



AGENDA ITEM REQUEST FORM

Item No. 2a

Public Information Officer

Department Submitting Request

Steve d'Oliveira

Dept Head's Signature

SD

COMMISSION WORKSHOP

January 25, 2011

SUBJECT TITLE: BEACH RECREATIONAL USES

EXPLANATION: The Town Commission scheduled a workshop to review all beach recreational uses to study whether regulations are needed to increase public safety along the beach. Town staff reviewed regulations in nearby coastal cities and developed a chart for comparison. The Town Code and previous Town minutes on this subject were also reviewed.

RECOMMENDATION: Staff seeks direction from the Town Commission on what regulations it wants to develop and whether it should be directed to negotiate a fee sharing agreement if skim-boarding instruction is allowed on the beach.

EXHIBITS: Staff memo, chart, previous agenda item on this issue (which includes 2009 kite-surfing proposal), Alley Oop proposal and historical documents.

FISCAL IMPACT AND APPROPRIATION OF FUNDS:

Amount \$ _____ Acct # _____
 Transfer of funds required From Acct # _____

Reviewed by Town Attorney
 Yes No

Town Manager Initials *CH*

10/26/2010

**Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, Florida 33308-3610**

Memorandum

Date: Jan. 20, 2011
To: Connie Hoffmann, Town Manager
From: Steve d'Oliveira, Public Information Officer
Subject: Jan. 25th Recreational Beach Activity Workshop

I reviewed recreational beach regulations for Fort Lauderdale, Deerfield Beach, Pompano Beach and Hollywood. The chart attached summarizes the various policies and there are significant differences. Pompano Beach, for example, allows skim-boarding, wind-surfing and kite-surfing in designated areas, but prohibits scuba diving. Deerfield Beach allows scuba diving, but only in one area.

Here is a quick summary of regulations in nearby communities:

- Kite-surfing allowed in Fort Lauderdale, Pompano and Hollywood in restricted areas. It is prohibited in Deerfield Beach.
- Skim-boarding allowed everywhere in Pompano, Hollywood and Fort Lauderdale. In Deerfield it is only permitted in two designated areas.
- Restricted area surfing allowed in Deerfield Beach, Pompano Beach, Fort Lauderdale and Hollywood.
- Restricted surf-fishing allowed in Fort Lauderdale, Pompano Beach, Hollywood and Deerfield Beach. The restrictions involve hours, and, in some cases, locations.

Pompano Beach, Deerfield Beach and Hollywood require surfers to use wrist or ankle leashes. In Pompano and Deerfield, this rule also applies to skim-boarders.

All four cities surveyed limit some boarding activities to designated areas (Pompano Beach does permit skim-boarding anywhere along its beach).

In Deerfield Beach, for example, surfing and skim-boarding are allowed in a designated area north of its pier. This area is for more strenuous recreational activities. South of the pier is a designated passive, family-oriented section. Surfing and skim-boarding are also allowed activities south of the family area. The Town has received two proposals regarding beach activities. One was from a commercial skim-boarding store. The other was from a resident kite-surfer.

A proposal to regulate kite-surfing was submitted to us in July 2009 by Michael Leverock, a Town resident and avid kite-surfer. The proposal would require kite-surfers to pay an annual registration fee, prohibit kite-surfing instruction and keep kite-surfers outside the swim buoys between Pine Avenue and the Town's southern municipal limits (as well 100 feet away from all beach-goers).

Please note: It is rumored that kite-surfing instructors are already charging customers for lessons, but I have no first-hand evidence to support the claim.

A recent proposal was submitted by Jason Wilson, the owner of Alley Oop, a new skim-boarding business in Town. Alley Oop wants to teach skim-boarding at clinics and mini-camps. Some lessons would be free; it would charge for others. Alley Oop is seeking to become a commercial operator on the beach, which is classified as a park in the Town Code.

Our Code allows the Town to regulate commercial activities in parks.

The Code states: "It shall be unlawful for any person to:

"Solicit, sell, or in any manner charge admission, or otherwise peddle any goods, wares, merchandise, services, liquids or edibles in a park except by authorized concessionaire with a Town permit and the required licenses from the Town."

If Alley Oop's request is approved, staff would like direction on negotiating a fee-sharing agreement (as it did with martial arts and tennis). The karate instructor got 80 percent of the fees; the tennis instructor 85 percent.

To publicize the workshop, flyers were distributed to beach-front condos and property owners along El Mar Drive. Notices were placed on Channel 78, the Town's Web site and in Town Topics. I spoke with Mike Leverock and he informed me he would let other kite-surfers in Town know about the meeting. I also informed Jason Wilson (Alley Oop) of the workshop. I contacted Rick Iossi, president of the Florida Kitesurfing Association (he addressed the Commission on this issue in 2009). I contacted the Town's two scuba diving shops in case the issue of diving surfaced. I also spoke with Tim Ayasli, manager of South Florida Kiteboarding, a Dania Beach firm that operates the largest kite-surfing school in the area. A press release on the workshop was also sent to local news outlets.

BEACH REGULATIONS

ALLOWED

PROHIBITED

DEERFIELD BEACH

Surfing and skimboarding is permitted north of the pier and south of the designated family area south of the pier. All surf and bodyboards must be used with leash to prevent injury to others. Snorkeling is OK within 50 yards of the shoreline. Scuba divers allowed only at south end of the beach.

Jet skis, kite-surfing, boat and kayak launching are banned. No spearfishing within 50 yards of beach. Kite-surfing and wind-surfing is not addressed in the city's ordinance, but is operationally prohibited.

FORT LAUDERDALE

Scuba divers, snorkelers are allowed. Boats and other watercraft must stay 200 yards offshore, surf fishing allowed 4PM-8AM in certain areas; wind-surfing, kite-surfing and surfing allowed in a designated area north of Sunrise Boulevard.

Use or possession of spearguns on the beach.

HOLLYWOOD

Scuba divers and snorkelers allowed. Surfing, kite-surfing (with leash), and wind-surfing allowed in certain areas. Surfers also OK everywhere if they are 150 yards offshore. Beach Patrol has discretion to ban all activities based on conditions. Surf-fishing OK in some areas; non-motorized vessel launching, canoes, rafts OK in certain areas. Skim-boarders OK anywhere, but pushed towards surfer area.

Spearfishing within 100 yards of the beach; it is unlawful to carry or possess a loaded speargun on public beach or swimming areas.

POMPANO BEACH

Skim-boarding allowed everywhere; surfing, kite-surfing and wind-surfing in designated areas only (wrist or ankle leashes mandatory). Hobie cats and windsurfers must launch in designated areas and stay 100 yards off beach. Boats must remain 100 yards off beach. Snorkeling OK within 50 yards.

Fish or surf casting between 9AM and 6 PM any day. Operate or launch a vessel within restricted areas. Scuba diving, spearfishing, use of surfboats or sailing devices on beach.

LAUDERDALE-BY-THE-SEA

Scuba divers and snorkelers. Fishing and surf casting allowed on beach any time other than between 9AM-4PM Monday thru Friday (and 9AM-6PM Saturday, Sunday and national holidays). Skim-boarding, kite-surfing & wind-surfing are not addressed in Code, but allowed operationally.

Spearfishing is prohibited. It is also unlawful to operate surfboards, boats or watercraft (or to surf or boat within the Town) in the proximity of bathers so as to pose a hazard to swimmers. Surface diving, surf casting, scuba divers and snorkelers prohibited within 300 feet of the pier.

ALLEY-OOP SKIM FLORIDA
220. E COMMERCIAL BLVD.
LAUDERDALE-BY-THE-SEA, FL 33308
WWW.ALLEYOOPSKIM.COM

**Town of Lauderdale-By-The-Sea
Skimboarding Camp & Lesson Proposal**



Alley-Oop

At Alley-Oop it is our mission to promote the sport of skimboarding and maintain a destination where skimboarders can progress and find the equipment needed to do so. Since 2000 we have been providing great programs teaching step-by-step, everything from the basics to the advanced levels of skimboarding. Going into our eleventh season Alley-Oop has grown into one of the most recognized names in the sport. With an extensive offering of services we feel that anyone interested in skimboarding can find what they need with us.

Town of Lauderdale-By-The-Sea

Our goal with opening a new location in Lauderdale By The Sea is to become a home for south Florida's current skimboarders, and to offer an outlet where new youth can enter the sport, similar to how we have done with our current location in Dewey Beach, DE. While progressing our business and the sport of skimboarding we also take pride in community participation, being involved with our town, and positively influencing the areas youth.

In Dewey Beach we currently offer free skim lessons every Saturday of the summer to help the town have more activities for children and young adults to participate in. Alley-Oop is also very active in the local community by attending town-marketing meetings, sponsoring town events, and creating new events that benefit the town such as beach clean-ups, skimboarding contests, and Easter egg hunts. We plan to take on the same role with our business in Lauderdale By-The-Sea and to help the town in whatever way possible.

To enter the market in south Florida and introduce our service we have opened a retail location at 220 East Commercial Boulevard, which will serve as the headquarters for sign-ups and the in-class portion of our lessons. We are currently offering free Saturday clinics, private lessons, and would like to officially offer our day camp programs on the beach throughout the year in Lauderdale-By-The Sea.

Program Details

All of our programs offer demonstration, instruction, and practical application of skimboarding. Riders are first taught verbally in the shop and on the beach. Next demonstration and practice are given on the sand before hitting the water for application and hands on instruction. Over the past 10 years we have developed a successful system that applies multiple styles of teaching to reach different types of learners. Our services are conducted during non-peak hours to help prevent shoreline congestion.

In consideration of beach-goers, our lessons could be conducted at the far north

or south ends of the beach where there are less people, helping to preserve the traditional atmosphere, which Lauderdale By The Sea patrons enjoy and have come to expect.

Saturday Clinics: Our Saturday Clinics are aimed at getting new people involved with the sport of skimboarding and to offer a free service for the town that promotes healthy recreation for all ages. The one-hour clinics help Alley-Oop to introduce our service, our employees, and to preview how we teach at our camps and lessons. Sign-ups are taken the day of the clinic at our shop or on the beach.

Cost: Free

Ages: All

Proposed Time: 10am-11am

Proposed Dates: Every other Saturday throughout the year

Typical Attendance: 10-20 people

Beach Space Needed: Approximately 30 yards

Set up: Tent, banner, and skimboards

Staff on-site: 5-6

Lessons: For our skim lessons we offer hour long private and group instruction. These lessons attract skimboarders of all skill levels. The private and group lessons are Alley-Oop's most effective form of skim instruction that we offer. Our instructors can focus on each participants learning style and cater their teaching to the individual riders skill level.

Cost: \$75 per hour

Ages: All

Proposed Time: 9am & 5pm

Proposed Dates: Daily

Typical Attendance: 1-6 people

Beach Space Needed: Approximately 10 yards

Set up: None

Staff on-site: 1-2

Mini-Session Camps: The mini session camps are three-hour clinics for three days focusing on the basic beginning steps of skimboarding. These camps offer group teaching in a camp type environment. The mini-sessions are Alley-Oop's most popular offering of our service bundle. Each camper receives a camp t-shirt and discounts at our retail location with sign-up.

Cost: \$200 per session

Ages: 5-16

Proposed Time: 9am -12pm

Proposed Dates: Tuesdays, Wednesdays, and Thursdays

1. December 21-23, 2010
2. December 28-30, 2010
3. March 15-17, 2011
4. April 19-21, 2011
5. April 26-28, 2011
6. May 31- June 2, 2011
7. June 7-9, 2011
8. June 14-15, 2011
9. June 21-23, 2011
10. June 28-30, 2011

Typical Attendance: 8-12 kids

Beach Space Needed: Approximately 30 yards

Set up: Tent, banner, water cooler, and skimboards

Staff on-site: 3-6

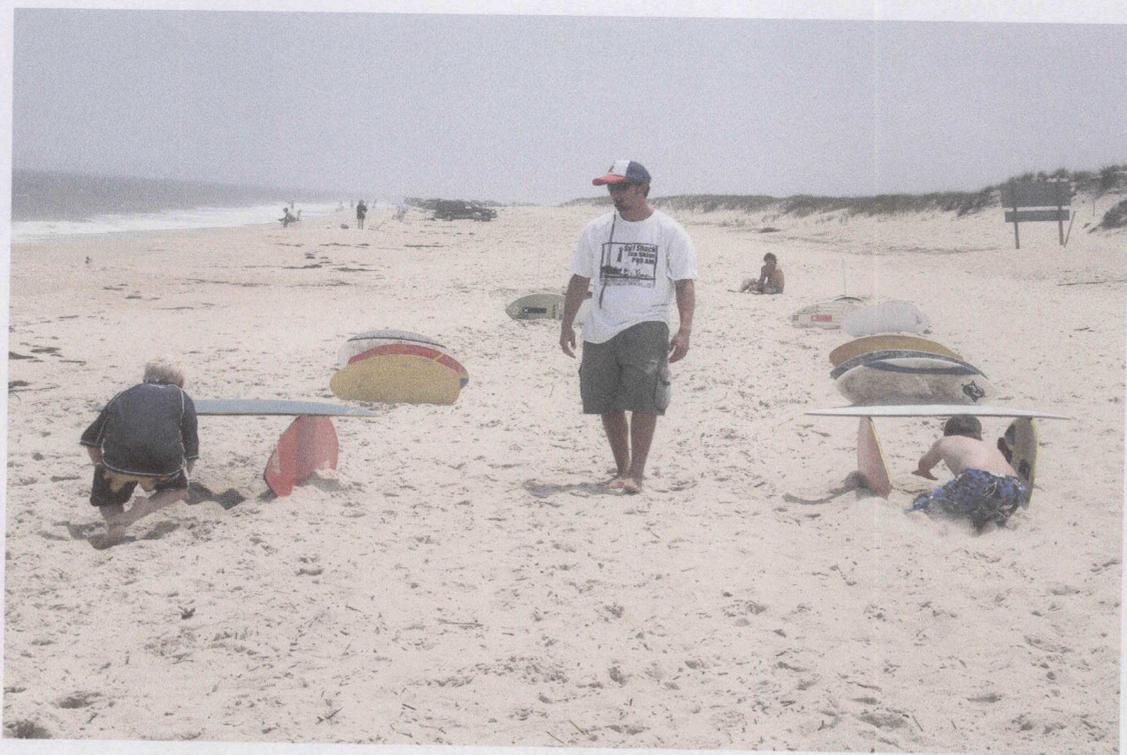
Considerations

At Alley-Oop we employ the highest level of professional instructors who nurture the growth and abilities of our clients. We conduct our business under honest, ethical, professional, and diligent values, resulting in outstanding customer satisfaction.

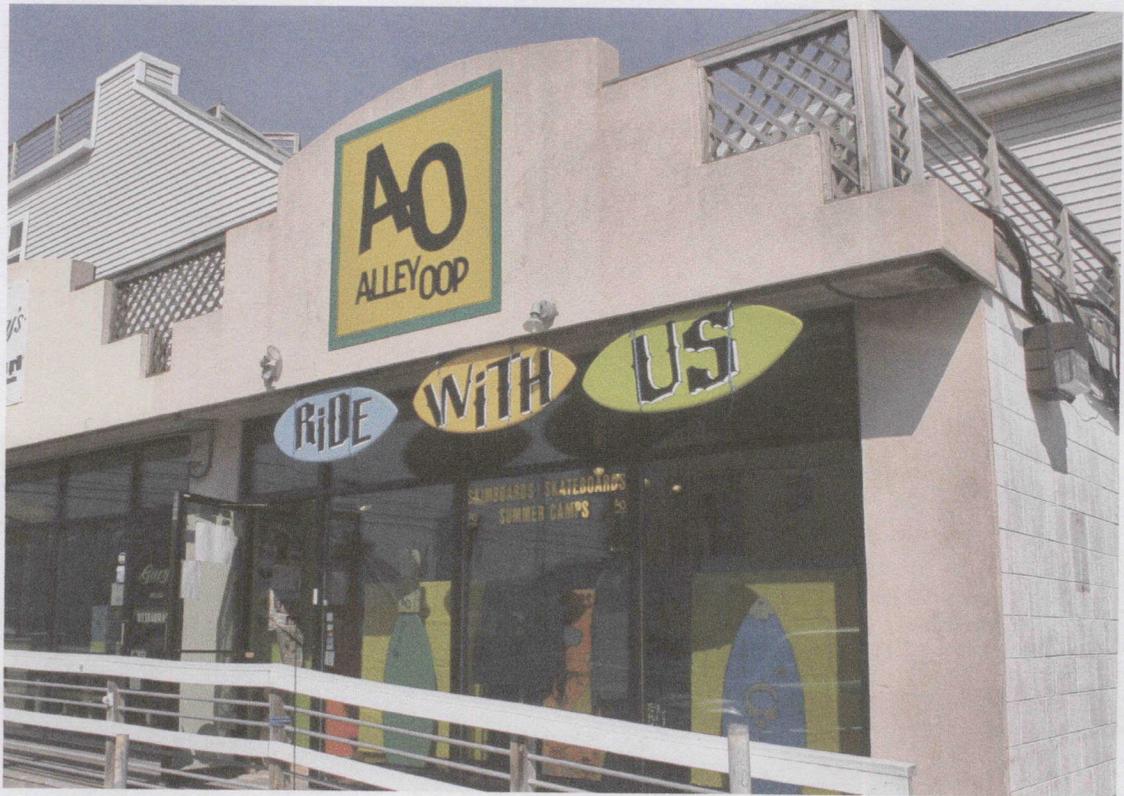
It is our endeavor to contribute to the economic vitality essential to the town's growth. We always operate in accordance with local, state and federal laws, ensuring a safe protective environment for our clients as well as the fragile shore and sea life.

With this proposal we have attached some pictures of our service, letters of recommendation, proof of insurance, and CPR/basic aid cards of both owners.

We look forward to building a strong relationship with the Town of Lauderdale-By-The-Sea. If you have any questions, comments, or concerns please contact us at 954-530-4954 or alleyoopskim@hotmail.com.







SOUTHERN DELAWARE TOURISM
THE CONVENTION AND VISITORS BUREAU FOR SUSSEX COUNTY, DELAWARE

Mayor Rose Ann Minnet
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

September 2, 2010

Dear Mayor Minnet,

Please let this letter serve as support and testimony to the positive community impact generated by the principals and staff at Alley Oop Skim, Inc. I was very excited to hear of Alley Oop Skim's recent plans to expand its business to Lauderdale-By-The-Sea.

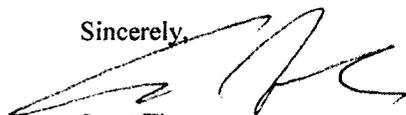
As the official Convention and Visitors Bureau for Sussex County, Delaware, Southern Delaware Tourism is extremely fortunate to have Alley Oop Skim as a tourism partner and unique service provider for visitors to our area. In particular, it is the Alley Oop skimboarding kids' camps that are really a unique offering to those visiting Dewey Beach, Delaware and the surrounding beaches where Alley Oop camps operate.

Alley-Oop Skim Camp was the first camp to teach the sport of skimboarding on the entire East Coast. Over the last 10 years, Alley-Oop has been serving children from our community and those visiting with their families from all over the country. Over 230 children came through Alley-Oop Skim Camp during the summer of 2009. Many of these children were returning campers visiting from Delaware's neighboring states. They came to learn the sport of skimboarding and left with memories that will bring them back to the Delaware beaches for years to come.

Parents travelling to our area with their families love this camp as it enables them to take a break to do something on their own while their children learn a new sport in a fun, outdoor safe environment. In addition to child development, Alley-Oop and its dedicated counselors really help define the personality and culture of Dewey Beach, the East Coast Skimboarding Capital.

As a supporter of Alley Oop Skim and the social and economic benefits that their operation brings to Delaware's beaches, I encourage you and the town of Lauderdale-By-The-Sea to consider starting Alley Oop Skim Camps on South Florida's beaches as well.

Sincerely,



Scott Thomas
Executive Director
Southern Delaware Tourism

cc: Vice Mayor Stuart Dodd, Commissioner Birute Ann Clottey, Commissioner Scot Sasser, Commissioner Chris Vincent, Jason Wilson, Alley Oop Skim Inc.

P.O. Box 240
103 West Pine Street
Georgetown, DE 19947

302-856-1818
(toll free) 800-357-1818
(fax) 302-856-5713

www.visitsoutherndelaware.com

Rehoboth Beach-Dewey Beach Chamber of Commerce

"The Nation's Summer Capital"

P.O. Box 216

Rehoboth Beach, DE 19971-0216

Phone: (302) 227-2233 • (800) 441-1329

Fax: (302) 227-8351

e-mail rehoboth@beach-fun.com

www.beach-fun.com

September 1, 2010

Roseann Minnet
Mayor of Lauderdale by the Sea
4501 N. Ocean Drive
Ft. Lauderdale, FL 33308

Dear Mayor Minnet :

I have been advised that Alley Oop Skim, Inc., currently located in Dewey Beach, Delaware, has submitted a proposal to Lauderdale by the Sea to provide skim camps.

Alley Oop Skim is currently a member in good standing of the Rehoboth Beach-Dewey Beach Chamber of Commerce. This business has provided hundreds of individuals with the opportunity to enjoy the water's edge by "skimming". Their business is well run, they are engaged in the community, and they reach out to work with the leadership, organizations and residents. This Chamber can recommend Alley Oop Skim as a benefit to any community.

Should you have any questions or need additional information, please do not hesitate to call me at 302-227-6446 (office) or 302-542-7547 (cell).

Sincerely,



Carol A. Everhart
President/CEO

Mission: "To promote business, tourism and civic responsibility."



Richard N. Solloway, Mayor
Dewey Beach, Delaware 19971
105 Rodney Avenue
(302) 227-6363
(302) 228-2186 (cell)
Solloway@aol.com

To: The Town of Lauderdale-By-The-Sea
Mayor Minnet
Commissioner Dodd
Commissioner Clottey
Commissioner Sasser
Commissioner Vincent

Friday, September 3, 2010

As the Mayor of the Town of Dewey Beach, Delaware I am pleased to have the opportunity of providing Jason Wilson, Corey Mahoney and the entire Alley-Oop Skim Organization with a letter of recommendation.

I recently attended our nationally recognized 29th annual East Coast Skimboarding Championship here on the beach in Dewey and was pleased to see dozens of competitors taking part in this family oriented event. This event was the direct labor of the Alley-Oop Skim Team and the Town of Dewey Beach was proud to be the host community to such a wonderful family event. There were hundreds of people in attendance. Competitors and their families traveled from many parts of the country to participate in the event. A family from New York who had a son in the competition approached me and said, "You're fortunate to have such a dedicated, professional team living right here in the community. They help put skim on the map". At that moment, I realized it is easy to overlook this fact when it becomes part of my day to day life like it has, but it was nice to reflect on the fact that Jason, Corey and the Alley-Oop Skim Team are world recognized not just for their skimboarding prowess but also for their passion and tireless efforts on behalf of the sport they hold in the highest regard.

This type of success does not come without considerable effort and sacrifice. This is what I have witnessed from Jason, Corey and the entire Alley-Oop Skim Team over many years here in Dewey Beach. 2010 was the 29th year and I'm sure there were many lean years in the early going that the Wilson, Mahoney and Vavala families endured to evolve this event and their sport into one of the

highest quality products our community experiences during our busy summer season. Our community is very proud of their perseverance and dedication to their business and our community.

I have found Jason, Corey and Alley-Oop's integrity, professionalism and ethics to be of the highest quality. Their business is looked to by the community to be a leader and voice for all businesses here in Dewey Beach. I can assure you that Jason, Corey and the Alley-Oop Skim Team will make many fine contributions to the Lauderdale-By-The-Sea Community.

Alley Oop has a long history of community involvement and is always willing to assist with any and all town events. We are a relatively small coastal community here in Delaware and having such a quality group of people bring the passion and professionalism to our community has been a key ingredient to our community's success.

If I can provide any further references, please do not hesitate to contact me.

Sincerely,

Richard N. Solloway, Mayor

ORDINANCE NO. 219

AN ORDINANCE AMENDING SECTION 5-4(b)
OF THE CODE OF ORDINANCES OF THE
TOWN OF LAUDERDALE-BY-THE-SEA, EN-
TITLED "SPEAR FISHING"

WHEREAS, Part I, Article 3, Section 14, of the Town Charter of the Town of Lauderdale-By-The-Sea authorized the Town Commission to maintain, operate, and control public landings, piers, wharfs, and docks within and without the Town, and further provides authority to regulate the manner of using any and all wharfs and docks within and without the Town; and

WHEREAS, Part I, Article 3, Section 15, of the Town Charter authorizes the Town to regulate and control the use and occupancy of the water, waterways, water bottoms, wharfs, causeways, bridges, beaches and other public places in the Town; and

WHEREAS, the Town Commission, in an effort to protect the health, safety and general welfare of the public desires to regulate and prohibit spear fishing, surface diving, scuba diving and skin diving within designated areas.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, IN REGULAR SESSION CONVENED:

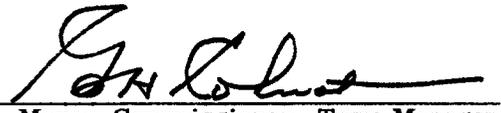
Section 1: That Section 5-4(b) entitled "Spear Fishing" is amended to read as follows:

"(b) Spear Fishing, Surface diving, scuba diving, and skin diving.

Spear Fishing, Surface Diving, Scuba diving, and Skin Diving shall be prohibited at any point less than three hundred (300) feet north, south, or east of the fishermen's pier in the Town of Lauderdale-By-The-Sea, Florida."

Section 2: All ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

PASSED FIRST READING this 10 day of August, 1971.
PASSED SECOND READING this 10 day of August, 1971.
PASSED THIRD READING this 10 day of August, 1971.


Mayor-Commissioner, Town Manager

Attest: 
Town Auditor-Clerk

**AN ORDINANCE PROHIBITING BATHING AND SWIMMING
WITHIN A DESIGNATED AREA AND PROHIBITING SPEAR
FISHING WITHIN A DESIGNATED AREA AND PROVIDING
A PENALTY FOR THE VIOLATION OF THE PROVISIONS
THEREOF.**

WHEREAS, Part I, Article 3, Section 14 of the Town Charter authorizes the Town Commission to maintain, operate, and control public landings, piers, wharfs, and docks within and without the Town and further provides authority to regulate the manner of using any and all wharfs and docks within and without the Town; and

WHEREAS, Part I, Article 3, Section 15 of the Town Charter authorizes the Town to regulate and control the use and occupancy of the water, waterways, water bottoms, wharfs, causeways, bridges, beaches, and other public places in the Town; and

WHEREAS, the Town Commission in an effort to protect the health, safety, and general welfare of the public desires to regulate and prohibit bathing, swimming, and spear fishing within designated areas.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, IN REGULAR SESSION CONVENED:

Section 1. Bathing and Swimming. Bathing and swimming shall be prohibited at any point commencing 125 feet East of the ordinary low water mark within the area 100 feet North or South of the fishermen's pier in the Town of Lauderdale-By-The-Sea, Florida.

Section 2. Spear Fishing. Spear Fishing shall be prohibited at any point less than 150 feet North, South, or East of the fishermen's pier in the Town of Lauderdale-By-The-Sea, Florida.

Section 3. Penalty. Any person or persons violating any of the preceding sections of this ordinance shall upon conviction thereof be punished by a fine not exceeding \$100 or imprisonment not exceeding 30 days or by both such fine and imprisonment in the discretion of the municipal Judge of the Town of Lauderdale-By-The-Sea, Florida.

Section 4. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 5. This ordinance shall immediately take effect upon its passage and adoption by the Town Commission of the Town of Lauderdale-By-The-Sea, Florida.

PASSED FIRST READING THIS 9 day of June, 1964.
PASSED SECOND READING THIS 23 day of JUNE, 1964.
PASSED THIRD READING THIS 14 day of JULY, 1964.


Mayor - Commissioner

Attest:


Town Auditor - Clerk

To: Connie Hoffmann, Town Manager

From: Kathleen S. Margoles

Date: October 15, 2010

Re: Report on Alley-Oop, Inc. Proposal

ISSUE

The Town has received a proposal from Alley Oop Skim, Inc. to provide Skimboarding Camps and Lessons on the Lauderdale-By-The-Sea beach.

BACKGROUND

Alley-Oop, Inc is a company with over ten years experience offering skimboarding lessons. They are currently providing skimboarding lessons and camps in Dewey Beach, DE and on the Delaware State Park system beaches.

The Alley-Oop owners, Jason Wilson and Corey Mahoney, are opening a retail store in Lauderdale-By-The-Sea at 220 East Commercial Blvd., and also moving into the Town. They contacted Jeff Bowman regarding lessons within designated areas on the LBTS beach (Attachment A). I then contacted them and they provided a more detailed proposal (Attachment B). The Mayor and Commission have also received letters of recommendation from the former Mayor of Dewey Beach, and the Executive Director of Southern Delaware Tourism in support of Alley-Oop (Attachment C).

Commercial Operations on the Beach

The Town has not typically contracted with any vendors on the beach and two sections of the Code of Ordinances are relevant to the possibility of permitting Alley-Oop to provide skimboarding lessons and camps on the beach.

Chapter 14.3- Parks and Recreational Facilities defines a park as any land, water area, or trail corridor and all facilities thereon, under the jurisdiction, control or ownership of the Town.

Section 14.3.3(b) Regulation of public use states:

Permits.

(1) Town permits shall be required for the exclusive or special use of all or portions of park areas, buildings or trails or for the use of park areas and facilities when they are otherwise closed to the public.

(2) Permits shall be required for an entertainment, tournament, exhibition or any other special use which can reasonably be expected to have 25 or more persons involved or potentially have a detrimental effect on park property or other park users. Security, insurance and/or security bonds may be required and paid by permit holder prior to usage.

It shall be unlawful for a person to violate any provision of a permit.

(c) Use fee; failure to pay use fee. It shall be unlawful for any person to use, without payment, any facility or area for which a permit is required and user fee charged, unless the payment is waived by permit.

Chapter 5- Beaches and Waterways regulates activities on the beach. There is no language specific to allowing permitting of lessons on the beach. Section 5.6 regulates surfboards, which could be construed as similar to skimboards.

Section 5-6- Surfboards, boats or watercraft prohibited in proximity of bathers.

It shall be unlawful for any person or persons to use or operate surfboards, boats, or watercraft or to surf or boat within the Town in the proximity of bathers so as to cause a hazard to bathers' safety, or to other persons using the beaches.

The Code seems to allow permitting of activities on the beach if there is no hazard to the public.

Alley-Oop Proposal

Alley-Oop has submitted the following proposal. The actual terms of any agreement with them would be negotiated if the concept is approved by Town Commission.

- Free Saturday Clinics- one hour clinic each Saturday, open to persons of all ages

- Lessons- one hour private or group lessons for all ages
Cost-\$75/hr
Proposed Date and Time- Daily, 9am-5pm
Typical Attendance- 1-6 people
Beach Space Needed- Approximately 10 yards

- Mini Session Camps- three hour clinics for three days
Cost-\$200/session
Ages- 5-16
Proposed Date and Time- 3 days a week, 9am-12pm
Typical Attendance- 8-12 youth
Beach Space Needed- Approximately 30 yards

Mr. Wilson, one of the owners, has requested a 90/10 fee sharing arrangement for the initial LBTS agreement (with the Town retaining 10% of the revenue). As you know, the Town has been moving toward fee based agreement with other recreation providers.

Depending on the popularity of the lessons and camps, the Town's 10% share of the revenue could range from an estimated \$8,000 to \$24,000 annually. An issue that would need to be addressed in this contract is the likelihood that many participants would be "walkup" clients and would not be registering for the program at Jarvis Hall, so there would be a need to monitor the participation.

RECOMMENDATION

This proposal seems to be an excellent way to augment recreational opportunities for residents and visitors and provide additional revenue for the Town. In their previous endeavors, the owners have been very civic minded and well integrated into the business community.

If the Commission is interested in pursuing an agreement with Alley Oop, I assume the Town would want to define the location on the beach where these lessons would take place (presumably away from the pier).

Alley-Oop Skim Inc.
2000 Coastal Hwy Unit 106
Dewey Beach, DE 19971

Jeff Bowman
Kimberly Williams
Development Services
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308

Please accept this letter of request for our company, Alley-Oop Skim Inc., to conduct skimboarding lessons to children and young adults within designated areas along the Lauderdale By The Sea shoreline.

We are currently planning to open our South Florida retail location at 220 East Commercial Boulevard, which will serve as the teaching headquarters for the in-class portion of the lesson.

It is our mission to serve our community providing open access to all levels of skimboarding enthusiasts, encouraging involvement and ensuring safe practice and accountability.

We employ the highest level of professional instructors who nurture the growth and abilities of our clients.

We conduct our business under honest, ethical, professional, diligent values, resulting in outstanding customer satisfaction.

It is our endeavor to contribute to the economic vitality essential to the town's growth.

We operate in accordance with local, state and federal laws, ensuring a safe protective environment, for our clients as well as the fragile shore and sea life.

We offer two types of teaching clinics:

1) Standard Lesson; consists of a combined one- hour instruction and practical application.

2) Extended Lesson; consists of a combined three hours of instruction and practical application.

These lessons will be conducted during non- peak hours, preventing shoreline congestion.

In consideration of beach-goers, our lessons will be conducted at the far north or south ends of the beach, preserving the traditional atmosphere, which Lauderdale By The Sea patrons enjoy and have come to expect.

Please find enclosed our First Aid certification, Insurance and Liability policy, Business Plan and 2010 merchandise catalog.

If you have any questions, comments or concerns, please do not hesitate to contact me.

Sincerely,

Jason Wilson

Corey Mahoney

**Proposal to the Lauderdale-by-the-Sea
Town Commission**

In reference to:

Kite Surfing

Presented June 26, 2009

In following to the Lauderdale-by-the-Sea (LBTS) Town Hall Meeting conducted on Tuesday April 28, 2009 this proposal is written on behalf of the roughly 30 kite surfers that utilize Lauderdale-by-the-Sea Beach for the purpose of Kite Surfing. Our intention is to add separation of the kite surfing activities from the beach users. There are 2 very distinct groups of kite surfers that occupy the space immediately north of the Pine Street public easement next to Damon's. The principle group is roughly 12 kite surfers whose median age is 40, the second group are local resident kids whose average age is closer to 17 years of age. As you might image each group conducts themselves very differently both on-the-beach and in-the-water. We share this information by way of background to perhaps further enlighten you to the unique problems of that specific area.

It is our intention to offer a solution that accommodates the concerns of the City Commission, residents, visiting tourists and kite surfing community in that order. By way of background it is important to acknowledge that presently; there are NO established rules or policies in place at Lauderdale-by-the-Sea Beach relating to kite surfing activities, therefore our proposal will not encourage additional resident or non-resident kite surfers to the LBTS beach. Instead it is designed to offer guidelines for written policies and procedures that can be posted and enforced. We believe this will add to the safety and enjoyment of all the beach facilities. Some additional pertinent background points include:

- The kites parked on LBTS beach are parked very high on the beach so as not to impede the VFD vehicles or beach goers. They never interfere with the public easement or beach access due to the proximity of volleyball courts and tall beach signage.
- 80% of all beach activity takes place directly in front of Damon's or south of the beach easement towards the Commercial Pier, 10% takes place within a 50 yard stretch immediately north of the easements and the remaining 10% takes place over 1-mile stretch north of the easement.
- Rarely are there ever more than 15 kites in the air or on the water at any time
- The stretch of beach north of the Damon's public easement gets extremely quiet due to the lack of vehicle parking and amenities. There are lots of people in front of the Lauderdale Beach Hotel/Damon's and south and especially during spring break. To further emphasize this point the buildings of Sea Ranch Lakes Condos cast a big shadow onto the beach preventing sunbathing by mid-day and that seems to help keep sunbathers away.
- Kite surfing in Florida is primarily a winter activity due to the cold north trade winds, summer is typically a quiet season for kite surfing due to the lack of sufficient wind

The following is a proposal to control the kite surfing activities on Lauderdale-by-the-Sea Beach. The proposal was drafted utilizing the already proven methods in effect at Crandon Park Beach in Key Biscayne and Ft. Lauderdale Beach. It further incorporates procedures currently in-place in Pompano Beach. We propose the following for the Boards Consideration:

- 1. Create an area approximately 200+ yards north of the Pine Street (Damon's) public access path as a kite launch/recovery area that is a minimum 200 yards in width referred to as the "kite operating area".**
- 2. The area will be properly identified with either posted signage or safety cones to warn & advise the sunbathers of the "kite operating area"**
- 3. Similar to Crandon Park in Miami and 16th Street in Pompano all water entry and egress will take place only in the designated "kite operating area"**
- 4. Any kite surfing outside the designated "operating area" will be outside the existing buoys. The goal of this is to avoid kite surfers riding inside the buoys and away from swimmers.**
- 5. Kite surfing in the LBTS "operating area" will require an International Kiteboarding Organization (IKO) or equivalent certification similar to Key Biscayne's Crandon Park. This certification is awarded only after demonstrating competence in controlling the kite and rider in a safe manner. A nominal registration fee will be charged and remitted to the city for this authorization.**
- 6. Also similar to Crandon Park a concessionaire ideally should be established to oversee the beach kiting activities. This concessionaire will be responsible to ensure that all kite surfers are properly trained and accredited prior to using the "kite operating area". To ensure safety and continued enjoyment of the sport the concessionaire will be responsible for providing lessons to beginners using an accredited teaching method and issuing IKO certification cards. The concessionaire will be the direct link with the city and the entity in charge of enforcement. If someone gets out-of-line he will be the entity responsible to notify the local authorities for enforcement.**
- 7. The concessionaire will contribute 10% of his teaching & certification revenues to the city to offset the "operating area" sign maintenance and concession stand. Unlicensed, unpermitted instruction is prohibited and instances of this observed will be discouraged by the concessionaire and reported to BSO as necessary.**
- 8. The concessionaire will endeavor to assist the VFD with distressed swimmers and be on the lookout to assist bathers.**

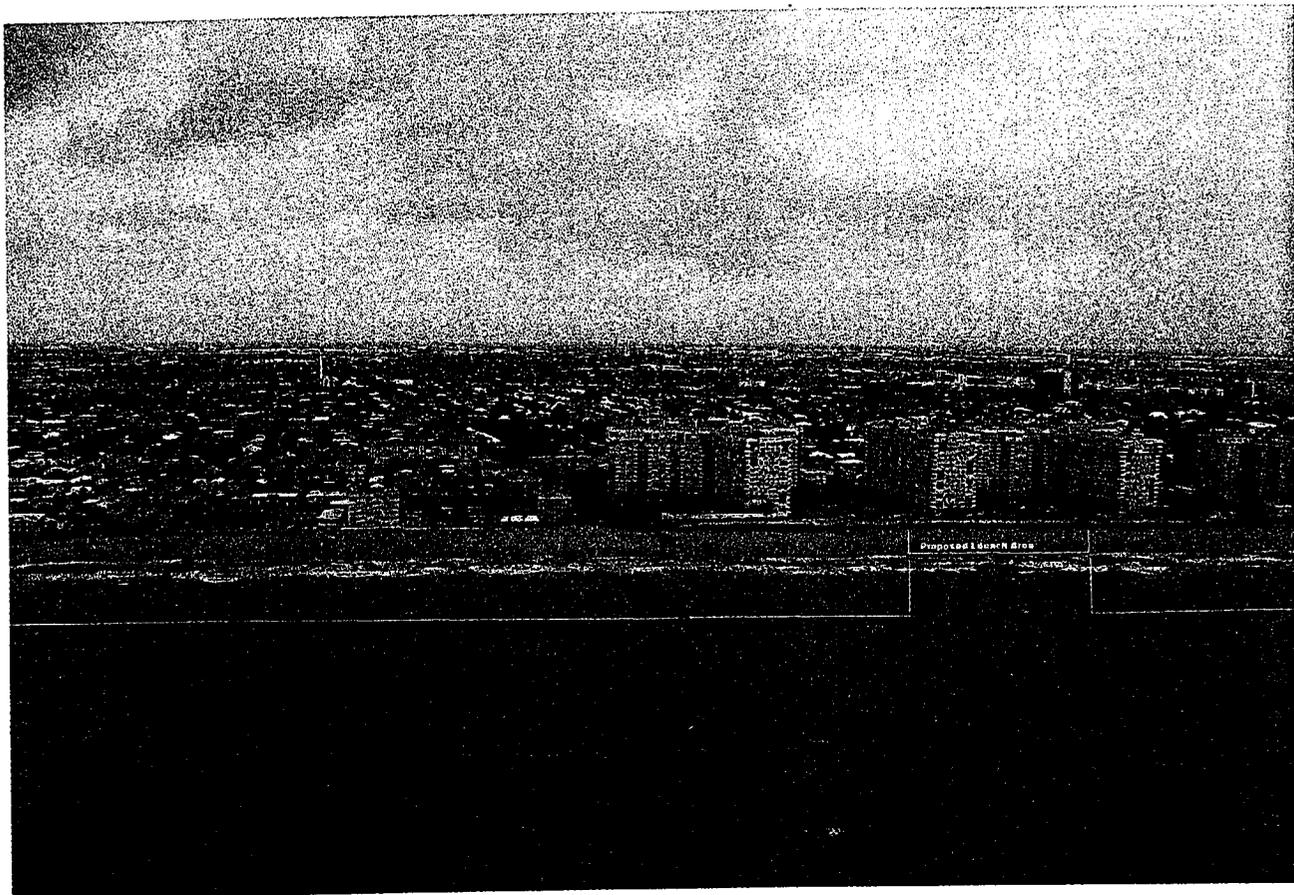
The photo illustrates the Pine Street public easement adjacent to Damon's and Sea Ranch Lakes Condominiums. The proposed "kite operating area" is north of the public easement and highlighted in yellow. The white line represents the existing buoy line where the kites would remain outside.



The designated "kite launch area" utilizes the least populated area of LBTS Beach. This does not suggest this area is restricted to kite surfing only, it only serves to warn the public of the operating area thru the use of posted signs and or safety cones. We don't feel the "kite operating area" will hinder Sea Ranch Lakes Condo beach access due to the proximity of the existing pathways.



The photo depicts a wide view of the LBTS beach centered on the Pine Street public easement adjacent to Damon's. The proposed "kite operating area" is depicted in yellow and the white line indicates the existing buoy line where the riders would remain outside.



For additional information or questions regarding this proposal please contact:

Rick Iossi 561-436-8411
Mike O'Keeffe 954-873-4310

June White

From: John Olinzock
Sent: Thursday, July 16, 2009 5:52 PM
To: June White; Nekisha Smith
Subject: AGENDA ITEM FW: Kitesurfing Proposal
Attachments: Kitesurf final.doc; holdHarmless_Skate permit.pdf; HoldHarmlessminorMinor.pdf

John E. Olinzock
Assistant Town Manager
Town of Lauderdale By-The-Sea
4501 Ocean Drive
Lauderdale By-The-Sea, FL 33308-3610
954-776-0576

From: Michael Leverock [mailto:leverock@yahoo.com]
Sent: Thu 16-Jul-09 5:28 PM
To: Birute Ann Clotey; Jerry McIntee; James Silverstone; Roseann Minnet; Stuart Dodd
Cc: Rick Iossi; Mike O'Keeffe; Randy Keever; John Olinzock
Subject: Kitesurfing Proposal

Dear Mayor, Vice Mayor and Commissioners,

Please find attached a proposal setting forth recommendations to the Commission to adopt appropriate rules, regulations and procedures to help ensure safe and responsible guidelines for kitesurfing in Lauderdale by the Sea. Also attached are exhibits in support of the proposal.

I am currently out of town through Sunday but can be reached by cell phone if you have any questions.

Thank you for your time and service.

Michael D. Leverock
Resident
Lauderdale by the Sea, FL
305-525-3178

7/17/2009

Lauderdale by the Sea, Florida Kitesurfing Proposal

July 28, 2009

Overview

The purpose of this proposal is to provide a recommendation to the Lauderdale by the Sea, Florida, Town Commission to set appropriate rules, regulations and procedures to help ensure safe and responsible guidelines for kitesurfing (also known as kiteboarding) in the township of Lauderdale by the Sea (LBtS), Florida.

Summary

Anyone wanting to kitesurf in LBtS will have to complete a registration form applying for a permit with the city of LBtS (administered by BSO), pay an annual fee (estimated at \$100), fly a streamer and comply with kitesurfing guidelines.

The registration form, besides indemnifying the city of claims, will set forth basic rules, regulations, standards and penalties. In summary the rules will be:

- No flying a traction kite (larger than 1 square meter) on the beach, other than to enter and exit the water.
- No teaching/instruction of kitesurfing, to include use of "trainer kites" (whether in the water or on the beach).
- Kitesurfing will not be allowed within 100 feet of any person on the beach or in the ocean.
- Kitesurfing will not be allowed within the swim buoy area (i.e. within 100 yds from shore) from Pine Street to the Southernmost town city limits.
- Permit holders are expected to abide by the aforementioned guidelines as well as to assist the city in the enforcement thereof.

All permit holders will have to show proof of current registration at all times while on the beach when requested by any city official (to include, but not limited to: BSO, VFD, parking or Code/Zoning enforcement, etc). Any violation of the foregoing rules will subject the permit holder to surrender of their permit, as well as will be in violation of a LBtS Code of Ordinance. All minors will have to have consent from a parent/guardian, who will execute the registration application and assume responsibilities therein.

Proposal's Details

Registration Application – Attached as exhibit 1 is a registration application for the City of St. Petersburg, Florida, city owned skate park. Although obviously St. Petersburg's registration is for minors and it is for skateboarding (and not kitesurfing), the fundamentals remain the same. It is recommended LBtS adopt a similar form which in summary requires the applicant to:

1. Comply with all rules and regulations.
2. Carry self funded insurance for injury or liability claims.
3. Release, waiver of claims, hold harmless, and indemnify the city from all liability.
4. Will not sue the city.
5. If a minor is the applicant, parent will assume full responsibility of minor.
6. Accept realization of risks.
7. Notice to seek legal counsel before signing agreement, as one will be releasing and/or waiving valuable legal rights.
8. The registration will be valid for one year (as will the \$100 fee), beginning October 1, 2009, and will have to be renewable yearly every first day of October.

Fee – The most important aspect of determining a fee is to realistically estimate the cost associated with implementing this proposal, and setting a fee structure that will cover all associated costs – i.e. no taxpayer funds to be used. To do this, costs of signs, attorney's fees, and administration costs for the registration/forms will need to be estimated. Following which a realistic estimate of how many permits will be sold needs to be established.

As a very rough estimate, costs could be around \$2,000, and permits sold could be estimated at around 20, for an estimated fee of \$100. There will be no difference made between a resident and a non-resident permit holder, other than residents may:

- Be accompanied by one kitesurfing guest or family member(s) (all will be subject to the kitesurfing rules)
- If it is determined that a limitation is required on number of permits issued (see next section), resident/property owners of LBtS will be exempt.

Limitation of Number of Permits – At the onset, there should be no limitation on the number of Permits issued. However, there could come a time in which the number of issued permits may need to be suspended due to overcrowding (which would in turn affect public health, safety or welfare). This overcrowding, could be determined by the Town Manager with input from BSO and/or VFD and/or current permit holders. This would be based on and similar to LBtS's existing Code of Ordinance for Parks:

Sec. 14.3-3. Regulation of public use.

(a) *Park hours*

(2) The Town Manager, his/her designee or an on-duty law enforcement supervisor is authorized to close any park or portion thereof at any time for the protection of park property or the public health, safety or welfare.

Rules – As stated above, the rules are basic and simple. No flying a kite on the beach, no teaching, stay away from beach-goers (100 ft) and no kiting 100 yds from shore from Pine Street southward to the city limit.

An argument could be made about testing the competency of a kiter. However, the rule in which prohibits a kiter from flying a kite on the beach, other than entering and exiting the water, should eliminate any non-competent kites. As non-competent kites will need to fly their kites for extend

periods on the beach (typically know as “walking it up the beach”).

Furthermore, these rules, along with the requirement of having a fee-based permit could be amended to the existing LBtS Code of Ordinance of:

Sec. 5-6. Surfboards, boats or watercraft prohibited in proximity of bathers.

It shall be unlawful for any person or persons to use or operate surfboards, boats, or watercraft or to surf or boat within the Town in the proximity of bathers so as to cause a hazard to bathers' safety, or to other persons using the beaches.

(Code 1962, 5-8)

Jurisdiction of the Beach – Notwithstanding there are a number of LBtS ordinances which regulate activities on the beach (ie Sec. 5-6 referenced above), I reference an opinion by Florida State Robert A. Butterworth dated 5/24/2002, subject-Regulation of Dry Sand Portion of Beach, in summary states:

“The City of Destin may regulate in a reasonable manner the beach within its corporate limits to protect the public health, safety, and welfare. This regulation must have a rational relation to and be reasonably designed to accomplish a purpose necessary for the protection of the public.”

Streamers – It is recommended that permit holders be issued a small (say 2”x 16”) bright colored streamer to be attached to the trailing edge of their kites. It is believed that some sort of visible identification is needed to readily identify properly registered kites.

Given it will be cumbersome for the local authorities to do an ID check on everyone, a kite without a streamer will be easy to spot and enforce by both the authorities and registered kites.

Although an argument could be made that it would be easy for someone to obtain a fake or counterfeit streamer, once a “community” of registered kites is established, those using such “fake” streamers will be identified and cited.

Launch Area Lane/”Pathways” - It is not recommended that a launch area with a pathway through the surf be a favorable approach at this time. This is because of the cost involved and determination of location. First, to align, anchor, and maintain approximately 6 – 8 swim buoys through the surf-line would be very expensive. Second, given the general area in which a pathway would be located (ie in the “backyard” of a condominium) numerous LBtS residents are likely to object to this solution.

Without a “pathway”, and the rule which maintains kites are to stay 100 ft away from beach-goers, kites will be encouraged to “spread out” to less populated areas of the beach – thereby maintaining a safer environment.

Conclusion

Since roughly 2000 local kitesurfers have been enjoying the beaches of LBtS. During this time there have been no reports of serious injury or sustained complaints by beach-goers. However, approximately 18 months ago, due primarily to the growth of the sport and certain individuals who decided to establish an unauthorized kitesurfing school(s) in LBtS, various concerns have arisen by city

officials, residents and responsible resident/non-resident kitesurfers.

As a result of this growth and these certain irresponsible individuals, it is prudent at this time to put forth a formal "structure" to ensure safe and responsible kitesurfing guidelines in LBtS. In doing so, representatives made up of LBtS resident kitesurfers, local non-resident kitesurfers, and a representative of the kitesurfing community, came together and collaborated on the details contained herein. Albeit, the details may be lengthy, the basis of the proposal are based solely on what we believe is "common sense".

We ask that you please accept this proposal for consideration. Thank you for your time and service.

Respectfully submitted,

Michael D. Leverock
Resident
Lauderdale by the Sea

MINOR/ADULT Female Male



Resident Non-Resident

Official Use Only

Card# _____

Facility _____

Official Use Only

Sticker# _____

CITY OF ST. PETERSBURG RESIDENT/NON-RESIDENT PROGRAM REGISTRATION APPLICATION

LAST NAME (PROGRAM PARTICIPANT)	FIRST NAME	MIDDLE INITIAL	HOME PHONE
ADDRESS	CITY	ZIP	
SCHOOL	CURRENT GRADE	AGE	BIRTH DATE
WORK PHONE	CELL PHONE	PAGER	FAX
PERSON TO NOTIFY IN CASE OF EMERGENCY		HOME PHONE	WORK PHONE



MEDICAL ALERT (IF APPLICABLE)

SPECIAL NEEDS (I.E. SIGN LANGUAGE, INTERPRETERS, TAPE/BRAILLE MATERIALS, READERS, ACCESSIBLE TRANSPORTATION, ETC.)

PARENT / GUARDIAN

LAST NAME	FIRST NAME	MIDDLE INITIAL	HOME PHONE
ADDRESS	CITY	ZIP	
WORK PHONE	CELL PHONE	PAGER	FAX

CONSENT (IF PARTICIPANT IS A MINOR), RELEASE, WAIVER OF CLAIMS, HOLD HARMLESS, AND INDEMNITY AGREEMENT FOR SKATE PARK PARTICIPANTS

I/We, _____, parent(s) or legal guardian(s) of _____ (minor's name), consent to the minor's full and unlimited use of, or presence at, any and all City of St. Petersburg skate park(s). I consent to the minor's use of the City skate park(s) for any purpose, including but not limited to, skateboarding, inline skating and freestyle bicycling. This consent shall be a continuing consent unless and until I revoke it by a written document addressed to the City Services Administrator, P.O. Box 2842, St. Petersburg, Florida, 33731. In order to be effective, the revocation documents must be sent by certified U.S. mail, return receipt requested and I must include with my revocation document any sticker, badge, permit or other item indicating to the City the minor's authorization to enter City skate park(s). No oral revocation or other form of revocation shall be sufficient to withdraw this consent.

GENERAL

1. I hereby agree that I, or the minor participant, will be at all times required to comply with all rules and regulations regarding City skate park(s) and I accept on my behalf, or that of the minor participant, full responsibility for informing myself, or the minor participant, of any changes to those rules and regulations.
2. The consideration for this agreement is the recreational benefit to be received from use of City skate park(s), and the City's waiver of any requirement that I or the minor participant carry self funded liability insurance prior to being allowed to use, or enter, City skate park(s). I acknowledge that, absent the execution of this agreement, the City would not have offered me or the minor participant access to its skate park(s) because of unacceptable exposure to liability claims. I acknowledge personally, or on behalf of the minor participant, that section 316.0085 of the Florida Statutes protects the City from liability claims arising from the use of City Skate Park(s), except in very limited circumstances.
3. I hereby agree, personally or on behalf of the minor participant, that use of City skate park(s) is only granted by the City because of its understanding that in the event of injury to myself, or the minor participant, or damage or loss of property, that any insurance policy held by myself, the minor participant's parent or guardian, or on behalf of myself or the minor participant which covers such injury or loss shall be the primary source of any recovery.
4. I hereby personally, or on behalf of the minor participant, **release, waive, discharge and covenant not to sue** the City of St. Petersburg, Florida, its City Council, Mayor, any city department or subdivision, its employees, servants, representatives, officers, agents, and successors and assigns, (hereinafter collectively referred to as "releasees"), **from and for all liability whatsoever to me, the minor participant, my (or the minor participant's) personal representatives, assigns, heirs, and next of kin.** I also expressly waive any claims or demands therefor, on account of injury to person or property, including injury resulting in my (or the minor participant's) death, whether caused by the **negligence, including gross negligence, of releasees, or otherwise,** or whether arising out of or caused by any defect, or presence or absence of any condition of, in or on any real property, premises, city property or thoroughfare, or any vehicle occurring when I, or the minor participant use, or are present upon, any City skate park.

5. I hereby personally, or on behalf of the minor participant, voluntarily and expressly assume full responsibility for any risk of bodily injury, death, and property damage due to the negligence of any or all releasees or otherwise while in or upon any City skate park(s) and/or while using City skate park(s).
6. I fully realize and appreciate the dangers, including severe injury or death, inherent in engaging in, observing, or being present where others engage in, extreme sports such as skateboarding, inline skating and freestyle bicycling. I further acknowledge that use of, or presence in, City skate park(s) carries with it the possibility that I, or the minor participant, may be exposed to physical danger, harm, and injury, including severe injury or death. I acknowledge that use of, or presence in, City skate park(s) may involve physical contact with others and that this physical contact may occur while myself, the minor participant, and/or others are traveling at a high rate of speed. I personally, or on behalf of the minor participant, nevertheless freely and voluntarily accept these risks.
7. I hereby personally, or on behalf of the minor participant, agree to defend at my expense, pay on behalf of, indemnify and save and hold harmless releasees, from and against any and all claims, demands, liens, liabilities, judgments, losses and damages (whether or not a lawsuit is filed) including, but not limited to, costs, expenses and attorneys' fees at trial and on appeal (collectively, "Claims") for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any person or persons, which damage or injuries are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly, my (or the minor's) use of the City's skate park(s), including without limitation, damage or injuries alleged or claimed to have arisen out of or in connection with my (or the minor participant's) negligence (sole or contributory), whether or not the damage or injuries are alleged or claimed to have arisen in part due to the negligence, whether gross or otherwise, of the releasees or other third party, my intentional wrongful acts or omissions, or my failure to comply with applicable laws, rules, regulations, standards and ordinances.
8. I also agree that I am responsible for any and all damages that I (or the minor participant) willfully, accidentally, or negligently inflict upon releasees or third parties as a result of use of the City's skate park(s).
9. The undersigned expressly agrees, personally, or on behalf of the minor participant, that this consent, release, waiver, hold harmless and indemnity agreement is intended to be as broad and inclusive as is permitted by the law of the State of Florida, and if any portion thereof is held to be invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.
10. The undersigned has read and voluntarily signs the consent, release, waiver, hold harmless and indemnity agreement, and further agrees that no oral representations, statements or inducements apart from the foregoing written agreement have been made.
11. The undersigned agrees that he/she has been hereby encouraged to seek the advice of his/her own attorney prior to signing this release, waiver, hold harmless and indemnity agreement and has been given the opportunity to seek such counsel.
12. I acknowledge the fact that this release, including my address and phone number could become a public record pursuant to Florida Statute Section 119 and will be available to members of the public upon their request.
13. I hereby give the City of St. Petersburg permission to take and use photo(s) of myself and/or the minor participant for publicity. This publicity may include publication of the photo in newspapers, brochures, magazines, websites, displays or any other forms of publicity for the City of St. Petersburg. I understand there is no monetary compensation for use of these photos.

This consent, release, waiver, hold harmless and indemnity form must be signed by each participant before entering any skate park.

BY SIGNING THIS AGREEMENT YOU ARE WAIVING OR RELEASING VALUABLE LEGAL RIGHTS. YOU MUST READ THIS AGREEMENT CAREFULLY BEFORE SIGNING IT.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed this _____ day of _____, 20_____.

BY: PARENT OR LEGAL GUARDIAN OF MINOR (with legal authority to execute this Agreement on behalf of the Minor if the participant is under 18.)

(Sign): _____

(Print): _____

BY: MINOR (any participant under 18 years of age).

(Sign): _____

(Print): _____

THIS RELEASE, WAIVER OF CLAIMS, HOLD HARMLESS, AND INDEMNITY AGREEMENT SHALL NOT BE MODIFIED, MARKED THROUGH OR CONDITIONED BY ANY ATTACHMENT OR WRITTEN COMMENTS.

CITYLAW DOCUMENT VERSION 00050486.WPD

State of Florida

County of Pinellas

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____, who is personally known to me or who produced _____ as identification.

Notary Public:

(Sign) _____

(Seal)

MINOR Female Male



Resident Non-Resident

Official Use Only
Card# _____
Facility _____

Aquatics - Official Use Only
AFDC# _____
Food Stamp# _____

CITY OF ST. PETERSBURG RESIDENT/NON-RESIDENT PROGRAM REGISTRATION APPLICATION

LAST NAME (PROGRAM PARTICIPANT)	FIRST NAME	MIDDLE INITIAL	HOME PHONE
ADDRESS	CITY		ZIP
SCHOOL	CURRENT GRADE	AGE	BIRTH DATE
PERSON TO NOTIFY IN CASE OF EMERGENCY	HOME PHONE	WORK PHONE	



MEDICAL ALERT (IF APPLICABLE)

SPECIAL NEEDS (I.E. SIGN LANGUAGE, INTERPRETERS, TAPE/BRAILLE MATERIALS, READERS, ACCESSIBLE TRANSPORTATION, ETC.)

PRIMARY PARENT / GUARDIAN

LAST NAME	FIRST NAME	MIDDLE INITIAL	HOME PHONE
ADDRESS	CITY		ZIP
WORK PHONE	CELL PHONE	PAGER	FAX

SECONDARY PARENT / GUARDIAN

LAST NAME	FIRST NAME	MIDDLE INITIAL	HOME PHONE
ADDRESS	CITY		ZIP
WORK PHONE	CELL PHONE	PAGER	FAX

RELEASE, WAIVER OF CLAIMS, HOLD HARMLESS, AND INDEMNITY AGREEMENT FOR MINOR TO ATTEND CITY OF ST. PETERSBURG PROGRAMS

In consideration of the participation of _____ (hereinafter referred to as the "Minor") in any and all programs offered by the City of St. Petersburg (hereinafter referred to as the "Program"), I/We,

parent(s) or legal guardian(s) of the Minor, and the Minor hereby agree as follows:

1. I hereby agree that the Minor will be at all times required to comply with all rules and regulations of the Program and of the City of St. Petersburg (hereinafter referred to as the "City") and I accept on my behalf and on behalf of the Minor full responsibility for informing myself and the Minor of any changes to those rules and regulations.
2. The consideration for this Release, Waiver of Claims, Hold Harmless and Indemnity Agreement (hereinafter referred to as "the Agreement" or "this Agreement") is the attendance of the Minor in the Program, which I agree is a commonplace child oriented community supported activity, and the City's waiver of any requirement that I or the Minor carry self funded liability insurance prior to the Minor being allowed to attend the Program. I acknowledge that, absent the execution of the Agreement, the City would not have offered me or the Minor the ability for the Minor to attend the Program because of unacceptable exposure to liability claims.
3. I hereby agree, personally and on behalf of the Minor, that the Minor's attendance in the Program is only granted by the City because of its understanding that in the event of injury to myself or the Minor, or damage or loss of property, that any insurance policy held by myself or for the Minor which covers such injury or loss shall be the primary source of any recovery.
4. I, personally and on behalf of my heirs, personal representatives, executors and assigns, and on behalf of the Minor and the Minor's heirs, personal representatives, executors and assigns, hereby release, waive, discharge and covenant not to sue the City, its City Council, Mayor, any City department or subdivision, its employees, servants, representatives, officers, agents, volunteers,

and successors and assigns, (hereinafter collectively referred to as "Releasees"), of any from any and all claims, demands, actions, causes of action, judgments, costs, expenses, court costs, attorneys' fees or other damages or liability, of any nature whatsoever, including but not limited to personal injury, property damage or wrongful death, whether caused by the sole, contributory or gross negligence of Releasees, or otherwise, or whether arising out of any defect, or presence or absence of any condition in or on any City property, premises, or right of way or in any City vehicle, which against Releasees, I or the Minor ever had, now have, or can, shall, or may have, upon or by reason of, directly or indirectly relating to, or arising from, the Minor's attendance in the Program.

5. I hereby personally, or on behalf of the Minor, voluntarily and expressly assume full responsibility for any risk of bodily injury, death, and property damage due to the negligence, whether sole, contributory or gross negligence, of any or all Releasees while the Minor attends the Program.

6. I hereby personally, or on behalf of the Minor, agree to defend at my expense, pay on behalf of, indemnify and save and hold harmless Releasees, from and against any and all claims, demands, liens, liabilities, judgments, losses and damages (whether or not a lawsuit is filed) including, but not limited to, costs, expenses and attorneys' fees at trial and on appeal for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any person or persons, which damage or injuries are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly, the Minor's attendance in the Program, including without limitation, damage or injuries alleged or claimed to have arisen out of or in connection with the Minor's negligence, whether sole, contributory or gross, whether or not the damage or injuries are alleged or claimed to have arisen in part due to any negligence of the Releasees or other third party, my intentional wrongful acts or omissions, or my failure or the Minor's failure to comply with applicable laws, rules, regulations, standards and ordinances.

7. I also agree that I am responsible for any and all damages that I or the Minor willfully, accidentally, or negligently inflict upon Releasees or third parties as a result of the Minor's attending the Program.

8. I expressly agree, personally and on behalf of the Minor, that this Agreement is intended to be as broad and inclusive as is permitted by the laws of the State of Florida, and if any portion of this Agreement is held to be invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect.

9. I have read and voluntarily sign this Agreement, and further agree that no oral representations, statements or inducements apart from the foregoing written agreement have been made.

10. I understand that I am encouraged to seek the advice of an attorney prior to signing this Agreement, and that I have been given the opportunity to seek such counsel.

11. I hereby give the City permission to take and use photo(s) of myself and/or the Minor. This publicity may include publication of the photo in newspapers, brochures, magazines, websites, displays or any other forms of publicity for the City. I understand there is no monetary compensation for use of these photos.

12. I hereby agree that I am the parent(s) or legal guardian(s) of the Minor and that I am fully competent and legally able to execute this Agreement on behalf of the Minor with the intent to bind both myself and the Minor by the terms hereof.

This release, waiver, hold harmless and indemnity form must be signed before I may attend the program.

BY SIGNING THIS AGREEMENT YOU ARE WAIVING OR RELEASING VALUABLE LEGAL RIGHTS. YOU MUST READ THIS AGREEMENT CAREFULLY BEFORE SIGNING IT.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed this _____ day of _____, 20_____.

BY: PARENT OR LEGAL GUARDIAN OF MINOR (with legal authority to execute this Agreement on behalf of the Minor if the participant is under 18.)

(Sign): _____

(Print): _____

BY: MINOR (any participant under 18 years of age).

(Sign): _____

(Print): _____

THIS RELEASE, WAIVER OF CLAIMS, HOLD HARMLESS, AND INDEMNITY AGREEMENT SHALL NOT BE MODIFIED, MARKED THROUGH OR CONDITIONED BY ANY ATTACHMENT OR WRITTEN COMMENTS.

CITYLAW DOCUMENT VERSION 00030486.WPD

Commissioner Silverstone made a motion to approve. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

Vice Mayor McIntee questioned whether anyone could use Jarvis Hall for a wedding ceremony or wedding reception. Assistant Town Manager Olinzock said they could not.

Note: Old Business 15a and 15e was brought forward for discussion and/or action. The remaining items were recessed to May 27, 2009 later in the evening.

13. RESOLUTION - "Public Comments"

- a. Resolution 2009-14: A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, ADOPTING AND PROVIDING FOR AN AUTOMATIC ANNUAL INCREASE IN RATES ON PARKING FEE SCHEDULE

14. QUASI JUDICIAL PUBLIC HEARINGS

15. OLD BUSINESS



- a. Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee) This item was deferred at the April 28, 2009 Commission meeting

Vice Mayor McIntee stated that the beaches were for residents and guests. He favored a permit fee for outside kite surfing that would contain certain standards.

Commissioner Silverstone made a motion to end the meeting after this item. Commissioner Clotley seconded the motion. The Commission agreed. An official vote was not taken.

Mike Leverock as a resident kite surfer did not want to see kite surfing go away. He was in favor of rules and felt that permitting was the solution that prohibited kite surfing within 100 feet of bathers, flying on the beach and teaching on the beach. He suggested placing limits that could be changed in the future.

Rick Iossie believed kite surfing could be managed. He said the goal was to make kite surfing an asset in the community. Mr. Iossie said he was leaning towards a registered operation managed through the Town. He proposed a designated launch area approximately 200 feet north of Damon's.

Commissioner Clotley questioned the way in which the person given instruction would be identified. Mr. Leverock stated that if kite flying on the beach, or flying a trainer kite was prohibited there would be no teaching.

Vice Mayor McIntee liked the idea of streamers but did not favor the idea that a resident had to go to Damon's to kite surf instead of the beach where he lived.

Mike Iossie said it was all about access; there was no public parking. He suggested focusing on the area where there were issues. Mr. Iossie suggested a designated launch area north of Pines Road and suggested not imposing any restrictions north of Sea Ranch Lakes Condominiums except to require registrations and flying of a streamer. Vice Mayor McIntee stated that was dead center in the middle of the 3 condominiums; they may not want Kite Surfers there. He said permission would need to be obtained from the Condominiums before granting that area as the launch area.

Commissioner Clotey agreed with Vice Mayor McIntee to obtain permission from the 3 condominiums as to whether they wanted the Kite surfers there or not. She asked the Town Attorney whether preferential treatment could be given to residents in regards to advanced permitting if permitting was limited. Attorney Trevarthen stated that it would be a challenge to rationalize it. She added that she had not yet heard back from the State as to whether the Town was allowed to regulate this as it was a State beach. Commissioner Clotey felt that residents should be allowed to kite surf if they wanted to.

Commissioner Dodd said he would be 100% in favor of no concessions, self policing of the Kiter's Association and a \$75 permit fee and registration with the Town.

Mayor Minnet pointed out a statement by Attorney Trevarthen in her memo that the Town could not regulate the activity to the detriment of non-resident and must have a rational municipal purpose for its regulation. She said the Commission had a duty to the community and asked what the poundage of the lines were. Mr. Iossi said they were typically 500 to 600 pounds. Mayor Minnet believed that that could hurt someone on the receiving end should a line come loose. Mayor Minnet was against the streamers, against a concession and/or teaching on the beach. She said it was a State beach and the Commission would have to work through the parameters.

Commissioner Silverstone wanted to see a resident on the recommended Board/Committee/Organization that would approve and/or designate competent people for the kite surfing permit. He also wanted to see something on the kite that showed they were permitted properly. Commissioner Silverstone wanted to have the kite surfers form some kind of committee that had specific guidelines.

Vice Mayor McIntee thought that Committee made sense and that Mr. Iossi and Mr. Leverock be on the Committee. He pointed out that kite surfing had gotten out of hand.

Mr. Iossi stated that as long as the kite surfers stayed a minimum of 100 feet away from by-standers, there was no kite flying on the beach, and no instruction there should be no problem. He asked for clarification as to whether there would be a designated launch. Vice Mayor McIntee clarified that a designated launch was tentatively part of the requirement, as long as "residents" can launch from wherever they want.

Mayor Minnet clarified there would be no instruction and no concession.

Vice Mayor McIntee made a motion to defer to the July 28, 2009 Commission meeting for Mike Leverock and Rick Iossi to report back to the Commission with a proposal. The motion carried 5 - 0.

-
- b. Selection of winner of the El Mar Drive Design Project as per presentation at the 4/14/09 Commission meeting (Mayor Minnet)
 - c. Discussion and/or action for an Ordinance to ban "totters" from prowling the streets of town stealing valuable recycling material from the refuse collector (Commissioner Dodd) Deferred at the May 12, 2009 Commission meeting by Commissioner Dodd
 - d. Discussion and/or action concerning RFP's and annual renewable contracts over \$15,000. Progress update from March 10th request (Commissioner Dodd)
 - e. Discussion and/or action by Town Commission regarding the selections of Town Banners (Assistant Town Manager Olinzock)

16. NEW BUSINESS

- a. Discussion and/or action regarding donations (Commissioner Dodd)
- b. Discussion and/or action regarding holding a single August Commission meeting (Commissioner Dodd)
- c. Discussion and/or action amending Town code regulations for owners of private property, not adjacent to public right of way, to allow for less restrictive outdoor seating provisions (Commissioner Silverstone)
- d. Discussion and/or action between County Building Department and Town Building Department (Vice Mayor McIntee)
- e. Discussion regarding the Town's financial situation with future outlook (Vice Mayor McIntee)
- f. Discussion on presentation of life saving awards to those who assisted in rescue of drowning swimmers last weekend (Commissioner Clotey)

Commissioner Clotey made a point of order. She said she had put a motion on the floor that the applicant, Athena By The Sea, be allowed to do their "Wine and Food Festival" event on Sunday, July 5, 2009 only, pending their acceptance. Mayor Minnet stated that they could be notified and asked staff to call them tomorrow. Commissioner Clotey asked to have a vote to accept or reject.

Memo

To: John Olinzock, Assistant Town Manager

From: Harlene Kennedy, Esq.

Cc: Susan Trevarthen, Town Attorney
Esther Colon, Town Manager

Date: May 15, 2009

Re: Regulation of Kite Boarding on the Public Beach

You have inquired whether the Town could regulate kiteboarding, and to what extent. The Town may regulate kiteboarding on the beach, subject to certain considerations and limitations noted below. You have advised the subject beach is owned by the State of Florida.

You have provided a copy of the Management Agreement (the "Agreement") between the Town and the Board of Trustees of the Internal Improvement Trust Fund (the "State"), dated August 8, 2003. The Agreement indicates the Town must act in a way that will not conflict with the "conservation, protection, and enhancement" of the land. The Agreement does not address the Town's authority to specifically prohibit or regulate activity and also allows the State to grant compatible uses of the property. It indicates the State "...shall determine whether or not any proposed uses by a third party are compatible with the uses authorized..." Accordingly, the State has final approval as to what is permitted and regulated. Two other permits for use are referenced in the Agreement. At your convenience, please provide the permits and any related agreements for review in this matter.

Various provisions of the Florida Statutes and Florida Administrative Code impact the use of State property but do not conclusively permit or prohibit local regulation of kiteboarding. A summary of the pertinent provisions is attached as Exhibit "A".

As the State has retained authority over the beach property, we have contacted the State to obtain preliminary approval for this regulation. We have not yet received a reply and we will follow up unless you advise to the contrary.

As previously discussed, the Town may not regulate the activity to the detriment of non-residents. The Town must have a rational municipal purpose for this regulation, such as safety measures. If the kiteboarding activity is interfering with traditional or protected uses, this interference may also be a basis for the regulation.

Please provide input for draft ordinance purposes. We will prepare a draft provision to submit for State approval. Regulation of matters to consider:

1. Fee to be charged;
2. Competence of participant to be measured,
3. Regulation of hours, and
4. Engaging a private firm to coordinate these efforts.

Also attached as Exhibit "B" are regulatory materials from other areas you may wish to consider.

Exhibit "A"

Memo regarding Local Regulation of Kiteboarding on a State Beach

Fla. Stat. § 253.03(7)(b) provides:

"...the Board of Trustees of the Internal Improvement Trust Fund also may adopt rules governing all uses of sovereignty submerged lands. The regulations must not interfere with commerce or the transitory operation of vessels through navigable water, but shall control the use of sovereignty submerged lands as a place of business or residence..."

Fla. Stat. § 253.03 provides:

"...The Board of Trustees of the Internal Improvement Trust Fund shall encourage the use of sovereign submerged lands for water-dependent uses and public access."

Fla. Stat. § 253.034 provides:

"...These lands shall be managed to provide for areas of natural resource based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state's lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund, public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the entity with management responsibility to enhance its ability to manage these lands..."

The Florida Administrative Code suggests this type of regulation is permissible, though there is no overt provision in this regard. Section 19-21.001 (on intent) indicates the traditional uses are to be protected: "...to manage, protect, and enhance sovereignty lands so that the public may continue to enjoy traditional uses including, but not limited to, navigation, fishing and swimming..."

Section 18-21.004 provides:

"...the following management policies, standards, and criteria shall be used in determining whether to approve...or deny all requests for activities on sovereignty submerged lands...

(1) General Proprietary. (a) For approval, all activities on sovereignty lands must be not contrary to the public interest, except for sales which must be in the public interest... All sovereignty lands shall be considered single use lands and shall be managed primarily for the maintenance of essentially natural conditions, propagation of fish and wildlife, and traditional recreational uses such as fishing, boating, and swimming. Compatible secondary purposes and uses which will not detract from or interfere with the primary purpose may be allowed...Activities which would result in significant adverse impacts to sovereignty lands and associated resources shall not be approved unless there is no reasonable alternative and adequate mitigation is proposed..."

Exhibit "B"



CRANDON PARK KITESURFING CONCESSION



THIS FACILITY IS FOR ADVANCED KITESURFERS ONLY.

RIDERS MUST:

- > Sign in at MKB booth when arriving to the beach
- > Have a Level 3 certification card (IKO, PASA VDWS..)
- > Carry Kitesurfing individual insurance

NOTE: Certification Skills test can be set with MKB instructors, and Kitesurfing Insurance are issued instantly at MKB booth (Non-usual kite surfers can obtain a DAILY PASS via MKB school)

Crandon park Kitesurfing Concession is under management of MiamiKiteboarding School:

- 1. Beginner and intermediate kitesurfers are not professional instruction in the park with MKB certified instructors.
- 2. The teaching area is on the flats located on the north side of the last lifeguard tower.
- 3. Riders should stay 100ft away from beginners undergoing lessons, and must yield priority.

Riding Rules:

- No kitesurfing when concession is CLOSED due to wind conditions
- A maximum of 25 kites are allowed on the water
- Signed-in riders will be issued a Pennant to attach to their kite and return it when ending their session. Be courteous for the next rider!
- Kitesurfers must use the IN/OUT CORRIDOR to reach a safe riding zone 300ft away from shoreline
- No jump or power moves in the corridor within 200ft from the beach
- Kite Leashes must be hooked-in at all times
- Respect boundaries and other Park users: (see Map)
 - Absolutely no riding in the swimming area
 - Stay 900ft (300 yards) from children undergoing wading program on the sandbars...or immediate expulsion will apply!
 - Do not fly a kite on the beach outside of designated area
 - Kitesurfers drifting towards swimmers and beach must disable and retrieve their kite as in self-rescue procedures

General Rules:

- SAFETY FIRST:**
- Always give the highest protection to bystanders and swimmers
 - Secure your kite on the beach with sand; especially bow ties
 - Wrap up your lines automatically as you land
- RIDING SKILLS SHOULD INCLUDE:**
- Launch and land safely considering bystanders and wind strength
 - Make sure you stay upwind consistently...or stay on the beach!
 - Know the kite recovery & rescue procedures
 - Know the right of way rules
 - Ride safely among other kites around
 - Recognize hazardous weather approaching

DOs

- Help preserve access to Crandon:**
- The rules are the same for all the riders...respect them!
 - Assist one another when in trouble
 - Work courteously with other park entity undergoing their job: park officers, lifeguards, nature center teachers
 - Enter the water on the UPWIND SIDE of the corridor to stay within its limits when riding out

DON'Ts

- Do not leave your kite on the Emergency Vehicle Path
- No kite set up north of the last Lifeguard tower
- No kite on dunes
- Do not fly your kite over anyone's reverse direction



KITESURFING CONCESSION HOURS OF OPERATION:

SUMMER (from 06/01 to 09/04) Monday thru Friday 9:30am to 7:00pm	WINTER (from 09/05 to 05/31) 7 Days a week 9:30am to 6:00pm
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NO KITESURFING ON THE FOLLOWING DATES:
 MEMORIAL DAY, LABOR DAY, JULY 4TH
 & 2 WEEKS OF TENNIS TOURNAMENT

MiamiKiteboarding beach is insured to an amount equal to the value of the kitesurfing concession and may ask any rider and a liability to the premises after being warned.

First & Last Name _____ Phone _____

Emergency Phone _____ E-mail _____

Signature _____ Date _____

miamikiteboarding.com

TO KITESURF IN CRANDON PARK

YOU MUST BE REGISTERED WITH THE NEW CRANDON RIDERS CLUB and get a streamer to attach on the back of your kite.

REGISTRATION REQUIRES

- PROOF OF FULLY COMPETENT KITESURFER LEVEL 3 (IKO- PASA-VDWS-FFVL-BKSA...)
- IKO KITEBOARDER INSURANCE UP-TO-DATE
\$78 /Year valid worldwide - online at www.ikointl.com or \$10 / Day on the beach at MKB booth
- PAY THE MEMBERSHIP FEE
\$50 /Year on the beach at MKB Booth or \$10 / Day on the beach at MKB Booth

ACKNOWLEDGMENT & RULES

- By riding in Crandon Park, Kitesurfers agree to comply with the Rules, Riding Boundaries, and Swim Zones at all time. (see RULES SIGNS).
- Kites DRIFTING toward the Swim Zone represents a Hazard for bystanders. You MUST DISABLE and RECOVER your KITE BEFORE it reaches the Beach. Do not request beachgoers to assist you.
- The Corridor, delimited by the RED and YELLOW BUOYS, is strictly reserved to go In & Out the Beach. Stay OUTSIDE of the YELLOW Line when riding.
- Lifeguards May allow more than 25 kites on the water if the RIDERS STAY CLEAR of the CORRIDOR.
- NO RIDING on the North Side of Corridor when CHILDREN ARE IN FIELD TRIP on the SANDBARS. Violators will be immediately expelled by Lifeguards.
- Park Rangers, Lifeguards on duty, BNC Staff, and MiamiKiteboarding Team may ask any kitesurfer to leave the premises after repeated violations.

NOTES

- Riders MUST SIGN-IN THE DAILY SHEET at MKB Booth before going out.
- Yearly Members receive a Yellow Streamer for the season.
- Temporary Riders are given a Red Streamer for the day.
- Non-certified kitesurfers can request a 15 min Level 3 Certification Test with MiamiKiteboarding IKO instructors.

Town of Lauderdale-by-the-Sea

OFFICE OF THE TOWN MANAGER

Memorandum

Date: April 21, 2009
To: Mayor Roseann Minnet
From: John Olinzock, Assistant Town Manager 
Subject: Kite Flying Permits – 4/20/09 Email

In response to your inquiry regarding the status of the kite flying permits, please note the attached Town Commission Meeting Minutes for January 13, 2009, which states that a motion was directed to the Town Attorney to create an ordinance that would allow the Town to sell permits for resident kite users.

At this time, we have not received legal direction to the above subject matter.

Thank you.

EC/mi

Cc: Vice Mayor Jerry McIntee
Commissioner Birute Clotey
Commissioner Stuart Dodd
Commissioner Jim Silverstone
Esther Colon, Town Manager
June White, Town Clerk ✓
Susan Trevarthen, Town Attorney

KiteFlying042109

**Town Commission Regular Meeting Minutes
January 13, 2009**

Mayor Minnet thought the Quasi Judicial was important but granted Vice Mayor McIntee's request.

16e. Discussion and/or action regarding kite surfing - parasailing - on the beach (Vice Mayor McIntee)

Vice Mayor McIntee stated that the kite surfing situation had gotten out of control. He explained that someone was running a personal business out of the Clarion Hotel. Vice Mayor McIntee believed the solution would be to allow only residents to kite surf in Town with a permit and only allow 2 permits per household. Michael Leverock explained that the problem is coming from non-residents using the parking lot in populated areas.

Vice Mayor McIntee made a motion to direct the Town Attorney to create an ordinance that would allow the Town to sell permits for resident kite users.

Manager Colon asked whether that would include parasailing. Vice Mayor McIntee said it would only include kite surfing.

Commissioner Silverstone seconded the motion.

Commissioner Dodd asked Attorney Abbott whether the Town can legally limit an activity on a public beach to residents only. Attorney Abbott said he was not sure and that he would research the information.

Vice Mayor McIntee amended his motion to include "under the assumption that it was legal to do so." Commissioner Silverstone agreed with the amendment.

Commissioner Clotey asked Vice Mayor McIntee why he was limiting it to 2 per family. Vice Mayor McIntee believed that since the kites were so big only 1 or 2 could be flown at a time. Commissioner Clotey asked whether the kite was getting permitted or the person. Mr. Leverock believed it would be the person. Commissioner Clotey asked what would happen if there was a bigger family. Mr. Leverock suggested that because the kites could be dangerous, it would be wise to have parental guidance for those under the age of eighteen. He also encouraged that there be no teaching on the beach. Mr. Leverock explained that when he came into contact with people given lessons, he would let them know of other beaches and facilities where lessons could be given. Commissioner Clotey said she needed more background information on the subject. Mr. Leverock offered his assistance on the subject.

Commissioner Silverstone believed that a simple solution would be to purchase a sticker that could be placed on the kite. Mr. Leverock said that there were streamers that could be placed on the kite.

Mayor Minnet asked Mr. Leverock if he knew any other cities that have done this before. Mr. Leverock said Crandon Park in Miami has done this before.

**Town Commission Regular Meeting Minutes
January 13, 2009**

In a roll call vote, the motion passed 5 – 0.

Commissioner Clotley suggested that Commissioner Comments be postponed and continue with the other agenda items. There were no objections.

Manager Colon explained that both Quasi Judicial Hearings had requests to be tabled. Mayor Minnet took Item 14b out of order.

- 14 b.** An application submitted by Frank Trepepe, the property owners' representative of 232 Commercial Blvd. The applicant is requesting a variance to allow an encroachment of fire escape stairs and protection required by the Fire Marshal within the rear setback - Board of Adjustment recommended approval with conditions

Frank Trepepe explained that he was requesting a one month extension to go review engineer suggestions. Manager Colon advised the item needed to go to before the Board of Adjustment prior to Commission approval. Commissioner Clotley made a motion to table this item to the February 24, 2009 Commission meeting. Commissioner Dodd seconded the motion. All voted in favor.

- 14 a.** A Variance request to allow setback requirements from Section 30-242 of the Towns Zoning Code opposed to the applicable 30-241 to construct a single family home within the RM-25 Zoning District. Property is located at 4312 El Mar Dr. - Staff recommends tabling to January 13, 2009 - This item was tabled until December 17, 2008 at which time the Board will consider the application. The applicant agreed and is to provide revised plans increasing the setbacks for the board to review (Assistant Manager Olinzock) Tabled at the December 16, 2008 Commission meeting to allow BOA to review revised plans - BOA recommended approval with conditions - Applicant requesting Table to January 27, 2009

Commissioner Silverstone made a motion to table to the January 27, 2009 Commission meeting. Clotley seconded the motion. All voted in favor.

- 15 c.** Discussion and/or action concerning adjusting the cost of hardship and other parking permits to be more in line with what other municipalities charge. Tabled at the November 25, 2008 Commission meeting by Commissioner Clotley - Tabled at the December 20, 2008 Commission meeting by Vice Mayor McIntee

Manager Colon advised that the fees needed to be taken into consideration to allow business to go back to normal.

Vice Mayor McIntee made a motion to direct the Town Attorney to draft a Resolution to implement the fees. Commissioner Silverstone seconded the motion. All voted in favor.

Marta Isla

From: Roseann Minnet **Sent:** Mon 4/20/2009 10:46 AM
To: Marta Isla
Cc:
Subject: RE: Access to public officials at town Hall
Attachments:

Hello Marta,

Hope you had a nice weekend. Could you please on the status of the kite flying permits. A few months back there was some concern and this came up on the agenda. I also remember the hotel that was giving lessons and this was discussed. Can you help me on this subject, Thank you, Roseann

From: Marta Isla
Sent: Mon 4/13/2009 2:17 PM
To: Stuart Dodd
Cc: Roseann Minnet; Jerry McIntee External; James Silverstone; Stuart Dodd; Esther Colon; roseannminnet@bellsouth.net; Birute Ann Clottey External; James Silverstone External; Roseann Minnet External; Birute Ann Clottey; Jerry McIntee
Subject: RE: Access to public officials at town Hall

Commissioner Dodd,

Please note that my working email address is as follows:

martai@lauderdalebythesea-fl.gov

Please update your contact list and delete the old email address lbtisla@bellsouth.net as it is no longer a working email.

Please respond back to me so we can make sure that you received this email.

Sorry for the confusion and thanks for your patience.

Marta Isla

Office of the Town Manager
Town of Lauderdale-By-The-Sea
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308
Office: 954-776-0576 **Fax:** 954-776-1069

Note: Florida Public Records Law Provides that most written communications to or from Municipal employees regarding city business are public records, available to the public and media upon request. Therefore, this e-mail message may be subject to public disclosure.

From: Stuart Dodd [mailto:stu4boats@bellsouth.net]
Sent: Sun 4/12/2009 1:33 PM
To: Marta Isla
Subject: Access to public officials at town Hall

<https://107.168.1.121/exchange/martai/Inbox/RE-%20Access%20to%20public%20official> 4/20/2009

Please have the I.T. expert (Steve?) investigate Lbtsisla@bellsouth.net for me. I have spent two hours over the last two weekends confirming with Bellsouth that there are no problems with my computer –

Can you please confirm your previous verbal statement that this is Ester's e-mail and that it is working correctly – According to Bellsouth the account is suspended!!

I inquired several weeks ago as to whether the town staff had listed e-mail addresses on the computer for e-mails – I see most of the staff have dedicated e-mail addresses.

The following staff do not appear on the directory page unless I'm going to the wrong page.

Town Manager

Town Clerk

Town Manager's secretary

Assistant town manager

Is this deliberate? If so why?

Town web site needs an update – Town attorney is still Dan Abbott

Respectfully

Stuart Dodd

* Old Business item 15b: Discussion and/or action regarding Kite Surfing (Vice Mayor McIntee)

There were 15 people present regarding the kite surfing item. Vice Mayor McIntee informed them that the Commission would hear from one person as the representative for the group rather than from each individual.

Attorney Trevarthen said she was asked whether activity could be regulated differently for residents and non residents. In her opinion there was no basis on which they could regulate. She said there would have to be a specific reason to discriminate. Vice Mayor McIntee pointed out that not a single kite surfer at the meeting was a resident. He asked why the kite surfers did not go to Ft. Lauderdale or Pompano Beach. Mr. Mike O'Keefe said that Ft. Lauderdale was too crowded and Pompano Beach banned kite surfing. Vice Mayor McIntee said the residents of the Town were not happy with the kite surfing and he had to consider the residents.

Mayor Minnet clarified that there were residents at the last meeting that this item was on the agenda. She said she received only 2 complaints against kite surfing.

Commissioner Silverstone felt some people were abusing the sport. He believed a license to teach should be required. Commissioner Silverstone questioned how anyone would be able to regulate the numbers and keep it at a reasonable level.

Commissioner Dodd believed the beach should be enjoyed by everyone. He was in favor of designating a certain area for kite surfing provided there would be no teaching and/or instruction. Commissioner Dodd favored a \$50 permit and to allow Mr. O'Keefe to do the policing.

Attorney Tevarthen advised that the Town Code of Ordinances, Section 14.3.5a created a procedure but Town Manager approval was required.

Commissioner Dodd made a motion to require a \$15 permit fee and to sign an affidavit that the kite surfer was competent. Vice Mayor McIntee questioned whether an Ordinance would be needed to require a permit. Attorney Trevarthen said that the Code of Ordinances already had park regulations that encompassed it, but more specific things could be written into the code.

Rick Iossi, Director of the Florida Kite Surfing Association agreed with a license and insurance requirement for instruction on the beach. Commissioner Silverstone asked whether regulations that only permitted kite surfing past the buoy system would work for the kite surfers. Mr. Iossi believed it could work in congested areas. He added that when the winds were good for the kite surfers it was bad for everyone else.

Vice Mayor McIntee inquired of the average speed in kite surfing and whether it could be fatal if a surfer hit someone. Mr. Iossi said the average speed was in the low 20 miles per hour. He added that there have been no fatalities in Broward County.

Commissioner Dodd asked whether 95% of the accidents involved kite surfers and not the bystanders on the beach. Mr. lossi said that was generally the case.

Commissioner Silverstone thought it would be beneficial to get together and discuss ideas on how to do it. He made a motion to defer for one month, to May 26, 2009. Rick lossi agreed to come back with a recommendation. Vice Mayor McIntee seconded the motion. The motion carried 5-0.

New Buisness 16b: Commission approval of Vendor for July 4th Beach Blast Celebration 2009 Fireworks Display - \$15,000.00 (Assistant Town Manager Olinzock)

Manager Colon explained there were 2 vendors that submitted a bid.

Barbara Cole had a problem with the way the bid was done. She also wanted to know who met with the turtle people and how they met with them. Ms. Cole believed there should be more discussion as to where the fireworks should be as she was concerned with strong winds.

Mark Furth said his recommendation was to go with Melrose Pyrotechnics at \$15,000. He felt that Zambelli did not do a good job last year.

Mayor Minnet was concerned with the Marine Turtle guidelines that prohibit lighting after 9:00 p.m. Mr. Furth said it did not matter where the fireworks were shot off as he had spoken with Lou Fisher and Mr. Fisher concurred that whether the fireworks were on the beach or off the beach the time was still 9:00 p.m. Mr. Furth also stated that Mr. Fisher said that a Platform would not need to be built.

Mayor Minnet received a letter from the National Save the Turtle Foundation that objected to any activity on the beach during the turtle nesting season. Mayor Minnet asked whether the Turtle Ordinance prohibited fireworks. Attorney Trevarthen said she saw nothing but would continue to look.

Mr. Furth said the fireworks could be shot from a barge for another \$30,000 to \$40,000. He said he would do everything not to harm the sea turtles.

Commissioner Clotey wanted to know if everything would be done by 9:00 p.m. Mr. Furth said the fireworks could be shot off at 8:30 p.m. He added that most did not start until about 8:30 p.m.

Commissioner Dodd asked whether there were any assurances or promises made to Melrose Pyrotechnics. Mr. Furth said he made no promises. Commissioner Dodd believed Zambelli had more bang for the buck. He asked whether Melrose Pyrotechnics would give back money for shots that did not go off. Mr. Furth said it would be whatever was written in the contract.