



**Town of Surfside  
Zoning Code Workshop  
MINUTES**

**December 7, 2021  
6 p.m.**

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

**1. Opening**

**A. Call to Order**

Mayor Burkett called the meeting to order at 6:02 p.m.

**B. Roll Call of Members**

Deputy Town Clerk Herbello called the roll with the following members present:

Present: Mayor Charles Burkett, Vice Mayor Tina Paul and Commissioner Nelly Velasquez, Commissioner Charles Kesl and Commissioner Eliana Salzhauer (arrived at 6:55 p.m.)

Also present were Town Manager Andrew Hyatt, Town Attorney Tony Recio, Town Planner Walter Keller and Building Official James McGuinness.

**2. Summary of Changes from September and October Workshops**

Town Attorney Recio gave an update on the changes that were made in the September and October workshop meetings. He provided the summary of changes to the Town Commission.

Commissioner Velasquez asked why it says NGVD 9.

Town Attorney Recio stated it is a way of setting it to zero so everyone is on the same grounds.

Mayor Burkett stated that he is not comfortable with the NGVD because it is very complicated the way it is being measured. He explained his point of view the NGVD.

Commissioner Kesl provided his input as it pertains to NGVD and the height of the properties when it comes to insurance. He stated that he is fine with either one.

Vice Mayor Paul spoke regarding measuring from the wave crest and stated NGVD or NAVD is confusing for some and asked why it has changed and what the measurement was in 2006.

Public speaker George Kousoulas explained how it was measured in the past and provided an explanation of NGVD as it pertains to measurement and FEMA requirements.

Mayor Burkett addressed the comments made by Mr. Kousoulas and the measurement as it pertains to the first floor and he does not want the skyline to continue to get higher. He asked Commissioner Kesl if he would like to keep the buildings the same height.

Commissioner Kesl asked how much variation there is in the NGVD.

Mr. Kousoulas stated that it is standard. He explained the wave crest measurement.

Mayor Burkett stated his position is to maintain the current skyline.

Commissioner Velasquez would like to hear from the Town Planner and Building Official.

Commissioner Kesl asked if they adopt the NGVD standard how it would impact the height of crest wave.

Mayor Burkett asked if that goes up with time as sea level rises.

Building Official McGuinness stated that he cannot guarantee if it would go up and it has not gone up in the past 25 years. He explained what the height of crest wave is.

Town Planner Keller explained what the crest wave and measurement entails.

Mayor Burkett stated that they can say if they want to use wave crest and they are worried about composition and compatibility of the buildings in Town and how tall you want the buildings.

Commissioner Velasquez asked Town Planner Keller what are the differences between NGVD 29 and 88.

Town Planner Keller explained to Commissioner Velasquez what the difference is between the two.

Town Attorney Recio read what the code states as it pertains to the height and measurement from the crown of the road as well as it pertains to the H120 district.

A lengthy discussion took place among the Commission with Town staff and Mr. Kousoulas regarding the NGVD and height of the buildings as well as the crown of the road.

Consensus of the Commission was reached to cap the height of the buildings.

Building Official McGuinness explained the measurement as it pertains NGVD which has been replaced by NAVD since 2014 and whatever preference point it has to be done in NAVD.

Mayor Burkett stated that the numbers will be slightly different.

Building Official McGuinness explained the difference is about a foot. He asked Town Attorney Recio to replace the NGVD with NAVD.

Mayor Burkett stated that they have been discussing NGVD for the last six months.

Town Attorney Recio stated that NAVD is a scale.

Mayor Burkett asked what the measurement is as it pertains to the NAVD and they do not have the numbers currently.

Building Official McGuinness stated that they have a surveyor that will go out and get those measurements.

Further discussion among the Commission took place regarding the difference between NAVD and NGVD and measurement from the crown of the road.

Mr. Kousoulas explained the difference between NAVD and NGVD.

Public speaker Andrew Balis asked how the NAVD number and a building height of 30 feet would deal with the rising of flood plain as it pertains to a residential district. He also spoke regarding the parking problem in Surfside and possibly requiring parking under a building across Surfside.

Mayor Burkett stated that needs to change due to the rising of flood waters and that is why homes should be raised. He asked Mr. Balis if he is fine with capping the height of the buildings. He responded to the comments made by Mr. Balis.

Commissioner Kesl stated that he is looking for consistency and spoke regarding the rising of flood water.

Mayor Burkett stated that they need to raise the houses in the residential district due to the rising of flood water.

Public speaker Jeff Rose spoke regarding height of the buildings and raising properties on Collins Avenue.

Mayor Burkett addressed the comments made by Mr. Jeff Rose.

Public speaker Randy Rose spoke regarding rising water and believes they should not shrink the buildings to 11 floors.

Mayor Burkett addressed the comments made by Mr. Randy Rose.

Mayor Burkett stated if it is the pleasure of the Commission to place the language on the ballot that would work.

Vice Mayor Paul stated that she does not recall voting on doing a survey of the H120 properties.

Mayor Burkett stated that there is a number of 18.25 and how it would convert properly. He explained the measurement.

Vice Mayor Paul asked how much the survey would be costing.

Building Official McGuinness stated that it will cost between \$200 to \$300.

Vice Mayor Paul stated that the Town Manager should have sent an email to notify the commission that the survey was being done.

Mayor Burkett addressed the comments made by Vice Mayor Paul. He explained to Commissioner Salzhauer what has been discussed to catch her up since she arrived late. He explained that what they are trying to do is minimize height.

Commissioner Salzhauer asked can they equate what the crown of the road is and use the measurements required. She stated that the crown of the road is set at a specific number.

Mayor Burkett stated that the ballot question is very confusing.

Commissioner Salzhauer stated that the ballot question is very confusing.

Commissioner Kesl stated that it is how it is phrased and that is what is important for the voters to be able to understand.

Mayor Burkett stated they are talking about the height of the buildings.

Town Planner Keller stated that you can set what you want if it is crown of the road or elevation and set the height under NAVD or NGVD. He stated that it is a different standard that is more updated, but they are basically the same.

Commissioner Kesl asked if they have a fixed level if it would vary.

Town Planner Keller addressed the comment made by Commissioner Kesl.

Mayor Burkett stated the question is how high and if they want the buildings going higher or cap them at the level they are right now or back at the 12 stories of the crown of the road from when they were originally were built.

Commissioner Velasquez stated that they discussed it already and now he is bringing it back and asked for clarification.

Mayor Burkett stated that he found out 5 days ago that the right measurement is NAVD and they do not know what that number is until they have a survey done.

Commissioner Velasquez asked when they would be able to have the survey.

Building Official McGuinness stated that he will get with the surveyor to see if they can get it done this week.

Mayor Burkett suggested adding NAVD number equivalent after the survey is done and add it to the ballot. He stated that they can agree that there is an equivalent measurement between the two but it is still the same height.

Town Attorney Recio explained where the 120 feet is measured from.

After a lengthy discussion the Commission decided to move forward with the survey and come back once the survey is completed with the NAVD number to determine the measurement and height.

### **3. Summary of Changes to Draft Code – Remaining Items**

#### **1C. Rooftop uses**

Town Attorney Recio summarized the item with changes.

Vice Mayor Paul asked if they are putting protections under 1a.

Town Attorney Recio stated that there is a provision 5d in the table that gives protection.

Mayor Burkett asked if they have determined what catastrophe means under 5d.

Town Attorney Recio stated it cannot be an intentional act of the homeowner.

**1d and 1e**

Town Attorney Recio stated that they have discussed this in the last commission meeting.

**1f**

Town Attorney Recio summarized the changes.

**1g**

Town Attorney Recio stated that it was modified slightly, and the idea is to get the most restrictive of 2006 and the current code and combine them.

Commissioner Salzhauer asked what the number is.

Town Attorney Recio stated that this is the code they received in September and the changes have not been implemented yet.

Town Attorney Recio gave the number requested by Commission Salzhauer.

Vice Mayor Paul stated that she is placing an item on the next Commission agenda to protect older buildings when a new construction project is going up next to them.

Commissioner Salzhauer asked Town Planner Keller if the 17-foot break is enough and ample spacing between the buildings. She spoke regarding some taking multiple lots and make them one.

Town Planner Keller believes 17 feet is reasonable.

The following individual from the public spoke:

George Kousoulas

Town Attorney Recio stated that the 17 foot is in the current code in MuniCode. He also discussed what Commissioner Salzhauer was referring to if a building would do a unity of title and combine the lots.

Town Attorney Recio clarified confusing the Commission had as it pertains to H40, H30 and H120 and now specifically they are talking about H120.

Further discussion took place regarding the building separation.

Mr. Kousoulas stated that the numbers in 1c does not make sense. He explained the sketch that was handed to the Commission by Town Attorney Recio.

Further discussion took place regarding the sketch and how you can give some height.

Commissioner Kesl stated that the reason for the roof is for the mechanicals and allowing accessory uses for pool and at some point, you have to say enough. He stated it is a matter of perspective.

The following member of the public spoke:

Jeffrey Platt asked why they are allowing the giant trees on the roofs.

Commissioner Kesl stated that it has become popular now and when buildings are being planned the stability of the trees is part of the analysis.

Commissioner Salzhauer asked Town Attorney Recio what is allowed on the roof.

Town Attorney Recio stated that currently they allow roof decks, rooftop structures, mainly mechanical. He stated that there is nothing specific to vegetation.

Commissioner Salzhauer stated that they need to put language that they cannot have anything higher than 30 feet on the roof.

Town Attorney Recio stated that if it is the will of the Commission, they can limit the vegetation.

Further discussion took place regarding trees on rooftops.

Commissioner Velasquez would like to postpone this topic of trees on the roof.

### **1h Materials**

Town Attorney Recio stated they are clear on this item.

## **2 Single Family**

Commissioner Salzhauer stated that most people are here regarding a post on nextdoor which is incorrect and their property rights are not being taken away. She explained that it has to do with large homes being built next door to smaller homes and those smaller home owners are not happy because they open their window and they see a wall. She stated that what they are trying to do is close the loophole.

Vice Mayor Paul welcomed everyone and wanted to know if there were public comments on H120 before they switch subjects.

Commissioner Kesl welcomes everyone's comments and he stated he will do his best and listen to everybody.

Commissioner Velasquez stated what she fell in love with in Surfside was with the one-story homes and having those enormous houses, there are things that take away from the privacy you have. She stated that there is a point that someone can still look into your yard.

Mayor Burkett welcomes everyone and he would like everyone's input and has not made a decision and has listened to everyone. He believes the allowance currently is too big but he is open to listen to the public.

The following individuals from the public spoke:

Barry Portnoy spoke regarding increasing square footage and with the restrictions of the setbacks it is difficult to build. He is opposed to shrinking their rights on the tight lots.

Andy Balis spoke regarding reducing anything on the 50-foot lots and the setbacks on the second stories. He stated that there are different hedges.

Commissioner Velasquez stated that FEMA has a limitation of a percentage of how much you can build.

Commissioner Salzhauer clarified the setback of 5 feet and the increase would be for larger lots.

Jeff Rose spoke regarding the allowable square footage Surfside has allowed and spoke regarding the setbacks that have been set and they are punishing people for lot aggregation.



Commissioner Salzhauer addressed the comments made by Jeff Rose and the loopholes in the zoning code.

Lara Frank spoke regarding the landscaping and the increase. She spoke regarding driveways and she also asked regarding enclosing her patio. She spoke regarding fences and gates being prohibited.

Town Planner Keller addressed the comments and questions made by Ms. Frank.

Town Attorney Recio stated that she can still have an outdoor terrace. He stated that there are recommendations from the Planning and Zoning Board as it pertains to fences and gates.

Sharon Hakmon does not want them to disvalue the price of their property. He spoke regarding the decrease in percentage and people want to build a large home.

George Kousoulas, explained the difference between the zoning codes.

Commissioner Velasquez asked if they have discussed this before.

Mr. Kousoulas continued discussing the setbacks.

Pearl Dweck spoke regarding her house that she is building and the cost to her house if over \$100,000 more due to the setbacks.

Alan Davoudpour spoke regarding information to understand their proposed zoning change and how it will affect everyone that lives in Surfside.

Shlomo Danzinger stated that Commissioner Salzhauer is reducing their rights of taking away their buildable rights.

Commissioner Salzhauer addressed the comments made by Mr. Danzinger.

Jordan Wachtel spoke regarding lowering hedge heights and they do not have enough police officers.

Meeting recessed at 8:48 p.m.

Meeting reconvened at 9:00 p.m.

A motion was made by Commissioner Velasquez to extend the meeting until 10:00 p.m., seconded by Vice Mayor Paul. The motion carried with a 3-0 vote with Commissioner Salzhauer and Commissioner Kesl absent.

Mayor Burkett believes they need to super charge the Building Department and get more help. He has been told that things are slow in the Building Department.

Dovid Duchman stated that he is interested in the value of the properties to increase and they should not punish the people for building.

Joshua Epstein stated that the majority of the people are trying to live their lives and they purchased their homes with an intent of privacy.

Dalit Teshuba is opposed to shrinking square footage.

Mandyf Davoudpour stated that Commissioner Salzhauer is wasting time and is rude and they should go back to 80% and the Town is growing. She is against the Commission putting restrictions on properties.

Jeffrey Platt said that there is hypocrisy and people complaining

Alicia Boymelgreen spoke regarding the commission encouraging people to increase their one-story homes.

Carolyn Baumel stated that she hopes they are listening to the audience and they need to allow the Town to grow.

Eli Ginsburg spoke regarding reducing 72% or lower and they cannot state that they are not taking away livable square footage away because that is exactly what they are doing.

A motion was made by Commissioner Kesl to extend the meeting until 10:30 p.m., seconded by Commissioner Velasquez. The motion carried with a 5-0 vote.

Andrew Balis spoke regarding processing permitting and it is taking an average of four months here in Surfside.

Randy Rose spoke regarding the zoning in the neighborhood fluctuating and they should not take away the right of the property owner to build.

Commissioner Salzhauer stated that she is grossed out to hear that someone says they cannot live in a 4,000 square foot house and that is an entitled comment. She stated that Surfside is a special community.

Commissioner Kesl thanked the speakers and stated they are fortunate to be in the market they are in. He stated that he wants to improve the zoning code not by taking anyone's rights but keeping the Town the way it has been.

Vice Mayor Paul stated that she grew up in Surfside and spoke regarding what it was like growing up in Surfside. She stated that for the last 6 years she has tried to incentivize people to not knock down their homes and keep their footprint to help preserve the character of the Town. She stated that she does not want to take square footage from people but would like to see more creative architecture designs.

Commissioner Velasquez thanked the public and believes this is a very delicate subject and believes it should be placed on the ballot and for the residents to determine what the residents want. She spoke regarding keeping the same design in the community and there are many residents that do not want the mansions. She spoke regarding undergrounding of the power lines. She spoke regarding the Abbott Avenue drainage problem and that needs to be priority.

Mayor Burkett stated that there are certain parts that concern him and stated that as the code reads if he knocks down his house, he can build a 12,000 square foot house. He stated that nobody wants to penalize anyone, and he does not agree that the neighborhood would be better with large homes. He stated that the Town has diversity with the type of homes they have.

Commissioner Salzhauer stated that people will never be satisfied, and this does not have a happy ending. She stated that she wanted to close the loopholes in the code.

Commissioner Kesl stated the problem he has with the new properties is not that they should live in a certain square footage, he believes the first level is very overwhelming. He spoke regarding there being a zoning code for a reason.

Vice Mayor Paul would like to see landscape requirements for new homes. She would like to see the correct percentage of landscape requirements for front and back yards.

Commissioner Velasquez spoke regarding putting this to a vote and allowing the residents to decide because it affects the community.

Mayor Burkett summarized the comments made by the Commission and the public.

Jeff Rose spoke regarding the H30A/H30B average setbacks and FAR presentation.

Mayor Burkett does not agree that the houses on those lots should be that size and he spoke with people in the community.

Commissioner Salzhauer stated that the problem will be that people will not take the time to understand and does not want to end up with nothing. She stated that the people want more than what they have.

Commissioner Kesl spoke regarding the trade off with the side setbacks.

Vice Mayor Paul likes the 68% but will stay with the 72% because that is what is currently in the code. She also stated that the understory has not been discussed. She mentioned the alternatives as presented in the presentation slide.

Commissioner Velasquez commented on putting a survey out there, placing it on the website and mass emails to see what the residents want.

Mayor Burkett summarized the different comments made by the Commission. He would like to size the houses appropriately. He stated that he understands what they are saying and is willing to support 3,600 square feet.

Commissioner Salzhauer stated that what she wants to prevent from happening is that they do not want to end up with large homes. She is willing to support going smaller but will not approve more version of larger homes. She is fine with a smaller version of "B" without the goodies.

Town Attorney Recio clarified what "goodies" include.

After a very lengthy discussion the Commission discussed the different designs and what should be allowed as it pertains to square footage.

A motion was made by Commissioner Salzhauer to extend the meeting until 11:00 p.m., seconded by Commissioner Kesl. The motion carried with a 5-0 vote.

Vice Mayor Paul spoke regarding green space.

Commissioner Velasquez stated that size does matter.

Mayor Burkett stated that he believes that 4,000 square feet is ok but they want to have more green space. He stated that the 3,600 square feet is a decent size house. He stated that he has heard the public and it is about compromise.

Commissioner Salzhauer would like smaller and what is considered the right size. She stated you remove the goodies and right size the house.

Mayor Burkett stated that the goodies are restricted by the FAR.

Town Attorney Recio explained what the "goodies" are under the current code. He explained that most codes have lot coverage and our 40% has a slide concept. He suggests to have both concepts.

Commissioner Salzhauer recommends 68%.

Town Attorney Recio stated it would apply to any addition as well.

Commissioner Kesl has a concern with the permeability.

Vice Mayor Paul has a concern with the permeability.

The following individuals from the public spoke:

Randy Rose  
Sharon Hakmon  
Jordan Wachtel  
Alan Davoudpour  
Jeff Rose  
Mandyf Davoudpour  
George Kousoulas  
Shlomo Danzinger

A motion was made by Commissioner Kesl to extend the meeting until 11:10 p.m., seconded by Commissioner Salzhauer. The motion carried with a 5-0 vote.

Commissioner Salzhauer spoke regarding the average setbacks.

Vice Mayor Paul stated the majority of the residents here want the 72%.

Vice Mayor Paul agrees with the 72% and compliance with pervious landscape requirements.

Consensus was reached among the four Commissioners to go with the 68%.

#### **4. Recommendations from Planning and Zoning Board for Single Family Districts**

#### **5. Public Comment**

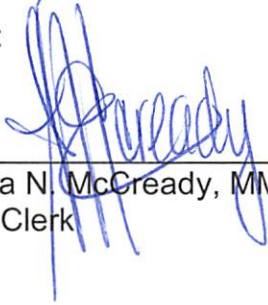
#### **6. Question & Answer (based on public comment)**

#### **7. Adjournment**

The workshop adjourned at 11:05 p.m.

Accepted this 11<sup>th</sup> day of January, 2022.

Attest:



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Sandra N. McCready, MMC  
Town Clerk



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Charles W. Burkett, Mayor