

RESOLUTION NO. 14 - 2270

**A RESOLUTION OF THE TOWN OF SURFSIDE STRONGLY URGING THE MIAMI-DADE COUNTY HISTORIC PRESERVATION BOARD (“BOARD”) TO GRANT A SIX MONTH DEFERRAL FOR DESIGNATION OF ANY AND ALL PROPERTIES IN THE TOWN OF SURFSIDE AS HISTORIC STRUCTURES OR DISTRICTS; TO ALLOW THE TOWN TIME TO PREPARE CRITERIA TO HELP GUIDE FUTURE DEVELOPMENT INTO THE DESIRED DEVELOPMENT PATTERN AND TO ANALYZE AND TO STUDY THE IMPACT TO THE TOWN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in 1981 the Miami-Dade County Board of County Commissioners adopted the Metropolitan Miami-Dade County Historic Preservation Ordinance ("Historic Preservation Ordinance") which allows for designation of certain properties as historic without first securing the consent of the property owner; and

**WHEREAS**, municipalities incorporated prior to July 1, 1982 were given the option to adopt their own municipal historic preservation ordinance within 365 days from the effective date of adoption of the Historic Preservation Ordinance or to be governed by the County ordinance; and

**WHEREAS**, the Town of Surfside (“Town”) did not adopt its own historic preservation ordinance, and since 1981, the Town has undergone extensive preparation, review and revisions to its Comprehensive Plan and its land development regulations, and the Town’s vision and goals for future development has significantly changed; and

**WHEREAS**, on October 7, 2014, the Board of County Commissioners of Miami-Dade County placed on its Agenda an ordinance relating to historic preservation which is pending approval through the public hearing process (See Attached Exhibit “A”); and

**WHEREAS**, the Miami-Dade County ordinance proposes to amend Section 16A-3 and 16A-3.1 of the Miami-Dade County Code to allow municipalities the opportunity to enact their own historic preservation ordinances at any time and delete limitations on the timeframe for municipalities to enact their own historic preservation ordinance (See Attached Exhibit “A”); and

**WHEREAS**, designation of properties as historic is an ongoing process and new designation of properties as historic without the owner's consent has the potential to adversely affect, among other things, the goals and objectives of the Town’s comprehensive planning efforts and its fiscal operations; and

**WHEREAS**, the Town has concerns about the process of notification as well as the location of properties that have been selected as eligible for historic preservation; and

**WHEREAS**, on August 27, 2014, the Planning and Zoning Board, as the Local Planning Agency for the Town, held its hearing and recommended and supported the Town's request to the Miami-Dade County Historic Preservation Board to grant a six month deferral for historic designation of any and all properties in the Town of Surfside, which will allow the Town time to prepare criteria to help guide future development into the desired development pattern and to analyze and to study the impact to the Town; and

**WHEREAS**, on October 14, 2014, the Town adopted Resolution No. 14-2268 strongly requesting the Miami-Dade County Historic Preservation Board to cease the historical designation process for 9340 Collins Avenue and any properties between 93<sup>rd</sup> and 94<sup>th</sup> Street between Collins and Harding Avenues, Surfside, Florida as historic properties in the Town of Surfside (See Attached Exhibit "B"); and

**WHEREAS**, it is in the best interest of the Town to request the Miami-Dade County Historic Preservation Board to grant a six month deferral for historic designation for any and all properties in the Town of Surfside.

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

**Section 1. Recitals Adopted.** That each of the above stated recitals are hereby adopted, confirmed, and incorporated herein.

**Section 2. Support by the Town of Surfside Town Commission.** The Town strongly urges the Miami-Dade Historic Preservation Board to grant a six month deferral for historic designation of any and all properties in the Town of Surfside, which will allow the Town time to prepare criteria to help guide future development into the desired development pattern and to analyze and to study the impact to the Town.

**Section 3. Implementation.** The Town Manager is hereby authorized to take any and all action necessary to implement this Resolution.

**Section 4. Direction to Town Clerk.** The Town Clerk is hereby directed to transmit a copy of this Resolution to: the Board of County Commissioners of Miami-Dade County, the Miami-Dade County Historic Preservation Board, the Miami-Dade County League of Cities, Inc. and municipalities in Miami-Dade County.

**Section 5. Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 18<sup>th</sup> day of November, 2014.

Motion by Commissioner Karukin.

Second by Commissioner Olchyk.

**FINAL VOTE ON ADOPTION:**

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


yes  
yes  
yes  
yes  
Absent

  
Daniel Dietch, Mayor

**ATTEST:**

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

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

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

**MEMORANDUM**

Agenda Item No. 4(C)

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**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

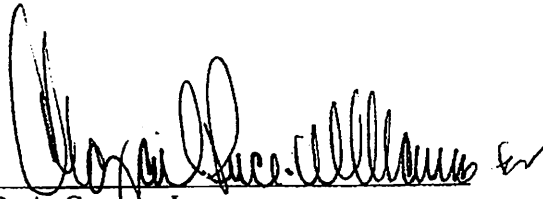
**DATE:** October 7, 2014

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Ordinance relating to historic preservation; amending sections 16A-3 and 16A-3.1 of the Code to allow municipalities the opportunity to enact their own historic preservation ordinances at any time; deleting limitations on timeframe for municipalities to enact their own historic preservation ordinances; making technical and clarifying changes

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/cp



# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** October 7, 2014

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 4(C)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor

Agenda Item No. 4(C)

Veto \_\_\_\_\_

10-7-14

Override \_\_\_\_\_

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

ORDINANCE RELATING TO HISTORIC PRESERVATION; AMENDING SECTIONS 16A-3 AND 16A-3.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO ALLOW MUNICIPALITIES THE OPPORTUNITY TO ENACT THEIR OWN HISTORIC PRESERVATION ORDINANCES AT ANY TIME; DELETING LIMITATIONS ON TIMEFRAME FOR MUNICIPALITIES TO ENACT THEIR OWN HISTORIC PRESERVATION ORDINANCES; MAKING TECHNICAL AND CLARIFYING CHANGES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, the County’s Historic Preservation Ordinance, codified in Chapter 16A of the Code of Miami-Dade County, Florida, and originally adopted in 1981, currently limits the timeframe in which municipalities may enact their own municipal historic preservation ordinances; and

**WHEREAS**, the County’s Historic Preservation Ordinance currently prohibits any municipality incorporated on or before July 1, 1982 from opting out of the County’s historic preservation jurisdiction, because the Code only allowed such an opt out to occur within a short period of time during the early 1980s; and

**WHEREAS**, the County’s Historic Preservation Ordinance also currently prohibits any municipality incorporated after the effective date of the 1981 ordinance from opting out of the County’s historic preservation jurisdiction more than one year after the effective date of the municipality’s incorporation; and

**WHEREAS**, in 2003, the County's Historic Preservation Ordinance was amended such that any municipality incorporated after the effective date of the 2003 amendment would have only one year after the effective date of incorporation to opt out of the County's historic preservation jurisdiction; and

**WHEREAS**, municipalities should be given a greater opportunity to exercise control over matters of historic preservation within their respective jurisdictions; and

**WHEREAS**, this Board no longer wishes to limit the timeframe in which municipalities may enact their own historic preservation ordinances, so that municipalities will have greater opportunity to control matters of historic preservation within their respective jurisdictions,

**THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 16A-3 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 16A-3. Scope of regulations.**

(1) This chapter is intended to and shall govern incorporated and unincorporated Miami-Dade County.

(2) The regulatory jurisdiction of the Miami-Dade County Historic Preservation Board pursuant to this Chapter shall extend to:

(a) all property located in the unincorporated areas of Miami-Dade County;

(b) all property located in incorporated areas of Miami-Dade County except where the municipality has enacted its own historic preservation ordinance in accordance with section 16A-3.1;

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(c) archeology and paleontology zones and sites in the incorporated and unincorporated areas of Miami-Dade County except where the municipality has enacted its own historic preservation ordinance in accordance with section 16A-3.1 and the municipality~~[[, within 365 days of the effective date of this ordinance,]]~~ enacts an ordinance that (1) expressly retains jurisdiction over archeology and paleontology zones and sites, (2) adopts regulations as least as protective of archeology and paleontology zones and sites as those in this Chapter, and (3) commits the municipality to retain sufficient archeological personnel or consultants to enforce such regulations; and

(d) the enforcement of the minimum standards established by this Chapter as set forth in this Chapter.

(3) Nothing contained herein shall be deemed to supersede or conflict with applicable building and zoning codes. Provisions contained herein shall be cumulative and read in conjunction with other provisions of the Miami-Dade County Code.

**Section 2.** Section 16A-3.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec. 16A-3.1. **Municipal Historic Preservation.**

(1) *County Technical and Legal Support for Municipal Preservation.* The Director of the Office of Historic Preservation and the County Attorney's Office may provide a requesting municipality with technical and legal assistance in preservation matters. Such assistance is not intended to replace the municipality's own commitment of resources to preservation or to divert resources from the County's own preservation responsibilities.

(2) ~~[[Timeframes]]~~ >>Option<< *for Municipalities to Enact Historic Preservation Ordinances.*

(a) Municipalities incorporated prior to July 1, 1982 were given the option to adopt their own municipal historic preservation ordinances or be governed by the County ordinance. The following municipalities enacted their own ordinances: Coral Gables, Hialeah, Homestead, Miami, Miami Beach, Miami Shores, Miami Springs, Opa-locka, and South Miami.



~~[[ (b) Municipalities incorporated after July 1, 1982 but before the effective date of this ordinance have until one year after the effective date of this ordinance to adopt their own preservation ordinances.~~

~~(c) Municipalities incorporated after the effective date of this ordinance have until one year after the effective date of their incorporation to adopt their own preservation ordinances.]]~~

>>(b) Notwithstanding subsection (a) above, at any time, any municipality may adopt its own municipal historic preservation ordinance, provided that the ordinance meets the minimum standards of this chapter. Within 30 days of the effective date of any such municipal ordinance, the municipality shall provide written notice to the Miami-Dade County Office of Historic Preservation, or its successor office or department. Municipalities that do not avail themselves of the option to adopt their own municipal historic preservation ordinances shall be governed by the County's historic preservation ordinance, unless and until such time as they adopt their own historic preservation ordinances, as permitted in this subsection.<<

(3) *Status of Designated Properties After Transition of Jurisdiction.* In the event that a municipality assumes jurisdiction of historic preservation from Miami-Dade County by enacting an ordinance as provided in this section, all properties previously designated by the Miami-Dade Historic Preservation Board shall have the status and protections of properties designated under the municipality's historic preservation ordinance unless and until such designation is removed by formal action of the municipality pursuant to its ordinance. The same rule shall apply if the County assumes jurisdiction from a municipality.

(4) *Minimum Standards for Municipal Ordinances.*

(a) To comply with the minimum standards for historic preservation ordinances>>\_1<< a municipal ordinance shall contain provisions:

(1) that establish a historic preservation board which shall be empowered to designate individual sites or districts and to issue certificates of appropriateness; or to advise the city commission regarding such matters. In this regard, this ordinance shall constitute authority for a municipality to

delegate to its preservation board the power to designate sites and districts and issue certificates of appropriateness.

(2) that provide procedures for the municipality, its staff, the Director of the Miami-Dade County Office of Historic Preservation, and private parties to recommend the initiation of designations of historic districts and individual historic sites, whether residential, commercial, industrial or other, pursuant to due notice to affected parties, legally-enforceable standards, quasi-judicial hearings, and appeals to court;

(3) that protect designated sites or districts by preventing the issuance of building, construction, zoning, and demolition permits or the significant change of appearance of such sites or districts until a written certificate of appropriateness has been issued;

(4) that protect property owners by procedures (1) to de-designate properties and (2) to vary or modify historic regulation based upon economic hardship pursuant to due notice to affected parties, legally-enforceable standards, quasi-judicial public hearings, and appeals to courts;

(5) that provide economic incentives for preservation;

(6) that regulate and prevent the demolition of historic buildings by neglect, and

(7) that establish the Secretary of Interior's Standards for Rehabilitation as standards governing preservation, although a municipality may establish additional standards.

(b) It is a violation of the minimum standards of this Chapter for a municipal historic preservation ordinance>>:<<

(1) to exempt an otherwise historic property from historic regulation or designation on the basis that the owner did not consent to the regulation or designation;

(2) to allow the issuance of a permit for the demolition of a historically-regulated property unless, after a public hearing pursuant to the ordinance, a variance based upon economic hardship has been granted or a certificate of appropriateness to demolish based on express standards in

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the ordinance has been issued. In this regard, it is a violation of the minimum standards of this Chapter to permit the issuance of a certificate of appropriateness for demolition based solely upon the passage of a certain amount of time after the owner has applied to demolish.

(c) Municipalities that >>had<< ~~[[have]]~~ already enacted historic preservation ordinances as of the effective date of >>Ordinance No. 03-38, adopted in 2003,<< ~~[[this ordinance]]~~ >>were given<< ~~[[shall have]]~~ 365 days from the effective date of >>that<< ~~[[this]]~~ ordinance to bring their ordinances into compliance with these minimum standards.

(d) The minimum standards created in >>this<< ~~[[these]]~~ subsection shall not apply to any municipality that is recognized as a Certified Local Government by the Florida Secretary of State.

\* \* \*

**Section 3.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 4.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 5.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Handwritten signature "ADW" above a horizontal line, with another handwritten signature below it.

Prepared by:

James Eddie Kirtley

Prime Sponsor: Commissioner Sally A. Heyman

RESOLUTION NO. 14 - 2208

**A RESOLUTION OF THE TOWN OF SURFSIDE, FLORIDA STRONGLY REQUESTING THE MIAMI-DADE COUNTY HISTORIC PRESERVATION BOARD ("BOARD") TO CEASE THE DESIGNATION OF 9340 COLLINS AVENUE AND ANY PROPERTIES BETWEEN 93<sup>RD</sup> AND 94<sup>TH</sup> STREET BETWEEN COLLINS AND HARDING AVENUES SURFSIDE, FLORIDA AS HISTORIC PROPERTIES; TO PROVIDE THE TOWN WITH THE OPTION TO WORK IN PARTNERSHIP WITH THE PROPERTY OWNERS ON A PUBLIC PRIVATE PARTNERSHIP; TO ALLOW THE TOWN TIME TO ANALYZE PREPARATION OF ZONING CRITERIA; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, since 1981, the Town has undergone extensive preparation, review and revisions of its Comprehensive Plan and its land development regulations, and the Town's vision and goals for future development has significantly changed; and

**WHEREAS**, designation of properties as historic is an ongoing process and new designation of properties as historic without the owner's consent has the potential to adversely affect, among other things, the goals and objectives of the Town's comprehensive planning efforts and its fiscal operations; and

**WHEREAS**, the Miami-Dade County Historic Preservation Board ("Board") has currently identified 9340 Collins Avenue as eligible for historic preservation; and

**WHEREAS**, the Board notified the property owner of 9340 Collins Avenue that their property is subject to a moratorium on all building permits; and

**WHEREAS**, the property owner of 9340 Collins Avenue contacted the Town to ask for assistance in this matter after the property owner received a letter from the Board; and

**WHEREAS**, the Board failed to notify Miami-Dade County Commissioner for District 4 of its intention about historic preservation efforts to designate certain properties in the Town of Surfside (See Attachment "A" Memorandum Board of County Commissioners, Commissioner Sally A. Heyman dated September 11, 2014); and

**WHEREAS**, the Town has engaged in a decade long discussion of parking needs and undertook a parking analysis for a public-private partnership to provide the Town with much needed parking opportunities; and

**WHEREAS**, due to the high interest for redevelopment of any properties between 93<sup>rd</sup> and 94<sup>th</sup> Street and between Collins and Harding Avenues, the Town desires to provide flexibility for this area as the Town decides what is the future of redevelopment; and

**WHEREAS**, it is in the best interest of the Town to strongly request the Miami-Dade County Historic Preservation Board to cease the designation of 9340 Collins Avenue and any properties between 93<sup>rd</sup> and 94<sup>th</sup> Street between Collins and Harding Avenues, Surfside, Florida as historic properties in the Town of Surfside.

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

**Section 1. Recitals Adopted.** That each of the above stated recitals are hereby adopted, confirmed, and incorporated herein.

**Section 2. Request by Town of Surfside Commission.** The Town strongly requests the Miami-Dade County Historic Preservation Board to cease the historical designation process for 9340 Collins Avenue and any properties between 93<sup>rd</sup> and 94<sup>th</sup> Street between Collins and Harding Avenues, Surfside, Florida as historic properties in the Town of Surfside.

**Section 3. Implementation.** The Town Manager is hereby authorized to take any and all action necessary to implement this Resolution.

**Section 4. Direction to Town Clerk.** The Town Clerk is hereby directed to transmit a copy of this Resolution to: the Board of County Commissioners of Miami-Dade County, the Miami-Dade County Historic Preservation Board, the Miami-Dade County League of Cities, Inc. and municipalities in Miami-Dade County.

**Section 5. Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 14<sup>th</sup> day of October, 2014.

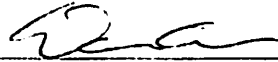
Motion by Vice Mayor Turgeman.

Second by Commissioner Obdyk.

**FINAL VOTE ON ADOPTION:**

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

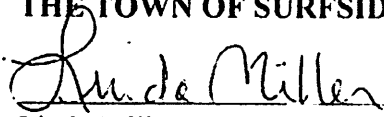
Yes  
Yes  
Yes  
Yes  
NO

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

**ATTEST:**

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

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

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



MEMORANDUM  
 BOARD OF COUNTY COMMISSIONERS  
 COMMISSIONER SALLY A. HEYMAN  
 DISTRICT 4

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TO:	The Honorable Carlos Gimenez Mayor	Date:	September 11, 2014
FROM:	Sally A. Heyman Commissioner District 4	SUBJECT:	Historic Preservation Issues

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As a follow-up to earlier conversations, I write to express concerns about the way in which the Office of Historic Preservation has handled certain matters affecting my District. Recently, there has been much concern and confusion among residents and municipal elected and administrative leaders in my District about historic preservation efforts, particularly in Surfside and Bay Harbor Islands. Despite the importance of this issue to my District and the confusion and concerns of the people I represent, the Office of Historic Preservation failed to notify me of its initiation of activities related to historic properties in my District. Additionally, communications that have been received were incomplete and were selective in information provided.

To ensure that the lack of communication does not arise in the future, I am asking that I be notified any time the Office of Historic Preservation is initiating a review of an area in my District. To that end, I've asked the County Attorney's Office to prepare a resolution directing the Mayor or designee to inform the relevant County Commissioner of the fact that property within his or her District is being considered for any historic designation process, or of the fact that an area in the District is being planned for any historic preservation purposes.

In addition, I am asking that the Mayor's Office direct the Office of Historic Preservation to request that the County's Historic Preservation Board defer any items currently on the Board's agenda involving property in my District for a period of 90 days to allow for complete and inclusive participation among residents and public officials. I am also asking that the Office of Historic Preservation be directed to defer any items it is considering placing on the Historic Preservation Board's agenda involving property in my District for six (6) months to allow for the same public participation and inclusion.

Finally, because I think it is important for municipalities to have a greater opportunity and authority to exercise control over matters of historic preservation within their respective jurisdictions, I have directed the County Attorney's Office to revise the County's Historic Preservation Ordinance to permit municipalities the option to opt out of the County's historic preservation regime beyond the one-year period given in 1982, as provided for in Chapter 16A-3.1 of the County Code.

I appreciate your prompt attention to this matter, and look forward to your responsive action.

C: Jack Osterholt, Deputy Mayor  
 Robert Yaffe, Mayor, Town of Bay Harbor Islands  
 Ron Wasson, Manager, Town of Bay Harbor Islands  
 Daniel Dietch, Mayor, Town of Surfside  
 Michael Crotty, Manager, Town of Surfside