



**Town of Surfside  
Town Commission Meeting  
AGENDA**

**SUPPLEMENTAL No. 1**

**March 11, 2014**

**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**
- G. Proclamation to Officer Maryhelen McCarthy from Newtown, Connecticut – Mayor Daniel Dietch Page 75**
- H. Award for Bay Harbor Island K-8 Center PTA President Julia Magnani – Commissioner Joe Graubart**
- I. Presentation: Brian Flynn from Miami Dade County on Beach Issues and 2015 Beach Nourishment – Michael P. Crotty, Town Manager Page 1**
- J. Presentation to Commissioner Graubart – Mayor Daniel Dietch**
- K. Presentation to Commissioner Kligman – Mayor Daniel Dietch**
- L. Special Presentation to Town Mayor, Vice Mayor and Commissioners \$1.00 Annual Salary – Michael P. Crotty, Town Manager**

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

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

*All items on the consent agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, 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.**

***\* 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.***

- A. Minutes – February 11, 2014 Regular Town Commission Meeting Page 2 - 14**
- B. Budget to Actual Summary as of December 31, 2013 – Donald Nelson, Finance Director Page 15 - 17**
- \*C. Town Manager’s Report – Michael P. Crotty, Town Manager Page 18 - 38**
- \*D. Town Attorney’s Report – Linda Miller, Town Attorney Page 39 - 43**
- \*E. Projects Progress Report – Calvin, Giordano and Associates, Inc. Page 44 - 45**
- F. Committee Reports – Michael P. Crotty, Town Manager Page 46 - 65**

- **November 19, 2013 Pension Board Meeting Minutes**
- **January 13, 2014 Parks and Recreation Committee Meeting Minutes**
- **February 3, 2014 Tourist Board Meeting Minutes**
- **February 18, 2014 Charter Review Board Meeting Minutes**

- G. Supporting the Expansion of the School Nurse System – Michael P. Crotty, Town Manager Page 66 - 74**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (“TOWN”) SUPPORTING THE EXPANSION OF THE SCHOOL NURSE SYSTEM IN THE TOWN OF SURFSIDE; JOINING THE TOWN OF BAY HARBOR ISLANDS, NORTH BAY VILLAGE, BAL HARBOUR VILLAGE AND THE CITY OF MIAMI BEACH IN FUNDING, NOT TO EXCEED \$3667.00 FROM THE FY BUDGET 2014-2015, A NURSE AND MEDICAL ASSISTANTS FOR RUTH K. BROAD K-8 CENTER, NORTH BEACH ELEMENTARY, AND TREASURE ISLAND ELEMENTARY; PROVIDING FOR AN EFFECTIVE DATE.**

- H. Approval of Expenditure of Forfeiture Funds to Replace a Research Investigative Tool – David Allen, Chief of Police Page 76 - 102**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2013/2014 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF \$2,901.00 FROM THE FORFEITURE FUND TO REPLACE A RESEARCH**

**INVESTIGATIVE TOOL; PROVIDING FOR AUTHORIZATION AND APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.**

**4. Ordinances**

*(Set for approximately 7:45 p.m.) (Note: Good and Welfare must begin at 8:15)*

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

**1. Ordinance Amending Chapter 54 Prohibited and Restricted Noises –  
Commissioner Joe Graubart Page 103 - 112**

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 54 “PROHIBITED NOISES”; SPECIFICALLY AMENDING SECTIONS 54-78 “PROHIBITED NOISES”, 54-79 “RESTRICTED NOISES—CLASSIFIED; ENUMERATED”; AND DELETING SECTIONS 54-80 “SAME—WHEN CONSIDERED ENCLOSED”, 54-81 “SAME—DIVISION OF YEAR INTO PERIODS FOR PURPOSE OF CONTROL”, 54-82 “SAME—WHEN PROHIBITED”, AND 54-83 “SAME—PROHIBITED NEAR HOTELS AND APARTMENTS DURING PERIOD NO. 1”, BY REVISING THE HOURS FOR CONTROLLING PROHIBITED AND RESTRICTED NOISES; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**2. Planning and Zoning Board Membership – Linda Miller, Town Attorney  
Page 113 - 123**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” SPECIFICALLY AMENDING SECTIONS 90-15 “MEMBERSHIP/QUORUM, MINIMUM QUALIFICATIONS, OFFICERS, TERMS OF OFFICERS, VACANCIES, GENERAL REGULATIONS, RECOMMENDATIONS, EXPENDITURES, INDEBTEDNESS”, 90-16 “MEETINGS: BOARD YEAR; TIMEFRAME; LOCATION”, 90-17 “POWERS AND DUTIES”, 90-18 “DESIGN REVIEW BOARD”, 90-19 “SINGLE-FAMILY AND TWO-FAMILY DEVELOPMENT REVIEW PROCESS”, 90-20 “DEVELOPMENT REVIEW REQUIREMENTS FOR SUBMITTALS**

**OTHER THAN SINGLE-FAMILY AND TWO-FAMILY”, 90-23 “CONDITIONAL USES”, AND 90-70 “SIGN PERMITS”, ESTABLISHING THE DESIGN REVIEW BOARD AND RESPONSIBILITIES OF SUCH BOARD; CHANGING MEMBERSHIP REQUIREMENTS OF THE PLANNING AND ZONING BOARD; ALLOWING FOR AN APPEAL OF DESIGN REVIEW BOARD DECISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

3. **Electric Vehicle Car Charging Station – Sarah Sinatra, Town Planner Page 124 - 130**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING”, AND SPECIFICALLY AMENDING SECTION 90.2 “DEFINITIONS”; SECTION 90-41 “REGULATED USES”; SECTION 90-71.2 “H30C, H40, MU AND H120 DISTRICTS”; AND SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS”; TO ALLOW FOR THE INSTALLATION OF ELECTRIC VEHICLE CAR CHARGING STATIONS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

4. **Amendments to the Chapter 70 Article IV “Resort Tax” Ordinance – Duncan Tavares, TEDACS Director {LINKED TO ITEM 5B} Page 131 - 147**  
**Amended Item**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 70 “TAXATION” AND SPECIFICALLY AMENDING SECTIONS 70-109 “IMPOSITION; AMOUNT”, SECTION 70-124 “COMPOSITION; APPOINTMENT; VACANCIES; COMPENSATION; REMOVAL FROM OFFICE, ETC.”, SECTION 70-125 “ORGANIZATION”, SECTION 70-126 “POWER AND DUTIES”, AND CREATING SECTION 70-128 “BUDGET AND EXPENDITURE OF FUNDS” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

*(Set for approximately 7:45 p.m.) (Note: Good and Welfare must begin at 8:15)*

**B. First Reading Ordinances**

**5. Resolutions and Proclamations**

*(Set for approximately 9:00 p.m.) (Note: Depends upon length of Good and Welfare)*

- A. Harding Avenue Improvement District (BID): Resolution Establishing A Special Assessment District – Duncan Tavares, TEDACS Director Page 148 - 168**

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA, WITH ATTACHMENT(S), ESTABLISHING A SPECIAL ASSESSMENT DISTRICT AREA TO BE KNOWN AS THE SURFSIDE BUSINESS IMPROVEMENT DISTRICT (“BID”) AND AUTHORIZING THE LEVY AND COLLECTION OF A SPECIAL ASSESSMENT FOR A PERIOD OF FIVE (5) YEARS SUBJECT TO THE APPROVAL OF A MAJORITY OF AFFECTED PROPERTY OWNERS; PROVIDING FOR THE NATURE AND ESTIMATE OF BENEFITS TO BE PROVIDED; PROVIDING DETAILS OF ASSESSMENT PROCEDURES, PAYMENTS, AND STATUTORY LIENS; PROVIDING FOR PUBLICATION OF LEGAL NOTICE, AUTHORIZING AND DIRECTING THE TOWN MANAGER, TOWN CLERK, AND ALL OTHER NECESSARY TOWN OF SURFSIDE STAFF, AFTER CONSULTATION WITH THE TOWN ATTORNEY, TO UNDERTAKE ALL NECESSARY ACTIONS AND PROCEDURES TO ACCOMPLISH THE PURPOSE SET FORTH IN THIS RESOLUTION IN ACCORDANCE WITH CHAPTER 170, FLORIDA STATUTES; PROVIDING FOR AUTHORIZATION; AND PROVIDING AN EFFECTIVE DATE.**

- B. Amendment to the Chapter 70 Article IV “Resort Tax” – Duncan Tavares, TEDACS Director {LINKED TO ITEM 4A4} Page 169 – 193 **Amended Item****

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ADOPTING THE RESORT TAX BOARD CONFLICT OF INTEREST AND ETHICS POLICY AND OPERATING PROCEDURES; PROVIDING FOR POLICIES, PRINCIPLES, STANDARDS OF CONDUCT, AND OPERATING PROCEDURES; PROVIDING FOR AUTHORIZATION; 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.*

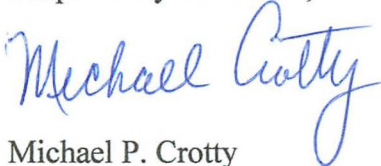
**8. Unfinished Business and New Business**

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

- A. Final Report of the Charter Review Board** – Linda Miller, Town Attorney [TIME CERTAIN 7:45PM] **Page 194 - 213**
- B. Infrastructure Rehabilitation Project – Close Out Update** – Michael P. Crotty, Town Manager **Page 214 - 238**
- C. Status Report on Code Compliance Fines** – Joe Damian, Code Compliance Director **Page 239 - 251**
- D. Report on Canal/Dock/Point Lake Issue** – Michael P. Crotty, Town Manager **Page 252 - 263**
- E. Town Manager’s Evaluation** – Mayor Daniel Dietch **Page 264**
- F. Stop Sign and Crosswalks Plan along Collins and Harding Avenue (Verbal)** – David Allen, Chief of Police
- G. Smoking Ban for “Municipal Use” Property** – Commissioner Joe Graubart **Page 265 - 267**
- H. Bus Service Update** – Michael P. Crotty, Town Manager **Page 268**
- I. Miami Dade County League of Cities Director Designation (Verbal)**– Mayor Daniel Dietch
- J. Sight Line Triangle Compliance** – Mayor Daniel Dietch **Page 269**
- K. Residential Solid Waste Set Out Compliance** – Mayor Daniel Dietch **Page 270 - 274**

**10. Adjournment**

Respectfully submitted,



Michael P. Crotty  
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 THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

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

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

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

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



## Town of Surfside Commission Communication

**Agenda Item # 5B**

**Agenda Date:** March 11, 2014

**Subject:** Second Reading: Amendments to the Chapter 70 Article IV "Resort Tax" Ordinance.

*A friendly amendment at first reading on February 11, 2014 specified that in Sec. 70-124 (a) the two additional industry Board members cannot be from the same hotel and/or private company and is reflected in the ordinance.*

*A resolution adopting the Resort Tax Board (Tourism Board) Conflict of Interest and Ethics Policy and Operating Procedures (addressed below) is before the Town Commission at the March 11, 2014 Meeting.*

**Background:** Surfside is one of only three municipalities in Miami-Dade County eligible by Florida State Law Chapter 67-930 Municipal Resort Tax ~~(Attachment 1)~~ to impose a Resort Tax of four percent (4%) on accommodations and two percent (2%) on food and beverage sales. Miami Beach and Bal Harbour are the other two municipalities allowed to exercise the tax. This unique revenue generating opportunity is also defined in the Town's Charter in Sec. 69-A. Resort Tax ~~(Attachment 2)~~ and comes with set guidelines on its use and management.

The Town addresses the collection, management and use of the tax in Chapter 70 Article IV Resort Tax. This Ordinance was updated for the first time since its 1960 inception in April 2011. Since the Ordinance was revised, the Town and Tourist Board (Board) have encountered some sections that require modification.

Last fiscal year, the Board undertook the completion of a Five Year Tourism Strategic Plan to assist in managing the portion of the fund that is allocated to the Board's budget. During the same period the Board retained Robert Meyers, Esq., former Executive Director of Miami-Dade Commission on Ethics, to assist in developing policies and procedures, a code of conduct/ethics policy as well as address the legislation on governance of the Board's budget.

Language regarding the governance of the Board's portion of the Resort Tax Fund was addressed in the April 2011 ordinance changes; it is felt that further clarification is needed. The Board represents the Commission in all matters on the expenditure of its portion of the Resort Tax; it has sole oversight on how the Board's Resort Tax portion is utilized. However, clearly defined roles and responsibilities for the Board members is still needed. The Board also felt that a Policy and Procedures Manual as well as a Code of Conduct/Ethics Policy needed to be addressed in anticipation of larger budgets emanating from the new hotel tax revenue and possible increased scrutiny on how the funds are utilized.

The Board met throughout 2013 and has recently adopted Mr. Meyers' report on the initiatives ~~(Attachment 3)~~ by an overwhelming majority. The one dissenting vote was by the Board's Chair who



felt that the Code of Conduct/Ethics policy was more stringent than existing Town policies and therefore not necessary. The Board also supported increasing its membership to seven. The two new members would be appointed by the Town Commission at large and will comprise of professionals from the tourism industry: Sec. 70-124 (a). This was deemed a necessary element to provide the Board with expertise as it manages the expenditure of their ever increasing revenue. The Board realizes that it, and the Town, will benefit from the opinion and experience of industry professionals as they implement recommendations from the Five Year Tourism Strategic Plan. The Board Chair also cast the only dissenting vote on this particular ordinance revision.

**Analysis:** The Tourist Board approved recommendations in Mr. Meyers' report that need to be codified in the Ordinance are listed below. The other items will form a document of record for the Town and assist in serving as a manual for the Tourist Board.

Sec. 70-109 (a): Removal of taxation on identifiable food and beverage take-out.

Sec. 70-124 (a): Increase board membership from five to seven members to include two tourism industry professionals appointed by the majority vote of the Town Commission, shall not be representatives from the same hotel and/or private company.

(f) Stricter requirements to attend meetings and to remain active Board members.

Sec 70-125 (a): Automatically provide for voting of Chair and Vice Chair positions annually.

Sec. 70-126 (6): Amend fiscal year budget plan language to align with the Town's existing procedure for departments.


Sec 70-128: Clarify expenditure and management of funds to align with the Town's existing procurement and expenditure policies.

The amended Ordinance, along with Mr. Meyers' report, will provide the Town Commission, the Board and Administration with a more concise and professional reference guide. This will assist with implementing the statutory requirements and mission associated with collecting and expending Resort Tax funds in an open, transparent manner.

**Budget Impact:** The revision of the Ordinance to eliminate take-out as taxable items will result in a negligible decrease to the amount of Resort Tax collected from applicable businesses. This only applies to establishments that can clearly identify the items that are to be consumed away from the premises. All other changes do not have a budgetary impact.

**Staff Impact:** Existing staff resources will be utilized to facilitate these changes.

**Recommendation:** The Town Administration, along with the majority of the Tourist Board, the Five Year Tourism Strategic Plan and Mr. Robert Meyers, recommend that the Town Commission approve these amendments to the Chapter 70 Article IV Resort Tax Ordinance.

  
TEDACS Director

  
Town Manager

RESOLUTION NO. 14 – \_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ADOPTING THE RESORT TAX BOARD CONFLICT OF INTEREST AND ETHICS POLICY AND OPERATING PROCEDURES; PROVIDING FOR POLICIES, PRINCIPLES, STANDARDS OF CONDUCT, AND OPERATING PROCEDURES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, a Resort Tax Board was created pursuant to Chapter 70, Section 70-123 of the Town of Surfside Code of Ordinances; and

**WHEREAS**, the Resort Tax Board (“Board”) developed additional policies and procedures because of the unique authority granted to the Board by the Laws of Florida Chapter 67-930 Municipal Resort Tax (incorporated herein by reference); and

**WHEREAS**, the Board is granted with the authority to manage and spend the allocated portion of the Resort Tax revenues received by the Town; and

**WHEREAS**, the Board and Town Commission finds that a clearly defined Conflict of Interest and Ethics Policy and Operating Procedures (attached hereto as Exhibit “A”) are in the best interest of the Town.

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

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

**Section 2. Approval and Adoption.** The Commission hereby approves and adopts the Resort Tax Board Conflict of Interest and Ethics Policy and Operating Procedures (attached hereto as Exhibit “A”).

**Section 3. Resort Tax Board Members.** Members of the Resort Tax Board shall be appointed in accordance with and shall follow the Policy and Procedures adopted herein.

**Section 4. Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_ 2014.

Motion by Commissioner \_\_\_\_\_, second by Commissioner \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

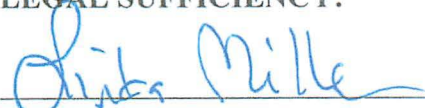
Commissioner Joseph Graubart \_\_\_\_\_  
Commissioner Michelle Kligman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Michael Karukin \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, CMC  
Town Clerk

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

  
\_\_\_\_\_  
Linda Miller, Town Attorney

# **TOURISM BOARD CONFLICT OF INTEREST AND ETHICS POLICY**

## **I. Intent and Declaration of Policy**

Due to the unique responsibilities entrusted to the Resort Tax Board (hereinafter "Tourism Board") in expending resort tax funds with minimal oversight by the Town of Surfside Town Commission and to assure public confidence that its Board members are acting as responsible stewards, the public interest is served by establishing additional ethics requirements beyond those existing in Florida Statutes, the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and the Town of Surfside Code of Ethics.

It is not sufficient for the Tourism Board to comply with applicable state and local laws. Board members must avoid even the appearance of impropriety or any actual or perceived conflict of interest in performance of their official duties as members of the Tourism Board.

## **II. Definitions**

For purposes of this section, the following words, terms and phrases shall have the meaning as indicated below:

- a) *Board member.* An individual duly appointed to serve on the Tourism Board.
- b) *Gift.* The transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise or in any other form, without adequate and lawful consideration.
- c) *Immediate family.* The spouse, domestic partner, parents, stepparents, children, and stepchildren of a Board member.
- d) *Lobbyist.* All persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modification of any action, decision or recommendation of the Tourism Board.
- e) *Transacting business.* The purchase or sale by the Town or Tourism Board of specific goods or services for consideration.

## **III. General Principles**

Resort Tax Board members shall demonstrate their commitment to the general principles of Board service. These principles are aspirational in nature. A member who acts contrary to these principles is not acting in the best interest of the Board and may be censured by the Board. However, this section of the Board's Ethics Policy does not confer jurisdiction over the Miami-Dade Commission on Ethics and Public Trust to commence an investigation or take

enforcement action against a member alleged to have violated one or more of these general principles.

- a) Board members shall act with integrity and in an ethical and professional manner in their interactions with each other, Town of Surfside elected officials and staff, consultants, advisors and the general public, so that their behavior will reflect positively upon the Town of Surfside.
- b) Board members will be sensitive to the considerable workload of staff when making requests for assistance.
- c) Board members must recognize that all Board decisions and actions are to be based on integrity, competence and independent judgment on the merits and benefits to the general public, tourists, local businesses and residents in the Town of Surfside.
- d) Board members shall act with competence and shall strive to maintain and enhance their competence and that of their fellow board members.
- e) Board members will respectfully consider the opinions of others during deliberations in decision-making, will respect the judgment of the Board in regards to its decisions and will represent the Board's position to the Town Commission when necessary.
- f) Board members will refrain from using Board meeting to advance their personal agendas.

#### **IV. Standards of Conduct**

The Miami-Dade Commission on Ethics and Public Trust will have exclusive jurisdiction for investigation and enforcement of the following standards of conduct, which are unique to the Tourism Board and generally represent stricter standards than those enumerated in the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance or the Town Code of Ethics.

##### **A) Gifts**

1. A board member shall not solicit or receive a gift regardless of value from lobbyists registered with the Town of Surfside or from proposers, vendors or contractors with the Town of Surfside or the Tourism Board.
2. Board members may accept gifts from other sources given to them in their official capacity where not otherwise inconsistent with the provisions of the Florida Statutes, the Miami-Dade County Ethics Ordinance and the Town of Surfside

Code of Ethics and shall report any gift, or series of gifts from any one person or entity in excess of one hundred dollars.

3. Board members will be permitted to solicit gifts on behalf of the Town of Surfside in performance of their official duties for use solely by the Town in conducting its official business or official business of the Tourism Board when directed by the Town Commission or by Tourist Board directive to assist with specific initiatives, programs and/or events.
4. Board members will be permitted to accept gifts or expenses given to them associated primarily with their employment or business or related to community service performed as an officer, director or volunteer of a corporation or organization not related to this Tourism Board.

**B) Voting Conflicts**

1. No Board member shall participate in or vote on any matter presented to the Board if the member or the member's immediate family will be directly affected by the action of Board unless the action taken would affect the Board member no differently than it would affect the public-at-large. Further, no Board member who has a special relationship (defined as an officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary) with an applicant or party with a matter before the Board may participate in the discussions or vote on a matter when such applicant or party with the special relationship appears before the Board.
2. Board member is not required to absent himself or herself from the meeting when the item is under consideration and may be counted for purposes of maintaining a quorum.

**C) Duty to Disclose**

A board member who stands to indirectly benefit from an action or decision by the Board or has a business or professional relationship not enumerated above in the Voting Conflicts section, has a duty to disclose this information verbally at the meeting when such relationship becomes known by the Board member.

**D) Communications Outside of Public Meetings**

Section 286.011, Florida Statutes, prohibits board members from communicating with one another concerning matters before the Tourism Board or on any matter which foreseeably come before the Tourism Board. Consistent with the ethics in public contracting section of the Town Code of Ordinance (3-16) and the general principles set forth in Section 2-11.1 of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and Section 2-226 of the Town Code of Ordinances, Board members shall not communicate with persons under

consideration for consulting work as it relates to specific Tourist Board activities, including but not limited to, individuals or entities seeking to be retained as advertising and/or public relations consultants; individuals or entities wishing to assist the Board in organizing special events for the promotion of Surfside as a tourist destination and individuals and entities associated with the media for purposes of placing advertising with said media.

**E) Transacting Business with the Board**

1. A firm, company, partnership or other business or professional entity employing a Board member or the member's immediate family may not transact business with the Board unless a waiver is granted by a 2/3 vote of the entire Board.
2. Board members will have no private contracts or business dealings with the Board or with Town absent those dealings to which members of the general public are entitled.

**F) Prohibition on Certain Business Transactions**

No Board member shall enter into a business transaction with any person or entity that has a contract with the Town of Surfside or the Tourism Board unless the business transaction is an arms-length transaction made in the ordinary course of business.

**V. Town Attorney to Render Opinions**

Whenever a Board member is in doubt as to the proper interpretation or application of the Board Ethics Policy with respect to contemplated conduct by the Board member, that person may request an opinion from the Town Attorney by providing a statement of all the material facts and questions. Opinions issued under this section shall be published without the use of the name of the person advised unless the person permits the use of a name. If the Board member acts in accordance with the opinion and no material facts were misstated or omitted when requesting an opinion, the opinion will insulate the Board member from prosecution by the Miami-Dade Commission on Ethics.

**VI. Acknowledgement of Receipt**

Tourism Board members are required to abide by the provisions set forth in the Board Conflict of Interest and Ethics Policy, and upon appointment to the Board, each Member will receive a copy of the Policy and acknowledge his or her commitment to

upholding these principles by reviewing and signing the document and returning it to staff for publication on the Town's website.



## **TOWN OF SURFSIDE TOURISM BOARD OPERATING PROCEDURES**

### **I. INTRODUCTION**

The Town of Surfside Resort Tax Board is vested with specific powers and duties codified in Article IV. Resort Tax of the Town Code. In order to properly and effectively carry out these responsibilities, the Board must adopt policies and procedures to implement these duties. The importance of establishing protocols and written procedures demonstrating fiscal and budgetary accountability is particularly significant in light of the additional resources entrusted to the Board to spend over the next decade due to increases in resort taxes expected to be collected by the Town.

### **II. COMPLIANCE WITH APPLICABLE LAWS**

The Board is required to comply with all applicable provisions of state law, county ordinances and the Town Code, including but not limited to those pertaining to public records, open meetings, financial disclosure and with respect to competitive bidding requirements for purchase of goods and services.

### **III. CORE FUNCTIONS**

The Tourism Board's responsibilities include the following:

1. Adopt and/or amend procedures as they relate to publicity, advertising, promotional events, and for tourist board activities.
2. To expend resort tax funds collected pursuant to the Town Code.
3. To employ or retain an advertising and/or public relations consultant and/or firm as it relates to specific tourist board activities.
4. To authorize placement of advertising in various media.
5. To organize special events for the promotion of Surfside as a tourist destination.

### **IV. OTHER SUBSTANTIVE TASKS**

The two other substantive tasks assigned to the Resort Tax Board are:

1. Authorizing the placement of advertising in various media.
2. Organizing special events.

**Pages 179 -193**

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## Town of Surfside Commission Communication

**Agenda Item # 4A4**

**Agenda Date:** March 11, 2014

**Subject:** Second Reading: Amendments to the Chapter 70 Article IV "Resort Tax" Ordinance.

*A friendly amendment at first reading on February 11, 2014 specified that in Sec. 70-124 (a) the two additional industry Board members cannot be from the same hotel and/or private company and is reflected in the ordinance.*

*A resolution adopting the Resort Tax Board (Tourism Board) Conflict of Interest and Ethics Policy and Operating Procedures (addressed below) is before the Town Commission at the March 11, 2014 Meeting.*

**Background:** Surfside is one of only three municipalities in Miami-Dade County eligible by Florida State Law Chapter 67-930 Municipal Resort Tax (Attachment 1) to impose a Resort Tax of four percent (4%) on accommodations and two percent (2%) on food and beverage sales. Miami Beach and Bal Harbour are the other two municipalities allowed to exercise the tax. This unique revenue generating opportunity is also defined in the Town's Charter in Sec, 69-A. Resort Tax (Attachment 2) and comes with set guidelines on its use and management.

The Town addresses the collection, management and use of the tax in Chapter 70 Article IV Resort Tax. This Ordinance was updated for the first time since its 1960 inception in April 2011. Since the Ordinance was revised, the Town and Tourist Board (Board) have encountered some sections that require modification.

Last fiscal year, the Board undertook the completion of a Five Year Tourism Strategic Plan to assist in managing the portion of the fund that is allocated to the Board's budget. During the same period the Board retained Robert Meyers, Esq., former Executive Director of Miami-Dade Commission on Ethics, to assist in developing policies and procedures, a code of conduct/ethics policy as well as address the legislation on governance of the Board's budget.

Language regarding the governance of the Board's portion of the Resort Tax Fund was addressed in the April 2011 ordinance changes; it is felt that further clarification is needed. The Board represents the Commission in all matters on the expenditure of its portion of the Resort Tax; it has sole oversight on how the Board's Resort Tax portion is utilized. However, clearly defined roles and responsibilities for the Board members is still needed. The Board also felt that a Policy and Procedures Manual as well as a Code of Conduct/Ethics Policy needed to be addressed in anticipation of larger budgets emanating from the new hotel tax revenue and possible increased scrutiny on how the funds are utilized.

The Board met throughout 2013 and has recently adopted Mr. Meyers' report on the initiatives (Attachment 3) by an overwhelming majority. The one dissenting vote was by the Board's Chair who

felt that the Code of Conduct/Ethics policy was more stringent than existing Town policies and therefore not necessary. The Board also supported increasing its membership to seven. The two new members would be appointed by the Town Commission at large and will comprise of professionals from the tourism industry: Sec. 70-124 (a). This was deemed a necessary element to provide the Board with expertise as it manages the expenditure of their ever increasing revenue. The Board realizes that it, and the Town, will benefit from the opinion and experience of industry professionals as they implement recommendations from the Five Year Tourism Strategic Plan. The Board Chair also cast the only dissenting vote on this particular ordinance revision.

**Analysis:** The Tourist Board approved recommendations in Mr. Meyers' report that need to be codified in the Ordinance are listed below. The other items will form a document of record for the Town and assist in serving as a manual for the Tourist Board.

Sec. 70-109 (a): Removal of taxation on identifiable food and beverage take-out.

Sec. 70-124 (a): Increase board membership from five to seven members to include two tourism industry professionals appointed by the majority vote of the Town Commission, shall not be representatives from the same hotel and/or private company.

(f) Stricter requirements to attend meetings and to remain active Board members.

Sec 70-125 (a): Automatically provide for voting of Chair and Vice Chair positions annually.

Sec. 70-126 (6): Amend fiscal year budget plan language to align with the Town's existing procedure for departments.

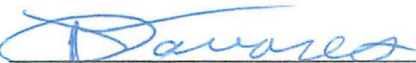
Sec 70-128: Clarify expenditure and management of funds to align with the Town's existing procurement and expenditure policies.

The amended Ordinance, along with Mr. Meyers' report, will provide the Town Commission, the Board and Administration with a more concise and professional reference guide. This will assist with implementing the statutory requirements and mission associated with collecting and expending Resort Tax funds in an open, transparent manner.

**Budget Impact:** The revision of the Ordinance to eliminate take-out as taxable items will result in a negligible decrease to the amount of Resort Tax collected from applicable businesses. This only applies to establishments that can clearly identify the items that are to be consumed away from the premises. All other changes do not have a budgetary impact.

**Staff Impact:** Existing staff resources will be utilized to facilitate these changes.

**Recommendation:** The Town Administration, along with the majority of the Tourist Board, the Five Year Tourism Strategic Plan and Mr. Robert Meyers, recommend that the Town Commission approve these amendments to the Chapter 70 Article IV Resort Tax Ordinance.

  
TEDACS Director

  
Town Manager

**Municipal Resort Tax**

Chapter 67-930, Laws of Florida,

As amended by Chapters 82-142, 83-363, 93-286, and 94-344, Laws of Florida

**Brief Overview**

The Municipal Resort Tax may be levied at a rate of up to 4 percent on transient rental transactions, and up to 2 percent on the sale of food and beverages consumed in restaurants and bars in certain municipalities whose respective county population fell within specified limits based on the 1960 Census and whose municipal charter specifically provided for the levy of this tax prior to January 1, 1968. The tax levy must be adopted by an ordinance approved by the governing body. Revenues can be used for tourism promotion activities, capital construction and maintenance of convention and cultural facilities, and relief of ad valorem taxes used for those purposes.

**General Law Amendments**

There were no general law amendments resulting from the 2010 Regular Legislative Session.

**Authorization to Levy**

Municipalities in counties having a population of not less than 330,000 and not more than 340,000 (i.e., Broward County) and in counties having a population of more than 900,000 (i.e., Miami-Dade County), according to the 1960 decennial census, whose charter specifically provided or whose charter was so amended prior to January 1, 1968, for the levy of this exact tax, are eligible to impose it by ordinance adopted by the governing body. The tax shall be levied upon the rent of every occupancy of a room or rooms in any hotel, motel, apartment house, rooming house, tourist or trailer camp, as the same are defined in part I of ch. 212, F.S., and upon the retail sale price of all items of food or beverages sold at retail, and of alcoholic beverages sold at retail for consumption on the premises at any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department. However, the tax shall not apply to those sales the amount of which is less than 50 cents nor to sales of food or beverages delivered to a person's home under a contract providing for deliveries on a regular schedule when the price of each meal is less than \$10.

**Municipalities Eligible to Levy**

Currently, only three municipalities in Miami-Dade County (i.e., Bal Harbour, Miami Beach, and Surfside) are eligible to impose the tax. According to the Department of Revenue (DOR), all three municipalities are imposing the tax at the following rates: 4 percent of transient rental transactions and 2 percent on the sale of food and beverages.

**Administrative Procedures**

It is the duty of every person renting a room or rooms and every person selling at retail food or beverages or alcoholic beverages for consumption on the premises to act as the collection agent. Every such person must collect, report, and pay over to the municipality all such taxes imposed, levied, and collected, in accordance with the accounting and other provisions of the enacted ordinance. Any municipality collecting the tax shall have the same duties and privileges as the DOR under part I of ch. 212, F.S., and may use any power granted to the DOR under this part, including enforcement and collection procedures and penalties, which shall be binding upon all persons and entities that are subject to the tax. Additionally, municipalities responsible for administering the tax shall participate in the Registration Information Sharing and Exchange (RISE) Program and share tax administration information as prescribed by the DOR.<sup>1</sup>

**Distribution of Proceeds**

The governing body may authorize by ordinance the creation of an authority or commission empowered to contract and be contracted with its own name as an agency of the municipality to expend such portion of the proceeds of this tax as the body may determine appropriate.

**Authorized Uses of Proceeds**

The tax proceeds shall only be used for the creation and maintenance of convention and publicity bureaus; development and maintenance of art and cultural centers; enhancement of tourism; publicity and advertising; construction, operation, and maintenance of auditoriums, community centers, and convention structures; or relief from ad valorem taxes being used for any of these other purposes.

**Relevant Attorney General Opinions**

No opinions specifically relevant to this tax have been issued.

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1. Section 213.0535, F.S.

**Sec. 69-A. Resort tax.**

The Town of Surfside shall have the right, pursuant to the provisions of Laws of Fla. ch. 67-930, as amended by Laws of Fla. ch. 83-363, to impose, levy and collect a municipal resort tax, not to exceed four per cent (4%) upon the rent of rooms in any hotel, motel, apartment house, rooming house, tourist or trailer camp as same are defined in F.S. ch. 212, and not to exceed two per cent (2%) upon the retail sale of all items of food, beverages and alcoholic beverages, other than beer or malt beverages, sold at retail for consumption on the premises, provided that the tax shall not apply to sales which are less than fifty cents (50¢). The total receipts from the above tax levy shall be kept and maintained in a separate fund and shall in no event be transferred to the general fund. Said fund shall be used for the following purposes only: payment of necessary expenses of collecting, handling and processing of said tax; creating and maintenance of convention and publicity bureaus, cultural and art centers; enhancement of tourism; publicity and advertising purposes; for the future cost, purchase, building, designing, engineering, planning, repairing, reconditioning, altering, expanding, maintaining, servicing and otherwise operating auditoriums, community houses, convention halls, convention buildings or other structures; and other related purposes, including relief from ad valorem taxes heretofore levied for such purposes.  
(Res. No. 677, § 1, 10-12-67; Ord. No. 1285, § 1, 8-11-92)

## **TOURISM BOARD CONFLICT OF INTEREST AND ETHICS POLICY**

### **I. Intent and Declaration of Policy**

Due to the unique responsibilities entrusted to the Resort Tax Board (hereinafter "Tourism Board") in expending resort tax funds with minimal oversight by the Town of Surfside Town Commission and to assure public confidence that its Board members are acting as responsible stewards, the public interest is served by establishing additional ethics requirements beyond those existing in Florida Statutes, the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and the Town of Surfside Code of Ethics.

It is not sufficient for the Tourism Board to comply with applicable state and local laws. Board members must avoid even the appearance of impropriety or any actual or perceived conflict of interest in performance of their official duties as members of the Tourism Board.

### **II. Definitions**

For purposes of this section, the following words, terms and phrases shall have the meaning as indicated below:

- a) *Board member.* An individual duly appointed to serve on the Tourism Board.
- b) *Gift.* The transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise or in any other form, without adequate and lawful consideration.
- c) *Immediate family.* The spouse, domestic partner, parents, stepparents, children, and stepchildren of a Board member.
- d) *Lobbyist.* All persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modification of any action, decision or recommendation of the Tourism Board.
- e) *Transacting business.* The purchase or sale by the Town or Tourism Board of specific goods or services for consideration.

### **III. General Principles**

Resort Tax Board members shall demonstrate their commitment to the general principles of Board service. These principles are aspirational in nature. A member who acts contrary to these principles is not acting in the best interest of the Board and may be censured by the Board. However, this section of the Board's Ethics Policy does not confer jurisdiction over the Miami-Dade Commission on Ethics and Public Trust to commence an investigation or take



enforcement action against a member alleged to have violated one or more of these general principles.

- a) Board members shall act with integrity and in an ethical and professional manner in their interactions with each other, Town of Surfside elected officials and staff, consultants, advisors and the general public, so that their behavior will reflect positively upon the Town of Surfside.
- b) Board members will be sensitive to the considerable workload of staff when making requests for assistance.
- c) Board members must recognize that all Board decisions and actions are to be based on integrity, competence and independent judgment on the merits and benefits to the general public, tourists, local businesses and residents in the Town of Surfside.
- d) Board members shall act with competence and shall strive to maintain and enhance their competence and that of their fellow board members.
- e) Board members will respectfully consider the opinions of others during deliberations in decision-making, will respect the judgment of the Board in regards to its decisions and will represent the Board's position to the Town Commission when necessary.
- f) Board members will refrain from using Board meeting to advance their personal agendas.

#### **IV. Standards of Conduct**

The Miami-Dade Commission on Ethics and Public Trust will have exclusive jurisdiction for investigation and enforcement of the following standards of conduct, which are unique to the Tourism Board and generally represent stricter standards than those enumerated in the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance or the Town Code of Ethics.

##### **A) Gifts**

1. A board member shall not solicit or receive a gift regardless of value from lobbyists registered with the Town of Surfside or from proposers, vendors or contractors with the Town of Surfside or the Tourism Board.
2. Board members may accept gifts from other sources given to them in their official capacity where not otherwise inconsistent with the provisions of the Florida Statutes, the Miami-Dade County Ethics Ordinance and the Town of Surfside

Code of Ethics and shall report any gift, or series of gifts from any one person or entity in excess of one hundred dollars.

3. Board members will be permitted to solicit gifts on behalf of the Town of Surfside in performance of their official duties for use solely by the Town in conducting its official business or official business of the Tourism Board when directed by the Town Commission or by Tourist Board directive to assist with specific initiatives, programs and/or events.
4. Board members will be permitted to accept gifts or expenses given to them associated primarily with their employment or business or related to community service performed as an officer, director or volunteer of a corporation or organization not related to this Tourism Board.

#### B) Voting Conflicts

1. No Board member shall participate in or vote on any matter presented to the Board if the member or the member's immediate family will be directly affected by the action of Board unless the action taken would affect the Board member no differently than it would affect the public-at-large. Further, no Board member who has a special relationship (defined as an officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary) with an applicant or party with a matter before the Board may participate in the discussions or vote on a matter when such applicant or party with the special relationship appears before the Board.
2. Board member is not required to absent himself or herself from the meeting when the item is under consideration and may be counted for purposes of maintaining a quorum.

#### C) Duty to Disclose

A board member who stands to indirectly benefit from an action or decision by the Board or has a business or professional relationship not enumerated above in the Voting Conflicts section, has a duty to disclose this information verbally at the meeting when such relationship becomes known by the Board member.

#### D) Communications Outside of Public Meetings

Section 286.011, Florida Statutes, prohibits board members from communicating with one another concerning matters before the Tourism Board or on any matter which foreseeably come before the Tourism Board. Consistent with the ethics in public contracting section of the Town Code of Ordinance (3-16) and the general principles set forth in Section 2-11.1 of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and Section 2-226 of the Town Code of Ordinances, Board members shall not communicate with *persons under*

consideration for consulting work as it relates to specific Tourist Board activities, including but not limited to, individuals or entities seeking to be retained as advertising and/or public relations consultants; individuals or entities wishing to assist the Board in organizing special events for the promotion of Surfside as a tourist destination and individuals and entities associated with the media for purposes of placing advertising with said media.

**E) Transacting Business with the Board**

1. A firm, company, partnership or other business or professional entity employing a Board member or the member's immediate family may not transact business with the Board unless a waiver is granted by a 2/3 vote of the entire Board.
2. Board members will have no private contracts or business dealings with the Board or with Town absent those dealings to which members of the general public are entitled.

**F) Prohibition on Certain Business Transactions**

No Board member shall enter into a business transaction with any person or entity that has a contract with the Town of Surfside or the Tourism Board unless the business transaction is an arms-length transaction made in the ordinary course of business.

**V. Town Attorney to Render Opinions**

Whenever a Board member is in doubt as to the proper interpretation or application of the Board Ethics Policy with respect to contemplated conduct by the Board member, that person may request an opinion from the Town Attorney by providing a statement of all the material facts and questions. Opinions issued under this section shall be published without the use of the name of the person advised unless the person permits the use of a name. If the Board member acts in accordance with the opinion and no material facts were misstated or omitted when requesting an opinion, the opinion will insulate the Board member from prosecution by the Miami-Dade Commission on Ethics.

**VI. Acknowledgement of Receipt**

Tourism Board members are required to abide by the provisions set forth in the Board Conflict of Interest and Ethics Policy, and upon appointment to the Board, each Member will receive a copy of the Policy and acknowledge his or her commitment to

upholding these principles by reviewing and signing the document and returning it to staff for publication on the Town's website.

## **TOWN OF SURFSIDE TOURISM BOARD OPERATING PROCEDURES**

### **I. INTRODUCTION**

The Town of Surfside Resort Tax Board is vested with specific powers and duties codified in Article IV. Resort Tax of the Town Code. In order to properly and effectively carry out these responsibilities, the Board must adopt policies and procedures to implement these duties. The importance of establishing protocols and written procedures demonstrating fiscal and budgetary accountability is particularly significant in light of the additional resources entrusted to the Board to spend over the next decade due to increases in resort taxes expected to be collected by the Town.

### **II. COMPLIANCE WITH APPLICABLE LAWS**

The Board is required to comply with all applicable provisions of state law, county ordinances and the Town Code, including but not limited to those pertaining to public records, open meetings, financial disclosure and with respect to competitive bidding requirements for purchase of goods and services.

### **III. CORE FUNCTIONS**

The Tourism Board's responsibilities include the following:

1. Adopt and/or amend procedures as they relate to publicity, advertising, promotional events, and for tourist board activities.
2. To expend resort tax funds collected pursuant to the Town Code.
3. To employ or retain an advertising and/or public relations consultant and/or firm as it relates to specific tourist board activities.
4. To authorize placement of advertising in various media.
5. To organize special events for the promotion of Surfside as a tourist destination.

### **IV. OTHER SUBSTANTIVE TASKS**

The two other substantive tasks assigned to the Resort Tax Board are:

1. Authorizing the placement of advertising in various media.
2. Organizing special events.

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

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 70 "TAXATION" AND SPECIFICALLY AMENDING SECTIONS 70-109 "IMPOSITION; AMOUNT", SECTION 70-124 "COMPOSITION; APPOINTMENT; VACANCIES; COMPENSATION; REMOVAL FROM OFFICE, ETC.", SECTION 70-125 "ORGANIZATION", SECTION 70-126 "POWER AND DUTIES", AND CREATING SECTION 70-128 "BUDGET AND EXPENDITURE OF FUNDS" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside ("Town") proposes to amend its Code of Ordinances to amend the guidelines for imposition and collection of the resort tax and to amend the guidelines for the composition, organization and budget and expenditures of the Resort Tax Board ("Board"); and

**WHEREAS**, the Board completed a Five Year Tourism Strategic Plan and a part of the plan resulted in a review of the existing Code where areas needing additional clarification and guidelines were identified; and

**WHEREAS**, the Board recommends the included changes to the Code of Ordinances; and

**WHEREAS**, the Town Commission held its first public reading on February 11, 2014 and recommended approval of the proposed amendments to the Code of Ordinances having complied with the notice requirements by the Florida Statutes; and

**WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on March 11, 2014 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 MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:**

**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. 70-109. Imposition; amount.**

(a) There is hereby levied and there shall be paid a tax of four percent on the rent of every occupancy of a room in any hotel, motel or apartment house in the town, and also two percent upon the total sales price of all items of food or beverages sold at retail and of alcoholic beverages, including all refrigerated beverages, sold at retail for consumption on the premises ~~or consumption away from and/or within the environs of the business (take out)~~ of any restaurant or business selling such items.

(b) As provided by Ordinance No. 1286, enacted on August 11, 1992, in lieu of the tax imposed and levied pursuant to section 70-109(a) above, there is hereby imposed and levied a municipal resort tax:

(1) Upon the rent of every occupancy of a room or rooms in any hotel, motel, apartment house, as the same are defined in Part I, Chapter 212, Florida Statutes, in the town, at the rate of four percent of the rent received by the person renting such room or rooms from the person paying such rent; and

(2) Upon the retail sale price of all items of food or beverages sold at retail, and of alcoholic beverages, including all refrigerated beverages, sold at retail for consumption on the premises ~~or consumption away from and/or within the environs of the business (take out)~~ of any restaurant or at any place of business selling such items in the town required by law to be licensed by the State Hotel and Restaurant Commission or by the State Beverage Department, at the rate of two percent of such retail sales price.

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**Sec. 70-124. Composition; appointment; vacancies; compensation; removal from office, etc.**

(a) *Number, term and qualification of members.* The board shall consist of ~~five~~ seven members. Each commissioner shall appoint one board member, and two board members shall be appointed by a majority vote of the Town Commission. All appointed board members must be ratified by a vote of the town commission. Any newly elected commissioner has the right to appoint a resort tax board member unless the corresponding appointment has yet to reach the end of their two-year term. Each of the five individual commissioner appointments shall be persons who either work or reside in Surfside and preference will be given to industry professionals with experience in tourism and tourism-related activities. ~~at least three of the five members shall be persons who have experience in tourism and/or tourism-related activities~~ The two members appointed by the majority vote of the Town Commission shall be identified as industry professionals employed in the hotel or hospitality management industry. The two industry professional members, appointed by the majority vote of the Town Commission, shall not be

representatives from the same hotel and/or private company. One town commissioner shall serve as a non-voting ex-officio member of the board.

(b) *Vacancies.* Any vacancies occurring on the board shall be filled at the earliest, possible date by the town commission for the remainder of the unexpired term.

(c) *Reappointment.* Board members shall be eligible for reappointment and shall hold office until their successors have been duly appointed and qualified.

(d) *Compensation of members.* Members of the board shall serve without compensation but shall be reimbursed for necessary expenses occurred in the performance of the official duties, as shall be determined and pre-approved by the town commission.

(e) *Acceptance of appointment.* Before entering upon the duties of office, each board member shall file a written acceptance of appointment and take and subscribe to the oath of office prescribed by law, which shall be filed in the office of the town clerk. Each appointed member is required to provide the town clerk with a Form 1-Statement of Financial Interests, within three business days of being appointed to the board.

(f) *Removal of members from office; attendance.* ~~A board member may be removed from office only by a majority vote of the entire membership of the town commission; however, whenever a board member shall fail to attend three consecutive meetings without prior notification to the director or town manager, the chairman shall certify such non-attendance to the town commission, and, upon such certification, the board member shall be deemed to have been removed~~ A board member who misses twenty-five percent (25%) of all regular and special meetings over a twelve (12) month period or misses three (3) consecutive meetings is automatically removed from the board and the Town Commission shall fill the vacancy pursuant to paragraph (b) above.

#### **Sec. 70-125. Organization.**

(a) *Generally.* The members of the board shall select a ~~chairman~~ chairperson and vice chairperson from among the members who shall serve at the pleasure of the board, and such other officers as deemed necessary or desirable. The term of office for the chairperson and vice-chairperson shall be one year. No person shall serve as chairperson for more than four consecutive terms. At the conclusion of the term, the board shall move to nominate and elect a chairperson and vice chairperson for the upcoming year. A member of the town commission shall serve as a non-voting ex-officio member of the board.

(b) *Staff.* A director, or other town manager designee, shall oversee the daily operation and administering of the resort tax board and will work with the board to achieve budgetary objectives. The town manager shall provide adequate clerical and other administrative backup for the board.

(c) *Minutes.* Minutes of each board meeting shall be kept and prepared under supervision and direction of the board. Copies of the minutes shall be filed with the town clerk.

(d) *Rules and regulations.* The board shall make and prescribe such rules and regulations reasonably necessary and appropriate for the board's activities. The



board shall adopt the rules and regulations and a copy shall be maintained on file with the Town Clerk.

**Sec. 70-126. Power and duties.**

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(6) To create a formalized Budget Plan with staff and in consultation with the Town Manager Designee and to submit an annual report the Budget Plan to the town commission Town Manager every May-year as part of the budgetary process.

**Sec. 70-128. Budget and Expenditure of Funds.**

All expenditures of the Board shall be made in accordance with the powers and duties outlined herein.

- 1) Expenditures for items not included in the current Fiscal Year Budget shall require an affirmative vote of the majority of the Board's membership.
- 2) Expenditures utilizing Resort Tax Reserve Funds shall require an affirmative vote of the majority of the Board's membership.
- 3) Annual Resort Tax Fund Reserves shall remain under the governance of the Board.
- 4) The Town Manager Designee shall have the same spending authority limit as the Town Manager with approval from the Chairperson, in the absence of the Chairperson, the Vice-Chairperson.

**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 \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

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

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

Attest:

\_\_\_\_\_  
Sandra Novoa  
Town Clerk

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

*Linda Miller*

\_\_\_\_\_  
Linda Miller, Town Attorney

On Final Reading Moved by: \_\_\_\_\_

On Final Reading Seconded by: \_\_\_\_\_

Vote:

Mayor Daniel Dietch	yes	no
Vice Mayor Michael Karukin	yes	no
Commissioner Graubart	yes	no
Commissioner Kligman	yes	no
Commissioner Olchyk	yes	no

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