

MINUTES — MAY 11, 2021
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, MAY 11, 2021**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 7:01 p.m., followed by the Pledge of Allegiance and a moment of silence in memory of Jack Ouimette, the former Code Enforcement Officer, and Larrg Gerwig of the Beach Art, who recently passed.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Joe McCall, Commissioner Philip J. Hanna, Commissioner Edward G. Hoofnagle, Commissioner Denise Houseberg, and City Manager Brently Gregg Mims.

OTHERS PRESENT: City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, Finance Director Daniel A. Carpenter, CGFO, Public Services Director Dean A. Scharmen, and Technology Moderator Consultant Matt Sabella.

(To provide continuity for research, items are listed in agenda order although not necessarily discussed in that order.)

1A. REPORT OF Pinellas County Sheriff's Office.

The Pinellas County Sheriff's Office submitted a written report crime analysis report for the month of April 2021.

1B. REPORT OF Pinellas Suncoast Fire & Rescue District.

The Pinellas Suncoast Fire and Rescue District submitted a written report for the month of April 2021.

1C. PRESENTATION TO PUBLIC SERVICES DIRECTOR DEAN A. SCHARMEN BY ACTION 2000, INC. AND THE IRB HOMEOWNERS' ASSOCIATION.

City Manager Mims provided a brief history of Public Services Director Scharmen's 42 years of service with the City of Indian Rocks Beach. He stated former City Manager Coward summed Mr. Scharmen up in saying that "It is abundantly clear that you attained a position of trust with the City Commissions and the citizens of this community, and it appears that this position of trust was attained the old-fashion way and you earned it!"

City Manager Mims stated during Public Services Director Scharmen 42 years, he has successfully played an essential role in the middle of hurricanes, tropical storms, sewer breaks, water breaks, capital improvement projects, red tides, public services and solid waste employees management issues, beach renourishment, revolving door of city managers, city commission meetings until midnight, City events, organizational events, and so forth.

Diane Flagg and Nan Jensen of Action 2000, Inc. presented Public Services Director Scharmen with a plaque recognizing him for his commitment and dedication to the City. They thanked him for helping A2K make a difference in Indian Rocks Beach and supporting his staff.

Marybeth Dunn of the IRB Homeowners' Association presented Public Services Director Scharmen with a plaque congratulating him on 42 years of stellar service to the City of Indian Rocks Beach and for helping the HOA with all their events and special requests throughout the years.

Public Services Director Scharmen stated he had been blessed in his life, and Indian Rocks Beach is a great place. It is a great team. It is not just one person. It is everyone here. The residents should be proud of the staff that they employ. He stated he looks forward to continuing working, and he appreciates everyone.

2. PUBLIC COMMENTS.

Nancy Obarski, 708 Beach Trail, #B, stated she attended the Board of County Commission (BOCC) Meetings. She has been speaking about the perpetual beach easements, giving the County information about how beachfront property owners feel about them. She was happy to see at the last BOCC Meeting that the County added this issue to their Legislative Agenda to work it through the Florida Legislature versus the beachfront property owners and the Army Corps of Engineers. She stated the Army Corp of Engineers is using the Water Resources Development Act (WRDA) of 1986. WRDA prohibits the Corps from putting sand on private property using federal funds, and that is what they are claiming they are going to do. But, the truth is, the Corps will not put one grain of sand landward of the erosion control line (ECL). The Corps is hiding behind WRDA, in her opinion, to get out of paying the bill because they do not have the money. Congress authorized this Beach Renourishment Project for 50 years.

Jay Downing, JD's Restaurant and Lounge, 125 Gulf Boulevard, stated during COVID, the City temporarily permitted him to convert a portion of his back parking lot into a temporary outdoor patio area. Code Enforcement notified him that the temporary patio structure had to be removed by tomorrow. He is here tonight to ask the City Commission for a 30-day hardship extension until he can receive all his permitting for a permanent structure with bollards, parking requirements, and an amendment to his alcoholic beverage

license. He stated he had relocated tables and chairs from the inside to accommodate the additional outside seating as more people want to sit outside because of COVID.

Don House, 2104 Beach Trail, stated that if a person is not in "the crowd," then they are not heard or acknowledged by the City. He feels if the City Commission just listened every now and then, a lot can be avoided and because they might have an opinion that might make manner.

Jim Labadie, 316-10th Avenue, stated he would like to compliment the City in the fine job it does in cleaning up the garbage in the Business District Triangle. He noted the beach is packed with so many people and garbage is being disbursed everywhere by folks, and City has a difficult job cleaning it up. He appreciates the excellent job that they are doing.

3A. REPORTS OF THE CITY ATTORNEY:

City Attorney Mora reported on the Legislative Session as follows:

- **Short-Term Vacation Rental Bills.** No bills were passed this session.
- **HB 403, Home-Based Businesses.** This bill is awaiting the governor's signature. It provides that a local government may not enact or enforce any ordinance regulation or policy or take any action to license or otherwise regulate a home-based business. In some ways, this is an outgrowth of the pandemic as many businesses or business owners and their employees have pivoted to home-based working. A business is considered a home-based business if it operates, in whole or in part, from a residential property. The employees of the business who work at the residential dwelling must also reside in the residential dwelling and may give additional remote employees that do not work at the residential dwelling. Parking related to the business activities of the home-base business must comply with local zoning requirements, and the need for parking generated by the business may not be greater in volume than would normally be expected at a similar resident where no business is conducted. The structure of the residence cannot be changed to accommodate the business, like a drive-through window. As viewed from the street, the use of the residential property must be consistent with the uses of the residential area surrounding it. Home-based businesses may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property. Activities of the home-based businesses must be secondary to the residential use. All business activities conducted at a home-based business must comply with any relevant local, state, or federal regulations concerning the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted. Home-based businesses may operate in areas zoned for residential use and may not be prohibited, restricted, regulated, or licensed in a manner different from other

businesses in a local government's jurisdiction. The Legislature has provided the following provision in this bill: Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section. The prevailing party in a challenge may recover reasonable attorney fees and costs incurred in challenging or defending the action, including reasonable appellate attorney fees and costs.

- **SB 1876/HB 421, Governmental Actions Affecting Private Property Rights.** This bill amends the Bert Harris Act passed both chambers and is now awaiting action by the governor. The bill amends current law to provide procedures and remedies to landowners whose property is inordinately burdened by a local government regulation. Of concern to cities, the bill amends the term "action of a governmental entity" to now include the passing of an ordinance or regulation that diminishes a property owner's property value, even if that ordinance or regulation is not applied to the property. The bill will take effect on October 1, 2021.
- **SB 1412/HB.1113, Traffic and Pedestrian Safety.** This bill did not pass. By October 1, 2022, the Department of Transportation shall submit to the Federal Government a request for authorization to allow yellow rapid flashing beacons to be replaced by red rapid flashing beacons. If the Federal Government grants the request, all yellow rapid flashing beacons at each crosswalk with red rapid flashing beacons within 12 months after the date of federal authorization. If the Federal Government denies the request, local governments must remove all yellow rapid flashing beacons from each crosswalk by October 1, 2025.
- **SB 950, Bicycle and Pedestrian Safety.** This bill provides requirements for the driver of a motor vehicle overtaking a bicycle or other non-motorized vehicle or an electric bicycle. The driver of a vehicle overtaking a bicycle or other non-motorized vehicle, or an electric bicycle, occupying a bicycle lane must pass the bicycle, other non-motorized vehicle, or electric bicycle at a safe distance of not less than 3 feet between the vehicle and the bicycle, other non-motorized vehicle, or electric bicycle.
- **SB 53, Public Works/Stormwater Infrastructure.** This bill requires several unfunded mandates. Some of the mandates include a 20-year stormwater program, a 20-year needs analysis, the current and projected cost of providing services calculated in 5-year increments, the estimated remaining useful life of each facility or its major components, the most recent five-year history of annual contributions to, expenditures from, and balances of any capital account for maintenance or expansion of any facility or its major components, the local government's plan to fund maintenance or expansion. By June 30, 2022, and every five years thereafter, local governments must provide a stormwater management program or stormwater management system update.

3B. REPORTS OF THE CITY MANAGER.

- Presented the 2nd Quarterly Financial Report.

- SB 53 has several unfunded mandates that would have a negative impact of approximately \$100,000+/- on the FY2022 Budget for the City to be in compliance with the law if the governor signs the bill.
- The City will be receiving approximately \$1.8 Million in the American Rescue Plan Act that can be used for drainage infrastructure. He suggested the following projects during the FY2022 Budget process.
 - There will be a discussion item on the June 8, 2021 City Commission Meeting on Harbor Drive North at Belle Place Drainage Report.
 - The Business District Triangle drainage needs to be reviewed as there are some issues in that area.
 - Unfunded mandates from HB 53 — stormwater management plans, inventory, etc.

3C. REPORTS OF THE CITY COMMISSION.

The City Commission congratulated Public Services Director Scharmen on his 42 years of service with the City of Indian Rocks Beach.

COMMISSIONER HOUSEBERG:

- Stated she is a new graduate of the Institute of Elected Officials (IEMO) and stated she is now schooled as an elected official.

VICE MAYOR-COMMISSIONER MC CALL:

- Congratulated Public Services Director Scharmen and stated that he had bailed the IRB HOA out of many situations throughout the years. He appreciates the support and help from all the Public Services employees.

COMMISSIONER HOOFNAGLE:

- Stated Public Services Director Scharmen is one of the most patient and even-keel person he has ever met.
- Remembered the former Code Enforcement Officer Jack Ouimette, and stated he really served the City well and did many beautiful things to make the City Commission happy because the City Commission had someone to turn to for Code Enforcement.
- Remembered Larry Gerwig stating Mr. Gerwig was a treasure to the community. He said Mr. Gerwig's sense of community and adventure and love of the arts paired with his intense and lasting commitment to volunteerism. His painting captured his spirit of joy, and he portrayed settings and emotions that could capture one's imagination and transport them to a different place and time.

COMMISSIONER HANNA:

- Congratulated Public Services Scharmen on his 42 years of service and thanked him for his service to the City.

- Remembered Jack Ouimette and stated he was a great guy who truly had done a lot for the City. He was glad he had an opportunity to know him.
- Remembered Larry Gerwig and stated he was a remarkable individual who had given the City so much.

MAYOR-COMMISSIONER KENNEDY:

- Congratulated Public Services Scharmen on his 42 years of service and stated he is very much a company man and is a great staffer. She thanked him for everything that he has done for the community.
- Remembered Larry Gerwig and stated he was an awesome guy who enjoyed life and started painting late in life. He will be truly missed.

4. ADDITIONS/DELETIONS. None.

5. CONSENT AGENDA:

- APPROVAL OF the April 13, 2021 Regular City Commission Meeting Minutes.**
- RESOLUTION NO. 2021-06. A resolution of the City Commission of the City of Indian Rocks Beach, Florida, supporting Safe Streets Pinellas, a vision zero effort to eliminate traffic fatalities and serious injuries on the Pinellas Transportation Network.**

City Attorney Mora read the Consent Agenda, consisting of Agenda Items 5A and 5B, by title only.

MOTION MADE BY VICE MAYOR-COMMISSIONER MC CALL, SECONDED BY COMMISSIONER HANNA TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEMS NOS. 5A AND 5B. UNANIMOUS APPROVAL BY ACCLAMATION.

6A. BOA CASE NO. 2021-01 — 1615-1ST STREET

Considering a variance request from Section 110-131 (10)(c) to allow for a new dock as an accessory use for the property located at 1615-1st Street, Indian Rocks Beach, Florida, and legally described as Indian Beach Re-Revised 3rd Addition, Block 1, Lots 16 thru 24 & part of Lot 25 desc beg NW corner of Lot 25 thence S81D41' 35"E 150 feet thence S08D23'32"W 50 feet thence N81D41'35"W 44 feet thence S08D23'32"W 37.50 feet thence N81D41'35"W 106 feet thence N08D 23'32"E 87.50 feet to the point of beginning less part of Lots 16 & 19 desc com NW corner of Lot 18 thence S81D41'35"E 150 feet for point of beginning thence S08D23'32"W 102.30 feet thence N81D36'28"W 4.20 feet thence N09D34'06"E 102.32 feet thence S81D41'35"E 2.10 feet to the point of beginning together with Lot 4, Block 73 of Indian Beach Revised less W'L'Y 10 feet for road right-of-way & vacated 10-foot alley adjacent to E of SD Lot 4 (Per

DB 1600 PG 63 & O.R.'S 5511/975 & 5555/1136). Parcel # 01-30-14-42084-001-0250.

[Beginning of Staffing Report]

SUBJECT: BOA CASE NO. 2021-01: Variance request from Section 110-131(10)(c) to allow for a new dock as an accessory use for property located at 1615-1st Street, Indian Rocks Beach, Florida.

OWNER: Calvary Episcopal church
PROPERTY LOCATION: 1615-1st Street
ZONING: P/SP- Public/Semi-Public

Direction	Existing Use	Zoning Category
North	Residential	RM-1
East	Intracoastal/ Residential	N/A /RM-2
South	Residential	RM-1
West	Residential	RM-2

BACKGROUND:

Calvary Episcopal Church is requesting a variance to install a dock with two slips along their waterfront. Docks are not allowed as an accessory use in the Public/Semi-Public zoning district. Docks are only permitted in the Single Family(S), Medium Density Residential (RM-1), and Medium Density Multifamily (RM2) zoning districts as an accessory use.

Sec. 2-152. Variances.

(a) Generally; criteria for granting variances from the terms of subpart B.

- (1) The Board of Adjustments and Appeals shall make recommendations on and the City Commission shall decide variance applications will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the Board or the City Commission shall consider each of the following.

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *The property is located in a public/semi-public zoning which does not allow for docks as a permitted or an accessory use.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant, it would allow for a dock to be constructed in a district that does not permit docks as an accessory use.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The denial of this variance request would not deprive other owners of the use and enjoyment of their properties and would not cause undue hardship on the applicant.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *The denial of the variance would not prevent the applicant from reasonable use of their land.*
- f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare. *Granting the variance would not be in harmony with the general intent and purpose of subpart B.*

STAFF RECOMMENDATION: Based on the variance review criteria of Section 2-152, staff recommends denial of the request.

BOARD OF ADJUSTMENTS AND APPEALS: The Board favorably recommended approval to the City Commission by a vote of 3 to 1, with Member Labadie casting the dissenting vote.

PUBLIC NOTICE: Notice was mailed by first-class mail to the property owners within 150 feet in any direction of the subject property and posted on the subject property on May 3, 2021. (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE RECEIVED: None.

LEGAL ADVERTISEMENT: A legal notice was published in the April 28, 2021-edition, of the St. Pete Times Section of the Tampa Bay Times, for a public hearing that has been scheduled on May 11, 2021, for BOA Case No. 2021-01.

[End of Staffing Report]

City Attorney Mora read Agenda Item No. 6A/BOA Case No. 2021-01 by title only and stated that this was a quasi-judicial proceeding.

City Attorney Mora inquired of the Members if they had any ex parte communications with the applicant, with all Members responding in the negative.

City Attorney Mora inquired of the Members if any of them had done a site visit for the limited purpose of evaluating this case, with all Members responding in the negative.

The City Attorney duly swore in all persons planning to give testimony during the quasi-judicial proceeding.

Mayor-Commissioner Kennedy opened the public hearing.

Planning Consultant Harmon introduced BOA Case No. 2021-01 and made a PowerPoint Presentation showing aerial views of the property and the dock plan. She stated the applicants are requesting a variance from Section 110-131(10)(c) to allow for a new dock as an accessory use for the property located at 1615-1st Street, Indian Rocks Beach. The property is located in a public/semi-public zoning district, and the City Code does not provide for docks as an accessory structure in that zoning district. Docks are listed as an accessory use in single-family, medium-density residential, and multi-family zoned properties.

Planning Consultant Harmon stated the existing dock on the property was permitted by the City in 2000 without a variance. The new dock would be constructed next to the existing dock.

City Manager Mims clarified that the existing dock would have two boat slips, and the new dock would have two boat slips as well.

Planning Consultant Harmon stated staff had recommended denial based on the City Code, stating that docks are not permitted as an accessory use in the public/semi-public zoning district.

Planning Consultant Harmon stated the Board of Adjustments and Appeals recommended approval to the City Commission by a vote of 3 to 1.

Commissioner Houseberg asked what the purpose of the additional dock was? What was the dock needed for?

Planning Consultant Harmon stated Calvary wanted a way to bring back their parishioners because of COVID.

Vice Mayor-Commissioner McCall clarified that the Calvary property was zoned public/semi-public, and the surrounding area was zoned residential, with Planning Consultant Harmon responding affirmatively.

Gary Spivack, 360-176th Avenue Circle, Redington Shores, Official Agent for Calvary Episcopal Church, showed a PowerPoint presentation that expressed Calvary's mission, hardships due to COVID, and factors to consider.

Commissioner Hanna asked what is the existing dock with the two boat slips is being used for?

Mr. Spivack responded that parishioners do dock there from time to time, and they do have some people who dock there regularly. He stated some parishioners dock there to come to church services or to have picnics on the dock. They envision the additional dock would provide added space for their parishioners as well as community participation.

Commissioner Hanna asked if the Church is renting or offering the existing dock at a fee or a donation.

Mr. Spivack stated people do make donations to the Church for the use of the dock.

Commissioner Hanna clarified if he did not want to make a donation to use the dock, there would not be a problem, with Mr. Spivack responding in the affirmative.

Commissioner Hanna stated the existing dock and the proposed dock is an income opportunity as well, with Mr. Spivack responding in the affirmative.

Mayor-Commissioner Kennedy stated the Church no longer offers a youth sailing program and asked if the Church is considering bring that program back, with Mr. Spivack responding in the negative.

Bob Lima, 960 Starkey Road, #1103, stated he is a member of Calvary Episcopal Church for almost 20 years. He noted the pandemic had affected their congregation, and attendance is down. To accommodate their parishioners, the Church's idea was to create an outside chapel adjacent to the new dock where church services, baptisms, memorial services, weddings, and so forth can be held. It seems that people feel more comfortable outside than inside.

David Bliesner, 1612-1st Street, spoke in objection to the variance. He reviewed the six criteria statements with which staff recommended denial of the variance. He requested the City Commission not approve Calvary's request to put in a new dock. He stated he understands Fr. Jon's business and revenue model request to put in a new dock, and he has spoken with him about his business and revenue model in the past. Fr. Jon's donations

expected approach to the parking model reinforced by signage that appears to work fabulously based on the number of people that park at the Church and near his home every weekend. Despite the way of accepting donations, the signage is very clear that donations are expected. He can only conclude that Fr. Jon wants another dock because the operations probably would be working as well for that second dock because there are sailboats there that are already moored at the Church, and they are there all the time. As stated this evening, the sailboats are paying some numeration to be docked there.

Mr. Bliesner stated that building a new dock is specifically intended to increase traffic at the Church. In a situation where the neighborhood cannot handle the traffic that they have now. As he had mentioned at a previous City Commission Meeting, his family's life quality of life has been significantly degraded by the Church's parking situation.

Mr. Bliesner stated another dock would just increase traffic that the neighborhood cannot handle.

Mr. Spivack pointed out that the parking signage does encourage donations, and all churches exist through donations. All churches try to be good community participants, and they try to do that. There is an increase in traffic, but he does not think the new dock would increase traffic on land. It is just one dock, and it does not have anything to do with traffic on the ground. There is traffic there now, and people will use the church parking lot for parking whether it is allowed or not allowed.

Mr. Spivack stated he does not feel that a new dock would make that much of a difference to the land traffic, but it would to his parishioners.

MOTION MADE BY VICE MAYOR-COMMISSIONER MCCALL TO APPROVE BOA CASE NO. 2021-01, 1615-1ST STREET. MOTION FAILED DUE TO A LACK OF A SECOND.

MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER HANNA TO "DENY" BOA CASE NO. 2021-01. VARIANCE REQUEST FROM SECTION 110-131(10)(C) TO ALLOW FOR A NEW DOCK AS AN ACCESSORY USE FOR PROPERTY LOCATED AT 1615-1ST STREET, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS, INDIAN BEACH RE-REVISED 3RD ADDITION BLOCK 1, LOTS 16 THRU 24 & PART OF LOT 25 DESC BEG NW CORNER OF LOT 25 THENCE S81°41'35"E 150 FEET THENCE S08°23'32"W 50 FEET THENCE N81°41'35"W 44 FEET THENCE S08°23'32"W 37.50 FEET THENCE N81°41'35"W 106 FEET THENCE N08°23'32"E 87.50 FEET TO POINT OF BEGINNING LESS PART OF LOTS 16 & 19 DESC COM NW CORNER OF LOT 18 THENCE S81D41'35"E 150 FEET FOR POINT OF BEGINNING THENCE S08°23'32"W 102.32 FEET THENCE N81°36'28"W 4.20FT THENCE N09°34'06"E 102.32 FEET THENCE S81°41'35"E 2.10 FEET TO POINT OF BEGINNING TOGETHER WITH LOT 4, BLOCK 73 OF INDIAN

BEACH REVISED LESS W'LY 10 FEET FOR ROAD RIGHT-OF-WAY & VACATED 10 FEET ALLEY ADJACENT TO E OF SD LOT 4 (PER DB 1600 PG 63 & O.R.'S 5511/975 & 5555/1136) OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA. PARCEL # 01-30-14-42084-001-0250.

Commissioner Hanna stated he is going with staff's recommendation, and in reviewing the aerials of that area, he is concerned about the narrowness of the Intracoastal Waterway in that area.

Commissioner Hoofnagle stated he thinks in the case of a variance, the City Commission looks to the hardship in whether the hardship is of a sufficient character that it warrants to change the law or act in contravention to the law. In this case, there is an existing dock there, so he is struggling to find a hardship with the property, not with the Church. All non-for-profits have a variety of hardships, but in the instance here where the City Commission is looking at a hardship specific to the variance request. He feels that the existence of a dock already would make it hard for him to accept that there is a hardship that would be resolved with an additional dock, which is what is influencing him to support the denial of this variance request.

ROLL CALL VOTE:

AYES: HOUSEBERG, HANNA, HOOFNAGLE, KENNEDY
NAYS: MCCALL

MOTION TO "DENY" CARRIES BY A VOTE OF 4 TO 1.

THE CITY COMMISSION DENIED THE VARIANCE.

6B. BOA CASE NO. 2021-02 — 416-20TH AVENUE

Considering a variance request from Section 94-87 to permit a new dock to extend beyond the maximum allowable 50-foot dock length for the property located at 416-20th Avenue, Indian Rocks Beach, Florida, and legally described as Indian Beach Re-Revised 7th Addition, Lot 10 & W ½ of Lot 11, according to the map or plat thereof as recorded in Plat Book 28, Page 78, of the Public Records of Pinellas County, Florida. Parcel # 06-30-15-42156-000-0100.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2021-02: Variance request from Section 94-87 to allow the dock to extend 10 feet beyond the permitted 50-foot dock length for the installation of a new dock for property located at 416-20th Avenue, Indian Rocks Beach, Florida, and legally described as Lot 10, and the West 1/2 of Lot 11, Seventh Addition to Re-Revised Map of Indian Beach, according to the map or plat thereof as recorded in Plat Book 28,

Page 78, of the Public Records of Pinellas County, Florida. Parcel #06-30-15-42156-000-0100.

OWNER: Matthew & Lauren Campo
PROPERTY LOCATION: 416-20th Avenue
ZONING: S- Single Family

Direction	Existing Use	Zoning Category
North	Intracoastal	N/A
East	Residential	S
South	Residential	S
West	Residential	S

BACKGROUND:

Matthew and Lauren Campo are requesting a variance of 10 feet for the length of the dock to extend 10 feet beyond the 50-foot dock length due to the mangroves and water depth.

Sec. 2-152. Variances.

(a) *Generally; criteria for granting variances from the terms of subpart B.*

- (1) The Board of Adjustments and Appeals shall make recommendations on and the City Commission shall decide variance applications will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the Board or the City Commission shall consider each of the following.
 - a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *The property is located in an area where there the water is shallow and has increase mangrove growth.*
 - b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
 - c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same

- zoning district. *Granting the variance would not confer special privileges to the applicant, it would allow for the dock and boat lift to be constructed.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval of this variance request would not deprive other owners of the use and enjoyment of their properties.*
 - e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the dock and boat lift.*
 - f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare. *Granting the variance will be in harmony with the general intent and purpose of subpart B.*

STAFF RECOMMENDATION: Based on the variance review criteria of Section 2-152, staff recommends approval of the request.

BOARD OF ADJUSTMENTS AND APPEALS: Motion carried by a vote of 3 to 1, with Chair DeVore casting the dissenting vote.

PUBLIC NOTICE: Notice was mailed by first-class mail to the property owners within 150 feet in any direction of the subject property and posted on the subject property on May 3, 2021. (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE RECEIVED: Letters of no objections were received from Dale Segura, 414-20th Avenue, and Dennis Hart, 422-20th Avenue.

LEGAL ADVERTISEMENT: A legal notice was published in the April 28, 2021-edition, of the St. Pete Times Section of the Tampa Bay Times, for a public hearing that has been scheduled on May 11, 2021, for BOA Case No. 2021-02.

[End of Staffing Report]

City Attorney Mora read Agenda Item No. 6B/BOA Case No. 2021-02 by title only and stated that this was a quasi-judicial proceeding.

City Attorney Mora inquired of the Members if they had any ex parte communications with the applicant, with all Members responding in the negative.

City Attorney Mora inquired of the Members if any of them had done a site visit for the limited purpose of evaluating this case, with all Members responding in the negative.

The City Attorney duly swore in all persons planning to give testimony during the quasi-judicial proceeding.

Mayor-Commissioner Kennedy opened the public hearing.

Planning Consultant Harmon introduced BOA Case No. 2021-02 and presented a PowerPoint Presentation showing aerial views of the property and a dock plan. She stated the applicant is requesting a variance from Section 94-87 to allow a variance of 10 feet to allow the dock to extend to 60 feet beyond the allowed 50-foot maximum dock length to construct a new dock on the property at 416-20th Avenue. The variance is because of the shallowness and to avoid the mangroves at the seawall.

Matthew Campo, 416-20th Avenue, applicant, presented a PowerPoint Presentation to the City Commission and explained his variance request. He stated he is requesting a variance to increase the boat dock length from the existing 45 feet to 60 feet. The current dock is an older structure that would be reconstructed to a length consistent with adjacent parcels and reach a depth closer to 36 feet below mean low water. The reason for this request is due to the fact at 50 feet, 36 feet is below mean low water is not reached. This is based on a bathymetric engineering survey of the basin bottom elevations using Clearwater NOAA Station.

Mr. Campo stated the key factors to consider: (1) The boat dock extension avoids encroachment into the mangroves and avoids dredging, which can cause negative environmental impacts. A dock variance protects mangroves and wildlife habitats for small fish and birds. (2) There is a stormwater inflow pipe two lots East that contributes sediment from streets and creates shallow conditions. A variance mitigates this condition. (3) At 60 feet, the dock still would not achieve 36" below mean low water. A dock length of 60 feet matches the adjacent neighbors and is minimum variance possible. (4) Out of 690 Intracoastal waterfront residential properties in Indian Rocks Beach, approximately 16 have shallow conditions. Our request is a unique situation, and approving this variance would not set a precedent. (5) Reasonable safe access to the waterway is vital to waterfront homes' enjoyment and property values.

There were no public or City Commission comments concerning this variance.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER HOUSEBERG TO APPROVE BOA CASE NO 2021-02. VARIANCE REQUEST FROM SECTION 94-87 TO ALLOW THE DOCK TO EXTEND 10 FEET BEYOND THE PERMITTED 50-FOOT DOCK LENGTH FOR THE INSTALLATION OF A NEW DOCK FOR PROPERTY LOCATED AT 416-20TH AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOT 10, AND THE WEST 1/2 OF LOT 11, SEVENTH ADDITION TO RE-REVISED MAP OF INDIAN BEACH, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 28, PAGE 78, OF THE

PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA. PARCEL #06-30-15-42156-000-0100.

Commissioner Hanna stated that the hardship results from years of boat activity and potentially stormwater runoff sediments that accumulate at outfall pipes located nearby that cause mangrove growth and shallowness.

ROLL CALL VOTE:

AYES: MCCALL, HOOFNAGLE, HOUSEBERG, HANNA, KENNEDY
NAYS: NONE.

MOTION CARRIED UNANIMOUSLY.

7A. AUTHORIZING the City Manager to sign an Interlocal Agreement for a five-cent Local Option Fuel Tax with the Pinellas County Board of County Board of County Commissioners.

[Beginning of Staffing Report]

Subject: Consideration of an Interlocal Agreement with Pinellas County authorizing the imposition of a local option fuel tax of up to \$0.05 upon every gallon of motor fuel and diesel fuel sold in the County and taxed under the provisions of Chapter 206, Florida Statutes.

BACKGROUND:

Local Option Fuel Tax (LOFT) is a component of the Indian Rocks Beach Annual Budget and funding sources. Currently, the City uses 100% of the fuel taxes received to pay for costs associated with street lighting throughout the City. The County reports that approximately one-third of the Local Option Fuel Tax revenues are paid by non-residents traveling within the County. Local Option Fuel Tax revenues are restricted in use for transportation-related expenditures under Florida Statute 336.025.

ANALYSIS:

Pinellas County is considering increasing the local option fuel tax by 1-5 cents. The proposal would keep the revenue sharing agreement formula exactly how it has been for the current gas tax (40% to cities with distribution among cities based on population). An interlocal agreement from municipalities representing 50.1% of the incorporated area population is required by June 1st. The City Commission must decide if they support this increase. The Pinellas County Board has until October 1st to adopt an ordinance to increase the fuel tax and notify the Florida Department of Revenue.

The proposed 5-cent increase in taxes would generate approximately \$20k per year in additional revenue to the City. If the Pinellas County Commission ultimately approves this increase, the additional funds would be applied to the increasing street lighting costs for LED replacements throughout the City. While less electricity is utilized in a LED streetlight, an additional fee is charged by the utility for the rental of the LED equipment. If approved, the 5-cent additional levy would commence January 1, 2022.

[End of Staffing Report]

City Attorney Mora read Agenda Item No. 7A by title only.

Finance Director Carpenter reviewed the Staffing Report for Agenda Item No. 7A.

There were no public comments.

Mayor-Commissioner Kennedy stated she did reach out to the Pinellas County Administrator for some local option fuel tax history that she reviewed with the City Commission. She noted the current option fuel tax had not changed since adding one cent in 2007.

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED BY VICE MAYOR-COMMISSIONER MC CALL, TO APPROVE AUTHORIZE THE CITY MANAGER TO ENTER INTO AN INTERLOCAL AGREEMENT FOR 5IVE-CENT LOCAL OPTION FUEL TAX WITH PINELLAS COUNTY BOARD OF COUNTY COMMISSIONERS.

ROLL CALL VOTE:

AYES: HOUSEBERG, MCCALL, KENNEDY

NAYS: HOOFNAGLE, HANNA

7B. ORDINANCE NO. 2021-02 — FIRST READING. An ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 62 – Traffic and Vehicles, Article II – Stopping, Standing and Parking; amending the requirements for securing a resident parking permit decal; providing requirements for securing a parking permit decal for property owners; limiting the number of parking permit decals for property owners; specifying permissible uses of a resident or owner decal; repealing the provision for temporary guest parking permits; allowing for limited overnight parking at the City's beach accesses; removing the need for a parking permit decal for use of the 15th Avenue Boat Ramp; providing for severability and an effective date.

[Beginning of Staff Report for April 13, 2021 City Commission Meeting]

Following March's City Commission meeting, he has worked closely with City staff to incorporate proposed amendments to Ordinance 2020-07 restricting parking on the City's beach accesses. These proposed amendments are the product of reconciling input received in: (1) public comment received during public meetings and through e-mail; (2) individual meetings with each of the Commissioners; (3) review by the personnel responsible for administration and enforcement of the Ordinance; and (4) detailed discussions between the City Attorney and City Manager.

I. PROPOSED AMENDMENTS

The proposed amendments are as follows:

1. ***Findings of Fact - Section 62-35 (b)***: Revised finding of fact to acknowledge scarcity of parking as a resource along the City's beaches and more particularly within the City's beach accesses;
2. ***Parking by Permit Decals Generally - Section 62-35 (c)***: Revised restrictions establishing only means to gain access to privilege of parking decals, establishing different provisions for residents and property owners described as follows:
 - ***Primary Residents - Section 62-35 (c)(1)(i)***: Shall be entitled to issuance of a parking decal for each registered vehicle owned or leased by the owners or family members of the same property address.
 - ***Application Requirements – Section 62 (d)(1)***: City application accompanied by: (1) driver's license at address for which decal is sought; (2) valid automobile registration at same address; (3) *if applicable*, a lease or certified landlord attesting to year-long tenancy.
 - ***Property Owners – Section 62-35 (c)(1)(ii)***: Ownership of each separate tax parcel shall entitle the owner(s) of a parcel to only one (1) parking by permit decal for the property, regardless of the number of owners.
 - ***Application Requirements – Section 62 (d)(2)***: City application accompanied by: (1) a copy of property appraiser's record identifying applicant as owner of subject parcel; (2) Pinellas County Tax Collector records showing same; and (3) *if applicable* official Secretary of State records showing applicant is owner of corporation that owns subject property.
- ***Temporary Parking Permits - Section 62-35 (e)***: Removed to eliminate temporary parking permit provision. The elimination of this program is offset by the addition of

a provision allowing a vehicle, regardless of its owner, to park in a single beach access for up to three nights in a row.

- **Boat Ramp Parking – Section 62-35 (g):** Removed language requiring a decal, while maintaining restriction of use to residents or property owners.

II. CONCLUSION

The foregoing proposed amendments (Ordinance No. 2021-02) are offered for the City Commission's consideration in response to public feedback and insights gleaned during individual sessions between City staff and commissioners. Ultimately, it is the City Commission's duty to determine whether to embrace, modify, or reject the proposed amendments.

[Ending of Staffing Report for April 13, 2021 City Commission Meeting]

[Beginning of City Attorney Email to City Commission dated May 11, 2021]

After the workshop session you received correspondence from a concerned residents identifying potential legal claims concerning the distinction being made between different property owners (full time v. part time/ primary v. secondary / homestead v. non-homestead). Below is my legal analysis of this issue for your consideration. Based on the my analysis the ordinance will be amended to more accurately reflect and detail the findings and rationale underpinning this legislative action.

I. Executive Summary

When making legal distinctions between individuals, when those individuals are not members of a protected class, the City need only provide a rational basis for the distinctions it is making. The City's asserted basis is determined by looking to the findings and whereas clauses is determined of an adopted ordinance. To show a violation of Florida's equal protection provision under rational basis review, a plaintiff must show that (1) [the plaintiff was] treated differently under the law from similarly situated persons, (2) that the statute intentionally discriminates against [the plaintiff], and (3) that there was no rational basis for the discrimination.

II. Relevant Case Law

While not an exhaustive recitation of relevant case, below are excerpted cases considering similar issues.

Most notably, in 1977, the Supreme Court of the United States ("SCOTUS") considered an Arlington County zoning ordinance which directed the County Manager to determine residential areas that were especially crowded with parked cars from outside the neighborhood. Free parking permits were issues to residents, their visitors, and those they

do business with. Commuters who worked in a large commercial complex in one of the residential areas sued to enjoin enforcement on federal equal protection grounds. The City's stated objective was to reduce air pollution and other environmental effects of automobile commuting. Though the Virginia Supreme Court found the ordinance violated the Constitution, the SCOTUS overturned the decision and held the U.S. Constitution did not outlaw Arlington County's environmental policy objectives. SCOTUS reasoned that the Equal Protection Clause requires only that the distinction drawn by an ordinance rationally promote the regulation's objectives. The Court added, "A community may also decide that restrictions on the flow of outside traffic into particular residential areas would enhance the quality of life there by reducing noise, traffic hazards, and litter. By definition, discrimination against nonresidents would inhere in such restrictions."

A few years later, in 1983, a civil action was filed against the City of Maitland, Florida, after it passed a resident prohibiting non-residents from obtaining parking permits for boat trailer spaces in a municipal park. The spaces were within convenient proximity to boat ramp facilities in the park. In comparison to the Arlington case, Maitland's stated objective for its favored treatment was traffic congestion, access to the park, constraints of limited parking and proximity of the park location to adjacent residential dwelling units. In reviewing the matter the Fourth District Court of Appeals held that the City's ordinance was distinguishable from the Arlington case because there was no showing that the non-residents cause any more harm than the residents in parking and the consequent traffic pattern of the arrangement requiring a u-turn to park increased, rather than decreased the hazards to safety.

In 1987, the Florida Attorney General issued a non-binding opinion(AGO 87-58) holding that Florida's Department of Natural Resources could implement a state park fee system, distinguishing between residents and non-residents of the state, provided that it determined a valid state purpose (read: rational basis) exists and the implementation of such a fee system reasonably relates to carrying out that purpose. The AGO reached this conclusion while acknowledging the result reached in the City of Maitland case.

In comparison, in 1988 the U.S. District Court for Rhode Island considered a case where nonresidents of the Town of Narragansett brought action against the town challenging its limitation of certain beach facilities to town residents. Relying on the Arlington County case, the court held the town was authorized to limit the use of bathhouses and cabanas to its residents, and that such limitation did not violate equal protection. In this case the beach, its meeting room, concession areas, restrooms, kitchen areas, porch, and deck were all freely available to the public. Only the cabanas and showers, of which there were 358, were limited to residents. The R.I. District Court reasoned that the "rationing of this scarce resource is based on a rational premise." Indeed, the Court added "The very nature of the use requires exclusions."

Similarly, in 1991 the Supreme Court considered a case brought against the Borough of Stroudsburg and held that an ordinance that granted parking preference to residents over

non-residents was not an arbitrary or unreasonable method of achieving the articulated goal of reducing hazardous traffic conditions and the overburdening of existing streets and roads.

[End of City Attorney Email to City Commission dated May 11, 2021.]

City Attorney Mora read Ordinance No. 2021-02 by title only for first reading.

City Attorney Mora stated he provided a revised version of Ordinance No. 2021-02 to the City Commission this afternoon, which document was also posted on the City's website. He stated the ordinance's revised terms do not differ in terms of substance and enforcement mechanisms, which were considered at the April 13, 2021 City Commission Work Session and the provisions made public.

City Attorney Mora stated an additional Whereas Clause was added to the ordinance. ("Whereas, the City Commission has carefully considered this ordinance addressing resource management and amended previous iterations hereof in response to administrative input, evaluation of factual data, feedback, and comments from the public during multiple public hearings and workshops, and upon each Commissioner's own individual policy concerns and discretion; and")

City Attorney Mora stated also added were a series of findings of fact. The findings of fact note the recent trend in the past two years of the City Commission's consideration of series of transportation and parking-related ordinances, noting particularly the golf carts and low-speed vehicles ordinance, the discussions concerning on-street and grass parking previously revisited earlier this year. The finite amount of public parking within the City's beach accesses does not satisfy higher demand for beach parking by residents, property owners, and transients alike, noting that there are 73 resident-only parking spots. He reviewed the location of the 73 resident-only parking spots. The allotment of resident-only spots is not done to the complete exclusion of the general public. In each area where the City has set aside spots for resident-only parking spots, there are also spots available to the general public.

City Attorney Mora reviewed the following findings of fact that have been added to the ordinance.

Sec. 62-35. Parking on beach accesses and 15th Avenue boat ramp.

- (b) *Finding of fact.* The City Commission based on studies and reports conducted and completed by the City Administration, upon the general knowledge of the scarcity of available parking along its beaches and in its parks which are open to all members of the public, and operating costs connected with the maintenance of

beach accesses within the corporate limits of the City, makes the following finds of fact:

- (4) In the past two years, the City Commission has considered various ordinances and regulatory proposals to address parking and traffic management throughout the City, including limitations of street parking in residential districts, management and provision for pedestrian traffic, multimodal transportation options including but not restricted to the operation of golf carts and low-speed vehicles, and other considerations brought to its attention.
- (5) There is a finite amount of public parking within the City's beach accesses and parks, which does not satisfy the significantly higher demand for beach parking by residents, property owners, and transient visitors alike.
 - (a) There are a total of 73 resident-only parking spots in the City, in which an individual can lawfully park with possession of a parking decal. The spots are allocated throughout the City as follows:

1.	<u>Total across 28 beach accesses .</u>	<u>61 resident-only parking spots</u>
2.	<u>10th Avenue Park</u>	<u>2 resident-only parking spots</u>
3.	<u>Brown Park</u>	<u>2 resident-only parking spots</u>
4.	<u>Keegan Clair Park</u>	<u>3 resident-only parking spots</u>
5.	<u>Kolb Park</u>	<u>2 resident-only parking spots</u>
6.	<u>Indian Rocks Beach Nature Preserve</u>	<u>3 resident-only parking spots</u>
- (6) Since 2015, the City has averaged an estimated 3,235 active registered voters. This figure, which is more than 44 times higher than the number of resident parking spots, does not capture the number of property owners or residents in the City in possession of a vehicle and driver's license.
- (7) Between 2015 and 2019, the City issued an average of 2,785 parking permits. This figure, which is more than 38 times higher than the number of resident parking spots, does not capture the number of individuals of drivers historically entitled to a parking permit decal.

City Attorney Mora stated the findings of facts were added to recognize the decentralized operations of vacation rentals in residential districts and how that particular use and its proliferation contributes to the density of contemplated uses in the community and attempts to regulate thereof. He stated that this is not a short-term rental ordinance by any stretch, but the City has to be mindful of all the policy issues that are being considered here.

- (8) In recent years, the decentralized operation of vacation rentals in residential districts, facilitated by various online platforms, has augmented the intensity

of the demands made on the City's resources, including parking by transient visitors and traffic management.

- (a) According to the City's records, there are presently 185 short-term rentals being operated that have registered with the City pursuant to City Ordinance No. 2018-01. According to City records, there are more than 200 short-term rentals operated that are not subject to Ordinance No. 2018-01.
- (b) The City's knowledge of the precise number of short-term rentals is confined to those that formally registered with the City or otherwise secure a business tax receipt. These figures cannot and do not capture those operated in violation of the law or without the City's knowledge.

City Attorney Mora stated since the last meeting, the City received from one resident a lengthy and detailed email setting forth their concerns and potential legal challenges to this ordinance. This particular person owns two lots in the City but is not under the construct of the ordinance in its current configuration as a full-time resident. There has been a series of appellations name attributions giving here whether it is homesteaded or non-homesteaded, resident or non-resident, primary-resident or secondary-resident, primary-owner, secondary-owner. The consistent theme is the difference in terms of the time spent in the parcel and the subjective manifestation of an intent to make that a person's domicile or primary residence. That is the distinction being drawn here. That particular resident felt that in the current configuration of this ordinance, where the City is regulating a scarce resource, it is hard if not impossible to justify why a property owner who is here year-round should have an entitlement to an unlimited number of parking decals as this allows for so long as those vehicles are registered to individuals residing at that property whereas a secondary homeowner who pays higher taxes and is may otherwise be invested in the community is capped at one decal per lot. Under this construct, every property owner has the ability to get a decal.

City Attorney Mora stated during the April 13, 2021 Regular City Commission Meeting/Work Session, the City Commission, by consensus, made the following amendments to Ordinance No. 2021-02:

- Full-time residents in this construct have unlimited access to decals with proper documentation.
- Property owners can now get one decal per address.
- No decal is needed for residents or property owners to use the 15th Avenue Boat Ramp, and there are means to authenticate that, if necessary, informally.

These amendments are shown below.

- (c) *Entitlement to Non-transferable "Parking by Permit Only" Decals.*

(1) Any parcel with a separate tax parcel ID assigned by the Pinellas County Property Appraiser that is located within a designated "parking by permit only" zone established in this section and used as a primary residence by the owner or a lessee, with a lease term of at least one year, shall be entitled to the issuance of a parking decal for each registered vehicle, including low-speed vehicles, owned or leased by the owner and family members living at the residence provided that the vehicles are registered to the property address correlating to the same tax parcel ID. A Parking by Permit Only decal shall only be issued in the following manner:

- a. Primary Residents of Indian Rocks Beach. Any parcel with a separate tax parcel ID assigned by the Pinellas County Property Appraiser that is used as a primary residence by the owner, or a lessee with a lease term of at least one year, evidenced in the manner set forth in this section, shall be entitled to the issuance of a parking decal for each registered vehicle, including low-speed vehicles, owned or leased by the owner and family members living at the residence provided that the vehicles are registered to the property address correlating to the same tax parcel.
- b. Residential Property Owners of Indian Rocks Beach. Any parcel with a separate tax parcel ID assigned by the Pinellas County Property Appraiser, evidenced in the manner set forth in this section, shall be entitled to the issuance of no more than one (1) parking decal for each such parcel, issued to a single owner of record, regardless of whether the property is owned by more than one person or entities. The lone Parking by Permit Only decal issued to a Residential Property Owner of Indian Rocks Beach who is not a primary resident of Indian Rocks Beach, as defined in this section, will be issued to and directly associated with a single vehicle registered in the property owner's name, including low-speed vehicles. The single Parking by Permit Only decal issued to a property owner remains subject to all other limitations concerning the affixed location and non-transferability of the decal.

(d) *Application for Parking Permits.*

- (1) Primary Residents. Primary residents seeking a Parking by Permit Only decal must apply to the City on a form provided by the City, and where applicable pay the designated fee in order to receive a valid decal. The application shall be submitted under oath and accompanied by each of the following as proof of primary residence within the City:
 - a. State of Florida driver's license identifying the Primary Resident's address within the City at the address for which the permit is sought;

- b. A valid automobile registration belonging to the Primary Resident reflecting the address within the City for which the permit is sought;
 - c. If the applicant is a lessee with at least a year-long tenancy in the City, a copy of the Primary Resident's residential lease agreement reflecting a lease term with a tenancy period of at least one year, or a notarized letter from the landlord of the property for which the decal is sought affirming that the applicant is leasing the subject property for a period of at least one year.
- (2) Property owners seeking their one (1) parking permit per parcel with separate tax ID must apply to the City on a form provided by the City, and where applicable pay the designated fee in order to receive a valid decal. The application shall be submitted under oath and accompanied by each of the following as proof of ownership and real property tax assessment:
 - a. A copy of the Pinellas County Property Appraiser's records identifying the applicant as a Property Owner for each parcel with a separate tax parcel ID.
 - b. A copy of the Pinellas County Tax Collector's records identifying the applicant as a Property Owner for each parcel with a separate tax parcel ID.
 - c. If the Property Owner is a corporate entity, the preceding two items identifying the corporate entity as the owner of the parcel for which the decal is sought must be accompanied by a copy of the current year's annual report on file with Florida's Secretary of State identifying the Applicant for the Parking by Permit decal as an authorized member, officer, or principal of the corporate entity that owns the parcel for which the decal is sought.

The ability for multiple people or entities to provide evidence of ownership and real property tax assessment shall not be construed to modify the limitation in this section restricting the issuance of a single Parking by Permit Only decal to a single-vehicle per parcel with a separate tax parcel ID.

- a. State of Florida driver's license identifying the driver's address within the City for which the permit is sought;
- b. A valid automobile registration reflecting the address within the City for which the permit is sought;

- c. The applicant or a member of the immediate family being listed on the current real property tax rolls at the address within the City for which the permit is sought;
- d. A copy of one utility bill, bearing the address within the City for which the permit is sought;

City Attorney Mora stated a decal to use the 15th Avenue Boat Ramp is no longer required. This version of the ordinance would limit the use of the boat ramp to City residents or property owners. There are means to formally authentic that if Code Enforcement has concerns about that from an administrative standpoint.

- (g) *Parking at 15th Avenue Boat Ramp.* Parking and use of the boat ramp at 15th Avenue shall be limited to City residents or property owners. Any watercraft using the 15th Avenue boat ramp shall have an authorized City resident decal permit, as set forth in this Section, affixed to the vehicle launching the watercraft. No resident shall be allowed to park or use the boat ramp for longer than 30 minutes at one time, and parking shall be limited to the hours of 8:00 a.m. to 9:00 p.m. There shall be no parking on 15th Avenue or the surrounding streets of the 15th Avenue boat ramp, including Bayshore Boulevard, for any trailers or vehicles with trailers. Any vehicle that violates the provisions of this subsection shall be subject to penalties as prescribed in this Code and Florida Statutes. Any vehicle, including trailers, that violates the provisions of this subsection shall be subject to a fine of \$75.00.

City Manager Mora stated one of the other controversial or areas of focus in this ordinance was the temporary parking hang tag program where a resident would receive a temporary hang tag that has been excised altogether. Instead, the restrictions were removed against overnight parking on the beach accesses, whether in a visitor's spot or a resident-only spot. Now, residents and visitors can park up to three consecutive nights in a single beach access. If a person is there longer than that third night, they need to find another parking spot at a different beach access or change the vehicle if they can do so.

- (e) *Permit parking on beach accesses.* Permits for parking on beach accesses in the City shall be as follows:
 - (2) *Temporary parking permits* are available for all other situations, requiring parking between the hours of 11:00 p.m. and 6:00 a.m., at or near the City's beach accesses. A fee of \$5.00 per night for each parking permit will be required. The fee shall be \$3.00 per night for each parking permit, and the permit shall not exceed a three-day maximum. Temporary parking permits may not be used in the spaces designated for residents only. All parking permits must be visible from the rear of the vehicle.

- (2) ~~Parking on the beach accesses, including spaces reserved for residents, between the hours of 11:00 p.m. and 6:00 a.m. shall be limited to motor vehicles with temporary parking permits as set forth in (e) (2) of this subsection. shall be limited to three (3) consecutive nights in a single beach access, regardless of which spot or spots the vehicle occupies within the same beach access during the same three (3) night period.~~

City Attorney Mora stated all of the above changes were made in direct response to citizen feedback that was received in writing through zoom and in-person, and as was the distinction between property owner and resident to make sure that there is a provision for all to have the ability to have access to that privilege.

City Attorney Mora stated that particular resident that he mentioned continues to express their disappointment in the City's position, making the distinction between its primary and secondary homeowners. He assured the resident that he would make that known to the City Commission.

City Attorney Mora stated in his detailed analysis email to the City Commission, he did not reach a conclusion because the conclusion at issue is a policy one. It is how does the City Commission address this. But, the legal analysis before was what ability, if any, does the City have to make a distinction between residents and non-residents as it has done here. To the extent that there are equal protection elements in the Constitutional Law, both State and Federal, residents versus non-residents are not a protected class because people think of race, religion, creed, color, sex, etc. The Constitutional analysis comes down to one rational basis: the policymaker and the City Commission have a rational basis to justify its decision. He stated he had provided the City Commission with cases from the Supreme Court of the United States, Florida Appellate Courts, and other Federal and State Courts outside of Florida to show the City Commission how that analysis goes.

Mayor-Commissioner Kennedy opened public comments.

Don House, 2104 Beach Trail, clarified that anyone could park overnight at a beach access for three consecutive nights without a beach decal, with City Attorney Mora responding in the affirmative, but they would not be able to park in a resident-only spot.

Mr. House expressed his concern with the number of condominiums being built with inadequate parking spots for their property owners and guests, especially with the short-term vacation rentals.

Mr. House stated Cameron Cove Resort is a weekly deeded timeshare property and asked if each deeded property owner would be able to receive a decal.

Nancy Obarski, 708 Beach Trail, #B, thanked the City Commission for revisiting the ordinance. She takes great exception to the following sentence "revised finding of fact to acknowledge scarcity of parking as a resource along the City's beaches and particularly within the City's beach accesses" that was within the City Attorney's memo to the City Commission dated April 6, 2021. She stated the beach belongs to everyone, and this ordinance serves to divide the beach. It is beachfront property owners versus the east side of Gulf Boulevard, which is not something the City wants to do.

Bill Lingenfelter, 1 Windrush Boulevard, stated his primary residence is in Plant City and is homesteaded there. He said he and his wife are in IRB off and on from May to December. He stated they have two cars and two scooters, and for the last ten years, he was able to obtain four decals. He explained his reasoning for the four decals.

Myra Treutel, 2504 Gulf Boulevard, #503, stated she does not understand why the City Commission is removing temporary hang tags for overnight parking at the beach accesses. The hang tags seemed to work fine, and there were no issues with them. The hang tags were a simple solution with accountability. With the proposed ordinance, anyone can now park overnight at the beach accesses.

Mayor-Commissioner Kennedy closed public comments.

Commissioner Hoofnagle stated over the past month, he has thought more deeply about some of the issues the City Commission is addressing this evening about residency and community, and the City Commission's responsibility to manage a peaceful, togetherness on this island that everyone calls home, vacation, business site, investment, or weekend getaway. Everyone is on this beach by choice, and it is as close to paradise as he has found, and most of everyone share has a desire to preserve and protect this island community. He has learned that such bonds do not lend themselves easily to definitions of residency, homestead, and alike. He would like to thank the various members of the public and his fellow City Commissioners, especially Vice Mayor-Commissioner McCall, who enabled him to understand that this parking issue is not as simple as it appeared to him at the outset. Again, this Saturday, he was stuck in traffic, and he took about 40 minutes to get down Gulf Boulevard, and he had time to reflect on the profound changes that have come to this community. Some of it is good, and some of it is challenging. And whatever one's opinion, it is clear to him that Tallahassee's deregulations of residential zoning laws have forever changed the city's footprint. Through emails and phone calls, he has met folks who spend only a few weeks a year here, and yet their hearts and souls are partially or fully rooted in the sands of Indian Rocks Beach.

Commissioner Hoofnagle stated he would like to apologize if he offended anyone in attempting to control the beach parking problem by reducing access to non-full-time residents. He supported an effort to control the disbursement of passes to the short-term rental operators, which created frustration and division.

Commissioner Hoofnagle stated the dangerous congestion that the City has would not be solved by decals. The City has too much traffic. The City has dangerous traffic in its residential areas, and there is a perennial parking problem. Those are issues that the City seeks to address, and he thinks it would be better done outside of the parking decal ordinance. The line between resident and non-resident is not as clear-cut. To him, it is evident from the legalisms in this version of the ordinance. He thinks that the stated definitions of primary resident and non-primary resident create this set of legal gymnastics that may be unnecessary and potentially divisive.

Commissioner Hoofnagle stated he would re-orient this ordinance to be more inclusive and seek to limit the number of decals to two per parcel rather than its current focus on resident definitions.

Vice Mayor-Commissioner McCall stated he agrees with Commissioner Hoofnagle and said he was not a fan of this ordinance. He does like some of the provisions in this version as it does allow all property owners access to decals. He does not make a determination between a resident and a non-resident. Some seasonal residents volunteer during the months that they live here through A2K, the HOA, beach cleanups, or so forth. He has not agreed with the division of residents and non-residents from the beginning.

Commissioner Houseberg stated there are 73 resident-only parking spots with 61 spots at the beach accesses in a 2 ½ square mile beach community. Everyone feels so taken away from if they cannot park in a permitted spot.

Commissioner Hanna stated he agrees with limiting all property owners to two decals per parcel. The decals are not going to solve the traffic problem that the City has.

City Manager Mims stated 1,308 resident-only parking decals had been issued to date. One thousand and three resident addresses had received one decal, 235 resident addresses had received two decals, 56 resident addresses had received three decals, 11 resident addresses had received four decals, two resident addresses had received five decals, and one resident address had received six.

City Manager Mims stated decals would be issued the way the current ordinance is written. No changes in the issuance of decals would be made until second and final reading of the ordinance.

MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER HANNA, TO AMEND SECTION 62-35, PARKING ON BEACH ACCESSES AND 15TH AVENUE BOAT RAMP, TO CAP ALL PRIMARY RESIDENTS AND RESIDENTIAL PROPERTY OWNERS AT TWO PARKING PERMITS PER PARCEL.

ROLL CALL VOTE:

AYES: *HOUSEBERG, MC CALL, HANNA, HOOFNAGLE*
NAYS: *KENNEDY*

MOTION CARRIED BY A VOTE OF 4 TO 1.

Mayor-Commissioner Kennedy opened public comments on the amendment to the proposed ordinance.

Rod Baker, 364 Bahia Vista Drive, inquired which daughter of his gets the decal. He stated it is resident parking. There is a difference between people who live here full-time and are homesteaded and have put everything into the City and those who have investments and vacation rentals. That is why there is resident parking. He feels that the City Commission is missing the point by just giving everyone two parking decals. If the City Commission is bowing down to vacation rentals' pressure on this and then the City Commission is dooming the City's future.

Myra Treutel, 2504 Gulf Boulevard, #503, expressed concern with removing temporary hang tags to park on the beach accesses overnight. When her children visit her, she stated they would use the temporary tags to park on the beach access.

Mayor-Commissioner Kennedy closed public comments.

Commissioner Houseberg asked how long has resident-only parking been around, with City Manager Mims responding a long time. There have only been issues associated with the issuance of decals.

Commissioner Houseberg asked what would happen if the City no longer had resident-only parking?

City Manager Mims stated people love Indian Rocks Beach for the beach, the solid waste employees, and the "decorative" beach parking decals. He would recommend eliminating the beach parking decal program.

MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER HANNA, TO APPROVE ORDINANCE O2021-02, ON FIRST READING, AS AMENDED, AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING CHAPTER 62 – TRAFFIC AND VEHICLES, ARTICLE II – STOPPING, STANDING AND PARKING; AMENDING THE REQUIREMENTS FOR SECURING A RESIDENT PARKING PERMIT DECAL; PROVIDING REQUIREMENTS FOR SECURING A PARKING PERMIT DECAL FOR PROPERTY OWNERS; LIMITING THE NUMBER OF PARKING PERMIT DECALS FOR PROPERTY OWNERS; SPECIFYING PERMISSIBLE USES OF A RESIDENT OR OWNER DECAL; REPEALING THE PROVISION FOR TEMPORARY GUEST PARKING PERMITS; ALLOWING FOR LIMITED OVERNIGHT PARKING AT

THE CITY'S BEACH ACCESSES; REMOVING THE NEED FOR A PARKING PERMIT DECAL FOR USE OF THE 15TH AVENUE BOAT RAMP.

ROLL CALL VOTE:

AYES: HOUSEBERG, MC CALL, HANNA, HOOFNAGLE

NAYS: KENNEDY

MOTION CARRIED BY A VOTE OF 4 TO 1.

8. WORK SESSION ITEMS [DISCUSSION ONLY]: None.

9. OTHER BUSINESS.

Mayor-Commissioner Kennedy stated she would resume her Monday w/ the Mayor on June 7th from 4:30 p.m. to 6:00 p.m. in the auditorium, and every first Monday after that.

Mayor-Commissioner Kennedy stated as long as she is the Mayor of this community, there will not be a time when any City Commissioner is singled out by the public.

10. ADJOURNMENT.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER HOUSEBERG, TO ADJOURN THE MEETING AT 9:14 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

June 8, 2021
Date Approved

/DOR