

**NOTE: A request form is available from the Deputy Town Clerk; please fill it in and return it prior to the start of the meeting if you would like to speak during public comment. When you speak, you must come to the podium in the front and clearly state your name and address for the record. Please turn off or mute your cell phone or pager at the start of the meeting. Thank you.**

**TOWN OF BAY HARBOR ISLANDS  
MORRIS N. BROAD COMMUNITY CENTER  
1175 95TH STREET  
BAY HARBOR ISLANDS, FL 33154**

**REGULAR COUNCIL MEETING  
AGENDA**

April 10, 2023  
7:00 PM

**STATEMENT OF DECORUM**

*All comments must be addressed to the Council as a body and not to individuals. Any person making a racial or slanderous remark or who becomes boisterous while addressing the Town Council, staff, etc. shall be barred from the audience by the presiding officer. No profanity, shouting, heckling, verbal outbursts, or disruptive behavior in support of or opposition to a speaker or his/her remarks is permitted. Please mute or turn off your cell phone or other electronic devices at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chambers shall do so quietly.*

**CALL TO ORDER:**

**PLEDGE OF ALLEGIANCE:**

**ROLL CALL:**

**SPECIAL PRESENTATION:**

1. Miami-Dade County Public School Board representative and Principal Scott Saperstein will be present at the Council's request to discuss various items regarding Ruth K. Broad.

**REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:**

**TOWN MANAGER'S REPORT:**

**COUNCIL REPORTS:** Each Council Member will be afforded two (2) minutes to make their reports.

**PUBLIC COMMENT**

*There is a three (3) minute time limit for each speaker during public comment and a two (2) minute time limit for each speaker during all other agenda items. Your cooperation is appreciated in observing the three (3) minute rule. If you have a matter you would like to discuss which requires more than three (3) minutes, please arrange a meeting with the Town Manager or appropriate administrative official. **A request form is available from staff; please fill it in and return it to the Town Clerk prior to the start of the meeting if you would like to speak during public comment.** Please come forward to the podium, give your name and address, and the name and address of the organization you are representing if any.*

## COMMITTEE REPORTS:

**CONSENT AGENDA:** Set for approximately 7:55 p.m. (*Consent agenda items are those which are routine, do not require discussion or explanation prior to Town Council action, or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request of an individual Council member for independent consideration provided such request is made prior to the vote on the consent agenda.*)

2. Approval of the following Council Meeting Minutes:
  1. January 11, 2023 Regular Meeting
3. **Consideration and Approval** of a Resolution ratifying the appointment of Christopher Benjamin as Special Magistrate to conduct Administrative Hearings on Code Violations for the Town of Bay Harbor Islands, pursuant to Section 5¾-3 of the Town Code. Enclosed is a copy of the proposed agreement.

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RATIFYING THE APPOINTMENT OF CHRISTOPHER BENJAMIN, ESQ. OF INTERNATIONAL LAW PARTNERS, LLP AS SPECIAL MAGISTRATE TO CONDUCT ADMINISTRATIVE HEARINGS ON CODE VIOLATIONS FOR THE TOWN OF BAY HARBOR ISLANDS, PURSUANT TO ENFORCEMENT PROCEDURES SET FORTH IN SECTION 5 ¾-3 OF THE TOWN CODE; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.**

4. **Consideration and Approval** to issue a Request for Proposals (RFP) to hire a company to plan and implement concerts for the town. The service will include booking talent, staging, and providing sound and lighting.
5. **Consideration and Approval** to issue a Request for Proposals (RFP) for continued fixed route Shuttle Transit Services for the Town of Bay Harbor Islands.
6. **Consideration and Approval** to issue a Request for Proposals (RFP) for structural repairs to the Indian Creek Bridge.
7. **Ratification of Approval** of the emergency purchase of traffic cameras for the SunPass under the Emergency Procurements' regulation, pursuant to Section 2.1.3(a) of the Town Code.

**STAFF RECOMMENDATION:** Accept

**POLL VOTE**

## ORDINANCES ON SECOND READING:

8. **Consideration and Approval** of an Ordinance on Second Reading amending Sections 18-1 through 18- 4 of the Town Code delegating the authority for issuance of Permits for work in the Public Right-of-Way from the Town Clerk to the Town Manager. Enclosed is a copy of the proposed Ordinance and code provision.

**AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 18, ARTICLE 1 OF THE TOWN CODE ENTITLED "STREETS AND SIDEWALKS", REVISING SECTIONS 18-1 THROUGH 18-4 PERTAINING TO THE ISSUANCE OF PERMITS FOR WORK WITHIN THE PUBLIC RIGHT-OF-WAY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; AND AN EFFECTIVE DATE.**

**STAFF RECOMMENDATION:** Approve

**POLL VOTE**

9. **Consideration and Approval** of an ordinance on Second Reading amending Chapter 5, Section 5- 23.01(f) of the Town Code pertaining to meetings of the Design Review Board. Sponsored by Council Member Bruder.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 5 OF THE TOWN CODE, ENTITLED "DESIGN REVIEW BOARD", BY REVISING SECTION 5-23.01(f) PERTAINING TO MEETINGS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**STAFF RECOMMENDATION:** Council's Discretion

**POLL VOTE**

**ORDINANCES ON FIRST READING:**

10. **Consideration and Approval** of an ordinance on First Reading amending Chapter 5, Article II of the Town Code, creating a new section to be numbered 5-30 entitled "Additional requirements and procedures for site development approvals." Enclosed is a copy of the proposed ordinance.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA; AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO SUPPLEMENTAL PROCEDURES TO IMPROVE THE SITE DEVELOPMENT PLAN APPROVAL PROCESS; AMENDING CHAPTER 5, ARTICLE II ENTITLED DESIGN REVIEW BOARD BY CREATING A NEW SECTION 5-30 ENTITLED "ADDITIONAL REQUIREMENTS AND PROCEDURES FOR SITE DEVELOPMENT PLAN APPROVALS," INCLUDING PROCEDURAL REQUIREMENTS AND SUPPLEMENTAL REGULATIONS; PROVIDING FOR INCORPORATION OF RECITALS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**STAFF RECOMMENDATION:** Council's Discretion

**POLL VOTE**

11. **Consideration and Approval** of an ordinance on First Reading Discussion amending Sections 23-1, 23-4, and 23-5 of the Town Code to regulate the location of Real Estate Sales Centers in the town. Enclosed is the Town Planner's Staff Report and a proposed ordinance.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO REAL ESTATE DEVELOPMENT SALES AND MODEL CENTERS; AMENDING CHAPTER 23 ENTITLED ZONING AND PLANNING; AMENDING ARTICLE 1 ENTITLED ZONING REGULATIONS; AMENDING SECTION 23-1 ENTITLED DEFINITIONS; AMENDING SECTION 23-4 ENTITLED USE REGULATIONS RM-1 AND RM-2 MULTIPLE FAMILY DISTRICTS; AMENDING SECTION 23-5 ENTITLED USE REGULATIONS B-1 BUSINESS DISTRICT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND REPEALER; AND PROVIDING AN EFFECTIVE DATE.**

**STAFF RECOMMENDATION:** Council's Discretion

**POLL VOTE**

12. **Consideration and Approval** of an ordinance on First Reading amending Chapter 23, Article 1 - Zoning Regulations, modifying certain provisions relating to buildings and structures projecting into the side and rear yard setbacks of interior and waterfront lots on the West Island; to ensure a consistent and harmonious development pattern townwide. Enclosed is a copy of the proposed ordinance.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; AMENDING CHAPTER 23, ARTICLE I, SECTION 23-12 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "GENERAL PROVISIONS," TO MODIFY PROVISIONS 23-12(15)(a)iii AND 23-12(15)(e)iii RELATED TO BUILDINGS AND STRUCTURES PROJECTING INTO THE SIDE AND REAR SETBACK YARDS OF INTERIOR AND WATERFRONT LOTS ON THE WEST ISLAND; PROVIDING FOR ADOPTION OF RECITALS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**STAFF RECOMMENDATION:** Council's Discretion

**POLL VOTE**

**DEFERRED ITEMS:**

**TOWN MANAGER ITEMS:** *(Town business items requiring Council approval)*

13. **Consideration and Approval** of a request to purchase a vehicle in the total amount of \$58,355 or lease the vehicle for \$13,108/year for 5 years at a total cost of \$65,580.00 for Public Works Water Division from Bancorp utilizing the "Piggyback Provision pursuant to Section 2.1-2 of the Town Code" from the State Contract pricing from the City of Tallahassee.

**DISCUSSION ITEMS:**

14. Discussion regarding the creation of Council Members' Expense Accounts. Sponsored by Council Member Stephanie Bruder.
15. Discussion and possible action regarding the future of Town Hall. Sponsored by Council Member Bruder.
16. **Discussion and Possible** action regarding the 2023 Evaluation and Appraisal Report and related amendments to the Comprehensive Plan.

**ADJOURNMENT :** Approximately 10:00 p.m.

*Pursuant to Florida Statutes 286.0105, the Town hereby advises the public that should any person decide to appeal any decision of the Town Council with respect to any matter to be considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.*

## **AGENDA ITEM REPORT**

April 10, 2023

### **ITEM NUMBER: 1.**

**ITEM:** Miami-Dade County Public School Board representative and Principal Scott Saperstein will be present at the Council's request to discuss various items regarding Ruth K. Broad.

### **DESCRIPTION:**

Pursuant to the Town Council's request, Miami-Dade County Public School Board representative and Principal Scott Saperstein will be present at the April 10, 2023 Town Council meeting.

### **RECOMMENDED ACTION:**

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### **FINANCIAL ANALYSIS:**

### **BUDGET IMPACT:**

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Submitted By: Jenice Rosado, Assistant Town Manager

### **ATTACHMENTS**

None

## **AGENDA ITEM REPORT**

April 10, 2023

### **ITEM NUMBER: 2.**

**ITEM:** Approval of the following Council Meeting Minutes:

1. January 11, 2023 Regular Meeting

### **DESCRIPTION:**

### **RECOMMENDED ACTION:**

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### **FINANCIAL ANALYSIS:**

### **BUDGET IMPACT:**

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Submitted By: Yvonne Hamilton, Town Clerk

### **ATTACHMENTS**

|    |                                    |
|----|------------------------------------|
| 1. | 01.11.2023 Regular Council Meeting |
|----|------------------------------------|

**TOWN OF BAY HARBOR ISLANDS**  
**MINUTES OF A REGULAR COUNCIL MEETING**

A Regular Council Meeting was held on Wednesday, January 11, 2023 at 7:00 p.m. The meeting was opened with the Pledge of Allegiance. Upon roll call, the following Council Members responded:

|                               |                                 |
|-------------------------------|---------------------------------|
| Mayor Joshua Fuller           |                                 |
| Vice Mayor Elizabeth Tricoche | Council Member Stephanie Bruder |
| Council Member Teri D’Amico   | Council Member Molly Diallo     |
| Council Member Isaac Salver   | Council Member Yaffe            |

Council Member Diallo welcomed her students from the Alonzo & Tracy Mourning Senior High School, who were required to attend a public meeting for their government class.

**REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:**

Vice Mayor Tricoche requested a future school safety meeting in the Cone of Silence.

Council Member Bruder requested a workshop be held in March to discuss the Comprehensive Plan, and to move the February 8<sup>th</sup> Regular Meeting to February 1<sup>st</sup> since some members of the Council will be attending a conference in Washington D.C.

**TOWN MANAGER’S REPORT:**

Town Manager Lasday announced the February 9<sup>th</sup> kick-off Public Meeting for the Broad Causeway Bridge Replacement Project at 6:00 p.m. She mentioned that flyers will be sent out to residents and encouraged the public to attend. She also reported the Town was placed on a sewer moratorium due to damage to the pump station after Hurricane Ian. However, thanks to the staff, the moratorium was lifted today. She explained the Town was able to get out of the moratorium status by installing rain captures and putting silicone sealers on all manholes. The Town will eventually need to replace the sealers on all manholes. Council Member Salver asked the manager to elaborate on what was needed for a permanent fix. Town Manager Lasday advised an item was on the agenda for approval to purchase manholes covers, as 135 of them needed to be replaced. She stated the pumps, which were already approved by the Council, will be replaced next. Council Member Salver asked how long before the Town complies. Town Manager responded the pumps will arrive in May, and the manholes are in stock and can be ordered.

Town Engineer Rodney Carrero-Santana came forward and advised the Council the pumps will arrive mid-May. The new pumps will be installed, and the ones being used will serve as back-up. The manhole covers will take about 15 to 18 weeks to arrive, but the temporary solution with the use of silicone and rain captures will not allow the rainwater into the sanitary sewer.

Town Manager Lasday reported on the following:

- The Auditors will provide a report on TDRs at the February meeting.
- The Town applying for state and county grants for the replacement of the manholes, pumps, and generator.

- Installation of a new EV charging station, which will need a software update and establishment of rates. There is a limitation on how much the Town can charge as per State law. Request for this item be placed on the February agenda so the Council can assess the rate.
- Movie Night on January 28, 2022, playing Soul.
- New Town Planner Fernando Leyva, who will be assisting with the Comprehensive Plan, Charter Review, Parking Study, and Zoning review.
- Employee dinner to be held on January 26, 2023.
- The town's 75<sup>th</sup> Anniversary celebration from February 2<sup>nd</sup> through February 5<sup>th</sup>.

Mayor Fuller thanked all the staff who were working on the 75<sup>th</sup> Anniversary celebration. He stated a Movie Night will be held on February 3<sup>rd</sup>, the Town's first Art Festival will be held on Saturday and Sunday and part of Kane Concourse will be shut down; a concert will be held on Saturday night, and there will be an event on Sunday for the residents only. He asked the residents to attend and stated his intention to make the Art Festival an annual event.

Derek Kotus, 1031 Ives Dairy Road, and Matt Filio, 36 Island Ave, organizers of the event came forward and addressed questions from the Council.

Council Member D'Amico asked about the artists selection process. Mr. Filio responded there were approximately 75 applicants, and one of his staff does the artist selection. Council Member Bruder asked if food will be sold at the event. Mr. Filio stated there will be concessions with different options.

Council Member Bruder made a motion to add \$50,000 to the budget for the Arts Festival. Town Manager Lasday asked if the Council would be amenable to increase her spending authority to \$20,000 without the requirement for three bids, in the event three bids were not received for the event.

**ACTION:** Council Member Bruder made a motion to allow the Town Manager to spend up to \$20,000 for the Arts Festival event without having to obtain three bids and to increase the budget for the festival by \$50,000. Council Member Yaffe seconded the motion which passed unanimously on a poll vote.

**COUNCIL REPORTS:** Each Council Member will be afforded two (2) minutes to make their reports.

Council Member D'Amico reported on her attendance at the Florida League of Cities Conference in Orlando. She advised she would like to work on a strategy regarding committees and asked who sits on each one at the Florida League of Cities Conference. Mayor Fuller explained that the information was available online; each individual has to apply to their committee of interest, and appointments are made by the President of the Board. She then asked if the Miami-Dade County League of Cities works the same way. Council Member Yaffe responded that the Town Council appoints a Council Member to serve. Council Member D'Amico added she met with the Town Manager, the Chief Building Official Mike Mesa, and the Town Planner Michael Miller and discussed getting a database to merge all information gathered throughout the years.

Council Member Yaffe wished the public Happy Holidays. He provided a brief explanation to the public regarding the Florida League of Cities and their functions. He stated The Florida League of Cities has five policy committees, and he belongs to one. They meet several times a year prior to the start of the legislative session to establish policies that support Home Rule, so that the Council can advocate to the State Legislature for their respective municipalities. He added there is a Legislative Action Days in Tallahassee which all cities of Florida attend and meet their legislators. He further stated he enjoyed the concerts and encouraged the public to attend. He also encouraged residents to attend Pizza with the Police, if they hadn't done so. He announced the Town will host a workshop to educate the residents on new legislation that will affect condominium associations at the end of 2024. He added Miami-Dade County also adopted an ordinance that requires every condominium association to register by February 1<sup>st</sup>; those who do not will be penalized for failure to do so. He spoke about dissatisfaction with Surfside and Bal Harbour regarding traffic and safety for pedestrians. Town Manager Lasday advised she will have the Police Chief reach out to their Police Departments.

Deputy Chief Noel advised they have been in communication with the respective cities; he gave assurance that crossing guards were in place and if they must direct traffic from Bal Harbour and Surfside side, they will do so. Council Member Bruder asked if the Police can notify Bal Harbour in writing of the 75<sup>th</sup> Anniversary celebrations.

Council Member Salver asked Town Manager Lasday if they can include the 90-minute leader course for Board Members in the Condominium workshop. Council Member Yaffe advised the newly elected Board Members for condominium association can become certified by self-certifying or by taking a certification course; the State mandates who can offer those courses. Council Member Salver suggested the Town hire an attorney to provide this course. He reported on his attendance at the concert with Jonathan Moody, which was not well attended; an event on Sunday that was sponsored by Teach Florida, an advocacy group and proponent of school choice; the Florida Leagues Cities Meeting in December, where some policies for the organization itself were set, and priorities to tend to for the next Legislative Session.

Council Member Diallo reported she attended the concert last weekend, and the Miami-Dade League of Cities dinner, the Snow Day, and Pizza with the Police event. She suggested these events continue for families in the community.

Council Member Bruder thanked Public Works Director Atkinson for working diligently to have DERM lift the moratoriums. She reported she was excited for the 75<sup>th</sup> Anniversary celebration and advised the residents they must provide an ID to enter the Sunday event.

Mayor Fuller reported he attended the Florida Leagues of Cities and a North Bay Village meeting dealing with environmental issues. He stated the Snow Day was an excellent event. He encouraged the public to attend the Broad Causeway Bridge Replacement Project, where there will be an opportunity to hear residents' feedback.

## **PUBLIC COMMENT**

*There is a three (3) minute time limit for each speaker during public comment and a two (2) minute time limit for each speaker during all other agenda items. Your cooperation is appreciated in observing the three (3) minute rule. If you have a matter you would like to discuss which requires more than three (3) minutes, please arrange a meeting with the Town Manager or appropriate administrative official. **A request form is available from staff; please fill it in and return it to the Town Clerk prior to the start of the meeting if you would like to speak during public comment.** Please come forward to the podium, give your name and address, and the name and address of the organization you are representing if any.*

Ree Kelly Stoppa, 9881 East Bay Harbor Drive, came forward and stated the Town must have itemized billing from the Town Attorney and all Town contractors. She also suggested bringing in the new representative of 106 District. She asked about the process on amending the Charter because the Chief Building Official was signing the Business Tax Receipts, when the Charter states the Town Clerk was responsible.

Mayor Fuller reported he met with the State Representative. The main concern was protecting Home Rule and ensuring the bills in front of the legislature to raise the height of buildings didn't impact the Town.

Frances Neuhut, 1060 Kane Concourse, came forward and asked why the Council had not provided residents with safety and wellbeing by allowing Bal Harbour garage, Church by the Sea, and site approvals with underground parking garages to be built.

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward and asked when zoom meetings will resume. She congratulated the staff for the beautiful Christmas lights that were displayed over the holidays and suggested the lights be extended in the Business District for a month. She also suggested the Town Hall be torn down and staff be moved to another building, because the conditions are hazardous.

Larissa Ramirez came forward and stated she was from Alonzo and Tracy Mourning Senior High and lives in Sunny Isles Beach. She asked the Council what type of policies or quorum the Council has been working on to address the gentrification crisis.

Council Member Salver responded the Town was working on the Comprehensive Plan to include sustainability. Vice Mayor Tricoche advised the Town had heard items to include zero emissions and had worked towards added EV stations. The Town also engaged Freebee which is used for local transportations at no cost to residents. The Town passed regulations a couple of years ago that if a resident was making a 50% renovation, they must increase their seawall. The Vice Mayor stated the Town was constantly working on the sewage system to decrease recleaning water. Mayor Fuller also added the Town was working on building two artificial reefs. Ms. Ramirez stated she was excited to see these projects undergo and wished the Town would address the rent increase crisis.

Liliana Grady came forward and asked how much the Art Festival was going to cost for non-residents and how the Town Council planned to allocate young musicians in the community to join in following years.

Mayor Fuller responded the Art Festival will be free. Ms. Grady asked if the Council had any intentions of bringing young musicians from the community to participate. Council Member Salver responded the Town had hired the Miami Beach Senior High Rock Ensemble every year for the Annual Picnic, but if other surrounding high schools have a jazz or music ensemble, he would be willing to sponsor a rock festival for local students.

Brandon Stark and Rodriguez came forward and asked about the plan on the Broad Causeway Bridge Replacement Project and the budget cap.

Mayor Fuller advised they were limited as to how much he could say on the matter, but the meeting being held on February 9<sup>th</sup> was an opportunity for the entity that the Town hired to run the program and build and design the bridge, to inform the residents of the project and hear feedback.

Council Member Bruder stated she would like to add zoom meeting to the upcoming agenda as various residents would rather attend the meetings through zoom.

Mayor Fuller asked the Town Manager to look into changing the meter parking rates from one hour to half hour increments.

Council Member Yaffe asked if the Council can hold a condominium workshop. It was the consensus of the Council to hold the workshop on February 15<sup>th</sup>.

### **COMMITTEE REPORTS:**

There were no committee reports.

**CONSENT AGENDA:** Set for approximately 7:55 p.m. *(Consent agenda items are those which are routine, do not require discussion or explanation prior to Town Council action, or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request of an individual Council member for independent consideration provided such request is made prior to the vote on the consent agenda.)*

1. Approval of Council meeting Minutes
  - A. Regular Meeting – March 19, 2022
  - B. Regular Meeting – April 13, 2022
  - C. Regular Meeting – May 11, 2022
  - D. Special Meeting – June 6, 2022
  - E. Regular Meeting – June 9, 2022
2. **Consideration and Approval** of a Change Order for the purchase of additional gym equipment for the Town Gym located in the Morris Broad Community Center. Enclosed are supporting documents.

**ACTION:** Council Member Salver made a motion to approve the Consent Agenda. Vice Mayor seconded the motion which passed unanimously on a poll vote.

### **PUBLIC HEARING:**

3. **Discussion and Possible** action with respect to an appeal filed by Attorney David E. Sacks, with the law firm of Pathman Schermer Tandy, LLP, on behalf of Carroll Walk Condominium Association, Inc. at 9751 East Bay Harbor Drive, regarding the Design Review Board's November 1<sup>st</sup> approval of a new multi- family dwelling for 9781 Bay Harbor Development, LLC, concerning property located at 9781 East Bay Harbor Drive, Lot 28 of Block 4, Bay Harbor Islands, Florida. Enclosed are the Letter of Appeal, development application package, and a letter from opposing counsel, Joseph A. Ruiz, Esq., Wernick &Co. Email correspondence was received from Mr. Sacks on November 22nd requesting the appeal be tabled until an appropriate time. The other party whose project was approved by the DRB and appealed, has not agreed to postpone the matter.

Mayor Fuller and Council Member Salver recused themselves from participating in this item. Town Attorney Geller stated for the record that none of the members recusing themselves have conflict with this item; however, they are permitted to recuse themselves with an appearance of conflict, even though there isn't any financial interests in the final outcome.

Town Attorney Geller swore in those individuals who indicated they would provide testimony.

Town Planner Miller reported the request was for an appeal on a site development approval for 9781 East Bay Harbor Drive by the Design Review Board. He informed the Council that about 10 years ago, a development proposal came in front of the former Planning & Zoning Board and was approved. The original building was two or three stories; and the approved project expired because the developer never moved forward with the permits. In 2018, new developers acquired the site known as The Waters; they were not requesting any TDRs. It was a 75' foot lot and they were within the allowed setbacks. Recently, the property was sold, and Architect Kobi Karp redesigned the project which went through a site plan process. This project went to the Development & Review Committee twice, two times to the Design Review Board; and the site plan was approved. At the hearing, there were comments from adjoining properties. The Carroll Walk Condominium Association appealed this decision.

Council Member Bruder re-stated the project was not requesting any TDRs, no variance was being requested, it complied with the Code, they were not asking for more density than is allowed and they enhanced the project. She asked the Town Planner what was not acceptable in the plan, and he responded he wasn't sure. Town Planner continued explaining the setbacks of this project to the surrounding properties.

David Sacks, 2 South Biscayne Boulevard, Miami, Florida, representing Carroll Walk Condominium Association, Appellant, referred to the inconsistency between the Town's Comprehensive Plan and the application that went in front of the Design Review Board (DRB). He argued that in any land use decision, the Design Review Board in terms of aesthetics or not, had obligations pertaining to consistency between the Comprehensive and Land development of the town. He added that the Town should prohibit any further construction since there was a moratorium placed by DERM on the Town; there should be a consistency across the board. He stated for the record his client was losing their site views in some of the units. Council Member Bruder asked if this was about losing view or sanitary issues. Mr. Sacks stated there were two issues correlating together; one was the height of the approved development. In his legal opinion, he felt that the inconsistency with the Comprehensive Plan and the level of service that was being laid out should negate the approval of the DRB's Order entered November 1<sup>st</sup>. He continued to read from a verbatim transcript for November 1<sup>st</sup> meeting and raised concerns as to the discussion between Town Planner Miller and the Chair at that time regarding the sanitary sewer system. Town Manager Lasday advised Mr. Sacks DERM had lifted the moratorium since the hearing. He quoted case law as to the inconsistency of the Comprehensive plan.

He added that height like setbacks was not an entitlement, it was a limitation. So just because the height restriction is 75 feet, doesn't mean the developer should be granted the full amount. He continued to discuss the proximity of the five-foot setbacks; how he felt they were too close to the property; and raised the issue of concurrency.

Town Manager Lasday explained DERM issued a moratorium because the Town was experiencing major issues with the sanitary system after Hurricane Ian. The Town had made great strides to mediate these issues, and as result, the moratorium was lifted. She stated that it was not up to the town to issue a sanitary sewer permit, it was done by DERM. They determined whether the town's sanitary sewer system's capacity was sufficient or not to hold a new development.

Town Attorney Geller suggested the Council accept the Staff Report into record. The Council accepted the staff report into record.

Council Member Bruder asked if DERM continued to monitor the sewer, and if the remedies made to the sanitary sewer system were sufficient at this time. Town Manager Lasday responded DERM was accepting the temporary measures put in place, and they were also understanding and accepting of the long-term plan; they are working with the Town to ensure the system works and is sufficient for development.

Council Member Bruder asked the Town Engineer who gives the sanitary permit and how they go about ensuring the system works for new developments. Town Engineer Rodney Carrero-Santana responded all developments must go through DERM in order to meet the standards required for the sanitary sewer system. He added the system was evaluated yearly by different methods to determine the feasibility of how the system was working, which is done by the Town. If an issue was found when evaluated, it was corrected. The Town had been meeting DERM's requirements. Council Member Bruder asked the Town Engineer if DERM evaluates the permits and determines whether they can be issued. The Town Engineer confirmed.

Joe Ruiz, 320 Miracle Mile, representing 9781 Bay Harbor Development LLC, came forward and stated the building is a small eight story nine-unit multi-family residential development. The project was presented to the Design Review Committee ("DRC") on September 13<sup>th</sup>, was approved and moved to the DRB. Prior to moving to the DRB, the DRC must determine that all aspects of the application are fully compliant with the Town Code. He stated that per the Town Planner's Staff report the site development plans complied with the town's development regulations that include setbacks and height limitations. He continued stating that the issues raised by the Appellant regarding sanitation was to distract the board. He quoted the Code and stated the purpose of the DRB is to promote compatibility and cohesiveness in architectural design while preserving the extent deemed appropriate for the Town's historic architectural and neighborhood character, providing a framework for new redevelopment reviews, and responding to the existing context of the built environment in open spaces.

He added the issues the Appellant raised regarding water and sewer were a “red herring”; those were issues addressed at Building Permit, by staff and by Miami-Dade County, through sewer allocations and capacity certifications. He argued there had not been any testimony that any repairs were pending. He continued to address the height issue and stated the project was within the height restrictions allowed by the code.

Mr. Sacks came forward to present rebuttal and stated once again the Comprehensive Plan was inconsistent and there is a “red herring”.

#### **PUBLIC COMMENT**

Frances Neuhut, 1060 Kane Concourse, came forward and stated she relied on the Minutes of all that’s approved, and up until recently she hadn’t had the Minutes available. She added Town Planner Miller continued to provide incorrect information at meetings.

Joyce Green, 1360 99 Street, came forward and stated this hearing was a perfect example of why the Council and the Town Manager need to review old developments that got permits and were flipped, to ensure everything was copacetic. She stated the review system needs to be improved.

#### **PUBLIC COMMENT CLOSED**

Council Member D’Amico responded to Ms. Green and advised she was also attempting to get control of the flipping but felt it was not the issue for this particular project.

Council Member Yaffe stated the projects met code and the sewer issue was dealt with; he did not see anything with basis to overturn the decision of the Design Review Board.

Council Member Diallo agreed with Council Member Yaffe. She understood residents’ concerns as to the views being compromised, but at the same time, the owners do not own the views.

Council Member Bruder stated the project met the code requirements, and the sanitary issues were corrected. She also stated she understood the concern as to the views, but didn’t see the basis for approving this appeal.

Council Member Diallo raised a concern that the height of the proposed project is shorter than the original building, conflicting with the statement regarding “views.”

Vice Mayor Tricoche added she agreed with all the members of the Council and saw no basis to grant the appeal.

**ACTION:** Council Member Yaffe made a motion to deny the appeal. Council Member Bruder seconded the motion which passed unanimously on a poll vote.

**TOWN MANAGER ITEMS:** *(Town business items requiring Council approval)*

8. **Consideration and Approval** of a Resolution ratifying award of an emergency contract to Debon Air for installation of a new air-conditioning system at Town Hall.

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RATIFYING AWARD OF AN EMERGENCY CONTRACT TO DEBON AIR FOR INSTALLATION OF THE AIR-CONDITIONING SYSTEM THAT SERVICES TOWN HALL; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.**

**ACTION:** Council Member Salver made a motion to approve the resolution. Council Member Diallo seconded the motion which passed unanimously on a poll vote.

9. **Consideration and Approval** of a Resolution authorizing the purchase of manhole frames and covers from Fortiline, Inc. in the amount of \$45,810.95, under the Piggyback Purchase Provision, through a contract with the City of Boynton Beach, pursuant to Section 2.1.2(6) of the Town's Procurement Ordinance.

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AUTHORIZING THE PURCHASE OF MANHOLE COVERS FROM FORTILINE, INC., UNDER THE PIGGYBACK PURCHASE PROVISION, PURSUANT TO SECTION 2.1.2 OF THE TOWN CODE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR EXPENDITURE OF FUNDS; AND SETTING AN EFFECTIVE DATE.**

#### **PUBLIC COMMENT**

Frances Neuhut, 1060 Kane Concourse, came forward and stated she noticed Church by the Sea had been taking down the manhole covers, and asked if they were allowed to do that. She agreed with Ms. Kennedy that the Town Hall should be torn down and be rebuilt.

#### **PUBLIC COMMENT CLOSED**

**ACTION:** Council Member Bruder made a motion to approve the resolution. Council Member Yaffe seconded motion which passed unanimously on a poll vote.

#### **ORDINANCES ON SECOND READING:**

4. **Consideration and Approval** of an ordinance on Second Reading amending Sections 23-16.1 and 23-16.2 of the Town Code pertaining to Moratorium and Zoning in Progress. Proposed amendment on second reading by Council Member Bruder.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 23 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED ZONING AND PLANNING; AMENDING SECTION 23-16.1 TO BE ENTITLED MORATORIUM AND PROVIDING FOR PROCEDURAL CHANGES: PROVIDING FOR A NEW SECTION 23-16.2 ENTITLED ZONING IN PROGRESS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; AND PROVIDING AN EFFECTIVE DATE.**

Council Member Bruder moved the item to the floor.

Town Attorney Geller advised the Council the item was passed on first reading, and the clean and red lined version was compiled by Special Counsel Miguel Diaz de la Portilla. A request for revision was made and drafted, and the proposed second reading was included in the packet.

Council Member D'Amico seconded the motion.

Council Member Yaffe raised a question on the second version of the ordinance in Paragraph 3 where it mentioned the word "ordinance" but on paragraph five mentioned "resolution." Special Counsel clarified that there was a scrivener's error which should state "resolution", so it ties with Paragraph 5. Council Member Yaffe continued discussion as to the ordinance and how the Town was not in compliance with state law. Special Counsel Diaz de la Portilla advised the Council for purposes of clarity, when a specific proposed amendment to the zoning code and the purpose of it was to not have future approvals or applications that were inconsistent with the proposed specific amendment to the zoning code, an ordinance or legislation was not needed to have a zoning-in-progress. The ordinance at hand was to provide a very clear process, and it would be sufficient to do so through resolution, if ever needed. Council Member Yaffe asked if the Council talked about imposing a zoning-in-progress, if it had to be a discussion at a public meeting, or could they simply say they want to talk about the item in a future meeting; if that was sufficient to impose a zoning-in-progress. Special Counsel Diaz de la Portilla responded it would not be sufficient because it required specificity and procedural due process; general concerns or intents to change the zoning code doesn't provide procedural due process with adequate notice to the property owners. He continued by explaining if the Council drafted an ordinance, for example, to change any aspect, whether it was setbacks or whatever, and that item was drafted and had been discussed, the Council can then safely invoke the zoning -in-progress process. The update of the ordinance does two things.

One, it modernizes it and aligns the Town's provisions in the code on moratorium with state law and case law, and then it creates a code provision on zoning-in-progress that clearly spells out how it's invoked, when it's invoked, what its application is, what happens with the pipeline applications, for example, respects vested rights; it does create the adequate notice to the public and property owners of when it can be imposed and how it is imposed, as well as duration and so forth. Council Member Salver asked how this would affect the Design Review Board and the Development & Review Committee Meetings. Special Counsel Diaz de la Portilla advised this was creating provisions in the code on how a moratorium or zoning-in-progress was invoked; it didn't create either one of those, it just set out the mechanism to do so in the future.

Council Member Bruder asked if by holding the necessary meetings and drafting an ordinance if that allowed sufficient notice to property owners. Special Counsel advise that to invoke zoning-in-progress, if Council chose the first version, then they would need to hold two public meetings to do so; if the Council chose the second version, they would do so by resolution and would only need one hearing. Council Member Yaffe raised a concern that if doing so by resolution, the property owners would not receive notice. Mayor Fuller raised a concern as to the 180-day clause in the ordinance. The Council continued discussion as to the 180-day clause and Mayor Fuller suggested to include language "up to 180 days." Council Member Bruder stated she wanted to proceed with the resolution version for zoning-in-progress and moratorium. Mayor Fuller did not agree with having this done as a resolution because it did not provide sufficient notice to the property owners. Council Member Salver proposed the agenda item for a possible zoning-in-progress or moratorium must be noticed 30 days prior to being heard; the Council agreed.

Council Member Bruder amended the motion to include 30-day notice and to include language of "up to 180-days," in the resolution.

Special Counsel Diaz de la Portilla added there was a scrivener's error on Provision 3 in the proposed ordinance and should read along with the changes requested "up to 180 days from the date the Town Council adopts a resolution imposing zoning-in-progress pursuant to the section, unless the Town Council adopts, rejects or withdraws the proposed amendment to the town zoning and planning code."

Mayor Fuller took a vote on the amended motion, and it passed unanimously.

#### **PUBLIC COMMENT**

Frances Neuhut, 1060 Kane Concourse, came forward and asked before doing this, shouldn't the Town establish a Planning & Zoning Board. She continued to state there were issues with the Design Review Board approving site approvals. She added there was no parking in the community; she then asked how the Town has a moratorium if they can't have a moratorium.

Special Counsel Diaz de la Portilla responded the Town was creating a provision to the code where under certain circumstances if there was a pending amendment to the zoning code, the Council with proper notice can impose a temporary hold on applications that would be filed after that temporary hold was placed; the ones in the pipeline would be able to proceed; the new applicants that would come after the zoning-in-progress was declared would not be able to proceed, if they were inconsistent with the proposed zoning change.

Alexander Rindner, 9841 East Broadview Drive, came forward and stated he understood the concerns of the Council. If the update couldn't be completed within the 180 days, he suggested the Council establish a hard limit in the amount of time to complete the zoning-in-progress.

#### **PUBLIC COMMENT CLOSED**

**ACTION:** Council Member Bruder made a motion to approve the ordinance on second reading. Council Member D'Amico seconded the motion. After discussion, Council Member Bruder made a motion to amend to include a 30-day notice and language of "up to 180 days" in the proposed ordinance. The motion to amend passed unanimously. The motion to approve the ordinance on second reading passed unanimously on a poll vote.

5. **Consideration and Approval** of an ordinance on Second Reading amending the Town Code, by creating a new Section 23-30.1 with provisions for Mechanically Stacked Parking Lifts, introduced by Council Member Bruder.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO MECHANICAL AND ROBOTIC PARKING SYSTEMS; CREATING SECTION 23-30.1 ENTITLED "MECHANICAL AND ROBOTIC PARKING SYSTEMS"; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

Council Member Bruder made a motion to bring the item to the floor, and Council Member D'Amico seconded the motion.

Council Member Yaffe wanted to clarify if there had been any changes to the ordinance since the first reading, and the Council responded no.

#### **PUBLIC COMMENT**

Frances Neuhut, 1060 Kane Concourse, came forward and asked for clarification of who approves the mechanical lifts.

Council Member D’Amico responded this was for code compliance and has nothing to do with the Design Review.

**PUBLIC COMMENT CLOSED**

**ACTION:** Council Member Bruder made a motion to approve the ordinance on second reading. Council Member D’Amico seconded motion and it passed unanimously on a poll vote.

**ORDINANCES ON FIRST READING:**

6. **Consideration and Approval** of an ordinance on First Reading amending Chapter 5, Section 5-23.01(f) of the Town Code pertaining to meetings of the Design Review Board. Sponsored by Council Member Bruder.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 5 OF THE TOWN CODE, ENTITLED “DESIGN REVIEW BOARD”, BY REVISING SECTION 5-23.01(f) PERTAINING TO MEETINGS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Council Member Bruder made a motion to bring the item to the floor, and Council Member D’Amico seconded the motion.

Council Member Yaffe raised a concern about the language of not holding meetings in July and December; he felt the language was too vague and that if there was a need to hold a meeting in July or December, they should be able to. Council Member Bruder responded she brought this item so the Design Review Board (“DRB”) can follow the Council’s meeting pattern. Mayor Fuller pointed out a scrivener’s error on the ordinance, the word “village” needed to be changed to “town.” He also added that the Design Review Board meetings should end at 11:00 p.m.

Town Attorney Geller stated to correct Council Member Yaffe’s concern the language could be changed to “they shall not meet in the months of July and December except for the calling of a special meeting;” the Chair can call a special meeting if needed.

The Council also suggested having a 45-minute limit to make a presentation to the DRB. Council Member Salver suggested including language that approval should be simple majority instead of five members.

**PUBLIC COMMENT**

Alexander Rindner, 9841 East Broadview Drive, came forward to address the Council and stated he sat in a DRB meeting in which an applicant spoke for more than an hour on a project that was deferred twice. He added he didn't feel reducing the frequency of the meetings was the solution, but instead suggested the DRB should meet more frequently and start earlier.

**PUBLIC COMMENT CLOSED**

**ACTION:** Council Member Bruder made motion to approve the ordinance on first reading. Council Member D'Amico seconded the motion which passed 6-1 with Mayor Fuller opposing.

7. **Consideration and Approval** of an ordinance on first reading amending Sections 9-29 and 12-27 of the Town Code to modify civil penalties and repealing Resolution No. 2271, which previously addressed certain civil penalties.

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 9, SECTIONS 9-29 AND CHAPTER 12, SECTION 12-27 OF THE TOWN CODE MODIFYING CIVIL PENALTIES TO BE ASSESSED FOR VIOLATION OF THE TOWN CODE, REPEALING RESOLUTION NO. 2271; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; AND SETTING AN EFFECTIVE DATE.**

**ACTION:** Council Member Salver made a motion to approve the ordinance on first reading. Council Member Yaffe seconded the motion which passed unanimously.

There being no further business to address the meeting adjourned at 10:29 P.M.

\_\_\_\_\_  
**MAYOR**

**ATTEST**

\_\_\_\_\_  
**TOWN CLERK**

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 3.

**ITEM: Consideration and Approval** of a Resolution ratifying the appointment of Christopher Benjamin as Special Magistrate to conduct Administrative Hearings on Code Violations for the Town of Bay Harbor Islands, pursuant to Section 5 3/4-3 of the Town Code. Enclosed is a copy of the proposed agreement.

### DESCRIPTION:

Richard Kroop, Esq. served as the Special Magistrate to the Town of Bay Harbor Islands for many years, until his death in February. Pursuant to Section 5 3/4-3 of the Town Code, the Town Manager is responsible for appointing a Special Magistrate subject to ratification by the Town Council. The Special Magistrate shall be appointed for a term of one year.

Christopher Benjamin, Esq. of International Law Partners, LLP, has been appointed by the Town Manager. The appointment is being submitted for ratification by the Town Council. His credentials are attached.

### RECOMMENDED ACTION:

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### FINANCIAL ANALYSIS:

The Town did not appropriate expenditure for Special Magistrate for FY 2022-2023. However, the Special Magistrate should be paid for by the applicants that elect to present their case in front of a Special Magistrate. Therefore, there shall be no additional fiscal impact on appointing Christopher Benjamin as the town's special magistrate. If at the end of the Fiscal Year it is determined that the Town incurred expenditures, the Budget Amendment will be needed. The estimated cost of appointing a special magistrate should be no more than \$7,920 (\$165/hour x 4 hours x 12 months).

### BUDGET IMPACT:

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Submitted By: Yvonne Hamilton, Town Clerk

### ATTACHMENTS

|    |                                             |
|----|---------------------------------------------|
| 1. | Resolution - Special Magistrate Appointment |
| 2. | Christopher Joseph Special Master           |

|    |                               |
|----|-------------------------------|
| 3. | Special Magistrate Agreement  |
| 4. | Chapter_5_____CODE_COMPLIANCE |

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

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RATIFYING THE APPOINTMENT OF CHRISTOPHER BENJAMIN, ESQ. OF INTERNATIONAL LAW PARTNERS, LLP AS SPECIAL MAGISTRATE TO CONDUCT ADMINISTRATIVE HEARINGS ON CODE VIOLATIONS FOR THE TOWN OF BAY HARBOR ISLANDS, PURSUANT TO ENFORCEMENT PROCEDURES SET FORTH IN SECTION 5 ¾-3 OF THE TOWN CODE; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Bay Harbor Islands adopted a citation procedure for the prosecution of Code violations within the town; and

**WHEREAS**, pursuant to the Town Code, the Special Magistrate shall conduct Administrative Hearings and have powers more particularly described in Section 5¾-10; and

**WHEREAS**, the Town Manager shall appoint a Special Magistrate subject to ratification by the Town Council, according to Section 5¾-3 of the Town Code; and

**WHEREAS**, pursuant Section 5¾-3 of the Town Code the Special Magistrate shall have experience or demonstrate an interest in Code Enforcement and shall possess outstanding reputations for civic pride, integrity, responsibility and business and professional ability; and

**WHEREAS**, the Town finds that Christopher Benjamin, Esq. of International Law Partners, LLP meets these qualifications and should be appointed.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

**Section 2. Ratification.** The Town Council hereby ratifies the appointment of Christopher Benjamin, Esq. of International Law Partners, LLP as Special Magistrate to conduct Administrative Hearings on Code Violations for the Town of Bay Harbor Islands, Florida; pursuant to the enforcement procedures set forth in Section 5¾ of the Town Code. The Manager is authorized to enter into an agreement in substantially the form as that attached hereto as Exhibit A.

**Section 3. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town of Bay Harbor Islands this \_\_\_ day of April 2023.

\_\_\_\_\_  
**JOSHUA D. FULLER**  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**YVONNE P. HAMILTON, CMC**  
**TOWN CLERK**

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

\_\_\_\_\_  
**GREENSPOON MARDER LLP**  
**TOWN ATTORNEYS**  
**BY: JOSEPH S. GELLER, ESQ.**

# CURRICULUM VITAE

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**CHRISTOPHER E. BENJAMIN, *Miami, Florida***

**PHONE:** (954)374-7722  
**FACSIMILE:** (954)212-0170  
**EMAIL:** cbenjamin@ilp.law

**Christopher E. Benjamin**, an AV Preeminent and award-winning attorney, who graduated from Florida Memorial University (the only historically black university in South Florida) with a Bachelor of Arts in Public Administration and Political Science in 1998 and St. Thomas University School of Law with a Juris Doctorate in 2001. Mr. Benjamin is also a Florida Supreme Court Certified Mediator and Qualified Arbitrator.

A member of the Florida Bar, Mr. Benjamin served as a Traffic Magistrate for the Traffic Division of the County Court for the 11<sup>th</sup> Judicial Circuit in and for Miami-Dade County, Florida and Special Magistrate for Code Enforcement in various municipalities in the tri-county area.

Mr. Benjamin – was a member of the Dade County Small Business Enterprise Advisory Committee and member of the Dade County School Board's Small Business/Minority/Women/Veteran Advisory Committee -- is a staunch community advocate and has spent his career, helping families navigate the process of divorce, ensuring persons charged with a crime receive a fair trial, helping protect the civil rights of the discriminated, helping the injured find relief, helping small business owners establish their businesses, helping the low-to-moderate income residents of Florida find affordable access to the courts and helping litigants find alternatives to resolving their disputes.

**Bar Admissions:**

Florida Bar  
Supreme Court of the United States of America

# CURRICULUM VITAE

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U.S. Court of Appeals for the Armed Forces  
U.S. Court of Appeals for the 11<sup>th</sup> Circuit  
U.S. District Court Northern District of Florida  
U.S. District Court Middle District of Florida  
U.S. District Court Southern District of Florida  
U.S. Bankruptcy Court

## **Alternative Dispute Resolution Affiliations:**

Salmon & Dulberg, Dispute Resolution

*Panelist; Mediator, Arbitrator and Windstorm Umpire*

Commercial Litigation, Employment, Foreclosure, Family, Insurance, Real Estate, Bankruptcy and Construction

Financial Industry Regulatory Agency (FINRA)

*Panelist; Arbitrator*

Securities Exchange Commission Disputes

Florida Department of Financial Services

*Independent Contractor; Mediator*

Insurance Claim Disputes

## **Licenses/Certifications:**

Florida Supreme Court Certified Mediator (County, Family, Circuit Civil and Appellate)

Florida Supreme Court Qualified Arbitrator

Florida Real Estate Broker

- Certified Property Management Specialist

Title Insurance Agent

Florida Notary Public

## **Education:**

St. Thomas University School of Law, Miami Gardens, Florida, 2001, *Juris Doctorate*

Florida Memorial University, Miami Gardens, Florida, 1998, *Bachelor of Arts*

## **Classes Taught:**

Adjunct Professor, NSU's Shepard Broad School of Law

Adjunct Professor, Florida Memorial University, *Business and Criminal Law*

Adjunct Professor, City College, *Business Law, Criminal Law, Torts and Contracts*

Adjunct Professor, Miami-Dade College, *Title Insurance Agent and Notary*

Attorney Trainer, Miami-Dade Teen Court, *Attorney Basic Skills and Knowledge*

## **Speaking Engagements:**

Miami-Dade Chamber of Commerce: How to Read Contracts (Guest Speaker 2019)

NAACP & MDC: The Legacy of Civil Rights: 50 years Later (Panel Speaker 2018)

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Broken Voices: Hit and Run Responsibilities (*Panel Speaker 2018*)  
NSU Shepard Broad Law School: Social Justice Lawyering (*Speaker 2018*)  
View Point with Seeta and Friends Radio Show: Restoration of Civil Rights (*Speaker 2018*)  
Arlington Academy 12<sup>th</sup> Grade Graduation: 2017 Commencement Speaker  
Reaching Our Youth – Conflict Resolution Forum (*Panel Speaker 2017*)  
Urban League of Broward County: *Know Your Rights* (*Panel Speaker 2015*)  
The Wells Foundation's forum: Building Communities (*Panel Speaker 2014*)  
Dade County Bar Association: Solo/Small Firm Committee: How to Start Your Own Practice 2013 (*Panel Speaker: Law Firm Management and Technology*)  
State Representative Kionne McGhee's forum: (2013) Our Voting Rights ... (*Panel Speaker*)  
NAACP's forum: The Legal Process – A Look at the George Zimmerman Case (*Panel Speaker*)  
St. Thomas University School of Leadership Studies; *Why is Education Important 2011* (*Guest Speaker*)

## **Publications/Writings:**

*The Truth About Florida's Stand Your Ground Law*; reported (printed) by: In Focus Magazine, Columbus New Times, dallasweekly.com, copylinemagazine.com, urbanmediatoday.com, sharenews.com, g987fm.com and interviewed about the article by: Lawtalk, The Bachelor Pad and The Community Defender with Brother Adrian.

## **Honors and Awards:**

### Professional:

South Florida Legal Guide: Top Attorney (2020 and 2021)  
America's Top 100 Bet-the-Company Litigators (2019)  
US News & World Report Online Lawyers Directory  
Marquis Who's Who in the World (2018 and 2020)  
Dade County Bar Association: Legal Luminary (2017 Finalist: Top Solo)  
Dade County Bar Association: Legal Luminary (2016 Finalist: Marital Law)  
Florida Trend Magazine: Legal Elite (2015)  
World Wide Registry of Experts (2015)  
National Association of Distinguished Counsel; Top 1% (2015 Invitation)  
Best Attorneys of America (2015 Invitation)  
National Black Lawyers; Top 100 (2015-2019 Invitation)  
Martindale Hubbell: Client Distinction Award (2015)  
11<sup>th</sup> Circuit Court of Miami-Dade County: General Magistrate Nominee (2014)  
World Wide Registry of Professionals and Executives (2014)  
Marquis Who's Who in American Law 18<sup>th</sup> Edition (2014) and 19<sup>th</sup> Edition (2015)  
Listed in ALM's Legal Leaders: South Florida's Top Rated Attorneys (2012)  
South Florida Business Journal: 40 under 40 (2012)  
Cystic Fibrosis Foundation: 40 under 40 Outstanding Lawyers in Miami-Dade (2012)  
National Trial Lawyers: Top 40 under 40 (2012 and 2013 Invitation)  
Super Lawyers: 2014 - 2021  
Super Lawyers Rising Star: 2012 and 2013

# CURRICULUM VITAE

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Martindale Hubbell: AV Preeminent Attorney 2011-2021

AVVO.com: Attorney rating of Superb

International Historical Society: Who's Who of Entrepreneurs 2007

Put Something Back Program: Outstanding Pro Bono Award

## Community/Civic:

US Congressional Record: Recognition for Outstanding Service (2021)

Exquisite Management Inc.; FECAG: Most Inspiring Male 2019

Miami's 50 Most Powerful & Influential Black Business Leaders of 2018

JM Family Enterprises; African American Achievers (2018 and 2020 Nominee)

UNCF/National Alumni Council: 2017 Hall of Honor Award

Trayvon Martin Foundation: 2016 Father of the Year Honoree

Bme Leadership Award (2016 nominee)

Brown Girls, Inc.; Outstanding Greek Alumni of Florida Memorial University (2015)

Miami-Dade County Charmettes; Man of the Year: Civic Honoree (2015)

JM Family Enterprises; African American Achievers: (2015 Nominee)

Marquis Who's Who in America 67<sup>th</sup> Edition (2013) and 68<sup>th</sup> Edition (2014)

Legacy Magazine: South Florida's 40 under 40 Black Leaders of Today and Tomorrow (2012)

Florida Memorial University: President's Fountain of Excellence

UNCF/National Alumni Council: Outstanding Young Alumni

## Elected Offices:

Florida House of Representatives, District 107 (November 2020 – present)

## Civic/Governmental Appointments:

### Quasi-Judicial

11<sup>th</sup> Judicial Circuit, County Court Traffic Hearing Officer

City of North Miami Special Magistrate (Code Enforcement)

City of Opa Locka Special Magistrate (Code Enforcement)

City of Hallandale Beach Special Magistrate (Red Light Camera)

City of South Bay Special Magistrate (Code Enforcement)

### State of Florida (Gubernatorial)

State of Florida Local Advocacy Council (2005-2006)

### Municipal (County)

Miami-Dade County Parks and Recreation Citizens Advisory Committee (2003-2004)

Miami-Dade County Citizens' Independent Transportation Trust (2010-2013)

Miami-Dade County Small Business Enterprise Advisory Committee (2017- 2020)

Miami-Dade County Commission on Human Rights (2019 – 2020)

### School Board

Miami-Dade County School Board Attendance&Boundary Advisory Committee (2017 – 2020)

Miami-Dade County School Board Small Business Enterprise Advisory Committee (Vice Chair)

Miami-Dade County School Board Secure Our Future Advisory Committee (2019 – 2020)

### Municipal (City)

City of Miami Gardens' Nuisance Abatement Board (Co-Chairman)

# CURRICULUM VITAE

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City of Opa Locka Ad Hoc City Attorney Search Committee (Chairman 2008)  
City of Miami Gardens Mayoral Task Force on Underage Drinking (2008-2012)

## **Professional Associations and Memberships:**

Florida Bar:  
Civil Law Rules of Procedure Committee: 2016-2018  
Family Law Rules Committee: 2008-2010  
Consumer Protection Committee: 2004-2006

Dade County Bar Association:  
Solo/Small Firm Co-Chairman (2012-2013)  
Juvenile Court Committee Chairman (2009-2010)

Florida Muslim Bar Association:  
President: 2011-2012

Wilkie D. Ferguson, Jr. Bar Association (f/k/a Black Lawyers Association):  
President: 2009-2010  
National Association of Hearing Officials  
Florida Association of Professional Mediators  
Florida Association of Realtors  
Miami-Dade Chamber of Commerce

## **Community & Civic Organizations and Associations:**

N.A.A.C.P. Miami-Dade Branch:  
3d Vice President/General Counsel 2010 -2014  
Legal Redress Committee Chairman 2008 -2014, 2018 - present

100 Black Men of South Florida:  
Collegiate 100 Advisor (FMU)

James E. Scott Community Association (J.E.S.C.A.):  
Board of Directors: 2003-2010

Miami-Dade Chapter of Sickle Cell of America:  
General Counsel

Florida Memorial University National Alumni Association:  
General Counsel

Keep Miami Beautiful, Inc.  
*An affiliate of Keep America Beautiful, Inc:*  
Chairman of Board of Directors: 2010-2011

# CURRICULUM VITAE

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Portraits of Empowerment Foundation:

Vice Chairman of Board of Directors: 2010-2011

**Pro Bono/Community Service Activities:**

Guardian Ad Litem (volunteer attorney)

Put Something Back (Legal Aid Society) (volunteer attorney)

Small Claims Clinic (Legal Services of Greater Miami) (volunteer attorney)

Lawyers for Children of America (volunteer attorney)

Volunteer Lawyers Project for the Southern District of Florida (volunteer attorney)

Miami-Dade County Mock Trial Competition (volunteer judge)

Jessup International Moot Court Competition (volunteer judge)

Justice Teaching Program

Miami-Dade Teen Court (volunteer judge)

William Dandy Middle School (Law Magnate Program) (sponsor/mentor)

**Fraternities:**

Omega Psi Phi Fraternity, Inc.

Life Member #6287

International Rules and Bylaws Committee (18-20)

7<sup>th</sup> District Rules and Bylaws Committee (18-20)

7<sup>th</sup> District Scholarship Committee (18-19)

18<sup>th</sup> U/I Representative to the Supreme Council (98-00)

2<sup>nd</sup> Vice 7<sup>th</sup> District Representative (97-98)

2<sup>nd</sup> Vice FLSO State Representative (96-97)

FLSO State Counselor (02-04)

Region One Representative (00-02)

FLSO Scholarship Chairman (18-19)

Sigma Alpha Chapter Vice Basileus (03-05)

Kappa Gamma Chapter Basileus (96-98)

**Awards**

25yr Service Recognition

7<sup>th</sup> District Superior Service Award (19 and 20)

Chapter Superior Service Award (18 and 20)

Supreme Council Service Appreciation (00)

Undergraduate Omega Man of the Year (97-98)

(International, State, District and Chapter)

F&AM (South Miami #308)

AASR (Valley of Miami)

AAOMS (Mahi Shriner)

R.A.M. and R.&S.M. (Jericho Chp. 11 & Adoniram Cncl. 10)

OES (Lakeside #271)

Phi Alpha Delta Law Fraternity, Inc.

## **ATTORNEY-CLIENT FEE CONTRACT**

This document (the “Agreement”) is the written fee contract between International Law Partners, LLP (“Counsel”) and Town of Bay Harbor Islands (“Client”).

1. **CONDITIONS.** This Agreement will take effect when both parties have signed this agreement.

2. **SCOPE OF SERVICES.** The Client is hiring Counsel, as a Special Magistrate representing the Town of Bay Harbor Islands, in connection with conducting hearings concerning code enforcement violations within the Town, per the Town’s Code of Ordinances.

3. **PROFESSIONAL FEES.** The Client understands and agrees that charges for professional services rendered will be at a rate of **\$165.00** per hour, for a minimum of three hours for each hearing. It is understood that Christopher E. Benjamin, Esq, of International Law Partners, LLP is the responsible attorney.

4. **FEE RETAINER.** A fee retainer in the amount of **\$0.00** is required in this case.

5. **BILLING STATEMENTS.** Periodic statements will be sent for fees and approved costs incurred. Each statement will be due within 30 days of its date.

6. **DISCHARGE AND WITHDRAWAL.** The Client may discharge the law firm at any time. The law firm may withdraw with the Client's consent or for good cause. Good cause includes a breach of this Agreement, the Client's refusal to cooperate with the law firm or to follow advice on a material matter or any fact or circumstance that would render the law firm's continuing representation unlawful or unethical. At the conclusion of all services, all unpaid charges will immediately become due and payable. After the services conclude, the law firm will, upon your request, deliver a file to you, along with any funds or property of yours in the law firm's possession.

The foregoing terms are understood and accepted.

INTERNATIONAL LAW PARTNERS, LLP

Date: \_\_\_\_\_

By: \_\_\_\_\_  
CHRISTOPHER E. BENJAMIN

TOWN OF BAY HARBOR ISLANDS

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Town Manager,

\_\_\_\_\_  
Attest:

\_\_\_\_\_  
Yvonne P. Hamilton, CMC  
Town Clerk

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**Sec. 5¾-3. Appointment and qualifications of special magistrates; terms of office; compensation.**

- (a) *Appointment.* Appointments of special magistrates shall be made by the town manager subject to the ratification by the town council.
- (b) *Qualifications.* Special magistrates shall have experience or demonstrate an interest in code enforcement and shall possess outstanding reputations for civic pride, integrity, responsibility and business or professional ability.
- (c) *Term of office.* Special magistrates shall be appointed for a term of one year and may be reappointed at the discretion of the town manager, subject to ratification by the town council.
- (d) *Compensation.* Special magistrates shall not be town employees, but may be compensated at a rate to be determined by administrative order of the town manager.

(Ord. No. 894, § 2, 12-14-09)

**Sec. 5¾-4. Powers of special magistrates.**

Special magistrates shall have the power to:

- (a) Adopt rules for the conduct of hearings.
- (b) Subpoena violators and witnesses for hearings. Subpoenas shall be served by the town police department or by the town staff.
- (c) Subpoena evidence.
- (d) Take testimony under oath.
- (e) Assess and order the payment of civil penalties as provided in this chapter.
- (f) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
- (g) Mitigate the amount of civil penalties assessed in an amount up to, but not in excess of, 50 percent of the total amount of civil penalty, not including administrative costs, subject to rules and guidelines that may be promulgated by resolution of the town council from time to time. Mitigation of civil penalties in excess of 50 percent only can be made by the town council, upon consideration of compelling factors warranting such relief. Provided however, in no case shall mitigation occur prior to satisfactory correction of the violation or other permanent disposition of the building or property that obviates the need for correction. The administrative costs of the hearing shall not be subject to mitigation at any time. The special magistrate shall include in his findings of fact, conclusions of law, and order the basis for his decision on the request for mitigation of fines.

(Ord. No. 894, § 2, 12-14-09)

**Sec. 5¾-5. Duties of town attorney.**

The town attorney shall provide legal advice to the special magistrates. If an appeal is taken pursuant to section 5¾-9, the town attorney shall represent the town at such proceedings.

(Ord. No. 894, § 2, 12-14-09)

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## **Sec. 5¾-6. Authority to initiate enforcement proceedings.**

Code compliance officers shall have the authority to initiate code enforcement proceedings in accordance with the procedures enumerated in section 5¾-7.

(Ord. No. 894, § 2, 12-14-09)

## **Sec. 5¾-7. Enforcement procedures.**

- (a) *Notice of violation.* If, upon personal investigation, a code compliance officer finds that a violation has been committed, the code compliance officer shall issue a notice to the violator informing the violator that s/he has committed a violation of the code and enumerating the fine to be imposed and correction period.
- (b) *Notification of town manager.* If, upon personal investigation, a code compliance officer finds that the violator has not corrected the violation within the correction period, the code compliance officer shall notify the town manager or his designee in writing and may request a hearing. When conducting his investigation, the code compliance officer shall have the authority to enter and inspect properties and structures to the extent permitted by law.
- (c) *Serious or uncorrectable violations.* If the code compliance officer has reason to believe a violation presents a serious threat to the public health, safety or welfare, or if the violation is an uncorrectable violation, the code compliance officer may issue a notice requiring immediate correction of the violation and may immediately notify the town manager or his/her designee and request a hearing.
- (d) *Repeat violations.* If a code compliance officer finds a repeat violation, the code compliance officer shall issue a notice to the violator informing the violator that s/he has committed a violation of the Code, enumerating the fine to be imposed, but is not required to grant a correction period. The code compliance officer, upon notifying the violator of a repeat violation, shall notify the town manager or his designee and request a hearing. Where the violator is not granted a correction period, the violation shall be considered a continuing violation and shall be subject to a daily fine until such time as the violation is brought into compliance.

(Ord. No. 894, § 2, 12-14-09)

## **Sec. 5¾-8. Contents and service of notice.**

- (a) A notice shall include:
  - (1) The date and time of issuance.
  - (2) The name of the code compliance officer issuing the notice.
  - (3) The name and address of the violator.
  - (4) The section of the Code that has been violated.
  - (5) A brief description of the nature of the violation, including the location, date and time of the violation.
  - (6) The amount of the civil penalty for which the violator may be liable if s/he is found in violation.
  - (7) The instructions and date for paying the civil penalty or for filing a request for an administrative hearing before a special magistrate to appeal the civil penalty.
  - (8) The correction period.

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- (9) A statement that each day of continued violation after expiration of the correction period shall be deemed a continuing violation subject to an additional penalty in the same amount without the need for additional notices.
  - (10) A statement that the filing of a request for an administrative hearing will toll the accrual of continuing violation penalties.
  - (11) A statement that failure to request an administrative hearing within 20 days after service of the notice shall constitute a waiver of the violator's right to an administrative hearing before the special magistrate, and that such waiver shall constitute an admission of the violation, and that, in such case, an order may be entered against the violator for the amount of the civil penalty.
  - (12) A statement that the violator may be liable for the reasonable administrative hearing costs should s/he be found in violation.
- (b) Service of the notice to the violator shall be effected either by:
- (1) Certified mail, return receipt requested, provided that if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the town by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (c)(2)a. and b. and by first class mail directed to the addresses furnished to the town with a properly executed proof of mailing or affidavit confirming the first class mailing;
  - (2) Hand delivery by the sheriff or other law enforcement officer, code compliance officer or other person designated by the town by:
    - a. Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice; or
    - b. In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (c) In addition to providing service of the notice as set forth above, at the option and discretion of the town manager or his designee, the notice may also be served by publication or posting as follows:
- (1) a. The notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Miami-Dade County, as specified in F.S. ch. 50.
    - b. Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
  - (2) a. In lieu of publication as described in paragraph (c)(1), such notice may be posted at least ten days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which shall be the property upon which the violation is alleged to exist (if any) and the other of which shall be at town hall.
    - b. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
  - (3) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (b).
- (d) Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (b) (e.g., by affidavit of the code compliance officer), together with proof of publication or posting as provided in subsection (c), shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.

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(e) If the owner of property which is subject to an enforcement proceeding before the special magistrate or court transfers ownership of such property between the time the initial pleading was served and the time of the hearing, such owner shall:

- (1) Disclose, in writing, the existence and the nature of the proceeding to the prospective transferee.
- (2) Deliver to the prospective transferee a copy of the pleadings, notices, and other materials relating to the code enforcement proceeding received by the transferor.
- (3) Disclose, in writing, to the prospective transferee that the new owner will be responsible for compliance with the applicable code and with orders issued in the code enforcement proceeding.
- (4) File a notice with the code compliance officer of the transfer of the property, with the identity and address of the new owner and copies of the disclosures made to the new owner, within five days after the date of the transfer.

A failure to make the disclosures described in paragraphs (1), (2), and (3) before the transfer creates a rebuttable presumption of fraud. If the property is transferred before the hearing, the proceeding shall not be dismissed, but the new owner shall be provided a reasonable correction period before the hearing is held.

(Ord. No. 894, § 2, 12-14-09)

#### **Sec. 5¾-9. Rights of violators; payment of fine; right to appeal; failure to pay and correct or to appeal.**

- (a) A violator who has been served with a notice shall elect either to:
- (1) Pay the civil penalty in the manner and within the time indicated on the notice and correct the violation within correction period specified on the notice; or
  - (2) Request an administrative hearing before the special magistrate to appeal the decision of the code compliance officer which resulted in the issuance of the notice.
- (b) An appeal of the notice shall be accomplished by filing a request in writing to the address indicated on the notice, not later than 20 calendar days after the date of service of the notice.
- (c) If the named violator, after notice, fails to pay the civil penalty and correct the violation within the correction period, or to timely request an administrative hearing before the special magistrate, the special magistrate shall be informed of such failure by report from the code compliance officer in the form of an affidavit. Failure of the violator to appeal the decision of the code compliance officer within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special magistrate. A waiver of the right to administrative hearing shall be treated as an admission of the violation, and penalties may be assessed accordingly.

(Ord. No. 894, § 2, 12-14-09)

#### **Sec. 5¾-10. Scheduling and conduct of hearing.**

- (a) Upon receipt of a named violator's timely request for an administrative hearing or a hearing request from the code compliance officer as provided for in section 5¾-9, the town manager or designee shall set the matter down for hearing on the next regularly scheduled hearing date or as soon thereafter as practicable.
- (b) The town manager or designee shall send a notice of hearing by first class mail, or any other method reasonably calculated to effect delivery, to the violator at his last known address. The notice of hearing shall include but not be limited to the following:

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- (1) Name of the code compliance officer who issued the notice.
  - (2) Factual description of the alleged violation.
  - (3) Date of the alleged violation.
  - (4) Section of the Code allegedly violated.
  - (5) Place, date and time of the hearing.
  - (6) Notice of the right of the violator to be represented by an attorney.
  - (7) Right of the violator to present evidence and witnesses, and to cross-examine witnesses.
  - (8) Notice that failure of the violator to attend the hearing may result in civil penalty and administrative hearing costs being assessed.
  - (9) Notice that requests for continuances must be received in writing by the special magistrate at least ten calendar days prior to the date set for the hearing.
- (c) The town manager or designee shall call hearings on a monthly basis or upon the request of the director of code compliance.
  - (d) A hearing date shall not be postponed or continued unless a request for continuance, showing good cause for such continuance, is received in writing by the special magistrate at least ten calendar days prior to the date set for the hearing. Any applicable fines, previously assessed will continue to accrue, unaffected by the continuances granted.
  - (e) All hearings of the special magistrate shall be open to the public. All testimony shall be under oath. Assuming proper notice, in the absence of the named violator, a hearing may proceed and a default order may be entered against the violator.
  - (f) The proceedings at the hearing shall be recorded by the town and may be transcribed by and at the expense of the party desiring the transcript.
  - (g) The town clerk shall provide clerical and administrative personnel as may be reasonably required by the special magistrate for the proper performance of its duties.
  - (h) Each case before the special magistrate shall be presented by the town manager or designee.
  - (i) The hearing need not be conducted in accordance with the formal rules relating to evidence and witnesses, but fundamental due process shall be observed and shall govern the proceedings. Any relevant evidence shall be admitted if the special magistrate finds it competent and reliable, regardless of the existence of any common law or statutory rule to the contrary.
  - (j) Each party shall have the right to call and examine witnesses; to introduce exhibits; to cross examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called that witness to testify; and to offer rebuttal of the evidence.
  - (k) The special magistrate shall make findings of fact and conclusions of law based on evidence of record. In order to make a finding upholding the code compliance officer's decision, the special magistrate must find that a preponderance of the evidence indicates that the named violator was responsible for the violation of the relevant section of the Code.
  - (l) The correction period granted by the code compliance officer to the named violator and contained in the notice is rebuttably presumed to have been a reasonable time for correction. Upon presentation of relevant evidence by the named violator that the correction period was not reasonable, however, the special magistrate may make a redetermination as to reasonableness of the time for correction contained in the notice. If the special magistrate determines that the correction period was insufficient, the penalty for a

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continuing violation shall be calculated from the date determined by the special magistrate to be a reasonable date for correction.

- (m) If the named violator is found guilty of the violation, s/he may be held liable for the reasonable cost of the administrative hearing.
- (n) The fact-finding determination of the special magistrate shall be made no later than 60 days after a final hearing, at which all testimony and evidence have been presented. The fact-finding determination of the special magistrate shall be limited to whether the violation alleged did occur, and, if so, whether the person named in the notice may be held responsible for that violation. Based upon this fact-finding determination, the special magistrate shall either affirm or reverse the decision of the code compliance officer. The special magistrate may also modify the correction period granted by the code compliance officer, subject to the provisions of subsection (l). If the special magistrate reverses the decision of the code compliance officer and finds the named violator not responsible for the Code violation alleged in the notice, the named violator shall not be liable for the payment of any civil penalty, absent reversal of the special magistrate's findings pursuant to section 5¾-13.
- (o) A decision of the special magistrate affirming the decision of the code compliance officer shall include the following elements:
  - (1) Amount of civil penalty.
  - (2) Administrative costs of hearing.
  - (3) Date by which the violation must be corrected to prevent presumption of continuing violation penalties, if applicable.
- (p) The special magistrate shall postpone a hearing if the named violator, prior to the scheduled hearing date, files with the town council an administrative appeal concerning the interpretation or application of the Code provisions upon which the alleged violation was based. However, once an issue has been determined by the special magistrate in a specific case that issue may not be further reviewed by the town council in that specific case.
- (q) Upon exhaustion of a timely filed administrative appeal and finalization of the administrative order by the town council, the special magistrate may exercise all powers given to him or her by this article. The special magistrate shall not, however, exercise any jurisdiction over such alleged Code violations until the time allowed for court appeal of the ruling of the town council has lapsed or until such further appeal has been exhausted.
- (r) The special magistrate shall be bound by the interpretations and decisions of the town council concerning the provisions of the Code. If the town council decides that an alleged violation of the Code is not in accordance with its interpretation of the Code provision on which the violation is based, the special magistrate shall not be empowered to proceed with the enforcement of the violation.

(Ord. No. 894, § 2, 12-14-09)

## **Sec. 5¾-11. Civil penalties.**

- (a) Unless otherwise provided by a resolution of the town council, penalties for violations of the provisions to be enforced through this article shall be \$250.00 per day for a first violation.
- (b) The penalty for an uncorrectable violation shall not exceed \$5,000.00 per violation.
- (c) For each day of a continuing violation, an additional penalty in the same amount as that prescribed for in the original violation shall be added.
- (d) For a repeat violation, the amount of the civil penalty shall be \$500.00.

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- (e) A repeat violation which remains uncorrected beyond the expiration of the correction period shall be treated as a continuing violation, and the additional penalty for each day of continued violation shall be \$500.00.
  - (f) Continuing violation penalties shall accrue from the date of correction given in the notice until the correction is made or until a request for administrative hearing is filed, whichever comes first. If the violator requests an administrative hearing and loses his appeal, the special magistrate shall determine a reasonable correction period. If a correction is not made within the correction period set by the special magistrate, continuing violation penalties shall begin to accrue again after the time for correction has run.
  - (g) If, pursuant to a finding by the special magistrate, the violation is a violation described in subsection 5¼-7(c) the town may, at its discretion, make all reasonable repairs that are required to bring the property into compliance and charge against the violator the cost of the repairs along with the fine imposed pursuant to this section. The town shall have a lien upon the property in such amount until paid, which lien shall be prior to all other liens on such property, except taxes. Such lien, when delinquent for more than three months, may be foreclosed in the manner provided for the foreclosure of mortgages on real property. Making such repairs does not create a continuing obligation on the part of the town to make further repairs or to maintain the property and does not create any liability against the town for any damages to the property if such repairs were completed in good faith.
  - (h) Civil penalties assessed pursuant to this chapter are due and payable to the town on the last day of the period allowed for the filing of an appeal from the special magistrate's decision, or, if a proper appeal is made, when the appeal has been finally decided adversely to the named violator.

(Ord. No. 894, § 2, 12-14-09)

#### **Sec. 5¼-12. Recovery of unpaid civil penalties; unpaid penalty to constitute a lien; foreclosure.**

- (a) The town may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties.
- (b) A certified copy of an order imposing a civil penalty may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A civil penalty imposed pursuant to this chapter shall continue to accrue until the violator complies or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this chapter, whichever occurs first. After three months from the filing of any such lien which remains unpaid, the town may foreclose or otherwise execute on the lien or sue to recover a money judgment of the amount of the lien plus accrued interest. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under section 4, article X of the State Constitution. The money judgment provisions of this section shall not apply to real property or personal property which is covered under section 4(a), article X of the State Constitution.
- (c) No lien provided under this chapter shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action is commenced pursuant to F.S. § 162.09 in a court of competent jurisdiction. In an action to foreclose on a lien or for a money judgment, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the action. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

(Ord. No. 894, § 2, 12-14-09)

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**Sec. 5¼-13. Appeals of order.**

- (a) An aggrieved party, including the town, may appeal a final order of a special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special magistrate. An appeal shall be filed within 30 calendar days of the issuance of the order sought to be overturned. Failure to make such appeal within the prescribed 30-day period shall render the findings of the special magistrate conclusive, binding and final.
- (b) Unless the findings of the special magistrate are overturned in a proceeding held pursuant to paragraph (a), all findings of the special magistrate shall be admissible in any proceeding to collect unpaid penalties.
- (c) No aggrieved party other than the town may apply to the court for relief unless such party has first exhausted the remedies provided for in this chapter and has taken all available steps provided in this chapter. It is the intention of the town council that all steps provided by this chapter shall be taken before any application is made to the court for relief, and no application shall be made by any aggrieved party other than the town to the court for relief except from an order issued by a special magistrate pursuant to this chapter. It is the intention of the town council that, notwithstanding anything in this chapter to the contrary, the town shall retain all judicial rights and remedies otherwise available to it to secure compliance with or prevent violations of the Code. For the purposes of appeal, the town clerk shall make available for public inspection and copying the record upon which each final order of a special magistrate is based. The town clerk may make a reasonable charge for making certified copies of any record or portion thereof.

(Ord. No. 894, § 2, 12-14-09)

**Sec. 5¼-14. Provisions contained herein are supplemental.**

Nothing contained in this chapter shall prohibit the town from enforcing its Code and ordinances by any other means. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed to be prerequisites to filing suit for the enforcement of any section of the Code.

(Ord. No. 894, § 2, 12-14-09)

**Sec. 5¼-15. Additional enforcement powers.**

In addition to the powers and authority given to the special magistrates for the town pursuant to this article, the town may, in its discretion, exercise any powers given to municipalities or their special magistrates by F.S. ch. 162.

(Ord. No. 894, § 2, 12-14-09)

**Sec. 5¼-16. Authority of town manager to settle or resolve Code violations.**

Notwithstanding any of the foregoing sections of this chapter, the town's litigation committee shall have the authority at all times to settle or otherwise resolve violations of the Town Code and the penalties arising thereunder.

(Ord. No. 894, § 2, 12-14-09)

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 4.

**ITEM: Consideration and Approval** to issue a Request for Proposals (RFP) to hire a company to plan and implement concerts for the town. The service will include booking talent, staging, and providing sound and lighting.

### DESCRIPTION:

The Town of Bay Harbor organizes seven (7) concerts that start in October and run through May each year. These concerts are held in the 95th Street Park once a month, on the last Sunday of the month. We are looking for concert or event organizers who will be responsible for organizing and managing every aspect of the concerts, with the following functions:

- Booking talent: The Town is looking for a wide range of family-friendly artists.
- Staging: Securing the proper stage that complies with the requirements necessary for the event, for each concert.
- Sound: Providing the proper sound equipment that complies with the requirements necessary for the event, for each concert.
- Providing event items and coordinating the responsibilities of vendors and contractors.
- Meeting with departments to determine event staffing and equipment; scheduling equipment and facilities, assigning work, and managing outside contractors.

### RECOMMENDED ACTION:

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### FINANCIAL ANALYSIS:

There is no fiscal impact on this step of the process.

### BUDGET IMPACT:

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Submitted By: Fausto Vargas-Reyes, Procurement Specialist

### ATTACHMENTS

None

## **AGENDA ITEM REPORT**

April 10, 2023

### **ITEM NUMBER: 5.**

**ITEM: Consideration and Approval** to issue a Request for Proposals (RFP) for continued fixed route Shuttle Transit Services for the Town of Bay Harbor Islands.

### **DESCRIPTION:**

The Town's fixed route shuttle is operated by Limousine of South Florida (LSF). The Town is currently on a month-to-month basis for this service as the contract with LSF is already expired. The Town is happy with the service LSF is providing but would like to see improvements to the shuttle vehicle appearance. The hourly rate for the shuttle service is currently \$54.00 per hour. The Town operates the shuttle fixed route service Monday through Friday from the hours of 9am - 5pm. Recently, the Town has added the Freebee On Demand Service to provide additional accessibility for the residents. The Town seeks Council's permission to go out to bid for a shuttle fixed route service provider.

### **RECOMMENDED ACTION:**

Council's Discretion

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### **FINANCIAL ANALYSIS:**

No fiscal impact during this step.

### **BUDGET IMPACT:**

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Submitted By: Fausto Vargas-Reyes, Procurement Specialist

### **ATTACHMENTS**

None

## **AGENDA ITEM REPORT**

April 10, 2023

### **ITEM NUMBER: 6.**

**ITEM: Consideration and Approval** to issue a Request for Proposals (RFP) for structural repairs to the Indian Creek Bridge.

### **DESCRIPTION:**

BC-19 Indian Creek Bridge Structural Repairs – The Town engaged the services of a bridge consultant to perform the necessary evaluation and design for the appropriate structural repairs to the Indian Creek Bridge. The Town now has the appropriate construction documents to solicit a Request for Proposals (RFP) for the necessary repairs.

### **RECOMMENDED ACTION:**

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### **FINANCIAL ANALYSIS:**

There is no fiscal impact at this time

### **BUDGET IMPACT:**

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Submitted By: Jenice Rosado, Assistant Town Manager

### **ATTACHMENTS**

None

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 7.

**ITEM: Ratification of Approval** of the emergency purchase of traffic cameras for the SunPass under the Emergency Procurements' regulation, pursuant to Section 2.1.3(a) of the Town Code.

### DESCRIPTION:

The town received a report that there were many misread license plates and contacted Transcore to check and troubleshoot the issue. They informed us that the VCARS cameras were failing and needed a replacement ASAP. These cameras are responsible for processing pictures that verify and confirm every transaction the toll system makes. If they don't function properly or they go completely down, the Sun Pass revenue will be affected. Therefore, it was crucial to replace them ASAP; time was of essence as the town was losing thousands of dollars weekly.

The cost of maintenance services and replacement of the 8 VCARS cameras on the Bay Harbor Islands toll system was \$28,803.95. As it was an emergency, staff approved the expense and is reporting the expenditure to the Town Council, pursuant to Section 2.2.3(a) of the Town Code - Emergency Procurements regulations.

### RECOMMENDED ACTION:

Accept

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### FINANCIAL ANALYSIS:

### BUDGET IMPACT:

| Name        | Impact Date | Fund(s)   | Account(s)          | Project #(s) | Amount Budgeted |
|-------------|-------------|-----------|---------------------|--------------|-----------------|
| BHI Sunpass | 04/29/2023  | 28,803.95 | 401-5145-400046-000 |              | \$0.00          |

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Submitted By: Yvonne Hamilton, Town Clerk

### ATTACHMENTS

None

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 8.

**ITEM: Consideration and Approval** of an Ordinance on Second Reading amending Sections 18-1 through 18-4 of the Town Code delegating the authority for issuance of Permits for work in the Public Right-of-Way from the Town Clerk to the Town Manager. Enclosed is a copy of the proposed Ordinance and code provision.

### DESCRIPTION:

The Town Council voted unanimously at the March 8<sup>th</sup> Council Meeting to approve the proposed ordinance on First Reading. The ordinance seeks to amend the Town Code to transfer authority to issue permits for work in the Public Right-of-Way from the Town Clerk to the Town Manager.

### RECOMMENDED ACTION:

Approve

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### FINANCIAL ANALYSIS:

### BUDGET IMPACT:

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Submitted By: Yvonne Hamilton, Town Clerk

### ATTACHMENTS

|    |                                         |
|----|-----------------------------------------|
| 1. | Ordinance - Work in Public Right-of-Way |
|----|-----------------------------------------|

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

**AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 18, ARTICLE 1 OF THE TOWN CODE ENTITLED “STREETS AND SIDEWALKS”, REVISING SECTIONS 18-1 THROUGH 18-4 PERTAINING TO THE ISSUANCE OF PERMITS FOR WORK WITHIN THE PUBLIC RIGHT-OF-WAY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; AND AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 18 of the Town Code set forth the requirements for obtaining a Permit allowing for entry upon any Public Right-of Way located within the Town of Bay Harbor Islands for the purposes of performing work; authorizing the issuance of the Permits for such entry; and delegating the task of issuing such Permits; and

**WHEREAS**, the ordinance delegates the task of issuing Permits for work in the Public Right-of-Way to the Town Clerk; and

**WHEREAS**, the Town Council desires to revise Sections 18-1 through 18-4 of the Town Code to move the authority of issuing Permits in the Public Right-of-Way to the Town Manager’s Department.

**NOW, THEREFORE, BE IT ORDAINED, BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:**

**Section 1. Recitals.** The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

**Section 2. Village Code of Ordinances amended.** Chapter 18, Sections 18-1, 18-2, 18-3, and 18-4 of the Town Code are hereby amended as indicated by deletion and addition as indicated below:

**ARTICLE I. - IN GENERAL**

• **Sec. 18-1. - Permit to perform work on—Required; bond.**

No person shall perform any work upon street right-of-way or street parking area located within the town without having first obtained a permit for such work from the ~~town clerk~~ Town Manger and having posted a bond in an amount to be determined by the town clerk approximately equal to one and one-half times the cost of the work and conditioned upon compliance with the applicable provisions of this chapter. (Ord. No. 157, § 1, 12-11-61)

- **Sec. 18.2. - Same—Fee to be collected.**

The ~~town clerk~~ Town Manager shall charge and collect fees for permits granted for such work according to the town's permit fee schedule. (Ord. No. 157, § 2, 12-11-61)

- **Sec. 18-3. - Same—Duration.**

The time to complete the work for which a permit has been issued shall be limited to the period stipulated on the permit. Extensions of time may be granted by the ~~town clerk~~, Town Manager provided a request is received prior to expiration of the time limit. (Ord. No. 157, § 3, 12-11-61)

- **Sec. 18-4. - Same—Waiver of fee.**

The ~~town clerk~~ Town Manager shall waive a permit fee for all work performed by a governmental agency or utility company whether this work is performed by employees of the agency or company or by a private firm, partnership, or corporation under contract to the governmental agency or utility company. The requirement for obtaining the permit will not be waived. (Ord. No. 157, § 4, 12-11-61)

- **Sec. 18-5. - Same—Repair of damaged property.**

Street pavements, including, but not limited to curbs, gutters, manholes, catch basins, striping, or other town property damaged by any work, shall be promptly repaired by the holder of the permit. All repairs shall be performed so as to equal condition of the subject matter in accordance with the town's specifications. The town shall supply to the permit holder the exact specifications of the subject matter and the permit holder shall comply with such specifications. (Ord. No. 157, § 5, 12-11-61)

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable. and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion In The Code.** It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Code of Bay Harbor Islands, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

**Section 5. Repeal of Ordinances in Conflict**  
All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

**Section 6. Effective Date.** This Ordinance shall be effective immediately upon its adoption.

**PASSED** on First Reading this 8<sup>th</sup> day of March 2023.

**PASSED AND ADOPTED** on Second Reading this \_\_\_\_ day of \_\_\_\_\_ 2023.

By: \_\_\_\_\_  
Joshua D. Fuller  
Mayor

**ATTEST:**

\_\_\_\_\_  
Yvonne P. Hamilton  
Town Clerk

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

\_\_\_\_\_  
Greenspoon Marder, LLP  
Town Attorneys  
By: Joseph S. Geller, Esq.

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 9.

**ITEM: Consideration and Approval** of an ordinance on Second Reading amending Chapter 5, Section 5-23.01(f) of the Town Code pertaining to meetings of the Design Review Board. Sponsored by Council Member Bruder.

### DESCRIPTION:

Section 5-23.01(f) of the Town Code mandates a meeting of the Design Review Board be held each month on the first Tuesday of the month. The proposed ordinance seeks to amend the regulations to provide more flexibility in scheduling meetings. The amendments to the ordinance on First Reading seek to remove the requirement for a meeting to be held each month, by eliminating mandatory meetings in the months of July and December. In an effort to curtail the length of the meetings, a section has been added for discussion on an item before the Board to be no more than 45 minutes, except by a successful motion. It also contains a provision for meetings to conclude by 11:00 p.m.

The ordinance was heard on First Reading on January 11, 2023 and passed 6-1 with Mayor Fuller opposing. At Second Reading on February 1<sup>st</sup>, the item was deferred for further revisions to be submitted as first reading. The ordinance was again approved on First Reading on March 8, 2023.

### RECOMMENDED ACTION:

Council's Discretion

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### FINANCIAL ANALYSIS:

### BUDGET IMPACT:

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Submitted By: Yvonne Hamilton, Town Clerk

### ATTACHMENTS

|    |                                                                  |
|----|------------------------------------------------------------------|
| 1. | Final-Ordinance - Design Review Board Meetings-July and December |
|----|------------------------------------------------------------------|

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

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 5 OF THE TOWN CODE, ENTITLED “DESIGN REVIEW BOARD”, BY REVISING SECTION 5-23.01(f) PERTAINING TO MEETINGS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 5-23.01(f) of the Town Code mandates that the Design Review Board shall hold one regularly scheduled meeting every month on the first Tuesday or as otherwise needed; and

**WHEREAS**, it is the intent of the Town Council to revise the meeting schedule to provide that no regularly scheduled meetings are held by the Design Review Board during the months of July and December and to provide more flexibility as to the date of the meetings; and

**WHEREAS**, The Town Council finds that this amendment is in the best interest of the town and the general public.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:**

**Section 1. Recitals.** The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

**Section 2. Town Code of Ordinances amended.** Chapter 5, Section 23.01(f) of the Town Code “Meeting” is hereby amended to read as follows:

**Sec. 5-23.01. Design review board membership; appointment; vacancies; terms; removal; meetings; officers; and quorum.**

- (a) *Members.* Effective November 30th, 2021, the planning and zoning board which heretofore existed, shall be retitled as the design review board, consisting of seven members. Up to five of the members shall be presently employed full time or were employed full time in the field of engineering, architecture, land use and zoning law, city planning, construction, or any other field which substantially relates to the planning and development of real estate. The professional members are not required to be residents of Bay Harbor Islands. The two remaining members shall be residents of the town for a minimum of one year and they are not required to possess any professional license or professional designation. Each member of the design review board shall

serve on the design review board for a two-year term unless they resign, are no longer able to serve, or are otherwise removed as set forth in subsection (d).

- (b) *Staggered board.* The design review board shall be a staggered board. As such, as a one-time event in 2020, three of the seven appointed members appointed by the town council (who shall be selected randomly through a lottery type drawing") shall serve on the design review board for a one-year term. After the 2020 appointments, each member shall be appointed to serve on the design review board for two-year terms as set forth in subsection (a), above.
- (c) *Appointment to the design review board.* Each town council member shall submit one or more persons as candidates for consideration by the town council for appointment to the design review board. In order for a candidate to be appointed to the design review board, the candidate must meet the membership requirement of subsection (a) and must be approved by at least five town council members.
- (d) *Vacancies.* Should a design review board member resign, lose the residency requirement of subsection (b), be removed pursuant to subsection (d), or otherwise not be able to serve on the design review board for whatever reason, the member's vacancy shall be filled pursuant to subsection (b).
- (e) *Removal of members.* The town council, upon the vote of at least five council members, may remove any design review board member, with or without cause, at any time. Any member who misses three consecutive regularly scheduled design review board meetings or misses five meetings in any 12-month period may be removed from the design review board.
- (f) *Meetings.* One regularly scheduled design review board meeting shall be scheduled monthly, in the evening on the first Tuesday of every month, or, if a different meeting date is deemed necessary, then the meeting can be rescheduled to a date to be selected by the Board Chair or the Town Manager, except that no regularly scheduled meetings shall be held in the months of July and December. If additional meeting(s) are desired, the chairperson or at least two members of the board, or the mayor, or at least two town council members, may request a meeting, subject to availability and approval by a majority of the Board Members.

No item may be discussed for longer than 45 minutes absent a successful motion to extend the time for discussion, which shall be done only in increments not to exceed 15 minutes.

Meetings of the Design Review Board shall conclude by 11:00 p.m., provided that any item which has begun to be heard by the Board before 11:00 p.m. shall be allowed to proceed until there is a Board vote on the item (subject to the 45 minute limit established above). Any unfinished business shall be deferred to the next meeting.

- (g) *Officers.* One member shall be elected by the design review board as chairperson. One member shall be elected by the design review board as vice-chairperson. The chairperson and vice-chairperson shall serve a term of one year. A new election shall occur at the conclusion of the one-year term. In the event that the chairperson position becomes vacant within the one-year term, the vice-chairperson shall be appointed as chairperson for the duration of the prior chairperson's term and the design review board shall elect a member to the vice-chairperson position for the duration of the prior vice-chairperson's term. The chairperson shall preside at all design and review board meetings. In the chairperson's absence, the vice-chairperson shall preside. The chairperson shall submit any and all reports and recommendations of the design review board to the town council. The town shall provide a secretary for the design review board, and the town clerk shall be the

custodian of all records, books, and journals of the design review board.

- (h) *Quorum*. Four present members shall constitute a quorum.
- (i) *[Rules, regulations.]* The town council shall promulgate such rules and regulations as may be reasonably necessary to govern the operations of the design review board in performance of its duties. Proper public meeting decorum shall occur, with respect for landowners, developers, Board members, speakers and design professionals. In the absence of contrary rules approved by the Town as to any matter, Robert's Rules of Order, Newly Revised, shall govern.

**Section 3. Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion In The Code.** It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Code of Bay Harbor Islands, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 5. Repeal of Ordinances in Conflict**

All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

**Section 6. Effective Date.** This Ordinance shall be effective immediately upon its adoption on second reading.

**PASSED** on First Reading this 11<sup>th</sup> day of January 2023.

**PASSED AND ADOPTED** on Second Reading this \_\_\_\_day of \_\_\_\_\_2023.

By: \_\_\_\_\_  
Joshua D. Fuller  
Mayor

**ATTEST:**

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Yvonne P. Hamilton, CMC  
Town Clerk

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

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Greenspoon Marder LLP  
Town Attorneys  
By: Joseph S. Geller, Esq.

## **AGENDA ITEM REPORT**

April 10, 2023

### **ITEM NUMBER: 10.**

**ITEM: Consideration and Approval** of an ordinance on First Reading amending Chapter 5, Article II of the Town Code, creating a new section to be numbered 5-30 entitled "Additional requirements and procedures for site development approvals." Enclosed is a copy of the proposed ordinance.

### **DESCRIPTION:**

#### **THE REQUEST**

At the March 2023 Town Council meeting, staff was directed to prepare a Town initiated request for adoption of amendments to the Code of Ordinances, Chapter 5, Article II, creating a new section to be numbered 5-30 entitled "Additional requirements and procedures for site development approvals."

#### **BACKGROUND**

The Town Council periodically studies various land development trends and issues and amends the Town's Land Development Regulations (LDRs) accordingly. In the Town's current Comprehensive Plan, there are specific framework objectives and policies that allow plan/code changes that can be proposed and adopted to ensure that growth and development are consistent with the goals, objectives, and policies of said plan.

The first Comprehensive Plan under the 1985 State Growth Management Act was adopted in 1989. The Comprehensive Plan provides guidance to town officials for decisions on land use and zoning changes. The Future Land Use Element (FLUE), which is the effective land use for the Town, was last adopted in December 2004.

#### **ANALYSIS/PUBLIC INPUT**

The Comprehensive Plan and LDRs provide guidance to town officials for decisions on land use and zoning changes in conformance with FLUE Policy 1.3 and 2.2 and LDRs section 23-16, respectively.

Public Input - The following is a general summary of testimony provided by town residents both at the March 7, 2023, Design Review Board meeting and the March 8, 2023, Town Council meeting. The summary below should not be construed as containing any findings of fact or conclusions of land use/zoning/law. Further, no assurance is made as to accuracy.

- Neighbors were concerned about the lack of dissemination of information for providing **early** input on proposed large site developments.

- There is a lack of communication between the town, the developers, and the residents about the density and intensity of the projects. There needs to be better development coordination between all parties.
- There were neighbors stating their major concerns include large massing elements, excessive lot coverage, unarticulated horizontal and vertical façade planes and building

placement which diminish the town's quality of life for all to enjoy. There needs to be specific design requirements for projects based on context and their contribution to an attractive public realm as well as for the articulation of facades that applies to the front and sides of all buildings.

- Some concerns were also raised about cumulative adverse impacts on neighboring properties caused by new construction. As testified by neighbors, during site preparation and building construction, adjoining buildings can be affected structurally.
- Analysis - Considering the residents' concerns about potential adverse impacts of adjacent property by new construction, staff conducted research and reviewed the existing requirements of the Florida Building Code and Miami-Dade County's Chapter 8 and concludes that safeguards are currently addressed therein to ensure that adjacent property are not being negatively impacted by new construction. Additionally, the Town does not have jurisdiction with respect to making technical amendments to the Florida Building Code.

**RECOMMENDED ACTION:**

Council's Discretion

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**FINANCIAL ANALYSIS:**

**BUDGET IMPACT:**

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Submitted By: Yvonne Hamilton, Town Clerk

**ATTACHMENTS**

|    |                                                                                                                       |
|----|-----------------------------------------------------------------------------------------------------------------------|
| 1. | Final-BHI Ordinance_ Chapter 5- Article II -Supplemental Regulations for Site Plan Development Approvals - 03-27-2023 |
|----|-----------------------------------------------------------------------------------------------------------------------|



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

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA; AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO SUPPLEMENTAL PROCEDURES TO IMPROVE THE SITE DEVELOPMENT PLAN APPROVAL PROCESS; AMENDING CHAPTER 5, ARTICLE II ENTITLED DESIGN REVIEW BOARD BY CREATING A NEW SECTION 5-30 ENTITLED "ADDITIONAL REQUIREMENTS AND PROCEDURES FOR SITE DEVELOPMENT PLAN APPROVALS," INCLUDING PROCEDURAL REQUIREMENTS AND SUPPLEMENTAL REGULATIONS; PROVIDING FOR INCORPORATION OF RECITALS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council periodically studies various land development trends and issues and amends the Town's Land Development Regulations accordingly;

**WHEREAS**, the Town Council has studied the current Buildings and Construction Code provisions of the Town and find that certain modifications are necessary and desirable to address the needs of the community while restoring confidence in the development approval process, by providing supplemental regulations to improve development review and public participation; and

**WHEREAS**, the Town Council finds this Ordinance is consistent with the Town's adopted Comprehensive Plan and is necessary for the preservation of the public health, safety and welfare of the Town's residents; and

**WHEREAS**, the Town Council held duly advertised public meetings to consider the proposed modifications to the Town's Land Development Regulations.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA as follows:**

Section 1: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Strike-Through = Delete / Underline = New Text

Section 2: That the Town of Bay Harbor Islands Buildings and Construction Chapter of the Code of Ordinances is hereby amended to (1) add a new Section 5-30 to include a purpose and summary set forth in 5-30(1); (2) to establish additional requirements and procedures for site development plan review and approvals set forth in 5-30(2), and 5-30(3); and (3) put forth in to 5-30(4) to recover costs incurred pursuant to any of the provisions of this section as set forth in the Building Fee Schedule as amended, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 3: That if any section, paragraph, sentence or word or portion of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 4: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 6: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED on Second Reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

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JOSHUA D. FULLER  
MAYOR

Strike-Through = Delete / Underline = New Text

ATTEST:

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YVONNE P. HAMILTON, CMC  
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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GREENSPOON MARDER, LLP  
TOWN ATTORNEYS  
BY: JOSEPH S. GELLER, ESQ.

## EXHIBIT "A"

### The Town of Bay Harbor Islands, Florida Code of Ordinances is hereby amended as follows:

#### CHAPTER 5

#### BUILDINGS AND CONSTRUCTION

#### ARTICLE II. DESIGN REVIEW BOARD

\* \* \*

#### **Sec. 5-30. - Additional requirements and procedures for site development plan approvals.**

- (1) Purpose and summary. The purpose of this section is to provide supplemental procedures that are necessary to restore and instill confidence in the development approval process and to confirm that adverse effects of new construction are adequately evaluated for property owners and residents of the town. The provisions of this section shall become effective upon adoption of this ordinance.
- (2) Preapplication conference. The Town Manager or designee shall, upon request of the applicant, schedule and hold a preapplication conference, not intended in lieu of a regular meeting of the development review committee, for the purpose of reviewing the proposed site development with staff, based on forms provided by the Town Manager or designee, prior to the formal submission of an application for development approval, upon paying the appropriate fee as set by the Town's Fee Schedule as amended. The form shall be signed by the current owner or developer of the properties to be developed and the name, signature, address, telephone number of the developer's or owner's representative who shall be contacted regarding processing of the request. Formal application or filing of an application and plans with the town is not required for the preapplication conference. Failure of staff to identify any requirements at a preapplication conference shall not constitute waiver of the requirement by the decision-making body.
- (3) Public participation process. In addition to the notice procedures for site development plan approval set forth in Sec. 5-29, or any other legally required

notice by state statute, these supplemental requirements are intended to ensure that any party entitled to receive public notice of proposed development is further afforded the ability to review submitted information and participate in the town's development procedures. All applications for site development approval requiring Design Review Board and/or Town Council action, shall adhere to the following supplemental procedures herein established:

- (a) Notification letter. A notification letter to properties or any party entitled to receive public notice pursuant to Sec. 5-29 of this Code, clearly identifying the subject parcel, providing a summary of the proposal, and providing contact information of the applicant.
- (b) Community meeting. At a minimum, one (1) in-person community meeting shall be conducted in a publicly accessible meeting location acceptable to the town, at least 14 days prior to the first scheduled public hearing or DRB meeting. The applicant shall prepare a presentation summarizing the proposed development. The applicant shall provide a quick summary of key points raised or discussed over the course of a community meeting.
- (4) Recovery of cost.
  - (a) All costs incurred pursuant to any of the provisions of this section shall be recovered in accordance with the Building Fee Schedule as approved by the Town Council.

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 11.

**ITEM: Consideration and Approval** of an ordinance on First Reading Discussion amending Sections 23-1, 23-4, and 23-5 of the Town Code to regulate the location of Real Estate Sales Centers in the town. Enclosed is the Town Planner's Staff Report and a proposed ordinance.

### DESCRIPTION:

The proposed ordinance seeks to amend the Town Code to define Real Estate Sales Centers and/or Model Centers as follows, and to regulate the location of such centers in the town. The new language is shown by underlining, and deletion shown by ~~striketrough~~:

Real Estate Sales and/or Model Centers. A temporary use for the leasing or sale of new real estate developments and/or for the display of proposed dwelling unit floor plans and models, or office or commercial occupancy spaces in any new developments, and for the display of interior room finishes for kitchens, bathrooms, cabinetry, flooring, general living areas, and the like. This shall not be construed to include commercial real estate brokers or offices for the general sale or leasing of real estate.

Temporary sales and business construction offices, construction trailers, and model dwelling units, sanitary, storage and staging facilities, but only in connection with the construction of dwelling units, and upon specific approval and permit of the town council, including but not limited to such time limits and other any other conditions as may be imposed by the town council at its discretion. Freestanding sales offices, model centers and parking facilities shall not be permitted.

Business and profession office uses: Banks, savings and loan associations, business and professional offices, medical offices and clinics, stock and commodity broker, employment agency and similar uses. The above list shall not include real estate development sales and model centers located at street level.

Real estate development sales offices and model centers shall not be permitted at any street level location. This shall not prohibit such uses from occupying space in the upper floors of multistory commercial buildings. As related to any existing real estate development sales or model centers approved by the Town prior to the effective date of this provision (insert date), upon the completion of the specific real estate development project and termination date of each such temporary use approved by the Town for a street level location, the premises shall be vacated and no longer be used for any real estate development sales and model centers.

### RECOMMENDED ACTION:

Council's Discretion

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**FINANCIAL ANALYSIS:**

**BUDGET IMPACT:**

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Submitted By: Yvonne Hamilton, Town Clerk

**ATTACHMENTS**

|    |                                 |
|----|---------------------------------|
| 1. | Ordinance - Sales Model Centers |
|----|---------------------------------|

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

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO REAL ESTATE DEVELOPMENT SALES AND MODEL CENTERS; AMENDING CHAPTER 23 ENTITLED ZONING AND PLANNING; AMENDING ARTICLE 1 ENTITLED ZONING REGULATIONS; AMENDING SECTION 23-1 ENTITLED DEFINITIONS; AMENDING SECTION 23-4 ENTITLED USE REGULATIONS RM-1 AND RM-2 MULTIPLE FAMILY DISTRICTS; AMENDING SECTION 23-5 ENTITLED USE REGULATIONS B-1 BUSINESS DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Town Council periodically studies various land development trends and issues and amends the Town's Land Development Regulations accordingly; and

WHEREAS, the Town Council has studied the current Zoning and Planning Code provisions of the Town and find that certain modifications are necessary and desirable to address real estate development sales and model centers in the Town, by providing regulations to regulate such uses in various zoning districts; and

WHEREAS, the Town Council held duly advertised public meetings to consider the proposed modifications to the Town's Land Development Regulations.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:**

Section 1: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to (1) modify Section 23-1 to establish a definition for such uses, (2) to modify Section 23-4 to amend the list of uses in the RM-1 and RM-2 Multiple Family Districts, and (3) to modify Section 23-5 to amend the list of uses in the B-1 Business District, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Strike-Through = Delete / Underline = New Text

Section 3: That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 4: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 6: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED on Second Reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
JOSHUA D. FULLER  
MAYOR

ATTEST:

\_\_\_\_\_  
YVONNE P. HAMILTON, CMC  
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
JOSEPH S. GELLER, ESQ.  
GREENSPOON MARDER, LLP  
TOWN ATTORNEYS

## **EXHIBIT "A"**

### **The Town of Bay Harbor Islands, Florida Code of Ordinances is hereby amended as follows:**

#### **CHAPTER 23**

#### **ZONING AND PLANNING**

#### **ARTICLE I. ZONING REGULATIONS**

##### **Sec. 23-1. - Definitions.**

For the purposes of this article, certain terms and words are herein defined. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used for" include the meaning "designed for"; the word "structure" includes the word "building"; the word "shall" is mandatory and not discretionary; the word "lot" includes the words "plot" and tract."

*Real Estate Sales and/or Model Centers.* A temporary use for the leasing or sale of a new real estate development and/or for the display of proposed dwelling unit floor plans and models, or office or commercial occupancy spaces in any new developments, and for the display of interior room finishes for kitchens, bathrooms, cabinetry, flooring, general living areas, and the like. This shall not be construed to include commercial real estate brokers or offices for the general sale or leasing of real estate. A street level commercial real estate broker or office shall not be used as a model center.

##### **Sec. 23-4. - Use regulations, RM-1 and RM-2 Multiple Family districts.**

In the RM-1 and RM-2 Multiple Family districts, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used or occupied for any purpose, excepting for one or more of the following uses:

- (1) Two-family dwellings.
- (2) Multiple-family dwellings or apartments, including townhouses, and accessory buildings including duly licensed home occupation.
- (3) Accessory uses and site improvements, including outdoor recreational game court facilities, subject to the provisions specified in [section 23-12](#).
- (4) Reserved.
- (5) Public schools, but only upon specific approval and permit of the town council.

Strike-Through = Delete / Underline = New Text

(6) Single-story drive-in bank tellers' structures and parking facilities for a national or state bank situated in an adjacent block of the national or state bank which block is zoned B-1, but only upon the specific approval and permit by the town council as to the precise location and type and kind of improvements as well as landscaping requirements.

(7) Temporary ~~sales and business~~ construction offices, construction trailers, ~~and~~ model dwelling units within the building, and sanitary, storage and staging facilities, but only in connection with the construction of dwelling units, and upon specific approval and permit of the town council, including but not limited to such time limits and other any other conditions as may be imposed by the town council at its discretion. Freestanding sales offices, model centers and ancillary parking facilities shall not be permitted.

(8) Parks, recreation and open space as either a primary use or accessory use.

(9) Public or private off-street parking facilities as either a primary use or accessory use. Commercially owned and/or operated parking facilities are not permitted without the prior approval of the town council.

(10) Vacation rentals subject to the provisions in [Chapter 23](#), Article VI of the Code of Ordinances of the Town of Bay Harbor Islands.

#### **Sec. 23-5. - Use regulations, B-1 Business district.**

*Intent.* The purpose of the district is to provide appropriate land development regulations for the business/mixed-use properties on the eastern island of the town. The lots abut the Kane Concourse, the main roadway within the town. This area is the most urban in form with higher intensity development, narrow setbacks, on-street and/or garage parking facilities. The district regulations provide guidelines to encourage desired land uses such as restaurants and retail shops at street grade with other uses, including residential uses, above or behind the Kane Concourse frontage uses.

*Permitted uses.* In the B-1 business district, no building or land shall be used, and no building shall hereafter be erected, constructed, reconstructed, or structurally altered which is designed, arranged, or intended to be used or occupied for any purpose, excepting for one or more of the following uses:

- (1) Multiple-family dwellings including condominiums, rental apartments, townhouses, lofts and similar dwelling units, provided the residential uses are part of a mixed-use development. No residential dwelling units may be located at ground level adjoining Kane Concourse; provided however, a lobby access is permitted. Single-family detached and two-family (duplex) dwellings are not permitted. Live/work dwelling units may be permitted if approved by the town council.

(1a) Vacation rentals subject to the provisions in [Chapter 23](#), Article VI of the Code of Ordinances of the Town of Bay Harbor Islands.

Strike-Through = Delete / Underline = New Text

(2) Business and profession office uses: Banks, savings and loan associations, business and professional offices, medical offices and clinics, stock and commodity broker, employment agency and similar uses. The above list shall not include real estate development sales and model centers located at street level.

(3) Retail uses: Clothing and wearing apparel, neighborhood grocery stores, liquor and wine sales, tobacco sales, stationary, shoe sales and repairs, luggage and leather goods, sporting goods, electronic and music sales and service, telephones and communication goods, computers sales and service, optical and eye glasses, office supplies, florists, drug and sundries.

(4) Personal service uses: Barber shop, beauty shop, skin care, day spas, dog grooming salon, nail salons, wigs and hair, fitness, exercise, weight loss, yoga, meditation center.

(5) Miscellaneous uses: Antique display and sales, jewelry sales and repairs, furniture sales, confectionary and ice cream store, bakery and pastries, art galleries and studios, auction house, post office, theater, hardware store.

(6) Restaurant uses: Sit-down restaurants including indoor, outdoor and sidewalk cafes; coffee shops, sandwich shops, except that no fast-food shall be permitted unless approved by the town council. A fast-food restaurant is defined as an establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.

(7) Notwithstanding the foregoing, 100 percent of the ground floor space of any newly developed building or land facing Kane Concourse shall be used for the purposes set forth above excluding business and professional offices, including but not limited to physicians, attorneys, general real estate offices, real estate development sales and model centers, medical offices and clinics and stock and commodity broker offices. As used in this subsection, "newly developed" shall mean buildings constructed on vacant land or demolition of any existing building and subsequent construction of a new building. For existing buildings, at least 75 percent of the ground floor space facing Kane Concourse shall be used for the purposes set forth above excluding the above referenced office uses. For existing buildings with two or fewer ground floor uses, at least 50 percent of the ground floor space shall be used for the purposes set forth above excluding the above referenced office uses. If an existing nonconforming use vacates a ground floor space for more than 180 days, any future use shall conform to the use provisions herein.

(8) Religious institutions provided any such use is located on the second floor or higher floors of buildings.

(9) Private clubs, but only upon specific approval at a public hearing and permit from the town council. The applicant shall demonstrate compliance with subsection (8.1)(c)1., 2. and 3. herein.

(10) Hotels and customary accessory uses, including but not limited to, restaurants, bars, swimming pools, spas and other recreational facilities, and meeting facilities.

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This shall include the ability of a private school to operate a facility as part of hospitality education, provided the school is open to the general public.

(11) Duly licensed home occupations are permitted subject to the requirements of the Town Code for those uses.

(12) Convention organization services; community centers; show and film direction or production; import/export services; interior design; internet sales and service; municipal offices, parking facilities and related functions; parking of motor vehicles as accessory uses; valet parking services if approved by the town council.

(13) Dry cleaning pick-up and delivery, provided no on-site dry cleaning occurs; tailors, clothing alterations.

(14) Other similar uses as may be permitted by the town council, provided that such uses are compatible with and do not adversely affect the character of the district.

(15) Activities occurring on the rooftop of the building shall be subject to the following restrictions:

(a) Uses and facilities shall be limited to recreational facilities for the building tenants, such as jogging/walking paths, swimming pool and/or spa, sun decks, seating areas, food preparation and/or serving areas (barbecue grill/sink/storage) and similar facilities.

(b) Passive recreational activities, such as jogging, walking, conversation, eating, meditation, and similar passive recreational activities shall be permitted, provided no such rooftop activities shall occur prior to 8:00 a.m. or after 11:00 p.m. from Sunday through Thursday, and prior to 8:00 a.m. or after 12:00 a.m. (midnight) on Friday and Saturday.

(c) No commercial business activities shall operate on the building rooftop, unless specifically approved by the town council at an advertised public meeting. A commercial business is defined as one holding a valid town business tax receipt (formerly known as occupational license) or certificate of use.

(d) All electrical loudspeakers, amplifiers or musical instruments shall limit sound emission for background music or entertainment purposes, regardless of whether it is "live" or recorded. Such sound emissions shall not exceed 70 decibels at any time at its source, in accordance with the town's noise ordinance (article II of [chapter 12](#)).

(e) Certain limited events and/or functions such as charity events, fundraising receptions, cocktail parties and the like may be permitted for the building owner or tenants, their guests and invitees, if approved in writing by the town manager, prior to the event and/or function occurring. All such requests shall be submitted to the town manager's office, on a form provided by the town, at least 24 hours in advance of the event/function, except that the town manager may approve, but is not required to approve, an event/function on short-term notice based on special circumstances. At a minimum, the application form information shall include:

Strike-Through = Delete / Underline = New Text

1. The name, address, telephone number and e-mail address of the tenant/sponsor;
2. The name, address, telephone number, e-mail address and signature of the building/property owner and any designated property manager;
3. The estimated number of persons attending;
4. A description of the purpose of the event/function;
5. The hours of the event/function;
6. A description of any planned beverage/food or entertainment; and
7. An off-street parking plan to accommodate the attendees (if required).

(f) All events and/or functions must be sponsored or hosted by the building owner or a building tenant, with the building owner's written consent. The building owner shall sign the town's request form or submit a separate written consent letter to the town with the request. No such limited rooftop event/function activities shall occur prior to 9:00 a.m. or after 11:00 p.m. on Sunday through Thursday and prior to 6:00 p.m. or after 12:00 a.m. (midnight) on Friday or Saturday.

(g) No bright lights, globes, strobes or flashing lights shall be permitted.

(h) The town reserves the right to order that any activities causing a nuisance be altered immediately to comply with Town Code provisions, or to close any activity immediately that is deemed to be in violation of this criteria that negatively affects properties both within the town and within adjoining communities.

(i) Should these land development regulations conflict with any previously approved limitations for rooftop uses, the provisions set forth herein shall take precedence.

*Prohibited uses.* In the B-1 business district, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed, or structurally altered which is designed, arranged, or intended to be used or occupied for any of the following uses: Thrift shops or stores selling secondhand merchandise; pawn stores, gas stations; tattoo parlors or body piercing; check cashing stores; psychic or fortune tellers; flea markets; adult entertainment establishments; shops or stores selling dogs and cats; any use not specifically listed, unless permitted by the town council. Notwithstanding the above, bona fide antique or vintage stores selling clothing, accessories, jewelry and furnishings may be permitted by the town council so long as such stores are compatible with and do not adversely affect the character of the district. Antique and vintage sale items, as opposed to thrift or secondhand stores, are characterized as items from earlier periods of time. By way of example (in 2011), vintage items are typically from the time period prior to 1980 and antique items are typically from the time period prior to 1920 having some intrinsic value. Real estate development sales offices and model centers shall not be permitted at any street level location. This shall not prohibit such uses from occupying space in the upper floors of multistory commercial buildings. As related to any

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existing real estate development sales or model centers approved by the Town prior to the effective date of this provision (insert date), upon the completion of the specific real estate development project and termination date of each such temporary use approved by the Town for a street level location, the premises shall be vacated and no longer be used for any real estate development sales and model centers.

**Sec. 23-6. - Use regulations, RM-3 district.**

In the RM-3 Multiple Family Residential district, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used or occupied for any purpose, excepting for one or more of the following uses:

- (1) Any use permitted in the RM-1 or RM-2 Multiple Family districts.
- (2) Allowable residential uses shall not be construed to include hotels, motels, condo-hotels, and interval ownership (timeshare) units.
- (3) Vacation rentals subject to the provisions in [Chapter 23](#), Article VI of the Code of Ordinances of the Town of Bay Harbor Islands.

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 12.

**ITEM: Consideration and Approval** of an ordinance on First Reading amending Chapter 23, Article 1 - Zoning Regulations, modifying certain provisions relating to buildings and structures projecting into the side and rear yard setbacks of interior and waterfront lots on the West Island; to ensure a consistent and harmonious development pattern townwide. Enclosed is a copy of the proposed ordinance.

### DESCRIPTION:

Upon request, staff has prepared the above-referenced amendments to the Town Code. The Town of Bay Harbor Islands has determined that the proposed code changes are necessary to protect the town's quality of life; property setbacks serve different purposes: both aesthetically and functionally. Required setbacks can have a positive impact on the development of the land, creating a harmonious and safe built environment.

Staff finds the proposed code amendments are consistent with the town's adopted Comprehensive Plan, and suitable for transmittal to the Town Council for further consideration.

### RECOMMENDED ACTION:

Council's Discretion

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### FINANCIAL ANALYSIS:

### BUDGET IMPACT:

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Submitted By: Yvonne Hamilton, Town Clerk

### ATTACHMENTS

|                                                                                    |
|------------------------------------------------------------------------------------|
| 1. Final-BHI- Ordinance - Section 23-12 Amendments - General Provisions 03-23-2023 |
|------------------------------------------------------------------------------------|

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

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; AMENDING CHAPTER 23, ARTICLE I, SECTION 23-12 OF THE TOWN'S CODE OF ORDINANCES, ENTITLED "GENERAL PROVISIONS," TO MODIFY PROVISIONS 23-12(15)(a)iii AND 23-12(15)(e)iii RELATED TO BUILDINGS AND STRUCTURES PROJECTING INTO THE SIDE AND REAR SETBACK YARDS OF INTERIOR AND WATERFRONT LOTS ON THE WEST ISLAND; PROVIDING FOR ADOPTION OF RECITALS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Town Council periodically studies various land development trends and issues and amends the Town's Land Development Regulations accordingly;

**WHEREAS**, the Town Council has studied the current Zoning Regulations Code provisions of the Town and find that certain modifications are necessary and desirable to address the needs of the community, for development review purposes and for consistency and correctness; and

**WHEREAS**, the Town Council has heard testimony from residents in support of such amendments; and

**WHEREAS**, the Town Council finds this Ordinance is consistent with the Town's adopted Comprehensive Plan and is necessary for the preservation of the public health, safety and welfare of the Town's residents; and

**WHEREAS**, the Town Council held duly advertised public meetings to consider the proposed modifications to the Town's Land Development Regulations.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA as follows:**

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Section 1: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: That the Town of Bay Harbor Islands Zoning and Planning Chapter of the Code of Ordinances is hereby amended to (1) modify Section 23-12(15)(a) - to exclude an exit staircase from projecting into the rear yard setback in interior lots, and (2) modify Section 23-12(15)(e) iii - to exclude certain open, airy and decorative structures such as freestanding canopies and awnings, thatched huts, pool cabanas, fixed umbrellas and gazebos from projecting into the rear and side yard setback areas, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 3: That if any section, paragraph, sentence or word or portion of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 4: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 6: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

PASSED on Second Reading this \_\_\_\_ day of \_\_\_\_\_, 2023.

Strike-Through = Delete / Underline = New Text

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JOSHUA D. FULLER  
MAYOR

ATTEST:

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YVONNE P. HAMILTON, CMC  
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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GREENSPOON MARDER, LLP  
TOWN ATTORNEYS  
BY: JOSEPH S. GELLER, ESQ.

## EXHIBIT "A"

### The Town of Bay Harbor Islands, Florida Code of Ordinances is hereby amended as follows:

#### CHAPTER 23

#### ZONING AND PLANNING

#### ARTICLE I. – ZONING REGULATIONS

##### Sec. 23-12. – General provisions.

(15) Projections into setback areas:

- (a) Notwithstanding anything to the contrary set forth in this subsection the following are permitted:

\* \* \*

ii. ~~On the West Island in waterfront homes which have a second story with an area of over 2,500 square feet, an exit staircase may project from the second story into the front yard setback area not more than four feet.~~

iii. ~~On homes on the West Island which are on interior lots, which have a second story with an area over 1,500 square feet, an exit staircase may project from the second story into the rear yard setback area. not to exceed four feet.~~ In the RD-Single Family district, no part of any building or structure shall project into the side or rear yard setback, except for fences, screen enclosures, eaves, roof overhangs, chimneys, planting bins, trellis, and architectural features in accordance with this subsection and/or as provided in section 5-23 of the Town Code.

iv. ~~None of the foregoing subsections i., ii. or iii. shall permit any portion of the balconies or staircases to project into any side yard setback.~~

\* \* \*

- (e) No main walls of any building shall encroach on setback areas; but eaves may project into setback areas which abut interior lot lines not more than three feet, and into setback areas which abut on street, alleys or waterways not more than four feet. Other architectural features and accessory structures shall be regulated as follows:

- i. Chimneys may project into setback areas a distance not to exceed two feet. The width of the projecting chimney shall not exceed six feet.
- ii. Planting bins on ground floor no higher than three feet will be permitted to project into setback areas. Such planting bins no higher than three feet, may project into the side yard setback areas to a point no closer than five feet from the lot line; and they may project into the front and rear setback areas a distance of not more than five feet.
- iii. ~~Notwithstanding the provisions of subsection (19), certain open, airy and decorative structures such as freestanding canopies and awnings, thatched huts, pool cabanas, fixed umbrellas and gazebos may project into the rear and side yard setback areas. (or into the front and side yard setback areas of waterfront lots). to a point no closer than five feet from the lot line or the seawall for waterfront lots, subject to written approval by the Design Review Board as required in accordance with the criteria and procedures set forth in section 5-23 of the Code and subsections thereto. Notwithstanding the foregoing, no such open, airy and decorative structure shall be installed or maintained which protrudes or extends beyond the imaginary extension of a line from the front wall of any building or structure to the side yard property line of said building or structure.~~ No part of any building or structure shall project into the side or rear yard setback area of interior or waterfront lots on homes on the West Island.

## **AGENDA ITEM REPORT**

April 10, 2023

### **ITEM NUMBER: 13.**

**ITEM: Consideration and Approval** of a request to purchase a vehicle in the total amount of \$58,355 or lease the vehicle for \$13,108/year for 5 years at a total cost of \$65,580.00 for Public Works Water Division from Bancorp utilizing the "Piggyback Provision pursuant to Section 2.1-2 of the Town Code" from the State Contract pricing from the City of Tallahassee.

### **DESCRIPTION:**

The Public Works Department has several different divisions. The Water and Sewer Divisions each have a service vehicle that houses the tools needed to perform daily tasks. The service vehicles need to be mechanically sound and have the features needed to allow utility operators to be more efficient in performing their work. The current service in the Water Division is nine (9) years old and has mechanical issues.

The Town approved the replacement of the Water Division service vehicle in FY/22, and funding was outlaid per the Five (5) Year Capital Improvement Plan. Due to limited vehicle dealer stock and State Contract Pricing inventory, the vehicle was not replaced in FY/22. The Town faces the same issues in FY/23 where factory orders are being placed at Manufacturer's Suggested Retail Prices (MSRP) with wait times exceeding one (1) year. A recent vehicle search was performed among multiple dealers for vehicles where the vehicle order was canceled. The search discovered a service vehicle that matched the requirements of the Water Division. The vehicle is being purchased utilizing State Contract pricing from the City of Tallahassee and is in stock and available for purchase on a "first come, first serve" basis. The service body of the truck has already been ordered and the vehicle will be able to be delivered prior to June 2023.

The purchase price of the GMC Sierra 3500 with service body is fifty-eight thousand three hundred fifty-five thousand dollars (\$58,355). The quote provided is per the 2023 City of Tallahassee Contract #5179. The best financing quote was obtained from The Bancorp for a five (5) year open-end lease with a monthly payment of one thousand ninety-three dollars (\$1,093). The truck will have a three (3) year thirty-six thousand (36,000) mile bumper-to-bumper warranty with a five (5) year one hundred thousand (100,000) mile warranty on the powertrain.

### **RECOMMENDED ACTION:**

We recommend the approval of the purchase of a GMC 3500 truck with a service body.

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### **FINANCIAL ANALYSIS:**

The Town of Bay Harbor Islands Budgeted Estimate the Lease of the Water #615 for FY 2022 through FY 2027. The estimated budget for the Water Truck Lease was at \$9,000/year for 6 years for a total of \$54,000. Due to supply chain constraints, the Town has not been able to lease the Water Truck for FY 2022. If the lease of the truck is approved by the Town Council, the future year's estimated lease payment will have to be increased to \$13,108/year. There will be no additional fiscal impact for FY 2022-2023 since the lease payments will be for half a year.

**BUDGET IMPACT:**

| Name                   | Impact Date | Fund(s)    | Account(s)          | Project #(s)      | Amount Budgeted |
|------------------------|-------------|------------|---------------------|-------------------|-----------------|
| Water Truck #615 Lease | 04/12/2023  | Water Fund | 403.5330.400063.000 | Water Truck Lease | \$9,000         |

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Submitted By: Yvonne Hamilton, Town Clerk  
Jason Atkinson, Public Works Director

**ATTACHMENTS**

|    |                                                          |
|----|----------------------------------------------------------|
| 1. | Open End Lease Quote 02153-2023 GMC Sierra 3500          |
| 2. | GMC 3500 Enterprise Lease Agreement - Open End - 5 years |



March 28, 2023  
Town of Bay Harbor Islands

| Open-End Lease                           |             |        |             |        |                      |
|------------------------------------------|-------------|--------|-------------|--------|----------------------|
| 2023 GMC Sierra 3500 W/T Reg Cab 4WD DRW |             |        |             |        |                      |
| Monthly<br>Term                          | Payment     | Tax    | Total       |        | Termination<br>Value |
| <input type="checkbox"/> 60              | \$13,107.91 | \$0.00 | \$13,107.91 | Annual | \$1.00               |

Leasing quotes are based on current effective rates and manufacturer pricing for budgeting purposes only and are subject to change. Subject to credit approval.

Please contact Otneil Cruz at (321) 947-2550 or [ocruz@thebancorp.com](mailto:ocruz@thebancorp.com) for additional information.

Call Us first, for all of your Fleet Automotive, & Light Truck needs.

Quote

|                                |                                         |                     |                 |                                         |
|--------------------------------|-----------------------------------------|---------------------|-----------------|-----------------------------------------|
| PHONE (800) ALANJAY (252-6529) |                                         | DIRECT 863-402-4234 | WWW.ALANJAY.COM | 44374-3                                 |
| Corporate Office               | 2003 U.S. 27 South<br>Sebring, FL 33870 | MOBILE 863-381-3411 | Mailing Address | P.O. BOX 9200<br>Sebring, FL 33871-9200 |
|                                |                                         | FAX 863-402-4221    |                 |                                         |

ORIGINAL QUOTE DATE  
3/21/2023

## QUICK QUOTE SHEET

REVISED QUOTE DATE  
3/27/2023

|                   |                                     |        |                                   |     |
|-------------------|-------------------------------------|--------|-----------------------------------|-----|
| REQUESTING AGENCY | BAY HARBOR ISLAND, TOWN OF, CITY OF |        |                                   |     |
| CONTACT PERSON    | JASON ATKINSON                      | EMAIL  | JATKINSON@BAYHARBORISLANDS-FL.GOV |     |
| PHONE             | 786-641-3428                        | MOBILE | 786-709-6555                      | FAX |

### CONTRACT NUMBER 5179 - 2023 CITY OF TALLAHASSEE

|                                                                 |              |                  |             |
|-----------------------------------------------------------------|--------------|------------------|-------------|
| MODEL                                                           | TK31003 1SA  | MSRP             | \$44,300.00 |
| 2023 GMC SIERRA 3500HD REG CAB CHASSIS 4WD DRW 60"CA WORK TRUCK |              |                  |             |
| CUSTOMER ID                                                     | Cancellation | GOVERNMENT PRICE | \$38,321.00 |

BED LENGTH 60" CA

\*\* All vehicles will be ordered white w/ darkest interior unless clearly stated otherwise on purchase order.

#### FACTORY OPTIONS

#### DESCRIPTION

|         |                                                                                                                                                                                                                                                                                                                                                                                              |            |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| GAZ H2G | EXTERIOR COLOR SUMMIT WHITE WITH JET BLACK VINYL INTERIOR.                                                                                                                                                                                                                                                                                                                                   | \$0.00     |
| L8T MYD | Engine, 6.6L V8 with Direct Injection and Variable Valve Timing, gasoline, (401 hp [299 kW] @ 5200 rpm, 464 lb-ft of torque [629 N-m] @ 4000 rpm)(STD) Transmission, 6-speed automatic, heavy-duty (STD)(Requires (L8T) 6.6L V8 gas engine.)                                                                                                                                                 | \$0.00     |
| PCI     | Convenience Package includes (AQQ) Remote Keyless Entry, (AKO) tinted glass, (C49) rear-window defogger, (DBG) outside power-adjustable vertical trailing with heated upper glass mirrors and (K34) cruise control, (AXG) power windows, express up/down driver, (AED) power windows, express down passenger and (AU3) power door locks(Not available with (ZLQ) Fleet Convenience Package.) | \$1,670.00 |
| JL1     | Trailer brake controller, integrated (Requires (Z82) Trailering Package. On Regular Cab models requires (PCV) WT Convenience Package, (ZLQ) WT Fleet Convenience Package or (PEB) WT Value Package.)                                                                                                                                                                                         | \$270.00   |
| NQH     | Transfer case, two-speed active.                                                                                                                                                                                                                                                                                                                                                             | \$195.00   |
| NZZ     | Skid Plates<br>(Included with (BAQ) Work Truck Package, (Z71) Z71 Off-Road Package or (VYU) Snow Plow Prep Package.)                                                                                                                                                                                                                                                                         | \$145.00   |
| VK3     | FRONT LICENSE PLATE BRACKET FACTORY ORDERED                                                                                                                                                                                                                                                                                                                                                  | \$0.00     |
| 5N5     | Rear Camera Kit. Kit includes camera, fixed position bracket & 19 ft cable with attachment clips. Rear camera radio calibration provided from the factory. See Uppfitter Integration Bulletin for installation instructions at <a href="http://www.gmupfitter.com">www.gmupfitter.com</a>                                                                                                    | \$73.00    |
| OTPC    | ONE TIME PRICE CONCESSION.                                                                                                                                                                                                                                                                                                                                                                   | (\$74.00)  |

#### FACTORY OPTIONS

\$2,279.00

#### AFTERMARKET OPTIONS

#### DESCRIPTION

|                 |                                                                                                                                                                                                                                                                                                                                                                          |            |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| AJ STEP REG     | WESTIN PRO TRAXX 4 Oval Nerf Step Bars; Black; Incl. Mount Kit And Hardware                                                                                                                                                                                                                                                                                              | \$435.00   |
| DTF 2 TRK       | Deep tint film installed on front two door glass and rear window.                                                                                                                                                                                                                                                                                                        | \$300.00   |
| WSTP            | Windshield strip                                                                                                                                                                                                                                                                                                                                                         | \$50.00    |
| 806-1206-PU     | XANTREX 600W pure sine inverter mounted behind front passenger seat or under rear passenger seat with ignition sourced remote / user control mounted on dash mounted on dash. (Alternate mounting location may be required due to clearance.) Includes freight and installation, appropriate gauge wire for distance from battery, heat shrink connectors and wire loom. | \$575.00   |
| DVA SLU108ADW   | 9' Reading Standard Line utility body factory powder coated white with SST paddle latches (Includes 2nd stage MSO, weight slip, & final-stage manufacturers completed vehicle certification.) Req 60" CA                                                                                                                                                                 | \$9,785.00 |
| DVA CLV SB      | Class V Hitch for Service Body                                                                                                                                                                                                                                                                                                                                           | \$600.00   |
| DVA 7/4 WIRE    | 7 pin round with 4 wire flat trailer wiring harness.                                                                                                                                                                                                                                                                                                                     | \$155.00   |
| DVA LG13-SB-2PC | Maxon C2-54-1342 TP38 Direct Cylinder Lift 1300 lb Capacity 49" x 38"+ 4" 2- PC for Service Bodies (includes duplicate STT lights).                                                                                                                                                                                                                                      | \$3,580.00 |
| DVA CAMERA      | Dealer installed factory ordered camera                                                                                                                                                                                                                                                                                                                                  | \$90.00    |
| HD USOB-TB      | HD Scorpion spray on bed liner applied inside cargo area, tops of boxes, and rear bumper of 8' & 9' utility body.                                                                                                                                                                                                                                                        | \$1,235.00 |
| FS MPS62U-4     | (4) Federal Signal MicroPulse Ultra dual color with (2) mounted in grille and (2) mounted to rear of vehicle.                                                                                                                                                                                                                                                            | \$705.00   |
| NEW-TAG         | New CITY tag Includes temp tag & two way overnight shipping for signature.                                                                                                                                                                                                                                                                                               | \$245.00   |

### CONTRACT NUMBER 5179 - 2023 CITY OF TALLAHASSEE

AFTERMARKET OPTIONS

\$17,755.00

TRADE IN

TOTAL COST

\$58,355.00

YES WE TAKE TRADE INS ~~~ ASK ABOUT MUNICIPAL FINANCING ~~~

\$0.00

TOTAL COST LESS TRADE IN(S)

QTY

1

\$58,355.00

Estimated Annual payments for 60 months paid in advance: \$13,069.12

Municipal finance for any essential use vehicle, requires lender approval, WAC.

Comments

ORDERED UNIT VIN: [PF254363]

VEHICLE QUOTED BY

CHRIS WILSON

FLEET SALES MANAGER

[chris.wilson@alanjay.com](mailto:chris.wilson@alanjay.com)

"I Want to be Your Fleet Provider"

I appreciate the opportunity to submit this quotation. Please review it carefully. If there are any errors or changes, please feel free to contact me at any time.  
I am always happy to be of assistance.



# ALAN JAY FLEET

SCOTT WILSON | 863-402-4234 | SCOTT.WILSON@ALANJAY.COM

Vehicle: [Fleet] 2023 GMC Sierra 3500HD CC (TK31003) 4WD Reg Cab 146" WB, 60" CA Pro (✔  
Complete )

## Window Sticker

### SUMMARY

[Fleet] 2023 GMC Sierra 3500HD CC (TK31003) 4WD Reg Cab 146" WB, 60" CA ProMSRP:\$44,300.00

Interior:Jet Black, Vinyl seat trim

Exterior 1:Summit White

Exterior 2:No color has been selected.

Engine, 6.6L V8

Transmission, 6-speed automatic, heavy-duty

### OPTIONS

| CODE    | MODEL                                                                                   | MSRP        |
|---------|-----------------------------------------------------------------------------------------|-------------|
| TK31003 | [Fleet] 2023 GMC Sierra 3500HD CC (TK31003) 4WD Reg Cab 146" WB, 60" CA Pro             | \$44,300.00 |
| OPTIONS |                                                                                         |             |
| 1SA     | Pro Preferred Equipment Group                                                           | \$0.00      |
| 5N5     | Rear Camera Kit                                                                         | \$73.00     |
| 9L3     | Spare tire delete                                                                       | \$0.00      |
| AE7     | Seats, front 40/20/40 split-bench                                                       | \$0.00      |
| AED     | Window, power front, passenger express down                                             | Inc.        |
| AKO     | Glass, deep-tinted                                                                      | Inc.        |
| AQQ     | Remote Keyless Entry                                                                    | Inc.        |
| AU3     | Door locks, power                                                                       | Inc.        |
| AXG     | Windows, power front, drivers express up/down                                           | Inc.        |
| C49     | Defogger, rear-window electric                                                          | Inc.        |
| DBG     | Mirrors, outside power-adjustable vertical trailing                                     | Inc.        |
| FE9     | Emissions, Federal requirements                                                         | \$0.00      |
| GAZ     | Summit White                                                                            | \$0.00      |
| GT4     | Rear axle, 3.73 ratio                                                                   | \$0.00      |
| GTY     | Rear axle, wide-track                                                                   | \$190.00    |
| H2G     | Jet Black, Vinyl seat trim                                                              | \$0.00      |
| IOR     | Audio system, GMC Infotainment System with 7" diagonal color touch-screen, AM/FM stereo | \$0.00      |

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Data Version: 16930. Data Updated: Jul 12, 2022 6:52:00 PM PDT.



ALAN JAY FLEET

SCOTT WILSON | 863-402-4234 | SCOTT.WILSON@ALANJAY.COM

Vehicle: [Fleet] 2023 GMC Sierra 3500HD CC (TK31003) 4WD Reg Cab 146" WB, 60" CA Pro ( Complete )

|                    |                                                                               |      |             |
|--------------------|-------------------------------------------------------------------------------|------|-------------|
| JL1                | Trailer brake controller, integrated                                          |      | \$275.00    |
| K34                | Cruise control, steering wheel-mounted                                        | Inc. |             |
| L8T                | Engine, 6.6L V8                                                               |      | \$0.00      |
| MYD                | Transmission, 6-speed automatic, heavy-duty                                   |      | \$0.00      |
| NQH                | Transfer case, two-speed active, electronic Autotrac with push button control |      | \$200.00    |
| NZZ                | Skid Plates                                                                   |      | \$150.00    |
| PCI                | Convenience Package                                                           |      | \$1,675.00  |
| QQO                | Tires, LT235/80R17E all-season highway, blackwall                             |      | \$0.00      |
| VQO                | LPO, Black assist step                                                        |      | \$495.00    |
| SUBTOTAL           |                                                                               |      | \$47,358.00 |
| Adjustments Total  |                                                                               |      | \$0.00      |
| Destination Charge |                                                                               |      | \$1,795.00  |
| TOTAL PRICE        |                                                                               |      | \$49,153.00 |

FUEL ECONOMY

Est City:N/A  
Est Highway:N/A  
Est Highway Cruising Range:N/A

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Vehicle: [Fleet] 2023 GMC Sierra 3500HD CC (TK31003) 4WD Reg Cab 146" WB, 60" CA Pro ( Complete )

## Standard Equipment

| Mechanical |                                                                                                                                                                                          |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | Engine, 6.6L V8 with Direct Injection and Variable Valve Timing, gasoline, (401 hp [299 kW] @ 5200 rpm, 464 lb -ft of torque [629 N-m] @ 4000 rpm) (STD)                                 |
|            | Transmission, 6-speed automatic, heavy-duty (STD)                                                                                                                                        |
|            | Rear axle, 3.73 ratio (Requires (L8T) 6.6L V8 gas engine.)                                                                                                                               |
|            | Auto-locking rear differential                                                                                                                                                           |
|            | Air filter, heavy-duty                                                                                                                                                                   |
|            | Air filtration monitoring                                                                                                                                                                |
|            | Transfer case, two-speed, electronic shift with push button controls (Requires 4WD models.)                                                                                              |
|            | Four wheel drive                                                                                                                                                                         |
|            | Cooling, external engine oil cooler                                                                                                                                                      |
|            | Cooling, auxiliary external transmission oil cooler                                                                                                                                      |
|            | Battery, heavy-duty 720 cold-cranking amps/80 Amp-hr, maintenance-free with rundown protection and retained accessory power (Included and only available with (L8T) 6.6L V8 gas engine.) |
|            | Alternator, 170 amps (Requires (L8T) 6.6L V8 gas engine.)                                                                                                                                |
|            | Recovery hooks, front, frame-mounted, Black                                                                                                                                              |
|            | Body, Chassis Cab                                                                                                                                                                        |
|            | Frame, fully-boxed, hydroformed front section and an open "C" rear section                                                                                                               |
|            | GVWR, 14,000 lbs. (6350 kg)                                                                                                                                                              |
|            | Suspension Package                                                                                                                                                                       |
|            | Steering, Recirculating Ball with smart flow power steering system                                                                                                                       |
|            | Brakes, 4-wheel antilock, 4-wheel disc with DURALIFE rotors                                                                                                                              |
|            | Fuel tank, front and rear, 63.5 gallon (240 liters)                                                                                                                                      |
|            | Capped Fuel Fill                                                                                                                                                                         |
| Exterior   |                                                                                                                                                                                          |
|            | Tires, LT235/80R17E all-season highway, blackwall (STD)                                                                                                                                  |
|            | Spare tire delete Deletes the spare tire and wheel. (STD)                                                                                                                                |
|            | Wheels, 17" (43.2 cm) painted steel                                                                                                                                                      |
|            | Wheel trim, painted center caps                                                                                                                                                          |
|            | Bumper, front chrome lower                                                                                                                                                               |
|            | Bumper, rear, delete                                                                                                                                                                     |

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Vehicle: [Fleet] 2023 GMC Sierra 3500HD CC (TK31003) 4WD Reg Cab 146" WB, 60" CA Pro (✔  
Complete )

## Exterior

|                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------------------------------|
| Moldings, beltline, Black                                                                                                                      |
| Grille (Chrome surround with Black mesh.)                                                                                                      |
| Headlamps, LED reflector with incandescent turn signals and LED signature Daytime Running Lamps                                                |
| Lamps, Smoked Amber roof marker, (LED)                                                                                                         |
| Lamps, cargo area, cab mounted integrated with center high mount stop lamp with switch in bank on left side of steering wheel                  |
| Mirrors, outside high-visibility vertical trailering lower convex mirrors, manual-folding/extending (extends 3.31" [84.25mm]), molded in Black |
| Glass, solar absorbing, tinted                                                                                                                 |
| Door handles, Black grained                                                                                                                    |

## Entertainment

|                                                                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Audio system, GMC Infotainment System with 7" diagonal color touch-screen, AM/FM stereo with seek-and-scan and digital clock, includes Bluetooth streaming audio for music and select phones; featuring wired Android Auto and Apple CarPlay capability for compatible phones (STD) |
| Audio system feature, 2-speakers (Requires Regular Cab model.)                                                                                                                                                                                                                      |
| Bluetooth for phone, connectivity to vehicle infotainment system                                                                                                                                                                                                                    |

## Interior

|                                                                                                                                 |
|---------------------------------------------------------------------------------------------------------------------------------|
| Seats, front 40/20/40 split-bench with upper covered armrest storage and fixed lumbar (STD) (Standard on Crew Cab models only.) |
| Seat adjuster, driver 4-way manual                                                                                              |
| Seat adjuster, passenger 4-way manual                                                                                           |
| Vinyl seat trim                                                                                                                 |
| Floor covering, rubberized-vinyl (Not available with LPO floor liners.)                                                         |
| Steering column, Tilt-Wheel, manual with wheel locking security feature                                                         |
| Steering wheel, urethane                                                                                                        |
| Instrument cluster 6-gauge cluster featuring speedometer, fuel level, engine temperature, tachometer, voltage and oil pressure  |
| Driver Information Center, 3.5" diagonal monochromatic display                                                                  |
| Exterior Temperature Display, located in radio display                                                                          |
| Windows, manual (Standard on Regular Cab model. Crew Cab models have power windows standard.)                                   |
| Door locks, manual (Requires Regular Cab model.)                                                                                |
| Power outlet, front auxiliary, 12-volt                                                                                          |

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Vehicle: [Fleet] 2023 GMC Sierra 3500HD CC (TK31003) 4WD Reg Cab 146" WB, 60" CA Pro (✔ Complete )

| Interior                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------|
| USB ports, 2 (first row) located on instrument panel                                                                                    |
| Air conditioning, single-zone                                                                                                           |
| Mirror, inside rearview, manual tilt                                                                                                    |
| Assist handles front A-pillar mounted for driver and passenger, rear B-pillar mounted                                                   |
| Back-up alarm calibration This calibration will allow installation of an aftermarket back-up alarm by disabling rear perimeter lighting |

| Safety-Mechanical                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| StabiliTrak, stability control system with Proactive Roll Avoidance and traction control, includes electronic trailer sway control and hill start assist |
| Brake lining wear indicator                                                                                                                              |

| Safety-Exterior                               |
|-----------------------------------------------|
| Daytime Running Lamps, LED signature lighting |

| Safety-Interior                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Airbags, Dual-stage frontal airbags for driver and front outboard passenger; Seat-mounted side-impact airbags for driver and front outboard passenger; Head-curtain airbags for front and rear outboard seating positions; Includes front outboard Passenger Sensing System for frontal outboard passenger airbag (Always use seat belts and child restraints. Children are safer when properly secured in a rear seat in the appropriate child restraint. See the Owner's Manual for more information.) |
| Tire Pressure Monitoring System with Tire Fill Alert (does not apply to spare tire)                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Teen Driver a configurable feature that lets you activate customizable vehicle settings associated with a key fob, to help encourage safe driving behavior. It can limit certain available vehicle features, and it prevents certain safety systems from being turned off. An in-vehicle report card gives you information on driving habits and helps you to continue to coach your new driver                                                                                                          |

| WARRANTY                                                                                                             |
|----------------------------------------------------------------------------------------------------------------------|
| Warranty Note: <<< Preliminary 2023 Warranty >>>                                                                     |
| Basic Years: 3                                                                                                       |
| Basic Miles/km: 36,000                                                                                               |
| Drivetrain Years: 5                                                                                                  |
| Drivetrain Miles/km: 60,000                                                                                          |
| Drivetrain Note: HD Duramax Diesel: 5 Years/100,000 Miles; Qualified Fleet Purchases: 5 Years/100,000 Miles          |
| Corrosion Years (Rust-Through): 6                                                                                    |
| Corrosion Years: 3                                                                                                   |
| Corrosion Miles/km (Rust-Through): 100,000                                                                           |
| Corrosion Miles/km: 36,000                                                                                           |
| Roadside Assistance Years: 5                                                                                         |
| Roadside Assistance Miles/km: 60,000                                                                                 |
| Roadside Assistance Note: HD Duramax Diesel: 5 Years/100,000 Miles; Qualified Fleet Purchases: 5 Years/100,000 Miles |
| Maintenance Note: 1 Year/1 Visit                                                                                     |

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**Prepared For:** Town of Bay Harbor Islands  
Atkinson, Jason

**Date** 03/29/2023  
**AE/AM** GS0/CXM

**Unit #**

**Year** 2023 **Make** GMC **Model** Sierra 3500HD Chassis

**Series** Pro 4x4 Regular Cab 146.3 in. WB DRW

**Vehicle Order Type** In-Stock **Term** 60 **State** FL **Customer#** 382039

|              |                                                         |
|--------------|---------------------------------------------------------|
| \$ 58,170.00 | Capitalized Price of Vehicle <sup>1</sup>               |
| \$ 0.00      | * Sales Tax <u>0.0000%</u> <b>State</b> <u>FL</u>       |
| \$ 245.00    | * Initial License Fee                                   |
| \$ 0.00      | * Registration Fee                                      |
| \$ 0.00      | Other: (See Page 2)                                     |
| \$ 2,000.00  | * Capitalized Price Reduction                           |
| \$ 0.00      | * Tax on Capitalized Price Reduction                    |
| \$ 0.00      | Gain Applied From Prior Unit                            |
| \$ 0.00      | * Tax on Gain On Prior                                  |
| \$ 0.00      | * Security Deposit                                      |
| \$ 0.00      | * Tax on Incentive ( Taxable Incentive Total : \$0.00 ) |

|                    |                                                                                 |
|--------------------|---------------------------------------------------------------------------------|
| \$ 56,170.00       | Total Capitalized Amount (Delivered Price)                                      |
| \$ 936.13          | Depreciation Reserve @ <u>1.6666%</u>                                           |
| \$ 262.43          | Monthly Lease Charge (Based on Interest Rate - Subject to a Floor) <sup>2</sup> |
| <b>\$ 1,198.56</b> | <b>Total Monthly Rental Excluding Additional Services</b>                       |

**Additional Fleet Management**

Master Policy Enrollment Fees

\$ 0.00 Commercial Automobile Liability Enrollment  
Liability Limit \$0.00

\$ 0.00 Physical Damage Management

\$ 0.00 Full Maintenance Program <sup>3</sup> Contract Miles 0  
Incl: # Brake Sets (1 set = 1 Axle) 1

**\$ 0.00 Additional Services SubTotal**

\$ 0.00 Sales Tax 7.0000%

**\$ 1,198.56 Total Monthly Rental Including Additional Services**

\$ 2.20 Reduced Book Value at 60 Months

\$ 400.00 Service Charge Due at Lease Termination

**All language and acknowledgments contained in the signed quote apply to all vehicles that are ordered under this signed quote.**

**Order Information**

**Driver Name** Please Provide  
**Exterior Color** (0 P) Summit White  
**Interior Color** (0 I) Jet Black w/Vinyl Seat Trim  
**Lic. Plate Type** Yellow City  
**GVWR** 0

Comp/Coll Deductible 0 / 0  
OverMileage Charge \$ 0.0450 Per Mile  
# Tires 2 Loaner Vehicle Not Included

**State** FL

Quote based on estimated annual mileage of 6,000

(Current market and vehicle conditions may also affect value of vehicle)

(Quote is Subject to Customer's Credit Approval)

**Notes**

Enterprise FM Trust will be the owner of the vehicle covered by this Quote. Enterprise FM Trust (not Enterprise Fleet Management) will be the Lessor of such vehicle under the Master Open - End (Equity) Lease Agreement and shall have all rights and obligations of the Lessor under the Master Open - End (Equity) Lease Agreement with respect to such vehicle.

**ALL TAX AND LICENSE FEES TO BE BILLED TO LESSEE AS THEY OCCUR.**

Lessee hereby authorizes this vehicle order, agrees to lease the vehicle on the terms set forth herein and in the Master Equity Lease Agreement and agrees that Lessor shall have the right to collect damages in the event Lessee fails or refuses to accept delivery of the ordered vehicle. Lessee certifies that it intends that more than 50% of the use of the vehicle is to be in a trade or business of the Lessee.

**LESSEE** Town of Bay Harbor Islands

**BY** \_\_\_\_\_ **TITLE**

**DATE**

\* INDICATES ITEMS TO BE BILLED ON DELIVERY.

<sup>1</sup> Capitalized Price of Vehicle May be Adjusted to Reflect Final Manufacturer's Invoice. Lessee Hereby Assigns to Lessor any Manufacturer Rebates And/Or Manufacturer Incentives Intended for the Lessee, Which Rebates And/Or Incentives Have Been Used By Lessor to Reduce the Capitalized Price of the Vehicle.

<sup>2</sup> Monthly Lease Charge Will Be Adjusted to Reflect the Interest Rate on the Delivery Date (Subject to a Floor).

<sup>3</sup> The inclusion herein of references to maintenance fees/services are solely for the administrative convenience of Lessee. Notwithstanding the inclusion of such references in this [Invoice/Schedule/Quote], all such maintenance services are to be performed by Enterprise Fleet Management, Inc., and all such maintenance fees are payable by Lessee solely for the account of Enterprise Fleet Management, Inc., pursuant to that certain separate [Maintenance Agreement] entered into by and between Lessee and Enterprise Fleet Management, Inc.; provided that such maintenance fees are being billed by Enterprise FM Trust, and are payable at the direction of Enterprise FM Trust, solely as an authorized agent for collection on behalf of Enterprise Fleet Management, Inc.

Aftermarket Equipment Total

| Description                                                               | (B)illed or (C)apped | Price        |
|---------------------------------------------------------------------------|----------------------|--------------|
| Custom Equipment - Custom Service Body with Acessories Alan Jay Q#44374-3 | C                    | \$ 17,510.00 |
|                                                                           |                      |              |
| Total Aftermarket Equipment Billed                                        |                      | \$ 0.00      |
| Total Aftermarket Equipment Capitalized                                   |                      | \$ 17,510.00 |
| Aftermarket Equipment Total                                               |                      | \$ 17,510.00 |

Other Totals

| Description                     | (B)illed or (C)apped | Price     |
|---------------------------------|----------------------|-----------|
| Initial Administration Fee      | B                    | \$ 150.00 |
| Courtesy Delivery Fee           | C                    | \$ 0.00   |
|                                 |                      |           |
| Total Other Charges Billed      |                      | \$ 150.00 |
| Total Other Charges Capitalized |                      | \$ 0.00   |
| Other Charges Total             |                      | \$ 150.00 |

VEHICLE INFORMATION:

2023 GMC Sierra 3500HD Chassis Pro 4x4 Regular Cab 146.3 in. WB DRW - US

Series ID: TK31003

Pricing Summary:

|                    | INVOICE            | MSRP               |
|--------------------|--------------------|--------------------|
| Base Vehicle       | \$42,853.8         | \$45,300.00        |
| Total Options      | \$-4,148.80        | \$1,958.00         |
| Destination Charge | \$1,895.00         | \$1,895.00         |
| <b>Total Price</b> | <b>\$40,600.00</b> | <b>\$49,153.00</b> |

SELECTED COLOR:

Exterior:

GAZ-(0 P) Summit White

Interior:

H2G-(0 I) Jet Black w/Vinyl Seat Trim

SELECTED OPTIONS:

| CODE    | DESCRIPTION                                  | INVOICE     | MSRP       |
|---------|----------------------------------------------|-------------|------------|
| 1SA     | Preferred Equipment Group 1SA                | NC          | NC         |
| 5N5     | SEO: Rear Camera Kit                         | \$66.43     | \$73.00    |
| A2S     | 4-Way Manual Driver Seat Adjuster            | Included    | Included   |
| A7E     | 4-Way Manual Passenger Seat Adjuster         | Included    | Included   |
| AE7     | Front 40/20/40 Split-Bench Seat              | Included    | Included   |
| AED     | Power Front Windows w/Passenger Express Down | Included    | Included   |
| AKO     | Deep-Tinted Glass                            | Included    | Included   |
| AQQ     | Remote Keyless Entry                         | Included    | Included   |
| AU3     | Power Door Locks                             | Included    | Included   |
| AXG     | Power Front Windows w/Driver Express Up/Down | Included    | Included   |
| C49     | Electric Rear-Window Defogger                | Included    | Included   |
| DBG     | Power-Adjustable Black Outside Mirrors       | Included    | Included   |
| DLR ADJ | Dealer Adjustment                            | \$-6,558.48 | \$-616.00  |
| FE9     | Federal Emissions Requirements               | NC          | NC         |
| G9Y     | GVWR: 14,000 lbs (6,350 kgs)                 | STD         | STD        |
| GAZ_01  | (0 P) Summit White                           | NC          | NC         |
| GRILLE  | Chrome Surround Grille w/Black Mesh          | Included    | Included   |
| GT4     | 3.73 Rear Axle Ratio                         | STD         | STD        |
| H2G_02  | (0 I) Jet Black w/Vinyl Seat Trim            | NC          | NC         |
| IOR     | Radio: AM/FM w/GMC Infotainment System       | STD         | STD        |
| JL1     | Integrated Trailer Brake Controller          | \$250.25    | \$275.00   |
| K34     | Steering Wheel-Mounted Cruise Control        | Included    | Included   |
| KW7     | 170 Amp Alternator                           | Included    | Included   |
| L8T     | Engine: 6.6L V8                              | STD         | STD        |
| L8TBAT  | Heavy-Duty 80 Amp Battery                    | Included    | Included   |
| MYD     | Transmission: Heavy-Duty 6-Speed Automatic   | STD         | STD        |
| NQH     | 2-Speed Active Transfer Case                 | \$182.00    | \$200.00   |
| NZZ     | Skid Plates                                  | \$136.50    | \$150.00   |
| OTPC    | One Time Price Concession                    | \$0.00      | \$-74.00   |
| PAINT   | Solid Paint                                  | STD         | STD        |
| PCI     | Convenience Package                          | \$1,774.50  | \$1,950.00 |
| PYW     | Wheels: 17" Painted Steel                    | STD         | STD        |
| QQO     | Tires: LT235/80R17E AS Highway BW            | Included    | Included   |

| CODE   | DESCRIPTION                                | INVOICE  | MSRP     |
|--------|--------------------------------------------|----------|----------|
| STD TM | Vinyl Seat Trim                            | STD      | STD      |
| U95    | 2-Speaker Audio System Feature             | Included | Included |
| VK3    | Front License Plate Kit                    | NC       | NC       |
| WARANT | Fleet Customer Powertrain Limited Warranty | NC       | NC       |
| Z85    | Suspension Package                         | STD      | STD      |

## **CONFIGURED FEATURES:**

### Body Exterior Features:

Number Of Doors: 2  
Driver And Passenger Mirror: power remote heated manual folding side-view door mirrors with turn signal indicator  
Convex Driver Mirror: convex driver and passenger mirror  
Mirror Type: manual extendable trailer mirrors  
Skid Plates: skid plates  
Door Handles: black  
Front And Rear Bumpers: chrome front and rear bumpers with black rub strip  
Front Tow Hooks: 2 front tow hooks  
Front License Plate Bracket: front license plate bracket  
Body Material: galvanized steel/aluminum body material  
: trailering with brake controller  
Grille: black w/chrome surround grille

### Convenience Features:

Air Conditioning: manual air conditioning  
Cruise Control: cruise control with steering wheel controls  
Power Windows: power windows with driver and passenger 1-touch down  
Remote Keyless Entry: keyfob (all doors) remote keyless entry  
Illuminated Entry: illuminated entry  
Auto Locking: auto-locking doors  
Window FOB Controls: remote window controls  
Steering Wheel: steering wheel with manual tilting  
Day-Night Rearview Mirror: day-night rearview mirror  
Front Cupholder: front cupholder  
Overhead Console: mini overhead console  
Glove Box: locking glove box  
Driver Door Bin: driver and passenger door bins  
IP Storage: covered bin instrument-panel storage  
Driver Footrest: driver's footrest  
Retained Accessory Power: retained accessory power  
Power Accessory Outlet: 1 12V DC power outlet

### Entertainment Features:

radio: AM/FM stereo with seek-scan  
Audio Theft Deterrent: audio theft deterrent  
Voice Activated Radio: voice activated radio  
Speakers: 2 speakers  
1st Row LCD: 1 1st row LCD monitor  
Wireless Connectivity: wireless phone connectivity  
Antenna: fixed antenna

### Lighting, Visibility and Instrumentation Features:

Headlamp Type: delay-off aero-composite LED low/high beam headlamps  
Cab Clearance Lights: cab clearance lights  
Cab Clearance Lights: cargo bed light  
Front Wipers: variable intermittent wipers  
Rear Window Defroster: rear window defroster  
Tinted Windows: deep-tinted windows  
Dome Light: dome light with fade  
Front Reading Lights: front reading lights  
Variable IP Lighting: variable instrument panel lighting  
Display Type: analog appearance  
Tachometer: tachometer  
Voltmeter: voltmeter  
Exterior Temp: outside-temperature display  
Low Tire Pressure Warning: tire specific low-tire-pressure warning  
Trip Computer: trip computer  
Trip Odometer: trip odometer

Oil Pressure Gauge: oil pressure gauge  
Water Temp Gauge: water temp. gauge  
Clock: in-radio display clock  
Systems Monitor: driver information centre  
Check Control: redundant digital speedometer  
Oil Pressure Warning: oil-pressure warning  
Water Temp Warning: water-temp. warning  
Battery Warning: battery warning  
Low Coolant Warning: low-coolant warning  
Lights On Warning: lights-on warning  
Key in Ignition Warning: key-in-ignition warning  
Low Fuel Warning: low-fuel warning  
Low Washer Fluid Warning: low-washer-fluid warning  
Door Ajar Warning: door-ajar warning  
Brake Fluid Warning: brake-fluid warning  
Turn Signal On Warning: turn-signal-on warning  
Transmission Fluid Temperature Warning: transmission-fluid-temperature warning  
Brake Pad Wear: brake pad wear

Safety And Security:

ABS four-wheel ABS brakes  
Number of ABS Channels: 4 ABS channels  
Brake Assistance: brake assist  
Brake Type: four-wheel disc brakes  
Vented Disc Brakes: front and rear ventilated disc brakes  
Daytime Running Lights: daytime running lights  
Driver Front Impact Airbag: driver and passenger front-impact airbags  
Driver Side Airbag: seat-mounted driver and passenger side-impact airbags  
Overhead Airbag: curtain 1st row overhead airbag  
Occupancy Sensor: front passenger airbag occupancy sensor  
Seatbelt Pretensioners: front seatbelt pre-tensioners  
Side Impact Bars: side-impact bars  
Perimeter Under Vehicle Lights: remote activated perimeter/approach lights  
Ignition Disable: immobilizer  
Panic Alarm: panic alarm  
Electronic Stability: StabiliTrak w/Proactive Roll Avoidance electronic stability stability control with anti-roll  
Traction Control: ABS and driveline traction control  
Front and Rear Headrests: manual adjustable front head restraints

Seats And Trim:

Seating Capacity max. seating capacity of 3  
Front Bucket Seats: front split-bench 40-20-40 seats  
Number of Driver Seat Adjustments: 4-way driver and passenger seat adjustments  
Reclining Driver Seat: manual reclining driver and passenger seats  
Driver Fore/Aft: manual driver and passenger fore/aft adjustment  
Front Centre Armrest Storage: front centre armrest with storage  
Leather Upholstery: vinyl front seat upholstery  
Headliner Material: full cloth headliner  
Floor Covering: full vinyl/rubber floor covering  
Cabbage Insulator: cabbage insulator  
Shift Knob Trim: urethane shift knob

Standard Engine:

Engine 401-hp, 6.6-liter V-8 (regular gas)

Standard Transmission:

Transmission 6-speed automatic w/ OD

## **AGENDA ITEM REPORT**

April 10, 2023

### **ITEM NUMBER: 14.**

**ITEM:** Discussion regarding the creation of Council Members' Expense Accounts. Sponsored by Council Member Stephanie Bruder.

### **DESCRIPTION:**

The line item related to elected official travel expenses in the Fiscal Year 2022-2023 Budget allocates \$20,000. As of March 31, 2023, \$16,500 was spent. This amount does not include recently incurred expenses related to the Florida League of Cities Legislative Days or the National League of Cities event in Washington D.C. last week.

### **RECOMMENDED ACTION:**

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### **FINANCIAL ANALYSIS:**

No Fiscal Impact at this point. The Town Council Member's Travel Expense was budgeted in the amount of \$20,000. The FY 2022-2023 year-to-date expenditures are \$16,287.41 as of April 4th, 2023 (pending any expenditures that are still trailing). The remaining Budget for the Travel & Per Diem for the Town Council Department is \$3,712.59. At this point, the Town Council Department was not over the Budget, and no Budget amendment was necessary. However, prudent business practices and sound fiscal policies require us to monitor the budgeted and actual amounts on a periodic basis.

### **BUDGET IMPACT:**

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Submitted By: Yvonne Hamilton, Town Clerk

### **ATTACHMENTS**

None

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 15.

**ITEM:** Discussion and Possible Action regarding the future of Town Hall. Sponsored by Council Member Bruder.

### DESCRIPTION:

Council Member Bruder would like to discuss whether the Town Hall should be demolished and rebuilt or renovated.

### RECOMMENDED ACTION:

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### FINANCIAL ANALYSIS:

Fiscal Impact depends on whether the Town Council decides to rebuild Town Hall or renovate it. The cost is not certain yet for either option.

#### Financial Impact Summary

Monies that can be applied towards renovation or rebuilding:

#### General Fund

The total AUDITED Unrestricted FY 2020-2021 Fund Balance on September 30, 2021 was **\$12,207,201.**

FY 2021-2022 UNAUDITED surplus (revenues and other inflows, minus expenditure, and other outflows) is ESTIMATED to be at **\$3,484,660.**

**The total ESTIMATED Unrestricted Fund Balance (Reserves) on September 30, 2022 will be \$15,691,861.**

#### TDR Sale Proceeds:

The Town Collected **\$6,045,750 of TDR Monies** from 2012 to 2023. The money is presently in the General Fund reserves.

Allowable Usage from Chapter 23 – Zoning and Planning, Sec. 23-22.2 – Transfer of development rights, paragraph d. (see below).

*“Revenue from the sale of TDRs. The revenue generated from the sale of development rights from the TDR reserve bank shall be allocated to town infrastructure improvements including but not limited to wastewater, potable water and stormwater facilities, parking facilities, parks and recreational facilities, municipal buildings or other municipal purposes.”*

If the decision is made to rebuild Town Hall as part of a new garage structure, the following

revenues can also be used.

**Parking Fund:**

The total AUDITED Unrestricted FY 2020-2021 Fund Balance on September 30, 2021 was **\$481,117.**

FY 2021-2022 UNAUDITED surplus (revenues and other inflows, minus expenditure, and other outflows) is ESTIMATED to be **\$363,149.**

**Total** ESTIMATED Unrestricted Fund Balance (Reserves) on September 30, 2022, will be **\$844,266.**

**Parking Trust:**

Current FY 2022-2023 Parking Trust fees received: LaBaia South in the amount of **\$780,000.** Anticipated Parking Trust receipts are: LaBaia North in the amount of **\$780,000;** Kane BHI Property 1 development in the amount of **\$1,680,000.**

**BUDGET IMPACT:**

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Submitted By: Yvonne Hamilton, Town Clerk

**ATTACHMENTS**

None

## AGENDA ITEM REPORT

April 10, 2023

### ITEM NUMBER: 16.

**ITEM: Discussion** and **Possible** action regarding the 2023 Evaluation and Appraisal Report and related amendments to the Comprehensive Plan.

### DESCRIPTION:

At the Town Council Meeting on April 10, 2023, Town Planner Fernando Leiva will make a presentation on the process for updating the Town's Comprehensive Plan.

Staff seeks a motion by the Town Council to authorize staff to begin the preparation of the 2023 Comprehensive Plan update based on an Evaluation and Appraisal Report. The Evaluation and Appraisal Report identifies amendments to the Town's Comprehensive Plan to bring the plan into compliance with the State's statutes.

### RECOMMENDED ACTION:

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### FINANCIAL ANALYSIS:

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### BUDGET IMPACT:

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Submitted By: Yvonne Hamilton, Town Clerk

### ATTACHMENTS

|    |                                                   |
|----|---------------------------------------------------|
| 1. | BHI TC Memorandum - Comp Plan Update _ 03-27-2023 |
| 2. | BHI _Comp Plan Update _ PowerPoint                |



**TOWN OF BAY HARBOR ISLANDS  
BUILDING, PLANNING AND ZONING DEPARTMENT  
MEMORANDUM**

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|                 |                                                                                                         |
|-----------------|---------------------------------------------------------------------------------------------------------|
| <b>TO:</b>      | Mayor and Town Council Members                                                                          |
| <b>THRU:</b>    | Maria Lasday, Esq., Town Manager<br>Mike Mesa, CBO, CFM, Building Official/Building Department Director |
| <b>CC:</b>      | Joseph S. Geller, Esq., Consultant Town Attorney<br>Yvonne P. Hamilton, CMC, Town Clerk                 |
| <b>FROM:</b>    | Fernando Leiva, AICP, Assoc. AIA<br>Principal Planner                                                   |
| <b>DATE:</b>    | March 27, 2023                                                                                          |
| <b>SUBJECT:</b> | Town of Bay Harbor Islands – The 2023 Comprehensive Plan Update                                         |

**RECOMMENDATION**

Staff recommends that the Town Council authorize the update of the Town of Bay Harbor Islands' Comprehensive Plan.

**THE REQUEST**

This is a Town initiated request for preparation of amendments to the Comprehensive Plan.

**BACKGROUND**

The existing Comprehensive Plan (herein referred to as "The Plan") under the 1985 State Growth Management Act was adopted in 1989. The Future Land Use Element (FLUE),

which is the effective land use for the Town, was last adopted in December 2004 to establish density limits reflective of existing and desired development patterns at the time. Since last adopted, there have been no changes to The Plan to be consistent with changes in State Law or current conditions.

The Local Planning Agency is responsible for the preparation of the Comprehensive Plan or Plan amendment and shall make recommendations to the governing body regarding the adoption or amendments of such plan as provided in Section 163.3174, Florida Statutes.

### **ANALYSIS/PUBLIC INPUT**

It is a goal of staff and the Town to accommodate the needs of the community, focus on sustainable regional policies and ensure that we have effective planning tools and policies for the future.

Residents and businesses recognize that through clear policies to manage growth, development tools and financing (public-private partnerships) commitments, issues will be addressed over time.

If approved, staff will embark on an effort to write a new plan for the future (at least one decade). Staff will issue project updates and hold a Public Workshop where residents and Council will have a chance to comment on a draft plan. A public hearing will be held before the Town Council for transmittal of the amendments to the applicable agencies, as required under Part II of Chapter 163, Florida Statutes.

### **ATTACHMENTS**

1. PowerPoint Presentation
2. Initial Draft of the Future Land Use Element

# Town of Bay Harbor Islands Comprehensive Plan 2023 UPDATE



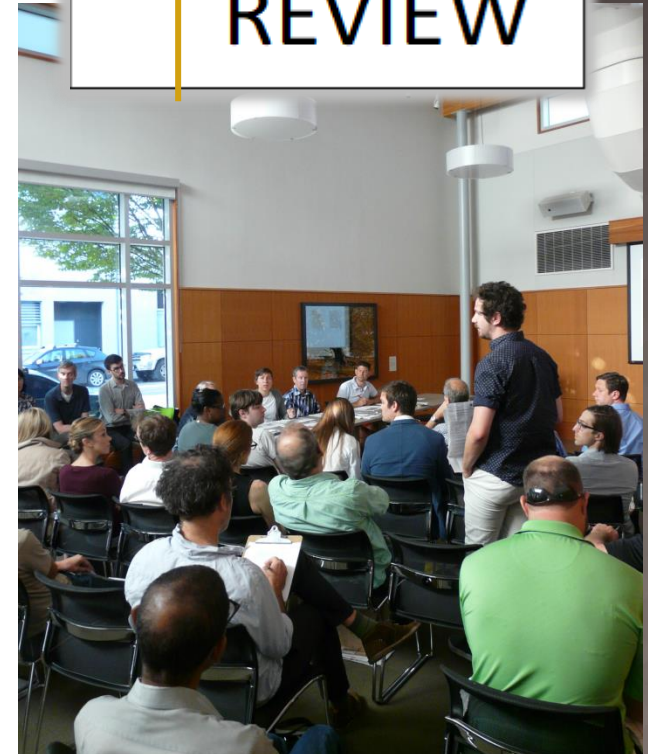
Presentation  
4.10.2023

# PRESENTATION OUTLINE

- ◎ Overview of the Plan Update and Process
- ◎ Context - Relationship of the Town's Comprehensive Plan to the Regional and State Comprehensive Plan
- ◎ Scope of the Update
- ◎ Plan Organization and Elements
- ◎ Review Future Land Use Element Format and Content
- ◎ Draft Plan Update Schedule

# THE 2023 PLAN

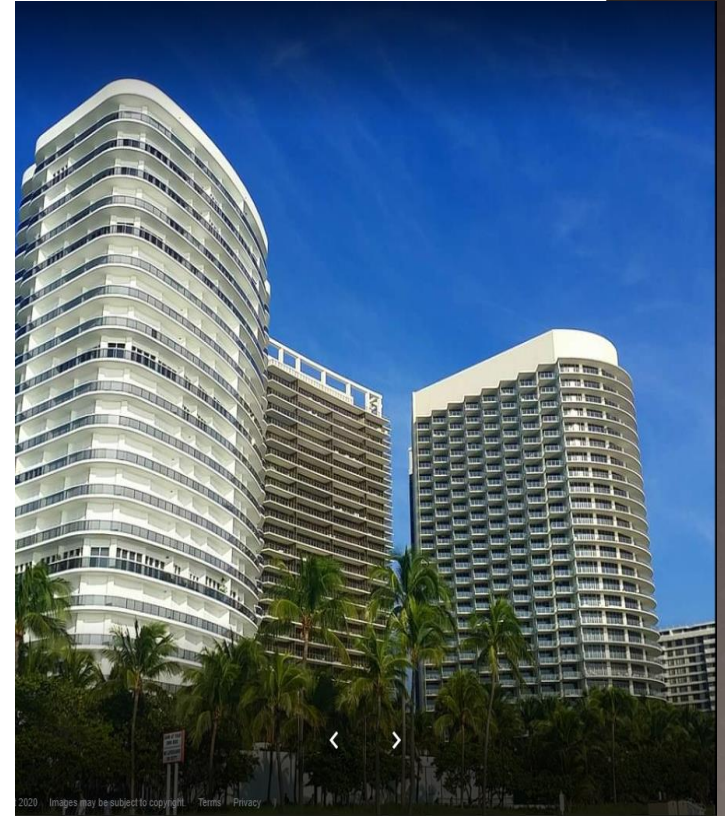
- ◉ The Town's current Comprehensive Plan was adopted in 1989 under the 1985 State Growth Management Act.
- ◉ The Future Land Use Element (FLUE), which is the effective land use for the Town, was last adopted in December 2004.
- ◉ The Town is preparing a new Plan. The 2023 Update is the first major set of substantive changes since 1988 and it will replace the current Plan.
- ◉ The Plan, once adopted and found in compliance with the Florida Department of Economic Development (DEO), will serve as the framework for growth over the next two decades.



# PLAN UPDATE PROCESS

## What is the Comprehensive Plan Update Process?

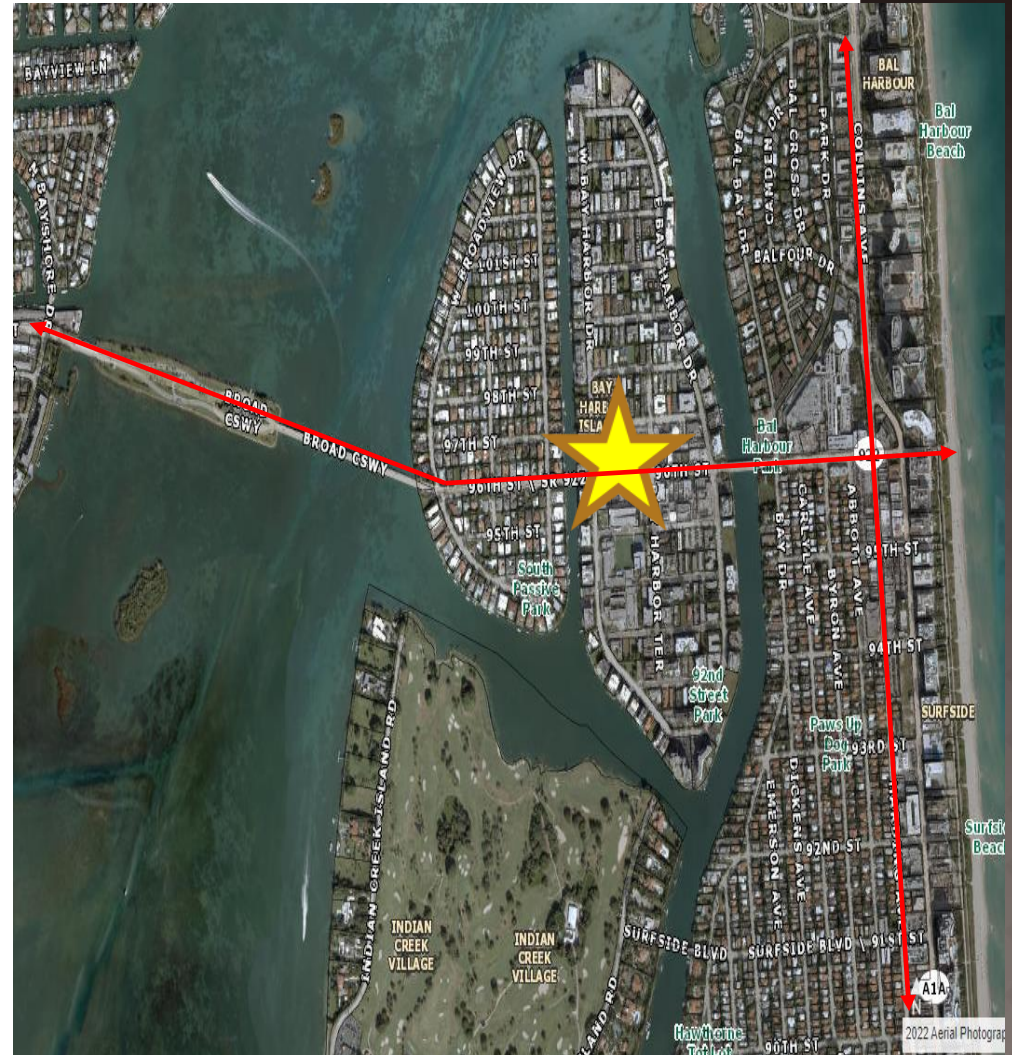
- ◎ It allows residents, groups, staff, and Town Council to propose changes to the Plan. It provides a way to address changing conditions and new considerations in how growth occurs townwide.
- ◎ Chapter 163 of the Florida Statutes specifically encourages the involvement of the public in the comprehensive planning process.
- ◎ The 2023 Plan will be developed with extensive public participation and adopted by Town Council.
- ◎ Now (today) and over the next few months, staff will be asking for ideas and comments from the public, Council and affected local governments.



# CONTEXT

## State, Regional and Local Context

- The Planning and Land Development regulation process in Florida is a “Top-Down” process.
- Planning in Florida results in three kinds of plans: State, Regional and Local Plans. All these Plans must be consistent with each other
- The Town is required by state law to review and determine at least every seven years whether the Plan needs changes to reflect current conditions and changes in state requirements since its last adoption.



# SCOPE OF THE UPDATE

## Provide a “Vision” and Goals

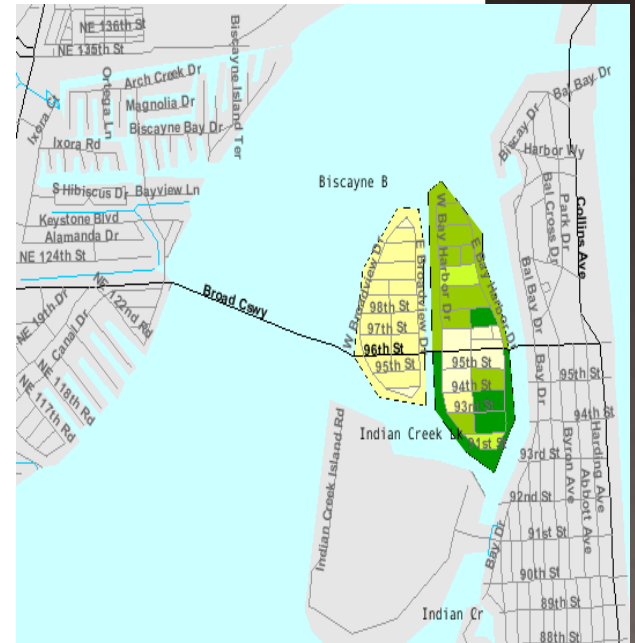
- Provide a vision statement from Council (i.e., keep the small town feel and look, protect the environment, views, and lifestyles for the future).
- Using planning and design “Goals” as a guide for changes and improvements in the Town.

## Plan Update will consider

- Commitment to sustainability.
- Protect density and height in the appropriate places.
- Reduce greenhouse gas emissions and fuel consumption.
- Unique neighborhood features and character
- Architectural design
- Building forms and materials
- Pedestrian comforts

# PLAN ORGANIZATION AND ELEMENTS

- Plan Framing
  - Current Conditions (Data, Inventory and Analysis)
  - Visioning
  - Public Participation Plan
- Elements Revision (Comprehensive Plan Part 1)
  - Future Land Use
  - Transportation
  - Housing
  - Infrastructure (Water, Sewer, Drainage, etc.)
  - Coastal Management
  - Recreation and Open Space
  - Intergovernmental Coordination
  - Public School Facilities
  - Capital Improvements
  - Property Rights
- Comprehensive Plan Part II (Supporting Documentation to the GOPs)
  - Data, Inventory and Analysis
- Appendix
  - Land Use Map Series
  - 10-Year Water Supply Facilities Work Plan
  - Preference Parking Study
- Approval Process



# LAND USE ELEMENT REVISION: FORMAT AND CONTENT

- Please refer to the Draft Future Land Use Element included in your packet.

# PLAN UPDATE PROCESS

| STEP 1                            |                                             | STEP 2                                                   |             | STEP 3                                                                |               |
|-----------------------------------|---------------------------------------------|----------------------------------------------------------|-------------|-----------------------------------------------------------------------|---------------|
| Activity                          | Date                                        | Activity                                                 | Date        | Activity                                                              | Date          |
| 1 Current Conditions              | February - March                            | 4 Production Time (staff)                                | April - May | 7 Plan refinement (staff)                                             | July          |
| 2 Town Manager and staff briefing | March                                       | 5 Workshop (Public Forum)                                | June        | 8 Town Council Public Hearing (Transmittal to DEO and other agencies) | August        |
| 3 Presentation to Town Council    | April (Public comments accepted - informal) | 5 LPA Public Hearing (Public comments accepted - formal) | July        | 9 Review by FDEO and other agencies                                   | TBD (60 days) |
|                                   |                                             | 5                                                        |             | 9                                                                     |               |
|                                   |                                             |                                                          |             | 10 Town Council Public Hearing (Adoption)                             | Nov. - Dec    |





# END



## QUESTIONS? COMMENTS?



Fernando Leiva, AICP, Assoc. AIA  
[fleiva@bayharborislands-fl.gov](mailto:fleiva@bayharborislands-fl.gov)