23.4%	+/-9.6
Not computed	12	+/-19	(X)	(X)
<b>GROSS RENT</b>				
Occupied units paying rent	574	+/-145	574	(X)
Less than \$200	0	+/-136	0.0%	+/-7.1
\$200 to \$299	0	+/-136	0.0%	+/-7.1
\$300 to \$499	0	+/-136	0.0%	+/-7.1
\$500 to \$749	0	+/-136	0.0%	+/-7.1
\$750 to \$999	176	+/-91	30.7%	+/-14.9
\$1,000 to \$1,499	219	+/-96	38.2%	+/-15.4
\$1,500 or more	179	+/-97	31.2%	+/-13.2
Median (dollars)	1,197	+/-161	(X)	(X)
No rent paid	0	+/-136	(X)	(X)
<b>GROSS RENT AS A PERCENTAGE OF HOUSEHOLD INCOME (GRAPI)</b>				
Occupied units paying rent (excluding units where GRAPI cannot be computed)	561	+/-143	561	(X)
Less than 15.0 percent	103	+/-79	18.4%	+/-13.1
15.0 to 19.9 percent	18	+/-22	3.2%	+/-4.0
20.0 to 24.9 percent	102	+/-68	18.2%	+/-11.1
25.0 to 29.9 percent	85	+/-77	15.2%	+/-13.0
30.0 to 34.9 percent	102	+/-80	18.2%	+/-12.7
35.0 percent or more	151	+/-73	26.9%	+/-13.3

Selected Housing Characteristics	Estimate	Margin of Error	Percent	Margin of Error
Not computed	13	+/-22	(X)	(X)

Source: U.S. Census Bureau, 2005-2009 American Community Survey

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

Notes:

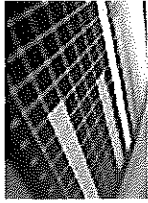
- Caution should be used when comparing data for Number of Rooms between 2008 and 2009. A data collection error was identified for 2008 impacting the "1 room" category. For more information please see Errata Note #54.
- Caution should be used when comparing data for Number of Bedrooms between 2008 and 2009. A data collection error was identified for 2008 impacting the "0 bedrooms" category. For more information please see Errata Note #54.
- The 2005-2009 plumbing data for Puerto Rico will not be shown. Research indicates that the questions on plumbing facilities that were introduced in 2008 in the stateside American Community Survey and the 2008 Puerto Rico Community Survey may not have been appropriate for Puerto Rico.
- Caution should be used when comparing data for Telephone Service Availability between 2008 and 2009. A data collection error was identified for 2008 impacting the "no" category and underreporting those who did not have telephone service available. For more information please see Errata Note #53.
- Caution should be used when comparing data for Occupants per Room between 2008 and 2009. A data collection error was identified for 2008 impacting the "1 room" category. For more information please see Errata Note #54.
- In prior years, the universe included all owner-occupied units with a mortgage. It is now restricted to include only those units where SMOCAPI is computed, that is, SMOC and household income are valid values.
- In prior years, the universe included all owner-occupied units without a mortgage. It is now restricted to include only those units where SMOCAPI is computed, that is, SMOC and household income are valid values.
- In prior years, the universe included all renter-occupied units. It is now restricted to include only those units where GRAPI is computed, that is, gross rent and household income are valid values.
- The median gross rent excludes no cash renters.
- While the 2005-2009 American Community Survey (ACS) data generally reflect the November 2008 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.
- Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2000 data. Boundaries for urban areas have not been updated since Census 2000. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

Explanation of Symbols:

1. An '\*\*\*' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
2. An 'L' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.
3. An 'L' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
4. An 'U' following a median estimate means the median falls in the upper interval of an open-ended distribution.
5. An '\*\*\*' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
6. An '\*\*\*\*\*' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
7. An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
8. An '(X)' means that the estimate is not applicable or not available.

# U.S. Census Bureau

## American FactFinder



### Surfside town, Florida

#### ACS Demographic and Housing Estimates: 2005-2009

Data Set: 2005-2009 American Community Survey 5-Year Estimates  
Survey: American Community Survey

NOTE: Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

For more information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey Methodology.

ACS Demographic and Housing Estimates	Estimate	Margin of Error	Percent	Margin of Error
<b>SEX AND AGE</b>				
<b>Total population</b>	<b>4,676</b>	<b>+/-35</b>	<b>4,676</b>	<b>(X)</b>
Male	2,377	+/-312	50.8%	+/-6.7
Female	2,299	+/-314	49.2%	+/-6.7
Under 5 years	171	+/-96	3.7%	+/-2.0
5 to 9 years	322	+/-179	6.9%	+/-3.8
10 to 14 years	270	+/-141	5.8%	+/-3.0
15 to 19 years	146	+/-92	3.1%	+/-2.0
20 to 24 years	197	+/-121	4.2%	+/-2.6
25 to 34 years	769	+/-351	16.4%	+/-7.5
35 to 44 years	902	+/-169	19.3%	+/-3.6
45 to 54 years	658	+/-188	14.1%	+/-4.0
55 to 59 years	253	+/-116	5.4%	+/-2.5
60 to 64 years	232	+/-104	5.0%	+/-2.2
65 to 74 years	354	+/-134	7.6%	+/-2.8
75 to 84 years	295	+/-121	6.3%	+/-2.6
85 years and over	107	+/-78	2.3%	+/-1.7
Median age (years)	41.2	+/-6.4	(X)	(X)
18 years and over	3,837	+/-228	82.1%	+/-4.8
21 years and over	3,754	+/-236	80.3%	+/-5.0
62 years and over	906	+/-242	19.4%	+/-5.1
65 years and over	756	+/-222	16.2%	+/-4.7
<b>18 years and over</b>	<b>3,837</b>	<b>+/-228</b>	<b>3,837</b>	<b>(X)</b>
Male	1,985	+/-355	51.7%	+/-7.7
Female	1,852	+/-279	48.3%	+/-7.7
<b>65 years and over</b>	<b>756</b>	<b>+/-222</b>	<b>756</b>	<b>(X)</b>
Male	265	+/-101	35.1%	+/-8.4
Female	491	+/-158	64.9%	+/-8.4
<b>RACE</b>				
<b>Total population</b>	<b>4,676</b>	<b>+/-35</b>	<b>4,676</b>	<b>(X)</b>
One race	4,676	+/-35	100.0%	+/-0.9
Two or more races	0	+/-136	0.0%	+/-0.9
One race	4,676	+/-35	100.0%	+/-0.9
White	3,931	+/-525	84.1%	+/-11.1
Black or African American	137	+/-192	2.9%	+/-4.1
American Indian and Alaska Native	0	+/-136	0.0%	+/-0.9
Cherokee tribal grouping	0	+/-136	0.0%	+/-0.9
Chippewa tribal grouping	0	+/-136	0.0%	+/-0.9



ACS Demographic and Housing Estimates	Estimate	Margin of Error	Percent	Margin of Error
Navajo tribal grouping	0	+/-136	0.0%	+/-0.9
Sioux tribal grouping	0	+/-136	0.0%	+/-0.9
Asian	491	+/-517	10.5%	+/-11.0
Asian Indian	372	+/-528	8.0%	+/-11.3
Chinese	56	+/-71	1.2%	+/-1.5
Filipino	63	+/-83	1.3%	+/-1.8
Japanese	0	+/-136	0.0%	+/-0.9
Korean	0	+/-136	0.0%	+/-0.9
Vietnamese	0	+/-136	0.0%	+/-0.9
Other Asian	0	+/-136	0.0%	+/-0.9
Native Hawaiian and Other Pacific Islander	0	+/-136	0.0%	+/-0.9
Native Hawaiian	0	+/-136	0.0%	+/-0.9
Guamanian or Chamorro	0	+/-136	0.0%	+/-0.9
Samoa	0	+/-136	0.0%	+/-0.9
Other Pacific Islander	0	+/-136	0.0%	+/-0.9
Some other race	117	+/-79	2.5%	+/-1.7
Two or more races	0	+/-136	0.0%	+/-0.9
White and Black or African American	0	+/-136	0.0%	+/-0.9
White and American Indian and Alaska Native	0	+/-136	0.0%	+/-0.9
White and Asian	0	+/-136	0.0%	+/-0.9
Black or African American and American Indian and Alaska Native	0	+/-136	0.0%	+/-0.9
<b>Race alone or in combination with one or more other races</b>				
Total population	4,676	+/-35	4,676	(X)
White	3,931	+/-525	84.1%	+/-11.1
Black or African American	137	+/-192	2.9%	+/-4.1
American Indian and Alaska Native	0	+/-136	0.0%	+/-0.9
Asian	491	+/-517	10.5%	+/-11.0
Native Hawaiian and Other Pacific Islander	0	+/-136	0.0%	+/-0.9
Some other race	117	+/-79	2.5%	+/-1.7
<b>HISPANIC OR LATINO AND RACE</b>				
Total population	4,676	+/-35	4,676	(X)
Hispanic or Latino (of any race)	1,853	+/-452	39.6%	+/-9.6
Mexican	67	+/-63	1.4%	+/-1.3
Puerto Rican	203	+/-144	4.3%	+/-3.1
Cuban	644	+/-258	13.8%	+/-5.5
Other Hispanic or Latino	939	+/-285	20.1%	+/-6.1
Not Hispanic or Latino	2,823	+/-451	60.4%	+/-9.6
White alone	2,230	+/-460	47.7%	+/-9.8
Black or African American alone	137	+/-192	2.9%	+/-4.1
American Indian and Alaska Native alone	0	+/-136	0.0%	+/-0.9
Asian alone	456	+/-512	9.8%	+/-10.9
Native Hawaiian and Other Pacific Islander alone	0	+/-136	0.0%	+/-0.9
Some other race alone	0	+/-136	0.0%	+/-0.9
Two or more races	0	+/-136	0.0%	+/-0.9
Two races including Some other race	0	+/-136	0.0%	+/-0.9
Two races excluding Some other race, and Three or more races	0	+/-136	0.0%	+/-0.9
<b>Total housing units</b>	<b>3,156</b>	<b>+/-324</b>	<b>(X)</b>	<b>(X)</b>

Source: U.S. Census Bureau, 2005-2009 American Community Survey

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

**Notes:**

•For more information on understanding race and Hispanic origin data, please see the Census 2000 Brief entitled, Overview of Race and Hispanic Origin, issued March 2001. (pdf format)

•The ACS questions on Hispanic origin and race were revised in 2008 to make them consistent with the Census 2010 question wording. Any changes in estimates for 2008 and beyond may be due to demographic changes, as well as factors including questionnaire changes, differences in ACS population controls, and methodological differences in the population estimates, and therefore should be used with caution. For a summary of questionnaire changes see [http://www.census.gov/acs/www/methodology/questionnaire\\_changes/](http://www.census.gov/acs/www/methodology/questionnaire_changes/). For more information about changes in the estimates see <http://www.census.gov/population/www/socdemo/hispanic/reports.html>.

•While the 2005-2009 American Community Survey (ACS) data generally reflect the November 2008 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

•Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2000 data. Boundaries for urban areas have not been updated since Census 2000. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

## Explanation of Symbols:

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3. An '!' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
4. An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
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8. An '(X)' means that the estimate is not applicable or not available.

The letters PDF or symbol  indicate a document is in the Portable Document Format (PDF). To view the file you will need the Adobe® Acrobat® Reader, which is available for free from the Adobe web site.

**U.S. Census Bureau**  
 American FactFinder



**Surfside town, Florida**  
 Population and Housing Narrative Profile: 2005-2009  
 Data Set: 2005-2009 American Community Survey 5-Year Estimates  
 Survey: American Community Survey

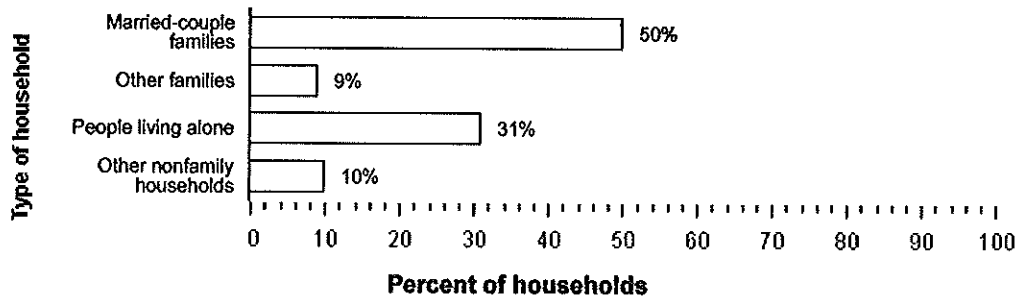
NOTE. Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

For more information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey Methodology.

**HOUSEHOLDS AND FAMILIES:** In 2005-2009 there were 2,000 households in Surfside town. The average household size was 2.4 people.

Families made up 59 percent of the households in Surfside town. This figure includes both married-couple families (50 percent) and other families (9 percent). Nonfamily households made up 41 percent of all households in Surfside town. Most of the nonfamily households were people living alone, but some were composed of people living in households in which no one was related to the householder.

**The Types of Households in Surfside town, Florida in 2005-2009**



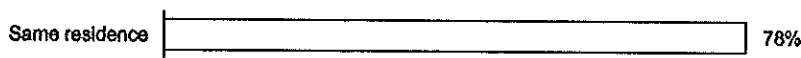
Source: American Community Survey, 2005-2009

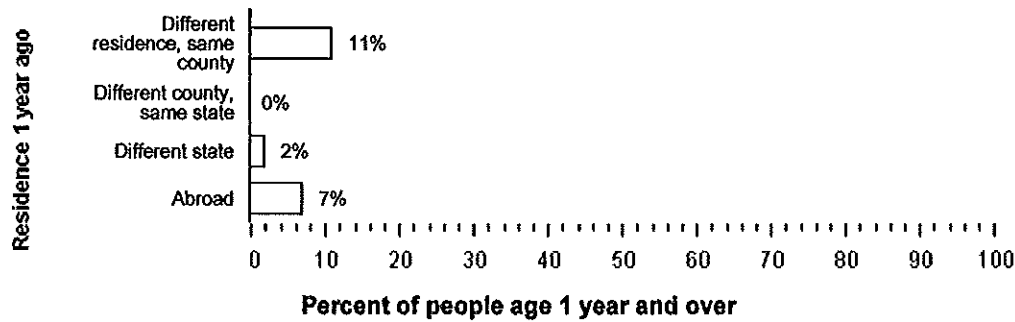
**NATIVITY AND LANGUAGE:** Fifty-three percent of the people living in Surfside town in 2005-2009 were foreign born. Forty-seven percent was native, including 18 percent who were born in Florida.

Among people at least five years old living in Surfside town in 2005-2009, 64 percent spoke a language other than English at home. Of those speaking a language other than English at home, 68 percent spoke Spanish and 32 percent spoke some other language; 45 percent reported that they did not speak English "very well."

**GEOGRAPHIC MOBILITY:** In 2005-2009, 78 percent of the people at least one year old living in Surfside town were living in the same residence one year earlier; 11 percent had moved during the past year from another residence in the same county, less than 0.5 percent from another county in the same state, 2 percent from another state, and 7 percent from abroad.

**Geographic Mobility of Residents of Surfside town, Florida in 2005-2009**



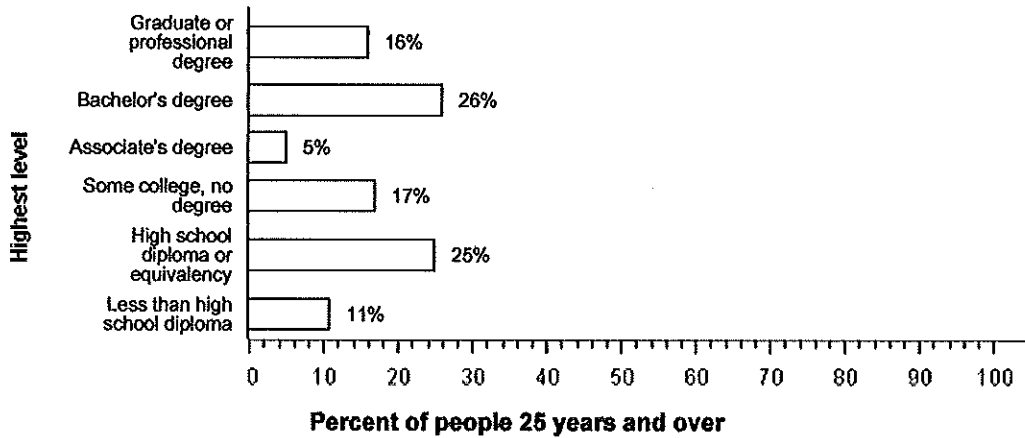


Source: American Community Survey, 2005-2009

**EDUCATION:** In 2005-2009, 89 percent of people 25 years and over had at least graduated from high school and 42 percent had a bachelor's degree or higher. Eleven percent were dropouts; they were not enrolled in school and had not graduated from high school.

The total school enrollment in Surfside town was 990 in 2005-2009. Nursery school and kindergarten enrollment was 210 and elementary or high school enrollment was 490 children. College or graduate school enrollment was 290.

The Educational Attainment of People in Surfside town, Florida in 2005-2009

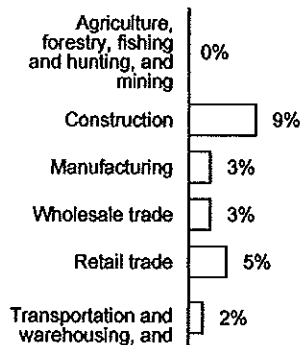


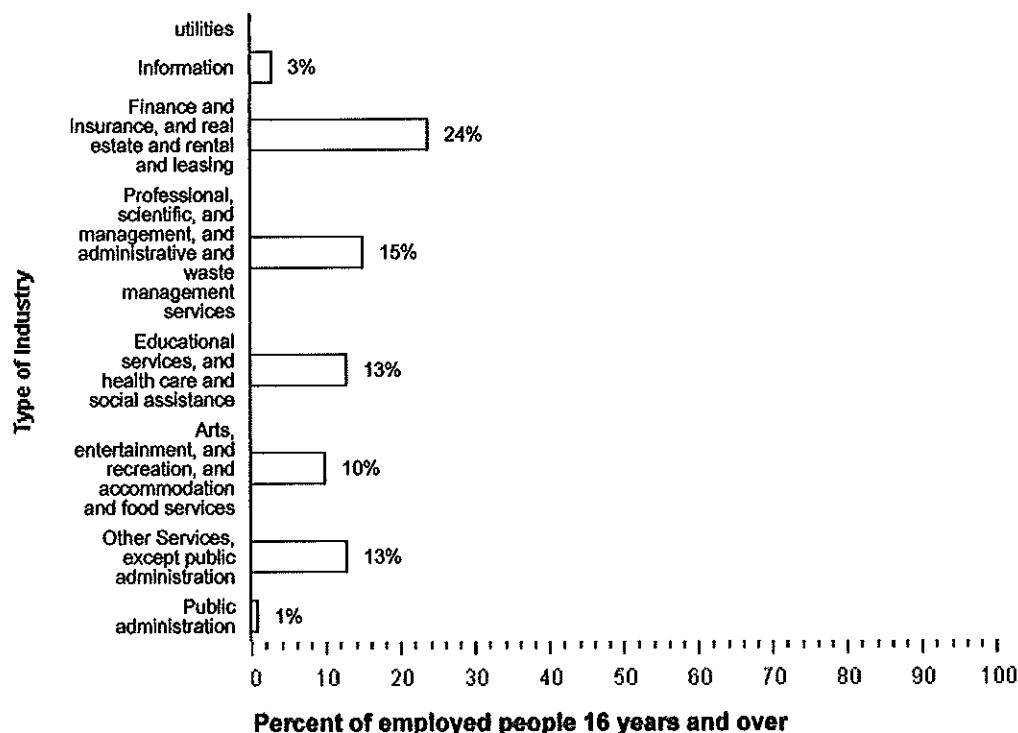
Source: American Community Survey, 2005-2009

**DISABILITY:** In Surfside town, among people at least five years old in 2005-2009, percent reported a disability. The likelihood of having a disability varied by age - from percent of people 5 to 15 years old, to percent of people 16 to 64 years old, and to percent of those 65 and older.

**INDUSTRIES:** In 2005-2009, for the employed population 16 years and older, the leading industries in Surfside town were Finance and insurance, and real estate and rental and leasing, 24 percent, and Professional, scientific, and management, and administrative and waste management services, 15 percent.

Employment by Industry in Surfside town, Florida in 2005-2009





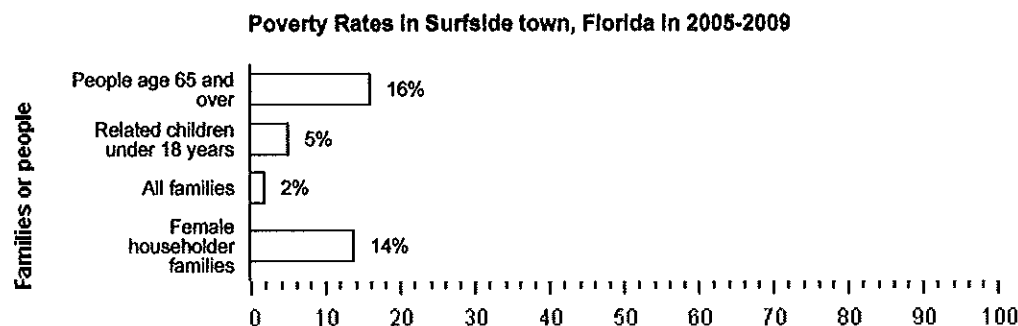
Source: American Community Survey, 2005-2009

**OCCUPATIONS AND TYPE OF EMPLOYER:** Among the most common occupations were: Management, professional, and related occupations, 42 percent; Service occupations, 27 percent; Sales and office occupations, 21 percent; Construction, extraction, maintenance, and repair occupations, 7 percent; and Production, transportation, and material moving occupations, 4 percent. Ninety-two percent of the people employed were Private wage and salary workers; 4 percent was Federal, state, or local government workers; and 4 percent was Self-employed in own not incorporated business workers.

**TRAVEL TO WORK:** Seventy-two percent of Surfside town workers drove to work alone in 2005-2009, 7 percent carpoolled, 7 percent took public transportation, and 8 percent used other means. The remaining 5 percent worked at home. Among those who commuted to work, it took them on average 27.2 minutes to get to work.

**INCOME:** The median income of households in Surfside town was \$74,219. Eighty percent of the households received earnings and 9 percent received retirement income other than Social Security. Twenty-six percent of the households received Social Security. The average income from Social Security was \$17,591. These income sources are not mutually exclusive; that is, some households received income from more than one source.

**POVERTY AND PARTICIPATION IN GOVERNMENT PROGRAMS:** In 2005-2009, 14 percent of people were in poverty. Five percent of related children under 18 were below the poverty level, compared with 16 percent of people 65 years old and over. Two percent of all families and 14 percent of families with a female householder and no husband present had incomes below the poverty level.

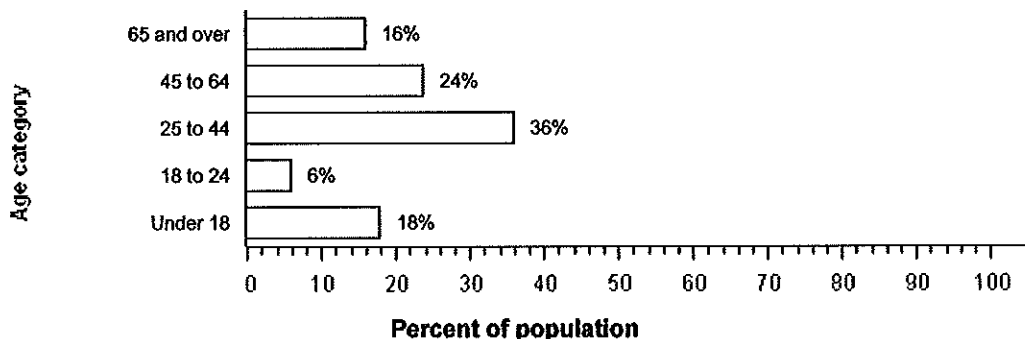


**Percent below poverty level**

Source: American Community Survey, 2005-2009

POPULATION OF Surfside town: In 2005-2009, Surfside town had a total population of 4,700 - 2,300 (49 percent) females and 2,400 (51 percent) males. The median age was 41.2 years. Eighteen percent of the population was under 18 years and 16 percent was 65 years and older.

**The Age Distribution of People in Surfside town, Florida in 2005-2009**

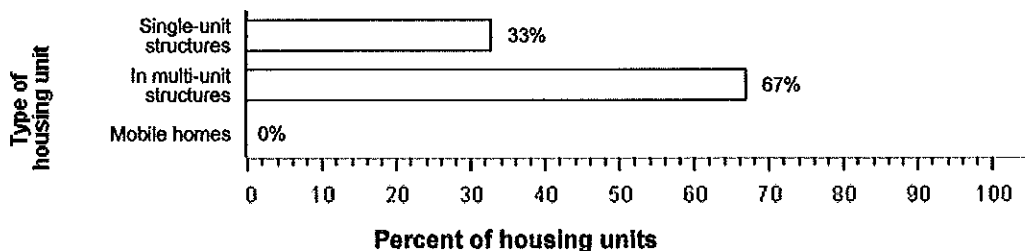


Source: American Community Survey, 2005-2009

For people reporting one race alone, 84 percent was White; 3 percent was Black or African American; less than 0.5 percent was American Indian and Alaska Native; 11 percent was Asian; less than 0.5 percent was Native Hawaiian and Other Pacific Islander, and 3 percent was Some other race. Less than 0.5 percent reported Two or more races. Forty percent of the people in Surfside town was Hispanic. Forty-eight percent of the people in Surfside town was White non-Hispanic. People of Hispanic origin may be of any race.

HOUSING CHARACTERISTICS: In 2005-2009, Surfside town had a total of 3,200 housing units, 38 percent of which were vacant. Of the total housing units, 33 percent was in single-unit structures, 67 percent was in multi-unit structures, and less than 0.5 percent was mobile homes. Twenty percent of the housing units were built since 1990.

**The Types of Housing Units in Surfside town, Florida in 2005-2009**

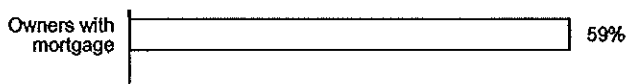


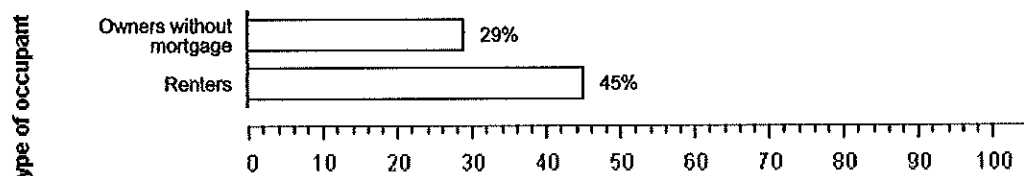
Source: American Community Survey, 2005-2009

OCCUPIED HOUSING UNIT CHARACTERISTICS: In 2005-2009, Surfside town had 2,000 occupied housing units - 1,400 (71 percent) owner occupied and 570 (29 percent) renter occupied. Four percent of the households did not have telephone service and 13 percent of the households did not have access to a car, truck, or van for private use. Thirty-six percent had two vehicles and another 7 percent had three or more.

HOUSING COSTS: The median monthly housing costs for mortgaged owners was \$3,046, nonmortgaged owners \$876, and renters \$1,197. Fifty-nine percent of owners with mortgages, 29 percent of owners without mortgages, and 45 percent of renters in Surfside town spent 30 percent or more of household income on housing.

**Occupants with a Housing Cost Burden in Surfside town, Florida in 2005-2009**





**Percent paying 30 percent or more of income for housing**

Source: American Community Survey, 2005-2009

Source: U.S. Census Bureau, 2005-2009 American Community Survey

The U.S. Census Bureau's Population Estimates Program produces the official population estimates for the nation, states, counties and places, and the official estimates of housing units for states and counties. The population and housing characteristics included above are derived from the American Community Survey.

Notes:

- Detail may not add to totals due to rounding.
- Percentages are based on unrounded numbers.

**TOWN OF SURFSIDE, FLORIDA**  
**MONTHLY BUDGET TO ACTUAL SUMMARY**  
**FISCAL YEAR 2010/2011**  
**As of DECEMBER 31, 2010**  
**25% OF YEAR EXPIRED (BENCHMARK)**

Agenda Item # 3B

Page 1 of 2

Agenda Date: March 8, 2011

GOVERNMENTAL FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET	
<b>GENERAL FUND</b>				
REVENUE	\$4,664,570	\$8,769,081	53%	A
EXPENDITURES	\$2,208,704	\$8,769,081	25%	
Net Change in Fund Balance	\$2,455,865			
Fund Balance-Beg. of Fiscal Year (unaudited)	\$3,081,807			
Fund Balance-December 31, 2010	<u>\$5,537,672</u>			
<b>RESORT TAX</b>				
REVENUE	\$16,540	\$123,010	13%	B
EXPENDITURES	\$22,250	\$123,010	18%	C
Net Change in Fund Balance	-\$5,710			
Fund Balance-Beg. of Fiscal Year (unaudited)	\$178,096			
Fund Balance-December 31, 2010	<u>\$172,386</u>			
<b>POLICE FORFEITURE/CONFISCATION</b>				
REVENUE	\$32	\$25,000	0%	D
USE OF RESTRICTED FUND BALANCE		\$20,000	100%	
EXPENDITURES	\$10,846	\$45,000	24%	
Net Change in Fund Balance	(10,814)			
Fund Balance-Beg. of Fiscal Year (unaudited)	\$71,823			
Fund Balance-December 31, 2010	<u>\$61,009</u>			
<b>TRANSPORTATION SURTAX</b>				
REVENUE	\$26,913	\$175,100	15%	E
USE OF RESTRICTED FUND BALANCE		\$48,161	100%	
EXPENDITURES	\$24,464	\$223,261	11%	
Net Change in Fund Balance	2,449			
Fund Balance-Beg. of Fiscal Year (unaudited)	\$416,500			
Fund Balance-December 31, 2010	<u>\$418,948</u>			
<b>CAPITAL PROJECTS</b>				
REVENUE	\$35,221	\$139,660	25%	
USE OF COMMITTED FUND BALANCE		\$4,000,000	100%	
EXPENDITURES	\$986,456	\$4,139,660	24%	
Net Change in Fund Balance	(951,235)			
Fund Balance-Beg. of Fiscal Year (unaudited)	\$4,888,357			
Fund Balance-December 31, 2010	<u>\$3,937,123</u>			

**NOTES:**

- A. Timing Difference - FY 2011 ad valorem property tax revenues are remitted to the Town primarily from mid-November to March
- B. Timing Difference - Includes only the Oct and Nov resort taxes. The December is collected in January
- C. Timing Difference - Tourist Promotional events are scheduled for later in fiscal year
- D. Timing Difference - Revenue received to date reflects interest income only
- E. Timing Difference - Includes only the Oct and Nov CITT revenues. The December is not received until late March 2011



**ENTERPRISE FUNDS**

**ACTUAL**

<b>ANNUAL BUDGETED</b>	<b>% BUDGET</b>
------------------------	-----------------

**WATER & SEWER**

REVENUE	\$733,742	\$3,331,303	22%	
USE OF NET ASSETS/LOAN PROCEEDS		\$8,138,300	100%	
EXPENDITURES	\$504,868	\$11,469,603	4%	F
Change in Net Assets*	\$228,874			
Unrestricted Net Assets-Oct 1 (unaudited)	\$440,000			
Unrestricted Net Assets-Dec 31, 2010	<u>\$668,874</u>			

**MUNICIPAL PARKING**

REVENUE	\$104,135	\$305,600	34%	
USE OF NET ASSETS		\$2,179,836	100%	
EXPENDITURES	\$96,355	\$2,485,436	4%	F
Change in Net Assets*	\$7,780			
Unrestricted Net Assets-Oct 1 (unaudited)	\$1,942,364			
Unrestricted Net Assets-Dec 31, 2010	<u>\$1,950,144</u>			

**SOLID WASTE**

REVENUE	\$548,667	\$1,291,343	42%	G
EXPENDITURES	\$292,148	\$1,291,343	23%	
Change in Net Assets*	\$256,519			
Unrestricted Net Assets-Oct 1 (unaudited)	\$77,312			
Unrestricted Net Assets-Dec 31, 2010	<u>\$333,830</u>			

**STORMWATER**

REVENUE	\$125,465	\$487,000	26%	
USE OF NET ASSETS/LOAN PROCEEDS		\$1,353,442	100%	
EXPENDITURES	\$59,729	\$1,840,442	3%	F
Change in Net Assets*	\$65,737			
Unrestricted Net Assets-Oct 1 (unaudited)	\$40,622			
Unrestricted Net Assets-Dec 31, 2010	<u>\$106,358</u>			

**NOTES:(con't)**

\* the change in net assets excludes financial impact from Capital Assets

F. Underage due to delay in commencement of Infrastructure/Capital Outlay projects (\$8.1 mill for water/sewer, \$1.4 mill for stormwater, \$2.1 mill for parking)

G. Timing difference: Billing (and the resulting revenue) for the entire fiscal year pertaining to Residential (non-condominium) customers are recorded in October

  
 Finance Support Svcs Dept Head

  
 Town Manager



**Town of Surfside  
Town Commission Meeting  
March 8, 2011 - 7:00 p.m.**

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

**AFTER ACTION ITEMS  
“Points of Light”**

**1. City of Excellence:** At the request of Mayor Daniel Dietch, Town Manager, Roger Carlton designated Tourist Bureau Director, Duncan Tavares and Parks and Recreation Director, Tim Milian, to prepare a report on the process the Town will take to become a “City of Excellence”. The report is to be on the agenda for the November Town Commission meeting. Dennis Giordano, CGA, offered to assist Mr. Tavares. Town Clerk, Debra Eastman will help prepare the draft.

**Current Status:** The Florida League of Cities has completed revamping this program. It will now be the Municipal Achievement Awards. While the application deadline is May 23, 2011, information on the process and subsequent requirements has not been delivered. Staff will pursue this award as soon as materials are available.

**2. Downtown Vision project:** Tourist Bureau Director, Duncan Tavares will prepare a report for the November Commission agenda with recommendations on how to move the Downtown Vision project forward.

**Current Status:** The Advisory Committee met for the first time on Tuesday February 15, 2011. The initial meeting introduced the Committee members to each other, formed an action plan for the next three months, and discussed general views of the downtown business district. Code enforcement and the general appearance of the downtown streetscape were hot topics that garnered consensus amongst the members. Based on the feedback from the Committee, Code Enforcement is presently addressing all exterior violations within the district. The next meeting is set for Thursday, March 10, 2011. Some of the Committee members attended the Coral Gables unveiling of the Miracle Mile rejuvenation plan on Friday, March 4, 2011.

**3. Maranon property:** In order to accelerate the sale of the Maranon property as previously directed by the Town Commission, Finance Director, Martin Sherwood and Building Official, Paul Gioia will order an update to the appraisal of the Maranon property. Town Manager, Roger Carlton will move forward with the sale process subject to final approval of the sale when the bids are received.

**Current Status:** The Town Commission approved the sale in the amount of \$188,000 during the January 18, 2011 Town Commission meeting. Town Attorney Lynn Dannheisser is moving forward with the closing which has been scheduled for March 15, 2011. A recommendation regarding use of the proceeds will be made by the Town Manager after closing when the funds are in hand.

**4. Land Acquisition:** Finance Director, Martin Sherwood and Building Official, Paul Gioia will order a new appraisal of the two pieces of property south of the Town Hall trailers and an updated appraisal of the vacant lot which the Town currently rents and is used for the parking of police cars. A strategy recommendation will appear on the November 9, 2010 Town Commission meeting agenda.

**Current Status:** Based on approval granted by the Town Commission on February 8, 2011 to acquire the Dr. Atkin property for \$320,000 (\$80,000 down and \$80,000 per year for three years), Town Attorney Lynn Dannheisser has moved forward to set a date to close the property. Regarding the Delgado property (south of Town Hall), the court has granted BankUnited a final judgment authorizing a foreclosure sale. An auction is scheduled for April 6, 2011. Staff and legal counsel are monitoring this situation. We have also received an appraisal for the single family home located between 94<sup>th</sup> and 93<sup>rd</sup> on Harding and will soon make an offer. The situation has become complicated as the Magen David Congregation across Harding now wishes to acquire the house for sale and the house to the south. We will keep the Town Commission aware of this situation. The Town Commission should be aware that all acquisitions are subject to your final approval.

**5. Town Commission and Planning and Zoning Board joint meeting: A resolution of the Town of Surfside, Florida, calling for a joint meeting between the Town Commission and Planning and Zoning Board to create a process to identify the issues to be reconsidered in the Zoning Code (Ordinance no. 10-1558); authorizing Commissioner Michael Karukin to enter into negotiations with the Petition Committee challenging Ordinance no. 10-1558; authorizing the Town Manager and Town Attorney to do all things necessary to effectuate the terms of this resolution; providing for an effective date.**

**Current Status:** The first joint meeting was held November 4, 2010. After substantial discussion, the Town Manager, Town Attorney and Town Planner were directed to prepare specific recommendations for action at the second joint meeting scheduled for December 9, 2010. The detailed changes to the code resulting from the joint meeting were presented to the Planning and Zoning Board during their January 27, 2011 meeting. The result was a deferral to the February 24, 2011 meeting in order to allow Staff time to answer questions presented by citizens and Board members at the Planning and Zoning meeting. The Planning and Zoning Board stated that they wanted to make their final recommendations to the Town commission in February. In fact, the Planning and Zoning Board approved the recommendation on a 3/2 vote with modifications and forwarded them to the Town Commission for the March 8, 2011 agenda for first reading.

**6. Water, Sewer and Storm Drainage project: Town Manager, Roger Carlton will report to the Town Commission at the November 9, 2010 meeting on financing the water, sewer and storm drainage project. Mayor, Vice Mayor and Commissioners to provide names for a citizen review committee to assist the Town Manager in the review of the alternatives.**

**Current Status:** The third meeting of the Water/Sewer and Drainage Project Citizen Oversight Committee (Gerald Chenevert, Walter Lugo, Irving Levine, Jason Nevader, Marty Oppenheimer, Pete Hernandez, and Bertha Goldenberg) was held March 3, 2011 and the focus was the first reading of the bond ordinance as well as the detail of the additive alternatives for street trees, traffic calming devices, street signs and possible underground utilities.

We are also working with Bal Harbour to determine the feasibility of cooperating with the Village in the construction of a new sewer force main on Collins Ave from the Bal Harbour town limit to the northern limit of Miami Beach. A more detailed report on this will be made to the Town Commission in the near future.

**7. Concession stand: Town Manager Roger Carlton provided an advertisement for an RFP for a concession stand to Parks and Recreation Director, Tim Milian for review. The timing of the procurement will coincide with the planned opening of the facility.**

**Current Status:** Retaining a vendor for operating the concession stand with Town employees was recommended by the Parks and Recreation Committee in their December 2010 meeting. Staff has concluded that the best approach is to obtain a vendor through the competitive selection process. The RFP was advertised and the pre-bid conference is scheduled for March 10, 2011. It is projected that the award will be recommended in the April Town Commission meeting.

**8. Red light cameras: Police Chief David Allen and Assistant Chief John DiCenso will manage the implementation of red light cameras.**

**Current Status:** The following implementation requirements have been completed or are underway:

Red Light Camera Safety Program

- Strobe shields were installed on cameras at 88th Street and Harding Avenue, 88th Street and Collins Avenue, and 93rd Street and Collins Avenue to alleviate flashing concerns from citizens.
- Warning period January 1 - January 31, 2011 368 warnings issued (two cameras in operation)
  - ✓ 88th St. and Harding Avenue 248 warnings
  - ✓ 88th St. and Collins Avenue 120 warnings
- Enforcement period February 1 – February 28, 2011 842 violations issued (five cameras in operation)
  - ✓ 88th St. and Harding Avenue 209
  - ✓ 88th St. and Collins Avenue 80
  - ✓ 90th St. and Collins Avenue 110
  - ✓ 93th St. and Collins Avenue 312
  - ✓ 96th St. and Collins Avenue 131
- 523 violations are in the process of review

Multi-Space Meters – Status Report

- Four new multi-space parking meters were installed on Friday, February 25, 2011 and are fully operational. Three of the meters were installed in the Abbott lot and one in the 200 block of 95<sup>th</sup> Street. This brings the total number of multi-space meters in operation to twenty-seven (27). There is one multi-space meter in storage that will be installed in the new parking lot at 9450 Collins Avenue.
- After the new multi-space meters were installed, Town staff removed additional single-space meters thereby reducing the number of single-space meters left in Town to fifty-three (53).
- Multilingual software was also installed in all the multi-space meters allowing customers to choose from English, Spanish, French and German.

**9. Bal Harbour Comprehensive Plan Amendment hearing: Town Manager, Roger Carlton and Commissioner Edward Kopelman will attend the Comprehensive Plan Amendment hearing at the Village of Bal Harbour on October 19, 2010 at 7 pm. A report to the Town Commission will be made after the Bal Harbour meeting.**

**Current Status:** A public workshop to discuss the project has been scheduled by Bal Harbour for March 7, 2011 at 7 p.m. at the Sea View Hotel. Staff will attend and all members of the Town Commission are invited to join.

**10. Photo/film permit program: Town Manager, Roger Carlton will prepare a policy for the photo/film permit program in conjunction with input from Surfside citizens. A report will be prepared by Parks and Recreation Director Tim Milian, Police Chief David Allen and Tourist Bureau Director, Duncan Tavares for the December 14, 2010, Town Commission agenda.**

**Current Status:** A meeting with Peter Glynn and the Town Manager was held on Monday, January 10, 2011 regarding moving the process forward. The outcome of this meeting was the suggested formation of a three person Advisory Committee to review a proposed ordinance and corresponding guidelines and permitting applications. Peter Glynn, Andy LaBrada and Bera Kalhan have agreed to constitute the Advisory Committee subject to Town Commission confirmation which will be presented with this ordinance in April 2011. This Committee will work with staff on Photo/Film Permit reviews upon adoption of a Town ordinance. This ordinance is earmarked for Commission first reading in April.

**11. Circulator bus: Town Manager, Roger Carlton will review the potential linking of the Surfside circulator bus with other communities to allow residents transportation to the Sunny Isles library and possible other destinations. A report will be made to the Town Commission at their November meeting.**

**Current Status:** The Managers of Bal Harbour, Surfside, Bay Harbor Islands and Sunny Isles Beach met in December 2010 to discuss potential linkages of their respective bus systems. The consensus was that a coordinated routing system would benefit all communities. Data allowing for operational improvements and improved linkages has been received. A recommendation will be made to the Town Commission in April 2011.

**12. Water saving program: Town Manager, Roger Carlton instructed former Public Works Director, Fernando Rodriguez with the assistance of John Messarian, Engineer with Calvin, Giordano and Associates to obtain information regarding a water saving program that would provide reduced water usage in toilets. A report will be presented to the Town Commission at their November meeting.**

**Current Status:** The program has been expanded to include other “green” issues. A report from the Town’s consultant, Calvin Giordano and Associates was accepted by the Town Commission during the February 8, 2011 Town Commission meeting, Public Works Director Bill Evans will begin to bring specific recommendations in the near future.

**13. Prepare a Five Year Financial Plan**

**Current Status:** The Five Year Financial Plan appeared on the February 8, 2011 Town Commission meeting agenda. A Commission workshop was held on March 1, 2011 and direction was given that will help support the FY 11/12 budget process.

**14. Study of Impact Fees**

**Current Status:** Based on the outcome of the combined Planning and Zoning/Town Commission meeting, it may be more appropriate to have the proposed Development Impact Committee negotiate the off-site improvements to be funded by significant developments. Item completed.

**15. Seek permission to use Bal Harbour basketball court and Sunny Isles skate park**

**Current Status:** Town Manager Roger Carlton will add this goal to the discussions mentioned in earlier items regarding cooperative opportunities for the bus systems and a sewer force main. With the resignation of the Sunny Isles city manager, the skate park item will be deferred for a brief time. Item completed.

## **16. Community garden and farmers market**

**Current Status:** - The Tourist Bureau Director met with Miami-Dade Office of Community Health & Planning on December 21, 2010. The County has received Federal Stimulus Grants to initiate Community Gardens and Farmers Markets. Further updates will be forthcoming as the Town works with the County on being included in their plan of action.

- On December 23, 2010 the Tourist Bureau Director met with The Green Market Management Company about the possibility of reinstating the Surfside Farmers Market. A proposal was received in mid-January. Outreach was conducted to both Bal Harbour and Bay Harbor Islands in the attempt to create a tri-community sponsorship of the market. Both neighboring communities are in support of this initiative. The Tourist Bureau Director met with the Assistant Town Manager of Bay Harbour Islands (BHI) on February 22, 2011 to discuss the logistics of having the market alternate weekends in BHI and Surfside. Upon approval from the BHI Council in March, the year round Surf-Bal-Bay market could be operational by April.

- Discussions are on-going with Farm Fresh Miami produce buying club about a possible Surfside branch. The club distributes fresh produce from area farms to a fee paying subscriber base. A visit and review of an existing program in Miami Beach was held Thursday, March 3, 2011. There is a notice in the March Gazette to gauge interest in this endeavor. A possible distribution site could be the breeze way of the new Community Center. More information will be forthcoming.

- A meeting was conducted with Dylan Terry of Ready-To-Grow Gardens on February 2, 2011 and an inspection of a potential site for a Community Garden at Dickens Avenue and 88<sup>th</sup> Street was explored. An initial proposal was recently received from Mr. Terry. A review of this proposal, and the creation of a plan, to move this initiative forward was held March 2, 2011 with the Directors of the Tourist Bureau, Parks & Recreation and Public Works. There is a notice in the March Gazette to gauge interest in this endeavor. More information will be forthcoming.

## **17. Explore broadcasting Channel 77 on ATT U-Verse**

**Current Status:** Town Manager Roger Carlton met with AT&T officials to discuss bringing ATT U-verse to the Town. This will be a long process that may require more detailed discussion with the Town Commission in the future. Item completed until AT&T responds.

## **18. Feral cat and dog feces concerns**

**Current Status:** A report is included in the Town Commission March 8, 2011 agenda.

## **19. Recycle containers for glass and aluminum in downtown and beach areas and a used small battery container at Town Hall**

**Current Status:** Eight recycle containers have been installed downtown. Staff will work on an expanded public information program to ensure that the containers are not used for non recyclables. The Town Commission approved placing a household battery recycling box in the Town Hall lobby. The box should be available on March 15, 2011. Item completed.

## **20. Canine feces bag receptacles installation**

**Current Status:** Duncan Tavares will coordinate the process to obtain sponsorships. Receptacles have been placed in Veterans Park at the 93rd Street entrance to the beach behind the Community Center. In the clean-up of the Public Works storage area by then Acting Director John DiCenso, four additional new receptacles were found. These receptacles have been installed, two at the lift station at 93<sup>rd</sup> and Byron Avenue and 89<sup>th</sup> and Dickens and one at the Hawthorne tot lot. One more will be installed at a beach entrance to be determined.

## **21. PILOTS – Payments In Lieu of Taxes**

**Current Status:** Based on legal advice from Town Attorney Lynn Dannheisser, this item is no longer active. Item completed.

## **22. Mobility Study: This project is allocated \$75,000 in the FY 10/11 Budget**

**Current Status:** The Mobility Study requirement came from Senate Bill 360. However, the Court found Senate Bill 360 unconstitutional. It is now going through the appeal process and all municipalities are waiting to hear the decision of the Appellate Court. If they uphold the decision that SB 360 is unconstitutional, then the Mobility Study will not be applicable. Until further information becomes available this item will not appear on the Points of Light report. Item completed.

## **23. Community Center Supporters “Buy a Brick” program**

**Current Status:** A sample brick was shown to the Town Commission during the December 14, 2010 meeting. Residents Cheryl Arnold and Pamela Behar agreed to volunteer to head up this program with Commissioner Karukin as the Town Commission liaison. Since this item is underway and all policy decisions have been made, this item will no longer appear on the Points of Light report. Item completed.

**The following section of the Point of Light Report relates to items funded in the budget which are on-going. If a budgeted item has been completed, it will not appear in the report:**

## **24. Establish a reserve policy for all fund types for capital outlay projects and smoothing rate increases**

**Current Status:** This has been analyzed in the Five Year Financial Plan. The Town Commission Workshop was held on March 1, 2011 and direction was given to Town staff as required to prepare the FY 11/12 budget.

## **25. Complete open permit closeout in the Building Department**

**Current Status:** See a report on the status of open permits, the amnesty program and the flood program permits in the March 8, 2011 Town Commission agenda.

## **26. Tourist Resort Tax Auditor program received a \$6000 allocation in the FY 10/11 Budget**

**Current Status:** After consulting with the Finance Director and the Town’s Audit firm, three proposals were sought in the beginning of February for an ‘Agreed Upon Procedure Audit’ to commence as soon as possible. Based on the feedback from the potential proposers, the Town’s process required reassessment. The collection of Resort Tax in the future is related to the proposed changes to the Town’s Resort Tax

Ordinance and the issue of Short Term Rentals which are currently under review by the Town Attorney the Tourist Board and the Code Enforcement Committee. Both of these items will be brought before the Commission in the near future. Six qualified firms, used by Miami Beach for audits in the past, will be sent an RFP with a May 1, 2011, commencement date. At the end of March a pre-bid meeting will be set for all interested firms.

**27. Municipal parking lot renovation program: \$428,000 has been allocated in the FY 10/11 Budget for paving, sealing, restriping, concrete curb repairs, litter receptacles, improved lighting and landscaping and drainage services.**

**Current Status:** This project will be awarded to the new engineering/architectural vendor(s) after a mini competition. Work should commence during Spring 2011.

**28. Interior and exterior repainting of Town Hall**

**Current Status:** The exterior painting is complete with a slight delay to seal the planter on 93<sup>rd</sup> Street. Skateboard prevention devices have been installed where appropriate and a notice has been posted on the Town website. The interior painting is nearly complete.

**29. Solid waste collection vehicles: Staff was directed to prepare the RFB for October 2011 delivery of a new collection vehicle.**

**Current Status:** Commissioner Olchyk requested the Town Manager to review the frequency of solid waste collection on the December 14, 2011 agenda. A report appeared on the February 8, 2011 Town Commission agenda and a more detailed review of service levels will be incorporated in the FY 11/12 Budget development process. Item completed. Budget discussions still remain.

**30. Document imaging and scanner software: This \$26,500 project was funded in the FY 10/11 Budget**

**Current Status:** Due to more pressing procurement items, (VOIP, Maranon property and expiration of photocopier lease) this project has been delayed until Summer 2011.

**31. Bike Racks/Bus Benches/Shelters**

**Current Status:** Town Manager Roger Carlton and Parks and Recreation Director Tim Milian have met to discuss the development of a comprehensive bicycle program for Surfside. We also have the bus benches and shelters on our horizon and will report on all three amenities within 90 days.

**32. Whitefly**

**Current Status:** An inspection of Surfside was conducted on January 7, 2011 with the Commercial Urban Horticulture agent for Miami-Dade. The Vice Mayor attended. The determination: Surfside presently does not have whitefly but will in the near future. Public Works Director Bill Evans is including an inspection and treatment clause in the Town's landscaping RFP. He will also bring a resolution regarding infested plants on private property before the Town Commission in April.

**33. Library Assets**



**Current Status:** On Saturday January 22, 2011, Miami Beach High School Community Service Volunteer Students and the Boy Scouts helped pack 395 boxes of books earmarked for Miami Dade Library and Goodwill. These were distributed on February 2, 2011.

Dismantling of Library shelving occurred the week of January 31, 2011.

194 boxes of books were loaded onto a Goodwill truck on February 2, 2011.

201 boxes of books were loaded onto a Miami-Dade Library truck on February 10, 2011.

All of the free standing shelving units and a number of furniture items were delivered to Ruth K Broad K-8 on February 16, 2011. Remaining furniture was distributed to various Town departments.

Modspace started the dismantling of the Library modular the week of February 14, 2011. The trailer was divided into three parts. One part was removed on February 28, 2011 and the remaining two sections are set for removal March 4, 2011. The empty lot where the modular was located is earmarked for use by Community Center construction personnel.

Final report on the liquidation of the Library assets and recognition of Library volunteers is earmarked for the April 12, 2011 Town Commission meeting.

#### **34. Set a “Meet the Town Manager” date**

**Current Status:** The Mayor and Dana Kulvin are working to find a date for this event.

#### **35. FAQ’s related to what a resident can expect during a permit inspection**

**Current Status:** A draft is being prepared by Paul Gioia.

#### **36. Clean up/update/enhance Town Website content**

**Current Status:** Calvin Giordano and Associates has been given direction to clean up old information. The Communication Committee is working on the larger issue of improving the site and will recommend a new RFP to procure web content/web management services.

#### **37. Future of independent Employee Holiday Fund**

**Current Status:** Town Manager Roger Carlton met with Julia Magnani on January 21, 2011 to discuss alternative methods to reward Town Employees during the holiday season. A number of items were discussed. A report will follow within 60 days.

#### **38. Status of Surfside’s Santa Claus (currently at the Log Cabin Nursery)**

**Current Status:** Investigation completed. The Town Commission approved “loaning” the Santa Claus to the Log Cabin Nursery. The Town Manager recommends that the loan become permanent and if funds become available, we update our holiday decorations. Item completed.

#### **39. Explore development of local preference provision in service-related solicitations**

**Current Status:** There is already a procedure in place which will be reinforced. Town Clerk/Procurement Director Debbie Eastman will be responsible to ensure that this requirement is met whenever practical. Item completed.

#### **40. Electric car charging stations**

**Current Status:** Staff has obtained the City of Sunny Isles Beach RFP and will meet with the selected vendor to determine if we should use the Sunny Isles Beach contract. A report will be presented in the April 12, 2011 Town Commission meeting.

#### **41. Crossing Barrier at 96<sup>th</sup> and Harding**

**Current Status:** Meetings have been held with FDOT District Engineer Gus Pego as well as field staff from Miami Dade County and FDOT. It appears that the project will continue based on upstream traffic impacts on 96<sup>th</sup> Street and right turn movements in general on Byron Avenue.

#### **42. Crossing Safely at 93<sup>rd</sup> and Collins/Harding**

**Current Status:** Assistant Chief of Police John DiCenso, Public Works Director Bill Evans and Town Manager Roger Carlton met with FDOT pedestrian safety coordinator Carlos Sarmento to seek an immediate pedestrian safety upgrade to the two intersections prior to opening of the Community Center. The request was well received and a project is being planned which will include Bal Harbour and Bay Harbor.

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#### **Additional Points of Light added in March 2011:**

1. Government Academy: This program is similar to the Police Academy in that Surfside residents are given the opportunity to learn the roles and responsibilities of each department in an interactive and informal setting over a series of evening sessions. Detailed information will be presented at the April meeting.
2. Building Relationships between the Condo Residents and Single Family Homes: The Tourist Bureau Director will work with Commission Kopelman to create programs and activities in the new Community Center that will bring the Town's two distinct communities together.
3. Seniors' Assistance Program: Based on a suggestion from Surfside resident Richard Iacobacci and the success of Surfside's first Day of Service on Martin Luther King Jr's Birthday January 17, 2011, the Tourist Bureau Director will coordinate a resident driven, on-going monthly program utilizing volunteers, and students completing community service, to assist Surfside seniors with their chores.
4. Earth Day April 22: Initial contact was made with organizers of Earth Day. A Resolution of support will be on the April Commission Agenda. More information on Surfside being a part of the "conversation" event that is due to occur on April 22, 2011 will be forthcoming.
5. Awards: Based on a request from the Vice Mayor Joe Graubart, Debbie Eastman, Town Clerk is in the process of revamping the look and format of the awards and certificates of recognition that are distributed at Commission meeting and other occasions.
6. Mayor Daniel Dietch has requested that the feasibility of Surfside sharing Bal Harbour's street sweeper be explored. This item has been favorably received by Bal Harbour and we are working on an agreement.

**The following items have been completed. Items have been deleted from the March 2011 Points of Light.**

**26. Lien Special Counsel: This will help in meeting the goal of placing and collecting liens for extreme violations**

**Current Status:** Report provided by Town Attorney Lynn Dannheisser during the December 14, 2010 Town Commission meeting. Item completed.

**27. Flag replacement: There is an allocation of \$1000 with the Parks and Recreation Department FY 10/11 Budget**

**Current Status:** The funds will be utilized for the reinstallation of the three flag poles at the Community Center. Item completed.

**42. Respond to inquiry related to the history of Surfside's volunteer fire department**

**Current Status:** See attached research regarding the Volunteer Fire Department. Item completed.



**TOWN OF SURFSIDE**  
**Office of the Town Attorney**

MUNICIPAL BUILDING  
 9293 HARDING AVENUE  
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser  
 Town Attorney

Telephone: 305 993-1065

**MEMORANDUM**

**TO:** Town Commission

**FROM:** Lynn M. Dannheisser, Town Attorney *LMD*

**CC:** Roger M. Carlton, Town Manager  
 Debra E. Eastman, M.M.C., Town Clerk

**DATE:** March 8, 2011

**SUBJECT:** Town Attorney Monthly Update for March, 2011

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The Town Attorney advises the Town Commission, Town Board members, Town Manager, Town Clerk and all Department Heads. "On-the-spot" legal advice is rendered all day, each day. As this is a dynamic process, this report may or may not capture all work performed this month.

The following Ordinances and Resolutions have been prepared (and/or reviewed and researched) or other advice rendered regarding the issues contained in them. In the case where agreements are attached, those contracts have also been drafted and/or reviewed and revised this month:

**Ordinances:**

Ordinance Calling for a Temporary Moratorium  
 Joint Meeting Recommendations Ordinance  
 Master Utility Bond Ordinance.

**Resolutions:**

Bottle Bill Resolution  
 Resolution Authorizing the Town Manager to Execute Community Center Change Orders  
 Resolution for Problem Gambling Awareness Week Proclamation  
 IT Support Services Resolution  
 Forfeiture Funds  
 Purchase of Pressure Washer and Trailer

**The Town Attorney has attended and rendered advice at the following public meetings/workshops:**

**February 8, 2011 Commission meeting**

**February 15, 2011: Special Executive Session** to discuss litigation strategy in Young Israel of Bal Harbour, Inc. v. Town of Surfside

**February 15, 2011: Downtown Vision Process Advisory Committee** where issues and views relating to the downtown business district, code enforcement and the general appearance of the downtown streetscape were discussed. Based on the feedback from the Committee, the Code Enforcer is presently addressing all violations within the district and advice has been rendered on these issues. This Office continues to work with the Town Manager regarding creation of improvements to the overall vision of the Town including downtown planning, streetscape issues and the like. This office has also drafted a moratorium resolution and ordinance to preserve the status quo and not allow any non-retail, non-restaurant uses to be permitted until further work has been done by the committee.

**February 24, 2011 Planning & Zoning Board** addressed the following:

1. Report by Town Attorney and presentation of Moratorium Resolution
2. Five Year Financial Forecast
3. Joint Meeting Results Ordinance.

The Town Attorney has met with the Town Manager and Planners for follow-up to address issues relating to the Special Commission Meeting held jointly with the Design Review Board on December 9, 2010. The Joint Committee voted to accept the recommendations of the Joint Report as amended to include the consideration of parking and/or accessory uses to be included in H-30C. The amendatory legislation has been researched and prepared by the Planners and this Office and was reviewed by the Planning and Zoning Board at the January 27, 2011 meeting. The Board Members will send their additional comments on the Joint Meeting Results Memo to the Town Attorney for her review and analysis who provided feedback at the February 24, 2011 Planning and Zoning Meeting. Research is being conducted and a draft ordinance is being prepared at the request of the Board for regulation of solar collector panels

**February 24, 2011 Design Review Board reviewed the following items;**

1. 8934 Froude Avenue Addition
2. 9240 Byron Avenue Garage Conversion
3. 9333 Carlyle Avenue Garage Conversion
4. 9476 Harding Avenue Awning
5. 525 95<sup>th</sup> Street Garage Conversion

**March 2, 2011 Five Year Financial Forecast Town Commission Workshop** discussion about Five Financial Plan and high level budget direction.

**Building Department/Code Enforcement:**

The Town Attorney continues to work with the Building Official relating to Code Enforcement Violations and preparation for upcoming hearings before Special Master, historic preservation issues, issuance of zoning permits under the current zoning code, parking lot requirements, monitor lien issues violations, continues to give advice and handle calls from staff and residents relative to Community Center issues, boat storage and the feral cat concerns and banners. Research is underway relating to regulations on solar collectors and panels and ordinance has been prepared for discussion at the March 31, 2011 Planning & Zoning meeting.

**Personnel Appeals Board (“PAB”)/Human Resources Department:**

Continuing monitoring meetings, call and advice relative to the investigation arising from the appeal of termination of Jose J. Perea and related research. The Town Attorney has worked with the Town Manager and Human Resource director on several issues relating to town hall and police personnel and the development of policies and procedures. Research has also been performed on these issues.

**Finance Department:**

Review of bond ordinance/ budget issues  
Request for, review and revision or, and preparation of Audit Letters re: legal issues and all contingent liabilities  
Begin preparation for 2011/2012 Legal Department Budget.  
Review and revise Financial Advisor Contract  
Research and assistance with Lien priority and Utility Lien issues

**Police Department:**

Review of DEBIX Contract  
Analysis and advise regarding FOP Collective Bargaining Agreement Wage Re-opener  
Assist, advise and preparation of resolutions for IT services and computer equipment.  
Review contract and preparation of letter to Laz Parking regarding re-negotiation of agreement.  
Prepare 9300 Collins Avenue Waiver for Police for In-Service Training.  
Advice re Hatzalah  
Monitor evolving issues on red-light cameras

**Public Works:**

Advise relative to W & S rehab project, undergrounding of utility lines, and personnel issues

**Parks and Recreation and Community Center issues:**

Review issues relative to Community Center and construction requirements included but not limited to:  
1. IT issues

2. West Construction's commitment to complete
3. Research, analysis and Draft of final RFP for Community Center Concession Stand
4. Advice relative to REC TEC bid
5. Advice and meetings relative to change order issues

### **Tourist Bureau:**

Analysis and advice re: Tourist Bureau Downtown Development issues.

Review contract for library modular/assist in removal of modular issues and continuing advice relative to same.

Analysis of documents for preparation of film permitting ordinance.

Review and research resort tax/revenue sources for preparation of Resort Tax Ordinance.

### **Litigation:**

John Davis v. Town of Surfside Case No. 07-17286 CA 08, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. This case has been consolidated with a previous case filed by a former sergeant in the Town's police department. Settlement discussions have been unfruitful. The Town has recently filed a Motion to Consolidate both cases for trial and this has been set for hearing. The Court had ordered consolidation of both cases for purposes of discovery only. The Town believes it is unnecessary to incur additional legal fees and costs in defending two separate trials when the same legal issues will be determined in both cases. The Non-Jury Trial has been scheduled for March 14, 2011. Trial preparation is ongoing. Exhibit and witness lists have been filed by Davis' lawyers.

Candy Miller v Surfside Case No. 10- 49676 filed in Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. This case alleges the Town has prohibited Candy Miller from operating a business and revoked her occupation license for failure to disclose her occupation engaging in astrological consultation, tarot card reading, psychic reading and palmistry. Per the Settlement Agreement approved at the November 9, 2010 Commission meeting, we have amended the code to allow psychic reading and consultation as a permitted use in SD-B40 (Downtown Business) District as a second floor use and subject to all other regulations. Ms. Miller's business application has been approved, her business tax receipt has been issued and she will submit a sign for approval at the March 31, 2011 P & Z meeting.

Young Israel of Bal Harbour, Inc. v. Town of Surfside Civil Action No. 1:10-cv-24392 in the United States District Court for the Southern District of Florida. On December 10, 2010, Young Israel served a complaint alleging the Town Zoning Code imposes a substantial burden on Young Israel in violation of the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA). Young Israel asks the Court to grant the following: a preliminary and permanent injunction against the Town and to enjoin the Town from taking any action to prevent, hinder or interfere in any manner with construction of the proposed synagogue; a permanent injunction ordering the Town to adopt amendments to the Town Zoning Code and to issue permits and licenses as are necessary to permit construction of the proposed synagogue; a judgment for \$5,000,000 plus interest and costs for actual and punitive damages; a judgment for attorney's fees; and any further relief the Court deems just and proper.

Recently, we requested and received approval for coverage by The Florida League of Cities. The League has approved counsel to assist in the defense of this case. A Motion to Strike and Motion

to Dismiss have been filed and is attached to this report. On Tuesday, February 15, 2011 at 5:30 p.m. the Town Attorney and outside counsel met in a special executive (Attorney-Client) Session to discuss litigation strategy. The Town has agreed to a request for extension of time and the Plaintiff's reply to our Motions is due on March 8, 2011.

### **Florida League of City Cases:**

We monitor, coordinate witnesses and assist with requests for discovery with League counsel on cases that are covered by the FMIT. In addition to Young Israel (see above), we assist counsel with the following FMIT cases:

#### **Warren Blum v. Town of Surfside Case No. 02-19134 CA 08**

This action commenced in 2001 against the Town, former Town Manager, Rodriguez and former Police Chief, Boemler. Blum, a former police officer alleges breach of contract, violation of policeman's bill of rights and fraud in the inducement. A Motion for Continuance has been filed and we await a new trial order. Pursuant to the FMIT policy, the Town is responsible for only the \$5,000 deductible. FMLA counsel and the Town Attorney's office have been in frequent contact to discuss this matter and as of this date, no settlement has been reached.

#### **Dina Agin v. Town of Surfside Case No. 07-41974 CA 30**

Dina Agin filed a complaint seeking damages for injuries allegedly arising from a trip and fall accident due to a defective condition on the property/premises/sidewalk near the corner of 96<sup>th</sup> Street and Bay Drive in the Town of Surfside. We have assisted League counsel with discovery and document requests and on-going case development issues.

### **Special Matters:**

Advice relative to Maranon property closing which shall occur on or about March 15<sup>th</sup>  
Advice and preparation of a contract for land Acquisition of Two Parcels South of Town Hall  
Advice re Potential Acquisition of 9333 and Harding Avenue Property  
Advice re Surfside Beach Dune Maintenance  
Review of Sustainability Initiatives  
Complete PILOT (Payment in lieu of taxes) research  
Follow up with infrastructure spec docs

Research on banners and sign issues, frontage issues and other matters relative to new legislation coming out of Joint Meeting

Meetings with outside counsel for various oceanfront parcels such as 9501 Collins relative to right of first refusal, Surf Club, Beach House, Best Western and other properties interested in redevelopment seeking advice on the Town's land use regulations. Review various Unities of Title on these properties.

Continue to monitor all RLUIPA filings and evolving case law

Continued monitoring of legislation out of Tallahassee and Miami- Dade County.





TOWN OF SURFSIDE  
PROJECTS PROGRESS REPORT  
MARCH, 2011

1. **Community Center** – The interior framing, plumbing, electrical and HVAC work has continued and is nearing completion. The activity pool and main pool have both been excavated, structural steel has been installed, and both have been poured. The plumbing for the pools and features also continues. The roof insulation and waterproof membrane have been installed. The exterior glass walls will begin to be installed this month. This item was delayed due to the supplier, but West has scheduled crews to work extended hours and days to make up for the lost time. Finally, the concession stand walls and roof have been poured and interior work on the concession stand will continue this month as well. The Town Manager, Staff and Community Center Oversight Committee have taken a number of steps to complete the building timely. The manager will make a report on the steps at the March 8, 2011 Town Commission Meeting.
2. **Planning and Community Development** – Staff prepared the ordinance text for the zoning changes resulting from the December 9, 2010 Joint Meeting. This was presented to the Planning and Zoning Board on January 27, 2011 and on February 24, 2011. The results of this meeting and the ordinance text will be presented to Town Commission on March 8, 2011. Planning staff continues to answer general zoning calls and emails from the public and to review building permits for conformance with the zoning code.
3. **Website, Information Technology, TV Broadcasts** - The Town has returned three network switches purchased to replace the switches currently installed that belong to Calvin, Giordano & Associates (CGA). The switches have been included in the RFP for the Voice Over Internet Protocol (VOIP) phone system. The IT Department has been informed that AT&T U-Verse is now available in the town, and we are continuing to work with the Town Manager to determine the cost and possibility for making the town channel available for U-Verse broadcast. The Communications Committee is meeting with the Town Clerk to develop new ideas for the website and the electronic communication used by the Town. IT staff is gathering quotes for wireless lapel microphones for the commissioners to use for meetings, as instructed by the Town Clerk. The RFP for the Voice Over Internet Protocol (phone replacement) as funded in the FY 10/11 budget has been completed and was advertised on the website in January, 2011 with proposals due on March 3, 2011. The IT Department is currently working to create an internal public records system for emails, to replace the existing vendor, prior to March 1, 2011.

#### **4. Public Utilities / Engineering –**

##### **Stormwater System**

Construction plans and specifications – 100% complete. Plans are currently under review by staff and oversight committee.

Permits – All permits obtained except contractor DERM permit and contractor FDEP well permit.

Construction schedule – Advertisement goal of March 2011 with anticipated construction duration goal of 15 months. CGA and staff are including the option of an “early bonus system” to achieve this ambitious schedule.

Funding status: FDEP Grant \$873,500	– In place
FDEP Grant \$125,000	– In place
FDEP Grant \$100,000	– In place
FDEP Grant \$2,949,550	– In process.
SFWMD Grant \$570,000	– In process
State Revolving Fund Loan \$2,771,000	– In process

##### **Sanitary Sewer Collection System**

Construction plans and specifications – 100% complete. Plans are currently under review by staff and oversight committee.

Permits – Permit waiver letter has been issued by DERM.

Construction schedule – Advertisement goal of March 2011 with anticipated construction duration goal of 15 months. CGA and staff are including the option of an “early bonus system” to achieve this ambitious schedule.

##### **Water Distribution System**

Construction plans and specifications – 100% complete. Plans are currently under review by staff and oversight committee.

Permits – WASD, DERM and HRS approvals have been obtained.

Construction schedule – Advertisement goal of March 2011 with anticipated construction duration goal of 15 months. CGA and staff are including the option of an “early bonus system” to achieve this ambitious schedule.

Grant status - Building Better Community Bonds \$829,000 – In place

## **Stormwater Master Maintenance**

The stormwater drainage system is being cleaned and maintained on a yearly basis as required by the National Pollution Discharge Elimination System Permit. Repairs and replacement program coincide with the Florida Department of Environmental Protection Stormwater project and grants.

## **Florida Department of Transportation Local Agency Program**

CGA assisted the Town with the Florida Department of Transportation Local Agency Program (LAP), which allows access to additional funding within the State right of ways, such as the replacement of handicap ramps, bus stop pads and solar lights along 92<sup>nd</sup> Street between Harding and Collins Avenue. This project is under construction with no matching funds required from the Town.

5. **Neighborhood Improvements** - CGA prepared initial cost summaries and preliminary strategies for implementing a street tree/tree canopying program for the Town. The goal is to enhance the quality of the residential districts by employing the benefits of street trees, including added property values, shade, and micro-climate/heat island impacts. The provision of street trees have been conceptualized so that they also provide for opportunities with traffic calming, particularly at the street corners and at the mid-blocks, so as to further the livability of the streets and potentially protect both pedestrians and children who may be playing, bicycling or transiting in the street. The initial, suggested strategy seeks to use trees as a neighborhood wayfinding, and community branding element, where specific trees would be used as typical plantings on north-south streets, different from those east-west and potentially flowering trees at the intersections. These, essentially, will constitute the fundamentals of a tree master plan that seeks to continue and further the neighborhood enhancement goals developed in an early study and already begun through zoning and design guidelines regulation adoptions. The approach will be further developed pending a walk-through with Town Staff to assess the existing conditions, existing constraints, and potential opportunities. The project will be presented to the Town Commission before the bid award for the water/sewer/storm drain project is awarded and will be implemented if funds are available in the bond issue.

CGA is also developing designs for more attractive street signs and improvements to the traffic calming devices throughout the single family neighborhood. The possibility of an undergrounding of FPL and other above ground lines is being reviewed. All these improvements could be included as additive alternates to the water, sewer, storm drainage project or the undergrounding project could be done with other sources of funds.



## Town of Surfside Commission Communication

**Agenda Item #:** 4B1

**Agenda Date:** February 8, 2011

**Subject:** Text Amendment to Section 90.65 - Boat Storage

**Objective:** Revise boat parking regulations by permitting boats to be parked in the side and rear yards, while requiring screening to the neighboring properties.

**Background:** At the July 7, 2010 Special Commission meeting a resident indicated that he would like the issue of boat storage to be revisited to allow boats, trailers and personal watercraft in side and rear setbacks, while prohibiting boats in the front yard within single family properties. This issue was a discussion item on the August 26, 2010 Planning and Zoning Board meeting and was placed on the September 30, 2010 Planning and Zoning agenda as an ordinance. However, staff completed a further analysis and discovered that prohibiting boats could result in a hardship for approximately 64 property owners who continually park boats in the single family area. Staff therefore requested an additional review by the Planning and Zoning Board at their December 16, 2010 meeting. The Town Commission heard the proposed ordinance on first reading at their January 18, 2011 meeting. The Commission voted 3-2 to approve this ordinance on first reading. The Planning and Zoning Board heard this item at their January 27, 2011 meeting and after much discussion by the public, the Board voted to delete all new provisions from the first reading ordinance except the following:

- (b) No boat, or boat trailer shall be parked or stored within the required interior side yard setback and/or required rear yard setback, or projected or encroach on any public right-of-way.
- (c) A boat trailer and personal watercraft may be parked in the front, side, or rear yards. If parked in the side or rear yard, the boat trailer and personal watercraft shall not be visible to the neighboring property. A fence, wall or hedge, consistent with the code, shall be installed in order to limit visibility to the maximum extent possible.

**Analysis:** By removing the term "yard," the proposed changes will continue to permit boats to be parked in the front, side and rear of a lot, but not in required interior side setback, rear setback or encroach into the street or right-of-way. Also, if a boat is parked in the side or rear yard, the proposed changes require screening from neighboring properties to help conceal the boat from view.

**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.

**Growth Impact:** N/A

**Staff Impact:** N/A

**Recommendation:** It is recommended that the Town Commission approve the attached Ordinance, amending sections 90.65 of the Town of Surfside Zoning Code.



\_\_\_\_\_  
Sarah Sinatra Gould, Town Planner



\_\_\_\_\_  
Roger M. Carlton, Town Manager

ORDINANCE NO. 11- \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90.65 BOAT STORAGE, INCLUDING ZONING CODE DEFINITIONS OF “SETBACKS” AND “YARDS” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside (“Town”) proposes to amend its Code of Ordinances to amend the boat storage regulations to permit boat trailers and personal watercraft in the side or rear setbacks, including Zoning Code definitions of “Setbacks” and “Yards;” and

**WHEREAS**, subsequent to the Planning and Zoning Board meeting of October 28, 2010, the Town Manager suggested additional provisions; and

**WHEREAS**, the Town Commission held its first public reading on January 18, 2011 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 Planning and Zoning Board, as the Local Planning Agency for the Town, held its hearing on the proposed amendments to the district regulations on January 27, 2011 with due public notice and input and amended the ordinance such that; and

**WHEREAS**, the Town Commission has conducted a second duly noticed first reading on February 8, 2011 and shall have conducted a second reading on March 8, 2011 and further finds the proposed change to the Code necessary and in the best interest of the community.

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

Ordinance No. \_\_\_\_\_

**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. 90-65. Boat ~~storage~~ parking.**

In the following section the term "boat" shall include every description of watercraft or airboat used or capable of being used as a means of transportation on water, including personal watercraft, but shall not include kayaks or canoes or similar non-motorized watercraft. No more than one boat may be parked on any lot in the H30A or H30B districts subject to the following conditions:

- (a) Boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.
- (b) No boat, or boat trailer shall be parked ~~or stored~~ within the required interior side yard setback and/or required rear yard setback, or project or encroach on any public right-of-way.
- (c) A boat trailer and personal watercraft may be parked in the front, side, or rear yards. If parked in the side or rear yard, the boat trailer and personal watercraft shall not be visible to the neighboring property. A fence, wall or hedge, consistent with the code, shall be installed in order to limit visibility to the maximum extent possible.
- (~~e~~) When parked or stored in the front or secondary frontage yard the place of parking shall be parallel with and immediately adjacent to or on the driveway and shall be at least five feet from the interior side or rear property line.
- (~~d~~e) The parking, storage or keeping of any boat or boat trailer shall not obstruct driveways or impede the ability of the abutting property owner to maintain the right-of-way clearance. The parking, storage or keeping of any boat or boat trailer shall not cause other vehicles to be parked in rights-of-way so as to create a hazard. The parking or storage of a boat or boat trailer shall not be in conflict with the provisions of 90-52.
- (~~e~~f) If covers are provided for the open part of all boats, the covers for any items must fit to the contours of the boat. The color of the cover should be complimentary to the exterior color of the boat. No tarps shall be used.
- (~~f~~g) Boats, boat trailers, and places of parking shall be kept in a clean, neat and presentable condition. Boats and boat trailers shall not be inoperable, wrecked, junked, partially dismantled or abandoned.
- (~~g~~h) No boat which does not have a valid registration and a valid license plate decal properly displayed, as required by state law, shall be kept on any lot for more than 30 days, unless they are stored inside a totally enclosed building.
- (~~h~~i) It shall be unlawful to park a boat or boat trailer on any lot, unless such lot contains a residential dwelling and the boat belongs to the occupant of such dwelling, a member of his immediate family, a resident of the household residing on the property, or a bona fide guest or visitor thereof.
- (~~i~~j) No major repairs or overhaul work shall be made or performed on the premises.

Ordinance No. \_\_\_\_\_

(jk) Boats and boat trailers stored on any lot in the H30A or H30B districts shall be secured or removed immediately upon the issuance of a hurricane warning by a recognized governmental agency.

**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.

PASSED and ADOPTED on first reading this 8<sup>th</sup> day of Feb., 2011.

PASSED and ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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

Ordinance No. \_\_\_\_\_



**Attest:**

\_\_\_\_\_  
Debra E. Eastman, M.M.C., Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

  
\_\_\_\_\_  
Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: \_\_\_\_\_

On Second Reading Seconded by: \_\_\_\_\_

**Vote:**

Mayor Dietch	yes	_____	no	_____
Vice Mayor Graubart	yes	_____	no	_____
Commissioner Karukin	yes	_____	no	_____
Commissioner Kopelman	yes	_____	no	_____
Commissioner Olchyk	yes	_____	no	_____

Ordinance No. \_\_\_\_\_



**TOWN OF SURFSIDE**  
**Office of the Town Attorney**

MUNICIPAL BUILDING  
 9293 HARDING AVENUE  
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser  
 Town Attorney

Telephone: 305 993-1065

**MEMORANDUM**

**TO:** Town Commission

**FROM:** Lynn M. Dannheisser, Town Attorney

**CC:** Roger M. Carlton, Town Manager  
 Debra E. Eastman, M.M.C., Town Clerk

**DATE:** March 8, 2011

**SUBJECT:** Imposition of a Temporary Moratorium on Non-Retail and Non-Restaurant Uses in  
 Downtown Business District

**Recommendation:** It is recommended that the Commission adopt this Ordinance.

**Reasons:** After years of discussion on the topic among the Planning and Zoning Board, the Town Commission, stakeholders in the Downtown Business District ("DBD"), citizens, and Town staff, the Town Manager has convened a Downtown Vision Process Advisory Committee which has begun to develop, study and create a Town Center vision and concept for the zoning district known as SD-B40 located between 96<sup>th</sup> and 94<sup>th</sup> Streets and Harding Avenue ("Downtown Business District"). It has become clear that a strategy needs to be developed for the revitalization of the District. There is a developing need to engage various persons, professionals (planning, engineering, legal) and agencies such as the County and FDOT to study and address how to achieve the developing vision for the DBD.

In reviewing various regulations and permitted uses, however, it may be that some of these are contrary to, and adversely impacting upon, the developing vision for the downtown area which requires an appropriate mix of retail, restaurant, and non-retail service uses required in order to ensure the vitality and commercial character of the Downtown Business District in the Town. In other words, if the issue is further studied, a strategy can be constructed to preserve or enhance the mix and development of retail and non-retail uses, including possibly limitations on the location and frequency

of location of allowable uses within the relevant district. Accordingly, there is a need to preserve the status quo while the Town studies these issues and develops recommendations for the Commission.

The P & Z Board has recognized these issues and believes a temporary moratorium on non-retail, non-restaurant uses is an appropriate strategy to prevent any proliferation of uses that in the end may be non-conforming with, and obviate the effectiveness of, a proposed downtown development or revitalization strategy. Thus, by Resolution 11-01 enacted on February 24, 2011, the P & Z Board recommended that the Town Commission consider such a temporary moratorium upon the issuance of certificates of use and certificates of occupancy for newly renovated or remodeled spaces in the Downtown Business District, subject to adequate protection of private property rights. A copy of that Resolution is attached and transmitted to you as Exhibit "A" to this memorandum.

The proposed Ordinance has been drafted to meet this expressed intent. As a matter of law, a moratorium is, in fact, a means for maintaining the status quo while problems are studied and remedial measures are developed and implemented in any land use or growth management scenario. A moratorium is not an end result. It is simply a planning tool intended to serve as a means to facilitate the achieving of a desired end result. Because the Town is and must be careful when, and if, it may affect anyone's property rights, before the enactment of such a moratorium, I believe it is important for you to understand the concept and the legal implications of a moratorium. The balance of this memorandum therefore is devoted to providing you with information on the state of the law on the feasibility of enacting and the circumstances which justify the enactment (via ordinance) of a temporary moratorium upon the issuance of certificates of use and certificates of occupancy and other zoning approvals within the Town and applicable legal issues.

### **Background of Moratorium Concept**

In 2002, the United States Supreme Court endorsed the use of temporary moratoria as a growth management tool of local government. In *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302, 122 S. Ct. 1465, 152 L.Ed 2d 517 (2002), the United States Supreme Court found that a temporary moratorium imposed by a regional planning agency to maintain the status quo while studying the impact of development on Lake Tahoe and formulating a strategy for assuring environmentally sound growth, was not itself a taking of private property rights.

Although moratoria have been used as a tool of growth management by local governments for many years, there was a substantial time period during which several attempted moratoria in Florida were stricken down by the Courts for defects in procedure or process. See *Town of Sanibel v. Buntrock*, 409 So.2d 1073 (Fla. 2d DCA 1981), *review denied*, 417 So.2d 328; *City of Gainesville v. GNV Investments*, 413 So.2d 770 (Fla. 1st DCA 1982); *Franklin County v. Leisure Properties, Ltd.*, 430 So.2d 475 (Fla. 1st DCA 1983), *review denied*, 440 So.2d 352 (Fla. 1983).<sup>1</sup> The Court noted in *Tahoe-Sierra* that the Court shall apply the *Penn Central* test to determine whether the regulation is a taking. *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104, 125, 98 S.Ct. 2646 (1978). Thus, the court should address: (1) the economic impact of the regulation on the property owner; (2) the extent to which the regulation has

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<sup>1</sup> See *City of Sanibel v. Buntrock*, 409 So. 2d 1073 (Fla. Dist. Ct. App. 2d Dist. 1981) (per curiam) (holding building moratorium invalid for failure to comply with ordinance formalities of notice and hearing).

interfered with distinct investment-backed expectations; and (3) the character of the government invasion. *Id.* at 124.<sup>2</sup>

However, an example of a Florida appellate court opinion in which a local government moratorium was upheld is the case of *WCI Communities, Inc. v. City of Coral Springs*, 885 So.2d 912 (4th DCA 2004), in which the Court upheld a nine month moratorium during which the Town studied and adopted new multi-family zoning regulations governing setbacks, building shape, parking, sidewalks and landscaping.<sup>3</sup> However, even before the *Lake Tahoe or Coral Springs* cases, many courts throughout the nation had upheld temporary moratorium ordinances.<sup>4</sup>

Prior to the *Lake Tahoe* case, the landmark case which had been frequently cited as setting forth the prerequisites to the valid exercise of the moratorium power, is the case of *Almquist v. Town of Marshan*, 245 N.W.2d 819 (Minn. 1976). In a scholarly opinion upholding a moratorium, the Minnesota Supreme Court in *Almquist* identified the five prerequisites to valid moratoria, including:

1. The moratorium ordinance must be adopted in good faith;
2. The moratorium ordinance must not be discriminatory;
3. The moratorium ordinance must be of limited duration;
4. The moratorium ordinance must be appropriate to the development of a comprehensive zoning plan; and
5. The Town council must act promptly to adopt the plan.<sup>5</sup>

See Paul R. Gougelman, *Moratoria and Interim Growth Management*, Florida Environmental and Land Use Law, Section 5 (January, 1994).<sup>6</sup>

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<sup>2</sup> See *Int'l Sales & Serv., Inc. v. Austral Insulated Prod., Inc.*, 262 F.3d 1152, 1158 (11th Cir. 2001) (applying Florida law regarding tortious interference with business relationship) (“when courts talk about a party’s act as “unjustified” or “unlawful”, they essentially are talking about the same thing.); *Weight-Rite Golf Corp v. U.S. Golf Ass'n*, 766 F. Supp. 1104, 1112 (M.D. Fla. 1991); *Jay v. Mobley*, 783 So. 2d 297 (Fla. 4th DCA 2001).

<sup>3</sup> See generally *Corn v. City of Lauderdale Lakes*, 95 F.3d 1066 (11th Cir. 1996) (stating when moratoria are not of limited duration, and not tied to a reasonable plan to permit and facilitate growth, they are subject to invalidation).

<sup>4</sup> The City of Aventura, for example, has a history of successfully imposing moratorium ordinances for appropriate durations and purposes and has done so on three (3) occasions, including Ordinance No. 96-12 (providing for initial six month moratorium on billboards pending completion of the City’s billboard regulations); Ordinance No. 97-22 (providing for initial six month moratorium in marina area and hospital area pending completion of the City’s first Comprehensive Plan) and Ordinance No. 98-20 (providing six month initial moratorium on residential buildings over a specified height).

<sup>5</sup> Similarly, New York has held that land use moratorium should include the following: (1) have a reasonable time frame as measured by the action to be accomplished during the term; (2) have a valid public purpose justifying the moratoria or other interim enactment; (3) address a situation where the burden imposed by a moratorium is being shared substantially by the public at large; (4) strictly adhere to the procedure for adoption laid down by the enabling acts; and (5) have a time certain when the moratorium will expire. See generally *Belle Harbor Realty Corp. v. Kerr*, 35 N.Y.2d 507, 364 N.Y.S.2d 160 (N.Y. 1974)

<sup>6/</sup> In *Almquist*, the town of Marshan, an agricultural community, imposed a six month development moratorium when faced with several proposals for the widespread conversion of farm acreage into single family development. Faced with the specter of a drastic change in the nature of the community, and the inability of the community to provide infrastructure and services which would be demanded by a conversion from the low impact agricultural use to the high impact and demand of extensive residential development, which would change the very nature of the rural community, the town of Marshan implemented a six month moratorium on development pending the adoption of a comprehensive zoning plan.



The Courts recognize that the purpose of a moratorium is to enable a local government to maintain the status quo while regulations are being developed and implemented to address and remedy a problem which poses a threat to the public health, safety and welfare.<sup>7</sup> The justification for creating a moratorium is to assure the effectiveness of new regulations which are to be developed. The legal concept is that if uses which are contrary to new regulations are allowed to be commenced during the period in which such new regulations are actively being developed and implemented, the purpose of the new regulations may be defeated. In short, lawful moratoriums are intended to address and prevent the problem of "locking the stable after the horse is stolen". See *Downham v. Town Council of Alexandria*, 58 F.2d 784, 788 (E.D.Wa.1932). The California Supreme Court in a landmark moratorium case (*Miller v. Board of Public Works of L.A.* 234 P. 381(Cal App. 1925) said it best "It is a matter of common knowledge that a zoning plan to the extent contemplated...cannot be made in a day;...it will take much time to work out the details of such a plan and it would be obviously destructive to the plan if during the period of incubation, parties seeking to evade the operation thereof should be permitted to enter upon a course of construction...[which would] defeat...the plan."

Once a significant problem is identified and a study of the remedy for the problem is in progress, there is ample justification for a moratorium as being necessary to preserve the status quo. One of the key requirements for adoption of a moratorium is that there be an identification of an existing problem which is within the authority of local government to solve or attempt to solve and of the necessity and means to

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<sup>7</sup> When enacting a moratorium The following precepts should be followed:

- (a) Adopt the moratorium in the form of a *local law*, the simplest and strongest form of municipal enactment, even if the existing zoning regulations are in the form of an ordinance. Although it is possible to amend an existing ordinance via a new ordinance in cities and towns, the use of a local law will avoid any uncertainty surrounding basic legal authority.
- (b) In a municipality with an existing zoning ordinance or local law, the moratorium should be treated as an amendment to that ordinance or local law. The applicable procedural requirements--e.g., notice, hearing and possible county referral--must be strictly followed.
- (c) The moratorium should clearly define the activity affected, and the manner in which it is affected. Does the moratorium affect construction itself? Does it affect the issuance of permits? (The permitting official will want to know this.) Does it affect actions by boards or commissions within the municipality? May project review continue, or must it, too, be stopped?
- (d) If the moratorium supersedes any provision of either the Town Law or the Village Law, then the moratorium must be adopted by local law, using Municipal Home Rule Law procedures. It must also state, with specificity, the section of the Town or Village Law being superseded. In particular, where the moratorium suspends subdivision approvals, it must be made clear in the moratorium law that the "default approval" provisions of the subdivision statutes of the Town or Village Law (as the case may be) are superseded.
- (e) Establish a valid public purpose for the moratorium with a preamble that recites the nature of the particular land use issue, as well as the need for further development of the issue in the community's comprehensive plan and/or in its current land use regulations. Refer to the fact that time is needed for community officials to comprehensively address the issue without having to allow further development during that time. Such a statement will help make it clear that the benefits to the community outweigh the potential burden to the landowners.
- (f) Be sure the moratorium states that it is to be in effect for a defined period of time. The moratorium should be for a time no longer than absolutely necessary for the municipality to place permanent regulations in effect.
- (g) The moratorium should include a mechanism allowing affected landowners to apply to a local board for relief from its restrictions, or it should contain a clear reference to the fact that an owner may make use of the existing variance procedures under the current zoning regulations. If a board other than a zoning board of appeals will execute this authority, the moratorium should be enacted using the supersession authority (see "(d)" above).

See generally *Oakwood Island Yacht Club, Inc. v. City of New Rochelle*, 59 Misc.2d 355, 298 N.Y.S.2d 807 (N.Y. Sup. 1969), *affirmed* 36 A.D.2d 796 (2nd Dept. 1971), *affirmed* 29 N.Y.2d 704 (1971).

develop remedial measures to address such problem. As noted in "Moratoria and Interim Growth Management":

Before drafting a moratorium ordinance, the City Attorney should determine exactly what the City/Town or County is trying to accomplish. A simple reaction to the problem is to institute a moratorium on the issuance of building permits. A better approach is to examine what the Town or County is trying to encourage, discourage, and achieve and to determine precisely what type of moratorium is needed.

It is further observed that:

A proper relationship between a moratorium and a growth management problem can exist if the moratorium is put into effect to study the growth management problem and a good faith effort is made to find solutions and enact remedial ordinances. Virtually every case of a development permit moratorium involves a local government enacting a moratorium to stop conditions from getting out of control while a study committee examines a growth management problem and proposes remedial ordinances.

Staff also recommends that the moratorium should **not** apply to:

- a.) Building, plumbing, mechanical and electrical permits for the repair of existing building elements.
- b.) Certificates of use or occupancy for the re-establishment or continuation of a specific occupancy or use legally existing and previously licensed at the location to which a certificate of occupancy and certificate of use will be applicable.
- c.) The renewal of a previously existing building, plumbing, mechanical or electrical permits for new construction.
- d.) The approval of a plat or site plan, a bonafide application for which was made sixty (60) days prior to the effective date hereof.

While the use and development of private property is generally subject to compliance with the body of government regulations, as those regulations change from time to time, the Courts have long recognized an exception to the strict application of changed laws, under the doctrine of equitable estoppel or vested rights. The doctrine of vested rights operates to limit a local government's exercise of its zoning powers and immunizes a development from subsequently enacted zoning laws, when applicable. In order for this legal doctrine to apply and for vested rights to be established, a property owner must demonstrate that:

- a. relying in good faith;
- b. upon some act or omission of the local government;
- c. the property owner has made such a substantial change in position or incurred such extensive obligations and expenses that it would be highly inequitable and manifestly unjust to permit the government to destroy the rights of the property owner by applying a subsequent regulation.

*See, City of Largo v. Imperial Homes Corporation*, 309 So.2d 571 (Fla. 2d DCA 1975); *Monroe County v. Ambrose*, 866 So.2d 707 (Fla. 3d DCA 2004). When equitable estoppel applies, rights are treated as vested and protected.

### **Other Essential Ingredients of Moratorium Ordinance**

Any moratorium ordinance should contain two provisions which are essential to assuring that the ordinance does not operate in an unlawful manner. Those two provisions are:

1. a vested rights provision; and
2. a waiver provision.

The purpose of a vested rights provision is to make sure that a proposed moratorium does not unlawfully cut off or impair vested rights or rights protected by equitable estoppel. The destruction of vested rights may subject the municipality to monetary liability under Florida law as well as under federal law.

The purpose of a waiver provision is to assure that, during the course of any moratorium, waivers for development permits or other zoning approvals may be given, subject to appropriate procedures, for those projects which are not inconsistent with the proposed regulations to be developed. In short, if a proposed use is not inconsistent with the regulations which are being developed or does not create the type of problem which the proposed regulations are intended to address, then there is no valid reason to subject such property to a moratorium. A waiver enables a harmless project to proceed. A waiver provision is created in recognition that the imposition of a moratorium which is done with a net so broad that it captures items which do not pose the risk intended to be addressed by the new regulations, may be challenged as an unlawful moratorium which does not serve the public health, safety or welfare.

This Ordinance contains both provisions.

### **Other Issues.**

Finally, in preparing this Memorandum, I have examined whether the 1995 enactment by the Florida legislature of the Private Property Rights Protection Act (the "Bert Harris Act") creates any impediment to any proposed moratorium. The Bert Harris Act protects private property from an interference which is short of a "taking" but constitutes an "inordinate burden".<sup>8</sup> In an article published in the Florida Bar Journal, shortly after creation of the Bert Harris Act, Jane Hayman, then serving as Deputy General Counsel for the Florida League of Cities, astutely cautioned that:

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<sup>8</sup> The terms "inordinate burden" or "inordinately burdened" mean that an action of one or more governmental entities has directly restricted or limited the use of real property such that the property owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property with respect to the real property as a whole, or that the property owner is left with existing or vested uses that are unreasonable such that the property owner bears permanently a disproportionate share of a burden imposed for the good of the public, which in fairness should be borne by the public at large. The terms "inordinate burden" or "inordinately burdened" do not include temporary impacts to real property; impacts to real property occasioned by governmental abatement, prohibition, prevention, or remediation of a public nuisance at common law or a noxious use of private property; or impacts to real property caused by an action of a governmental entity taken to grant relief to a property owner under this section.

Cities and counties in Florida must take a second look at how they regulate and impact land. Some local governments will engage in extensive fiscal impact analysis prior to promulgating any new land development regulations to avoid litigation under the Harris Act. Other local governments will make adjustments to the impact of newly promulgated regulations as claims are filed by land owners. And other local governments may simply refuse to make land use changes or may litigate. It is also expected Ch. 95-181 will increase public confusion concerning preservation of private property rights, require cities and counties to adjust existing local zoning and development approval and appeal processes, and incur additional administrative expense, promote costly litigation, and further encumber our already overburdened system. See 70 Fla. Bar J. (January, 1996).

While those early warnings have proven to generally be correct and the Bert Harris Act has impacted certain municipal decisions, very few cases have actually been litigated. See, *Royal World Metropolitan, Inc. v. City of Miami Beach*, 863 So.2d 320 (Fla.3d DCA 2004); *rev. denied* (Fla. Feb. 08, 2005) (holding that sovereign immunity does not bar a Bert Harris Act claim).

However, the Bert Harris Act defines an "inordinate burden" as one that is permanent, not merely a temporary impact, and therefore may be inapplicable. Once again, a moratorium, by its very nature, is a temporary measure. In assessing the feasibility and scope of any potential moratorium, we have been guided by the recognition that any moratorium must be confined to serving a purpose which is within the scope of the Town's authority and serves to facilitate the remediation of a growth management problem or assist in a revitalization effort, while respecting private property rights. Accordingly, any impact of the Bert Harris Act would be further examined at the time that any new permanent growth management regulations are formulated.

### Conclusion

Accordingly, for the reasons indicated above, the Town Commission may lawfully adopt and Staff recommends the proposed temporary moratorium ordinance be adopted.



**TOWN OF SURFSIDE PLANNING AND ZONING BOARD  
RESOLUTION NO. 11- 01**

**A RESOLUTION OF THE TOWN OF SURFSIDE  
PLANNING & ZONING BOARD RECOMMENDING  
THE TOWN COMMISSION TO CONSIDER THE  
NEED FOR, AND TERMS OF, A MORATORIUM ON  
CERTAIN NON-RETAIL OR RESTAURANT USES IN  
THE SD-B40-BUSINESS DISTRICT; AND  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside ("Town") is in the process of developing, studying and creating a vision for the zoning district known as SD-B40 located between 96<sup>th</sup> and 94<sup>th</sup> Streets and Harding Avenue (hereinafter referred to as the "Downtown Business District") and a strategy needs to be developed for the revitalization of the District; and

**WHEREAS**, the Ad Hoc Downtown Visioning Committee and the Town Commission are currently reviewing various regulations that may be adversely affecting the developing vision of the Downtown Business District in the Town; and

**WHEREAS**, it has become apparent that an appropriate mix of retail, restaurant, and non-retail service uses is required in order to ensure the vitality and commercial character of the Downtown Business District in the Town; and

**WHEREAS**, it is in the best interests and welfare of the Town and its residents to require that the Town consider whether additional or revised regulations are necessary or appropriate to preserve or enhance the mix and development of retail and non-retail uses in the Town's non-residential business district including potentially the limitation on the location and/of frequency of location of allowable uses within the relevant District; and

**WHEREAS**, the establishment of new, non-retail uses in the Town during the pendency of any such consideration may irreversibly change the character of the Town's Downtown Business District to the possible detriment of the Town's residents and the overall revitalization effort being developed; and

**WHEREAS**, in order to prevent such an irreversible change in the character of the Downtown Business District, the Planning and Zoning Board has determined that it may be necessary for the Town to impose a moratorium on the issuance of new Certificates of Use and occupancy permits for newly renovated, or remodeled spaces in the Town's business district as hereinafter set forth; and

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF SURFSIDE PLANNING AND ZONING BOARD OF THE TOWN OF SURFSIDE, FLORIDA TO RECOMMEND AS FOLLOWS:

**Section 1. Recitals Incorporated.** The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution upon adoption hereof.

**Section 2. Call for Moratorium.** The Planning and Zoning Board hereby recommends that the Town Commission consider the need for a moratorium upon the issuance of certificates of use and certificates of occupancy for newly renovated, or remodeled spaces in the Downtown Business District intended for non-retail uses only, except for those existing uses currently and already in such Downtown Business District as of the date of this Resolution.

**Section 3. Effective Date.** This Resolution becomes effective upon adoption.

PASSED AND ADOPTED this 24<sup>th</sup> day of February, 2011.

Motion by Planning and Zoning Board Member Peter Glynn,  
Second by Planning and Zoning Board Member Armando Casellanos

FINAL VOTE ON ADOPTION

Armando Casellanos	<u>yes</u>
Sheldon Lisbon	<u>yes</u>
Peter Glynn	<u>yes</u>
Galen Bakken	<u>yes</u>
Scarlet Hammons	<u>yes</u>

Scarlet Hammons  
Scarlet Hammons, Chair

ATTEST:

Dawn McCall  
Clerk of Board

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

Lynn M. Dannheisser  
Lynn M. Dannheisser, Town Attorney

ORDINANCE NO. 2011 \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ESTABLISHING A 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, MORE PARTICULARLY DEPICTED ON THE DOWNTOWN BUSINESS DISTRICT AREA ZONING MAP ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR A STUDY; PROVIDING FOR A WAIVER; VESTED RIGHTS, APPEAL; EXHAUSTION OF ADMINISTRATIVE REMEDIES AND TERM; PROVIDING FOR DIRECTIONS TO THE TOWN MANAGER; PROVIDING FOR EXCEPTIONS; PROVIDING FOR ADOPTION OF PRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside ("Town") is in the process of developing, studying and creating a Town Center vision and concept for the zoning district known as SD-B40 located between 96<sup>th</sup> and 94<sup>th</sup> Streets and Harding Avenue (hereinafter referred to as the "Downtown Business District") and a strategy needs to be developed for the revitalization of the District; and

**WHEREAS**, the Ad Hoc Downtown Vision Process Advisory Committee and the Town Commission are currently reviewing various regulations that may be adversely affecting the developing vision among other things of the Downtown Business District in the Town; and

**WHEREAS**, it has become apparent that an appropriate mix of retail, restaurant, and non-retail service uses is required in order to ensure the vitality and commercial character of the Downtown Business District in the Town; and

**WHEREAS**, it is in the best interests and welfare of the Town and its residents to require that the Town consider whether additional or revised regulations are necessary or

appropriate to preserve or enhance the mix and development of retail and non-retail uses in the Town's non-residential business district, including potentially the limitation on the location and/of frequency of location of allowable uses within the relevant District; and

**WHEREAS**, the establishment of new, non-retail uses in the Town during the pendency of any such consideration may irreversibly change the character of the Downtown Business District to the possible detriment of the Town's residents and the overall revitalization effort being developed and accordingly the Town needs to maintain the status quo; and

**WHEREAS**, it is incumbent on the Town to ensure that the redevelopment and/or revitalization of the Downtown Business District conforms to the Town's goals and wishes and as such the Town Manager advises that there is an urgent need to undertake a study of the Downtown Business District including consultation with FDOT, parking consultants, Town planners and engineers; and

**WHEREAS**, Town staff has already begun to meet with consultants concerning the Town's developing goals and objectives as it relates to the Downtown Business District; and

**WHEREAS**, the Planning & Zoning Board Resolution 11-01 enacted on February 24, 2011 recommended the Town Commission consider a temporary moratorium upon the issuance of certificates of use and certificates of occupancy for newly renovated or remodeled spaces in the Downtown Business District, subject to adequate protection of private property rights.

**NOW THEREFORE, THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS as follows:**

**Section 1. Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby made a specific part of the Ordinance.



**Section 2. Temporary Moratorium Imposed.** There is hereby established a temporary moratorium on the processing of any and all site plans, building permits, certificates of occupancy pursuant to Section 90-21 of the Code of Surfside, and certificates of use pursuant to Section 90-27 of the Code of Surfside in the Downtown Business District delineated in Exhibit “A” attached hereto and subject to the provisions of Section 4 herein. Except as otherwise provided herein, no department of the Town shall issue any certificates of use or occupancy, development orders, or undertake the review and approval of any site plans, building permits or development plans with respect to such uses within such area, during the term of the moratorium established hereby.

**Section 3. Term:** the moratorium established hereby shall be for a period of \_\_\_\_\_ days from the effective date hereof. Zoning in progress shall apply to this Ordinance.

**Section 4. Exemption:** the moratorium established hereby shall not apply to the following:

- a.) Building, plumbing, mechanical and electrical permits for the repair of existing building elements.
- b.) Certificates of use or occupancy for the re-establishment or continuation of a specific occupancy or use legally existing and previously licensed at the location to which a certificate of occupancy and certificate of use will be applicable.
- c.) The renewal of a previously existing building, plumbing, mechanical or electrical permits for new construction.
- d.) The approval of a plat or site plan, a bonafide application for which was made sixty (60) days prior to the effective date hereof.

**Section 5. Waivers.** That the Town Commission, after a public hearing, duly advertised and properly noticed, may grant a waiver to the temporary moratorium provided above and authorize the issuance of approvals for a specific building, where the Town Commission determines that based upon substantial competent evidence, the specific use or activity requested by the waiver application will not detrimentally affect the preparation and implementation of the developing vision of the Downtown Business District and/or zoning regulations, will be compatible with surrounding uses, and will not impair the public health, safety or welfare.

**Section 6. Study and Town Manager.** The Town Manager is hereby authorized and directed to coordinate with the Town's consultants and Ad Hoc Downtown Advisory Committee as well as such other departments of the Town and all other persons, entities or agencies, as the Town Manager shall deem appropriate to provide for a study to determine the most appropriate uses for the Downtown Business District (delineated in Exhibit "A") in light of the Town's future re-vitalization plans for the area. The Town Manager shall report back to the Mayor and Town Commission the results of the study.

**Section 7. Vested Rights.**

(A) That nothing in this ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

(1) A governmental act of development approval was obtained prior to the effective date of this Ordinance; and

(2) Upon which the property owner has detrimentally relied, in good faith, by making such a substantial change in position or incurring such extensive obligations and

expenses; and

(3) That it would be highly inequitable to deny the property owner the right to complete the development.

(B) That, except as provided by paragraph (C) below, any property owner claiming to have vested rights under this Section 7 must file an application with the Town Manager for a vested rights determination within 30 days after the effective date of this Ordinance. The application shall be accompanied by a fee of \$1500 and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the Town Manager and other documentary evidence supporting the claim, which fee may be waived administratively if a substantial inequity would result from charging such fee. The Town Manager shall review the application and based upon the evidence submitted shall make a determination as to whether the property owner has established vested rights. The Town Manager's decision shall be subject to appeal, by only the applicant for a vested rights determination, to the Town Commission by notice of appeal filed with the Town Manager within ten (10) days after the Town Manager's written decision. In the event of a timely appeal, the Town Commission shall hold a public hearing on the appeal pursuant to Town Code Section 90-58 et. seq., and based upon the evidence submitted shall make a determination as to whether or not the property owner has established vested rights. To the extent that a property owner demonstrates vested rights, the temporary moratorium shall not be applied.

(C) That any property owner claiming vested rights under this Section 7 by virtue of a Vested Rights Determination Agreement with the Town shall not be subject to this temporary moratorium and shall be authorized to apply for certificates of use and certificates of occupancy in accordance with the Vested Rights Determination Agreement, by filing a copy of the Vested

Rights Determination Agreement with the Town Manager, accompanied by a letter which references this paragraph (C), within thirty (30) days after the effective date of this Ordinance.

**Section 8. Appeals.** That appeals from final decisions by the Commission under Section 5 or Section 9 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County in accordance with the Florida Rules of Appellate Procedure for the review of the quasi-judicial rulings of municipal agencies.

**Section 9. Exhaustion of Administrative Remedies.** That no property owner claiming that this Ordinance as applied constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court unless he or she has first exhausted the administrative remedies provided in this Ordinance.

**Section 10. 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 11. 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 12. 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 13. Effective Date.** This Ordinance shall be effective ten (10) days after adoption on second reading.



PASSED and ADOPTED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

PASSED and ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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

**Attest:**

\_\_\_\_\_  
Debra E. Eastman, M.M.C., Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**



\_\_\_\_\_  
Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: \_\_\_\_\_

On Second Reading Seconded by: \_\_\_\_\_

**Vote:**

Mayor Dietch	yes_____	no_____
Vice Mayor Graubart	yes_____	no_____
Commissioner Karukin	yes_____	no_____
Commissioner Kopelman	yes_____	no_____
Commissioner Olchyk	yes_____	no_____

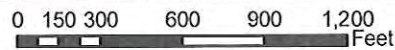




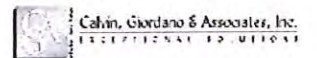
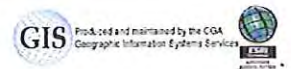
# Exhibit A Town of Surfside Moratorium Area



Legend	
Zoning Designation	Height Restriction 40ft (H40)
Community Facilities (CF)	Height Restriction 120ft (H120)
Height Restriction 30ft (H30A)	Special District - Height Restriction 40ft (SD-B40)
Height Restriction 30ft (H30B)	Municipal Use (MU)
Height Restriction 30ft (H30C)	



1 inch = 700 feet



Print Date : January 2011





# Town of Surfside Commission Communication

**Agenda Item #:** 4B2

**Agenda Date:** March 8, 2011

**Subject:** Joint Meeting Recommendations Ordinance

**From:** Roger M. Carlton, Town Manager  
Sarah Sinatra Gould, Town Planner  
Lynn Dannheisser, Town Attorney

## **Background:**

The Town Commission and Planning and Zoning Board held a Joint Meeting on November 4, 2010 to discuss potential changes to the Zoning Code. At the end of the four hour meeting, staff was directed to process the input and prepare recommended changes. Town staff analyzed the code and provided solutions to the challenges presented at the Joint Meeting by preparing recommendations, which were presented at the December 9, 2011 Joint Meeting. This is included as Attachment 1. Staff believes that the proposed changes add or expand layers of protection, increase focus on the major issues of concern to our citizens and will help to preserve the unique flavor and lifestyle of Surfside.

It was clear to staff that the desired outcome of both Joint Meetings was to create an expanded level of protection for the quality of life issues of concern to our community while encouraging the positive income generating aspects of certain commercial development. The recommendations in this report achieve those goals through the evolution of Design Guidelines to Zoning Code requirements; the creation of a staff driven required site plan review process which will subsequently be reviewed by the Development Impact Committee, the Planning and Zoning Board and Town Commission, all three of these in public meetings; and, the creation of a Conditional Use annual permitting process for certain outdoor facilities, which if not responsibly operated, could be viewed as intrusive by neighbors.

The ordinance addressing the recommendations was presented to the Planning and Zoning Board at their January 27, 2011 meeting. There was much discussion by the Board members and the public. The outcome of the meeting was to direct the meeting attendees to forward written questions to staff. Town staff was requested to respond to the questions in a report forwarded to the Planning and Zoning Board. There were approximately 35 questions, with many sub points in each question, submitted by attendees at the January Planning and Zoning Board meeting. Staff reviewed and responded in writing to the questions, which are included as Attachment 2, and made changes to the ordinance based on this input.

The revised ordinance was then presented to the Planning and Zoning Board at their February 24, 2011 meeting. Town Staff, the Planning and Zoning Board and the Town Commission have struggled for a number of years with balancing the clear goal of maintaining quality of life, good design principles, environmental sensitivity and the rights of property owners. A recent analysis by the Town Manager titled, the *Five Year Financial Forecast*, demonstrates the clear impact on the Town that various development strategies have on property taxes borne by our residents. The proposed amendments to the Town Code balance these seemingly conflicting, but clearly related goals. It is clear from recent activity in ownership change in major parcels that we must be prepared to guide the development process in a way which is open, professional and based on a modern code. The amendments proposed take the Town of Surfside into a better prepared status to guide the clearly impending development which includes the Beach House site, 9501 Collins Avenue, the Best Western property, the boutique hotel at 9200 Collins Avenue and the Surf Club project. An article regarding the Beach House sale is included as Attachment 3.

The following are staff's recommendations that have been drafted in a zoning code text in the attached Ordinance:

1. Create parking garage standards to achieve the goal of concealing a parking garage with architectural features, facades and landscaping compatible to the surrounding buildings.
2. Modify the Zoning Code to provide for Developer's Agreements which address not only onsite issues, but offsite issues as well.
3. In exchange for the benefits of lot aggregation, which provides for greater flexibility in design, the maximum permitted density shall be limited to 85% of what is permitted by the land use category in the Comprehensive Plan. Existing properties with a unity of title, a covenant in lieu of unity of title, or have been aggregated through the platting process will be exempted from this requirement.
4. Amend the design guideline section of the Zoning Code to include the current Design Guidelines as mandatory requirements, except for single family homes.
5. The Planning and Zoning Board also requested staff to review the code to determine if changes are necessary to make hotel development more financially feasible. That process is underway.

**Proposed Changes to the Code:**

Based on the above recommendations, the Planning and Zoning Board are proposing modifications to the Zoning Code. The following are the proposed changes:

**Section 90-20 Development review requirements for submittals other than single-family and two-family.** The proposed ordinance establishes a Development Impact Committee (DIC). The DIC will consist of seven (7) department representatives with the goal of reviewing development proposals to ensure high quality structures and consideration for all impacts not only on the site, but also in the environs of the project. This process will be public with an opportunity for public participation. The DIC will prepare a Development Order report for review by the Planning and Zoning Board and Town Commission. The Development Order becomes a covenant running with the land to ensure its constant viability

**Section 90-23 Conditional uses.** Currently, the Conditional Use section provides for a list of uses that require conditional use approval, but did not provide clear criteria for the Town Commission to analyze the use. The existing uses requiring Conditional Use approval include the following:

- 1) Institutions, educational or philanthropic, including museums, but not including nursing homes or hospitals.
- (2) Off-street parking lots and garages.
- (3) Public and governmental buildings.
- (4) Public utilities or public service uses, buildings, structures and appurtenances thereto.
- (5) A bar accessible from the pool or pool deck for use solely by guests of hotels and their guests in the H120 district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.

Staff is recommending including these uses in the use charts as Conditional Uses. This clarifies the code by providing all uses in one location. Also Staff is recommending removing "public and governmental buildings" as a Conditional Use since there is no clear justification for the inclusion of this use.

Lastly, Conditional Uses, unless exempted from this requirement, shall annually apply for a permit. The Town Manager shall review the application and determine if the Conditional Use continues to comply with the proposed Standards of Review. If the use fails to meet the Standards of Review, the permit may be rescinded. This item received quite a bit of discussion. The bottom line is that the language of the Conditional Use approval must be crafted to allow enforcement for violations, giving the Town the clout of rescinding the permit without restricting the ability of the owner from obtaining financing. Further, there will be an appeal process if the Conditional Use renewal is denied.

**Section 90-41 Regulated uses.** The Conditional Uses, except public and governmental buildings, are proposed to be included in the use charts as Conditional Uses.

**Section 90-45 Setbacks.** The setback tables provide setbacks for H40 based on width equal to or less than 50 feet and wider than 50 feet. However, the reference to Harding Avenue was found to be unnecessary, therefore Staff is recommending removing the reference, so that the setbacks clearly apply to both Harding and Collins Avenues.

**Section 90-45.1 Aggregation of lots.** The Planning and Zoning Board and the Town Commission expressed concerns over lot aggregation. Staff analyzed this issue and is proposing a density reduction of 85% of the total gross density permitted by the Comprehensive Plan when lots are aggregated. Existing properties with a unity of title, a covenant in lieu of unity of title, or have been aggregated through the platting process will be exempted from this requirement.

**Section 90-44 – Section 90-67.** The Ordinance includes Design Guidelines which consist of prohibited buildings with one continuous height and requiring at least 5 feet in height variation, permitting awnings to encroach into the public sidewalks not more than 6 feet, storefront and entrance requirements for windows, awning and canopy regulations, requirements for materials, finishes, outdoor lighting, utilities, service areas, mechanical equipment and structured parking garage specifications.

**Section 90-73 Prohibited Signs.** The Ordinance prohibits electronic signs.

**Section 90-87 Installation of landscaping and irrigation.** The Ordinance removes garage and rooftop landscaping from this section and utilizes the proposed requirements in Section 90-49.4, Structured Parking Garages.

**Recommendation:**

The combined Planning and Zoning Board and Town Commission meetings intent was to direct staff to present an ordinance based on these recommendations to the Planning and Zoning Board at the January 27, 2011 meeting. The Planning and Zoning Board requested an additional month to analyze the ordinance. The Board heard the item at their February 24, 2011 meeting and voted 3 to 2 to recommend approval of the ordinance with amendments to the Town Commission.

**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.


**Growth Impact:** The proposed Ordinance does not encourage growth. It provides guidance to staff and project owners, while ensuring that major projects receive adequate review in multiple public forums.

**Staff Impact:** N/A



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Sarah Sinatra Gould, Town Planner



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Roger Carlton, Town Manager



## Town of Surfside

**Agenda Date:** December 9, 2010

**Subject:** 2<sup>nd</sup> Joint Meeting Recommendations from Staff as Requested at the 1<sup>st</sup> Joint Meeting

**From:** Roger M. Carlton, Town Manager  
Sarah Sinatra Gould, Town Planner  
Lynn Dannheisser, Town Attorney

### **BACKGROUND:**

The Town Commission and Planning and Zoning Board held a Joint Meeting on November 4, 2010 to discuss potential changes to the Zoning Code. At the end of the four hour meeting, staff was directed to process the input and prepare recommended changes. The staff recommendations in this Commission Communication provide solutions to the challenges presented at the Joint Meeting. We believe that the proposed changes add or expand layers of protection, increase focus on the major issues of concern to our citizens and will help to preserve the essence of Surfside.

It was clear to staff that the desired outcome of the first Joint Meeting was to create an expanded level of protection for the quality of life issues of concern to our community while encouraging the positive income generating aspects of certain commercial development. The recommendations in this report achieve those goals through the evolution of Design Guidelines to Zoning Code requirements, the creation of a staff driven required site plan review process which will subsequently be reviewed by the Planning and Zoning Board and Town Commission in public meetings and the creation of a Conditional Use annual permitting process for certain outdoor facilities, the use of which could be viewed as offensive by neighbors.

If the outcome of the second Joint Meeting is to direct staff to present an ordinance based on these recommendations including any modifications, then staff will prepare an ordinance to be heard by the Planning and Zoning Board at their January 27, 2011 meeting. The ordinance would tentatively be scheduled for the February 8, 2011 Commission meeting and adoption could be March 8, 2011.

## RECOMMENDATIONS:

1. Create parking garage standards to achieve the goal of concealing a parking garage with architectural features, facades and landscaping compatible to the surrounding buildings.
2. Modify the Zoning Code to provide for Developer's Agreements which address not only onsite issues, but offsite issues as well.
3. In exchange for lot aggregation, which provides for greater flexibility in design, the maximum permitted density shall be limited to 85% of what is permitted by the land use category in the Comprehensive Plan.
4. Amend the design guideline section of the Zoning Code to include the current Design Guidelines as mandatory requirements, except for single family homes.
5. Although the proposed recommendations are to address the larger issues, staff is committed to working with Planning and Zoning Board members and Commissioners to address any other concerns with Zoning Code provisions.

## ANALYSIS

**Recommendation 1. Create parking garage standards to achieve the goal of concealing a parking garage with architectural features, facades and landscaping compatible to the surrounding buildings.**

### Overall Form

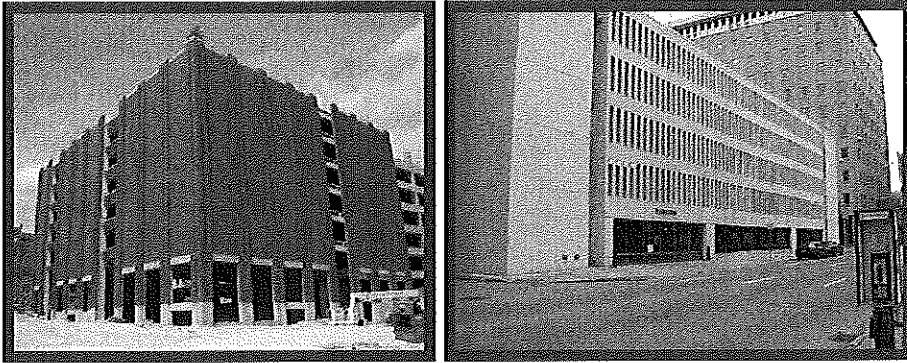
1. Facades shall provide a 3-foot minimum planar offset at a maximum distance of 50 feet in any direction.

**Note:** This will provide greater articulation along the façade treatments of the buildings to minimize the construction of large expanses of blank walls to avoid the look of the following garages:

*These pictures are presented as examples of elements of facades to avoid or encourage. The reader should understand that the totality of a garage even in the "good" category may not be appropriate for a specific setting in Surfside. However, please examine the photos as good evidence of the design element being illustrated.*



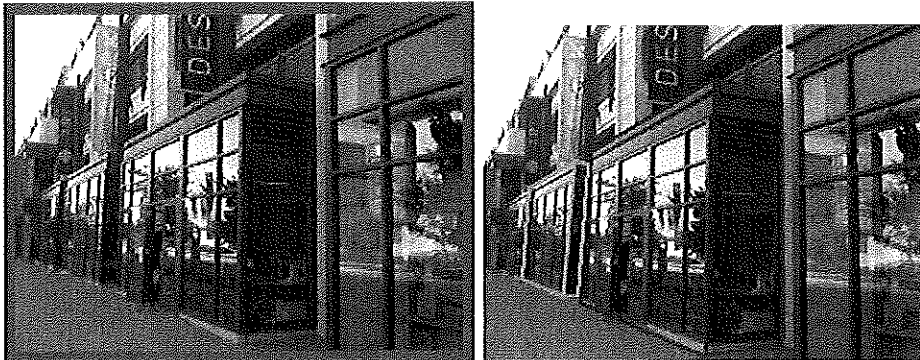
## BAD



2. Buildings shall provide a minimum eight (8) foot wide break with a minimum 15 foot setback for a maximum of 100 linear feet of façade frontage onto a public ROW.

**Note:** This will break up the look of the massing of the parking garage building into smaller blocks such as the examples below:

## GOOD



3. Façade treatments fronting a public ROW shall provide architectural treatments consistent with and compatible to those across the public ROW or abutting properties, consistent with immediate buildings.

**Note:** This will encourage that parking garages are consistent the surrounding context and do not “look” like parking garages. Examples of this disguising of the garage include having the ground floor be consistent with the architectural qualities of buildings across the street and

cladding the remainder of the façade so it does not look like a parking garage, such as the example below:

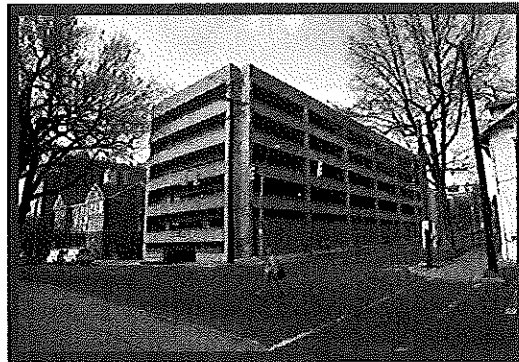
**GOOD**



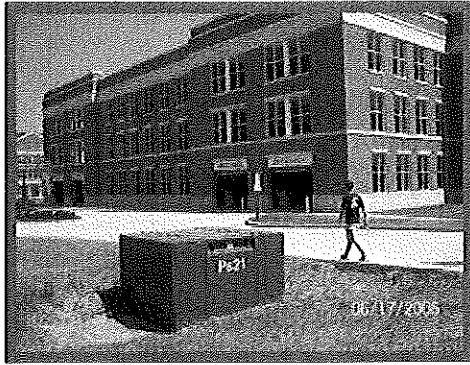
4. Facades shall not provide voids greater than 8-feet in any direction, and all voids shall be separated by a minimum 5-foot wide solid band.

**Note:** This will prevent the long ribbon window openings that give parking garages their unattractive appearance. See photographs below as examples of what to prevent and what to encourage:

**BAD**



**GOOD**



5. Facades shall provide a minimum of 80% landscaped coverage that will provide visual buffer to a height of 10-feet within 1 year of installation along all ground floors facing a public ROW.

Ground Floor Level Facade

**Note:** This will ensure that there are no blank, dead walls lining the street level to avoid the garages in the following pictures:

**BAD**

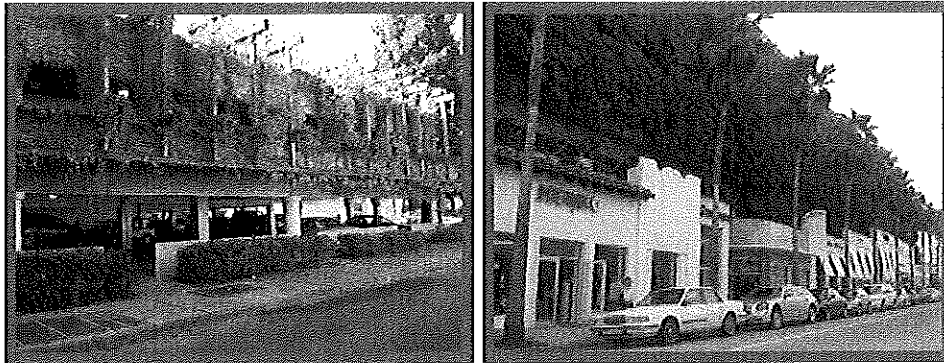


Mid-level Facades

6. Facades shall provide a minimum of 50% planted coverage facing a public ROW. Landscape coverage shall meet requirement within 2 years of obtaining the C.O.

Note: This will ensure that the massing of the building is softened with landscaping as shown in the following examples:

**GOOD**



7. All vegetative coverage shall be maintained and watered appropriately to sustain health and coverage indefinitely.

**Note:** This will ensure that adequate watering systems are put in place or that if landscaping is damaged as a result of a hurricane, that it is quickly replaced and repaired.

**Recommendation 2: Modify the Zoning Code to provide for Developer’s Agreements which address not only onsite issues, but offsite issues as well.**

Developer’s Agreements will be negotiated by a multi-disciplinary team lead by the Town Manager. A Developer’s Agreement will go to the Planning and Zoning Board with a clear understanding by the developer that modifications may result from the Planning and Zoning process. Further, there is the potential for additional modifications once the project is heard by the Town Commission.

A Developer’s Agreement would apply to all new or expanded non-residential development greater than 5,000 square feet and residential development greater than 10 units and hotels with more than 10 rooms. The Developer’s Agreement would include all conditions and requirements associated with the new development.

The inclusion of a Developer’s Agreement in the Zoning Code would help the Town address impacts of the development on the infrastructure, roadways, landscaping, pedestrian areas, etc.

**Recommendation 3: In exchange for lot aggregation, which provides for greater flexibility in design, the maximum permitted density shall be limited to 85% of what is permitted by the land use category in the Comprehensive Plan.**

During the first Joint Meeting density/intensity was discussed as it related to the aggregation of lots. Specifically, a question was raised to ask if by removing the Zoning Code provision in the 2010 Zoning Code that required buildings to be no more than 150 feet in length, was density/intensity increased. The concern brought up at the meeting was that by removing the provision for a maximum building length of 150 feet, lots would be aggregated resulting in an increase in density/intensity and the mass of the building could be very large and out of scale.

The total number of hotel units permitted on a particular lot is determined by the size of the lot and the permitted number of units per acre (density). Limiting the length of a building will have an impact on the total square footage that could be built on that lot (intensity). So while the size of a hotel may be smaller, the number of units remain unaffected.

Staff completed an analysis utilizing the graphics provided by Galen Baken at the meeting which compared a scenario with one large lot versus two smaller lots. It should be pointed out that the scenario with two buildings on two lots requires additional side setbacks in addition to a building separation. After an analysis of one large lot versus two small lots, it was concluded that based on the Zoning Code prior to 2008 and the 2010 Zoning Code the scenario with one large building could be 5.5% larger (60,800 square feet versus 57,600 square feet). The scenario with the two buildings on the two lots would allow for 57,600 square feet under the 2010 Zoning Code and 54,400 square feet under the Zoning Code prior to 2008 (an increase of 5.9%).

It should be noted that there has been some concern about whether the resulting increase in square footage in some manner violates the 2004 Charter Amendment. The 2004 Charter Amendment does not refer or pertain to *any* increase in square footage. Rather, it provides that development cannot exceed maximum allowable floor areas, maximum allowable floor area ratios or the maximum allowable building heights. Neither the 2010 Zoning Code, or the Zoning Code prior to 2008 included maximum allowable floor areas or maximum allowable floor area ratios. These were only regulated by the Comprehensive Plan, which has not been modified. Further, the Comprehensive Plan only included intensity (floor area ratio) provisions for non-residential uses. Therefore, the question raised and the concluding analysis is not based on the regulations in the Comprehensive Plan (which are for illustrative purposes only) and there need not be any concern about charter violations.

Staff analyzed these results and recognized that although the difference in square footage may be minimal, the utilization of aggregation continues to create concerns. Therefore, staff is recommending that in exchange for an applicant aggregating lots, the maximum permitted density shall be limited to 85% of what is permitted by the land use category in the Comprehensive Plan.

**Recommendation 4: Amend the design guideline section of the Zoning Code to include the Design Guidelines as mandatory requirements, except for single family homes.**

Amending certain Design Guidelines to become mandatory will result in the following changes to the Zoning Code. However, it should be noted that many of the other Design Guidelines are not appropriate to become Zoning Code and should remain as Design Guidelines. Additional provisions provided for in the Building Code are shown as struck through, however, they still exist in the Building Code.

**Entrances, Windows & Storefronts**

1. Buildings with one continuous height shall be prohibited.
2. Building facades shall incorporate breaks in the wall plane to provide massing and articulation compatible with the historic context. No single wall plane shall exceed 60 feet in length on any exterior façade and shall provide a minimum of a six (6) foot separation from abutting wall planes.
3. Height variations among architectural elements shall have an expression of no less than 5 feet in variation.
4. All building facades, including alleyways, shall be rendered consistently with the overall architectural treatment of the building.
5. Pedestrian entrances shall be easily recognizable and oriented towards the ROW.
6. Divided light window mullions, where provided, shall be through the pane.
7. Exterior burglar bars, fixed “shutters” or similar security devices shall be prohibited.
- ~~8. Security shutters, if provided, should be constructed of a see-through, non-solid grate material. Roll-up casings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with the overall architectural character of the building and its surface materials. Staff recommends deleting due to conflicts in the Zoning Code.~~
- ~~9. Impact resistant glass should be used in all window exposures, except ground level non residential uses. Staff recommends deleting due to conflicts with the Building Code.~~
10. Window and storefront articulations shall utilize similar proportions as those within the surrounding context and shall be primarily oriented towards the ROW.
11. Multiple storefronts within a larger building shall have consistent material qualities and articulation and shall relate to the detailing of the entire building.
12. The bottom edge of windows shall be no less than 24 inches above the fronting finished sidewalk elevation.

13. For non-residential uses, the first vertical 10 feet of building elevation shall be composed of 50% minimum transparency. Required percentages of transparency shall be applied to street-facing building facades and walls. Requirements shall be applied within the first 10 feet of height above the public sidewalk. The bottom of transparent openings shall be no higher than 24 inches above the ROW. Display windows used to satisfy these requirements shall have a minimum vertical dimension of 4 feet and shall be internally illuminated.
14. Mirrored and heavily tinted glass shall be prohibited.
15. Balconies shall not extend into the frontage setbacks and shall not be less than five feet (5') in depth.

#### **Awnings, Canopies, 'Eyebrows' and Balconies**

All new and replacement awnings shall meet these requirements.

1. Awnings and canopies shall be incorporated to provide pedestrian protection from the elements as well as reduce overall building heat gain. Encroachments by awnings and non-permanent canopies over the public sidewalk are permitted, but shall not be greater than 6' or the width of the sidewalk, whichever is less.
2. Awnings, canopies, "eyebrows" and balconies shall have consistent height and depth.
3. Awnings, canopies, "eyebrows" and balconies shall remain consistent with architectural details and proportions harmonious with the overall building design and historic context.
4. Awnings, canopies, "eyebrows" and balconies shall be consistent on multiple storefronts within a larger building.
5. Awnings shall be fabric or metal. Plastic awnings are prohibited.
6. To reduce visual clutter, awnings shall be solid colors rather than patterned.
7. Awnings shall utilize down lighting. Backlighting shall be prohibited.
8. Awning valances shall be straight rather than curved, except for special architectural elements to be compatible with historic building styles.
9. Awnings shall be attached to the building façades and shall not be supported by vertical elements within the ROW.

#### **Service Areas and Mechanical Equipment**

1. Service bays, mechanical equipment, garbage and delivery areas, shall be fully enclosed, screened or located within the interior of the building. These areas shall not be visible from the Right of Way and shall not be visible from properties with adjacent residential or hotel uses.
2. Central air conditioning shall be required for trash rooms.

3. All exterior equipment shall be placed on the roofs and shall be screened by an architectural feature.
4. All exterior equipment shall be architecturally screened.

#### **Underground and Above-Ground Utilities**

1. All utilities including telephone, cable, and electrical systems shall be installed underground.
2. ~~Large transformers shall be placed on the first floor/ground and contained with pad mounts, enclosures or vaults. Staff recommends deleting due to conflicts in the Zoning Code.~~
3. All exterior facilities, including but not limited to electrical raceways and transformers, permitted above ground shall be fully concealed and screened.

**Parking Structures** Staff recommends deleting since a new parking structure section is being proposed.

1. ~~Entrances to parking garages should not be from Collins or Harding Avenue frontages.~~
2. ~~Enclosed parking levels should have an exterior architectural treatment designed to be compatible with neighboring buildings and the area's context.~~
3. ~~All ground levels of a parking structure facing a public Right of Way should be lined with active liner uses or screened.~~

#### **Materials and Finishes**

1. The predominant surface shall be stucco, stone, metal, glass block and accent wood. Materials vernacular or characteristic to other regions including but not limited to flagstone and adobe shall be prohibited.
2. Materials shall be true and genuine, rather than simulated. Multiple storefronts within a larger building shall have consistent material qualities and articulation.
3. Within high traffic areas, higher quality materials that are easily maintained (in lieu of painted stucco) shall be incorporated at the building's base.
4. ~~Asphalt shingles should be prohibited. Addressed in the roof material section of the Zoning Code.~~
5. ~~Site accessories and materials that have a demonstrated durability and lend themselves to recycling or are produced through recycling means should be preferred. Materials should be made to limit the use of non-renewable resources, retain cultural resources, reduce waste and reduce the impact of manufacturing and transport of materials. Staff recommends deleting due to conflicts with the Building Code.~~



- ~~6. Woods that are certified as being from sustainable sources as designated by the Forest Stewardship Council should be utilized. Staff recommends deleting due to conflicts with the Building Code.~~
- ~~7. CCA treated woods should be prohibited for finish surfaces. Staff recommends deleting due to conflicts with the Building Code.~~

### **Multifamily Residential and Hotel Design Criteria**

1. Separating elements, such as fences or walls shall not be permitted between multifamily residential uses and fronting streets.
2. Entrances to residential and hotel uses shall be kept separate from entrances to other uses in the building.
3. Outdoor activities such as swimming pools, restaurants, etc. shall be required to obtain an annual Conditional Use permit. The permit will dictate hours of activity and other condition necessary to provide compatibility with the surrounding neighborhood. A Conditional Use permit may be rescinded after due process.

### **Commercial Uses Design Criteria**

1. Frontages along Harding Avenue shall provide a minimum six foot (6) wide continuous non-removable awning.
2. External street-level entrances shall be recessed and centered a minimum of 36 inches from the building frontage.
3. Restaurant uses shall have air conditioned trash and garbage facilities.
4. Outdoor dining facilities shall be required to obtain an annual Conditional Use permit. The permit will dictate hours of activity and other condition necessary to provide compatibility with the surrounding neighborhood. A Conditional Use permit may be rescinded after due process.

### **Exterior Lighting**

1. All exterior lighting should avoid unnecessary, excessively strong or inefficient lighting through selection of appropriate fixtures for each application, use of high-efficiency fixtures and photocell controls to turn lights off during daylight.
- ~~2. Energy efficient fixtures and lamps such as Metal Halide cut-off lamps with efficient light distribution and up-to-date energy-efficient light bulbs are encouraged. Staff recommends deleting due to conflicts with the Building Code.~~
- ~~3. Solar power (photovoltaic panels) energy supply for outdoor lights should be provided where possible. Staff recommends deleting due to conflicts with the Building Code.~~
5. All lighting shall be controlled by photocell controls.

6. Lighting provisions shall be designed in a manner that reduces light pollution and are turtle-friendly with a full cut-off for 'dark skies.'

~~**Environmental Standards**~~—This section is not recommended to become Zoning Code and should remain Design Guidelines. Please see attachment regarding challenges between Building Codes and LEED.

- ~~1. It is highly encouraged for all new construction to achieve LEED certification. Higher LEED certifications (silver, platinum, etc.) are also highly encouraged.~~
- ~~2. Rehabilitation of existing structures should achieve the following standards:~~
  - ~~a. Provision of bicycle racks or storage facilities in recreational, office, commercial and multifamily residential areas;~~
  - ~~b. Use of energy-efficient features in window design (exterior shading devices, low-E and insulated glass, etc);~~
  - ~~c. Use of operable windows and ceiling fans to promote natural ventilation when weather permits;~~
  - ~~d. Installation of energy-efficient appliances and equipment;~~
  - ~~e. Reduced coverage by asphalt, concrete, rock and similar substances parking lots and other areas to improve storm water retention and reduce heat island effects.~~
  - ~~f. Installation of energy-efficient lighting in buildings, parking areas, recreation areas, and other interior and exterior public areas;~~
  - ~~g. Selection, installation and maintenance of native plants, trees, and other vegetation and landscape design features that reduce requirements for water, maintenance and other needs;~~
  - ~~h. Planting of native shade trees to provide a minimum of 40% shade for all recreation areas, sidewalks and parking areas in addition to east and west faces of buildings.~~
  - ~~i. Passive solar orientation of structures, as possible, to reduce solar heat gain by walls and to utilize the natural cooling effects of the wind;~~
  - ~~j. Provision for structural shading (e.g., trellises, awnings and large roof overhangs) wherever practical when natural shading cannot be used effectively; use of the Florida Solar Energy Center Document FSECON-8-86 should be utilized for proper sizing and placement of shade devices.~~
  - ~~k. Inclusion of shaded porch/patio areas in residential units; and~~
  - ~~l. Use of recycled materials.~~
  - ~~m. Use of light-colored materials.~~
  - ~~n. Use of "cool roof" techniques (light colored roof, high reflectance EPDM membrane roof or a planted roof).~~
  - ~~o. Provision of natural daylighting to lower energy use for lighting and to lower cooling loads.~~
  - ~~p. Provision of natural ventilation strategies to induce air movement through the building such as breezeways, interior courtyards, water elements to create a cooling effect, operable windows, high ceilings, and fans.~~

**Potable Water Standards**

- ~~1. All development should make adequate provisions for water conservation in accordance with the standards established by the USGBC LEED Rating System. Staff recommends deleting due to conflicts with the Building Code.~~

**Security Shutters Standards**

- ~~1. Security shutters should be constructed of a see-through, non-solid grate material. Roll-up easings and attachment hardware should be obscured by architectural features or awnings and should be finished to blend with surface materials. Staff recommends deleting due to conflicts with the Zoning Code.~~



# Town of Surfside Planning and Zoning Memo

**Agenda Date:** February 24, 2011

**Subject:** Joint Meeting Recommendations Ordinance

**From:** Roger M. Carlton, Town Manager  
Sarah Sinatra Gould, Town Planner  
Lynn Dannheisser, Town Attorney

## **BACKGROUND:**

The Town Commission and Planning and Zoning Board held a Joint Meeting on November 4, 2010 to discuss potential changes to the Zoning Code. At the end of the four hour meeting, staff was directed to process the input and prepare recommended changes. The staff recommendations in this Commission Communication provide solutions to the challenges presented at the Joint Meeting. We believe that the proposed changes add or expand layers of protection, increase focus on the major issues of concern to our citizens and will help to preserve the unique flavor and lifestyle of Surfside.

It was clear to staff that the desired outcome of the first Joint Meeting was to create an expanded level of protection for the quality of life issues of concern to our community while encouraging the positive income generating aspects of certain commercial development. The recommendations in this report achieve those goals through the evolution of Design Guidelines to Zoning Code requirements; the creation of a staff driven required site plan review process which will subsequently be reviewed by the Development Impact Committee, the Planning and Zoning Board and Town Commission, all three of these in public meetings; and, the creation of a Conditional Use annual permitting process for certain outdoor facilities, the use of which could be viewed as intrusive by neighbors.

There were approximately 25 questions, with many sub points in each question, submitted by attendees at the January Planning and Zoning Board meeting. In order to facility this report, staff has consolidated similar or repetitive questions and responded to the questions at the end of this document.

The following are staff's recommendations that have been drafted in a zoning code text in the attached Ordinance:

1. Create parking garage standards to achieve the goal of concealing a parking garage with architectural features, facades and landscaping compatible to the surrounding buildings.
2. Modify the Zoning Code to provide for Developer's Agreements which address not only onsite issues, but offsite issues as well.
3. In exchange for lot aggregation, which provides for greater flexibility in design, the maximum permitted density shall be limited to 85% of what is permitted by the land use category in the Comprehensive Plan.
4. Amend the design guideline section of the Zoning Code to include the current Design Guidelines as mandatory requirements, except for single family homes.

**PROPOSED MODIFICATIONS:**

Based on the above recommendations, staff is proposing modifications to the Zoning Code. The following are the proposed changes:

**Section 90-20, *Development review requirements for submittals other than single-family and two-family.*** Staff is recommending a Development Impact Committee (DIC). The DIC will consist of seven (7) department representatives with the goal of reviewing development proposals to determine their impact to the Town. The seven (7) department representatives included are the Town Manager, Town Attorney, Public Works/Landscape, Planning and Zoning, Parks and Recreation, Engineering and Traffic Engineering, and Building. This will be a public meeting with an opportunity for public participation. The DIC will prepare a report for review by the Planning and Zoning Board and Town Commission.

**Section 90-23, *Conditional uses.*** Currently, the Conditional Use section provides for a list of uses that require conditional use approval, but did not provide clear criteria for the Town Commission to analyze the use. The existing uses requiring Conditional Use approval include the following:

- (1) Institutions, educational or philanthropic, including museums, but not including nursing homes or hospitals.
- (2) Off-street parking lots and garages.
- (3) Public and governmental buildings.
- (4) Public utilities or public service uses, buildings, structures and appurtenances thereto.
- (5) A bar accessible from the pool or pool deck for use solely by guests of hotels and their guests in the H120 district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.

Staff is recommending including these uses in the use charts as Conditional Uses. This streamlines the code by providing all uses in one location. Also staff is recommending removing "public and governmental buildings" as a Conditional Use since there is no clear justification for the inclusion of this use.

Lastly, Conditional Uses, unless exempted from this requirement, shall annually apply for a permit. The Town Manager shall review the application and determine if the Conditional Use continues to comply with the proposed Standards of Review. If the use fails to meet the

Standards of Review, the permit may be rescinded. Any decision made by the Town Manager regarding Conditional Use permits may be appealed to the Town Commission.

**Section 90-41, *Regulated uses.*** The Conditional Uses, except public and governmental buildings, are proposed to be included in the use charts as Conditional Uses.

**Section 90-45 *Setbacks.*** The setback tables provide setbacks for H40 based on width equal to or less than 50 feet and wider than 50 feet. However, the reference to Harding Avenue was found to be unnecessary, therefore Staff is recommending removing the reference, so that the setbacks clearly apply to both Harding and Collins Avenues.

**Section 90-45.1 *Aggregation of lots.*** The Planning and Zoning Board and the Town Commission expressed concerns over lot aggregation. Specifically, the concern of the mass of the potential development resulting from lot aggregation. Staff analyzed this issue and is proposing a density reduction of 85% of the total gross density permitted by the Comprehensive Plan when lots are aggregated.

**Section 90-44. – Section 90-67.** Staff is recommending the Code include Design Guidelines which consist of prohibited buildings with one continuous height and requiring at least 5 feet in height variation, permitting awnings to encroach into the public sidewalks not more than 6 feet, storefront and entrance requirements for windows, awning and canopy regulations, requirements for materials, finishes, outdoor lighting, utilities, service areas, mechanical equipment and structured parking garage specifications.

**Section 90-73 *Prohibited Signs.*** Staff is recommending prohibiting electronic signs which are either installed inside for view through windows or on the exterior of the building.

**Section 90-87. *Installation of landscaping and irrigation.*** Staff recommends removing garage and rooftop landscaping from this section and utilizing the proposed requirements in Section 90-49.4, Structured Parking Garages.

The Planning and Zoning Board and Town Commission voted to direct staff to present an ordinance based on these recommendations to the Planning and Zoning Board at the January 27, 2011 meeting. The ordinance was reviewed and the Board requested additional time to review the information. Also, attendees at the meeting asked a number of questions. The Board instructed staff to provide responses to the public comments for the February meeting. The following are the comments from the public and staff's responses.

**QUESTIONS SUBMITTED AFTER THE P&Z/DRB MEETING OF JANUARY 27, 2011:**

- 1. Are you intending to apply aggregation restrictions to sites with an existing unity of title upon redevelopment and kill the prospect of attracting a hotel?**

*Requiring that aggregated lots provide no more than 85% of their density for the total lot is addressing a concern raised about density on large lots, which are a result of aggregation.*

*Requiring a lower density on the total lot is a trade off for the benefits of aggregating parcels of land. Hotels and multifamily will still be permitted on both sites.*

**2. Why not let your code restrict what can be built, as it does very well, and relax the density allowance in the case of hotels similar to the H40 zoning district?**

*Relaxing the density allowance would require a land use plan amendment and increases in density are prohibited in the Town Charter.*

**3. As a fall back, will the Town consider aggregation restrictions just in the case of cross zoning district aggregation and then only on the site being brought in?**

*The concept of aggregation is not only for different zoning districts. It is intended to reduce the overall density of a building. Also, the aggregation principle is for the total of the lots, not only on one of the lots that are being aggregated.*

**4. Will the 85% rule apply to lots that were aggregated prior to the effective date of the ordinance? The definition of aggregation is unclear. Moreover, the Code does not provide for a "unity of title." Properties with Unity of Title divided by a right-of-way should be able to count the entire property for density calculations.**

*The 85% rule will only apply to lots aggregated after the effective date of the ordinance. If a property has a Unity of Title and a street is separating the two lots, the property will be considered one lot. The definition of aggregation is the combining of lots through a unity of title. A definition for Unity of Title should be added. Here is the proposed definition: An agreement executed by and between one or more property owners of more than one lot, which shall not be conveyed, sold, mortgaged, etc. apart from each other and that they shall be held together as one tract. Such unity of title shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property owner(s), successors and assigns. The 85% rule will not be applicable to properties with a valid building permit.*

**5. Do you intend to make a hotel reapply for some of its essential ancillary uses, such as a pool, every year? Can't this be regulated through the nuisance or noise ordinance? Zoning standards for annual permit renewals are not an industry standard for the use of permanent structures. This is different from annual occupational licenses, which is a tax. The Town already has enforcement and noise protection measures in Section 90-3, Section 54-78, 54-79, 54-80, 54-81, 54-82 and 54-83.**

*The Conditional Use permit has specific criteria in which the application shall be reviewed. If the hotel is not in compliance with the criteria, the permit will be revoked. The use of the pool and other outdoor activities is a concern to the Town. Although it may not be typical for an annual review of a pool or other outdoor activities, it is not contrary to the Zoning Code and will provide greater protection to the Town. Any decision made by the Town Manager regarding Conditional Use permits may be appealed to the Town Commission.*

**6. The Development Impact Committee can be a useful tool to ensure quality developments that meet the Town's objectives but if 'subjectivity' comes into play,**

developers are right back to where they started from on the uncertainty issue. The DIC process is not clear. Specifically, the process is lacking standards and/or reference to objective criteria in the Town's Zoning Code. If the DIC recommendations are applied as a condition to a site plan approval, the standards do not meet the rational nexus/rough proportionately tests under Florida law and/or substantive law. This also applies to the standard of review which states "any other condition imposed by the Design Review Board and/or the Development Impact Committee." In combination, the provisions severely restrict development and the certainty required for acquisition, development and financing.

*The primary intent of the DIC is to provide a sounding board on all projects, except single-family and two-family homes, prior to submittal to the P&Z/DRB. By definition, the process is "give and take", with the intent of collaborating to create better projects with beneficial impacts on the Town. The DIC meetings are advertised, open to the public and will have a section on each agenda where the public may speak. Such a process should not be rule bound and should allow creativity to prevail through negotiation. It should also be clear that the written report by the DIC is not legally binding on the P&Z/DRB or the Town Commission. It simply provides information for both boards.*

- 7. The items that the DIC will cover are so broad that a developer will not know the size of the compromises they will face until the project is in the permitting process. A developer will have to add a month in its program for the project, which represents more financial charges to it.**

*The Town's process is as follows. The plans are submitted. The Development Review Committee (DRC) reviews the plans and meets with the applicant approximately two weeks after the submittal. The applicant is provided comments on the technical aspects of the plans. The applicant then revises the plans to meet the Code requirements and the plans are resubmitted to the Town. Once the applicant has met all of the Code requirements, the Town will schedule a DIC meeting. This step will occur approximately two weeks after the final submittal of the plans. The Town Manager will then prepare a report describing the results of the DIC meeting and the Planning Department will prepare a staff report on the technical aspects of the project. The full package of plans and both reports will be heard by the Planning and Zoning Board and the Town Commission. If the Town Commission grants approval of the plans, then the applicant may submit for the building permit. The DIC will occur prior to the project being in the permitting process. There will be no slow down for development. In fact, the early impact of addressing concerns will facilitate the review by the P&Z/DRB and the Town Commission.*

- 8. When will the P & Z board members receive the DIC report?**

*The Town Manager will prepare a report describing the results of the DIC meeting. This report will be provided to the P & Z Board one week prior to the regularly scheduled P & Z Board meeting. They will receive the DIC report along with the site plan application, plans and staff memorandum. This follows the Planning and Zoning Board/Design Review Board schedule for application review. In general, municipal boards and commissions do not receive more than one week for a review of their agendas.*



**9. If the Town modifies the code to permit a parking garage as a conditional use, is a unity of title needed?**

*Yes, to avoid the garage parcel being sold off and leaving the building without parking.*

**10. If density is now being described in the zoning code, will there be a definition for density?**

*Density should be defined since it is now being utilized for aggregation purposes in the zoning code. Although a density definition is being proposed, the 120 feet height limitation, setbacks and other development limitations remain in place. Section 9J-5.006 (1) (c) of the Florida Administrative Code requires density to be calculated in gross. Gross density includes one-half the right-of-way of adjacent streets and alleys.*

*Here are proposed definitions:*

*Density: The number of dwelling units per gross acre of land.*

*Gross Acre: The acreage within the perimeter of a lot plus one-half the right-of-way of adjacent streets and alleys.*

**11. How can you expect 5 feet variations in height if height is measured to the highest point, not to the top of the highest floor? A way to address roofline variation without decreasing the maximum permitted height is to modify the language in Section 90-44 to allow parapet walls where there is a rooftop habitable activity. By removing the limitation on “non-habitable space” from Section 90-44 a parapet wall could be added to the roof of a garage, or any building having a rooftop pool, in the H30C district, 3’6 feet but not higher than 8 feet, to provide for the variation in roofline design. There may be a Town-wide legal non-conforming impact by prohibiting buildings with one continuous height. The current code states that height shall be measured to the highest point of the roof. However, if it stated it was measured to the top of the slab, then the architectural features necessary for security or to create variations in height could be included. Elements like stairs, elevator shafts and equipment should not be subject to the 3 foot height restriction. Some suggestions for changes to the code that could encourage variation in height are the following:**

- **To allow a 12 foot height rather than 3 foot height for non-habitable architectural elements as described by Section 90-44.1 in the H30C zoning district.**

*Section 90-44.1 of the Code permits architectural elements including cupolas, chimneys, flagpoles, spires, steeples, stair accessways, antennas, ventilators, tanks, parapets, trellises, screens and similar not used for human habitation, to be erected to a reasonable and necessary height, consistent with and not to exceed 3 feet in height for H30C, 12 feet in height for H40 and SD-B40, and 20 feet in height for H120. Therefore, if the building is within the H30C district, it would need to be 2 feet lower than the maximum height in order to provide the 5 ft parapet.*

- **Permitting stairways to exceed the maximum height limitations in Section 90-44.2.**

*Should be included since it is already permitted by Section 90-44.1, not to exceed the maximum permitted height in Section 90-44.1.*

- **Stating that height variations among architectural elements “should” instead of “shall” be no less than 5 feet in variation where practical.**

*Not recommended. The word “should” does not give clear and measurable direction for staff review and board policy determination.*

- **Buildings should be encouraged to vary in overall height and not be contained in a single volume of continuous height.**

*Not recommended. Codes should not state that something “should be encouraged” since it is not enforceable.*

- 12. Requiring conditional uses to be “consistent with the community character of the immediate neighborhood” can provide ambiguity in the interpretation of application of the statement. The vision, goals and objectives of the Comprehensive Plan and/or the Town Code could be restricted in the interpretation or application by existing structures in the immediate neighborhood.**

*Staff concurs with this change. Consistency with the community character does not mean identical or uniform types or kinds of structures. Instead, it means respecting the immediate neighborhood’s character. This will be modified to “compatible” rather than “consistent” to further clarify the intent. Although the existing neighborhood may consist of structures that are either non-conforming or are not the highest and best use from the Comprehensive Plan, there exists a neighborhood character. A new structure should be able to identify how it relates to the existing surrounding neighborhood.*

- 13. It should be clear by the Zoning Code notes under section 90.49.4 for a Structured Parking Facility and Services Area and Mechanical Equipment that these uses may be integrated with an adjacent permitted use, i.e., for example, a hotel as permitted in H40.**

*The proposed code changes do not suggest that a Structured Parking Facility is a Permitted Use, rather it is recommended as a Conditional Use. Service areas and mechanical equipment are necessary functions and should be included in the Structured Parking Facility section.*

- 14. The code section requiring a minimum eight (8) foot wide and minimum fifteen (15) foot deep separation of wall plane for every 100 feet of a parking garage creates the following problems:**

- **Internal parking safety issues: may impact sight visibility for vehicles backing out of parking spaces and vehicles in drive aisle ramps.**

*Each site plan will be reviewed for traffic circulation and safety issues.*

- **External safety issues – CPTED (Crime Prevention through Environmental Design): the courtyard area created by the cutout of the parking building goes**

against the principles of CPTED. Creating a “cut-out” in the building where potential criminals can hide goes against these CPTED principles.

*The landscape requirements are extensive and would not allow the condition as described above. The “cut-out” would provide significant area for an applicant to meet their landscape requirement. Furthermore, 6 feet of foundation plantings, along with general requirements for landscaping, are required on each site.*

- **The proposed requirements may in violation of the Town’s Comprehensive Plan which encourages the use of innovative land development regulations and maintains regulations requiring the use of CPTED.**

*Staff does not agree that this is a violation of the Comprehensive Plan since this is not against the principles of CPTED, as described above.*

- **These indentations will produce less efficient parking structures, creating another burden to the developer through the loss of parking spaces, therefore affecting cost.**

*The Town is responsible for encouraging designs that are sensitive to the surrounding neighborhood. The indentations give the appearance of breaking up the façade to provide less massing.*

- 15. Proposed regulations do not apply to municipal parking garages. No planning/zoning basis for unequal treatment. If the regulations are intended to mitigate impacts and improve the appearance of structured parking garages in relation to residential development within the Town, then there is no basis to treat municipal parking garages different from private parking garages as the “visual” impact is the same.**

*Municipal parking garages are not exempt from the parking garage standards regarding design. They are not subject to the conditional use requirements, as they are a permitted use in the municipal district.*

**STAFF SUGGESTED CHANGES TO THE ORDINANCE:**

As a result of the above questions, staff is recommending the following changes to the proposed ordinance, which are identified by highlighted text in the ordinance document.

1. **Question #4 indicates the need for a definition for unity of title and question #10 asks for a definition for density.**

Sec. 90-2. Definitions.

*Density: The number of dwelling units per gross acre of land.*

*Gross Acre: The acreage within the perimeter of a lot plus one-half the right-of-way of adjacent streets and alleys.*

*Unity of Title: An agreement executed by and between one or more property owners of more than one lot, which shall not be conveyed, sold, mortgaged, etc. apart from each other and*

shall be held together as one tract. Rights-of-way shall be excluded from the unified lot. Such unity of title shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property owner(s), successors and assigns.

**2. Questions #9 asks if a unity of title will be required for Structured Parking Facilities.**

Sec. 90-41. Regulated uses

Retail and General Commercial Uses	H30A	H30B	H30C	H40	H120	SD-B40
Structured Parking Facility	-	-	CU(23)	CU(23)	CU(23)	-

(23) The annual permit requirements in Section 90-23.6 are not applicable to this use. A unity of title shall be required if the Structure Parking Facility is on a lot other than the lot containing the principal use.

**3. Question #4 asks if the 85% rule will apply to existing aggregated lots or for future aggregated lots.**

90.45.1 Aggregation of lots

(1) In the H30C, H40 and H120 zoning districts, the maximum permitted density shall be limited to eighty-five (85%) percent of the total gross density permitted by the Comprehensive Plan when lots are aggregated. This shall apply to lots aggregated after the effective date of this ordinance.

**4. Question 11 recommends permitting stairways to exceed the maximum height limitations.**

**Sec. 90-44. Modifications of height regulations.**

90-44.1 Architectural elements including cupolas, chimneys, flagpoles, spires, steeples, stair accessways, antennas, ventilators, tanks, parapets, trellises, screens and similar not used for human habitation, may be erected to a reasonable and necessary height, consistent with and not to exceed the following limitations:

TABLE INSET:

Designation	Maximum Height (Feet)	Maximum Percentage of Aggregate Roof Area
H30A	3 FT	1%
H30B	3 FT	1%
H30C	3 FT	10%

Designation	Maximum Height (Feet)	Maximum Percentage of Aggregate Roof Area
H40	12 FT	10%
H120	20 FT	30%
SD-B40	12 FT	10%

90-44.2 Mechanical equipment rooms, including elevator shafts, and stair access ways, may be allowed to exceed the maximum height limitations, not to exceed the limitations listed above, provided they shall be of a high architectural quality integral to the design of the building.

**5. Question 12 requests clarification on the Conditional Use criteria regarding consistency with the character of the immediate neighborhood.**

90-23.2 *Standards of review.* In addition to the standards set forth in this zoning code for the particular use, all proposed Conditional Uses shall meet each of the following standards:

- (1) The proposed use shall be consistent with the Comprehensive Plan and the Zoning Code;
- (2) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare;
- (3) The proposed use shall be consistent compatible with the community character of the immediate neighborhood. In addition to ~~consistency~~ compatibility there must be congruity between the subject development and neighboring improvements and surroundings including but not limited to form, spacing, heights, setbacks, materials, color, rhythm and pattern of architectural or aesthetic interest or value as well as with any overlays and other development schemes or legislation.

**6. Question 13 states that it should be clear by the Zoning Code notes under section 90.49.4 for a Structured Parking Facility and Services Area and Mechanical Equipment that these uses may be integrated with an adjacent permitted use.**

Sec. 90.49.4 Structured parking garages

The following requirements apply to all structured parking garages.

a. Overall form

1. For every fifty (50) feet of a building wall in any direction, there shall be a three (3) foot minimum change in wall plane; and
2. For every one-hundred (100) feet of a building wall parallel to the public right of way, there shall be a minimum eight (8) foot wide and minimum fifteen (15) foot deep separation of wall plane; and
3. Façade treatments fronting a public right-of-way shall provide architectural treatments consistent with and compatible to those across the public right-of-way or abutting properties and consistent with immediate buildings.
4. For the first ten (10) feet of height along all blank walls, a minimum of eighty (80%) percent landscape coverage, such as a vine or hedges, shall be installed and maintained.

5. For facades above the first ten (10) feet, a minimum of fifty (50%) percent landscape coverage, such as vines or planters, shall be installed and maintained.
6. All vegetative coverage shall be maintained and watered appropriately to sustain health and coverage indefinitely without adverse impact to the structure.
7. Service areas and mechanical equipment associated with a primary use are permitted.

**CONCLUSION:**

Town Staff, the P &Z/DRB and the Town Commission have struggled for a number of years with balancing the clear goal of maintaining quality of life, good design principles, environmental sensitivity and the rights of property owners. A recent analysis by the Town Manager titled, the *5 Year Financial Forecasting for the Town of Surfside*, demonstrates the clear impact on the Town that revenues and taxation have on equity issues of various development strategies. That document appears as the first items on this agenda. The proposed amendments to the Town Code balance these seemingly conflicting, but clearly related, goals. It is clear from recent activity in ownership change in major parcels that we must be prepared to guide the development process in a way which is open, professional and based on a modern code. The amendments proposed take the Town of Surfside into a better prepared status to address the impending development.

The following questions have been provided to Town Staff on Tuesday, February 22, 2011. Staff's responses are in italics.

**1. The numbering for Sec. 90-20 is inconsistent.**

*Staff concurs and will correct.*

**2. Provide Section 9J-5.006 of the Florida Administrative Code. When was this enacted? Why hasn't the issue come up before? Provide a calculation for a typical development site showing the increase in square footage provided by this definition.**

*Attached is Rule 9J-5.006 of the Florida Administrative Code. This Rule governs land use planning in the State of Florida. Density is not regulated in the Town's Zoning Code; therefore a definition of density in the Zoning Code was not required. Density in Surfside is only regulated by the Comprehensive Plan, which follows Rule 9J-5.006. However, a definition is now being provided in Section 90.2 of the Zoning Code. There is no increase in square footage since gross density is the method that has always been utilized in the Comprehensive Plan.*

**3. There appears to be no reference to the proximity of the lots included in the aggregation other than they may be separated by a public right-of-way. Shouldn't there be a provision that the lots subject to the aggregation have some "natural" relationship to each other besides title? May lots in opposite ends of the Town be aggregated?**

*Staff concurs. The text has been modified to state that aggregated lots shall be contiguous properties and a definition of contiguous has been added to Section 90.2. Contiguous is defined as "next to, abutting, or touching and having a boundary, property line or portion thereof that is common to both properties." It should be noted that the 85% rule that pertains to aggregated lots will only be applicable to those lots that will be aggregated after the effective date of this ordinance; however the 85% rule is only applicable to contiguous properties.*

**4. If a provision for parking is one of the main driving forces for this definition, shouldn't there be some standard to ensure a reasonable expectation that the lot location will serve that purpose?**

*This has been addressed with the prior submitted questions. A Unity of Title will be required for parking. The Unity of Title is being defined in Section 90.2 as "an agreement executed by and between one or more property owners of more than one lot, which shall not be conveyed, sold, mortgaged, etc. apart from each other and shall be held together as one tract. Such unity of title shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property owner(s), successors and assigns."*

**5. Please support the contention as stated in the answer to submitted question #3 that aggregation "is intended to reduce the overall density of a building."**

*Requiring 85% of permitted density is less than 100% of permitted density.*

- 6. The 85% rule is based on total gross density. Based on the additional square footage provided by the definition referenced above, what is the effective change to the number of units for “typical” development sites? (Current units allowed to go down, but the square footage of the “lot” goes up).**

*Land use is measured in gross density. This rule is, and has been, applicable to all density in the Town of Surfside. Therefore, there is no increase in square footage, but there is a decrease in total density (85%) for aggregated lots.*

- 7. This rule would go in effect after the enactment of the proposed ordinance. Are any of the “in-fill” properties referenced in the Five Year Financial Forecast currently without Unity of Title? (i.e. will this rule have any applicability in the near future if at all?)**

*In order to respond to this question, staff needs to complete a records search through the Clerk of the Courts to determine if the referenced lots have Unity of Title. This question was submitted on Tuesday prior to the Thursday Planning and Zoning Board meeting, which does not provide staff ample time to complete this request. However, the possibility of development extends beyond the in-fill lots described in the Five Year Financial Forecast which will be discussed by the Town Manager at the February 24, 2011 Planning and Zoning Board meeting.*

- 8. Concerns over land use trumping density and intensity in zoning districts were expressed at prior P & Z meetings. Counsel indicated that, if desired, specific language could be added to address this concern. This ordinance refers solely to density “permitted by the Comprehensive Plan.” (Perhaps this leads the Town in the opposite direction; it doesn’t even reference the “lesser of.”)**

*There is no density provision included in the Zoning Code. Although there have been discussions about density, staff has not been given direction to add density to the Zoning Code.*

- 9. This rule does nothing to address the length, width and size of buildings allowed on aggregated lots.**

*The 85% rule addresses density only. The other controlling factors in the code address massing, such changes in wall plane, height variations, setbacks, parking, landscaping and transparency requirements. Further, the proposed Development Impact Committee (DIC) will deal with the concerns you have expressed regarding the length, width and size of buildings. The meetings for the DIC will be noticed and open to the public. Finally, the Planning and Zoning Board may recommend modifications to the development orders prepared by the DIC with the ultimate decision remaining with the Town Commission.*

- 10. Provide a typical developer’s agreement.**

*There is no typical developer’s agreement. The Town has done this process informally through negotiations at the City Commission meeting. The developer’s agreement will formalize how the developer will address onsite and/or offsite issues.*



# 1-ACRE OCEANFRONT PARCEL ACQUIRED FOR \$25 MILLION

by Eric Kalls  
ekalls@alm.com

A Miami Beach-based hotel investor has paid a boom-era price for an oceanfront parcel and parking lot in Surfside.

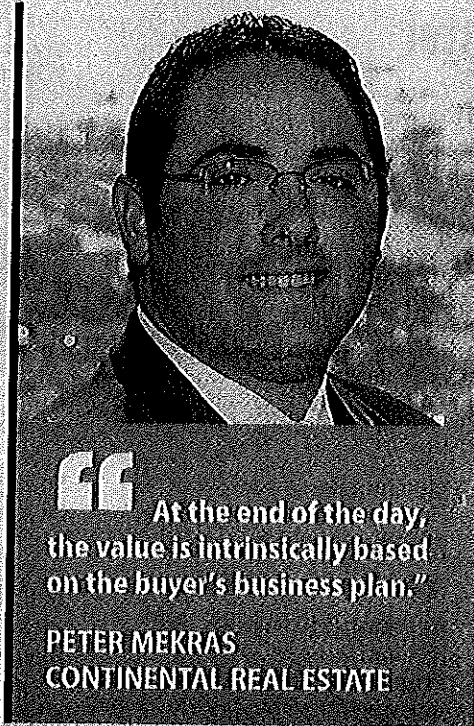
Beach House Hotel, a Miami Beach company managed by investor Jacques G. Murray, purchased the vacant 1.03-acre site and 20,250-square-foot parking lot at 9419 Collins Ave. for \$25.1 million on Feb. 17, according to Miami-Dade County records. Miami-Dade recorded the transaction on Wednesday.

Miami attorney Steven Zelkowitz, managing shareholder at GrayRobinson, represented Beach House Hotel in the acquisition. Zelkowitz confirmed that the company is a subsidiary of the Murray Group and that the acquisition did occur, but declined further comment.

Murray is a Montreal native who has an office at Miami Beach's Grand Beach Suites hotel — which is owned by another company he manages.

No financing was recorded with the transaction.

The Surfside land is the former site of the 170-room Palms Resort on the Ocean. The previous owner, Beach House Property, razed the hotel in 2007. Beach House Property paid \$26.45 million for the hotel and parking lot in 2004.



“At the end of the day, the value is intrinsically based on the buyer’s business plan.”

PETER MEKRAS  
CONTINENTAL REAL ESTATE

Beach House Property obtained a \$40.5 million loan from South Dakota-based BankFirst in 2006. BankFirst later failed, and an affiliate of Plano, Texas-based Beal Bank acquired the mortgage from the Federal Deposit Insurance Corp.

Beach House Property filed for Chapter 11 bankruptcy protection in 2008, according to U.S. Bankruptcy Court records. Beal, which was owed \$40.5 million for the mortgage, took title to the properties through an auction in July 2010.

A Beal Bank spokesman declined to comment.

Holliday Penoglio Fowler managing director Hermon Rodriguez and director Iko Ojala marketed the properties for the bank.

In six weeks of marketing, the brokers received significant interest from both hotel and condominium developers,

Rodriguez said.

“There was incredible demand, even before we went out to market,” he said. “The strength of the Surfside market and proximity to Bal Harbour gave [potential buyers] no doubt about the ability to sell units or get folks to stay there. The size of the property is very manageable and can be developed quickly.”

SEE SURFSIDE, PAGE A8

ATTACHMENT 3

# SURFSIDE: Land's sale price far exceeds assessed value

Beach House Hotel could be trying to capitalize on the momentum of Grand Beach Suites with a hotel project in Surfside, according to Guy Trusty, president of Coral Gables-based Lodging & Hospitality Realty Advisors. Trusty was not involved in the transaction.



Trusty

"That is the newest hotel on Miami Beach, and from what I hear it's doing well," Trusty said. "They know the market and apparently found the opportunity to duplicate the success of Grand Beach."

Beach House Hotel affiliate OBR Ltd. completed Grand Beach Suites, at 4835 Collins Ave., in 2009, according to the office of the Miami-Dade County property appraiser.

The previous owner of the Surfside land, Beach House Property, likely intended to develop a hotel-condominium, Trusty said.

Hotel-condo projects were popular during the real estate boom, but many attempted developments collapsed after the market turned.

At \$156,000 per unit "you almost have to do a condo-hotel," he said. "It was a good concept, but people abused it."

If the new owners plan to develop a new luxury hotel with the same number of units — 170 — as the original, the purchase price per room would be about

\$148,000.

"The zoning rarely allows you to [build] more than what was previously there," Trusty said. "The per-unit price for the land is quite high. But with so few hotel sites in the Surfside area, this would be a great place for a high-end luxury hotel."

The price far exceeds the assessed value of the land. Miami-Dade County most recently valued the properties at \$10.19 million.

The land could have been under-assessed by county appraisers due to a lack of comparable recent land sales, according to Peter Mokras, vice president at Coral Gables-based Continental Real Estate. Mokras was not involved in the transaction.

"The appraisers probably had limited data points to rely upon," Mokras said. "Comparable sales are virtually the only way to value vacant land. At the end of the day, the value is intrinsically based on the buyer's business plan; the only question is whether financing will be available for a large-scale vertical project."

An uptick in vacant land sales is on the horizon for 2011, Mokras said.

"In the last two years, the only land sales that occurred, other than distressed deals, were for horizontal construction," he said. "Now the market is starting to trade sites intended for vertical construction."

Eric Kalls can be reached at (305) 347-6651.

ORDINANCE NO. 2011 \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-2 "DEFINITIONS", AMENDING SECTION 90-20. "DEVELOPMENT REVIEW REQUIREMENTS" TO ESTABLISH A DEVELOPMENTAL IMPACT COMMITTEE; AMENDING SECTIONS 90-23 "CONDITIONAL USES"; 90-41 "REGULATED USES"; 90-45. "SETBACKS."; 90-45.1 "AGGREGATION OF LOTS"; SECTION 90-44 THROUGH SECTION 90-67 RELATING TO DESIGN REVIEW GUIDELINES; SECTION 90-73 "PROHIBITED SIGNS."; SECTION 90-87 INSTALLATION OF LANDSCAPING AND IRRIGATION; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, The Town Commission and Planning & Zoning Board held a Joint Meeting on November 4, 2010 to discuss potential changes to the Zoning Code; and

**WHEREAS**, Town staff analyzed the code and provided solutions to the challenges presented at the Joint Meeting by preparing recommendations for code changes; and

**Whereas** the changes were presented at the December 9, 2010 Joint Meeting at which it was determined by consensus that the proposed changes would add or expand layers of protection, increase focus on the major issues of concern to our citizens and will help to preserve the unique flavor and lifestyle of Surfside; and

**Whereas**, the proposed code changes were presented for discussion to the Planning and Zoning Board at their January 27, 2011 meeting, suggested amendments were prepared and presented finally to the Planning and Zoning Board at their February 24, 2011 meeting sitting as the Local Planning Agency with due public notice and input; and

**WHEREAS**, the Town Commission held its first public reading on March 8, 2011 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 reading on April 12, 2011 and further finds the proposed change to the Code necessary and in the best interest of the community.

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

**Section 1. Recitals.** The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

**Section 2. Code Amendment.** The code of the Town of Surfside, Florida is hereby amended as follows:

#### ARTICLE I. IN GENERAL

##### Sec. 90-2. Definitions.

*Aggregation: The combining of lots through a unity of title, a covenant in lieu or the platting process.*

*Contiguous: Next to, abutting, or touching and having a boundary, property line or portion thereof that is common to both properties.*

*Density: The number of dwelling units per gross acre of land.*

*Gross Acre: The acreage within the perimeter of a lot plus one-half the right-of-way of adjacent streets and alleys.*

*Unity of Title: An agreement executed by and between one or more property owners of more than one lot, which shall not be conveyed, sold, mortgaged, etc. apart from each other and shall be held together as one tract. Such unity of title shall be recorded in the public records of Miami-Dade County, Florida and shall run with the land and shall be binding upon the property owner(s), successors and assigns.*

##### Sec. 90-20. Development review requirements for submittals other than single-family and two-family.

(1) Generally. Review and approval of a site plan by staff reviewing agencies, the design review board, and the Development Impact Committee, the planning and zoning board, and the Town Commission is required prior to any development of land in the town.

\*\*\*

(4) Developmental Impact Committee.

- (a) There is hereby established a Developmental Impact Committee composed of seven (7) members representing the following Town departments and disciplines:
- i. Town Manager
  - ii. Town Attorney
  - iii. Public Works / Landscape
  - iv. Planning and Zoning
  - v. Park and Recreation Department.
  - vi. Engineering and Traffic Engineering
  - vii. Building
- (b) The Developmental Impact Committee shall review all developments (except single family and two-family homes) and recommend where applicable, whether, and the extent to which:
- i. The development, as proposed, conforms to the Comprehensive Plan and the Zoning Code;
  - ii. The development, as proposed, will have a favorable or unfavorable impact on the environment and natural resources, including a consideration of the means and estimated cost necessary to minimize the adverse impacts, if any;
  - iii. The development, as proposed, will have a favorable or unfavorable impact on the economy of the Town of Surfside;
  - iv. The development, as proposed, will efficiently use or unduly burden water, sewer, solid waste disposal, education, recreation or other necessary public facilities which have been constructed or planned and budgeted for construction in the area;
  - v. The development, as proposed, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, public streets, and roads, which have been planned and budgeted for construction in the area, and if the development is or will be accessible by private or public roads or streets.
  - vi. The development, as proposed, is consistent with the community character of the immediate neighborhood. In addition to consistency there must be congruity between the subject development and neighboring improvements and surroundings including but not limited to form, spacing, heights, setbacks, materials, color, rhythm and pattern of architectural or aesthetic interest or value as well as with any overlays and other development schemes or legislation.
  - vii. In the event of redevelopment, applicant shall also submit a detailed plan for demolition.
- (c) The Committee shall meet prior to the Planning and Zoning Board's hearing on the application. The Committee shall be chaired by the Town Manager. The Town Manager or designee shall prepare a summary report of the development application to be distributed to and reviewed by the Development Impact Committee prior to the Committee meeting.

- (d) The Town Manager or designee shall prepare a summary report of the results of the Development Impact Committee to be transmitted to the Planning and Zoning Board and Town Commission upon their review of the development application.
- (e) The Committee shall review and make recommendations pursuant to the criteria stated in (2) to the Planning and Zoning Board and Town Commission whether, and to the extent to which, the development will efficiently use or unduly burden water, sewer, solid waste disposal, education, recreation or other necessary public facilities or public transportation facilities, including roads and streets, which have been constructed or planned and budgeted for construction in the area, and whether the proposed development will have a favorable or unfavorable impact on the economy of the Town of Surfside.
- (f) No public hearing shall be held by any board on any application subject to review by the Developmental Impact Committee until the Committee has made its recommendations with regard thereto.
- (g) Development Impact Committee Meetings shall be noticed on the Town website and shall be open to the public who may comment during a specific time scheduled on the agenda.

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. PLANNING AND ZONING BOARD

#### Sec. 90-23. Conditional uses.

90-23.1 Purpose. ~~Conditional Uses are generally compatible with the other land uses permitted in a zoning district but, because of their unique characteristics or potential impacts on the surrounding neighborhood and the Town as a whole, require individual review as to their location, design, configuration, and/or operation for the particular use at the particular location proposed, as well as the imposition of individualized conditions in order to ensure that the use is compatible with the surrounding neighborhoods and appropriate at a particular location. The purpose of this section is to provide a process which is designed to determine if certain uses, hereafter referred to as conditional uses, should be permitted. Special review of conditional uses is required because such uses are generally of a public or semipublic character and are essential and desirable for the general convenience and welfare of the community, but because of the nature of the use and possible impact on neighboring properties, require the exercise of planning judgment on location and site plan.~~

90-23.2 Standards of review. ~~In addition to the standards set forth in this zoning code for the particular use, all proposed Conditional Uses shall meet each of the following standards:~~

- (1) The proposed use shall be consistent with the Comprehensive Plan and the Zoning Code;
- (2) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare;
- (3) The proposed use shall be compatible with the community character of the immediate neighborhood. In addition to compatibility there must be congruity between the subject development and neighboring improvements and surroundings including but not limited

to form, spacing, heights, setbacks, materials, color, rhythm and pattern of architectural or aesthetic interest or value as well as with any overlays and other development schemes or legislation.

- (4) Adequate provisions shall be included for safe traffic movement, both vehicular and pedestrian, both internal to the use and in the area which will serve the use;
- (5) Adequate measures exist including landscaping or other buffering measures or shall be taken to mitigate any adverse effects of noise, light or other potential nuisances; and
- (6) The establishment of the Conditional Use shall not impede the development of surrounding properties for uses permitted in the zoning district; and
- (7) Any other condition imposed by the Design Review Board and/or the Development Impact Committee.

~~Conditional uses enumerated. The following uses may be approved by the town commission as conditional uses in any district in which they are specifically allowed, as indicated within the provisions for individual zoning districts. Approval of such conditional use(s) in accordance with the procedures and standards of this section shall only be granted where it has been clearly shown that the public health, safety, morals, and general welfare will not be adversely affected; that adequate off-street parking facilities, in accordance with this chapter, will be provided; and that necessary safeguards will be provided for the protection of surrounding property:~~

- ~~(1) Institutions, educational or philanthropic, including museums, but not including nursing homes or hospitals.~~
- ~~(2) Off street parking lots and garages.~~
- ~~(3) Public and governmental buildings.~~
- ~~(4) Public utilities or public service uses, buildings, structures and appurtenances thereto.~~
- ~~(5) A bar accessible from the pool or pool deck for use solely by guests of hotels and their guests in the IH20 district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.~~

**90-23.3 Applications requirements.** No use designated, as a Conditional Use shall be established until after such use has received approval under the provisions of this section and has received all other permits required by the Town. An application for conditional use approval shall be filed with the Town. The application shall include:

1. An illustrative site plan unless the Conditional Use is part of a development requiring Site Plan approval pursuant to Section 90-20.2, in which case all site plan requirements in Section 90-20 shall apply.
2. An application fee, as established by the Town Commission.
3. A written summary of the proposed project.
4. Ownership affidavit and owner's sworn statement to consent, if applicable.
5. A survey less than one year old including owner's affidavit that no changes have occurred since the date of the survey

~~Site plan required. Each application for approval for a conditional use shall be accompanied by a site plan. Such site plan shall be prepared in accordance with the provisions of subsection 90-~~

20(3)b. In addition, each application shall be accompanied by a letter and survey indicating compliance with all of the provisions of subsection 90-20(3)b., and any additional information as may be required to permit a determination of the exact nature of the proposed use and its effect on surrounding properties, the adjacent neighborhood, and its consistency with the town's adopted comprehensive plan.

**90-23.4 Procedures; eConditional uUses.** Application and fee shall be submitted to the tTown for a eConditional uUse review and are subject to the requirements of section 90-23. Applications for approval of a eConditional uUse shall be heard by the pPlanning and zZoning board for a recommendation to the tTown eCommission. The pPlanning and zZoning board's report may contain recommendations regarding conditions which should be imposed by to the tTown eCommission in approving the eConditional uUse. The tTown eCommission may establish these and/or additional conditions for an approval by a simple majority vote. Outdoor dining facilities, hotel swimming pools, etc. shall be required to obtain an annual Conditional Use permit. The permit will dictate hours of activity and other conditions necessary to provide compatibility with the surrounding neighborhood.

**90-23.5 Conditional Use Expiration.** The approval of a eConditional uUse shall be void if the applicant does not obtain a building permit or other permit required to implement the eConditional uUse within 24 months after the granting of the eConditional uUse. An applicant who has obtained approval of a eConditional uUse may request an extension of this time period within the original approval period. The tTown eCommission, at its discretion, may grant one or more extensions for a period of up to a total of six months for good cause shown by the applicant.

**90-23.6 Annual Permit Requirements.** After approval by the Town Commission, a Conditional Use shall be required to obtain an annual permit. The Town Manager or designee shall review the annual permit application to determine if the Conditional Use continues to comply with the Standards of Review in Section 90-23.2 and any additional conditions approved by the Town Commission. This permit shall include a fee as established by the Town Commission. The permit shall be submitted for and proceed concurrently with the annual Business Tax Receipt.

**90-23.7 Revocation.** If the Conditional Use fails to meet the Standards of Review in Section 90-23.2 or the conditions approved by the Town Commission, a Conditional Use permit may be rescinded after the Conditional Use permit holder has been notified of these deficiencies. An administrative decision to revoke by the Town may be appealed to the Town Manager within thirty (30) days of the revocation. The Town Manager shall schedule an informal hearing with the applicant and his decision shall be rendered within ten days of the meeting in writing. That decision will be considered final. Any decision made by the Town Manager regarding Conditional Use permits may be appealed to the Town Commission.

**ARTICLE IV. 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 herein.



(a) *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.

(b) *Permits required.* Except as explicitly provided herein, 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.

(c) *Table--Regulated uses.*

TABLE INSET:

	H30A	H30B	H30C	H40	H120	SD-B40
<b>Residential Uses</b>						
Detached single-family	P(1)	P(1)	P(1)	P(1)	P(1)	-
Duplex	-	-	P	P	P	-
Multi-dwelling structure	-	-	P	P	P	-
Townhouse	-	-	P	P	P	-
<b>Lodging uses</b>						
Hotel	-	-		P(7)	P(7)	-
Suite-Hotel	-	-		P(7)	P(7)	-
<b>Office Uses and Professional Services</b>						
Banks	-	-	-	-	-	P
Business and professional offices, except veterinary offices	-	-	-	-	-	P
Currency exchange	-	-	-	-	-	P
Delivery service	-	-	-	-	-	P(9)
Employment agencies	-	-	-	-	-	P(9, 17)
General ticket agencies			-	-		P
Interior decorator	-	-	-	-	-	P
Loan or mortgage office	-	-	-	-	-	P(9)
Medical or dental clinic	-	-	-	-	-	P(9)

	H30A	H30B	H30C	H40	H120	SD-B40
Psychic reading, advising, and consulting, palmistry, clairvoyance, astrological interpretation, tarot card reading, spiritual consultation or fortune telling	-	-	-	-	-	P(9)
Radio or television station or studio	-	-	-	-	-	P(9)
Savings and loan associates	-	-	-	-	-	P
Secretarial service, mailing, bookkeeping, court reporter	-	-	-	-	-	P(9)
Stocks and bond brokers	-	-	-	-	-	P
Taxi agency	-	-	-	-	-	P(9)
Telegraph station	-	-	-	-	-	P
Telephone exchange	-	-	-	-	-	P
Title company	-	-	-	-	-	P(9)
Travel agency	-	-	-	-	-	P
Retail and General Commercial Uses						
Antique shops	-	-	-	-	-	P
Appliances	-	-	-	-	-	P
Art and photograph galleries	-	-	-	-	-	P
Art dealers	-	-	-	-	-	P
Art supplies	-	-	-	-	-	P
Beauty/personal services	-	-	-	-	-	P(19)
Health club or studio	-	-	-	-	-	P(16,19)
Books and newspaper	-	-	-	-	-	P
Cigars and tobacco	-	-	-	-	-	P
Coin-operated machines			-	-		P(15)
Department stores	-	-	-	-	-	P
Drug stores and sundries	-	-	-	-	-	P

	H30A	H30B	H30C	H40	H120	SD-B40
Dry cleaning and laundry agency	-	-	-	-	-	P(10)
Dry goods			-	-		P
Flowers and plants	-	-	-	-	-	P
Furniture	-	-	-	-	-	P(14)
Furrier	-	-	-	-	-	P
Gift shops			-	-		P
Hardware, paint and wallpaper	-	-	-	-	-	P
Jewelry	-	-	-	-	-	P
Locksmith	-	-	-	-	-	P(11)
Luggage			-	-		P
Men's, women's, children's clothing	-	-	-	-	-	P
Millinery	-	-	-	-	-	P
Office machines and supplies	-	-	-	-	-	P
Pet supplies			-	-		P
Photographers and camera stores	-	-	-	-	-	P
Pottery	-	-	-	-	-	P
Sale of televisions, radios, phonograph and recording equipment	-	-	-	-	-	P
Sheet music and musical instruments			-	-		P
Shoe repair	-	-	-	-	-	P(20)
Shoes	-	-	-	-	-	P
Sporting goods			-	-		P
Stationery and greeting cards	-	-	-	-	-	P
<u>Structured Parking Facility</u>	-	-	<u>CU(23)</u>	<u>CU(23)</u>	<u>CU(23)</u>	-
Tailor	-	-	-	-	-	P
Toys	-	-	-	-	-	P

	H30A	H30B	H30C	H40	H120	SD-B40
Video tapes sales and rentals	-	-	-	-	-	P(12)
<b>Food Services</b>						
Bakeries	-	-	-	-	-	P(8)
Candy and nut shops			-	-		P(13)
Caterers	-	-	-	-	-	P
Confectionary and ice cream stores	-	-	-	-	-	P(13)
Delicatessens	-	-	-	-	-	P(13)
Fruit shops			-	-		P(13)
Grocery and meat stores or supermarkets	-	-	-	-	-	P(13)
Liquor stores	-	-	-	-	-	P(13)
Restaurants	-	-	-	-	-	P(13)
<u>Outdoor dining facilities</u>						<u>CU</u>
<b>Educational Services</b>						
Dance or music instruction studios	-	-	-	-	-	P(9, 16)
Driving school offices			-	-		P(9, 21)
<u>Institutions, educational or philanthropic, including museums</u>						<u>CU</u>
Modeling school, language school, or athletic instruction	-	-	-	-	-	P(9)
Public schools	-	-	P	P	-	-
<b>Places of Assembly</b>						
See RLUIPA Map and Ordinance 07-1479	-	-	P	-	-	P
<b>Civic Uses</b>						
Parks and open space	P	P	P	P	P	-
Playgrounds	P	P	P	P	P	-

Key: P: Permitted Blank: Not Permitted (#): Refer to Notes CU: Conditional Use

TABLE INSET:

Uses	Municipal	Community Facilities
Library	P	P
Parks & Open Space	P	P
Playgrounds	P	P
Community Center	P	P
Gymnasiums	P	P
Town Offices	P	P
Police Facilities	P	P
Pump Stations	<del>P</del> - <u>CU(23)</u>	<del>P</del> - <u>CU(23)</u>
Parking	P	-

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted

TABLE INSET:

Accessory uses	H30A	H30B	H30C	H40	H120	SD-B40
Boat docks + moorings	P(2)	-	-	-	-	-
Game courts	P(2)	P(2)	P(2)	P(2)	P(2)	-
Home Bar-B-Q grills	P(2)	P(2)	P(2)	P(2)	P(2)	-
Laundry/service rooms	-	-	P(5)	P(5)	P(5)	-
Office spaces	-	-		P(3)	P(3)	-
Recreational rooms	-	-	P(4)	P(4)	P(4)	-
Subordinate buildings	-	-		-	-	P(18)
Swimming pools	P(2)	P(2)	P(2)	P(2)	P(2)	-
<u>Hotel swimming pools</u>	-	-	<u>CU(2)</u>	<u>CU(2)</u>	<u>CU(2)</u>	-
Vending machines	-	-	P(6)	P(6)	P(6)	-
<u>Bar</u>	-	-	-	-	<u>CU(22)</u>	P
<u>Outdoor dining facilities</u>				<u>CU</u>	<u>CU</u>	

Key: P: Permitted (#): Refer to Notes Blank: Not Permitted CU: Conditional Use

(d) *Uses table notes.*

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(22) A bar accessible from the pool or pool deck for use solely by guests of hotels and their guests in the H120 district. In all cases, it shall be the exclusive responsibility of the owner, operator, tenant or user of the property to assure that neither the sale nor consumption of beverages shall occur or be allowed to occur off the property or on any portion of the property lying east of the bulkhead line.

(23) The annual permit requirements in Section 90-23.6 are not applicable to this use. A unity of title and a covenant shall run with the land if a Structured Parking Facility is located on a different lot from the main facility. So long as the main lot remains developed, the parking lot shall remain.

**Sec. 90-45. Setbacks.**

(b) *Setbacks.*

(1) *Required Setbacks--Tables:* The following tables shall be utilized for structures in the H30C, H40, H120, and SD-B40 zoning districts.

TABLE INSET:

H30C	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT
Interior side setbacks for lots over 50 feet in width	10% of the frontage

TABLE INSET:

H40 - Harding Avenue + Less than or equal to 50 ft in width	Minimum Setback (Feet)
Primary frontage	20 FT
Interior side	5 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

TABLE INSET:

H40 - Harding Avenue + Wider than 50 ft and less than 100 ft	Minimum Setback (Feet)
Primary frontage	20 FT

Interior side	7 FT
Rear	10 FT
Secondary frontage (Corner only)	10 FT

TABLE INSET:

<del>H40 – Harding Avenue + Wider than or equal to 100 ft –</del>	<del>Minimum Setback (Feet) –</del>
<del>Primary frontage –</del>	<del>20 FT –</del>
<del>Interior side –</del>	<del>7 FT –</del>
<del>Rear –</del>	<del>10 FT –</del>
<del>Secondary frontage (Corner only) –</del>	<del>10 FT –</del>

TABLE INSET:

H120	Minimum Setback (Feet)
Primary frontage	40 FT
Interior side	10 FT
Rear	30 FT
Secondary frontage (Corner only)	20 FT

TABLE INSET:

SD-B40	Maximum Setback (Feet)
Primary frontage	0 FT
Interior side	0 FT
Rear	0 FT
Secondary frontage (Corner only)	0 FT

TABLE INSET:

CF	Maximum Setback (Feet)
Primary frontage	20 FT
Interior side	10 FT
Rear	20 FT

Secondary frontage (Corner only)	15 FT
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**Sec. 90-44. Modifications of height regulations.**

*90-44.1* Architectural elements including cupolas, chimneys, flagpoles, spires, steeples, stair accessways, antennas, ventilators, tanks, parapets, trellises, screens and similar not used for human habitation, may be erected to a reasonable and necessary height, consistent with and not to exceed the following limitations:

TABLE INSET:

Designation	Maximum Height (Feet)	Maximum Percentage of Aggregate Roof Area
H30A	3 FT	1%
H30B	3 FT	1%
H30C	3 FT	10%
H40	12 FT	10%
H120	20 FT	30%
SD-B40	12 FT	10%

*90-44.2* Mechanical equipment rooms, including elevator shafts, and stair access ways may be allowed to exceed the maximum height limitations, not to exceed the limitations listed above, provided they shall be of a high architectural quality integral to the design of the building.

*90-44.3* In the H120 district, on lots or parcels where construction is regulated by the State of Florida Coastal Construction Code, maximum height shall be measured from ~~whatever the established elevation is~~ established determined by the Florida Department of Environmental Protection for the first floor.

*90.44.4* Height variations among architectural elements shall be of no less than five (5) feet in variation.

*90.44.5* Buildings with one continuous height shall be prohibited.

**90.45.1. Aggregation of lots.**

- (1) For all lots aggregated in the H30C, H40 and H120 zoning districts after the effective date of this ordinance, the maximum permitted density shall be limited to eighty-five (85%) percent of the total gross density permitted by the Comprehensive Plan when lots are aggregated.
- (2) Two or more lots of record shall be considered one undivided parcel for the purpose of use if there is a recorded unity of title demonstrating single ownership of two or more parcels. However, the underlying land use or zoning shall prevail as to the permitted use on each of the lots.



- (3) Aggregated lots shall be contiguous properties but may be separated by a public right-of-way.

**Sec. 90-47. Yards generally, allowable projections.**

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**90-47.2** In all districts excepts SD-B40, Mmoveable awnings may be placed over doors or windows and may project not more than three feet into any required yard. In the SD-B40 district, awnings and non-permanent canopies may project over the public sidewalk, but shall not be greater than six (6) feet or the width of the sidewalk, whichever is less.

**Sec. 90-49.1 Entrances, windows and storefronts**

The following Design Criteria are applicable to all multi-dwelling and non-residential properties

- a. All building facades, including those facing alleyways, shall be rendered consistently with the overall architectural treatment of the building.
- b. Pedestrian entrances shall be easily recognizable and oriented towards the public right-of-way.
- c. Divided light window mullions, where provided, shall be through the pane.
- d. Exterior burglar bars, fixed “shutters” or similar security devices shall be prohibited.
- e. Window and storefront articulations shall utilize similar proportions as those within the surrounding context and shall be primarily oriented towards the public right-of-way.
- f. Multiple storefronts within a larger building shall have consistent materials and articulation and shall relate to the detailing of the entire building.
- g. The bottom edge of windows shall be no less than twenty-four (24) inches above the fronting finished sidewalk elevation.
- h. For non-residential uses, the first vertical ten (10) feet of building elevation shall be composed of fifty (50%) percent minimum transparency for street-facing building facades and walls. The bottom of transparent openings shall be no higher than twenty-four (24) inches above the public right-of-way. Display windows used to satisfy these requirements shall have a minimum vertical dimension of four (4) feet and shall be internally illuminated.
- i. Mirrored, reflective and opaque tinted glass shall be prohibited.
- j. External street-level entrances shall be recessed and centered a minimum of thirty-six (36) inches from the building frontage.

**Sec. 90-49.2 Awnings and canopies**

The following Design Criteria are applicable to all multi-dwelling and non-residential properties. All new and replacement awnings and canopies shall meet these requirements.

- a. Awnings and canopies shall have consistent height and depth.
- b. Awnings and canopies shall remain consistent with architectural details and proportions harmonious with the overall building design and historic context.
- c. Awnings and canopies shall be consistent on multiple storefronts within a larger building.
- d. Awnings shall be fabric or metal. Plastic awnings are prohibited.

- e. Awnings shall be solid colors rather than patterned.
- f. Awnings shall utilize down lighting. Backlighting shall be prohibited.
- g. Awning valances shall be straight rather than curved, except for special architectural elements to be compatible with historic building styles.
- h. Awnings shall be attached to the building façades and shall not be supported by vertical elements within the right-of-way.

### **Sec. 90-49.3 Materials and finishes**

The following Design Criteria are applicable to all multi-dwelling and non-residential properties.

- a. The surface shall be stucco, stone, metal, glass block and accent wood. Materials vernacular or characteristic to other regions including but not limited to flagstone and adobe shall be prohibited.
- b. Materials shall be true and genuine, rather than simulated. Multiple storefronts within a larger building shall have consistent material qualities and articulation.

### **Sec. 90.49.4 Structured parking garages**

The following requirements apply to all structured parking garages.

#### **a. Overall form**

- (1) For every fifty (50) feet of a building wall in any direction, there shall be a three (3) foot minimum change in wall plane; and
- (2) For every one-hundred (100) feet of a building wall parallel to the public right of way, there shall be a minimum eight (8) foot wide and minimum fifteen (15) foot deep separation of wall plane; and
- (3) Façade treatments fronting a public right-of-way shall provide architectural treatments consistent with and compatible to those across the public right-of-way or abutting properties and consistent with immediate buildings.
- (4) For the first ten (10) feet of height along all blank walls, a minimum of eighty (80%) percent landscape coverage, such as a vine or hedges, shall be installed and maintained.
- (5) For facades above the first ten (10) feet, a minimum of fifty (50%) percent landscape coverage, such as vines or planters, shall be installed and maintained.
- (6) All vegetative coverage shall be maintained and watered appropriately to sustain health and coverage indefinitely without adverse impact to the structure.
- (7) Service areas and mechanical equipment associated with a primary use are permitted.

#### **b. Ground Floor Level Façade**

- (1) Facades shall not provide wall openings greater than eight (8) feet in any direction, except for ingress and egress purposes. All wall openings, except for ingress and egress purposes, shall be separated by a minimum five (5) foot wide wall.

## **Sec. 90-62. Outdoor lighting.**

The following are applicable to all multi-dwelling and non-residential properties.

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- g. All lighting shall be controlled by photocell controls.

## **90-67.1 Service areas and mechanical equipment**

The following are applicable to all multi-dwelling and non-residential properties.

- a. Service bays, mechanical equipment, garbage and delivery areas, shall be fully enclosed, screened or located within the interior of the building. These areas shall not be visible from the right-of-way and shall not be visible from properties with adjacent residential or hotel uses.
- b. Central air conditioning shall be required for trash rooms.
- c. All mechanical equipment shall be architecturally screened.

## **90-67.2 Underground and above-ground utilities**

The following are applicable to all multi-dwelling and non-residential properties.

- a. All utilities including telephone, cable, and electrical systems shall be installed underground.
- b. All exterior facilities, including but not limited to electrical raceways and transformers, permitted above ground shall be fully concealed and screened.

## **Sec. 90-73. Prohibited signs.**

**90-73.1** No sign shall be erected, constructed, or affixed in violation of the provisions of these regulations, and any sign not specifically provided for and permitted by these regulations shall be prohibited. None of the following signs shall be constructed, erected, used, operated or maintained in the town:

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(m) Electronic signs either installed inside for view through windows or on the exterior of the building.

## **Sec. 90-87. Installation of landscaping and irrigation.**

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~~(4) Garage and rooftop landscaping. Not less than 50 percent of rooftop areas of buildings that are ancillary to and are visible from upper level dwelling or hotel units on the same site shall be screened or buffered through the use of landscaped horizontal trellis structure, shade or palm trees in irrigated planters, canopies, screening walls enclosing mechanical equipment and/or through the decorative surface treatments of float roof areas with patterns of gravel or other surfacing materials in varying shades and hues to create a graphic composition. Not less than 50 percent of open rooftop parking on garage structures adjacent to upper level residential and hotel~~

~~units shall be screened through the used of trellis structures, canopies or shade or palm trees in irrigated planters. All parking structures require irrigated planters with plant material that screens and buffer the parking structures on all sides.~~

**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.

PASSED and ADOPTED on first reading this 8<sup>th</sup> day of March, 2011.

PASSED and ADOPTED on second reading this \_\_\_\_ day of \_\_\_\_\_, 2011.


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Daniel Dietch, Mayor

**Attest:**

\_\_\_\_\_  
Debra E. Eastman, M.M.C., Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:**

  
\_\_\_\_\_  
Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: \_\_\_\_\_

On Second Reading Seconded by: \_\_\_\_\_

**Vote:**

Mayor Dietch	yes	_____	no	_____
Vice Mayor Graubart	yes	_____	no	_____
Commissioner Karukin	yes	_____	no	_____
Commissioner Kopelman	yes	_____	no	_____
Commissioner Olchyk	yes	_____	no	_____



## Town of Surfside Commission Communication

**Agenda Item #** 4B3

**Agenda Date:** March 8, 2011

**Subject:** Master Utility System Bond Ordinance

**Background:** The Town of Surfside water, sewer and storm drainage systems have been allowed to deteriorate to a point where the need to replace, upgrade or complete major repairs is no longer a choice. We are under a consent decree that if not satisfied soon will cause significant financial risk to the Town; the loss of water from a leaking water system is extremely wasteful and not sensitive to the environment; the infiltration of groundwater to our sewer system causes the Town to experience increased sewage treatment costs by as much as 40 percent in the rainy season; and, we are not meeting our obligation to discharge clean storm water into Biscayne Bay after storm events.

To resolve these longstanding issues, the Town of Surfside engaged the firm of Calvin Giordano and Associates (CGA) to study the problem, provide recommendations, design a feasible project, prepare plans and specifications for competitive bidding, evaluate the bids, obtain permits, develop a public information program and monitor the project during construction. All these activities up to and including the preparation of plans and specifications have been completed. The Town Commission approved a pre-qualified short list of seven bidders and the final bidding process will soon be underway. This information collectively summarizes where we are on the construction side of this project.

There have also been a number of briefings for the Town Commission and a citizen oversight committee regarding the financing of the project. This process started with the retention of the firm TischlerBise to prepare a rate study that would recommend rates for water, sewer and storm drainage sufficient to fund operation of the system, payment of debt, provide adequate reserves to maintain the system in first class condition and allow potential rate increases to be "smoothed" if we received extremely high cost increases for water and sewage treatment from Miami Dade County which provides both services. The Town Commission adopted the first year rate adjustments as part of the FY 10/11 Budget process after two public hearings.

**Public sector bonded indebtedness in general:** While long term debt in the public sector takes many forms, essentially bonds are either general obligation (subject to referendum since the full faith and credit of the community is pledged through ad valorem taxes) or revenue

bonds which pledge the revenue of the system. **It is important to be abundantly clear that no property taxes are pledged to the proposed water, sewer, and storm drainage project bonds.**

**How this bond ordinance works:** The bond ordinance is comparable to a mortgage on a piece of property. It is not actually a mortgage because public property cannot be mortgaged in Florida law, however, the bond ordinance sets the provisions of the debt just as a mortgage sets the provisions of the debt for a piece of property. This bond ordinance will authorize and or require the Town of Surfside to do the following things:

- Borrow an amount not to exceed \$16 million to fund the cost of upgrades, repairs and replacements to the water, sewer and storm drainage systems. It will also allow certain project related activities if funds are available, including a street tree program, new street signs, upgrades to the traffic calming devices and possibly a contribution to the undergrounding of utilities. This amount of money is called “Series A” in the event that future Town Commissions want to borrow additional funds for water, sewer, and storm drainage projects if required in 2011. The benefit of this series structure is that a new ordinance does not have to be developed for future financings. The additional funds would still require first and second readings of an amendment.
- The pledge for the debt is clearly established as the revenues for the water, sewer, storm drainage system. **There are no ad valorem taxes pledged.**
- The flow of monies that come in from our customers is as follows:
  1. Operation of the system
  2. Interest on the bonds which is put aside 1/6 per month since the interest is paid semi-annually
  3. The principle on the bonds is put aside 1/12 per month since the principle is paid annually
  4. Should subordinated debt ever be issued, that is paid next
  5. Renewal, replacement and improvements are funded next. This will keep the system up to date
  6. A rate stabilization fund is established next to help smooth any large increases needed should Miami Dade County raise our wholesale water or sewage treatment costs
  7. An operating reserve is then funded as an extra security
  8. Finally, a surplus fund is established that allows any surplus funds to be used for any lawful purpose of the Town

These funds are known as the “buckets” which means that the monies flow from the highest priority (operations) to the lowest priority (surplus).

- The Town agrees to a “rate covenant” which requires that rates are set each year as part of the budget process to “ensure net revenues” cover 110 percent of the annual debt service including interest and principle. The rates should also be sufficient so that “net revenues” must equal 100 percent of the annual debt service. The difference in definition is net revenues which is the amount available after operating costs. Finally, if additional bonds are issued at parity, the net revenues of the combined system must

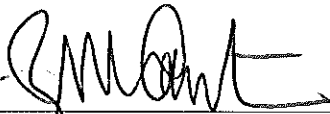
be 125 percent of the outstanding and new debt combined. This ensures that any future debt must be well covered by earnings

- Free service is not allowed and the Town must cut off service to users who have not paid their bills based upon policy established by the Town Commission
- The Town covenants that it will take no actions to render the bonds taxable since these bonds are tax exempt to the purchaser(s)
- There are other provisions which are required in all public debt such as how lost bonds are replaced, what form the bonds take, how defaults are remedied, what happens if government is reorganized (merged) and how the bonds are defeased (paid off), all these provisions have been reviewed by our bond counsel Bryant Miller Olive and our financial advisor Public Financial Management Group (PFM)

**Next steps:** Assuming the ordinance passes on first reading, the financial advisor PFM will seek competitive proposals from a number of banks who will agree to buy the debt under certain conditions including length of debt service (assumed to be twenty years), interest rate (assumed to be under the five percent) and waiver of any prepayment penalties. It will be the team's responsibility (BMO, PFM, staff and the oversight committee) to recommend on second reading scheduled for April 12, 2011 the best offer from a bank. The actual award to the bank occurs at second reading and the terms are set forth in a resolution. The closing occurs soon thereafter.

While the financing process is happening as described above, the competitive bid process for construction is also happening. The award to the lowest bidder will occur in May 2011. Once the financing is in place and the construction award is made, the process to build is underway. As mentioned before, there will be a detailed public information campaign during the project.

**Conclusion:** We are almost there after a long journey which began many years ago. Financing is underway, the competitive construction bid process is underway and the Town has created a very knowledgeable oversight committee. It has been a pleasure to work with all the folks that have helped us to get to this point and your approval of the bond ordinance on first reading is recommended.



Roger M. Carlton, Town Manager



MASTER UTILITY SYSTEM BOND ORDINANCE

ORDINANCE NO. \_\_\_\_\_

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$16,000,000 UTILITY SYSTEM REVENUE BONDS, SERIES 2011, TO FINANCE THE COSTS OF WATER, SEWER, STORMWATER AND RELATED CAPITAL IMPROVEMENTS; PLEDGING CERTAIN NET REVENUES OF THE UTILITY SYSTEM FOR THE PAYMENT OF SUCH BONDS; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH BONDS; MAKING OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

THE COMMISSION OF THE TOWN OF SURFSIDE, HEREBY ORDAINS:

**SECTION 1. AUTHORITY FOR THIS ORDINANCE.** This Ordinance is enacted pursuant to Constitution of the State of Florida, Chapter 166, Part II, Florida Statutes, as amended, the Charter of the Town of Surfside, Florida and other applicable provisions of law (the "Act").

**SECTION 2. DEFINITIONS.** Unless the context otherwise requires, the terms used in this Ordinance shall have the meanings specified in this Section 2. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Acquired Obligations" shall mean cash, direct non-callable obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS, or defeased municipal bonds rated AAA by S&P or Aaa by Moody's (or any combination thereof).

"Additional Parity Obligations" shall mean additional obligations issued or incurred in compliance with the terms, conditions and limitations contained herein and which (i) shall have a lien on the Pledged Revenues equal to that of the Outstanding Bonds, (ii) shall be payable from the Pledged Revenues on a parity with the Outstanding Bonds, and (iii) shall rank equally in all other respects with the Outstanding Bonds.

"Amortization Installment" with respect to any Term Bonds of a Series means an amount so designated for mandatory principal installments for the Term Bonds of such Series, and provided that each such installment shall be deemed to be due on a principal maturity anniversary date of each applicable year and the aggregate of such installments for such Series shall equal the aggregate principal amount of Term Bonds of such Series delivered.

"Average Annual Bond Service Requirement" shall mean, as of each date on which a Series of Bonds is issued, the total amount of Bond Service Requirement which is to become

due on all Bonds deemed to be Outstanding immediately after the issuance of such Series of Bonds divided by the total number of years for which Bonds are deemed to be Outstanding, except that with respect to any Bonds for which Amortization Installments have been established, the amount of principal coming due on the final maturity date with respect to such Bonds shall be reduced by the aggregate principal amount of such Bonds that are to be redeemed from Amortization Installments to be made in prior Bond Years.

“Bond Anticipation Notes” shall mean notes of the Issuer issued in anticipation of any Series of Bonds and shall be secured by a first lien on the proceeds of the Bonds for which such Bond Anticipation Notes were issued.

“Bond Counsel” shall mean any attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the exclusion from gross income for federal income tax purposes of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

“Bond Service Fund” shall mean the Bond Service Fund created and established pursuant to Section 16 of this Ordinance.

“Bond Service Requirement” shall mean, for any Bond Year, at any time, the amount required to be deposited in such Bond Year into the Bond Service Fund, as provided herein. In calculating such amount, the Issuer shall subtract therefrom any amounts to be transferred from the Project Fund for the purpose of paying interest on the Bonds.

“Bond Year” shall mean the period commencing on October 2 of the preceding year and ending twelve months later on October 1.

“Bonds” shall mean the Series 2011 Bonds authorized and issued pursuant to this Ordinance and any Additional Parity Obligations issued hereafter in accordance with the provisions hereof.

“Clerk” shall mean the Town Clerk of the Issuer.

“Code” shall mean the Internal Revenue Code of 1986, as amended, and the regulations and rules thereunder in effect or proposed.

“Consulting Engineers” shall mean one or more independent, qualified and recognized consulting engineers or firm of consulting engineers having favorable repute, skill and experience with respect to the planning and operation of the System who shall be retained from time to time by the Issuer.

“Contributions in Aid of Construction” shall mean any amount or item of money, services, or property received by the Issuer, any portion of which is provided at no cost to the System, which represents an addition or transfer to the capital of the System, and which is utilized to offset the acquisition, improvement or construction costs of the System.

“Cost of Operation and Maintenance” shall mean the then current expenses, paid or accrued, in the operation, maintenance and repair of the System, as calculated in accordance with generally accepted accounting principles, including, but not limited to, allocable administrative and indirect labor costs related to the System, personal services, contractual services, repairs and maintenance, and materials and supplies, but shall not include expenses not annually recurring, any reserve for renewals and replacements, extraordinary repairs or any allowance for depreciation, any Bond Service Requirement, any payments in lieu of taxes, franchise fees or other transfers.

“Federal Securities” shall mean direct obligations of (including obligations issued or held in book entry form on the books of) the Department of Treasury of the United States of America or obligations guaranteed as to principal or interest by the United States of America, including, but not limited to, obligations of the Resolution Funding Corporation.

“Finance Director” shall mean the Finance Director of the Issuer.

“Financial Advisor” shall mean the financial advisor appointed from time to time by the Issuer.

“Fiscal Year” shall mean the period commencing on October 1 of each year and ending on the next succeeding September 30 or such other annual period as may be prescribed by law from time to time for the Issuer.

“Fitch” shall mean Fitch Ratings, and any assigns or successors thereto.

“Gross Revenues” or “Revenues” shall mean all income and earnings, received by the Issuer or accrued to the Issuer from the ownership, use or operation of the System and all parts thereof, moneys deposited from the Rate Stabilization Fund into the Revenue Fund in accordance with the terms hereof, provided any moneys transferred from the Rate Stabilization Fund into the Revenue Fund within 90 days following the end of a Fiscal Year may be designated by the Issuer as Gross Revenues of such prior Fiscal Year, and shall also include investment income, if any, earned on any fund or account created pursuant to this Ordinance, except the Rebate Fund, and also including any income or earnings (including investment income) derived from the System in any prior Fiscal Year and which is redeposited into the Revenue Fund, all as calculated in accordance with generally accepted accounting principles, but “Gross Revenues” or “Revenues” shall not include proceeds from the sale or other disposition of the System or any part thereof, condemnation awards or proceeds of insurance received with respect to the System and moneys deposited to the Rate Stabilization Fund or the Operating Reserve Fund from the Surplus Fund, including any moneys transferred from the Surplus Fund to the Rate Stabilization Fund within 90 days following the end of a Fiscal Year which the Issuer determines not to be Gross Revenues of such prior Fiscal Year, Contributions in Aid of Construction, or unrealized gains or losses from investments.

“Holder” or “Bondholders” or any similar term shall mean any persons who shall be

the registered owner of any outstanding Bonds.

“Interest Account” shall mean the special account of the same name created within the Bond Service Fund.

“Interest Date” or “interest payment date” shall be such date or dates for the payment of interest on a Series of Bonds as shall be provided by Supplemental Ordinance, except with respect to the Series 2011 Bonds, such interest payment date shall be provided by supplemental resolution.

“Issuer” shall mean the Town of Surfside, Florida, a municipal corporation of the State of Florida.

“Maximum Bond Service Requirement” shall mean, as of any particular date of calculation, the greatest amount of aggregate Bond Service Requirement for the then current or any future Bond Year, except that with respect to any Bonds for which Amortization Installments have been established, the amount of principal coming due on the final maturity date with respect to such Bonds shall be reduced by the aggregate principal amount of such Bonds that are to be redeemed from Amortization Installments which were to be made in prior Bond Years.

“Mayor” shall mean the Mayor or Vice Mayor of the Issuer.

“Moody’s” or “Moody’s Investors Service” shall mean Moody’s Investors Services, Inc., and any assigns or successors thereto.

“Net Revenues of the System” shall mean the Gross Revenues or Revenues, after deduction of the Cost of Operation and Maintenance.

“Operating Reserve Fund” shall mean the Operating Reserve Fund created and established pursuant to Section 16 of this Ordinance.

“Ordinance” shall mean this Ordinance as from time to time may be amended or supplemented by Supplemental Ordinance, in accordance with the terms hereof.

“Outstanding” or “Bonds Outstanding” shall mean all Bonds which have been issued pursuant to this Ordinance, except:

(i) Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity;

(ii) Bonds for the payment or redemption of which cash funds or Acquired Obligations or any combination thereof shall have been theretofore irrevocably set aside in a special account with an escrow agent (whether upon or prior to the maturity or redemption date of any such Bonds) in an amount which, together with earnings on such Acquired Obligations, will be sufficient to pay the principal of, interest on and any redemption premium

with respect to such Bonds at maturity or upon their earlier redemption; provided that, if such Bonds are to be redeemed before the maturity thereof, notice of such redemption shall have been given according to the requirements of this Ordinance or irrevocable instructions directing the timely publication of such notice and directing the payment of the principal of and interest on all such Bonds at such redemption dates shall have been given; and

(iii) Bonds which are deemed paid pursuant to this Ordinance or in lieu of which other Bonds have been issued under Sections 11 and 13 hereof.

“Paying Agent” shall mean, with respect to the Series 2011 Bonds, the Clerk, and with respect to any other Series of Bonds, any paying agent for Bonds appointed by or pursuant to a Supplemental Ordinance and its successors or assigns, and any other Person which may at any time be substituted in its place pursuant to a Supplemental Ordinance. Once appointed, no resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent.

“Permitted Investments” shall mean investments permitted by applicable law and the Issuer’s written investment policy, if any, as may be further limited as set forth in a Supplemental Ordinance of the Issuer.

“Person” shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization or governmental entity.

“Pledged Revenues” shall mean (i) the Net Revenues of the System, (ii) until applied in accordance with this Ordinance, the moneys on deposit in the various funds and accounts created pursuant to this Ordinance, except (A) as for the Rebate Fund and (B) the Revenue Fund, to the extent moneys therein shall be required to pay the Cost of Operation and Maintenance in accordance with the terms hereof.

“Principal Account” shall mean the special account of the same name created within the Bond Service Fund.

“Project” or “Projects” shall mean any actual, proposed or potential acquisition, addition, extension, supplement, or replacement of the System or joint ownership of similar properties or any interest therein or any right to use the capacity from any facilities or services thereof, or any other lawful purpose, all as determined by the Issuer and in accordance with plans and specifications on file or to be filed with the Issuer.

“Project Costs” shall mean all costs authorized to be paid from the Project Fund pursuant to Section 18 hereof to the extent permitted under the laws of the State. It is intended that this definition be broadly construed to encompass all costs, expenses and liabilities related to the System, the Project or approved by the Issuer for a lawful purpose which on the date of this Ordinance or in the future shall be permitted to be funded with the proceeds of any Series of Bonds pursuant to the laws of the State.

“Project Fund” shall mean the Project Fund created and established pursuant to Section



16 of this Ordinance.

“Prudent Utility Practice” shall mean, in respect of any particular municipal utility industry, any of the practices, methods and acts which, in the exercise of reasonable judgment, in light of the facts, including but not limited to the practices, methods and acts engaged in or approved by a significant portion of such utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather is a spectrum of possible practices, methods or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition.

“Qualified Independent Consultant” shall mean one or more qualified and recognized independent consultants, having favorable repute, skill and experience with respect to the acts and duties of the Qualified Independent Consultant to be provided to the Issuer, as shall from time to time be retained by the Issuer to perform the acts and carry out the duties herein provided for such consultants.

“Rate Stabilization Fund” shall mean the “Rate Stabilization Fund” established pursuant to Section 16 hereof.

“Rebate Fund” shall mean the Rebate Fund created pursuant to Section 28 of this Ordinance.

“Record Date” shall mean each date that is 15 days prior to an interest payment date.

“Redemption Account” shall mean the special account of the same name created within the Bond Service Fund.

“Refunding Bonds” shall mean that amount of any Series of Bonds, the proceeds of which will be applied to the refunding of any previously issued Bonds.

“Registrar” shall mean, with respect to the Series 2011 Bonds, the Clerk, and with respect to any other Series of Bonds, any registrar for the Bonds appointed by or pursuant to Supplemental Ordinance and its successors and assigns, and any other Person which may at any time be substituted in its place pursuant to Supplemental Ordinance. Once appointed, no resignation or removal of the Registrar shall become effective until a successor has been appointed and has accepted the duties of Registrar.

“Renewal, Replacement and Improvement Fund” shall mean the Renewal, Replacement and Improvement Fund created and established pursuant to Section 16 of this Ordinance.

“Revenue Fund” shall mean the Revenue Fund created and established pursuant to Section 16 of this Ordinance.

"Separately Financed Project" means any Project described as such in Section 27 hereof.

"Serial Bonds" shall mean all of the Bonds other than Term Bonds.

"Series" or "Series of Bonds" or "Bonds of a Series" shall mean all Bonds designated as being of the same Series issued and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter delivered in lieu thereof or in substitution therefor pursuant to this Ordinance.

"Series 2011 Bonds" shall mean the not to exceed \$16,000,000 Utility System Revenue Bonds, Series 2011 of the Issuer authorized herein.

"Series 2011 Project" shall mean construction of water, sewer and stormwater improvement projects, consisting of the following capital improvements: (i) replacement of several miles of water system pipe, replacement of valves, hydrants and auto read meters, (ii) renovation of the existing sewer system pump stations, installation of emergency generators, repair of all broken pipes and manholes, (iii) retrofit of three outfall pipes, construction of stormwater pump stations, installation of treatment boxes, (iv) replacement of traffic calming devices, installation of landscaping, including trees to be planted in the right of way, (v) street signs, and (vi) interconnect and new sewer force mains and repair of existing force mains.

"Sewer System" shall mean the complete sewer system now owned, operated and/or maintained by the Issuer and which the Issuer is, or shall be responsible for maintaining, together with any and all acquisitions, improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

"State" shall mean the State of Florida.

"Standard & Poor's" or "Standard & Poor's Corporation" or "S&P" shall mean Standard and Poor's Ratings Group and any assigns and successors thereto.

"Stormwater System" shall mean the services, appurtenances, facilities, and equipment, including, land, capital facilities, and improvements acquired or provided to detain, retain, convey, or treat Stormwater. "Stormwater" means the flow of water which results from, and which occurs following, a rainfall event.

"Subordinated Debt" shall mean any obligations payable on a junior, inferior and subordinate basis under Section 20(B) hereof. "Subordinated Debt" shall include any other obligations payable from any of the Pledged Revenues on a junior, inferior and subordinate basis to the Bonds.

"Subordinated Debt Service Fund" shall mean the Subordinated Debt Service Fund.

“Supplemental Ordinance” shall mean any ordinance of the Issuer amending or supplementing this Ordinance enacted and becoming effective in accordance with the terms of Sections 22 and 23 hereof.

“System” or “Utility System” shall mean, collectively, the Water System, the Sewer System and the Stormwater System of the Issuer. Upon compliance with the provisions of Section 26 hereof, the term “System” may be deemed to include other utility functions added to the System, including, but not limited to a residential reuse system, the acquisition, distribution and sale of natural gas, the providing and/or undergrounding of electricity, the providing of cable television services, the providing of telecommunication services or other utility functions that are authorized from time to time pursuant to the Act. Notwithstanding the foregoing definition of the term System, such term shall not include any properties or interest in properties of the Issuer which the Issuer determines shall not constitute a part of the System for the purpose of this Ordinance.

“Term Bonds” shall mean the Bonds other than Serial Bonds which shall be stated to mature on one date, and shall have such Amortization Installments, as shall be determined by Supplemental Ordinance of the Issuer.

“Town Manager” shall mean the Town Manager or assistant, deputy, interim or acting Town Manager of the Issuer.

“Water System” shall mean the complete water system now owned, operated and/or maintained by the Issuer or which is proposed to be acquired by and operated and maintained by the Issuer and which the Issuer is, or shall be responsible for maintaining, together with any and all acquisitions, improvements, extensions and additions thereto, hereafter constructed or acquired, together with all lands or interests therein, including plants, buildings, machinery, franchises, pipes, mains, fixtures, equipment and all property, real or personal, tangible or intangible (including agreements for the providing of such services), now or hereafter constructed and/or owned or used in connection therewith.

The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof” and any similar terms shall refer to this Ordinance; the term “heretofore” shall mean before the date of adoption of this Ordinance; and the term “hereafter” shall mean after the date of adoption of this Ordinance. Words importing the masculine gender include every other gender. Words importing the singular number include the plural number, and vice versa.

**SECTION 3. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) It is in the best interest of the health and welfare of the residents of the Issuer and other users of the Utility System to use the proceeds of the Bonds to pay the Project Costs.

(B) The Issuer owns, operates and/or maintains the System and derives certain revenue from rates, fees, rentals and other charges made and collected for the services of such System, which such revenues are not now pledged or encumbered in any manner. It serves a paramount public purpose and is in the best interests of the Issuer, the residents thereof and

the other current users of the System that the Issuer authorizes the issuance of Bonds for the constructing and acquiring of certain additions, extensions, replacements and improvements to the Utility System as more particularly described herein.

(C) The Issuer deems it necessary and in its best interest to provide for the construction and improvement of the System.

(D) The costs associated with issuance of Bonds shall be deemed to include, but not limited to, legal fees and expenses, engineering expenses, fiscal expenses, underwriting fees and expenses, rating agency fees, expenses for estimates of costs and of revenues, accounting expenses, municipal bond insurance premiums, surety policy premiums, if applicable, costs of printing, fees and expenses for the escrow agent, fees and expenses for the paying agent and registrar, fees and expenses for verification, accrued and capitalized interest, provisions for reserves, and such other fees and expenses as may be necessary or incidental for the financing herein authorized.

(E) The principal of and interest and redemption premium on the Bonds and all reserve and other payments shall be payable solely from the Pledged Revenues. The Issuer shall never be required to levy ad valorem taxes on any real or personal property therein to pay the principal of and interest on the Bonds herein authorized or to make any other payments provided for herein. The Bonds shall not constitute a lien upon any properties owned by or located within the boundaries of the Issuer or upon any property other than the Pledged Revenues.

(F) The Pledged Revenues should be sufficient to pay all principal of and interest and redemption premium on the Series 2011 and any Additional Parity Obligations to be issued hereunder, as the same become due, and to make all required deposits or payments required by this Ordinance.

(G) While the purpose of this Ordinance is to establish general terms of the Bonds, it is recognized that new, innovative and beneficial methods of financing may exist or may be developed in future years which are not specifically authorized by this Ordinance. Because of such fact, it is the intention of the Issuer that the amendment provisions contained herein be broadly interpreted in order to provide the broadest possible financing alternatives for the Issuer for so long as the security of the Holders of any Bonds then Outstanding shall not be impaired.

**SECTION 4. AUTHORIZATION OF THE SERIES 2011 PROJECT.** There is hereby authorized the Series 2011 Project.

**SECTION 5. THIS ORDINANCE TO CONSTITUTE CONTRACT.** In consideration of the acceptance of the Bonds authorized to be issued hereunder by those who shall hold the same from time to time, this Ordinance shall be deemed to be and shall constitute a contract between the Issuer and such Holders. The covenants and agreements herein set forth to be performed by the Issuer shall be for the equal benefit, protection and security of the legal Holders of any and all of the Bonds, all of which shall be of equal rank and without preference,

priority or distinction of any of the Bonds over any other thereof, except as expressly provided therein and herein.

**SECTION 6. AUTHORIZATION OF BONDS.** Subject and pursuant to the provisions hereof, obligations of the Issuer to be known as "Utility System Revenue Bonds", which may be issued from time to time, are hereby authorized to be issued. The aggregate principal amount of the Bonds which may be executed and delivered under this Ordinance is not limited except as is or may hereafter be provided in this Ordinance or as limited by the Act or by law. The Series 2011 Bonds are hereby authorized to be issued and to be known as "Utility System Revenue Bonds, Series 2011" in the principal amount of not to exceed \$16,000,000.

The Bonds may, if and when authorized by the Issuer pursuant to this Ordinance, be issued in one or more Series, with such further appropriate particular designations added to or incorporated in such title for the Bonds of any particular Series as the Issuer may determine and as may be necessary to distinguish such Bonds from the Bonds of any other Series. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs. The Bonds shall be issued for such purpose or purposes; shall bear interest at such rate or rates not exceeding the maximum rate permitted by law; and shall be payable in lawful money of the United States of America on such dates; all as determined herein or by Supplemental Ordinance of the Issuer, and, in the case of the Series 2011 Bonds, by Section 7 hereof.

**SECTION 7. DESCRIPTION OF THE BONDS.** The Series 2011 Bonds shall be dated the date of their execution and delivery, and shall have such other terms and provisions, including interest rates not exceeding the maximum interest rates permitted by the Act, principal and interest payment terms, maturity date, and prepayment provisions as stated herein and/or as described in the supplemental resolution. The Series 2011 Bonds are hereby authorized to be issued in fully registered form without coupons; may be Serial Bonds or Term Bonds; shall be numbered consecutively from one upward in order of maturity preceded by the letter "R" if Serial Bonds or Term Bonds; and shall be in the denomination of \$100,000 each or integral multiples thereof.

Bonds (other than Series 2011 Bonds) are hereby authorized to be issued in fully registered form without coupons; may be Serial Bonds or Term Bonds; shall be numbered consecutively from one upward in order of maturity preceded by the letter "R" if Serial Bonds or Term Bonds; shall be in the denomination of \$5,000 each, or integral multiples thereof for the Serial Bonds and Term Bonds, or such other denominations as shall be approved by the Issuer in a Supplemental Ordinance; shall bear interest at such rate or rates not exceeding the maximum rate allowed by State law, the actual rate to be approved by the governing body of the Issuer prior to or upon the sale of the Bonds; such interest to be payable semiannually at such times as are fixed by Supplemental Ordinance of the Issuer if Serial Bonds or Term Bonds, and shall mature annually on such date in such years and such amounts or such other payment dates as will be fixed by Supplemental Ordinance of the Issuer prior to or upon the sale of the Bonds; all as the Issuer shall provide herein or hereafter by Supplemental Ordinance.

Each Serial or Term Bond shall bear interest from the interest payment date next

preceding the date on which it is authenticated, unless authenticated on an interest payment date, in which case it shall bear interest from such interest payment date, or, unless authenticated prior to the first interest payment date, in which case it shall bear interest from its date; provided, however, that if at the time of authentication, payment of any interest which is due and payable has not been made, such Serial or Term Bond shall bear interest from the date to which interest shall have been paid.

The principal of and the interest and redemption premium, if any, on the Bonds shall be payable in any coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The interest on the Serial or Term Bonds shall be payable by the Paying Agent on each interest payment date, or the first business day following an interest payment date if such interest payment date is not a business day, to the person appearing on the registration books of the Issuer hereinafter provided for as the registered Holder thereof, by check or draft mailed to such registered Holder at his address as it appears on such registration books or by wire transfer to Holders of \$1,000,000 or more in principal amount of the Bonds. Payment of the principal of all Serial or Term Bonds (reduced by any Amortization Installments previously paid by the Issuer on any Term Bonds) shall be made upon the presentation and surrender of such Bonds as the same shall become due and payable.

As long as any Bonds are outstanding in book-entry form, the provisions of this Ordinance inconsistent with such system of book-entry registration shall not be applicable to such Bonds, and the Issuer covenants to cause adequate records to be kept with respect to the ownership of any Series of Bonds issued in book-entry form or the beneficial ownership of bonds issued in the name of a nominee.

**SECTION 8. EXECUTION OF BONDS.** The Bonds shall be signed by, or bear the facsimile signature of the Mayor and shall be attested by, or bear the facsimile signature of, the Clerk, and a facsimile of the official seal of the Issuer shall be imprinted on the Bonds. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such person remained in office until such delivery. Any Bond may bear the facsimile signature of or may be signed by such persons who, at the actual time of the execution of such Bond, shall be the proper officers to sign such Bonds although, at the date of such Bond, such persons may not have been such officers.

**SECTION 9. AUTHENTICATION OF BONDS.** Only such of the Bonds as shall have endorsed thereon a certificate of authentication substantially in the form hereinbelow set forth, duly executed by the Registrar, as authenticating agent, shall be entitled to any benefit or security under this Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Registrar, and such certificate of the Registrar upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Ordinance. The Registrar's certificate of authentication on any Bond shall be deemed to have been duly executed if signed by an authorized officer of the Registrar, but it shall not be necessary that the same officer sign

the certificate of authentication of all of the Bonds that may be issued hereunder at any one time.

**SECTION 10. EXCHANGE OF BONDS.** Any Bonds, upon surrender thereof at the designated corporate trust office of the Registrar, together with an assignment duly executed by the Bondholder or his attorney or legal representative in such form as shall be satisfactory to the Registrar, may, at the option of the Bondholder, be exchanged for an aggregate principal amount of Bonds of the same Series equal to the principal amount of the Bond or Bonds so surrendered.

The Registrar shall make provision for the exchange of Bonds at the designated corporate trust office of the Registrar.

**SECTION 11. NEGOTIABILITY, REGISTRATION AND TRANSFER OF BONDS.** The Registrar shall keep books for the registration of and for the registration of transfers of Bonds as provided in this Ordinance. The transfer of any Bonds may be registered only upon such books and only upon surrender thereof to the Registrar together with an assignment duly executed by the Bondholder or his attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon any such registration of transfer, the Issuer shall execute and the Registrar shall authenticate and deliver in exchange for such Bond, a new Bond or Bonds registered in the name of the transferee, and in an aggregate principal amount equal to the principal amount of such Bond or Bonds so surrendered and of the same Series.

In all cases in which Bonds shall be exchanged, the Issuer shall execute and the Registrar shall authenticate and deliver, at the earliest practicable time, a new Bond or Bonds of the same type (e.g., Serial Bonds will be exchanged for Serial Bonds) and of the same Series in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Registrar. The Issuer or the Registrar may make a charge for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made to any Bondholder for the privilege of exchanging or registering the transfer of Bonds under the provisions of this Ordinance. Neither the Issuer nor the Registrar shall be required to make any such exchange, registration or transfer of Bonds after the Record Date.

**SECTION 12. OWNERSHIP OF BONDS.** The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond, and the interest on any such Bonds shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond including the premium, if any, and interest thereon to the extent of the sum or sums so paid.

**SECTION 13. BONDS MUTILATED, DESTROYED, STOLEN OR LOST.** In case any Bond shall become mutilated, or be destroyed, stolen or lost, the Issuer may, in its discretion, cause to be executed, and the Registrar shall authenticate and deliver, a new Bond of like date

and tenor as the Bond so mutilated, destroyed, stolen or lost (e.g., Serial Bonds shall be issued in exchange for Serial Bonds) in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder furnishing the Issuer and the Registrar proof of his ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer and the Registrar may prescribe and paying such expenses as the Issuer and the Registrar may incur. All Bonds so surrendered shall be canceled by the Issuer. If any of the Bonds shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same, upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section 13 shall constitute original, additional contractual obligations on the part of the Issuer whether or not the lost, stolen or destroyed Bonds be at any time found by anyone, and such duplicate Bonds shall be entitled to equal and proportionate benefits and rights as to lien on and source and security for payment from the funds, as hereinafter pledged, to the same extent as all other Bonds issued hereunder.

**SECTION 14. PROVISIONS FOR REDEMPTION.** The redemption provisions for the Series 2011 Bonds shall be fixed by supplemental resolution.

The Bonds shall be subject to redemption prior to their maturity, at the option of the Issuer, at such times and in such manner as shall be fixed by Supplemental Ordinance of the Issuer prior to or at the time of sale of such Series of Bonds.

Notice of such redemption shall, at least thirty (30) days prior to the redemption date, be filed with the Registrar, and mailed by the Registrar on behalf of the Issuer, first class mail, postage prepaid, to all Holders of Bonds to be redeemed at their addresses as they appear on the registration books hereinbefore provided for on the Record Date, but failure to mail such notice to one or more Holders of Bonds, or any defect therein, shall not affect the validity of the proceedings for such redemption with respect to Holders of Bonds to which notice was duly mailed hereunder and no defect occurred. Such notice shall also be sent to the registered securities depositories and to the Electronic Municipal Market Access System ("EMMA"). Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Bonds of one maturity are to be called, the distinctive numbers of such Bonds to be redeemed and, in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed.

Any notice of optional redemption given pursuant to this Section 14 may state that it is conditional upon receipt by the Paying Agent of moneys sufficient to pay the redemption price, plus interest accrued to the redemption date, or upon the satisfaction of any other condition, or that it may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price and accrued interest if any such condition so specified is not satisfied or if any such other event occurs. Notice of such rescission shall be given by the Paying Agent to affected Holders of Bonds as promptly as practicable upon the failure of such condition or the occurrence of such other event.



Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the redemption price. Each check or other transfer of funds issued by the Registrar for the purpose of the payment of the redemption price of Bonds being redeemed shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Holder a new Bond or Bonds of the same maturity in the amount of the unpaid principal of such partially redeemed Bond. All Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued.

**SECTION 15. FORM OF BONDS.** The text of the Bonds, together with the certificate of authentication to be endorsed therein, shall be in substantially the following form, with such omissions, insertions and variations as may be necessary, desirable, authorized or permitted by this Ordinance or by any Supplemental Ordinance enacted prior to the issuance of a Series of Bonds, or as may be necessary to comply with applicable laws, rules and regulations of the United States and of the State in effect upon the issuance thereof.

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[FORM OF BOND]

No. R- \_\_\_\_\_

\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
COUNTY OF MIAMI-DADE  
TOWN OF SURFSIDE  
UTILITY SYSTEM REVENUE BONDS, SERIES \_\_\_\_\_

MATURITY DATE:      INTEREST RATE:      DATED DATE:

Registered Owner:

Principal Amount:

The Town of Surfside, Florida (hereinafter called the "Issuer") for value received, hereby promises to pay to the order of the Registered Owner identified above or registered assigns, as herein provided, on the Maturity Date identified above, upon the presentation and surrender hereof at the designated corporate trust office of \_\_\_\_\_, Florida from the sources hereinafter mentioned, the Principal Amount identified above in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and to pay, solely from said sources, to the Registered Owner hereof by wire transfer or check transmitted to the Registered Owner at his address as it appears on the Bond registration books of the Issuer as it appears on the 15th day of the calendar month preceding the applicable interest payment date, interest on said Principal Amount at the Interest Rate per annum identified above on each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 commencing \_\_\_\_\_ 1, \_\_\_\_\_ from the interest payment date next preceding the date of registration and authentication of this Bond, unless this Bond is registered and authenticated as of an interest payment date, in which case it shall bear interest from said interest payment date, or unless this Bond is registered and authenticated prior to \_\_\_\_\_, \_\_\_\_\_, in which event this Bond shall bear interest from \_\_\_\_\_, \_\_\_\_\_.

The Bonds of this issue shall be subject to redemption prior to their maturity at the option of the Issuer.

(Insert Optional and/or Mandatory Redemption Provisions, prepayment waiver provisions)

Notice of such redemption shall be given in the manner required by the Ordinance described below.

This Bond is one of an authorized issue of Bonds in the aggregate principal amount of \$\_\_\_\_\_ of like date, tenor and effect, except as to number, principal amount, maturity, redemption provisions and interest rate, issued to \_\_\_\_\_, all in full compliance with the Constitution and Statutes of the State of Florida, including particularly Chapter 166, Part II, Florida Statutes, as amended, and Ordinance No. \_\_-\_\_ duly enacted by the Issuer on \_\_\_\_\_, 2011, as amended and supplemented (hereinafter collectively called the "Ordinance") and is subject to all the terms and conditions of such Ordinance. All capitalized undefined terms used herein shall have the meaning set forth in the Ordinance.

This Bond is payable solely from and secured by a pledge of the Net Revenues of the System levied and collected by the Issuer and the moneys in certain funds and accounts created pursuant to the Ordinance (collectively, the "Pledged Revenues") in the manner and to the extent provided in the Ordinance. Reference is made to the Ordinance for more complete definition and description of the System and the Pledged Revenues.

This Bond does not constitute a general indebtedness of the Issuer within the meaning of any constitutional, statutory or charter provision or limitation, and it is expressly agreed by the Holder of this Bond that such Bondholder shall never have the right to require or compel the exercise of the ad valorem taxing power of the Issuer or taxation of any real or personal property therein for the payment of the principal of and interest on this Bond or the making of any debt service fund, reserve or other payments provided for in the Ordinance.

It is further agreed between the Issuer and the Holder of this Bond that this Bond and the indebtedness evidenced thereby shall not constitute a lien upon the System, or any part thereof, or on any other property of or in the Issuer, but shall constitute a lien only on the Pledged Revenues all in the manner provided in the Ordinance.

The Issuer has covenanted, in the Ordinance, to fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the products, services and facilities of the System which will always provide, Net Revenues in each Fiscal Year sufficient to pay one hundred ten percent (110%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year.

In addition to compliance with subparagraph (i) above, such Net Revenues in each Fiscal Year shall also be sufficient to provide one hundred percent (100%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year, any amounts required by the terms hereof to be deposited for debt service on other obligations payable from the Revenues of the System, and other payments, and all allocations and applications of revenues herein required in such Fiscal Year.

Net Revenues will not be reduced so as to render them insufficient to provide revenues for the purposes provided therefor by the Ordinance.

The Issuer has entered into certain further covenants with the Holders of the Bonds of this issue for the terms of which reference is made to the Ordinance.

It is certified that this Bond is authorized by and is issued in conformity with the requirements of the Constitution and Statutes of the State of Florida.

This Bond is and has all the qualities and incidents of a negotiable instrument under Article 8 of the Uniform Commercial Code, the State of Florida, Chapter 678, Florida Statutes, as amended.

The transfer of this Bond is registrable by the Bondholder hereof in person or by his attorney or legal representative at the designated corporate trust office of the Registrar but only in the manner and subject to the conditions provided in the Ordinance and upon surrender and cancellation of this Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Ordinance until it shall have been authenticated by the execution by the Registrar of the certificate of authentication endorsed hereon.

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CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds issued under the provisions of the within mentioned Ordinance.

\_\_\_\_\_  
Registrar, as Authenticating Agent

Date of Authentication:

\_\_\_\_\_  
By: \_\_\_\_\_ (manual or facsimile)  
Authorized Officer

ATTEST:

\_\_\_\_\_  
(manual or facsimile)  
Authorized Officer

ASSIGNMENT AND TRANSFER

For value received the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_  
\_\_\_\_\_  
(Please insert Social Security or other identifying number of transferee) \_\_\_\_\_  
\_\_\_\_\_ the attached bond of the Town of Surfside, Florida, and does hereby constitute  
and appoint, \_\_\_\_\_, attorney, to transfer the said Bond on the books kept for  
Registration thereof, with full power of substitution in the premises.

Date: \_\_\_\_\_

Signature Guaranteed by \_\_\_\_\_

[member firm of the New York Stock  
Exchange or a commercial bank or a trust  
company.]

By: \_\_\_\_\_ (manual or facsimile)  
Authorized Officer

NOTICE: No transfer will be registered and  
no new Bonds will be issued in the name of  
the transferee, unless the signature to this  
assignment corresponds with the name as it  
appears upon the face of the within Bond in  
every particular, without alteration or  
enlargement or any change whatever and the  
Social Security or Federal Employer  
Identification Number of the transferee is  
supplied.

[END OF FORM OF BOND]

**SECTION 16. CREATION OF FUNDS.** There are hereby created and established the following funds and accounts, which funds and accounts shall be trust funds held by the Finance Director for the purposes herein provided and used only in the manner herein provided:

(A) The "Town of Surfside Utility System Revenue Fund" (hereinafter sometimes called the "Revenue Fund") to be held by the Issuer and to the credit of which deposits of Gross Revenues shall be made as required by Section 20(A) hereof.

(B) The "Town of Surfside Utility System Bond Service Fund" (hereinafter sometimes called the "Bond Service Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(B)(1) hereof. In such fund there shall be maintained the following accounts: the Principal Account, the Interest Account, and the Redemption Account.

(C) The "Town of Surfside Utility System Subordinated Debt Service Fund" (hereinafter sometimes called the "Subordinated Debt Service Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(B)(2) hereof.

(D) The "Town of Surfside Utility System Renewal, Replacement and Improvement Fund" (hereinafter sometimes called the "Renewal, Replacement and Improvement Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(B)(3) hereof.

(E) The "Town of Surfside Rate Stabilization Fund" (hereinafter sometimes called the "Rate Stabilization Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20 (C) hereof.

(F) The "Town of Surfside Operating Reserve Fund" (hereinafter sometimes call the "Operating Reserve Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20(D) hereof.

(G) The "Town of Surfside Surplus Fund" (hereinafter sometimes called the "Surplus Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 20 (B)(4) hereof.

(H) The "Town of Surfside Utility System Project Fund" (hereinafter sometimes called the "Project Fund") to be held by the Issuer and to the credit of which deposits shall be made as required by Section 18 hereof. Within such fund there shall be created, established and maintained separate accounts for each Series of Bonds and furthermore be created, established and maintained separate accounts for capitalized interest funded from the proceeds of any Series of Bonds.

The Revenue Fund, the Bond Service Fund (including the accounts therein), the Renewal, Replacement and Improvement Fund, the Project Fund, the Rate Stabilization Fund, the Operating Reserve Fund, the Surplus Fund and any other special funds herein established and created shall be deemed to be held in trust for the purposes provided herein for such funds. The money in all such funds shall be continuously secured in the same manner as state and municipal deposits are authorized to be secured by the laws of the State of Florida.

The moneys required to be accounted for in each of the foregoing funds and accounts established herein may be deposited in a single account, and funds allocated to the various funds and accounts established herein may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds and accounts as herein provided. The designation and establishment of the various funds and accounts in and by this Ordinance shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues as herein provided.

**SECTION 17. APPLICATION OF BOND PROCEEDS.** With respect to the Series 2011 Bonds, the proceeds received from the sale of the Series 2011 Bonds shall be applied by the Issuer simultaneously with the delivery of such Series 2011 Bonds to the purchaser thereof, as provided in a supplemental resolution. The proceeds, including accrued interest and premium, if any, received from the sale of a Series of Bonds shall be applied by the Issuer simultaneously with the delivery of such Series of Bonds to the purchaser thereof, as provided in a Supplemental Ordinance authorizing the issuance of such Series of Bonds.

**SECTION 18. DISBURSEMENTS FROM PROJECT FUND.** Moneys on deposit from time to time in the Project Fund shall be used to pay or reimburse the following Project Costs:

(A) Costs incurred directly or indirectly for or in connection with a Project or a proposed or future Project or acquisition including, but not limited to, those for preliminary planning and studies, architectural, legal, financial, engineering and supervisory services, labor, services, materials, equipment, accounts receivable, acquisitions, land, rights-of-way, improvements and installation;

(B) Premiums attributable to all insurance required to be taken out and maintained during the period of construction with respect to a Project to be acquired or constructed, the premium on each surety bond, if any, required with respect to work on such facilities, and taxes, assessments and other charges hereof that may become payable during the period of construction with respect to such a Project;

(C) Costs incurred directly or indirectly in seeking to enforce any remedy against a contractor or subcontractor in respect of any default under a contract relating to a Project or costs incurred directly or indirectly in defending any claim by a contractor or subcontractor with respect to a Project;



(D) Financial, legal, accounting, appraisals, title evidence and printing and engraving fees, charges and expenses, and all other such fees, charges and expenses incurred in connection with the authorization, sale, issuance and delivery of such Series of Bonds;

(E) Capitalized interest funded from Bond proceeds, if any, for a reasonable period of time, which shall be deposited in a separate subaccount of the Project Fund and shall be used as provided in a Supplemental Ordinance of the Issuer;

(F) Any other incidental and necessary costs including without limitation any expenses, fees and charges relating to the acquisition, construction or installation of a Project, and the making of extraordinary repairs, renewals and replacements, decommissioning or retirement of any portion of the System, including the cost of temporary employees of the Issuer retained to carry out duties in connection with the acquisition, construction or erection of a Project and costs related to transition of such Project into ownership by the Issuer;

(G) Costs incurred directly or indirectly in placing any Project in operation in order that completion of such Project may occur;

(H) Any other costs relating to the System authorized pursuant to a Supplemental Ordinance of the Issuer and permitted under the laws of the State subject to the prior written approval of Bond Counsel; and

(I) Reimbursements to the Issuer for any of the above items hereinbefore paid by or on behalf of the Issuer, to the extent deemed advisable by Bond Counsel.

Notwithstanding anything else in this Ordinance to the contrary, in the Event of Default, the trustee acting for the Holders of Bonds shall, to the extent there are no other available funds held hereunder, use the remaining funds in the Project Fund to pay principal and interest on the Series of Bonds to which such funds relate and were provided by.

**SECTION 19. SPECIAL OBLIGATIONS OF ISSUER.** The Bonds shall not be or constitute general obligations or indebtedness of the Issuer as "bonds" within the meaning of the Constitution of the State, but shall be payable solely from and secured by a first lien upon and a pledge of the Pledged Revenues as herein provided. No Holder or Holders of any Bonds issued hereunder shall ever have the right to compel the exercise of the ad valorem taxing power of the Issuer or taxation in any form of any real or personal property therein, or to compel the Issuer to pay such principal and interest from any other funds of the Issuer.

The payment of principal of and interest on the Bonds shall be secured forthwith equally and ratably by, and the Issuer hereby grants to the Bondholders an irrevocable lien on the Pledged Revenues, prior and superior to all other liens or encumbrances on such Pledged Revenues and the Issuer does hereby irrevocably pledge such Pledged Revenues to the payment of the principal of, redemption premium, if any, and interest on the Bonds, for the reserves therefor and for all other payments required hereunder. Such amounts hereby

pledged and assigned shall immediately be subject to the lien of this pledge without any further physical delivery thereof or any further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Issuer, irrespective of whether such parties have notice thereof.

**SECTION 20. COVENANTS OF THE ISSUER.** For so long as any of the principal of and interest on any of the Bonds shall be outstanding and unpaid or until the Issuer has made provision for payment of principal, interest and redemption premiums, if any, with respect to the Bonds, as provided herein, the Issuer covenants with the Holders of any and all Bonds as follows:

(A) **REVENUE FUND.** All Gross Revenues of the System shall, upon receipt thereof, be deposited in the Revenue Fund. All deposits into such Revenue Fund shall be deemed to be held in trust for the purposes herein provided and used only for the purposes and in the manner herein provided.

(B) **DISPOSITION OF REVENUES.** All Net Revenues in the Revenue Fund, after payment of Cost of Operation and Maintenance, shall be disposed of monthly, but not later than the twenty-fifth (25th) day of each month commencing in the month immediately following the delivery of the Bonds only in the following manner and the following order of priority:

(1) The Issuer shall first deposit into the Bond Service Fund and credit to the following accounts, in the following order (except that payments into the Principal Account and the Redemption Account shall be on a parity with each other), the following identified sums:

(a) **Interest Account:** Taking into account actual and anticipated earnings in the Interest Account of the Bond Service Fund within the current Bond Year, such sum as will be sufficient to pay one-sixth (1/6th) of all interest coming due on all Outstanding Bonds on the next interest payment date; provided, however, that monthly deposits of interest, or portions thereof, shall not be required to be made to the extent that money on deposit within such Interest Account is sufficient for such purpose. Any monthly payment out of Net Revenues to be deposited as set forth above, for the purpose of meeting interest payments for any Series of Bonds, shall be adjusted, as appropriate, to reflect the frequency of interest payment dates applicable to such Series. Moneys in the Interest Account may be used only for the purposes set forth in this paragraph (a).

(b) **Principal Account:** Taking into account actual and anticipated earnings in the Principal Account of the Bond Service Fund within the current Bond Year, such sum as will be sufficient to pay one-twelfth (1/12th) of the principal amount of the Outstanding Bonds which will mature and become due on such annual maturity dates beginning the month which is twelve (12) months prior to the first principal maturity date; provided, however, that monthly deposits for principal, or portions thereof, shall not be required to be made to the extent that money on deposit within such Principal Account is sufficient for such purpose. Any monthly payment out of Net Revenues to be deposited as set forth above, for the purpose

of meeting principal payments for any Series of Bonds, shall be adjusted, as appropriate, to reflect the frequency of principal payment dates applicable to such Series. Moneys in the Principal Account may be used only for the purposes set forth in this paragraph (b).

(c) Redemption Account: Taking into account actual and anticipated earnings in the Redemption Account of the Bond Service Fund within the current Bond Year, such sum as will be sufficient to pay one-twelfth (1/12th) of any Amortization Installment established for the mandatory redemption of Outstanding Bonds on such annual maturity date beginning the month which is twelve (12) months prior to the first Amortization Installment date; provided, however, that monthly deposits into the Redemption Account, or portions thereof, shall not be required to be made to the extent that money on deposit in the Redemption Account is sufficient for such purpose. Any monthly payment out of Net Revenues to be deposited as set forth above, for the purpose of meeting Amortization Installments for any Series of Bonds, shall be adjusted, as appropriate, to reflect the frequency of dates established for Amortization Installments applicable to such Series. The moneys in the Redemption Account shall be used solely for the purchase or redemption of the Term Bonds payable therefrom. The Issuer may at any time purchase any of said Term Bonds at prices not greater than the then redemption price of said Term Bonds. If the Term Bonds are not then redeemable prior to maturity, the Issuer may purchase said Term Bonds at prices not greater than the redemption price of such Term Bonds on the next ensuing redemption date. If Term Bonds are so purchased by the Issuer, the Issuer shall credit the account of such purchased Term Bonds against any current Amortization Installment to be paid by the Issuer. If the Issuer shall purchase or call for redemption in any year Term Bonds in excess of the Amortization Installment requirement for such year, such excess of Term Bonds so purchased or redeemed shall be credited in such manner and at such times as the Issuer shall determine. Moneys in the Redemption Account in the Debt Service Fund may be used only for the purposes set forth in this paragraph (c).

(2) From the moneys remaining in the Revenue Fund, the Issuer shall next deposit into the Subordinated Debt Service Fund an amount required to be paid as provided in the ordinance or agreement of the Issuer authorizing such Subordinated Debt, but for no other purposes.

(3) The Issuer shall next apply and deposit monthly from the moneys remaining on deposit in the Revenue Fund into the Renewal, Replacement and Improvement Fund, an amount at least equal to one-twelfth (1/12) of two (2) times the annualized costs of the Issuer's five (5) year capital improvement plan for the System. The moneys in the Renewal, Replacement and Improvement Fund shall be used only for the purpose of paying the cost of extensions, enlargements or additions to, or the replacement of capital assets of the System or emergency repairs or extraordinary repairs thereto. [No further deposits will be required to be made into the Renewal, Replacement and Improvement Fund when there shall be on deposit therein an amount equal to or greater than one percent (1%) of the gross book value of the fixed assets of the System pursuant to generally accepted accounting principles, or such other amount as may be determined from time to time by the Consulting Engineer.] Funds on hand in the Renewal, Replacement and Improvement Fund may be used to pay current Cost of Operation and Maintenance to the extent moneys on deposit in the Revenue Fund are

insufficient for such purposes. The moneys on deposit in such fund may also be used, if necessary, in order to prevent a default in the payment of the principal and interest on the Bonds.

(4) The balance of any moneys remaining in the Revenue Fund after the above required payments have been made shall be deposited into the Surplus Fund and may be used for any lawful purpose of the Issuer; provided, however, that none of such moneys shall be used for any purposes other than those hereinabove specified unless all current payments, including any deficiencies for prior payments, have been made in full and unless the Issuer shall have complied fully with all the covenants and provisions of this Ordinance.

(C) RATE STABILIZATION FUND. The Issuer may transfer into the Rate Stabilization Fund such moneys which are on deposit in the Surplus Fund as it deems appropriate. The Issuer may transfer such amount of moneys from the Rate Stabilization Fund to the Revenue Fund as it deems appropriate; provided, however, that on or prior to each principal and interest payment date for the Bonds (in no event earlier than the 25th day of the month next preceding such payment date), moneys in the Rate Stabilization Fund shall be applied for the payment into the Interest Account, the Principal Account and the Redemption Account when the moneys therein are insufficient to pay the principal of and interest on the Bonds coming due, but only to the extent moneys transferred from the Surplus Fund and Renewal, Replacement and Improvement Fund for such purposes pursuant to Sections 20(B)(3) and 20(B)(4) hereof, shall be inadequate to fully provide for such insufficiency.

(D) OPERATING RESERVE FUND. The Issuer may transfer into the Operating Reserve Fund such moneys which are on deposit in the Surplus Fund as it deems appropriate. The moneys in the Operating Reserve Fund shall be used only for the purpose of paying for emergencies, working capital needs or unexpected contingencies. Funds on hand in the Operating Reserve Fund may be used to pay current Cost of Operation and Maintenance to the extent moneys on deposit in the Revenue Fund are insufficient for such purposes. The moneys on deposit in such fund may also be used, if necessary, in order to prevent a default in the payment of the principal and interest on the Bonds.

(E) INVESTMENTS. Moneys in any fund or account created hereunder may be invested and reinvested in Permitted Investments which mature not later than the dates on which the moneys on deposit therein will be needed for the purpose of such fund. All income on such investments, except as otherwise provided, shall be deposited in the respective funds and accounts from which such investments were made and be used for the purposes thereof unless and until the maximum required amount (or, with respect to the Project Fund, the amount required to acquire, construct and erect the Project) is on deposit therein, and thereafter shall be deposited in the Revenue Fund.

In determining the amount of any of the payments required to be made pursuant to this Section 20(B), credit may be given for all investment income accruing to the respective funds and accounts described herein, except as otherwise provided.

The Issuer may at any time and from time to time appoint one or more depositaries to

hold, for the benefit of the Bondholders, any one or more of the funds, accounts and subaccounts established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from each of such funds and accounts as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agent and employees. Any such depository shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital, surplus and undivided profits aggregating not less than fifty million dollars (\$50,000,000).

(F) OPERATION AND MAINTENANCE. The Issuer will maintain the System and all parts thereof in good condition and will operate the same in an efficient and economical manner, making such expenditures for equipment and for renewals, repairs and replacements as may be proper for the economical operation and maintenance thereof.

(G) RATE COVENANT. The Issuer will fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the products, services and facilities of the System which will always provide,

(i) Net Revenues in each Fiscal Year sufficient to pay one hundred ten percent (110%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year.

In addition to compliance with subparagraph (i) above, Net Revenues in each Fiscal year shall also be sufficient to provide one hundred percent (100%) of the Bond Service Requirement on all Outstanding Bonds in the applicable Bond Year, any amounts required by the terms hereof to be deposited for debt service on other obligations payable from the Net Revenues of the System, and other payments, and all allocations and applications of revenues herein required in such Fiscal Year.

Net Revenues shall not be reduced so as to render them insufficient to provide revenues for the purposes provided therefor by this Ordinance.

(H) BOOKS AND ACCOUNTS; AUDIT. The Issuer shall keep proper books, records and accounts, separate and apart from all other records and accounts, showing correct and complete entries of all transactions of the System, and the Holders of any of the Bonds or any duly authorized agent or agents of such Holders shall have the right at any and all reasonable times to inspect such books, records and accounts. The Issuer shall, within two hundred seventy (270) days following the close of each Fiscal Year of the Issuer, cause an audit of such books, records and accounts to be made by an independent firm of certified public accountants.

Copies of each such audit report shall be placed on file with the Issuer and be made available at reasonable times for inspection by Holders of the Bonds.

(I) DISPOSITION OF SYSTEM.

(i) The System may be sold or otherwise disposed of as a whole or substantially as a whole, only if the net proceeds to be realized, together with other moneys available for such purpose, shall be sufficient to fully retire all of the Outstanding Bonds issued pursuant to this Ordinance and all interest thereon to their respective dates of maturity or earlier redemption dates. The proceeds from such sale or other disposition of the System shall immediately be deposited first in the Bond Service Fund and then in the Subordinated Debt Service Fund and shall be used only for the purpose of paying the principal of and interest on the Bonds and Subordinated Debt as the same shall become due, or the redemption of callable Bonds and Subordinated Debt, or the purchase of Bonds and Subordinated Debt at a price not greater than the redemption price of said Bonds and Subordinated Debt, or, if the Bonds or Subordinated Debt are not then redeemable prior to maturity, at prices not greater than the redemption price of such Bonds or Subordinated Debt on the next ensuing redemption date.

(ii) The foregoing provision notwithstanding, the Issuer shall have and hereby reserves the right to sell, lease, exchange or otherwise dispose of any of the tangible property or ownership interest in tangible property comprising a part of the System in the following manner, if any one of the following conditions exist: (a) such property is not necessary for the operation of the System or (b) such property is not useful in the operation of the System or (c) such property is not profitable in the operation of the System.

Prior to any sale, lease, exchange or other disposition of said property:

(1) if the amount to be received therefor is not in excess of one-half (1/2) of one percentum (1%) of the value of the gross plant investment in the System, the officer of the Issuer charged with the normal acquisition, construction, operation, maintenance and repair of the portion of the System for which disposition is sought, may determine that such property comprising a part of such System is either no longer necessary, useful or profitable in the operation thereof.

(2) if the amount to be received therefor is in excess of one-half (1/2) of one percentum (1%) of the value of the gross plant investment in the System, the officer of the Issuer charged with the normal acquisition, construction, operation, maintenance and repair of the portion of the System for which disposition is sought and the Consulting Engineer shall each first make a finding in writing determining that such property comprising a part of such System is either no longer necessary, useful or profitable in the operation thereof, and the Issuer shall, by resolution duly adopted, approve and concur in the finding of such authorized officer and the Consulting Engineer.

The net proceeds realized from such disposal of a part of the System shall be deposited in the Renewal, Replacement and Improvement Fund to the extent necessary to make the amount on deposit therein equal to the amount then required to be on deposit therein; and any additional moneys not needed for said fund shall be used for any capital expenditures in connection with the System or the purchase or redemption of Outstanding Bonds.

(i) Notwithstanding any other provision of this Section 20(G) or this Ordinance to the contrary, except for the initial paragraph of this Section 20(G), the Issuer may sell, lease, exchange or otherwise dispose of tangible property or an ownership interest in tangible property comprising a part of the System provided the duly authorized officer charged with the normal acquisition, construction, operation, maintenance and repair of the portion of the System for which disposition is sought, and the Qualified Independent Consultant each make a finding in writing, adopted and confirmed by resolution of the Issuer, determining that (i) such sale, lease, exchange or other disposition will not materially impair or restrict the Issuer's ability to realize Gross Revenues in compliance with the requirements therefor as set forth herein, and (ii) such sale, lease, exchange or other disposition is in the economic best interests of the Issuer.

(ii) Notwithstanding any other provision of this Section 20(G) or this Ordinance to the contrary, the Issuer may transfer ownership and/or operation of all or a portion of the System to any public body authorized by the laws of the State to own and/or operate such System on an installment sale basis provided that the Issuer (a) has received an opinion of Bond Counsel stating the federal income tax exemption of the interest on the Bonds (not including taxable Bonds) will not be affected and has received an opinion of Bond Counsel stating that such sale is not prohibited by any applicable Florida law, and (b) the Issuer adopts a resolution to the effect that, based upon such certificates and opinions of its Consulting Engineer, independent certified public accountants, Bond Counsel, Financial Advisor or other Qualified Independent Consultant as the Issuer shall deem necessary, desirable or appropriate, such transfer will not materially adversely affect the rights of the Holders of the Bonds.

(J) INSURANCE. The Issuer shall provide protection for the System both in accordance with the requirements of all agreements, if any, to which the Issuer may at the time be a party with respect to joint ownership of properties by the Issuer with others which is part of the System, and in accordance with Prudent Utility Practice. Said protection may consist of insurance, self insurance and indemnities. The Issuer will keep, or cause to be kept, the works, plants and facilities comprising the properties of the System insured, and will carry such other insurance against fire and other risks, accidents or casualties at least to the extent and of the kinds that insurance is usually carried by utilities operating like properties. Any insurance shall be in the form of policies or contracts for insurance with insurers of good standing, shall be payable to the Issuer and may provide for such deductibles, exclusions, limitations, restrictions, and restrictive endorsements customary in policies for similar coverage issued to entities operating properties similar to the properties of the System. Any self insurance shall be in the amounts, manner and of the type provided by entities operating properties similar to the properties of the System. In the event of any loss or damage to the System covered by insurance, the Issuer will, with respect to each such loss, promptly repair, reconstruct or replace the parts of the System affected by such loss or damage to the extent necessary to the proper conduct of the operation of the business of the System in accordance with Prudent

Utility Practice, shall cause the proceeds of such insurance to be applied for that purpose to the extent required therefor, and pending such application, shall hold the proceeds of any insurance policy covering such damage or loss in trust to be applied for that purpose to the extent required therefor. Any excess insurance proceeds received by the Issuer may be used by the Issuer for any lawful purpose. Notwithstanding the foregoing or any provisions of this Ordinance to the contrary, the Issuer shall not be required to maintain insurance with respect to facilities for which insurance shall not be available or for facilities which, in accordance with Prudent Utility Practice, are not customarily insured.

(K) NO FREE SERVICE. So long as any Bonds are outstanding, the Issuer shall not furnish or supply the facilities, services and commodities of the System either free of charge or for a nominal charge to any person, firm or corporation, public or private, including the Issuer's departments, agencies and instrumentalities which avail themselves of the services of the System. The Issuer shall promptly enforce the payment of any and all accounts owing to the Issuer and delinquent, by discontinuing service or by filing suits, actions or proceedings, or by both discontinuance of service and filing suit.

(L) MANDATORY CUT OFF. The Issuer shall establish a written policy consistent with sound business judgment for the disconnection from the System of any customer who fails to pay for services rendered by the System, and shall enforce such policy diligently and fairly.

(M) ENFORCEMENT OF COLLECTIONS. The Issuer will diligently enforce and collect the rates, fees and other charges for the services and facilities of the System and will take all steps, actions and proceedings for the enforcement and collection of such rates, charges and fees as shall become delinquent to the full extent permitted or authorized by law; and will maintain accurate records with respect thereof. All such fees, rates, charges and revenues shall, as collected, be held in trust to be applied as herein provided.

(N) OPERATING BUDGET. The Issuer shall annually, prior to commencement of each of its Fiscal Years, prepare and adopt a budget of the estimated expenditures for the operation and maintenance of the System during such next succeeding Fiscal Year. The Issuer shall mail copies of such annual budgets (including any amendments thereto) to any Holder or Holders of Bonds who shall file his address with the Issuer and request in writing that copies of all such budgets be furnished him and shall make available such budgets of the System at all reasonable times to any Holder or Holders of Bonds or to anyone acting for and on behalf of such Holder or Holders. Bondholders shall pay reasonable actual cost of printing and mailing of such copies.

(O) MANDATORY CONNECTIONS; NO COMPETING SYSTEM. So long as service is in fact available as reasonably determined by the Issuer, the Issuer will, to the full extent permitted by law, require all lands, buildings and structures within the area being served by the System as of the date of issuance of the Bonds, to connect with and use such facilities within sixty (60) days after notification. To the extent permitted by law, the Issuer will not grant a



franchise for the operation of any competing utility system or systems within the area served by the System as of the date of issuance of the Bonds until all Bonds issued hereunder, together with the interest thereon, and premium, if any, have been paid in full. Notwithstanding the foregoing, the Issuer shall not be required to duplicate services being provided by private or public utilities in the area being served by such private or public utilities on the date of issuance of the Bonds. In addition, the Issuer shall not be prohibited from allowing other private or public utilities to provide services within the area being served by the System as of the date of issuance of the Bonds, if the Issuer shall not be providing such service in such area on that date. Nothing herein shall be deemed to constitute the approval of the Issuer for any private or public utility (other than the System) to provide any services within the boundaries of the Issuer or within the area being served by the System as of the date of issuance of the Bonds or within any other area of the Issuer.

(P) SUPERVISORY PERSONNEL. The Issuer, in operating the System, will employ or designate, as manager, one or more of its qualified employees, or an independent contractor, who have demonstrated ability and experience in operating similar facilities, and will require all such employees or independent contractors, as the case may be, who may have possession of money derived from the operation of the System to be covered by a fidelity bond, written by a responsible indemnity company in amounts fully adequate to protect the Issuer from loss.

(Q) PAYMENT OF TAXES, ASSESSMENTS AND OTHER CLAIMS. The Issuer shall from time to time duly pay and discharge, or cause to be paid and discharged, all taxes, assessments and other governmental charges, or payments in lieu thereof, lawfully imposed upon the properties constituting the System or the Gross Revenues when the same shall become due, as well as all lawful claims for labor and materials and supplies which, if not paid, might become a lien or charge upon such properties or any part thereof, or upon the Gross Revenues or which might in any way impair the security of the Bonds, except assessments, charges or claims which the Issuer shall in good faith contest by proper legal proceedings.

(R) ISSUANCE OF OTHER OBLIGATIONS. The Issuer shall issue no bonds or obligations of any kind or nature payable from or enjoying a lien on the Pledged Revenues if such obligations have priority over the Bonds with respect to payment or lien, nor shall the Issuer create or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of the Bonds upon said Pledged Revenues. Notwithstanding any other provision in this Section 20(R), the Issuer may issue Additional Parity Obligations under the conditions and in the manner provided herein. Any obligations of the Issuer, other than the Bonds, which are payable from the Pledged Revenues shall contain an express statement that such obligations are junior and subordinate in all respects to the Bonds as to lien on and source and security for payment from such Pledged Revenues.

(S) ISSUANCE OF ADDITIONAL PARITY OBLIGATIONS. No Additional Parity Obligations shall be issued after the issuance of the Series 2011 Bonds herein authorized, except upon the conditions and in the manner hereinafter provided:

(1) There shall have been obtained and filed with the Clerk a certificate of

the Issuer's Finance Director stating: (a) that the books and records of the Issuer relative to the System and the Net Revenues have been reviewed by the Finance Director; and (b) that the amount of the Net Revenues derived for any consecutive twelve (12) months out of the preceding thirty (30) months preceding the date of issuance of the proposed Additional Parity Obligations (the "Test Period") adjusted as provided in paragraphs (2), (3), (4) and/or (5) below, is equal to not less than 125% of the Maximum Bond Service Requirement becoming due in any Bond Year thereafter on (A) all Bonds issued under this Ordinance, if any, then Outstanding, and (B) on the Additional Parity Obligations with respect to which such certificate is made.

(2) Upon recommendation of the Qualified Independent Consultants, the Net Revenues certified pursuant to (b) in the previous paragraph may be adjusted for purposes of this Section 20(S) by including: (a) 100% of the additional Net Revenues which in the opinion of the Qualified Independent Consultant would have been derived by the Issuer from rate increases adopted before the Additional Parity Obligations are issued, if such rate increases had been implemented before the commencement of such Bond Year and (b) 100% of the additional Net Revenues estimated by the Qualified Independent Consultant to be derived during the first full twelve month period after the facilities of the System are extended, enlarged, improved or added to with the proceeds of the Additional Parity Obligations with respect to which such certificate is made.

(3) Upon recommendation of the Qualified Independent Consultants, if the number of connections as of the first day of the month in which the proposed Additional Parity Obligations are to be issued exceeds the average number of such connections during such twelve (12) consecutive month period, then the Net Revenues certified pursuant to Section 20(S)(1)(b) may be adjusted to include the Net Revenues which would have been received in such twelve (12) consecutive months if those additional connections had also been connected to the System during all of such twelve (12) consecutive months.

(4) Upon recommendation of the Qualified Independent Consultant, if the Issuer shall have entered into a contract, which contract shall be for a duration of not less than the final maturity of the proposed Additional Parity Obligations, with any public body, whereby the Issuer shall have agreed to furnish services for the collection, treatment or disposal of sewage or agreed to furnish services in connection with any water system or any other utility system, then the Net Revenues certified pursuant to Section 20(S)(1)(b) may be increased (to the extent such amounts were not reflected in such Net Revenues) by the minimum amount which the public body shall guarantee to pay in any one year for the furnishing of services by the Issuer, after deducting from such payment the estimated Cost of Operation and Maintenance attributable in such year to such services.

(5) Upon recommendations of the Qualified Independent Consultants, if there is an estimated increase in Net Revenues to be received by the Issuer as a result of additions, extensions or improvements to the System during the period of three (3) years following the completion of such additions, extensions or improvements financed with the proceeds of Bonds or Additional Parity Obligations, then the Net Revenues derived from the

System certified pursuant to Section 20(S)(1)(b) may be increased by fifty percent (50%) of the average annual additional Net Revenues calculated for such three year period.

(6) The Issuer need not comply with the provisions of paragraph (1) of this Section 20(S) if and to the extent the Bonds to be issued are Refunding Bonds, if the Issuer shall cause to be delivered a certificate of the Finance Director of the Issuer setting forth the Average Annual Debt Service Requirement (i) for the Bonds then Outstanding and (ii) for all Series of Bonds to be immediately Outstanding thereafter and stating that the Average Annual Debt Service Requirement pursuant to (ii) above is not greater than that set forth pursuant to (i) above.

(7) The Issuer need not comply with the provisions of paragraph (1) of this Section 20(S) if and to the extent the Bonds to be issued are for the purpose of providing any necessary additional funds required for completion of any improvements to the System ("Completion Bonds") if originally financed with the proceeds of Bonds; provided that such Completion Bonds for which the Issuer need not comply with the provision of such paragraph (1) of this Section 20(S) may not exceed 10% of the total principal amount of Bonds estimated to be required for such improvements to the System at the time of issuance of the initial Series of Bonds to finance such improvements.

(8) The Finance Director of the Issuer shall have certified that the Issuer is not in default in the carrying out of any of the obligations assumed under this Ordinance and no event of default shall have occurred under this Ordinance and shall be continuing, and all payments required by this Ordinance to be made into the funds and accounts established hereunder shall have been made to the full extent required.

(9) The Supplemental Ordinance authorizing the issuance of the Additional Parity Obligations shall recite that all of the covenants contained herein will be applicable to such Additional Parity Obligations.

**SECTION 21. DEFAULTS; EVENTS OF DEFAULT AND REMEDIES.** Except as provided below, if any of the following events occur, it is hereby defined as and declared to be and to constitute an "Event of Default:"

(A) Default in the due and punctual payment of any interest on the Bonds;

(B) Default in the due and punctual payment of the principal of and premium, if any, on any Bond, at the stated maturity thereof, or upon proceedings for redemption thereof;

(C) Default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Ordinance or in the Bonds and the continuance thereof for a period of thirty (30) days after written notice to the Issuer given by the Holders of not less than twenty-five percent (25%) of aggregate principal amount of Bonds then Outstanding (provided, however, that with respect to any obligation, covenant, agreement or condition which requires performance by a date certain, if the Issuer performs such obligation, covenant, agreement or condition within thirty (30) days of written notice as

provided above, the default shall be deemed to be cured);

(D) Failure by the Issuer promptly to remove any execution, garnishment or attachment of such consequence as will materially impair its ability to carry out its obligations hereunder; or

(E) Any act of bankruptcy or the rearrangement, adjustment or readjustment of the obligations of the Issuer under the provisions of any bankruptcy or moratorium laws or similar laws relating to or affecting creditors' rights.

The term "default" shall mean default by the Issuer in the performance or observance of any of the covenants, agreements or conditions on its part contained in this Ordinance, any Supplemental Ordinance or in the Bonds, exclusive of any period of grace required to constitute a default or an "Event of Default" as hereinabove provided.

Any Holder of Bonds issued under the provisions hereof or any trustee acting for the Holders of such Bonds may, either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights, including the right to the appointment of a receiver, existing under State or federal law, or granted and contained herein, and may enforce and compel the performance of all duties required herein or by any applicable law to be performed by the Issuer or by any officer thereof.

Nothing herein, however, shall be construed to grant to any Holder of the Bonds any lien on any property of the Issuer, except the Pledged Revenues.

The foregoing notwithstanding:

(i) No remedy conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy, but each remedy shall be cumulative and shall be in addition to any other remedy given to the Bondholders hereunder.

(ii) No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised as often as may be deemed expedient.

(iii) No waiver of any default or Event of Default hereunder by the Bondholders shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Bondholders under this Ordinance, the Bondholders shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the System and the funds pending such proceedings, with such powers as the court making such appointment shall confer.

On the occurrence of an Event of Default, to the extent such rights may then lawfully be waived, neither the Issuer nor anyone claiming through or under it, shall set up, claim or seek to take advantage of any stay, extension or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement of this Ordinance, and the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent it may lawfully do so, the benefit of all such laws and all right of redemption to which it may be entitled.

**SECTION 22. AMENDING AND SUPPLEMENTING OF ORDINANCE WITHOUT CONSENT OF HOLDERS OF BONDS.** The Issuer, from time to time and at any time and without the consent or concurrence of any Holder of any Bonds, may enact a Supplemental Ordinance amendatory hereof or supplemental hereto if the provisions of such Supplemental Ordinance shall not materially adversely affect the rights of the Holders of the Bonds then Outstanding, for any one or more of the following purposes:

(A) To make any changes or corrections in this Ordinance as to which the Issuer shall have been advised by Bond Counsel that are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or omission or mistake or manifest error contained in this Ordinance, or to insert in this Ordinance such provisions clarifying matters or questions arising under this Ordinance as are necessary or desirable;

(B) To add additional covenants and agreements of the Issuer for the purpose of further securing the payments of the Bonds;

(C) To surrender any right, power or privilege reserved to or conferred upon the Issuer by the terms of this Ordinance;

(D) To confirm, as further assurance, any lien, pledge or charge or the subjection to any lien, pledge or charge, created or to be created by the provisions of this Ordinance;

(E) To grant to or confer upon the Holders any additional right, remedies, powers, authority or security that lawfully may be granted to or conferred upon them;

(F) To assure compliance with federal "arbitrage" provisions in effect from time to time;

(G) To provide for the combining of the System with any other utility provided the conditions set forth in Section 26 hereof are satisfied;

(H) To provide for the transfer of the ownership and/or operation of the System pursuant to a governmental reorganization as set forth in Section 25 hereof; or

(I) To modify any of the provisions of this Ordinance in any other aspects provided that such modifications shall not be effective until after the Bonds Outstanding at the time such Supplemental Ordinance is adopted shall cease to be Outstanding, or until the holders thereof consent thereto pursuant to Section 23 hereof, and any Bonds issued subsequent to any such

modification shall contain a specific reference to the modifications contained in such Supplemental Ordinance.

Except for Supplemental Ordinances providing for the issuance of Bonds pursuant hereto, the Issuer shall not adopt any Supplemental Ordinance authorized by the foregoing provisions of this Section unless, in the opinion of Bond Counsel, the enactment of such Supplemental Ordinance is permitted by the foregoing provisions of this Section.

**SECTION 23. AMENDMENT OF ORDINANCE WITH CONSENT OF HOLDERS OF BONDS.** Except as provided in Section 22 hereof, no material modification or amendment of this Ordinance or of any Ordinance supplemental hereto shall be made without the consent in writing of the Holders of fifty-one percent (51%) or more in the principal amount of the Bonds so affected and then Outstanding. No modification or amendment shall permit a change in the maturity of such Bonds or a reduction in the rate of interest thereon or in the amount of the principal obligation thereof or reduce the percentage of the Holders of the Bonds required to consent to any material modification or amendment hereof without the consent of the Holder or Holders of all such obligations.

**SECTION 24. DEFEASANCE.** The covenants and obligations of the Issuer shall be defeased and discharged under terms of this Ordinance as follows:

(A) If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of all Bonds the principal, redemption premium, if any, and interest due or to become due thereon, at the times and in the manner stipulated herein, then the pledge of the Pledged Revenues and all covenants, agreements and other obligations of the Issuer to the Bondholders shall thereupon cease, terminate and become void and be discharged and satisfied. If the Issuer shall pay or cause to be paid, or there shall otherwise be paid, to the Holders of any Outstanding Bonds the principal, redemption premium, if any, and interest due or to become due thereon, at the times and in the manner stipulated herein, such Bonds shall cease to be entitled to any lien, benefit or security under this Ordinance, and all covenants, agreements and obligations of the Issuer to the Holders of such Bonds shall thereupon cease, terminate and become void and be discharged and satisfied.

(B) The Bonds, redemption premium, if any, and interest due or to become due for the payment or redemption of which moneys shall have been set aside and shall be held in trust (through deposit by the Issuer of funds for such payment or redemption or otherwise) at the maturity or redemption date thereof shall be deemed to have been paid within the meaning and with the effect expressed in paragraph (A) of this Section 24. Any Outstanding Bonds shall, prior to the maturity or redemption date thereof, be deemed to have been paid within the meaning and with the effect expressed in paragraph (A) of this Section if (i) in case any of said Bonds are to be redeemed on any date prior to their maturity, the Issuer shall have given to the escrow agent instructions accepted in writing by the escrow agent to notify Holders of Outstanding Bonds in the manner required herein of the redemption of such Bonds on said date, and (ii) there shall have been deposited with the escrow agent either moneys in an amount which shall be sufficient, or Acquired Obligations (including any Acquired Obligations issued or held in book-entry form on the books of the Department of the Treasury of the United

States) the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with the escrow agent at the same time, shall be sufficient, to pay when due the principal of and premium, if any, and interest due and to become due on said Bonds on or prior to the redemption date or maturity date thereof, as the case may be. In the event of an advance refunding pursuant to clause (ii) above, the Issuer shall cause to be delivered a verification report of an independent nationally recognized certified public accountant. If a forward supply contract is employed in connection with the refunding, (i) such verification report shall expressly state that the adequacy of the escrow to accomplish the refunding project relies solely on the initial escrowed investments and the maturing principal thereof and interest income thereon and does not assume performance under or compliance with the forward supply contract, and (ii) the applicable escrow agreement shall provide that in the event of any discrepancy or difference between the terms of the forward supply contract and the escrow agreement and this Ordinance, the terms of the escrow agreement and this Ordinance shall be controlling.

**SECTION 25. GOVERNMENTAL REORGANIZATION.** Notwithstanding any other provisions of this Ordinance, this Ordinance shall not prevent any lawful reorganization of the governmental structure of the Issuer, including a merger or consolidation of the Issuer with another public body or the transfer of a public function of the Issuer to another public body, provided that any reorganization which affects the System shall provide that the System shall be continued as a single enterprise and that any public body which succeeds to the ownership and operation of the System shall also assume all rights, powers, obligations, duties and liabilities of the Issuer under this Ordinance and pertaining to all Bonds.

**SECTION 26. ADDITIONAL UTILITY FUNCTIONS.** The Issuer may expand the utility functions of the System as they exist on the date hereof as permitted in the definition of "System" contained herein and adopted resolutions or ordinances of the Issuer to the effect that, based upon such certificates and opinions of its Consulting Engineer, independent certified public accountants, Bond Counsel, Financial Advisor or other Qualified Independent Consultants as the Issuer shall deem necessary, desirable or appropriate, the addition of such utility functions (a) will not impair the ability of the Issuer to comply with the provisions of this Ordinance, and (b) will not materially adversely affect the rights of the Holders of the Bonds.

**SECTION 27. SEPARATELY FINANCED PROJECT.** Nothing in this Ordinance shall prevent the Issuer from authorizing and issuing bonds, notes, or other obligations or evidences of indebtedness other than Bonds or Subordinated Debt, for any purpose of the Issuer authorized by the Act or from financing any such purpose from other available funds (such purpose being referred to herein as a "Separately Financed Project"), if the debt service on such bonds, notes, or other obligations or evidences of indebtedness, if any, and the Issuer's share of any operating expenses related to such Separately Financed Project, are payable solely from the revenues or other income derived from the ownership or operation of such Separately Financed Project or from other legally available funds of the Issuer, including but not limited to funds withdrawn from the Revenue Fund pursuant to Section 20(A) hereof.

**SECTION 28. TAX COVENANTS.** With respect to any Bonds for which the Issuer intends on the date of issuance thereof for the interest thereon to be excluded from gross income for purposes of Federal income taxation:

(A) The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that it shall not use the proceeds of such Series of Bonds in any manner which would cause the interest on such Series of Bonds to be or become includable in the gross income of the Holder thereof for federal income tax purposes.

(B) The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that neither the Issuer nor any Person under its control or direction will make any use of the proceeds of such Series of Bonds (or amounts deemed to be proceeds under the Code) in any manner which would cause such Series of Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and neither the Issuer nor any other Person shall do any act or fail to do any act which would cause the interest on such Series of Bonds to become includable in the gross income of the Holder thereof for federal income tax purposes.

(C) The Issuer hereby covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that it will comply with all provisions of the Code necessary to maintain the exclusion of interest on the Bonds from the gross income of the Holder thereof for federal income tax purposes, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

(D) The Issuer may, if it so elects, issue one or more Series of Taxable Bonds the interest on which is (or may be) includable in the gross income of the Holder thereof for federal income tax purposes, so long as each Bond of such Series states in the body thereof that interest payable thereon is (or may be) subject to federal income taxation and provided that the issuance thereof will not cause the interest on any other Bonds theretofore issued hereunder to be or become includable in the gross income of the Holder thereof for federal income tax purposes. The covenants set forth in paragraphs (A), (B) and (C) above shall not apply to any Taxable Bonds.

(E) There is hereby created and established a fund to be known as the "Town of Surfside Utility System Revenue Bonds Rebate Fund" (the "Rebate Fund"), and a separate account therein for each Series of Bonds. The Issuer shall deposit into the appropriate account in the Rebate Fund, from investment earnings on moneys deposited in the other funds and accounts created hereunder, or from any other legally available funds of the Issuer, an amount equal to the Rebate Amount for such Rebate Year. The Issuer shall use such moneys deposited in the appropriate account in the Rebate Fund only for the payment of the Rebate Amount to the United States as required by this Section. In complying with the foregoing, the Issuer may rely upon any instructions or opinions from Bond Counsel.

If any amount shall remain in the Rebate Fund after payment in full of all Bonds issued hereunder that are not Taxable Bonds and after payment in full of the Rebate Amount to the United States in accordance with the terms hereof, such amounts shall be available to the Issuer for any lawful purpose.



The Rebate Fund shall be held separate and apart from all other funds and accounts of the Issuer, shall not be impressed with a lien in favor of the Bondholders and the moneys therein shall be available for use only as herein provided.

**SECTION 29. SEVERABILITY.** If any one or more of the covenants, agreements or provisions of this Ordinance should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid or shall in any manner be held to adversely affect the validity of the Bonds, then such covenants, agreements or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions of this Ordinance or of the Bonds issued hereunder.

**SECTION 30. SALE OF BONDS.** The Bonds may be issued and sold at public or private sale at one time or in installments from time to time and at such price or prices as shall be consistent with the provisions of the requirements of this Ordinance and other applicable provisions of law.

**SECTION 31. GENERAL AUTHORITY.** The members of the Town Commission of the Issuer and the Issuer's officers, attorneys and other agents and employees are hereby authorized to perform all acts and things required of them by this Ordinance or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Bonds and this Ordinance, and they are hereby authorized to execute and deliver all documents which shall be required by Bond Counsel to effectuate the sale of the Bonds to said initial purchasers.

**SECTION 32. NO THIRD PARTY BENEFICIARIES.** Except such other Persons as may be expressly described herein, in the Bonds, nothing in this Ordinance, or in the Bonds, expressed or implied, is intended or shall be construed to confer upon any Person, other than the Issuer and the Holders, any right, remedy or claim, legal or equitable, under and by reason of this Ordinance or any provision hereof, or of the Bonds, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Persons who shall from time to time be the Holders.

**SECTION 33. NO PERSONAL LIABILITY.** Neither the members of the Town Commission of the Issuer nor any person executing the Bonds shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance thereof.

**SECTION 34. REPEAL OF INCONSISTENT INSTRUMENTS.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 35. EFFECTIVE DATE.** This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ENACTED on the first reading this \_\_\_\_ day of \_\_\_\_\_, 2011

PASSED and ENACTED on the second reading this \_\_\_\_ day of \_\_\_\_\_, 2011.

(SEAL)

TOWN OF SURFSIDE, FLORIDA

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
Town Attorney

On Second Reading Moved by: \_\_\_\_\_

On Second Reading Seconded by: \_\_\_\_\_

Vote:

Mayor Dietch	yes	no
Vice Mayor Graubart	yes	no
Commissioner Karukin	yes	no
Commissioner Kopelman	yes	no
Commissioner Olchych	yes	no



**Town of Surfside  
Town Commission Meeting  
February 8, 2011  
7 p.m.**

**DISCUSSION ITEM MEMORANDUM**

**Title: "Bottle Bill Resolution"**

**Objective:** To have the Town of Surfside lead the way environmentally by: increasing the amounts of all types plastic beverage bottles being recycled – and thus protecting Florida's most precious assets – Beaches, Parks, Gulf, Ocean, Bays, Rivers, etc. by passing a resolution in favor of the State of Florida adopting a "Bottle Bill" similar to that of Massachusetts original 1982 "Bottle Bill" and amended to date.

**Consideration:** (1) States with deposit laws have higher residential recycling rates of beverage containers than those of non-deposit states, and; (2) Litter decrease in states with Bottle Bills averages 70 – 85%, and; (3) Through the Massachusetts Bottle Bill, [they] recycle nearly 80% of containers of deposit containers, but only 20% on non-deposit containers.

**Approximate Cost:** Minimal

**Action:** I am asking this Commission to direct the Town Attorney to draft a resolution in favor of a "Bottle Bill" for Florida.

**Additional Info: Note:** Apparently the 'industry' tried to repeal the Massachusetts Bottle Bill and it survived, by a referendum effort by a 60% to 40% vote.

**Thank you for your consideration;**

**Respectfully,**

**Joe Graubart, Vice Mayor**

Print this page Return to bottlebill.org  
Return to bottlebill.org

## Massachusetts Bottle Bill History

	Original Law	1989 Amendment	2003	Current Law
<b>Name</b>	Beverage Container Recovery Law			
<b>Purpose</b>	To provide an economic incentive for consumers to return used beverage containers and encourage conservation of materials and energy through recycling and reuse			
<b>Enacted</b>	Legislative override of governor's veto, 6/4/81	1989		
<b>Implemented</b>	1/1/1983	1990		
<b>Beverages Covered</b>	Beer, malt, carbonated soft drinks, & mineral water			Beer, malt, carbonated soft drinks, & mineral water
<b>Containers Covered</b>				any sealable bottle, can, jar, or carton of glass, metal, plastic, or combo. Excludes biodegradables.
<b>Amount of Deposit</b>	5¢			5¢
<b>Redemption Rate</b>	overall 68.6% (h)			72.3% as of May 2010 (l)
<b>Reclamation System</b>	Retail stores and redemption centers			Retail stores and redemption centers
<b>Unredeemed Deposits</b>	All unredeemed deposits become property of state (since '95)	Property of the state, for MSW education	Sent to state general fund	Property of state general fund
<b>Handling Fee</b>	1¢			2.25¢
<b>View Legislation</b>				
<b>Notes</b>	Wholesalers must file monthly reports w/Dept. of Revenue regarding deposit & refund.			Survived repeal by referendum effort in 1982 by a 60% to 40% vote.

### Footnotes

(h)Source: Massachusetts Department of Environmental Protection, MA Bottle Bill Return Rates Chart (Jan.-Sept., 2004).

(l) Source: Source: Sean Sylver, of MA DEP

**RESOLUTION IN SUPPORT OF UPDATING THE MASSACHUSETTS  
BOTTLE BILL**

Whereas The Massachusetts Bottle Bill, enacted in 1982 has allowed (your city/town) residents to enjoy a cleaner environment by creating an incentive for users of certain beverage containers to recycle those used containers; and,

Whereas, states with deposit laws have higher residential recycling rates of beverage containers than those of non-deposit states, and;

Whereas litter decrease in states with Bottle Bills averages 70-85%, and,

Whereas, through the Massachusetts Bottle Bill, we recycle nearly 80% of containers of deposit containers, but only 20% on non-deposit containers, and

Whereas the Governor of the Commonwealth, and members of the Massachusetts Senate and House of Representatives have recognized that the original bottle bill does not take into account those beverages such as bottled water, sports drinks, and teas.

Whereas the addition of bottled water, sports drinks and teas to the Bottle Bill will decrease the total volume of municipal solid waste that is needed to be collected, thus saving disposal fees and landfill space.

**Be It Resolved**

That we, the (members of your city/town's council, board of alderman, etc. or mayor) commemorate the 27th anniversary of the implementation of the Massachusetts Bottle Bill.

Furthermore, Be It Resolved That: the City/Town of \_\_\_\_\_ be placed on record as being in support of the Massachusetts Beverage Container Deposit Law and encourages it's strengthening through expanding the list as recommended by the Governor in his proposed budget and currently being considered by the House and Senate Joint Committee on Telecommunications, Utilities and Energy.

Furthermore, Be It Resolved that the (City/Town) goes on record in supporting programs that encourage residents and visitors to return or recycle all beverage containers and other recyclable materials to fully utilize the currently available recycling programs.

Be it Further Resolved that the City instructs our state representatives and state senators, and our governor to support and vote in favor of updating the Massachusetts Container Beverage Law.

\_\_\_\_\_  
Mayor/ Chairman, Board of Selectmen

\_\_\_\_\_  
Town of

\_\_\_\_\_  
Date

## What is a bottle bill?

### Definition

The term "bottle bill" is actually another way of saying "container deposit law." A container deposit law requires a minimum refundable deposit on beer, soft drink and other beverage containers in order to ensure a high rate of recycling or reuse.

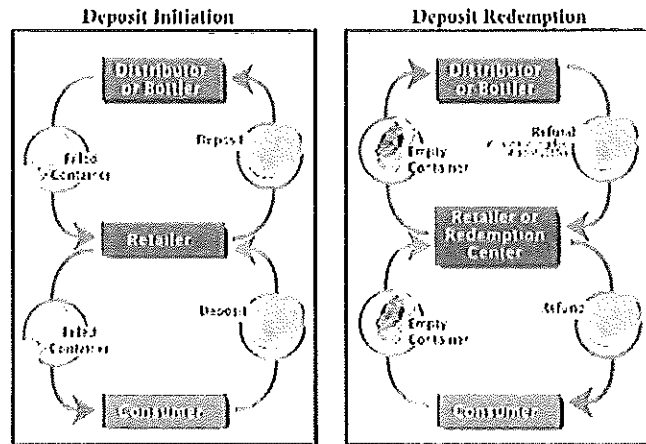
### How a bottle bill works

Deposits on beverage containers are not a new idea. The deposit-refund system was created by the beverage industry as a means of guaranteeing the return of their glass bottles to be washed, refilled and resold.

When a retailer buys beverages from a distributor, a deposit is paid to the distributor for each can or bottle purchased. The consumer pays the deposit to the retailer when buying the beverage. When the consumer returns the empty beverage container to the retail store, to a redemption center, or to a reverse vending machine, the deposit is refunded. The retailer recoups the deposit from the distributor, plus an additional handling fee in most U.S. states. The handling fee, which generally ranges from 1-3 cents, helps cover the cost of handling the containers.

The costs to distributors and bottlers can be offset by the sale of scrap cans and bottles and by short-term investments made on the deposits that are collected from retailers. In addition to this income, distributors and bottlers realize windfall profits on beverage containers that consumers fail to return for the refund.

**All about bottle bills**  
 No time to read this whole website?  
 View the PowerPoint presentation instead. **Container Deposit Legislation: Past, Present, Future** provides a quick look at the most important facts about bottle bills. This presentation is also a great tool for activists needing to present information in support of a bottle bill.



Full-page figure

These "unclaimed" or "unredeemed" deposits remain the property of the distributors and bottlers in most states, and amount to millions of dollars a year. In Michigan and Massachusetts, the courts have ruled that because these unclaimed deposits are "abandoned" by the public, they rightfully belong to the state, and they are now used to fund environmental programs in those states. In Hawaii and California as well, the state collects all of the unredeemed deposits, which are then used to administer the deposit system. [Learn more about unclaimed deposits.](#)

### Why bottle bills?

In short, bottle bills create a privately-funded collection infrastructure for beverage containers and make producers and consumers (rather than taxpayers) responsible for their packaging waste. There are many other reasons to institute a bottle bill, which are described in the section "Benefits of Bottle Bills."

### Why beverage containers?

With so many recyclable materials out there, people wonder why it's worthwhile to focus on beverage containers only. One reason is that beverages compose 40-60% of litter. A deposit encourages people to return these containers, keeping them off the streets and out of the waterways and wilderness. According to industry estimates, one-third of beverages are consumed on the go—away from the home recycling bin and often in places where recycling is not available. The refundable deposit helps ensure that these containers are saved and recycled. In addition, recycling beverage containers rather than manufacturing new ones prevents the consumption of enormous amounts of energy and the emission of great quantities of greenhouse gas emissions.

### History of bottle bills

For decades we drank our beer and soda from refillable glass bottles that were reused dozens of times before



being discarded. Then, in the 1930's, the steel beverage can was introduced on the market, revolutionizing the beverage market. Unbelievably, consumers were encouraged to toss their empty beer cans out wherever they happened to be.

It was not until after World War II that cans began replacing glass bottles in the beer industry. The convenience and disposability of cans helped boost sales at the expense of refillable glass bottles, and by 1960 approximately 47 percent of beer sold in the U.S. was packaged in cans and no-return bottles. Soft drinks, however, were still sold almost exclusively in refillable glass bottles requiring a deposit. Can market share was just 5 percent. With the centralization of the beverage industry, and a more mobile and convenience-oriented society, the decade of the sixties witnessed a dramatic shift from refillable soft drink 'deposit' bottles to 'no-deposit, no-return, one-way' bottles and cans.

The gradual demise of refillable beer and soft drink bottles in the fifties and sixties and the rise in one-way, no-deposit cans and bottles resulted in an explosion of beverage container litter. This prompted environmentalists to propose bottle bills in their state legislatures that would place a mandatory refundable deposit on beer and soft drink containers.

The first bottle bill was passed in Vermont in 1953. However, it did not institute a deposit system. It merely banned the sale of beer in non-refillable bottles. The law subsequently expired four years later after strong lobbying from the beer industry.

By 1970, cans and one-way bottles had increased to 60 percent of beer market share, and one-way containers had grown from just 5 percent in 1960 to 47 percent of the soft drink market. British Columbia enacted the first beverage container recovery system in North America in 1970.

In 1971, Oregon passed the first bottle bill (also known as a deposit law) in the United States, requiring refundable deposits on all beer and soft drink containers. By 1986, ten states (over one-quarter of the U.S. population) had enacted some form of beverage container deposit law or bottle bill.

The so-called 'bottle bills' were intended not only to reduce beverage container litter, but to conserve natural resources through recycling and reduce the amount of solid waste going to landfills. They proved to be extremely successful in achieving those goals.

Seven states reported a reduction of beverage container litter ranging from 70 to 83 percent, and a reduction in total litter ranging from 30 to 47 percent after implementation of the bottle bill. High recycling rates were also achieved.

Today, eleven states and eight Canadian provinces have a deposit law requiring refundable deposits on certain beverage containers (Delaware's deposit law will come to an end in 2011). Although bottle bills meet with opposition from many members of the beverage and grocery industry, several states and provinces have expanded their laws to cover beverages such as juice and sports drinks, teas and bottled water—beverages that did not exist when most bottle bills were passed.

#### Benefits of Bottle Bills

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RESOLUTION NO. 11-\_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, URGING THE GOVERNOR, STATE REPRESENTATIVE AND STATE SENATORS IN THE FLORIDA LEGISLATURE TO ADOPT A STATE OF FLORIDA “BOTTLE BILL” TO AMONG OTHER THINGS ENCOURAGE THE RETURN OR RECYCLE OF ALL BEVERAGE CONTAINERS AND OTHER RECYCLABLE MATERIALS; FURTHER DIRECTING THE TOWN CLERK TO TRANSMIT THIS RESOLUTION TO CERTAIN PUBLIC OFFICIALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission recognizes the importance of encouraging a clean and sustainable environment by creating incentives for users of beverage containers to recycle rather than dispose those used containers; and

**WHEREAS**, states with deposit laws (i.e., bottle bills) have higher residential recycling rates of beverage containers than those of non-deposit states and also enjoy litter decrease by 70-85 %; and

**WHEREAS**, the Florida Legislature, by enacting the Energy, Climate Change, and Economic Security Act of 2008 (Section 403.7032, Florida Statutes), established a statewide recycling goal of 75% by 2020; and

**WHEREAS**, the Florida Department of Environmental Protection, in its *75% Recycling Goal Report* to the Florida Legislature on January 4, 2010, identified a bottle bill as an option that can contribute to achieving the 75% recycling goal with little or no additional funding; and

**WHEREAS**, the Town Commission believes that it is in the best interest of the health, safety, and welfare of residents of the Town and for the State of Florida to encourage these efforts and in that regard encourage the creation of a bottle bill;

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

**Section 1.** The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this resolution upon adoption hereof.

**Section 2.** The Town of Surfside hereby supports legislation that would create a bottle bill.

**Section 3.** The Town Clerk is hereby directed to transmit copies of this resolution to the Governor of the State of Florida, the President of the Florida Senate, the Speaker of the



Florida House of Representatives, and Members of the Florida House of Representatives or Florida Senate introducing legislation in accordance with the terms of this resolution, and the Mayors and Members of the governing bodies of the municipalities within Miami-Dade County.

**Section 4.**     **Effective Date.** This Resolution becomes effective upon adoption.

PASSED AND ADOPTED this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2011.

Motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**


Commissioner Michael Karukin	_____
Commissioner Edward Kopelman	_____
Commissioner Marta Olchyk	_____
Vice Mayor Joseph Graubart	_____
Mayor Daniel Dietch	_____

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

**ATTEST:**

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

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

  
\_\_\_\_\_  
Lynn M. Dannheisser  
Town Attorney



## Town of Surfside Commission Communication

**Agenda Item #** 5B

**Agenda Date:** March 8, 2011

**Subject:** Change Orders

**Background:** The Community Center is a beehive of activity with many trades, subcontractors, design firms, inspectors and a project manager all working in concert to timely complete the project. Often decisions have to be made to quickly adjust materials, locations, procedures and cost/savings to complete the building without delay.

The traditional method for settling the responsibility for these adjustments (change orders) is to meet with all the concerned people in a given situation, negotiate cost/savings, assign responsibility (often shared) for problems and bring a change order to the Town Commission for approval. This was the process used for the additional meeting space. Given the complexity of this project, the history of difficulty and the critical need for timely completion, it is not possible to follow this procedure.

An alternate process is to grant authority to the Town Manager to authorize change orders cumulatively up to the maximum \$5 million project budget. This allows project momentum to remain at a high level while ensuring that the granted authority does not exceed the approved budget. When the project receives its Certificate of Occupancy, a final package of change orders and a project close out memorandum will be brought to the Town Commission for approval.

---

Roger M. Carlton, Town Manager

**RESOLUTION NO. 11- \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDERS FOR THE COMMUNITY CENTER FROM THE DATE OF THIS RESOLUTION TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY AND RETURN TO THE TOWN COMMISSION FOR AFTER-THE-FACT APPROVALS SO LONG AS THE TOTAL AMOUNT OF CONSTRUCTION COSTS DOES NOT EXCEED FIVE MILLION DOLLARS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on December 15, 2009, by Resolution 09-1913, the Town Commission ratified the selection of West Construction, Inc. (“West”) as the lowest most responsive bidder as the General Contractor for the Community Center; and

**WHEREAS**, West and all of its subcontractors are continuously and progressively working in order to timely complete construction on the Community Center; and

**WHEREAS**, change orders (written orders to the contractor, issued after execution of the construction contract, that authorize a change in the construction work, contract amount or materials which are approved by the construction project manager and often the design professionals which become necessary through the construction process for a variety of reasons are a normal and regular part of any construction process; and

**WHEREAS**, in order to keep West and all subcontractors working to timely complete this project, the Manager must be given the authority and ability to approve necessary change orders as and when they occur; and

**WHEREAS**, such change orders would normally be approved before issuance by the Town Commission at regular monthly meetings but as these occur only once a month, to defer approvals until then will delay the construction of the community center such that there can be no timely completion; and

WHEREAS, the Town Commission finds it is in the best interest of the Town of Surfside to grant the manager such authority.

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.

**Section 2. Authorization.** The Town Commission hereby authorizes the Town Manager to execute all necessary change orders on the construction cost or work or materials for the community center from the date of this resolution to the issuance of the certificate of occupancy and return to the town commission for after-the-fact approvals so long as the total amount of construction costs does not exceed five million dollars

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

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011

Motion by Commissioner \_\_\_\_\_, Second by Commissioner \_\_\_\_\_.

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

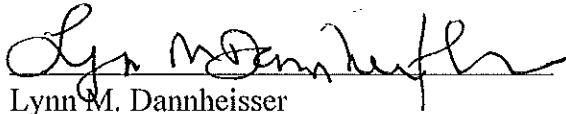
\_\_\_\_\_  
Daniel Dietch, Mayor

**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



## Meeting Minutes

- Fort Lauderdale Office** - 1800 Eller Drive, Suite 600, Fort Lauderdale, Florida 33316  
Phone: 954.921.7781 • Fax: 954.921.8807
- Palm Beach Office** - 560 Village Blvd, Suite 340, West Palm Beach, Florida 33409  
Phone: 561.684.6161 • Fax: 561.684.6360

**DATE:** 03/01/11

**SUBJECT:** Community Center Construction Progress Meeting

**ATTENDEES:** Roger Carlton, Town Manager  
Paul Gioia, Building Official  
Bill Evans, Public Works Director  
Tim Milian, Parks & Recreation Director  
Chris Caprio, West  
Bob Fox, West  
Ron Hasko, West  
Albert Lezcano, AECOM  
Chris Giordano, CGA  
Joel Wadsworth, CGA  
Debra Eastman, Town Clerk

**DISTRIBUTION** Attendees

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Prior to the meeting the following transmittals occurred:

CGA submitted to West the reviewed spandrel glass submittal (previously submitted electronically)

The meeting began with Giordano requesting a list of tasks completed. Ron stated the following had been completed:

1. Pool piping had been installed and hung.
2. North pool collection tanks had been installed.
3. Pool piping had been installed to the east and was heading north.
4. Pool electrical rough in began.
5. Backfilling around the main pool
6. Framing of interior walls.
7. Framing interior and exterior soffit.
8. A/C ducts continued to be installed.
  - a. Final correct duct work to be onsite tomorrow.
9. Form and pour north sidewalk
  - a. Issue of alignment corrected prior to concrete pour.
10. Rough grade 80% of the site (within a tenth of a foot).
11. Bollard footings had been formed and poured.
  - a. Issue with footing on second from the south bollard –addressed in issues encountered.

Giordano then requested Ron dictate activities occurring in the next two weeks. Ron stated the following would occur:

1. Continue interior framing.

2. Curtain wall extrusions to be on-site Friday.
  - a. Titan glass to work every day to make up for delivery delay.
3. Glass should be installed by end of next week.
4. FPL pad for transformer will be poured in the next few weeks.
5. Interior soffit framing.
6. Deliver sub-grade rock to site.
7. Pour footers for shade structures.
8. Complete electrical in and out of the mechanical room.
9. South side collection tanks will be installed.
10. Continue interior build out.
11. Install planter curbing.
12. Begin to layout and install irrigation.
13. Excavate and plumb for the spa.
14. Complete the pool/spa electrical rough in.

Giordano then inquired to any issues encountered.

Roger inquired to the nails utilized to form the pool. Ron stated that these nails will be ground flush and a final layer of diamond brite will ensure that they are concealed and not exposed.

Roger inquired to the rise/run of the steps. Ron confirmed that the steps were installed per the plans; Lezcano stated that the plans were reviewed and approved by the DOH. Lezcano has asked the pool consultants to look into this issue and provide a final answer.

Tim inquired to the process for protecting the tile in the activity pool during construction. West stated that once the tile is installed no work will be performed on the tile surface. Giordano stated that any damage during construction will be the responsibility of the Contractor to correct prior to the Town issuing payment or TCO.

Ron requested parking passes to help alleviate the congestion on-site. Roger directed Bill to deliver 10-1week parking passes to Ron. After the trailer is removed, West will be permitted to park on the area where the trailer was located.

Bill stated that he had received an email from Clinton Powell of FPL requesting information regarding the project. Giordano requested that Bill send the email to him and he would respond accordingly. Roger stated to West that FPL energizing the building could be a possible delay and directed them to stay on top of this process to ensure no delays occurred.

Roger inquired to the cost estimate and process for adding a manual fire alarm to the building. It was explained that a manual system was not specified for the building due to the fact that it is not required by FBC or Miami Dade County Fire Department. Caprio stated that the system which he would submit would run approximately \$14,000. It was discussed among the group and determined that adding a manual fire alarm at this stage would create a delay in the project which would not allow the building to be opened on time. The fire permit reviews can be lengthy and in most cases require multiple inspections prior to TCO issuance. It was also stated that it would be cheaper to contract directly with a fire contractor to retrofit the building after the

building received its CO. Roger then decided that the manual fire alarm would not be installed during construction, but would be addressed after CO of the building.

Giordano then recapped the events over the weekend regarding the shade structure footers. After the discussion it was determined that the 5 eastern footers would be 30" round by 42" deep while the 3 western footers would be 30" round by 36" deep. Paul confirmed that this was approved by the building department and West was directed to continue with the footers as described. Giordano stated that he had instructed the supplier to produce a revised submittal showing the revised footer dimensions. Ron also stated that all of the footers were being poured at the lowest elevation to ensure the shade structure would sit level when installed. All parties agreed this was the best solution.

Roger then inquired to the duration of the beach walk closure. Ron stated that the pavers for this area were scheduled to be delivered on the 7<sup>th</sup>. The beach walk would be opened after the beach walk was completed and the aluminum fence was installed. Roger then asked if the impediment of the parking to the condo to the north would be a permanent situation. He was informed that once the temporary construction fence was removed, full access to the parking area would be restored.

Ron then stated that during the installation of one of the bollard footings a conflict with a drainage pipe was discovered. He stated that he could sleeve the drainage pipe and install the footer above the drainage pipe. It was discussed by the group and a shallower spread footer with structural steel design was the chosen solution. Paul stated that he would draft a design for the spread footer and provide to Ron for installation.

Bill then stated that a crack in a Y column on the NW corner of the lot was found during his inspection. Giordano had visited the site and displayed a picture of the crack for the group. Lezcano requested the pictures be sent to the structural engineer to determine if the cracks were a structural or superficial issue.

Giordano then stated that he had received RFI 64 which inquired to possible issues with the slide terminus. The RFI was discussed and Giordano stated that he had submitted the RFI to Aquadynamics (AECOM's pool consultant) and was informed that a response would be produced by EOB today.

Lezcano then provided a permit update. He stated that he spoke with the FDEP who stated they are ready to issue the permit, but are waiting on final approve from FWC on the lighting package. Lezcano stated that he has made several attempts to contact Vicki Barnett of the FWC with little success. Roger instructed Giordano to follow up and if a response was not received by tomorrow, Roger would utilize his contacts to push the issue through FWC. Giordano complied and stated he would follow up this afternoon.

The issue regarding the possible excess fill onsite was then discussed. Paul performed rough calculations and stated that the east of the bulkhead should accept 2,000 CY of fill and utilizing a 20% compaction factor will hold 2,400 CY. Roger instructed AECOM to have a finite quantity of CY to be placed east of the bulkhead by next meeting. Giordano informed Lezcano to ensure his calculations took into consideration the existing vegetation, proposed walkway and proposed planters. Giordano then instructed West to have an estimate of how many CY of material they will have in the stockpile after all west of the bulkhead backfilling and grading is completed.



Giordano then inquired to West's status of the backup for the transfer switch CPR. Caprio stated that it was in process.

Giordano inquired to West's status for the revised deductive CPR for the existing water service. Caprio stated that he was working with his subcontractor and that it was in process.

Lezcano then stated that CPR 8 additional spandrel glass had been reviewed and approved.

Giordano then stated that Tim and Larry of AECOM had a conference call yesterday to address the remaining furniture selection issues. Tim stated that final selection had been made. Giordano stated that he had not been sent the final selections and needed these items ASAP to issue PO and order furniture.

Caprio then stated that he needed to have the lighting package released. Lezcano stated that this submittal was being held until FWC approval. Caprio stated he was concerned regarding the pool lights. Lezcano stated that they are the same manufacturer, same lights, but with a different lens. Lezcano was to ensure the lens would fit the previously specified housing. Caprio then requested the cut sheets.

Lezcano then dismissed himself from the meeting due to uncontrollable circumstances.

Caprio then stated that he noted a change from the bid plans to the latest set of plans which included some small amount of additional electrical work and some (approx 4,000sf) of tile in bathrooms. Giordano instructed Caprio to quantify all issues and create a formal submittal for review.

Giordano then stated that a mention of an RFI for the security pole at the front door was to be submitted. Caprio stated that it was not yet created, but would be submitted this week.

Giordano then inquired to West's estimate to install the conduit for the security cameras. Caprio stated it was in process.

Tim then stated that Tony of Earth Savers had not yet provided dates for the paver manufacturing site visit.

Giordano then stated that West had yet to submit for final color approval on the Funtraption equipment he requested Caprio look back in the submittal and if not yet sent, to send ASAP.

The meeting then adjourned and a site visit was conducted.

## **ACTION ITEMS**

### **AECOM**

Provide finite quantity of fill for EOBH

Provide location and logistics recommendation to Gioia for transfer switch.

Follow up on outstanding furniture options for reading chairs and associated tables.

Revise donor paver location to hold 250 8"x8" bricks.

## **TOWN**

Spread footer design for bollard and drainage pipe conflict resolution

Paul to submit plans and discuss the concession stand kitchen with Hotels & Restaurant Department.

Tim to purchase safe.

Tim to contact additional security camera company.

Tim & Roger to meet and order second plaque.

Tim to finalize the time capsule specifications

Tim to complete concession RFP

Tim/Bill to visit paver manufacturer

## **WEST**

Provide estimate for security camera conduit.

Provide additional information on slide submittal (Re material for Barry Color Options)

Provide color selection submittal for Funtraption.

Backup for transfer switch CPR

Submit RFI for security/handicap button pole and automatic door.

Revised CPR reduction for water service connection.

Reduction CPR for the east of bulkhead scope reduction.

Plan and schedule for achieving TCO date of April 9, 2011.

Get the project complete on-time

## **CGA**

Chris to send cut sheets for lighting to Caprio

Chris to call Vicki of FWC

Chris to finalize all outstanding change order paperwork

Chris to follow up on all action items listed above for all parties



**Town of Surfside  
Town Commission Meeting  
March 8, 2011  
7 p.m.**

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

**RESOLUTION COVER MEMORANDUM**

**Title:** Problem Gambling Awareness Week Proclamation

**Objective:** That the Surfside Town Commission approve the enclosed resolution proclaiming the week of March 6, 2011, as Problem Gambling Awareness Week.

**Consideration:** Compulsive gambling tears at the fabric of families and communities. The impact of compulsive gambling on those closest to the gambler is real and severe. In fact, often time's family members suffer more than the gambler themselves. Neglect and abuse can impact the family not only financially, but physically and emotionally as well. Effects can range from loss of basic necessities such as food and shelter, resulting in reliance on social services, to loss of hope, trust and family security, resulting in legal and health issues for family members. Statistics from the Florida Council on Compulsive Gambling's HelpLine indicate that:

- 74% of callers report family conflict due to a gambling problem;
- 65% report family neglect; and
- 4% report violence in the household.

The Florida Council on Compulsive Gambling is joining forces with the Governor, Legislature, and organizations across the state to raise public awareness about the effects of pathological (commonly referred to as compulsive) gambling and spreading the message of hope that gambling addiction is treatable for those who seek help.

At the request of the Florida Council on Compulsive Gambling, I am sponsoring the enclosed proclamation designating the week of March 6, 2011 as Problem Gambling Awareness Week. Through adoption of the proposed resolution, Surfside is acknowledging the issues associated with problem gambling and creating awareness of the avenues of help available for problem gamblers and their families.

RESOLUTION NO. 2011-\_\_\_\_

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA PROCLAIMING PROBLEM GAMBLING AWARENESS WEEK TO RAISE PUBLIC AWARENESS ABOUT THE EFFECTS OF GAMBLING AND SPREADING THE MESSAGE OF HOPE.**

**WHEREAS**, the Town of Surfside Town Commission wishes to join other municipalities across the state to proclaim March 6-12, 2011 as Problem Gambling Awareness Week; and

**WHEREAS**, the Florida Council on Compulsive Gambling is joining forces with the Governor, Legislature and organizations across the state to raise public awareness; and

**WHEREAS**, together we can raise awareness about the effects of problem gambling and provide assistance to those in need; and

**WHEREAS**, Problem Gambling Awareness week is a great way to raise awareness and prevent the problem of compulsive gambling; and

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

**SECTION 1:** That March 6 – 12, 2011 is proclaimed as Problem Gambling Awareness Week in the Town of Surfside, Florida.

**SECTION 2:** That the Town Clerk is instructed to send a copy of this resolution to the Florida Council on Compulsive Gambling, Inc.

**SECTION 2.** That this resolution shall be effective immediately upon its passage and adoption.

Motion by Commissioner \_\_\_\_\_, Second by Commissioner

\_\_\_\_\_.

**PASSED AND ADOPTED this 8<sup>th</sup> day of March, 2011.**

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_

Commissioner Marta Olchyk  
Vice Mayor Joseph Graubart  
Mayor Daniel Dietch

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**ATTEST:**

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

**APPROVED AS TO FORM AND LEGALITY**

For use and reliance of the  
Town of Surfside, Florida.

\_\_\_\_\_  
Lynn M. Dannheisser, Town Attorney



## Town of Surfside Commission Communication

**Agenda Item #:** 5D

**Agenda Date:** March 8, 2011

**Subject:** Police Department Added to Town IT Service Contract

**Background:** The Police Department has maintained its own IT equipment in the past. A police officer who has an extensive IT background, maintained the Police Department IT equipment in addition to his duties as a police detective. Due to staff reorganization, this officer was re-assigned to the evening shift uniform patrol on October 1, 2010. Calvin, Giordano and Associates currently have the contract to maintain the Town's IT services at a cost of \$51,499.92 annually. The cost to include IT maintenance for the Police Department is an additional \$23,550.08 annually for a total of \$75,000 (Attachment A). This cost will include maintenance of the Police Department's desktops, laptops, and servers.


**Analysis:** The Police Department requires a service contract to maintain its IT equipment. Calvin, Giordano and Associates currently have the Town service contract with a technician staffed in Town Hall. Including the Police Department in the contract establishes a cohesive single responsibility for the entire Town's IT equipment.

**Budget Impact:** The cost to include the Police Department in the Town service contract is \$23,550.08 from the Unassigned Fund Balance FY 10/11 (\$1,153,251 as of November 30, 2010). The Police Department was under budget and returned a substantial amount to the Unassigned Fund Balance at the end of FY 09/10.

**Staff Impact:** N/A

**Recommendation:** Town staff recommends that the Town Commission approve the resolution to include the Police Department in an amended IT service contract with Calvin, Giordano and Associates (Attachment A).

  
\_\_\_\_\_  
David Allen, Chief of Police

  
\_\_\_\_\_  
Roger M. Carlton, Town Manager

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE REAPPROPRIATION OF FUND BALANCE (RESERVES) TO THE OFFICE OF TOWN CLERK/DIRECTOR OF ADMINISTRATIVE SERVICES BUDGET; AMENDING THE TOWN'S BUDGET FOR FISCAL YEAR 2010-2011; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside Police Department has undergone a staff re-organization and the officer who maintained the Police Department IT equipment has been re-assigned to other duties; and

**WHEREAS**, the Police Department requires a service contract to maintain its IT equipment; and

**WHEREAS**, Calvin Giordano and Associates currently has the contract to maintain the Town's IT services at a cost of \$51,499.92 annually; and

**WHEREAS**, the cost to include IT maintenance for the Police Department is an additional \$23,550.08; and

**WHEREAS**, the current Office of Town Clerk/Director of Administrative Services for Fiscal Year 2010-2011 does not have sufficient funds, thereby necessitating a re-appropriation of Fund Balance (reserves) from the General Fund Account Number 001-0000-392-000 in the amount of \$13,738 (seven months proration of \$23,550 annually) to be distributed into Professional Services Account Number 001-2400-519-3410.

**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. Budget Amendment.** In accordance with Section 62 of the Town Charter and the budget adopted for Fiscal Year 2010 – 2011 is amended by re-appropriating the amount of \$13,738 of Fund Balance (reserves) from the General Fund Account Number 001-0000-392-000 to be distributed into Professional Services Account Number 001-2400-519-3410.

**Section 3. Implementation.** The Town Manager and the Town Clerk 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.

Motion by Commissioner \_\_\_\_\_, Second by Commissioner \_\_\_\_\_.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

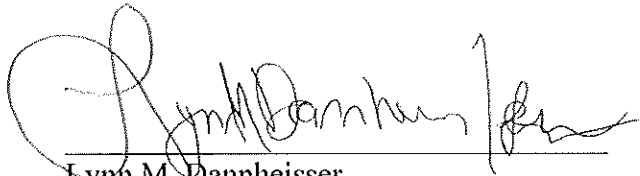
\_\_\_\_\_  
Daniel Dietch, Mayor

Resolution No. \_\_\_\_\_

**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

Resolution No. \_\_\_\_\_



Date: February 14, 2011

Mr. Roger Carlton  
Town Administrator  
**TOWN OF SURFSIDE**  
9293 Harding Avenue  
Surfside, FL 33154

**RE: Work Authorization No. 47**  
**Surfside IT Services**  
**CGA Proposal No. 11-3895**

Dear Mr. Carlton,

Enclosed for your review and approval is Work Authorization No. 47 for Surfside IT Services. The scope of the project includes Surfside IT Services.

The Scope of Services to be furnished under this Work Authorization includes Data Technologies & Development 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 \$75,000.00.

Sincerely,

**CALVIN, GIORDANO & ASSOCIATES, INC.**

Dennis J. Giordano  
President

Building Code Services  
Code Enforcement  
Construction Engineering & Inspection  
Construction Services  
Contract Government  
Data Technologies & Development  
Emergency Management Services  
Engineering  
Governmental Services  
Indoor Air Quality  
Landscape Architecture & Environmental Services  
Municipal Engineering Planning  
Public Administration  
Redevelopment & Urban Design  
Surveying & Mapping  
Transportation Planning & Traffic Engineering  
Utility & Community Maintenance 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 IT Services**

**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 Data Technologies & Development Services**

**A. General Information Technology Services for Town of Surfside End-Users and Police Department**

1. One On-Site full-time IT Support Technician.
  - Forty (40) hours per week , 8-5, M-F, excluding Holidays
  - Addition levels of support will be provided in an as-needed basis. Additional levels of support may include Technology Director or Network Manager to address tasks that require a higher level of expertise.
  - Additional coverage for new Police Department services will be performed remotely or on-site, whichever is most efficient or effective to resolve issues swiftly. Support staff will have the level of expertise required to complete the task.
2. Maintain current inventory of all Town owned computer and network.
3. Maintain current inventory of all Town owned software licenses.
4. Identify network vulnerabilities and present solutions to the Town Administrator.
5. Monitor / Support Firewall.
  - Monitor VPN clients for mobile laptops.
6. Converting documents for Website posting

7. Providing specs and ordering computers and other devices.

8. Channel 77

- Monitor SCALA system used to post Town related announcements.
- Post and remove Town announcements as directed by Town staff.

**B. End User/Desktop Support**

1. Create/Delete user account on network.
2. Change/Reset user passwords.
3. Troubleshoot all computer related issues.
4. Perform desktop Operating System updates and hot fixes using recommended software.

**C. File Backup**

1. Backup network shared files to include off-site storage & tape retention.
2. Perform backups on all network related files.
3. Monitor / Support tape backup device.

**D. Network File Sharing**

1. Monitor / Support network file sharing on server.
2. Train users on proper file sharing methods.

**E. Network Print Sharing**

1. Configure all printers for network printing.
2. Install network printers on user workstations.
3. Troubleshoot printing issues.

**F. Email**

1. Monitor / Support exchange server email accounts.
2. Monitor email archiving for compliance with state retention requirements.
3. Monitor / Support exchange server.

**G. Procurement**

1. Assist the Town on all technology purchases as approved by the Town Manager.

**H. Policy**

1. Implement defined security policies for all Town staff internally and remotely.

**I. Broadcasting**

1. Perform duties related to recording events for broadcasting.
  - Broadcasting Services to be charged at \$200.00 per event.
2. Deliver recordings on media to upload on Town's website.
3. Monitor / Support broadcasting equipment.

**J. Technology Services Not Provided to the Town under this contract.**

1. Support on FDLE server or any law enforcement related computer or software equipment that requires special certification.
2. E911 / DMS system support.
3. IT services beyond the Town's normal hours of operation. Normal hours of operation determined to be 8-5, M-F, excluding Holidays.
4. Software Development
5. GIS Support

**K. Additional Services**

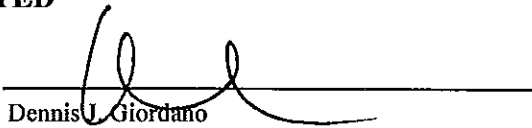
1. Additional Services will be billed to the Town for Services performed after the normal hours of operation or for services outside of the scope mentioned above. Additional services will require approval from Town Administrator before work is commenced. Refer to the rates listed below for all additional services.
  - Associate Data Technology and Development: \$165.00 hourly
  - Network Administrator: \$155.00 hourly
  - Sr. Application Development: \$165.00 hourly
  - System Support Specialist: \$115.00 hourly
  - Desktop Support Specialist: \$85.00 hourly
  - GIS Specialist: \$125.00 hourly
  - Creative Director: \$125.00 hourly (web development)

**2. BASIS OF COMPENSATION:**

Hourly rates with an estimated fee of \$75,000.00 plus reimbursables at \$0.00 with a total not to exceed amount of \$75,000.00. Payments to be made monthly.

This contract is for one (1) year with the option to renew for an additional two (2) years.

**3. SUBMITTED**

Submitted by:  Date: 2-16-11  
Dennis J. Giordano

**4. APPROVAL**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Roger Carlton, Town Administrator







**TOWN OF SURFSIDE  
PROFESSIONAL FEE SCHEDULE**

Principal 206.00  
Executive Assistant 72.10

**ENGINEERING**

Associate, Engineering 180.25  
Director, Engineering 154.50  
Project Manager 133.90  
Resident Inspector 123.60  
Project Engineer 123.60  
Engineer 103.00  
Jr. Engineer 87.55  
Senior CADD Technician 103.00  
CADD Technician 82.40  
Traffic Technician 77.25  
Permit Administrator 77.25  
Clerical 72.10

**DATA TECH DEVELOPMENT**

Associate, Data Tech Dev. 154.50  
GIS Coordinator 133.90  
GIS Specialist 113.30  
Multi-Media 3D Developer 92.70  
GIS Technician 82.40  
Sr. Applications Developer 164.80  
Applications Developer 123.60  
Network Administration 133.90  
System Support Specialist 113.30  
IT Support Specialist 82.40

**CONSTRUCTION**

Associate, Construction 154.50  
Construction Management Director 123.60  
Senior Inspector 92.70

**EMERGENCY MANAGEMENT**

Director 133.90  
Planner 92.70  
Jr. Planner 77.25

**PLANNING**

Associate, Planning 154.50  
Director of Planning 133.90  
Planning Administrator 123.60  
Assistant Director 113.30  
Planner 92.70  
Jr. Planner 77.25

**EXPERT WITNESS**

Principal/Associate 309.00  
Registered Engineer/Surveyor 257.50  
Project Engineer 206.00

**LANDSCAPE ARCHITECT**

Associate, Landscape 154.50  
Senior Landscape Architect 118.45  
Environmental Administrator 113.30  
Landscape Architect 103.00  
Environmental Specialist 92.70  
Landscape CADD Technician 82.40  
Environmental Assistant 72.10

**SURVEYING**

Associate, Surveying 164.80  
Hydrographic Survey Crew 334.75  
G.P.S. Survey Crew 144.20  
Survey Crew 128.75  
Senior Registered Surveyor 133.90  
Survey Coordinator 87.55  
CADD Technician 82.40  
Submeter G.P.S 66.95

**MICROBIAL/INDOOR AIR  
QUALITY SERVICES**

Sr. Environmental Scientist 103.00  
Environmental Scientist 87.55

Building Code Services  
Code Enforcement  
Construction Engineering & Inspection  
Construction Services  
Contract Government  
Data Technologies & Development  
Emergency Management Services  
Engineering  
Governmental Services  
Indoor Air Quality  
Landscape Architecture & Environmental Services  
Municipal Engineering  
Planning  
Public Administration  
Redevelopment & Urban Design  
Surveying & Mapping  
Transportation Planning & Traffic Engineering  
Utility & Community Maintenance Services

1800 Eller Drive, Suite 600  
Fort Lauderdale, FL 33316  
Phone: 954.921.7781  
Fax: 954.921.8807

www.calvin-giordano.com

*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.*



## Town of Surfside Commission Communication

**Agenda Item #:** 5E

**Agenda Date:** March 8, 2011

**Subject:** Forfeiture Expenditures for Police Department IT Equipment

**Background:** The forfeiture account has funded the laptop program for the past three years and is budgeted for the remainder of this fiscal year. The lease for the laptops expires in June 2010. The cost for a new lease for 26 laptops under the state contract (WN05ACA) is \$935.24 per month for a total of \$33,668.64 after three years (Attachment A). There is also a one time documentation fee of \$75.00. The main server that houses our data has failed in the past and data has been lost. It cannot be repaired and must be replaced. The replacement cost is \$5000.

**Analysis:** It is critical for the Police Department's IT equipment to be replaced. The equipment is outdated and has failed.

**Budget Impact:** The total cost for replacements (three year laptop lease, documentation fee, and server) is \$38,743.64 from the forfeiture fund.

**Staff Impact:** N/A

**Recommendation:** Town staff recommends that the Town Commission approve a resolution to expend \$38,743.64 from the forfeiture fund to replace the Police Department's IT equipment.

  
\_\_\_\_\_  
David Allen, Chief of Police

  
\_\_\_\_\_  
Roger M. Carlton, Town Manager

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2010/2011 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF THIRTY EIGHT THOUSAND SEVEN HUNDRED FORTY THREE AND SIXTY-FOUR CENTS (\$38,743.64) TO BE FUNDED BY PROCEEDS OF CONFISCATED FUNDS.**

**WHEREAS**, Section 881(e)(3) of Title 21, United States Code and Florida Statute Section 932.7055, defines the purposes and procedures to be utilized for the appropriation and expenditure of Police Confiscation Fund; and

**WHEREAS**, the Chief of Police of the Town of Surfside has determined that such needs exist and is in compliance with Section 881(e) (3) of Title 21, United States Code and Florida Statute Section 932.7055; and

**WHEREAS**, such funds are available in the Police Confiscation Fund- State of Florida and Federal Asset Forfeiture Programs;

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

**Section 1. Confiscation Fund Expenditures.** Based on the attached Certificate of the Police Chief, the Town Commission hereby approves the fiscal year Police Confiscation Fund expenditures for the Town of Surfside, a true and correct listing of which is set forth in Attachment "A."

**Section 2. Effective Date.** This Resolution shall become effective immediately upon adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of March, 2011.

Motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

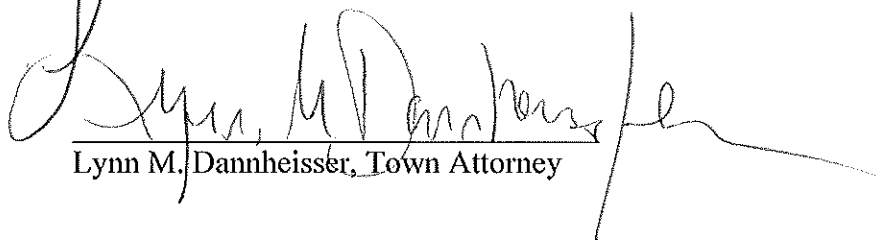
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

**ATTEST:**

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

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

  
\_\_\_\_\_  
Lynn M. Dannheisser, Town Attorney

**CERTIFICATE OF CHIEF OF POLICE**

**I, DAVID E. ALLEN, Chief of Police of the Town of Surfside, do hereby certify the expenditures for a Three Year Lease of 26 Laptops, Documentation Fee, and Server is \$38,743.64 from the Town of Surfside Confiscation Fund, for the 2010/2011 Fiscal Year budget complies with provisions Section 881(e)(3) of Title 21, United States Code and Florida Statute Section 932.7055.**

**Dated:** \_\_\_\_\_

\_\_\_\_\_  
**David E. Allen**  
**Chief of Police**

## ATTACHMENT A

**DELL****QUOTATION**

QUOTE #: 575152995

Customer #: 15237228

Contract #: WN05ACA

Customer Agreement #: 250WSCA10ACS;B27160

Quote Date: 2/18/11

Date: 2/18/11 6:16:02 PM

Customer Name: TOWN OF SURFSIDE

TOTAL QUOTE AMOUNT:	\$30,683.64		
Product Subtotal:	\$30,683.64		
Tax:	\$0.00		
Shipping & Handling:	\$0.00		
Shipping Method:	Ground	Total Number of System Groups:	1

GROUP: 1	QUANTITY: 26	SYSTEM PRICE: \$1,180.14	GROUP TOTAL: \$30,683.64
Base Unit:	Dell Latitude E5510 (224-9980)		
Processor:	Latitude E5510, Intel Core i5 560M, 2.68GHz, 1066MHz 3M L2 Cache (317-5727)		
Processor:	Intel Core i5 Processor (330-7465)		
Memory:	4.0GB, DDR3-1333MHz SDRAM, 1 DIMM, Dell Latitude (317-4722)		
Keyboard:	Documentation (English) Latitude E-Family/Mobile Precision (330-1652)		
Keyboard:	Internal English Keyboard Single Pointing, Dell Latitude E5410/E5510 (330-7773)		
Video Card:	Express Card without Modem, Dell Latitude E5510 (320-8889)		
Hard Drive:	320GB Hard Drive 9.5MM, 7200RPM, Dell Latitude E (342-0482)		
Hard Drive Controller:	Dell Touchpad with Anti-microbial protection, Dell Latitude E5510 (330-7789)		
Floppy Disk Drive:	15.6" HD+(1600x900) Wide View Anti-Glare LED with Premium Panel Guarantee, Dell Latitude E5510 (320-8893)		
Operating System:	Genuine Windows 7 Label, Latitude, Vostro and Mobile Precision Notebooks (330-6322)		
Operating System:	Genuine Windows 7 Professional, 64-bit, w/ media, Latitude, English (421-1644)		
Modem:	No Modem for Latitude E-Family (313-9606)		
TBU:	US - 3-FT, 3-Pin Flat E-Family Power Cord for Latitude E-Family (330-0879)		
TBU:	90W 3-Pin, AC Adapter, Dell Latitude E5510 (331-0138)		
CD-ROM or DVD-ROM Drive:	8X DVD+/-RW Optical Drive, Dell Latitude E5410/E5510 (313-9369)		
CD-ROM or DVD-ROM Drive:	8X DVD+/- Bezel, Dell Latitude E5510 (313-9390)		
CD-ROM or DVD-ROM Drive:	Roxio Creator Starter, Media, Dell OptiPlex, Latitude and Precision Workstation (421-4540)		
CD-ROM or DVD-ROM Drive:	Cyberlink Power DVD 9.5, Media, Dell OptiPlex, Latitude and Precision Workstation (421-4371)		
Sound Card:	Digital Microphone, Dell Latitude E5510 (313-9387)		
Processor Cable:	Dell WLAN 1501 (802.11b/g/n) 1/2 MiniCard, Dell Latitude E (430-0797)		
Bundled Software:	Microsoft Office Starter 2010, OptiPlex, Precision and Latitude (421-3950)		
Bundled Software:	Microsoft Office Home and Business 2010, English, OptiPlex, Precision and Latitude (421-3954)		
Feature	9-Cell/85-WHr Battery for Latitude E5X00 (312-0744)		
Service:	Basic Hardware Service: Next Business Day Parts and Limited Labor Onsite Response 2 Year Extended (926-3512)		
Service:	Basic Hardware Service: Next Business Day Parts and Limited Labor Onsite Response Initial Year (929-3500)		
Service:	Dell Limited Hardware Warranty Plus Onsite Service Extended Year(s) (922-1458)		

Service:	Dell Limited Hardware Warranty Plus Onsite Service Initial Year (922-1467)
Support:	CompleteCare Accidental Damage Protection, 3 Year (926-3682)
Support:	Info, Complete Care (988-7689)
	Resource DVD - Contains Diagnostics and Drivers, Dell Latitude E5510 (330-7792)
	Dell Back-up and Recovery Manager for Win7, MUI, Latitude, Precision, OptiPlex, Vostro (330-6043)

SALES REP:	Xavier Palacios	PHONE:	1866-302-7449
Email Address:	xavier_palacios@dell.com	Phone Ext:	72-50172

Please review this quote carefully. If complete and accurate, you may place your order online at [www.dell.com/qto](http://www.dell.com/qto) (use quote number above). POs and payments should be made to *Dell Marketing L.P.*

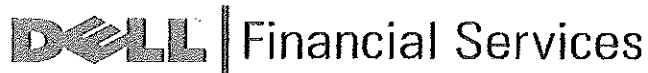
If you do not have a separate agreement with Dell that applies to your order, please refer to [www.dell.com/terms](http://www.dell.com/terms) as follows:

If purchasing for your internal use, your order will be subject to *Dell's Terms and Conditions of Sale-Direct* including Dell's U.S. Return Policy, at [www.dell.com/returnpolicy#total](http://www.dell.com/returnpolicy#total). If purchasing for resale, your order will be subject to *Dell's Terms and Condition of Sale for Persons or Entities Purchasing to Resell*, and other terms of Dell's PartnerDirect program at [www.dell.com/partner](http://www.dell.com/partner). If your order includes services, visit [www.dell.com/servicecontracts](http://www.dell.com/servicecontracts) for service descriptions and terms.

Quote information is valid for U.S. customers and U.S. addresses only, and is subject to change. Sales tax on products shipped is based on "Ship To" address, and for downloads is based on "Bill To" address. Please indicate any tax-exempt status on your PO, and fax your exemption certificate, with seller listed as *Dell Marketing L.P.*, to Dell's Tax Department at 800-433-9023. Please include your Customer Number.

For certain products shipped to end-users in California, a State Environmental Fee will be applied. For Asset Recovery/Recycling Services, visit [www.dell.com/assetrecovery](http://www.dell.com/assetrecovery).





**DELL FINANCIAL SERVICES LEASE PROPOSAL**

Town of Surfside

February 21, 2011

**LEASE PROGRAM:** \$1 Buyout Tax Exempt Lease Purchase

Dell Quote #	Equipment	Unit Price	Qty.	Total Amount Financed	Payment Frequency	Lease Term (months)	Lease Payments
575152995	Latitude E5510	\$1,180.14	26	\$30,683.64	Monthly	36	\$935.24

\*The above payment does not include a one time documentation fee of \$75 per lease\*

**LESSEE:** Town of Surfside

**LESSOR:** Dell Financial Services LLC and/or its successors and assigns.

**END OF LEASE OPTIONS:**

**\$1 BUYOUT LEASE OPTION**

Option available to lessee upon completion of the base lease term are as follows:

Exercise the option to purchase the products for \$1.00.

**LEASE QUOTE:** The Lease Quote is exclusive of interim rental, shipping costs, maintenance fees, filing fees, licensing fees, property or use taxes, insurance premiums and similar items which shall be for Lessee's account. Lessee will pay Payments and all other amounts without set-off, abatement or reduction for any reason whatsoever. Additionally, Lessee shall declare and pay all sales, use and personal property taxes to the appropriate taxing authorities. **If you are sales tax exempt**, please fax a copy of your Exemption Certificate with the Lease Contract.

**PURCHASE ORDER:** The Purchase Order will be made out to Dell Financial Services, One Dell Way, RR3 / MS8468, Round Rock, TX 78682. The Purchase Order will include the quote number, quantity and description of the equipment. Please be sure to indicate that the PO is for a lease order and shows the type of lease, the term length, and payment frequency. The date of the lease quote referenced should be included. Please be sure to include any applicable shipping costs as a line item. Please include your address as the SHIP TO destination.

**INSURANCE:** The risk of loss on the Equipment is borne solely by the Lessee. Lessee shall be required to purchase and maintain during the Term (i) comprehensive public liability insurance naming Lessor as additional insured; (ii) "all-risk" physical damage insurance in a minimum amount of the Purchase Price, naming Lessor as first loss payee; and, (iii) workmen's compensation insurance.

**APPROPRIATION COVENANT:** The Lease shall contain an appropriation of funds clause. The Lessee will covenant that it shall do all things legally within its power to obtain and maintain funds from which the payments may be paid and Lessee will not give priority or parity in the application of funds to any functionally similar equipment.

**DOCUMENTATION:** Duly executed Agreement and other appropriate documents, including, opinions of counsel, UCC financing statements, audited financials and such other documentation as is reasonably requested by Lessor.

**PROPOSAL VALIDITY/APPROVALS:** This is a proposal based upon market conditions and **is valid for 30 days**, is subject to final credit approval, review of the economics of the transaction, and execution of mutually acceptable documentation.



## Town of Surfside Commission Communication

Agenda Item # 5F

Agenda Date: March 8, 2011

Subject: Purchase of Pressure Washer and Trailer

**Background:** In an effort to keep Surfside a beautiful community for our residents, businesses and visitors it is imperative that Town staff have the proper maintenance equipment. The sidewalks and alleys in the business district as well as our municipal parking lots are in need of regular pressure washing.

Town staff would like to purchase a pressure washer and trailer with a 200 gallon water tank that can operate as a self-contained unit. The pressure washer would also have a hot water burner to provide hot water. The ability to apply hot water to the sidewalks will help remove gum and other residue. Having the pressure washer on a trailer provides great mobility allowing access to the entire Town.

Town staff has received three quotes and recommends the one submitted by Smith-Hamilton Industrial Tools. Although this quote was not the lowest it met or exceeded all our requirements, is commercial grade and has the largest capacity fuel tanks allowing for maximum operating time between refueling. The reason for rejecting the lower priced quote is that it only delivers 3000 Pounds per Square Inch pressure (PSI) versus 3500 PSI. The three quotes and their prices are as follows:

Northern Tool	3000 PSI	\$9,999
Smith-Hamilton Industrial Tools	3500 PSI	\$10,209
Pressure Washers Direct	3500 PSI	\$10,499

**Analysis:** The Town currently has a small portable pressure washer that requires a water supply. This severely limits range and mobility and does not have hot water capability. The new pressure washer will allow Town staff to perform their duties more efficiently and effectively.

**Budget Impact:** \$10,209 to be paid from the Municipal Parking Fund.

**Staff Impact:** N/A

**Recommendation:** It is recommended that the Surfside Town Commission approve the purchase of the pressure washer and trailer from Smith-Hamilton Industrial Tools at a cost not to exceed \$10,209 to be paid from the Municipal Parking Fund.

  
\_\_\_\_\_  
Department Head

  
\_\_\_\_\_  
Town Manager

RESOLUTION NO. 2011 \_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE PURCHASE OF A PRESSURE WASHER AND TRAILER FROM SMITH-HAMILTON INDUSTRIAL TOOLS; AUTHORIZING THE TOWN MANAGER TO EXPEND PARKING FUND PROCEEDS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside (the “Town”) wishes to purchase a pressure washer and trailer to effectively and efficiently maintain the sidewalks, streets, alleys and parking lots; and

**WHEREAS**, the Town of Surfside received the following three quotes for the pressure washer and trailer:

Northern Tool	3000 PSI	\$9,999
Smith-Hamilton Industrial Tools	3500 PSI	\$10,209
Pressure Washers Direct	3500 PSI	\$10,499

**WHEREAS**, the quote submitted by Smith-Hamilton Industrial Tools provided the best option and met or exceeded the Town’s requirements; and

**WHEREAS**, the Town staff would like to purchase a pressure washer and trailer with a 200 gallon water tank that can operate as a self-contained unit in the amount of \$10,209 to be paid from the Municipal Parking Fund; and

**WHEREAS**, the Town Commission finds that approval of the purchase of the pressure washer from Smith-Hamilton Industrial Tools is in the best interest of the Town.

**NOW, THERE, 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 of Purchase.** The purchase of the pressure washer and trailer from Smith-Hamilton Industrial Tools is approved.

**Section 3. Authorization of Town Officials.** The Town Manager and/or his designee are authorized to purchase the pressure washer and trailer.

**Section 4. Authorization of Fund Expenditure.** Notwithstanding the limitations imposed upon the Town Manager pursuant to the Town's Purchasing Procedures Ordinance, the Town Manager is authorized to expend Municipal Parking funds to purchase the pressure washer and trailer.

**Section 5. Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 8<sup>th</sup> day of March, 2011.

Motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_.

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

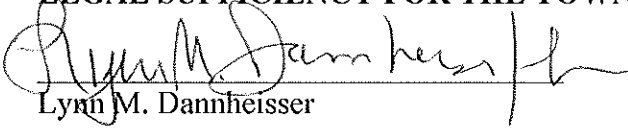
\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

---

Debra E. Eastman, MMC  
Town Clerk

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



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Lynn M. Dannheisser  
Town Attorney



**TOWN OF SURFSIDE  
COMMUNICATIONS AD HOC COMMITTEE  
FINAL REPORT TO TOWN COMMISSION  
MARCH 8, 2011**

The Town Commission of the Town of Surfside at their October 12, 2010 Regular Commission meeting voted (Resolution 10-1961) to form the Communications Ad Hoc Committee. Members appointed to the Committee are Chairperson Randi MacBride, Vice Chairperson Cheryl Arnold and members Norma Rojas, Jeff Burros and Kathy Imberman. Commissioner Michael Karukin was appointed as the Town Commission liaison to the Committee.

The Communications Committee met seven (7) times: October 19, 2010, October 27, 2010, November 18, 2010, December 7, 2010, January 4, 2011, January 25, 2011 and February 16, 2011.

The Committee made an interim progress report to the Town Commission on November 28, 2010. In that report, four (4) objectives were identified, as follows:

1. Review current communications methods.
2. View demonstrations from website vendors.
3. Develop user requirements and content specifications for the website.
4. Develop options and recommendations for the Town Commission.

Please note that several of the recommendations that were conveyed to Town Staff in conversation have already been implemented as indicated in the recommendations below. Some of the bullet points reveal the low and high priority placed upon the item by a vote of the Committee.

The Communications Committee respectfully makes the following recommendations:

**Gazette:**

- Modify advertisement policy related to cost, location, quantity (already implemented)
- Hope to phase out ads. They are now moved to back two pages.
- Modify appearance (fonts), layout and create consistency/ continuity of content  
Modifying appearance will be done as part of the Town-wide Branding, and continuity of content has been implemented to some extent, but need improvement.
- Consider offering opt out postal delivery
- Modify calendar layout (already implemented)
- Add Spanish version of calendar of events

**Broadcast:**

- Develop agreement with ATT-U-Verse (in development)
- Revise programming schedule content to allow Public Service Announcements (low priority)

- Increase timing between screen transitions (already implemented)
- Public broadcast schedule (already implemented)
- Discontinue display of illegible content (already implemented)

**Social Media:**

- Use Social Media to communicate, if it is locked and controlled by the Town (low priority)

**Code Red:**

- Recommend SMS (text) (The system already has this capability, so it is of no cost to the town.
- Raise awareness of Code Red to be implemented after the SMS feature is added .(high priority)

**Website:**

The Committee recommends that the Town Commission direct staff to issue an RFP based upon the following scope:

- Custom Design Look and Feel (Using Identity Standards not yet developed)
- Global Style Sheets
- Rotating Photos on Home Page (According to the direction of the Identity Standards)
- Review and Reorganization of Current Content
- Content Management Tools
- Default and Configurable Content Expiration Dates
- Email Posting of Content – News, Agendas, Minutes (Highest Priority)
- SMS Text Alerts
- Email Subscriber Service
- Multiple Web Calendars
- On-line Bill Pay
- Real Time Streaming
- Archive Streaming
- Google Search Function
- Web Statistics
- Site Security
- EDMS Integration (Search and Retrieval)
- Adequate Storage for on-line and/or near line document retrieval
- Consulting/Training Services
- Home Page Draw Down Tabs in English/Spanish (Similar to Miami Beach)
- Associated with Miami-Dade County (possible link) to help locate Surfside for tourism

**Optional Features:** (Medium Priority)

- On-line Polling
- Citizen Request Management

**General Recommendations:**

- Develop an Identity Standards Manual, establishing a “branding” of the Town to facilitate recognition; working in conjunction with all of the committees that it affects. The Manual needs to be comprehensive and all inclusive. (Super high priority)
- Recommend Town provide communications/content clearing house point person (content management) (High Priority)
- Town Commission agenda be delivered electronically instead of paper (High Priority)
- Upgrade software on Town computers and provide more licenses for standard programs such as Adobe
- Provide Google calendar maintained and updated by each Town Department (High Priority)

The Committee makes these recommendation with the intention of guiding the Town toward improving the level and quality of communication it delivers to its residents; to ensure that it is coordinated, effectively managed and responsive to the information needs of the town’s residents, visitors, and employees. In closing, the members wish to express their gratitude for the opportunity to serve on the Committee and extend an offer to serve on any future Communications Committee projects, including a selection committee for any requests for proposals.

Respectfully submitted,

Randi MacBride, Chairperson  
Cheryl Arnold, Vice Chairperson  
Jeff Burros  
Norma Rojas  
Kathy Imberman  
Michael Karukin, Town Commission Liaison



Town of Surfside High Level Requirement Specification Recommendations

Required Feature	Vendor 1	Vendor 2	Comment
1. Custom Design Look and Feel			
2. Global Style Sheets			
3. Rotating Photos on Home Page			
4. Review and reorganization of current content			e.g., calendars, checkbook, forms, codes, reports etc.
5. Content Management tools			
6. Default and configurable content expiration dates			
7. Email Posting of Content (News, Agendas, Minutes)			
8. SMS Text Alerts			
9. Email Subscriber Service			
10. Multiple Web Calendars			
11. On-line Bill Pay			
12. Real Time Streaming			
13. Archive Streaming			
14. Google Search Function			
15. Web Statistics			
16. Site Security			
17. EDMS Integration (Search and Retrieval)			
18. Adequate storage for on-line and/or near line document retrieval			To reduce storage requirements will need to integrate EDMS system
19. Consulting/Training Services			
<b>Optional Features</b>			
1. On-line Polling			
2. Citizen Request Management			
3. Develop Spanish Version of Website			
<b>Cost of Tourist Board Website</b>			
Start up Costs (development)			
Annual Maintenance Fees			
Year 1			
Year 2			
Year 3			
<b>Three Year Cost Projection</b>			

**Town of Surfside****Ad Hoc Code Enforcement Committee****Code Enforcement Committee Recommendation To Town Commission**

**1-Code Enforcement procedure should continue with its current level of enforcement as follows:**

- a) First Inspection: Courtesy notice with time to comply**
- b) Extenuating circumstance, extend the date to comply**
- c) Second Inspection: Non-compliance, civil citation and fine**

**2- Chain link fence violations should not be enforced**

**3-All Real Estate signs to pay a fee of \$25.00 annually for each sign**

- a) Signs are to be 12 x 18 white background with blue letters to be 2" tall**

**4- Political signs to pay \$50.00 bond to ensure the signs are removed by the candidate 72 hours after the election or runoff election**

**5-Permit fee of \$25.00 for Banner signs for sixty days with a size not to exceed 20 sq. ft.**

**6-Garage Sale permit fee of \$5.00 each sale, not more than twice a year.**

**7-All lawn maintenance companies to register with the Town each year, fee of \$10.00**

**8-All abandoned houses pay a fee of \$50.00 to register with the Town.**

**9-The committee voted unanimously to have the Code Enforcement Committee be extended indefinitely.**



**Town of Surfside  
Town Commission Meeting  
March 8, 2011  
7 p.m.**

**DISCUSSION ITEM MEMORANDUM**

**Title: Community Center Commemorative or Dedication Plaque**

**Objective: To have the Town of Surfside Commission vote on the contents or wording for the ‘new’ commemorative or dedication plaque to be installed next to the original (‘old’) one – at the upcoming dedication ceremony for the Community Center.**

**Consideration:**

- (1) The original plaque lists two ‘Councils’ one for the council of inception (groundbreaking) and one for council of dedication - all members, except for one, that were on the council for the dedication were also on the council of inception. For the ‘new’ Community Center NONE of the names from the Commission of “groundbreaking” (inception) remain on the Commission. (2) No current member of this Commission – Mayor, Vice Mayor nor Commissioner *really* had much to do with this project.
  
- (2) Many on this Commission acknowledge and recognize that the Community Center ‘project’ this Commission inherited was, to put it kindly – an unnecessarily divisive, and extraordinary expensive mess - a boondoggle.

**Action: I am asking this Commission to direct the Town Manager to use the following on the plaque to be used at the upcoming dedication ceremony: (I suggest something ‘simple’ like this – no politicians, officials, etc.)**

**Dedicated to the people of Surfside by the people of Surfside.**

**Approximate Cost: NONE – as plaque has previously been approved and budgeted for, etc.**

**Thank you for your consideration;**

**Respectfully,**

**Joe Graubart, Vice Mayor**

## Debra Eastman

---

**From:** Marta Olchyk  
**Sent:** Tuesday, February 22, 2011 10:54 AM  
**To:** Debra Eastman; Roger Carlton; Lynn Dannheisser  
**Subject:** Agenda Item for the March meeting.

Please include in the Agenda an Item to:

Discuss the fee to be imposed on the residents of the surrounding communities of Bay Harbor, and Bal Harbor for their use of the Community Center.

Thanks

Marta



## Town of Surfside Commission Communication

**Agenda Item #** 9C

**Agenda Date:** March 8, 2011

**Subject:** Feral Cats and Dog Feces

**Objective:** The purpose of this communication is to initiate a dialogue with the goal of resolving the vexing problems of feral cat and dog feces. Let me first acknowledge the emotion and passion with which a number of our residents believe that feeding feral cats is acceptable. My family has owned cats for many years, one of which lived to be 19 years old.

**Background:** Feral Cats: By way of background regarding feral cats, the Town of Surfside has cooperated with Friends of Cats for a number of years to neuter and spay feral cats. Unfortunately the number of cats that are neutered and spayed on an annual basis has not made a dent in the feral cat population, which in fact is growing. Further, the unregulated feeding of the feral cats causes unsanitary conditions, encourages vermin such as roaches, raccoons and possums and is unsightly. Finally, there is a risk of health problems from the cat feces. Hookworm became an issue for Miami Beach which not only was a health problem, but also, became a public relations situation on an international scale.

**Recommendation:** The following is a suggested program which could resolve the feral cat problem over time, hopefully after dialogue and concurrence from the concerned stakeholders. The purpose of bringing this forth as suggestions is to determine if the Town Commission wishes to provide the necessary financial resources and authorize certain regulatory activities. Frankly it makes no sense to engage without knowing that the will exists to fund and implement solutions.

1. Continue to work with the Friends of Cats which has been providing neutering and spay services albeit at a slow pace. Expand this program with three mobile units who would operate a clinic in Surfside on a given weekend in conjunction with Miami Dade Animal Control Director Dr. Sara Pizano. Volunteers would assist in capture of the feral cats prior to the weekend. When this was accomplished in Miami Beach recently, approximately 100 cats were neutered or spayed in one weekend.
2. Select, train and empower approximately 15 feral cat feeders that would wear identity vests and badges and would responsibly feed feral cats only in approved areas and at specific times. These "feeders" would have to clean up after a limited elapsed time. This process has worked well in Sunny Isles Beach. Non approved feeders would be given citations after an initial warning.

As an adjunct condominium boards of directors could upon majority vote in regularly scheduled meetings ask the Town to issue citations to non approved feeders on private property. A similar solution eludes me for the single family homeowner who feed within the confines of their own property, however, there may be ideas how to resolve this particular situation emerging from a community discussion.

The health issues from sick feral cats are resolved by medical decisions made by the veterinarians when the cats are captured. There is not much more that can be said regarding this element of the overall problem.

Finally, the Town would establish a requirement for a semi-annual report from the Town Manager regarding program implementation on the Town Commission agenda. The report would evaluate the program and make recommendations for change. The public would be encouraged to speak at the Commission meeting.

Dog feces: While it is easy to joke about this issue and a little humor in this troubled world is a good thing, the bottom line is that responsible dog ownership requires that the person walking a dog keep it on a leash and clean up after the animal. Unfortunately not all pet owners adhere to this philosophy or are willing to act responsibly. This causes an imposition for property owners who do not appreciate the use of their yards as dog relief stations. Further, use of public property by dog owners creates an unsanitary condition in public areas that are frequently used by children.

The solution is an enforced "pooper scooper" law made enforceable by the provision of dog sanitary stations which provide feces bags at convenient locations. To make this form of regulation work, it would require approximately 25 stations throughout Surfside, plus a significant enforcement effort. If the Town Commission wishes, Staff can calculate the costs and define the resources necessary as part of the budget process for FY 11/12.

Conclusion: The philosopher John Jacques Rousseau coined the phrase, "social contract" which means that members of a society have a responsibility to seek out some just and certain rules, based on shared core values for the administration of the civil order and so that society can flourish and progress. While Rousseau probably did not bother himself with either problem discussed in this communication, there is a lesson to be learned. If we have the will to solve these two problems and the patience to discuss alternatives in a civil matter, we can come to solutions that are compassionate, effective and efficient. The Administration awaits your direction.



---

Roger M. Carlton, Town Manager



## Town of Surfside Commission Communication

**Agenda Item #** 9D

**Agenda Date:** March 8, 2011

**Subject:** FOP Collective Bargaining Agreement Wage Re-opener

**Background:** At the November 9, 2010 Town Commission meeting, the Collective Bargaining Agreement with the Fraternal Order of Police was approved. Article 19 of the agreement stipulates that there be a wage re-opener on April 1, 2011 for FY 11/12 and FY 12/13.

Town staff is recommending that an executive session be scheduled prior to the March 24, 2011 bargaining session to discuss resources available and receive direction from the Town Commission.

**Analysis:** N/A

**Budget Impact:** Subject to outcome of wage re-opener negotiations.

**Staff Impact:** N/A

**Recommendation:** It is recommended that the Surfside Town Commission schedule an executive session to discuss the FOP Collective Bargaining Agreement wage re-opener.

  
\_\_\_\_\_  
Department Head

  
\_\_\_\_\_  
Town Manager



**Town of Surfside  
Commission Communication**

**Agenda Item #** 9E

**Agenda Date:** March 8, 2011

**Subject: Status Report – Building Department**

The status of special building permit initiatives in the Building Department is as follows:

**Amnesty program:** There were 114 cases of which 96 were completed. The 18 non-compliant cases will go before Special Master Jimmy Morales beginning April 7, 2011. Priority will be given to the most egregious violations.

**FEMA violations:** There were 64 violations of which 61 have been cleared. The remaining three are time sensitive and will remain open until FEMA mandated time periods are completed.

**Open permits:** There were 985 single family home open permits. 460 of the permits have been closed. 87 have been renewed. Extensions have been granted to 57. 223 letters were returned and 158 were received by owners with no response. Second notices will be sent soon. This initiative will be expanded in the near future to multi-family residences.

As can be seen, great progress is being made in closing out a historic backlog in the Building Department.

*Paul Gioia*  
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Department Head *by DH*

*Roger M. Carlton*  
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Roger M. Carlton, Town Manager