



**Town of Surfside  
Town Commission Meeting  
AGENDA**

**November 10, 2015  
7 p.m.**

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

*Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.*

*Rule 6.05 Agenda. The good and welfare portion of the agenda set for 8:15 p.m. shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker to be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames. Likewise, commission members shall be restricted to speaking three minutes each unless an extension is granted in the same manner as set forth in the prior sentence.*

*Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit corporation or entity (such as charitable organization, a trade association or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect, or contingent, to express support or opposition to any item.*

*Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.*

*\* 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.*

**1. Opening**

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

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

**3. Consent Agenda** (*Set for approximately 7:30 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 that an item be removed from the Consent Agenda and discussed separately.*

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

**A. Minutes** – Sandra Novoa, MMC, Town Clerk

**October 13, 2015 Regular Commission Meeting**

**B. Budget to Actual Summary as of August 30, 2015** – Guillermo Olmedillo, Town Manager

**\*C. Town Manager's Report** – Guillermo Olmedillo, Town Manager

- **See Click Fix**
- **Ten Year Water Supply Plan**
- **Development Applications**
- **Alley Way Improvement Project**
- **Code Compliance**
- **Hawthorne Tot Lot – Playground Equipment**
- **New Programs**
- **Police Department Re-Accreditation**
- **LEO Foundation Awards**
- **Police Department Events**
- **Information Technology & TV Broadcast**
- **Town-Owned Seawall Repair**
- **Traffic Circle**

**\*D. Town Attorney's Report** – Linda Miller, Town Attorney

**E. Committee Reports** – Guillermo Olmedillo, Town Manager

- September 16, 2015 Coastal Issues Committee Meeting Minutes
- September 21, 2015 Parks and Recreation Committee Minutes
- September 24, 2015 Planning and Zoning Board Meeting Minutes
- October 5, 2015 Tourist Board Meeting Minutes

**F. Calling the March 15, 2016 Election Resolution – Sandra Novoa, Town Clerk**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR HOLDING A GENERAL MUNICIPAL ELECTION UNDER THE DATE OF MARCH 15, 2016 FOR THE ELECTION OF MAYOR AND ALL FOUR COMMISSIONERS OF THE TOWN OF SURFSIDE; PROVIDING FOR AN EFFECTIVE DATE.**

**G. Pay by Phone Parking Payment Option– Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE TOWN TO ENTER INTO AN AGREEMENT WITH PAYBYPHONE TECHNOLOGIES, INC. AND THE TOWN OF SURFSIDE; PIGGYBACKING OFF THE COMPETITELY BID CONTRACT AWARDED BY THE CITY OF MIAMI DEPARTMENT OF OFF-STREET PARKING A/K/A/ MIAMI PARKING AUTHORITY; AUTHORIZING THE TOWN MANAGER AND/OR DESIGNEE TO DO ALL THINGS NECESSARY TO IMPLEMENT THE TERMS OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**H. Resolution Supporting the Proposed Legislation Entitled Misuse of Public Office Act – Mayor Daniel Dietch**

**A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, SUPPORTING THE CURRENT VERSION OF THE DRAFT BILL ENTITLED MISUSE OF PUBLIC OFFICE ACT; PROVIDING DIRECTION TO THE TOWN CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE OFFICE OF SENATOR GAETZ AND THE OFFICE OF GOVERNOR RICK SCOTT; THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, ALL MUNICIPALITIES IN MIAMI-DADE COUNTY, THE MIAMI-DADE COUNTY LEAGUE OF CITIES, AND FLORIDA LEAGUE OF CITIES; PROVIDING FOR AN EFFECTIVE DATE.**

#### 4. Ordinances

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

##### A. Second Reading Ordinances

1. **Expanded Polystyrene Ordinance Phase 2** – Guillermo Olmedillo, Town Manager

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE I OF CHAPTER 34 “ENVIRONMENT” AND SPECIFICALLY CREATING SECTION 34-10 “PROHIBITIONS REGARDING THE SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY FOOD SERVICE PROVIDERS AND STORES; EXEMPTIONS”; 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 9:00 p.m.) (Note: Good and Welfare must begin at 8:15)*

##### B. First Reading Ordinances

1. **Temporary Signs** – Sarah Sinatra, Town Planner

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE VI “SIGNS” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; SPECIFICALLY AMENDING SECTION 90-69 “DEFINITIONS”; SPECIFICALLY AMENDING SECTION 90-74 “TEMPORARY SIGNS”; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**2. 150 Feet of Frontage in H120 – Commissioner Michael Karukin  
[Linked to Item 9C]**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 ZONING SECTION 90-51 MAXIMUM FRONTAGE OF BUILDINGS AND SPECIFICALLY AMENDING SECTION 90-51.1 CONTINUOUS WALL FRONTAGE OF 150 FEET IN THE H120 DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**5. Resolutions and Proclamations**

*(Set for approximately  N/A  p.m.) (Note: Depends upon length of Good and Welfare)*

**A. Recycling Agreement – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA WAIVING THE BID PROCESS PURSUANT TO SECTION 3-13(6) OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A SOLE SOURCE AGREEMENT WITH SUN RECYCLING AND THE TOWN FOR SOLID WASTE DISPOSAL AND RECYCLABLES PROCESSING SERVICES, VEGETATION DISPOSAL, CONSTRUCTION DEBRIS DISPOSAL, AND FOR THE TOWN TO RECEIVE A FRANCHISE FEE FROM THE COMMERCIAL ROLL-OFF CONTAINER SERVICE; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH SUN RECYCLING; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR EFFECTIVE DATE.**

**B. FY 2014/2015 Proposed Budget Amendment Resolution– Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE ANNUAL BUDGET RESOLUTION ADOPTED FOR FISCAL YEAR OCTOBER 1, 2014 TO SEPTEMBER 30, 2015; FOR THE PURPOSE OF AMENDING THE ANNUAL BUDGET IN THE POLICE FORFEITURE FUND BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2015; 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 that an item be removed from the consent agenda and discussed separately.*

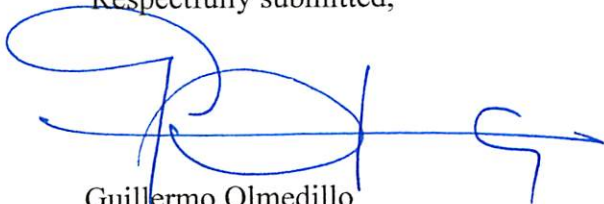
**8. Unfinished Business and New Business**

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

- A. 2016 Meeting Calendar** – Sandra Novoa, Town Clerk
- B. Gating the Community** – Guillermo Olmedillo, Town Manager  
*[Linked to Items 9D and 9F]*
- C. Zoning in Progress – Section 90-51 Maximum Frontage of Buildings and Specifically Amending Section 90-51.1 Continuous Wall Frontage of 150 feet in the H120 District** – Commissioner Michael Karukin *[Linked to Item 4B2]*
- D. Planning and Zoning Board Request for a Ballot Question on One Way Streets** – Guillermo Olmedillo, Town Manager *[Linked to Items 9B and 9F]*
- E. Residency Requirements of Resort Tax Board Membership** – Commissioner Michael Karukin
- F. Proposed Miami-Dade Charter Amendment on Special Taxing Districts** – Guillermo Olmedillo, Town Manager *[Linked to Items 9B and 9D]*
- G. RFEI Workshop Direction**– Guillermo Olmedillo, Town Manager  
*(Verbal)*

**10. Adjournment**

Respectfully submitted,



Guillermo Olmedillo  
Town Manager

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  
Town Commission Meeting  
MINUTES  
October 13, 2015  
7 p.m.**

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

**1. Opening**

**A. Call to Order**

Mayor Dietch called the meeting to order at 7:01 P.M.

**B. Roll Call of Members**

Town Clerk Sandra Novoa called the roll with the following members present: Mayor Dietch, Commissioner Olchyk, Commissioner Karukin, Vice Mayor Tourgeman and Commissioner Cohen.

**C. Pledge of Allegiance**

Town Attorney Linda Miller led the Pledge of Allegiance

**D. Mayor and Commission Remarks – Mayor Daniel Dietch**

Commissioner Cohen asked for a brief moment of silence because of the suffering and terror in the world.

Commissioner Cohen asks the community to rethink the two year term that is in place as this Commission has worked well together and has moved forward on many issues and still has work in progress. He feels the two year term limit can hinder issues that are not completely resolved. In six months there is an election and he encourages the community to register to vote and vote at the next election.

Commissioner Olchyk said she will not be running for the Commission next year and encourages the community to run as a member of the Commission and get involved. She would very much like to see a female representative on the Commission. Echoing Commissioner Cohen, she said if you do not get involved then you really have no right to complain about what is being done or what is not done.

Mayor Dietch gave a brief overview of a meeting he attended called the Climate Reality Project which was initiated by past Vice President Al Gore.

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

Commissioner Karukin said he will be asking to defer Item 4A2; 4A3 (linked to Item 9B). Vice Mayor Tourgeman said he will be asking to defer Item 4B3.

Commissioner Cohen made a motion to add Item 9C for discussion regarding a petition process for gating the community. The motion received a second from Vice Mayor Tourgeman and the motion passed 3/2 with Commissioners Karukin and Olchyk voting in opposition.



Mayor Dietch said we are behind in the evaluations of the Town Manager and Town Attorney and forms will be sent out this week.

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

Commissioner Karukin gave a reminder that the Alzheimer's walk will be November 7<sup>th</sup>. He said the car wash on September 20, 2015 raised over \$500 and thanked the students from Hialeah Gardens High School for volunteering.

Vice Mayor Tourgeman gave an update on the Tourist Board activity.

Mayor Dietch announced the upcoming community events which can be found in the Gazette and on the Town's website.

**G. Miami Dade County Commissioner Sally Heyman – Mayor Daniel Dietch**

Commissioner Heyman gave an update on an issue she has been championing for beach renourishment. She has succeeded in obtaining matching funds from the County, State and Federal Government.

**H. Surfside Urban Gardeners – Dr. Freddy Chiche, President**

Dr. Chiche spoke on the item and the benefits of the program which is a learning experience for children. Beth Soulliard also spoke on the item and the involvement of the Girl Scouts and how they enjoy the project. Duncan Travares played a video showing the garden and the children working and learning.

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

**3. Consent Agenda**

Commissioner Olchyk pulled Item 3I; 3J; 3K; 3L; 3M. Commissioner Karukin pulled Item 10. Commissioner Cohen pulled Item 2. Mayor Dietch pulled Item 5.

Commissioner Karukin made a motion to approve the consent agenda minus the pulled items. The motion received a second from Commissioner Olchyk and all voted in favor.

**A. Minutes – Sandra Novoa, MMC, Town Clerk**

**September 8, 2015 – Regular Commission Meeting**

**September 21, 2015 – Final Budget Hearing**

**B. Budget to Actual Summary as of July 31, 2015 – Guillermo Olmedillo, Town Manager**

**\*C. Town Manager's Report – Guillermo Olmedillo, Town Manager**

- **See Click Fix**

- **Parking Structure RFEI**

Pulled Item by Commissioner Cohen and asked if we are ready to move on this. Manager Olmedillo gave a brief report on the item. Vice Mayor Tourgeman feels we have been studying this too long and is ready to make a decision.

Vice Mayor Tourgeman made a motion for an RFP for the 93/94 Street properties. There was much discussion on the issue and the Mayor feels there is much more information that the Town

Manager can provide in a full report. The motion died for a lack of a second.

Commissioner Olchyk made a motion to wait till November when the Manager presents a full report.

The motion received a second from Commissioner Karukin and the motion carried 4/1 with Vice Mayor Tourgeman voting in opposition.

- **Ten Year Water Supply Plan**
- **Development Applications**
- **Code Compliance**

3C/10 Police Safety Issues pulled by Commissioner Karukin regarding code enforcement for unleashed dogs. He would like the code to be looked at again as it was written a long time ago and feels there should first be a warning before the animal is impounded. Commissioner Olchyk does not feel the code needs updating. Commissioner Cohen told of an incident involving an unleashed dog in his backyard. Vice Mayor Tourgeman feels a dog must be leashed and we have done the warnings but we now have to start enforcing the code and the first fine should be increased to \$100. The Mayor advised that there dog tags available through the town.

- **Police Department Events**
- **Information Technology & TV Broadcast**
- **Alley Way Improvement Project**

Public Speaker Daniel Gielchinsky spoke on the item and is in supports the Town Manager's recommendations. He also asks that the parking spots be looked at. Commissioner Olchyk said something must be done as they alleys are very dirty and business is not complying with the code. Manger Olmedillo said letters have gone out to business owners and they have sixty days to comply.

- **Community Garden**

**\*D. Town Attorney's Report** – Linda Miller, Town Attorney

**E. Committee Reports** – Guillermo Olmedillo, Town Manager

- July 30, 2015 Planning and Zoning Board Meeting Minutes
- August 3, 2015 Tourist Board Meeting Minutes
- August 17, 2015 Parks and Recreation Committee Meeting Minutes
- August 24, 2015 Coastal Issues Committee Meeting Minutes
- August 27, 2015 Planning and Zoning Board Meeting Minutes

- F. Approval to Accept the Florida Department of Transportation (FDOT) High Visibility Enforcement for Pedestrian and Bicycle Safety Grant for 2015-2016 –**  
Guillermo Olmedillo, Town Manager

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA ACCEPTING THE FLORIDA DEPARTMENT OF TRANSPORTATION (“FDOT”) HIGH VISIBILITY ENFORCEMENT FOR PEDESTRIAN AND BICYCLE SAFETY GRANT IN THE AMOUNT OF \$17,325.00 FOR 2015-2016; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Approved on consent.

- G. Accepting Florida Municipal Insurance Trust (FMIT) Matching Funds Safety Grant –** Guillermo Olmedillo, Town Manager

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA ACCEPTING THE FLORIDA MUNICIPAL INSURANCE TRUST (“FMIT”) MATCHING FUNDS SAFETY GRANT IN THE AMOUNT OF \$1,800.00; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Approved on consent.

- H. Accepting the Placemaking Micro-Grant –** Guillermo Olmedillo, Town Manager

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA ACCEPTING THE PLACEMAKING MICRO-GRANT IN THE AMOUNT OF \$1,200.00 FROM MIAMI ASSOCIATION OF REALTORS; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Approved on consent.

- I. Mutual Aid Agreement between the City of Miami Police Department and the Town of Surfside Police Department –** Guillermo Olmedillo, Town Manager

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA ACKNOWLEDGING THE COMBINED VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENT BETWEEN THE CITY OF MIAMI, FLORIDA AND THE TOWN OF SURFSIDE, FLORIDA; AUTHORIZING THE TOWN MANAGER AND CHIEF OF POLICE TO EXECUTE AND IMPLEMENT THE TERMS AND CONDITIONS OF THE MUTUAL AID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

Item pulled by Commissioner Olchyk.

Commissioner Olchyk made a motion to approve. The motion received a second from Vice Mayor Tourgeman and all voted in favor.

**J. Approval of Expenditure of Forfeiture Funds to Purchase a Work Utility Vehicle – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2015/2016 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF \$10,000.00 FROM THE FORFEITURE FUND FOR THE PURCHASE OF A WORK UTILITY VEHICLE; PROVIDING FOR AUTHORIZATION AND APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.**

Item pulled by Commissioner Olchyk. She explained her vote as in the budget she was opposed to spending any more monies for police vehicles. That is the reason she has pulled these items as she voted in opposition to the Police Budget. She feels the forfeiture funds can be used for many more other items useful to the community.

Commissioner Karukin made a motion to approve. The motion received a second from Vice Mayor Tourgeman and the motion carried 4/1 with Commissioner Olchyk voting in opposition.

**K. Approval of Expenditure of Forfeiture Funds to Purchase a Speed Radar Display Trailer – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2015/2016 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF \$12,000.00 FROM THE FORFEITURE FUND FOR THE PURCHASE OF A SPEED RADAR DISPLAY TRAILER; PROVIDING FOR AUTHORIZATION AND APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.**

Item pulled by Commissioner Olchyk. Item pulled by Commissioner Olchyk. She explained her vote as in the budget she was opposed to spending any more monies for police vehicles. That is the reason she has pulled these items as she voted in opposition to the Police Budget. She feels the forfeiture funds can be used for many more other items useful to the community.

Vice Mayor Tourgeman made a motion to approve. The motion received a second from Commissioner Karukin and the motion carried 4/1 with Commissioner Olchyk voting in opposition.

**L. Expenditure of Forfeiture Funds for Fiscal Year 2015-2016 – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2015/2016 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF \$80,000.00 FROM THE FORFEITURE FUND TO SUPPORT CRIME PREVENTION INITIATIVES, COMMUNITY-BASED PROGRAMS AND LAW ENFORCEMENT EQUIPMENT; PROVIDING FOR AUTHORIZATION AND APPROVAL; PROVIDING FOR AN EFFECTIVE DATE.**

Item pulled by Commissioner Olchyk. Item pulled by Commissioner Olchyk. She explained her vote as in the budget she was opposed to spending any more monies for police vehicles. That is the reason she has pulled these items as she voted in opposition to the Police Budget. She feels the forfeiture funds can be used for many more other items useful to the community.

Vice Mayor Tourgeman made a motion to approve. The motion received a second from Commissioner Karukin and the motion carried 4/1 with Commissioner Olchyk voting in opposition.

**M. Records Management Plan and Implementation Services – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE AGREEMENT WITH SML, INC. ATTACHED HERETO AS ATTACHMENT “A” FOR A COMPREHENSIVE RECORDS MANAGEMENT PLAN AND IMPLEMENTATION SERVICES; PROVIDING FOR IMPLEMENTATION AND AUTHORIZATION OF PAYMENT OF \$44,000.00 FROM ACCOUNT NO. 001-2400-519-3410; PROVIDING FOR APPROVAL AND AUTHORIZATION; PROVIDING FOR AN EFFECTIVE DATE.**

Item pulled by Commissioner Olchyk. Item pulled by Commissioner Olchyk. She explained her vote as in the budget she was opposed to spending any more monies for police vehicles. That is the reason she has pulled these items as she voted in opposition to the Police Budget. She feels the forfeiture funds can be used for many more other items useful to the community.

Vice Mayor Tourgeman made a motion to approve. The motion received a second from Commissioner Karukin and the motion carried 4/1 with Commissioner Olchyk voting in opposition.

**N. Opposition of Any Proposal To Standardize Local Government Election Dates In Florida – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA, OPPOSING ANY PROPOSAL IN THE FLORIDA STATE LEGISLATURE TO STANDARDIZE VARIOUS LOCAL GOVERNMENT ELECTION DATES IN**

**FLORIDA; PROVIDING DIRECTION TO THE TOWN CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE GOVERNOR OF THE STATE OF FLORIDA, FLORIDA OFFICE OF SENATE PRESIDENT, SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES, FLORIDA OFFICE OF THE CLERK OF THE HOUSE, SENATOR GWEN MARGOLIS, REPRESENTATIVE JOSEPH GELLER, CHAIR AND MEMBERS OF THE MIAMI-DADE STATE LEGISLATIVE DELEGATION, FLORIDA LEAGUE OF CITIES AND THE MIAMI-DADE LEAGUE OF CITIES; AND PROVIDING FOR AN EFFECTIVE DATE.**

Approved on consent.

#### **4. Ordinances**

##### **A. Second Reading Ordinances**

##### **1. 10% Windows for Each Story – Sarah Sinatra, Town Planner**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING”, AND SPECIFICALLY AMENDING SECTION 90-50 “ARCHITECTURE AND ROOF DECKS” TO MODIFY THE CODE TO REQUIRE FRONT AND STREET SIDE FAÇADES TO HAVE A WINDOW LOCATED ON EACH WALL PLANE AND A TOTAL OF 10% WALL OPENINGS PER ELEVATION FOR SINGLE FAMILY HOMES; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa read the title of the ordinance

Vice Mayor Tourgeman made a motion to approve. The motion received a second from Commissioner Olchyk and all voted in favor.

The Mayor opened the item for public hearing. No one wishing to speak the Mayor closed the public hearing.

##### **2. Corridor Analysis – Sarah Sinatra, Town Planner *[Linked to Item 9B]***

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 ZONING TO IMPLEMENT THE CORRIDOR ANALYSIS PROPOSALS FOR THE AREA BETWEEN COLLINS AND HARDING AVENUES FROM 94<sup>TH</sup>**

**STREET TO 88<sup>TH</sup> STREET; AMENDING SECTION 90-2 “DEFINITIONS”; AMENDING SECTION 90-44 “MODIFICATIONS OF HEIGHT REGULATIONS”; AMENDING SECTION 90-44.2; AMENDING SECTION 90-45 –SETBACKS; AMENDING SECTION 90-50 “ARCHITECTURE AND ROOF DECKS”; AMENDING SECTION 90-50.1 “ARCHITECTURE”; AMENDING SECTION 90-51 “MAXIMUM FRONTAGE OF BUILDINGS”; AMENDING SECTION 90-61 “PAVING IN FRONT AND REAR YARDS IN H31 AND H40 DISTRICTS”; AMENDING SECTION 90-61.2; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa read the title of the ordinance

Commissioner Karukin made a motion to defer the item to January 12, 2016 at 7:00 P.M. The motion received a second from Vice Mayor Tourgeman and all voted in favor.

**3. Amendment to Section 90-51. Maximum Frontage of Buildings – Commissioner Michael Karukin**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 ZONING; AMENDING SECTION 90-51 MAXIMUM FRONTAGE OF BUILDINGS; SPECIFICALLY AMENDING SECTION 90-51.1 CONTINUOUS WALL FRONTAGE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa read the title of the ordinance

Commissioner Karukin made a motion to defer the item to January 12, 2016 at 7:00 P.M. The motion received a second from Vice Mayor Tourgeman and all voted in favor.

**B. First Reading Ordinances**

**1. Expanded Polystyrene Ordinance Phase 2 – Guillermo Olmedillo, Town Manager**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE I OF CHAPTER 34 “ENVIRONMENT” AND SPECIFICALLY CREATING SECTION 34-10 “PROHIBITIONS REGARDING THE SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY FOOD SERVICE PROVIDERS AND STORES; EXEMPTIONS”; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa read the title of the ordinance

Vice Mayor Tourgeman made a motion to accept. The motion received a second from Commissioner Cohen and all voted in favor.

**2. Resort Tax Ordinance Amendment – Guillermo Olmedillo, Town Manager**

**AN ORDINANCE OF THE TOWN COMMISSION AND THE RESORT TAX BOARD OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 70 “TAXATION” AND SPECIFICALLY AMENDING SECTION 70-126 “POWER AND DUTIES” 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.**

Town Clerk Sandra Novoa read the title of the ordinance

Vice Mayor Tourgeman made a motion to accept. The motion received a second from Commissioner Karukin and all voted in favor.

**3. Temporary Signs – Sarah Sinatra, Town Planner**

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE VI “SIGNS” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; SPECIFICALLY AMENDING SECTION 90-69 “DEFINITIONS”; SPECIFICALLY AMENDING SECTION 90-74 “TEMPORARY SIGNS”, PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa read the title of the ordinance



Vice Mayor Tourgeman made a motion to defer the item to November 10, 2015. The motion received a second from Commissioner Karukin and all voted in favor.

## 5. Resolutions and Proclamations

## 6. Good and Welfare

The Mayor opened the meeting to public speakers.

### Public Speakers:

-Larisa Alonso asked for an update on the Tot Lot. She also had a concern about an empty lot next to her property which is on the water. She also mentioned a consent order being drawn up between the County and the Surfside Club and asks the Commission to have stronger language and be part of the process especially regarding debris on the beach as well as other beach issues.

-Howard Weinberg on behalf of homeowners on Biscaya had concerns about comments made at the last meeting and feels his client may not have a fair hearing before the Commission. He wanted it to be known that it is his fault there was a delay and the homeowner should not be held responsible. Town Attorney Miller urged Mr. Weinberg not to speak on the matter as it is going before the Special Master.

-Terry Cohen complained about her neighbor who wrote something obscene on his trash bins facing her. There is also a problem with an oak tree on the neighbor's property which will cause a problem for her as it grows.

-Eva Berman has issues with all the construction going on and the problems which this will cause. She asks how much money does the town want.

-Sasha Plutno thanked the Commission for getting the FEMA discount back for the town and had some questions regarding documentation that residents need to apply for the discount.

No one else wishing to speak the Mayor closed Good and Welfare.

Vice Mayor Tourgeman said regarding FEMA discount, that it was his understanding it would be an automatic process and residents do not need to fill out anything. Commissioner Karukin suggested that a notice be put in the Gazette and a mailer so all the residents will have the information.

Commissioner Olchyk said she has many calls regarding the over building and construction but there is nothing they can do but perhaps slow down the construction.

Commissioner Cohen knows of the lot Ms. Alonso referred to. He said that other lots that have had a demolition have a fence around it. He also had some information on the sand issue. Manger Olmedillo said there will be many trucks removing sand and bringing in sand. All this has to be vetted out as to hours of operation and traffic issues.

The Mayor suggested the owner of the empty lot on the water near Ms. Alonso be contacted and explain the concerns especially if children go on the property and the danger if one should fall into the water. Commissioner Cohen said the code says that

empty lots should be fenced. The Mayor asks the Manager to look into securing property on the water and come back with a report.

The Mayor addressed the concerns of the public speakers.

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

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

**8. Unfinished Business and New Business**

**A. Appointment to the Design Review Board (Verbal) – Guillermo Olmedillo, Town Manager**

Manager Olmedillo presented two names to the Commission, George Kousoulas and James McKenzie. Commissioner Karukin made a motion to appoint Mr. Kousoulas and the motion received a second from Commissioner Cohen. Mr. Kousoulas respectfully declined the appointment but thanked the Commission for their confidence in him.

Vice Mayor Tourgeman made a motion to appoint James McKenzie to the DRB. The motion received a second from Commissioner Olchyk and the motion carried 3/2 with Commissioner Cohen and Commissioner Karukin voting in opposition.

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

**A. Miami Dade County Historic Preservation – Guillermo Olmedillo, Town Manager**

There was some discussion regarding a special variance for structures involved and the Commission will accept staff recommendations. Mayor Dietch asks staff to also check into fees and fees recovery.

**B. Zoning in Progress – Corridor Analysis Ordinance Between Collins and Harding Avenue – Commissioner Michael Karukin [*Linked to item 4A2*]**

Commissioner Karukin made a motion to extend Zoning in Progress to January 12, 2016. The motion received a second from Commissioner Cohen. The motion carried 4/1 with Vice Mayor Tourgeman voting in opposition.

**C. Gated Community (added by Commissioner Cohen)**

Town Manager Olmedillo explained the petition process. Commissioner Cohen said times are changing and there have been several robberies in the residential areas. He has been approached by many residents who want the community gated. Vice Mayor Tourgeman agrees with the idea but wants all

to be aware it will be very costly. Commissioner Olchyk said we have had consultants regarding this issue and if we bring this to the residents for a vote they must be aware of all the requirements needed and all the costs this may incur.

Commissioner Karukin is against gating but brought to attention that Surfside is a community of wants such as gating, sidewalks, underground wiring, second floor to community center, etc. He said all of this is extremely costly and asks how much in debt does the town want to be in.

Vice Mayor Tourgeman said it is important to continue to study the possibilities as there is also a parking problem which they have been studying for twenty years. He supports the dialogue on this matter.

Commissioner Cohen made a motion that Manager Olmedillo come back with a framework for gating the community and an outline for the process, as well as educating the community. The motion received a second from Vice Mayor Tourgeman and the motion carried 4/1 with Commissioner Karukin voting in opposition.

## 10. Adjournment

Respectfully submitted,

## 10. Adjournment

The meeting adjourned at 9:23 p.m.

Respectfully submitted,

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2015

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

Attest:

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

**TOWN OF SURFSIDE, FLORIDA  
MONTHLY BUDGET TO ACTUAL SUMMARY  
FISCAL YEAR 2014/2015**

**AS OF**

**August 31, 2015**

**92% OF YEAR EXPIRED (BENCHMARK)**

Agenda Item #

Page

1 of 3

Agenda Date: November 10, 2015

GOVERNMENTAL FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET
<i><b>GENERAL FUND</b></i>			
REVENUE	\$11,632,662	\$13,497,669	86%
EXPENDITURES	11,777,019	\$13,497,669	87%
Net Change in Fund Balance	(144,357)		
Fund Balance-September 30, 2014 (Audited)	6,366,391 <b>A</b>		
Fund Balance-August 31, 2015 (Reserves)	<u>\$ 6,222,034</u>		
<i><b>RESORT TAX (TEDAC SHARE)</b></i>			
REVENUE	\$ 521,430 <b>B</b>	\$635,465	82%
EXPENDITURES	334,387	\$635,465	53%
Net Change in Fund Balance	187,043		
Fund Balance-September 30, 2014 (Audited)	180,297		
Fund Balance-August 31, 2015 (Reserves)	<u>\$ 367,340</u>		
<i><b>POLICE FORFEITURE/CONFISCATION</b></i>			
REVENUE	\$ 28,631	\$90,300	32%
EXPENDITURES	91,030	\$90,300	101%
Net Change in Fund Balance	\$ (62,399)		
Fund Balance-September 30, 2014 (Audited)	159,626		
Fund Balance-August 31, 2015 (Reserves)	<u>\$ 97,227</u>		
<i><b>TRANSPORTATION SURTAX</b></i>			
REVENUE	\$ 191,483	\$197,000	97%
EXPENDITURES	163,858	\$197,000	83%
Net Change in Fund Balance	27,625		
Fund Balance-September 30, 2014 (Audited)	396,740		
Fund Balance-August 31, 2015 (Reserves)	<u>\$ 424,365</u>		
<i><b>CAPITAL PROJECTS</b></i>			
REVENUE	\$ 887,967	\$1,890,101	47%
EXPENDITURES	1,529,779	\$1,890,101	81%
Net Change in Fund Balance	(641,812)		
Fund Balance-September 30, 2014 (Audited)	849,445		
Fund Balance-August 31, 2015 (Reserves)	<u>\$ 207,633</u>		

**NOTES:**

\* Many revenues received in subsequent months (timing difference) and are recorded on a cash basis in the month received.

A. Includes \$2,000,000 available for hurricane/emergencies. The balance of \$4,366,391 is unassigned fund balance (reserves).

B. Resort Tax Revenues for August 2015 are received in September 2015, the (Total collected through August 2015 is \$1,518,523)(\$521,430 is the TEDAC and \$997,093 is the General Fund).

**ENTERPRISE FUNDS**

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

**WATER & SEWER**

REVENUE	\$ 3,257,787	\$3,996,160	82%
EXPENDITURES	2,641,828	\$3,996,160	66%
Change in Net Position	615,959		
Unrestricted Net Position-September 30, 2014 (Audited)	(3,501,884)		
Restricted Net Position	1,260,776 C1		
Unrestricted Net Position-August 31, 2015 (Reserves)	<u>\$ (1,625,149) C2</u>		

**MUNICIPAL PARKING**

REVENUE	\$ 889,745	\$1,062,878	84%
EXPENDITURES	841,509	\$1,062,878	79%
Change in Net Position	48,236		
Unrestricted Net Position-September 30, 2014 (Audited)	1,000,355		
Unrestricted Net Position-August 31, 2015 (Reserves)	<u>\$ 1,048,591</u>		

**SOLID WASTE**

REVENUE	\$ 1,494,757	\$1,505,640	99%
EXPENDITURES	1,181,513	\$1,505,640	78%
Change in Net Position	313,244		
Unrestricted Net Position-September 30, 2014 (Audited)	116,662		
Unrestricted Net Position-August 31, 2015 (Reserves)	<u>\$ 429,906</u>		

**STORMWATER**

REVENUE	\$ 455,257	\$838,267	54%
EXPENDITURES	554,147	\$838,267	66%
Change in Net Position	(98,890)		
Unrestricted Net Position-September 30, 2014 (Audited)	3,838,412		
Restricted Net Position	347,140 C3		
Unrestricted Net Position-August 31, 2015 (Reserves)	<u>\$ 4,086,662</u>		

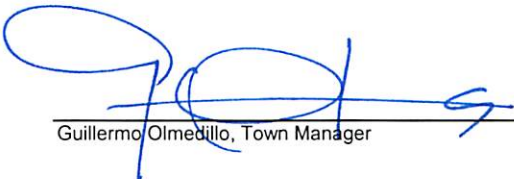
**NOTES:(con't)**

C1. The Restricted Net Position of \$1,260,776 includes \$1,017,776 for renewal and replacement, and \$243,000 for State Revolving Loan reserves.

C2. The reserves balance of (\$1,625,149) is the result of a change in current net position as of August 2015 of \$615,959 net position as of September 30, 2014 of (\$3,501,884) includes \$651,144 for rate stabilization, plus Restricted Net Position of \$1,260,776.

C3. The Restricted Net Position of \$347,140 includes \$266,140 for renewal and replacement, \$81,000 for State Revolving Loan reserves.

  
 Donald G. Nelson, Finance Director  
**\*\*ATTACHMENT**

  
 Guillermo Olmedillo, Town Manager

**Town of Surfside  
Fund Balance (Reserves)**

	8/31/2015			
FUND	9/30/2012	9/30/2013	9/30/2014	8/31/2015
General	\$ 5,266,374	\$ 5,304,042	\$ 6,366,391	\$ 6,222,034
Resort Tax	171,496	94,497	180,297	367,340
Police Forfeiture	122,272	138,143	159,626	97,227
Transportation Surtax	122,302	131,475	396,740	424,365
Capital	132,783	255,263	849,445	207,633
Water & Sewer	(1,931,707)	(5,261,333)	(3,501,884)	(1,625,149)
Parking	1,258,325	1,066,574	1,000,355	1,048,591
Solid Waste	228,437	227,274	116,662	429,906
Stormwater	104,651	2,520,512	3,838,412	4,086,662
<b>Total</b>	<b>\$ 5,474,933</b>	<b>\$ 4,476,447</b>	<b>\$ 9,406,044</b>	<b>\$ 11,258,609</b>



## **TOWN MANAGER'S REPORT NOVEMBER 2015**

### **COMMUNITY PROGRAMS / INITIATIVES / ENHANCEMENTS**

1. See Click Fix -- Report attached.

### **PLANNING, ZONING AND DEVELOPMENT**

#### **2. Ten Year Water Supply Plan**

The Town is required to update its Ten Year Water Supply Plan including identifying any alternate water supply sources and analyzing/updating data from our current supplier. Funds for this project are included in the FY 14/15 Budget. Work Authorization No. 89 – Ten Year Water Supply Plan has been executed with CGA in the amount of \$7,466.92. This was unanimously recommended for approval to the Town Commission by the Planning and Zoning Board at their March 26, 2015 meeting. The Town Commission approved this item until May 12, 2015, on first reading and transmitted it to the State of Florida for review and comment. Once the comments are addressed, we will schedule the item for second reading. It is tentatively scheduled for second reading at the November 2015 Town Commission meeting.

#### **3. Development Applications**

- a) 8851 Harding Avenue – A site plan application for a 23 unit development has been submitted to the Town. Staff held a Development Review Meeting with the applicant in January. A resubmittal addressing staff comments has not been received.
- b) 8800 Collins Avenue – A site plan application for a 25 unit development has been submitted to the Town. Staff held a Development Review Meeting with the applicant in March and June and a Development Impact Committee was held on July 22, 2015. Approximately 25 conditions were presented to the applicant and the project was reviewed and approved with conditions at the August 27, 2015 Planning and Zoning Board hearing.
- c) 9415-9421 Harding Avenue – A site plan application for a 145 square foot addition at the rear of the building abutting the alley has been submitted. Staff reviewed the application with the applicant and a Development Impact Committee meeting was held June 23, 2015. The applicant has indicated that they may no longer wish to proceed and has asked to stop any further reviews as this time.
- d) 9011 Collins Avenue – A site plan amendment application for the Surf Club has been received relating to elevation changes and interior breakdown of uses for the north west building. The application is under review and a Development Review meeting has not been scheduled at this time.

e) 9133-9149 Collins Avenue – A site plan application for the Surf Club II has been received and a Development Review meeting was held on September 4, 2015. The applicant received staff comments and will be required to resubmit revisions prior to scheduling of future meetings. The plans include restoring a 16 dwelling unit historic building (the Seaway Villas) and adding a 34 unit, 12 story building immediately north of the Surf Club I.

#### **4. Alleyway Improvements**

Staff has observed overflowing trash containers throughout the alleys in the business district and is considering providing multiple banks of dumpsters in enclosures for the businesses. However, there is limited space, which may be due to illegal additions or parking that was never permitted. In order to start the conversation with the business district on upgrades to the alleys with dumpster enclosures, staff will send out a letter to the property owners notifying them that violations have been observed in the alley and if their property is in violation, they can come in an pull permits within 30 days of the letter without penalty. After 30 days, the Town will do a sweep of the alley and determine outstanding violations and proceed with code enforcement mechanisms. This will be the first step to improving the conditions within the alleys.

### **TOWN DEPARTMENTS**

#### **Code Compliance**

##### **5. Code Compliance Cases Settled**

Code compliance cases settled via settlement agreements after compliance was attained:

Since March of 2012 approximately \$186,787 has been collected (or settled with monthly payment plans) for Code Compliance violation related civil penalties, after mitigation or negotiated settlement.

The following is a summary by Fiscal Year:

FY 11/12: 8 cases settled for a total of \$16,875

FY 12/13: 9 cases settled for a total of \$15,750

FY 13/14: 6 cases settled for a total of \$67,293

FY 14/15: To date, 26 cases settled for a total of \$86,869, and a pending settlement for \$40,000

FY 15/16: 5 cases have submitted payments totaling \$7,300

#### **Parks and Recreation**

##### **6. Hawthorne Tot Lot – Playground Equipment**

Staff is researching the possibly of replacing an outdated piece of playground equipment at Hawthorne Tot Lot. Replacing it with a new apparatus that would fit in the space and would be able to be used again once the Tot lot renovation goes into place. At this time the Parks and Recreation Department has received \$2,400 in grant funds for playground equipment replacement.



## **7. New Programs**

The Parks and Recreation Department at the request of residents and the Parks and Recreation Committee have implemented a competitive soccer team in the age group 8 and under. This team competes in the Sunny Isles competitive league and to date has been a very successful program. The Parks and Recreation Department has also started a pilot flag football program in the 12 and under age group. The team is competing in the Galbut Family Miami Beach JCC flag football league.

## **Police Department**

### **8. Police Department Re-Accreditation**

The Commission for Florida Law Enforcement Accreditation, Inc. (CFA) was established by charter on December 13, 1994 and incorporated on February 9, 1995. It is an independent, tax-exempt, not-for-profit corporation designated as the accrediting body for Florida law enforcement agencies, corrections agencies, pretrial, and Inspectors General Offices. The Commission's purpose is to establish a program for accreditation that can be achieved by all Florida law enforcement agencies.

The Accreditation Assessment Team of the CFA is an independent reviewing authority that determines if a law enforcement agency has met specific requirements and prescribed standards. To be accredited the agency must be in compliance with hundreds of standards established by the Commission for Florida Law Enforcement Accreditation. These standards address all facets of the agency including administration, internal affairs operations, investigations, patrol, personnel, training, traffic, response to resistance, support services functions and more. Many of the over 260 current standards are critical to life, health and safety issues. The Certificate of Accreditation is awarded for a three year period.

The Surfside Police Department applied to participate in the CFA Accreditation process in 2009. The department passed the rigorous process and received initial accreditation status. Every three years CFA Accredited law enforcement agencies must again go through the accreditation process, called re-accreditation, to ensure that they are maintaining the highest standards of professionalism. The Surfside Police Department went through the re-accreditation process in 2012 and successfully passed.

Beginning December 1, 2015 the Surfside Police Department will begin its second re-accreditation process with The Commission for Florida Law Enforcement Accreditation. A team of assessors from the CFA will arrive at the Surfside Police Department to conduct the on-site inspection, interviews, and necessary file reviews as part of the department's re-accreditation process.

The Surfside Police Department has proudly attained and maintains accredited status demonstrating to the community that the agency is committed to the highest standards of professional law enforcement service.

### **9. LEO Foundation Awards**

The Law Enforcement Officer's Charitable Foundation requested nominations for finalists for the 16<sup>th</sup> annual LEO Awards ceremony to recognize the most deserving sworn and civilian personnel in Miami-Dade County law enforcement. This prestigious award and charitable event through the LEO Foundation and the Miami-Dade County Association of Chiefs of Police benefits the Police Officers

Assistance Trust. I have submitted the following Surfside Police Department personnel to the LEO Awards Committee for nominations as finalists:

- LEO Safety Award – Officer Craig Lovellette and Communications Operator Peter Filiberto for tracking, locating, and sending Police and Fire to save a victim intent on committing suicide in a different county.
- LEO Safety Award – Executive Assistant Dina Goldstein for excelling at her many administrative duties as well as implementing and managing the Police Department's many community engagement activities.
- LEO Support Services Award – Parking Operations Manager Elinor Joseph for his exceptional management of the Parking Enforcement Unit and parking services, overseeing the Property and Evidence Unit, and assisting the Communications Unit.
- LEO Support Services Award – Community Service Aide Daniel Sanchez for his outstanding work as a CSA, Quartermaster, and assistant fleet manager.

#### **10. Police Department Events**

- Women's Self-Defense Classes will be held at the Community Center, Thursday nights throughout the month of November from 6:15 to 8:15 pm.
- The Annual Career Fair at the Law Enforcement Memorial High School is November 4<sup>th</sup> from 8:00 am to 12:00 pm. NRO Dianna Hernandez will attend.
- Community Service Aide Daniel Sanchez will oversee the Surfside/ Bal Harbour/ Bay Harbor Islands Police Explorer Program meetings on November 4<sup>th</sup> and November 18 from 6:00 p.m. to 8:00 pm at Ruth K. Broad K-8 Center in Bay Harbor Islands.
- The Police Explorers are taking part in a homeless project on November 7 from 11:30 am-1:30 pm at Miami-Dade North College Benjamin Leon School of Nursing. CSA Sanchez will attend.
- The Miami-Dade County Animal Services Department along with the Office of the State Attorney is forming an Anti-Animal Cruelty Task Force. There will be an organizational meeting on November 12 from 9:00 am to 1:00 pm at the Miami-Dade Fire Rescue Training Center in Doral. NRO Hernandez will attend.
- The mock on-site assessment for re-accreditation of the Police Department is scheduled for November 12 and 13. Three assessors from other law enforcement agencies will evaluate our policies and procedures to help prepare us for the re-accreditation process in December.
- The Police Department is hosting a Shred-a-Thon with Record Shred on November 14 from 9:00 am to 12:00 pm in the Town Hall municipal parking lot. NRO Hernandez will coordinate and attend.
- The 14<sup>th</sup> Surfside Citizens Police Academy graduation is November 17<sup>th</sup> at 6:00 pm in the Commission Chambers. The classes have included Patrol Procedures, Fire Rescue, Aviation, K-9, Crime Scene, Marine Patrol, Driving Range, Homicide Investigation, Legal and the Court System, and the Firearms Range.
- The monthly Bike with the Chief will be November 18, 2015 at Town Hall; Coffee with the Cops will be November 20, 2015 at Starbucks.

- The Miami Beach Police Athletic League is hosting their 37<sup>th</sup> annual Thanksgiving Basket on November 24 at Nautilus Middle School at 9:30 am. Chief Allen and NRO Hernandez will represent Surfside.
- The Miami-Dade County Association of Chiefs of Police will be providing homeless veterans with a Thanksgiving luncheon on November 25 from 12:00 pm to 4:00 pm at 900 S.W. 1<sup>st</sup> Street. Chief Allen will attend.

## **Projects Progress Updates**

### **11. Information Technology and TV Broadcasts**

IT will be configuring the point-to-point connection between the Community Center and Town Hall to enable faster file transfers and server access. AVI will be upgrading the cameras, speakers, and broadcast system before the end of the year. IT will be replacing the battery backup in the Community Center server room. IT is waiting on an updated quote for the surveillance camera in the parking lot. IT will be completing the migration to the new fileshare. IT will be ordering equipment and software for the mechanics department. IT is working with the PD to transition from CopLink to LINX.

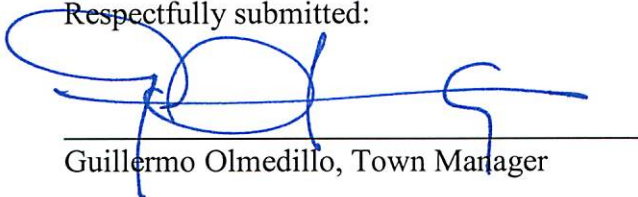
### **12. Town-Owned Seawall Repair**

All onsite work is completed for the first group of seawalls. CGA was successful in obtaining FIND grant money for the second group of seawalls and is awaiting Town direction and allocation of matching funds.

### **13. Traffic Circle**

A speed table was installed on Byron Avenue in between the newly installed bulb outs to further reduce vehicle speed. We have installed signage and road marking to let drivers know that the speed table is there. This new addition with the bulb outs has reduced the speed of the cars. The traffic circle landscaping has been re-designed and we are waiting for pricing from our landscape contract.

Respectfully submitted:



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Guillermo Olmedillo, Town Manager

Between Oct 01, 2015 and Oct 31, 2015

Issues by Source

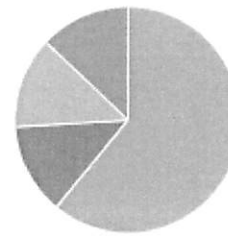
15 issues were opened

0 issues were acknowledged

18 issues were closed

The average time to acknowledge was 0.0 days.

The average time to close was 28.4 days.



SERVICE REQUEST TYPE	OPENED	ACKNOWLEDGED	CLOSED	DAYS TO ACK.	DAYS TO CLOSE
Other (PW)	6	0	7	0.0	2.3
Police (Safety Concern)	4	0	4	0.0	0.5
Beach Issue	2	0	2	0.0	1.3
Code Compliance (Violation)	1	0	2	0.0	140.3
Code Compliance (Safety Concern)	1	0	1	0.0	1.1
Solid Waste (Commercial) (PW)	1	0	1	0.0	0.0
Street lights (PW)	0	0	1	0.0	209.5
96 Street Park (P & R)	0	0	0	0.0	0.0
Community Center (P & R)	0	0	0	0.0	0.0
Dog Stations (P & R)	0	0	0	0.0	0.0
Drainage/Flooding (PW)	0	0	0	0.0	0.0
Graffiti (PW)	0	0	0	0.0	0.0
Graffiti (in park) (P & R)	0	0	0	0.0	0.0
Hawthorne Tot-Lot (P & R)	0	0	0	0.0	0.0
Pothole (PW)	0	0	0	0.0	0.0
Solid Waste (Residential) (PW)	0	0	0	0.0	0.0
Surfside Dog Park (P & R)	0	0	0	0.0	0.0
Utilities (Water/Sewer) (PW)	0	0	0	0.0	0.0

Veterans Park (P & R)

0

0

0

0.0


0.0

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**TOWN OF SURFSIDE**  
**Office of the Town Attorney**  
 MUNICIPAL BUILDING  
 9293 HARDING AVENUE  
 SURFSIDE, FLORIDA 33154-3009  
 Telephone (305) 993-1065

**TO:** Town Commission

**FROM:** Linda Miller, Town Attorney 

**CC:** Guillermo Olmedillo, Town Manager  
 Jane Graham, Assistant Town Attorney

**DATE:** November 10, 2015

**SUBJECT:** Office of the Town Attorney Report for November 10, 2015

---

**This Office attended/prepared and/or rendered advice for the following Public Meetings:**

October 19, 2015 – Parks and Recreation Committee Meeting

October 21, 2015 – Coastal Issues Committee Meeting

October 22, 2015 – Special Master Hearing

October 22, 2015 – Town Hall Meeting – Quality of Life Issues

October 23, 2015 – Crisis Communications Conference for Public Officials - Broward County

October 27, 2015 – Town Commission Workshop – FDEP – Surf Club Amended Consent Order

October 29, 2015 – Planning and Zoning and Design Review Board Meeting

November 2, 2015 – Tourist Board Meeting

November 5, 2015 – Town Commission Workshop - Request for Expression of Interest for the  
 Development of One or More Public Parking Structures with a Possible  
 Mixed-Use Component

November 10, 2015 – Town Commission Meeting

**Ordinances for Second Reading:**

- Styrofoam

**Ordinances for First Reading:**

- Temporary Signs
- Amending Section 90-51.1 Continuous Wall Frontage of 150 Feet in the H120 District

**Resolutions prepared and reviewed:**

- Supporting the proposed legislation entitled Misuse of Public Office Act
- Amending the annual budget Resolution adopted for FY 2014/2015
- Authorizing the Town to enter into an Agreement with PayByPhone Technologies, Inc.
- Authorizing the Town Manager to enter into an agreement with Sun Recycling for solid waste disposal and recyclables processing services, vegetation disposal, construction debris disposal, and receiving a franchise fee from the use of roll-off containers
- Providing for holding a General Municipal Election under the date of March 15, 2016 for the election of the Town Commission

**Town Commission/Town Manager:**

- Follow up with Florida Department of Environmental Protection (“FDEP”) regarding modified consent order with FDEP and Surf Club
- Researched and interpreted Special Taxing District process for gating the community
- Researched and interpreted Miami-Dade County proposed “Special Taxing Districts Control for Municipalities” legislation and conferenced with Miami-Dade County Commissioner Sally Heyman’s office on upcoming Town Hall meetings
- Orientation for new Design Review Board member on Sunshine, public records, and rules of procedure
- Researched Town laws on dog leash requirements

**Town Clerk:**

- Review of election laws and regulations in light of changes to November qualifying date
- Ballot Issues Deadlines for 2016 Countywide Elections
- Notice requirements
- Financial disclosure requirements for new members of advisory boards

**October 29, 2015 Planning and Zoning and Design Review Board:**

*Design Review Board Applications:*

- A. 9580 Abbott Avenue - install a precast six foot high wall along a portion of the south end of the property, two feet north of the property line where the property abuts the neighbor located at 9572 Abbott Avenue
- B. 9549 Carlyle Avenue - a new two story single family house
- C. 9356 Abbott Avenue - replace the garage door and modify the configuration of the front door and windows
- D. 8917 Froude Avenue - modifications to the configuration of the front windows and doors, dormer windows added to the roof and metal siding.
- E. 9048 Emerson Avenue – addition of a four foot high decorative picket style fence with two rolling gates at the font of the property

*Discussion Items:*

- A. Residential District
- B. Future Agenda Items

**Coastal Issues Committee:**

- Further researched beach furniture ordinances in Florida municipalities and jurisdiction
- Provided counsel and research on draft beach chair ordinance
- Researched easements
- Contacted United States Army Corps and Miami Beach for upcoming presentations

**Building Department/Code Enforcement:**

- Ongoing review with Code Compliance regarding regulating beach furniture
- Follow up with Code Enforcement and Building Official for on-going settlement of cases
- Review of Code Procedures and preparation for Special Master proceedings
- Reviewed Settlement Agreement and Release of Lien forms

**Finance Department:**

- Review letter in preparation for final approval for delinquency letter on resort tax



**Parks and Recreation:**

- Collaborate on beach concession management ideas and implementation

**Tourist Bureau/Downtown Vision Advisory Board/Tourist Board:**

- Research Florida statutes, Miami-Dade Code, and Surfside code on procurement process

**Public Works:**

- Review and research solid waste recycling contracts and sole source procurement
- Review and research stormwater improvement easements
- Tree ordinance research in Miami-Dade County and Town Code

**Police Department:**

- Finalize the PayByPhone Agreement
- Follow-up review of conditions in approved development resolutions related to traffic
- ATS conference call and follow-up on red light camera procedure

**Florida Municipal Insurance Trust (“FMIT”)** investigates claims and provides legal representation for the Town on the following claims/lawsuits:

1. On June 28, 2014, Claimant alleges while walking in the east alley behind 9577 Harding Avenue she fell through a broken storm grate and sustained severe lacerations to her right leg. FMIT is investigating this claim.
2. Julien Deleon - Equal Employment Opportunity Commission (EEOC) Charge #510-2014-05171. Mr. Deleon has filed a Notice of Charge of Discrimination against the Town and the Town has filed a response.
3. Pieter Bakker v. Town of Surfside, a municipal corporation of the State of Florida and Young Israel of Bal Harbour, Inc. On May 30, 2012, Pieter Bakker filed a complaint in State Court against the Town which alleges counts against the Town including contract zoning, Charter violations, and a request for a writ of certiorari to quash Resolution 12-Z-2078 approving a Site Plan Application to permit Young Israel to build a synagogue on 9580 Abbott Avenue. On September 30, 2013, the Court ordered this matter to be transferred to the Appellate Division. Petitioner, Mr. Bakker filed an Amended Petition for Writ of Certiorari and De Novo Complaint and a Motion for Summary Judgment. The Court has issued an Order dismissing the Amended Petition for Writ of Certiorari without

prejudice. Petitioner, Pieter Bakker has filed a Third Amended Petition for Writ of Certiorari. Surfside has filed a Renewed Motion to Dismiss Third Amended Petition For Writ Of Certiorari. The Court has not yet ruled on the Town's Renewed Motion to Dismiss.

4. Parker, et. al. v. American Traffic Solutions, et. al.: United States District Court for the Southern District of Florida Civil Action No. 1:14-CV-24010. This is a class action case brought by plaintiffs who have received red light traffic violations against vendors who contract with municipalities and counties for red-light camera services (American Traffic Solutions “ATS”, “Xerox State and Local Solutions “Xerox”, and Gatso) along with 69 municipalities and counties. The complaint alleges that the local government defendants have improperly outsourced to the vendors their legislatively granted authority to issue traffic citations and unlawfully delegated to the vendor defendants the authority to determine whether a traffic violation has occurred. The Town and other Defendants filed a Motion to Dismiss. The Court dismissed the federal claims, however, did not dismiss the claims for unjust enrichment, declaratory and injunctive relief. The Court has stayed the case during the pendency of an appeal. The local government defendants filed an Initial Brief and Plaintiffs have not yet filed their Answer Brief.
5. Henderson v. Police Officer Carrasquillo and Police Officer Fernandez. On May 12, 2015 a complaint was served stating that on December 11, 2010, Mr. Henderson was arrested for Battery on a Law Enforcement Officer, Disorderly Conduct and Resisting Arrest Without Violence. The complaint alleges malicious prosecution against the Officers. Discovery is ongoing.

**Special Matters:** Continued monitoring of new case law and legislation from Federal, State and County.



**Town of Surfside  
Coastal Issues Committee  
MINUTES  
September 16, 2015, 7:00 p.m.  
Town Hall Commission Chambers  
9293 Harding Ave., 2<sup>nd</sup> Floor, Surfside, FL 33154**

**1. Call to Order**

Chair Larisa Alonso called the meeting to order at 7:05 pm.

**2. Roll Call**

Recording Clerk Nissa Benjamin called the roll with the following members present: Chair Larisa Alonso, Vice Chair Daniel Gielchinsky, Committee Secretary Bertha Goldenberg, Committee Member David Carmona, and Committee Member Lou Cohen.

**3. Approval of Minutes – August 24, 2015**

Vice Chair Gielchinsky made a motion to approve the minutes. The motion received a second from Board Member Carmona and all voted in favor.

**4. Committee Meeting Schedule**

The Committee agreed with the suggested meeting dates included in the Agenda. Committee Member Carmona made a motion to start the meetings at 7:30 p.m. The motion received a second by Committee Secretary Goldenberg. The motion carried 5-1 with Committee Member Cohen opposed.

**5. Beach Furniture Draft Ordinance**

Assistant Town Attorney Jane Graham presented the draft ordinance. The presentation included answers to legal questions the Committee asked at the August meeting, such as, whether ordinances in other jurisdictions have been challenged, apply to beach front properties only, and address beach chairs overnight.

Mayor Daniel Dietch asked about Bal Harbor overnight chairs. Joe Damien, Town Code Compliance, provided response and recommendations.

Committee Member Cohen asked who has control of the activities in the City of Miami Beach. Joe Damien, Code Compliance, stated that the City has control of the area between the dunes and the beach and hotels have control of the number of chairs.

Mayor Dietch asked about the penalties in the code. Assistant Town Attorney Graham stated that penalties are in Section 1-A of the code. Mayor Dietch stated that first and second offenses should be warnings. Joe Damien, Code Compliance, recommended that they be the same than for the sidewalk cafes.

Chair Alonso asked about the appeals process. Assistant Town Attorney Graham stated that the Coastal Issue Committee does not have the authority to act on appeals. Town Manager Guillermo Olmedillo said that applicants will need to follow the appeal process, which is first the Town Manager and then the Town Commission.

#### **6. Public Comment**

At 8:18 pm, Chair Alonso opened the public hearing:

-Silvia Coltrane said that condominium owners and hotels have the right to have chairs and umbrellas on the beach but she agrees they need to be regulated.

-Reed Kandalaft, representing the Surf Club Manager, said that the Four Seasons is willing go above and beyond the requirements, but that removing the chairs from the beach, at night, is a safety issue. He worked at Ritz Carlton, Naples, and there the chairs were stalked neatly at night. Mayor Dietch asked him about the 20 ft setback. Mr. Kandalaft responded that they will set-up in accordance with the business need of the day, based on occupancy.

-Elizabeth Cimadevilla said that she does not want the beaches commercialized. Beachfront properties have the right to the beach. She is concerned about properties on the west. She hopes the Committee will find a balance

-Deborah Cimadevilla asked that the Committee meetings be live-streamed, not just recorded. She said that the majority of the population of Surfside are residents and they need to have equal right to the beach. Frontage should not be 100% (50% or less). Chairs should be only for hotels, not condominiums.

-Marianne Meischeid said that she cares about the beach, a precious space, for all people. Only upland property should be allowed, hotels need to have guidelines, and the chairs should be only in front of the hotels. Chairs and sheds should not impede the view.

-George Kousoulas talked about the regulations. He said that maintaining the dunes and the beach is very important. He said that the Ordinance needs to keep the balance. He proposed to limit the ordinance to upland property owners, gave example of the Tragedy of Commons (William Forster Lloyd). It should be limited to hotels, since they have hospitality mission. He gave analogy of the sidewalk cafes. He stated that the 20/20 setback does not work.

-Harald Bindeus, representing Grand Beach Hotel, said that business are residents also, they pay taxes. He agreed to stack chairs properly, to move the chairs away he needs additional staff. They contract the chairs from a company, but the hotel supervises the operation.

- Clara-Diaz-Leal said that we need to do the math of how much beach area is needed for the residents. Surfside should not be like Sunny Isles, more like Sanibel, and chairs should be for hotels only. Others that are not hotel guesses are using the chairs. The Grand Beach Hotel is blocking the entire area. Need a plan where everyone can have space, chairs only for upland properties and hotels, with buffer between properties.

-Jeff Platt said the Town didn't have chairs before. Concerned about the Grand Beach hotel serving drinks, and placing the chairs in the perimeter. He said that it is only about making money. He is concerned about a property that the Grand Beach bought in Bal Harbor Island for proposed hotel and having those ~~guesses~~ <sup>guests</sup> coming to our beach.

At 9:37 pm, Vice-Chair Gielchinsky made a motion to close public comment. The motion received a second by Committee Member Cardona and all voted in favor.

#### 7. Discussion Items

Chair Alonso made a PowerPoint presentation of her research from beaches in Bal Harbor and Sunny Isles. She presented a layout of the chairs in accordance with the draft ordinance.

At 9:49 pm, the Committee started specific discussion on the draft ordinance language.

Vice Chair Gielchinsky made a motion to replace "attractiveness" with "aesthetics". The motion received a second by Committee Member Cardona and all voted in favor.

Secretary Goldenberg made a motion to add WHEREAS about aesthetics, similar to Myrtle Beach Ordinance. The motion received a second by Chair Alonso and all voted in favor.

Town Manager Olmedillo explained that the proposed tax was modeled after the restaurant chairs.

Chair Alonso asked how the town came up with the fee schedule.

The Town Manager stated that the fee schedule was developed by Finance at the time of the Ordinance, and it is not necessarily what will cost to enforce. The Town has a fee to allow business to do business in the Town.

Vice Chair Gielchinsky made a motion to ~~differ~~<sup>defer</sup> the "local business tax", to look at what other municipalities are doing and to come back with recommendations. The motion received a second by Chair Alonso and all voted in favor.

There was a discussion about restricting the furniture to upland owners. Miami Beach has that restriction, but it is because of the special Agreement they have with the State of Florida. This will impact the Marriott Hotel, under construction.

Vice Chair Gielchinsky made a motion to request copy of the minutes of the Town Commission meeting when the Marriott Hotel project was approved. The motion received a second by Secretary Goldenberg and all voted in favor.

Vice Chair Gielchinsky made a motion to ~~differ~~<sup>defer</sup> item 6a, Beach Awareness Day, and item 6b, Coastal Partnership Initiative Grant Program. The motion received a second by Chair Alonso and all voted in favor

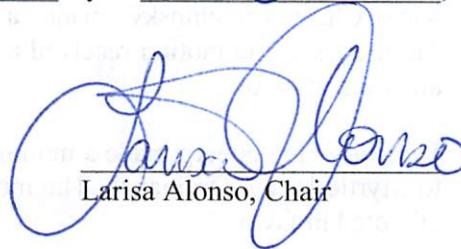
Vice Chair Gielchinsky made a motion to adjourn the meeting. The motion received a second by Committee Member Carmona and all voted in favor

#### 7. Adjournment

The meeting adjourned at 11:01 p.m.

Respectfully submitted,

Accepted this 21<sup>st</sup> day of October, 2015

  
Larisa Alonso, Chair

Attest:

  
Bertha Goldenberg, Secretary



## **PARKS AND RECREATION ADVISORY COMMITTEE MEETING**

Monday September 21, 2015 | 7:00 pm  
Surfside Community Center | 9301 Collins Avenue

### **Meeting Minutes**

#### **1. Opening**

##### **a. Call to Order**

Chair Retta Logan called the meeting to order at 7:03pm

##### **b. Roll Call of Committee Members**

Chair Retta Logan, Secretary Veronica Lupinacci, Committee Member Alberto Aguirre, Committee Member Shlomo Dazinger, Committee Member Eliana Salzhauer<sup>1</sup>, Commissioner Marta Olychk, Assistant Town Attorney Jane Graham, and Tim Milian, Parks & Recreation Director, were present. A quorum was established.

#### **2. Approval of Meeting Minutes from August 17, 2015**

Secretary Veronica Lupinacci made a motion to approve the August 17, 2015 Parks & Recreation Advisory Committee Meeting Minutes. Committee Member Shlomo Dazinger seconded the motion. The motion passed unanimously.

#### **3. Fall Programming Update**

Tim Milian, Parks & Recreation Director, gave the committee an update on the Fall Programming including the new "Getting to know your Electronic Devices", Silver Sneakers Cardio & Strength Program, and pilot Flag Football Program with the JCC in Miami Beach.

After committee debate, Tim Milian, Parks & Recreation Director, asked the committee to take a vote on pursuing a pilot Flag Football Program late October. The item passed with four affirmative votes and one negative vote from Committee Member Eliana Salzhauer.

Tim Milian, Parks & Recreation Director, showed the committee the front cover of the Florida Recreation and Park Association Journal in which the Parks & Recreation Department won the Facebook Photo Competition and will be featured on that issue. Chair Retta Logan inquired about the participation in the Girls Competitive Soccer. Tim Milian, Parks & Recreation Director, responded that there has been a response but they are still in need of more players and provided a history into the program. Tim Milian, Parks & Recreation Director, also informed the committee that the annual Halloween Event would be held on Friday, October 30, 2015. Chair Retta Logan inquired if the Police Department could help block the road during the event to increase safety. Tim Milian, Parks & Recreation Director, responded that he would ask the Police Department.

#### **4. Grants received by P&R Department**

Tim Milian, Parks & Recreation Director, updated the committee on the Grants received by the Parks & Recreation Department including League of Cities for \$1,800 for Safety and Training, and an Insurance Company Grant for \$1,200 for playground equipment.

**5. October & Anti Bully Month**

Tim Milian, Parks & Recreation Director, provided the committee an update on the history of the Anti Bully Month in Surfside, and the list of activities that will happen this year with the after-school program. On October 28, a community event will take place. Secretary Veronica Lupinacci would like to see a program educating parents on cyber-bullying and electronic devices. Tim Milian, Parks & Recreation Director, will work to get it in October or as a stand-alone program.


**6. Community Input**

Committee Member Eliana Salzhauer inquired if a karate or self-defense class could be added for children. Tim Milian, Parks & Recreation Director, will look into it. Commissioner Marta Olychk inquired about the policy of children entering the pool without swimming diapers. Tim Milian, Parks & Recreation Director, responded that the policy is no child under the age of 3 shall enter the pool without swimming diapers and is enforced by the lifeguards and front desk. Tim Milian, Parks & Recreation Director, also informed the committee that the pool would be open until 6:30pm for the month of October and 6:45pm for lap lane swimming.

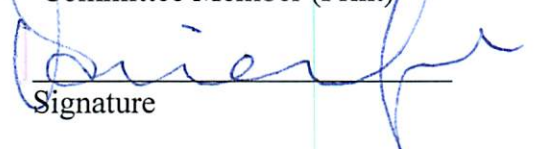
**7. Adjournment**

Committee Member Shlomo Dazinger made a motion to adjourn at 7:46pm. Secretary Veronica Lupinacci seconded the motion. The motion passed unanimously.

Attest:

  
\_\_\_\_\_  
Nissa Benjamin  
Recording Clerk

Accepted this 19 day of October, 2015

Veronica Lupinacci  
Committee Member (Print)  
  
\_\_\_\_\_  
Signature





**TOWN OF SURFSIDE  
PLANNING AND ZONING BOARD  
AND  
DESIGN REVIEW BOARD MEETING**

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

**SEPTEMBER 24, 2015  
7:00 PM**

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**MINUTES**

**DESIGN REVIEW BOARD**

**1. CALL TO ORDER**

Chair Lindsay Lecour called the meeting to order at 7:04 pm.

**2. ROLL CALL**

Town Clerk Sandra Novoa called the roll with the following members present: Chair Lindsay Lecour, Vice Chair Jacob Kligman, Board Member Jorge Gutierrez, Board Member Peter Glynn, Board Member Moisha Rubenstein and Board Member Armando Castellanos. Commissioner Cohen attended as liaison.

**3. APPROVAL OF MINUTES: AUGUST 27, 2015**

Board Member Gutierrez made a motion to approve. The motion received a second from Board Member Rubenstein and all voted in favor.

**4. DESIGN REVIEW BOARD APPLICATIONS:**

**A. Request of the Owner of Property located at 901 89<sup>th</sup> Street**

The applicant has modified their garage and is requesting an after the fact approval. Town Planner Sarah Sinatra presented the item.

Board Member Castellanos made a motion to approve. The motion received a second from Board Member Gutierrez and all voted in favor.

**B. Request of the Owner of Property located at 9549 Carlyle Avenue**

The applicant is requesting to build a new two story single residence. Town Planner Sarah Sinatra presented the item. The applicant spoke and Town Planner Sinatra explained that staff had required a more detailed plan of the project which they have not received. The applicant said he turned in new plans to the town but Planner Sinatra said she had not seen the detailed plan as requested. There was some discussion on the plans presented.

Board Member Castellanos made a motion to defer the item. The motion received a second from Board Member Gutierrez and all voted in favor.

At the end of the meeting the applicant showed some photos of the project. For the record Planner Sinatra said she told the applicant that she had some concerns on the elevation and beams and gave her assessment and recommendations for a revision. After a brief discussion the Board felt it did not have enough information to reopen the item for consideration and is not in favor of the boxlike design therefore the item remained deferred.

**C. Request of the Owner of Property located at 700-88 Street**

The applicant is requesting to build a new single family house. Sarah Sinatra presented the item. The applicant's architects gave a detailed presentation of the project. The Board discussed the design and gave some suggestions but overall liked the design of the house.

Board Member Gutierrez made a motion to approve with the Board's recommendation regarding windows and to revisit the second story elevation. The motion received a second from Vice Chair Kligman and all voted in favor.

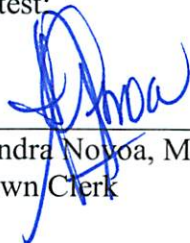
Board Member Glynn expressed his concern that every new home being proposed now and in the future will be exactly the same using the maximum square coverage allowed and all will look alike. Chair Lecour said they will be discussing this under Item 5B on the Planning and Zoning Meeting.

**5. ADJOURNMENT.**

There being no further business to come before the Design Review Board the meeting adjourned at 7:48 p.m.

Accepted this 29<sup>th</sup> day of October, 2015

  
Chair Lindsay Lecour

Attest:  
  
Sandra Novoa, MMC  
Town Clerk

**PLANNING AND ZONING BOARD  
MINUTES  
SEPTEMBER 24, 2015  
7:00 PM**

**1. CALL TO ORDER**

Chair Lindsay Lecour called the meeting to order at 7:49 pm.

**2. ROLL CALL**

Town Clerk Sandra Novoa called the roll with the following members present: Chair Lindsay Lecour, Vice Chair Jacob Kligman, Board Member Peter Glynn, Board Member Moisha Rubenstein and Board Member Armando Castellanos. Commissioner Cohen attended as liaison.

**3. APPROVAL OF MINUTES: AUGUST 27, 2015**

Board Member Rubenstein made a motion to approve. The motion received a second from Board Member Castellanos and all voted in favor.

**4. ORDINANCES:**

**A. AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWOF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING", AND SPECIFICALLY AMENDING SECTION 90-50 "ARCHITECTURE AND ROOF DECKS" TO MODIFY THE CODE TO REQUIRE FRONT AND STREET SIDE FAÇADES TO HAVE A WINDOW LOCATED ON EACH WALL PLANE AND A TOTAL OF 10% WALL OPENINGS PER ELEVATION FOR SINGLE FAMILY HOMES; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa read the title of the ordinance. Town Planner Sinatra presented the item.

Board Member Glynn made a motion to recommend to the Town Commission. The motion received a second from Board Member Castellanos and all voted in favor.

**B. AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 ZONING; SPECIFICALLY AMENDING SECTION 90-43 MAXIMUM BUILDING HEIGHTS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Sandra Novoa read the title of the ordinance.

Board Member Rubenstein made a motion to defer the item to the October 29, 2015 Planning and Zoning Meeting at 7:00 p.m. The motion received a second from Board Member Castellanos and all voted in favor.

**5. DISCUSSION ITEMS:**

**A. Corridor Analysis update**

Town Planner Sinatra gave a brief update and first reading of the ordinance will go to the Town Commission in October and back to Planning and Zoning October 29, 2015.

**B. Single Family Home discussion**

Town Manager Olmedillo gave a power point presentation with the differences of what exists and what architects are bringing today. He said architecture is going to change with the social structure. He presented two extremes and said the Board has to decide in which direction they want to go and would like to hear their input and ideas on what they would like as a basic fundamental design for homes.

Commissioner Cohen thanked the Manager and said it was a wonderful presentation. He mentioned that we have to consider sea level rise in some areas and elevation of homes.

Chair Lecour expressed that she is not focusing so much on style of architect and is not opposed to the modern architect aesthetics, but her concern is on massing and losing the canopy, greenery and air. She agrees with Commissioner Cohen in giving exceptions regarding height on lots that may experience sea level rise.

Board Member Glynn said we have to define the massing as we are losing the cuteness of the town and not have a footprint where every inch of a lot is used to its maximum.

Board Member Rubenstein said because the property values in Surfside have increased so much people buying have the means in which to built luxury homes and that is changing the look of the town. He also suggested that the ordinances in place now be looked at as they may not fit in with the modernization that is taking place. Chair Lecour would like to revisit the code on landscaping, fences, hedges.

Jorge Gutierrez (DRB) said he is concerned as things are getting out of hand and agrees with the remarks made by the Board. He understands that because there are such small lots that architects are using the lots to its maximum allowance but feels the massing has to be looked at. He said they may have to consider regulating by style. He was not in favor of higher elevation on certain lots and said to be careful when viewing this item as we could have some very tall structures.

Board Member Glynn said we are talking about controlling what we now have or changing the codes and the look of the town. The question is what does the average citizen of Surfside want and suggested it be put on the ballot as a question. There was further discussion on how to reduce the massing and pitching the roofing. Reducing the second floor square footage was discussed. Staff will bring back a proposed ordinance for the next meeting.

**C. Future Agenda Items**  
Hedges/Fences/Front Yards

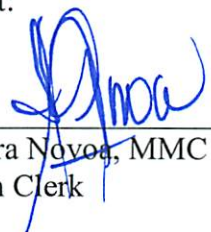
**6. ADJOURNMENT.**

There being no further business to come before the Planning and Zoning Board the meeting adjourned at 8:49 p.m.

Accepted this 29<sup>th</sup> day of October, 2015

  
Chair Lindsay Lecour

Attest:

  
Sandra Novoa, MMC  
Town Clerk



**Town of Surfside  
Tourist Board  
Meeting Minutes  
October 5, 2015  
6:30 p.m.**

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

**1. Opening**

**A. Call to Order**

Vice Chair Sean McKeen called the meeting to order at 6:41pm.

**B. Roll Call of Tourist Board Members**

Vice Chair Sean McKeen, Board Member Barbara Cohen, Board Member Jessica Levison, Tourist Board Liaison Vice Mayor Eli Tourgeman, Assistant Town Attorney Jane Graham, and Duncan Tavares, TEDACS Director, were present. A quorum was established. Chair Michelle Kligman and Board Member Joel Baum were absent with regrets.

Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside and Barbara McLaughlin, Surfside Resident were also in attendance.

**2. Approval of September 17, 2015 Meeting Minutes**

Under the Holiday Lights section, Duncan Tavares, TEDACS Director, requested that the the approved amount of \$22,500 for additional lighting should be added to clarify the amount that was approved by the Tourist Board.

Board Member Barbara Cohen made a motion to approve the September 17, 2015 Tourist Board meeting minutes with the addition of \$22,500 to the Holiday Lights section. Board Member Jessica Levison seconded the motion. The motion passed unanimously.

**3. A/R – Resort Tax Collection**

Duncan Tavares, TEDACS Director, provided an updated Accounts Receivable spreadsheet on the Resort Tax Collection. He informed the Tourist Board that the updated compliance letter is currently being reviewed by the Finance Department and the new Code Compliance Director and should be finalized by the next Tourist Board meeting. Board Member Barbara Cohen requested that the letter to be sent out ahead of time. Duncan Tavares, TEDACS Director, stated that the letter would be included in the documents provided to the Tourist Board a week before their next meeting and discussion among the members would have to wait until the November Tourist Board meeting. However members could address him with any questions prior to that time.

**4. A/P**

Duncan Tavares, TEDACS Director, provided an updated Accounts Payable spreadsheet.

**5. Official Launch of the Visitor APP**

Duncan Tavares, TEDACS Director, stated that the Official Launch of the Visitor App will be held on Thursday, October 15, 2015 from 6:30pm to 8:30pm on the rooftop of the Grand Beach Hotel. This event will be by invitation only from the TEDACS department and will include the Town Commission, Tourist Board, Press, VIP and Sponsors. He also mentioned that the Visit Surfside Mobile App was covered in the Miami Herald Neighbors edition and that he will send a copy out to the Tourist Board. Vice Chair Sean McKeen inquired if all businesses in Downtown Surfside are involved in the Visit Surfside Mobile App. Duncan Tavares responded that all of the business are listed in the Visit Surfside Mobile App and have been contacted for more information, including photographs. Duncan Tavares continued that the responsiveness has been varied from the businesses thus resulting in the TEDACS department having to use Surfside imaging to eliminate blank spaces. Vice Chair Sean McKeen asked if photography could be outsourced to cover the remaining businesses. Duncan Tavares, TEDACS Director, responded that Cory Gittner would be assisting the TEDACS department in taking the rest of the images.

**6. GMCVB Trade Shows / Sales Missions**

Duncan Tavares, TEDACS Director, referred to the Five Year Tourism Strategic Plan and the support of the Trade Shows and Sales Missions component. Last year, the Tourist Board approved supporting the Grand Beach Hotel Surfside in their Trade Shows and Sales Missions. Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside, gave an overview of the Trade Shows and Sales Missions process. Board Member Barbara Cohen inquired about the results from the participation. Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside, responded that the team evaluates each show or mission after the trip to determine the effectiveness, the exposure and the responses. Vice Chair Sean McKeen asked if there would be an opportunity to develop a Surfside trade booth as a destination rather than to integrate with the GMCVB (Greater Miami Convention & Visitors Bureau). Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside, responded that the expenses are very large compared to the expenses of integrating with GMCVB. Duncan Tavares, TEDACS Director, mentioned that he is working with marketing directors of the Grand Beach Hotel Surfside, Residence Inn Surfside, Four Seasons Surf Club, and representatives from GMCVB to create a comprehensive plan to present at the November Tourist Board meeting. Board Member Barbara Cohen inquired about the feedback from the Trade Shows and Sales Missions conducted by the Grand Beach Hotel Surfside. Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside, responded that direct bookings are direct indicators, however meeting travel agents for future bookings are also a component. Overall, occupancy is up during the summer months and the Grand Beach Hotel Surfside is doing better than the Grand Beach Hotel Miami Beach location. Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside, also requested general images of Surfside to bring to Trade Shows and Sales Missions. Duncan Tavares, TEDACS Director, responded that Sales Mission Collateral is a budgeted item, however a new photoshoot must be conducted to capture updated Surfside imagery. Vice Chair Sean McKeen suggested that the photoshoot be focused on lifestyle and general scenes of Surfside, leaving the hotel properties to their respective photographers. Board Member Barbara Cohen asked about the next Trade Show. Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside,

responded that World Travel Mart is October 31 to November 6. Board Member Jessica Levison inquired if Grand Beach Hotel Surfside would have enough collateral to support this show. Duncan Tavares, TEDACS Director, mentioned he was able to attend this show last year at his own expense and pointed out that the TEDACS department receives the database from each show. He continued that he has met with the sales representatives from Residence Inn and Four Seasons Surf Club. Residence Inn has decided not to attend World Travel Mart and are looking at shows starting in the new year 2016. Board Member Jessica Levison inquired about the levels and focus of international prospecting for the Residence Inn. Vice Chair Sean McKeen responded that the Grand Beach Hotel Surfside is a more luxury property and the Residence Inn concentrates on a corporate traveler versus a leisure traveler. Board Member Jessica Levison asked how a hotel decides on whether or not to attend a Trade Show or Sales Mission. Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside, explained that the World Travel Mart is the primary show in the United Kingdom for invited tour operators focusing on travel agents and tourism sales. Vice Chair Sean McKeen added that the Residence Inn is currently focused on developing their corporate market. Board Member Jessica Levison inquired on the expected turn-around time for revenue following World Travel Mart. Harald Bindeus, Director of Sales & Marketing for Grand Beach Hotel Surfside, responded that they may see business in the current season, however this trade show is a long-term strategy and participation in Trade Shows and Sales Missions are growing.

Board Member Barbara Cohen made a motion to approve the Grand Beach Hotel Surfside Sales Mission to World Travel Mart in the amount of \$4,200.00. Board Member Jessica Levison seconded the motion. The motion passed unanimously.

#### **7. PR RFP Update**

Duncan Tavares, TEDACS Director, discussed last month's Tourist Board approval to start the RFP process for a PR company. Upon researching this RFP process, he discovered that it is a long process with many components that would take the process into next year and coincide with the Town Commission elections and possibly the appointment of a new Tourist Board. He will present options for a faster process at the November Tourist Board meeting. Board Member Jessica Levison asked if there are any PR companies that are on the forefront of municipality initiatives and which company Bal Harbour uses. Duncan Tavares, TEDACS Director, responded that Bal Harbour uses a very high-end company with a large budget and there are companies that currently work with GMCVB, Sunny Isles Beach, and Ft. Lauderdale as examples. Board Member Barbara Cohen asked if Duncan Tavares, TEDACS Director, has a working relationship with any PR company. He responded no, only a relationship with the graphic design company the TEDACS department currently works with. Vice Chair Sean McKeen mentioned that he would look forward to seeing the options at the next Tourist Board meeting and suggested the agreement be limited to a one-year deal with 30-day opt-out. Board Member Barbara Cohen asked when would the potential PR company begin. Duncan Tavares, TEDACS Director, responded that once the company is selected and the contract is approved he would like the company to present a campaign that could start



immediately. However the Tourist Board may need to have an additional meeting to facilitate the process. Vice Chair Sean McKeen mentioned that he would like to see a company that has experience in developing a destination, rather than an established destination.

**8. Other Business**

Duncan Tavares, TEDACS Director, informed the Tourist Board that the Town Commission approved the fiscal year 2015/2016 budget which included the Tourist Board's budget.

**9. Next Tourist Board Meeting: Monday November 2, 2015 at 6:30pm**

**10. Public Comment**

Barbara McLaughlin, Surfside Resident, made a comment that Surfside is a wonderful destination with a small town feel.

**11. Adjournment**

Board Member Barbara Cohen made a motion to adjourn the meeting at 7:28pm. Board Member Jessica Levison seconded the motion. The motion passed unanimously.

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO 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.

  
NISSA Benjamin  
Recording Clerk  
11/2/2015

  
Sean McKeen  
Vice Chair  
11/2/2015



## Town of Surfside Commission Communication

**Agenda Item #** 3F

**Agenda Date:** November 10, 2015

**Subject:** Early Voting and the March 15, 2016 General Election

**Background:** The attached resolution provides for holding a General Municipal election on March 15, 2016 coinciding with the Presidential Preference Primary election. The Municipal election will be to elect a Mayor and four Commissioners of the Town of Surfside.

The Town of Surfside has the option of holding early voting for the March 15, 2016 General Election (dates to be determined by Miami Dade County Elections Department). Using this opportunity the County will absorb the cost of early voting. The closest early voting site for Town residents to vote will be The North Shore Branch Library located on 7501 Collins Avenue, Miami Beach, Florida.

**Budget Impact:** N/A

**Staff Impact:** N/A

**Recommendation:** The Administration recommends approving the attached resolution calling the General Municipal Election on March 15, 2016.

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Sandra Novoa, MMC, Town Clerk

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Guillermo Olmedillo, Town Manager

**RESOLUTION NO. 15 - \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR HOLDING A GENERAL MUNICIPAL ELECTION UNDER THE DATE OF MARCH 15, 2016 FOR THE ELECTION OF MAYOR AND ALL FOUR COMMISSIONERS OF THE TOWN OF SURFSIDE; PROVIDING FOR AN EFFECTIVE DATE.**

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

**Section 1.** That in accordance with the provision of the Charter of the Town of Surfside (Chapter 27914, Laws of Florida, 1951,) as amended, a general municipal election is hereby directed to be held in the Town of Surfside at the Town Hall Commission Chambers, 9293 Harding Avenue, Surfside, Florida, from 7:00 o'clock a.m. until 7:00 o'clock p.m. Eastern Standard Time, on the 15<sup>th</sup> day of March, 2016, said date being the third Tuesday in March 2016, for the purpose of electing the Mayor and all four members of the Town Commission of the Town of Surfside and to fill any vacancy then existing. The Mayoral candidate receiving the highest number of votes for a term of two years, and the Commissioner candidates receiving the first, second, third and fourth highest number of votes for a term of two years will be elected. The Commissioner receiving the highest number of votes in the General Election shall, for a term of two years immediately following thereafter, have the title of Vice-Mayor. The terms of Mayor, Vice-Mayor and all Commissioners shall commence at 8:00 o'clock p.m. on the day following such election. In the event of a tie vote between two or more candidates, a run-off election will be held the first Tuesday of April following the General Election.

**Section 2.** That the Town Clerk is hereby directed to publish once in a newspaper of general circulation in the Town of Surfside, a notice of said general municipal election in substantially the following form, to-wit:

**“NOTICE OF GENERAL MUNICIPAL ELECTION  
FOR  
ELECTING THE MAYOR AND ALL FOUR COMMISSIONERS  
OF THE TOWN OF SURFSIDE, FLORIDA  
MARCH 15, 2016**

A general municipal election will be held on March 15, 2016 from 7:00 o'clock a.m. until 7:00 o'clock p.m. Eastern Standard Time, in the Town of Surfside, at the Town Hall Commission Chambers, Surfside, Florida, at which election the qualified electors participating therein will vote for the election of the Mayor and all four Commissioners of the Town of Surfside.”

The Election Officials will be appointed in accordance with the Town Charter.

**Section 3.** That the official ballot to be used at such general election shall be as required by Miami-Dade County Elections. The Town Clerk shall prepare or submit the ballot so that the names of the qualified candidates in each category will appear on said ballot in alphabetical order according to surname; provided, however, that said ballot and its preparation and arrangement shall be such as to comply with the laws of the State of Florida with respect to the use of voting machines.

**Section 4.** That the Town Clerk be and is hereby authorized and directed to perform and carry out such other and additional duties as may be imposed by the Town Charter, State Statute or Ordinance in the conduct of said election.

PASSED AND ADOPTED this \_\_\_\_\_ day of November 2015.

Motion by \_\_\_\_\_,

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

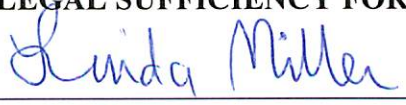
Commissioner Barry Cohen \_\_\_\_\_  
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Eli Tourgeman \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

**ATTEST:**

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

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

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



**Town of Surfside  
Commission Communication**

**Agenda Item** # 3G

**Agenda Date:** November 10, 2015

**Subject:** Pay By Phone Parking Payment Option

**Background:** The Parking Department has completed a successful six months pilot program with the Pay By Phone company to determine the effectiveness of their parking payment option system. The Pay by Phone system provided the Town of Surfside all necessary signage and five computer tablets for the Parking Enforcement Officers to verify parking payment at no cost to the Town. The consumer currently pays \$0.35 per transaction during the pilot program. Upon approval of a contract with Pay by Phone the consumer fee will be reduced to \$0.27 per transaction. As an example, if a person purchases two (2) hours of parking time it would cost \$3.27 (\$1.50 per hour plus the \$0.27 transaction fee). With the Pay By Phone System there is no need for a customer to display a receipt in the vehicle dashboard.

The Town would receive a monthly payment for the number of parking hours purchased and the transaction fees will go to the Pay By Phone Company.

**Analysis:**

**Pay By Phone Statistics**

Month	Transaction #	Revenue
March 2015	856	\$1,702.57
April 2015	6193	\$13,286.76
May 2015	9064	\$19,299.51
June 2015	9112	\$18,151.30
July 2015	10858	\$22,110.81
August 2015	11942	\$24,152.49
September 2015	10918	\$22,152.37
	<b>Total = 58,943</b>	<b>Total = \$120,855.81</b>

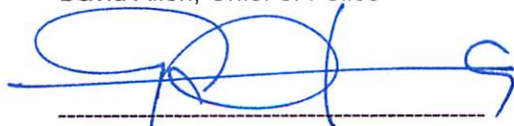
**Budget Impact:** The analysis above shows that a significant portion of the budgeted parking revenue is received by the convenient Pay By Phone option a customer has in paying for parking.

**Staff Impact:** N/A

**Recommendation:** Staff recommends a motion to approve a resolution to authorize the Pay By Phone System as a permanent payment option for use in the Town of Surfside.

  
\_\_\_\_\_  
David Allen, Chief of Police

  
\_\_\_\_\_  
Donald Nelson, Finance Director



\_\_\_\_\_  
Guadalupe Olmedo, Town Manager

**RESOLUTION NO. 15 - \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AUTHORIZING THE TOWN TO ENTER INTO AN AGREEMENT WITH PAYBYPHONE TECHNOLOGIES, INC. AND THE TOWN OF SURFSIDE; PIGGYBACKING OFF THE COMPETITELY BID CONTRACT AWARDED BY THE CITY OF MIAMI DEPARTMENT OF OFF-STREET PARKING A/K/A/ MIAMI PARKING AUTHORITY; AUTHORIZING THE TOWN MANAGER AND/OR DESIGNEE TO DO ALL THINGS NECESSARY TO IMPLEMENT THE TERMS OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the PayByPhone system operates independent of the Town's existing Pay Stations and is an easy and convenient way to pay for parking using a smartphone; and

**WHEREAS**, the Surfside Parking Department has completed a successful six month pilot program with PayByPhone Technologies Inc. to determine the effectiveness of their parking payment option system; and

**WHEREAS**, drivers find the system easy to use and appreciate the many user friendly options including the ability to receive text message reminders before their parking session expires and can add more time from any phone without returning to their vehicle; and

**WHEREAS**, the Town Commission of the Town of Surfside, Florida desires to enter into an agreement with PayByPhone Technologies, Inc., by piggybacking off a competitively bid contract awarded by City of Miami Department of Off-Street Parking a/k/a/Miami Parking Authority for pay by phone services; and

**WHEREAS**, PayByPhone Technologies, Inc., was selected by the City of Miami Department of Off-Street Parking a/k/a/ Miami Parking Authority pursuant to Request for Proposal No. 14-06 and in accordance with the Surfside procurement process and pursuant to Section 3-13(3) of the Code of Ordinances, the Town may enter into contracts entered into by another governmental agency through a competitive bid process; and

**WHEREAS**, the Town Commission of the Town of Surfside, Florida finds it is in the best interest of the Town to enter into the Agreement with PayByPhone Technologies, Inc., for pay by phone services.

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

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

**Section 2. Authorization to enter into an Agreement.** The Town Commission hereby authorizes the Town Manager to enter into the Agreement by and between PayByPhone Technologies, Inc., and the Town of Surfside attached as Attachment "A."

**Section 3. Implementation.** The Town Manager and/or designee are hereby authorized to take any and all action necessary to implement this Resolution and Agreement in accordance with the terms, conditions and purposes of this Resolution and Agreement.

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

PASSED AND ADOPTED this \_\_\_\_\_ day of November 2015.

Motion by \_\_\_\_\_,

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

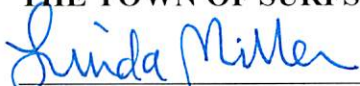
Commissioner Barry Cohen \_\_\_\_\_  
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Eli Tourgeman \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

**ATTEST:**

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

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

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

**AGREEMENT FOR PAYBYPHONE SERVICES**

This Agreement is made this \_\_\_ day of \_\_\_\_\_, 2015 between the Town of Surfside, a municipal corporation, organized and existing under the laws of the State of Florida, whose address is 9293 Harding Avenue, Surfside, Florida, 33154 (the "Town") and PayByPhone Technologies, Inc., a British Columbia corporation authorized to do business in Florida with its principal place of business located at #403 - 1168 Hamilton Street, Vancouver, British Columbia, Canada ("PayByPhone").

**WITNESSETH**

**WHEREAS**, the Town desires to enter into this Agreement (the "Agreement") with PayByPhone for payment by phone services; and

**WHEREAS**, the Town and PayByPhone agree to incorporate the terms and conditions of the Miami Parking Authority's Request for Proposals for PayByPhone Services RFP No. 14-06 (the "RFP") and the contractual arrangement, dated November 30, 2014, (the "Contract" attached hereto as Exhibit "A") between the City of Miami Department of Off-Street Parking a/k/a Miami Parking Authority, an agency and instrumentality of the City of Miami, and PayByPhone Technologies, Inc. into this Agreement; and

**WHEREAS**, Section 3-13(3) of the Town Code of Ordinances the Town authorizes the Town to enter into contracts entered into by another governmental agency through a competitive bid process.

**NOW THEREFORE**, in consideration of the mutual covenants set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

**Section 1. Term.** The term of this Agreement commences upon full execution hereof and continues as specified in the Contract, unless terminated earlier as provided in the Contract. Upon the expiration of the initial three year term of this Agreement, the Town Manager shall have the option to extend this Agreement for two additional consecutive one year renewal terms provided all terms, conditions and specifications remain the same and both parties agree to the extension.

**Section 2. Termination without Cause.** This Agreement may be terminated by the Town for any reason or no reason upon ninety (90) calendar days written notice to PayByPhone.



## PayByPhone Services Agreement

**Section 3. Contract Terms.** PayByPhone agrees to provide the PayByPhone services on the same terms and in the same manner as set forth in the Contract, except as otherwise provided herein. All recitals, representations, and warranties of PayByPhone made by PayByPhone in the Contract or in response to the RFP are restated as if set forth fully herein, made for the benefit of the Town, and incorporated herein, except that all references to the “MPA”, “Miami Parking Authority”, “City of Miami” or “Client” are hereby replaced with the “Town” or “Town of Surfside”, including the requirement to be named as additional insured on the required liability policies, together with the following additional provisions:

**A. Chapter 119 (Public Records).** PayByPhone acknowledges that the public shall have access, at all reasonable times, to certain documents and information pertaining to Town contracts, pursuant to the provisions of Chapter 119, Florida Statutes. PayByPhone agrees to maintain public records in PayByPhone’s possession or control in connection with PayByPhone’s performance under this Agreement and to provide the public with access to public records in accordance with the record maintenance, production and cost requirements set forth in Chapter 119, Florida Statutes, or as otherwise required by law. PayByPhone shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law.

Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of Town. In the event of termination of this Agreement by either party, any reports, photographs, surveys and other data and documents and public records prepared by, or in the possession or control of, PayByPhone, whether finished or unfinished, shall become the property of Town and shall be delivered by PayByPhone to the Town Manager, at no cost to the Town, within seven (7) days of termination of this Agreement. All such records stored electronically by PayByPhone shall be delivered to the Town in a format that is compatible with the Town’s information technology systems. Upon termination of this Agreement, PayByPhone shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure. Any compensation due to PayByPhone shall be withheld until all documents are received as provided herein. PayByPhone’s failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.

PayByPhone Services Agreement

**Section 4. Assignment.** Neither party may assign its rights or obligations under this Agreement without the consent of the other.

**Section 5. Notice.** Notwithstanding Section 10.9 of the Contract, notice hereunder shall be provided in writing by certified mail return receipt requested, or customarily used overnight transmission with proof of delivery, to the following parties, with mandatory copies, as provided below:

For Town:                      Town Manager  
   Town of Surfside  
   9293 Harding Avenue,  
   Surfside, Florida, 33154

For PayByPhone:          PayByPhone Technologies, Inc.  
   Attention: \_\_\_\_\_  
   #403 - 1168 Hamilton Street  
   Vancouver, British Columbia, Canada

**Section 5. Severability.** If any provision of this Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

**Section 6. Entire Agreement.** This Agreement, including the Contract, the RFP and PayByPhone's response to the RFP, sets forth the entire agreement between PayByPhone and Town with respect to the subject matter of this Agreement. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, between the parties. This Agreement may not be modified except by the parties' mutual agreement set forth in writing and signed by the parties.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature.

PayByPhone Services Agreement

ATTEST:

**TOWN OF SURFSIDE, FLORIDA**

\_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

By: \_\_\_\_\_  
Guillermo Olmedillo, Town Manager

\_\_\_\_ day of \_\_\_\_\_, 2015.

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

By: \_\_\_\_\_  
Linda Miller, Town Attorney

WITNESS

**PAYBYPHONE TECHNOLOGIES,  
INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

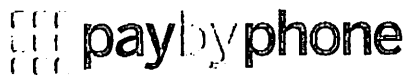
By: \_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, 2015.

Print Name: \_\_\_\_\_

(Corporate Seal)

**EXHIBIT "A"**  
**CONTRACT**  
**BETWEEN**  
**MIAMI PARKING AUTHORITY**  
**AND**  
**PAYBYPHONE TECHNOLOGIES, INC.**  
**FOR PAY BY PHONE SERVICES**



## COOPERATION AND SERVICE AGREEMENT

This Cooperation and Service Agreement (the "Agreement") is entered into as of November 3<sup>rd</sup>, 2014 between PayByPhone Technologies Inc., a developer of enhanced mobile commerce solutions, a British Columbia corporation with its principal place of business at #403 – 186 Hamilton Street, Vancouver, British Columbia, Canada ("PayByPhone") and City of Miami Department of Off-Street Parking a/k/a Miami Parking Authority, an agency and instrumentality of the City of Miami located at 40 NW 3<sup>rd</sup> Street, Miami, Florida 33128 ("MPA" or "Client").

### RECITALS

For and in consideration of the mutual promises and covenants set forth herein and other good and valuable consideration, PayByPhone shall provide wireless applications to enhance the payment process for parking at parking facilities and metered parking stalls owned and/or managed by Client. PayByPhone mobile commerce solutions will also provide Client with a management information system, including real-time operation and transaction reports.

### AGREEMENT

#### Section 1 INCORPORATION OF SOLICITATION AND RESPONSE; CONTROLLING DOCUMENT

The Parties hereby incorporate the solicitation, all addenda ("RFP") and PayByPhone's response as if all fully set forth herein and a part of this Agreement. In the event of any conflict between the RFP, PayByPhone's response and this Agreement, the RFP shall control, followed by this Agreement and ending with PayByPhone's response.

#### Section 2 THE PAYBYPHONE MOBILE PAYMENT PLATFORM AND APPLICATIONS

##### 2.1 PAYBYPHONE MOBILE PAYMENT APPLICATION

PayByPhone agrees to utilize the PayByPhone mobile payment service for use at Client's managed and owned parking facilities as agreed upon by PayByPhone and Client, to allow for consumers to pay for the use of those facilities through personal wireless devices (e.g., cellular telephones) or other wireless systems.

##### 2.2 PAYBYPHONE MANAGEMENT INFORMATION SYSTEM

PayByPhone will operate and manage a software application for Client that will provide near real time information and management reports on the transactions conducted utilizing the PayByPhone Parking Payment Application (the "Management Information System"). PayByPhone will host the Management Information System on its network. Client will access the Management Information System through a browser-based program installed on Client's computer hardware.

##### 2.3 COMPUTER, NETWORKING AND TELECOMMUNICATION SYSTEMS

PayByPhone will own or possess, and will operate and maintain, all computer and networking hardware and software and data (collectively, "computer information") required to operate the PayByPhone mobile payment services service as contemplated in this Agreement, other than Client's existing computer and telecommunications systems. PayByPhone's shall be solely responsible for the security of any computer information stored on its system.

##### 2.4 MOBILE PAYMENT SERVICE ENFORCEMENT

Client agrees to supply Wireless Devices to employees in the field to provide real time confirmation of validly parked vehicles.

##### 2.5 REPORTS

PayByPhone will provide Client with a set of standard reports in the self-serve PayByPhone Service Management Interface System. Any changes or customizations to the standard set of reports will be subject to then-current PayByPhone Professional Services fees. See Appendix B for sample rates.

### **Section 3 FEES AND PAYMENTS**

#### **3.1 PRICING AND PAYMENT**

Client agrees to pay the fees, as outlined in Appendix A. All amounts payable hereunder are exclusive of any and all taxes, including taxes applicable on fees paid by the consumer, and Client is responsible for payment of such taxes. All prices are stated, and Client shall pay, in US dollars. Payment is due within 30 days of invoicing.

#### **3.2 MERCHANT ACCOUNT**

Merchant account refers to Client's merchant account set up with Client's acquiring bank. PayByPhone will cover the cost of linking one (1) Client merchant account with PayByPhone's gateway provider. Client agrees to cover the cost of merchant account updates including all third party fees and then-current PayByPhone Professional Services fees. See Appendix B for sample rates.

#### **3.3 TRANSACTION TESTING**

PayByPhone reserves the right to execute test transactions from time to time to ensure top performance of the system and account. PayByPhone may execute up to ten (10) test transactions per month without adjusting the Client invoice.

#### **3.4 THIRD PARTY INTEGRATION**

In the event system changes (such as upgrades) by a third party impact the PayByPhone integration with Company sub-systems such as enforcement, Client agrees to cover any PayByPhone development costs required to maintain integration. PayByPhone will notify Client, in advance, of any such integration costs that could be added.

### **Section 4 MARKETING, PROMOTION AND USER EDUCATION**

#### **4.1 SIGNAGE**

Client agrees to provide signage and adequate space for PayByPhone signage at each parking facility at which the PayByPhone mobile payment services service is to be available, with sign size and placement to be mutually agreed by PayByPhone and Client. Client agrees that signs will be hung and/or located near payment machines at parking facilities enabled with the PayByPhone mobile payment services service. Client will provide all decals and signs required for implementation. Client agrees to supply all future decals and signage, including new locations. Client agrees to supply replacement decals which may be required in the future.

PayByPhone will provide the first round of signage at Client's location offering PayByPhone as mobile payment service provider. PayByPhone will provide one sign to be located at each paystation, plus one at each level of the parking structure without a paystation. Additionally, one decal will be placed on each paystation and/or meter.

#### **4.2 MARKETING EVENTS**

PayByPhone may conduct on-site marketing events and campaigns for the service, whereby PayByPhone will inform parking lot consumers of the availability of the PayByPhone mobile payment services as well as any promotions available, with the knowledge and approval of Client which is not to be reasonably withheld.

#### **4.3 CLIENT TRAINING**

PayByPhone will provide initial training to Client using a "Train the Trainer" model on the self-served PayByPhone Service Management Interface (SMI). The said Client Trainer will, at its own expense, train its staff and employees, including patrollers, to operate the mobile payment services and related applications and technology. Additional training sessions are available at the then current professional services rates. See Appendix B for sample rates.

### **Section 5 PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

The parties shall cooperate with each other in protecting their respective trade names, designs, trademarks and other similar intellectual property rights from unauthorized use.

## **Section 6 TERM AND TERMINATION**

### **6.1 TERM AND RENEWAL**

This Agreement shall enter into force for a period of three (3) consecutive years from the date signed unless earlier terminated in accordance with this Section 6.

The contract shall be automatically renewed annually on the anniversary of the termination date above unless either party gives the other party at least ninety (90) days prior written notice of its intent not to renew the Agreement.

### **6.2 TERMINATION**

Should a party breach a material term and such breach remains uncorrected for thirty (30) days after receipt of a written notice by the breaching party, the non-breaching party may, in addition to all other remedies available at law, terminate this Agreement by providing written notice to the breaching party, without further obligation provided, however, that if the nature of the breach is such that it cannot be reasonably cured within such thirty (30) day period, the breaching party will not be deemed in default of this Agreement so long as such party commences efforts to effect a cure and is diligently pursuing such efforts. Provided, further, that if the breach is as a result of the non-payment of any fee, the non-breaching party may terminate this Agreement if such breach remains uncorrected for ten (10) days after the breaching party's receipt of notice of such breach. Within thirty (30) days after the termination of this Agreement.

## **Section 7 REPRESENTATIONS AND WARRANTIES**

### **7.1 MUTUAL REPRESENTATIONS AND WARRANTIES**

Each party represents and warrants to the other that:

- i) it has the full corporate right and authority, and possesses all licenses, permits, authorizations and rights to intellectual property, necessary to enter into and perform this Agreement;
- ii) its entry into and performance of this Agreement do not and will not conflict with or result in a breach or violation of any agreement or order by which it is bound; and
- iii) this Agreement constitutes its legal, valid and binding obligations enforceable against it in accordance with the terms of this Agreement.

## **Section 8 DISCLAIMER, INDEMNIFICATION AND LIMITATION OF LIABILITY**

### **8.1 DISCLAIMER**

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, PAYBYPHONE DOES NOT MAKE, AND HEREBY SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE PAYBYPHONE MOBILE PAYMENT SERVICES INCLUDING ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. CLIENT ACKNOWLEDGES THAT THE PAYBYPHONE MOBILE PAYMENT SERVICES AND SERVICES FURNISHED BY PAYBYPHONE UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY SERVERS OR OTHER HARDWARE, SOFTWARE, APPLICATIONS AND ANY OTHER ITEMS USED OR PROVIDED BY PAYBYPHONE OR ANY THIRD PARTIES IN CONNECTION WITH PROVIDING ACCESS TO OR HOSTING ANY OF THE FOREGOING OR THE PERFORMANCE OF ANY SERVICES BY PAYBYPHONE UNDER THIS AGREEMENT) ARE PROVIDED BY PAYBYPHONE "AS IS".

### **8.2 INDEMNIFICATION**

Subject to Section 9.3, PayByPhone will protect, defend, indemnify and hold harmless the Client and the City of Miami its officers, employees, volunteers, and agents from and any against any and all third party claims, actions,

losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, (collectively, "Losses") resulting from or arising out of PayByPhone's breach of any representation, warranty set forth in this Agreement. The provisions and obligations of this section shall survive the expiration of earlier termination of this Agreement for a period no greater than the date of termination of the original agreement and shall only apply to events that took place during the term of this agreement. In the event the Parties are notified of the existence of any covered Losses, the Parties shall agree upon a mutually satisfactory local attorney to defend the Client as necessary.

### **8.3 LIMITATION OF LIABILITY**

IN NO EVENT SHALL ANY PARTY BE LIABLE FOR CONSEQUENTIAL, SPECIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY DAMAGES RESULTING FROM LOSS OF USE OR PROFITS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER IN AN ACTION BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

### **8.4 PARKING RATES**

Client will be given access to confirm the parking rates at each location via the PayByPhone back office system. PayByPhone will make every attempt at ensuring the rates are configured correctly; upon completion of each location setup, it is the Client's responsibility to ensure all rates are configured correctly. Failing to do so shall exclude PayByPhone from any liability. Client shall provide PayByPhone with sufficient notice of any rates change during PayByPhone standard business hours.

## **Section 9 CONFIDENTIALITY**

Subject to the provisions of Chapter 119, Florida Statutes (2014), neither party will disclose the other party's confidential or proprietary information (including this Agreement and any information provided by the other party that is confidentially maintained or proprietary or which derives value from not being generally known to persons who can obtain economic value from its disclosure or use) except:

- i) with the other party's consent;
- ii) to employees, agents and contractors who have a need to know in the discharge of their duties and who are subject to a contractual obligation to keep such information confidential that is at least as restrictive as this Agreement;
- iii) when required to do so by law or by any binding rule, order or request.

Each party shall exercise reasonable commercial care in protecting the confidentiality of the other party's confidential information disclosed to it. The parties agree that an actual or threatened breach of this provision would result in irreparable harm to the party whose confidential information would be disclosed in breach, and shall entitle that party to temporary or permanent injunctive relief without proof of actual damages.

For purposes of this Section 10, the parties agree that confidential or proprietary information does not include any information that is (a) already known to the receiving party at the time of disclosure hereunder (other than from the other party hereto) as demonstrated by its written records; (b) now or hereafter becomes publicly known other than through acts or omissions of the receiving party, or anyone to whom the receiving party disclosed such information; (c) disclosed to the receiving party, by a third party, under no obligation of confidentiality to the disclosing party or any other party; or (d) independently developed by the receiving party without reliance on the confidential information of the disclosing party as shown by its written records.

## **Section 10 MISCELLANEOUS**

### **10.1 ASSIGNMENT**



This Agreement shall be binding on the parties, their successors and their permitted assigns. Neither party may assign its rights or obligations under this Agreement without the written consent of the other.

#### **10.2 NO AGENCY**

Each party, in all matters relating to this Agreement, will act as an independent contractor and independent employers. Except as otherwise expressly set forth herein, neither party will have authority and will not represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other, or to represent the other as an agent, employee or in any other capacity. Nothing in this Agreement shall be construed to have established any agency, joint venture or partnership between the parties. Neither party shall make any warranties or representations on behalf of the other party.

#### **10.3 GOVERNING LAW**

This Agreement, and all matters relating hereto, shall be governed in all respects by the laws of State of Florida, excluding the application of any conflict of laws principles and/or rules. The parties hereby agree that all disputes arising out of this Agreement shall be subject to the exclusive jurisdiction of and venue in the competent courts located in Miami Dade County Florida and consent to the personal and exclusive jurisdiction and venue of these courts.

#### **10.4 SEVERABILITY**

In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

#### **10.5 ATTORNEY'S FEES**

In any legal proceeding between the parties, the parties shall be responsible for their own attorney's fees and expenses.

#### **10.6 FORCE MAJEURE**

If performance hereunder is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of a party, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, restriction or interference.

#### **10.7 ENTIRE AGREEMENT**

This Agreement, together with the Appendix attached to it, constitutes the entire agreement between the parties with respect to the subject matter hereof. This Agreement supersedes, and the terms of this Agreement govern, any prior agreements with respect to the subject matter hereof. This Agreement may not be modified, amended or any provision waived except by the parties' mutual written agreement.

#### **10.8 NO WAIVER**

Failure by either party to enforce any provision of this Agreement (whether in any one or more instance) shall not be deemed a waiver of future enforcement of that or any other provision.

#### **10.9 NOTICE**

Any notices hereunder provided to PayByPhone shall be given at the address specified below or at such other address as PayByPhone specifies in writing. Any notices hereunder provided to Client shall be given at the address specified below or at such other address as Client specifies in writing. Any notice or other communication required to be given hereunder by either party shall be deemed duly given (a) when personally delivered to the other party, or (b) on the date of receipt when such notice was mailed by certified mail, postage prepaid and return receipt requested, addressed to the other party at the address set forth above, or such other address as either party may designate by giving written notice to the other; or (c) on the date of receipt when such notice was sent by facsimile or e-mail to the other party; provided the sending party receives a written or electronic notice of receipt from the other party of the facsimile or e-mail.

#### **10.10 COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument. The parties further agree that a signature transmitted via facsimile shall be deemed original for all purposes hereunder.

#### **10.11 CAPTIONS**

The captions used in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of the provision set forth herein.

#### **10.12 TRADEMARKS, TRADE NAMES, LOGOS**

Except as expressly provided in this Agreement, no trademark, trade name, logo, trade dress, copyright or license therein, or other intellectual property rights (collectively, "Intellectual Property") are conveyed by this Agreement. Each party reserves the right to approve in advance the use of its Intellectual Property by the other party in each and every instance. All Intellectual Property owned by either party shall remain the exclusive property of such party and shall be returned to such party promptly after the expiration of this Agreement.

#### **10.13 AGREEMENT APPROVAL**

Each party hereby represents and warrants that all necessary corporate and/or governmental approvals for this Agreement have been obtained, and the person whose signature appears below has the authority necessary to execute this Agreement on behalf of the party indicated.

#### **10.14 SOPHISTICATION OF PARTIES**

Each party to this Agreement represents that it is a sophisticated commercial party capable of understanding all of the terms of this Agreement, that it has had an opportunity to review this Agreement with its counsel, and that it enters this Agreement with full knowledge of the terms of the agreement.

#### **10.15 CLIENT'S CONDUCT OF BUSINESS THROUGH AFFILIATES**

The parties acknowledge that Client may carry out its business through affiliates. Client agrees to cause its affiliates to take such actions and to execute such documents as may be reasonably required to give effect to this Agreement as though references to Client in this Agreement were references to Client and those of its affiliates through which it carries on the business of owning and operating parking facilities.

#### **10.16 PUBLIC RECORDS**

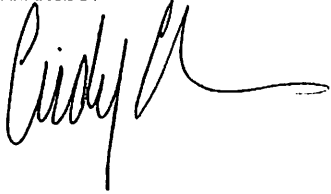
PayByPhone understands that the public shall have access, at all reasonable times, to all documents and information pertaining to MPA contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by MPA and the public to all documents subject to disclosure under applicable law. PayByPhone's failure or refusal to comply with the provisions of this Section shall result in MPA's immediate cancellation of this Agreement. PayByPhone acknowledges that this termination is not subject to cure provisions contained elsewhere in this Agreement. PayByPhone shall additionally comply with the provisions of Section 119.0701, Florida Statutes, entitled "Contracts; public records", as may be applicable, which statute is deemed as being incorporated by reference herein.

**[SIGNATURES TO FOLLOW ON THE NEXT PAGE]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorised representatives.

ATTEST:

PAYBYPHONE:

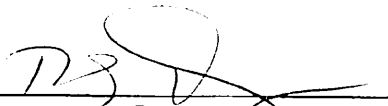


Print Name: Cindy Chau  
Title: Senior Client Relationship manager

By: \_\_\_\_\_  
Print Name: Maggie Clay  
Title: VP Finance & Administration

ATTEST:

CLIENT:



By: Arthur Noriega  
Arthur Noriega, MPA  
Chief Executive Officer

Print Name: Rolando Tripanes  
Title: Dir. of Planning & Dev.

APPROVED AS TO FORM AND CORRECTNESS:

\_\_\_\_\_  
Victoria Mendez  
City Attorney

Notice Address  
40 NW 3<sup>rd</sup> Street  
#1103  
Miami, FL 33128

Notice Address:  
#403 - 1168 Hamilton St.  
Vancouver, British Columbia,  
Canada

**APPENDIX A**

**RFP Response From PayByPhone**

APPENDIX A

**SERVICES TO BE PROVIDED:**

PayByPhone Mobile Payment Service

**SYSTEM WILL:**

1. Register consumers by phone or online who wish to pay for parking by cellphone or web-enabled device.
2. Activate and collect payment via credit card for parking using PayByPhone in accordance with parking rates specified by the Client.
3. Display payment status of license plate, space or meter number on internet-capable handheld device such as mobile phone, handheld computer or other Wireless Device for enforcement.
4. Provide a secure web-based administration interface for rates control, management and accounting reports.

**PRICING:**

<i>One Time Setup Fees:</i>		
Mobile payment services set-up		waived
Additional locations		waived
Integration with Third Party		none
<i>Monthly Fees:</i>		
Monthly minimum		waived
<i>Per Transaction Charges:</i>		
<b>Option 1:</b>		
Consumer pays (convenience fee added to price of parking)		\$0.35

**NOTES:**

1. One time set-up fee includes, but is not limited to development, testing and implementation of a dedicated client account within the PayByPhone system; merchant account integration and testing; set up and training on reporting, customer service and other elements of the PayByPhone Service Management Interface, signage design, marketing coordination.
2. Monthly fees apply when mobile payment services fees (transaction charges) per calendar month total less than as specified here. Client is responsible for covering the difference between the monthly minimum and the total fees.
3. Client's own credit card processing and merchant banking fees will apply.
4. For pricing option where the consumer does not pay any additional fee on top of the price of parking, uptake / usage of the PayByPhone service is significantly higher. The PayByPhone fees are more than off-set by increased volume, repeat usage by consumers who prefer this payment option, extensions to parking sessions paid remotely via PayByPhone and a reduction in cash handling and processing.
5. All fees and charges are payable within 30 days of invoicing.

Application Trainer	A PayByPhone Applications Trainer will design and deliver training programs for the PayByPhone system. They will also design training course materials and other documents such as handouts, manuals and exercises. Training is typically conducted via a web session, either one on one in a train-the-trainer scenario or in a group setting.
Support Agent	A PayByPhone support agent interacts with client contacts to address inquiries regarding the PayByPhone system, reporting interface, log-ins and general administration.
Tester	The PayByPhone Quality Assurance (QA) testers will thoroughly evaluate, stress-test and troubleshoot all new code, programs and software. The PayByPhone QA testers will log and prioritized any issues/bugs found and work closely with the Software Development team for a resolution.

10 " 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

	Pricing Tier 1	Pricing Tier 2	Pricing Tier 3
3 pricing options	The first 99,999 transactions/month will be charged at:	The next 150k transactions/month will be charged at:	All transactions over 250k /month will be charged at:
Option 1 - PBP fee paid by MPA excl text	\$ 0.170 \$	0.153 \$	0.138
Option 1 - PBP fee paid by MPA incl text	\$ 0.220 \$	0.203 \$	0.188
Option 2 - PBP fee paid by MPA	\$ 0.200 \$	0.18 \$	0.16
Option 2: Non-resident consumer pays tax	\$ 0.10 \$	0.10 \$	0.10
Option 3 - PBP (convenience) fee paid by consumer	\$C.27		

Ready | Signature Page | 1 - Summary | 2 - Software Subscrip License | 3 - Professional Services | 4 - Interfaces | 5 - Training | 6 - Admin Services | 7 - Updates, Maint & Support | Sheet1 | 100% | 2:12 PM | 10/06/2015



**Town of Surfside  
Town Commission Meeting  
November 10, 2015**

**7:00 pm**

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

**Agenda Item: # 3H**

**Date:** November 10, 2015

**From:** Daniel Dietch, Mayor

**Subject:** Resolution Supporting the Proposed Legislation Entitled Misuse of Public Office Act

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**Objective:** To support the proposed legislation entitled Misuse of Public Office Act.

**Consideration:** The Florida Today, as part of Gannett Newspapers, has worked on legislation to close loopholes in the current statutes regulating ethics of public officials in the State of Florida. It is important to ensure public trust of government officials and that the public process is free of corruption. The proposed legislation makes it easier for prosecutors to act when they find corrupt activity. Specifically, the legislation makes contractors that are hired to complete a government function or act as a government unit to be considered public employees subjected to ethics laws. Additionally, the proposed legislation also eliminates the requirement that prosecution of a public official for an ethics violation must prove the official had the intent to commit the violation. This proposed legislation will implement safeguards to enhance the public trust in our local and state government processes.

**Recommendation:** For the Town Commission to approve the attached Resolution.



**RESOLUTION NO. 15 - \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, SUPPORTING THE CURRENT VERSION OF THE DRAFT BILL ENTITLED MISUSE OF PUBLIC OFFICE ACT; PROVIDING DIRECTION TO THE TOWN CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE OFFICE OF SENATOR GAETZ AND THE OFFICE OF GOVERNOR RICK SCOTT; THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, ALL MUNICIPALITIES IN MIAMI-DADE COUNTY, THE MIAMI-DADE COUNTY LEAGUE OF CITIES, AND FLORIDA LEAGUE OF CITIES; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, current legislation regulating ethical violations in the State of Florida has gaps which allow ethical violations to go unpunished; and

**WHEREAS**, the Town Commission finds that unpunished ethical violations erode public trust in government, which affects all public officials; and

**WHEREAS**, legislation entitled Misuse of Public Office Act has been proposed for the 2016 session of the Florida Legislature by various Gannett newspapers, including Florida Today, and is being sponsored in the State Senate by Senator Donald J. Gaetz; and

**WHEREAS**, the stated purpose of the proposed legislation is to address certain provisions in current State law that have prevented law enforcement and State Attorneys from pursuing certain persons suspected of conduct that would constitute unethical or corrupt behavior but for the language in current State law; and

**WHEREAS**, the Town Commission meeting of the Town of Surfside supports the proposed legislation as currently drafted attached hereto as Exhibit "A".

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

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

**Section 2. Support.** The Town of Surfside supports the current version of the draft bill entitled Misuse of Public Office Act attached hereto as Exhibit "A."

**Section 3. Direction to Town Clerk.** The Town Clerk is hereby directed to transmit a copy of this Resolution to the Office of Senator Gaetz and the Office of Governor Rick Scott, the Board of County Commissioners of Miami-Dade County, all municipalities in Miami-Dade County, the Miami-Dade County League of Cities, and the Florida League of Cities.

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

**PASSED** and **ADOPTED** on this \_\_\_\_\_ day of November 2015.

Motion by \_\_\_\_\_,

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

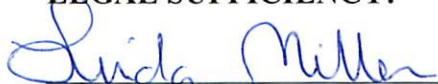
Commissioner Barry R. Cohen	_____
Commissioner Michael Karukin	_____
Commissioner Marta Olchyk	_____
Vice Mayor Eli Tourgeman	_____
Mayor Daniel Dietch	_____

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

**ATTEST:**

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

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

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

## Senate Bill 15-\_\_\_\_\_

An act relating to the abuse of public office; amending Florida Statutes Section 838 otherwise entitled the "Misuse of Public Office Act" by creating a short title; by creating a statement of legislative intent; by deleting s. 838.014 (4) defining "corruptly" or "with corrupt intent;" by creating a new s. 838.014 (4) defining "government entity;" by creating a new s. 838.014 (6) defining "intentionally" and "knowingly;" by creating s. 838.014 (7) defining "non-governmental entity;" by amending s. 838.014 (6) (a) with respect to the definition of a "public servant;" providing for the renumbering of the sections of s. 838.014; amending ss. 838.015 (1), 838.016 (1), 838.016 (2), 838.022 (1), 838.22 (1) and 838.22(2) by the deletion of the words: "corruptly" and "with corrupt intent" and by the insertion therefore of the phrase: "intentionally or knowingly"; and providing for an effective date.

Be it Enacted by the Legislature of the State of Florida:

Section 1. Section 838, Florida Statutes, is amended to read:

838.001 Short title.-- this act may be cited as the Misuse of Public Office Act of 2015.

Section 2. Section 838, Florida Statutes, is amended to read:

838.002 Legislative intent.--

The legislature intends to amend Florida Statute Chapter 838 in order to strengthen the provisions and penalties against corrupt public officials and those persons who either aid and abet public officials or seek through their action to bribe or improperly solicit action or aid from public officials for their own personal gain or that of the public officials. Further, the legislature intends to amend Florida Statutes Section 838.014 to prevent the circumvention of the intent and spirit of the laws which criminalize and punish corruption of public officials and those persons who participate in such corruption. This act facilitates charging and convicting corrupt public officials and those persons who aid and abet them or otherwise participate in such corruption while preserving the constitutional rights of any accused. This act will accomplish the foregoing by amending Florida Statutes s. 838.014 to include officers or employees of governmental entities and representatives of non-governmental entities who have heretofore escaped prosecution for corruption based upon technicalities of non-inclusion in the statute. This act, by including previously un-included individuals who have acted corruptly but have been technically not within the purview of Florida statutes Chapter 838 will act to preserve and promote public trust in the legal system which has all too often let guilty individuals go free or not be charged because they are technically outside the definition of public servant found in Florida Statute s.838.014. Furthermore, this act will strengthen Florida Statutes Chapter 838 by removing the definition and the element of "corruptly" or "with corrupt intent" from all criminal violations

February 4, 2015

Page 1

specified therein. The foregoing amendment is just because all criminal statutes already require criminal intent and a higher burden of proof, but under Chapter 838, as currently written, certain individuals are unjustly protected from prosecution.

Section 3. Section 838.014, Florida Statutes, is amended to read.

**838.014 Definitions.--** As used in this chapter, the term:

(1) "Benefit" means gain or advantage, or anything regarded by the person to be benefitted as a gain or advantage, including the doing of an act beneficial to any person in whose welfare he or she is interested, including any commission, gift, gratuity, property, commercial interest, or any other thing of economic value not authorized by law.

(2) "Bid" includes a response to an "invitation to bid," "invitation to negotiate," "request for quote," or "request for proposals" as those terms are defined in s. 287.012.

(3) "Commodity" means any goods, merchandise, wares, produce, chose in action, land, article of commerce, or other tangible or intangible property, real, personal, or mixed, for use, consumption, production, enjoyment, or resale.

(4) ~~"Corruptly" or "with corrupt intent" means acting knowingly and dishonestly for wrongful purpose.~~

(4) "Government entity" means the State of Florida, including the judiciary, the legislature and the executive, or any department, agency, bureau, division or agent of the state; municipalities; counties; school boards; special districts; and other local entities created by general or special law or local ordinance; regional planning councils; metropolitan planning organizations; water supply authorities; local health councils; water management districts; and other regional entities that are authorized and created by general or special law.

(5) "Governmental function" or "governmental service" for purposes of Chapter 838 means performing a function or serving a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds.

(6) "Harm" means pecuniary or other loss, disadvantage, or injury to the person affected.

(7) "Intentionally" or "knowingly" means that the act was done with full knowledge, voluntarily, and not because of mistake or accident.

(8) "Non-government entity" means any person, corporation, cooperative, association, partnership, organization, alliance, or similar body, whether operating for profit or not, which is not a "government entity" as that term is defined in s. 838.014 (4).

February 4, 2015

Page 2

(9) "Public servant" means:

(a) Any officer or employee of a ~~state, county, municipal, or special district agency or entity~~ governmental entity;

(b) Any legislative or judicial officer or employee;

(c) Any person, except a witness, who acts as a general or special magistrate, receiver, auditor, arbitrator, umpire, referee, consultant, or hearing officer while performing a governmental function; or

(d) A candidate for election or appointment to any of the positions listed in this subsection, or an individual who has been elected to, but has yet to officially assume the responsibilities of, public office.

(e) Any officer, director, partner, manager, representative, or employee of a non-governmental entity, private corporation, quasi-public corporation, or quasi-public entity, or anyone covered under chapter 119 that is authorized by law or contract to perform a governmental function or provide a governmental service on behalf of the state, county, municipal, or special district agency or entity to the extent that the individual's conduct relates to the performance of the governmental function or provision of the governmental service.

(10) "Service" means any kind of activity performed in whole or in part for economic benefit.

Section 4. Section 838.015 (1) is amended by the deletion of the word: "corruptly" and the insertion therefor of the term: "intentionally or knowingly," to read as follows:

**838.015 Bribery.--**

(1) "Bribery" means ~~corruptly~~ to intentionally or knowingly give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to intentionally or knowingly request, solicit, accept, or agree to accept for himself or herself or another, any pecuniary or other benefit not authorized by law with an intent or purpose to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty.

Section 5. Section 838.016 (1) and (2) are amended by the deletion of the word: "corruptly" and the insertion therefore of the term: "intentionally or knowingly," to read as follows:

**838.016 Unlawful compensation or reward for official behavior.--**

(1) It is unlawful for any person ~~corruptly~~ to intentionally or knowingly give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to intentionally or knowingly request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law, for the past, present, or future performance, nonperformance, or violation of any act or omission which the person believes to have been, or the public servant represents as having been, either within the official discretion of the public servant, in violation of a public duty, or in performance of a public duty. Nothing herein shall be construed to preclude a public servant from accepting rewards for services performed in apprehending any criminal.

(2) It is unlawful for any person ~~corruptly~~ to intentionally or knowingly give, offer, or promise to any public servant, or, if a public servant, ~~corruptly~~ to intentionally or knowingly request, solicit, accept, or agree to accept, any pecuniary or other benefit not authorized by law for the past, present, or future exertion of any influence upon or with any other public servant regarding any act or omission which the person believes to have been, or which is represented to him or her as having been, either within the official discretion of the other public servant, in violation of a public duty, or in performance of a public duty.

Section 6. Section 838.022 (1) is amended by the deletion of the words: "with corrupt intent" and the insertion therefore of the term: "intentionally or knowingly," to read as follows:

**838.022 Official Misconduct.--**

(1) It is unlawful for a public servant, ~~with corrupt intent~~ to intentionally or knowingly obtain a benefit for any person or to cause harm to another, to:

**Section 7.** Section 838.22 (1) and (2) are amended by the deletion of the words: "with corrupt intent" and the insertion therefore of the term: "intentionally or knowingly," to read as follows:

**838.22 Bid Tampering.--**

- (1) It is unlawful for a public servant, ~~with corrupt intent~~ to intentionally or knowingly influence or attempt to influence the competitive bidding process undertaken by any state, county, municipal, or special district agency, or any other public entity, for the procurement of commodities or services, to:
  
- (2) It is unlawful for a public servant, ~~with corrupt intent~~ to intentionally or knowingly obtain a benefit for any person or to cause unlawful harm to another, to circumvent a competitive bidding process required by law or rule by using a sole-source contract for commodities or services.

**Section 8.** Except as otherwise provided, this act shall take effect July 1, 2015



## TOWN OF SURFSIDE COMMISSION COMMUNICATION

**Agenda #:** 4A1

**Agenda Date:** October 13, 2015 / November 10, 2015

**Subject:** Expanded Polystyrene Ordinance Phase 2

**Objective:** For the Town Commission to approve the ordinance on first reading to regulate the use of expanded polystyrene (Styrofoam) for food service providers in Surfside.

**Background:** On June 10, 2014, the Town Commission provided policy direction to develop and implement comprehensive environmental stewardship policies and procedures, including prohibitions on the use of Styrofoam. Through this policy direction and past related actions, Surfside is gaining a reputation for proactive sustainability leadership.

On January 13, 2015, the Town Commission directed staff to regulate Styrofoam use through a phased approach, starting with regulating use in municipal buildings and facilities and in public areas.

On March 10, 2015, the Town Commission passed the first phase of Styrofoam regulations, starting with regulating use in municipal buildings and facilities, and in public areas.

This proposed ordinance is the second phase of Styrofoam regulations, which will require food service providers and stores to not sell, use, offer for sale or use, or provide food in Styrofoam food service articles.

**Consideration:** Styrofoam contributes to litter on Surfside's streets, beaches and public areas. It contains toxic substances that leach into food and drink. Styrofoam is not biodegradable in a human being's lifetime and recycling is not widely available.

Styrofoam litter presents risks to Surfside's nesting sea turtles and shorebird populations. Styrofoam is a common pollutant that fragments into smaller pieces that are ingested by marine life and other wildlife. Pollution from Styrofoam litter has wide-ranging environmental



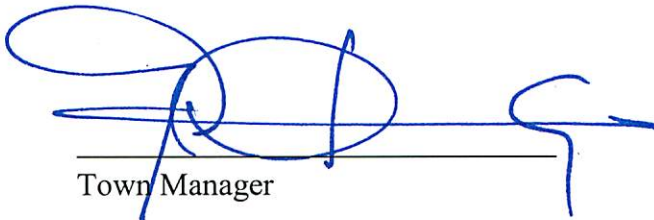
implications, including contributing to a large gyre in North Atlantic Ocean known as the North Atlantic Garbage Patch, composed of marine debris.

Over 70 municipalities across the United States have enacted ordinances that regulate the use of Styrofoam. Several municipalities in Miami-Dade County regulate Styrofoam, including Miami Beach, Key Biscayne, and Bal Harbour. Miami Beach recently amended their code to regulate the use of Styrofoam for food service providers.

Staff will use the Gazette, Channel 77 and e-blast for the public education component. In addition, the Tourist Board will be engaged to assist in the outreach. Staff will also explore the possibility of using this initiative to reactivate the Downtown Vision Advisory Committee. Lastly, staff will engage the Surfside Business Association to assist with the education and outreach activities, if the leadership is agreeable.

**Budget Impact:** Through the use of existing communication channels and organizations, the budget impact for the education and outreach activities is estimated at \$2000. Because enforcement of the ordinance, if approved, would not commence until June 2016, the budget impact for compliance monitoring will be limited during the current fiscal year.

**Recommendation:** To approve the ordinance on first reading to regulate the use of expanded polystyrene (Styrofoam) for food service providers in Surfside, Florida.



Town Manager

**ORDINANCE NO. 15 – \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE I OF CHAPTER 34 “ENVIRONMENT” AND SPECIFICALLY CREATING SECTION 34-10 “PROHIBITIONS REGARDING THE SALE OR USE OF EXPANDED POLYSTYRENE FOOD SERVICE ARTICLES BY FOOD SERVICE PROVIDERS AND STORES; EXEMPTIONS”; 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 declares that it is in the interest of the public health, safety and welfare of its residents and visitors to reduce litter and pollutants on the lands and in the waters of the Town; and

**WHEREAS**, expanded polystyrene, a petroleum by-product commonly known as Styrofoam, is neither readily recyclable nor biodegradable and takes hundreds to thousands of years or more to degrade in the environment; and

**WHEREAS**, due to the physical properties of expanded polystyrene, the United States Environmental Protection Agency states “that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy”; and

**WHEREAS**, expanded polystyrene litter presents risks to Surfside’s nesting sea turtles and shorebird populations; and

**WHEREAS**, expanded polystyrene contributes to litter on Surfside’s streets, beaches and public areas and contains toxic substances that leach into food and drink; and

**WHEREAS**, on January 13, 2015, the Town Commission directed staff to regulate expanded polystyrene use through a phased approach; and

**WHEREAS**, on March 10, 2015, the Town Commission passed the first phase of expanded polystyrene regulations, starting with regulating use in municipal buildings and facilities, and in public areas; and

**WHEREAS**, the Town’s goal is to replace expanded polystyrene food service articles with reusable, recyclable, or compostable alternatives within the Town; and

**WHEREAS**, the Town encourages the use of unbleached, non-coated, recycled-content paper food service articles and other fiber-based food service articles as the most environmentally preferable alternatives to single-use, disposable food service articles when the use of reusable food ware is not feasible; and

**WHEREAS**, the anticipated cost to develop and implement an expanded polystyrene ordinance in Surfside will be related to costs for Code Enforcement, public education and compliance monitoring; and

**WHEREAS**, the Town Commission held its first public hearing on October 13, 2015; and

**WHEREAS**, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on November 10, 2015.

**NOW, THEREFORE, BE IT ORDAINED BY 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 Ordinances of the Town of Surfside, Florida is hereby amended to create Section 34-10 to read as follows:

**Section 34-10. Prohibitions regarding the sale or use of expanded polystyrene food service articles by food service providers and stores; exemptions.**

(a) Definitions.

Expanded polystyrene food service articles means plates, bowls, cups, containers, lids, trays, coolers, ice chests, and all similar articles that consist of expanded polystyrene

Food service provider means a person or entity that provides food directly to the consumer, regardless of whether such food is provided free of charge or sold, or whether consumption occurs on or off of a premises, or whether the food is provided from a pushcart, stand, or vehicle. Food service providers shall include, but are not limited to, chain food service providers, restaurants, fast food restaurants, cafes, sidewalk cafes, delicatessens, coffee shops, grocery stores, markets, supermarkets, drug stores, pharmacies, bakeries, caterers, gas stations, vending trucks or carts, and cafeterias.

Polystyrene means a thermoplastic polymer or copolymer comprised of at least 80 percent styrene or para-methylstyrene by weight.

Store means a retail or wholesale establishment other than a food service provider.

(b) Food service providers and stores shall not sell, use, offer for sale or use, or provide food in expanded polystyrene food service articles. This article shall not apply to:

(i) Expanded polystyrene food service articles used for prepackaged food that have been filled and sealed prior to receipt by the food service provider or store;

(ii) Expanded polystyrene food service articles used to store raw meat, pork, fish, seafood, or poultry sold from a butcher case or similar refrigerated retail display

or storage case; and

(iii) The school district, and county, state, and federal governmental entities.

(c) Enforcement; penalties.

(i) The Town shall engage in public education efforts to inform food service providers and stores of the provisions of this article and to provide assistance with identifying alternatives to expanded polystyrene food service articles.

(ii) Beginning June 1, 2016, the Code Compliance department shall enforce the provisions in this article.

(iii) The fine amounts are set forth in the schedule of fines adopted by resolution.

**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 upon final adoption on second reading.

**PASSED and ADOPTED** on first reading this \_\_\_\_ day of \_\_\_\_\_, 2015.


**PASSED and ADOPTED** on second reading this \_\_\_\_ day of \_\_\_\_\_, 2015.

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

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

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

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

**VOTE ON ADOPTION:**

Commissioner Barry R. Cohen	yes	_____	no	_____
Commissioner Michael Karukin	yes	_____	no	_____
Commissioner Marta Olchyk	yes	_____	no	_____
Vice Mayor Eli Tourgeman	yes	_____	no	_____
Mayor Daniel Dietch	yes	_____	no	_____



## Town of Surfside **Revised** Commission Communication

**Agenda #:** 4B1  
**Agenda Date:** November 10, 2015  
**Subject:** Temporary Signs  
**From:** Sarah Sinatra Gould, AICP, Town Planner

**Background:** Section 166.0425, *Florida Statutes* provides that municipal sign ordinances shall not conflict with any applicable state or federal laws. The recently issued opinion of Reed v. Town of Gilbert, Ariz., 135 S. Ct. 2218 (2015) by the United States Supreme Court struck down an ordinance in the Town of Gilbert, Arizona as unconstitutional based on distinctions it made between temporary signs. Surfside Town Administration has determined that revisions to the Surfside sign code are advisable to update the code to be in compliance with Reed vs. Town of Gilbert. Town Administration plans to update the sign code in a phased approach, and the first phase will update "Temporary Signs" under Sec. 90-74.

**Analysis:** Currently, the code divides temporary signs into different categories based on content (ex. real estate signs, political signs and construction signs). Due to the recent U.S. Supreme Court ruling on temporary signs, the Town must modify the code to treat the content all of these signs the same.

Under today's code, one property could have a political sign, real estate sign and construction sign. The proposed requirements will continue allowing three temporary signs without dictating content. The proposed size for temporary signs is three square feet, which is consistent with the existing size of both real estate and political signs.

**Budget Impact:** None  
**Growth Impact:** None  
**Staff Impact:** None

**Staff Recommendation:** Staff recommends Town Commission approve the ordinance on first reading. See "Attachment A" for a clean version of the updated sign code text.

Sarah Sinatra Gould, AICP, Town Planner

Guillermo Olmedillo, Town Manager

**Sec. 90-69. - Definitions.**

*Temporary sign:* A sign which pertains to a particular event or occurrence, or which is not designed or intended to be placed permanently.

**Sec. 90-74. - Temporary signs.**

- (a) *SD-B40 district.* Three temporary signs, excluding banners, shall be permitted per building frontage. The maximum sign area shall be three square feet per sign. The sign shall be mounted flat against the building wall or a minimum of 12 inches from a window, and shall not project above the eave line of the building.
- (b) *All other zoning districts.* Three temporary signs shall be permitted per street frontage. The sign shall be wall mounted flat against the building wall or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum sign area shall be three square feet per sign. Sign face shall be constructed of metal, plastic, wood, pressed wood or cardboard. The maximum sign height for in-ground signs including support frame shall not exceed 42 inches from the ground to the top of the sign. Such sign shall be located outside of any sight visibility triangle. No portion of the sign shall extend across the property line.
- (c) Signs shall not be erected more than 90 days prior to the event or occurrence and shall be removed no later than seven days after the event or occurrence
- (d) Signs shall not be lighted or illuminated in any manner.
- (e) It shall be unlawful for any person to paste, glue, print, paint, affix, or attach by any means whatsoever to the surface of any public street, right-of-way, easement, sidewalk, curb, or to any property of any governmental body or public utility, any temporary sign
- (f) *Temporary window sign.*
  - (1) Temporary window signs of any nature may be attached to glass window or doors, or mounted within 12 inches of a glass window or door.
  - (2) One temporary sign shall be permitted per window.
  - (3) Sign may not be displayed more than 60 calendar days.
  - (4) The total area for temporary signs shall not exceed 20 percent of the glass window they are facing unless otherwise provided in this subsection.
  - (5) Signs not in excess of six square inches, may be attached to items displayed in display windows.
  - (6) Temporary signs which are removed and redisplayed within 30 calendar days of removal shall be deemed in violation of this subsection. Signs under Section 90-74(f)(5) not exceeding six square inches shall be exempt from this requirement.
- (g) *Temporary Banner sign.*
  - (1) One temporary banner per building frontage or window in SD-B40 is permitted.
  - (2) No banner shall exceed 32 square feet or five percent of the building façade that faces a public street, whichever is less.
  - (3) Banners may only be displayed within 60 calendar days from the date an occupational license is issued.
  - (4) No banner shall be displayed for more than 30 consecutive calendar days.
  - (5) Banner shall not include changeable copy.
  - (6) Banner shall be made of durable materials such as canvas or vinyl. Non-durable material such as butcher-type paper is not permitted.
  - (7) Banner shall be securely attached to a supporting structure such as a street frontage wall and capable of withstanding continuous wind without deflections or rotations that would cause deformation or damage.
  - (8) No banner shall be attached to a roof structure or above the eave line of the building.

ORDINANCE NO. 15 - \_\_\_\_\_

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING ARTICLE VI “SIGNS” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; SPECIFICALLY AMENDING SECTION 90-69 “DEFINITIONS”; SPECIFICALLY AMENDING SECTION 90-74 “TEMPORARY SIGNS”; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside (the “Town”) revised and replaced its sign code in its entirety by Ordinance No. 14-1624; and

**WHEREAS**, Section 166.0425, *Florida Statutes* provides that municipal sign ordinances shall not conflict with any applicable state or federal laws; and

**WHEREAS**, the recently issued opinion of Reed v. Town of Gilbert, Ariz., 135 S. Ct. 2218 (2015) by the United States Supreme Court struck down an ordinance in the Town of Gilbert, Arizona as unconstitutional based on distinctions it made between temporary signs; and

**WHEREAS**, the Town has determined that revisions to the Town sign code are advisable to update the code to be in compliance with the recent United States Supreme Court decision of Reed vs. Town of Gilbert; and

**WHEREAS**, the Town is in the process of updating the sign code in a phased approach, and the first phase updates “Temporary Signs” under Sec. 90-74; and

**WHEREAS**, the Town Commission held its first public hearing on these regulations on November 10, 2015; and

**WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has reviewed the revisions to the code for consistency with the Town’s Comprehensive Plan at a duly noticed hearing on December 17, 2015 and recommended approval; and

**WHEREAS**, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on January 12, 2016; and

**WHEREAS**, the Town Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

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



**Section 1. Recitals.** Each of the above stated recitals is true and correct and the recitals are incorporated herein by this reference.

**Section 2. Code Amendment.** The Code of Ordinances of the Town of Surfside, Section Sec. 90-69 is hereby amended as follows:

**Sec. 90-69. - Definitions.**

~~Construction sign: A temporary sign identifying those engaged in construction or remodeling on a building site, including the developer, contractor, subcontractor, architect, engineer or artisans involved in the project.~~

\*\*\*

~~Political sign: Any sign which indicates the name, cause or affiliation of anyone seeking public office or which references a ballot issue~~

\*\*\*

~~Real estate sign: A temporary sign erected by the owner or agent indicating property which is for rent, sale or lease, including signs pointing to a property which is open for inspection by a potential purchaser (open house sign) or a sign indicating "shown by appointment only" or "sold."~~

\*\*\*

~~Temporary sign: A sign which is allowed for a limited amount of time such as a special event banner sign, construction sign, political sign or real estate sign or which pertains to a particular event or occurrence, or which is not designed or intended to be placed permanently.~~

**Section 3. Code Amendment.** The Code of Ordinances of the Town of Surfside, Section Sec. 90-74 is hereby amended as follows:

**Sec. 90-74. - Temporary signs.**

(a) ~~Real estate sign.~~

~~(1) SD-B40 district. One professionally lettered real estate sign shall be permitted per building frontage. The maximum sign area shall be three square feet. The sign shall be mounted flat against the building wall or a minimum of 12 inches from a window, and shall not project above the eave line of the building.~~

~~(2) All other zoning districts. One professionally lettered real estate sign shall be permitted per street frontage. The sign shall be wall mounted flat against the building wall or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum sign panel area shall be 18 inches by 24 inches. A maximum of two riders shall be permitted to attach above or below the main sign panel not to exceed six inches by 24 inches per rider for in-ground signs. The maximum sign height for in-ground signs including support frame shall not exceed 42 inches from the ground to the~~

~~top of the sign. Such sign shall be located outside of any sight visibility triangle. No portion of the sign shall extend across the property line.~~

~~(3) All real estate signs shall be black and white and may include a trademarked logo or symbol.~~

~~(4) Sign shall be constructed of rigid, weather proof materials.~~

~~(5) Sign shall not be lighted or illuminated in any manner.~~

~~(6) Sign shall be removed within seven days of a lot, building, residence or tenant space being leased, rented or sold.~~

~~(b) Political sign.~~

~~(1a) SD-B40 district. Three One professionally lettered political temporary signs, excluding banners, shall be permitted per building frontage. The maximum sign area shall be three square feet per sign. The sign shall be mounted flat against the building wall or a minimum of 12 inches from a window, and shall not project above the eave line of the building.~~

~~(2b) All other zoning districts. Three One professionally lettered temporary political signs shall be permitted per street frontage. The sign shall be wall mounted flat against the building wall or securely fastened to a wood or metal freestanding stake or post of sufficient strength. The maximum sign area shall be three square feet per sign. Sign face shall be constructed of metal, plastic, wood, pressed wood or cardboard. The maximum sign height for in-ground signs including support frame shall not exceed 42 inches from the ground to the top of the sign. Such sign shall be located outside of any sight visibility triangle. No portion of the sign shall extend across the property line.~~

~~(3c) Signs shall be not be erected more than 90 days prior to the subject election date or ballot vote event or occurrence and shall be removed no later than seven days after the event or occurrence subject election date or ballot vote.~~

~~(4d) Signs shall not be lighted or illuminated in any manner.~~

~~(5e) It shall be unlawful for any person to paste, glue, print, paint, affix, or attach by any means whatsoever to the surface of any public street, right-of-way, easement, sidewalk, curb, or to any property of any governmental body or public utility, any political temporary sign, poster, placard, or sticker designed or intended to advocate or oppose any ballot issue or the nomination or election of any candidate.~~

~~(c) Construction sign.~~

~~(1) One professionally lettered construction sign shall be permitted per site or development subject to the issuance of a building permit for the project. Such sign shall be removed immediately if the building permit for the project expires and construction has not commenced, and/or the permit is not renewed.~~

~~(2) Sign content is limited to the following:~~

~~a. Project name.~~

~~b. Parties involved in construction and financing.~~

~~c. Contact information such as phone number, email address or website.~~

~~d. Unit prices not to exceed ten percent of the total sign area. Numbers shall not exceed six inches in height.~~

~~(3) Maximum sign area is 16 square feet.~~

~~(4) Sign may be freestanding affixed to posts, a flat wall sign, or mounted to a construction fence. Freestanding signs shall be a minimum of ten feet from the property line and shall be a maximum of five feet in height from the ground to the top of the sign. Wall signs shall not extend above the floor of the second story, parapet wall, or eave line of the building.~~

~~(5) Rigid weatherproof board is required.~~

~~(6) Such sign must be removed within 72 hours of the issuance of a certificate of occupancy.~~

(d-f) Temporary window sign.

(1) Temporary window signs of any nature may be attached to glass window or doors, or mounted within 12 inches of a glass window or door.

(2) One temporary sign shall be permitted per window.

(3) Sign may not be displayed more than 60 calendar days.

(4) The total area for temporary signs shall not exceed 20 percent of the glass window they are facing unless otherwise provided in this subsection.

~~(5) Temporary signs pertaining to a going out of business sale or everything must go clearance event shall be permitted to be displayed within a window for a period not to exceed 90 calendar days.~~

~~(6) A temporary sign not exceeding one square foot may be affixed to any window or glass door stating special hours or closing days due to holidays, or bona fide business or personal emergencies. There shall not be more than one such sign per window or door. Sign shall not be maintained for more than 14 calendar days.~~

~~(75) Signs not in excess of six square inches, listing merchandise price, may be attached to items displayed in display windows.~~

~~(86) Temporary signs which are removed and redisplayed within 30 calendar days of removal shall be deemed in violation of this subsection. Signs under Section 90-74(f)(5) listing price not exceeding six square inches shall be exempt from this requirement.~~

(e g) Special-event Temporary Banner sign.

(1) ~~One professionally lettered temporary banner per building frontage or window in SD-B40 advertising a grand opening associated with a commercial building or business enterprise is permitted.~~

~~(2) Permitted content shall be limited to "Grand Opening," "Coming Soon," "Now Open" or "Under New Management" and the date and time of the event where applicable.~~

~~(32) No banner shall exceed 32 square feet or five percent of the building façade that faces a public street, whichever is less.~~

~~(43) Banners may only be displayed within 60 calendar days from the date an occupational license is issued.~~

~~(54) No banner shall be displayed for more than 30 consecutive calendar days.~~

~~(65) Banner shall not include changeable copy.~~

~~(76) Banner shall be made of durable materials such as canvas or vinyl. Non-durable material such as butcher-type paper is not permitted.~~

(87) Banner shall be securely attached to a supporting structure such as a street frontage wall and capable of withstanding continuous wind without deflections or rotations that would cause deformation or damage.

(98) No banner shall be attached to a roof structure or above the eave line of the building.

**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 upon final adoption on second reading.

**PASSED and ADOPTED** on First Reading the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

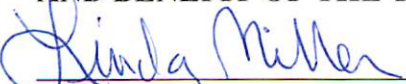
**PASSED and ADOPTED** on Second Reading this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

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

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

VOTE ON ADOPTION:

Commissioner Barry R. Cohen	yes	_____	no	_____
Commissioner Michael Karukin	yes	_____	no	_____
Commissioner Marta Olchyk	yes	_____	no	_____
Vice Mayor Eli Tourgeman	yes	_____	no	_____
Mayor Daniel Dietch	yes	_____	no	_____



## Town of Surfside Commission Communication

**Agenda #:** 4B2  
**Agenda Date:** November 10, 2015  
**Subject:** 150 Feet of Frontage in H120  
**From:** Sarah Sinatra Gould, AICP, Town Planner

**Background:** Currently, all sites that have redevelopment potential are less than 150 feet in length. Therefore, none of the properties that the Town has knowledge of which are potentially for sale, development or other interest, could exceed 150 feet in length. Commissioner Karukin has requested staff to bring forth an ordinance to modify the maximum width of buildings on the east side of Collins Avenue to 150 feet in length. The proposed limitation would be for potential aggregation in the future.

**Analysis:** The proposed text removes the articulation requirements and restores the 150 foot limitation that was present in the code prior to 2008:

### **Sec. 90-51. - Maximum frontage of buildings. Modified**

90-51.1 Continuous wall frontage shall not exceed 270 feet in the H30C or H40 districts and 150 feet in the H120 district. ~~and be articulated as follows:~~ The following articulations shall be provided:

- (1) *H30C*: For every 50 feet, a minimum three-foot change in wall plane.
- (2) *H40*: For every seventy-five (75) feet, a minimum six-foot change in wall plane.
- (3) *H120*: ~~For every 100 feet, a minimum six-foot change in wall planes. The change shall be either vertical or horizontal. The maximum 270 foot continuous wall frontage is limited to a building platform no greater than 30 feet in height. This platform may contain habitable and non-habitable spaces. Buildings are permitted above the 30 foot high platform subject to the following:~~

- a. ~~A tower above the platform shall provide a continuous wall plane no greater than 150 feet in length with a minimum six-foot vertical or horizontal change in wall plane.~~
- b. ~~The distance between more than one tower located on a platform shall be a minimum of 40 feet.~~
- c. ~~If a platform is provided, the side setbacks of any tower shall be a minimum of 20 feet from the setback of the platform.~~

(4) (3) Structured parking garages: see section 90-49.4.

**Budget Impact:** None

**Growth Impact:** None

**Staff Impact:** N/A

**Staff Recommendation:** Staff recommends Town Commission approve the ordinance on first reading.



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



\_\_\_\_\_  
Guillermo Olmedillo, Town Manager

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

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 ZONING SECTION 90-51 MAXIMUM FRONTAGE OF BUILDINGS AND SPECIFICALLY AMENDING SECTION 90-51.1 CONTINUOUS WALL FRONTAGE OF 150 FEET IN THE H120 DISTRICT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, currently, all individual property sites located in the Town of Surfside (“Town”) that have redevelopment potential are less than 150 feet in length; and

**WHEREAS**, the Town desires to modify the maximum width of buildings on the east side of Collins Avenue to 150 feet in length; and

**WHEREAS**, the proposed amendment to the Code will limit potential aggregation of properties, removes the articulation requirements and restores the 150 foot limitation that was present in the Code prior to 2008; and

**WHEREAS**, the Town Commission has adopted regulations to address the specific needs of this unique community and continues to amend these regulations as they may best suit the needs of the community; and

**WHEREAS**, the Town Commission held its first duly noticed public hearing on these regulations on November 10, 2015 and recommended approval of the proposed amendments to the Code of Ordinances, having complied with the notice requirements by the Florida Statutes; and

**WHEREAS**, the Planning and Zoning Board, as the Local Planning Agency for the Town has reviewed the revisions to the code for consistency with the Town’s Comprehensive Plan at a duly noticed hearing on December 17, 2015 and recommended approval; and

**WHEREAS**, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on January 12, 2016 and further finds the proposed change to the Code necessary and in the best interest of the community.

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



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

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

**Sec. 90-51. - Maximum frontage of buildings.**

90-51.1 Continuous wall frontage shall not exceed 270 feet in the H30C or H40 districts and 150 feet in the H120 district. ~~and be articulated as follows:~~ The following articulations shall be provided:

- (1) *H30C*: For every 50 feet, a minimum three-foot change in wall plane.
- (2) *H40*: For every seventy-five (75) feet, a minimum six-foot change in wall plane.
- (3) *H120*: ~~For every 100 feet, a minimum six-foot change in wall planes. The change shall be either vertical or horizontal. The maximum 270 foot continuous wall frontage is limited to a building platform no greater than 30 feet in height. This platform may contain habitable and non-habitable spaces. Buildings are permitted above the 30 foot high platform subject to the following:~~
  - a. ~~A tower above the platform shall provide a continuous wall plane no greater than 150 feet in length with a minimum six-foot vertical or horizontal change in wall plane.~~
  - b. ~~The distance between more than one tower located on a platform shall be a minimum of 40 feet.~~
  - c. ~~If a platform is provided, the side setbacks of any tower shall be a minimum of 20 feet from the setback of the platform.~~
- (4) (3) Structured parking garages: see section 90-49.4.

**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 relettered 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 upon adoption on second reading.

**PASSED** and **ADOPTED** on first reading this \_\_\_\_ day of \_\_\_\_\_, 2015.

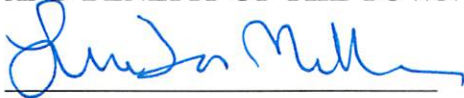
**PASSED** and **ADOPTED** on second reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

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

**ATTEST:**

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

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



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

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

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

**VOTE ON ADOPTION:**

Commissioner Barry R. Cohen	yes	_____	no	_____
Commissioner Michael Karukin	yes	_____	no	_____
Commissioner Marta Olchyk	yes	_____	no	_____
Vice Mayor Eli Tourgeman	yes	_____	no	_____
Mayor Daniel Dietch	yes	_____	no	_____



# Town of Surfside Commission Communication

**Agenda Item #:** 5A

**Agenda Date:** November 10, 2015

**Subject:** Sun Recycling

**Objective:** To provide for an economical and efficient disposal source for the Town's recycling, vegetation, construction debris, and for the Town to earn money through a franchise fee through participating in a roll-off service. The Town strives to save natural resources through reuse, and is taking a step in the right direction toward further sustainability as a community by increasing our recycling program through recycling commercial and construction debris, and in doing this, saving landfill space.

**Background:** The Town Manager has approved a request by the Public Works Department to enter into a sole source contract with Sun Recycling to provide a bundle of services for which the Town requires, including solid waste disposal and recyclables processing services, vegetation disposal, construction debris disposal, and receiving a franchise fee from the use of roll-off containers. After conducting a review of available sources, it is clear that Sun Recycling is the only company capable of offering this bundle of services to fulfill the Town's needs.

At the June 9, 2015 Commission meeting, the Town Commission approved the termination of our current inter-local agreement with Miami-Dade County for curb-side recycling pickup. The County currently uses an outside contractor to service the recycling pickup for the Town on a bi-monthly schedule for single family homes. Multi-family and Commercial accounts are not part of this inter-local agreement.

The current services for single family homes utilizing Miami-Dade County's inter-local agreement are as follows:

- Curb side pickup
- Bi-weekly schedule
- Limited recycle options for disposal items
- Cost is \$30.26 per year per single family home
- No residual from recycle sales

The proposed services for single family homes utilizing the Town's Solid Waste Department are as follows:

- Curb side pickup
- Weekly schedule
- More options for disposal
- Cost is \$30.26 per year per single family home
- Savings of approximately \$35,000 to \$45,000 yearly cost presently paid to the County
- Monthly residual from the sale of collected recycables

The current services for multi-family and commerical accounts are as follows:

- Neither are a part of the current Miami-Dade County Interlocal service agreement
- Both contract and schedule for service pickup at their respected buildings or place of business
- Fees are collected through the Town on the solid waste billing system, which in turn are paid to the service provider for each multi-family building or commerical business

The current services rendered are as follows:

- Site pickup as scheduled
- Cost is \$30.26 per year per apartment or business.
- Limited options for disposal items
- No residual from recycle sales

The proposed services for multi-family and commerical businesses utilizing the Town's Solid Waste Department are as follows:

- Site pickup as scheduled
- Weekly schedule
- More options for disposal (cardboard)
- Reliable service
- Cost is \$30.26 per year per apartment or business
- Savings of approximately \$45,000 to \$50,000 yearly cost paid to the contractor
- Monthly residual from the sale of collected recycables

It is important to note that multi-family and commerical businesses have the option to continue with the contract service that they currently have, or they can when their contract expires with their provider, go with the Town's collection service.

**Vegetation:** Currently, vegetation is picked up once per week in conjunction with household trash pickup and disposed at the landfill. Our current disposal fee for vegetation is \$8.66 per cubic yard. Our proposed method of disposal will allow the Town to pickup vegetation with a dedicated vegetation truck only on the scheduled day and dispose of it at a reduced rate of \$6.00 per cubic yard.

**Construction Debris:** Currently, construction debris is picked up once per week and disposed of at the same landfill with our solid waste. This type of debris is the most expensive to dispose of due to the content of the material and the chemical makeup at a cost for disposal of \$13.80 per cubic yard. Our proposed method of disposal will utilize a recycling method where the construction debris is recycled instead of buried in a landfill and that material is re-used in the construction industry as either fill material, used wood, or gravel from the crushed concrete at a reduced rate of \$8.75 per cubic yard.

**Roll-Off Service:** Roll-off service containers are used around Town by contractors for demolition or refurbished projects where the construction debris removed is placed in varied size containers ranging from 10CY, 20CY, 30CY or 40CY capacities. There are numerous companies picking up and dropping off containers daily throughout Town. Each construction site orders these roll-off containers for each project for drop-off and pickup and in most instances will either damage the curb, drainage structure, or the roadway. Currently, the Town receives no franchise fees from any of the container haulers.

**Analysis:** Staff has put together a program for an efficient disposal plan to help facilitate this new service. With an anticipated start date of January 1, 2016 the Town will now have a new recycling schedule for in house pickup of single-family homes, multi-family, and commercial businesses. This plan provides for competitive lower pricing for disposal of vegetation and construction debris, plus the ability to receive money from the sales of the Town's recycling, as well as a franchise fee from commercial roll-off container service. Currently, the Town does not receive any buy back funding for recycling from the County nor do we receive any franchise payments from any of the roll-off providers currently servicing the Town.

We are proposing a sole source agreement with Sun Recycling, which is the only service provide to offer this bundle of services.

Fee schedule

	Current	Proposed	Cost Savings or Earning
Vegetation Disposal	\$8.66 per cubic yard	\$6.00 per Cubic yard/Revenue share back to the Town \$0.25 per cubic yard.	\$2.66, saved per Cubic yard plus revenue share back of \$0.25 per cubic yard
Construction debris	Current construction debris disposal is \$13.80 per cubic yard	\$8.75 per cubic yard /Revenue share back to the Town \$0.25 per cubic yard.	\$5.05 saved per cubic yard plus revenue share of \$0.25 per cubic yard.
Recycling	On an average, payment to Miami-Dade County of \$8,000 plus or minus	A percentage of the Average Market Value (AMV) will be paid to the Town for each ton of inbound recycled material delivered to the Designated Recycle Facility.	This went from a payable to a receivable for the Town, equaling a net gain)
Roll-off	nothing	18% franchise fee based on Southern Waste Systems per roll-off charge.	Becomes a receivable for the Town, equaling a net gain

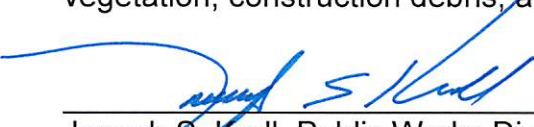
Pricing for recycled material is determined monthly by the Secondary Fibers and Material Pricing list that uses published Regional Average pricing for recyclables for Southeast USA market. A percentage of the Average Market Value (AMV) will be paid to the Town for each ton of inbound recycled material delivered to the Designated Recycle Facility.

**Staff Impact:** No additional staff is needed to perform this service.

**Budget Impact:** The Town will both save money and make money through this unique opportunity. There will be a cost savings to the Town of approximately \$85,000 that will not be paid to Miami-Dade County and residuals from sales. Also, a positive impact of \$2.66 per cubic yard savings for vegetation disposal and \$5.05 per cubic yard savings for construction debris disposal. In addition, an 18% franchise fee received for each roll-off container used throughout Town.

There will be an added cost for pick-up and drop-off of recyclables at approximately \$6,500 for fuel and wear-and-tear.

**Recommendation:** Staff recommends that the Town Commission authorize the Town Manager to approve the sole source agreement with Sun Recycling for disposal of vegetation, construction debris, and roll-off service.



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Joseph S. Kroll, Public Works Director





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Guillermo Olmedillo, Town Manager



Town of Surfside  
Public Works Department  
9293 Harding Avenue – Surfside, Florida 33154  
[www.townofsurfsidefl.gov](http://www.townofsurfsidefl.gov)

## MEMORANDUM

TO: Guillermo Olmedillo, Town Manager   
FROM: Joseph S. Kroll, Public Works Director   
SUBJECT: Sole source for construction debris removal  
DATE: August 26, 2015

Mr. Manager, I am requesting a sole source contract with Sun Recycling for a bundle of recycling services, including vegetation disposal, construction debris disposal, recycling, and for the Town to receive a franchise fee from the use of roll-off containers. After conducting a review of available sources, it is clear that Sun Recycling is the only company capable of offering this bundle of services to fulfill the Town's needs.

With an anticipated start date of January 1, 2016 the Town will now have a new recycling schedule for in house pickup of single-family homes, multi-family, and commercial businesses. Staff has put together a program for an efficient disposal plan to help facilitate this new service. This plan provides for competitive lower pricing for disposal of vegetation and construction debris, plus the ability to receive money from the sales of the Town's recycling, as well as a franchise fee from commercial roll-off container service. Currently, the Town does not receive any buy back funding for recycling from the County nor do we receive any franchise payments from any of the roll-off providers servicing the Town.

In particular, Sun Recycling offers a program for construction debris removal using roll-off containers. The majority of the trash that is collected in roll-off containers is construction debris from the remodeling of homes throughout Town. It is staff's goal to not have this material brought to the landfill to be buried but rather be able to recycle it so it can be used again. Sun-Recycling has come up with a process to take construction debris and recycle it into re-usable material. They are the only company in our area that does this. Public Works would like to utilize Sun Recycling for the recycle component instead of bringing to landfill to be buried. By using this sole service we can control damage to the Town's infrastructure, have a sustainable program in place and most importantly offer another way to recycle to our residents.

**RESOLUTION NO. 15 - \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA WAIVING THE BID PROCESS PURSUANT TO SECTION 3-13(6) OF THE TOWN OF SURFSIDE CODE OF ORDINANCES; AUTHORIZING THE TOWN MANAGER TO ENTER INTO A SOLE SOURCE AGREEMENT WITH SUN RECYCLING AND THE TOWN FOR SOLID WASTE DISPOSAL AND RECYCLABLES PROCESSING SERVICES, VEGETATION DISPOSAL, CONSTRUCTION DEBRIS DISPOSAL, AND FOR THE TOWN TO RECEIVE A FRANCHISE FEE FROM THE COMMERCIAL ROLL-OFF CONTAINER SERVICE; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH SUN RECYCLING; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR EFFECTIVE DATE.**

**WHEREAS**, at the June 9, 2015 Commission meeting, the Town Commission approved the termination of Surfside's current Inter-local Agreement with Miami-Dade County for curbside recycling pickup, which uses an outside contractor to service the recycling pickup for the Town on a bi-monthly schedule for single family homes; and

**WHEREAS**, the Town strives to save natural resources through reuse and is progressing toward further sustainability as a community by increasing our recycling program through recycling commercial and construction debris, and in doing this, saving landfill space; and

**WHEREAS**, with an anticipated start date of January 1, 2016, the Town has a new recycling schedule for in-house pickup of single-family homes, multi-family and commercial businesses; and

**WHEREAS**, Sun Recycling has been determined to be the sole source provider of the bundle of services for which the Town requires, including solid waste disposal and recyclables processing services, vegetation disposal, construction debris disposal, and receiving a franchise fee from the use of roll-off containers; and

**WHEREAS**, this recycling program provides for competitive lower pricing for disposal of vegetation and construction debris, plus the ability to receive money from the sales of the Town's recycling, as well as a franchise fee from commercial roll-off container service; and

**WHEREAS**, pursuant to Section 3-12 of the Town Code, after conducting a good faith review of available sources, due to the nature of the goods and services, and in receipt of a written request by the department head pursuant to Section 3-13(6) of the Town Code, the Town Manager has recommended that it is in the Town's best interest to waive the Town's competitive bidding procedures as a sole source exemption.



**WHEREAS**, the Town Commission of the Town of Surfside, Florida finds it is in the best interest of the Town to authorize the Town Manager to enter into the Agreement with Sun Recycling for solid waste disposal and recyclables processing services, vegetation and construction debris services and the recycling of construction debris through a roll-off service.

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

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

**Section 2. Authorization to enter into an Agreement.** The Town Commission hereby authorizes the Town Manager to enter into an Agreement with Sun Recycling and the Town for solid waste disposal and recyclables processing services, vegetation disposal, construction debris disposal and receiving a franchise fee from the use of roll-off containers.

**Section 3. Implementation.** That the Town Manager is hereby authorized to take any action which is necessary to implement the purpose of the Agreement and this Resolution.

**Section 4. Effective Date.** That this Resolution shall be effective immediately from adoption hereof.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of November 2015.

Motion by \_\_\_\_\_,

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen	_____
Commissioner Michael Karukin	_____
Commissioner Marta Olchyk	_____
Vice Mayor Eli Tourgeman	_____
Mayor Daniel Dietch	_____


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

**ATTEST:**

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Sandra Novoa, Town Clerk

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



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Linda Miller, Town Attorney



## Town of Surfside Commission Communication

**Agenda Item #** 5B

**Agenda Date:** November 10, 2015

**Subject:** FY 2014/2015 Proposed Budget Amendment Resolution

**Background:** The State of Florida, the Charter of the Town of Surfside and sound financial management practices require monitoring of the Town's budgetary condition. Budget requirements include maintaining a balanced budget and a prohibition against entering into encumbrances for which there is not sufficient appropriation.

The Town Commission monitors the budget to actual summary at the fund level monthly on each agenda. The Town Manager is authorized by the Charter to make adjustments within funds so long as the appropriation for each fund is not exceeded. The purpose of this budget amendment is for the Town Commission to amend the FY 2014/2015 Budget and to recognize changes in revenues and expenditures that differ from the adopted budget.

The attached document represents the amendments which are proposed to ensure compliance with State law, Town Charter and sound financial management practices.

**Analysis:** Staff has revisited and reviewed all FY 2014/2015 approved revenues and expenditures. A summary discussion, of the recommended change to the FY 2014/2015 Budget follows:

### **POLICE FORFEITURE FUND (Attachment A)**

The Police Forfeiture Fund is being amended to record federal confiscation revenue of \$2,163.00 and state confiscation revenue of \$10,382.00; and to appropriate reserves in the amount of \$3,800.00 to fund additional expenditures for laptop lease and air cards (\$2,561.00) and a software license (\$1,239.00).


**Budget Impact:** Adoption of this resolution will amend the original budget for estimated revenues and expenditures in the Police Forfeiture Fund, and affect the fund balance (reserves) as shown in Attachment A.

**Staff Impact:** No impact to staff is required to re-balance the budget and meet the Town's fiduciary responsibilities.

**Recommendation:** It is recommended that the Surfside Town Commission adopt the proposed FY 2014/2015 Police Forfeiture Fund budget amendment resolution per attachment A.



Finance Director



Town Manager



Budget Officer

**TOWN OF SURFSIDE  
BUDGET AMENDMENT  
ATTACHMENT A**

Fiscal Year: 2014/2015  
 BA # 2 Budget Amendment  
 Fund Nos. 105 Police Forfeiture Fund

11/10/2015

Account Number	Account Description	Justification	Current Budget	Increase	Decrease	Adjusted Budget
<b>POLICE FORFEITURE FUND</b>						
<b>REVENUES</b>						
105-0000-359-2010	Federal Confiscations	Federal confications revenue	0	2,163		2,163
105-0000-359-2015	State Confiscations	State confications revenue	0	10,382		10,382
105-0000-392-0000	Use of Restricted Fund Balance		74,098		8,745	65,353
<b>TOTAL</b>	<b>POLICE FORFEITURE FUND REVENUES</b>		<b>90,300</b>	<b>12,545</b>	<b>8,745</b>	<b>94,100</b>
<b>EXPENDITURES</b>						
105-3300-521-4405	Laptop Lease & Air Cards	Additional Laptop Lease and Air Card Expense	28,000	2,561		30,561
105-3300-521-4911	Other Current Charges	Software License for Equipment	47,800	1,239		49,039
<b>TOTAL</b>	<b>POLICE FORFEITURE FUND EXPENDITURES</b>		<b>90,300</b>	<b>3,800</b>	<b>0</b>	<b>94,100</b>

Requested by: \_\_\_\_\_  
 Budget Officer

Approved: \_\_\_\_\_  
 Finance Director

Approved: \_\_\_\_\_  
 Town Manager

RESOLUTION NO. 15 - \_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE ANNUAL BUDGET RESOLUTION ADOPTED FOR FISCAL YEAR OCTOBER 1, 2014 TO SEPTEMBER 30, 2015; FOR THE PURPOSE OF AMENDING THE ANNUAL BUDGET IN THE POLICE FORFEITURE FUND BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2015; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside adopted Resolution No. 14-2267 on September 23, 2014 establishing revenues and appropriations for the Town of Surfside, Florida for the fiscal year ending September 30, 2015; and

**WHEREAS**, to address amendments in the budget of revenues and expenditures, the Finance Director and Budget Officer have met with the Town Manager and Department Heads to identify modifications with no impact on service delivery; and

**WHEREAS**, an increase to the budgeted revenue estimates and expenditures is required for the Police Forfeiture Fund, to comply with State Statutes and the Town's commitment to sound budgeting practices, where budgeted expenditures may not exceed anticipated revenues; and

**WHEREAS**, this resolution proposes to amend the Fiscal Year 2014/2015 annual budget as set forth in Attachment "A", and

**WHEREAS**, it is in the best interest of the Town of Surfside to adopt the proposed Fiscal Year 2014/2015 Police Forfeiture Fund budget resolution as submitted.

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

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

**Section 2. Authorization.** The Town Commission hereby approves and authorizes the proposed FY 2014/2015 budget amendments.

**Section 3. Implementation.** The Town Manager is hereby authorized to take any and all action necessary to implement this Resolution.

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

PASSED AND ADOPTED this \_\_\_\_\_ day of November 2015.

Motion by \_\_\_\_\_,

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

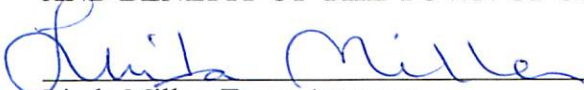
Commissioner Barry R. Cohen \_\_\_\_\_  
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Eli Tourgeman \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

**ATTEST:**

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

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

TOWN OF SURFSIDE  
BUDGET AMENDMENT  
ATTACHMENT A

Fiscal Year: 2014/2015  
BA # 2 Budget Amendment  
Fund Nos. 105 Police Forfeiture Fund

11/10/2015

Account Number	Account Description	Justification	Current Budget	Increase	Decrease	Adjusted Budget
<b>POLICE FORFEITURE FUND</b>						
<b>REVENUES</b>						
105-0000-359-2010	Federal Confiscations	Federal confiscations revenue	0	2,163		2,163
105-0000-359-2015	State Confiscations	State confiscations revenue	0	10,382		10,382
105-0000-392-0000	Use of Restricted Fund Balance		74,098		8,745	65,353
<b>TOTAL</b>	<b>POLICE FORFEITURE FUND REVENUES</b>		<b>90,300</b>	<b>12,545</b>	<b>8,745</b>	<b>94,100</b>
<b>EXPENDITURES</b>						
105-3300-521-4405	Laptop Lease & Air Cards	Additional Laptop Lease and Air Card Expense	28,000	2,561		30,561
105-3300-521-4911	Other Current Charges	Software License for Equipment	47,800	1,239		49,039
<b>TOTAL</b>	<b>POLICE FORFEITURE FUND EXPENDITURES</b>		<b>90,300</b>	<b>3,800</b>	<b>0</b>	<b>94,100</b>

Requested by: \_\_\_\_\_  
Budget Officer

Approved : \_\_\_\_\_  
Finance Director

Approved : \_\_\_\_\_  
Town Manager



MONTH	Deadline - Items To Town Attorney	Agenda Deadline - All Completed Items To Town Clerk	Agenda Distribution Date	Commission Meeting Date
January 2016	12/18/2015	12/31/2016	1/6/2015	1/12/2016
February 2016	1/15/2016	1/29/2016	2/3/2016	2/9/2016
March 2016	2/12/2016	2/26/2016	3/4/2016	3/8/2016
April 2016	3/20/2016	4/1/2016	4/6/2016	4/12/2016
May 2016	4/15/2016	4/29/2016	5/4/2016	5/10/2016
June 2016	5/20/2016	6/3/2016	6/8/2016	6/14/2016
July 2016	6/17/2016	7/1/2016	7/6/2016	7/12/2016
August 2016	7/15/2016	7/29/2016	8/3/2016	8/9/2016
September 2016	8/19/2016	9/2/2016	9/7/2016	9/13/2016
October 2016	9/16/2016	9/30/2016	10/5/2016	10/11/2016
November 2016	10/14/2016	10/28/2016	11/2/2016	11/8/2016
December 2016	11/18/2016	12/2/2016	12/7/2016	12/13/2016
January 2017	12/6/2016	12/29/2016	1/4/2017	1/10/2017

10/26/2015



**TOWN OF SURFSIDE**  
**Commission Communication**

**Agenda Item #** 9B

**From:** Guillermo Olmedillo, Town Manager

**Agenda Date:** November 10, 2015

**Subject:** Gating the Community

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**Background:** The Town Commission directed the Town Manager at the October 13, 2015 meeting to provide a framework for gating the community and an outline for the process, as well as educating the community.

**Analysis:** There are many considerations to be examined when creating a gated community from what has been an established neighborhood. In contrast to the gated communities one sees in suburban areas that are established from the onset with the plan of being gated, simply enclosing a neighborhood that was not planned to be closed presents a variety of difficulties. First and foremost is an overall cost issue to which a majority of homeowners will have to agree before anything happens.

Before one can decide if they want a gated community they must choose what kind of gated community they wish to have. Do they want a private community in which they will assume all maintenance of the roadways adding expense? Do they want manned entrances or gates electronically activated that may require constant maintenance to remain operational? Do they want to stay with the public road system they have and give access to all, saving the expense but reducing the privacy?

In Surfside there will have to be more than one entrance and several exits to accommodate the number of residents. The queuing of vehicles is difficult to accommodate with the neighborhood layout. Traffic circulation will be largely impacted by the design of where and how many entrances and exits are established. Residents that may have direct access to the business district or a particular path they utilize to leave their residences and return may be diverted dramatically in order to leave or enter their neighborhood. This will result in increased vehicular traffic for areas that are currently not heavily traveled because all roadways are open. Some may have a

positive impact by having little to no traffic volume in front of their house due to the road closures. However, if one is unfortunate enough to face an area where vehicles will be queuing in or to enter or exit the neighborhood that may be very unwelcomed and even difficult to leave or enter one's own driveway.

Another consideration will be what type of closing will be done? Is there going to be a physical wall or gate surrounding the Town prohibiting pedestrian and bicycle access to the neighborhood roads except for the allotted entrances or will there simply be curb structures with foliage to prevent vehicles only? This difference can significantly impact how the area is policed.

Finally there is the consideration that we have Indian Creek Village to the west of Surfside which requires travel through Surfside to gain entry or leave from.

**Legal Process:** Gating the community would require Miami-Dade County approval. Section 2-96.1 of the Code of Miami-Dade County provides that Miami-Dade County has exclusive jurisdiction for traffic engineering and all traffic control devices in both the unincorporated and incorporated areas of Miami-Dade County.

The establishment of a Special Taxing District is required to form a gated community. The process is described below, pursuant to Sec.18-3 of the Miami-Dade County Code.

### **I. The Petition**

There shall be filed with the Clerk of the Miami-Dade County Board of County Commissioners ("Board") a petition requesting the creation and establishment of a special taxing district under the provisions of this article, signed by the Mayor of Miami-Dade County or by fifty (50) per centum of the resident owners of property embraced within the proposed district.

The petition shall contain:

- (1) The boundaries or other description sufficient to identify the property embraced in the proposed district, together with a survey sketch showing the location of the proposed district, and
- (2) A brief description of the project requested to be constructed, acquired, reconstructed or installed.

### **II. Investigation by Mayor of Miami-Dade County or his/her Designee<sup>1</sup>**

Upon receipt of such petition, the Clerk of the Board shall transmit a copy thereof to the Mayor of Miami-Dade County or his/her designee ("Mayor"), who shall examine the petition and file a written report with the Clerk at the earliest practicable date. If the Mayor finds that the petition has been properly presented in accordance with the listed requirements he shall cause to be made under his supervision and direction such

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<sup>1</sup> Note that the Miami-Dade County Ordinance says County Manager instead of the Mayor because it has not been updated to reflect the change that there now is a Strong Mayor instead of a Manager of Miami-Dade County.

investigations, surveys, plans and specifications as may be necessary to enable him to compile and file with the Board a written report and recommendations.

The petition's requirements include but are not limited to the boundaries or other description sufficient to identify the property to be embraced in the proposed district, the location of the project to be constructed, acquired, reconstructed or installed within the proposed district, an estimate of the cost of such project, an estimate of the annual expense to be borne by the district or the County of maintaining, repairing and operating such project, recommendations concerning the need and desirability for the requested project, the ability of the affected property to pay special taxes or to bear special assessments or both, and his opinion as to whether or not all lots and parcels within the proposed district which are to be taxes or specially assessed will be specially benefited by the proposed project. If the Mayor's recommendations are favorable to the creation of the requested special taxing district, his recommendations as to the levying of any special assessments against the benefited property, and an estimate of the amount to be assessed against each front foot or other unit of benefited property.

The Mayor shall file such written report and recommendations, accompanied by an appropriate map and other pertinent data, with the Clerk of the Board at the earliest practicable date.

### **III. Notice of public hearing**

Upon receipt of such report of the Mayor, and from such other investigations as the Board may make or cause to be made, the Clerk of the Board shall prepare a certificate fixing the place, date and hour for a public hearing, which certificate shall set forth a copy of the petition, excluding signatures, and brief summaries of the report and recommendations of the Mayor, including (but without limitation) his recommendations as to any additional territory which should be embraced within the proposed district. There shall be Notice of such public hearing. Notices are published by the Miami-Dade County Clerk in a newspaper of general circulation and are also posted in five public places within the district.

### **IV. Public hearing**

At the noticed time and place, or to which an adjournment may be taken by the Board, the Board shall receive and hear objections of interested persons to the creation and establishment of the proposed district, the property to be embraced within the district, the project to be acquired, constructed, reconstructed or installed, or the levy of any special taxes or special assessments therefor, or to any defect in the petition or the proceedings theretofore taken, or which question any of the powers of the Board under the provisions of this article, and petition with such modifications, if any, as it may deem advisable and which do not enlarge the boundaries of the district as set forth in the certificate mentioned in subdivision (d) of this section or change the general type or character of the project. All such objections shall be in writing, in person or by attorney,

and filed with the Board at or before the time or adjourned time of such hearing. Any objections not so made shall be considered as waived.

**V. Ordinance establishing district**

If the Board shall, after such hearing, determine to grant the petition, either with or without modification, it shall adopt an ordinance reciting the proceedings theretofore taken and providing for the creation and establishment of the district.

**VI. Financing the project**

If the method of financing a shall be other than the issuance of bonds, the Board shall provide that the ordinance creating and establishing the district shall take effect when approved by a majority vote of the qualified electors residing in the district voting at an election to be called by the Board and noticed and conducted and the result thereof determined and declared either in the manner provided for the issuance of bonds of a district or in such other manner, by mailed ballot or otherwise, as the Board shall by ordinance determine

**VII. District Ratification**

Election is conducted by mailed ballot on an available election date set by the County. All registered voters residing within district boundaries are eligible to vote. A majority vote of returned ballots in favor of the project is needed to ratify district creation.

**VIII. Collection of Special Assessments**

Those districts which are approved by the electorate are billed in advance for each fiscal year (October 1 through September 30) and are included as an itemized portion of the annual combined tax bill.

**Recommendation:** Town Commission to vote on whether to move forward with the process to gate the community.



**TOWN OF SURFSIDE  
DISCUSSION ITEM**

**Agenda Item:** # 9C

**Agenda Date:** November 10, 2015

**From:** Commissioner Michael Karukin

**Subject:** **Zoning In Progress – Section 90-51 Maximum Frontage Of Buildings and Specifically Amending Section 90-51.1 Continuous Wall Frontage of 150 feet in the H120 District**

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**Background:** Currently, all individual property sites located in the Town of Surfside that have redevelopment potential are less than 150 feet in length. The Town desires to modify the maximum width of buildings on the east side of Collins Avenue to 150 feet in length. The proposed amendment to the Code will limit potential aggregation of properties, removes the articulation requirements and restores the 150 foot limitation that was present in the Code prior to 2008.

To address the situation of potential new development that is inconsistent with proposed zoning changes, the Town incorporates “Zoning in Progress” regulations at Sec. 90-6 of the Code of Ordinances. The “Zoning in Progress” doctrine generally allows the Town to temporarily “pause” the processing of applications for new development while new zoning regulations are being prepared for adoption, if the new development will be affected by the anticipated changes in zoning regulations. Zoning in Progress, for example, will stop the review of any site plan application while Code amendments are adopted or three months from now, whichever occurs first.

**Recommendation:** Direct the Town Clerk to publish a Notice of Zoning in Progress as provided in Section 90-6 “Zoning in Progress” of the Code of Ordinances, in order to apply a hold on the processing of development applications that are submitted to the Town after the date of the publication of the Notice. Provided, however, that the Notice shall not apply to any pending applications for development approvals which have been determined to be complete applications as of the date of the Notice of Zoning in Progress.



**TOWN OF SURFSIDE**  
MUNICIPAL BUILDING  
9293 HARDING AVENUE  
SURFSIDE, FLORIDA 33154-3009

### DISCUSSION ITEM MEMO

**Agenda Item: # 9D**

**Date: November 10, 2015**

**From: Guillermo Olmedillo, Town Manager**

**Subject: Planning and Zoning Board Request for a Ballot Question on One Way Streets**

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**Background:** On October 29, 2015, the Planning and Zoning Board discussed a list of items relating to the Single Family District including a streetscape master plan. The Board voted to recommend ballot language for the March 15, 2016 election for the Town to consider implementing one way streets to improve and calm traffic and lay the groundwork for a streetscape that is more pedestrian friendly and has more shade and trees.

F.S. 101.161(1) states that, "The ballot summary of the amendment or other public measure shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure... The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of."

**Recommendation:** Town Commission vote on the following:

(1) Whether to direct the Town Clerk to request authorization from the Miami-Dade County Supervisor of Elections to call for a Special Election to add a question(s) to a regularly scheduled election of the Town. The Elections Department's deadline to submit a resolution to the Supervisor of Elections to call for a Special Election for charter amendments or any other questions on March 15, 2016 is no later than Tuesday, December 22, 2015, and the deadline for the November 8, 2016 Election is no later than August 9, 2016.

(2) Whether to direct the Town Attorney to prepare ballot language.



**TOWN OF SURFSIDE  
DISCUSSION ITEM**

**Agenda Item:** # 9E  
**Agenda Date:** November 10, 2015  
**From:** Commissioner Michael Karukin  
**Subject:** Residency Requirements of Resort Tax Board Membership

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**Background:** Currently, members of the Town’s Resort Tax Board may either work or reside in Surfside. Sec. 70-124 of the Surfside Town Code states,

“Each of the five members shall be persons who either work or reside in Surfside and at least three of the five members shall be persons who have experience in tourism and/or tourism related activities.”

I believe membership should be restricted to Surfside residents only. Residents are more likely to have the best interests of the Town in mind. The Resort Tax Board may always invite subject matter experts on an as needed basis facilitated by staff or the Town Manager’s office.

**Recommendation:** Town Commission to recommend the Town Attorney’s Office prepare an ordinance that requires members of the Resort Tax Board to be residents of the Town of Surfside.





## TOWN OF SURFSIDE

### Commission Communication

**Agenda Item # 9F**

**From: Guillermo Olmedillo**

**Agenda Date: November 10, 2015**

**Subject: Proposed Miami-Dade Charter Amendment on Special Taxing Districts**

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**Background:** The Miami-Dade County Commission is considering legislation known as “Special Taxing Districts Control of Municipalities” which will provide for special taxing districts under the control of governing bodies of municipalities under certain circumstances.

**Analysis:** The proposed legislation will provide municipalities the option to take on the responsibility of administering special taxing districts. The purpose of the legislation is to alleviate the administrative burden on the County while allowing greater municipal input in the operation of special taxing districts. It would also allow municipal governing boards to determine the appropriate annual rates to be assessed within these special taxing districts. The proposed legislation, if passed, requires a ballot question to amend the County Charter to authorize municipalities to serve as governing boards on special taxing districts, which will be held in conjunction with the General Election on Tuesday, November 8, 2016.

There is a requirement that six town hall meetings throughout the county be held prior to consideration of the item by the County Commission. See Attachment “A” for the scheduled dates of the upcoming Town Hall meetings.

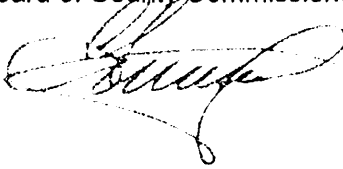
**Recommendation:** Provide guidance to Town Administration to attend at least of one the upcoming Town Hall meetings and track how this legislation may impact the Town of Surfside.

## Memorandum



**Date:** November 4, 2015

**To:** Honorable Chairman Jean Monestime,  
and Members of the Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Proposed Charter Amendment Public Meetings

A proposed Charter amendment was forwarded to the Board of County Commissioners for a January 2016 meeting with a favorable recommendation by the Metropolitan Services Committee on August 26, 2015 (see attached Legistar 151495).

Per Ordinance 11-44, which states "the County shall hold six public meetings regarding any resolution calling an election on a proposed Home Rule Charter amendment," Miami-Dade County will be hosting a series of public meetings for the purpose of soliciting community input about this proposed amendment to the Miami-Dade Home Rule Charter.

The meetings are scheduled as follows:

**Tuesday, December 1, 2015 at 6:00 p.m.**  
Homestead Branch Library  
700 North Homestead Boulevard  
Homestead, FL 33030

**Tuesday, December 8, 2015 at 6:00 p.m.**  
Coral Gables Branch Library  
3443 Segovia Street  
Coral Gables, FL 33134

**Wednesday, December 2, 2015 at 6:00 p.m.**  
South Dade Regional Library  
10750 SW 211 Street  
Miami, FL 33189

**Wednesday, December 9, 2015 at 6:00 p.m.**  
City of Doral City Hall  
8401 North West 53 Terrace, Third Floor  
Miami, FL 33166

**Thursday, December 3, 2015 at 6:00 p.m.**  
West Kendall Regional Library  
10210 Hammocks Boulevard  
Miami, FL 33196

**Thursday, December 10, 2015 at 6:00 p.m.**  
North Dade Regional Library  
2455 NW 183 Street  
Miami, FL 33056

Information regarding these public meetings will be posted on the Miami-Dade County website and distributed via press releases and social media in addition to the legally required advertisement. I also encourage your offices to send this information to any interested community groups within your districts.

If you need any additional information, please contact Gabriela E. Lopez, Director of Policy and Legislative Affairs, at (305) 375-5227 or [Gaby@miamidade.gov](mailto:Gaby@miamidade.gov).

c: Abigail Price-Williams, County Attorney  
Office of the Mayor Senior Staff  
Jack Kardys, Director, Parks, Recreation, and Open Spaces Department  
Gia Arbogast, Director, Miami-Dade Public Library System  
Alice N. Bravo, P.E. Director, Miami-Dade Transit Department  
Charles Anderson, Commission Auditor  
Christopher Agrippa, Clerk of the Board