



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

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

1. Opening

- A. Call to Order:** Mayor Daniel Dietch called the meeting to order at 7:00 pm.
- B. Roll Call of Members:** Town Clerk Debra Eastman called the roll and the following members of the Commission were present upon roll call: Commissioner Michael Karukin, Commissioner Edward Kopelman, Commissioner Marta Olchyk, Vice Mayor Joe Graubart and Mayor Daniel Dietch.
- C. Pledge of Allegiance:** Chief Dave Allen led the Pledge of Allegiance.
- D. Mayor and Commission Remarks –** Mayor Daniel Dietch
Mayor Dietch noted that he is deferring his discussion on the State of the Town due to the lengthy agenda. He also recognized past Commission members who were present at the meeting – Mr. Ruben Coto and Mr. Charles Burkett.

Mayor Dietch expressed concern about the 2004 Charter Amendment and commented that there is a disconnect between the wording and the intent. He opined that the Commission needs to fix it, as well as anything that is not right with the Town's codes, and create something that truly applies to the residents' wishes.

Vice Mayor Joseph Graubart commented about the amount of important material that is given to the Commission to decide upon in the agendas. He spoke about his critical views of prior administration that might not have taken the time to fully analyze the materials before them, which led to decisions that did not always benefit the Town. The Vice Mayor expressed that he does not want history to repeat itself and suggested that they slow down with the big city-like agendas. Commissioner Michael Karukin expressed agreement with the Vice Mayor's comments. He spoke about his "SSDI" – Surfside Slow Down Initiative. He also noted that the agenda packet is 398 pages long. He also mentioned that he has ideas to rectify the situation that involve charter amendments. Commissioner Marta Olchyk also noted that she has been advocating for this same issue since she became a Commissioner. She further stated that she

feels that many of the items have already been approved by the Town Manager, the Mayor and the Town Attorney before they reach the Commission. She added that there is no way that the Commission can admit to studying every single issue that comes before them. She added that she has not seen any improvements since she became a Commissioner. Commissioner Kopelman stated that the Town now has a Town Manager that gets things done. He added that the Town Manager, the Town Attorney and the Town Clerk are accessible and are available to answer questions.

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

Vice Mayor Graubart asked to pull the "Projects Report", p. 66 & 68; Maranon Update, p. 36; Town Manager's Report, 9450 Collins Ave parking lot. Commissioner Olchyk asked to pull Points of Light Item 3C; Item 17, p. 40; Item 21, p.41; Item 28, p.42; Item 35, p.43; Item 29, p.45; p. 42; Item 3I, p.74; Item 9B, p. 342; Item 9G, p.346 Commissioner Karukin asked to pull from the Points of Light p. 40, Item 15 and p. 67, Item 5.

Town Attorney Lynn Dannheisser added Item 1G, Call for Executive Session, a statement that she needs to make, and a report on the red light camera litigation.

Commissioner Olchyk moved to approve the changes to the consent agenda. Commissioner Kopelman seconded the motion, which carried unanimously.

F. Community Notes – Mayor Daniel Dietch

Baynanza Saturday, April 16, 2011

Mayor Dietch spoke about the Town's upcoming events:

Community Garden Meeting, April 14th at 6:00 in the Commission Chambers,
Downtown Vision Committee Meetings, April 14th and April 27th at 7:00 in the
Commission Chambers,

Senior Trip-Festival Flea Market and Butterfly World, April 14th at 9:00,
Baynanza, April 16th,

Senior trip to Holocaust Documentation and Education Center, April 21 at 9:00,
Summer camp registration is under way, and hello to kids doing great work on
FCAT's.

Mayor Dietch brought to the attention of the Commission a Proclamation that is not on the agenda regarding Childhood Cancer Awareness week, April 24th and 30th,
Eye on Surfside public safety meeting, April 19th at 6:00, and notified all residents of
the Mayoral Candidates' Forum for new County Mayor hosted by Mayors of NE
Communities. The Mayor invited the residents to hear from the candidates and be
sure their voice is heard April 28 at 7 pm at Aventura Turnberry Center.

Vice Mayor Graubart, who is a Tourist Board liaison, reminded residents about the
musical event on the last 3rd Thursday of the month, April 21st from 7 pm to 10 pm.
The event will consist of Top 40s music and mariachis.

- G. National Moment of Remembrance** – Eliot Pearlson, Rabbi of Temple Menorah
Commissioner Olchyk introduced Rabbi Pearlson and mentioned that the Rabbi is not only a scholar, but also a very active person in the Community. Rabbi Pearlson spoke about the significance of Memorial Day and noted how it has diminished through the years. The Rabbi explained the history of the National Moment of Remembrance. He called upon the Town of Surfside and its employees to observe a moment of silence at 3pm on Memorial Day.

Commissioner Olchyk made a motion of support of observing the National Moment of Remembrance and directs the Town Manager to take action to support the initiative. Commissioner Karukin seconded the motion, which carried unanimously.

- H. Recognition of Library Volunteers** – Roger M. Carlton, Town Manager and Duncan Tavares, Tourism, Economic Development and Community Services Director

Mr. Tavares introduced Conrad Danzer and spoke about his enthusiasm for books. Mr. Tavares also introduced Dr. Mercy McDowell, who is a teacher at the Ruth K. Broad K-8 Center, who was thankful for the book donations and spoke about how the books are being utilized throughout the school.

Mr. Tavares also thanked all the library volunteers, who were recognized with a plaque.

- I. Special Presentation to Town Commission and Town Employees** – Stan Bershad, North Shore Kiwanis

Mr. Stan Bershad of the North Shore Kiwanis spoke about the work done by the Kiwanis organization. He presented the Town of Surfside staff with a plaque of recognition for their help in their fundraisers. He thanked Chief Allen for the carwash and Tim Millian for the Dog Show.

Vice Mayor Graubart asked to move Item 9K, Film and Photo, to be heard immediately following good and welfare. He made a motion for his request. Commissioner Olchyk seconded the motion, which carried unanimously.

- J. Employee of the Quarter** – Bobby Gabriel, Parks and Recreation presented by Tim Milian, Parks and Recreation Director

Mr. Milian presented Mr. Bobby Gabriel with the Employee of the Quarter Award. He noted that Mr. Gabriel has been a part-time employee in the Parks and Recreation Department since 2008. Mr. Gabriel thanked all the departments for allowing him to get this award.

- K. Police Officer of the Month** – January and February – January –Diana Dulaney and

Craig Lovellette; February, Diana Dulaney

Chief Allen introduced Officer Diana Delany. Chief Allen stated that Officer Delany was involved in a case where a child was reported missing. He stated that Officer Craig Lovellette recalled seeing the child in the Surfside Business District and contacted the school where he was informed that another child was also missing. He added that Officer Delany received information that 2 children were seeing leaving in a cab. Chief Allen mentioned that a Bal Harbor police officer stopped the cab and the children were returned home within one hour of the police call. Chief Allen also recognized Officer Delany for saving the life of a child who was choking.

- L. Lynn Dannheisser Executive Session – Ms. Dannheisser stated that she needs to call an Executive Session to seek advice concerning litigation strategy and possible settlement strategy in accordance with Florida Statute to discuss the Young Israel case. She asked to schedule the session for Thursday, April 28, 2011 at 5:30pm.
- M. Lynn Dannheisser read a statement directed at the people who controls the “Save Surfside” website and the “Who Controls Surfside” blog. Ms. Dannheisser stated that a group of people who are purposely and dishonestly misinformed are creating lies to promote distrust in the government. She also spoke about free speech, but noted that there is lack of truth in the comments being made. Ms. Dannheisser noted that eventually good and honest people will turn away from serving in government for fear of having to subject themselves and their families to such treatment. Ms. Dannheisser spoke also about the important roles that experts, consultants, the Town Manager and Town Attorney have in the guidance and decision making of the Town. She added that she was hired in order to save the Town legal fees and she has performed beyond expectations.
- N. Trial date on the John Davis v Town of Surfside – Ms. Dannheisser informed the Commission that the trial date for the John Davis vs Surfside case is set for June 6, 2011.
- O. Challenge to Red Light Camera System – Ms. Dannheisser informed the Commission that there was a challenge against the Red Light Camera System where the judge ruled against the plaintiff and found that the statute is not unconstitutional and does not create a quota system.

2. Quasi-Judicial Hearings (None)

3. Consent Agenda

Commissioner Kopelman made a motion to approve the consent agenda, minus the items that were pulled. Vice Mayor Graubart seconded the motion, which carried unanimously.

- A. **Minutes** – January 18, 2011 Town Commission Meeting
February 8, 2011 Town Commission Meeting
- B. **Budget to Actual Summary as of January 31, 2011** – Martin Sherwood, Finance Director
- *C. **Town Manager’s Report (Points of Light)** – Roger M. Carlton, Town Manager

Commissioner Olchyk inquired about the Atkins property and the actual cost. She noted that the report indicates that the closing was \$320,000 and closing cost was \$3,722. Mr. Carlton noted that the total cost was \$323,722. He added that \$80,000 was paid up-front plus \$80,000 for the next 3 years at no interest. Commissioner Olchyk inquired about the immediate function of this property. Mr. Carlton stated that the Police vehicles have been parking there for years since the Town rented the property for that purpose. He added that the future of the area still has to be discussed when a master plan is designed. Commissioner Olchyk asked if any additional funds will be spent on the property. Mr. Carlson stated that there will be no change at this time.

Vice Mayor Graubart asked for an update on the Maranon property. Mr. Carlson noted that the buyer was authorized a 45 day extension by the Commission to be able to close by May 2nd. He added that if the buyer cannot close by that time, they will forfeit their deposit and the Town will seek a new bidder.

Item 17, pg. 40 – Feral cats and dog feces – Commissioner Olchyk asked the Town Manager to discuss the outcome of the meeting he had with residents about this issue. Mr. Carlton noted that the meeting has not yet occurred. He stated that he will hold the meeting prior to the next Commission meeting.

Pg 41 – Tourist Resort Tax Auditor – Commissioner Olchyk inquired about the outcome of the audit and the audit position. Mr. Carlton noted that there is an Ordinance for first reading on this agenda that deals with a variety of issues of the resort tax. He added that the Town’s current ordinance is 59 years old. Mr. Carlton noted that the ordinance defines the fact that there will be audits, expresses the types of documentations the businesses have to provide, and the appeals process.

Pg 42, Item 28 – Meet the Town Manager Meeting – Commissioner Olchyk asked about how many people attended this function. Mayor Dietch noted that initially no one was there, but later residents attended. He also spoke favorably of hosting these events in the future.

Commissioner Kopelman suggested that the Commissioners attend the pre-agenda meeting with the Town Manager. Commissioner Olchyk commented that the Commission should not have so many items to discuss. Mayor Dietch explained the purpose of the Points of Light. Mr. Carlton spoke about the importance of the agenda briefings and added that he has made himself available during the weekends and nights to answer any questions to better prepare the Commissioners. Commissioner Olchyk noted that she received her agenda one day after everyone else and added that she has other commitments in addition to being a Commissioner and commented that

she cannot be expected to read almost 400 pages in 24 hours. Commissioner Kopelman stated that he received his agenda packet today and met with the Town Manager to discuss his questions because that is his job.

Item 29, pg 45 – Solid Waste – Commissioner Olchyk inquired about the new vehicle. Mr. Carlton noted that this vehicle is a replacement.

Pg 40, Item 15 – Farmers’ Market – Commissioner Karukin asked Duncan Tavares about the cost of the new Farmers’ Market since the last one had been so expensive. Mr. Tavares noted that the new Market will be handled by a different vendor and the cost will be shared between the three municipalities.

Pg 67 – Neighborhood Improvements – Commissioner Karukin noted that this paragraph seems to address additional manicureism of the Town. He noted that he is not in favor of this and prefers the eclectic look of the Town. Mr. Carlton noted that the water and sewer bond contains additive alternatives as part of the bid process. He added that depending on the base cost of the project, there might be extra money to pay for these things. Mr. Carlton stated that the ultimate call comes from the Commission. He added that the bid process opens April 28th.

New Parking lot on Collins Ave – Mr. Carlton noted that the new parking lot is under construction. He added that they ran into problems with the retaining wall, which will be repaired. He added that a foot path will also be built to get to the alley. He noted that the project should be complete in 60 days.

Commissioner Kopelman made a motion to adopt the points of light. Commissioner Karukin seconded the motion, which carried unanimously.

- D. Town Attorney’s Report** – Lynn M. Dannheisser, Town Attorney
- E. Projects Progress Report** – Calvin, Giordano and Associates, Inc.
- F. Earth Day Resolution** – Duncan Tavares, Tourism, Economic Development and Community Services Director
**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA
PROCLAIMING EARTH DAY APRIL 22, 2011 TO RAISE PUBLIC
AWARENESS ABOUT ENVIRONMENTAL PROTECTION AND
SUSTAINABILITY.**
- G. Census Data** – Roger Carlton, Town Manager
- H. Code Enforcement Ad Hoc Committee Appointment** – Commissioner Michael Karukin (**Note – appointment can be rescinded if Code Enforcement Committee is Sunset*)
- I. Professional Lobbying Services Agreement Extension** - Roger M. Carlton, Town Manager
- J. Parks and Recreation Committee Appointment** – Commissioner Michael Karukin

4. Ordinances

A. Second Readings (Ordinances and Public Hearing)

***1. Ordinance – Joint Meeting Recommendations Ordinance –** Roger M. Carlton, Town Manager, Lynn M. Dannheisser, Town Attorney, Sarah Sinatra Gould, Town Planner

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.

Town Clerk Debra Eastman read the Ordinance by title into the record.

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

Town Planner, Sarah Sinatra, presented a PowerPoint presentation and gave a brief history of the ordinance. Ms. Sinatra discussed the proposed changes in the ordinance, which include: Development Impact Committee, Conditional Uses, Lot Aggregation, and Mandatory Design Guidelines. Ms. Sinatra also spoke about the changes to the ordinance from the first reading. Ms. Sinatra read an additional change into the record from Section 90-23.2, under Standards of Review, Subsection 4 – Adequate provisions shall be included for safe traffic movement, both vehicular and pedestrian, both internal to the use and in the area where the use will serve. She indicated that this should also include parking. She noted that it should now read: Adequate provisions shall be included for safe parking and traffic movement, both vehicular and pedestrian, both internal to the use and in the area where the use will serve.

Mayor Dietch opened the public hearing.

David Steinfeld spoke in favor of the ordinance.

The Mayor closed the public hearing.

Commissioner Karukin inquired as to how this relates to the Design Review Board. Ms. Sinatra noted that this ordinance gives them more power since previously they only had guidelines, and not an actual Code, to go by. Commissioner Karukin noted that the ordinance passed the Planning and Zoning Board on a 3 to 2 vote and inquired what were the reasons for 2 members to dissent. Ms. Sinatra stated that

there were concerns about the aggregation of the properties and how those were determined. She also stated that the new addition of the Development Impact Committee was also a concern.

Commissioner Karukin expressed concern that the ordinance might violate the single topic rule. Ms. Dannheisser stated that it does not and added that it all falls under the topic of the zoning code.

Commissioner Karukin also expressed concern about the word “etc” on page 107. Commissioner Kopelman agreed to amend the motion to strike “etc” and add “other similar facilities” in its place.

Ms. Dannheisser also noted the change made to the ordinance in Section 90-23.2, section 4 to include “parking and the traffic movement”.

Commissioner Kopelman re-stated his motion to include approval of the ordinance as amended.

Vice Mayor Graubart noted that he is voting against the ordinance because it makes government bigger and more costly for a small Town and is unaware of the statistics of a town the size of Surfside having a DIC. Commissioner Karukin noted that he had the same concerns, but added that there is a cost recovery process.

Mayor Dietch commented that making DIC part of the Code makes it formal and enforceable. He noted that the DIC adds a layer of protection that the Town has never had.

The amended motion carried 4 to 1 on roll call with Vice Mayor Graubart dissenting.

***2. Master Utility Bond Ordinance – Roger M. Carlton, Town Manager**

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.

Town Clerk Debra Eastman read the Ordinance by title into the record.

Mr. Carlton spoke about the need and the process for the utility project. He cited the sewage incident that occurred in the neighboring city the prior week. Mr. Carlton noted that the Town does not have the funds needed to start the projects in sections.

He stressed that there is no ad valorem tax pledge on this project. He added that the only revenues pledged are those of the water, sewer and storm drainage system. He also noted that it is not practical to tear up the Town for 6 to 8 years as the project is under way by doing it in sections.

Mr. Carlton explained that the Resolution sets the details of the borrowing while the Ordinance sets the long-term rules. He noted that the competitive selection process was handled by Mr. Sergio Masvidal, the financial advisor. He noted that 6 proposals were received. He added that the proposals were reviewed by the consultants and recommendations were made to the Citizens Review Committee and Regions Bank was recommended.

Commissioner Kopelman spoke against proceeding with the project step-by-step.

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

Commissioner Olchyk agreed that the project is necessary, but expressed concern that this project will run over budget as all the other projects have. She also expressed concern that the rates will be raised. Mr. Carlton spoke about the value engineering conducted by Calvin, Giordano and Associates and added that Public Works Director Bill Evans brought in an independent consultant to review the plans in order to determine the most cost effective way to complete the project. Mr. Carlton added that he feels that the project will not go over budget, but noted that if it does, there is still the possibility of negotiating costs.

Vice Mayor Graubart inquired about the Tischeler Bise rate study, Table 14 regarding rate adjustments. He noted that no one can predict where the rates will go. He also expressed concern about the additional capital improvements. He questioned how they will be paid back based on the tiered water charges. He opined that it should be a separate bond issue. Mr. Carlton clarified that the chart the Vice Mayor is referring to ties back to the rate increases presented by Tischeler Bise that the Commission had agreed upon last fall.

Commissioner Karukin inquired why the grants are not listed in the table. Finance Director Martin Sherwood noted that they left out the grants to be conservative and leave out any additional funding that was not assured.

Mayor Dietch recognized the members of the Oversight Committee that were present at the meeting: Bertha Goldenberg, Marty Oppenheimer and Jared Chenevert.

Mayor Dietch opened the public hearing.

Jared Chenevert stated that he really liked being on the Committee and found it to be very useful. He noted that there is a very big problem with the aging water and sewer system. He spoke in favor of the revenue bond.

David Steinfeld spoke about the importance of looking into the future and fixing the infrastructure. He stated that it is time to take this bold step and noted that he is in favor of the project. Mr. Steinfeld also recommended that the Commission allow the Town Manager to use the alternative additives to improve the Town's appearance.

Dorie Lurie addressed Commissioner Olchyk and asked her not to vote in favor of the project if she has doubts. She added that she would like to keep Surfside a debt free community. She suggested fixing things little by little.

Martin Oppenheimer spoke in favor of the project. He noted that no one likes debt, but added that the advantages outweigh the waiting. Mr. Oppenheimer stated that he prefers to go with debt that is prepared and calculated than gamble with the Community and then have a catastrophe occur.

John Paupe expressed concern about the logic that the sewage problem is an emergency. He stated that with that thinking many other things also need fixing. He inquired if the pipes have been examined. Commissioner Kopelman said that there are pictures. Mayor Dietch noted that the pictures are on the website. Mr. Carlton noted that the Town has spent over \$250,000 due to rain and seawater infiltration coming into the pipes.

Tony Blate asked about the force main. Mr. Carlton noted that the repairs will be done to the service lines to homes and the pump stations that take the sewer to the force main. He added that all the water pipes will be moved from the back yards to the streets. Mr. Carlton mentioned that that force main has never been inspected. He added that part of the project is to create interconnects over to Collins where Bal Harbor wants to build a new force main so if something happens we would move over to their new force main. He noted that it would allow for the force main to be shut off and see the condition.

Mayor Dietch closed the public hearing.

Vice Mayor Graubart mentioned that he met the contractor who was present at the sewage break. He noted that the city of Miami Beach contracts with them in the event that something like this happens. He suggested contracting with them. Mr. Carlton mentioned that the Town has been in contact with them.

The ordinance passed 4 to 1 on roll call with Vice Mayor Graubart dissenting.

3. Ordinance Calling for a Temporary Moratorium, Memo of Law and Report by Town Attorney – Lynn M. Dannheisser, Town Attorney

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]
Town Clerk Debra Eastman read the Ordinance by title into the record.

Commissioner Kopelman made a motion to defer the item to the Downtown Committee Group. Commissioner Olchyk seconded the motion.

Mayor Dietch noted that this came to the Commission with a unanimous recommendation. He spoke about the purpose of this ordinance and indicated that it also provides some flexibility to the Town Manager. He further opined that this ordinance will help the Town with their vision of the business district.

Mr. Carlton noted that the item is on the agenda for the next Downtown Vision Committee. He noted that if the Commission defers, there is no basis to deny applications for types of uses that the Town might not want.

The motion to defer failed 2 to 3 with Commissioners Kopelman and Olchyk voting in favor.

Commissioner Karukin made a motion to approve the ordinance. Vice Mayor Graubart seconded the motion.

The Mayor opened the public hearing.

Lou Cohen stated that he is on the Downtown Vision Committee. He spoke in favor of the moratorium and about the benefits to the Community.

Barbara McLaughlin spoke in favor of the moratorium.

Commissioner Karukin made a motion to continue the meeting for one more hour. Commissioner Kopelman seconded the motion. All were in favor.

Ms. Dannheisser informed that she has spoken with property owners downtown that have problems with tenants that are neither restaurants nor retail. She noted that there is a reasonable compromise as recommended by the Planning and Zoning Board. She added that they requested that the Commission enact legislation within 90 days on the uses to include encouraged uses as well as limitation of uses and imposition of

location and distancing requirements. Ms. Dannheisser recommended that the Commission adopt with the proviso that with regard to the issue of location, distancing and permissible uses, that the legislation be accomplished within 90 days.

Commissioner Karukin accepted the amendment as stated by the Town Attorney. Vice Mayor Graubart seconded it.

Commissioner Karukin stated that not passing the ordinance does not interfere with the Downtown Vision Committee. He added that he does not see the urgency. He further noted that other committees have interest in this.

The motion carried unanimously on roll call.

B. First Readings Ordinances

1. Short Term Rentals – Lynn Dannheisser, Town Attorney

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE IV “DISTRICT REGULATIONS” SECTION 90.41 “REGULATED USES” ADDING A NEW SECTION 90.41.1.5 ENTITLED “SHORT TERM RENTAL OF SINGLE FAMILY DWELLINGS, TWO-FAMILY DWELLINGS, MULTI-FAMILY DWELLINGS, AND TOWNHOMES” REQUIRING REGISTRATION OF SHORT TERM RENTALS IN RESIDENTIAL NEIGHBORHOODS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

[This ordinance requires registration of short term rentals for compliance with resort and other taxes. It also limits short term rentals to no more than three per year.]

Town Clerk Debra Eastman read the Ordinance by title.

Commissioner Karukin made a motion to defer. Commissioner Kopelman seconded the motion. Commissioner Kopelman then withdrew his second.

Mr. Carlton noted that he received a call from Lobbyist Fausto Gomez regarding this. He noted that the state of Florida legislature is attempting to preempt a Towns’ ability to regulate short-term rentals. He recommends that the Commission approve the ordinance on first reading so that we can protect ourselves from preemption because there appears to be a grandfather clause.

Commissioner Karukin withdrew his motion to defer.

Commissioner Kopelman made a motion to approve the ordinance on first reading. Vice Mayor Graubart seconded the motion.

Vice Mayor Graubart expressed concern. Commissioner Karukin stated that there are many things in the ordinance he does not agree with.

The motion carried unanimously on roll call.

2. **Resort Tax** – Roger M. Carlton, Town Manager and Duncan Tavares, Tourism, Economic Development and Community Services Director
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 70 AND SPECIFICALLY ARTICLE IV “RESORT TAX” DIVISION 1 “RESORT TAX” AND DIVISION 2 “RESORT TAX BOARD” SPECIFICALLY AMENDING SECTIONS 70-106 THROUGH 70-111; AND CREATING SECTIONS 70-112 THROUGH 70-127, 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.

[Updates resort tax imposition and adds an appeal process]

Mayor Dietch asked that the item be deferred to next month and all were in favor.

5. Resolutions and Proclamations

- A. **Reappropriation of Resort Tax Reserves** – Duncan Tavares, Tourism, Economic Development and Community Services Director **Page 224-240**
A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE REAPPROPRIATION OF RESORT TAX FUND BALANCE (RESERVES) TO THE TOURISM, ECONOMIC DEVELOPMENT & COMMUNITY SERVICES DIRECTOR FOR THE COMMUNITY CENTER CONSTRUCTION; AMENDING THE TOWN’S BUDGET FOR FISCAL YEAR 2010-2011; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Carlton mentioned that this resolution allows the Tourist Board to transfer the funds allocation of design funds for the addition because of their use of the building.

Commissioner Kopelman made a motion to approve the resolution. Commissioner Karukin seconded the motion, which carried unanimously.

- B. **VOIP Phone System Replacement** – Roger M. Carlton, Town Manager and Debra Eastman, Town Clerk and Director of Administrative Services and Eric Wells and Hector Perez, CGA
A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING INTERACTIVE SERVICES

NETWORK, INC., TO PERFORM PHONE REPLACEMENT SERVICES IN RESPONSE TO RFP NO. 11-01; AUTHORIZING THE TOWN MANAGER OR HIS/HER DESIGNEE TO ENTER INTO A CONTRACT CONTAINED IN EXHIBIT "A" WITH SAID TELEPHONE SERVICE COMPANY PROVIDED SAID CONTRACT IS APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE TOWN ATTORNEY; FURTHER AUTHORIZING THE TOWN MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Carlton stated that the decision was made to re-do the telephone system with VOIP (Voice Over Internet Protocol) and that the best price that came in was to outsource the service. He stressed that there is an urgency because the need to install phone service at the Community Center.

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

Commissioner Karukin inquired about the question that was made if the system provides alarm notifications in the form of text messages or e-mails. He noted that IP Phones responded that it was not relevant. Commissioner Karukin disagreed with that response. He noted that servers have messaging capabilities and if the phones are down the Town Manager has to be notified somehow. The President and Representative of IP Phone addressed Commissioner Karukin's concerns. Commissioner Karukin stated that he wants for a notification to be sent to the Town Manager as well.

Vice Mayor Graubart expressed concern about the cost of the system. Commissioner Karukin noted that it's an evolving standard and a necessary function.

Commissioner Olchyk inquired about another alternative. Mr. Carlton mentioned that there was a less expensive alternative, but the company did not comply in the bid.

Mayor Dietch spoke in favor of the system and mentioned that the Town does not have telephone expertise and it needs phones.

The motion carried unanimously on roll call.

- C. Municipal Code Corporation – Munibills - Roger M. Carlton, Town Manager and Debra Eastman, Town Clerk and Director of Administrative Services**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE TOWN TO ENTER INTO AN AGREEMENT WITH MUNICIPAL CODE CORPORATION

**FOR MUNIBILLS FOR INVOICING WATER, SEWER AND
STORMWATER; AUTHORIZING THE FUNDS TO PAY FOR; AND
PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Carlton that this resolution allows the residents in the Community to pay their water and sewer bills over the internet and use credit cards. He added that the process is extremely inexpensive.

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

Vice Mayor Graubart inquired about how Bay Harbor has their system set up. Town Clerk Debra Eastman responded that she has consulted with Bay Harbor regarding their website payment system. She added that they have a traditional credit card machine at their counter and they had to pay a lot of money and incorporate that into their website. Commissioner Karukin spoke in favor of this system.

The motion carried unanimously.

D. Resolution for Master Utility Bond – Roger M. Carlton, Town Manager

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA
SUPPLEMENTING ORDINANCE NO. ____ ; AUTHORIZING THE
NEGOTIATED AND PRIVATE SALE OF THE NOT TO EXCEED
\$16,000,000 TOWN OF SURFSIDE, FLORIDA UTILITY SYSTEM
REVENUE BONDS, SERIES 2011; AWARDING SAID SERIES 2011
BONDS TO THE ORIGINAL PURCHASERS THEREOF;
APPROVING THE TERMS OF SAID SERIES 2011 BONDS;
PROVIDING FOR THE DELIVERY OF SAID SERIES 2011 BONDS
TO THE ORIGINAL PURCHASER; PROVIDING CERTAIN OTHER
MATTERS IN CONNECTION THEREWITH; AND SETTING FORTH
THE EFFECTIVE DATE OF THIS RESOLUTION.**

Town Clerk Debra Eastman read the resolution by title.

**Commissioner Karukin made a motion to approve the resolution.
Commissioner Kopelman seconded the motion. The motion carried 4 to
1 with Vice Mayor Graubart dissenting.**

6. Good and Welfare

Dorie Lurie expressed that she wants Surfside to remain debt-free and spoke against the \$16 million pipe project. She also expressed resentment for comments made by Mr. Carlton about the Surfside business Oberly Opticians. She opined that the comments showed ageism and prejudice.

Peter Neville thanked all those who wished him well during his hospital stay. Mr. Neville also asked the Commission to consider installing a solar system in the new Community Center. He spoke about the cost benefits.

Belkys Nerey wished to express support for the Mayor, Commission and Town Manager for all the tough decisions they have had to make recently. She also stated that she is tired of receiving e-mails from naysayers who do nothing but criticize. She also noted that change is never easy and it is more difficult still with people who put out misinformation and use scare tactics to prove their point.

Lou DiAntwano asked if any Commissioner is in support of the Surfside resident association that is requesting an annual due of \$25. Commissioner Kopelman stated that he is not familiar with that organization. Vice Mayor Graubart stated that he is aware of the organization, but is not aware of their goals. Commissioner Olchyk mentioned that she also received a notice via e-mail and stated that this is a group that is trying to gather resident support to show that the Commissioners are not worthy of doing their jobs. Mr. Carlton suggested that Mr. DiAntwano contact the Miami-Dade's Consumer Protection Office if he no longer wishes to receive solicitations from this or any other group. Mr. DiAntwano thanked the Commission for their efforts and stated that the Town is being run better than ever.

Commissioner Olchyk noted that she is submitting to the Town Clerk the Beautification Committee Report and stated that she appreciates the work the Committee is doing.

David Steinfeld spoke favorably about the work the Commission is doing and encouraged them to continue the good work. He stated that the small group of negative people should not deter the Commission's work.

Aaron Holland suggested that the Town allow Bal Harbor Shoppes to use to build a parking garage and mall and the stores in Surfside will be back.

Sasha Plutno spoke against putting the Town in debt for \$16 million. He suggested that they find another way. He spoke against the moratorium for new restaurants in Town. Mr. Plutno noted that he has been told that the Young Israel case could not be discussed, but the Town Attorney discussed it at tonight's meeting. Mr. Plutno also mentioned that he has requested financial records pertaining to the first law suit between the Town and Young Israel from the Town and was told that the request had to go through the attorney. He stated that he is still waiting.

Dr. Mercy McDowell expressed support for the Mayor, but stated that the e-mails and blogs are making residents confused as to what is really going on.

Charles Burkett stated that he respects the efforts of the Commission to move the Town forward. He also spoke about how the Town of Surfside is debt free and cautioned about committing to long-term debt. He further opined that the sewage work should be done in sections and not all in one shot.

Vice Mayor Graubart stated that each Commissioner comes from a different perspective. He noted that Surfside is very important to him and added that he votes with his conscience and will continue to do so.

Commissioner Olchyk stated that she is happy that the Attorney made her statement because, although she does not agree with her choice to hire Mr. Houlihan, she appreciates that Ms. Dannheisser was up-front about her reasons.

Commissioner Kopelman stated that his vote will always be for the good of the community.

Commissioner Kopelman also expressed support for Ms. Dannheisser's statement and mentioned that he feels bad about the scapegoating. He also noted that the article was totally misrepresentative. Commissioner Karukin stated that at first he also had questions about the salary that is paid to the Town Attorney, but hiring an outside firm would be more expensive and inconvenient. Commissioner Kopelman addressed Dr. McDowell's comments on the misinformation and noted that the Commission cannot use the Town's Gazette to communicate their feelings on the issues.

Mayor Dietch thanked all the residents who spoke. He stated that his goal is for everyone to be respectful and civil to each other. He spoke about the solar heaters and noted that it was too expensive. He added that a solar cover is being installed. The Mayor also told Mr. Plutno that his concerns about his records request will be addressed tomorrow morning.

The Mayor closed good and welfare.

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. A. Report of Code Compliance Ad Hoc Committee – Anthony Blate, Chairman

Town Manager Roger Carlton directed the Commission to the report on Code Enforcement Ad Hoc Committee and noted that it suggests priorities. Mayor Dietch noted that the report contains good recommendations and recommended accepting the report and instructing the Town Manager to affect the program that is going to incorporate these recommendations.

Commissioner Karukin agreed with accepting the report, but expressed concern about implementing the provisions in the report. He noted that he does not agree with every recommendation contained in the report. Mayor Dietch recommended accepting the report and having the Town Manager come back to the Commission with specific direction.

Tony Blate commented that code enforcement is not a simple thing in Surfside.

Commissioner Kopelman made a motion to accept the report and asked the Town Manager to return next month with direction. Commissioner Karukin seconded the motion, which carried unanimously.

Commissioner Olchyk spoke about the Mayor's comments regarding taking a long time discussing the Points of Light. She noted that if she does not have enough time to study the issue, she will continue to bring the questions to the meetings. Commissioner Olchyk also stated that she does not appreciate receiving almost 400 pages of agenda packet 48 hours before the meeting. She expressed that if the Commission is required to make the most accurate decisions, they should be given as much time as needed to study the issues. Mayor Dietch spoke about the staff's efforts to get the agenda packets out as soon as possible. Mr. Carlton noted that there was a miscommunication of where Commissioner Olchyk's agenda packet was supposed to have been left for her.

Vice Mayor Graubart stated that the agendas are too long for a 3 to 4 hour meeting.

9. Mayor, Commission and Staff Communications

A. Rescheduling of May 10, 2011 Commission Meeting – Commissioner Michael Karukin (verbal)

Commissioner Karukin mentioned that he will be away on business on May 9 – 11, 2011. Commissioner Kopelman mentioned that he will be away the May 15 – 21, 2011. Mr. Carlton mentioned that if the Commission wishes to move the meeting they have to let staff know for advertising purposes. Ms. Dannheisser noted that the Charter requires the Commission to meet on the prescribed day, which is the second Tuesday. No action was taken.

B. Rescheduling of July 12, 2011 Town Commission Meeting – Roger M. Carlton, Town Manager

Commissioner Olchyk stated that she has a problem with rescheduling the meeting. She noted that she worked for many years in the Federal Government and added that supervisors were never allowed to take off at the same time. She stated that it gives a poor image to the Town. She suggested that the supervisors rotate during the months of July and December. Mr. Carlton stated that he personally put in over 40 hours of time over the Christmas holiday while he was away from the Town reviewing the Town's 5 year plan. He added that the Chief was here and there was always a senior official present. He added the Ms. Dannheisser was available by phone for legal opinions.

Commissioner Olchyk expressed that the Chief Allen was not present in during the holidays in December, but Chief Allen noted that both he and Assistant Chief DiCenso were both present during December.

The Commission agreed to change the July meeting from July 12, 2011 to July 19, 2011.

C. Fiscal Year 2009-2010 CAFR

Mr. Carlton asked to defer the CAFR report. The Mayor noted the hard work that was put into producing this report and thanked those involved.

D. Smoking Ban- Vice Mayor Joe Graubart

Vice Mayor Graubart asked that this issue be heard by the Downtown Vision Advisory Committee. Town Manager Roger Carlton agreed.

E. 9/11 Memorial Ceremony – Vice Mayor Joe Graubart

F. Grace Period for Parking Citations – Vice Mayor Joe Graubart

G. FPL, Telephone and Cable Underground Conversion of Existing Overhead

Service Lines Report – Roger M. Carlton, Town Manager and Bill Evans, Director of Public Works

Commissioner Karukin made a motion to defer Items 9E, 9F and 9G. Commissioner Kopelman seconded the motion. The motion carried unanimously.

H. Professional Concessionaire Services Agreement – Tim Milian, Parks and Recreation Director

Mr. Carlton mentioned that an RFP went out on the concession stand and one proposal was received. He noted that the one proposal was not perfect in meeting every criterion. He asked the Commission for authority to negotiate with the bidder and waive some of the requirements of the RFP and come back to the Commission with more information. Mr. Carlton suggested preparing the contract for two years with a strong cancellation provision for non-performance.

Commissioner Kopelman made a motion to accept. Commissioner Karukin seconded the motion. The motion carried unanimously.

I. Bike Rental Station – Vice Mayor Joe Graubart

Vice Mayor Graubart requested to make the bike rental station a Point of Light.

Commissioner Kopelman expressed disagreement of the motion. Mayor Dietch stated that he wants to know the applicability and feasibility. Town Manager Roger Carlton will make the item a Point of Light in the Town Manager's Report and will come back with recommendations.

J. Crime Prevention Initiatives– Mayor Daniel Dietch

Mayor Dietch asked Mr. Carlton to add to the Points of Light looking into more comprehensive programs to send a message to criminals that Surfside does not want them around. **All were in favor.**

K. Photo/Film Ordinance Update – Roger M. Carlton, Town Manager

Town Manager Roger Carlton stated that from time to time the Town receives requests from people to film and conduct photo shoots in the Town. He noted that Surfside currently does not have an ordinance regulating this. He added that due to people renting their homes out in Vizcaya for longer periods of time, he felt the need to provide the Commission with a status report. Mr. Carlton mentioned that there is a request to film the “T. O. Show” at a home in Vizcaya for one month, which has become controversial. He added that the show has failed to meet all the criteria he set is therefore not allowed to start filming yet. He suggested that a Committee of 3 people be appointed to oversee these issues.

Vice Mayor Graubart expressed concern that the advice the Commission is receiving from Town Hall is not consistent with the Town Code. He noted that the advice is that the Town Code does not prohibit a house from becoming a TV studio. He added that the use of a house for commercial television activity is contrary to the Town’s wishes to maintain commercial use and residential use separate. Commissioner Kopelman expressed agreement with the Vice Mayor. Mr. Carlton asked for legal advice as to if conducting a onetime photo or film shoot in a house is considered to not be in compliance with the Town Code. He also wants to address the economic development side of the issue and whether this will be encouraged in the Town. Mr. Carlton stated that staff intends to present the Commission with an ordinance on first reading. Ms. Dannheisser noted that the ordinance, as written, pertains to long-term everyday use. She added that the County and other cities have allowed filming to be conducted in homes. She added that it is a policy decision and an ordinance will be prepared to that effect.

Commissioner Kopelman suggested voting on whether to allow filming as it pertains to this one event. Mayor Dietch inquired if it can be retracted. Mr. Carlton noted that the TO Show people know that they cannot move forward without the Town’s approval. He mentioned that if the Commission’s wish is to not allow the filing, he will notify the filming crew immediately

Commissioner Kopelman made a motion to not move forward with the filming application. Vice Mayor Graubart seconded the motion.

Commissioner Karukin expressed interest in wishing to hear the public’s comments prior to Commission discussion. Commissioner Olchyk inquired about the possible liability to the Town should the Commission deny the application. Ms. Dannheisser noted that she does not know enough facts on this case to opine. Mr. Carlton noted

that the film crew has reason to believe that this would go forward with the approval from neighbors. He added that he did make it clear to the film crew that until he saw the lease, there would be no moving forward.

Commissioner Olchyk expressed concern about Vizcaya having a narrow street and cited possible danger to children walking along the street. She also noted that the Town does not have enough people to monitor if this is developing into an industry for more than a day, or week. She stated that she does not feel comfortable voting in favor or against without all the necessary information. The Mayor noted that he is concerned that there is a compatibility issue and that it might not be harmonious with the day to day activities in the neighborhood. Mr. Carlton noted that if the film crew violates any term of the agreement, they will not be allowed to continue.

Ms. Dannheisser suggested that the Commission table the discussion and asked that she and the Town Manager be given the authority to further study the liabilities and exposures to the Town and not proceed with any further applications. The Mayor asked that if it is determined that there is not liability to the Town that the project be shut down. Mr. Carlton noted that a permit has not been issued.

10. Adjournment


The meeting adjourned at 12 a.m.

Accepted this 14 day of June, 2011



Daniel Dietch, Mayor

Attest:



Debra E. Eastman, MMC
Town Clerk