

**MINUTES — JULY 13, 2021**  
**CITY OF INDIAN ROCKS BEACH**  
**REGULAR CITY COMMISSION MEETING**

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The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, JULY 13, 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.

**PRESENT:** Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Joe McCall, Commissioner Philip J. Hanna, Commissioner Edward G. Hoofnagle, and Commissioner Denise Houseberg.

**OTHERS PRESENT:** City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, and Hetty C. Harmon, AICP.

**ABSENT:** City Manager Brently Gregg Mims.

*(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 May 2021.

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

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

**2. PUBLIC COMMENTS.**

**R.B. Johnson, 1206 Beach Trail**, spoke on the perpetual storm damage reduction easements and beach renourishment.

Mr. Johnson stated back in 1990-91, when nourishment was first undertaken, the Corps received temporary easements from property owners, but they were not perpetual easements. They may not have been able to receive those specifically, but they could have received some kind of easement in perpetuity or some agreement, but they did not at the time ask for those types of agreements.

Mr. Johnson stated for the next several series of renourishment, the Corps declined to ask for easements as well. The City had series of renourishments where they brought sand in. For the vast majority of Indian Rocks Beach, the Corps did not put sand anywhere near that private property line, the erosion control line, except in the instances perhaps at the extreme north and south ends of Indian Rocks Beach. Even in those areas, it was in a very minimal capacity.

Mr. Johnson stated the Corps had changed their policy due to Super Storm Sandy and the Water Resources Development Act of 1986 (WRDA), which is an agreement whereby the Corps has the ability to do a number of projects. WRDA states federal funds cannot be utilized to put sand on private property. After Super Storm Sandy, the Corps decided to go back and apply this policy across the board. The Corps is more less retroactively asking gulf front beach owners to sign off on these easements that they did not ask for way back when.

Mr. Johnson stated the situation on the beach does not look like anything like it did back in 1990-91 or in 1985 when Hurricane Elena hit. So, there is a very different beach situation out there.

Mr. Johnson stated he does not worry about the public use of the private property in front of his seawall. It does not bother him partly because before any of these beach renourishment projects, nobody considered that area their private property or acted like it was. No one tried to ban people from the beach when it was only 50 feet wide. People used to put their beach towels and chairs right below his seawall, but if they were sitting on his seawall, which they sometimes did, they were on his private property. He stated that he does not see people using the area in front of the seawalls, sitting on the seawalls, or going onto backyards like before.

Mr. Johnson stated he is not upset about the notion that by signing these easements, they would be taking away a right whereby activities would change drastically in that private property area. That is not something that has upset him.

Mr. Johnson stated he has realized that the Corps was adamant about the notion that if 100% of the easement were not returned, the beach would not be renourished even if they were not coming anywhere near the erosion control line or the private property.

Mr. Johnson does not think the Corps should at this point say that they are not going forward with the next renourishment unless all easements are received, even though they are not going anywhere near the erosion control line (private property mark).

Mr. Johnson stated the Corps should have received these perpetual easements many years ago and not let so much time go by because so many people have moved here who do not realize how much the beach has changed. He thinks it messes up the works. It confuses people, and when they do not see the historical basis for what is going on here

and then say this has to happen or otherwise it will not be renourished again immediately. He thinks that is the wrong way of going about it.

Mr. Johnson stated this is something wherein the long run that the Corps has a point in a sense that the City could get hit by a big storm sometime this summer. For instance, half the dunes could wash away, and then they would be back pretty close to the erosion control line, and then another storm could hit. He stated when Hurricane Elena hit in 1985, Tropical Storm Juan followed a month later that compounded the damage done by Hurricane Elena. He said that it is not inconceivable that relatively soon or in the next few years, a series of storms could hit that could necessitate a placing of sand closer to or actually on areas that are considered private properties.

Mr. Johnson stated he looks at this as a situation wherein the long run, the Corps is correct to a certain extent, but in the short run, he thinks they are wrong about the way they are going about this.

Mr. Johnson stated he would be signing the perpetual storm damage reduction easement. He does believe in the long run, it may be of benefit to have these easements in place in case it is necessary to put sand back eastward or landward of the erosion control line or what is considered the private property line.

Mr. Johnson stated he is not blaming anyone publicly for not signing. He believes there should be a way for the Corps to renourish the IRB beach without receiving 100% of these easements signed. He does not think other people should be attacking other people whether they are signing or not signing. He does not have a personal problem with the easement language. He stated there is almost nothing a person can do with the public use of the area below his seawall other than to protect the vegetation, which the State of Florida protects because of the coastal construction control line (CCCL). The CCCL is another demarcation line that runs virtually along the seawalls, and all vegetation seaward of that line is protected by the State of Florida. There is almost nothing that a person can do in that area — no building, no fences, etc.

**Lauren (LNU), 522 2nd Street**, stated she supports beach renourishment. She said that 5% of Florida shorelines are critically eroding, which will affect turtle nests. IRB plays a primary role in hosting loggerhead turtles, kemp ridley turtles, green sea turtles, and nests. As the beaches erode, so will their nesting areas. More than one-third of the State's shoreline has lost ground over the past five decades. Florida's key brand and source of tourist revenues are washing away. The State of Florida receives more than \$3 Million in sales from taxes during the tourist season, and without nourishment, IRB faces a coast more vulnerable to hurricanes. The Florida Governor and Legislature have allowed an annual backlog of unfunded beach projects to peak more than \$80 Million. The City and residents need to preserve IRB for someone like her who has young children.

**Nancy Obarski, 708 Beach Trail, #B**, spoke about a Facebook post with misinformation about the beach easements. She is not blaming the poster because gulf front property owners have not been informed about what has been going on with beach renourishment. It was likely the result of the post-Hurricane/Tropical Storm Elsa news coverage that Pinellas County received from Bay News 9 and Channel 10 from last week. Bay News 9 again, but the onus on the gulf front property owners.

Mrs. Obarski stated the City needs to figure out how to get sand. It is going to take some serious pushback from the Corps, even if it is legal action.

Mrs. Obarski stated she complained to the Pinellas County Board of County Commissioners about the lack of information on the status of the renourishment project. She said Pinellas County is busy asking her to give up important property rights, but then she has to do internet searches to find out what is going on.

**Don House, 2104 Beach Trail**, stated he was also at the Pinellas County Board of County Commissioners Meeting. He told the County Commission that no one talks to the beachfront property owners. They are only lectured to. He stated it was great that a County Commissioner, Mayor-Commissioner Kennedy, and Congressman Crist were on the beach, but none of them had any standing in the game. None of them own property on the beach. The County needs to get some people that actually live on the water involved in the situation.

Mr. House stated John Bishop, Pinellas County Coastal Management Director, said the wide beach protects the cities from hurricanes. Wide beaches do not protect the City. The City's beach walkovers do nothing to stop the water from going onto Gulf Boulevard. He said his residence would stop the water from coming into the City.

Mr. House stated trash is being left around 21st Avenue Beach Access. This time, it was beer cans. They are parking overnight on the beach access and were on the beach around midnight. That area is now being called the 21st Avenue Campground.

Mr. House stated he would like to see hang tags for overnight parking on the beach accesses reinstated. Hang tags were a way to control and identify people who parked at the beach accesses overnight.

**Jose Coppen, 4 Gulf Boulevard**, spoke about the perpetual beach easements and his discussions with the Corps. He stated he has a 10-foot dune that is seaward of the erosion control line. He said the State defines the erosion control line as to where his property ends. He no longer has riparian rights, which he used to have because the State established the erosion control line. He stated anything westward of the erosion control line is State land, except the easement on Gulf Boulevard.

Mr. Coppen stated he looked at the certified drawings. He said the contractor is prohibited from placing any sand on private property without the specific authorization of a representative of the Corps. He said the Corps is lying, and he is not signing the easement.

Mr. Coppen stated he is surprised and disappointed that the elected officials and the press have kept quiet for so long. For example, New Jersey beachfront residents had signed easements with the Corps for sand, but if the Corp did not place sand on private property, the easements became null and void. The Corps has not extended that courtesy to the Pinellas County residents.

**Scott Shapiro, 2032-20<sup>th</sup> Avenue Parkway**, complimented the City Commission on the problematic discussion they made on prohibiting fireworks in Indian Rocks Beach.

Mr. Shapiro stated the City was incorporated in 1955. Indian Rocks Beach has been continuously renourished since 1988, and approximately \$9 Million has been spent on rebuilding American beaches since 1923. Before 1988, the tide did reach up to the seawalls, which some residents do remember. It is a proven fact that beach renourishment would reduce coastal storm damage to homes, businesses, and critical infrastructure, mitigate future land loss, maintain recreational value, and demand for the beach. This action would benefit sea turtles, shores birds, and other wildlife. This action would help the City's local economy by maintaining the area as a year-round tourist destination and support related businesses and jobs. Failure to renourish would result in severe beach and dune erosion, destruction of property, wildlife habitat, and loss of recreation area, which would result in a significant negative impact on the City's tourism-based economy.

Mr. Shapiro stated in the last eight months, Pinellas County had two named storms, Ada and Elsa, impact the local beaches. After Elsa, there were tidal rivers that now exit where dry sand once stood during low tide yesterday. Today, he saw the high tide, and the beach is narrower than it has been since the City's last renourishment.

Mr. Shapiro stated this is not a political issue, this is a pending environmental crisis at the City's front door. The issue before the City today, in his opinion, is the most crucial of the last 20 years that he has lived here in IRB. It is detrimental to the City's longevity as the pearl of Pinellas County.

Mr. Shapiro stated the City, County, State, and Federal governments and the Corps are not taking anything from anyone. The plain reading of the perpetual storm damage reduction easements states the purpose is for public use, and there will be no commercial enterprises or construction of any permanent structures. The grantee says that it is solely for activities necessary for the construction and operation of beach renourishment.

Mr. Shapiro stated he does not understand how the City can jeopardize losing its upcoming beach renourishment. He does not understand how a vocal minority can hold the beach and City hostage and create possible further harm to them and the City itself. He cannot

understand how one percent of the City's population can dictate the environmental, fiscal, and future success of Indian Rocks Beach. Unfortunately, most IRB property owners also live east of Gulf Boulevard and have no idea that this is even an issue.

Mr. Shapiro stated he is a huge advocate of private property rights, but here, in this case, there is no taking, and this is an issue of public interest versus private property rights. Since the nourishment began, the erosion control line and mean high tide line are continually moved west past what was once submerged.

Mr. Shapiro stated he believes the issue has been asked and answered in the courts. He believes the City can establish no taking since the existing dry sands are public and established by ancient and customary use. He stated IRB has more beach access and parking than most cities in Florida; therefore, the dry sand is not private.

Mr. Shapiro implored the City to use every available asset to explore every available remedy law for the City, County, State, and others to secure and prevail in the City's much-needed beach renourishment.

Mr. Shapiro asked those who refuse to sign if they are willing to vacate their right to file a floodplain claim should one occur from coastal flooding. He thinks that is only fair since it could be argued that they may have contributed to their harm.

Mr. Shapiro stated he understands from other meetings that cities from other states did nothing and allowed those who refused to dictate policy, which cost them their publicly funded sand. This cannot happen in IRB. The City is better than this.

**Hugh Smith, 20202 Gulf Boulevard, Indian Shores**, stated beach renourishment is good. However, the attempt by the Corps to take private property and turn it over for public use with no compensation whatsoever for an easement that they do not need is flat out wrong. He and his wife authored a booklet titled "Things You Should Have Been Told Before You Signed The County's Beach Nourishment Easement And What You Do About it Now." In that booklet, they did a detailed study of Florida Law on the issues presented. They established that these rights go back to the Florida Constitution, and the most important one of the rights is that these beachfront owners have the right to exclude others from that area that is private property. Be as it may, the Florida Law is very clear if the government needs to take private property for public use, there is a legal way to do it, and that is to condemn it. His point here is that the Corps is an administrative agency of the U.S. Department of Defense. The Corps came up with an arbitrary rule that has no foundation in Federal Law.

Mr. Hugh stated the Corps refers to the Water Resources Development Act (WRDA) are false. It is a misreading of the Act altogether. He said the fault does not lie with the property owners but with the County government and those in governmental positions which will not take on the Corps and fight for the rights of the beachfront property owners.

**Wendy Lee, 1214 Bay Palm Boulevard**, stated she loves Indian Rocks Beach, and she loves to ride her bike to the beach. She did not realize how the beach looked before renourishment until she saw pictures. She asked what the solutions are and what the residents can do to maintain the beach.

**Diana Fuller, 20202 Gulf Boulevard, Indian Shores**, stated her main concern about all the misrepresentations being put forth through local materials and County materials being sent explicitly to their mailboxes. The Corps advised them that this policy (WRDA) has been in effect forever, and they are just now enforcing it. While it may be a policy, it is not written anywhere except on their website. It is not in the Code of Federal Regulations. It is not in the statute. It is being touted, and everybody is just accepting it as being valid. The Corps will not provide sand unless these easements are submitted by 100% of the beachfront property owners. They say enough misinformation that there can be a post like this morning's saying that the greedy, inconsiderate beachfront property owners deny access to place the sand on the beach. To the extent that someone can post that and undoubtedly believing it, it is not untrue. That is not what the issue is. The real issue here is public use, and every person on that beach is in a different position from every other person on that beach. Some think that property rights are paramount to this Country's foundation, and she happens to be one of them. Others believe that the public good requires that the beachfront property owners make a sacrifice of their property. She stated after two years of attempt persuasion, the fact of the matter is that 59% of the people do not agree. She said the beach communities need to come with a solution, and one of those solutions is at least to get to the bottom of the Corps position that Federal Law mandates this. It is not. If it were, there would have been no beach renourishments going back to 1988. She stated Indian Shores never had water come to their seawalls. The erosion control line is not an approximation of where the water used to come from. In Indian Shores, they have received sand, and their dunes have gotten higher, but the water was never in danger of coming up to their seawalls.

**Jackson Tenney, 1-25<sup>th</sup> Avenue**, stated that he has lived here for the past 25 years and has closely watched every hurricane that has impacted Indian Rocks Beach because he enjoys waves and staying safe.

Mr. Tenney stated beach renourishment is done every five years, and he hopes that a storm does not come now. If IRB misses this threshold for the beach renourishment, and IRB has to wait ten years, he does not want to know what the beach will look like. After the last renourishment, IRB had a massive storm, and the beach lost more sand than he has ever seen relatively quickly. He thinks the storm hit at the perfect time after the renourishment was completed, and that is why there was so little sand now, at least in his eyes.

Mr. Tenney stated during Hurricane/Tropical Storm Elsa, they had water up into their sea oats. He has seen water come up to the 25th Avenue Beach Access, where it was a couple

of inches from the top, all most into his backyard. He thinks it is ridiculous to say that beach renourishment is not crucial to prevent water from coming into the backyards of beachfront property owners. He stated the way waves work is they can get only so high based on how deep the water is, and so long as there is enough sand, it keeps the sandbar shallow enough to protect the beachfront property owners from storm surge.

Mr. Tenney stated he has been watching this his entire life. He thinks if the beach is not renourished until 2030, the beach will be terrible.

### **3A. REPORTS OF CITY ATTORNEY:**

City Attorney Mora stated he attended the Florida Municipal City Attorney Association Conference to benefit from the knowledge and information relayed by municipal attorneys from across the State.

City Attorney Mora stated one of the points he would like to sensitize the City Commission on is the terms of the Legislative Session having been complete now, and the bills continue to trickle towards the Governor's Office.

- **HB-403, Home-Based Business.** The City Commission previously discussed this bill, and the Governor has signed the bill.
- **SB 1876/HB 421. Governmental Actions Affecting Private Property Rights. (Bert Harris Act.)** He stated he has already communicated his concerns to the City Commission on the five to ten-year outlook on what this would do for residential zoning throughout the State, not just Indian Rocks Beach. That is his personal legal interpretation of that, not necessarily something broader. As the City Commission has seen in the dialogue tonight, there continues to be very emphatic statements and codifications of private property rights and memorializing them.
- **Comprehensive Plan Amendments.** He stated one of the other amendments that came through is when the City moves forward with its next round of comprehensive plan amendments, ordinarily amended every seven years. There is a legal requirement that there be sections making statements about private property rights and their sacrosanct status within the State to memorialize them. In addition to the various places where it is stated in statute otherwise.

City Attorney Mora stated apart from the recent Legislative Session, he continues to work with City Staff on fireworks. There is a scheduled meeting with the Pinellas County Sheriff's Office to discuss policies, implementation, and enforcement in the City.

### **3B. REPORTS OF CITY MANAGER:**

**COMMUNITY RATING SYSTEM (CRS0:** On July 8, 2021, the City received notice that the City's Community Rating Cycle verification review resulted in the City maintaining its CRS



Class 6 rating in the program. This program requires compliance with a variety of reporting requirements, code compliance, and community outreach. The Class rating of 6 saves property owners in the City of Indian Rocks Beach is approximately \$599,000 in flood insurance premiums. Congratulations to the City's CRS IRB Team, who continue to make this program successful.

**BUDGET/CIP WORK SESSION:** The City of IRB Budget/CIP Work Session is scheduled for July 20, 2021, at 4:00 p.m.

**SPECIAL CITY COMMISSION MEETING:** The City Commission will set the tentative mill rate on July 20, 2021, at 7:00 p.m.

**GULF BOULEVARD UNDERGROUNDING PHASE I:** The Gulf Boulevard Undergrounding of Utilities will be completed with a punch list by August 6th.

**COMMUNICATIONS CONCERNING AGING CONDOMINIUMS:** Pinellas County provides numerous inspections during the construction of the buildings (new construction, remodels, or additions) in accordance with the requirements of the Florida Building Code and other applicable codes, ordinances, and regulations. The City also coordinates with "Special Inspectors," which is a person certified, licensed or registered under Chapter 471, Florida Statutes, as an engineer or under Chapter 481, Florida Statutes, as an architect to inspect "Threshold" buildings.

Threshold buildings are defined in the Florida Statutes as any building which is greater than three stories or 50 feet in height or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.

Once all required Florida Building Code, Fire District Life Safety Codes, and jurisdictional requirements are met, a Certificate of Occupancy (new building) or Certificate of Completion (remodel or addition to an existing building) can be issued.

For existing buildings, Pinellas County does not require additional inspections, except for the aforementioned remodels or additions. If a citizen makes a report to the Building Official, of a possibly unsafe or dangerous existing building, the Building Official would investigate the situation, safe off any apparent safety hazards, and possibly require (at the owner's expense) an engineer or architectural evaluation of the structure. Once the results are analyzed, corrective actions would need to take place.

*Media Information:* How often are high-rises, skyscrapers, and other buildings over ten-stories tall inspected for potential structural deficiencies or structural integrity issues?

There are no statutory requirements for Pinellas County Building Services to perform periodic inspections on any type of existing structure for structural deficiencies. That said, there are a number of periodic inspections like fire marshal and elevator inspections, and if those inspectors notice anything concerning, they report it to their local building official.

The building official typically works for the municipality the building is located in (St. Pete, Clearwater, etc.). Pinellas County Government serves that role for unincorporated parts of the county, as well as for several smaller municipalities who have contracted to cities for services like Belleair Beach, Belleair Bluffs, Belleaire Shore, Indian Rocks Beach, and Safety Harbor.

Pinellas County does not perform periodic inspections on any type of existing structure for structural deficiencies. If the periodic inspection mentioned above or citizen reporting via SeeClickFix identifies areas of concern, the building official will coordinate with state-licensed inspectors to ensure structural integrity.

*How many inspections do these inspectors conduct a year, what's their case load?*

While each municipality maintains its own inspection capability, Pinellas County have 23 inspectors who specialize in mechanical, electrical, plumbing, or building trades. Pinellas County does not have structural engineers on staff. If a structural engineer (i.e., Special Inspector) is needed, the County will inform the developer, who must hire a licensed structural engineer that submits their findings to the County. The special inspector is responsible to the enforcement agency and, prior to the certificate of occupancy, a signed and sealed statement must be filed with the enforcement agency, which is substantially in the following form: "To the best of my knowledge and belief, the above described construction of all structural load-bearing components complies with the permitted documents, and the shoring and reshoring conforms to the shoring and reshoring plans submitted to the enforcement agency".

Pinellas County does not perform periodic inspections on any type of existing structure for structural deficiencies.

*How many buildings over ten-stories are inspectors with Pinellas County responsible for?*

Pinellas County is working with the Property Appraisers Office, which is a separate constitutional entity, not falling under the Board of County Commissioners, to gather this information.

*Do older buildings, like ones built in the 1980s, 1990s or earlier, get checked more often due to the difference in building materials and lack of building code pre-2001?*

No. There have been building permits issued in Pinellas County since the early '50s.

*What does the inspection process look like? What kind of tests are run, how long does it take, etc.?*

*High-Rise/Threshold Buildings Inspections:*

Pinellas County Building and Development Review Services is responsible for the health, safety, and welfare of the public, as related to the built environment of the unincorporated area of Pinellas County.

The Florida Building Code is applied to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Chapter 1 of the Florida Building Code, Section 110.3 states the minimum required inspections for each building or structure built or altered.

Numerous inspections are required for each of the "trades". Building trade focuses on the structural and building envelope requirements. Electrical inspects all electrical system requirements to provide electrical power to the structure. Plumbing/Gas trade inspects for safe delivery and use of sewer, water, and gas systems within and outside of the structure. Mechanical trade verifies code compliance with air conditioning, heating, and ventilation requirements.

*When discussing the inspections related to High-Rise buildings, it is important start with two related definitions:*

*High-Rise Building* means a building with an occupied floor located more than 75 feet above the lowest level of fire department vehicle access.

*Threshold building* in accordance with Florida Statute is any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification that exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.

Since all new "High-Rise" buildings are considered "Threshold" buildings, the Florida Building Code requires additional inspections along with all the required inspections the local jurisdiction makes, due to their complex structural systems and structural loading requirements.

*The "Special Inspector"* is a person certified, licensed or registered under Chapter 471, Florida Statutes, as an engineer or under Chapter 481, Florida Statutes, as an architect. The special inspector is responsible to the enforcement agency and prior to the certificate of occupancy, a signed and sealed statement must be filed with the enforcement agency,

which is substantially in the following form: "To the best of my knowledge and belief, the above-described construction of all structural load-bearing components complies with the permitted documents, and the shoring and reshoring conforms to the shoring and reshoring plans submitted to the enforcement agency".

Once all required Florida Building Code, Fire District Life Safety Codes, and jurisdictional requirements are met, a Certificate of Occupancy or Certificate of Completion can be issued.

*Existing Buildings:*

If a citizen made a report to the Building Official, of a possibly unsafe or dangerous existing building, the Building Official would investigate the situation, safe off any apparent safety hazards, and possibly require (at the owner's expense) an engineer or architectural evaluation of the structure. Once the results are analyzed, corrective actions would need to take place.

*What are some of the issues these inspectors specifically look for, and what are some of the most common deficiencies inspectors find?*

Pinellas County does not perform periodic inspections on any type of existing structure for structural deficiencies. Inspectors would typically look for things like differential settlement, removal of a load-bearing wall, damage to a building (such as after a fire).

### **3C. REPORTS OF CITY COMMISSION:**

#### **COMMISSIONER HANNA:**

- Commissioner Hanna stated he represented the City at the Grand Opening Celebration of Groupers on the Gulf this past Saturday.

#### **MAYOR-COMMISSIONER KENNEDY:**

- **BEACH RENOURISHMENT.** Mayor-Commissioner Kennedy stated, for several months, the City has been in discussions with Congressman Crist's Office, who is on the Federal Appropriations Committee, and the Army Corps of Engineers. She stated she reached out again to Congressman Crist's Office after the City lost more sand because of Hurricane Elsa. Congressman Crist has requested \$900,000 in the Fiscal Year 2022 for the Pinellas County Sand Key, Treasure Island, and Long Key Design and Engineering Activities. The funding would be used for design and engineering activities for the Sand Key, Treasure Island, and Long Key segments of the Pinellas County Shore Protection Project in order to align design of the Sand Key segment with the other two Pinellas County segments also scheduled for design in 2022. Aligning, design, and engineering work will promote efficiency and save taxpayer money. In addition,

keeping the Pinellas County Shore Protection Project on track for the next scheduled nourishment will support the regional economy; provide habitat for threatened and endangered species; and protect lives and infrastructure from storm damage, thereby saving taxpayer money in post-disaster costs.

Mayor-Commissioner Kennedy stated this appropriation request would go before the Senate and the House at the Federal level for consideration.

Mayor-Commissioner Kennedy stated President Biden has selected Deputy Interior Secretary Michael Connor as his nominee to be Assistant Secretary of the Army for Civil Works, the Pentagon official who oversees the Army Corps of Engineers and was confirmed.

Mayor-Commissioner Kennedy stated the City continually works on this very diligently with Pinellas County and the Corps. She will continue to keep the City Commission and the public abreast as time goes on.

**4. ADDITIONS/DELETIONS.** None

**5. CONSENT AGENDA:**

- A. AUTHORIZING the City Manager to sign a one-year agreement to renew group health coverage with the Public Risk Management (PRM) Group Health Trust for FY 2021-22.**
- B. REAPPOINTING Regular Board Member Rick Alvarez and appointing Michael A. Campbell as 1st Alternate Board Member to the Board of Adjustments and Appeals for three-year terms, expiring June 30, 2024.**
- C. APPROVAL OF June 8, 2021 Regular City Commission Meeting Minutes.**

City Attorney Mora read the Consent Agenda, consisting of Agenda Item Nos., 5A through 5C, by title only.

***MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY VICE MAYOR MC CALL, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS., 5A THROUGH 5C. UNANIMOUS APPROVAL BY ACCLAMATION.***

City Attorney Mora stated before they begin, please be advised that the City Commission is transiting from reports and legislative acts to quasi-judicial hearings. As the City Commission is aware, in a quasi-judicial posture, the City Commission is not making the law but rather applying the law to the competent, substantial evidence and testimony provided to them this evening.

**6A. BOA CASE NO. 2021-05 — 306 BAHIA VISTA DRIVE — PUBLIC HEARING**  
 Considering a variance request from Section 94-86, of the Code of Ordinances, to allow a dock to encroach 6 feet into the 12-foot side yard setback for the installation of new boat lift for the property located at 306 Bahia Vista Drive, Indian Rocks Beach, Florida, and legally described as Bahia Vista Subdivision, Lot 6 & part of Water Lot A lying within side lot lines extended northerly, according to the plat thereof recorded in Plat Book 31, Page 26, of the Public Records of Pinellas County, Florida. Parcel #: 12-30-14-02394-000-0060.

*[Beginning of Staffing Report]*

**SUBJECT — BOA CASE NO. 2021-05:** Variance request from Code Section 94-86 of the Code of Ordinances to allow the dock to encroach 6 feet into the 12 feet side yard setback for the installation of a new boat lift for property located at 306 Bahia Vista Drive, Indian Rocks Beach, Florida, and legally described as Bahia Vista Subdivision Lot 6 & part of Water Lot A lying within side lot lines extended northerly, according to the plat thereof as recorded in Plat Book 31, Page 26, of the Public Records of Pinellas County, Florida. Parcel #12-30-14-02394-000-0060.

OWNER: Steve Levine  
 PROPERTY LOCATION: 306 Bahia Vista Drive  
 ZONING: S- Single Family

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

**BACKGROUND:**

Steve Levine is requesting to install a boat lift on an existing dock. Due to the size of the desired boat lift, it will encroach into the required side yard setback by 6 feet leaving a 6-foot distance between the boat lift and the side property line extended. The abutting property to the west who is impacted by the reduced setback has no objections and signed off on the location of the new boat lift.

**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 deep allowing the use the existing dock.
- 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 boat lift to be constructed on an existing dock.
- 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 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 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.

**PUBLIC NOTICES:** A notice was mailed by first class mail to the property owners within 150 feet in any direction of the subject property and posted on subject property on June 28, 2021. (Sec. 2-149 of the Code of Ordinances.)

**CORRESPONDENCE:** A letter of support was received from Heidi M. Wilkers, 312 Bahia Vista Drive. She stated the Levines are outstanding neighbors, full-time residents, and property owners that contribute so much to IRB.

**LEGAL ADVERTISEMENT:** A legal notice was published in the June 30, 2021-edition, of the St. Pete Times Section of the Tampa Bay Times, for a public hearing that has been scheduled on July 13, 2021, for BOA Case No. 2021-05.

*[End of Staffing Report]*

City Attorney Mora read the title of the Agenda Item by title only.

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 hearing.

Mayor-Commissioner Kennedy opened the public hearing.

Planning Consultant Harmon stated the applicant is requesting a variance from Section 94-86 of the Code of Ordinances for the property located at 306 Bahia Vista Drive. The applicant would like to encroach 6 feet into the 12-foot side yard setback to install a new boat lift on the left side of the existing dock. She stated the abutting property owner to the west, who is impacted by the reduced setback, has no objections and signed off on the location of the new boat lift.

Planning Consultant Harmon provided a PowerPoint Presentation depicting aerial views of the property and a plan view drawing. She explained the applicant would like to build a new boat lift on the left side of the existing dock. As seen in the aerial views, the applicant would keep his current boat at the end of his dock and move his smaller boat from the right side to the left side, where the applicant is requesting a variance to encroach into the side setback.

Planning Consultant Harmon stated staff recommends approval, and the Board of Adjustments and Appeals recommended denial on a vote of 3 to 1.

**Steve Levin, 306 Bahia Vista Drive, applicant,** stated he has a 56 feet wide lot. His required side setbacks on each side are 12 feet that is 24 feet, which leaves him 32 feet, so it equals 42% of his property that he cannot use. He purchased this place to use it for waterfront usage, boating, and his livelihood.

Mr. Levin stated he had owned the property since October 1984 and said that having a well-lifted boat is safer than having a boat hanging on davits, which is what is there now.



To make it safer, he and his wife feel if they invested in a boat lift, it would help them from getting hurt.

For the record, there were no public comments.

Seeing and/or hearing no one wishing to speak, Mayor-Commissioner Kennedy closed the public hearing.

**MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER HOUSEBERG, TO APPROVE BOA CASE NO. 2021-05, A VARIANCE REQUEST FROM CODE SECTION 94-86, OF THE CODE OF ORDINANCES, TO ALLOW THE DOCK TO ENCROACH 6 FEET INTO THE 12-FOOT SIDE YARD SETBACK FOR THE INSTALLATION OF A NEW BOAT LIFT FOR PROPERTY LOCATED AT 306 BAHIA VISTA DRIVE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS BAHIA VISTA SUBDIVISION LOT 6 & PART OF WATER LOT A LYING WITHIN SIDE LOT LINES EXTENDED NORTHERLY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 31, PAGE 26, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.**

**ROLL CALL VOTE:**

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

**NAYS: NONE**

**MOTION CARRIED UNANIMOUSLY.**

**6B. BOA CASE NO. 2021-06 — 378 LA HACIENDA DRIVE — PUBLIC HEARING**  
Considering a variance request from Section 110-131(1)(f.) (2)(i), of the Code of Ordinances, of a range from 12 feet to 5.5 feet for a length of 22 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of a range from 13 feet to 19.5 feet for a length of 22 feet, to allow for a covered porch on the rear of the house, for the property located at 378 La Hacienda Drive, Indian Rocks Beach, Florida, and legally described as La Hacienda 1st Addition and part of Water Lot C in front and 14.5 feet x 115 feet T/A on East side of Lot 61 recorded thereof recorded in Plat Book 43, Page 14 of the Public Records of Pinellas County, Florida. Parcel #: 07-30-15-47394-000-0600.

*[Beginning of Staffing Report]*

**SUBJECT — BOA CASE NO. 2021-06:** Variance request from Code Sec. 110-131(1)(f.) (2)(i), of the Code of the Ordinances, of a range from 12 feet to 5.5 feet for a length of 22 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of a range from 13 feet to 19.5 feet for a length of 22 feet, to allow for a covered porch on the rear of the house for property located at 378 La Hacienda Drive, Indian Rocks

Beach, Florida, and legally described as La Hacienda 1st Addition and part of Water Lot C in front and 14.5 feet x 115 feet T/A on East side of Lot 61 recorded thereof recorded in Plat Book 43, Page 14 of the Public Records of Pinellas County. Parcel #07-30-15-47394-00-0600.

OWNER: Elias Leousis  
PROPERTY LOCATION: 378 La Hacienda Drive  
ZONING: S- Single Family

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

### BACKGROUND:

Elias Leousis is requesting to install a roof over the patio area at the rear of the house. The existing residence was built in 1968 and a portion of the residence has historically encroached into the rear yard setback approximately 5 feet for about 25 feet. The required rear yard setback in the single-family residential zoning district is typically 25 feet.

The City's approved site plan showed a CMU base of wood post on the plans and the new site plan shows a 16" x 16" CMU column and showing the new roof line. The intention of the post/column was to support the roof over the outside patio area which follows the existing line of the building and encroaches into the rear setback. The roof encroachment was not shown on the City's approved site plan only the post base.

### 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 and, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *The existing structure was built in 1968 prior to the current zoning regulations and a portion of the*

building is in the rear yard setback. The lot is located at the end of La Hacienda Drive where the rear lot lines are curvilinear.

- 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.
- 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 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 covered porch.
- 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 injurious to the area involved or be detrimental to the public welfare.

**STAFF RECOMMENDATION:** Based on the variance review criteria of Section 2-152, and existing unique characteristics of the property, staff recommends approval of the request.

**PUBLIC NOTICES:** A notice was mailed by first class mail to the property owners within 150 feet in any direction of the subject property and posted on subject property on June 28, 2021. (Sec. 2-149 of the Code of Ordinances.)

**CORRESPONDENCE RECEIVED:** Letters of support from Jim Bone, 380, La Hacienda Drive, Christopher & Lydia Tremble, 381 La Hacienda Drive, Dave Edgerton, 377 La Hacienda Drive, Christie Roberts, 383 La Hacienda Drive, and Bob and Becky Griffin, 375 La Hacienda Drive.

A letter of objection was received from Paul and Patricia Jannarone, 376 La Hacienda Drive.

**LEGAL ADVERTISEMENT:** A legal notice was published in the June 30, 2021-edition, of the St. Pete Times Section of the Tampa Bay Times, for a public hearing that has been scheduled on July 13, 2021, for BOA Case No. 2021-06.

*[End of Staffing Report]*

City Attorney Mora read the title of the Agenda Item by title only.

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 hearing.

Mayor-Commissioner Kennedy opened the public hearing.

Planning Consultant Harmon stated the applicant is requesting a variance from Code Section 110-313(1)(f.) (2)(i) of the Code of Ordinances of a range from 12 feet to 5.5 feet for a length of 22 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of a range from 13 feet to 19.5 feet from a length of 22 feet, to allow to install a roof over the patio area at the rear of the house at 378 La Hacienda Drive.

Planning Consultant Harmon presented a PowerPoint Presentation depicting aerial views of the property, a survey, proposed site plans, and pictures of the backyard showing the progression of work done.

Planning Consultant Harmon stated staff does recommend approval of the variance request due to the shape of the lot and the existing house on the lot. The Board of Adjustments and Appeals also recommended approval by a vote of 3 to 1.

City Attorney Mora stated the City did receive the following correspondence in connection with this variance request:

Letters of support from Jim Bone, 380, La Hacienda Drive, Christopher & Lydia Tremble, 381 La Hacienda Drive, Dave Edgerton, 377 La Hacienda Drive, Christie Roberts, 383 La Hacienda Drive, and Bob and Becky Griffin, 375 La Hacienda Drive.

A letter of objection was received from Paul and Patricia Jannarone, 376 La Hacienda Drive.

**Carolyn Meadows, Esquire, Becker and Poliakoff, P.A., 1511 N. Westshore Boulevard, Suite 1000, Tampa**, appeared on behalf of the property owner/applicant, Elias Leousis 378 La Hacienda Drive, thanked staff for their report. She stated she and the applicant agrees with the staffing report and are only here to add a few comments and answer any questions the City Commission should have on the variance request.

Attorney Meadows stated the applicant begun the review and permit process in late 2020. He was issued a building permit based on the same set of plans that he had initially submitted. The only change during that time period was a technical correction requested by City staff, which was complied with. The applicant began construction after nearly six months of review. He had passed four inspections before the stop-work order that was issued at the end of May. The property passed a footing inspection, a fill cell inspection, and two column inspections before the stop-work order. The applicant has not violated the stop-work order. The majority of the work is being done in the front of the home. The area in question is in the rear of the house and constitutes a small portion of the overall project. But, that small portion of the project is significant because it is tied into the roof truss plan, and the overall structural integrity of the home depends on that roof truss plan.

Attorney Meadows stated a stop-work order is in place, and the house is structurally comprised to an extent until the work can resume and things can get moving forward again. There is a concern that it is the middle of Hurricane Season.

Attorney Meadows stated the applicant is facing an undue hardship and believes that he has met the criteria for Section 2-152 of the Code of Ordinances, as laid out in the Staffing Report.

As mentioned by City Attorney Mora, Attorney Meadows stated that several neighbors supported the project, with one neighbor raising some objections.

Attorney Meadows stated the applicant is not requesting a height variance and is not seeking to enclose the area, which is an important part of the project, and has never requested that this area be enclosed. She stated the applicant is happy to memorialize this as a covenant running with the deed to ensure that the backyard porch area is not enclosed without the City Commission's consent and approval.

Commissioner Hoofnagle stated he does not understand the nature of the structural instability right now.

Attorney Meadows stated the contractors had removed part of the roof in preparation for the next step in the project, including some additional truss work.

**Elias Leousis, 378 La Hacienda Drive, applicant,** stated he has been living in this home for 26 years and has raised his children there. He said his house was built in the 1960s, and the homes for that time period have low ceilings. His remodel project included raising the ceilings to be more modernized. He after that went through the steps he has gone through and has experienced delays with getting supplies, specifically with the roof trusses.

Commissioner Hoofnagle asked how is the house right now exposed and making it unstable?

Mr. Leousis stated because the contractor had to build up the walls in the front structurally.

Commissioner Hoofnagle stated the front is unstable, not the back. It has nothing to do with the back variance. Is it something with the front?

Mr. Leousis stated the variance is for the back. He said since the column is not poured, it is not structurally sound. The contractor had to tie into the existing roof in the front so part of the roof is exposed.

Commissioner Hoofnagle stated the stop-work order did not let the contractors finish the roof in the front, so the structure is unstable.

**Lydia Tremble, 381 La Hacienda Drive**, spoke in support of the variance request for 378 La Hacienda Drive.

Seeing and/or hearing no one wishing to speak, Mayor-Commissioner Kennedy closed the public hearing.

***MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER HANNA, TO APPROVAL BOA CASE NO. 2021-06, A VARIANCE REQUEST FROM CODE SECTION 110-131(1)(f.) (2)(i), OF THE CODE OF ORDINANCES, OF A RANGE FROM 12 FEET TO 5.5 FEET FOR A LENGTH OF 22 FEET INTO THE REQUIRED 25-FOOT REAR YARD SETBACK, RESULTING IN A TOTAL REAR YARD SETBACK OF A RANGE FROM 13 FEET TO 19.5 FEET FOR A LENGTH OF 22 FEET, TO ALLOW FOR A COVERED PORCH ON THE REAR OF THE HOUSE FOR PROPERTY LOCATED AT 378 LA HACIENDA DRIVE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LA HACIENDA 1ST ADDITION AND PART OF WATER LOT C IN FRONT AND 14.5 FT X 115 FT T/A ON EAST SIDE OF LOT 61 RECORDED THEREOF RECORDED IN PLAT BOOK 43, PAGE 14 OF THE PUBLIC RECORDS, PINELLAS COUNTY, FLORIDA.***

Commissioner Hoofnagle stated the hardship has to do with the shape of the lot. He does not think the roofline extending in that direction creates necessarily a new variance, it is continuing the roofline. Given those two hardships, he is not sure that he understands the communication about the enclosure. Still, he is not sure if that makes a difference from the City Commission's point of view regarding the variance itself. He further stated that they had begun construction is not a hardship. It is unfortunate, but that does not affect his thinking. He thinks it is more about the roofline and the property shape.

**ROLL CALL VOTE:**

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

**NAYS: NONE.**

**MOTION CARRIED UNANIMOUSLY.**

7. **OTHER LEGISLATIVE MATTERS:** None.
8. **WORK SESSION ITEMS [DISCUSSION ONLY]:** None.
9. **OTHER BUSINESS.** None.
10. **ADJOURNMENT.**

**MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER HOUSEBERG, TO ADJOURN THE MEETING AT 8:25 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.**

August 10, 2021  
Date Approved

/DOR