



**Town of Surfside  
Town Commission Meeting  
October 11, 2011  
7 p.m.**

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

**1. Opening**

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**
- D. Mayor and Commission Remarks** – Mayor Daniel Dietch
- E. Agenda and Order of Business** Additions, deletions and linkages
- F. Community Notes** – Mayor Daniel Dietch
- G. Police Officer of the Month** – August and September – August: John Gentile and Lesmes Ruiz; September: Micah Smith and Marian Valino
- H. Reading of *Home Sweet Surfside* Poem by Simone D’Antuono** Page 1
- I. Introduction of New Code Enforcement/Compliance Director, Jose Damien** – Roger M. Carlton, Town Manager Page 2-4

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

**3. Consent Agenda (*Set for approximately 7:20 p.m.*)**

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

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

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

- A. **Minutes** - September 1, 2011 Second Budget Workshop **Page 5-15**  
September 13, 2011 First Budget Hearing **Page 16-21**  
September 26, 2011 Second Budget Hearing **Page 22-27**
- B. **Budget to Actual Summary as of July 31, 2011-** Martin Sherwood, Finance Director **Page 28-29**
- \*C. **Town Manager's Report (Points of Light)** – Roger M. Carlton, Town Manager **Page 30-39**
- \*D. **Town Attorney's Report** – Lynn M. Dannheisser, Town Attorney **Page 40-44**
- E. **Projects Progress Report** – Calvin, Giordano and Associates, Inc. **Page 45-47**

#### 4. Ordinances

*(Set for approximately 8:00 p.m.) (Note: Good and Welfare must begin at 8:15)*

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

- \*1. **Required Amendments to FEMA Ordinance-** Paul Gioia, Building Official **Page 48-63**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 "FLOODS" AND SPECIFICALLY SECTION 42-26 "STATUTORY AUTHORIZATION"; SECTION 42-41 "DEFINITIONS"; SECTION 42-57 "BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD"; SECTION 42-77 "DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR"; SECTION 42-92 "SPECIFIC STANDARDS"; SECTION 42-95 "COASTAL HIGH HAZARD AREAS (V-ZONES)"; AND SECTION 42-114 "CONDITIONS FOR VARIANCES" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE**

[This ordinance clarifies certain elements of the FEMA flood ordinance. These clarifications have been requested by FEMA and are required to regain the status which allows our residents to obtain discount for their flood insurance premium.]

##### B. First Readings Ordinances

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

**NONE**

**5. Resolutions and Proclamations**

*(Set for approximately 8:30 p.m.) (Note: Depends upon length of Good and Welfare)*

- \*A. Employee Health Benefits Contract Renewal for Fiscal Year 2011-2012-** Martin Sherwood, Finance Director [contract available at the Town's Clerk's office] **Page 64-71**

**A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, APPROVING GROUP HEALTH PLAN BETWEEN THE TOWN OF SURFSIDE, FLORIDA AND UNITED HEALTHCARE/ NEIGHBORHOOD HEALTH PLAN; PROVIDING FOR AN EFFECTIVE DATE.**

- \*B. Selection of Resort Tax Auditing Firms-** Duncan Tavares, Tourism, Economic Development and Community Services Director **Page 72-76**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING SEVEN (7) AUDIT FIRMS TO PERFORM RESORT TAX AUDITS FOR THE TOWN IN RESPONSE TO RFP NO. 11-04; AUTHORIZING THE TOWN MANAGER OR HIS/HER DESIGNEE TO ENTER INTO CONTINUING CONSULTANT AGREEMENTS WITH THE SELECTED AUDIT FIRMS; FURTHER AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.**

- \*C. 95th Street Grand Concourse Project Fund Receipt of Contribution from 9501 Collins Avenue Developer -** Roger M. Carlton, Town Manager **Page 77-80**

**A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA ("TOWN"), ACCEPTING A PROFFER BY GREYSTONE RESIDENTIAL LLC, SUCCESSOR IN INTEREST TO 9501 COLLINS AVENUE, LLC IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000) CONTRIBUTION TO THE 95<sup>TH</sup> STREET GRAND CONCOURSE PROJECT FUND; PROVIDING FOR AN EFFECTIVE DATE.**

**\*D. Expenditure of Forfeiture Funds-** David Allen, Chief of Police **Page 81-85**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2011/2012 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF SEVENTY NINE THOUSAND TWO HUNDRED TEN DOLLARS (\$79,210.00); AND PROVIDING FOR AN EFFECTIVE DATE**

**\*E. Award of Community Garden Agreement -** Duncan Tavares, Tourism, Economic Development and Community Services Director **Page 86-111**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN AFTER-THE-FACT AGREEMENT WITH SURFSIDE URBAN GARDENERS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO DO ALL THINGS NECESSARY TO IMPLEMENT THE TERMS OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**\*F. Appointment of Replacement Members of the Planning And Zoning Board and Design Review Board-** Lynn M. Dannheisser, Town Attorney **Page 112-116**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPOINTING REPLACEMENT MEMBERS OF THE TOWN PLANNING AND ZONING BOARD AND DESIGN REVIEW BOARD; PROVIDING FOR IMPLEMENTATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

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

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

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

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

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

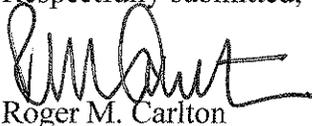
**8. Unfinished Business and New Business**

**9. Mayor, Commission and Staff Communications (Set for approximately 9:00 p.m.)**

- \*A. Presentation of Preliminary Parking Utilization Study Including Alley Upgrades, Wayfarer Signage, Parking Lot Improvements and Surfside Branding for Image Building - Ravi Devaguptapu, Engineer (SET FOR TIME CERTAIN AT 9:00 PM) Page 117-118**
- \*B. Legislative Program Discussion- Fausto Gomez, Legislative Consultant (SET FOR TIME CERTAIN AT 9:20 PM) Page 119-120**
- \*C. Interlocal Agreement with Florida International University Metropolitan Center to Implement a Residential Satisfaction Survey (RSS) and a Citizen's Academy- Roger M. Carlton, Town Manager (SET FOR TIME CERTAIN AT 9:30PM) Page 121-140**
- \*D. Community Center Pool Party Rentals- (September 13, 2011 Town Commission Meeting, Item 9 A) " Reconsideration" at Request of Commission Karukin Page 141**
- E. "Shovel Ready Projects"- Vice Mayor Joe Graubart Page 142**
- F. "Welcome to Town" Packet for New Residents ("WELCOME WAGON") - Vice Mayor Joe Graubart Page 143**
- G. Compensation Adjustment for Town Manager- Mayor Daniel Dietch [to be delivered under separate cover] Page 144**
- H. Setting a Workshop for the Town Website, Channel 77, the Gazette, Social Networking and other Methods to Improve Communication with Citizens- Roger M. Carlton, Town Manager Page 145-175**
- \*I. Community Center/Pool Outside Food Policy – Tim Milian, Parks & Recreation Director Page 176-177**
- J. Records Management- John Di Censo, Interim Town Clerk Page 178 - 179**

**10. Adjournment**

Respectfully submitted,



Roger M. Carlton

Town Manager

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THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-893-6511 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING. HEARING IMPAIRED PERSONS MAY CONTACT THE TDD LINE AT 305-893-7936.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR

HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

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

# Home Sweet Surfside

By Simone D'Antuono

Surfside, it's bigger than you think  
Everywhere you walk someone gives you a wink.  
The beach is only a block away  
Surfside is the town where I'm here to stay.

Surfside has been around for 75 years,  
Right around the corner are some of my peers.  
We had a celebration, a parade in the streets,  
We walked and danced until we hit the beach.

My neighbors and I we meet at the park,  
We usually stay there until it get's dark.  
We have a new Community Center where we swim in the pool,  
We like to go there on days we don't have school.

It's a safe neighborhood to just walk around,  
Wherever you go there's a nice peaceful sound.  
Friends and family are all close by,  
Just a skip and a jump and I can say hi.

There are restaurants, stores and yogurt to eat,  
Living here is such a treat!  
This is a place I love to roam,  
Surfside is my Home Sweet Home.



## Commission Communication

**Agenda Item #:** 1I

**Agenda Date:** October 11, 2011

**Subject:** Introduction of Code Enforcement Director- Jose "Joe" Damien

It is a pleasure to announce that Joe Damien has been selected as the Code Enforcement Director for the Town of Surfside. With more than 25 years of municipal government experience, Joe Damien is well versed in municipal operations, and interpretation of municipal codes, ordinances, and complex contracts.

Joe served as Code Enforcement Officer (1981 to 1987), Code Enforcement Director (1992-1996) and Asset Manager (1997-2006) prior to retirement from the City of Miami Beach. Since retiring in 2006, Joe became the principal of J. Damien Consulting, providing business consulting to local government, real estate, hotel, construction, and architectural industry specializing in governmental procedures, including: code enforcement, building and zoning matters, violation resolution, fine mitigation, permitting, and expediting of government process; commercial real estate negotiations and contract administration.

Joe acquired an Associates in Science in Commercial Art and Advertising Design from Miami-Dade College and studied Public Administration and Public Relations at Florida International University.

Joe is a licensed Real Estate Agent and is currently working toward his Florida Association of Code Enforcement (FACE) re-certification for levels I, II, and III.

The process for selection required review by Yamileth Slate-McCloud of more than 600 resumes which were delivered either in hard copy or electronically. Thirty five (35) applications were reviewed by a Selection Committee that included: Regan Kinzer (resident and Administrative Assistant III in the City of North Miami Beach Building Department), John Di Censo, Bill Evans, and Yamileth Slate-McCloud.

Please join me in welcoming Joe to the Surfside family.

Roger M. Carlton  
Town Manager

# JOSE DAMIEN

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3811 Alcantara Avenue, Doral Florida 33178  
Daytime Telephone: (786) 236-0476  
Evening Telephone: (305) 436-5138

## EXPERIENCE (IN ORDER OF RELEVANCE)

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### CITY OF MIAMI BEACH

#### **Code Enforcement**

Code Enforcement Director (1992 – 1996)

Direction and administration of the City's Code Enforcement Division with a staff of 26 Code Enforcement Officers, and 9 administrative staff, enforcing compliance of the City's Minimum Housing and Property Maintenance Standards, Zoning Ordinance, Occupational License Ordinance and other City Code provisions. Division responsible for approximately 14,500 inspections and 7,000 violation notices yearly, resulting in approximately \$700,000 (+/-) in Special Master fines collected. Prepared yearly budget of \$1.75 million, as well as direction and administration of Occupational License Section which processed and issued approximately 7,500 business occupational licenses and 6,100 Certificates of Use yearly.

#### **Code Enforcement**

Code Enforcement Officer (1981-1987)

Duties included enforcement of City's Minimum Housing and Property Maintenance Standards, Zoning Ordinance, and other City Code provisions including Occupational License Ordinance. Conducted on-site inspections of multi-family, single-family, commercial, and vacant properties. Selected by the City Manager to participate in the City of Miami Beach's Management Fellows Program (1985 -1986), a one-year managerial preparatory program entailing two to three week internships in each and every City Department, providing hands-on experience and insight into individual department operations, administration and functions and the respective interrelationship between departments and the community.

#### **Office of Asset Management**

Asset Manager (1997 – 2006)

Management and administration of real estate assets for the City of Miami Beach, including negotiation, purchase and sale of real estate; managing of leases totaling more than 200,000 square feet of office space and other property (\$1.5+ million in yearly revenue to the City); negotiation, management and administration of beachfront concession contracts (\$700,000+/- yearly revenue to the City); negotiation, management and administration of street markets (farmer's and antiques & collectibles) concession contracts (\$100,000+/- in yearly revenue to the City). Responsible for the Office's Annual Budget, writing and presenting City Commission Agenda items, public presentation to internal and external Committees, preparation of RFP's, RFQ's, RFLI's, Requests for Appraisals.

#### **Miami Beach Redevelopment Agency**

Redevelopment Specialist (1987 - 1992)

Negotiation for purchase of private property for redevelopment purposes, property acquisition (including use of Eminent Domain process), coordination of tenant relocation, coordination and administration of demolition contracts to clear acquired property, negotiation with developers for

purchase and redevelopment of acquired land.

**CITY OF HIALEAH**

**Parks and Recreation Department, Plans & Design Section**

Senior Draftsman (1978-1981)

**J. DAMIEN CONSULTING**

**Governmental and Real Estate Consulting Services**

Principal (2006 – Present)

Business consulting to Local Government, Real Estate, Hotel, Construction, and Architectural industry, and specializing in governmental procedures, including: code enforcement, building & zoning matters, violation resolution, fine mitigation, permitting, and expediting of government processes; commercial real estate negotiations, purchase and sale, and contract administration.

**EDUCATION**

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**FLORIDA INTERNATIONAL UNIVERSITY**

Public Administration and Public Relations (1 ½ years) degree uncompleted

**MIAMI DADE COLLEGE**

Associates in Science in Commercial Art and Advertising Design

**HIALEAH HIGH SCHOOL**

Diploma 1974 (emphasis on architectural, mechanical, engineering drawing)

**UNIVERSITY OF CENTRAL FLORIDA, INSTITUTE OF GOVERNMENT**

Florida Association of Code Enforcement (FACE) Past Member No. 1233  
Level I: Fundamentals of Code Enforcement Cert. No. 995 (08/17/95)  
Level II: Administrative Aspects of Code Enforcement Cert. No. 738 (02/03/96)  
*(Re-certification in progress)*

**STATE OF FLORIDA, Department of Business and Professional Regulation**

Licensed Real Estate Agent (1985-Present)

**AFFILIATIONS**

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Trustee & Secretary, Miami Beach Unclassified & Elected Officials Retirement System (1996-2006)  
Florida Public Pension Trustee Association (FPPTA), Past Member  
Certified Public Pension Trustee (FPPTA), Past Member  
International Foundation of Employee Benefit Plans, Past Member  
Realtor-Associate, Miami Association of Realtors  
Graduate (1986), Management Fellows Program, City of Miami Beach  
Graduate (1994-1995), Leadership Miami Program (Greater Miami Chamber of Commerce)  
Facilitator, Leadership Miami Program 1996-1997 & 1998-1999  
Facilitator, Youth Leadership Miami Program 2003  
South Kendall Optimist Club 1986-1988  
Chief Referee, American Youth Soccer Organization (AYSO Region 648) 1986-1988

**REFERENCES**

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Upon Request



**Town of Surfside  
Town Commission Budget Workshop  
September 1, 2011**

**4 p.m.**

**Meeting Minutes**

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

**1. Opening**

**A. Call to Order**

Meeting was called to order at 4:04pm.

**B. Roll Call of Members: Interim Town Clerk called the roll.**

In attendance; Mayor, Daniel Dietch; Vice-Mayor, Joseph Graubart; Commissioner, Michael Karukin; Commissioner, Marta Olchyk

Not in attendance; Commissioner Edward Kopelman.

Also in attendance; Town Manager, Roger M. Carlton; Town Attorney, Lynn M. Dannheisser; Finance Director, Martin Sherwood; Police Chief, David Allen; Assistant Police Chief/Interim Town Clerk, John Di Censo; Human Resources Director, Yamileth Slate-McCloud; Town Planner, Sarah Sinatra; Building Official, Paul Gioia; Public Works Director, Bill Evans (arrived late due to water sewer main break); Budget Consultant, Carl Berkey-Abbott.

**C. Pledge of Allegiance.**

Chief Allen led the pledge of allegiance.

**2. Introduction – General Preview of Workshop – Roger M. Carlton, Town Manager**

Roger Carlton introduced this meeting as the second budget workshop for the Fiscal Year 2011/2012 (FY 11/12) budget, leading up to the two required budget public hearings. He stated that this workshop will present six “Summer Studies” which are questions that came from the first workshop held in June. He asked for feedback and direction from the Town Commission on items to be addressed in the Summer Studies, as well as any other issues they would like to see addressed in the final budget. He stated that this feedback will be represented in the budget presented in the first budget meeting on September 13, 2011 at 5:01pm in Commission Chambers. Roger Carlton indicated that the proposed budget will reflect a millage reduction down to about 5.5 mills, which is a 1/10 of a mil reduction. He stated that the proposed millage adjustment (and reduction) will result in more than 95% of the residents of the Town receiving a tax reduction.

Mayor Dietch asked the Town Manager to speak to the enterprise funds.

Roger Carlton explained that an enterprise fund is a business within government, a service or commodity provided by the Town that is not paid for by property taxes. For example, the Town has to buy water from Miami Dade County and has to process sewage through Miami Beach; both of these activities cost the Town money. The Town has to charge a fee which covers the cost of those activities and allows for a surplus to put money into the reserves to pay debt and bring the system up to date. He explained that because the Town did not (previously) put sufficient money into the reserves, the Town had to borrow money to repair the deteriorated water and sewer system. He discussed the Collins Avenue force main project indicating it was close to completion and discussed the other enterprise funds; the storm drainage fund pays for the storm water utility, the solid waste fund goes towards collecting solid waste and recycling, the parking fund is applied towards the purchase of property for parking and renovating parking lots, the capital fund is for capital projects not specific to any other enterprise funds, the police confiscation fund is applied to incremental programs to suppress crime. He indicated that the staff is recommending modifying the existing finance software instead of replacing the software system; the modification would free-up \$100,000 in the capital budget. He recommended to the Commission that they leave these excess funds in the capital account fund for reserves. He said that previously the capital account reserve fund had more than \$5 million, which was used for the Community Center progress payments. He indicated that there is enough money in the fund to close out the Community Center building. He said that staff is working towards an October final report on the Community Center and how much everything cost.

Marta Olchyk asked that the Commission be able to vote before final payment is made on the Community Center.

Roger Carlton responded that he will provide his recommendations prior to making the final payment. He said that some of his ability to negotiate for the best deal possible has been the ability to pay quickly, however he will reserve the final payment until it is presented to the Commission for a vote.

Mayor Dietch asked if there is a rate increase for water and sewer, storm drainage and garbage and if there is a decrease in ad valorem taxes.

Roger Carlton responded that there is no increase in water and sewer, solid waste, and storm drainage fees and there is a decrease in the millage rate.

Roger Carlton indicated that Bill Evans was not present because there was a water main break, Parks and Recreation Director, Tim Milian was at a conference, TEDACS Director, Duncan Tavares is on vacation, and he thanked staff for filling in during the Town Clerk's vacancy.

Carl Berkey-Abbott presented an overview of the previous budget (FY 10/11) accomplishments and reviewed the FY 10/11 fund balances indicating they are in fair to excellent shape and he provided an overview of the six summer studies.

**3. Summer Studies Overview – Roger M. Carlton, Town Manager and Carl Berkey-Abbott, Budget Consultant Page 1-14.**

- Parks and Recreation Non-resident Community Center Access Fees and Cost Recovery for Youth, Adult, Senior and Summer Camp Programs.

Carl Berkey-Abbott presented the information indicating that the cost recovery for the Community Center stemming from access fees amounted to; senior programs recover approximately 32%, adult programs recover nearly 100%, youth programs (including Summer Camp) recover approximately 80% of their costs. He indicated that the staff recommends continuation of recovery service rates for existing programs and to develop the senior programs for more participation. He presented a chart of revenue for the first 30 days of the guest programs at the Community Center; the total revenue was approximately \$4100. He said that staff has projected an increase of \$10,000 in Pool Guest revenue for the upcoming year.

Roger Carlton said that staff will present (in the September Town Commission Meeting) a fee schedule for permitting party rentals at the Community Center indicating that this will also increase revenue.

Commissioner Karukin asked how funds received are going to be used.

Roger Carlton responded that he would recommend keeping the revenues in the Community Center budget and made suggestions on how the funds may be spent.

Martin Sherwood explained that the money would be a line item in the budget and can be viewed at any time.

Mayor Dietch asked for the Town to report quarterly on the revenue generated from the Community Center.

Commissioner Olchyk asked if the Town Commission is able to provide feedback on how the money should be spent.

Roger Carlton stated that although he is permitted to spend up to \$8500 without Commission approval he would seek their approval on items such as a new program or additional televisions at the Community Center.

Vice Mayor Graubart asked for clarification on the guest policy and for a breakdown of who was coming to the Community Center (the earlier referenced 13,000 attendees) and for a comparison of the Community Center budget and income generated by the Community Center.

Roger Carlton clarified that guests are permitted but must be accompanied by a Surfside resident. He also indicated that there is \$250,000 from resort taxes supporting the Community Center.

Commissioner Karukin responded that the Community Center is not an enterprise fund and not intended to generate revenue.

Mayor Dietch clarified the \$1 million Vice Mayor Graubart was referring to covered all of the Parks and Recreation costs and asked if there was a way that the Community Center cost of operation is able to be compared against the revenue (its own revenue and the tourism tax).

Roger Carlton said he will clarify how much of the cost of the Community Center is covered by the revenue generated.

Mayor Dietch expressed interest in expanding the senior program and would like staff to explore working with other communities to combine programming.

Commissioner Olchyk stated she has some concern with increasing the percentage of cost recovery of the senior programming.

Vice Mayor Graubart stated that he spoke with Tim Milian and he had indicated that there is a direct correlation between costs and the attendance of seniors.

Mayor Dietch asked if there are any objections to the report presented by Carl Berkey-Abbott. No objections were indicated.

- What would the Costs be to Open a Second Lifeguard Stand on the North End of the Beach?

Carl Berkey-Abbott presented the costs to open a lifeguard stand on the North end of the beach.

Commissioner Karukin indicated that this was his question and believes that they should not fund this item in the budget and it could possibly be put back in at a later date as part of a Development Impact Committee process or from resort tax funds.

Commissioner Olchyk believes it is not necessary at this time.

Vice Mayor Graubart agreed.

Roger Carlton said that this could be taken out of the budget for FY11/12 and if a need arises in the future this could be funded from resort taxes or developer fees generated from the DIC process.

- Finance Support Services Department Proposed Budget Officer Position

Carl Berkey-Abbott presented a comparison with other municipalities indicating that Surfside has a smaller finance staff than most of the other municipalities. Martin Sherwood is requesting a Budget Officer in response to additional programs that have recently started and the need for additional analysis.

Vice Mayor Graubart asked for clarification on the responsibilities of a budget analyst.

Roger Carlton stated that it would be a multi-purpose analytical position that would help to ensure the Town is spending money wisely.

Martin Sherwood stated that when he was hired the Budget Analyst position was not funded but now with creation and monitoring of a 5-year plan, a monthly variance analysis, expanded administrative analysis, and servicing debt the position is necessary.

Commissioner Olychk stated that since the population of the Town has not increased she does not see a need for an additional person and thinks the responsibilities could be given to current staff.

Mayor Dietch stated that the previous Town Commission reduced staff significantly, accounting standards have changed, residents are demanding increased transparency; and the current Commission has increased accountability. He believes that this request is a response to meeting the demands of the Commission and asked the members of the Town Commission if there is a better solution.

Commissioner Olchyk responded that she is not able to recommend the hiring of an additional person when she does not believe that Town staff has done everything they could without hiring someone.

Roger Carlton stated that the budget is about \$30 million and they cannot continue to deliver a quality product without additional staff. Referencing earlier comments about other municipalities making staff cuts, he said the previous Commission reduced staff by 20%. He told the Town Commission members that the current staff is stretched to the maximum and this additional staff position is necessary.

Paul Gioia said that based on his experience this Town is doing what they can, most of his staff went to part-time or contractual status and everyone is overworked. He thinks that because programs are being added the current staff will be unable to handle the forthcoming workload.

Commissioner Olchyk said her concern is if they add staff to the Finance Department then all the other departments will need to add a person and she thinks either they give everyone an additional person or not at all.

Paul Gioia said he doesn't believe they should take advantage of the staff and if they are performing they should be able to retain additional staff that are justified.

Vice Mayor Graubart stated he expressed these concerns earlier and called and spoke with Martin Sherwood and as much as he was concerned with expenditures he thinks finance is particularly important to the residents and this may be necessary. He also asked about the staff in the front office.

Roger Carlton indicated that they are all cross-trained and changes are forthcoming to improve customer service and accountability.

Commissioner Karukin stated he supports the recommendation.

Mayor Dietch supported the recommendation.

Vice Mayor Graubart, citing an item in the budget where it said they intend to identify other areas for non ad valorem revenue, expressed concerned that the Town was scrambling to collect fees, he is supportive of residents paying for what they do (i.e. copies of blueprints, etc.,) and he wants to make sure he does not support punitive charges for purposes of increasing revenue.

Commissioner Olchyk asked how staff proposes to pay for an additional person without using property tax money.

Mayor Dietch responded that there is room for infill development within the community, citing vacant lots in the Town. He said that having development on these vacant lots which is sensible and suits the needs and character of the Town could bring more revenue to the Town.

Roger Carlton indicated some of the ways they plan to gain revenue include the resort tax auditor and turning off service for unpaid water and sewer bills to encourage property owners to pay timely. He explained the intent is to focus on the existing revenue sources and enforcing what is already in the code.

Mayor Dietch commented on the Commission's drive for accountability and transparency and the staff's response in increasing accountability and transparency in a cost effective and responsible manner.

- Policy Direction Related to Increasing General Fund Reserves

Carl Berkey-Abbott went over the analysis of the General Fund Reserves, what is needed to reach \$5 million in the General Fund, and the policy options for increasing the General Fund Reserves.

Roger Carlton indicated that staff estimates there will be \$3.57 million in the fund by the end of FY 10/11.

Commissioner Karukin stated that he would like the fund to be \$5 million including the \$2 million set aside for hurricane recovery.

Roger Carlton discussed the items presented (see list below) as they relate to increasing the General Fund Revenues. He stated the items are suggestions for ways to increase cash carryover, which goes to reserves. Some of the items have been done and others he does not recommend but they are options for the Commission to adopt if they chose:

1. Special event and party rental at the Community Center.
2. The lease/purchase of police vehicles.
3. Eliminate Community Garden funding.
4. Decrease spending for Beachwalk maintenance.
5. Remove general fund allocation for roadway repairs.
6. Remove grant writer funding.
7. Defer digital microphones in Commission Chambers.
8. Defer purchase of dog clean-up receptacles.
9. Reduce frequency of cutting grass in parking lots and public areas.
10. Reduce unemployment compensation fund.

11. Reduce refreshments at public meetings.
12. Reduce participation in Miami Dade and Florida League of Cities.
13. Reduce frequency of the Gazette.
14. Adjust fees for senior programs to equal 80% of full cost recovery.

Mayor Dietch asked if they could find a company that would sponsor the branding of dog pick-up receptacles.

Commissioner Olchyk is supportive of that initiative because it will save money on installation of dog pick-up receptacles.

Roger Carlton reviewed the current conditions of the General Fund Reserve indicating that staff has been able to put money into reserves and he believes they will be able to reach their desired objective of having a \$5 million balance in the General Fund Reserves based upon their policies and anticipated development in the Town within five years.

Mayor Dietch discussed some numbers from other municipalities and asked what a strong number would be to have for the General Fund Reserve.

Roger Carlton responded that to have 50% reserves (6 months of expenses) is the ultimate goal and very prudent; to state we want 80% would mean that we have nearly 10 months of expenses in General Fund. He said that if the cash was not paid for the Community Center the Town would have \$8.5 million in the bank. He stated that in the current economy that would be excessive. He asked Lynn Dannheisser what action would need to be taken to memorialize a budget policy and/or a 5-year plan.

Lynn Dannheisser stated that the budget would be the instrument and a resolution could be passed but she recommended that the policy be stated in the budget.

Vice Mayor Graubart was upset about the money being spent on the Community Center and asked if the money could be restricted to emergencies and/or hurricanes.

Roger Carlton stated that there is \$2 million that is restricted to hurricane recovery and the money requires Commission action to move those funds.

Martin Sherwood indicated that generally regulators only dictate a minimum balance of between 5-15% but because the Town is a coastal community up to 50% reserves is not unusual and it could be memorialized with a general fund balance policy and could be dictated by a resolution.

Commissioner Karukin stated that the Town currently has 33%, which is on the low end of the Florida League of Cities recommendation.

Vice Mayor Graubart asked Bill Evans if the Town was faced with a damaging storm with insurance and other money available, how much would the Town have and how much would the Town need.

Roger Carlton responded the Town has Florida League of Cities insurance, revenues in the bank, and FEMA repayment. He believes the Town is in a better position than most other municipalities.

Vice Mayor Graubart said that he would like the Town to use the Florida League of Cities recommendation to set the policy.

Roger Carlton said when staff updates the 5-year plan he would then be able to recommend those numbers.

*\* Paul Gioia left the meeting at 6pm.*

Roger Carlton clarified that the direction on each item is:

1. *Special event and party rental at the Community Center.* This has already been approved.
2. *The lease/purchase of police vehicles.* This will be decided on September 13, 2011.
3. *Eliminate Community Garden funding.* This was removed from the recommendation.
4. *Decrease spending for Beachwalk maintenance.* This is not recommended.
5. *Remove general fund allocation for roadway repairs.* He is not recommending taking this out of the budget but if there is no damage the money will carry over until next year
6. *Remove grant writer funding.* This is a part-time position and he thinks they will recoup the cost; he would like to try it for a year.
7. *Defer digital microphones in Commission Chambers.* He does not recommend removing this item.
8. *Defer purchase of dog clean-up receptacles.* He will attempt to obtain sponsors.
9. *Reduce frequency of cutting grass in parking lots and public areas.* He does not recommend.
10. *Reduce unemployment compensation fund.* This is based upon laying off staff as a result of other decisions the Commission may make. If there are no layoffs, this money could be saved.
11. *Reduce refreshments at public meetings.* He does not recommend.
12. *Reduce participation in Miami Dade and Florida League of Cities.* He does not recommend.
13. *Reduce frequency of the Gazette.* He will continue to do it monthly and look for ways to minimize the mailing costs
14. *Adjust fees for senior programs to equal 80% of full cost recovery.* He does not recommend increasing costs to seniors and will explore ways to work with other municipalities

Commissioner Karukin asked about fireworks for July 4, 2011, Commissioner Karukin and Vice Mayor Graubart are supportive. Commissioner Olchyk is not supportive of fireworks.

Commissioner Karukin asked about using additional revenue (from the Community Center) for fireworks. Commissioner Olchyk objected.

Roger Carlton suggested reaching out to other Towns to share the costs. He verified that they wanted him to research doing something for July 4, 2012 and see if they could work with another Town to share the costs.

- Policy Direction Related to Solid Waste Services Collection Adjustments for FY 11/12

Carl Berkey-Abbott presented the current status and recommended that at this time service standards and processes remain the same.

Roger Carlton stated the community is undergoing a lot of change right now and he thinks this is something to be researched at a later date.

Vice Mayor Graubart said that the former Town Manager was working with Indian Creek to see if there was an opportunity for the Town to generate revenue by doing garbage pick-up in other municipalities.

Roger Carlton said he will see if there is interest from other municipalities.

- Proposed Environment Resource Enhancement Department (ERED)

Carl Berkey-Abbott indicated that staff is not recommending creation of another department. Commissioner Olchyk stated that they all agreed with that recommendation.

Roger Carlton indicated that they are hiring a Code Enforcement Director but a new department will not be created.

Commissioner Olchyk complimented the work of the staff on the force main replacement,

Mayor Dietch reminded residents watching from home that there are websites they could access and could get alerts by signing up through the website.

Commissioner Karukin asked residents to please consider granting permission as requested by the recent mailer for the water sewer meters.

Roger Carlton indicated that another mailing is going out answering a lot of the questions and concerns expressed as a result of the initial mailer.

Vice Mayor Graubart directed attention to page 14 regarding Calvin Giordano & Associates costs. He requested that the Commission be sent the monthly and annual expenditures and to be able to see the contracts to determine if this item should go out to bid.

#### **4. Additional Information not Addressed in Summer Studies**

Mayor Dietch asked if there were any other items from the budget book.

Roger Carlton stated there are a few items he would like to place on the table, not for a decision but just to inform the Commission. The first item is that United Healthcare is proposing more than a 15% increase, they have looked to other providers and so far Aetna is the only provider that would not result in an increase but it will come with a significant increase in the deductible.

The second item is on garbage, Miami Dade County stated there will be a slight increase on disposal fees. The Town has no control but can absorb the cost without a rate increase. The sewer rates also were increased by 5.4% and the Town will absorb the increase. The third item is on parking and there are monthly rental increases and a .75¢ per hour meter rate increase, he indicated that there is more money available in the fund than was originally anticipated and those adjustments will be reflected in the final budget presentation for first reading at the September 13, 2011 Budget Hearing.

## **5. Questions/Direction from Town Commission**

*\*see discussion under Agenda items 1-4 and item 7.*

## **6. Public Comments**

*\*No speakers were present.*

## **7. Wrap-Up –Commission Direction for Finalizing FY 11/12 Budget**

### **A. Budget Calendar Review Page 15**

Vice Mayor Graubart suggested that, for the future Town Commission, ipad's be available as an option to receive the agenda each month. He indicated that this would be a recommendation to be considered for the future.

Roger Carlton stated that a number of Commissions from other municipalities no longer have paper agendas, ipads are approximately \$400.

Commissioner Olchyk, Commissioner Karukin, and Vice Mayor Graubart would opt out of receiving it electronically but support having it considered as an option for the future Town Commission.

Mayor Dietch also expressed support of this as something to be considered in the future as an option for future elected officials.

Vice Mayor Graubart asked if staff could look into a grant or subsidy to have solar panels to power the pump stations.

Bill Evans said the new pumps and generators being installed will result in about 50% reduction in operating costs.

Roger Carlton asked for any other specific direction. He thanked the Commission for the process and asked if they liked the idea of the summer study.

The members responded affirmatively.

Lynn Dannheisser announced an upcoming Executive Session regarding Young Israel litigation on Thursday September 15, 2011 at 6pm in the Manny Crawford Conference Room, Lead

Counsel, Jeff Hochman, the Town Manager, the Town Attorney, and the remainder of counsel may be present.

## **8. Adjournment**

Mayor Dietch thanked the staff, his colleagues, and the public.

**Commissioner Olchyk made a motion to adjourn, Commissioner Karukin seconded the motion.**

**The meeting adjourned at 6:48pm.**

Respectfully submitted,

Sarah Johnston, Recording Clerk



**Town of Surfside**  
**FIRST BUDGET HEARING**  
**TOWN HALL COMMISSION CHAMBERS**  
**9293 HARDING AVENUE**  
**MEETING MINUTES**  
**SEPTEMBER 13, 2011**  
**5:01 PM**

**1. Opening**

**A. Call to Order**

The meeting was called to order 5:02pm.

**B. Roll Call of Members**

The following members of the Commission were present upon roll call: Mayor Daniel Dietch, Vice-Mayor Joe Graubart, Commissioner Edward Kopelman, Commissioner Marta Olchyk, and Commissioner Michael Karukin.

Also in attendance were: Town Manager Roger M. Carlton, Town Attorney Lynn M. Dannheisser, Finance Director Martin Sherwood, Budget Consultant Carl Berkey-Abbott, TEDACS Director Duncan Tavares, Public Works Director Bill Evans, Parks and Recreation Director Tim Milian, Building Official Paul Gioia, Police Chief David Allen, Assistant Police Chief/Interim Town Clerk John Di Censo.

**C. Pledge of Allegiance**

The pledge of allegiance was led by a visiting Girl Scout Troop 465.

**2. Discussion Regarding Millage Rate and Budget**

Mayor Dietch read the below statement:

In accordance with Florida Statute 200.065(2) (e) 1, the first substantive issue discussed shall be the percentage decrease in the millage over the rolled-back rate necessary to fund the Fiscal Year 2011-2012 budget and the specific reasons for the proposed decrease over the rolled-back rate.

For Fiscal Year 2011-2012, the Town of Surfside, Florida is considering the levy of a millage rate of 5.5000 mills (\$5.50 per one thousand dollars of taxable value). The millage rate is 2.78% less than the rolled-back rate of 5.6573 mills.

The decrease in the Fiscal Year 2011-2012 millage is largely attributable to:

- An increase in non-Ad valorem revenues such as red light violations and Building Department related revenue projections
- A Capital Projects Fund transfer of \$150,000
- A reduction in Pension Plan contributions of nearly \$100,000 due to the fiscal health and good oversight of your Pension Board
- The use of \$188,000 from the sale of surplus real estate

After a series of Commission Workshops the revised tentative budget totals \$29,946,810.

This includes:

- A General and Capital Projects Funds Budget totaling \$9,788,305;
- Special Revenue Funds Budget including the Tourist Resort Tax, Police Forfeiture and Confiscation and Transportation/CITT Tax totaling \$513,312 and, finally;
- Enterprise Funds including Water/Sewer, Municipal Parking, Solid Waste and Recycling and Storm water utility Budget totaling \$19,645,193.

Establishment of both tentative millage rate and the tentative budget require two public hearings which have been scheduled for today and Monday, September 26, 2011 at 5:01pm.

Town Manager Roger Carlton discussed the preparation of the budget. He said that the first budget workshop was held in late June and as a result of that meeting 6 summer studies were conducted. He discussed the second workshop, held on September 1, 2011 where the Commission gave staff direction based upon those studies. He indicated that the Commission had before them, today, a budget which proposes a reduction of 1/10 of a mill. He said that this is as a result of conservative spending in the Town and recognition of financial difficulties faced by many property owners in the Town. Roger Carlton informed the Commission that, in the proposed budget, they have reduced the millage and that the enterprise funds, water and sewer, solid waste, and storm drainage rates were all staying the same. He said that the parking rate will increase to \$1.25 from \$1.00 because some of the reserves have been used for land acquisition and renovating parking lots. He indicated that the desired transparency means that the staff is fully disclosing the finances of the Town, all of the bills paid are being placed on the Town website, there are more detailed audits, and for the first time they are incorporating the reserves at the beginning of the year, what the reserves will be at the end of the year and tying into a 5 year financial and strategic plan. Roger Carlton said that the mill valuation is higher than staff anticipated so there was an additional \$85,000 in the general fund and staff recommends placing the money into the reserves.

Carl Berkey-Abbott presented the 5 year property tax history and went over the current and proposed millage rate.

Mayor Dietch acknowledged and thanked the staff for developing an improved budget process.

### 3. Millage Rate Page 1-2

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, MIAMI-DADE COUNTY, FLORIDA, ADOPTING THE TENTATIVE LEVYING OF A MILLAGE RATE AGAINST ALL TAXABLE REAL AND PERSONAL PROPERTY IN THE TOWN OF SURFSIDE, FLORIDA FOR THE FISCAL YEAR 2011-2012; AND REAFFIRMING SEPTEMBER 26, 2011 AS THE DATE OF ADOPTION OF THE FINAL MILLAGE RATE.**

Recording Clerk, Sarah Johnston read the title of the resolution.

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

Mayor Dietch opened the public hearing. \*No speakers were present. Mayor Dietch closed the public hearing.

Vice Mayor Graubart stated that he has some concerns regarding the Clerk, Parks and Recreation, and Legal department budgets. He said that he feels that the Parks and Recreation and Town Clerk department budgets seem high. He also expressed concern stating that there are contracts that have not gone out to bid and there does not seem to be a performance appraisal associated with those contracts.

Mayor Dietch indicated that there were previous meetings where the Vice Mayor made no mention of these concerns regarding the budget and he asked the Vice Mayor to specifically address his concerns.

Vice Mayor Graubart declined the request to be more specific but did state he would like to see contracts go out to bid.

Commissioner Olchyk asked a question regarding page 6 citing 3 items related to health insurance for water/sewer/solid waste and storm drainage.

Roger Carlton responded that those enterprise funds cover employee expenses which are paid from the same fund. He indicated that they were working with Stan Bershad (the Town's insurance agent) and that they were able to get United Healthcare to reduce their proposed increase. He explained that the numbers Commissioner Olchyk referenced is the cost being spread throughout the budget. He also stated that he will give a report on the health insurance costs at the upcoming Commission meeting.

Commissioner Olchyk asked a question regarding page 10, specifically asking about the expenditure for physical environment and to clarify what was included in the physical environment category.

Carl Berkey-Abbott explained that “physical environment” generally refers to the programs managed by the Public Works department.

Commission Karukin said regarding Vice Mayor Graubart’s comments about a performance audit for the three referenced departments, he reviewed each department’s listed objectives and accomplishments and they looked well defined to him. He said regarding the Vice Mayor’s comments about contracts going out to bid, the Town has pre-selected vendors and those vendor items have remained pretty flat in cost from year to year. Commissioner Karukin said in terms of the Legal Department, he is aware that adjusting for inflation the current cost of the Legal Department is the same as the cost in 2001/2002. He also said that if the Town was to add up the items completed by the Legal Department, the cost would be much greater. Commissioner Karukin reiterated that he shared the same concern as the Vice Mayor, however after review he does not see a cause for concern any longer and would like to know about the Vice Mayor’s continued concern.

Vice Mayor Graubart responded that out of deference to the Town Attorney he does not want to pursue it this evening.

Commissioner Olchyk indicated that she is also concerned with legal fees. She said that she has met with the Town Attorney several times and, although she does not like what is being spent she doesn’t see any other way to do it and having an in-house attorney seems to be the best way to do it. Commissioner Olchyk also stated that she has been negotiating with the Town Attorney and that she has agreed to forgo some items such as conferences and seminars, a \$3000 reduction. She said that she was trying to reduce the car allowance which would have been a \$6,000 reduction. Commissioner Olchyk said that because the Town is being sued, there is little they can do to reduce costs.

Lynn Dannheisser stated that the reason the conference and seminars was able to be removed is because she is unable to attend due to time constraints. She indicated that the department was allocated \$4000 and, as of September 2 only \$366 was spent. She stated that she had offered to provide legal services hourly, but felt it would not be in the Town’s best financial interest.

Mayor Dietch stated that going into the budget workshops the Commission was asked to be specific with suggestions for reducing expenses and he does not feel it is beneficial when Members are not specific and do not give clear direction for staff.

Mayor Dietch read the below statement into the record:

In accordance with Florida Statute 200.065(2) (e) 1, the first substantive issue discussed shall be the percentage decrease in the millage over the rolled-back rate necessary to fund the Fiscal Year 2011-2012 budget and the specific reasons for the proposed decrease over the rolled-back rate.

For Fiscal Year 2011-2012, the Town of Surfside, Florida is considering the levy of a millage rate of 5.5000 mills (\$5.50 per one thousand dollars of taxable value). The millage rate is 2.78% less than the rollback rate of 5.6573 mills.

The decrease in the Fiscal Year 2011-2012 millage is largely attributable to:

- An increase in non-Ad valorem revenues such as red light violations and building department related revenue projections
- A Capital Projects Fund transfer of \$150,000
- A reduction in Pension Plan contributions of nearly \$100,000 due to the fiscal health and good oversight of your Pension Board
- The use of \$188,000 from the sale of surplus real estate

After a series of Commission Workshops the revised tentative budget totals \$29,946,810.

This includes:

- A General and Capital Projects Funds Budget totaling \$9,788,305;
- Special Revenue Funds Budget including the Tourist Resort Tax, Police Forfeiture and Confiscation and Transportation/CITT Tax totaling \$513,312 and, finally, an
- Enterprise Funds including Water/Sewer, Municipal Parking, Solid Waste and Recycling and Storm water utility Budget totaling \$19,645,193.

Establishment of both tentative millage rate and the tentative budget require two public hearings which have been scheduled for today and Monday, September 26, 2011 at 5:01pm.

**The motion carried with a 4-1 vote with Vice Mayor Graubart opposed.**

#### **4. Public Comment**

\*No speakers were present.

#### **5. 2011-2012 Tentative Budget Page 3-10**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND ADOPTING THE TENTATIVE ANNUAL BUDGET AND MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2011-2012; ATTACHING A SUMMARY COPY OF SAID BUDGET MARKED EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.**

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

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

\* No speakers were present.

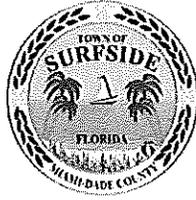
#### **7. Adjournment**

**Vice Mayor made a motion to adjourn. Commissioner Kopelman seconded the motion.**

**The meeting adjourned at 5:43pm.**

Respectfully submitted,

S/Sarah Johnston,  
Recording Clerk



**Town of Surfside**  
**SECOND BUDGET HEARING**  
**TOWN HALL COMMISSION CHAMBERS**  
**9293 HARDING AVENUE**

**SEPTEMBER 26, 2011**  
**5:01 PM**

**1. Opening**

**A. Call to Order**

Mayor Dietch called the meeting to order at 5:02pm.

**B. Roll Call of Members**

The following members of the Commission were present upon roll call: Mayor Daniel Dietch, Commissioner Edward Kopelman, Commissioner Michael Karukin, and Commissioner Marta Olchyk.

Not in attendance: Vice Mayor Joseph Graubart.

Also in attendance: Town Manager Roger M. Carlton, Town Attorney Lynn M. Dannheisser, Town Planner Sarah Sinatra, Building Official Paul Gioia, Finance Director Martin Sherwood, Human Resources Director Yamileth Slate-McCloud, TEDACS Director Duncan Tavares, Public Works Director Bill Evans, Budget Consultant Carl Berkey-Abbott, Parks and Recreation Director Tim Milian, Assistant Police Chief/Interim Town Clerk John Di Censo, Police Chief David Allen.

**C. Pledge of Allegiance**

Chief Allen led the pledge of allegiance.

**D. Agenda and Order of Business (Additions, Deletions)**

None.

## 2. Discussion Regarding Millage Rate and Budget

Mayor Dietch read the below statement pertaining to the meeting agenda:

In accordance with Florida Statute 200.065(2)(e) 1, the first substantive issue discussed shall be the percentage decrease in the millage over the rolled-back rate necessary to fund the Fiscal Year 2011-2012 budget and the specific reasons for the proposed decrease over the rolled-back rate.

For Fiscal Year 2011-2012, the Town of Surfside, Florida is considering the levy of a millage rate of 5.5000 mills (\$5.50 per one thousand dollars of taxable value). The millage rate is 2.78% less than the rolled-back rate of 5.6573 mills.

The decrease in the Fiscal Year 2011-2012 millage is largely attributable to:

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- A reduction in Pension Plan contributions of nearly \$100,000 due to the fiscal health and good oversight of the Pension Board
- The use of \$188,000 from the sale of surplus real estate

After a series of Commission Workshops and adjustments from the September 13, 2011 Budget Hearing, the revised budget totals \$29,946,810. This includes:

- A General and Capital Projects Funds Budget totaling \$9,788,305;
- Special Revenue Funds Budget including the Tourist Resort Tax, Police Forfeiture and Confiscation and Transportation/CITT Tax totaling \$513,312 and, finally;
- Enterprise Funds including Water/Sewer, Municipal Parking, Solid Waste and Recycling and Storm Water Utility Budget totaling \$19,645,193.

Establishment of both final millage rate and the final budget require two public hearings the first of which was held Tuesday, September 13, 2011 at 5:01pm and the second which is this evening, Monday, September 26, 2011 at 5:01pm.

## 3. Millage Rate Page 1-3

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, MIAMI-DADE COUNTY, FLORIDA, ADOPTING THE FINAL LEVYING OF A MILLAGE RATE AGAINST ALL TAXABLE REAL AND PERSONAL PROPERTY IN THE TOWN OF SURFSIDE, FLORIDA FOR THE FISCAL YEAR 2011-2012; AND PROVIDING FOR AN EFFECTIVE DATE.**

Carl Berkey-Abbott reviewed the budget process and the tentative millage for FY 11/12. He presented a powerpoint presentation illustrating the budget process, tentative millage rate for FY 11/12, millage rate voting requirements, 5 year property tax history, tax impact of 5.5 mills on various property valuations, the tentative budget for FY 11/12, FY 11/12 enterprise rates status, tentative final

summary budget for FY 11/12, classification changes, and General Fund and Non-General Fund projects.

Mayor Dietch opened the floor to any members of the public wishing to speak.

*\*No speakers came forth.*

Commissioner Olchyk asked Town Manager Roger Carlton about payroll and how the proposed increases would be implemented.

Town Manager Roger Carlton responded that in the current year there was a 2.5% [across the board] payment to all non-bargaining employees. He explained that the increase made up for a previous reduction plus a small amount. He said that for FY 11/12 the budget includes a merit pool which is the equivalent of 1.83% increase from General and Enterprise Funds to employees based upon the employee's performance review and status. He explained that the increases would be from a fixed amount of money and that this is a conversion from a flat increase for all non-bargaining employees to a performance based increase. He added that bargaining unit employees (FOP) would be compensated through the collective bargaining process.

Commissioner Olchyk expressed concern with the proposal of salary increases citing financial difficulties in surrounding communities. She said in light of other municipalities reducing staff and salaries she would like the Town to be more fiscally conservative.

Mayor Dietch responded that last year Commissioner Olchyk demanded increased accountability from staff and was not supportive of an across the board increase. He said this proposal for performance based increases is as a result of her concerns from last year.

Commissioner Olchyk asked for clarification on how the increases will be applied and said she would like the Commissioners to have input on how personnel issues are handled.

Town Manager Roger Carlton responded that the concept of merit review begins with a form [that is well accepted within the industry] which is filled out by the supervisors and department heads. He said after the form is filled out the employee and supervisor has a discussion where the employee has an opportunity to respond to the performance review. He asked Chief Allen to speak to the review process.

Chief Allen responded that there are multiple layers of review prior to an increase being given and employee evaluations are reviewed at all supervisory levels, including the Town Manager.

Town Manager Roger Carlton said the primary purpose of the employee review process is to have a good interchange between employee/employer and the

process works using behavior modification and positive reinforcement. He also responded to Commissioner Olchyk reference to surrounding communities facing financial difficulties. He said that the current and previous Commission took measures [several years ago] making a series of decisions to be pro-active so the Town would avoid facing similar financial difficulties (faced by other communities). He said that he wants to be sensitive to real economic problems being faced by the community and in response to those economic conditions the Town has lowered the millage. Town Manager Roger Carlton explained that since the current Commission has come into office staff has had increased workload and that the 1.83% increase that is being proposed is not a substantial amount compared to the workload and the potential impact on employee morale, specifically because there will be an increase with employee health insurance contribution. He said that in an effort to avoid litigation and appeals associated with separation from employment he uses progressive discipline unless the situation is critical, attempting to resolve the issues with employees. He cited examples when progressive discipline resulted in separation from employment and by having a good settlement agreement, litigation and the appeals process was avoided. He said that based upon the current economic times and the property tax reduction, he is recommending a performance based increase.

Commissioner Karukin said that people managing is the most difficult thing that the staff has to do and he acknowledged Yamileth Slate McCloud. He said there will always be employees that don't do very well and he thinks that the 1.83% is not very high. He referenced all the budget adjustments that have to be done throughout the year. He thinks that personnel is the wrong area to look for reductions at this time.

Mayor Dietch said that prior to 2007 there was not a Human Resources Department and now there is a professional department that allows people to be held accountable and allow employees to be mentored. He said that he feels the most important story from the budget proposal is the diversification of the revenue stream and the millage reduction for the residents.

**Commissioner Kopelman made a motion for approval. Commissioner Karukin seconded the motion. Unanimously approved.**

#### **4. Public Comment**

*\*see under item-no speakers came forth.*

**5. 2011-2012 Final Adopted Budget Page 4-9**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND ADOPTING THE FINAL ANNUAL BUDGET AND MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2011-2012; ATTACHING A SUMMARY COPY OF SAID BUDGET MARKED EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.**

**Commissioner Kopelman made a motion. Commissioner Karukin seconded the motion.**

**All in favor Commissioner Olchyk voted to approve with reservations regarding the employee review process and the 1.83% merit pool.**

**6. Public Comment**

Michael Lefkowitz from ECS Business Service, 4770 Biscayne Blvd. Suite 660, stated that he represents Azure Condominium. He spoke about a denied request for credits for consumption of water used by cooling towers. He explained that he had an agreement with the previous Town Manager, however, the requests have been denied because the agreement was never approved by the Town Commission.

Town Manager Roger Carlton said that theory behind this request is that there should be a credit calculated when cooling tower water doesn't go through the sewer system. The water evaporates. He said his predecessor started this process but did not bring the issue before the Town Commission. He said that if they continued this process they would have to have a public hearing for approval for rate adjustment and also expressed that this would encourage use of an outdated and not efficient air conditioning system. He said that the administration does not support this type of rate adjustment but after speaking with Mr. Lefkowitz he invited him to speak at the hearing.

Commissioner Kopelman would like to see more figures and information regarding this issue and asked that it be deferred. He asked Town Manager Roger Carlton if the Town would lose or make money if they complied with the request being made on behalf of the Azure.

Town Manager Roger Carlton responded that the Town would lose money if they complied with Mr. Lefkowitz's request (made on behalf of the Azure).

Michael Lefkowitz responded that the Azure is not sending the water to the sewer treatment plant and therefore the Town is not paying for sewer treatment on the water.

Mayor Dietch said that this was something that was started with the previous Town Manager and was inherited by the current Town Manager. He asked Roger Carlton to

come back with a report (not for grandfathering) on how going forward with the proposed agreement would impact the Town.

Mayor Dietch asked someone to notify Mr. Lefkowitz when this item will be on the agenda.

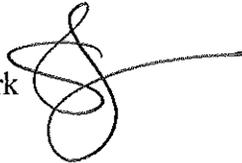
## **7. Adjournment**

**Commissioner Kopelman made a motion to adjourn. Commissioner Karukin seconded the motion to adjourn.**

**The meeting adjourned at 5:58pm.**

Respectfully submitted,

s/Sarah Johnston, Recording Clerk

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line extending to the right.

**TOWN OF SURFSIDE, FLORIDA**  
**MONTHLY BUDGET TO ACTUAL SUMMARY**  
**FISCAL YEAR 2010/2011**  
**As of JULY 31, 2011**

**83% OF YEAR EXPIRED (BENCHMARK)**

Agenda Item #

Page 1 of 2

Agenda Date: October 11, 2011

GOVERNMENTAL FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET	
<b>GENERAL FUND</b>				
REVENUE	\$7,780,542	\$9,177,401	85%	<b>A</b>
EXPENDITURES	\$6,633,017	\$9,177,401	72%	
Net Change in Fund Balance	\$1,147,526			
Add: Sale of surplus real property	\$188,000			<b>A</b>
Fund Bal.-Beg. of FY(audited assigned+unassigned)	\$2,867,867			
Fund Balance-July 31, 2011	<u>\$4,203,393</u>			
<b>RESORT TAX</b>				
REVENUE	\$121,415	\$143,010	85%	<b>B</b>
USE OF RESTRICTED FUND BALANCE		\$19,800	83%	
EXPENDITURES	\$129,835	\$162,810	80%	
Net Change in Fund Balance	-\$8,420			
Fund Balance-Beg. of Fiscal Year (audited)	\$179,035			
Fund Balance-July 31, 2011	<u>\$170,615</u>			
<b>POLICE FORFEITURE/CONFISCATION</b>				
REVENUE	\$73,571	\$34,694	212%	<b>C</b>
USE OF RESTRICTED FUND BALANCE		\$20,000	83%	
EXPENDITURES	\$34,812	\$54,694	64%	
Net Change in Fund Balance	38,759			
Fund Balance-Beg. of Fiscal Year (audited)	\$71,825			
Fund Balance-July 31, 2011	<u>\$110,584</u>			
<b>TRANSPORTATION SURTAX</b>				
REVENUE	\$137,232	\$156,415	88%	<b>D</b>
USE OF RESTRICTED FUND BALANCE		\$80,285	83%	
EXPENDITURES	\$333,936	\$236,700	141%	<b>E</b>
Net Change in Fund Balance	(196,704)			
Fund Balance-Beg. of Fiscal Year (audited)	\$416,500			
Fund Balance-July 31, 2011	<u>\$219,796</u>			
<b>CAPITAL PROJECTS</b>				
REVENUE	\$171,179	\$279,287	61%	<b>F</b>
USE OF COMMITTED FUND BALANCE		\$4,326,800	83%	
EXPENDITURES	\$4,260,809	\$4,606,087	93%	
Net Change in Fund Balance	(4,089,630)			
Fund Bal.-Beg. of FY(audited committed+assigned)	\$4,888,357			
Fund Balance-July 31, 2011	<u>\$798,727</u>			

**NOTES:**

- A.** Timing Difference - FY 2011 ad valorem property tax revenues are remitted to the Town primarily from mid-November to March. Surplus real property sold/payment received during June
- B.** Timing Difference - Includes only the Oct-June resort taxes. July resort taxes are collected in August. However, the 4% bed tax collections are higher than anticipated
- C.** Forfeiture revenue fluctuates widely-the Town received \$15,036, \$39,091 and \$19,305 in payments during the months of January, March and July, respectively. Higher than anticipated budgeted revenues was increased in June with the mid-year budget resolution
- D.** Timing Difference - Includes only the Oct-June CITT revenues. July is not received until late October 2011. However, the CITT collections are higher than anticipated
- E.** Commission consented during July for upgraded crosswalks on Collins Ave in the amount of \$246,737
- F.** Timing Difference - An ARRA grant reimbursement of \$131,000 is expected to be fully collected before the end of September

**ENTERPRISE FUNDS**

**ACTUAL**

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

**WATER & SEWER**

REVENUE	\$2,557,284	\$2,820,753	91%	
USE OF NET ASSETS/LOAN PROCEEDS		\$2,123,085	83%	
EXPENDITURES	\$1,694,823	\$4,943,838	34%	<b>G</b>
Change in Net Assets*	\$862,461			
Unrestricted Net Assets-Oct 1 (audited)	\$440,000			
Unrestricted Net Assets-July 31, 2011	<u>\$1,302,461</u>			

**MUNICIPAL PARKING**

REVENUE	\$539,189	\$305,600	176%	
USE OF NET ASSETS		\$2,179,836	83%	
EXPENDITURES	\$843,974	\$2,485,436	34%	<b>G</b>
Change in Net Assets*	(\$304,786)			
Unrestricted Net Assets-Oct 1 (audited)	\$2,043,034			
Unrestricted Net Assets-July 31, 2011	<u>\$1,738,248</u>			

**SOLID WASTE**

REVENUE	\$1,224,397	\$1,291,343	95%	<b>H</b>
EXPENDITURES	\$901,149	\$1,291,343	70%	
Change in Net Assets*	\$323,248			
Unrestricted Net Assets-Oct 1 (audited)	\$77,491			
Unrestricted Net Assets-July 31, 2011	<u>\$400,739</u>			

**STORMWATER**

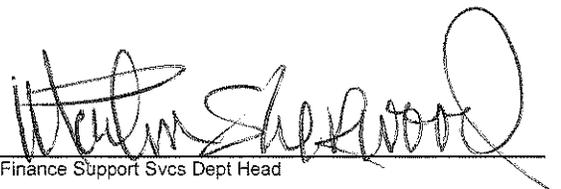
REVENUE	\$418,606	\$487,000	86%	
USE OF NET ASSETS/LOAN PROCEEDS		\$412,363	83%	
EXPENDITURES	\$169,184	\$899,363	19%	<b>G</b>
Change in Net Assets*	\$249,421			
Unrestricted Net Assets-Oct 1 (audited)	\$40,626			
Unrestricted Net Assets-July 31, 2011	<u>\$290,047</u>			

**NOTES:(con't)**

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

**G.** Underage due to commencement date of Infrastructure/Capital Outlay projects (\$2.1 mill for water/sewer, \$412K for stormwater, \$2.1 mill for parking)

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

  
 Finance Support Svcs Dept Head

  
 Town Manager



**Town of Surfside  
Town Commission Meeting  
October 11, 2011 - 7:00 p.m.**

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

**POINTS OF LIGHT  
After Action Items**

**1. Downtown Vision project**

**Current Status:** The Downtown Vision Advisory Committee (DVAC) met for the tenth time on August 22, 2011. Consultant, Juan Calderon, made a presentation regarding the Wayfarer sign program, parking counts for the various lots and some preliminary “tag lines” to help in branding and marketing. The “alley upgrade” study was deferred due to the lateness of the meeting. A presentation regarding parking lot renovations, parking counts (occupancies), alley upgrades on the east and west side of Harding from 96<sup>th</sup> to 94<sup>th</sup> Street will be made to the Town Commission during the October 11, 2011 Commission meeting. There was also a presentation regarding establishing a Business Improvement District for improved services and marketing downtown with costs borne by the owners and tenants. The concept was supported by all those in attendance. The Committee also reviewed guidelines for awnings which will be presented to the Planning and Zoning/Design Review Board in October 2011.

**2. Land Acquisition**

**Current Status:** Acquisition of the Delgado property immediately south of the temporary trailers was completed on August 31, 2011 at a cost of \$540,000 which is less than 50 percent of the anticipated price. Back taxes, assessments and any utility bills were paid at closing. The cost was paid from parking funds. We will now move forward to design an interim parking facility on the site as discussed by the Town Commission during the August 9, 2011 meeting. One of the design firms in the rotation will be used for the project and the final design will be brought to the Town Commission for approval.

**3. Water, Sewer and Storm Drainage projects**

**Current Status:** The project began on August 15, 2011 and is progressing on schedule. More than 800 permission slips to install the water tie-in have been received, 65 water services have been replaced and 1500 linear feet of water pipes have been installed. The Collins Avenue sewer force main project is nearly complete in Surfside and work is well underway in Miami Beach. Issues with the City of Miami Beach regarding the link of our new Bal Harbour shared line and the existing 36 inch main and/or a new 30 inch by-pass line are in the process of being resolved. When the tie-in process is finally determined a report will be made to the Town Commission.

**4. Circulator Bus: Town Manager Roger Carlton will review the potential linking of the Surfside circulator bus with other communities to allow residents transportation to the Sunny Isles library and possible other destinations: Mayor Daniel Dietch**

**Current Status:** After a number of meetings with Bay Harbor Islands, Bal Harbour and Sunny Isles Beach, it has been determined that the greatest opportunity for enhancement is to link with Sunny Isles Beach to allow our riders to use Sunny Isles Beach's route which goes to the mainland with stops at Aventura Mall, Mt. Sinai Medical Center North, Costco and the Aventura Publix shopping center. The details of this and a Memorandum of Understanding which defines how their riders will be allowed to use our route to Mt. Sinai Hospital and how our riders will be allowed to use their route was approved by to the Town Commission at the August 9, 2011 Town Commission meeting. The MOU was signed September 30, 2011 and service will begin on October 15, 2011. Item completed.

**5. Community Garden: Mayor Daniel Dietch**

**Current Status:** The Surfside Urban Gardeners Club non-profit organization has been formed to manage the Community Garden and, therefore, met the requirement set by the Town Commission at their meeting on July 12, 2011 for this initiative to continue. A draft agreement was presented to the Town Commission at their August 9, 2011 meeting. The membership will incorporate guidelines, garden rules and performance evaluators into their by-laws. Construction of the Garden began in late September 2011 with the dedication scheduled for mid-October. A resolution to accept an agreement between the non-profit organization and the Town of Surfside is on the October 11, 2011 Town Commission agenda.

**6. Feral Cat and Dog Feces Concerns: Mayor Daniel Dietch**

**Current Status:** The Town Commission approved on July 19, 2011 a conceptual program to require feral cat feeders to be trained and certified and to expand the Trap Neuter Release program. A related Litter Ordinance was also approved on first reading. Second reading of the Litter Ordinance was approved at the September 13, 2011 Town Commission meeting. The Town is developing a new feral cat program with trained volunteers to assist with trapping, neutering, and releasing of the cats and to be responsible for the feeding and cleanup at specific locations. A meeting was held with Suely Carmelo regarding the location of the approved feral cat feeding locations. Staff will continue to develop this program and report monthly on progress. The program will be advertised on the website and in the November 2011 Gazette for volunteers to become approved feeders.

**7. Tourist/Resort Tax Auditor program**

**Current Status:** The RFP for Resort Tax Auditors was issued on August 12, 2011. The submission deadline was September 6, 2011. On August 19, 2011 a Non-Mandatory Pre-Submission meeting was held at Town Hall with four firms in attendance. The roll out of the new Resort Tax Ordinance requirements in conjunction with the Certificate of Use and Business Tax Receipt annual renewals has been taken to a new level. Julia Magnani has been retained on a part time basis to meet with the businesses in their establishments to minimize the time the owners need to spend in Town Hall. To

date, 91 businesses in Surfside have come into compliance with the new procedures. The award of the resort tax auditing firms appears on the October 11, 2011 Town Commission agenda.

**8. Document imaging and scanner software: This project was funded in the FY 10/11 Budget**

**Current Status:** The contract for this equipment was awarded during the June 14, 2011 Town Commission meeting. The small document scanner has arrived and the server and software should arrive and be installed in early October 2011. The large document scanner for the Building Department has been ordered from the GSA contract. Once the remaining equipment arrives it will be installed and the training will commence. Staff is considering utilizing an outside vendor to scan the existing documents to speed up the transition processes and ensure that the need for offsite storage ends during FY 11/12.

**9. Bike Racks/Bus Benches/Shelters: Mayor Daniel Dietch**

**Current Status:** Town Manager Roger Carlton and Parks and Recreation Director Tim Milian have met to discuss the development of a comprehensive bicycle program for Surfside. Four bike racks will be installed. Two bike racks are located at the Community Center, one at the 95<sup>th</sup> Street parking lot. The fourth rack will be located at Town Hall. The schedule for installing the bus shelters, which is a Miami Dade County responsibility, is January 2012.

**10. Clean up/update/enhance Town Website content: Commissioner Michael Karukin**

**Current Status:** The RFP was approved with amendments on the June 14, 2011 Town Commission agenda and the RFP has been advertised. The proposal opening was held August 22, 2011. Four proposals were received. Staff is recommending rejection of the proposals as three are non-compliant and the fourth does not reflect the overall quality which will take the Town to a new level of communication with our citizens. A report calling for a Commission Workshop is included in the Town Commission October 11, 2011 agenda.

**11. FPL and AT&T to review leaning poles: Vice Mayor Joe Graubart**

**Current Status:** A meeting was held with FPL in May 2011. Their policy is that a pole may lean up to 17 degrees unless it is in danger of falling. Apparently, the aesthetics are not the issue. A report regarding undergrounding all utilities in Surfside appeared on the April 12, 2011 Town Commission agenda and was deferred until the May 10, 2011 meeting due to the long agenda. The outcome of the meeting with FPL executives is that the contract award for the water/sewer/storm drainage project approved during the June 14, 2011 Town Commission meeting included provisions to install conduit at intersections so that in the event an undergrounding project is approved in the future, conduit will be ready to avoid having to break the pavement. Regarding the short term leaning pole issue, Staff has completed imaging every pole leaning excessively in Surfside during July. Seven poles were found that leaned more than 17 degrees. Staff met with FPL and AT&T officials to correct the excessively leaning poles. The reaction of both companies was that the poles were structurally sound and that the seven would not be replaced. Further action will require complaints to the Public Service Commission. While this situation is frustrating, the reality is that the potential for success is very low.

Staff recommends no further action until the entire undergrounding project is addressed later in the fiscal year. Item completed.

**12. Citizen's Academy and Residential Satisfaction Survey:** This program is similar to the Police Academy in that Surfside residents are given the opportunity to learn the roles and responsibilities of each department in an interactive and informal setting over a series of evening sessions.

**Current Status:** The Town Manager has met with Dr. Howard Frank, Director of the FIU Metropolitan Center. The Center has made two proposals. The first is to implement a resident satisfaction survey. The second is to provide the training for the Citizen's Academy. Detailed proposals are included in the October 11, 2011 Town Commission agenda for a determination if either project will be implemented.

**13. Building Relationships between the Condo Residents and Single Family Homes:  
Commissioner Ted Kopelman**

**Current Status:** The Tourist Bureau Director will continue to work with Commission Kopelman to create programs and activities in the new Community Center that will bring the Town's two distinct communities together. Ideas for such programs are being investigated by the Parks and Recreation Committee. When a program is ready, it will be brought to the Town Commission for review. A meeting with the condominium board presidents and property managers was held September 14, 2011 to discuss a range of topics including how to foster better communication between the single family and condominium residents in order to facilitate more community interaction. There were a number of ideas exchanged which will be incorporated in a broader report on new programs for the Community Center which will be presented to the Town Commission in November 2011. Item completed.

**14. Senior Assistance Program**

**Current Status:** The Police Department has contact information for the Seniors in Surfside Program that checks on their welfare and offer services from Miami-Dade County. The June 2011 Gazette advertised that there is a group of residents who will help seniors with chores or hurricane preparation. Procedures were created for the volunteers to complete an application and background check with the Human Resources Director. The Town Attorney has created a release of liability form for the volunteers and the homeowners.

The Finance Director has determined that the volunteer activity/program is covered under the Town's insurance policy. However, there are expenses to adhere to a volunteer program (i.e. criminal background checks, \$40 per report and personal reference checks). Additionally, project task supervision is needed but cannot always be performed by a Town employee since the volunteer's activity will not be on Town property. Unfortunately there has been a lack of volunteers to continue the program. A few residents seem interested but not enough to move ahead with the program. The Police Department will continue to be the contact for seniors and monitor their welfare and refer necessary services. Item completed.

### **15. Feasibility of Surfside sharing Sunny Isles Beach street sweeper: Mayor Daniel Dietch**

**Current Status:** The first cost estimate submitted by Bal Harbour was too high and negotiations to lower the price were unsuccessful. Public Works Director Bill Evans has negotiated a more reasonable price with Sunny Isles Beach and an Interlocal Agreement was presented to the Town Commission in August. Service is anticipated to begin in October. Item completed.

### **16. Bike Rental Station: Vice Mayor Joe Graubart**

**Current Status:** Based on the determination to move forward with the Deco Bike rental program made by the Town Commission during the September 13, 2011 meeting, negotiations have been completed with Deco Bikes. The contract is under final review in the Town Attorney's office and will be presented to the Town Commission during the November 8, 2011 meeting. Project start up should be underway in January 2012.

### **17. eReaders, Wi-Fi and Broadcasting Capabilities for the Community Center: Commissioner Ted Kopelman**

**Current Status:** Based on a request from Commissioner Ted Kopelman, the Town will incorporate eReaders into the addition room of the Community Center. Furniture has been installed and patrons will be able to check out devices for up to two weeks. Four Amazon Kindles, two Barnes and Noble Nooks and two Sony e-Reader devices were purchased in September 2011. Outreach to the business community to sponsor e-readers has started with the help of Parks and Recreation Committee member Barbara McLaughlin. Staff is working with the Miami Dade Public Library system to determine their e-reader procedures applicable to Surfside. The program is anticipated to be underway during late October 2011.

The IT Department is working with the Parks and Recreation Director on the installation of Wi-Fi in the new Community Center. This project should be completed by in time to roll out the new e-Reader program.

### **18. e-Waste Collection: Mayor Daniel Dietch**

**Current Status:** Miami Dade County will not provide the service. Florida e-Waste Recycling has been contacted and they have agreed to provide a community pick up at Town Hall at no cost to the Town starting the third week of October 2011. Notification will be provided in the Gazette and on the Town website.

### **19. Resident Parking Program/Commercial Parking Program**

**Current Status:** The Town Commission approved the amendments to the Resident Parking Program Ordinance during the June 14, 2011 meeting. The changes became effective October 1, 2011. New procedures have been developed for the Resident Parking Program. Residents will be required to provide proof of residency and bring their vehicle registration. A new software program has been installed that will allow staff to better manage and track the issued permits. The number of permits will be limited to three (3) per address and there will be a \$10.00 fee plus tax per permit. The hang tag permits will be replaced with a static cling decal that will be affixed to the lower portion of the driver's

side windshield by the resident. The license plate number of the registered vehicle will be written on the decal with a permanent marker. Notices were mailed in the August 2011 water and sewer billings reminding residents to obtain their new permits. As of September 29, 2011, over 627 permits have been issued. Warnings will be issued in October, 2011 to ensure expanded voluntary compliance. Item completed

## **20. Short Term Rentals Ordinance**

**Current Status:** Implementation of the Ordinance including a public information program was completed over the summer and will be in full effect October 1, 2011 in conjunction with business license renewals and certificates of occupancy. The matter was discussed at the August 25, 2011 Planning and Zoning Board meeting regarding a total ban in the single family neighborhood. The Planning and Zoning Board motion to initiate a total ban failed on a tie 2/2 vote. By way of information, no existing single family homes applied under the grandfather provision of the ordinance by the deadline. Item completed.

## **21. New Crime Prevention Initiatives: Mayor Daniel Dietch**

**Current Status:** The following crime prevention initiatives were approved by the Town Commission at the May and June Commission meetings: Implementation has begun.

- Crime Watch – Eye on Surfside neighborhood watch signs have been installed in the single family residential area. Twenty signs were installed by Town crews. Item completed.
- Bike with the Chief – residents join the Chief and other police officers on a recurring bicycle ride through the residential area to get to know their police department and identify crime problems and quality of life issues. The bike rides have been on July 7, August 4, and September 6, 2011. Item completed.
- Crime Prevention Expo – a fair at the municipal lot at 94<sup>th</sup> Street and Harding Avenue to demonstrate to our residents the latest crime prevention techniques. The expo was held on October 2, 2011. Item completed.
- A new program, “Survival Mindset” was on September 20, 2011. The Eye on Surfside Crime Prevention meetings are held each month in the training room. The 10<sup>th</sup> Citizens Police Academy is scheduled from September 8 to November 13, 2011. Item completed.
- Citizens Patrol – Trained residents will work directly with the Police Department to be the eyes and ears of the community and report suspicious activity. The training program has been developed. Recruitment and training will begin in the Fall 2011.
- Crime prevention through environmental design – landscaping, lighting, and physical barriers at the entrances to residential areas enhances safety and deters criminal activity. Several drafts of entrance features to major streets have been designed by the same firm that is designing the “Way farer” signs and the alleys east and west of Harding Avenue. A presentation will be made to the Town Commission during the October 11, 2011 meeting.

## **22. Beach Concessions**

**Current Status:** As the only service and maintenance provider for the beach in Miami-Dade County, the Miami Dade County Parks and Recreation Department has determined that a lease from the State of Florida for the beach in Surfside and Bal Harbour similar to Sunny Isles Beach is necessary. The conditions of the lease will include a requirement for a management plan. This management plan will identify the services the County will provide to the beach, the manner and frequency it will be maintained, and rules or standards for upland properties regarding their storage and deployment of chairs, umbrellas, and cabanas on the beach.

The governing body for all activity taking place on the beach within Surfside and Bal Harbour is the State of Florida Department of Environmental Protection. John Ripple, Beach Operations and Maintenance Supervisor for the Miami Dade County Parks and Recreation Department, met with the Bal Harbour Village Manager who has expressed interest in seeing the County obtain this lease and in concert with the Village, develop a meaningful and deliverable beach management and maintenance plan. A similar meeting with John Ripple, the Town Manager and Parks and Recreation Director Tim Milian was held August 25, 2011. It is our intent to establish a mutually agreeable Surfside management plan with the Miami Dade County Parks and Recreation Department should the lease with FDEP be secured. Developing procedures acceptable to the beach side property owners, the Town Commission and the staff will be a long process. A meeting was held with Tim Milian and the designated Town Commission liaison Commissioner Olchyk on September 19, 2011. The Points of Light report will continue to bring updates as the effort progresses.

## **23. Bus Stop in Front of Community Center: Vice Mayor Joe Graubart**

**Current Status:** Staff is working with FDOT and the Miami Dade Transit Agency to reinstate the bus stop. We will keep the Town Commission informed as this process evolves.

## **24. Report on Red Light Camera Price Negotiation**

**Current Status:** A meeting with representatives of American Traffic Solutions was held on August 23, 2011 and we have been given verbal confirmation that the monthly fee will be reduced by \$2500 beginning January 1, 2012. In addition, the Town will receive a credit of \$10,000 for the months of September through December 2011. Cumulatively this will be a \$40,000 savings during FY 11/12. Thanks to David Allen and John DiCenso for this negotiation and the wisdom of the Town Attorney's office to have a "most favored nation clause" which requires the Town to receive the lowest price available by any similar municipal agreement. Staff believes the contract amendment will be provided during early October 2011.

## **25. Leaf Blower Ordinance: Vice Mayor Joe Graubart**

**Current Status:** Pursuant to the discussion during the August 16, 2011 Town Commission meeting first reading of the Litter Ordinance, Staff is reviewing the pros and cons of a leaf blower regulating ordinance. A report will be made later in Fall 2011 regarding this initiative.

## **26. Single Family Residential Solid Waste and Recycling Bills on FY 12/13 TRIM Notice and Property Tax Bills**

**Current Status:** The Finance Director has researched and obtained the FY 12/13 non ad-valorem requirements as well as the tentative deadlines. A lengthy telephone conversation ensued with the Town Manager, Finance Director and the Miami-Dade County Deputy Property Appraiser. Prior to the actual establishment of a solid waste and recycling rate for FY 12/13, the Town must adhere to Florida Statutes 197.363, 197.3631 and 197.3632 which in part require:

- a. Town must publish weekly, for four (4) consecutive weeks, its intent to use the uniform method of collecting such assessment.
- b. The Resolution shall state the need and shall include a legal description of the boundaries of the Town.
- c. The Resolution must be adopted by the Town Commission at a public hearing prior to January 1, 2012 electing to use the uniform method of collecting such assessment.
- d. Town will need to enter into a written agreement with the Property Appraiser and Tax Collector providing reimbursement of necessary administrative costs incurred (approx 1%).

This item will remain as a Point of Light until completion of the requirements.

## **27. Umbrellas for Pool Deck – Commissioner Michael Karukin**

**Current Status:** A small number of patrons at the Community Center have expressed the desire to have more shade available. Discussion is underway to have the food concessionaire provide rental umbrellas. A report will be made regarding this concern at the November 8, 2011 Town Commission meeting.

## **28. Policy on Art in Community Center**

**Current Status:** The current art in the Community Center by local artist Robert Swedroe has been on display since the Center's opening in June 2011. Staff is developing a policy to ensure the rotation of the art after a fixed time period. That policy will be brought to the Parks and Recreation Committee in October 2011 and to the Town Commission in November 2011.

## **29. 9501 Collins Avenue Townhome Development**

**Current Status:** The Town Commission declined the first right of refusal for acquisition of the site during the August 9, 2011 meeting. Subsequently Greystone Residential LLC closed on the property and will develop the seven permitted townhomes. While there was not a legal requirement for the developer to make any capital contributions to the Town, as a matter of goodwill the developer has offered a \$100,000 contribution to the Gran 95<sup>th</sup> Street Concourse project which will renovate 95<sup>th</sup> Street from the hard pack to Abbott Avenue. With the \$200,000 committed by the Grand Beach Surfside hotel plus funds available in the Parking Enterprise Fund it is now possible to build the first block of the project. The Town Manager will make a presentation during the October 11, 2011 Town Commission meeting and a resolution accepting the funds appears on the agenda.

### **30. Replacement of Publix in North Beach**

**Current Status:** The North Beach Publix will close October 9, 2011 to allow a two story store to be built. Therefore the volume of business and deliveries to the Surfside Publix located on 94<sup>th</sup> Street and Harding Avenue is expected to increase. Chief David Allen and Assistant Chief John DiCenso have met with the Surfside Publix Manager to discuss the delivery hour limitations and to add monthly parking spaces at the 94<sup>th</sup> Street lot for additional employees. The Points of Light will keep the Town Commission aware of any impacts during the construction period and what actions have been taken.

### **31. Property Assessed Clean Energy (PACE): - Program to retrofit existing residential and commercial buildings for energy efficiency: Mayor Daniel Dietch**

**Current Status:** Staff has just begun to investigate this program which allows existing buildings to be retrofitted for energy efficiency with the cost funded from a loan pool authorized by the State of Florida and funded by Barclay's Capital. (Attachment explains the program). The low interest loans are repaid from a long term assessment on the property. There are no guarantees provided by the Town of Surfside. When Staff has completed research on the program, a report will be brought to the Town Commission.

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*The following items have been completed. These items have been deleted from the September 2011 Points of Light report.*

#### **4. Photo/Film Permit Program**

**Current Status:** The Town Commission approved the Film and Photo Ordinance on second reading during the June 14, 2011 Town Commission meeting. Guidelines and an amended application form were set for use by the appropriate Town departments in early July. Outreach to the film/photo shoot industry through local and state film offices has occurred. The advisory group will be established during October. Item completed.

#### **7. Farmers Market: Mayor Daniel Dietch**

**Current Status:** - The Surf-Bal-Bay Farmers Market began on Kane Concourse in Bay Harbor Islands on Sunday June 12, 2011 from 9 am – 3 pm. The market rotates between Bay Harbor Islands and Surfside every week.

The Surf-Bal-Bay Farmers Market is a more successful venture when occurring in Bay Harbor Islands than when it occurs in Surfside. Presently the following is conducted by staff to notify Surfside residents of the weekly market and there is a similar effort in Bay Harbor Islands:

- 1) Every Surfside week the item is moved up on the Town's website stating that the market is in Surfside that Sunday.

- 2) Flyers with the month's schedule are hand delivered to all condo buildings every month and posted on the Publix bulletin board.
- 3) Every month the event is advertised in the Surfside Gazette which goes to every residence (it is also listed in the Calendar section of the Gazette).
- 4) A sign is posted outside of the Community Center every Sunday. There's also a flyer inside the Community Center at the desk where residents sign in.
- 5) The flyer is on Channel 77.

Based on the weak performance in Surfside, the market will be discontinued in Surfside and will continue in Bay Harbor. Item completed.

### **18. Ceremony and Plaque Commemorating the Ten Year Anniversary of 9/11: Vice Mayor Joe Graubart**

**Current Status:** On September 11, 2011, the Police Department coordinated a special event at the Community Center commemorating the Ten Year Anniversary of 9/11. Bal Harbour, Bay Harbor Islands, and Indian Creek Village will participate in the event. The Town Manager of Bay Harbor Islands (retired NYPD Commander on scene on 9-11-01) was the guest speaker. A multi-agency police honor guard and bagpiper presented the colors. The Miami-Dade Fire Rescue Department provided a ladder truck displaying the American flag in front of the Community Center and four police departments displayed their police vehicles. Mayor Dietch and Lisa Petrillo were the emcee for the event. Item completed.

### **26. U.S. Census**

**Current Status:** Based on the presentation made by U.S. Census official Marilyn Stephens during the August 16, 2011 Town Commission meeting and a subsequent letter from the University of Florida Shimberg Center, establishing a population of 5780 for Surfside, Staff has accepted the final population count. At the suggestion of Mayor Dietch, Duncan Tavares will schedule informational sessions on the census data to help the downtown merchants market their products and services in October 2011. Many thanks to Barbara Cohen for guiding the project. Item completed.



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

MUNICIPAL BUILDING  
 9293 HARDING AVENUE  
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser  
 Town Attorney

Telephone: 305 993-1065

**MEMORANDUM**

**TO:** Town Commission

**FROM:** Lynn M. Dannheisser, Town Attorney *(Signature)*

**CC:** Roger M. Carlton, Town Manager

**DATE:** October 11, 2011

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

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

1. Final Adoption of 2011-2012 Budget Resolution
2. Health Insurance Contract Resolution
3. Police Confiscation Fund Resolution
4. Planning & Zoning/Design Review Member Replacement Resolution
5. 95<sup>th</sup> Street Grand Concourse Contribution Proffer
6. Decobike Resolution
7. Auditor Selection Resolution
8. Community Garden Resolution

**The Town Attorney has attended and/or rendered advice for the following meetings:**

September 13, 2011 Beach House Quasi-judicial Hearing  
 September 13, 2011 Final Budget Hearing  
 September 13, 2011 Commission Meeting  
 September 15, 2011 Executive Session Young Israel v Surfside  
 September 27, 2011 P & Z Meeting cancelled

Follow-up meetings and telephone conferences internally and with applicants for Grand Beach Hotel quasi judicial hearing, attendance at numerous personal and telephonic meetings with planner, manager, applicants, counsel for applicants and numerous emails and telephone conferences with counsel for objectors. Finalize revisions to Grand Beach Resolution.

Numerous pre- negotiation meetings and attendance at formal negotiation for potential settlement of Young Israel litigation; follow up meetings with manager and outside counsel for formulation of draft settlement outline. Assist outside counsel in the drafting of the proposed settlement agreement. Schedule attorney-client session for input from Town Commission. Advice and counsel re mediation requirements by the Court. Ongoing emails and preparation of revisions to settlement agreement.

Discussion with Town Manager and Chief re John Davis case.

### **Town Manager and Town Clerk Issues**

Research and analysis of public records/sunshine and other laws related to technology, social media and other website matters.

Attend interviews, and participate in assessment and selection for new Town Clerk.

Research Planning & Zoning Board Member Vacancies and counsel re possible advertisements re same; various discussions with appointing Commissioner, Manager, and Planner re same.

Research for preparation of Intergovernmental Cooperation Agreement between Miami-Dade County regarding non-advalorem special assessment for the cost of providing recycling and solid waste collection services.

Analyze liability and idemnification issues re: Water-Sewer single family residences installment.

Finalize Deco Bike Agreement

Advice re 9501 Collins Avenue LLC successor in interest contribution to 95<sup>th</sup> Street improvement project and follow up issues on Greystone purchase and town's Waiver of Right of First Refusal; various conferences with counsel for owners and counsel for new owners

Continuing review and advice on Public Records requests.

Assist manager with close out of Community Center project claims and disputes.

Review lease-purchase on police vehicles and attendant legal issues.

Complete Agreement to Defend for Beach House.

Review and plan for upcoming DVAC issues.including Business Improvement District slegal structure research and alley issues

Research re availability of library books on Kindle.

Retrieve "leaf blower" language for litter ordinance, if necessary.

In absence of Town Clerk, numerous meetings and provision of assistance to personnel related to Budget Hearing and Commission meetings.

Work with Manager on assisting Beach House and Azure to explore potential settlement of claims.

Review Greystone Development Agreement

Issues related to customer service satisfaction survey

### **Building Department/Code Enforcement:**

Review and analysis of permitting and volunteer issues.

**Parks and Recreation:**

Answer legal questions on continuing beach and pool issues.  
Follow up to beach liability cases

**Human Resources Department:**

The Town Attorney has worked with the Town Manager and Human Resource Director on several issues including hiring of new Director of Code Enforcement and Town Clerk.  
Review addendum and proposed changes to severance agreement for H.R.  
Coordinate and assist Human Resources on FOP contract issues.  
Review Worker's Compensation settlement agreement.

**Finance Department:**

Answer and research final legal questions for 2011/2012 Budget Hearings.  
Continuing questions on process for placement of garbage fees for collection on Miami-Dade County tax bill.

**Police Department:**

Ongoing FOP contract issues; confer with outside labor counsel.  
Davis litigation meetings and telephone conferences.

**Public Works:**

Continue to assist and advise Public Works Director on all procurement, water sewer and other capital improvement projects/community center matters, shuttle bus, street sweeper, and other interlocal agreements.

**Tourist Bureau:**

On-going Tourist Tax Auditor issues

**Litigation:**

John Davis v. Town of Surfside Case No. 07-17286 CA 08, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. This case has been consolidated as to discovery with a previous case filed by a former sergeant in the Town's police department. The Court denied the Motion to Consolidate both cases for trial. There are continuing public records request issues and strategy for session with outside counsel. The trial in this case has been continued until October 24, 2011. Final trial preparations are underway.

Young Israel of Bal Harbour, Inc. v. Town of Surfside Civil Action No. 1:10-cv-24392 in the United States District Court for the Southern District of Florida. On December 10, 2010, Young

Israel served a complaint alleging the Town Zoning Code imposes a substantial burden on Young Israel in violation of the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”). This matter is primarily being defended by The Florida League of Cities which has approved counsel to assist in the defense of this case. An Executive Session was held on September 15, 2011. Drafts of potential settlement agreements are being exchanged and issues researched.

American Enterprise Bank v Bishop Partners, LLC, Surfside, et.al Case No. 11-07139 CA 04 filed in Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. The case involves a mortgage foreclosure action against Defendants who owned property in Surfside. It appears that Surfside has been named as a defendant due to an unsatisfied lien on a Surfside property due to a code violation relating to a failure to pull a building permit. Plaintiff has filed Motions for Default against four of the defendants for failure to answer the complaint which will be heard on October 13, 2011. We continue to explore resolution to this matter.

Hapuarachchi v Surfside Miami -Dade Case No. (F98-450). This is a police forfeiture matter dating back to 1998. Mrs. Hapuarachchi filed for a re-hearing of the Court’s order denying her motion for return of property. The Court refused to re-hear the motion unless she pays the fee to reopen the underlying case before the Court will consider her most recent Motion. While we thought this matter was concluded, Mrs. Hapuarachchi filed a motion for re-hearing on return of funds and the Court set a hearing before Judge Dresnick for August 3, 2011. Judge Rodriguez heard the matter because Judge Dresnick was on vacation, but Judge Rodriguez was unwilling to “re-hear” an Order entered by Judge Genden (who had previously ruled on the motion). Judge Rodriguez suggested the motion be reset after Judge Dresnick’s return in early September. The Court reviewed and denied the Motion for Re-hearing. Mrs. Hapuarachchi is represented by counsel who has made a settlement demand which has been rejected.

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

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

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

This action commenced in 2001 against the Town, former Town Manager, Rodriguez and former Police Chief, Boemler. Blum, a former police officer alleges breach of contract, violation of policeman’s bill of rights and fraud in the inducement. We await the Court’s ruling on Co-Defendant, Boemler’s motion to dismiss for failure to prosecute and motion for sanctions. Counsel also attended an updated deposition of Plaintiff Blum who currently lives in Vermont and is a law enforcement specialist with Homeland Security Administration. He continues to request that his FDLE police certificate file be cleared of “resigned or retired while being investigated for violating agency policy,” and requests Surfside issue him a retired law enforcement officer identification card. FMLA counsel and the Town Attorney’s office have been in frequent contact to discuss this matter and as of this date, no settlement has been reached. Pursuant to the FMIT policy, the Town is responsible for only the \$5,000 deductible. Nothing new has occurred.

Dina Agin filed a complaint seeking damages for injuries allegedly arising from a trip and fall accident due to a defective condition on the property/premises/sidewalk near the corner of 96<sup>th</sup> Street and Bay Drive in the Town of Surfside. We have assisted League counsel with discovery and document requests and on-going case development issues. Bal Harbour Village has been dismissed as a party. Plaintiff's attorney moved the court for a continuance to 2012 because Mrs. Agin is a snow bird and Plaintiff's counsel wishes to conduct further discovery. Surfside argued that the Town is prepared, there has been more than enough discovery conducted by FDOT and the Plaintiff, and the trial should not be delayed to 2012 on a 2007 case. Depositions of the Finance Director, Public Works Director and Building Clerk were taken. The case again been re-scheduled for the December calendar. The Town Attorney continues to assist Florida League of Cities counsel with on-going discovery requests and trial preparation. The Court will re-set this case for trial on the December, 2011 trial docket.

**Special Matters:**

Continued monitoring and cataloguing of new case law and legislation on Federal, State, and County levels.



## TOWN OF SURFSIDE

9293 Harding Avenue  
Municipal Building  
9293 Harding Avenue  
Surfside, Florida 33154  
(305) 861-4863  
(305) 861-1302

Page 1  
Town of Surfside  
Projects Progress Report

## TOWN OF SURFSIDE PROJECTS PROGRESS REPORT CALVIN, GIORDANO & ASSOCIATES. INC. October, 2011

Daniel Dietch  
Mayor

Joe Graubart  
Vice Mayor

Marta Olchyk  
Commissioner

Michael Karukin  
Commissioner

Edward Kapelman  
Commissioner

Roger M. Carlton  
Town Manager

1. **Community Center** – The Town has met with the Contractor and negotiated a final settlement. A similar settlement is under discussion with the architectural firm. The final settlement documents are being produced and reviewed by the Town Attorney to ensure the Town is properly protected prior to issuing any final payments. The Contractor is currently completing the final items on the Punch List for which the Town will continue to hold money (at a rate of twice that of repair value of outstanding items) until all items are completed to the Town's satisfaction. Finally, per the Contract, the Contractor has a 1 year warranty period for which the performance and payment bond will remain in place to address any warranty items. Other items such as the roofing material come with longer than 1 year warranties and are guaranteed through the manufacturer. A final report regarding the Community Center design and construction is anticipated in November.
2. **Planning and Community Development** – The Planning Department recommended approval to the Town Commission for a site plan application for The Grand Beach Surfside Hotel at 9449 and 9418 Collins Avenue, which was approved by the Town Commission (4-1 vote) at the September 18, 2011 meeting. Planning Staff is now finalizing ordinance text for design elements relating to awnings within the downtown area per the input from the Downtown Vision Advisory Committee (DVAC). Staff presented an awning ordinance to DVAC in August which will be reviewed by the Planning and Zoning Board during their October meeting. Planning staff continues to answer general zoning calls and e-mails from the public and to review building permits for conformance with the zoning code..
3. **Website, Information Technology, TV Broadcasts** - IT staff received the laptop order for the Police Department on June 21, 2011 and has begun deploying the laptops. IT is currently troubleshooting VPN connectivity issues for the mobile police units with both Verizon and Dell. Dell has initiated the return process for the malfunctioning laptops and we are awaiting approval. IT is working with Dell on a new lease for upgraded laptops and will proceed once the return process has been cleared. The website RFP was submitted by 10:30AM on the August 22, 2011 deadline and the Town manager will recommend rejection of the proposals (see related item on this agenda). IT submitted a cost estimate for the purchase and installation of audio video equipment to allow video recording and broadcasting at the Community Center. IT received the Dell server on September 21, 2011 and began the Laserfiche document management

system project. This project will also include upgrades to the backup solution currently in place at the Town, and IT will be working with the Acting Clerk and Department Heads to create a file organization structure for the new system to facilitate more efficient public records response. This installation has an anticipated completion in mid November, the actual imaging of the documents could require a year.

4. **Public Utilities / Engineering** – The Infrastructure Rehabilitation Project Notice to Proceed was issued on August 8, 2011. Physical construction commenced on August 15, 2011 in the southern sector (Phase I) of the City. The project involves water main / water service replacements, lining of the gravity sewer mains and sewer lateral replacements, rehabilitation of the sewer pump stations, and improvements to the stormwater collection system including new drainage pump stations. Construction will be occurring within the Harding and Collins Avenue corridors for the next four months (with a break to occur during the holiday season) preceding the FDOT resurfacing project anticipated to commence in April 2012. The public information project website continues to be updated frequently. The website is receiving approximately 12-15 hits daily and inquiries are being promptly responded to.

Bal Harbour Village has completed the construction / installation of a parallel force main being constructed within the Collins Avenue corridor through the Town. The remaining / outstanding work (connection into the Miami Beach force main, restoration, testing, etc.) is anticipated to be completed within approximately 30 days.

#### **Stormwater System**

The construction includes the installation of a backbone system along Bay Drive that will interconnect existing stormwater culverts / piping and direct the run-off to two pump stations. Also, a third pump station will be constructed on the southern end of Carlyle Avenue.

Permits – All permits obtained except contractor dewatering permit and FDEP well permit (contractor permits have been applied for and are in process, anticipated issuance is 10 days-not currently impacting construction schedule).

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

Sewer lateral replacement and television inspection of the gravity sewer mains continues in the southern sector (Phase I) of the Town as well as within the Harding and Collins Avenue corridors. The improvements being completed on the Sanitary Sewer System are required per a consent decree with Miami-Dade County.

CGA continues working with the Village of Bal Harbour and their consultant (Craig A. Smith) to ensure Surfside's new force main lines are coordinated with the proposed force main being constructed within Collins Avenue.

**Water Distribution System**

Water service installations are being constructed in the southern sector (Phase I) of the Town.

Grant status - Miami-Dade (GOB) Building Better Community Bonds \$829,000 – In place

**Stormwater Master Maintenance**

CGA staff assisted the Town with the response to the Florida Department of Environmental Protection comment letter on the July 2011 submittal of the Year 8 Annual Report Form. The Town staff has recommended the street sweeping program, with Sunny Isles Beach doing the street sweeping every two weeks, as per National Pollution Discharge Elimination System permit requirements. This item was approved during the August Town Commission Meeting.

**Funding Summary –**

Funding Status:

<u>Grant</u>		<u>Status</u>	<u>Probability</u>
FDEP Grant	\$873,500	In place	100%
FDEP Grant	\$125,000	In place	100%
FDEP Grant	\$100,000	In place	100%

**\$1,098,500 Total In Place Funding**

FDEP State Revolving Fund Loan	\$2,771,000	In process*	50%
FEMA/PDM Grant	\$2,949,550	In process*	10%

**\$5,720,550 Total In Process Funding**

\*Anticipated determination on the in process funding sources is scheduled for February 2012.

- Neighborhood Improvements** – The Town Commission determined to hold on the additive alternate projects until the water/sewer/storm drainage project was one year underway to determine if any of the remaining contingency account funding would be available.



## Commission Communication

**Agenda #:** 4A1

**Date:** OCTOBER 11, 2011

**Subject:** Required Amendments to FEMA Ordinance

**Background:** In 2007 FEMA reviewed all Building Department records to determine if there were violations of FEMA regulations. FEMA found 64 properties Townwide that were in violation of the 50% rule. The 50 % rule is "Substantial Improvement" which means that you cannot improve the value of your building more than 50% without meeting FEMA requirements including flood elevations. For example, if your building, less the value of the land is \$120,000, the improvements cannot exceed \$60,000. In an attempt to meet the requirements many homeowners phased the construction over many months and took out multiple permits. When FEMA reviewed our computer records they added up the phased construction and found the violations. As a result of their findings, FEMA put the Town on probation thereby losing the annual discount, which averages approximately \$150 - \$200 per single family household or nearly \$200,000 annually assuming everyone buys flood insurance. Paul Gioia our current Building Official has been in the process of resolving this issue since he was hired.

The first criteria is that no work can be done to any of the 64 homes for five (5) years since the last construction, except for emergencies. This "no work" policy has been in place for four years. In addition the Town must:

- 1) Solve the substantial improvement that were committed to 64 homes
- 2) Create Public Relations handouts. (Copy attached)
- 3) Create a comprehensive Flood Plain checklist and require submission for all Building Plan submittals. (Copy attached).
- 4) Amend the Flood Plain Ordinance to reflect FEMA required inclusions. (Presented to Town Commission on this agenda for first reading).

Items 1-3 have been completed, sent to the FEMA office in Tallahassee, and received positive reviews.

Item 4 was sent August 26, 2011 to FEMA and they acknowledged receiving it and are reviewing it. The main provision of the amended ordinance includes clarifying some wording and defining new construction as substantial improvement to avoid confusion.

**Budget Impact:** None

**Analysis:** Adoption of the proposed amendments to the Flood Plain Ordinance will complete the last requirements to remove Surfside from the discount prohibition imposed by FEMA due to actions of previous Town of Surfside leadership.

**Staff Impact:** N/A

**Recommendation:** Adopt the Ordinance amendment on first reading to codify existing practices which have been in place since 2007. Should FEMA officials require any minor adjustments, the corrections will be specified at second reading scheduled for October 11, 2011.



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Paul Gioia  
Chief Building Official



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Roger M. Carlton  
Town Manager

**From:** Benton, Richard [Richard.Benton@em.myflorida.com]  
**Sent:** Tuesday, September 06, 2011 1:14 PM  
**To:** Paul Gioia  
**Subject:** RE: FEMA changes ORD Draft 8\_25\_11 LMD

Paul,

As far as I am aware, there are no other outstanding items that need to be resolved.

Sincerely,

Richard Benton CFM  
State Floodplain Management Office  
Division of Emergency Management  
State of Florida  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399  
(850) 487-2857



**TOWN of SURFSIDE  
Building Department**

**Living In a Flood Hazard Area**

**LOCAL FLOOD HAZARD** - The Town of Surfside is being diligent in enforcing the FEMA/NFIP rules and regulations that govern flood prevention activities. Residents have lost the discount on their flood insurance premiums because FEMA made the determination that Town had been lax in enforcing FEMA's rules in the past. The goal is now to abide by the federal rules to ensure that residents will once again be able to obtain the premium discount. The following information is provided to suggest actions which residents living in a flood hazard area may take to minimize potential flood damage.

**FLOOD WARNING SYSTEM** - Any substantial flood experienced by Surfside residents will likely come from a hurricane or tropical storm. Since Surfside is on a barrier island, any storm surge is likely to flood coastal, as well as interior properties. Because of this, you should heed all hurricane and tropical storm warnings. These warnings will be broadcast through local television and radio stations, such as WFOR-Channel 4, WTVJ-Channel 6, WSVN-Channel 7, and WPLG-Channel 10, or on radio on WQAM-AM 560 or WIOD-AM 610.

**FLOOD SAFETY / PROPERTY PROTECTION** - If an evacuation is ordered, you should proceed to rapidly evacuate to a point of safety, such as a County shelter or other prearranged site. Remember that pets are not allowed in public shelters, so special arrangements should be made for them. People with special needs, who are disabled, or under a doctor's care, can and are encouraged to register in advance, for special assistance with the Miami-Dade County Office of Emergency Management by calling the general information number (305) 468-5400 or by dialing 311 to request an application for the Emergency Evacuation Program. Before you evacuate, there are a number of flood safety precautions to follow. Know appropriate escape routes, turn off your electricity and gas, and close all your windows, doors, and shutters. If you have time, you can move valuables and furniture to elevated areas that are less prone to water damage. Prepare emergency supplies of food, water, medicines, and other personal essentials to have readily available upon evacuation.

**FLOOD INSURANCE** - In preparation for the hurricane season, you should check that your flood insurance coverage is in effect. Remember that flood damage is not covered by homeowners' normal insurance. For most people, their home and its contents represent their greatest investment. Protect your property by obtaining flood insurance if you have not already done so. Flood insurance through the National Flood Insurance Program is available and information can be obtained by contacting any licensed property or casualty broker. Also remember that there is normally a 30 day waiting period for the flood insurance to take effect, so do not wait until there is a storm warning to talk to your insurance agent.

**DRAINAGE MAINTENANCE**- Another way that the Town of Surfside minimizes flood damage is by maintaining its storm drainage system. Please be reminded that it is illegal to dispose of debris or yard cuttings into the storm drainage system. The storm drainage system on A1A and 96th Street, installed by the State of Florida, helps to minimize flood damage. Effective maintenance by our Public Works Department, combined with the State of Florida storm drainage system, should minimize potential flood damage.

**LOCAL FLOOD HAZARD MAP / PERMIT REQUIREMENTS** - Flood damage may be minimized by new buildings and additions adhering to the current Base Flood Elevations (BFE). In most cases in Surfside, it is 8.0 feet NGVD. However, it is advisable to obtain a written flood map determination from the Town's Building Official showing the Base Flood Elevation required for your proposed construction, according to the exact location. Should you require completed elevation certificates, make sure your Surveyor utilizes the latest edition of the Elevation Certificate Form. All construction, including reconstruction, rehabilitation, additions, alterations, and general repair work, must obtain a Municipal Building Permit, provide an Elevation Certificate, and fill out the Flood Damage Prevention Worksheet. Residents are encouraged to contact the Building and Zoning Department to eliminate confusion as to pertinent codes and regulations to facilitate your permit process.

**SUBSTANTIAL IMPROVEMENT REQUIREMENTS** - The "Substantial Improvement" Rule applies to all work done to an existing structure, including additions, since September 1972. If the total dollar value of this work equals or exceeds 50% of the market value of your structure (not including the value of the land), within a five-year period, then your entire structure will be required to be raised to or above the base flood elevation. If the structure is a commercial building, it will be required to be flood-proofed. The Federal Government requires the Town of Surfside to have an ordinance enforcing this Rule through the Building and Zoning Department. Failure by the Town of Surfside to effectively enforce the Substantial Improvement Rule may result in the virtual unavailability of flood insurance for the Town.

**Further information on all of these subjects is available at the Town of Surfside Building and Zoning Department, located at 9293 Harding Avenue, Surfside, Florida (305-861-4863).**

**Prepared by: Your Building Department**

Good	Problem FEMA	Justification
Files	Files	Comment
9061 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
8911 Abbott Ave		Accumulative Construction did not exceed 50% over the past five years
8866 Hawthorne Ave		Accumulative Construction did not exceed 50% over the past five years
1028 88 St		Accumulative Construction did not exceed 50% over the past five years
716 88 St		Accumulative Construction did not exceed 50% over the past five years
9032 Byron Ave		Accumulative Construction did not exceed 50% over the past five years
9580 Byron Ave		Accumulative Construction did not exceed 50% over the past five years
9007 Dickens Ave		Accumulative Construction did not exceed 50% over the past five years
9349 Byron Ave		Accumulative Construction did not exceed 50% over the past five years
824 88 St		Accumulative Construction did not exceed 50% over the past five years
1036 88 St		Accumulative Construction did not exceed 50% over the past five years
1020 88 St		Accumulative Construction did not exceed 50% over the past five years
600 92 St		Accumulative Construction did not exceed 50% over the past five years
8909 Irving Ave		Accumulative Construction did not exceed 50% over the past five years
9181 Froude Ave		Accumulative Construction did not exceed 50% over the past five years
9013 Dickens Ave		Accumulative Construction did not exceed 50% over the past five years
615 Surfside Blvd		Accumulative Construction did not exceed 50% over the past five years
1440 Biscaya Dr		Accumulative Construction did not exceed 50% over the past five years
1108 88 St		Accumulative Construction did not exceed 50% over the past five years
9289 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
8867 Dickens Ave		Accumulative Construction did not exceed 50% over the past five years
8834 Dickens Ave		Accumulative Construction did not exceed 50% over the past five years
9309 Dickens Ave		Accumulative Construction did not exceed 50% over the past five years
1356 Biscaya Dr		Accumulative Construction did not exceed 50% over the past five years
8901 Byron Ave		Accumulative Construction did not exceed 50% over the past five years
1100 88 St		Accumulative Construction did not exceed 50% over the past five years
9041 Carlyle Ave		Accumulative Construction did not exceed 50% over the past five years
9224 Carlyle Ave		Accumulative Construction did not exceed 50% over the past five years
9388 Abbott Ave		Accumulative Construction did not exceed 50% over the past five years
9456 Carlyle Ave		Accumulative Construction did not exceed 50% over the past five years
9324 Harding Ave		Accumulative Construction did not exceed 50% over the past five years
9240 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
9208 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
9180 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
9140 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
9249 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
8859 Carlyle Ave		Accumulative Construction did not exceed 50% over the past five years

9253 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
9273 Emerson Ave		Accumulative Construction did not exceed 50% over the past five years
9008 Carlyle Ave		Accumulative Construction did not exceed 50% over the past five years
8819 Froude Ave		Accumulative Construction did not exceed 50% over the past five years
1236 Biscaya Dr		Accumulative Construction did not exceed 50% over the past five years
1257 Biscaya Dr		Accumulative Construction did not exceed 50% over the past five years
9065 Byron Ave		Accumulative Construction did not exceed 50% over the past five years
9224 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9236 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9324 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9344 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
8925 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
8998 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9073 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
8919 Byron Ave		Accumulative Construction did not exceed 50% over the past five years
8858 Hawthorne Ave		Accumulative Construction did not exceed 50% over the past five years
9364 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9541 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9065 Dickens Ave		Accumulative Construction did not exceed 50% over the past five years
9380 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9452 Carlyle Ave		Accumulative Construction did not exceed 50% over the past five years
9117 Dickens Ave		Accumulative Construction did not exceed 50% over the past five years
9156 Byron Ave		Accumulative Construction did not exceed 50% over the past five years
8859 Garland Ave		Accumulative Construction did not exceed 50% over the past five years
9517 Carlyle Ave		Accumulative Construction did not exceed 50% over the past five years
9016 Bay Dr		Accumulative Construction did not exceed 50% over the past five years
9049 Byron Ave		Accumulative Construction did not exceed 50% over the past five years



**TOWN of SUFLSIDE  
Building Department**

**Checklist For Flood Damage Control Review**

**This checklist must be attached to all Permit Applications for all New Construction and Improvements, Renovations, Modifications, Remodels, and/or Additions to all Residential and Commercial Properties.**

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Permit Number: \_\_\_\_\_

**REQUIRED DOCUMENTS**

**Must Be Submitted At Time of Permit Application**

**Building Elevation**

1. Flood Zone Determination and FEMA Flood Elevation Certificate must be submitted with Plans.
2. Remodel of post-FIRM uninhabited space into habitable space below the BFE is prohibited. The remodeling project will be required to have the finished floor (if other than storage space) elevated to or above the BFE. Commercial structures may be floodproofed one (1) foot above the BFE; design/details to be signed/sealed by a design professional.
3. Finished Floor Elevation is at the BFE for all new construction and substantial improvements.
4. The elevation of the top of the lowest floor is shown.
5. The elevation of the top of the slab in the attached garage is shown.
6. Flood resistant materials are identified and used for all areas below the BFE.

7. Lowest adjacent finished and natural grade is shown.
8. Highest adjacent finished and natural grade is shown.
9. Total area of all permanent openings (flood vents) identified and within one (1) foot above adjacent grade are shown, and minimum of two (2) openings on separate walls shown unless otherwise designed by a design professional.
10. Lowest elevation of machinery and/or equipment servicing the building (for example, A.C. pad) identified as being at or above BFE. GFI must be used for electrical or mechanical equipment below the BFE.

#### Substantial Improvement

1. If the value of improvement is equal to or exceeds 50% of the value of the structure, then the entire structure is to be elevated to or above the BFE.
2. Does the value of improvements within the preceding 5-year period equal or exceed 50% or greater of the value of the structure? If so, the entire structure is to be elevated.

#### Flood-proofing Certification

1. Commercial structures with a finished floor below the BFE to be engineered to be flood-proofed one (1) foot greater than the BFE.
2. Flood protection to be clearly identified on the plans, and flood-proofing certificate is required with the plans submitted for approval.
3. Flood-proofing operation procedures are required and are to be submitted with the plans to be reviewed.

#### Accessory Structures

1. Structure is for storage only, is not climate-controlled, and is not intended for any type of habitation.
2. Flood resistant materials are used for areas below the base flood elevation.
3. Structure is anchored to resist flotation and lateral movement.
4. Permanent openings (flood vents) are designed and will be installed.

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

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 "FLOODS" AND SPECIFICALLY SECTION 42-26 "STATUTORY AUTHORIZATION"; SECTION 42-41 "DEFINITIONS"; SECTION 42-57 "BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD"; SECTION 42-77 "DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR"; SECTION 42-92 "SPECIFIC STANDARDS"; SECTION 42-95 "COASTAL HIGH HAZARD AREAS (V-ZONES)"; AND SECTION 42-114 "CONDITIONS FOR VARIANCES" OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Surfside ("Town") from time to time at the request of the State Floodplain Management Office must amend its FEMA Ordinance (Chapter 42 "Floods"); and

WHEREAS, the Commission has now been asked to modify floodplain management regulations to continue to comply with state guidelines and recommendations addressing the specific needs of the this unique community and as may best suit the needs of the community;

WHEREAS, the Town Commission held its first public hearing on September 13, 2011 having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on October 11, 2011.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:**

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

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

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

**ARTICLE II. FLOOD DAMAGE PREVENTION\***

**DIVISION 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES**

**Sec. 42-26. Statutory authorization.**

The Legislature of the State of Florida has authorized and delegated in Chapter 125 [counties] and 166 [municipalities] Florida Statutes, the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Commission of Town of Surfside does hereby adopt the following floodplain management regulations.

\*\*\*

**DIVISION 2. DEFINITIONS**

**Sec. 42-41. Definitions.**

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

\*\*\*

*Existing construction* means, for the purposes of floodplain management, structures for which "the start of construction" commenced before September 29, 1972, the date of the initial flood plain management regulations insurance rate map (FIRM). ~~Existing construction, means for the purposes of determining rates structures for which the "start of construction" commenced before the effective date of the first FIRM or before January 1, 1975, for FIRMs effective before that date. This term may also be referred to as "existing structures".~~

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 29, 1972.

\*\*\*

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

\*\*\*

*New Construction* means, for floodplain management purposes, any structure for which the "start of construction" commenced on or after September 29, 1972, the effective date of the initial floodplain management ~~regulations code, ordinance, or standard~~ based upon specific technical base flood elevation data that establishes the area of special flood hazard ~~include only one date~~. The term also includes any subsequent improvements to such structures. ~~For flood insurance rates, structures for which the start of construction commenced on or after the effective date of the date of an initial FIRM or after December 31, 1974, whichever is later include only one date, and includes any subsequent improvements to such structures.~~

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 29, 1972.

\*\*\*

*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure taking place during a five year consecutive period, in which the cumulative costs of such improvements equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. All substantially improved residential structures shall have the lowest floor elevated to or above the base flood elevation, and all horizontal expansions shall likewise have the lowest floor of the expansion elevated to or above the base flood elevation. This term does not, however, include any repair or improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

### **DIVISION 3. GENERAL PROVISIONS**

#### **Sec. 42-57. Basis for establishing the areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the Flood Insurance Study (FIS) for ~~the Town of Surfside (Community Number 120659) Miami-Dade County~~, dated, September 11, 2009, with the accompanying maps and other supporting data, ~~(FIRM maps dated September 11, 2009, Map Numbers 12086C0144L, 12086C0163L, 12086C0307L, and 12086C0326L),~~ and any revisions thereto, are adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and Flood Insurance Rate Maps are on file at 9293 Harding Avenue, Town of Surfside, FL 33154.

\*\*\*

### **DIVISION 4. ADMINISTRATION**

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

**Sec. 42-77. Duties and responsibilities of the floodplain administrator.**

Duties of the administrator shall include, but are not be limited to:

\*\*\*

(4) Notify adjacent communities, the ~~department of community affairs, Florida~~ Division of Emergency Management State Floodplain Management Office, the South Florida Water Management District, the Federal Emergency Management Agency and other federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;

\*\*\*

(13) Notify FEMA within six months when new technical or scientific data becomes available to the community concerning physical changes affecting flooding conditions so that risk premium rates and floodplain management requirements will be based on current data.

**DIVISION 5. PROVISIONS FOR FLOOD HAZARD REDUCTION**

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**Sec. 42-92. Specific standards.**

In all A-zones where base flood elevation data have been provided (zones AE, A1-30, and AH), as set forth in division 3, section 42-57, the following provisions shall apply:

(1) *Residential construction.* All new construction of any residential building (including manufactured home) ~~that meets the criteria of substantial improvement as may be amended from time to time by FEMA~~ shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of division 5, subsection 42-92(3).

(2) *Nonresidential construction.* All new construction of any commercial, industrial, or nonresidential building (including manufactured home) ~~s that meets the criteria of substantial improvement as may be amended from time to time by FEMA~~ shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A-zones may be floodproofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the floodplain administrator.

\*\*\*

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

~~(6) For all structures located seaward of the coastal construction control line (CCCL), the lowest floor of all new construction and substantial improvements shall be elevated to the regulatory flood elevation established by the Florida Department of Environmental Protection or by FEMA in accordance with division 3, section 42-57, whichever is higher. All non-elevation design requirements of division 5, section 42-95 shall apply.~~

**Sec. 42-95. Coastal high hazard areas (V-zones).**

Located within areas of special flood hazard established in division 3, section 42-57 are coastal high hazard areas, designated as zones V1-30, VE, or V (with BFE). The following provisions shall apply for all development activities:

\*\*\*

(11) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or to no lower than one foot above the base flood elevation, whichever is the higher. All non-elevation design requirements division 5, subsection 42-95(2) through (11) shall apply.

\*\*\*

**DIVISION 6. VARIANCE PROCEDURES**

\*\*\*

**Sec. 42-112. Duties of variance and appeals board.**

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the floodplain management administrator in the enforcement or administration of this article. Any person aggrieved by the decision of the board may appeal such decision to the circuit court.

\*\*\*

**Sec. 42-114. Conditions for variances.**

\*\*\*

(4) The floodplain administrator shall maintain the records of all variance actions, including justification for their issuance or denial, and report such variances ~~in the community's NFIP Biennial Report or upon request to FEMA and the State of Florida Division of Emergency Management State Floodplain Management Office, department of community affairs, NFIP Coordinating Office.~~

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

\*\*\*

**Section 3. Severability.** If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

**Section 4. Conflict.** All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

**Section 5. Inclusion in the Code of Ordinances.** It is the intention of the Town Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "ordinance" may be changed to "Section" or other appropriate word.

**Section 6. Effective Date.** This Ordinance shall be effective ten (10) days after adoption on second reading.

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

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

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

Attest:

\_\_\_\_\_  
John Di Censo  
Interim Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

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

  
Lynn M. Dannheisser, Town Attorney

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

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

**Vote:**

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

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



## Commission Communication

**Agenda #:** 5A

**Date:** October 11, 2011

**Subject:** Employee Health Benefits Contract Renewal for FY11-12.

**Objective:** To provide all employees with Health Insurance coverage(s) for FY11-12.

**Recommendation:** General healthcare rates are on the rise this year (Attachment 1) due to claims incurred, medical histories, medical trend increases and new federal healthcare mandates imposed by "health care reform". Staff and the Town's Insurance Agent of Record Stan Bershad, CLU was able to negotiate a proposed rate increase downward to 9.3% from an initially proposed 15.3% from our existing carrier-UnitedHealth Care/Neighborhood Health Plan (UHC/NHP). Therefore, it is recommended that the Town Commission adopt the attached resolution renewing UHC/NHP as our Health insurance contract carrier. Note that the 300 plus page contract is not included in the agenda; however, it is available for review in the Town Clerk's office.

**Background:** Our current contract with UHC/NHP expired on September 30, 2011. The Town has had coverage with UHC/NHP since October 1, 2010 and said coverage has been continued beyond the normal expiration date by mutual consent.

Stan Bershad is our Insurance Agent of Record for Employee Health, Disability, Life, Dental and all other related benefits programs. He was directed by Staff to renegotiate the existing plan or find an acceptable alternative plan from another carrier with the goal of keeping the cost increase to the lowest level possible while minimizing the impact on our employee coverages.

Stan Bershad met frequently with Staff since March 2011 to find alternatives and worked intensely with many insurance carriers in the market. He gathered a great amount of historical data and obtained medical history applications from all the Town's present and former employees who are eligible for coverage. He then submitted the data and was able to obtain seven proposals including Aetna, AvMed, BlueCross, CIGNA, Coventry, Humana, and UHC/NHP. Stan and Staff analyzed all proposals and shortlisted the options to two providers - Aetna and UHC/NHP. Finally, it was determined that the UHC/NHP reduced renewal offer was the most favorable. The initial proposal from UHC/NHP was reduced to 9.3% from 15.3% percent which resulted in \$35,039 of total savings comprised of \$27,460 to the Town and \$7,579 to Employees.

### **SUPPLEMENTAL BENEFIT PLANS:**

Staff is proposing that we remain with Mutual of Omaha for our Dental, Life insurance, Short-Term and Long-Term disability as the contract rates approved by the Town Commission for FY 10/11 were guaranteed for two years. The Town would therefore be affiliated with Mutual of Omaha for the fifth year.

A major reason for obtaining acceptable rates is attributable to Town employee's cooperation in completing medical claim history forms. In consideration and in accordance with a competitive bid process, the Town Commission has independently contracted with Stan Bershad in the amount of \$15,000 annually. This fixed rate has eliminated past practice of our benefit consultant receiving a variable commission from the carrier based on total insurance dollars in-force – a process clearly not in the Town's interest due to the inherent conflict for an agent receiving compensation based on total premium dollars.

### **Analysis:**

### **SUMMARY BENEFIT RECAP: (Attachment 2)**

1. A Town contribution employee only coverage will be increased up to 9.3% monthly.
2. Employees who select dependent coverage will also be increased up to 9.3% monthly.
3. Two (2) additional lower cost coverage options will be available to employees. Continued Rates at a 0% increase for Dental, Life and Disability insurance;

4. An Employee Assistance Program (EAP) fully integrated with Mutual of Omaha provides help to employees experiencing personal problems in a confidential matter;
5. No cost Flexible spending accounts benefit services provided by United HealthCare/Neighborhood Health Plan provides tax benefits to employees electing this service.

**Budget Impact:** The UNC/NHP contract total (Town plus employee contribution) is estimated at \$636,557 for FY 11/12. However, contingent on final Town employee decisions during our open enrollment period, the Towns contribution/budget impact is estimated at approximately \$517,808 which was budgeted within the FY 11/12 budget.

**Staff Impact:** Each year at renewal time in September, an “open season” training session is held for employees desiring coverage. There is quite a bit of work for HR and Finance staff at this time. Once employees make their decisions, the administration is handled by the carriers along with oversight and assistance from Stan Bershad.

  
\_\_\_\_\_  
Finance Support Services Dept. Head

  
\_\_\_\_\_  
Town Manager

# Health premiums rise sharply

■ The average cost of job-based health insurance leaped 8 to 9 percent this year, far outpacing inflation, a survey found.

BY TONY PUGH  
McClatchy News Service

WASHINGTON — After modest increases last year, the cost of job-based health insurance for families and individuals has jumped sharply this year, even though insurers are paying less in benefits as cash-strapped American workers opt for less medical care.

For the estimated 150 million workers with employer-sponsored coverage, the average cost of family health insurance jumped 9 percent this year to \$15,073, while the price of individual coverage rose 8 percent to \$5,429.

Both increases are the largest since 2005. Each far outpaced a national 2 percent hike in wages and a 3.2 percent rise in inflation, according to an annual survey of nearly 2,100 businesses released Tuesday by the Kaiser Family Foundation and the Health Research & Educational Trust.

In last year's survey, premiums for family and individual coverage had increased only 3 percent and 5 percent.

"We don't know if this is a one-time jump and premiums will go back down again next year or whether we're entering a period of higher increases," said Drew Altman, the president and CEO of the Kaiser Family Foundation.

What is clear, however, is that family coverage premiums have climbed 113 percent since 2001, compared with a 34 percent rise in workers' wages and a 27 percent rise in inflation over the period.

Employers still absorb the bulk of insurance costs. They pay an average of 72 percent, nearly \$11,000, toward the cost of family coverage. Workers pay about 28 percent, an average of \$4,129. For single coverage, workers pay about 18 percent, or \$921, in premiums; employers pay the rest, \$4,508.

Rising costs are why more employers and workers are opting for cheaper, high-deductible health plans that require patients to pay \$1,000 or \$2,000 in medical costs before coverage kicks in. The survey found that 31 percent of covered workers are in high-deductible plans, up from 10 percent in 2006.

Karen Ignagni, president of America's Health Insurance Plans, said the increasing cost of medical care was the main culprit behind the rate increases. Rising medical costs helped pave the way for the landmark 2010 Affordable Care Act, which overhauled the nation's healthcare system.

But Altman said that this year's higher premiums, set last year, might reflect insurers' expectation of a stronger economic recovery this year.

MH 9/28 CB

Plan Name	Option 1: Current	Option 2: Current	Option 3: Current
	7EF-P (BASE CH+ INS)	DVD-P (Open Access HMO)	EVC-P (Open Access HMO)
Product	Choice Plus *	Choice Plus *	Choice *
Rating Group	National	B19183	B19183
Plan Offering	Multiple Option	Multiple Option	Multiple Option
Multiple Option with:	Option(s) 2, 3	Option(s) 1, 3	Option(s) 1, 2
HRA or HSA	No	No	No
<b>Benefits*</b>	<b>Network Single/Family</b>	<b>Network Single/Family</b>	<b>Network Single/Family</b>
Office Copay (PCP/SPC)	\$15 Per Visit	\$15/25 Per Visit	\$15/25 Per Visit
Other Copays (IP/ER/UC)	N/A/\$100/\$35	\$250/day x 5/\$100/\$50	\$250/day x 5/\$100/\$50
Deductible	\$250/500	N/A	N/A
Coinsurance	100%	100%	100%
Out-of-Pocket	\$250/500	\$1,500/3,000	\$1,500/3,000
Pharmacy	\$10/35/60/100/30%	\$20/40/60/20%	\$10/35/50/20%
Deductible	<b>Out of Network Single/Family</b>	<b>Out of Network Single/Family</b>	<b>Out of Network Single/Family</b>
Coinsurance	\$500/1000	\$500/1,000	NA
Out of Pocket	80%	50%	NA
Out of Pocket	\$3000/6000	\$3,000/6,000	NA
<b>Enrollment</b>			
Employee	24	10	9
Employee + Spouse	6	0	1
Employee + Child(ren)	9	1	1
Employee + Family	12	1	1
Total	51	12	12
<b>Rates</b>			
Employee	<b>Current</b> \$404.45	<b>Current</b> \$373.23	<b>Current</b> \$352.75
Employee + Spouse	<b>Proposed</b> \$442.08	<b>Proposed</b> \$407.57	<b>Proposed</b> \$385.22
Employee + Child(ren)	<b>Current</b> \$865.52	<b>Current</b> \$798.71	<b>Current</b> \$754.88
Employee + Family	<b>Proposed</b> \$946.05	<b>Proposed</b> \$872.20	<b>Proposed</b> \$824.37
Monthly Premium	<b>Current</b> \$825.07	<b>Current</b> \$761.38	<b>Current</b> \$719.60
Annual Premium	<b>Proposed</b> \$901.84	<b>Proposed</b> \$831.44	<b>Proposed</b> \$785.84
Change from Current	\$1,237.61	\$1,142.08	\$1,079.40
Monthly Premium	\$37,177	\$5,636	\$5,729
Annual Premium	\$446,122	\$67,629	\$68,744
Change from Current	9.3%	9.2%	9.2%

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA, APPROVING GROUP HEALTH PLAN BETWEEN THE TOWN OF SURFSIDE, FLORIDA AND UNITED HEALTHCARE/ NEIGHBORHOOD HEALTH PLAN; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Commission of the Town of Surfside, Florida (“TOWN”) on May 11, 2010 by Resolution 10-1939 retained the Stanton M. Bershad, CLU to become agent of record and secure and analyze the best proposals from competitive health care benefit providers for the Town of Surfside employees every year; and

**WHEREAS**, this task has been completed and the Town of Surfside wishes to continue to engage and renew with United Healthcare/Neighborhood Health Plan to arrange for the delivery of health, for qualified Town of Surfside Subscribers (“Subscribing Group”); and

**WHEREAS**, the Town Commission believes that it is in the best interest of the Town to accept the proposals of this company attached as Attachment “A”; and

**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. Authorization.** The Town Commission hereby authorizes the Town Manager and the Town Attorney to enter into an agreement with the Subscribing Group for group health, between the Town Of Surfside, Florida and United Healthcare/Neighborhood Health Plan and the Subscribing Group based on the terms of the proposals attached hereto as

Attachment "A" and authorizes the Town Manager and Town Attorney to do all things necessary to effectuate this Contract.

**Section 3. Effective Date.** This Resolution shall become effective October 1, 2011.

**PASSED** and **ADOPTED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2011

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

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	_____
Commissioner Edward Kopelman	_____
Commissioner Marta Olchyk	_____
Vice Mayor Joseph Graubart	_____
Mayor Daniel Dietch	_____

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

**ATTEST:**

\_\_\_\_\_  
John DiCenso  
Interim Town Clerk

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

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

**ATTACHMENT "A"**

Due to its length full contract available for review in Town Manager's Office  
Summary of Plan attached hereto



## Town of Surfside Commission Communication

**Agenda Item #** 5B

**Agenda Date:** October 11, 2011

**Subject:** Selection of Resort Tax Auditing Firms

**Background:** Surfside's statutory authority to collect the Resort Tax has been in existence since 1960. However, a comprehensive program to determine compliance with statutes via the performance of independent audits has never been implemented.

In an effort to strengthen, clarify and update the ordinance governing Surfside's authority to collect Resort Tax, the Town Commission passed a revision to the Surfside Resort Tax Ordinance on second reading at the June 14, 2011 meeting. One of the far reaching necessary amendments creates for the first time a process for the auditing of said businesses and allows for a dispute and resolution process.

A Request For Proposals (RFP) was drafted with the view of selecting multiple qualified audit firms that could be utilized to audit businesses subject to Resort Tax. The contract term would be for a period of two (2) fiscal years with the option of three (3) one-year renewals. The Government Finance Officers Association (GFOA) recommends a minimum of five (5) year terms for audit engagements. This process is similar to the Town Commission approved RFP process for engineering/architecture firms presently being utilized.

The following is the timeline administered for the Resort Tax Auditors RFP:

August 12, 2011 – RFP issued

August 19, 2011 - Non-Mandatory Pre-Submission Meeting attended by four firms.

September 6, 2011 (3:00 pm) – Submission Deadline: seven proposals were received

September 19, 2011 – a Town Selection Committee consisting of the Finance Support Services Director, Acting Town Clerk and Tourism Director reviewed all seven proposals against the requirements outlined in the RFP.

**Analysis/Conclusion:** All seven firms that submitted proposals met the RFP requirements and are listed below with their proposed blended hourly rate. The blended rate means that there will be only one rate per hour so that precise cost estimates can be received for each scheduled audit.

- Experis Finance, 1600 Sawgrass Corporate Parkway, Sunrise FL 33324 (\$115)
- Gamarra & Associates, LLC, 2999 NE 191 Street, Ste 704, Aventura FL 33180 (\$75)
- Keefe, McCullough & Co., LLP, 6550 N Federal Highway, Ste 410, Fort Lauderdale FL 33308 (\$100)
- Marcum, LLP 1 SE 3<sup>rd</sup> Avenue, Miami FL 33131 (\$130)
- RGL Forensics, 100 SE 3<sup>rd</sup> Avenue, Ste 1515, Fort Lauderdale FL 33394 (\$109)
- Samson Kline Jacomino & Co., LLP, 5805 Blue Lagoon Drive, Suite 220, Miami FL 33126 (\$80)
- TCBA Watson Rice LLP, 500 NW 165<sup>th</sup> Street, Ste 205, Miami FL 33169 (\$62.50)

The blended average hourly rate for all firms is \$100.00. This is comparable to the rate that Bal Harbour pays for their Resort Tax auditing. Those firms whose submitted blended hourly rate is above the \$100 were asked to lower their hourly rate to the blended average of \$100. Both Experis Finance and RGL Forensics agreed while Marcum LLP did not. Since Marcum LLP is the Town's current external auditor at a fixed maximum price, the Town Manager is requesting once again that the firm lower its rate. This firm, due to scale and expertise, would be the best to handle the larger restaurant and hotel audits. Conversely, those firms that submitted a blended hourly rate below \$100 will be retained at their lower submitted hourly rate.

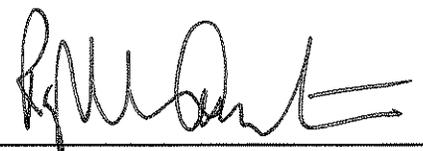
While at first it may seem logical to only go with the audit firm offering the lowest hourly rate, due to the varying complexity of the businesses set to be audited, including the new approved hotels, there is a need for the ability to use both smaller and larger firms. The acceptance of all seven, multiple qualified audit firms, will provide flexibility to the Town when determining which businesses and when to audit as well as assurances that the audits will be performed and completed in a timely manner.

**Budget Impact:** \$15,000 is budgeted in FY 11/12 for Resort Tax Audits. Due to the fact that this will be Surfside's first comprehensive audit program of businesses that submit Resort Tax, it is anticipated that the Town will ultimately receive remittances in excess of \$15,000 as the initial audit scope encompasses the past three fiscal years for each business selected for audit. Based on the experience of the first audits it may be necessary to return to the Town Commission for additional allocation.

**Staff Impact:** Existing staff resources will be utilized to facilitate the auditing process with each approved vendor selected.

**Recommendation:** It is recommended that the Town Commission ratify the attached resolution and approve the selection of the seven (7) qualified audit firms.

  
\_\_\_\_\_  
Tourism Director  
  
\_\_\_\_\_  
Finance Support Services Director

  
\_\_\_\_\_  
Town Manager

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING SEVEN (7) AUDIT FIRMS TO PERFORM RESORT TAX AUDITS FOR THE TOWN IN RESPONSE TO RFP NO. 11-04; AUTHORIZING THE TOWN MANAGER OR HIS/HER DESIGNEE TO ENTER INTO CONTINUING CONSULTANT AGREEMENTS WITH THE SELECTED AUDIT FIRMS; FURTHER AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside, Florida issued Request for Proposals No. 11-04 Resort Tax Auditors to perform Resort Tax audits for the Town; and

**WHEREAS**, the Town has received seven (7) responses to said RFP, which have been reviewed by staff; and

**WHEREAS**, staff finds the following seven (7) firms qualified as audit firms for the Town:

- 1) Experis Finance
- 2) Gamarra & Associates
- 3) Keefe, McCullough & Co., LLP
- 4) Marcum, LLP
- 5) RGL Forensics
- 6) Samson Kline Jacomino & Co., LLP
- 7) TCBA Watson Rice LLP

**WHEREAS**, the Town desires to use these audit firms for the provision of auditing services; and

**WHEREAS**, the Town wishes to enter into continuing consulting agreements with the selected audit firms for the purpose of providing on-call audit services for various projects that may arise throughout the year; and

**WHEREAS**, each audit firm shall submit work authorizations to the Town for any audit services to be performed, prior to the delivery of such services.

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

**Section 1. Recitals.** The foregoing recitals are incorporated here in by reference.

**Section 2. Firms Selected.** The Town Commission hereby selects the following audit firms as qualified to perform general audit services for the Town:

- 1) Experis Finance
- 2) Gamarra & Associates
- 3) Keefe, McCullough & Co., LLP
- 4) Marcum, LLP
- 5) RGL Forensics
- 6) Samson Kline Jacomino & Co., LLP
- 7) TCBA Watson Rice LLP

**Section 3. Authorization of Town Manager.** The Town Commission hereby authorizes the Town Manager or his/her designee to enter into continuing consulting agreements with said selected audit firms as deemed necessary and appropriate within the discretion of the Town Manager.

**Section 4. Further Authorization of Town Manager and Town Attorney.** The Town Manager and Town Attorney are hereby authorized to do all things necessary to effectuate this Resolution.

**Section 5. Effective Date.** This Resolution will become effective upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_ 2011.

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

**FINAL VOTE ON ADOPTION**

Commissioner Michael Karukin	_____
Commissioner Edward Kopelman	_____
Commissioner Marta Olchyk	_____
Vice Mayor Joseph Graubart	_____
Mayor Daniel Dietch	_____

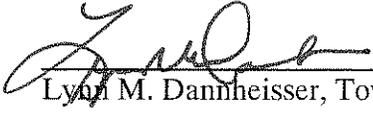
\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

---

John DiCenso, Interim Town Clerk

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



---

Lynn M. Dannheisser, Town Attorney



**Town of Surfside  
Commission Communication**

**Agenda Item #:** 5C

**Agenda Date:** October 11, 2011

**Subject:** Acceptance of \$100,000 Contribution to Grand Concourse (95<sup>th</sup> Street) Project from 9501 Collins Avenue Townhome Developer

**Background:** The property at 9501 Collins Avenue has been vacant for many years. The Town Commission declined to exercise its first right of refusal to purchase the property and the new owner Greystone Residential LLC has begun the process to pull the building permit for the already approved seven townhome project. The developer has proffered a \$100,000 contribution to the Grand Concourse (95<sup>th</sup> Street) project which will be added to the \$200,000 contribution previously committed by the Grand Beach Surfside developer which will allow the first block from the beach to Collins Avenue to get underway.

This resolution provides for the developer to make the contribution. The terms of the contribution as relates to timing and design will be finalized in a Development Agreement to be brought to the Town Commission at the November 8, 2011 meeting. The resolution will be appended to the building permit which is scheduled to be issued after the Town Commission approval of the resolution scheduled for October 11, 2011.

Renderings of the proposed townhome project and the Grand Concourse conceptual design will be presented to the Town Commission during the October 11, 2011 meeting.

Roger M. Carlton  
Town Manager

RESOLUTION NO. 11 - \_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA (“TOWN”), ACCEPTING A PROFFER BY GREYSTONE RESIDENTIAL LLC, SUCCESSOR IN INTEREST TO 9501 COLLINS AVENUE, LLC IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000) CONTRIBUTION TO THE 95<sup>TH</sup> STREET GRAND CONCOURSE PROJECT FUND; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, by Resolution 2007-Z-1756 the Town approved site plan and certain variances for a townhouse project located at 9501 Collins Avenue; and

**WHEREAS**, Greystone Residential, LLC purchased the property from 9501 Collins Avenue, LLC, and has finalized the plans and specifications and is preparing to pull the building permit for this proposed townhouse development; and

**WHEREAS**, in connection with the proposals for redevelopment of the downtown area, the Town Manager and the Downtown Vision Advisory Committee has conceived and created the 95<sup>th</sup> Street Grand Concourse Project (“Project”) which has been further developed and created by Greystone Residential, LLC; and

**WHEREAS**, Greystone Residential, LLC now wishes to participate in the funding of the Project to ensure it is implemented and has proffered a donation in the amount of one hundred thousand dollars (\$100,000) to the Town which the Town Commission must accept in order for it to be lawful.

**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. Authorization and acceptance of contribution.** The Town Commission hereby authorizes the Town Manager to accept a contribution proffered by Greystone Residential, LLC in the amount of one hundred thousand dollars (\$100,000) to be utilized to implement 95<sup>th</sup> Street Grand Concourse Project (“Project”) payable no later than January 15, 2012.

**Section 3. Development Agreement.** The one hundred thousand dollar (\$100,000) contribution delineated in the aforesaid paragraph shall be made in accordance with the terms of a Development Agreement. That Agreement will be presented to the Town Commission for approval in November and payment of the contribution will be made within thirty (30) days of that approval.

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

**PASSED and ADOPTED** on this 11<sup>th</sup> day of October, 2011.

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

FINAL VOTE ON ADOPTION

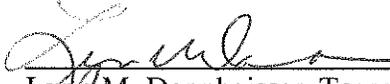
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

Attest:

\_\_\_\_\_  
John DiCenso, Acting Town Clerk

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

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



# Town of Surfside Commission Communication

**Agenda Item #** 5D

**Agenda Date:** October 11, 2011

**Subject:** Expenditure of Forfeiture Funds

**Objective:** To utilize forfeiture funds to support crime prevention initiatives, community-based programs, and police equipment.

**Background:** Forfeiture funds may be used for law enforcement purposes only including supporting community policing activities, law enforcement training, law enforcement operations, law enforcement equipment, crime awareness programs, and community-based initiatives.

**Analysis:**

1. The Police Department conducts crime prevention initiatives, programs, and training and distributes crime prevention material for children, residents and businesses throughout the year. The training and programs include the Citizens Police Academy, monthly crime prevention workshops, school career days, Teen Summer Police Camp, Seniors in Surfside program, Holiday Toy Drive, Reserve Police Officers Program, residential and commercial security surveys, Community Emergency Response Team, victim awareness seminars, Citizens Patrol, Bike with the Chief, Crime Prevention Expo, Eye on Surfside neighborhood watch signage, crime mapping and alerting system, and other courses. The projected cost is \$14,200.
2. The Police Department sponsors several community-based events during the fiscal year including a summer camp scholarship, PAL Parade and Beach Party, Police Halloween Safety Night, Police Officers Assistance Trust, and Drug Awareness and Family Fun Day. The projected cost is \$8000.
3. The mobile laptop program allows officers to electronically complete their reports and conduct criminal and driver license checks on the road. The project includes the cost for the lease of the laptops, the software, and the air cards at \$27,000. The Arrest Form Automation Project is county wide project funded through a grant and mandated by the Miami-Dade Association of Chiefs of Police Association and an inter-local agreement for all municipalities. There are costs of \$5000 associated with the

development of codes not included in the grant and are the responsibilities of individual agencies.

4. The Police Department expenses for overtime and related personnel expenses to support these initiatives, programs and training is projected at \$12,665.
5. The Town anticipates phasing in over the next few years new residential and commercial entrances to enhance safety and deter criminal activity using crime prevention through environmental design. The projected cost for this new initiative is \$17,335.

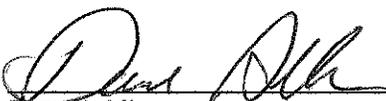
**Budget Impact:**

The total expenditure from forfeiture funds is \$79,210.

1. \$9,210 for crime prevention events, programs, training, and materials
2. \$8,000 for sponsoring community-based activities
3. \$32,000 for mobile laptop program and equipment and the Arrest Form Automation Project.
4. \$12,665 for overtime costs and personnel expenses to support the programs and initiatives.
5. \$17,335 for new Town entranceways.

**Staff Impact:** N/A

**Recommendation:** It is recommended that the Surfside Town Commission approve the resolution to utilize \$79,210 from forfeiture funds to support crime prevention initiatives and materials, community-based programs and events, and the mobile laptop project and other special equipment.

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

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

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, PROVIDING FOR THE FISCAL YEAR 2011/2012 POLICE CONFISCATION FUND EXPENDITURE IN THE AMOUNT OF SEVENTY NINE THOUSAND TWO HUNDRED TEN DOLLARS (\$79,210.00); AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Section 881(e)(3) of Title 21, United States Code and Florida Statute Section 932.7055, defines the purposes and procedures to be utilized for the appropriation and expenditure of Police Confiscation Fund; and

**WHEREAS**, the Chief of Police of the Town of Surfside has determined that such needs exist and is in compliance with Section 881(e) (3) of Title 21, United States Code and Florida Statute Section 932.7055; and

**WHEREAS**, such funds are available in the Police Confiscation Fund- State of Florida and Federal Asset Forfeiture Programs;

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

**Section 1. Confiscation Fund Expenditures.** Based on the attached certificate of the Police Chief, the Town Commission hereby approves the fiscal year Police Confiscation Fund expenditures for the Town of Surfside, a true and correct listing of which is set forth in Exhibit A.

**Section 2. Effective Date.** This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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

**FINAL VOTE ON ADOPTION**

Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

**ATTEST:**

\_\_\_\_\_  
John DiCenso, Interim Town Clerk

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

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

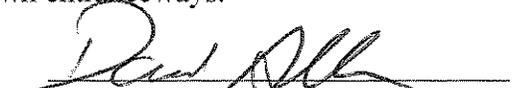
Exhibit "A"

STATE OF FLORIDA )  
 )ss:  
COUNTY OF MIAMI- DADE )

**AFFIDAVIT**

I, **DAVID E. ALLEN**, Chief of Police of the Town of Surfside, do hereby certify that the proposed request for expenditures from the Town of Surfside Confiscation Fund, for the 2010/2011 Fiscal Year budget complies with provisions of Section 881(e)(3) of Title 21, United States Code and Florida Statute Section 932.7005. The total expenditure from forfeiture funds is \$79,210 as follows:

1. \$9,210 for crime prevention events, programs, training, and materials
2. \$8,000 for sponsoring community-based activities
3. \$32,000 for mobile laptop program and equipment and the Arrest Form Automation Project.
4. \$12,665 for overtime costs and personnel expenses to support the programs and initiatives.
5. \$17,335 for new Town entranceways.

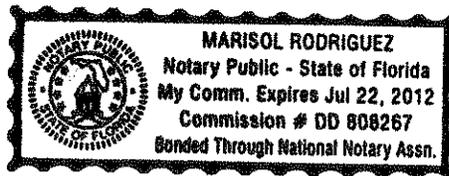
  
\_\_\_\_\_  
**DAVID E. ALLEN, Chief of Police**

Before me, **David E. Allen**, Chief of Police of the Town of Surfside, Florida personally known to me and acknowledged that he executed the foregoing instrument.

Witness my hand and seal this 3 day of October, 2011.

  
\_\_\_\_\_  
Notary Public

My Commission expires:





## Town of Surfside Commission Communication

### **Agenda Item #**

**Agenda Date:** October 11, 2011

**Subject:** Community Garden / Surfside Urban Gardeners Agreement

**Background:** A meeting with Town Staff, Ready-To-Grow and Surfside resident Randall Rubin was held on June 1, 2011 to discuss logistics and a timeline for the Community Garden's start-up, the formation of a resident Garden Club, and incorporating Endlessly Organic's contributions to this initiative. It was decided that a second meeting was needed by mid-June to finalize all details. Due to scheduling issues the follow-up meeting was pushed back to mid-July.

Interested residents met on July 20, 2011 to initiate the formation of a non-profit Garden Club. This group was charged with forming the club by August 3, 2011. Staff met with the fledgling club at 7:00 pm on that evening to review the club's formation and to address any further questions before proceeding with the implementation of the garden.

Thirteen (13) residents met to form the non-profit Garden Club (The Surfside Urban Gardeners) to manage the Community Garden proposed for Dickens Avenue at 89<sup>th</sup> Street on August 3, 2011. To date twenty eight (28) Surfside residents have expressed interest, and have maintained communication with staff and the club, regarding this initiative.

At that meeting Ms. Melissa Moonves was appointed President of the proposed organization. On August 4, 2011 she received the Federal Employer Identification Number (EIN) for the Garden Club as required by the IRS and has applied for non-profit status with the State of Florida. Thus, the club met the deadline imposed by the Town Commission during the July 12, 2011 meeting.

At the club's August 24, 2011 meeting the following were enacted:

- Organizational By-laws (attachment A)
- Garden Guidelines (attachment B)
- Utilization of Garden Plot Pledge (attachment C)
- Membership Dues: \$15 for an individual, \$20 for a family and \$10 for seniors. All dues & fees go to cover organizational costs.
- One plot will be reserved as a children's garden and one plot will be 'communal' for anyone to participate who doesn't want to be responsible for an entire plot.
- Meetings will be the 4th Wednesday of each month at 7pm.

The club met again on September 21, 2011 to discuss an initial action plan to commence upon assuming responsibility for the garden.

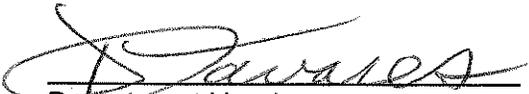
**Analysis/Conclusion:**

The attached yearly License Agreement allows for the Garden Club to manage the Community Garden at Dickens Avenue and 89<sup>th</sup> Street for the Town at a rate of \$1.00 per month for one year. The Town has begun construction of the planting beds, fence and watering system as budgeted for FY 10/11. The Garden Club will maintain and manage the planting beds for the exclusive use of Surfside resident members.

**Budget Impact:**

**Staff Impact:** Existing staff resources will be utilized to coordinate with the club and the Town will continue to provide existing common area landscaping and maintenance.

**Recommendation:** It is recommended that the Town Commission ratify the accompanying resolution and approve the agreement with Surfside Urban Gardeners for FY 11/12.

  
\_\_\_\_\_  
Department Head

  
\_\_\_\_\_  
Town Manager

# Surfside Urban Gardeners, Inc.

## By-Laws

**Name:** Surfside Urban Gardeners, Inc.

**Address:** c/o 8842 Emerson Avenue, Surfside, FL 33154

**Purpose/Mission:** The Surfside Urban Gardeners, Inc. is a community organization created to oversee the Surfside Community Garden. The primary activity is management of the garden plots, yet it will also be a vehicle for teaching Surfside residents about gardening, healthy eating, nutrition and cooking with vegetables and fruits from the garden. There will be dedicated space for children to learn and enjoy the gardening experience.

**Membership Categories & Dues (Paid Annually):**

Individual \$15

Family \$20

Senior Citizen \$10

**Eligibility Requirements:**

Current Surfside Resident [Provide Proof of Residency]

**Meetings:** Monthly General Meetings  
Annual Board of Directors Meeting

**Officers:** President – Duties include but not limited to: conducting all meetings, signing organization's documents, representing the organization at commission meetings

Vice President (1 or 2) – Duties include but not limited to: conducting meetings when President unable to attend, overseeing Committees

Secretary – Duties include but not limited to: keep records of meetings and all correspondences

Treasurer - Duties include but not limited to: accounting and keeping organization's financial records

All officers to serve a term of One Year

Elected Annually by Majority of Members in attendance at General Meeting which has been advertised as election

**Committees:** Membership  
Education  
Garden Oversight

**Hold Harmless:** The Surfside Urban Gardeners agree to hold harmless the Town of Surfside from and against any damages, loss, liability, claim, demand, suit, cost and expense directly or indirectly resulting from, arising out of or in connection with the use of the Surfside Community Garden, located at Dickens Avenue and 89<sup>th</sup> Street, by the Surfside Urban Gardeners, its successors, assigns, employees, agents and invites.

**By-Laws Changes:** These By-Laws will be reviewed every year at the time of the election of new officers. In addition, the By-Laws can be reviewed at any time if deemed necessary. Changes can be suggested and made permanent by a vote of the majority at a general meeting so long as all the members have been notified at least one week prior that such a vote will take place at said meeting.

## **Surfside Urban Gardeners Garden Guidelines & Rules**

- Everyone who is responsible for a plot must sign a Pledge (see attached).
- Garden plots must be kept relatively neat, with growth limited to the size of the plot and weeds kept to a minimum.
- Each gardener will keep the area immediately surrounding his/her plot free of weeds and litter.
- No pets shall be brought into the Surfside Community Garden.
- Children shall be supervised at all times.
- Something shall be planted in the plot within one month of assignment of responsibility.
- If a plot is not kept up, Surfside Urban Gardeners will send an official notice of warning. If this notice is ignored after two weeks, the plot will be tilled up and reassigned to the next gardener on the Waiting List.
- Gardeners agree not to plant any crops that will interfere with neighboring plots. No fruit trees in the plots.
- No one will pick anything from any plot other than her/his own without permission from the person responsible for the plot.
- No fertilizers, pesticides, insecticides or weed repellent may be used that will in any way affect other plots. There will be no chemicals in the Community Garden. This will be an organic garden.
- A fee of \$25 will be paid to Surfside Urban Gardeners by each person responsible for a plot annually.
- Every gardener must understand that neither the Surfside Urban Gardeners or the Town of Surfside is responsible for his or her actions, or the actions of their guests. Therefore, every gardener agrees to hold harmless the Surfside Urban Gardeners and/or the Town of Surfside for any liability, damage, loss or claim that occurs in connection with the use of the garden by him or herself or guests.

## Surfside Urban Gardeners Pledge

- I agree to be responsible for the plot I am assigned in the Surfside Community Garden.
- I agree to keep my plots relatively neat, with growth limited to the size of the plot and weeds kept to a minimum.
- I agree to begin planting in my plot within one month of assignment of responsibility.
- I agree that if my plot is not kept up, Surfside Urban Gardeners will send an official notice of warning by e-mail and USPS mail. If this notice is ignored after two weeks, my plot will be tilled up and reassigned to the next gardener on the Waiting List.
- I agree not to plant any crops that will interfere with neighboring plots.
- I agree not to pick anything from any plot other than my own.
- I agree not to use any fertilizers, pesticides, insecticides or weed repellent that will in any way affect other plots.
- I agree to keep the area immediately surrounding my plot free of weeds and litter.
- I agree not to bring any pets into the Surfside Community Garden.
- I agree that any children I bring into the Surfside Community Garden shall be supervised at all times.
- I agree to be responsible for the actions of any guest I bring into the Surfside Community Garden.
- I agree to pay the fee of \$25 to be paid to Surfside Urban Gardeners annually.
- I understand that neither the Surfside Urban Gardeners or the Town of Surfside is responsible for my actions, or the actions of my children or guests. Therefore, I agree to hold harmless the Surfside Urban Gardeners and/or the Town of Surfside for any liability, damage, loss or claim that occurs in connection with the use of the garden by me, my children or my guests.

Signed by \_\_\_\_\_ on \_\_\_\_\_, 2011  
(Signature)

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

RESOLUTION NO. \_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN AFTER-THE-FACT AGREEMENT WITH SURFSIDE URBAN GARDENERS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO DO ALL THINGS NECESSARY TO IMPLEMENT THE TERMS OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside, Florida a municipal corporation of the State of Florida (hereinafter referred to as "Town") agrees to enter into agreement with Surfside Urban Gardeners, a non-profit entity to manage the Surfside Community Garden (hereinafter referred to as "Garden"); and

**WHEREAS**, the Town has selected Surfside Urban Gardeners as qualified to manage the Garden located on Town owned property at Lot 10, Block 16, of the SECOND AMENDED PLAT OF NORMANDY BEACH (also known as the lot at Dickens Avenue and 89<sup>th</sup> Street), Surfside Florida; and

**WHEREAS**, Surfside Urban Gardeners is qualified, willing and able to provide the desired services on the terms and conditions set forth in agreement (attached as Exhibit "A").

**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 and Town Attorney to enter into the Agreement by and between Surfside Urban Gardeners and the Town of Surfside attached as Exhibit "A".

**Section 3. Implementation.** The Town Manager and Town Attorney 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 will become effective upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_ 2011.

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

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
John DiCenso, Interim Town Clerk

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

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

**REVOCABLE LICENSE AGREEMENT**

This **Revocable License Agreement** (“Agreement” or “RLA” ) is made this Twentieth day of September, 2011 between the Town of Surfside (the “Town ”) a municipal corporation of the State of Florida and The Surfside Urban Gardeners, a Florida not for profit compliant corporation incorporated under the laws of the State of Florida (the “Licensee”).

**RECITALS**

**WHEREAS**, the Town and Licensee (“the Parties”) desire and intend to enter into a Revocable License Agreement for the use of town -owned property located at Lot 10, Block 16, of the SECOND AMENDED PLAT OF NORMANDY BEACH (also known as Dickens Avenue at 89<sup>th</sup> Street), Surfside , Florida as a community garden; and

**WHEREAS**, this revocable license agreement is for this purpose only and not assignable; and

**WHEREAS**, this Agreement is revocable-at-will by the Town, acting by through the Town Manager and without the consent of the Licensee; and

**WHEREAS**, this Agreement does not transfer an interest in real property including any leasehold interest in real property owned by the Town ; and

**WHEREAS**, this Agreement does not confer a right to use any real property for any general purposes; and

**WHEREAS**, this Agreement does not convey or transfer any right to exclude the Town from any real property; and

**WHEREAS**, this Agreement permits only certain, enumerated, specific, listed permitted use of a community garden , and does not permit any further uses; and

**WHEREAS**, the Parties jointly and voluntarily stipulate as to the accuracy of these recitals; and

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein, the parties hereby agree as follows:

1. **Recitals.** The Recitals contained above are hereby incorporate into this Agreement by reference.

2. **Definitions.**

A. "Area" shall mean the area included in this Agreement as available for the Permitted Uses (but excluding all other areas) as depicted in Exhibit "A" attached hereto and made a part hereof.

B. "Town Manager" is the Town Manager for the Town of Surfside or his designee.

C. "Director" shall mean the Director of Tourism, Economic Development & Community Services for the Town of Surfside.

D. "Effective Date" shall mean September 20, 2011 or the date that this Agreement is executed by the Town Manager. In the event the Effective Date does not fall on the first day of the month, the Effective Date shall be adjusted to be the first day of the following month.

E. "Permitted Uses" shall mean the establishment, operation, maintenance and care of a "Community Garden" by Surfside Residents at the Area. For purposes of this Agreement "Community Garden" shall mean the planting, maintenance including (planting beds, seeding, watering, trimming) and care of vegetables, fruits, plants and flowers by Surfside Residents. The Licensee will maintain the actual plant beds to an acceptable level to be determined on an ongoing basis by the Town Manager or his designee. No illegal, invasive, prohibited, or nuisance species as defined by the Miami-Dade County ("County") Landscape Manual and applicable State of Florida And County Laws, Codes, Ordinances, Rules and Regulations shall be permitted. Notwithstanding the foregoing, the Town will, subject to the availability of funds and personnel, provide the planting beds, fencing for the Area, and a watering system. Licensee will provide general landscaping, maintenance, planting, and watering of the Area.

F. "Use Fee" shall mean a nominal fee charged to the Licensee as a Florida nonprofit corporation serving a public purpose pursuant to this Agreement.

**3. Purpose.**

The Town is the owner of the Area and desires to assist the Licensee in accomplishing its purpose and in furtherance thereof wishes to authorize the Licensee to occupy and use the Area or Property for the Permitted Use, under the conditions hereinafter set forth. The use of the Area or Property is strictly limited to the Permitted Use and is not to be used for any other purpose whatsoever. Any use of the Area or Property not authorized under Permitted Use must receive the prior written consent of the Town Manager or his designee, which consent may be withheld, denied or conditioned for any or no reason, including, but not limited to additional financial consideration.

**4. Interest Conferred By This Agreement.**

This Agreement confers no exclusive possession of the Area or Property. The Licensee cannot exclude the Town or the public from the Property.

This Agreement solely authorizes Licensee to the temporary use of the Area for the limited purposes set forth herein and for no other purpose. The parties hereby agree that the provisions of this Agreement do not constitute a lease. The rights of Licensee hereunder are not those of a tenant, but are a mere personal privilege to do certain acts of a temporary character on the Area and to use the Area, subject to the terms of this Agreement. The Town retains dominion, possession and control of the Area. Therefore, no lease interest in the Area or Property is conferred upon Licensee under the provisions hereof. Licensee does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Area by virtue of this Agreement or its use of the Area hereunder and acknowledges the Town may terminate the interest conferred hereunder at any time for any reason. Additionally, Licensee does not and shall not claim at any time any interest or estate of any kind or extent whatsoever in the Area by virtue of any expenditure of funds by the Licensee for improvements, construction, repairs, partitions, or alterations to the Area which may be authorized by the Town .

**5. Common Areas.**

Licensee shall have the non-exclusive right (in common with other occupants of the Property) to use the Common Areas of the Property identified as “Common Area” in Exhibit “B” attached hereto and made a part hereof, for the right of any needed egress and ingress to the Area for the purposes intended as “Permitted Uses” but for no other purpose whatsoever, subject to such rules and regulations as Town may establish from time to time.

**6. Occupancy and Use Period.**

This Agreement shall commence on the October 1, 2011 and shall continue for the period of one (1) year and thereafter on a year –to- year basis, in conjunction with the Town’s Fiscal Year Calendar, until the first to occur of the following:

- i. Cancellation for convenience pursuant to the applicable paragraphs herein; or
- ii. Change of the President of the Licensee without prior written approval of the Manager or Director; or
- iii. The Licensee is dissolved, abandons the Area, or otherwise ceases to use the Area as provided in this Agreement; or
- iv. Termination by the Town Manager for cause including, without limitation, Licensee’s failure to comply with any provisions of this Agreement or excessive consumption of water by Licensee in the sole discretion and opinion of the Town Manager

**7. Continuous Duty to Operate.**

Except where the Area is rendered unusable by reason of fire, Acts of God, storms or other casualty, Licensee shall at all times constituting “Access Hours” during this Agreement, the “Access Hours” will be from Sunup or 8:00 a.m. (whichever occurs first) until Sunset or 8:00 p.m. (whichever occurs first) operate the premises in good safe condition.

**8. Use Fee.**

Monthly Use Fee.

Commencing on the Commencement Date of this Agreement (October 1, 2011), Licensee shall pay to Town the following Monthly Use Fee of (\$1.00 per month) payable in total (\$12.00) at the beginning of each Fiscal Year's Agreement.

**A. Manner of Payment.**

Commencing on the Commencement Date of this Agreement (October 1, 2011), Licensee shall pay to the Town the Annual Use Fee in the total amount of twelve (\$12.00) dollars for the license to use the Area. Licensee may also be responsible for payment of water and other utility bills as specified in Paragraph 9. hereinbelow.

Payments shall be made payable to "Town of Surfside" and shall be received at 9293. Harding Avenue, Finance Department, Surfside Florida 33154, by the first day of each Fiscal Year's Agreement (October 1<sup>st</sup>), or such other address as may be designated from time to time from the Town Manager or his designee.

**9. Services and Utilities.**

A. Licensee's responsibilities.

The Town Manager reserves the right to impose on the Licensee, at its sole cost and expense, any utilities except those specifically set forth in Paragraph 0 below to be provided by Town which may include, but is not limited to, electricity, water, storm water fees, gas, telephone, garbage and sewage disposal used by Licensee during its occupancy of the Area or Property, as well as all costs for installation of any lines and equipment necessary. Licensee, at shall not install any utilities required for its use without prior permission from the Town Manger. Separate utility meters may be required thereby and shall be billed directly by the applicable utility company to the Licensee for such services.

Licensee, at its sole cost and expense, may need to hire a pest control company, as determined by the Town Manager, to insure that the Area or Property will at all times be in a clean and sanitary condition and free from vermin.

Licensee agrees to provide any and all security it deems necessary to protect its operations and equipment. Licensee shall insure that all appropriate equipment and lights have been turned off and appropriate doors, if any, locked at the close of operations within the Area or Property each day.

B. Town's responsibilities.

Town, at its sole cost, shall provide for the following utilities or services, subject to budgetary and personnel availability:

Installation and maintenance of basic fencing, landscaping (including planting bed structures), and watering system as well as the installation of planting beds:

Routine, general property maintenance services for the Area;

Water service for the Community Garden providing Licensee shall utilize prudent water conservation methods and procedures (see above 9. Services and Utilities). Licensee will use its best efforts to adhere to those current water preservation methods and water conservation measures including following all water conservation laws, rules, codes, and resolutions. Licensee shall consult with the Town from time to time on the issue of best practices for water conservation. Licensee shall use environmentally sensitive plantings and materials whenever available and practicable.

The Town reserves the right to interrupt, curtail or suspend the provision of any utility service provided by it, including but not limited to, electricity, water and sewer systems and equipment serving the Area or Property, to which Licensee may be entitled hereunder, when deemed necessary in the sole discretion of the Town Manager or Director by reason of accident or emergency, or for repairs, alterations or improvements in the judgment of Town desirable or necessary to be made or due to difficulty in obtaining supplies or labor or for any other cause beyond the reasonable control of the Town. The work of such repairs, alterations or improvements shall be prosecuted with reasonable diligence. The Town shall in no respect be liable for any failure of the utility companies or governmental authorities to supply utility service to Licensee or for any limitation of supply resulting from governmental orders or directives. Licensee shall not claim any damages by reason of the Town's or other individual's interruption,

curtailment or suspension of a utility service, nor shall the Revocable License or any of Licensee's obligations hereunder be affected or reduced thereby.

**10. Condition of the Property and Maintenance; Compliance with Laws**

Licensee accepts the Area or Property "as is", in its present condition and state of repair and without any representation by or on behalf of Town , and agrees that Town shall, under no circumstances, be liable for any latent, patent or other defects in the Area or Property. Licensee, at its sole cost, shall maintain the Community Garden Area in good order and in an attractive, clean, safe and sanitary condition and shall suffer no waste or injury thereto. Licensee shall maintain all planting beds on an on-going basis and until termination of this agreement.

Licensee agrees use to the Community Garden Area and all its activities under this Agreement in full compliance with all applicable Town, County, and State Statutes, code requirements, ordinances, rules, resolutions relating in any manner for Licensee's use thereof. Licensee shall not permitted any illegal plant, flower, fruit, or vegetable nor allow any unlawful activity, or an activity that would constitute a nuisance, loitering, public intoxication, consumption of alcoholic beverages, or lewd and lascivious conduct , or a violation of the noise ordinance, under applicable State, County and Town laws, ordinances, codes, rules and resolutions

**11. Alterations, Additions or Replacements.**

Except in the event of an emergency, Licensee shall not make any repair without first receiving the written approval of the Town Manager or his/her designee, which approval may be conditioned or withheld for any or no reason whatsoever, including a condition to pay additional fees if such alteration will affect the cost of services being provided by the Town. If the Town Manager or his/her designee approves such request, no repair or alteration shall be commenced until plans and specifications therefore shall have been submitted to and approved by the Town Manager or his/her designee.

The Licensee shall be solely responsible for applying and acquiring all necessary permits, if any, including but not limited to, building permits as may be applicable. The Licensee shall be responsible for any and all costs associated with any alterations including, but not limited to,

design, construction, and installation and permitting costs. All alterations to the Area or Property, whether or not by or at the expense of the Licensee, hereto, immediately upon their completion become the property of the Town and shall remain and be surrendered with the Area or Property. In the event of an emergency, Licensee may reasonably proceed to perform such repair work and shall immediately notify Town of such work.

All alterations must be in compliance with all statutes, laws, ordinances and regulations of the State of Florida, Miami-Dade County, Town of Surfside and any other agency that may have jurisdiction over the Area or Property as they presently exist and as they may be amended hereafter.

**12. Violations, Liens and Security Interests.**

The Licensee shall not suffer or permit any statutory, laborers, material person, or construction liens to be filed against the title to the Property, nor against any Alteration by reason of work, labor, services, or materials supplied to the Licensee or anyone having a right to possession of the Property. Nothing in this Agreement shall be construed as constituting the consent or request of the Town, expressed or implied, by inference or otherwise, to any contractor, subcontractor, laborer or material man for the performance of any labor or the furnishing of any materials for any specific Alteration, or repair of or to the Property nor as giving the Licensee the right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any mechanics liens against the Property.

**13. Town Access to Area.**

Town and its authorized representative(s) shall have at all times access to the Area. Town will maintain a complete set of keys (if any are made) to the Area. Licensee, at its sole cost and expense, may duplicate or change key locks to the Area but not until first receiving written approval from the Director for such work. In the event Licensee changes key locks as approved by the Director, Licensee, at its sole cost and expense, must also provide to Town a copy or copies of said keys, if more than one copy is required.

The Town shall have access to and entry into the Area at any time to (a) inspect the Area and Property, (b) to perform any obligations of Licensee hereunder which Licensee has failed to

perform after written notice thereof to Licensee, Licensee not having cured such matter within ten (10) days of such notice, (c) to assure Licensee's compliance with the terms and provisions of this Agreement and all applicable laws, ordinances, rules and regulations, (d) to show the Property, inclusive of the Area or Property, to prospective purchasers or tenants, and (e) for other purposes as may be deemed necessary by the Town Manager in the furtherance of the Town 's corporate purpose;. The Town shall not be liable for any loss, cost or damage to the Licensee by reason of the exercise by the Town of the right of entry described herein for the purposes listed above. The making of periodic inspection or the failure to do so shall not operate to impose upon Town any liability of any kind whatsoever nor relieve the Licensee of any responsibility, obligations or liability assumed under this Agreement.

#### **14. Indemnification and Hold Harmless.**

Licensee, its, officers, members, employees, volunteers and agents shall and do hereby indemnify, defend and hold harmless the Town and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the services contemplated by this Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of Licensee or its officers, members, employees, volunteers and agents (collectively referred to as "Licensee"), regardless of whether it is, or is alleged to be, caused in whole or part (whether joint, concurrent or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnitees, or any of them or (ii) the failure of the Licensee to comply with any of the paragraphs herein or the failure of the Licensee to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of this Agreement. Licensee expressly agrees to indemnify and hold harmless the Indemnitees, or any of them, from and against all liabilities which may be asserted by officers, members, employees, volunteers or agents of the Licensee, as provided above, for which the Licensee's liability to such employee or

former employee would otherwise be limited to payments under state Workers' Compensation or similar laws. Any volunteers are volunteers for the Licensee, and not for the Town.

Licensee further acknowledges that, as lawful consideration for being granted the right to utilize and occupy the Area, Licensee, on behalf of himself, his officers, members, employees, volunteers and agents does hereby release from any legal liability the Town, its officers, agents and employees, from any and all claims for injury, death or property damage resulting from Licensee's use of the Area. This section shall survive the termination or cancellation of this Agreement.

**15. No Liability.**

The Area to be Licensed is to allowed to be used in "AS IS" Condition. In no event shall the Town be liable or responsible for injury, loss or damage to the Area, improvements, fixtures and/or equipment belonging to or rented by Licensee, officers, members, employees, volunteers and agents occurring in or about the Area that may be stolen, destroyed, or in any way damaged, including, without limitation, fire, flood, steam, electricity, gas, water, rain, vandalism or theft which may leak or flow from or into any part of the Area, or from the breakage, leakage, obstruction or other defects of the pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures of the Area, or from hurricane or any act of God or any act of negligence of any user of the facilities or occupants of the Area or any person whomsoever whether such damage or injury results from conditions arising upon the Area or upon other portions of the Area or from other sources. Licensee, its officers, members, employees, volunteers or agents shall execute a waiver of liability form and deliver to the Town prior to beginning work in the garden.

**16. Cancellation by Request of Either of the Parties Without Cause.**

Either party may cancel this Agreement, for convenience, at any time by giving thirty (30) days written notice to the non-canceling party prior to the effective date of the cancellation.

**17. Termination By Town Manager For Cause.**

If, at the sole and complete discretion of the Town Manager, Licensee in any manner violates the restrictions and conditions of this Agreement, then, and in the event, after ten (10)

days written notice given to Licensee by the Town Manager within which to cease such violation or correct such deficiencies, and upon failure of Licensee to do so after such written notice within said ten (10) day period, this Agreement shall be automatically canceled without the need for further action by the Town. The Town Manger, at his sole and complete discretion, may issue a preliminary written “warning” notice affording the Licensee a specified time not to exceed five (5) days prior to issuing the actual notice of violation. The Parties shall have no recourse against the other for a Cancellation under the Cancellation Section or a Termination under this Section.

**18. Notices.**

All notices or other communications which may be given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered by personal service or by certified mail addressed to Town and Licensee at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or if by certified mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier:

TOWN OF SURFSIDE

LICENSEE

Town of Surfside  
Office of the Manager  
9293 Harding Ave.  
Surfside, FL 33154

Melissa Moonves  
President – Surfside Urban Gardeners  
8842 Emerson Ave.  
Surfside, FL 33154

WITH A COPY TO

Director  
Town of Surfside  
Department of Tourism, Economic  
Development & Community Services  
9293 Harding Ave.  
Surfside, FL 33154

**19. Advertising.**

Licensee shall not permit any signs or advertising matter to be placed either in the interior or upon the exterior of the Area without having first obtained the approval of the Director or his designee, which approval may be withheld for any or no reason, at his sole discretion. Licensee

shall, at its sole cost and expense, install, provide, maintain such sign, decoration, advertising matter or other things as may be permitted hereunder in good condition and repair at all times. Licensee must further obtain approval from all governmental authorities having jurisdiction, and must comply with all applicable requirements set forth in the Town of Code and Zoning Ordinance. Upon the cancellation of this Agreement, Licensee shall, at its sole cost and expense, remove any sign, decoration, advertising matter or other thing permitted hereunder from the Area or Property. If any part of the Area or Property is in any way damaged by the removal of such items, said damage shall be repaired by Licensee at its sole cost and expense. Licensee hereby understands and agrees that the Town may, at its sole discretion, erect or place upon the Area or Property an appropriate sign indicating Town's having issued this Agreement.

**20. Hazardous Materials Prohibited.**

The Licensee shall, never itself allow, store or permit (“Hazardous Materials Laws”), any Hazardous Materials Laws on the Area as defined by all federal, state and local laws, statutes, ordinances and regulations, rules, rulings, policies, orders and administrative actions and orders relating to hazardous materials relating to, environmental protection or the use, storage, disposal or transportation of any, toxic substances or other hazardous, contaminated or polluting materials, substances or wastes, including, without limitation, any “Hazardous Substances”, “Hazardous Wastes”, “Hazardous Materials” or “Toxic Substances” (collectively “Hazardous Materials”), under any such laws, ordinances or regulations are all strictly forbidden on the Licensed area in compliance with, all applicable governmental requirements. The requirements of this Paragraph of the License shall survive the cancellation or revocation of this License.

The Town represents that to the best of its knowledge there are no known environmental violations, whether under federal, state, or local laws, and no known Hazardous Materials presently existing on the Area.

**21. Licenses, Authorizations and Permits.**

Licensee shall obtain, or cause to be obtained, and maintain in full force and effect throughout the term of this Agreement, at its sole expense, any licenses, authorizations and permits that are legally necessary for Licensee to conduct its activities.

Licensee shall be responsible for paying the cost of said applications and obtaining said licenses, authorizations and permits.

Licensee must be an incorporated non-profit and must maintain in good standing this designation for the entire period of every Agreement or said Agreement shall be cancelled or terminated.

**22. Compliance With All Laws Applicable.**

Licensee accepts this Agreement and hereby acknowledges that Licensee's strict compliance with all applicable federal, state and local laws, ordinances and regulations is a condition of this Agreement, and Licensee shall comply therewith as the same presently exist and as they may be amended hereafter. This Agreement shall be construed and enforced according to the laws of the State of Florida.

**23. Ownership of Improvements.**

As of the Effective Date and throughout the Use Period, all improvements thereon and title to all improvements made in or to the Area, whether or not by or at the expense of Licensee, shall, unless otherwise provided by written agreement, immediately upon their completion become the property of the Town and shall remain and be surrendered with the Area.

**24. Surrender of Area or Property.**

In either event of cancellation pursuant to Paragraph 16 or Paragraph 17 hereinabove, or at the expiration of the time limited by the notice, Licensee shall peacefully surrender the Area or Property broom clean and in good condition and repair together with all alterations, fixtures, installation, additions and improvements which may have been made in or attached on or to the Area or Property. Upon surrender, Licensee shall promptly remove all its personal property, and Licensee shall repair any damage to the Area or Property caused thereby. Should Licensee fail to repair any damage caused to the Area or Property within ten (10) days after receipt of written notice from Town directing the required repairs, Town shall cause the Area or Property to be repaired at the sole cost and expense of Licensee. Licensee shall pay Town the full cost of such repairs within ten (10) days of receipt of an invoice indicating the cost of such required repairs.

At Town's option, Town may require Licensee to restore the Area or Property so that the Area or Property shall be as it was on the Effective Date.

**25. Severability.**

It is the express intent of the parties that this Agreement constitutes a license and not a lease. To further this intent, the parties agree as follows: (i) if any provision of this Agreement, or the application thereof to any circumstance, suggest that a lease, rather than a license, has been created, then such provision shall be interpreted in the light most favorable to the creation of a license and (ii) if any provision of this Agreement, or the application thereof to any circumstance, is determined by a court of competent jurisdiction to have created a lease rather than a license, then such provision shall be stricken and, to the fullest extent possible, the remaining provisions of this Agreement shall not be affected thereby and shall continue to operate and remain in full force and effect.

With regard to those provisions which do not affect the parties intent for this Agreement, should any provision, section, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the Town of Surfside , such provision, section, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

**26. Invalidity.**

In the event that any non-material provision of this Agreement shall be held to be invalid for any reason, such invalidity shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

**27. No Assignment or Transfer; No Change in Presidency without the prior approval of Town.**

Licensee cannot assign or transfer its privilege of occupancy and use granted unto it by this Agreement. Any assignment, sale or disposition of this Agreement or any interest therein by Licensee shall result in the automatic termination of this Agreement without notice by the Town Manager. Licensee agrees that if the current President of Licensee, who is executing this Agreement changes, due to end of term, resignation, or any other cause, the new President of the Licensee must be approved in writing by the Town Manager or this Agreement will be cancelled or terminated.

**28. Public Records.**

Licensee understands that the public shall have access, at all reasonable times, to Town contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the Town and the public to all documents subject to disclosure under applicable law.

**29. Conflict of Interest.**

Licensee is aware of the conflict of interest laws of the Dade County, Florida (Dade County Code, Section 2-11.1 et. seq.) and of the State of Florida as set forth in the Florida Statutes, and agrees that it will fully comply in all respects with the terms of said laws and any future amendments thereto.

**30. Nondiscrimination.**

In the performance of this Agreement or any extension thereof, Licensee and/or its authorized agents shall not discriminate in connection with its occupancy and use of the Area and improvements thereon, or against any employee, volunteer, or applicant of Licensee for employment because of sex, age, race, color, religion, ancestry or national origin.

**31. Amendments and Modifications.**

No amendments or modifications to this Agreement shall be binding on either party unless in writing, approved as to form and correctness by the Town Attorney, and signed by both parties. The Town Manager is authorized to amend or modify this Agreement as needed.

**32. Attorney(s)' Fees.**

In the event it becomes necessary for either party to institute legal proceedings to enforce the provisions of this Agreement, each party shall bear its own attorneys' fees through all trial and appellate levels.

**33. Litigation.**

Any dispute herein shall be resolved in the courts of Miami-Dade County, Florida. The parties shall attempt to mediate any dispute without litigation. However, this is not intended to establish mediation as a condition precedent before pursuing specific performance, equitable or injunctive relief.

**34. Waiver.**

Any waiver by either party or any breach by either party of any one or more of the covenants, conditions or provisions of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any covenant, condition or provision of this Agreement, nor shall any failure on the part of the Town to require or exact full and complete compliance by Licensee with any of the covenants, conditions or provisions of this Agreement be construed as in any manner changing the terms hereof to prevent the Town from enforcing in full the provisions hereto, nor shall the terms of this Agreement be changed or altered in any manner whatsoever other than by written agreement of the Town and Licensee.

**35. Time of Essence.**

It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement. If the final day of any period falls on a weekend or legal holiday, then the final day of said period or the date of performance shall be extended to the next business day thereafter.

**36. No Interpretation against Draftsmen.**

The parties agree that no provision of this Agreement shall be construed against any particular party and each party shall be deemed to have drafted this Agreement.

**37. Third Party Beneficiary.**

This Agreement is solely for the benefit of the parties hereto and no third party shall be entitled to claim or enforce any rights hereunder.

**38. No Partnership.**

Nothing contained herein shall make, or be construed to make any party a principal, agent, partner or joint venturer of the other.

**39. Headings.**

Title and paragraph headings are for convenient reference and are not a part of this Agreement.

**40. Authority.**

Each of the parties hereto acknowledges it is duly authorized to enter into this Agreement and that the signatories below are duly authorized to execute this Agreement in their respective behalf.

**41. Entire Agreement.**

This instrument and its attachments constitute the sole and only agreement of the parties hereto and correctly sets forth the rights, duties and obligations of each to the other as of its date.

Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force or effect.

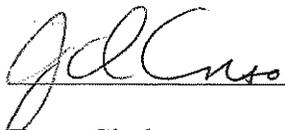
**42. Special Provisions.**

*TO BE COMPLETED AS REQUIRED by the TOWN -if none please remove*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement of the day and year first above written.

ATTEST:

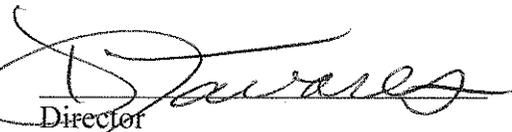
TOWN OF SURFSIDE, a Florida municipal corporation

By:   
INTERIM Town Clerk

By: \_\_\_\_\_  
Roger Carlton  
Town Manager

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL FORM & CORRECTNESS:

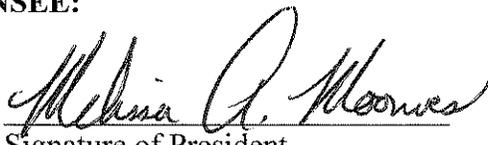
By:   
Director  
Department of Tourism, Economic  
Development & Community Services

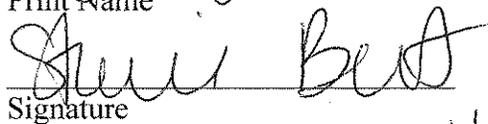
By: \_\_\_\_\_  
Lynn Dannheisser  
Town Attorney

WITNESS:

LICENSEE:

By:   
Signature  
Virginia AGRAMONTE  
Print Name

By:   
Signature of President  
Melissa Moonves  
Print Name of President

By:   
Signature  
Stacie Barre H  
Print Name

9/20/11  
Date



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

MUNICIPAL BUILDING  
 9293 HARDING AVENUE  
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser  
 Town Attorney

Telephone: 305 993-1065

**MEMORANDUM**

**TO: Town Commission**

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

**cc: Roger C. Carlton, Town Manager**

**DATE: October 11, 2011**

**SUBJECT: Appointment of Replacement Members of The Planning And Zoning Board And Design Review Board**

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By Resolution 2010-1941, the Town Commission appointed all members of the Planning and Zoning Board, and thereafter on May 11, 2010 by motion, appointed the current two members of the design review board. The current chair and member appointed by Commissioner Karukin as well as one of the current architects (Elizabeth Ogden) on the design review have tendered their resignations and must be replaced.

Section 90.15 of the Town of Surfside Code of Ordinances sets forth the requirements for the members of the Board as follows:

*Minimum board member qualifications:* All board members must have been a town resident for a minimum period of one (1) year, except for the licensed architects, including the Florida-licensed landscape architect, if applicable, who must have been a town resident for a minimum period of six (6) months. The Florida-licensed architects must have a minimum of five (5) years of practical experience in the field of landscape design. To the extent that no licensed architect (whether for service on the

design review board only as more specifically described in section 90-18 herein below) who is also a town resident can be identified and is willing to serve at the time of appointment to either board, then the commission may select a non-resident architect who otherwise fulfills the requirements of this section, provided that appointment shall be ratified by a majority of the board of commissioners.

Section 90-18 relating to the Design Review Board provides in pertinent part:

The planning and zoning board, when performing its design review and FEMA variance and appeals board functions shall be constituted as the design review board and shall have seven (7) members. The seven (7) members shall include the five (5) members appointed by the commission and two (2) additional Florida licensed architects, one of which may be a Florida licensed landscape architect. *Both of these architects shall be appointed by a majority of the town commission.* [emphasis added]. Four (4) members present at the planning and zoning board design review meetings shall constitute a quorum and at least one of the four members shall be a licensed architect.

**RECOMMENDATION:** It is recommended the Commission now appoint the replacement member of the P & Z Board as designated by Commissioner Karukin and that together, as a Commission, you approve and appoint a new member of the Design Review Board in accordance with the Code.

RESOLUTION NO. 2011-\_\_\_\_\_

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPOINTING REPLACEMENT MEMBERS OF THE TOWN PLANNING AND ZONING BOARD AND DESIGN REVIEW BOARD; PROVIDING FOR IMPLEMENTATION; AND, PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Section 90-15 of the Town of Surfside Code of Ordinances provides in pertinent part:

(2) Minimum board member qualifications: All board members must have been a town resident for a minimum period of one (1) year, except for the licensed architects, including the Florida-licensed landscape architect, if applicable, who must have been a town resident for a minimum period of six (6) months. The Florida-licensed architects must have a minimum of five years of practical experience in the field of landscape design. To the extent that no licensed architect (whether for service on the design review board only as more specifically described in section 90-18 hereinbelow) who is also a town resident can be identified and is willing to serve at the time of appointment to either board, then the commission may select a non-resident architect who otherwise fulfills the requirements of this section, provided that appointment shall be ratified by a majority of the board of commissioners; and

**WHEREAS**, pursuant to Section 90-18 of the Town of Surfside Code of Ordinances provides in pertinent part:

The planning and zoning board, when performing its design review and FEMA variance and appeals board functions shall be constituted as the design review board and shall have seven (7) members. The seven (7) members shall include the five (5) members appointed by the commission and two (2) additional Florida licensed architects, one of which may be a Florida licensed landscape architect. *Both of these architects shall be appointed by a majority of the town commission.* [emphasis added]. Four (4) members present at the planning and zoning board design review meetings shall constitute a quorum and at least one of the four members shall be a licensed architect.

**WHEREAS**, by Resolution 2010-1941 the newly elected Town Commission appointed all members of the Planning and Zoning Board and thereafter on May 11, 2010 by motion, appointed the current two members of the design review board; and

**WHEREAS**, the current chair and member appointed by Commissioner Karukin as well as at least one (1) architect on the design review have tendered their resignation and must be replaced; and

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

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

**Section 2. Nominations.** The following citizens are nominated to replace the Chair of the Planning & Zoning Board and to the Design Review Board:

1. \_\_\_\_\_ to the Planning & Zoning Board  
(Commissioner Karuchin appointment)

2. \_\_\_\_\_ to the Design Review Board.

**Section 3. Approval of Replacement Appointments.** That the Town Commission, by majority vote, approves the foregoing nominations to serve on the Boards in accordance with the provisions of Sections 90-15 and 90-18 of the Surfside Code.

**Section 4. Implementation.** That the Mayor and the Town Manager are authorized to take any and all action which is necessary to implement this Resolution.

**Section 5. Effective Date.** That this Resolution shall be effective immediately upon adoption.

**PASSED and ADOPTED** on this \_\_\_\_\_ day of October, 2011.

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

FINAL VOTE ON ADOPTION

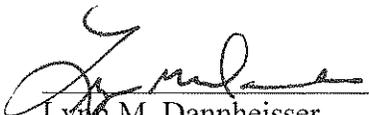
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Edward Kopelman \_\_\_\_\_  
Commissioner Marta Olchyk \_\_\_\_\_  
Vice Mayor Joseph Graubart \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

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

**ATTEST:**

\_\_\_\_\_  
John DiCenso  
Interim Town Clerk

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

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



Town of Surfside  
Commission Communication

**Agenda Item #** 9A

**Agenda Date:** October 11, 2011

**Subject:** Parking Lot Improvements

**Background:** At the June 14, 2011 Town Commission meeting Resolution #11-2029 awarded a contract for parking lot improvements design to Florida Transportation Engineering, Inc., (FTE). The firm is one of the seven prequalified architectural and engineering firms.

The Town's municipal parking lots are all in need of improvements including resurfacing, restriping, landscaping, drainage, irrigation and signage. In addition, both alleyways in the business district also need improvement and there is a need to provide more directional signage. All three items were recommendations from the Downtown Vision Advisory Committee (DVAC).

Staff requested Florida Transportation Engineering (FTE) to focus on the following five areas of concern:

1. Parking Lot Inventory – To document the existing general characteristics and elements of each parking lot including number of spaces, size of stalls, number of handicap spaces, signage, lighting, landscaping, drainage and pavement condition.
2. Parking Lot Counts – To assess traffic engineering and operations within the parking lots to observe the behavior and travel patterns of drivers and pedestrians. Parking data was collected through a demand accumulation study performed during a 7-day period from Monday July 25, 2011 to Sunday July 31, 2011 for a twelve (12) hour period between 9:00 AM and 9:00 PM. The study shows that when adjusted for seasonality, vacancies in the stores and removing parking on Harding Avenue per the recommendation of the DVAC committee, the Abbott lot will exceed 90 percent of capacity between 10:00AM and 5:00PM. In parking analysis, occupancy levels above 90 percent demonstrate that a detailed feasibility study for a parking structure is justified.

High occupancy was also noted in the parking lots near the beach area (Collins Avenue) during the weekend. The Town Manager will propose a process to move forward with a feasibility study for a garage at the Abbott lot during the October 11, 2011 Town Commission meeting.

3. Alleys – To provide conceptual drawings for the revitalization of the alleys.
4. Wayfarer signage – To provide uniform signage throughout the Town including gateway, vehicle directional, public facility identifiers, pedestrian, parking directional, parking lot identifiers and regulatory. The funding for this program will be provided over

a long period and from multiple sources. The Town does need to begin the process of settling on a design theme.

5. Tagline/Branding/Motto – To develop a name, phrase, symbol or design or combination of these elements to be used by the Town. The consultant has provided some examples for initial reaction by the Town Commission.

**Budget Impact:** The cost for the conceptual design and plans for the parking lots, signage and alleyways is \$94,339 to be paid from the Municipal Parking Fund. Funds were provided in the FY 10/11 budget for this project. There is also \$305,000 in the FY 11/12 budget for repairs to the parking lots.

**Analysis:** Improvements to the municipal parking lots are much needed and long overdue. The work recently completed to expand the Post Office lot demonstrates the very positive impact of lot renovation. The parking data indicates that additional parking is required and should be addressed. Revitalizing the alleys and providing uniform signage will be very helpful in creating a new clean image for the Town. The tagline is a major element of a cooperative program with the Tourism Board.

**Staff Impact:** N/A

**Recommendation:** The presentation by FTE, Inc. is the first time these ideas have been formally reviewed by the Town Commission. Staff's goal is to have the Town Commission add input to the comments already provided by the Downtown Visionary Advisory Committee which includes members of other Town committees. Once all the input is synthesized, the FTE study will be completed, strategies for implementation developed and prioritized and the Town Commission will provide direction to the Staff.



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John Di Censo  
Assistant Chief



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Roger M. Carlton  
Town Manager

## **INITIAL LIST OF LEGISLATIVE ISSUES**

- **Pension Reform**

CS/CS/SB1128, reforming local government pension plans, was signed by the Governor on June 23<sup>rd</sup>. Passed by the legislature on May 4<sup>th</sup>, following four months of debate, 30 amendments to the original bill text, and three committee substitutes, the legislation was one of the most contentious and heavily lobbied issues this past legislative session.

It is widely understood that pension reform will be back on the legislative agenda next year. Not only did CS/CS/SB1128 require that a report and recommendations be submitted to the Legislature by January 1, 2012, but immediately thereafter a group called "Floridians for Sustainable Pensions," a coalition of business groups and think tanks allied with Governor Rick Scott, called for offering only 401(k)-style define-contribution plans to both new Florida Retirement System and local government employees.

- **REVENUE AND EXPENDITURE CAPS (TABOR)**

Last legislative session no TABOR-like restrictions on local governments were approved. Although the House was reluctant to exclude counties and municipalities, Senate President Mike Haridopolos made it clear that he wanted to replace the existing revenue limitation in the state constitution with a new standard based on inflation and population but that it would only affect state government. It is believed the House will attempt to amend the proposed constitutional amendment slated to be on the ballot in November of 2012 to incorporate the same restrictions on local government revenues and expenditures.

- **MUNICIPAL TRANSPORTATION SURTAX**

Surfside currently receives \$182,567 as its share of the People's Transportation Plan (PTP). Because of the incorporation of Cutler Bay, Miami Gardens, and Doral, Miami-Dade County has sought to limit the amount provided to existing cities. That would have reduced the Town's share to \$146,053. A legal opinion rendered in 2002 by then County Attorney Robert Ginsburg stated that if any new cities were created the funding for them would originate from the unincorporated budget that receives 80% of PTP dollars. Notwithstanding that opinion, former County Manager George Burgess advocated that the funding come from the existing cities share.

Because of this, last legislative session Surfside supported amendments to F.S. 212,055 to clarify that when a charter county revises interlocal agreements to

include new municipalities, that the new municipalities are to be funded their pro rata share from the portion of the surtax allowed for use in the unincorporated area of the county, or for countywide services, and further clarifying that funding newly incorporated municipalities from the portion of the surtax dedicated to existing municipalities is expressly prohibited.

During the last week of the past legislative session, the Board of County Commissioners approved funding the three new cities from Miami-Dade's 80% share of the PTP, but only for one year until the existing interlocal agreements with all the cities expires in 2012. If no permanent agreement with the County is reached, this item will again be addressed legislatively.

- **INTERACTIVE TRAVEL SERVICES**

During the last year, legislation was filed to provide that state transient rentals taxes, local tourist impact taxes, local tourist development taxes, local convention development taxes, and municipal resort taxes are imposed on the amount received by an entity operating transient rental accommodations – not on the payments received by unrelated firms facilitating the booking of reservations of such accommodations. The measures were SB 376 and HB493. The State Revenue Estimating Conference estimated that passage of this legislation would have a statewide negative fiscal impact of \$28.7 Million during the 2011-12 Fiscal Year on local governments.

Currently, more than 50 of Florida's 67 counties have joined a suit against web travel companies such as Expedia, Orbitz, and Priceline alleging that they collect taxes on the entire amount they charge to a consumer but only remit taxes on the wholesale price they pay a lodging establishment for the room. Key legislators spearheaded an effort to settle the legal issues in favor of the online travel companies. They were unsuccessful and this promises to be one of the most contentious and hard-fought legislative issues next year. And it is of particular importance to Surfside since it is a direct collector of these funds.

- **Traffic Infraction Devices**

Red-light cameras promote safety as well as have a positive fiscal impact on the Town of Surfside. Thus during the last legislative session the effort by Representative Richard Corcoran, slated to be House Speaker during the 2016-18 term, to repeal the law passed during the 2010 legislative session that authorized the use of traffic infraction detectors was at the forefront of our legislative agenda. His bill passed the full House of Representatives but died in the Senate. Representative Corcoran has pledged to continue his repeal effort next legislative session.



**Town of Surfside  
Commission Communication**

**Agenda Item #:** 9C

**Agenda Date:** October 11, 2011

**Subject:** Interlocal Agreement with Florida International University Metropolitan Center to Implement a Residential Satisfaction Survey (RSS) and a Citizen's Academy

**Background:** The Florida Metropolitan Center has been actively engaged in cooperative efforts with South Florida local governments for many years. The Center combines the efforts of graduate research students in Public Administration with professional academic staff.

The Administration contacted the Metropolitan Center Director Dr. Howard Frank a few months ago (see Points of Light) to discuss how the Center could assist the Town with two needs. The first is a survey of Town residents regarding the quality of our services. Attachment 1 reflects their proposal to interview 400 residents (resulting in 95% confidence level) regarding numerous questions about our services and other concerns. The actual survey document will be presented to the Town Commission if an agreement is approved. The City of Doral is currently implementing a similar survey. The proposed \$13,000 cost has been reduced to \$11,000 after negotiation and the willingness of Florida International University to reduce its administrative cost burden required by central university administration on all programs. The study will be funded from small cost savings in the General and Enterprise funds.

The second proposal is to implement an eight week Citizen's Academy (Attach. 2). Metropolitan Center staff will support the Town's staff in the training sessions designed to energize approximately 15 residents to become more civically engaged. The subjects to be taught will be determined if the Town Commission approves the agreement with the Metropolitan Center. Examples could include Charter reform, land use, solid waste collection procedures, long term financial planning and the downtown visioning process. The final curriculum will be brought to the Town Commission for review.

Given the challenges of finding residents for Boards and Committees and the need to continually bring new blood into the process, this opportunity is extremely reasonable at the \$5000 cost. The funds will be provided from small savings in the General and Enterprise funds.

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Roger M. Carlton  
Town Manager

# RESIDENT SATISFACTION SURVEY (RSS)

## Proposal

Prepared for:

Town of Surfside

August 22, 2011



Metropolitan  
Center

150 S.E. 2<sup>nd</sup> Avenue, Suite 500  
Miami, FL 33131  
305.349.1251  
[metropolitan.fiu.edu](http://metropolitan.fiu.edu)

## FIRM EXPERIENCE

The Metropolitan Center is the leading urban “think tank” in South Florida established in 1997 as an applied research under the School of International and Public Affairs (SIPA) at Florida International University. The Center has an impressive track record of conducting local, regional and statewide public opinion and other types of survey research. Statewide public opinion polls and business surveys include the 2006-2010 Women-led Businesses Leadership Study, 2008 legislative issues poll, and the Hurricane Mitigation Study. The Metropolitan Center has also conducted regional and local surveys and focus groups for Miami-Dade County, Univision, Miami Dade Expressway Authority, Broward County Department of Elections, the Greater Miami Chamber of Commerce and the Florida Department of Transportation.

In addition, the Metropolitan Center has organized workshops, conferences and retreats as well as public opinion forums to address specific urban issues, such as economic development, affordable housing, community redevelopment and transportation. Our approach to providing consulting services is to customize our services and products to take into account the unique needs of individual communities and/or clients while adhering to recognized methodologies for applied research, survey design and data analysis. The Center houses the ongoing South Florida Regional Database Project which includes asset mapping, best-practice research, and full in-house Remote Sensing and Geographic Information Systems (GIS) capabilities. Moreover, the Metropolitan Center is a Census Information Center (CIC), which allows for early access to release data and data with restricted use.

Located in Downtown Miami, the Metropolitan Center frequently partners with government agencies, private firms, and non-profit organizations to build avenues for positive growth. The Metropolitan Center is also at the forefront of public opinion research and has a solid record of producing survey research studies in South Florida. Clients of the Metropolitan Center include local government entities, non-profit organizations and private sector firms in South Florida. Our research has served as catalyst for major policy changes and projects in the area of housing, transportation, social services and health services, to name a few. Some of our survey clients include the Department of Community Affairs of the State of Florida, the Greater Miami Chamber of Commerce, the Broward County Supervisor of Elections Office and Miami-Dade County.

The FIU Metropolitan Center brings an established applied research capacity to local government planning efforts utilizing cutting-edge research and quantitative data analysis tools and techniques. The experience our qualified staff brings to the proposed plan ensures the timely and reliable delivery of the proposed services. The Metropolitan Center provides on-going support to its municipal clients above and beyond the negotiated scope of services. Municipal clients know they can call on the Metropolitan Center for follow-up technical assistance at no additional cost.

Some of our most recent public opinion projects include:

**Hurricane Ike Evacuation Survey (2011):** The Metropolitan Center conducted one thousand interviews with Texas residents on their experience with hurricane Ike. Funded by the National Science Foundation the study assessed the measures undertaken by Texas residents in the coastal areas to prepare their homes and families in the face of hurricane threat.

**South Miami Resident Survey (2010):** The Metropolitan Center conducted a survey of South Miami residents to assess their satisfaction and dissatisfaction with the quality of life in the City as well as with the different City services in both Spanish and English.

**Digital Literacy Survey (2010):** The Florida International University Metropolitan Center proposes to conduct surveys with residents and businesses in Miami-Dade and Monroe counties to identify computer usage and literacy levels, and gauge key issues influencing their digital literacy.

**311 and Web Awareness Survey (2009):** The Metropolitan Center conducted a telephone survey of Miami-Dade County residents to assess awareness and use of the County's 311 Answer Center and Website. The survey conducted in English, Spanish and Creole aims to measure satisfaction with the information provided by the 311 Answer Center and the County's website.

**2008 Election Polls:** The Metropolitan Center conducted a telephone survey of Florida registered voters as well as registered voters in the following Miami-Dade Commission Districts 18, 21 and 25. The survey was conducted in English, Spanish and Creole and gauged residents voting intention, issues of most concern and their choice in the presidential election as well as numerous demographic factors.

**Culture Shock Miami Audience Analysis (2008):** The Metropolitan Center carried out a series of surveys and focus groups of high school and university students in Miami-Dade County. The survey and focus groups were designed to measure the factors influencing students' willingness to partake in the Culture Shock discount ticket program. In addition, focus groups were conducted for parents and teachers to gauge the factors that would encourage their children's and student's participation in the program.

**City of Hialeah Resident Satisfaction Survey (2008):** The Metropolitan Center conducted surveys with residents of Hialeah, Miami and Miami Beach on issues of local government performance and service delivery. The comparative survey aimed to provide benchmarks for the City of Hialeah on residents' assessment of different city services and areas in need of improvement.

**2007 Florida Businesses Hurricane Mitigation Poll:** The Metropolitan Center is conducting a survey of Florida businesses to gauge their level of preparedness, prior hurricane experience and the effect of hurricanes on their business operations. The Metropolitan Center designed an instrument for online survey administration and responses are still being collected.

**Resident Perspectives on Local Government Services and Operations (August 2007):** The Metropolitan Center conducted a survey of 800 residents of the cities of Hialeah, Miami and Miami Beach. The data provided an assessment for public perceptions of service availability and quality, as well as resident attitudes towards projects undertaken by their respective governments.

**Florida Residents Hurricane Mitigation Poll (annual since 2006):** Annually, the Metropolitan Center surveys 800 Florida residents in order to 1) assess their level of preparedness for hurricanes, 2) identify reasons for inadequate response, if any, and 3) determine awareness with mitigation incentives provided by the State and the insurance industry.

**Public Opinion: Police and County Services (February 2008):** The FIU Metropolitan Center conducted a telephone poll of Miami-Dade County registered voters residing in Commission Districts 9, 10, 11, and 12 to gauge their level of satisfaction with police and other County services. The poll identified important issues for voters in these districts, especially their perception of crime in their neighborhood and throughout the County.

**Public Opinion: Florida's Upcoming Legislative Issues (January 2008):** The FIU Metropolitan Center conducted a telephone poll of Miami-Dade County registered voters to identify issues of importance to them in the 2008 State Legislative session. The poll also gauged voter satisfaction, awareness, and understanding of the state legislative process, and assessed voter satisfaction with their State Legislators.

**Prospective Audience Survey (May 2007):** The Metropolitan Center conducted a survey of Miami-Dade County residents for Miami-Dade County's Parks and Recreation Department. The survey goal was to assess the level of awareness of and satisfaction with Miami-Dade County's performance facilities. Project tasks included development of survey instrument, preparation of call list, testing of sample to guarantee representation, completion of 600 phone surveys of Miami-Dade voters, preparation of final report.

**Black Community Survey: Perceptions & Outlooks (February-March, 2007):** The Metropolitan Center conducted a survey of 600 African American/Black residents of Miami-Dade County for the Metro Miami Action Plan Trust. The survey gauged attitudes towards different County institutions and issues, as well as perception of decline or improvement in areas of importance for the Black community. The survey also assessed Black residents' perception of discrimination and segregation, and served as an indicator of the conditions of Blacks in the County.

**Miami-Dade County Voter Confidence Survey (June 2006):** The Florida International University Metropolitan Center (FIU/MC) conducted a series of surveys for the Miami-Dade County Elections Department in order to identify: 1) the level of voter confidence with the election equipment provided by the Department among registered voters in Miami-Dade County; 2) what issues, if any, negatively impact registered voters' confidence with the election services provided by the Department ; and 3) voter preference in regards to the use of absentee ballots, early voting procedures, or election-day voting. Project tasks included development of survey instrument, preparation of call list, testing of sample to guarantee representation, completion of 1349 phone surveys of Miami-Dade voters, preparation of final report.

**STAFF EXPERIENCE**

The data collection, analysis and reporting of the Resident Satisfaction Survey will be supervised and implemented by the following Metropolitan Center staff members:

**Maria Ilcheva, Ph.D–Principal Investigator**

Dr. Ilcheva is a Senior Research Associate at the FIU/MC with expertise in behavioral research including public opinion polls, focus groups and interviews. Ms. Ilcheva has managed multiple projects related to public opinion including the collection of data in a South Florida Digital Literacy survey for the South Florida Workforce Investment Board, the 311 & Web Survey for Miami-Dade County and the annual hurricane preparedness poll. Previously, Ms. Ilcheva managed a survey project for Miami-Dade Cultural Affairs Department concerning their Culture Shock program, and Comprehensive Needs Assessment for the Miami-Dade Community Action Agency which included low-income resident surveys. She has managed the data collection and analysis of hurricane mitigation surveys since 2007, and conducted focus groups of Florida residents on hurricane preparedness and mitigation in 2008. She was also the principal investigator of a Customer Satisfaction Initiatives project for the Miami-Dade Parks and Recreation Department which included surveys with current and potential Auditorium visitors, employees and producer/artists. Ms. Ilcheva’s previous involvement also includes housing and economic studies including an assessment of the business environment in the Miami Downtown area for the Downtown Development Authority, a Monroe County study on affordable housing, and a study of the economic environment in City of Hialeah. She has also participated in the research and analysis of projects on youth services assessment, health services, and hurricane preparedness.

## SCOPE OF SERVICES

**Project Objective:** The Florida International University Metropolitan Center proposes to conduct a phone survey with residents of the Town of Surfside for the purpose of establishing citizen satisfaction levels with overall city direction and services. The survey results will provide decision-makers with information on areas of importance to the citizens, and will serve as an assessment of service delivery from the town.

**Methodology:** Resident satisfaction will be assessed through a questionnaire which inquires about different issues of importance to the town and its residents. The implementation of the surveys will be as follows:

**Survey Design:** The survey instrument will be designed in collaboration with the town of Surfside to meet the target goals. The survey design will be completed as follows:

- ◆ The survey instruments will include both binary data measures (yes-no questions) and five-point Likert scale questions (strongly agree-agree-not sure-disagree-strongly disagree), as well as some open ended items.
- ◆ Some of the areas to be covered include quality of life, importance of issues such as economic growth, recreation, employment, traffic etc., evaluation of services provided by the town to its residents etc.

### **Sampling Methodology:**

- ◆ In order to obtain a statistically representative sample and a confidence interval of 95%, the FIU Metropolitan Center will complete 400 surveys with Surfside residents.
- ◆ Resident contact lists will be representative of the town's resident demographics (gender, age, race/ethnicity).
- ◆ Respondents will be screened to ensure that they currently reside in the Town of Surfside.

**Survey Data Collection:** Resident survey will be implemented for four weeks with concurrent data entry.

- The survey questionnaire will be administered over the phone by expert phone interviewers.
- Since almost half of the area residents are Hispanic, the survey will be administered in both English and Spanish, according to the respondent's choice. The Metropolitan Center also has phone interviewers who can conduct the survey in Creole, if needed.

### **Data Analysis**

- ◆ Data collected from the surveys will be entered into Statistical Package for the Social Sciences (SPSS) computer database for ease of statistical analysis.
- ◆ Questionnaire data will be quantitatively and qualitatively (if applicable) analyzed.
- ◆ Quantitative statistical analysis will include summary frequency distributions for each response item and cross tabulations of each response item.

### **Reporting & Deliverables:**

- ◆ A preliminary draft report within 15 days of survey data collection, including frequency and crosstabulations for items of interest

- ◆ Final report which will reflect comments suggested by the client within two weeks of receipt of comments.
  - A section will include a one page executive summary.
  - A section outlining overall survey results including frequency distribution analysis,
  - A section outlining survey results including cross tabulations by variables of interest.
  - An appendix containing all survey responses in SPSS format

Final report will be submitted in electronic format (e-mail), compact disc, and 2 bound color hard copies.

## PROJECT PLANNING

Task	Activities Overview	Time Line
Task 1: Project planning	Includes, but not limited to, meetings with key staff and/or designated personnel, establishing start date of project, determining key contact persons as well as establishment of survey goals for the purpose of questionnaire development.	2 business days
Task 2: Survey Design	Survey instrument design and revisions. Includes initial draft from the Metropolitan Center, review by the client and subsequent revisions, if necessary.	5 business days
Task 3: Survey Implementation	Collection of surveys Data entry	15-20 business days
Task 4: Preliminary Analysis/Reporting	Includes, but not limited to draft report write-up, formatting and editing activities.	10 business days
Task 5: Final Report	Includes revisions of draft report, analysis of additional data, if required, as well as reproduction of required hard and electronic copies. Final presentations will be made to client and at public meetings organized by client.	10 business days
Total:		42-47 business days (approx. 2 months)

## PROJECT COST

The project costs is \$13,000 including staff compensation, data purchase (most current resident phone list or voter list), dedicated phone lines, printing and reproduction costs of reports, as well as university administrative costs at 26%.

**PROJECT CONTACT**Project Contact:

Maria Ilcheva, Ph.D.  
Senior Research Associate,  
FIU Metropolitan Center  
150 S.E. 2<sup>nd</sup> Avenue - Suite 500  
Miami, FL 33131

Office: 305.349.1251

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Email: [milcheva@fiu.edu](mailto:milcheva@fiu.edu)

Administrative Contact:

Robert Gutierrez, Director, Pre Award  
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12800 SW 8<sup>th</sup> St  
Miami, FL 33199

Office: 305-348-2494

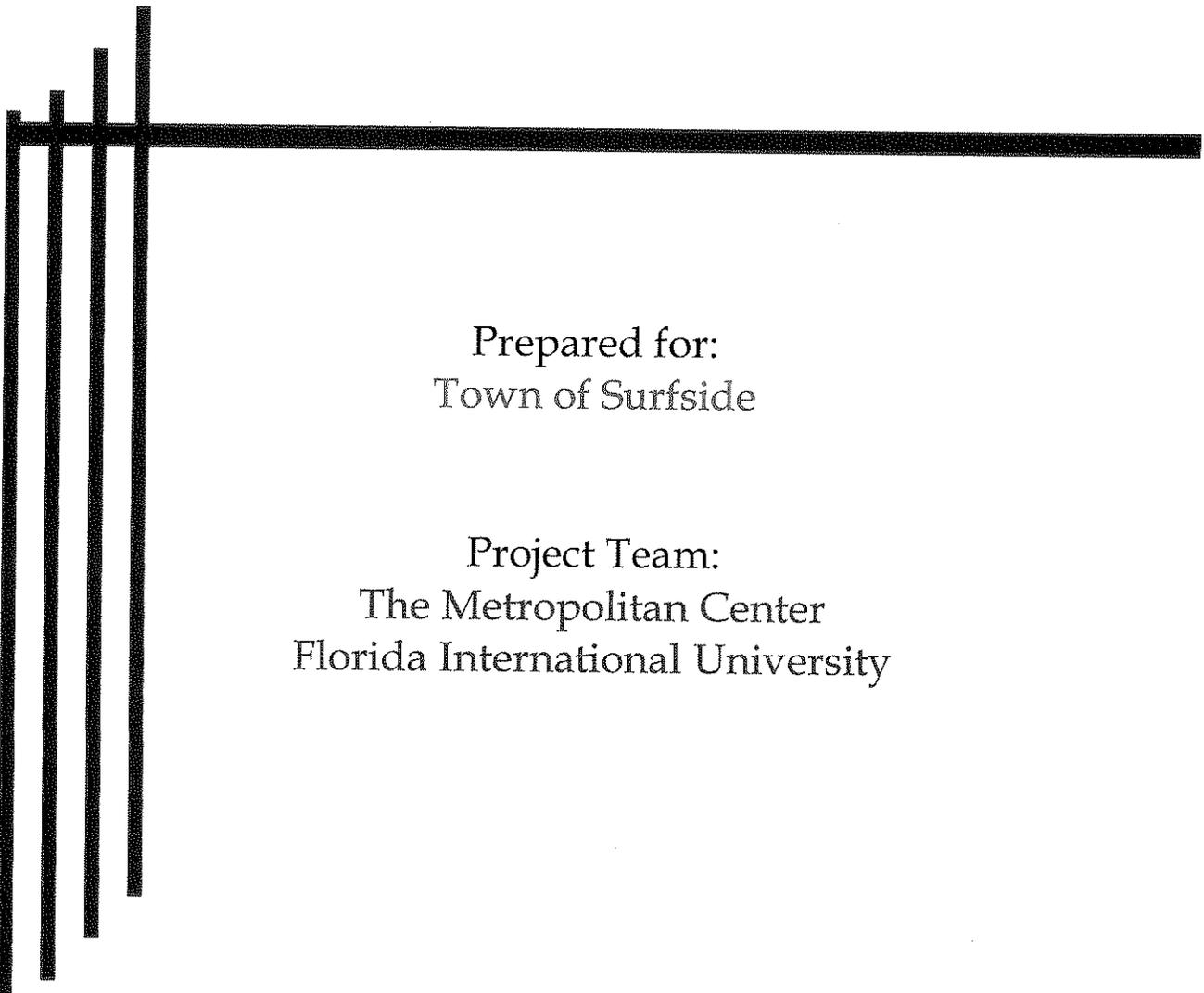
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Metropolitan  
Center

# Citizens' Academy

A decorative graphic consisting of four vertical lines of varying heights on the left side and a single horizontal line extending from the top of the tallest vertical line across the page.

Prepared for:  
Town of Surfside

Project Team:  
The Metropolitan Center  
Florida International University

## **ABOUT THE FIU METROPOLITAN CENTER**

Established in 1997, the Florida International University Metropolitan Center is an urban think-tank and applied research center committed to providing reliable, accurate and timely information to local decision makers as they seek to forge solutions to urban problems. Located in Downtown Miami, the Metropolitan Center frequently partners with government agencies, private firms, and non-profit organizations to build avenues for positive growth. The center raises professionalism and competence in government through a variety of training modules. Workshops and seminars are tailored to meet clients' specific needs and have included such topics as human resources management, performance measurement, public financial management, strategic planning, and organizational design and development.

## **TRAINING DIVISION MISSION STATEMENT**

The mission of the Metropolitan Center at Florida International University (FIU) is to promote good governance practices through training programs, technical assistance and applied research to state and local governments.

## **ABOUT THE FIU METROPOLITAN CENTER TRAINING DIVISION**

The Metropolitan Center at FIU is a member of a consortium of universities and community colleges throughout the State of Florida that provides training, technical assistance, and applied research to state and local governments. Created by the state legislature in 1981, the FIU Metropolitan Center has played a role in policy research and improving management capacity within government, non-profit and community-based organizations. The Metropolitan Center (the Center) has produced critical studies for county and municipal governments regarding diverse topical policy issues such as incorporation, economic development and transportation. The Center's staff includes many outstanding trainers, and prominent community, university and government leaders.

## **SCOPE OF SERVICES**

This training contract is being offered based upon the needs and requirements for delivery given to the Town of Surfside by the Metropolitan Center. The training will be held at facilities provided by the Town of Surfside. The Center will assign a facilitator or trainer with the background to teach the required subject matter for each session and will provide all the materials for the session.

Each training session shall have no more than twenty-five people attending to assure class interaction and class discussion. In scheduling, the training can be cancelled by either party with up to forty-eight hours notice and be rescheduled at no cost to either party. The only exception to this is in case of a natural disaster.

At the end of the training session, an evaluation sheet will be given to each student and collected for the purposes of evaluating the course, trainer, materials and facilities. The results will be tabulated and returned to the Town of Surfside.

This academy provides citizens with the opportunity to learn about the Town of Surfside' government and how its leaders impact the community. The academy is designed to be a two-hour program to be held once a week for eight weeks. The Metropolitan Center would provide course material for the Academy and make available an opening and closing presenter.

### **Citizen's Academy**

**"Knowledge of the Town, Charter, Boundary Charts, History, etc."**

(7 sessions at 2 hours each)

#### **What is a Citizens Academy?**

The Academy is a learning forum intended to provide participants with insight on how city government works; promote open lines of communication between citizens and city staff; provide information on how citizens can easily utilize the services offered by city government; and provide a realistic and a clearer understanding of city government.

#### **What is the purpose of the Academy?**

The academy is designed to increase understanding between our citizens and the Town of Surfside services through education. Our intent is to acquaint citizens with an increased understanding of the tasks at the Town of Surfside which is dealt daily.

#### **Who teaches the Academy sessions?**

An FIU moderator for the first seven nights that will help give the perspective of national, state and local trends in the topics being discussed. The City will

provide an expert from the field to bring relevant information about Homestead to the program. This program is designed to be interactive and informative.

**What subjects are included?**

**Week One** - What is City Government: A university representative (Dr. Howard Frank) will discuss the differences in governmental authority between federal, state, county, and city. It will also go into the type of government the Town of Surfside has and differences in local models.

**Week Two** - The Manager - Council form of Government (Dr. Howard Frank). This module should involve the City Manager and at least one Councilperson to discuss their roles in the process.

**Week Three** - How Does the City Run?: The University will provide a moderator (Dr. Edward Murray). In this module an Assistant City Manager and the Budget Director should participate to explain the process of budgeting and what services are provided.

**Week Four** - Community Safety: A university moderator to be announced and the directors of the departments of Water and Power. Explain what these services are, why this City is unique in having them and why it is important to have them.

**Week Five** - Fire and Police Safety: A university moderator to be announced and the Police Chief or Department Spokesperson.

**Week Six** - Code Enforcement: A university moderator to be announced and the director of the code enforcement agency.

**Week Seven** -Engaging City Hall - Customer Services: A university moderator to be announced. Review what was accomplished and graduation.

**When and where are the academy lessons?**

The program is designed to be a two-hour (6:30 - 8:30pm) program held once a week for seven weeks at City Hall.

**How are participants selected?**

Our hope is that the Citizens Academy will reflect the broadest range of people within the community. We will include men and women, young and old, and representatives of all ethnic, cultural and civic groups.

This proposal encompasses the logistics and cost to facilitate the "Citizens' Academy" for the Town of Surfside.

The program is anticipated to be an eight-week program with the Metropolitan Center participating the first seven weeks of the program. The eighth week will be a tour arranged by the Town of Surfside.

The Center will provide a three-ring spiral notebook for each participant in the program and materials covering several of the topics. The Town of Surfside will provide information that is specific to the City, charter, boundary charts, history, etc. and relevant for each class topic. The Center will provide a moderator for the first seven nights that will help give the perspective of national, state and local trends in the topics being discussed. Some of the moderators from the Center will include Dr. Howard Frank, Dr. Edward Murray, Dr. Maria Ilcheva and Gay Lynn Williamson-Grigas. The City will provide an expert from the field to bring relevant information about Homestead to the program. This program is designed to be interactive and informative.

At the end of each training session, evaluations will be given to the students and collected by a member of the Center's staff. These evaluations will then be tabulated into a class evaluation form and submitted with the attendance sheet to the Town of Surfside.

The training program is specifically designed to meet the needs of Town of Surfside. Town of Surfside has the right to record and use the training program for employee orientation purposes. FIU/MC reserves the right to develop curriculum based upon the program developed for Town of Surfside and to market to other organizations. The Town of Surfside cannot market the training program to other organizations to compete against FIU/MC in this market. All training materials are property of the Metropolitan Center at Florida International University, protected by copyrights laws and are not to be reproduced for the organizations purposes.

## KEY STAFF & BACKGROUND

Dr. Howard Frank is the Director of the Metropolitan Center and Professor of Public Administration at Florida International University. He has served in a number of administrative capacities at FIU since joining the faculty in 1988 including service as Director of FIU's Institute of Government. His Ph.D. is in Public Administration from the Florida State University.

Professor Frank has authored numerous research pieces related to performance measurement. He has also provided training in this area and conducted performance assessments for South Florida Workforce, the Miami-Dade Public Schools and the former Department of Health and Rehabilitative services in Tallahassee.

Professor Frank is currently the *Managing Editor of the Journal of Public Budgeting, Accounting, & Financial Management* and has also assessed Miami-Dade County's implementation of the Active-Strategy performance and budgeting system, also deployed in Miami Beach and Orange County.

**Ned Murray, Ph.D., AICP.** Dr. Murray is the Associate Director of the Metropolitan Center at Florida International University in Miami. Dr. Murray is a leading expert on economic and housing market issues in South Florida. He has authored many of the landmark affordable housing needs studies including the leading studies for Miami-Dade, Palm Beach, Broward and Monroe Counties. He was also the Principal Investigator on the Broward County Housing Linkage Fee Nexus Study and Rental Housing Study for Palm Beach and Martin Counties. Dr. Murray has recently completed and presented Housing Market Update and Municipal Scorecard studies for Palm Beach and Broward Counties and the South Florida Workforce Housing Needs Assessment. Dr. Murray developed the "Municipal Scorecard for Affordable Housing Delivery©" model which was used to evaluate affordable housing performance in Palm Beach and Broward Counties.

Dr. Murray also has over twenty years of professional urban planning experience, including 12 years as a former Director of Planning and Development in Massachusetts. He holds a Ph.D. in Urban and Regional Planning from the University of Massachusetts at Amherst. Dr. Murray has authored and presented numerous papers on economic development, affordable housing and urban planning, including articles published in *Economic Development Quarterly (EDQ)*, the *Economic Development Journal*, the *Journal*

of Public Affairs Education and the Council for Urban Economic Development's Commentary.

**Dr. Maria Ilcheva** is an experienced researcher and analyst specializing in the administration of surveys, polls and interviews, quality assurance, data analysis and reporting. She has participated in the research and analysis of studies on economic development, housing and homelessness, youth services assessment, health services, and hurricane preparedness. Her ongoing projects include the study on hurricane preparedness in Florida and the annual survey of top women executives in Florida. Dr. Ilcheva is also leading quality assurance projects, including the Miami International Airport vendor secret shops, secret shops of County departments for the Government Information Center and 311 Call Center evaluations. Ms. Ilcheva has completed her dissertation on ethnic politics.

**Robert Meyers** – Mr. Meyers has served as Executive Director for the Miami-Dade Commission on Ethics and Public Trust since June 1998. As Executive Director, he has spoken before several hundred groups, making presentations to business, government, professional and community-based organizations. Mr. Meyers has participated on many ethics panels and seminars organized by governments, chambers of commerce, bar associations and universities. He appears on local television and radio programs relating to government and ethics, and is frequently published in local newspapers.

Prior to his appointment as the Executive Director, Mr. Meyers taught law, government and ethics at two major universities. He has published articles on ethics in several prominent journals, including an article in an environmental law treatise on ethics and land use decisions.

He practiced law for two years in Florida, concentrating on administrative law and labor and employment law. He holds a Juris Doctor earned at the University of Miami, a Master's degree in Public Administration, which he received from Florida International University, and a Bachelor's degree from the University of Florida.

**Gay Lynn Williamson-Grigas** is one of the Trainers who will conduct the session. Gay Lynn is an enthusiastic and energetic corporate trainer who provides workshops on topics ranging from leadership and supervisory skills to communications and customer service. She is also a psychotherapist with a Masters degree in Psychology and is a member of the American Psychological Association since 1992. A commercially published author of three books, her most recent *Twelve Powers in You* is published by Health Communications, Inc.

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# BUDGET

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The total cost to the Town of Surfside will be \$5,000.00 for the seven weeks of participation from the Metropolitan Center. That amount will cover the stipends to the speakers, the notebooks and the materials to be provided for each section.

We are very excited about this venture and look forward to working with you on this program.

The proposed amount is based on facilitating this program onsite at the Town of Surfside.

If this contract is acceptable, please have the appropriate person sign for the Town of Surfside.

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Roger M. Carlton  
Town Manager  
Town of Surfside

*Jeanette K. Jacques*  
Jeanette K. Jacques  
Training Coordinator  
Metropolitan Center, FIU

# TIMELINE

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The schedule of programs will be later discussed upon agreement.

## PROJECT CONTACT

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## Code of Conduct

- Beepers and Cell phones must be turned off while in class.
- Any personal issues should be handled outside of the classroom.
- The facilitator(s) or trainer(s) is in charge of the classroom. Any problems should be communicated to him/her.
- The facilitator has the right to ask you to leave the classroom with legitimate reasons, which shall be given at time of expulsion.
- The Institute reserves the right to dismiss any student from the training session who does not comply with the student code of conduct.

## PAST EXPERIENCE

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- Ann Storck Center
- Camillus House of South Florida
- Centro Campesino
- City of Coral Gables
- City of Coral Springs
- Town of Surfside
- City of Hialeah
- City of Homestead
- City of Key West
- City of Lauderhill
- City of Miami
- City of Miami Police Department
- City of Miramar
- City of Opa-Locka
- Town of Surfside
- City of Pembroke Pines
- City of South Miami
- City of Sweetwater
- City of Tamarac
- Greater Miami Convention and Visitors Bureau
- Miami-Dade County Housing Agency
- Miami-Dade County Transit
- Miami-Dade County Water & Sewer
- Juvenile Assessment Center
- Local Initiatives Support Corporation
- The Village of Key Biscayne
- The Village of Miami Shores
- The Village of Pinecrest
- Town of Cutler Bay
- Town of Palmetto Bay

### Conferences -

Women's Executive Retreat  
Florida Personnel Public Association (FPPA)  
National Forum for Black Public Administration  
Civil Rights Conference  
Florida Women in Government  
Dewey Knight for Public Services Conference  
Martin Luther King, Jr. Breakfast



## Town of Surfside Commission Communication

**Agenda Item #:** 9A

**Agenda Date:** September 13, 2011

**Subject:** Community Center Pool Party Rentals

**Background:** Since the opening of the Community Center on June 19, 2011 there has been a steady stream of requests from residents regarding when the facility would be available to rent for party functions. The Parks and Recreation Committee decided, at their July 18, 2011 meeting, to postpone a decision on this topic until after it was determined that the facility could handle a non-resident guest program without any adverse effects on usage or capacity. With the successful implementation of the aforementioned guest program the Parks and Recreation Committee has now formulated a recommendation for what the permanent party rental policy should entail.

**Analysis:** After deliberation at their August 15, 2011 meeting the Parks and Recreation Committee decided on the recommended policies for party rentals as follows: rentals shall take place in two 2 hour blocks, seven days a week, between the hours of 10:30 and 12:30 pm or 2:30 pm and 4:30 pm. There will be a two-tier cost-structure system for rentals: for \$200.00 residents will receive up to five tables and thirty chairs in addition to two tents, while for a smaller fee of \$150.00 parties will receive the same five tables and thirty chairs, minus the two tents. Parties will be located on either the north or south side of the path bisecting the landscaped area immediately outside of the east gate of the pool deck. Renters will be allowed a maximum of thirty (30) guests total in their party; this includes family and friends, adults and children, as well as residents and non-residents. In addition, each party must pay for a minimum of fifteen patrons. Rental of facility space and equipment will be regulated by the Parks and Recreation Department; catering prep, set-up and breakdown will be the responsibility of the Surf Café. The Surf Café will provide renters with a pre-determined menu and price structure from which to choose. Only residents will be allowed to reserve space for parties at this time, however, non-residents will be allowed in as a part of any party. The Parks and Recreation Department will draft a rental agreement contract for residents to fill out when reserving facility space.

**Budget Impact:** The estimated budget impact from the revenue generated through the proposed party rental policy would be approximately \$7500 over the course of a single year.

**Staff Impact:** Parks and Recreation staff will handle the completion of rental forms. All other tasks including setup and breakdown are to be completed by the Surf Café.

**Recommendation:** Based on the successful implementation of the facility's guest policy the Parks and Recreation Committee recommended at the August 15, 2011 Parks and Recreation meeting, to suggest that the Town Commission approve the recommended party rental policy, to go into effect September 14, 2011.

Department Head

Town Manager



**Town of Surfside  
Town Commission Meeting  
October 11, 2011  
7 p.m.**

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

**AGENDA DISCUSSION ITEM MEMORANDUM**

**Title: "SHOVEL READY PROJECTS"**

**Determine if the Commission wants to direct the Town Manager and Staff to prepare 'shovel ready' projects to be paid for and funded with Federal Funds that may become available as a result of any 'new' or additional economic stimulus. The American Recovery and Reinvestment Act of 2009 may (just may) be repeated?**

**Should the Town be in the position to 'jump' on this opportunity?**

**Suggested/Possible Projects:**

- **New staircases and shower areas for Oceanside street ends – to include new trash and recycling receptacles, benches, lighting, landscaping and irrigation.**
- **A second story for the Community Center. Multi-media room, gym, etc.**
- **Sidewalks for high use streets and avenues – such as between Abbott Avenue and Bay Drive on 95<sup>th</sup> street...same with 94<sup>th</sup> street. Between the "96<sup>th</sup> Street Park and 95<sup>th</sup> street on Bay Drive. And, on 88<sup>th</sup> street between Harding and Hawthorne Avenues.**
- **Undergrounding Utilities.**

**Respectfully submitted by, Joe Graubart, Vice Mayor**



**Town of Surfside  
Town Commission Meeting  
October 11, 2011  
7 p.m.**

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

**AGENDA DISCUSSION ITEM MEMORANDUM**

**Title: "Welcome to Town" Packet for New Residents ("WELCOME WAGON")**

**Objective: Welcome new residents by presenting them with a package containing valuable information on the Community Center, downtown business and restaurants hours, menus, etc., - perhaps "Special Offers" and coupons, etc. A copy of the 75<sup>th</sup> Anniversary brochure, important Town Hall phone numbers – helpful information (specific and general) new residents regarding their new community. Trash pickup days – Recycling P/U days, DO's and Don'ts, etc., that can help save new resident time, aggravation and money.**

**Consideration: New residents are naturally somewhat unfamiliar with their new home/community. Let's both welcome and inform them. When they come into Town Hall to have their water 'turned on' – present them with a welcome packet. Perhaps Realtors could do same as well?**

**Determine if the Commission desires to give direction to Town Staff to develop a plan to fulfill this recommendation.**

**Respectfully,**

**Joe Graubart**

**Vice Mayor**

**Agenda Item**

- 9 G. **Compensation Adjustment for Town Manager-** Mayor Daniel Dietch [to be delivered under separate cover]



## Town of Surfside Commission Communication

**Agenda Item #:** 9H

**Agenda Date:** October 11, 2011

**Subject:** Setting a Workshop for the Town Website, Channel 77, the Gazette, Social Networking and other Methods to Improve Communication with Citizens

**Background:** In the past year, the Town of Surfside has resolved many difficult issues from the water/sewer/storm drainage project to a plan to resolve the feral cat problem. Internal procedures have been improved, ordinances and regulatory processes have been updated and major land use decisions have been resolved. Yet the one problem we seem not to have made much progress on is improvement of the website, Channel 77 or our ability to get the good message out to our citizens. The “message” may best be transmitted these days through an updated website as well as support social media. Social media is quickly emerging as a tool to support a town’s work and become the official voice of the city.

Through the good work done by the Communications Committee which included Cheryl Arnold, Jeff Burros, Randi MacBride, Kathy Imberman and Norma Rojas as well as the attendance at nearly all meetings by Commissioner Karukin, the Gazette has improved and some of these issues have been raised. Improving the Gazette has been completed and an RFP to replace the website hosting vendor was completed with four proposals received. After staff review, it was determined that three of the proposals did not meet minimum requirements and the fourth did not demonstrate the level of innovation that would have justified award to a sole compliant bidder. Therefore, it is recommended that all bids be rejected and that the process begin anew on an accelerated basis. However, based on the complexity of revising the RFP to be relevant to an explosion of social media, and the related cost to provide a communications program of which we can all be proud, it is further recommended that the Town Commission hold a workshop for the following reasons:

1. The Town Commission needs to agree to a social media policy (Attach. 1)
2. There are legal issues related to social media that need to be discussed (Attach. 2 & 3)
3. The potential for police use of input from Twitter, Facebook and other forms of citizen’s information coming to the Police Department is unlimited (Attach. 4 – 7)
4. The relationship of traditional websites, televised meetings and events and the social media needs to be defined. (Attach. 8)

5. The potential for processing information from tweets and using that information to better gauge citizen satisfaction with Town services is just beginning to be understood. This science is called "predictive analytics". (Attach. 9 - 10)

6. Finally, all of this costs money. We cannot simply find a new web hosting firm and expect instant improvement other than in the aesthetics and the variety of services provided. The Town still needs to provide content and determine when old items are removed. The utility of a website is not just a function of the hosting entity. Further, with the instant gratification demanded by users of social media, we will need to have someone to respond to the tweets rather quickly.

For all the reasons above and because Surfside will be at the forefront of small town utilization of social networking, we need to have a workshop to define the services that will be represented in a new RFP.



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Roger M. Carlton  
Town Manager

# Issues in TECHNOLOGY Innovation

Number 4

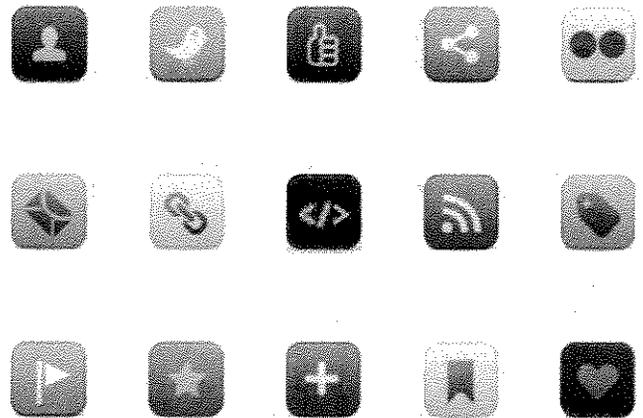
January 2011

## Designing Social Media Policy for Government

Jana Hrdinová and Natalie Helbig

### EXECUTIVE SUMMARY

Government agencies in the United States and around the world are increasingly looking to leverage social media to improve the quality of government services and enable greater citizen engagement. One central challenge that has emerged is the blurring line between the three types of social media use by government employees, namely agency use, professional use, and personal use. In this brief, the Center for Technology in Government at the University at Albany draws on its research on social media to clarify these different use types and why they matter for designing social media policy.



© Scott Dunlap

- **Agency use**—Official agency use implies that an employee's use of social media is for the express purpose of communicating an agency's broad interests, or specific programmatic and policy interests.
- **Professional use**—Professional use implies that an employee's use of social media is for the purpose of furthering their specific job responsibilities or professional duties through an externally focused site.
- **Personal use**—Personal use implies that the employee is using social media for personal interests, which have nothing to do with their job duties for the organization.

#### Issues in Technology Innovation

The Center for Technology Innovation at Brookings has launched its inaugural paper series to seek and analyze public policy developments in technology innovation.

#### The Center for Technology Innovation

Founded in 2010, the Center for Technology Innovation at Brookings is at the forefront of shaping public debate on technology innovation and developing data-driven scholarship to enhance understanding of technology's legal, economic, social, and governance ramifications.

On paper, the boundaries between these three use types appear relatively straightforward; however, in practice they are fluid and therefore, difficult to regulate. Social media tools enable an employee to simultaneously engage in professional and personal uses. This simultaneous use makes traditional methods for overseeing employee use of the Internet ineffective, requiring government managers to rely, in many cases, on employees to self-monitor their use of social media. Navigating boundaries between personal, professional, and agency uses is also difficult because the social media environment does not distinguish between “personal” and “professional” personas. This contributes to a further loss of control by government agencies accustomed to tightly controlling official agency messages

Government professionals see a social media policy as an important first step in addressing these blurred boundaries, but are struggling with what such policies should encompass. Eight essential elements for government social media policy emerged from the project, which agencies can use to direct their efforts.



**Jana Hrdinová** is a program associate at the Center for Technology in Government at the University at Albany, SUNY.



**Natalie Helbig** is a program associate at the Center for Technology in Government at the University at Albany, SUNY. She is also an adjunct professor at the Rockefeller College of Public Affairs and Policy.

1. employee access – the degree to which employees are allowed to access social media sites while at work and the procedures for gaining access;
2. account management – procedures for creation, maintenance, and destruction of social media accounts;
3. acceptable use – guidelines on how employees are expected to use social media tools while at work, including issues such as time of use, purposes of use, and types of equipment;
4. employee conduct – expectations for employee conduct on social media sites and consequences should a violation occur;
5. content – procedures for posting content on official agency social media pages, including creation and editorial requirements for such content;
6. security – security procedures for safeguarding government data and infrastructure;
7. legal issues – legal considerations and requirements for use of social media; and
8. citizen conduct – management of citizen-generated content on a government agency social media site.

This briefing serves as a guide for government agencies, whether they are simply beginning to consider the opportunities and challenges of social media or are in the midst of the complex process of social media policy development.

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Government agencies are turning to social media tools to improve the quality of services and enable greater citizen engagement.

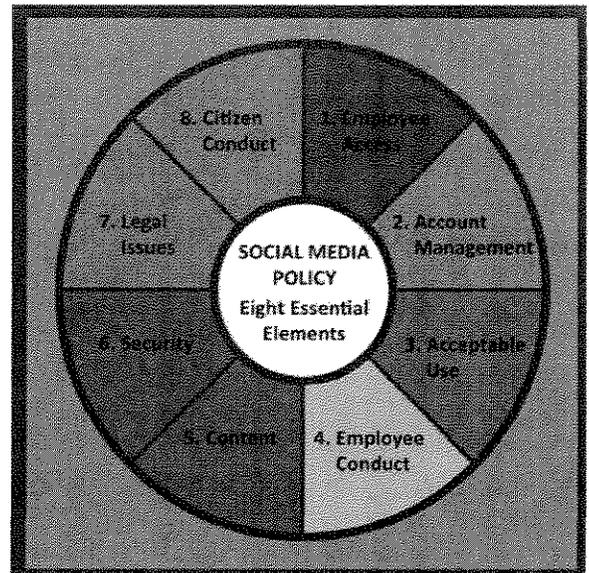
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## Introduction

The use of social media tools in government in the United States and around the world, while still relatively new, has been steadily gaining acceptance at all levels of government. Government agencies are turning to social media tools to improve the quality of services and enable greater citizen engagement. At the same time, social media present new challenges to governments who must address resulting citizen expectations and the differences in communication culture, while navigating the blurry line between personal and professional activities. Developing a social media policy can be an important first step to navigating this new space and can ultimately serve as a key enabler for responsibly and effectively leveraging social media tools. Yet, many governments are struggling with what such a policy should encompass.

To help fill this gap, the Center for Technology in Government at the University of Albany-SUNY, undertook a project designed to develop a deeper understanding of the issues surrounding the use of social media in government and to identify patterns in existing government social media policies.<sup>1</sup> Our analysis drew on interviews with 32 government professionals and 26 publicly available government social media documents identified between October 2009 and January 2010.

The central issue that emerged is the blurring line between the three types of social media use by government. This brief outlines these uses and why these differences are important to consider when designing social media policy. In addition, eight essential elements for social media policy were identified through the project and are presented to assist in directing agencies' efforts to develop social media policy.



## Social Media Use in Government

The use of social media in government is often treated generically, most frequently describing an 'agency' as the user. A closer look reveals that this description is insufficient because it overlooks the subtle and shifting boundaries between individuals and organizations using social media for personal, professional, and

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<sup>1</sup> This briefing is based on a yearlong exploratory research project focused on social media use in government. In addition to this briefing several additional reports and related products were produced. <http://www.ctg.albany.edu/projects/socialmedia?proj=socialmedia&sub=summary>

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official agency purposes in the government workspace. The following descriptions seek to clarify some of the differences in uses:

*Employee use for official agency interests:*

Official agency use refers to employee's use of social media to communicate on behalf of the agency through an official agency account. The employee is not communicating on behalf of himself as an individual, but rather on behalf of the agency or his department.

*Employee use for professional interests:*

Professional use refers to an employee's use of social media for the purpose of furthering their specific job responsibilities or professional duties through an externally focused site. While professional use is beneficial to the work of government by enhancing employees' capability to share knowledge and to collaborate with their peers, the site employees are using is not maintained or monitored by the agency itself.

*Employee use for personal interests:*

Using social media for personal interests refers to employees using social media tools to conduct personal activities that are not connected to their job duties.

On paper, the boundaries between these three uses appear relatively straightforward; however, in practice they are fluid and therefore, difficult to regulate. Social media tools enable an employee to simultaneously engage in professional and personal uses. For example, a professional might devote some of their work time to networking on GovLoop.com by sharing programmatic ideas with peers in the Acquisition 2.0 group, but may simultaneously be contributing their favorite recipe to the GovLoop.com GovGourmet group. One consequence of employees being able to engage in personal and professional uses at virtually the same time is that agencies have less capability to closely control or monitor employee activities. When an agency allows access to social media sites, managing employee use means relying on employees to strike the appropriate balance between personal and professional activities. Traditional website monitoring, such as tracking employee access to sites, blocking sites, or tracking how long employees spend on certain sites, is not as effective for social media. Relinquishing such responsibility to employees requires a degree of trust between employees and managers, which can be difficult to establish.

Navigating boundaries between personal, professional, and agency uses is also difficult because the social media environment does not distinguish between the "personal" and the "professional" persona of a government employee. In our physical world, time and distance typically separate what we do at work from our personal lives. In the social media environment this separation becomes less clear as people are connected through other individuals, events, organizations, or interests,

regardless of the “role” they play. Thus “personal” comments posted by an individual expressing views on a sensitive public policy can be potentially linked to their persona as an employee of a government agency. While using proper privacy settings is one way to manage the situation, being mindful of the fluidity between boundaries will help agencies design policies and guidelines to encourage responsible use of social media sites.

An important consequence of indistinguishable personal and professional personas is that agencies are facing greater difficulty in managing their official message as more and more government professionals, in roles other than communication staff, are using social media. In some cases this has created a situation where the public perceives the opinions and postings created by employees in their personal or professional use as an agency’s official position. While agencies can control content posted on a site they maintain, they have less ability to control messages posted by employees on sites they do not maintain. Again, trust and culture become important areas to pay attention to and agencies need to explore the positive and negative potential of these situations.

The difficulties connected with the shifting boundaries between personal and professional uses have real implications for agencies designing social media policies and developing social media strategies.

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### **Eight Essential Elements**

Based on our analysis, we identified eight essential elements that governments need to consider when developing a social media policy:

#### **1. Employee Access**

Employee access to social media refers to the degree to which employees are allowed to access social media sites while at work using government equipment. Currently, based on the reviewed policies and the majority of the interviewed agencies, agencies are strictly limiting the degree to which employees can access social media sites. Access is being managed in two ways: 1) by controlling the number and types of employees who can request access, or 2) by designating the types of social media sites that are accessible. In other words, agencies are primarily considering the question of access from the agency use point of view, granting access only to those bearing responsibility for maintaining an official agency social media account. Of the 26 policies and guidelines reviewed, five described procedures for gaining access to social media sites. Of those five, most required employees or departments to submit an official business case justification in order to access social media sites.

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Based on our interviews, the balance between unrestricted and controlled access remains a dilemma for many agencies. While some agencies may value the potential opportunities for professional development when employees are engaged in educational, collaborative, or knowledge sharing activities fostered by open access to social media sites, many still are fearful of the perceived legal and security risks. However, as social media use by citizens, businesses, and governments becomes more prevalent, agencies will need to expand their consideration of access to include professional and personal uses.

## **2. Social Media Account Management**

Account management encompasses the creation, maintenance, and destruction of social media accounts. Lack of a clearly defined policy on account management enables situations where accounts are established on behalf of agencies without executive knowledge, organizational approval, or consideration of enterprise-wide social media strategies. Many government professionals interviewed see establishing authentic agency accounts as paramount to being seen as a trustworthy source of information to citizens and stakeholders. An account management policy should address four main areas: an account opening protocol, protocol for maintaining a list of existing official agency accounts, protocol for maintaining a list of employees with access to official agency social media sites, and password requirements for official agency social media sites.

## **3. Acceptable Use**

Acceptable use policies are guidelines that delineate how employees are expected to use social media tools while at work, addressing issues such as time of use, purposes of use, and types of equipment. Currently, based on the reviewed policies and the majority of the interviewed agencies, most agencies are focusing on personal use and simply treating acceptable use of social media as an extension of existing acceptable use policies. Twelve of the policies and guidelines we reviewed dealt with acceptable use, particularly for personal interests. The majority of these 12 policies point toward existing policies that already dictate acceptable use of common electronic and information resources such as telephone, computer, or Internet access.

However, as the use of social media in government evolves over time, acceptable use policies may need to address the blurring boundaries around personal, professional, and official agency use. Questions, such as how much time an employee should devote to participating in peer-to-peer networking on sites such as GovLoop, are proving difficult for agencies to regulate. Only three of the 26 policies have begun to address this issue. Others we interviewed suggested acceptable employee use for professional interest is better monitored and managed by supervisors, rather than a one-size fits all policy. Either way, agencies should think about the type of guidance and culture they want to create and work with their employees to determine acceptable levels of use for both personal and professional reasons.

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#### 4. Employee Conduct

Employee conduct guidelines outline how employees are expected to behave and sets out the consequences should a violation occur. Twenty-one of the reviewed policies addressed employee conduct in their professional capacity, with the majority of them referencing existing policies by either using direct quotes or simply providing links or reference numbers on where to look further. In addition to the standard conduct code that addresses things such as racially offensive language, some of the policies addressed issues specific to social media, including respecting the rules of the venue, striving for transparency and openness in interactions, and being respectful in all online interactions. Other policies expressed an expectation of “trust” that employees will provide professional-level comments or content whether in their professional or personal lives.

While the issues of conduct at work or in an official capacity are pretty straightforward, conduct becomes less clear when agencies are trying to get a handle on acceptable employee conduct in their private space. While the majority of the reviewed policies did not address this type of situation, a small number has tried to strike a balance by instructing employees to post disclaimers on their personal and professional posts in order to distance the employee’s comments from official agency positions. In our discussions with government professionals, it became clear that while they worry about employees’ conduct in their personal communications, they are unsure to what extent they can dictate what is permissible conduct in such situations.

#### 5. Agency Content

Agency content creation addresses the question of who is allowed to post content on official agency social media pages and what type of editorial process is required for verifying its accuracy. Addressing content creation in a social media policy is key to ensuring integrity and consistency of the official agency message. The issue came up frequently in our interviews and 14 of the reviewed documents address content creation in some way. The range of agency content creation strategies is wide with some agencies exerting minimal editorial control over their content, and others keeping that responsibility solely with the public information officer.

#### 6. Security

Governments are working to develop best practices to ensure the security of their data and technical infrastructure in light of the new uses, users, and technologies related to social media use. Some of the reviewed policies deal explicitly with security concerns for social media, while others are more general, referencing existing IT security policies as applicable to social media. Two specific security concerns generally found in the policies analyzed and discussed in the interviews were technical and behavioral concerns.

The technical concerns addressed in the policies focused on password security, functionality, authentication of identity using public key infrastructures, and virus

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The implementation of social media to improve the quality of government services and engage citizens must take into account the differences in organizational cultures, varying citizen expectations, and the blurring line between personal and professional activities.

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scans. Fifteen of the policies included specific requirements such as requiring users to maintain complex passwords. A few policies required a designated official to hold all username and passwords for social media accounts. The behavioral security concerns refer to those threats that result from employees' intentional or inadvertent actions when engaging with social media sites and tools. While these concerns are not new, many of the reviewed policies mentioned the need to protect confidential information and referenced the need to train their employees to avoid unnecessary risk exposure.

## 7. Legal Issues

The use of social media tools raises the issue for many agencies about how to ensure that their employees are abiding by all existing laws and regulations. Some policies take a general approach to legal issues, using generic text that requires all employees to adhere to all applicable laws and regulations without actually specifying which laws and regulations are applicable. Others point to specific areas of law such as privacy, freedom of speech, freedom of information, public records management, public disclosure, and accessibility.

Some policies proactively address potential legal issues by requiring the use of various disclaimers on social media sites. One example of a standard disclaimer is for use by employees when engaging in social media activities and is intended to detach the opinions and actions of individual employees from their employer. Other standard disclaimers concern public records, external links, endorsements, copyright, privacy, and offensive behavior.

## 8. Citizen Conduct

Social media sites, unlike more traditional media such as newspaper or radio, allow for instant two-way public communication between government and citizens. Citizens are able to directly post audio, video, and text to agency social media sites. If agencies decide to allow two-way communication, procedures for managing such content should be developed.

Eleven of the 26 reviewed policies and guidelines addressed the issue of citizen content. The documents vary with respect to how they deal with the content of comments. Some issue rules of conduct that are posted on the agency's site. These rules generally refer to limitations on offensive language, inciting violence, or promoting illegal activity. Similar rules are often already used on agencies' websites and can be reused for social media purposes. Other policies address additional issues such as who will have the responsibility for monitoring and responding to public comments.

## Creating and sustaining a social media policy

As outlined above, social media present governments with both new opportunity and new challenges. The implementation of social media to improve the quality of government services and engage citizens must take into account the differences in

organizational cultures, varying citizen expectations, and the blurring line between personal and professional activities. New policy instruments are part of the resource set necessary to assist governments in their efforts to balance opportunity with challenges. Policies can help agencies manage the changes made possible by new technologies and to understand more fully how social media may change the way work is done.

However, creating and sustaining a policy for the use of social media by a government agency is not a simple task. Government professionals tasked with implementing social media in their agencies face a fast-paced innovation cycle, where the preferences of an 'online social citizenry' are in their infancy and technologies are changing more quickly than policies, management practices, and employee skill sets. Therefore, agencies should periodically review their policies to ensure that they continue to reflect the agency's changing strategy and priorities.

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**E-mail your comments to [techinnovation@brookings.edu](mailto:techinnovation@brookings.edu)**

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BRITAIN

MH 21A

# Companies target Internet 'trolls' in lawsuits

10/2

■ More and more, courts are forcing websites to hand over personal details on users who anonymously post damaging comments.

BY KIT CHELLEI  
Bloomberg News

LONDON — People who use fake names to post critical comments about companies on websites may not be as anonymous as they think, as firms use the courts to unmask online accusers.

MoneySavingExpert, a British personal finance site with 5 million readers, was forced to hand over personal details about three users calling themselves AgainstJPC, GomerPyle and Ladybirds, following a London court ruling in August. The three wrote comments on the website accusing JPC Group Sales, an affiliate of a British publishing company, of being a "criminal enterprise" and "a scam," the company said in court filings.

Similar orders have been granted in Britain over comments posted on Google blogs and comment boards at its YouTube unit's website, said Yair Cohen, a lawyer for JPC. Louise Rutter, spokeswoman for Mountain View, Calif.-based Google, declined to comment.

"There have been a few of these cases and they are becoming more common," said Korih Duodu, a media law specialist in London.

"It is clear there is a sig-

nificant footprint left by Web users, who are not always aware of how much information can be revealed about their identities when they publish material online."

While Internet users have traditionally enjoyed the freedom to air controversial views without using real names, courts can order websites to hand over email and Internet-protocol addresses, and other personal details, if anonymous comments go too far. A person who disrupts Web forums with inflammatory or offensive remarks is known as a "troll" in Internet slang.

Disclosing the identity of Web users shouldn't be taken lightly, said Eric King, human rights and technology advisor at advocacy group Privacy International. It could even be illegal, unless the comments caused serious harm.

In the United States, with stricter laws protecting freedom of speech, judges have sometimes found in favor of victims of online abuse. Former model Liskula Cohen won an order from a New York judge in 2009 requiring Google to identify a blogger who defamed her, while another model, Carla Franklin, won a similar ruling in 2010 over comments made on YouTube.

# BUSINESS

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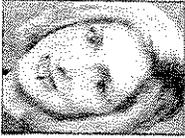
The Miami Herald  WEDNESDAY, SEPTEMBER 28, 2011 | EDITOR: JANE WOOLDRIDGE | jwooldridge@miamiherald.com | 305-376-3629 HI

WORK/LIFE BALANCING ACT

## Online rants — what's protected?

BY CINDY KRISCHER GOODMAN  
 Balaregood@gmail.com

Christopher Cristwell, a 25-year-old Starbucks barista, became fed up with rude customers and their annoying orders for skinny vanilla lattes. So, he did



GOODMAN

What young workers sometimes do these days. He made a video rant about it in song form — and uploaded it to YouTube. It quickly became a sensation.

When Starbucks fired him, Cristwell posted a video rant about that, too. Today posting your every move, thought and feeling on social media sites is a way of life for many adults, particularly young adults. Employers find themselves caught in the middle,

wanting to use social media to promote their products and services, but also trying to determine where to draw the line on workers' rights to post job gripes on these sites.

Workers — on and off the clock — are taking to their Facebook, Twitter and YouTube accounts to complain about everything from jerky bosses to rude customers to slacking co-workers to crummy company policies. There's even a cottage industry of rant sites for disgruntled workers cropping up on the Internet such as www.job-vent.com. The knee-jerk reaction from most employers is to fire the worker.

"Everyone is trying to figure this out," said Nancy Cleland, director of public affairs for the National Labor Relations Board. Social media sites have become the office water cooler, a place where people hang out, float ideas

and air their job complaints. But as Cleland notes, "the audience potentially is so much bigger."

At the moment, technology is ahead of employment law. Employers are being sued when their workers post photos of minors on porn sites from company computers. They're being sued by the Federal Trade Commission for allowing employees to peddle their products without disclosing that they work for the company. They're also being sued when they fire workers who rant about their jobs on social media sites. They're being sued even when they have social media policies.

But the findings are going both ways — in favor of employees and employers.

"Both parties need to be careful with what they do online," said Mark Neuberger, a management-

• TURN TO RANTS, 6B



OUT OF A JOB: When Christopher Cristwell posted this vocal rant against Starbucks, he was fired.

# Social media rulings have varied

• PANTS, FROM 88

side labor lawyer with Foley & Lardner in Miami.



NEUBERGER

“There’s no direct easy answer to what’s allowable.”

Some bosses mistakenly assume that they can fire workers who complain on Facebook about the company or its managers, particularly if the employee does it from an office cubicle. But they’re discovering it’s not a slam dunk.

Confusion about what workers can or can’t post about their workplaces has led to a surge of more than 100 complaints at the National Labor Relations Board, most within the past year. They come to the NLRB, whether or not the company is unionized, because a decades-old rule that stems from union organizing is being applied to protect employees who are having a conversation on social media venues among co-workers about terms or conditions of employment. That’s called “protected concerted activity” and it’s allowable.

Neuburger, whose firm held a webinar on the topic,

says he regularly gets calls from clients who see employees’ postings that use curse words about company practices or say something slanderous about a supervisor and want to take action. “I tell them ‘they need to be careful.’”

The NLRB findings on social media are just beginning to give some guidance. While many settle, in August the labor board’s general counsel’s office released a report detailing the outcome of 14 cases involving the use of social media. In four, the board found that the workers were protected, but in others the board found the employee was not protected.

In one case in which the employee prevailed, a car salesman was fired after going on Facebook to complain that his BMW dealership in Chicago served hot dogs, stale buns and other cheap food instead of nicer fare at an event to roll out a new luxury car. The NLRB found his online comments and photos were protected because the salesman was expressing concerns about the terms and conditions of his job.

In another example, an official ruling for employees fired over their Facebook discussion actually forced the employer to reinstate

## Find out more

To read a report about social media-related cases the National Labor Relations board has investigated, go to [www.nlrb.gov/news/acting-general-counsel-releases-report-social-media-cases](http://www.nlrb.gov/news/acting-general-counsel-releases-report-social-media-cases)

them and give back pay.

But employers are prevailing, too. When a bartender was fired for posting a message on his Facebook page that said his employer’s tipping policy “sucked” after being questioned about it by his non-employee relative, the board found he wasn’t protected because he didn’t discuss the posting with his co-workers, none had responded and there had been no employee meetings or group actions concerning the tipping policy.

Lave Solomon, NLRB acting general counsel, says he wants to make one thing clear: “Our law does not protect griping. Our position is if there’s evidence of group action or inducing action about the terms and conditions of employment, employees should feel just as protected online as if they said something at the water cooler.”

What emerges from this report, the first of its kind, is that social media policies

aren’t protecting companies the way many of them had expected. Solomon says the language in many company social media policies is too broad, particularly when they say workers can never criticize the company. He says policies need to indicate that an employer understands workers can get together, online or in person, to try to improve wages or working conditions.

Arbitrary enforcement of social media policies also has proved dangerous for employers. The NLRB doesn’t like it when an employer comes down harder on one employee for his social media usage. “Employees are doing so much an employer doesn’t know about,” Neuburger says. “If the employer comes down on one person, a lawyer will show that others are doing the same thing and are not disciplined.”

Cheryl Krutcher Goodwin is CEO of BalanceGael, a provider of news and advice on work/life balance. Visit [www.worklifebalancingact.com](http://www.worklifebalancingact.com) or email her at [balancingact@gmail.com](mailto:balancingact@gmail.com).

# Engaging the and Protecting Agencies and Personnel on Facebook and Beyond

By Tim Jones, Deputy Chief of Police, Roanoke, Virginia, Police Department; and Aisha Johnson, Crime Prevention and Community Involvement Specialist, Roanoke, Virginia, Police Department

In November 2009, the Roanoke, Virginia, Police Department launched a Facebook page as part of a crime prevention initiative known as the Safer City Roanoke campaign. The goal was to decrease incidents of property crime by educating citizens about how they could best protect their possessions. In its infancy, the Facebook page was used to post crime prevention information and surveillance pictures and videos of suspects. This approach was effective for about a year, but in that time the police department realized that Facebook was rapidly evolving, and the department needed to keep up with the ever-changing technology if it wanted to maintain open communication with its citizens.

As a result, a three-phase plan was developed to support traditional community policing with cyber-community policing. Phase one began in February 2011, with an increase in the frequency of posts to Facebook and an expansion in the types of posts to include photographs of officers at community events and crime analysis information. At this time, the department challenged those who clicked that they "liked" the page to encourage their Facebook friends to also "like" the page. In addition, the department held its first ever social media community meeting, designed to teach citizens

how to set up their own Facebook pages and protect their identities while online. A focus was placed on educating elderly and homebound citizens who often cannot easily attend community meetings.

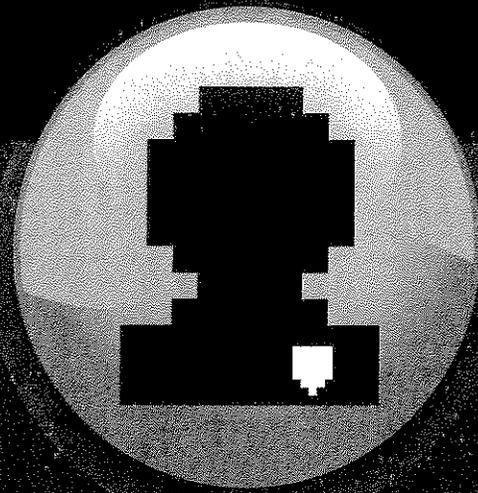
Phase two kicked off with a media blitz. A press conference showcased changes made to the department's Facebook page. These changes included the first in a series of monthly videos profiling the officers' careers, an interview with a Major Crimes detective who urged the public to come forward with new leads to a 2010 homicide, a virtual tour of the Roanoke Police Training Academy, and an interactive crime scene investigation tool that allows citizens to take a virtual tour of a staged crime scene and locate evidence. In addition to holding the press conference, the police department also harnessed the social media efforts of WSLS, the NBC affiliate in Roanoke. This station airs a live, interactive show nightly during which citizens can communicate with the news anchor via social media. Roanoke Deputy Chief Tim Jones joined the show's chat room to answer questions about the department's use of technology to bring community integration to a new level.

During phase two, department personnel posted a picture on the agency's Facebook page of a runaway dog that made a temporary home in a lieutenant's patrol car.

That post received 47 "likes" and 18 comments, including a comment from a citizen who offered to adopt the dog if its owner was not located. Four days later, the dog's owner came forward and all 47 Facebook fans of the dog—Max—responded to his safe return home.

Aside from lighter stories such as this, the department's Facebook page also receives attention from the community during critical incidents. A report of a man walking through the mall with a gun forced the evacuation of shoppers and a thorough sweep of the facility by the tactical response teams of the Roanoke Police Department and assisting agencies. Citizens looked to Facebook for updates during this incident, which ended without the individual being found. A debate was sparked as to what the man was actually carrying when surveillance pictures were released on Facebook the next day in an effort to learn his identity. The Roanoke Police Department's partnership with the media also drew more Facebook users to the site. One local news affiliate linked to the department's Facebook page from its website when the surveillance pictures were posted, and the visitors to the police department's Facebook page increased from 791 visitors on the previous day to 1,557 visitors. Dozens posted their opinions of whether the object was a firearm or an umbrella. In the

# Public



On March 1, 2011, the Roanoke, Virginia, Police Department launched a new initiative that included changes to its Facebook page as part of the department's effort to evolve its traditional community policing philosophy to include a cyber-community policing philosophy.

end, the man came forward and detectives learned that he was carrying an umbrella, but the experience once again showed the power of social media as a form of communication.

Phase three is still in the planning stages but includes the department becoming more interactive with the community by creating a blogging conversation with citizens, streaming live video, and making real-time crime data available to citizens. Another focus of phase three will be to increase crime prevention efforts through social media. This will allow Roanoke crime prevention specialists the opportunity to reach members of the community through videos focused on citizens decreasing their chances of becoming victims.

The department continues to reach out to citizens through traditional means such as publicizing stories through the media, attending community meetings, and conducting community walks. However, there is now a more concerted effort to remain in contact with those in the community who use the Internet as their main mode of communication. Most citizens have used the Roanoke Police Department's Facebook page for its intended purpose, and the department allows citizens to post comments that are neither inappropriate nor offensive. In fact, the department has a welcome page that informs Facebook users that inappropriate or offensive comments will be removed. Roanoke police understand that they will and do receive criticism from citizens, which is available for all to read. When questions are posted, they are answered. When inaccurate information is posted by citizens, it is addressed by the department. Sometimes, Facebook users post humorous comments or simply vent about a frustration they are experiencing. The department encourages open dialogue, and those comments are allowed to remain on the page provided they follow the guidelines spelled out on the welcome page. In some cases, Facebook users have rallied around the department in response to another citizen who has posted a negative comment. Just two citizen comments have been removed since February 1 this year. Despite some negative posts, the effort to enhance social media efforts has proven worthwhile. The department has gained more than 1,300 new "likes" since February and Roanoke police have yet another way to communicate with citizens.

<http://www.naylornetwork.com/iac-nxt>

## Addressing Social Media from Within

As plans were devised to increase social media communication with the public, internal plans were being made to address social

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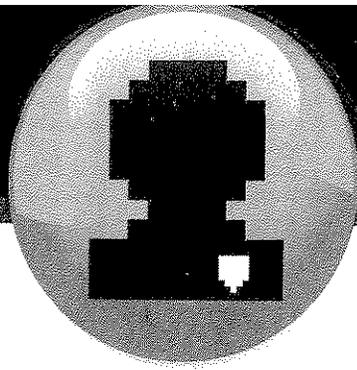
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conducted the first of six sessions on the pitfalls of social media. As the Roanoke Police Department was instituting a social media policy, so was the city of Roanoke; however, the city's policy was designed for the general workforce, and the police department needed a policy that spoke to the image of the department and the confidential information that is available to officers and civilian employees. To set the tone of the training, several law enforcement social media situations were critiqued. Situations in Lexington, Kentucky, and in New Port Richey, Florida, among others, were used as examples of just how easy it is to suffer the fate of disciplinary action or agency embarrassment by way of social media.<sup>2</sup> The basic message is not to post anything the agency would not want to see in the local newspaper the next day.

### Worth the Effort

So why would law enforcement agencies venture into the social media arena? After all, the use of this technology as an extension of resources to the community comes with measured risks. However, a 2010 survey conducted by the IACP Center for Social Media reports that 81 percent of 728 respondents use social media.<sup>3</sup> Of this response, more than two-thirds use Facebook as a means to empower the public and facilitate information sharing with the community. In addition, Twitter (29.8 percent); Myspace (21.6 percent); and YouTube (17.6 percent) all were reported as being used in some form to better enable communication or crime prevention services. Yet another use of social media is in investigations. The Roanoke Police Computer Crimes Unit has used Facebook and other social media sites in gang, drug, and cyberbullying investigations. A search warrant was even written, based on a Facebook page, to find a wanted person.<sup>4</sup> Within the Roanoke Police Department, the move to social media was a natural progression. After working through a legal and procedural maze, the department emerged a more transparent organization to the community.

Visit the Roanoke Police Department's Facebook page at <http://www.facebook.com/rpdsafercity>; and the agency on Twitter at [http://www.twitter.com/rpd\\_safercity](http://www.twitter.com/rpd_safercity). ❖

Deputy Chief **Tim Jones** is a 30-year veteran of the Roanoke, Virginia, Police Department. He currently commands the Operations Division.

**Aisha Johnson** is the Crime Prevention and Community Involvement Specialist for the Roanoke, Virginia, Police Department.

### Notes:

<sup>1</sup>See, for example, *Dible v. City of Chandler*, 502 F.3d 1040 (9th Cir. 2007) (officer published sexual material on website, dismissal upheld); *City of San Diego v. Roe*, 543 U.S. 77 (2004) (officer terminated for sexual material on website, including stripping off a police uniform); and the Case Law web page of the IACP Center for Social Media website: <http://www.iacpsocialmedia.org/Resources/CaseLaw.aspx> (accessed May 16, 2011).

<sup>2</sup>Dean Scoville, "Watch What You Post," *POLICE Magazine* (December 10, 2009), <http://www.policemag.com/Channel/Technology/>

Articles/2009/12/Watch-What-You-Post.aspx (accessed May 23, 2011).

<sup>3</sup>More details regarding findings of the September 2010 survey of IACP members can be found at <http://www.iacpsocialmedia.org/Portals/1/documents/Survey%20Results%20Document.pdf>. Summary results of the survey were presented in "IACP Center for Social Media: Supporting the Needs of Law Enforcement Online," *The Police Chief* 77 (December 2010): 86-87; [http://www.policechiefmagazine.org/magazine/issues/122010/pdfs/IACP\\_Center\\_for\\_Social\\_Media.pdf](http://www.policechiefmagazine.org/magazine/issues/122010/pdfs/IACP_Center_for_Social_Media.pdf) (accessed January 4, 2011).

<sup>4</sup>"Search Warrant Issued in Beaver County Facebook Page Probe" CBS Pittsburgh, February 24, 2011, <http://pittsburgh.cbslocal.com/2011/02/24/search-warrant-issued-in-beaver-county-facebook-page-probe> (accessed May 16, 2011).

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# Selling Social Media

media use within the agency. "Have you guys lost your mind?" was the question posed by one Virginia law enforcement administrator toward the Roanoke Police Department's new social media initiative. The department's efforts to expand its community policing philosophy into the realm of social media naturally led to the question of how a police department can simultaneously harness the usefulness of social media and protect itself and its personnel from the technology pitfalls of inappropriate use.

The misuse of technology and social media venues continues to be a commonly discussed topic for today's law enforcement. As the availability of the Internet makes its way to patrol cars and duty belts, law enforcement personnel risk a plethora of career-altering circumstances. If any agency has not yet stumbled over a social media issue, it is only a matter of time. For the Roanoke Police Department, the urgency of this matter began in September 2009, when an offi-

cer created a blog site. The blog posts went mostly unnoticed by the public until a local community group, at which the officer attended monthly meetings, created a link—sporting an image of the police department's badge—to the blog site. The local newspaper soon followed the community group's lead and linked to the blog site, too. A further review of the postings revealed enough descriptive information about police calls for service that confidentiality matters for both the individuals involved and prosecution in the cases risked being jeopardized.

The department's command staff realized it needed to act quickly and methodically. This task did not prove easy. Command staff recognized the prominent use of social media by today's youthful workforce. Banning officers from listing their place of employment on social media sites contradicted the ongoing project by the department to expand its own social media sites. In addition, discussing

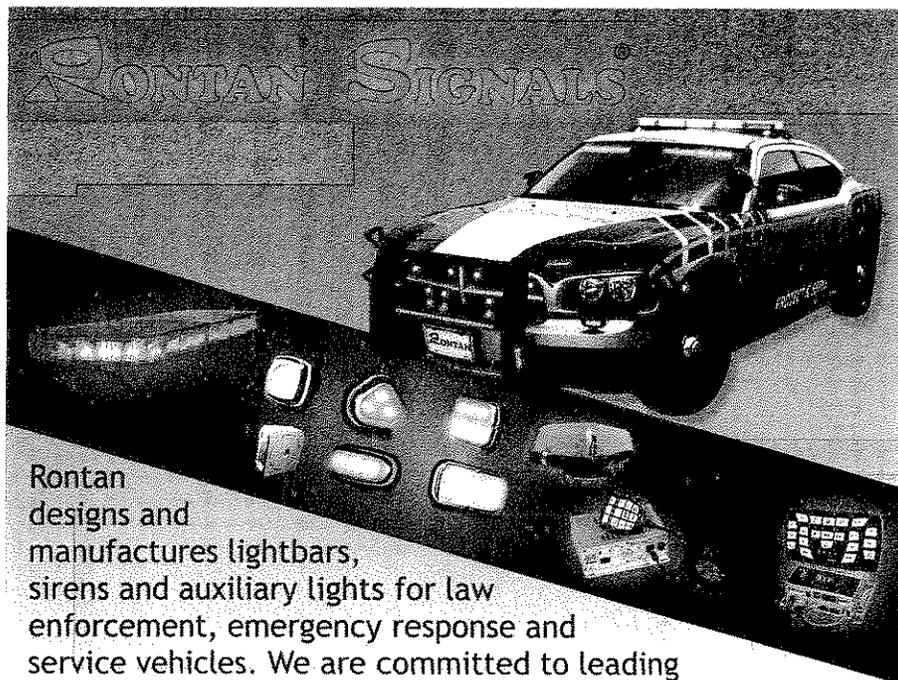
work in an open forum exposed the officers and the department to litigation and civil suits.

The command staff working with the city attorney's office used existing case law to develop a policy relating to information disclosed by Roanoke police employees in the social media arena. During this process, it was recognized that an overly broad policy tinkering with what an employee could and could not publish away from work was unlikely to survive court review. Command staff's focus was to cleanly and simply set parameters for the publication of information pursuant to law.

An additional resource to establish these parameters was found in the Law Enforcement Officer Code of Ethics, which is used by almost all police agencies throughout the country. The central point to the code is "Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty." It became clear that the department could not expect its officers to uphold the Code of Ethics while simultaneously allowing the publication of information that has been learned in the course of their duties to remain unregulated within the social media arena. Equally significant is case law where courts have restricted the rights of government employees who identified themselves as police officers or displayed their department badges, uniforms, or uniform patches.<sup>1</sup>

When it comes to restricting what law enforcement personnel do and say through social media, the best laid plans can be a tough sell. In order to lay the groundwork for what could have been a very controversial policy, change was needed to educate those who would be affected by it. To broach this issue, the Roanoke Police Department used a team consisting of an assistant city attorney and two deputy chiefs to deliver the new social media training to department personnel. The three-person team needed to frame the training as a benefit to personnel rather than an edict from management.

In May 2010, after six months of monitoring and legal review, Roanoke Chief of Police (then-Deputy Chief) Chris Perkins; assistant city attorney Tim Spencer; and Roanoke Deputy Chief of Police Tim Jones



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# Using Technology to Take Community Policing to the Next Level

By Dan Alexander, Chief of Police, Boca Raton, Florida, Police Services Department

The Boca Raton, Florida, Police Services Department (BRPD) was one of the first law enforcement departments in the country to embrace social media. It happened in 2007, when this affluent oceanfront city fell into the national spotlight because of a double homicide of a mother and her daughter at an upscale mall. The department turned to one of the only widespread social networking sites at the time, Myspace, to post information and ask for anonymous leads in the case. This was considered a unique way for a law enforcement organization to investigate a crime and look for leads. In 2011, the BRPD is still on the cutting edge of social media. With Facebook, Twitter, YouTube, and blogs, the agency uses all means available via technology, including the introduction of Quick Response (QR) codes as one of the latest electronic tools.

Why use this technology? The reason is fairly simple. Boca Raton, whose population fluctuates from 89,000 in the summer to approximately 130,000 during the winter months, also has several large corporations within the city limits making the weekday, daytime population around 300,000. This fluctuating population is served by just fewer than 200 sworn officers and approximately 100 civilian employees. Using various social media platforms allows the department to communicate and inform residents, visitors, and those doing business in the city. It also allows those who live elsewhere part of the year with a way to follow the happenings in the city.

At the same time the department began using social media, it also hired a public relations firm. The reason was simple: BRPD employees view their department as a business and those that work, live, and visit the city as customers. So what did those customers think about the business serving them? To find out, the department set

up a series of focus groups over four days with a total of 40 community members. The groups provided both positive and negative feedback and also helped to shape future branding plans and the department's social media strategy.

With the agency's assistance, the department developed the Visibility, Intelligence, Partnerships, Education, and Resources (VIPER) branding that has become synonymous with the BRPD throughout the region. The department and the public relations firm collaborated to create a logo along with a number of highly visible marketing campaigns aimed at crime prevention throughout the city.



In addition to strong branding and a solidified view of its role in the community, the BRPD also has clearly defined goals regarding social media outreach. Effectively engaging the community is the number one priority of the department's social media and overarching communications strategies. Therefore, instead of merely pushing information out, the BRPD's social networking sites are designed to

allow for open, two-way communication. This philosophy and the practice of communicating content immediately to the public allow for heightened levels of transparency—a characteristic that is valued by the city government in Boca Raton and by communities across the United States. Further, these new channels of communication allow BRPD employees to show their customers what the department is doing and highlight efforts that are routinely overlooked by traditional media outlets.

By using social media, the BRPD has been able to effectively market itself within its community, increasing awareness and establishing positive relationships. The reason is simple: The media is not what it used to be. Between the challenging economy and budget cuts, most media outlets have made drastic cutbacks that not only affect the way they cover the news but also what they cover. When it comes to getting information out to the public, law enforcement has always turned to the media. Now reporters find themselves having to decide what story to cover that day, no longer able to cover it all. This means many stories go unreported. The lack of coverage leaves citizens uninformed about crimes or arrests in their communities.

The BRPD uses several forms of social media, including Twitter, Facebook, YouTube, and its own website at <http://www.ci.boca-raton.fl.us/police>. Critics question the use of social media, saying it releases too much information without adequate filtering. However, at the BRPD, the same information that would normally be released to the public is posted on social media sites—no more, no less. The only difference is the information is closer to being available in real time. Unlike the traditional methods of emailing or faxing releases to local television stations and newspapers and waiting

for broadcasts or publications, social media facilitates a real-time approach.

This system does have its drawbacks. The department generally does not have as much time to think about and massage the language that is being posted as quickly as possible on Facebook, for example, as it does when a traditional press release is drafted and released. Once the send button is pushed, the message is difficult to retract.

Yet in times of crisis, social media becomes a direct link between the police and the public. During natural disasters, social media can prove to be an incredibly valuable tool. Agencies can communicate information to the public more quickly through tweets and Facebook posts than they can through radio, television, and even online media. For example, during a hurricane, a public information officer (PIO) can constantly update citizens on evacuations, street closures, flooding, and storm conditions almost as they occur. The public, media officials, and anyone else following the law enforcement agency online will receive the updates simultaneously. The two-way nature of social media also provides an excellent mechanism for law enforcement to gather information from community members.

## The Debate

Because social media provides a dynamic way to connect with a rich and diverse online community, it has yet to be fully embraced by many law enforcement administrators. Here are some of the obstacles that the BRPD has had to overcome.

### 1. It's fast, and we're not. We have to take our time.

The allure of social media, particularly Twitter, is speed and efficiency. The Miracle on the Hudson—the plane crash into the Hudson River in New York City after both engines were disabled but in which there were no fatalities—demonstrated how quickly an item can be reported via social media and then spread like wildfire.

How often does the public hear the police public information line about it being too premature to comment on an ongoing investigation? Police officials are not trying to stall for the sake of building drama; instead, they have to build an airtight case and cannot release information that will jeopardize their investigation. Often, police officers are working several different angles, including multiple interviews and the careful collection of evidence.

In this new media world order, no one has the patience for all of the facts to emerge. Law enforcement officials are now strug-

gling with telling the story quickly and, at least as far as Twitter is concerned, in fewer than 140 characters.

### 2. We sometimes creep people out.

Consider this actual event: A tweeter that the Twitter handle for the BRPD, @bocapolice, decided to follow received this ominous message: "Boca Raton Police (@BocaPolice) is now following your tweets on Twitter." He said that he found this message disconcerting. Consider this comment from a different tweeter: "I was alerted that @bocachief was following me. I hope I wasn't speeding."

There is truth in humor. When law enforcement officers in uniform encounter ordinary citizens, it is not uncommon for one of these citizens to jokingly say, "I didn't do it!" Parents sometimes point to the officer and warn their misbehaving children that the officer will put the kids in jail if they do not behave appropriately. It is not surprising that firefighters do not receive these same types of reactions, and it is unlikely anyone will ever hear a parent saying, "Behave or that paramedic will stick you with a needle."

People generally still trust police officers but are naturally anxious about being social with law enforcement. Ordinary citizens often have their first and only interactions with officers during traffic stops. This does not seem to be the best time to ask a citizen to follow the department in the social media universe. Imagine this: "Please sign the citation, and be sure to follow us on Twitter." Not a great way to connect.

### 3. It's personal, and we are not.

There are a number of reasons why police officers seem to be impersonal at times. They are programmed to always be on alert for an imminent attack. Some Boca Raton residents are not willing subjects or witnesses and, frequently, they are not happy to see the police. Because cases are often built on solid legal standards, police officers can project a "just the facts, ma'am" image.

Law enforcement also sees the worst of the human condition, sometimes making it difficult for officers to relate to citizens in a meaningful way. If officers do amass friends and followers online, they are typically a select group of like-minded individuals.

Even in the subconscious, police officers often like to gather intelligence on who they are dealing with before they become comfortable with an individual. The insanely wide-open world of social networking does not correspond well with that cynical frame of reference.

### 4. We are afraid of getting burned.

Police officers represent authority, have

been given a lot of power, and are held to a higher standard. Right or wrong, they are easy targets of verbal attacks.

The byproduct of using social media effectively is increased exposure. While transparency is currently in demand, it generally does not make police officers feel secure.

### 5. We cannot handle the volume.

The police PIO is often the sole person responsible for handling social media for the agency. Traditional PIO work is event-driven, involving organized communication primarily with the media. Social media is constant, ever changing, and involves multiple points of contact. The PIO now has to develop content, update multiple sites, and be responsive to many customers in this evolving form of communication.

The benefits of social media outweigh the costs. There are ways to easily overcome these potential roadblocks, allowing law enforcement to leverage social media to take community policing to another level.

Police administrators must consider the following when weighing the pros and cons of a social media presence.

- Does it make sense to ignore a huge audience of constituents?
- Does the agency want other people defining its message to this enormous audience?

The key is identifying what elements work for individual agencies, and then engaging the elements.

Find the BRPD on Facebook at <http://www.facebook.com/BocaPolice>; follow it on Twitter at <http://www.twitter.com/bocapolice>, or watch its channel on YouTube at <http://www.youtube.com/bocapolice>. ❖

**Dan Alexander** was sworn in as Boca Raton's Police Chief on July 17, 2006. He has spent his entire law enforcement career in Florida. From August 2002 to July 2006, Chief Alexander led the police department in Cape Coral. He served for approximately three years (1999 to 2002) as an assistant police chief and captain in Boca Raton, three years with the Indian Creek Village Public Safety Department, and six years as a deputy sheriff in Alachua County. In 2003, he was named the Southwest Florida Police Chief of the Year by the Southwest Florida Crime Prevention and Community Policing Association. Read his blog at <http://www.bocachiefblog.com>.

# How Police Chiefs Can Safeguard Officers

## with Policy Guidance on Social Networking

By Michael Masterson, Chief of Police, Boise, Idaho, Police Department; and William L. Bones, Captain, Boise Criminal Investigative Division, Boise, Idaho, Police Department

The headlines have become far too common: "Facebook Photos Lead to Internal Police Investigation";<sup>1</sup> "Police Investigate Report of Officer Posting Photo of Dead Body on Facebook";<sup>2</sup> and "Cop Says Facebook Postings Got Him Fired."<sup>3</sup>

These headlines reveal cases where officers not only lost their jobs but damaged their credibility and the credibility of the police agencies for which they work or worked. To say the headlines are simply embarrassing ignores the very real and lasting effect these cases will have on interagency trust and cooperation, public perception of professionalism and integrity, and even operational and officer safety. Increasingly, police chiefs are recognizing the need to protect their officers online on and off duty with policy, guidance, and training.

### Debating the Need for New Policy

Over the past decade, many police agencies, including the Boise, Idaho, Police Department, significantly downsized policy manuals, separating procedures from policies and deciding that individual misbehavior does not drive the need for a policy. Today, most police agencies have "right-

sized" their policy manuals and scrutinize suggestions for new additions.

Lincoln, Nebraska, Police Chief Thomas K. Casady is one of a handful of police leaders who began to issue social networking guidance to agency employees as early as 2007. In a memo to the department, Chief Casady urged employees to use a "front-page newspaper test": Do not put anything in a report, letter, memo, email, blog, online post, or any other medium if the content would be embarrassing or discredit the department if published in the local newspaper.<sup>4</sup> After becoming aware of some ill-advised Internet postings made by department employees, the chief candidly admitted that no one is beyond immature commentary, and he reminded employees that even if Internet accounts are password protected, if anyone else can see it, they can save it, forward it, or otherwise share it.

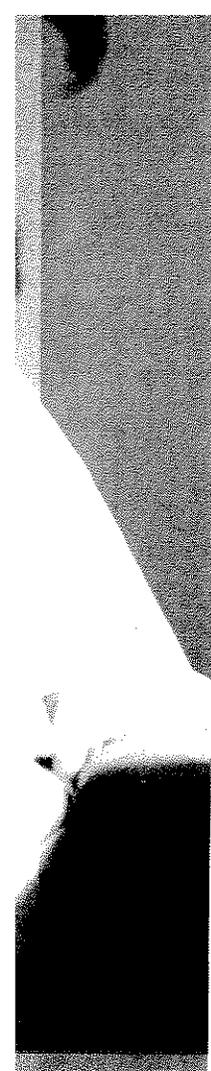
In early 2009, at the direction of the command staff, a committee of Boise police employees began studying the need for a new policy on the use of social networking sites by members of the department. A survey of Boise police employees found a high percentage of department-employed individuals used social networking sites, on

duty and off duty, for professional reasons including research, investigations, and training, as well as for personal communication. Approximately 75 law enforcement public information officers from agencies across the country were surveyed for the study. Only 2 reported their agencies had addressed the issue of employee social networking use with policies.

The committee also solicited input from the 27 chiefs who make up the Benchmark Cities Group.<sup>5</sup> In early 2009, Chief Craig Steckler, Fremont, California, Police Department, a member of the benchmark group and currently the IACP Second Vice President, also posed the question of whether or not a policy on employee social networking use is necessary, following his attendance at a meeting of the IACP Police Image and Ethics Committee. At that time in early 2009, the overwhelming majority of benchmark group chiefs saw no need for a new policy, with most citing they would use punishment deemed suitable for conduct unbecoming an officer for any behavior violations found through Internet posts. With this information, the employee committee of the Boise Police Department recommended *against* a new social networking policy.



ATTACHMENT 6



But postings by officers and other emergency responders continued to make headlines nationwide and very publicly cast doubt on those officers and their abilities to make good judgments. The posts cost jobs and court cases. In some cases, the Internet posts affected morale and damaged critical working relationships between emergency responders and partner agencies. Some of the online behavior was so flagrant and disturbing when viewed by the public that chiefs began to realistically fear the public's trust in the professionalism of the police agencies that had been involved in such online violations.

Facing what appeared to be a rising tide of online missteps by officers online by mid-2009, Boise Police Department commanders reconsidered the employee committee's recommendation and began exploring a draft policy designed to

educate and guide employees' use, both personal and professional, of social networking. Other agencies were taking early steps to create forward-looking, proactive, and preventive approaches meant to keep their employees safe in the cyberworld. Following are several examples:

- Portsmouth, Virginia, Police Chief Ed Hargis said the purpose and scope of creating a policy is to establish guidance concerning personal web pages or Internet sites when referencing the Portsmouth Police Department and to ensure employees use appropriate discretion so as not to discredit the department or themselves.
- Minneapolis police added a supplement to the City of Minneapolis Electronic Communications Policy. The department offers advisory caution and points out that all posted information is subpoenaed and may be used to discredit and impeach an officer's testimony and character.
- Utica, New York, Police Chief Mark Williams decided his agency needed to be proactive in writing a policy instead of being reactive. The need for the policy came after Chief Williams's realization

of problems elsewhere where defense attorneys were accessing "social media websites for damaging photos and posts from police officers in order to discredit them on the witness stand during criminal trials."<sup>6</sup>

The decision made by Boise Police Department and increasingly more police agencies is to adopt a social networking policy to proactively offer caution and education for employees rather than waiting for them to misstep and bear the consequences.

### Free Speech and Unique Obligations

Leadership in the virtual age requires safeguarding officers' reputations and that of police departments, too. In crafting a department policy on employee use of social networking sites, the Boise police staff worked closely with city attorneys on critical areas including consideration of employees' rights to free speech as well as social networking's impact on *Brady v. Maryland*<sup>7</sup> and potential impeachment issues for police employees.

*Brady* and the subsequent state and federal cases interpret the requirement that the prosecution disclose material exculpatory evidence to the defense. As law enforcement leaders are well aware, recent court rulings building on *Brady* have further developed rules for disclosing evidence that might also be used for impeachment purposes against officers. Virtual impeachment may now be included in *Brady* disclosures, meaning that the free sharing of one's random thoughts and personal life on the Internet may indeed have serious and career-ending consequences if that information is used to discredit a police employee's testimony in court.

For example, the officer who posted his mood as "devious" on his Myspace account had that and more mined from his "ruthless" Internet postings by a defense attorney, allowing the defendant to be acquitted of a felony unlawful weapons possession charge.<sup>8</sup>

The credibility of an entire department may be called into question by employees' online comments, like the officer who objected in a Facebook interview to having to enforce a new immigration law, or the officer who tweeted "I'm in favor of legalization. Marijuana laws are a waste of time and money."<sup>9</sup> When it comes to postings on social networking sites, officers should be cautioned that anything they write, post, tweet, and allow to appear in virtual space may be used against them in a courtroom.

In an article outlining the number of employees at the U.K. Ministry of Justice

and Scotland Yard disciplined or terminated for misuse of social networking, Keith Crosley, an email security specialist for a Sunnyvale, California-based company, said, "It is worrying that so many personnel who work in two of the UK's leading law enforcement agencies are bringing them into disrepute, if not risking operational security by the way they conduct themselves online."<sup>10</sup>

When the Boise Police Department's social networking policy was adopted, the department mandated training for all 400 employees. Many were surprised to learn that case law exists that allows a government employer to, under appropriate circumstances, restrict an employee's First Amendment rights—speech restraints that would be unconstitutional if applied to the general public. Department legal advisors helped shape training that informed employees that the agency could regulate speech and conduct as it (1) affects the employee's or agency coworkers' job performance; (2) affects management's trust and confidence in the employee's job performance; or (3) interferes with or adversely affects the agency's mission.

In law enforcement, there are no second chances when it comes to the necessary values of honesty, integrity, and professionalism. Cara Donlon-Cotton, a former police training instructor, said in an abstract for her recent article titled *Social Networking Policies: Maintaining Public Trust*, "You must have strict regulations regarding what officers can post online about their jobs and the department to protect them and the agency. The clearer you are, the fewer the problems will arise. Specific guidelines are a must."<sup>11</sup>

### Crafting a Social Networking Policy

In the end, the Boise Police Department chose a social networking policy meant to be a precautionary, proactive, and educational tool for employees.

In the policy, members are reminded that their conduct both on duty and off duty must meet a high standard. This includes but is not limited to conduct related to materials posted on the Internet or disseminated electronically. No member shall allow or permit any digital media to be posted on the Internet that

- could reasonably be interpreted to express the opinions of the Boise Police Department. A member may comment on a subject of general interest and of value and concern to the public provided that, in doing so, the member does not suggest or imply that the views expressed are those of Boise Police Department.

- has both a reference to the member being affiliated with Boise Police Department and that contains content that is unprofessional, unbecoming, or illegal, such as lewd sexual conduct, excessive alcohol consumption, or similar behaviors. Members are reminded that courts may scrutinize the credibility of a witness from unintentional sources like the Internet.
- could be reasonably interpreted as having an adverse effect upon agency morale, discipline, operation of the agency, safety of staff, or perception of the public.
- contains any recording, including images, obtained while engaged in the performance of enforcement activities, tactical situations, or anything that will have an adverse effect upon the agency. Digital images such as Shop with a Cop, promotion ceremonies, and so on, are permissible.
- does not apply to Internet postings for legitimate law enforcement purposes.

Clarification on appropriate postings, if needed, shall be directed to command staff.

To summarize, the policy does not prohibit social network use or even postings of officers engaged in department ceremonies or community service. The policy does not call for random checks or order members to provide department access to their personal sites.

The policy *does* remind employees their behavior online on duty and off duty is a direct reflection of the entire department's integrity, that the public expects their behavior to reflect the highest standards of professionalism, and that maintaining public confidence and trust in the department is critical to the successful accomplishment of the mission of ensuring public safety.

The IACP Center for Social Media offers police executives a tremendous resource with fact sheets, case studies, and a model policy.<sup>12</sup> With the world of social networking evolving every day, the IACP Center for Social Media is an extremely valuable site to exchange policies and training, share stories, and question colleagues about how they handle new social media experiences. It is highly preferable to talk about these issues today versus reading about them in tomorrow's headlines.

## Conclusion

Back when most serving police chiefs started their careers, the day's events or even the frustrations that

come with any line of work were shared together at a variety of social settings. In briefings, they would find release from dealing with the heinous things they encounter on a daily basis through their senses of humor.

Police department employees have not stopped these venting behaviors, but they have changed the medium through which they communicate their frustrations. Today, a passing thought or a gripe posted on Twitter or Facebook is not kept among friends; it could essentially be available to the entire social networking universe. What may have been an inside joke when posted online can quickly lose its context when it is shared with an audience that finds the comment offensive and objectionable. Social networking sites have become a popular and primary source of information sharing, and the trend is not going away. New technologies are presenting new challenges for officer safety in a huge variety of ways, and those technologies are developing at a frantic and almost overwhelming pace.

Leadership in the virtual age requires new skills, training, approaches, and guidance, along with constant vigilance to safeguard agency employee safety and maintain the agency's integrity. The very nature of the work law enforcement officers do and the departments chiefs lead involves granting a great deal of autonomy and empowerment to employees. If officer safety in the physical world demands policy, so does protecting officers in the virtual space.

Find the Boise Police Department on Facebook at <http://www.facebook.com/BoisePoliceDepartment>; follow the department on Twitter at <http://www.twitter.com/BoisePD>; or watch its channel on YouTube at <http://www.youtube.com/boisepolice>. ❖

Chief **Michael Masterson** joined the Boise Police Department in January 2005 after serving 28 years with the Madison, Wisconsin, Police Department.

Captain **William L. Bones** is the captain over the Boise Police Criminal Investigative Division. His past assignments include commanding both the Patrol and Professional Standards divisions.

## Notes:

<sup>1</sup>"Facebook Photos Lead to State Police Internal Investigation," *FoxNews.com*, August 23, 2010, <http://www.foxnews.com/scitech/2010/08/23/facebook-photos-lead-state-police-internal-investigation> (accessed May 3, 2011).

<sup>2</sup>Brian Fraga, "Police Investigate Report of Officer Posting Photo of Dead Body on Facebook," *SouthCoastToday.com*, January 5, 2010, <http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20100105/NEWS/1050330> (accessed May 3, 2011).

<sup>3</sup>"Cop Says Facebook Postings Got Him Fired," *WSTV.com*, December 8, 2009, <http://www.wsbvtv.com/news/21900267/detail.html> (accessed May 3, 2011).

<sup>4</sup>Tom Casady, January 31, 2010 (6:41 p.m.) comment on Laurie Stevens, "Recruits Who Blog," *ConnectedCOPS.net* (blog), January 30, 2010, <http://connectedcops.net/?p=1523> (accessed May 4, 2011).

<sup>5</sup>The Benchmark Cities Group, a coalition for mutual support, was originally designed in 1997 by a core group of police chiefs from around the country. These chiefs sought to establish measurement tools and information sharing to help ensure their departments were providing the best service possible within their respective communities. As of 2010, 27 police agencies from around the country were members. For more information, visit <http://www.opkansas.org/Documents-and-Forms/List/Benchmark-City-Survey> (accessed May 3, 2011).

<sup>6</sup>Joleen Ferris, "Policing Police on Social Networking Sites," *WKTU.com*, February 16, 2010, <http://www.wktv.com/news/local/84492582.html> (accessed May 3, 2011).

<sup>7</sup>*Brady v. Maryland*, 373 U.S. 83 (1963).

<sup>8</sup>Jim Dwyer, "The Officer Who Posted Too Much on MySpace," *New York Times*, March 10, 2009, <http://www.nytimes.com/2009/03/11/nyregion/11about.html> (accessed May 3, 2011).

<sup>9</sup>Tweet from an officer who wishes to remain anonymous, October 15, 2010.

<sup>10</sup>"Ministry of Justice and Met Staff Disciplined for Social Network Use," *Info Security*, February 16, 2010, <http://www.infosecurity-magazine.com/view/7349/ministry-of-justice-and-met-staff-disciplined-for-social-network-use/> (accessed May 3, 2011).

<sup>11</sup>Cara Donlon-Cotton, "Social Networking Policies: Maintain Public Trust," abstract, *Law and Order Magazine* 58, no. 5 (May 2010), <http://www.hendonpub.com/resources/articlearchive/results.aspx?subject=Social+Networking&perpage=5&Page=2> (accessed May 4, 2011).

<sup>12</sup>IACP Center for Social Media, <http://www.iacpsocialmedia.org> (accessed May 3, 2011).

CRIME

# Stolen food truck ignites Twitter

BY JON SILMAN  
jsilman@miamiherald.com

The owner of the Rolling Stove food truck, Troy Thomas, knew something was wrong when it didn't show up for work at the Seminole Hard Rock Casino on Saturday. In addition to calling the police, he went to something he's used for advertising over and over again — social networks.

A message hit Facebook at 3:51 p.m. "This is not a joke!!! The rolling stove was stolen today! If anyone has seen it please let me know."

Thomas was on Twitter at 4:12 p.m. with a similar message. The response was instantaneous. People reposted the message all over the Internet. At 5:06 p.m. BTTR Miami Food Truck Events on Facebook posted it, and 10 minutes later Rolling Cigars reposted it. People flooded the page with messages and by the end of the night, The Rolling Stove was a trending topic on Twitter, according to Trends map Miami, a Twitter user that shows real-time Miami Twitter trends.

"It's amazing how the Facebook and Twitter people rallied together," Thomas said on Saturday night.

The truck has been rolling for about a year and a half, according to Thomas, and he started the business to "get my food out to the people." He has three employees — well two now, and that's where the story ends and begins.

When the truck was found, he posted this mysterious message on Facebook at 6:29 p.m.: "The rolling stove has been found!! No damage just a very sad story:(. Thanks to all!!"

So what happened?

According to Thomas, work was slow Friday night and one of his employees was debating whether to go out and party. He did, taking another Rolling Stove employee with him. The employee ended up getting into a fight. A nasty fight. Thomas said both fighters walked away, but one of them didn't wake up Saturday morning.

That employee involved in the fight was setting up the food truck Saturday when he got a call from the co-worker he took out the night before, saying that the police were looking for him. He panicked. He stopped what he was doing in the truck, started it up, and fled.

"You could see exactly where he stopped working," Thomas said.

Later on, the co-worker, who was late Saturday for his shift, called Thomas asking where the truck was. The co-worker hadn't realized that he just spooked his friend into driving off with it. Thomas met the co-worker at the Hard Rock, and when the truck didn't show, the co-worker told Thomas the situation. Thomas had only recently granted the employee who had taken off the ability to drive the truck.

"I'm more hurt than anything," Thomas said, "I feel bad for him. He's a good kid."

Thomas said the employee just drove around and eventually ditched the truck around Restaurant Depot on Northwest 12th Avenue in Miami. He was picked up by police at around 6 p.m.

When the truck was found, Facebook and Twitter were abuzz with congratulations. Thomas said the truck was tucked away safely for the weekend, and he left this message on Twitter at 8:13 p.m.:

"To all concerned the stove is home and ok we will roll again Monday."

MH 10/2/11  
RJS

By Steve Towns



# Overcoming the Fear of Facebook

Governments must interact using both traditional websites and social media.

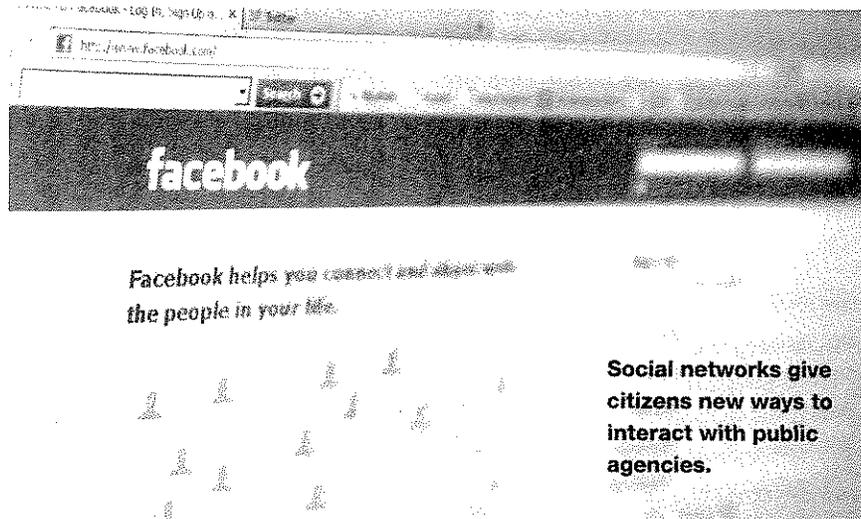
A few years ago, I wrote a little news story around the provocative idea that Facebook pages would one day replace traditional government home pages on the Internet. The story stemmed from comments by former San Francisco CIO Chris Vein, who said popular Web 2.0 platforms like Facebook or Google's suite of services might displace public-sector websites as the go-to destination for many citizen-government interactions.

Reader comments, of which there were plenty, fell into two categories: Those arguing that government reliance on Facebook—or any other popular social network—left out citizens who weren't members, and those congratulating Vein on trying to put government services and information in places where Internet users actually spend their time.

Of course, it's really not an either/or decision. It's both. Governments need to maintain traditional websites with up-to-date information and increase electronic services for residents and businesses. They also need to push into new mediums like social networks that give citizens new ways to interact with public agencies. That was Vein's point back in 2010; he wasn't seriously proposing to move San Francisco's entire website to Facebook. But he was—correctly, I think—raising the notion that someday government websites might not be the most important electronic link between governments and their citizens.

As a growing number of Americans access government data and services via smartphone apps and interact with city hall via social network sites, that day may be closer than you think.

Take, for instance, the village of Oak Park, Ill., where Social Media Coordinator Leslie Boehms has managed the town's Facebook page for the past three years.



The page may not have eclipsed Oak Park's official website, but it adds a valuable channel for engagement between the village government and residents. Beyond announcing events and posting pictures of civic activities, Facebook serves as a lively online forum for community issues. A glance at Oak Park's Facebook page shows Boehms fielding daily questions about missed garbage pickup, battery recycling and bicycle registration.

"We've definitely gotten a return on investment from me spending time on the Facebook page," she says. "You have to do both—a traditional website and social media—and you have to interact on both. You can't just put it out there and not expect to interact and answer questions."

Boehms, a 29-year-old graphic designer, splits her workday between social media activities and running the town's internal employee website. She answers most Facebook questions the same day they're posted, often after checking with village departments to make sure she has the correct response. Sometimes residents chime in and answer users' questions before Boehms can.

One thing missing from the Oak Park Facebook page are the negative or insulting comments that many governments fear they'll be flooded with if they begin two-way social media interaction with citizens. "We definitely get constructive criticism and questions, but we haven't encountered negativity," she says. "The only time I delete posts is when they are spam, and Facebook is really good about filtering out most of that."

In fact, social media activity may help defuse antigovernment sentiment that's permeating many parts of the nation. "Our Facebook page puts a face on the village government—you can see what the village manager is doing, you can see the fire department at a block party, you can visualize what your government is doing on a day-to-day basis," Boehms says. "I think that has taken away the negative light in which people sometimes see government."

Changing that perception may be one of the strongest arguments for investing time in social media activities. As Oak Park's Facebook experience shows, governments have much to gain and not as much to fear as they might think. ☺

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A market for social-media data

## Sipping from the fire hose

### Making sense of a torrent of tweets

**M**OST tweets are inane, but a million may contain valuable information. Fed through clever algorithms, a torrent of microblogs can reveal changes in a nation's mood. Hence the excitement about a new market: the sale and analysis of real-time social-media data. MediaSift, a British start-up, will soon launch a marketplace for such information.

Analysing social media used to be a cottage industry. Firms gathered data slowly and patchily, through mechanisms not built for the purpose. Many online services kept their data locked up, because there was no way to make money from them. All this is changing.

Twitter was the first to move because it generates ever more data: the number of tweets per day now exceeds 230m, up more than 100% from the beginning of the year. Twitter would like to turn its popularity into money, but rather than beefing up its own infrastructure, it plans to outsource the task of distributing and selling its data to MediaSift and Gnip, another start-up.

Both MediaSift and Gnip are striving to be "data platforms". They collect and standardise information from all kinds of social-media services—not only Twitter, but also Facebook, YouTube and others. Both Gnip and MediaSift have built robust networks which can cope with massive amounts of data in real time. And both are enforcing licensing rules: for instance, that a stream of tweets can be analysed but not republished.

Gnip, based in Boulder, Colorado, is more of a wholesale distributor. It charges \$30,000 a month for a feed of half of all tweets. Customers can also subscribe to feeds of tweets containing web links or certain keywords. Buyers are mostly social-media monitoring companies,

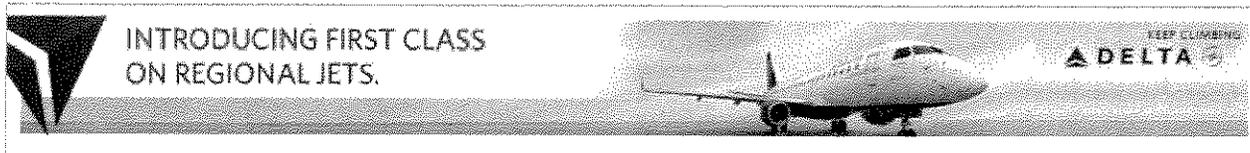
which analyse the data for a fee. Sysomos, a Canadian firm, for example, allows firms to track in real time what people think about certain products.

MediaSift serves both big corporations and individuals. Customers can define sophisticated filters, for instance to find all tweets by men who are interested in a new product and live in London. Charges for DataSift, as the service is called, depend on the filter's complexity and the amount of data delivered.

The streams from Gnip and MediaSift can be combined with data from more specialised firms that try to extract meaning from social-media data. Lexalytics, for instance, analyses the sentiment of messages and posts. Klout measures the influence of social-media users (some firms give people with a high Klout score preferential treatment).

Having a marketplace such as DataSift has already encouraged other social-media services to open their data vaults, says Nick Halstead, the founder of MediaSift. Financial firms have become interested in feeding such data into the algorithms they use to make investment decisions, says Chris Moody, Gnip's president. And corporations are increasingly keen on combining social-media data with customer information.

Yet growth in this market could be held back—by privacy concerns. Most people think that tweets are only up to 140 characters long. But those who sip from Twitter's fire hose can get much more information, including a sender's location, the biography on his profile page and how many people have subscribed to his messages. Most of this information is freely available on Twitter's website. But if users realise how their data are used, they may clam up.



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## THE WALL STREET JOURNAL

WSJ.com

TECHNOLOGY | OCTOBER 1, 2011

# Decoding Our Chatter

*Want to monitor an earthquake, track political activity or predict the ups and downs of the stock market? Researchers have found a bonanza of real-time data in the torrential flow of Twitter feeds.*

By ROBERT LEE HOTZ

When Virginia's magnitude 5.8 earthquake hit last August, the first Twitter reports sent from people at the epicenter began almost instantly at 1:51 p.m.—and reached New York about 40 seconds ahead of the quake's first shock waves, according to calculations by the social media company SocialFlow. The flood of messages peaked at 5,500 tweets a second.



Getty Images

Compared with information from cellphone records and social-media sites, Twitter texts are as timely as a pulse beat and, taken together, automatically compile the raw material of social history.

The first terse tweets also outpaced the U.S. Geological Survey's conventional seismometers, which normally can take from two to 20 minutes to generate an alert. The agency is now experimenting with Twitter as a faster and cheaper way to track earthquakes.

Never have scientists had so much readily accessible, real-time data about what people say. Twitter, the service that allows users to send text updates of up to 140 characters out to the public, publishes more than 200 million messages, or tweets, a day. Compared with information from cellphone records and social-media sites, Twitter texts are as timely as a pulse beat and, taken together, automatically compile the raw material of social history.

As Twitter's message traffic has grown explosively, so has the scientific appetite for the insights the data can yield. Dozens of new scholarly studies over the past 18 months by computer-network analysts and sociologists have plumbed the public torrents of data made available by Twitter through special links with the company's computer servers. This research has harnessed the service to monitor political activity and employee morale, track outbreaks of flu and food poisoning, map fluctuations in moods around the world, predict box-office receipts for new movies, and get a jump on changes in the stock market.

When the magnitude 8.8 Chilean earthquake hit last year, researchers found that on Twitter the truth often won out over misinformation. "When a rumor is true, it spreads faster," said computer analyst Barbara Poblete at the University of Chile in Santiago.

Ms. Poblete and her colleagues analyzed how survivors of the earthquake used the messaging service in lieu of more conventional communications that had been knocked out. They discovered that in the crisis, Twitter crowds reflexively sorted facts from falsehoods, exercising a collective wisdom on the fly. She found enough measurable differences in language, citations and posting patterns to devise a way to assess the credibility of Twitter texts automatically, with an accuracy of about 70%.

"The network itself can provide a filter for valid information," Ms. Poblete said.

All of this data is also proving to be valuable in the marketplace. Hundreds of social media, data-mining and financial-services companies now are paying a base rate of up to \$360,000 a year for Twitter's information, according to executives at the two companies that are licensed to market it world-wide—Gnip Inc. in Boulder, Colo., and Datasift in Reading, U.K. "Twitter is protective of who has the data and where it is going," said Nick Halstead, chief operating officer at DataSift. "It is the ultimate customer research tool."



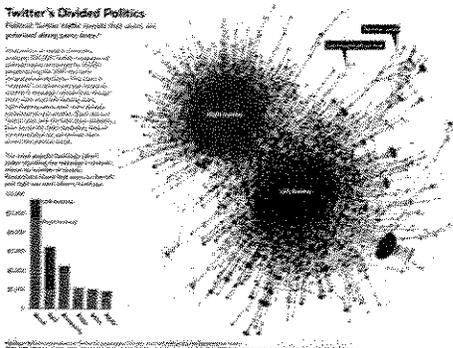
In an era of digital deception, scientists at Indiana University are using Twitter to investigate the nature of truth, lies and politics. WSJ's Robert Lee Hotz reports.

Though the practice is still experimental, Twitter data already have become a key variable in behavioral finance investment formulas. "The hedge funds are leading the way," said Chris Moody, chief operating officer at Gnip. Mr. Moody declined to name Gnip's financial customers. "They don't want anyone to know their secret sauce," he said.

The company does supply Twitter data to an investment firm in London called Derwent Capital Markets, which set up a \$40 million hedge fund in May that openly uses a Twitter-based formula to guide its investment decisions.

Researchers at Indiana University and the University of Manchester who developed the fund's technique say that they can reliably predict changes in the stock market by up to four days, based on the ups and downs of the national mood as expressed through key words in texts sent by 130,000 regular Twitter users.

### Twitter's Divided Politics



"We can make these predictions in real time, and I think it can be leveraged by a hedge fund to gain an advantage in the market," said Indiana computer scientist Johan Bollen, an adviser to the Derwent fund who helped to pioneer the sentiment analysis technique. "We have become more confident that this actually works."

After its first full month of trading in July, the investment firm announced that it had out-performed the Standard & Poor's 500 for that month, returning 1.85% while the index fell 2.2%.

### Twitter's Global Moods



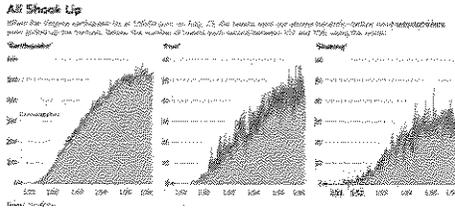
Researchers led by Bernardo Huberman at Hewlett-Packard's Social Computing Laboratory have used Twitter to predict box office hits and flops. They successfully forecast the financial fate of 24 films, including "The Blind Side" and "New Moon," by analyzing the intensity of the word-of-mouth about them on Twitter. "We are interested in doing the same thing for products," said Dr. Huberman.

Other researchers remain skeptical of Twitter's purported predictive power.

This summer, for example, researchers at Wellesley College in Massachusetts examined the Twitter traffic during six close congressional elections last year, trying to see if the volume and emotional tone of the messages related to each race could have been used to predict the outcomes. In all, they analyzed a quarter million messages involving more than 60,000 people.

"Twitter did no better than chance," reported computer scientist Eni Mustafaraj, who led the research.

[More photos and interactive graphics](#)



### Tweeting the Tremors

'Omg earthquake!!!'

'Coworker: Was that an earthquake?? Me: Not sure, let me check Twitter.'

'Read about earthquake on Twitter before I felt it in Boston.'

'1:51 Earthquake. 1:54 First Earthquake jokes hit internet. 2:05 Everyone is already sick of Earthquake meme.'

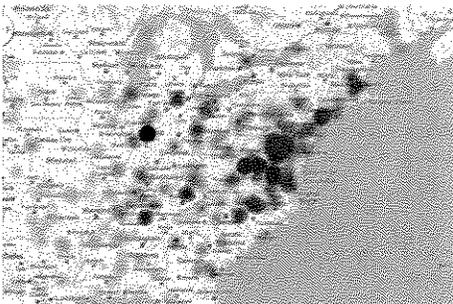
The military has recognized Twitter as a new battlefield for information warfare. In July, the Pentagon's Defense Advanced Research Projects Agency began exploring the possibility of a \$42 million effort to detect online "persuasion campaigns" and "influence operations" aimed at spreading ideas through Twitter and other social media. The agency also wants to develop new technology for automatically "counter-messaging" adversaries.

"Changes to the nature of conflict resulting from the use of social media are likely to be as profound as those resulting from previous communications revolutions," said DARPA spokesman Eric Mazzacone in a written response to questions. "Adversaries may exploit social media and related technologies for disinformation."

At Southeastern Louisiana University, researchers reported that they could track influenza outbreaks by collating the rise in Twitter texts from people complaining about flu symptoms as

effectively as more conventional public health reporting methods used by the U.S. Centers for Disease Control.

Unlike other instant-messaging systems, email, Facebook or Google+, the personal information sent through Twitter accounts is public by default. Anyone with a free account can tap into the streams of conversation, merge themes or introduce new topics by employing short codes called hashtags, which are used to earmark subjects of discussion.



"With Twitter, you have a microphone, in effect, above all the millions of conversations that are going on during a day," said computer scientist Alan Mislove at Northeastern University in Boston, who uses the messaging service to track rumors, national moods and commercial brand information. "These pieces of information don't reveal much by themselves, but when you add them together they reveal quite a lot, and that's when it starts to get scary."

Last year, in an analysis of over 300 million tweets, Mr. Mislove and his colleagues found that people's moods follow consistent patterns over the hours of a day (with the highest levels of happiness in early morning and late evening) and the days of the week. The mood of each tweet was inferred by keywords like love, paradise and suicide. And, they found, people on the West Coast were significantly happier than people on the East Coast.

Researchers concede that their studies have some limitations. Twitter users tend to be younger adults, urban, more affluent and less likely to have children; they are not a cross-section of society as a whole. Still, researchers say, there is considerable diversity—demographic, national and cultural—among those who use the service, and it is possible to make meaningful generalizations from the flow of their messages.

No one is sure exactly how many of Twitter's 200 million or so registered user accounts are active at any one time and how many are dummy accounts. Twitter recently acknowledged that only half send messages. Some account holders aren't even human. Automated software programs called "bots," designed to spread advertising blurbs, run them.

A relatively small group of 20,000 users commands the most attention, researchers at Yahoo Research have discovered. They are neither the most prolific nor the most widely followed users, but the website links they recommend are more often repeated and shared by others. When it comes to focusing public attention, content matters more than celebrity, the studies suggest.

Scanning 580 million tweets over eight months, Stanford University researchers discovered that Twitter topics seemed to rise and fall in six distinctive patterns that could help to predict their popularity. At Cornell University, network analysts discovered that bad news appeared to fade fastest, weighed down by words with negative connotations. Good news more often floated to the top, buoyed in part by words with positive associations.

As Twitter markets its commercial data more aggressively, some scientists say their requests for access to Twitter's full data stream are being turned down more often. "Twitter has definitely become more wary about sharing their data," said computer scientist Jon Kleinberg at Cornell University.

Twitter executives declined to be interviewed about the company's sale and sharing of data. A spokeswoman said in a written statement that the company actively supports academic research—up to a point. Twitter is donating all of its message data to the U.S. Library of Congress, but it may be years before it is available and then only with restrictions on its use imposed by the company.

Many computational sociologists believe that Twitter offers a unique prism for studying communications across the political spectrum—and a rich source of strategic intelligence for targeting voters.

Researchers say they can easily predict a Twitter user's political leanings by looking at whose messages they relay to friends and followers and matching them to gender, location and other interests. The hashtag codes used to denote discussion topics give network researchers a reliable way to chart fluid political alliances. The researchers can also sort Twitter messages automatically by tell-tale keywords.

Twitter also has become a powerful political organizing tool. University of Michigan researchers pored through Twitter posts from 700 campaigns in the 2010 election and found that conservative candidates were more likely than liberal candidates to use Twitter to broadcast campaign messages. When it comes to Twitter, conservative activists were more organized, more in touch with each other, and more likely to stay on message.

The new messaging medium has also spawned a new form of political deception, in which campaign operatives marshal an array of dummy Twitter accounts to spread rumors or misinformation. Like form letters, robo-calls and push polls, these Twitter tactics are inexpensive, since user accounts are free, and can potentially reach many more people than traditional campaign attack ads.

By analyzing millions of tweets during recent U.S. elections and policy battles, researchers at Indiana University and other non-partisan computer analysts have identified dozens of cases in which activists orchestrated networks of dummy accounts, apparently operated by computerized scripts, to sway swing voters, influence pending legislation or promote a partisan cause by turning the popular messaging service into a political echo chamber of automatically re-tweeted texts.

"This is manipulation of social media, not to sell a product or steal a password, but to manipulate public opinion," said computer scientist Filippo Menczer at Indiana University's Center for Complex Networks and Systems Research, which monitors Twitter traffic to document such practices. "It is so cheap and easy. The incentives for abuse are huge."

They detected efforts to spam the system for political ends from both sides of the partisan divide. On the right, for example, they uncovered a pair of accounts that, mimicking the chatter of two politically active women, sent out more than 20,000 messages promoting Republican congressional candidates. On the left, they found 15 orchestrated Twitter accounts acting in unison to promote liberal immigration reform. A third account transmitted more than 15,000 texts fanning anti-Muslim sentiments, including links to a video of a beheading.

These prolific tweeters were most likely not real people, the scientists determined, but automated shams, based on the pattern and volume of the messaging. This sort of deception appears to be evolving faster than Twitter Inc.'s security measures can control them. The company forbids spam and efforts to mislead, confuse or deceive people.

In anticipation of the upcoming U.S. presidential contest, researchers at Indiana University have been working on ways to detect and defuse Twitter misinformation campaigns automatically. But the technology of Twitter is

moving so quickly that detection efforts can barely keep pace. "People can game these systems and, in gaming them, they help bias the results of any data company," said social media analyst Danah Boyd at Microsoft Research. "It's a real challenge."

Pitting machine intelligence against human gullibility, researchers at the Web Ecology Project in San Francisco are using Twitter as a proving ground for advanced pre-programmed personalities called "socialbots" that can engage in extended conversations via Twitter by imitating the behavior of real people sending and receiving messages.

Designed to attract a large Twitter following, these code creations are constructed as an experiment in human-machine interactions, but the software could readily be turned to other purposes. "For good or for ill, you can get people to talk about a topic and potentially affect real-world behavior," said independent software developer Tim Hwang, who has been overseeing the effort. "If the bots are well-designed, they are undetectable."

In surreptitious tests online earlier this year, these socialbots fooled 300 unwary Twitter users. After refining their software, the group this month launched dozens of even more sophisticated Twitterbots, hoping to build relationships with thousands of unsuspecting users.

One Twitterbot from an earlier experiment—its account now disabled—masqueraded as a sports enthusiast. "I love going on adventures whenever I can find the time to dust off my passport," its biographical profile read. Its profile picture showed an exultant mountain climber.

"Once we launched it, it was fully on its own," said software engineer Greg Marra at Google in Mountain View, Calif., who helped to develop the bot as a college project. By design, "it would pick up a tweet from another user and parrot it. Completely unsupervised, it could produce a stream of plagiarized tweets."

During its nine months as an active Twitter user, it sent hundreds of messages about sports, sex, diabetes and the importance of online marketing. It attracted 1,538 followers, who apparently never realized they were in a relationship with a robot.

Network sociologists are worried that these newest contrivances may offer others a powerful way to manipulate people through Twitter on an even larger scale. "Doing this on Twitter with a thousand accounts or a million accounts is the next step," said Indiana University computer scientist Jacob Ratkiewicz.

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**Town of Surfside  
Commission Communication**

**Agenda Item # 9I**

**Agenda Date:** October 11, 2011

**Subject:** Community Center Outside Food Policy

**Objective:** To reinforce the “no outside food” policy currently in place at the Community Center.

**Background:** During the four year period prior to the completion of the new Community Center there were two committees and numerous public meetings convened to gather public input on what features they felt were most important for the new facility. One of the primary items mentioned in these sessions was the installation of an on-site concession area. Since the Community Center opened on June 19, 2011, there have been 17,857 visits by Surfside residents and their paid guests. During this time, a small number of complaints have been received by Community Center staff and members of the Town Commission regarding the “no outside food” policy. This policy was put in place to ensure the success of our competitively bid concessionaire, and to ensure that the highest quality food service program mandated by the Town Commission and expected by our patrons would succeed long term. To this end, the concessionaire was awarded during the June 14, 2011 Town Commission meeting, after extensive discussion of the menu, price points, and a provision for pre-prepared kosher products to meet the dietary needs of a major segment of our community. For the first three months our concessionaire has met the minimum guarantee and paid property rent above the guarantee in the amount of \$228.64 for July and \$24.58 for August, respectively.

**Analysis:** Since the summer months of June, July and August are the busiest months of the year the conclusion must be drawn that until party and special event rentals grow in frequency and size, the concessionaire must operate under the current policy of “no outside food” to ensure financial stability during the slower fall and winter months. To address the concerns of a small number of customers regarding the policy, the Parks and Recreation Committee recommended, after lengthy discussion, a policy adjustment that would allow small snacks (finger foods) to be brought into the center and eaten at a picnic table to be placed in the landscaped area east of the bulkhead and west of the hardpack path. The Administration recommends against this adjustment, for the following reasons:

1. The Town’s primary goal must be to help the sole bidder concessionaire succeed and survive during the slow fall and winter months. It would be unwise to change the “no outside food” policy until a full year of operation is complete, providing sales data for an entire year in order to observe financial performance under all situations.
2. Community Center and concession staff should not have the additional task of policing a poorly defined “finger food” policy. There have already been confrontations over a small number of patrons bringing in food and using the tables near the concession stand even under the current “no outside food” policy.

3. The difficulty for a quality concessionaire surviving long-term was evident at the old Community Center, in which the hours of operation were hit-and-miss, quality was low, and the Town actually subsidized part of the operation. The Community Center does not need to be placed into this situation again.
4. The placement of a picnic table on the landscaped area would be an open invitation to anyone to use it. There is also not enough staff to clean and maintain the landscaped area, and any food debris will attract feral cats and vermin, and be generally disruptive for parties in the same area. Problems may also arise over the use of the single table when one patron feels that another has been using the table for too long. Finally, we don't have the staff to ensure that people attempting to use the picnic table have their Town ID's.
5. There are no local public pools that allow outside food inside their facilities; South Beach, Normandy, North Miami, and Miami Shores all prohibit this practice.

**Budget Impact:** Policy may negatively affect sales for the independently contracted concession stand, which could in turn impact budgeted Town revenue.

**Staff Impact:** Staff will have to continuously monitor and decide what is or is not an acceptable food item to be permitted inside the facility.

**Recommendation:** With all due respect for the hard work and usual good advice from the Parks and Recreation Committee, the Administration cannot support their recommendation in this case. We reaffirm our recommendation to allow a full year of operation to assess all situations before any revenue limiting policies are considered.



Department Head



Town Manager



**Town of Surfside  
Commission Communication**

**Agenda Item # 9J**

**Agenda Date:** October 11, 2011

**Subject:** Records Management

**Background:** Tens of thousands of pages of documents are on file in the Town Clerk's Office and need to be scanned and safely stored for historical purposes. Thousands of additional documents are on file in the Building Department. Both the Building Department and the Town Clerk's Office receive constant inquiries for copies of documents. Searching for a record is labor intensive and expensive. Admittedly, if no record is found, staff cannot be sure if it is because no record exists or that it is because no record can be found.

Additionally, the Town has 443 boxes of documents in storage at Iron Mountain. The annual cost of storage is approximately \$5,000 not including substantial charges for retrieving documents as needed. The Town Clerk's Office has begun retrieval of boxes from Iron Mountain where they have laid dormant for the last several years.

At the June 14, 2011 meeting the Town Commission approved the purchase of two document scanners and a software program that will allow digital archiving of Town records and allow a full text search of those records. Documents will be scanned, electronically, catalogued and stored by expiration date to assist with future disposal projects. Document management will mean that eventually all Town departments will have access via their computer to the scanned information and they will be able to easily search for items. Having the documents electronically catalogued will make it much easier to respond to a public records request from residents while greatly reducing their wait time.

The only element of the records management system that has not been ordered is the Building Department's large document scanner that has the ability to scan building plans and surveys. Staff is requesting to piggyback off a GSA contract and purchase a 36" scanner specifically for this purpose. The scanner is compatible with the software program already purchased. The cost of the scanner is \$10,850 which will be acquired with funds generated by the Building Department.

Poor records management for many years has led to the current situation and unfortunately there is no quick fix. Staff is proposing to implement the following action plan that will address the problem over a one year period:

- The Town Clerk's Office will take the lead on this project

- Assign Priscilla Krutules to this project
- Hire a full time employee from a temporary agency for one year strictly dedicated to this project
- Relocate the Code Compliance Office to the second floor and share that area with a records management/document scanning office
- Retrieve stored document boxes from Iron Mountain and begin scanning, cataloguing and shredding if permissible under Chapter 119 of the Public Records law
- Organize the Building Plan storage room and utilize that area for document storage
- Begin the orderly storage of catalogued document boxes in the first floor file room
- Significantly reduce or eliminate the need for document storage at Iron Mountain by the end of the year
- Keep the Town Commission aware of progress on a quarterly basis in the Points of Light report

**Budget Impact:** \$10,850 for the Building Department scanner funded through the Building Department (#001-2500-524-6410). \$28,100 for the full time employee assigned to this project funded through various small savings and additional revenues during FY11/12. Staff is also reviewing the potential for outsourcing this document scanning catch-up process to determine if that alternative would be more cost effective.

**Analysis:** The records management system inherited by this Administration and Town Commission is inadequate and totally unacceptable. The Town is moving in the right direction and with this approval will have the equipment necessary to begin correcting this situation. This will be an ongoing process as we continue to produce paper every day and need to scan and file it in an organized manner for future searches and disposal.

**Staff Impact:** On-going work during the entire fiscal year to catch up on old documents and keep up with new documents.

**Recommendation:** It is recommended that the Surfside Town Commission approve the records management action plan as well as the purchase of the large document scanner from the GSA contract.



John DiCenso  
Interim Town Clerk



Roger M. Carlton  
Town Manager