



TOWN OF GOLDEN BEACH

**One Golden Beach Drive
Golden Beach, FL 33160**

**Official Minutes for the October 18, 2011
Regular Town Council Meeting called for 7:00 P.M.**

A. MEETING CALLED TO ORDER

Mayor Singer called the meeting to order at 7:11 p.m.

B. ROLL CALL

Councilmember's Present: Mayor Glenn Singer, Vice Mayor Kenneth Bernstein, Councilmember Judy Lusskin, Councilmember Amy Isackson-Rojas, Councilmember Bernard Einstein

Staff Present: Town Manager Alexander Diaz, Interim Town Clerk Lissette Perez, Police Chief Don De Lucca, Finance Director Maria D. Camacho, Town Attorney Brett Schneider (in for Steve Helfman)

C. PLEDGE ALLEGIANCE

Recited during the local planning agency meeting

D. PRESENTATIONS / TOWN PROCLAMATIONS

Employee of the Quarter (2nd Quarter) – Raquel Castellon

Officer of the Quarter (2nd Quarter) – Javier Diaz

Employee of the Quarter (3rd Quarter) – Michael Glidden

Officer of the Quarter (3rd Quarter) – Leila Perez

E. MOTION TO SET THE AGENDA

ADDITIONS/ DELETIONS/ REMOVAL OF ITEMS FROM CONSENT
AGENDA/ AND CHANGES TO AGENDA – None

F. TOWN BOARD/COMMITTEE REPORTS

Beach Committee – None
Beautification Committee – None

Comprehensive Planning Board – None
Recreation Committee – Councilwoman Lusskin reminded everyone that the annual Halloween event will be held on October 31st at South Park starting at 5 p.m.
Security/Public Safety Committee – None
Youth Leadership Group – None

G. GOOD AND WELFARE

Resident Alene Fishbein, 256 Golden Beach Drive

Thanked everyone for the warm welcome. Commented on the fact that the Town looks beautiful, and thanked everyone that had a part in it. Also thanked the town for the donation that was made to Florida International University.

H. MAYOR'S REPORT

He commended the Town Manager and employee Michael Glidden for the light installation on A1A in commemoration of October as Breast Cancer Awareness Month. He also commended Alyson and Jillian Samowitz for all of their hard work in the Proseed2Green movement, and congratulated them on being featured in Reader's Digest for all of the work they have done with Proseed2Green. Also congratulated Marie Talley and Michael Glidden on their work on the newsletter and how professionally and well done it is.

The closed circuit television and lighting projects are moving along as planned – the Town Manager would give a detailed update on both projects during his report. He also reminded everyone about the Halloween Event and the opening of South Park that is scheduled to be held during that event.

I. COUNCIL COMMENTS

Councilman Einstein

Commended the Town staff for the A1A light installation. Also congratulated the Alyson and Jillian Samowitz for all of their recognition. Welcomed the new police chief after having spent his first month here in town. Commented on how the town continues to look great and how things are really moving along.

Councilwoman Isackson-Rojas

None

Councilwoman Lusskin

Asked the Town Manager if the Town was going to get the table in North Park, he advised that a report was on the dais for them with information pertaining to that. She also inquired about the placement of the AED's in all of the police vehicles. The Town Manager advised that the Town has applied for a grant for AED's, and is working on having a defibrillator placed in all of the Town's vehicles and facilities.

Vice Mayor Bernstein

Thanked Building Official Dan Neida and resident Jerry Hollo for taking time to go over some building regulation issues with him and he's looking forward to Halloween.

J. TOWN MANAGER REPORT

In error the CIP update was left out of the agenda, so it will be combined with the Town Manager's report. He provided a report on the bicycle crossing signs on A1A, and the proposed benches for North Park for the Councilmembers to look over. Reiterated that the Halloween event has been moved from the beach pavilion to South Park and that night will be the dedication of South Park as well. Thanked the Council and Mayor to give him the opportunity to improve the employee's workspaces. Pertaining to the closed circuit tv project, this week a final recommendation will be made to the Mayor as to who to award that contract to. Town's goal is to award both the closed circuit tv and the streetlighting contracts no later than the December meeting. The streetlighting RFP is out and scheduled to close November 2nd. He reminded the Council that there is a cone of silence, information is on the Town's website and on DemandStar. Mentioned that the Town Clerk has been working with three companies to redo the audio and visual in the council chambers before the end of the year.

CIP Update:

Town Manager took a moment to recognize Paul Abbott and Franklin Barron for the work they have done with the Town's FP&L conversion. Also commended the public works department for the great job they have done to prepare the homes for the conversion. Cleaning up town as it relates to the electrical components. Town Manager shared the Town's plan for the repaving of Golden Beach Drive, that the Administration hopes to have done before the Thanksgiving holiday. The work has to be done at night, and it should not take more than 5 days to complete because the work has been broken up into sections. However, if weather permits, it can be done in 3 days. Once the work begins, vehicles cannot travel through that area.

The Town Manager stated that Town has had many meetings with FPL. Almost done with full permitting for south of Golden Beach Drive, and will commence A1A next. The Town will be completely done with taking down the existing FPL poles, with the exception of the bridges, within a year.

The Town Manager emphasized that cars will not be allowed on Golden Beach Drive in the areas where the pavers are being installed. Paul Abbott commented that if there is no rain, that will expedite the process.

Resident Alene Fishbein stated that it should be publicized that the Town will get residents to their homes while the pavers are being installed overnight.

Councilman Einstein commented that he thinks it is a great idea and whatever will make the town look better he is all for it.

The Town Manager advised that he authorized an additional allotment of resources from the contingency to put additional GO grid to keep the asphalt from cracking.

Vice Mayor Bernstein asked if the paving work could start at 10 p.m. instead of 9 p.m. The Town Manager advised that that would be done, and that by 4 a.m. the work should be completed, however the town will give ample notice to residents before the work commences in their respective areas.

Resident Neil Leff asked when the rest of Terracina Avenue would be finished, because only a portion of Terracina was shown on the map. The Town Manager stated that if something was left out, inadvertently, for a resident to come see him and he will rectify it.

The Town Manager also mentioned that all of the arms will be taken off of the trees after the first of the year.

K. TOWN ATTORNEY REPORT

***South Gate Discussion**

Thanked residents for their patience in waiting for this report. He gave a little bit of background on the history of the South Gate and the issues with the ownership of the right-of-way. The Town's use of the right-of-way is limited to weekday school bus traffic and emergency vehicles. In 1995 the Town passes a substantial road barricading ordinance. In that ordinance, this location is specifically addressed, where ingress and egress are limited to only emergency situations, which is consistent with the 1990 original document. At around the same time, there is a lawsuit filed by Breakstone claiming that Breakstone developers and their owners had the right to access the Town and that their owners had a right to use the Town's public facilities. That lawsuit gets settled allowing the Town to close off every entrance, close off the facilities and direct all traffic to The Strand. The last thing that happened in the order is that the court re-affirmed the 1990 easement agreement. In 1998 the Council decides that Golden Beach Drive, in front of Town Hall would no longer be used for right-of-way purposes. That the street here would no longer be used as a street for traveling purposes. The Town made the decision to vacate the street in front of Town Hall. The residents gave up their right to drive through that street as of that decision.

Resident Oded Meltzer asked if the Town Charter allows for the Town to take streets over without a public vote. Mr. Helfman said yes. The issue the Town is dealing with is whether you open the gate or not. However, to Mr. Helfman, the Town has multiple issues. The issue of opening the gate really is not the issue, the issue is whether or not the Town has the right to direct and allow traffic across their easement in this document. Mr. Helfman advised that he certainly would not suggest that the Town open up the gates without Golden Gate Estates consent.

Councilman Einstein asked, who currently pays for the road? Mr. Helfman advised that this is a private road that Golden Gate Estates pays for. If the Town as a policy decision, decides from a security standpoint, that it wants to change the way the gate is used, the issue becomes the traffic and where it is allowed to travel. The next issue would be, dealing with the neighbors. Mr. Helfman advised that he would summarize his findings in writing.

Resident Larry Groll, 287 South Island Drive

Stated that he was the president of the homeowner's association at Golden Gate at the time and the issue was Golden Gate residents to get access to Tweddle Park. When access was denied, Golden Gate residents stated that they had the right to access the park because this was a public road. Mr. Groll stated that he is all for opening the gate, but it should be taken into consideration that Golden Gate residents will seek to gain access of the park once again.

Resident Alice Meltzer, 122 Golden Beach Drive

Stated that Golden Gate residents already use the Town's parks and tennis courts. The Town Manager stated that the Town met with Golden Gate Estates at the beginning of

the CIP project, making an agreement that until the project was complete that gate would remain open. Once the CIP project is complete, that gate will be re-locked and only residents with keys to it would have access to it.

Resident Oded Meltzer, 122 Golden Beach Drive

Suggested that the Town go to Golden Gate Estates, and tell them that they can continue using the Town's facilities if they allow the Town to use the South Gate as an exit only.

Resident Neil Leff, 48 Terracina Avenue

In August of this year, he forwarded an email to the Council and Town Attorney addressing some of the legal issues dealing with the South Gate. He asked if all of the streets in Golden Beach are public roads, meaning that the Town cannot limit usage to any one person. Mr. Helfman advised that these are municipal streets, with usage controlled by the local government. Local government can vacate the public's right to use public roads within its municipality.

Mr. Leff also spoke on the Breakstone Lawsuit. That as a result of the lawsuit there was a settlement stipulating that there is no legal access from the Breakstone property into Golden Beach. Subsequent to that a gate was installed on the Breakstone property and used to come in to Golden Beach. He asked if that makes null and void the original agreement because it's a breach of the original easement agreement? Mr. Helfman advised that he would agree with Mr. Leff, that if a gate was installed and being used then the original agreement was violated. But that being six or seven years ago, it is outside of the statute of limitations for a breach of contract, which is four years.

Mayor Singer instructed the Town Attorney to come back next council meeting with a legal opinion on the Town's options, addressing security concerns. Mr. Helfman stated that he would issue a formal written opinion/analysis summarizing what he stated and summarizing the issues the Town needs to address.

L. ORDINANCES – SECOND READING

None

M. ORDINANCES - FIRST READING

- 1. An Ordinance of the Town Council Amending Chapter 66, Zoning, Specifically by Amending Article I, Entitled "In General," Article III, Entitled "District Regulations," and Article IV, Entitled "Supplementary District Regulations."**

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, AMENDING CHAPTER 66, ZONING, SPECIFICALLY BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," ARTICLE III, ENTITLED "DISTRICT REGULATIONS," AND ARTICLE IV, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," TO

EFFECTUATE CLEAN-UP AND UPDATE OF LAND DEVELOPMENT REGULATIONS TO ADDRESS DEVELOPMENT CONCERNS IDENTIFIED BY THE BUILDING OFFICIAL; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 1
Ordinance No. 551.11

Sponsor: Town Administration

Recommendation: Motion to Approve Ordinance No. 551.11

A motion to approve was made by Councilmember Lusskin seconded by Councilmember Isackson-Rojas.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed on first reading.

The Town Manager advised that this ordinance incorporates all of the items that were discussed during the workshop, and the direction the Administration received from Council.

Vice Mayor Bernstein commented on page 8 of 14, item #2 – that this was unnecessary language and asked that it be stricken. – The Council agreed through a consensus vote of 5 ayes 0 nays.

Vice Mayor Bernstein also asked inquired about item #5 on page 4 of 14, asking why is it being kept as a 7.5 foot setback for lots 50 feet or smaller?

Mr. Helfman advised that if that paragraph is deleted there might need to be conforming language added to #1 for it to read 50 feet or greater. – The Council agreed through a consensus vote of 5 ayes 0 nays.

2. An Ordinance of the Town Council Amending Chapter 50, Buildings and Building Regulations, Specifically by Adding Section 50-2.

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, AMENDING CHAPTER 50, BUILDINGS AND BUILDING REGULATIONS, SPECIFICALLY BY ADDING SECTION 50-2, TO PROVIDE APPROPRIATE TIME LINES FOR DESIGN APPROVALS OBTAINED FROM THE BUILDING REGULATION ADVISORY BOARD. PROVIDING

FOR IMPLEMENTATION; PROVIDING FOR CONFLICTS;
AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 2
Ordinance No. 552.11

Sponsor: Town Administration

Recommendation: Motion to Approve Ordinance No. 552.11

A motion to approve was made by Vice Mayor Bernstein seconded by Councilmember Lusskin.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed on first reading.

Mr. Helfman explained that this ordinance was not brought up during the workshop, but is recommended by the Administration. The ordinance gives residents 1 ½ years to obtain a building permit to design a home after approval has been given. Mr. Helfman explained that it is very common to impose a timeline for people to get a building permit to make changes to their home.

3. An Ordinance of the Town Council Amending Chapter 46, Waterways, Specifically by Adding Section 46-55 and 46-87.

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, AMENDING CHAPTER 46, WATERWAYS, SPECIFICALLY BY ADDING SECTION 46-55 and 46-87, TO PROVIDE APPROPRIATE SETBACKS FOR PRIVATE RESIDENTIAL VESSELS DOCKING AT PRIVATE FACILITIES INCLUDING FLOATING DOCKS AND OTHER STRUCTURES THAT MAY BE INSTALLED; AND PROVIDING FOR A NEW BASE FOR THE D-5 TRIANGLE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
Ordinance No. 553.11

Sponsor: Town Administration

Recommendation: Motion to Approve Ordinance No. 553.11

A motion to approve was made by Councilmember Isackson-Rojas seconded by Vice Mayor Bernstein.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed on first reading.

Mr. Helfman explained that this ordinance came before the Council on first reading before. At the request of Vice Mayor Bernstein the item was not approved on first reading, and it was taken back to staff for the Vice Mayor to work on it with the Administration.

The Town Manager explained that the deferred item was not brought back to the Council. At the last council meeting, a new ordinance was work-shopped and presented to the Council. This ordinance sets a new base line for the D5 triangle, commencing at 5 feet, irrespective of the size of the lot.

Resident Oded Meltzer commented that the BRAB went back and forth about a half dozen times on this issue.

N. QUASI JUDICIAL RESOLUTIONS

4. A Resolution of the Town Council Authorizing and Approving a Variance Request for the Property Located at 296 South Parkway

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING AND APPROVING A VARIANCE REQUEST FOR THE PROPERTY LOCATED AT 296 SOUTH PARKWAY, GOLDEN BEACH, FLORIDA 33160 TO PERMIT THE FRONT ENTRY FEATURE TO BE SET AT 26'-6", IN LIEU OF THE REQUIRED 35' FRONT SETBACK ESTABLISHED BY CODE. PROVIDING FOR CONDITIONS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4
Resolution No. 2207.11

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2207.11

A motion to approve was made by Councilmember Lusskin seconded by Councilmember Isackson-Rojas.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed.

The Town Attorney swore everyone in that was going to speak on the issue. Building Official Dan Neida spoke on the item stating that the BRAB unanimously agreed to the entrance feature request.

O. CONSENT AGENDA

5. Minutes of the August 23, 2011 Special Town Council Meeting

Consensus vote was 5 Ayes and 0 Nays. The motion passed.

P. TOWN RESOLUTIONS

6. A Resolution of the Town Council Authorizing the Transfer of Law Enforcement Trust Fund (LETF) Monies to Cover Costs Paid from the General Fund for Construction of a Public Dock and Police Boatlift

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING THE TRANSFER OF LAW ENFORCEMENT TRUST FUND (LETF) MONIES TO COVER COSTS PAID FROM THE GENERAL FUND FOR SERVICES TO OBTAIN PERMITS AND RELATED EXPENDITURES ASSOCIATED WITH THE U.S. ARMY CORPS OF ENGINEERS, STATE OF FLORIDA, MIAMI-DADE COUNTY DERM, AND GOLDEN BEACH FOR CONSTRUCTION OF A PUBLIC DOCK AND POLICE BOATLIFT ON THE INTRA-COASTAL WATERWAY; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6
Resolution No. 2208.11

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2208.11

A motion to approve was made by Vice Mayor Bernstein seconded by Councilmember Lusskin.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed.

Town Manager explained that this is the second of a series of authorizations to pay back the Town's General Fund.

7. A Resolution of the Town Council Authorizing the Use of Law Enforcement Trust Fund (LETF) Monies to Make a \$5,000 Contribution to Teach for America (TFA)

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING THE USE OF LAW ENFORCEMENT TRUST FUND (LETF) MONIES TO MAKE A \$5,000 CONTRIBUTION TO TEACH FOR AMERICA (TFA); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7
Resolution No. 2209.11

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2209.11

A motion to approve was made by Councilmember Lusskin seconded by Councilmember Isackson-Rojas.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed.

Mayor explained that the Town Manager, Police Chief and himself, went to a presentation by Teach For America to learn more about the program. He stated that it is an appropriate donation that will help underprivileged areas in Miami-Dade County. Once the Town makes the donation, the Mayor suggested that the Town could have them come in and make a presentation.

R. DISCUSSION & DIRECTION TO TOWN MANAGER

Mayor Glenn Singer:
None Requested

Vice Mayor Kenneth Bernstein:
None Requested

Councilmember Judy Lusskin:
None Requested

Councilmember Amy Rojas:
None Requested

Councilmember Bernard Einstein:
None Requested

Town Manager Alexander Diaz
None Requested

S. ADJOURNMENT:

A motion to adjourn the Council Meeting was made by Mayor Singer, seconded by Councilmember Lusskin.

Consensus vote 5 Ayes 0 Nays. Motion passed.

The meeting adjourned at 9:31 p.m.

Respectfully submitted,

Lissette Perez
Lissette Perez
Interim Town Clerk