

**MINUTES — SEPTEMBER 8, 2020  
CITY OF INDIAN ROCKS BEACH  
REGULAR (VIRTUAL) CITY COMMISSION MEETING**

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The City of Indian Rocks Beach Virtual Regular City Commission Meeting was held on **TUESDAY, SEPTEMBER 8, 2020.**

Mayor-Commissioner Kennedy called the meeting to order at 6:00 p.m., followed by the Pledge of Allegiance and ten seconds of silence in memory of long time residents Betsy Schoepf and Michael McGlaughlin.

Mayor-Commissioner Kennedy welcomed everyone to the September 8, 2020 Virtual Indian Rocks Beach Regular City Commission Meeting convening pursuant to Executive Orders issued by the Office of Governor Ron DeSantis allowing local government bodies to conduct meetings of their governing boards without having a quorum of its members present physically or at any specific location, and utilizing communications media technology such as telephonic or video conferencing, as provided by Section 120.54(5)(b)2, Florida Statutes.

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

**OTHERS PRESENT:** City Manager Brently Gregg Mims, City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, Finance Director Daniel A. Carpenter, CGFO, and Technology Moderator 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 (PCSO) submitted a written Crime Analysis Report for August 2020 for the City of Indian Rocks Beach.

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

**Monthly Report from the Pinellas Suncoast Fire & Rescue District  
David Ardman, Commissioner – Seat 2 Indian Rocks Beach  
For IRB City Commission Meeting of September 8, 2020**

1. Staffing levels are normal, as all staff with COVID-related issues were cleared to return to work.
2. Most administrative staff continue to work remotely due to COVID.

3. The District continues working with "reopener" negotiations with the labor organization per the Collective Bargaining Agreement.
4. District Budget Meetings are scheduled for 6:00 p.m. on September 15<sup>th</sup> at Belleair Beach City Hall and September 24<sup>th</sup> at St. Jerome's Catholic Church Parish Hall. Notice will be provided if the meetings are to be virtual.
5. The supply chain for personal protective equipment (PPE) within the EMS system has improved and the medical director has approved the use of N95 masks for responders versus the full face respirators that had been required.
6. August was a busy EMS month in IRB with 64 calls for service. The EMS calls included:
  - COVID-Related – 4
  - Gunshot/Assault - 2
  - Unconscious Person – 10
  - Motor Vehicle Crash – 6
  - Other EMS calls - 17
  - Overdose - 1
  - Trauma-Related - 5
  - Sick Person - 5
  - Falls – 8
  - Water Rescues – 2
  - Cardiac/Respiratory - 5All emergency responses except for three were within our target of 7 minutes 30 seconds. In two of the three cases, the call was handled by resources from our Indian Shores Station. Our average response time was 4 minutes, 49 seconds.
7. August was a slower than average month for fire responses within IRB with nine and included one outside fire, one elevator rescue, two gas leaks, and three fire alarms. All but one call were within the 7 minutes 30 seconds target with an average of 4 minutes 01 seconds.

**2. PUBLIC COMMENTS.** There were no public comments.

**3A. REPORTS OF the City Attorney:** No report.

**3B. REPORTS OF the City Manager.**

*FLC HOME RULE HERO AWARD.* City Manager Mims stated it is his honor to present virtually to Mayor-Commissioner Kennedy the FLC Home Rule Hero Award of 2020. The Florida League of Cities presented over 100 home rule awards to municipal officials for 2020. Mayor-Commissioner Kennedy aggressively participated in the ongoing struggle with the Florida Legislature concerning home rule.

*RED LION.* City Manager Mims stated in Issue 87 of the Indian Rocks Beach Neighborhood News: "Red Lion Status. They have been waiting on Pinellas County to issue building permits. Halfway through the project, the City of Indian Rocks Beach did away with their

own Building Department, and the bar owner had to resubmit the paperwork. There was already a backlog due to the shutdown. They hope to receive them soon."

City Manager Mims stated a permit was issued to construct four new restrooms at the Red Lion in June of 2019. On April 7, 2020, the job was shut down by a PSFRD inspector because no permits were posted, and no approved plans were on site. Last week, he had the pleasure of talking with Tom George. Mr. George made it clear that the construction delay had nothing to do with the City or Pinellas County. He was waiting on updating plans that reflect all the work improvements they are making to the Red Lion. No plans have been submitted through the City or Pinellas County.

City Manager Mims stated the article also indicated that, due to the transition of Building Department services from the City to Pinellas County, the bar owner was required to resubmit their paperwork.

City Manager Mims stated no one had been required to resubmit their paperwork due to the transition.

City Manager Mims encouraged the public to directly contact City Hall if they have any questions about City operations. General Facebook posts and specifically the IRB Neighborhood APP are not reliable sources for facts related to City operations.

*Pending Ordinances.* Based on the consensus of the City Commission during the July 23, 2020 City Commission Work Session, staff is actively working on finalizing the drafts of six different ordinances relating to fishing on the beach, park hours, plan review fee clarification, no trace ordinance, golf carts, and parking. These draft ordinances have tentatively been scheduled for first reading on October 13, 2020, with second and final reading tentatively scheduled for November 10, 2020. Drafts of all proposed ordinances should be posted on the City's website by the end of this week.

*Final Budget Hearing.* Would be held in the ZOOM format on September 17, 2020 at 6:00 p.m. In addition to the budget items, staff will request approval to sign the necessary documents to accept approximately \$5.6 Million for the next phase of the Gulf Boulevard Improvement Project, undergrounding of utilities.

*Beach Easement Forum.* Pinellas County will conduct a Virtual Beach Easement Forum on September 23, 2020 from 6:00 to 7:30 p.m. via ZOOM. The County and the Army Corps of Engineers will be present and take questions. The City is waiting on a mailing list from the County to mail postcards to beachfront property owners.

*Gulf Boulevard Undergrounding Project.* Reports from Duke Energy indicate that the project's conclusion may be delayed until November due to Hurricanes Hanna and Laura hitting Louisiana and Texas's coasts. Properties along this section of Gulf Boulevard are

already receiving power from the new underground infrastructure. However, the removal of poles, related infrastructure, and new street poles would be delayed.

*Storm Drainage Projects at 319 Harbor Drive and 360 La Hacienda Drive.* The Storm Drainage Projects start this month. Improvements include run-off mitigation, filtration, and new pipe infrastructure. This project is partly funded through a grant from Southwest Florida Water Management District (SWFWMD).

*Stormwater Drainage Preventive Maintenance.* The City is about 60% complete cleaning all storm drains, including jet pressure cleaning/vacuuming of conveyance pipes, outfalls, and catch basins.

*City Hall Partial Reopening.* City Hall will reopen on Monday, September 14<sup>th</sup>. Normal operating hours, except for the Library, Monday through Friday, from 1:00 to 4:00 p.m. No auditorium or pavilion rentals. The number of people in lobby areas will be limited.

*City Hall/Museum Solar Panel Project.* The City Hall portion is about 70% completed. The last shipment of solar panels had some damage, so those should be coming in next week, and it is anticipated the project should be completed by the end of the month, including the Historical Museum.

*IRB Team Members.* Thanked the IRB Team Members for all their work and extra duties that they have taken on during COVID-19.

### **3C. REPORTS OF THE City Commission.**

#### **COMMISSIONER FLAGG:**

- Stated on September 17, 2020, at 8:00 p.m., on PBS/WEDU, WEDU's Documentary "Canvas With A Cause" will be airing. The documentary is about the City's Plein Aire Cottage Artists, highlighting the City's beach cottages.

#### **COMMISSIONER HOOFNAGLE:**

- Stated in this time of uncertainty, he would like to express his gratitude to the first responders. He feels that the City and Pinellas County have been fortunate in the sense that the City's first responders have respect, discipline, and honor toward the communities.

#### **4. ADDITIONS/DELETIONS.** None.

#### **5. CONSENT AGENDA:**

- A. APPROVAL OF the August 11, 2020 Regular City Commission Meeting Minutes.**
- B. APPROVAL OF the July 23, 2020 City Commission Work Session Minutes.**

- C. **APPROVAL OF the FY2020 Law Enforcement Contract with the Pinellas County Sheriff's Office.**
- D. **RESOLUTION NO. 2020-09. A resolution of the City Commission of the City of Indian Rocks Beach, Florida, nominating an elected official to Forward Pinellas; and providing an effective date.**
- E. **CONFIRMING ACTION taken during the September 3, 2020 Special City Commission Meeting.**

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

***MOTION MADE BY COMMISSIONER MCCALL, SECONDED BY VICE MAYOR-COMMISSIONER HANNA, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS. 5A THROUGH 5E. UNANIMOUS APPROVAL BY ACCLAMATION.***

**6A. BOA CASE NO. 2020-05 — 2004-20<sup>TH</sup> AVENUE PARKWAY**

**Considering variance requests from Section 94-86(a)(1) of 2 feet 6 inches into the 12-foot side yard setback from the northeast projected property line, leaving a side yard setback of 9 feet 6 inches, and of 5 feet 6 inches into the 12-foot side yard setback from the southwest projected property line, leaving a side yard setback of 6 feet 6 inches, for the installation of a new dock, for the property located at 2004-20<sup>th</sup> Avenue Parkway, Indian Rocks Beach, Florida, and legally described as Lot 16 and part of Lot 15, Seventh Addition to Re-Revised Map of Indian Beach. Parcel #06-30-15-42156-000-0160.**

*[Beginning of Staffing Report.]*

**SUBJECT: BOA CASE NO. 2020-05 — 2004-20<sup>th</sup> AVENUE PARKWAY:** Variance requests from Section 94-86(a)(1) to allow a variance of 2 feet 6 inches into the 12-foot side yard setback from the northeast projected property line leaving a side yard setback of 9 foot 6 inches and 5 feet 6 inches into the 12-foot side yard setback from the southwest projected property line leaving a side yard setback of 6 feet 6 inches for the installation of a new dock, for the property located at 2004- 20<sup>th</sup> Avenue, Indian Rocks Beach, Florida, and legally described as Lot 16 and part of Lot 15, Seventh Addition to Re-Revised Map of Indian Beach. Parcel #06-30-15-42156-000-0160.

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

**BOARD OF ADJUSTMENTS AND APPEALS RECOMMENDATION:** Unanimous approval.

**OWNER** Thomas and Nikkole Schaub  
**PROPERTY LOCATION:** 2004-20th Avenue Parkway

ZONING:

S- Single Family

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

**BACKGROUND:**

Thomas and Nikkole Schaub are requesting variance for the side setbacks for the installation of the dock. They are requesting 2 feet 6 inches into the 12-foot side yard setback from the northeast projected property line leaving a side yard setback of 9 foot 6 inches and 5 feet 6 inches into the 12-foot side yard setback from the southwest projected property line leaving a side yard setback of 6 feet 6 inches.

**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's seawall is on an interior radius which reduces the width of the property as the property lines are extended out into the bay.*
- 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 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.*

**PUBLIC NOTIFICATION:** A public meeting 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 property on August 24, 2020, per Code Section 2-149.

A legal notice was published in the August 26, 2020-edition, of the St. Pete Times Section of the *Tampa Bay Times*, for public hearing that has been scheduled on September 8, 2020, for BOA Case No. 2020-05.

*[End of Staffing Report.]*

City Attorney Mora read Agenda Item No. 6A/BOA Case No. 2020-05 by title only and stated that this was a quasi-judicial matter.

City Attorney Mora stated in a quasi-judicial setting, the City Commission was not making the law, but rather applying the law to establish criteria within the City Code.

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

City Attorney Mora inquired if any City Commission Member had any ex-parte communications with the applicants, with all Members responding negatively.

Mayor-Commissioner Kennedy opened the public hearing.

City Manager Mims introduced BOA Case No. 2020-05 and reviewed the Agenda Staffing Report.

City Manager Mims stated the applicants are requesting variances from the side sets for the installation of a new dock for the property located at 2004-20<sup>th</sup> Avenue Parkway. They are requesting 2 feet 6 inches into 12-foot required side yard setback from the northeast projected property line, leaving a side yard setback of 9-foot 6 inches, and 5 feet 6 inches into the 12-foot required side yard setback from the southwest projected property line, leaving a side yard setback of 6 feet 6 inches.

City Manager Mims stated staff recommended approval of the application and the Board of Adjustments and Appeals recommended unanimous approval to the City Commission.

City Manager Mims stated the issue that the applicants are having was not self-created. The property's seawall is on an interior radius which reduces the width of the property as the property lines are extended out into the bay.

The City Attorney duly swore in Joe Place who was planning to give testimony during the quasi-judicial proceeding.

**Joe Place, Enterprise Marine, 8165-46<sup>th</sup> Avenue North, St. Petersburg, marine contractor for the property owner**, stated the property owners who live in New York could not be here this evening because of COVID-19.

Mr. Place was present to address any questions and/or concerns that the City Commission may have.

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

There were no City Commission questions and/or comments.

***MOTION MADE BY COMMISSIONER FLAGG, SECONDED BY COMMISSIONER HOOFNAGLE TO APPROVE BOA CASE NO. 2020-05, VARIANCE REQUESTS FROM SECTION 94-86(A)(1) TO ALLOW A VARIANCE OF 2 FEET 6 INCHES INTO THE 12-FOOT SIDE YARD SETBACK FROM THE NORTHEAST PROJECTED PROPERTY LINE LEAVING A SIDE YARD SETBACK OF 9 FOOT 6 INCHES AND 5 FEET 6 INCHES INTO THE 12-FOOT SIDE YARD SETBACK FROM THE SOUTHWEST PROJECTED PROPERTY LINE LEAVING A SIDE YARD SETBACK OF 6 FEET 6 INCHES FOR THE INSTALLATION OF A NEW DOCK, FOR THE PROPERTY LOCATED AT 2004- 20<sup>TH</sup> AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOT 16 AND PART OF LOT 15, SEVENTH ADDITION TO RE-REVISED MAP OF INDIAN BEACH. PARCEL #06-30-15-42156-000-0160.***

Commissioner Hoofnagle stated the Board of Adjustments and Appeals reviewed the BOA Case thoroughly, and he thought it was a good attempt to reduce the width of the platform to make it as minimally invasive as possible.

**ROLL CALL VOTE:**

**AYES: MCCALL, HANNA, HOOFNAGLE, FLAGG, KENNEDY**

**NAYS: NONE.**

**MOTION CARRIED UNANIMOUSLY.**

**6B. ABT 11-2020 — 2300 GULF BOULEVARD  
CONSIDERING A 2COP ALCOHOLIC BEVERAGE LICENSE DESIGNATION  
(BEER/WINE. BY THE DRINK OR IN SEALED CONTAINERS FOR**



**CONSUMPTION ON OR OFF PREMISES WHERE SOLD) TO MICHAEL FISHER, D/B/A BEACH WAVES GRILL, LLC, WHICH ESTABLISHMENT IS LOCATED AT 2300 GULF BOULEVARD, SUITE 1, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS INDIAN BEACH RE-REVISED, BLOCK 42, LOT 6 AND 7 LESS ROAD ON E. PARCEL ID #: 01-30-14-42030-042-0060.**

**SUBJECT: ABT CASE NO. 11-2020 — 2300 GULF BOULEVARD, SUITE 1**

Michael Fisher, d/b/a Beach Waves Grill, LLC has requested a 2COP Alcoholic Beverage Use Designation (*Beer; wine. By the drink or in sealed containers for consumption on or off premises where sold*) for the establishment Beach Waves Grill, located at 2300 Gulf Boulevard, Suite 1, Indian Rocks, Beach, Florida, and legally described as Lots 6 and 7 less RD on E, Block 42, Re-Revised Map of Indian Beach. Parcel #14-30-01-42030-042-0060.

**BACKGROUND:**

Alcoholic Beverage Use Designations are governed by Chapter 6, Alcoholic Beverages.

All alcoholic beverage licenses are under the control of the State of Florida, Division of Alcohol Beverages and Tobacco. However, municipalities have the right to enact ordinances regulating the hours of business and location of the place of business and prescribing sanitary regulations thereof, of any license under the State Beverage Law within the county or corporate limits of such municipality. [F.S. 562.45(2)(a)]

On August 13, 2020, Michael Fisher submitted an Alcoholic Beverage Designation Application for a 2COP Alcoholic Beverage Use Designation (*Beer; wine. By the drink or in sealed containers for consumption on or off premises where sold*) for the establishment Beach Waves Grill, located at 2300 Gulf Boulevard, Suite 1, Indian Rocks Beach, Florida, according to Code Section 6-32(e).

Mr. Fisher purchased Thai Pan Alley from Joseph J. Buck on August 18, 2020. Per Code Section 6-32, Alcoholic Beverage Use Designations are approved for a specific property location and a specific application. Any change in ownership of the establishment will require filing a new application and approval by the City Commission.

Mr. Fisher and his partners will be changing the menu from Thai food to casual beach food.

**ANALYSIS:**

Beach Waves Grill is located within the CT (Commercial zoning district). The surrounding zoning is CT-Commercial Tourist on the north, south and west sides, and B (Business zoning district) to the east side.

Beach Waves Grill would be located in Suite 1 of the Western Plaza, located at 2300 Gulf Boulevard.

Beach Waves Grill will have 50 interior seats, and parking is shared with the other tenants in this commercial shopping center.

After a review of the application by the Planning Consultant, it was determined that the Alcoholic Beverage Application for Beach Waves Grill is in compliance with Chapter 6, Alcoholic Beverages, Chapter 110, Zoning, and parking is shared with the other tenants in this commercial plaza.

The Pinellas County Sheriff's Office did a background check on Michael Fisher and his partners: Michael Lee Lowes, James Robert Tenderholt, and Leonard Lenderholt. This is not a comprehensive background check and only references the Pinellas County Sheriff's Office records management system. The results of the background check are included in the Staffing Report.

Section 6-33, Authority of City Commission to designate locations, empowers the City Commission to designate the location and classification and to place reasonable restrictions which are deemed appropriate such as: Repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or the parking area may result in the revocation of the alcoholic beverage designation.

#### **PUBLIC NOTIFICATION:**

A public meeting 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 property on August 24, 2020, per Code Section 2-149.

No correspondence was received.

A legal notice was published in the August 26, 2020-edition, of the St. Pete Times Section of the Tampa Bay Times, for a public hearing that has been scheduled on September 8, 2020, for ABT Case No. 11-2020.

#### **FISCAL IMPACT:**

If approved, Beach Wave Grill, LLC, would be required to obtain an annual business tax receipt license from the City.

City Attorney Mora read the Agenda Item No. ABT Case No. 11-2020 by title only.

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

City Attorney Mora inquired if any City Commission Member had any ex-parte communications with the applicants, with all Members responding negatively.

Mayor-Commissioner Kennedy opened the public hearing.

City Clerk O'Reilly introduced the Agenda Item and reviewed the Staffing Report.

City Clerk O'Reilly stated Michael Fisher, DBA Beach Waves Grill, LLC, purchased Thai Pan Alley from Joseph Buck.

City Clerk O'Reilly stated Michael Fisher, DBA Beach Waves Grill, LLC, has requested a 2COP Alcoholic Beverage Use Designation for the establishment Beach Waves Grill located at 2300 Gulf Boulevard, Suite 1.

City Clerk O'Reilly stated Beach Waves Grill would have 50 interior seats and no outside seating. The establishment is located within the Western Plaza and will share the parking with these other businesses.

City Clerk O'Reilly stated the Planning Consultant determined that the seating and the parking complied with the City Code.

City Clerk O'Reilly stated during the Pinellas County Sheriff's Office background check for Michael Fisher and his partners Michael Lee Lowe, James Robert Tenderholt, and Leonard Tenderholt, several cases were found. However, upon further review, the applicant or his partners were either witnesses, complainants, or were interviewed for a case. The PCSO is not a comprehensive background check and only references the PCSO records management system.

City Clerk O'Reilly stated if approved, staff recommends that the following stipulation be part of the motion: Repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment of the parking area may result in the revocation of the alcoholic beverage designation.

City Clerk O'Reilly stated that the City received no letters of objection or approval.

The City Attorney duly swore in Nicole Tenderholt, who was planning to give testimony during the quasi-judicial proceeding.

**Nicole Tenderholt, no address provided, spokesperson for Beach Waves Grill, LLC,** stated they are excited to bring their concept to the community. They will try to keep a little bit of the Thai Pan Alley and gear in with what they are bringing with the beach items. They are family and friend owned. She stated they all have grown up in this area and are very familiar with the community. She stated eventually, they would like to look at getting more than a beer and wine license.

Commissioner Flagg asked when they were going to open, and their hours of operation.

Ms. Tenderholt responded the hours of operation would be Sunday through Saturday, 11:00 a.m. to 10:00 p.m., and stated they are aware of the noise ordinance and will adhere to it. She stated they realize condos surround them.

Ms. Tenderholt stated they are pushing to open mid to late September.

There were no public comments.

Seeing and/or hearing no public comments, Mayor-Commissioner Kennedy closed the public hearing.

**MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO APPROVE A 2COP ALCOHOLIC BEVERAGE USE DESIGNATION (BEER; WINE. BY THE DRINK OR IN SEALED CONTAINERS FOR CONSUMPTION ON OR OFF PREMISES WHERE SOLD) TO MICHAEL FISHER, DBA BEACH WAVES GRILL, LLC, OPERATING AS BEACH WAVES GRILL, LOCATED AT 2300 GULF BOULEVARD, SUITE 1, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOTS 6 AND 7 LESS ROAD ON E, BLOCK 42, INDIAN BEACH RE-REVISED WITH THE STIPULATION THAT ANY REPEATED OR INTERMITTENT NUISANCE ACTIVITY AND/OR UNLAWFUL NOISE LEVELS ORIGINATING FROM THE ESTABLISHMENT OR THE PARKING AREA MAY RESULT IN THE REVOCATION OF THE ALCOHOLIC BEVERAGE DESIGNATION.**

Commissioner Hoofnagle asked the City Clerk to review the PCSO background checks.

City Clerk O'Reilly stated the initial results from the PCSO background checks came back with cases on the applicant and his partners as subjects. Ms. Tenderholt provided the City with a Florida Department of Law Enforcement Criminal History Information on Michael Robert Fisher, Michael Lee Lowe, and James Tenderholt that indicated the applicants were either witnesses, interviewees, or complainants but were not actual subjects of the cases.

**ROLL CALL VOTE:**

**AYES: MCCALL, HANNA, FLAGG, HOOFNAGLE, KENNEDY**

**NAYS: NONE**

**MOTION CARRIED UNANIMOUSLY.**

**6C. ABT 12-2020 — 1401 GULF BOULEVARD**

**Considering a 2COP Alcoholic Beverage License Designation (*Beer/wine. By the drink or in sealed containers for consumption on or off premises where sold*) to Michael G, Alfaro, d/b/a Groupers on the Gulf, LLC, which establishment is located at 1401 Gulf Boulevard, Unit # 7 & 8, Indian Rocks**

**Beach, Florida, and legally described as Indian Beach Re-Revised, Block 29, Lots 1, 2, and 3. Parcel ID #: 01-30-14-42030-029-0010.**

**SUBJECT: ABT CASE NO. 12-2020 — 1401 Gulf Boulevard, Units 8 & 9**

Michael G. Alfaro, d/b/a Groupers on the Gulf, LLC has requested a 2COP Alcoholic Beverage Use Designation (*Beer; wine. By the drink or in sealed containers for consumption on or off premises where sold*) for the establishment Groupers on the Gulf, located at 1401 Gulf Boulevard, Units 8 & 9, Indian Rocks, Beach, Florida, and legally described as Lots 1, 2, and 3, Block 29, Indian Beach Re-Revised. Parcel #01-30-14-42030-029-0010.

**BACKGROUND:**

Alcoholic Beverage Use Designations are governed by Chapter 6, Alcoholic Beverages.

All alcoholic beverage licenses are under the control of the State of Florida, Division of Alcohol Beverages and Tobacco. However, municipalities have the right to enact ordinances regulating the hours of business and location of the place of business and prescribing sanitary regulations thereof, of any license under the State Beverage Law within the county or corporate limits such municipality. [F.S. 562.45(2)(a)]

On August 14, 2020, Michael Alfaro, DBA Groupers on the Gulf, LLC, submitted an Alcoholic Beverage Designation Application for a 2COP Alcoholic Beverage Use Designation (*Beer; wine. By the drink or in sealed containers for consumption on or off premises where sold*), for the establishment Groupers on the Gulf, located at 1401 Gulf Boulevard, Units 8 and 9, Indian Rocks Beach, Florida, according to Code Section 6-32(e).

Mr. Alfaro purchased Groupers from Adam McLean on July 28, 2020, and per Code Section 6-32, Alcoholic Beverage Use Designations are approved for a specific property location and a specific application. Any change in ownership of the establishment will require filing a new application and approval by the City Commission.

**ANALYSIS:**

Groupers on the Gulf is located within the B-Business zoning district. The surrounding zoning is B-Business to the north and south, RM2-Medium density multifamily zoning district to the east, and CT-Commercial Tourist on the west side of Gulf Boulevard.

Groupers on the Gulf is located in the corner of the Sunrise Gallery Shopping Center located at 1401 Gulf Boulevard.

Groupers on the Gulf will have 44 interior seats, and parking is shared with the other tenants in this commercial shopping center.

After a review of the application by the Planning Consultant, it was determined that the Alcoholic Beverage Application for Groupers on the Gulf is in compliance with Chapter 6, Alcoholic Beverages, Chapter 110, Zoning, and parking is shared with the other tenants in this commercial plaza.

A review of the application by the Pinellas County Sheriff's Office, per records maintained within the PCSO records management system, there was no identified offenses for Michael Alfaro. This is not a comprehensive background check and only references the Pinellas County Sheriff's Office records management system.

Section 6-33, Authority of City Commission to designate locations, empowers the City Commission to designate the location and classification and to place reasonable restrictions which are deemed appropriate such as: Repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or the parking area may result in the revocation of the alcoholic beverage designation.

#### **PUBLIC NOTIFICATION:**

A public meeting 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 property on August 24, 2020, per Code Section 2-149.

#### **CORRESPONDENCE RECEIVED:**

Letters of objection were received from:

- Timothy Bridges, Beachside Villas, 1412 Gulf Boulevard.
- Melissa Morton, Beachside Villas, 1412 Gulf Boulevard.

A letter of support was received from:

- Tony and Vicki Evans, 1500 Gulf Boulevard.

A legal notice was published in the August 26, 2020-edition, of the St. Pete Times Section of the Tampa Bay Times, for a public hearing that has been scheduled on September 8, 2020, for ABT Case No. 12-2020.

#### **FISCAL IMPACT:**

If approved, Groupers of the Gulf would be required to obtain an annual business tax receipt license from the City.

City Attorney Mora read Agenda Item No. 6C by title only.

City Attorney Mora inquired if any City Commission Member had done a site visit for the limited purpose of evaluating this case, with Mayor-Commissioner Kennedy responding in the affirmative.

Mayor-Commissioner Kennedy stated she stopped by their business and asked if they would be attending the meeting.

City Attorney Mora asked Mayor-Commissioner Kennedy if she felt that her visit in any way impaired her ability to impartially adjudicate this matter, with Mayor-Commissioner Kennedy responding in the negative.

City Attorney Mora inquired if any City Commission Member had any ex-parte communications with the applicants, with all Members responding negatively.

Mayor-Commissioner Kennedy opened the public hearing.

City Clerk O'Reilly introduced the Agenda Item and reviewed the Staffing Report.

City Clerk O'Reilly stated Michael Alfaro purchased Groupers from Adam McLean in late July 2020.

City Clerk O'Reilly stated Mr. Alfaro, DBA Groupers on the Gulf, LLC, is requesting a 2COP (*Beer; wine. By the drink or in sealed containers for consumption on or off premises where sold*) for the establishment Groupers on the Gulf, located at 1401 Gulf Boulevard, Units 8 and 9.

City Clerk O'Reilly stated Groupers on the Gulf will have 44 interior seats and no outdoor seating and will have shared parking with the other tenants in the Sunrise Gallery Shopping Center.

City Clerk O'Reilly stated the Planning Consultant has determined that the seating and parking are in compliance with the City Code.

City Clerk O'Reilly stated a review of the application by the Pinellas County Sheriff's Office, per records maintained within the PCSO records management system, there was no identified offenses for Michael Alfaro. This is not a comprehensive background check and only references the Pinellas County Sheriff's Office records management system.

City Clerk O'Reilly stated the City received the following objection letters: Timothy Bridges, Beachside Villas, 1412 Gulf Boulevard, and Melissa Morton, Beachside Villas, 1412 Gulf Boulevard, and the following letter of support from Tony and Vicki Evans, 1500 Gulf Boulevard.

City Clerk O'Reilly stated if approved, staff recommends that the following stipulation be part of the motion: Repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or the parking area may result in the revocation of the alcoholic beverage designation.

The City Attorney duly swore in Michael Alfaro who was planning to give testimony during the quasi-judicial proceeding.

**Michael Alfaro, 461 Waterford Circle E, Tarpon Springs**, stated his family is excited to be part of this community. He stated they would be bringing a little twist on what was here in the past. They do not plan on expanding into liquor at all. Beer and wine are as far as they want to go.

Mr. Alfaro stated it would be a family-operated business with his wife and his three college sons.

Commissioner Flagg asked what would be the hours of operations and when they would be opening.

Mr. Alfaro stated they plan on opening as soon as possible, with September 18th being a tentative grand opening date.

Mr. Alfaro stated hours of operation would be 11:00 a.m. to 9:00 p.m. during the weekdays and 11:00 a.m. to 10:00 p.m, Friday and Saturday.

The City Attorney duly swore in Doug Izzo, who was planning to give testimony during the quasi-judicial proceeding.

Doug Izzo, Tampa Bay Beaches Chamber of Commerce, spoke in support of the 2COP Alcoholic Beverage Use Designation for Groupers on the Gulf.

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

***MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY VICE MAYOR-COMMISSIONER HANNA, TO APPROVE A 2COP ALCOHOLIC BEVERAGE USE DESIGNATION (BEER; WINE. BY THE DRINK OR IN SEALED CONTAINERS FOR CONSUMPTION ON OR OFF PREMISES WHERE SOLD) TO MICHAEL ALFARO, D/B/A GROUPERS ON THE GULF, LLC, OPERATING AS GROUPERS OF THE GULF LOCATED AT 1401 GULF BOULEVARD, UNITS 8 AND 9, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOTS 1, 2, AND 3, BLOCK 29, INDIAN BEACH RE-REVISED, WITH THE STIPULATION THAT ANY REPEATED OR INTERMITTENT NUISANCE ACTIVITY AND/OR UNLAWFUL NOISE LEVELS***



**ORIGINATING FROM THE ESTABLISHMENT OR THE PARKING AREA MAY RESULT IN THE REVOCATION OF THE ALCOHOLIC BEVERAGE DESIGNATION.**

**ROLL CALL VOTE:**

**AYES: MCCALL, FLAGG, 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 HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO ADJOURN THE MEETING AT 7:51 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.**

October 13, 2020

Date Approved

/DOR