



# TOWN OF GOLDEN BEACH

One Golden Beach Drive  
Golden Beach, FL 33160

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Official Minutes for the June 15, 2021  
Regular Town Council Meeting called for 6:00 P.M.

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**Zoom Room Meeting ID: 879 3044 8984 Password: 692566**

**For Dial In Only: Call 929.205.6099 Meeting ID: 879 3044 8984**

THE PUBLIC MAY PARTICIPATE AT GOOD AND WELFARE; PLEASE HOLD ALL QUESTIONS AND COMMENTS UNTIL THEN! THE PUBLIC IS ENCOURAGED TO SUBMIT ALL COMMENTS VIA EMAIL TO [LPEREZ@GOLDENBEACH.US](mailto:LPEREZ@GOLDENBEACH.US) BY 2:00 P.M. TUESDAY, JUNE 15, 2021.

## A. MEETING CALLED TO ORDER

Mayor Singer called the meeting to order at 6:10 p.m. *\*\*\*Put on record it is the first in person meeting in over 15 months\*\*\**

## B. ROLL CALL

**Councilmember's Present:** Mayor Glenn Singer, Vice Mayor Bernard Einstein, Councilmember Jaime Mendal, Councilmember Kenneth Bernstein, Councilmember Judy Lusskin

**Staff Present:** Town Manager Alexander Diaz, Town Attorney Steve Helfman, Town Clerk Lissette Perez, Finance Director Maria D. Camacho, Police Chief Rudy Herbello, Building Director Linda Epperson, Resident Services Director Michael Glidden, Public Works Director Kirk McKoy, Facilities Maintenance Director Ken Jones

## C. PLEDGE OF ALLEGIANCE

Chief Herbello led the Pledge of Allegiance

## D. PRESENTATIONS / TOWN PROCLAMATIONS

RECOGNITION OF OFFICER JOSEPH BAUTISTA – PROMOTED TO SERGEANT

RECOGNITION OF GOLDEN BEACH YOUTH LEADERSHIP GROUP MEMBERS FOR PARTICIPATION IN ZOOM COOKING CLASS

## E. MOTION TO SET THE AGENDA

ADDITIONS/ DELETIONS/ REMOVAL OF ITEMS FROM CONSENT AGENDA/ AND CHANGES TO AGENDA

Councilmember Einstein asked to move Item #10 to the spot where Item #8 is.

Consensus vote 5 Ayes, 0 Nays

## F. GOOD AND WELFARE

None

## **G. MAYOR'S REPORT**

Welcomed everyone to the in person meeting. A few things on the agenda that are critical to Golden Beach. First is the final proposal and business terms for the high speed fiber and managed Wi-Fi through Hotwire communications. We feel this is a much-needed addition to the community. Believes we will be the first city in the country with service of 1 gig up and 1 gig down to the residents of a community. Thanked the hard work of the Town Administration and Council. Second, is the Town Civic Center. Officially broke ground, and physical construction has begun. If all goes well the project should be done in 24- Months. Third, is that Sunny Isles started their beach restoration and the Town of Golden Beach has already benefited from it. The sand has gone about 25-yards east and they are not even done with the project it has just started. In the summer, Hallandale will begin their beach restoration and we should benefit from that as well. Finally, summer is here. Residents need to prepare for the hurricane season, if you are leaving Town, let Town Hall know so they can put an extra watch on your home.

## **H. CORONAVIRUS UPDATE**

The Town Manager stated this is our first in person meeting now that we meet OSHA requirements for a confined space for a meeting. Knows most of the Council is vaccinated, but most of the staff is not. We currently have an outbreak with staff. Although COVID seems to have gone away, we still need to be responsible. As you know back in April, we had a vaccination program in Town. This will be the last COVID update in the agenda because the Governor and the state have declared to open businesses back to normal, but we still have to follow CDC and OSHA guidelines. Bear with us as we get adjusted, we are lifting all the restrictions that we have in Town, you are now allowed to reserve the pavilion and bring guests to the beach.

## **I. COUNCIL COMMENTS**

**Vice Mayor Lusskin** stated there is so much construction in Town and it is becoming a bit of problem for traffic and parking especially on some of the islands. Has received calls from residents on South Island who have not been able to get home sometimes. Thinks the Police Department needs to really watch what's going on Monday-Friday until construction eases off. Asked if the issue about the boat speeds that the Mayor has mentioned has improved at all? Stated the medjools look good now that they have been trimmed. Stated now that the weather is nice and COVID restrictions have been lifted, it would be nice to do a bagels on the beach to meet all the new residents that have moved in. Believes it is time to consider building the Massini Wall. Stated a community of our stature really needs to be walled in on both ends. Knows we have a lot on our plate with the Civic Center and fiber, but thinks it is something we really need to do.

**Councilmember Einstein** stated we had a tremendous downpour today in Town. It is amazing how dry the Town is compared to how the Town was 12-14 years ago when the Town would just be a complete disaster. The stormwater has worked and it is great. Stated it is good to see everyone back, the Town and A1A look good.

**Councilmember Bernstein** echoed Councilmember Einstein's comments on how great the Town looks and knows 14 years ago that would have been inconceivable. Commended the staff and council on keeping the Town together during COVID with communications and zoom meetings. Stated all the years he has been on Council he does not think he has been as angry as he was at the workshop. He met with the Town

Manager and he told him that a lot of people think that he has an issue with the Town Manager. He wants to put it on record that he believes we have the finest Town Manager in the entire state. Considers the Manager an amazing friend. Noticed with the boats that there are one or two places that are renting jet skis out of hotels or condominiums and the people they are renting them out to have no respect or understanding of the law. Thinks we should have our police contact the vendors and explain that they will arrest them and charge the vendor. Also, mentioned that the channel markers are not flashing and it is something worth notifying someone about.

**Councilmember Mendal** mentioned that he does know someone who is unhappy with the Manager, concerning the issue with the flag. He asked the Manager to look into that and try to get to the bottom of that. Brought up the Massini Wall as well. Heard one consistent comment from residents, asking if the beach chairs could stay out an extra hour because most people are still out there when they are taking them out because it is getting darker later on in the day.

## **J. TOWN MANAGER REPORT**

Thanked Councilmember Bernstein for his words. We have never settled. Our community is ever-evolving. Today alone there are over 41 sites that are either being renovated or under construction. Responds to 5 to 7 requests for liens on a weekly basis and Golden Beach is the premier community in South Florida. Thank you for acknowledging that we do have a great working relationship together as a community. Although we see a lot of activity in Town, our June 1 numbers did not fall where we expected. We will have a very robust capital project needs in our budget. Believes the 2023 budget will be very exciting but the 2022 budget will be very challenging for us. Will be doing some unique things with this year's budget. Fair warning – you will see a very reverse millage rate this year. It is still going to be kept at 8.4 mills, but your operating millage will be much larger than in previous years but your bond millage will be very low. The reason for this is we have to spend the cash in our reserves out of the debt service account. This year we are going to manipulate the millage rate to burn the cash in the fund balance for the debt service and utilize that cash for the operating budget. Maria Camacho and the Finance Department have done an amazing job getting all our COVID reimbursements. The Massini Wall the mayor has always been on our capital list, we feel that it may be one of the projects that we start funding in the coming year to at least get new numbers and permitting so if we decide to move forward we have that. Security is another big concern from our new residents. A lot of our new residents are asking that we look at our CCTV program, our vehicle archival system and our pedestrian access throughout the community. Asking that we build a more robust CCTV program. We estimate that that project will be anywhere between \$800,000- \$1.2 million. Funding these critical investments in our community is important. Will be having our food trucks back at the beach starting next month. There will be three food truck events in the month of July and three food truck events in the month of August. During the summer, we will be hosting with all of our key community partners our first ever sea level rise workshop. What we are starting to see when we raise the sea wall elevations and we raise the minimum height for houses is that we have not talked about what we are doing with properties and roads. As new homeowners are coming in they are asking us to raise the elevations of properties and look at that as a study. For the first time in probably 95 years, we are now requiring all Ocean Boulevard residents to certify their bulkheads and ensure that their bulkheads meet the minimum state elevation on the ocean. We think this is the first step to being sustainable as it relates to the Ocean side. We will be busy this summer, and we will meet again at the end of August. Stated that the Police Department hosted a multi-agency boat task force out in the intercostal where they made several arrests and issued over 50 citations and warnings. Will

continue to do those boating enforcement details, and we will speak to the vendors that are providing services in the neighboring communities to see that they do a better job educating their renters. Wished everyone a happy summer and know that we will be busy.

**Councilmember Mendal** asked if we could get something on the record about the Town's flag.

**Town Manager** assigned the Resident Services Director to figure something out about the flag.

#### **K. TOWN ATTORNEY REPORT**

None

#### **L. ORDINANCES – SECOND READING**

None

#### **M. ORDINANCES - FIRST READING**

- 1. An Ordinance of the Town Council Amending Division 3, Article 3, Chapter 2, Building Regulation Advisory Board and Chapter 50, Design Review Procedures**

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY AMENDING DIVISION 3, ARTICLE 3, CHAPTER 2, BUILDING REGULATION ADVISORY BOARD AND CHAPTER 50, SECTION 50-2 DESIGN REVIEW PROCEDURES, TO AMEND BOARD PROCEDURES AND PROVIDE FOR DESIGN REVIEW OF NEW CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 1  
Resolution No. 596.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 596.21

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

On roll call, the following vote ensued:

|                                 |            |
|---------------------------------|------------|
| Mayor Glenn Singer              | <u>Aye</u> |
| Vice Mayor Judy Lusskin         | <u>Aye</u> |
| Councilmember Bernard Einstein  | <u>Aye</u> |
| Councilmember Jaime Mendal      | <u>Aye</u> |
| Councilmember Kenneth Bernstein | <u>Aye</u> |

The motion passed.

**Town Manager** spoke on the item. The board asked that we give them more flexibility as it relates to design standards but without creating an ordinance that requires a specific design criteria. That means they get to sit as a board that can give an opinion, approve, or disapprove a design or element of the home that they do not feel is consistent with the community. We want to be able to give the BRAB approval to say hey the design of this home may not go well with a metal roof. This is something that the BRAB has been asking for, for many years. The entire committee supports this unanimously.

**Mayor Singer** asked if someone designs a home and the BRAB says no, is there a challenging process.

**Town Manager** stated yes, they have seven days to file a request with the clerk to have it go before the Town Council, similar to the variance request.

**Councilmember Bernstein** stated the BRAB has to always deny the variance because it is very seldom that it ever comes underneath the guides to meet all the requirements. We asked the committee to take the time to look at them and make recommendations. Maybe to get a feel for what they want as opposed to a general no on the variance we can look into this a little deeper to see if they have suggestions to change the variance criteria.

**Town Manager** stated and that is where it has been uncomfortable for the administration. Although the process requires hardships to be met this board and the BRAB has always allowed applicants to make a request without meeting the hardships. 99% of the variances that come in front of you do not have true hardships, they have desires. Most of our ordinance changes have come from the variance process, we have taken many of the variances you granted and amended our code because they continue to come up several times. He agrees with Councilmember Bernstein, the board is required to say no because they do not meet the hardship.

**Councilmember Einstein** stated that the time and money it takes to codify this just does not seem to be worth it. Asked Town Attorney if we are moving more to a Coral Gables type of design.

**Attorney Helfman** stated that no, this does not go into architectural or interior designs. What this does is give the home some flexibility of design to make sure that there is a consistency with the different properties.

**Town Manager** stated over the course of the last 24 months there have been elements that most would find not desirable elements to be in our community. When the BRAB tells the homeowner or buyer we don't necessary like that, the response is rough because you can't tell them "no" so long as they meet the materials, colors, etc. there is very little to do. If for some reason the board gets it wrong or the architect does not see eye to eye, they can always make the request to bring it to the Council, he doesn't see that happening often.

**Vice Mayor Lusskin** stated she wants to address the code often times being silent on something, why if it's silent and not mentioned does it necessarily have to be something that is negative and they can't do?

**Town Manager** stated it does not, in most cases when the code is silent we side on the request.

**Councilmember Mendal** stated he would hate to tell someone that buys a property here that they cannot do what they want to do. No one wants to live in a world where he decides what design he or she should have. If we see too much of these appeals he feels we should revisit this right away.

**2. An Ordinance of the Town Council Amending the Town's Land Development Regulations, Chapter 66, To Clarify the Definition of a Single-Family Residential Dwelling.**

AN ORDINANCE OF THE TOWN OF GOLDEN BEACH, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES BY AMENDING THE TOWN'S LAND DEVELOPMENT REGULATIONS, CHAPTER 66, ARTICLE III, DISTRICT REGULATIONS, SECTION 66-67 ZONING DISTRICTS, TO CLARIFY THE DEFINITION OF A SINGLE-FAMILY RESIDENTIAL DWELLINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 2  
Resolution No. 597.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 597.21

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

On roll call, the following vote ensued:

|                                 |            |
|---------------------------------|------------|
| Mayor Glenn Singer              | <u>Aye</u> |
| Vice Mayor Judy Lusskin         | <u>Aye</u> |
| Councilmember Bernard Einstein  | <u>Aye</u> |
| Councilmember Jaime Mendal      | <u>Aye</u> |
| Councilmember Kenneth Bernstein | <u>Aye</u> |

The motion passed.

**Mayor Singer** spoke on the item. Stated he saw a new company in the wall street journal and it is a private equity firm that raised several hundred million dollars to buy luxury homes and sell 1/8 shares, meaning there will be eight individual owners of that home. This means he could have eight different residents living next-door to him at different times. He notified the Town Manager and Town Attorney to come up with something that would prohibit someone doing that. Yesterday the Town manager and he happened to look at that website and there was a home in Golden Beach on that

website. The fear he has is that we cannot prohibit someone from buying in Golden Beach and he fears that suddenly every month or two there will be a new resident in Golden Beach because it is basically a vacation home. Asked Town Attorney to expand.

**Attorney Helfman** stated our code currently limits use of properties to single family residential. Believes that limitation may be sufficient but understands the potential. What we need to do is define that a single family home is for the use of a single family at all times. What we have done here is to enhance the limitation by saying that it can be used as a single-family residence but at all times be occupied as a single household for that family. Cannot have multiple households within this building.

**Councilmember Bernstein** asked if he could add more specific definition to what a single family household is on there. Asked if two brothers or friends want to live together how would you restrict that?

**Attorney Helfman** stated that we do not really restrict the scope of who your family is, but this is something different.

**Councilmember Bernstein** this is a fractional ownership and if you are trying to manipulate this as a fractional ownership, you might take that to a different degree and say I have eight friends and we are all sharing the house. Asked if we are already saying two friends can be there together and one does not have to be there all the time? What stops them from having more friends?

**Attorney Helfman** stated what they are doing is buying it under an LLC and selling membership to 1/8<sup>th</sup> of it. Stated as a local government they cannot prohibit how people own property, the only thing they have the right to control is the use of the property. What we have is a single-family use for example you cannot use it for an Airbnb.

**Town Manager** reminded the Council these are owners not tenants.

**Town Manager** read into record the following questions asked by a resident at home: "why can't you add verbiage that says no time shares specifically stating what you don't want to happen? How would you prove people aren't family? Can you force people to show an ID? What if I were to say all the co-owners are my family? Or state one single family living in once a year?"

**Town Manager** asked the Town Attorney to walk him through how he would enforce this as the Town Manager.

**Attorney Helfman** stated that first you need to publicly notice this, which is already being done through this meeting.

**Mayor Singer** stated that we notify any potential buyers immediately after the ordinance gets passed. No owner is going to want to fight that, they will walk away.

## **N. QUASI JUDICIAL RESOLUTIONS**

None

## **O. TOWN MAJOR PROJECTS UPDATE**

- Civic Center Complex Masterplan
- Center Island Pump Station
- Fiber Project

**Town Manager** stated that he would send the update in writing. Have 18 projects underway they are all currently on schedule and ahead of budget. The big one is the Civic Center, which broke ground and the Center Island Pump Station that is moving along.

**P. CONSENT AGENDA**

- 3. Official Minutes of the April 20, 2021 Regular Town Council Zoom Virtual Meeting**
- 4. A Resolution of the Town Council Authorizing the Purchase of One Chevrolet Tahoe, One Ford F-150 and One Ford Transit for the Police Department.**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING THE PURCHASE AND EQUIPPING OF ONE CHEVROLET TAHOE, ONE FORD F-150 AND ONE FORD TRANSIT AND THE USE OF GENERAL FUNDS TO PURCHASE AND EQUIP THE VEHICLES ; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 4  
Resolution No. 2744.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 2744.21

- 5. A Resolution of the Town Council Approving the Proposal from Mainguy Landscape Services for landscape work at the two new bus shelters locations**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING THE PROPOSAL PROVIDED BY MAINGUY LANDSCAPE SERVICES FOR THE REMOVAL OF EXISTING VEGETATION AND INSTALLATION OF A NEW IRRIGATION SYSTEM TO ACCOMMODATE THE INSTALLATION OF TWO NEW BUS SHELTERS IN TOWN; PROVIDING FOR A WAIVER OF BIDDING PROCEDURES; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 5  
Resolution No. 2745.21

**Sponsor:** Town Administration



**Recommendation:** Motion to Approve Resolution No. 2745.21

**6. A Resolution of the Town Council Approving A Contract with Custom Tree Care, Inc. for Disaster Debris Removal and Disposal Services.**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING A CONTRACT WITH CUSTOM TREE CARE, INC. FOR DISASTER DEBRIS REMOVAL AND DISPOSAL SERVICES; AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 6  
Resolution No. 2746.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 2746.21

**7. A Resolution of the Town Council Approving A Joint Project Agreement with the State of Florida Department of Transportation for Turf and Landscape Maintenance.**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING A JOINT PROJECT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR TURF AND LANDSCAPE MAINTENANCE; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AUTHORIZING THE MAYOR AND TOWN MANAGER TO TAKE ALL ACTION NECESSARY TO IMPLEMENT THE AGREEMENT; PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 7  
Resolution No. 2747.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 2747.21

Consensus vote 5 Ayes, 0 Nays. Items P3 – P7 pass.

**Q. TOWN RESOLUTIONS**

**8. A Resolution of the Town Council Approving Amendment #1 to the 2020-2021 Fiscal Year Operating Budget.**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING

AMENDMENT #1 TO THE 2020-2021 FISCAL YEAR OPERATING BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 8  
Resolution No. 2748.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 2748.21

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

On roll call, the following vote ensued:

|                                 |            |
|---------------------------------|------------|
| Mayor Glenn Singer              | <u>Aye</u> |
| Vice Mayor Judy Lusskin         | <u>Aye</u> |
| Councilmember Bernard Einstein  | <u>Aye</u> |
| Councilmember Jaime Mendal      | <u>Aye</u> |
| Councilmember Kenneth Bernstein | <u>Aye</u> |

The motion passed.

**Town Manager** stated your stormwater fee and stormwater fund does not generate enough revenue to create an ongoing maintenance fund balance in its system. Your stormwater to date has had a system failure at pump station #1 for the past 36 months. We have gone out and gotten bids to replace pump station #1 and create a secondary outfall through the south park area. To convert this station from being a deep fall injection to an outfall injection, there is a bid for \$78,500. He is asking that the general fund through your contingency funds allocate \$78,600 and lend that money to the stormwater fund in the hopes that one day the stormwater fund will repay the general fund the money that it is being lent. Currently the stormwater fund owes the general fund \$2.3-million this will increase it by \$78,600.

**Councilmember Einstein** asked if the piping is there already.

**Town Manager** stated we currently have a second discharge through south parkway. Right now that is only back up should the wells fail. They are currently at capacity. We need to convert this pump from being a deep fall injection pump to divert it to a forcemain outfall pump. There are changes that need to be made both at the well and at the field in front of 147 Golden Beach Drive, that whole area needs to be escalated and a junction box needs to be put there.

**9. A Resolution of the Town Council Approving A Contract with Southeastern Engineering, Inc. for the Tweddle Park Stormwater Outfall Fittings Replacement.**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING AN AGREEMENT WITH SOUTHEASTERN ENGINEERING CONTRACTORS, INC. FOR THE TWEDDLE PARK

STORMWATER OUTFALL FITTINGS REPLACEMENT;  
AUTHORIZING THE MAYOR TO EXECUTE THE  
AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND  
PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 9  
Resolution No. 2749.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 2749.21

A motion to approve was made by Councilmember Mendal, seconded by Councilmember Einstein.

On roll call, the following vote ensued:

|                                 |            |
|---------------------------------|------------|
| Mayor Glenn Singer              | <u>Aye</u> |
| Vice Mayor Judy Lusskin         | <u>Aye</u> |
| Councilmember Bernard Einstein  | <u>Aye</u> |
| Councilmember Jaime Mendal      | <u>Aye</u> |
| Councilmember Kenneth Bernstein | <u>Aye</u> |

The motion passed.

**Town Manager** spoke on the item. When pump station #1 fails it floods the tennis courts and park area. The engineers have recommended that we abandon the deep wells and convert this to a forcemain outfall. This project will convert that pump system and put a new junction box at 147 Golden Beach Drive.

**Councilmember Einstein** asked that if with our new Town Hall will this effect that.

**Town Manager** stated that the Civic Center design has its own independent design for stormwater.

**Councilmember Einstein** asked if they are going to conflict.

**Town Manager** stated that we are very fearful that the design for the Civic Center Complex at times will be flooded. Because it relies a lot on the ground to absorb that saturation. So, we require as part of that design that they put a couple manholes to tie in to our system. Because this wall has extra capacity, we are able to do that.

**10. A Resolution of the Town Council Approving the Terms of a Communication Services Installation and Service Agreement with Hotwire Communications, Ltd.**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING THE TERMS OF A COMMUNICATION SERVICES INSTALLATION AND SERVICE AGREEMENT WITH HOTWIRE COMMUNICATIONS, LTD. FOR TELECOMMUNICATION SERVICES; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**Exhibit:** Agenda Report No. 10  
Resolution No. 2750.21

**Sponsor:** Town Administration

**Recommendation:** Motion to Approve Resolution No. 2750.21

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

On roll call, the following vote ensued:

|                                 |            |
|---------------------------------|------------|
| Mayor Glenn Singer              | <u>Aye</u> |
| Vice Mayor Judy Lusskin         | <u>Aye</u> |
| Councilmember Bernard Einstein  | <u>Aye</u> |
| Councilmember Jaime Mendal      | <u>Aye</u> |
| Councilmember Kenneth Bernstein | <u>Aye</u> |

The motion passed.

**Town Manager** spoke on this item. Stated we are hoping to be the first community in the nation to provide a fiber back bone with a dedicated fiber to every home with a managed Wi-Fi system to the homes capable of providing 1 gig speed up, 1 gig speed down and if you choose to do so expand to 2, 5, or even 10 gigs. We are bringing to you for final consideration our business terms, what we have negotiated in terms of expectations. You are adopting in draft format the agreement. The agreement still has some room to grow, not negotiated terms but language. The Attorney, Mayor and I will continue to iron out the areas of the agreement that still need ironing out. What doesn't need ironing out is what impacts our residents such as service level, our business terms and negotiated rate, which is extremely competitive for our residents. The way we implement the project is extremely competitive. Hotwire Services will come in to our community. They will come in through The Strand and build a backbone to every single house. They will set up a meeting with you where they will evaluate your home and every single one of your devices that connects to the internet. They will evaluate if your existing network is worth saving or if you need additional pods besides the four that we provide which the resident will pay for. Why did we decide to do a managed Wi-Fi instead of just getting Wi-Fi to your door? It is because most likely the devices in your home that you have cannot support that speed because you are limited. Most homes in Golden Beach will not need more than four pods. By the way, you are seeing a lot more of these cable providers offering this service. If they design your home and you say no I want to keep my system that is on you. In addition to that, there is commitment in terms of how they have to answer our calls. A live person has to answer our calls from a US call center. Because it is a managed Wi-Fi, Hotwire will know before you do if a pod is offline. They will have customer support to diagnose the issues you are having. They will have the capabilities to offer our residents video, telephone, and security services. Although we do not have video service with Hotwire we negotiated an extremely competitive pricing for our residents. For the managed Wi-Fi system, we negotiated \$44.00 per month per home, should you need another pod there is a purchase price of \$199.00 and rental prices of \$9.99. Should you want video, here are the terms we agreed to. Should 40% of our homes choose any of the video packages during the launch period, they will honor the promotional rate throughout the term of the agreement, which is ten years. Therefore, they will honor a bulk rate should 151 residents sign up for video. That rate is locked, unless the providers have a licensing

increase that will be a straight pass through to us without a markup. If a specific channel's rates goes up, you can ask Hotwire to take that off your listing and the resident's rate will not go up. We will have a ten-year commitment and be obligated to pay the internet for our residents, how we ask our residents to pay for that is still undetermined. The residents will have an individual relationship with the provider for the video, phone and security services. By the way, if you get their digital deluxe package, that is locked in at 99.99. Part of this contract is assuming Hotwire will provide our CCTV, access control, and build out the wiring for our new Civic Center. We are still working with them on other services we would like to see but that is not being presented tonight. If you choose to get 2-gigabite internet speed that is a rate of \$99.00 on top of what you are currently paying. If you get the 5-gigabite, it will be a rate of \$200.00. It is a 10-year agreement, it does have a capped 3% COLA built into it, tied to a local index. What we want to do tonight should you approve this is tell Hotwire get this started we want this done, and we want to go live before the end of the year. We feel that we are a few days away from getting a final agreement that we can all feel comfortable executing on behalf of this Council.

**Vice Mayor Lusskin** stated that she saw that on the evaluations that the on demand media was poor, she was not sure if that is important or not. In addition, had a resident ask her if they would have to change their email address?

**Town Manager** stated that if a resident has an email specific to a provider that is a question to the provider. Typically, if you leave a provider they may have you leave the email.

**Joe Ferst, Vice President of Hotwire Communications, Ltd.** stated that if they have an email specific to a provider, that provider is going to want to keep that email address. That is the standard cable model and that is why they do not offer Hotwire email accounts anymore.

**Councilmember Einstein** stated that he has a number of questions. Originally there was a discussion of how are we going to pay for this. Ideally, we will get back an attorney general opinion. If we do not get the attorney general approval, where would we go from there? Thinks we should talk about that because we are signing a contract, telling them to do a job, and the someway we are going to pay for it should be discussed now.

**Mayor Singer** stated that there will be an item later on to come before Council regarding how they will pay for this service.

**Councilmember Einstein** stated that when service is down is there an algorithm or an equation of what they will owe the town.

**Mayor Singer** asked what happens if five years down the road they are fed up with this company what happens to the access point that they install into individual homes. Do they come to each residence and take out the access points or leave them?

**Mr. Ferst**, stated that Hotwire will review the timeline in which calls are answered. The estimated time to cure and estimated time to restore. We put these items in our contracts when the majority of cable companies try not to. Have hundreds of call center agents throughout the states that are Hotwire employees. We have hundreds of thousands of customers and all I can point back to is our track record.

**Mayor Singer** stated when they first met Hotwire their selling point was their customer service. Stated that they need to have some trust in the company that they are going to go into business with.

**Councilmember Einstein** stated he agrees with the Mayor but this is his opportunity because he is who they entrusted to negotiate this agreement, looking at this boiler plate of this agreement doesn't think there's a lot of bones in it for the Town.

**Mayor Singer** recommended that they make a note of it and have the Attorney look into it further.

**Town Manager** stated to that point because we currently do not have any relationship with our existing providers we get nothing. Maybe they can get a little more bite out of this agreement, but not sure, because we have never entered into an agreement like this before. Stated that he is nervous as heck about becoming a telecommunications provider. But also wants to deal with the residents that are banging down his door to do something about the bandwidth issues in Town.

**Mayor Singer** asked if the access points are the Towns.

**Mr. Ferst** stated that they wouldn't be, they are Hotwire's property. If the Town wanted to purchase additional access points, they could.

**Councilmember Bernstein** asked if you purchase additional access points, how much would those be.

**Town Manager** stated \$199.

**Councilmember Bernstein** asked about the 3% increase, is it supposed to be based on index.

**Town Manager** stated it is a 3% tied to the department of labor statistic index and is capped at 3%. They specifically gave us which index they are tying it to.

**Councilmember Bernstein** the contract does not read that, it reads, "it won't be less than CPI" which doesn't make any sense to him.

**Town Manager** asked Joe to clarify how the CPI is maxed at 3%

**Mr. Ferst** stated that the standard is between 4-4.5%, they are committing to the 3% or the CPI index in case that sky rockets through the roof. What they negotiated is that it will be capped at 3%, which is not anything they have ever done before.

**Councilmember Bernstein** asked if the static IP address will increase.

**Town Manager** stated no those are fixed.

**Councilmember Bernstein** asked if the 2-gigabites will be increasing by 3%.

**Town Manager** stated he is assuming those will also be tied to the CPI.

**Mr. Ferst** stated that the bulk would be tied to the 3%, the rates are typically what the rate sheet would go by.

**Councilmember Bernstein** asked about the 2 gigabytes. Is that going to be \$99 for the next ten years?

**Mr. Ferst** stated that the retail rates are what is on the rate sheet. Being very transparent. If for some reason something happens with the access points and they are 100 times more expensive, than a conversation would be had at that time.

**Town Manager** stated that if Council have comments or mark ups on the contract to get them to the Administration now before the final contract is drafted. Any comments, especially the attorneys on the board, please make sure you get them to the attorney.

**Councilmember Bernstein** also stated that is there any reason to put in the contract right now that this is subject to government approval and just saying that we will use best efforts.

**Town Manager** stated that what Councilmember Einstein and now Bernstein are bringing up is to put a clause in there that if the Town cannot put forth the assessment based on the attorney general's opinion then the contract is null and void. Hotwire is not going to move forward with building and installation if that clause is in there. The attorney general opinion is what we need for the assessment and should she say no than the assessment fails, and the burden is put on the Council and Administration to identify other potential funding sources to pay for this contract.

**Councilmember Bernstein** stated that he read that there are certain things in there. If this contract is for October 1<sup>st</sup>, why not resolve this and then go forward with that. Thinks that it is to Hotwires best advantage to know that we are on board contingent on this one thing.

**Councilmember Einstein** stated that is part of what his original understanding was, and that was not this contract subject to that.

**Councilmember Mendal** asked if we could pass the special assessment without the attorney general's opinion.

**Town Manager** stated that yes, they could but it leaves the Town open to it being challenged in the future.

**Mayor Singer** stated Councilmember Mendal brings up a great point because our initial plan when we first discussed this is, why don't we just asses the residents because they will be paying the same or less. The Town Attorney then stated that someone can challenge it and that is the only reason we decided to get an attorney general opinion. We should go ahead and do it without the attorney general's opinion, because he might say no and still no one challenge it.

**Councilmember Einstein** stated he thinks the Town Manager should discuss the manners in which this could be financed.

**Town Manager** stated that there are growing capital needs and improvements that need to be made to this community. This evening the Vice Mayor asked that we make a wall that can cost up to \$700,000; we know that we have done a study for upping our security, that study has shown it is a minimum of \$800,000 to \$1.2- million. We know this fiber project is at \$2.3 million, the renovation of the current Town Hall is going to

cost \$800,000. We have project needs. Stated that should we not be able to pass the assessment, we would recommend a millage rate increase to create new revenue. Does not think that a millage rate increase is the right way. The Town could easily amend its stormwater fee and use those revenues to pay off this fund. Should the attorney general say yes, that does not mean that someone is not still going to challenge it. Because someone could still challenge it and we would still have those same litigation costs.

**Mayor Singer** commented on the budget. Stated that Golden Beach's demographics have changed dramatically over the past three years. Three years ago, nobody really cared about internet speeds. The new group of homeowner's expect better service. Expenses are increasing. We are seeing inflation that we have never seen before. It is going to effect the town's budget, but one thing we cannot do is stifle our growth. So my suggestion tonight is that we approve this, move forward and then come budget time we evaluate the situation then.

**Councilmember Einstein** stated he agrees with the Mayor but believes we have to have some type of agreement in place for if the attorney general opinion is not approved. Asked if the first payment is coming out of this year's budget?

**Town Manger** stated he has a plan in place to help us cover it until we decide how we are going to fund this.

**Councilmember Bernstein** asked that if we cannot get the attorney general's approval on this – to him this is a critical issue in Town. Does not think that we have ever assessed the residents on anything like this before. If we cannot get a positive response from the attorney general, is confident that the Town Manager can find the funds.

**Town Manger** stated that we absolutely cannot do that. We currently have to cut \$600,000 from next year's budget. Absolutely cannot cut \$800,000 from the budget that will sacrifice our services. He has worked miracles and brought this Town \$39- million plus in money but he will not find \$800,000 because it will not happen.

**Mayor Singer** stated that if down the road they end up not being able to pay for it, they are going to have to look at the budget as a whole and adjust.

**Town Manager** stated he wants to hear from the Council which employee they want him to lay off, which service do they want him to cut off, what pension program are we not going to give?

**Councilmember Mendal** stated that is not the way to go about this, for example we don't need to spend \$120,000 on fountains right now. That is not the way to have this conversation, if we have issues with the budget we sit down and we look at the budget as a whole. Stated that for him this is one of the most important projects for the Town, right below the Civic Center and feels that there are other things he prefers to cut than this.

**Councilmember Bernstein** asked how do we sign this contract if we do not have the money.

**Town Manager** stated there are dollars that need to be recouped form the Town that are owed to us. There is other funding mechanisms; the Council has to have the will power to tell all its residents we want to be able to offer more amenities that are outside



of our means. Offered one way to do it is to increase your stormwater fee to repay the \$2.3-million that the stormwater fund owes the general fund and we can allocate those instead of finding out which employee we are going to lay off or which service we need to cut out.

**Councilmember Bernstein** stated that was all he was trying to say, is that he thinks the Town Manager has the creativity to find a way.

**Town Manager** stated the Council has all these demands such as marine patrol, enhanced security, and a wall on Massini placed on the Administration, the Council needs to be willing to open their pocket books.

**Mayor Singer** stated that the first objective is to bill the residents. If plan A does not work, we go to plan B and adjust the stormwater fee and if plan A and B does not work, we have the ad valorem tax assessment. Stated that what we do not want to do is start cutting the benefits to the residents. Do not want anyone to think that we are going to start cutting customer services. Our residents are accustomed to being pampered and they deserve it.

**Town Manager** stated that not only our residents, but also on the backs of our staff who have been waiting a long time for salary increases and benefit enhancements.

**Mayor Singer** stated that everyone has to remember that what we are asking the residents to pay for, we have to pay for also. We are going to think the way to charge the residents for this service out thoroughly. Tonight we are just trying to get the resolution approved which will lead him, the Town Manager, and Town Attorney to finalize the contract.

**Councilmember Bernstein** asked if there were other communities providing this.

**Mr. Ferst** stated that Golden Beach would be the only community in the United States to provide this.

## **R. DISCUSSION & DIRECTION TO TOWN MANAGER**

Mayor Glenn Singer:  
None Requested

Vice Mayor Judy Lusskin:  
None Requested

Councilmember Bernard Einstein:  
None Requested

Councilmember Jaime Mendal:  
None Requested

Councilmember Kenneth Bernstein:  
None Requested

Town Manager Alexander Diaz

- 2021 Town Hall End of Year Holidays Closure December 27<sup>th</sup> – 31<sup>st</sup>

**Town Manager** stated he will be setting the millage rate with the Mayor, the Council will not have the opportunity to get this year's millage rate because we are not meeting until the 31<sup>st</sup> of August. We will be setting the millage rate and informing the county what the trim notice requirements are. Calling for the August council meeting to be scheduled on August 31<sup>st</sup>.

\*\*\* *Council Agreed*\*\*\*

**S. ADJOURNMENT:**

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A motion to adjourn the Council Meeting was made by Mayor Singer seconded by Councilmember Mendal. Singer/Einstein

Consensus vote 5 Ayes 0 Nays. Motion passes.

The meeting adjourned at 9:20 p.m.

Respectfully submitted,

*Lissette Perez*  
Lissette Perez  
Town Clerk