

**REGULAR
CITY COMMISSION MEETING**

TUESDAY, OCTOBER 13, 2020

@ 7:00 P.M.



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785
www.indian-rocks-beach.com

Administrative
727/595-2517

Building/Planning & Zoning
727/517-0404
727/596-4759 (Fax)

Library
727/596-1822

Public Services
727/595-6889
727/593-5137 (Fax)

AGENDA
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING
TUESDAY, OCTOBER 13, 2020 @ 7:00 P.M.
CITY COMMISSION CHAMBERS
1507 BAY PALM BOULEVARD
INDIAN ROCKS BEACH, FLORIDA 33785

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

1. PRESENTATIONS.

- A. **REPORT OF Pinellas County Sheriff's Office.**
- B. **REPORT OF Pinellas Suncoast Fire & Rescue District.**

2. PUBLIC COMMENTS. [3-minute time limit per speaker.]

(Any member of the audience may come forward, give his/her name and address, and state any comment or concern that he/she may have regarding any matter over which the City Commission has control, **EXCLUDING AGENDA ITEMS**. All statements made to the City Commission shall be made to the City Commission as a whole, not directed to any individual City Commission Member, and no personal, impertinent or slanderous remarks shall be permitted. No speaker shall be interrupted and no debate shall take place between the speaker and the City Commission.)

3. REPORTS OF:

- A. **City Attorney.**
- B. **City Manager.**
- C. **City Commission.**

[3-minute time limit per City Commission Member.]

4. ADDITIONS/DELETIONS.

5. **CONSENT AGENDA:**
 - A. **CONFIRMING ACTION** taken during the September 17, 2020 Special City Commission Meeting.
 - B. **APPROVAL** of the September 3, 2020 Special City Commission Meeting Minutes.
 - C. **APPROVAL** of the September 8, 2020 Regular City Commission Meeting Minutes.
 - D. **APPROVAL** of the September 17, 2020 Special City Commission Meeting minutes.
 - E. **AUTHORIZING** the City Manager to enter into a Contract for Audit Services with MSL, P.A., for Fiscal Years Ending September 2021 through 2025.

 6. **PUBLIC HEARINGS:**
 - A. **ORDINANCE NO. 2020-04 — FIRST READING.**
An Ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 15 – Schedule of Fees, Article III – Planning/Zoning/Land Use, Section 15-21 – Site Development Plan Review Fees, Distinguishing Fees based on commercial, multifamily, or single family properties, including engineers as consultants to be paid by applicant if required; providing for legislative findings, and providing for an effective date hereof.
 - B. **ORDINANCE NO. 2020-05 — FIRST READING.**
An Ordinance of the City of Indian Rocks Beach, Florida, repealing § 74-1 of the Code of Ordinances concerning the prohibition of certain fishing activities; making related findings; and providing for codification, severability, and an effective date.
 - C. **ORDINANCE NO. 2020-06 — FIRST READING.**
An Ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 62 – Traffic and Vehicles, Article III – Operation of Golf Carts, Section 62-40 – Golf Carts; amending the title of the section to include low-speed vehicles and micromobility devices; amending the section to align it with State Statutes; providing definitions for terms to be used in the section; providing for regulation of golf carts and low-speed vehicle operation on sidewalks; providing for the prohibition of micromobility scooters; providing for legislative findings, and providing for an effective date hereof.

 7. **OTHER LEGISLATIVE MATTERS:** None.

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

 9. **OTHER BUSINESS.**

 10. **ADJOURNMENT.**
-

APPEALS: Any person who decides to appeal any decision made, with respect to any matter considered at such hearing, will need a record of the proceedings and, for such purposes, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per s. 286.0105, F.S. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements should be made in advance by the interested party (i.e. Court Reporter).

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation in order to participate in this meeting should contact the City Clerk's Office with your request, telephone 727/595-2517 or doreilly@irbcity.com, no later than four (4) days prior to the proceeding for assistance.

POSTED: October 9, 2020

**NEXT REGULAR CITY COMMISSION MEETING
TUESDAY, NOVEMBER 10, 2020**

AGENDA ITEM NO. 1A

**REPORT OF
Pinellas County Sheriff's Office**



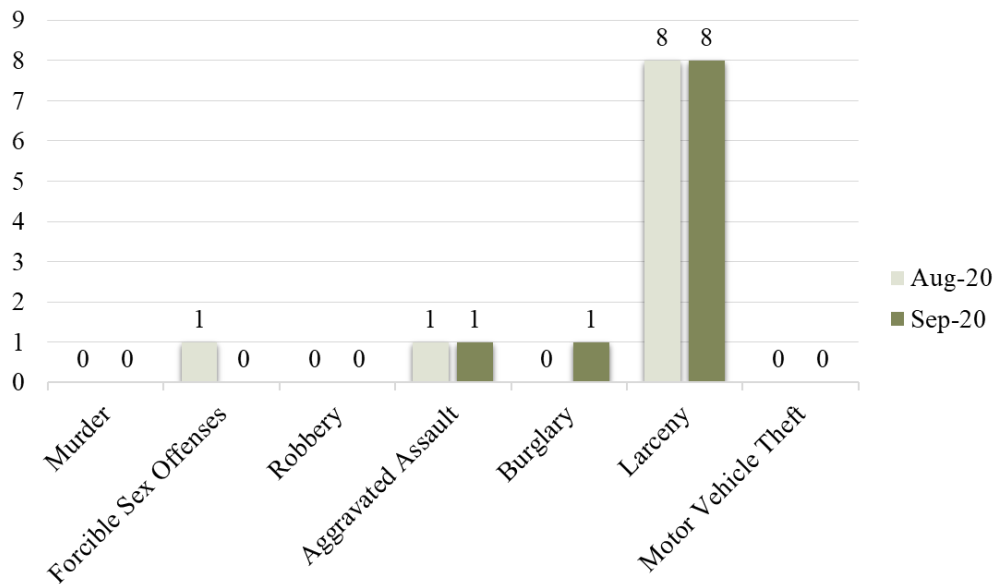
STRATEGIC PLANNING BUREAU

INDIAN ROCKS BEACH ANALYSIS

UCR Part I Crimes

September 2020

UCR Part I Crime Category	August 2020	September 2020	September 2019 YTD	September 2020 YTD
Murder	0	0	0	0
Forcible Sex Offenses	1	0	2	3
Robbery	0	0	0	2
Aggravated Assault	1	1	7	7
Burglary	0	1	6	5
Larceny	8	8	47	54
Motor Vehicle Theft	0	0	4	1
GRAND TOTAL	10	10	66	72



Arrests

September 2020

There were a total of **15** people arrested in the City of Indian Rocks Beach during the month of September resulting in the following charges:

ARREST TYPE & DESCRIPTION	TOTAL
Felony	7
Battery On LEO	1
Domestic Battery By Strangulation	1
Possession Of Controlled Substance	3
Resist LEO With Violence	1
Sale Of Controlled Substance	1
Misdemeanor	14
Criminal Mischief	1
Disorderly Intoxication	4
False Name Or ID By Person Arrested	1
Possession Of Drug Paraphernalia	1
Resist/Obstruct LEO Without Violence	3
Trespass After Warning	3
Violation Of Injunction For Protection Against Stalking Or Cyberstalking	1
Warrant	1
Warrant Arrest	1
Traffic Misdemeanor	4
Driver's License Suspended/Revoked	1
Driving Under The Influence	3
Grand Total	26

*Information provided reflects the number of arrests (persons arrested) as well as the total charges associated with those arrests.

Deputy Activity

There were a total of **951** events in the City of Indian Rocks Beach during the month of September resulting in **1,315** units responding.

The table below reflects the top twenty-five events to include both self-initiated and dispatched calls in the City of Indian Rocks Beach for the month of September. *CAD data is filtered by problem type.

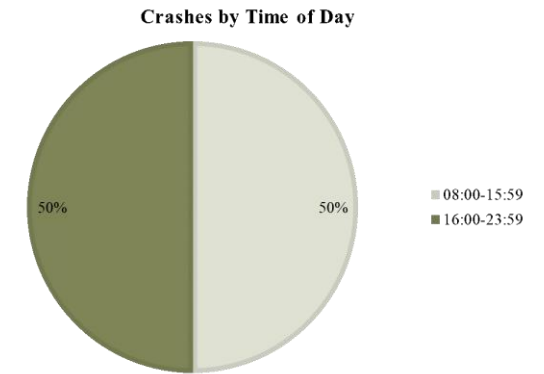
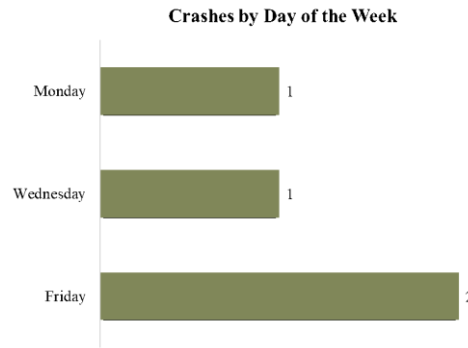
September 2020

DEPUTY ACTIVITY	TOTAL
Traffic Stop	238
Directed Patrol	153
Vehicle Abandoned/Illegally Parked	136
House Check	64
Assist Citizen	26
Contact	22
Suspicious Person	22
Noise	21
Supplement	18
Information/Other	18
Special Detail	17
Building Check Business	15
Trespass	13
911 Hang-up Or Open Line	13
Traffic Control	12
Ordinance Violation	12
Suspicious Vehicle	11
Area Check	10
Lost/Found/Abandoned Property	9
Surveillance	9
Transport Prisoner	7
Theft-Not In Progress	7
Civil Matter	7
Warrant Service/Attempt	6
Domestic-In Progress	5

Crash & Citation Analysis

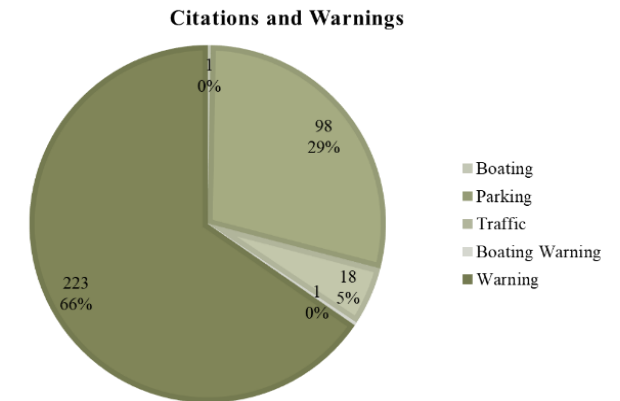
There were **4** crashes in the City of Indian Rocks Beach during September 2020. *Crash data is filtered by disposition type and may include "accident and hit and run" problem types.

CRASH LOCATIONS	TOTAL
2300 Gulf Blvd	1
2405 Gulf Blvd	1
2601 Gulf Blvd	1
26th Ave/Gulf Blvd	1



There were a total of **341** citations and warnings issued in the City of Indian Rocks Beach during September 2020.

TOP 10 TRAFFIC CITATION LOCATIONS	TOTAL
26th Ave & Gulf Blvd	3
Gulf Blvd & 3rd Ave	2
Gulf Blvd & 4th Ave	2
304 16th Ave	2
Gulf Blvd & 4th Ave	1
2405 Gulf Blvd	1
Gulf Blvd & 21st Ave	1
Gulf Blvd & 5th Ave	1
2601 Gulf Blvd	1
14th Ave & Gulf Blvd	1



AGENDA ITEM NO. 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 Oct. 13, 2020

1. Staffing levels remain stable and all staff members with COVID related issues have returned to work.
2. Most administrative staff continue to work remotely due to COVID, but plan to return soon.
3. Discussions continue with “reopener” negotiations with labor per Collective Bargaining Agreement.
4. District budget meetings were held on Sept. 15 and 24 (via Zoom) and the budget was approved by the Fire Commission. Capital funding to replace aging major apparatus is a priority, as is funding for the eventual replacement for outdated and out-of-code fire stations.
5. Fire Inspector Marshall Eiss recently retired from PSFRD after a combined 24 years of volunteer and career service. An open house will be planned once it’s safe to do so.
6. A joint planning project between Pinellas County Fire and Emergency Services and PSFRD has produced a fire station location study that evaluated the future fire station needs for the District that calls for new locations for all three stations. The report from this effort will be presented to the PSFRD Fire Commission in October for review and discussion.
7. September was another busy EMS month in IRB with 53 calls for service. The EMS calls included:
 - COVID Related – 6
 - Electrocutation - 1
 - Unconscious Person – 5
 - Medical Alarm - 1
 - Other EMS calls - 18
 - Overdose - 3
 - Respiratory - 4
 - Stroke - 3
 - Falls – 6
 - Water Rescues – 8
 - Cardiac - 2All emergency responses except for three were within the target of 7 min 30 sec. Average EMS response time for the above was 4 min 02 sec.
8. August was a slower than average month for fire responses in IRB with a total of 7 including 1 electrical hazard, 1 elevator rescue, 3 fire alarms, one citizen assist, and one hazardous materials incident. All emergency responses were within the 7 min 30 sec target with an average of 5 min and 45 sec.

AGENDA ITEM NO. 2
PUBLIC COMMENTS.

AGENDA ITEM NO. 3A
REPORTS OF City Attorney

AGENDA ITEM NO. 3B
REPORTS OF City Manager

AGENDA ITEM NO. 3C

REPORTS OF City Commission

AGENDA ITEM NO. 4
ADDITIONS/DELETIONS

**AGENDA ITEM NO. 5A
CONSENT AGENDA**

**CONFIRMING ACTION TAKEN
during the September 17, 2020
Special City Commission Meeting**

**STAFFING REPORT
INDIAN ROCKS BEACH CITY COMMISSION**

MEETING OF: October 13, 2020 **AGENDA ITEM:** 5A

SUBMITTED AND

RECOMMENDED BY: Deanne Bulino O'Reilly, City Clerk, MMC

APPROVED BY:

Brently Gregg Mims, City Manager 

SUBJECT:

Confirming action taken during the September 17, 2020 Special City Commission Meeting.

BACKGROUND:

Pursuant to Charter, Section 4.12, Special Meetings of the Commission, decisions taken at a special meeting shall be confirmed at the next regular meeting.

The City Commission took the following action during the September 17, 2020 Special City Commission Meeting:

- 1A. **ORDINANCE NO. 2020-02** — Adopted the final levying of ad valorem taxes for the City of Indian Rocks Beach, Pinellas County, Florida, Fiscal Year 2021 at 1.8326. ***UNANIMOUS APPROVAL ON SECOND AND FINAL READING.***
- 1B. **ORDINANCE NO. 2020-03** — Adopted a budget for Fiscal Year 2021. ***UNANIMOUS APPROVAL ON SECOND AND FINAL READING.***
2. **AUTHORIZED** the City Manager and Mayor-Commissioner to enter an interlocal agreement with the Board of County Commissioners, Pinellas County, Florida, for Gulf Boulevard Improvement Project for undergrounding of utilities. (Penny IV) ***UNANIMOUS APPROVAL BY ACCLAMATION.***

MOTION:

I move to confirm the action taken during the September 17, 2020 Special City Commission Meeting.

/DOR

**AGENDA ITEM NO. 5B
CONSENT AGENDA**

**September 3, 2020
Special City Commission
Meeting Minutes**

MINUTES — SEPTEMBER 3, 2020
CITY OF INDIAN ROCKS BEACH
SPECIAL (VIRTUAL) CITY COMMISSION MEETING

The City of Indian Rocks Beach Virtual Special City Commission Meeting was held on **THURSDAY, SEPTEMBER 3, 2020.**

Mayor-Commissioner Kennedy called the meeting to order at 6:00 p.m.

Mayor-Commissioner Kennedy welcomed everyone to the September 3, 2020 Virtual Indian Rocks Beach Special 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. ORDINANCE NO. 2020-02 — PUBLIC HEARING / FIRST READING. Adopting the final levying of ad valorem taxes for the City of Indian Rocks Beach, Pinellas County, Florida, Fiscal Year 2020/2021; providing for notification of requisite government authorities; and providing for an effective date.

[Beginning of Staffing Report.]

BACKGROUND: The City Commission previously established the proposed millage rate for FY2021 at 1.8326 mills with no change to the previous fiscal year millage rate.

ANALYSIS: With a millage rate of 1.8326, the total tax collection is \$2,371,020 based on a 97% collection rate. For FY2021, a mill rate of 1.8326 is 5.79% higher than the rollback of 1.7323. The proposed mill rate of 1.8326 remains one of the lowest in Pinellas County. Currently, mill rates in Pinellas County range from 0.6750 to 6.7550.

[End of Staffing Report.]

City Attorney Mora read Ordinance No. 2020-02 in its entirety for first reading.

There was no staff presentation.

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

MOTION MADE VICE MAYOR-COMMISSIONER HANNA, SECONDED BY COMMISSIONER FLAGG TO APPROVE ORDINANCE NO. 2020-02, ON FIRST READING, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA, FY2021 AT 1.8326.

ROLL CALL VOTE:

AYES: HOOFNAGLE, MCCALL, FLAGG, HANNA, KENNEDY

NAYS: NONE

MOTION CARRIED UNANIMOUSLY.

1B. ORDINANCE NO. 2020-03 — PUBLIC HEARING / FIRST READING. Adopting a budget for FY2021; making appropriations and operating expenditures for FY2021; providing for notification of requisite government authorities; and providing for an effective date.

[Beginning of Staffing Report.]

BACKGROUND: The City Commission reviewed the City Manager's proposed budget for FY2021 at a Budget Work Session on July 21, 2020. Prior to the budget work session, the City Manager and Finance Director met with each member of the City Commission to brief them on the proposed budget. In addition, the City of Indian Rocks Beach Finance and Budget Committee met on July 15, 2020, and unanimously endorsed the proposed budget.

The City Manager and Finance Director made presentations, which provided an overview of the FY2021 Program Budget, and together, the City Commission and staff reviewed all aspects of the proposed budget in detail. The Final Budget for FY2021 is the result of a consensus by the City Commission from the July Budget Work Session.

ANALYSIS: The Final Budget is balanced in all funds and presents a comprehensive plan for providing services during the coming fiscal year. With the approval of the Final Budget for FY2021, the City will establish a spending plan for FY2021 and provide approval for the City Manager to implement the plan. Highlights of the Final Budget include the addition of one part-time Code Enforcement Officer, elimination of two full-time positions, funding for a special magistrate, no rate increases for solid waste, a 2.58%

increase in the City's law enforcement contract, road reconstruction, stormwater projects, and City park upgrades. This comprehensive plan is developed without the benefit of a stormwater fee or a utility tax.

[End of Staffing Report]

City Attorney Mora read Ordinance No. 2020-03 in its entirety for first reading.

City Manager Mims introduced Ordinance No. 2020-03 and reviewed the highlights of the FY2021 Budget.

GENERAL FUND BUDGET

- The total general fund expenses are down from \$3.861 Million to \$3.711 Million.
- Assessed property values are up 6.22%, which generates approximately \$137,000.
- FY2021 Budget was unanimously recommended by the Finance and Budget Committee.

CAPITAL IMPROVEMENT BUDGET

- \$175,000: Annual funding for park maintenance and updates, including new energy-efficient LED lighting for Campalong Field. The City is in the process of applying for two different grants and hopefully the City will receive one of them.

SOLID WASTE BUDGET:

- No rate increases.
- A 5.7% increase in Pinellas County Tipping Fee.
- CPI Increase for Recycling Contract.

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

Commissioner Hoofnagle and Vice Mayor-Commissioner Hanna thanked the City Manager and the Finance Director for the work they put in the budget every year.

City Manager Mims took the opportunity to publicly thank the City Commission for working with the Administration on everyday things, including the budget and the Finance and Budget Review Committee for their work on the budget. He thanked the public for their input on the budget and everyday issues also. He thinks that the process in place is reflected by the lack of controversy in the City.

MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO APPROVE ORDINANCE NO. 2020-03, ON FIRST READING, ADOPTING A BUDGET FOR FY2021; MAKING APPROPRIATIONS AND OPERATING EXPENDITURES FOR FY2021.

ROLL CALL VOTE:

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

NAYS: NONE.

MOTION CARRIED UNANIMOUSLY.

2. ADJOURNMENT.

MOTION MADE BY COMMISSIONER MCCALL, SECONDED BY COMMISSIONER FLAGG, TO ADJOURN THE MEETING AT APPROXIMATELY 6:30 P.M.

UNANIMOUS APPROVAL BY ACCLAMATION.

October 13, 2020

Date Approved

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST: _____

Deanne B. O'Reilly, MMC, City Clerk

/DOR

**AGENDA ITEM NO. 5C
CONSENT AGENDA**

**September 8, 2020
Regular City Commission
Meeting Minutes**

AGENDA ITEM NO.: 5C - CONSENT AGENDA
DATE OF MEETING: OCTOBER 13, 2020 CCM

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

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 15th at Belleair Beach City Hall and September 24th 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 - 5

All 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 14th. 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" with 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 — 2004-20TH 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 2004-20th 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 — 2004-20TH 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- 20th 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 2004-20th 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, 8165-46th 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- 20TH 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 were 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

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST: _____
Deanne B. O'Reilly, MMC, City Clerk

/DOR

AGENDA ITEM NO. 5D

**September 17, 2020
Special City Commission
Meeting Minutes**

MINUTES — SEPTEMBER 17, 2020
CITY OF INDIAN ROCKS BEACH
SPECIAL (VIRTUAL) CITY COMMISSION MEETING

The City of Indian Rocks Beach Virtual Special City Commission Meeting was held on **THURSDAY, SEPTEMBER 17, 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.

Mayor-Commissioner Kennedy welcomed everyone to the September 17, 2020 Virtual Indian Rocks Beach Special 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 Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, Finance Director Daniel A. Carpenter, CGFO, and Technology Moderator Matt Sabella.

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. ORDINANCE NO. 2020-02 — PUBLIC HEARING / SECOND AND FINAL READING. Adopting the final levying of ad valorem taxes for the City of Indian Rocks Beach, Pinellas County, Florida, FY2021; providing for notification of requisite government authorities; and providing for an effective date.

[Beginning of Staffing Report.]

BACKGROUND: The City Commission previously established the proposed millage rate for FY2021 at 1.8326 mills with no change to the previous fiscal year millage rate.

ANALYSIS: With a millage rate of 1.8326, the total tax collection is \$2,371,020 based on a 97% collection rate. For FY2021, a mill rate of 1.8326 is 5.79% higher than the rollback of 1.7323. The proposed mill rate of 1.8326 remains one of the lowest in Pinellas County. Currently, mill rates in Pinellas County range from 0.6750 to 6.7550.

[End of Staffing Report.]

City Attorney Mora read Ordinance No. 2020-02 in its entirety for second and final reading.

There was no staff presentation.

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

There were no City Commission or public comments.

MOTION MADE COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO APPROVE ORDINANCE NO. 2020-02, ON SECOND AND FINAL READING, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF INDIAN ROCKS BEACH, PINELLAS COUNTY, FLORIDA, FY2021 AT 1.8326.

ROLL CALL VOTE:

AYES: MCCALL, HANNA, FLAGG, HOOFNAGLE, KENNEDY

NAYS: NONE

MOTION CARRIED UNANIMOUSLY.

1B. ORDINANCE NO. 2020-03 — PUBLIC HEARING / SECOND AND FINAL READING. Adopting a budget for FY2021; making appropriations and operating expenditures for FY2021; providing for notification of requisite government authorities; and providing for an effective date.

[Beginning of Staffing Report.]

BACKGROUND: The City Commission reviewed the City Manager's proposed budget for FY2021 at a Budget Work Session on July 21, 2020. Prior to the budget work session, the City Manager and Finance Director met with each member of the City Commission to brief them on the proposed budget. In addition, the City of Indian Rocks Beach Finance and Budget Committee met on July 15, 2020, and unanimously endorsed the proposed budget.

The City Manager and Finance Director made presentations, which provided an overview of the FY2021 Program Budget, and together, the City Commission and staff reviewed all

aspects of the proposed budget in detail. The Final Budget for FY2021 is the result of a consensus by the City Commission from the July Budget Work Session.

ANALYSIS: The Final Budget is balanced in all funds and presents a comprehensive plan for providing services during the coming fiscal year. With the approval of the Final Budget for FY2021, the City will establish a spending plan for FY2021 and provide approval for the City Manager to implement the plan. Highlights of the Final Budget include the addition of one part-time Code Enforcement Officer, elimination of two full-time positions, funding for a special magistrate, no rate increases for solid waste, a 2.58% increase in the City's law enforcement contract, road reconstruction, stormwater projects, and City park upgrades. This comprehensive plan is developed without the benefit of a stormwater fee or a utility tax.

[End of Staffing Report]

City Attorney Mora read Ordinance No. 2020-03 in its entirety for second and final reading.

Finance Director Carpenter introduced Ordinance No. 2020-03. He stated this is the second and final reading of the FY2021 Budget, and stated the City Commission held a work session on July 21, 2020, and first reading was September 3, 2020.

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

There were no City Commission or public comments.

MOTION MADE BY VICE MAYOR-COMMISSIONER HANNA, SECONDED BY COMMISSIONER MCCALL, TO APPROVE ORDINANCE NO. 2020-03, ON SECOND AND FINAL READING, ADOPTING A BUDGET FOR FY2021; MAKING APPROPRIATIONS AND OPERATING EXPENDITURES FOR FY2021.

Mayor-Commissioner Kennedy asked what is the Reserve ratio, with Finance Director Carpenter responding the estimated General Fund, Unassigned Fund Balance Ratio is 90%.

ROLL CALL VOTE:

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

MOTION CARRIED UNANIMOUSLY.

- 2. AUTHORIZING the City Manager and Mayor-Commissioner to enter an interlocal agreement with the Board of County Commissioners, Pinellas**

County, Florida, for Gulf Boulevard Improvement Project for undergrounding of utilities. (Penny IV)

[Beginning of Staffing Report]

BACKGROUND:

Pinellas County and the barrier island communities from Clearwater to St. Pete Beach have been working together through an interlocal agreement known as the Gulf Boulevard Improvement Program. The Gulf Boulevard Improvement Program is intended to unify the entire Gulf Boulevard corridor running through the Pinellas County beach municipalities by creating a unified streetscape experience and the relocation of the overhead utilities to underground.

Pinellas County recognized that the Gulf Boulevard Improvement Program is of countywide importance and may be funded by the levy of a local government infrastructure sales surtax (“surtax”) of one percent. The County was willing to contribute to the costs of the Improvement Plan Projects from the County’s share of the surtax and did so through an interlocal agreement with the cities dated July 10, 2012, known as “Penny III Gulf Blvd. Interlocal”. The City is currently finalizing the Gulf Boulevard Undergrounding Project from Whitehurst Avenue north to the intersection of Gulf Boulevard and Walsingham Road.

On November 7, 2017, the extension of the surtax for an additional ten years (Penny IV) was approved by a majority of Pinellas County voters. The County has agreed to fund a sum not to exceed \$35 Million “Penny IV Assistance”, on a reimbursement basis, for undergrounding projects along Gulf Boulevard. The Penny IV Assistance is required to be expended solely on undergrounding of utilities within Gulf Boulevard. Under the agreement, the cities are solely responsible for designing, contracting, and managing completion of eligible projects.

The City is eligible to receive \$5,696,867 in funding for continued utility undergrounding efforts along Gulf Boulevard.

[Ending of Staffing Report.]

Mayor-Commissioner Kennedy read the title of Agenda Item No. 2.

Finance Director Carpenter introduced the Staffing Report. He stated this Agenda Item authorizes the City to enter into an interlocal agreement with Pinellas County for Gulf Boulevard Improvement Projects solely to underground utilities. The total funds to be received by the City from Pinellas County is \$5,696,867.00.

Finance Director Carpenter stated Penny VI Assistance is a Pinellas County reimbursement project that would be facilitated in the same way the Penny III was with the City.

Finance Director Carpenter stated the City is completing the City's Gulf Boulevard Underground Utilities Project, for the undergrounding of utilities along Gulf Boulevard, from Whitehurst Avenue to Walsingham Road and more than \$4 Million in Penny III money was used.

Finance Director Carpenter stated most importantly the interlocal agreement calls for Penny VI money to be used solely for the undergrounding of utilities on Gulf Boulevard.

MOTION MADE COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO AUTHORIZE THE CITY MANAGER AND MAYOR-COMMISSIONER TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE BOARD OF COUNTY COMMISSIONERS, PINELLAS COUNTY, FLORIDA, FOR GULF BOULEVARD IMPROVEMENT PROJECT FOR UNDERGROUNDING OF UTILITIES. UNANIMOUS APPROVAL BY ACCLAMATION.

3. ADJOURNMENT.

MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER MCCALL, TO ADJOURN THE MEETING AT APPROXIMATELY 6:18 P.M.

UNANIMOUS APPROVAL BY ACCLAMATION.

October 13, 2020

Date Approved

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST: _____
Deanne B. O'Reilly, MMC, City Clerk

/DOR


AGENDA ITEM NO. 5E

**Contract for Audit Services with
MSL, P.A., for Fiscal Years Ending
2021 through 2025.**

**INDIAN ROCKS BEACH CITY COMMISSION
AGENDA MEMORANDUM**

MEETING OF: October 13, 2020 **AGENDA ITEM:** 5E

**SUBMITTED AND
RECOMMENDED BY:** Dan Carpenter, Finance Director 

APPROVED BY: Brently Gregg Mims 
City Manager

SUBJECT: Authorizing the City Manager to enter into a contract for audit services with Moore Stephens Lovelace, PA, for fiscal years 2021 – 2025.

BACKGROUND:

Local governmental entities located in Florida are, in general, required by Florida law (Section 218.39, Florida Statutes) to have an annual "financial audit." In March 2018 the City entered into a continuing services contract for audit services with Moore Stephens Lovelace, P.A. (MSL), for the three fiscal years ending September 30, 2018, 2019 and 2020. The cost of this contract was \$28,000.00 for each fiscal year.

ANALYSIS:

The City requires audit services that provide assurances on internal controls, notification of reportable conditions and assurance that financial statements are free of material misstatements. More Stephens Lovelace, PA. has an excellent reputation in the field of governmental auditing and has performed in a professional and timely manner in completing previous audits for the City. City code of ordinances, Sec. 2-332(d), allows the City Manager to negotiate and extend existing contracts with vendors when the city deems the service satisfactory. In addition, Florida Statute Sec. 218.391 allows for extensions & renewals. A reduction in annual audit costs has been negotiated with a total of \$6,000.00 in savings over the five-year audit agreement period. The proposed contract has been reviewed by staff and is included for your analysis.

MOTION:

That authorization for the City Manager to enter into a contract for audit services with Moore Stephens Lovelace, PA, for fiscal years 2021 - 2025, *be approved.*



September 11, 2020

VIA EMAIL

City of Indian Rocks Beach
1507 Bay Palm Boulevard
Indian Rocks Beach, FL 33758

We are pleased to confirm our understanding of the services we are to provide the City of Indian Rocks Beach (the City) for the fiscal years ending September 30, 2021 - 2025. We will audit the financial statements of the governmental activities, each major fund,, and the aggregate remaining fund information, including the related notes to the financial statements, which collectively comprise the basic financial statements, of the City as of and for the years ending September 30, 2021 - 2025. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by U.S. generally accepted accounting principles (U.S. GAAP) and will be subjected to certain limited procedures, but will not be audited:

- 1) Management's Discussion and Analysis
- 2) Budgetary Comparison Schedules
- 3) Pension Schedules
- 4) Other Postemployment Benefits Plan Schedules

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide

an opinion on it in relation to the financial statements as a whole, in a separate written report accompanying our auditor's report on the financial statements or in a report combined with our auditor's report on the financial statements:

- 1) Combining and Individual Fund Financial Statements and Schedules
- 2) Schedule of Expenditures of Federal Awards and State Financial Assistance (if applicable)
- 3) Schedule of Findings and Questioned Costs (if applicable)

The following other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information:

- 1) Introductory Section
- 2) Statistical Section

Audit Objectives

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. GAAP and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on—

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. *Code of Federal Regulations* (CFR), Part 200, *Uniform Administrative Requirements, Cost Principles, Audit Requirements for Federal Awards* (Uniform Guidance) (if applicable) and the Florida Single Audit Act (if applicable).
- The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states that (1) the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance, and (2) the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose. If, during our audit, we become aware that the City is subject to an audit requirement that is not encompassed in the terms of this engagement, we will communicate to management and those charged with governance that an audit conducted in accordance with U.S. generally accepted auditing standards (U.S. GAAS) and the standards for financial audits contained in *Government Auditing Standards* may not satisfy the relevant legal, regulatory, or contractual requirements.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996 (if applicable); the provisions of the Uniform Guidance (if applicable); the Florida Single Audit Act (if applicable); the *Rules of the Auditor General*; and will include tests of accounting records, a determination of major programs in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of our Single Audit(s) (if applicable). Our reports will be addressed to the Honorable Mayor and Members of the City Commission. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports, or we may withdraw from this engagement.

We will also issue a written management letter, as required by Chapter 10.550, *Rules of the Auditor General for Local Governmental Entity Audits*, upon completion of the audit.

Examination Objective

The objective of our examination is the expression of an opinion about whether the City's investments were authorized by law, and, if applicable, in accordance with your investment policy, based on the requirements of Section 218.415, Florida Statutes. Our examination will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA) and will include tests of your records and other procedures we consider necessary to enable us to express such an opinion.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. GAAS and *Government Auditing Standards*. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or on major programs (if applicable). However, we will inform the appropriate level of management of any material errors, any fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that comes to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit (if applicable). Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about your responsibilities for the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by U.S. GAAS.

Audit Procedures—Internal Control

Our audit will include obtaining an understanding of the government and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by the Uniform Guidance, and the Florida Single Audit Act (if applicable), we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program, and state major project. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance, and Florida Single Audit Act (if applicable).

An audit is not designed to provide assurance on internal control or to identify significant deficiencies or material weaknesses. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, the Uniform Guidance, and the Florida Single Audit Act (if applicable).

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with provisions of applicable laws, regulations, contracts, and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

We are also responsible for communicating certain matters in accordance with the provisions of Chapter 10.550, *Rules of the Auditor General*, which govern the conduct of local governmental entity audits performed in the state of Florida. These matters will be communicated in the management letter.

The Uniform Guidance, and the Florida Single Audit Act (if applicable) require that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with federal and state statutes, regulations, and the terms and conditions of federal and state awards applicable to major programs and state projects. Our procedures will consist of tests of transactions and other applicable procedures described in the OMB *Compliance Supplement*, and the Florida Department of Financial

Service's State Projects *Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs, and major state projects. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance, and the Florida Single Audit (if applicable).

Management Responsibilities

Management is responsible for (1) designing, implementing, establishing, and maintaining effective internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including internal controls over federal awards and state projects, and for evaluating and monitoring ongoing activities to help ensure that appropriate goals and objectives are met, (2) following laws and regulations, (3) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance requirements, and (4) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable laws, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards and state financial assistance, and all accompanying information in conformity with U.S. GAAP, and for compliance with applicable laws and regulations (including federal statutes) and the provisions of contracts and grant agreements (including award agreements). Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, and the Florida Single Audit Act (if applicable), (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements as a whole.

You are responsible for the City's compliance with investment provisions in accordance with Section 218.415, Florida Statutes.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, and the Florida Single Audit Act (if applicable), it is management's responsibility to evaluate and monitor noncompliance with federal and state statutes, regulations, and the terms and conditions of federal awards and state financial assistance; take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings (if applicable); and prepare a summary schedule of prior audit findings and a separate corrective action plan (if applicable).

You are responsible for identifying all federal and state awards received and understanding and complying with the compliance requirements, and for the preparation of the schedule of expenditures of federal awards and state financial assistance (including notes and non-cash assistance received) in conformity with the Uniform Guidance and the Florida Single Audit Act (if applicable). You agree to include our report on the schedule of expenditures of federal awards and state financial assistance in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards and state financial assistance. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards and state financial assistance that includes our report thereon, or make the audited financial statements readily available to intended users of the schedule of expenditures of federal awards and state financial assistance no later than the date the schedule of expenditures of federal awards and state financial assistance are issued with our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards and state financial assistance in accordance with the Uniform Guidance, and the Florida Single Audit Act (if applicable), (2) you believe the schedule of expenditures of federal awards and state financial assistance including their form and content, is stated fairly in accordance with the Uniform Guidance, and the Florida Single Audit Act (if applicable), (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes), and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards and state financial assistance.

You are also responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. GAAP. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with U.S. GAAP, (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with U.S. GAAP, (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes), and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying and providing report copies of previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

You agree to assume all management responsibilities relating to the financial statements and the schedule of expenditures of federal awards and state financial assistance. You have designated Dan Carpenter, Finance Director, an individual with suitable skills, knowledge, and experience, to oversee your audit.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to electronically submit the reporting package (including financial statements, schedule of expenditures of federal awards and state financial assistance, summary schedule of prior audit findings, auditor's reports, and corrective action plan), along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. The Data Collection Form and the reporting package must be submitted within the earlier of thirty (30) calendar days after receipt of the auditor's reports or nine months after the end of the audit period.

We will provide copies of our reports to the City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

The audit documentation for this engagement is the property of MSL, P.A. (MSL) and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to the City or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of MSL personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The audit documentation for this engagement will be retained for a minimum of seven (7) years after the report release date or for any additional period requested by a federal or state agency. If we are aware that a federal or state awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

Joel Knopp is the engagement partner and is responsible for supervising the engagement and signing the reports.

Our fee for these services will be at our standard hourly rates, plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.), except that we agree that our gross fee, including expenses, will not exceed the amounts listed below for each year.

<u>Fiscal Year</u>	<u>Total Fee</u>
2021	\$26,000
2022	\$26,000
2023	\$27,000
2024	\$27,000
2025	\$28,000

Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. In accordance with our Firm policies, work may be suspended if your account becomes thirty (30) days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our reports. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Our invoices for these fees will be rendered on an interim basis during the progress of our engagement. Invoices shall include sufficient detail to demonstrate compliance with the terms of this agreement. Invoices are due within thirty (30) days of the invoice date. Any remaining balance is due upon delivery of the final product. Any subsequent discussions, conferences, telephone conversations, correspondence, or related services will be invoiced separately. A service charge of 1.5% per month will be assessed on an invoice not paid within thirty (30) days of the invoice date.

In the event we are requested or authorized by the City or are required by government regulation, subpoena, or other legal process to produce our documents or our personnel as witnesses with respect to our engagements for the City, the City will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

This agreement will be interpreted in accordance with Florida law and the terms and conditions as required by the Florida Board of Accountancy, where applicable.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comments, and any subsequent peer review reports and letters of comment received during the period of contract. Our peer review report is attached.

We appreciate the opportunity to be of service to the City and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign this letter and return it to us.

Very truly yours,

MSL, P.A.

RESPONSE:

This letter correctly sets forth the understanding
of the **CITY OF INDIAN ROCKS BEACH.**

Signature: _____

Title: _____

Date: _____

Report on the Firm's System of Quality Control

To the Partners of
Moore Stephens Lovelace, PA
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Moore Stephens Lovelace, PA (the firm) applicable to engagements not subject to PCAOB inspection in effect for the year ended June 30, 2017. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act and audits of employee benefit plans.

As part of our peer review, we considered reviews by regulatory entities as communicated to the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Moore Stephens Lovelace, PA applicable to engagements not subject to PCAOB inspection in effect for the year ended June 30, 2017, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Moore Stephens Lovelace, PA has received a peer review rating of *pass*.

Postlethwaite & Netterville

Baton Rouge, Louisiana
November 8, 2017


**AGENDA ITEM NO. 6A
FIRST READING**

**ORDINANCE NO. 2020-04
Amendments
Code Section 15-21
Site Development Plan
Review Fees**

**STAFFING REPORT
INDIAN ROCKS BEACH CITY COMMISSION**

MEETING OF: October 13, 2020 **AGENDA ITEM:** 6A

SUBMITTED AND RECOMMENDED BY: Randy D. Mora, City Attorney
Deanne Bulino O'Reilly, City Clerk, MMC

APPROVED BY: Brently Gregg Mims, City Manager 

SUBJECT: **ORDINANCE NO. 2020-04 - FIRST READING**
Amendment to Section 15-21, Site Development Plan Review Fees; distinguishing fees based on commercial, multifamily, or single, multifamily, or single family properties, including engineers as consultants to be paid by applicant.

BACKGROUND:

The City of Indian Rocks Beach currently determines the schedule of fees for site development plan review in Section 15-21 of the Code of Ordinances of the City of Indian Rocks Beach.

The fees associated with reviewing site plans vary based on the size and use of the property, which is not currently reflected in the City Code.

The City Commission desires to distinguish the site review fees depending on the use of the property be it multi-family, commercial, or single-family.

The costs associated with engineering consultants are better attributed to the applicant.

ANALYSIS:

Amendments to Section 15-21, Site development plan review fees are as follows:

The following fees shall be paid in addition to any other fees where an application is filed requiring site development plan review services. The appropriate fees, costs, and other charges specified shall be submitted with, and paid at the time of, initial application submission or other initial document submission except otherwise specified in this Cod

- (1) Initial site development plan review for multifamily or commercial property . ~~\$800.00~~ 1,000.00
- (2) Initial site development plan review for single family property \$500.00
- (23) Subsequent submittals to initial site development plan review 400.00
- (34) Site development plan amendment 400.00
- (45) Lot line adjustment (dividing an existing lot into two conforming lots) 200.00
- (56) Violation of the approved site development plan, conditions of approval, or installation of improvements, clearing, or other land alteration not depicted on or otherwise authorized as part

of the approved plan, per violation. 2,400.00
(67) When legal counsel ~~and/or an~~ engineering consultant ~~are~~is required by the city, actual cost of legal and consulting fees shall be paid by the applicant within 30 days after final site plan approval or prior to the issuance building permits.

MOTION:

I move to **APPROVE/DENY** Ordinance No. 2020-04 on first reading.

/dor

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2020-04**

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING CHAPTER 15 – SCHEDULE OF FEES, ARTICLE III – PLANNING/ZONING/LAND USE, SECTION 15-21 – SITE DEVELOPMENT PLAN REVIEW FEES, DISTINGUISHING FEES BASED ON COMMERCIAL, MULTIFAMILY, OR SINGLE FAMILY PROPERTIES, INCLUDING ENGINEERS AS CONSULTANTS TO BE PAID BY APPLICANT IF REQUIRED; PROVIDING FOR LEGISLATIVE FINDINGS, AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the City of Indian Rocks Beach currently determines the schedule of fees for site development plan review in Section 15-21 of the Code of Ordinances of the City of Indian Rocks Beach; and

WHEREAS, the fees associated with reviewing site plans vary based on the size and use of the property, which is not currently reflected in the City Code; and

WHEREAS, the City Commission desires to distinguish the site review fees depending on the use of the property be it multifamily, commercial, or single-family; and

WHEREAS, the costs associated with engineering consultants are better attributed to the applicant; and

WHEREAS, the City Commission finds this Ordinance benefits public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, THAT:

Section 1. Section 15-21 of Article III (Planning/Zoning/Land Use) of Chapter 15 (Schedule of Fees) of the City of Indian Rocks Beach Code of Ordinances is hereby amended as follows:

Sec. 15-21. Site development plan review fees.

The following fees shall be paid in addition to any other fees where an application is filed requiring site development plan review services. The appropriate fees, costs, and other charges specified shall be submitted with, and paid at the time of, initial application submission or other initial document submission except otherwise specified in this Cod

- | | | |
|------|--|-------------------------------------|
| (1) | Initial site development plan review for multifamily or commercial property . | \$800.00 <u>1,000.00</u> |
| (2) | <u>Initial site development plan review for single family property</u> | <u>\$500.00</u> |
| (23) | Subsequent submittals to initial site development plan review | 400.00 |
| (34) | Site development plan amendment | 400.00 |

- (45) Lot line adjustment (dividing an existing lot into two conforming lots) 200.00
- (56) Violation of the approved site development plan, conditions of approval, or installation of improvements, clearing, or other land alteration not depicted on or otherwise authorized as part of the approved plan, per violation. 2,400.00
- (67) When legal counsel ~~and/or an engineering consultant are~~ required by the city, actual cost of legal and consulting fees shall be paid by the applicant within 30 days after final site plan approval or prior to the issuance building permits.

Section 2. For purposes of codification of any existing section of the Indian Rocks Beach Code herein amended, words underlined represent additions to original text, words **stricken** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the City Commission would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Indian Rocks Beach City Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon its adoption.

ADOPTED ON FIRST READING on the ____ day of _____ 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the ____ day of _____ 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

Joanne Moston Kennedy, Mayor-Commissioner

Attest: _____
Deanne B. O'Reilly, MMC, City Clerk

Approved as to form:

Randy Mora, City Attorney


**AGENDA ITEM NO. 6B
FIRST READING**

**ORDINANCE NO. 2020-05
Repealing Section 74-1
Concerning the prohibition of
certain fishing activity.**

**STAFFING REPORT
INDIAN ROCKS BEACH CITY COMMISSION**

MEETING OF: October 13, 2020 **AGENDA ITEM:** 6B

SUBMITTED AND RECOMMENDED BY: Randy D. Mora, City Attorney
Deanne Bulino O'Reilly, City Clerk, MMC

APPROVED BY: Brently Gregg Mims, City Manager 

SUBJECT: **ORDINANCE NO. 2020-05 - FIRST READING**
Repealing § 74-1 of the Code of Ordinances concerning
the prohibition of certain fishing activities; making
related findings.

BACKGROUND:

Section 74-1 of the Indian Rocks Beach Code of Ordinances (the Code) has, for at least four decades, prohibited shark or spear fishing within 1,000 feet of the beach, and surf fishing on the beach in close proximity to swimmers.

In 1973, Florida Statutes § 379.2412 was created to "expressly reserve to the state" the power to regulate taking or attempting to take saltwater fish, with the exception that a local government may prohibit saltwater fishing from real property owned by it, for reasons of protecting the public health, safety, or welfare.

Since 1998, § 9 of Article IV of the Florida Constitution consolidated regulatory and executive authority over marine life within the Florida Fish and Wildlife Conservation Commission (FWCC), subject to complimentary legislative enactments by general law on the subject of hunting and fishing.

In *Bell v. Vaughn*, 155 Fla. 551, 21 So.2d 31 (1945), the Florida Supreme Court held that even under the State's predecessor Constitution, a municipal ordinance regulating fishing within city limits were preempted by state authority over that activity.

The City desires to ensure that its Code does not contain provisions which have been preempted to the State or are otherwise unenforceable due to state law; and

ANALYSIS:

Staff is recommending repealing Section 74-1 of Article I of Chapter 74 (Waterways) of the Indian Rocks Beach Code of Ordinances in its entirety.

~~Sec. 74-1. Fishing on or near beach: Reserved.~~

~~(a) Shark fishing. Shark fishing is prohibited on and within 1,000 feet of the beach. Shark fishing is permitted beyond 1,000 feet from the beach between sunset and sunrise.~~

~~(b) Surf fishing. Surf fishing is prohibited upon any beach within the corporate limits of the city in close proximity to swimmers.~~

~~(c) Spear fishing. Spear fishing is prohibited upon any beach within the corporate limits of the city or within 1,000 feet of any beach within the city.~~

(Code 1980, § 4-15; Code 1989, § 11-53)

MOTION:

I move to **APPROVE/DENY** Ordinance No. 2020-05 on first reading.

/dor

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2020-05**

**AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA,
REPEALING § 74-1 OF THE CODE OF ORDINANCES CONCERNING THE
PROHIBITION OF CERTAIN FISHING ACTIVITIES; MAKING RELATED
FINDINGS; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND
AN EFFECTIVE DATE.**

WHEREAS, § 74-1 of the Indian Rocks Beach Code of Ordinances (the Code) has, for at least four decades, prohibited shark or spear fishing within 1,000 feet of the beach, and surf fishing on the beach in close proximity to swimmers; and

WHEREAS, in 1973, Florida Statutes § 379.2412 was created to “expressly reserve to the state” the power to regulate taking or attempting to take saltwater fish, with the exception that a local government may prohibit saltwater fishing from real property owned by it, for reasons of protecting the public health, safety, or welfare; and

WHEREAS, since 1998, § 9 of Article IV of the Florida Constitution consolidated regulatory and executive authority over marine life within the Florida Fish and Wildlife Conservation Commission (FWCC), subject to complimentary legislative enactments by general law on the subject of hunting and fishing; and

WHEREAS, in *Bell v. Vaughn*, 155 Fla. 551, 21 So.2d 31 (1945), the Florida Supreme Court held that even under the State’s predecessor Constitution, a municipal ordinance regulating fishing within city limits were preempted by state authority over that activity; and

WHEREAS, the City desires to ensure that its Code does not contain provisions which have been preempted to the State or are otherwise unenforceable due to state law; and

WHEREAS, consistent with this desire, the City Attorney has recommended adoption of this Ordinance; and

WHEREAS, the City Commission finds that this Ordinance is in the best interests of the City’s residents and property owners.

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Indian Rocks Beach, Florida, that:

Section 1. Section 74-1 of Article I of Chapter 74 (Waterways) of the Indian Rocks Beach Code of Ordinances is hereby repealed in its entirety.

Section 2. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the City Commission would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 3. The Codifier shall codify the substantive amendments to the Indian Rocks Beach City Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 4. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon its adoption.

ADOPTED ON FIRST READING on the ____ day of _____ 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the ____ day of _____ 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

Joanne Moston Kennedy, Mayor-Commissioner

Attest: _____
Deanne B. O'Reilly, MMC, City Clerk

Approved as to form:

Randy Mora, City Attorney

**AGENDA ITEM NO. 6C
FIRST READING**

**ORDINANCE NO. 2020-06
Amendments to
Section 62-40
Golf Carts, low-speed vehicles,
and micromobility devices.**



T R A S K
D A I G N E A U L T
LLP
A T T O R N E Y S

THOMAS J. TRASK, B.C.S.*
JAY DAIGNEAULT
ERICA F. AUGELLO
RANDY D. MORA, B.C.S.*
ROBERT M. ESCHENFELDER, B.C.S.*
PATRICK E. PEREZ
DAVID E. PLATTE
JEREMY SIMON

** Board Certified by the Florida Bar in
City, County and Local Government Law*

MEMORANDUM

DATE: March 24, 2020

TO: Gregg Mims

FROM: Randy Mora, Esq., City Attorney

RE: Municipal Authority to Regulate Golf Carts, Low Speed Vehicles,
and Micromobility Scooters

You have asked for a review and analysis of current Florida statutory restrictions and regulatory limits regarding golf carts. As to better understand and analyze the issues raised by this inquiry, this memorandum also analyzes municipal authority relative to, Low Speed Vehicles (“LSV”), Micromobility scooters (“MM”) and other alternative transportation.

I. EXECUTIVE SUMMARY

As detailed below, this seemingly easy inquiry is complicated by the patchwork tapestry of statutes used to regulate and make fine distinctions which are socially treated as being functionally the same.

Golf Carts are motorized four-wheeled vehicles with a maximum speed of 20 mph, do not require insurance, and do not require a driver’s license to operate. Low speed vehicles are four-wheeled vehicles, which in some cases resemble golf carts, but are capable of a maximum speed of 25 mph, require insurance and registration, and require the operator to have a driver’s license. Municipalities are limited in their ability to regulate golf cart operation, as they can only regulate unlicensed drivers and may not require anything further than state statute permits. Municipalities are empowered to regulate and prohibit LSVs. The City Code presently regulates golf carts, but aspects of the provision are likely invalid and unenforceable.

While the City Code is currently silent as to LSVs and MMs, the City does have statutory authority to enact ordinances that prohibit or regulate the operation of LSVs and MMs.

II. GOLF CARTS

Golf carts are motorized four-wheeled vehicles with a maximum speed of 20 miles per hour that are allowed to travel on certain roads with a posted speed limit of 30 miles per hour or less. By statute, golf cart operators must be at least 14 years old, but are not required to have a driver's license. Golf carts are not required to be registered or insured. State statute and Florida Attorney General opinions hold that while municipalities may regulate some operations of golf carts, these regulations may only apply to unlicensed drivers. Further, as there is no requirement that a golf cart operator have a driver's license, a municipality may not enact an ordinance that requires a driver's license to operate a golf cart, or even a seat belt.

A. FLORIDA STATUTE

Florida statute defines golf carts as, “[a] motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.”¹ Another section of Florida's Statutes also define golf carts as, “[a] motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 MPH.”²

A separate statutory provision addressing the operation of golf carts on certain roadways and general prohibitions and regulations of the operation of golf carts also offers relevant insight.³ While generally the operation of golf carts on public roadways is prohibited, “[a] golf cart may be operated only upon a county road that has been designated by a county, a municipal street that has been designated by a municipality, or a two-lane county road located within the jurisdiction of a municipality designated by that municipality, for use by golf carts.”⁴ Further, golf carts may only be operated on roads with a posted speed limit of 30 mph or less.⁵ According to Florida's statutes, golf carts may only operate on sidewalks under the following conditions: if provided by municipal ordinance, the sidewalks are eight feet wide, and if the top speed of golf carts on the sidewalk is 15 miles per hour.⁶

While golf carts are not required to be licensed or insured, a golf cart may not be operated on public roads or streets by any person under the age of 14.⁷

Continuing, golf carts may only be operated between sunrise and sunset, unless the county or municipality has determined that golf carts may be safely operated outside those hours AND the golf cart has headlights, brake lights, turn signals, and a windshield.⁸ Local governments may enact an ordinance relating to golf cart operation and equipment that is more restrictive than statute, but the ordinance may only apply to unlicensed drivers and the municipality must post signs regarding the more restrictive golf cart ordinance.⁹

¹ § 316.003 (26), Fla. Stat.

² § 320.01 (22), Fla. Stat. (emphasis added).

³ § 316.212, Fla. Stat.

⁴ § 316.212 (1), Fla. Stat.

⁵ § 316.2126 (1) (c), Fla. Stat.

⁶ § 316.212 (8), Fla. Stat.

⁷ § 316.212 (7), Fla. Stat.

⁸ § 316.212 (5), Fla. Stat. (emphasis added).

⁹ § 316.212 (8) (a), Fla. Stat.

Violations of Sec. 316.212, Fla. Stat. (golf cart operating statute) are considered noncriminal traffic infractions punishable as a moving violation.¹⁰ Violations of golf cart ordinances enacted pursuant to Sec. 316.212, Fla. Stat. are also punishable by local ordinance.

B. PERSUASIVE AUTHORITY: ATTORNEY GENERAL OPINIONS

Attorney General opinions are not binding legal precedent, but can offer valuable insight into how the executive branch of the state has interpreted the enforcement of various statutory provisions.

In Florida Attorney General Opinion 2016-07, the Attorney General's office responded to a series of inquiries on behalf of the City of Winter Garden. The Attorney General opined on several issues regarding the operation of golf carts within a municipality. Among other things, the Attorney General has held that a municipality may not prohibit the operation of a golf cart by an unlicensed driver. AGO 16-07.

As explained in AGO 16-07, Sec. 316.212, Fla. Stat. previously had language that authorized local governments to enact more restrictive golf cart equipment and operation regulations than state law provides. However, during the 2005 Florida Legislative Session, House Bill 1697 (2005) was amended on the floor to add the term, "must apply only to an unlicensed driver." This limiting language was added on the floor without debate. Without much legislative history, the plain language of the amended statute indicates that any regulations imposed by municipal ordinance on the operation or equipping of a golf cart on municipal streets is limited to unlicensed drivers operating golf carts. AGO 16-07.

AGO 16-07 further interprets Sec. 316.212, Fla. Stat. by opining that state statute clearly authorizes unlicensed drivers to operate golf carts pursuant to Sec. 322.04(1)(e), Fla. Stat., and therefore precludes a municipality from enacting an ordinance prohibiting the operation of golf carts by an unlicensed driver.

The attorney general opinion does state that a person with a suspended or revoked driver's license would be considered an unlicensed driver under Florida statute. AGO 06-17, and therefore able to lawfully operate a golf cart.

In Attorney General Opinion 2003-58, the Attorney General's office responded to an inquiry from the City of Cedar Key regarding equipment and operation of golf carts on municipal streets. The Attorney General opined that the City could not require additional safety equipment, or require mandatory inspection of golf carts. AGO 03-58. The opinion further clarifies that municipalities are preempted from requiring a licensed adult to accompany operators under the age of 16, or from enacting more restrictive age or licensure requirements. AGO 03-58.

¹⁰ § 316.212 (9), Fla. Stat.

C. CITY CODE PROVISIONS

Presently, City Code regulates golf carts in Chapter 62, Article III, of the Code of Ordinances of the City of Indian Rocks Beach (“City Code”). City Code states that golf carts must be equipped with headlamps, stop lamps, turn signals, tail lamps, reflectors, brakes, rearview mirrors, windshields, and standard hip restraints. Sec. 62-40(1), City Code. Because the City allows golf carts to be operated between the hours of sunset and sunrise, this additional required equipment language is likely permissible under the City’s authority found in Sec. 316.212(5), Fla. Stat.

City Code also requires that golf cart operators must possess a valid driver’s license. Sec. 62-40(2), City Code. This section is preempted by state statute and likely unenforceable as noted above. AGO 16-07 in conjunction with Sec. 316.212, Fla. Stat. would prohibit the City from requiring driver’s licenses or raising the minimum age of golf cart operators. It would be advisable to amend this section of City Code in light of statutory language and secondary legal authority.

III. LOW SPEED VEHICLES

Low Speed Vehicles are motorized four-wheeled vehicles with a maximum speed of 25 miles per hour that can often look very similar to golf carts. LSVs require a driver’s license to operate, must be registered and insured, and may only operate on streets with a posted speed limit of 35 mph or less (and therefore not on sidewalks). Municipalities currently have the authority to prohibit operation of LSVs on any road under their jurisdiction.

A. FLORIDA STATUTE

Florida Statute defines a Low Speed Vehicle (LSV) as “any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 (federal safety standards) and Sec. 316.2122.”¹¹

Section 316.2122, Fla. Stat., deals with the safety standards and operations of LSVs or mini trucks. Operations of LSVs are authorized on any road with the following restrictions:

- (1) A low-speed vehicle or mini truck **may be operated only on streets where the posted speed limit is 35 miles per hour or less**. This does not prohibit a low-speed vehicle or mini truck from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour. (emphasis added).
- (2) A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.
- (3) A low-speed vehicle or mini truck must be registered and insured in accordance with Sec. 320.02 and titled pursuant to Chapter 319.

¹¹ Sec. 320.01(41), Fla. Stat. (emphasis and internal parenthetical added).

(4) Any person operating a low-speed vehicle or mini truck **must have in his or her possession a valid driver license.** (emphasis added).

(5) A county or municipality may prohibit the operation of low-speed vehicles or mini trucks on any road under its jurisdiction if the governing body of the county or municipality determines that such prohibition is necessary in the interest of safety.

(6) The Department of Transportation may prohibit the operation of low-speed vehicles or mini trucks on any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

As Sec. 316.2122, Fla. Stat. only authorizes the operation of LSVs on certain public roads, LSVs are not permitted to operate on sidewalks. The Florida Department of Highway Safety and Motor Vehicles also permits the conversion of golf carts to LSVs by allowing golf cart owners to modify their golf carts to comply with LSV statute restrictions, via the TL-63 procedure (enclosed).

B. ADDITIONAL LEGAL AUTHORITY

While there have been no AGOs interpreting the LSV statute, one Appellate Decision from the Eleventh Circuit has stated that, under Florida law, LSVs are not “cars” for purposes of automobile insurance. In State Farm Mut. Auto. Ins. Co. v. Baldassini, 545 Fed. Appx. 842 (11th Cir. 2013), an insurer brought action seeking declaration that an automobile policy did not cover accidents that occurred while the insured’s daughter was operating an LSV. The Eleventh Circuit held that, under Florida law, LSVs (and four-wheel electric vehicles) are not designed for main use on public roads and thus did not fall within the definition of “car” covered by insured’s automobile insurance policy.

C. CITY CODE PROVISIONS

Presently, the City Code does not define, regulate, or prohibit LSVs within the City.

As LSVs are separate and distinct from golf carts, it would be advisable for the City to amend City Code or enact a new ordinance to define, regulate, and enforce LSV operation. The City has the authority to outright ban LSVs on municipal roads, or it could regulate them within the confines of the statute by requiring a driver’s license to operate, requiring registration and insurance, and prohibiting their operation on any roads with a posted speed limit greater than 35 miles per hour.

IV. ALTERNATIVE TRANSPORTATION

A. MICROMOBILITY DEVICES & MOTORIZED SCOOTERS

The 2019 Florida Legislature passed House Bill 453 (2019) which was a comprehensive bill related to Micromobility devices (“MM”) and motorized scooters. Once signed into law, HB 453 created Chapter 2019-109, Laws of Florida, which amended various sections of Chapter 316, Florida Statutes, (the Florida State Uniform Traffic Control laws) that deal with MMs and scooters.

MMs are defined as: “[a]ny motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground. This term includes motorized scooters and bicycles as defined in this chapter.”¹²

Section 316.003(45), Fla. Stat. By comparison, the statutory definition of a “motorized scooter,” includes MMs within its scope, encompassing : “[a]ny vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.”

HB 453 also amended section 316.2128, Fla. Stat. which is now titled “Micromobility devices, motorized scooters, and miniature motorcycles, requirements.” Section 316.2128, Fla. Stat. states that MM and scooter operators have all the rights and duties of bicycle riders except those found in Sec. 316.2128(1), Fla. Stat. (child safety restraint requirements). Further, local governments are expressly authorized to adopt ordinances governing the operation of MM and motorized scooters on, “streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction.”¹³

Similar to golf carts, MMs and scooters are not required to be registered or insured.¹⁴ Operators of MMs and scooters are not required to have a driver’s license.

The First District Court of Appeal recently issued an opinion regarding MMs in Panama City Beach, holding that a City may prohibit the daily rental of MM without outright banning all MMs. In Classy Cycles, Inc. v. Panama City Beach, 44 Fla. L. Weekly D2729 (Fla. 1st DCA Nov. 13, 2019), a Motorized scooter vendor brought action against the City, challenging the validity of the City’s ordinances which prohibited motorized scooter rentals. The Circuit Court granted summary judgment in favor of city and the vendor appealed. The First District affirmed the lower court’s ruling holding that the municipal ordinances which prohibited night rentals of motorized scooters, and which imposed a general prohibition against all motorized scooter rentals after a certain date, were not arbitrary or unreasonable for only prohibiting rental rather than operation of scooters, and therefore the ordinances were valid pursuant to rational basis analysis. Id.

The City Code does not presently define, regulate, or prohibit micromobility devices or scooters. It may be advisable for the City to address MM or scooters, whether generally or in the daily rental scheme.

¹² § 316.003 (38), Fla. Stat.

¹³ § 316.2128(1), Fla. Stat

¹⁴ § 316.2128(2), Fla. Stat.

B. MOTOR ASSISTED BIKES & ELECTRIC BICYCLES

Currently, electric bicycles (“e-bikes”) fall under the statutory definition of a bicycle. State statute defines a bicycle as: “[e]very vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.”¹⁵

Recently, the 2020 Florida Legislature passed House Bill 971 related to Electric Bicycles. HB 971 separately defines e-bikes as a “bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts.” If signed into law, HB 971 would create regulations governing the operation of e-bikes and provide that an e-bike or an operator of an e-bike must be afforded all the rights and privileges of a bicycle. The bill authorizes an e-bike to operate where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, and bicycle lanes. However, local governments are authorized to regulate the operation of e-bikes on the prescribed areas. The bill is now awaiting the Governor’s signature. Its effective date, if signed, is October 1, 2020.

V. CONCLUSION

While golf carts and LSVs are similar in look and design, state statute treats them distinctly and municipal authority over each is varied. Municipalities are limited in their ability to regulate golf cart operation, as they can only regulate unlicensed drivers and may not require anything further than statute permits. Municipalities are empowered to regulate and prohibit LSVs and MMs. The City Code presently regulates golf carts, but aspects of the provision are likely invalid and unenforceable. The City Code is currently silent as to LSVs and MMs, but the City does have authority to prohibit LSVs and MMs, or regulate them within the confines of state statute.

Encl:

Florida Department of Highway Safety and Motor Vehicles Low Speed Vehicles guide

Florida Department of Highway Safety and Motor Vehicles TL-63 LSV conversion procedure

¹⁵ § 316.003(3), Fla. Stat.

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2020-06**

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING CHAPTER 62 – TRAFFIC AND VEHICLES, ARTICLE III – OPERATION OF GOLF CARTS, SECTION 62-40 – GOLF CARTS; AMENDING THE TITLE OF THE SECTION TO INCLUDE LOW-SPEED VEHICLES AND MICROMOBILITY DEVICES; AMENDING THE SECTION TO ALIGN IT WITH STATE STATUTES; PROVIDING DEFINITIONS FOR TERMS TO BE USED IN THE SECTION; PROVIDING FOR REGULATION OF GOLF CARTS AND LOW-SPEED VEHICLE OPERATION ON SIDEWALKS; PROVIDING FOR THE PROHIBITION OF MICROMOBILITY SCOOTERS; PROVIDING FOR LEGISLATIVE FINDINGS, AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the City of Indian Rocks Beach currently regulates golf carts in Section 62-40 of the Code of Ordinances of the City of Indian Rocks Beach; and

WHEREAS, recent updates, revisions, and amendments in Florida Statutes require amendments to the City Code to align it with state law; and

WHEREAS, Section 320.01, Florida Statutes, defines a “golf cart” as a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreation purposes and that is not capable of exceeding 20 miles per hour; and

WHEREAS, Section 316.212, Florida Statutes, states that a golf cart may only be operated on a designated roadway with a posted speed limit of 30 miles per hour or less; and

WHEREAS, per Section 316.212, Florida Statutes, a golf cart may not be operated on public roads or streets by any person under the age of 14 years old; and

WHEREAS, per Section 316.212, Florida Statutes, golf carts may only be operated between the hours of sunrise and sunset, unless the golf cart has headlights, brake lights, turn signals, and a windshield; and

WHEREAS, violations of Section 316.212, Florida Statutes, are considered noncriminal traffic infractions punishable as moving violations; and

WHEREAS, municipalities are preempted by the State to regulate unlicensed operators of golf carts, per Attorney General Opinion 2016-07, and municipalities are unable to restrict or prohibit an unlicensed driver from operating a golf cart; and

WHEREAS, the City Commission finds that, pursuant to Florida Statutes, golf carts should be regulated in terms of where they may be operated within the City, by whom they

may be operated, at what hours they may be operated within the City, and particular equipment golf carts should possess; and

WHEREAS, to effectuate that regulation, the City Code should be amended to reflect those regulations of golf carts; and

WHEREAS, Section 316.212(8), Florida Statutes permits local governments to regulate the operation of golf carts on sidewalks within the local government's jurisdiction; and

WHEREAS, the City Commission finds that, based on the intended and actual use of sidewalks by pedestrians, and the dimensions of sidewalks within the City, the operation of golf carts on sidewalks within the City's jurisdiction would have a negative effect on pedestrian safety and welfare; and

WHEREAS, pursuant to Section 316.212, Florida Statutes, the operation of golf carts on sidewalks within the City should be prohibited; and

WHEREAS, Section 320.01, Florida Statutes, defines a "low-speed vehicle" as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles and must comply with federal safety standards as found in 49 C.F.R. s. 571.500; and

WHEREAS, Section 316.2122, Florida Statutes, only authorizes low-speed vehicles to be operated on streets with a posted speed limit of 35 miles per hour or less; and Whereas, pursuant to Section 316.2122, Florida Statutes, a low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers; and

WHEREAS, pursuant to Section 316.2122, Florida Statutes, a low-speed must be registered and insured in accordance with Section 320.02, Florida Statutes, and titled pursuant to Chapter 319; and

WHEREAS, pursuant to Section 316.2122, Florida Statutes, any person operating a low-speed vehicle must have in his or her possession a valid driver's license; and Whereas, Section 316.2122, Florida Statutes only authorizes the operation of low-speed vehicle on certain public roads, therefore low-speed vehicles are not permitted to operate on sidewalks; and

WHEREAS, the City Commission finds that, pursuant to Florida Statutes, low-speed vehicles should be regulated in terms of where they me operated within the City, by whom they may be operated by, and particular equipment low-speed vehicles should possess; and

WHEREAS, to effectuate that regulation, the City Code should be amended to reflect those regulations of low-speed vehicles; and

WHEREAS, Chapter 2019-109, Laws of Florida, was the enactment of Florida House Bill 453 (2019) which was the comprehensive bill related to micromobility devices and motorized scooters signed into law in 2019 that amended various sections of Chapter 316, Florida Statutes; and

WHEREAS, Section 316.003, Florida Statutes, defines micromobility devices as any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground; and

WHEREAS, Section 316.2128, Florida Statutes, expressly authorizes local governments to adopt ordinances governing the operation of micromobility devices on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction; and

WHEREAS, pursuant to Section 316.2128, Florida Statutes, the City Commission finds it in the best interest of the general health, safety, and welfare to prohibit the operation of micromobility scooters in the jurisdiction boundaries of the City; and

WHEREAS, the City Commission finds this Ordinance benefits public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, THAT:

Section 1. Section 62-40 of Article III (Operation of Golf Carts) of Chapter 62 (Traffic and Vehicles) of the City of Indian Rocks Beach Code of Ordinances is hereby amended as follows:

Sec. 62-40. Golf carts, low-speed vehicles, and micromobility devices.

Golf carts and low-speed vehicles ~~equipped in the manner prescribed by~~ as defined in this section may travel on or cross the public roads or streets within the ~~geographic boundaries~~ designated areas described in this section, considering factors including the speed, volume, and character of motor vehicle traffic using these roads or streets, and the use of golf carts ~~and low-speed vehicles~~ is are hereby permitted in the City with the stipulations to include the following provisions:

- (1) ~~Required equipment. A golf cart shall include headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, a rearview mirror, a windshield, and~~

~~standard hip restraints for all passengers.~~ Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) Golf cart shall mean a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreation purposes, and that is not capable of exceeding 20 miles per hour and that may only be operated on designated roadways with a posted speed limit of 30 miles per hour or less.

(b) Low-speed vehicle shall mean any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles and must comply with federal safety standards as found in 49 C.F.R. s. 571.500. Low-speed vehicles may only be operated on designated roadways with a posted speed limit of 35 miles per hour or less, must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking breaks, rearview mirrors, windshields, seat belts, vehicle identification numbers, and must be registered and insured with in accordance with § 320.02, Florida Statutes, and titled pursuant to Chapter 319, Florida Statutes.

(c) Micromobility device shall mean any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground.

(2) Golf cart and low-speed vehicle operators. The golf cart operators must possess a valid driver's license pursuant to F.S. § 322.03. Any person operating a golf cart within the jurisdictional boundaries of the City must be at least 14 years old. Any person operating a low-speed vehicle within the jurisdictional boundaries of the City must have in his or her possession a valid driver's license.

(3) Designated areas. The "designated areas" encompassed by this authorization are the municipal streets of the city and the following Gulf Boulevard intersections:

8th Avenue
12th Avenue
15th Avenue
16th Avenue
17th Avenue
18th Avenue
19th Avenue
20th Avenue
21st Avenue
22nd Avenue
23rd Avenue

24th Avenue
25th Avenue
26th Avenue
27th Avenue

Legally conforming golf carts and low-speed vehicles may traverse the above intersections as described in the designated areas, but may not travel north or south on or alongside Gulf Boulevard.

(4) ~~*Golf cart defined.*~~ ~~The golf carts authorized for use are incapable of exceeding 20 miles per hour.~~ *Sidewalks.* Golf carts and low-speed vehicles may not be operated on any sidewalks with the jurisdictional boundaries of the city.

(5) *Hours of operation.* Golf carts may only be operated during the hours between the sunset and sunrise ~~and sunset well as during daylight hours~~ in the designated areas only. Golf carts may be operated after sunset if the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.

(6) *Penalties.* Violations of this article shall be enforced pursuant to or otherwise consistent with the provisions of F.S. § 316.212, F.S. § 322.03, and cCity ordinances by a law enforcement officer or city code enforcement officer as such officer's legal authority and jurisdiction allows. Code enforcement officers shall have the right to enforce all matters having to do with golf cart required equipment, the streets upon which golf carts may be operated, and all other matters not exclusively within the jurisdiction of and lawful authority of law enforcement officers.

(7) *Territory embraced.* This section shall apply only to the designated municipal-owned streets and Gulf Boulevard intersections identified in subsection 62-40(3) within the territorial jurisdiction of the city.

(8) *Pinellas County approval.* The city shall obtain the advance approval of Pinellas County for all golf cart crossings on Gulf Boulevard under county jurisdiction and any related traffic control devices needed for safety purposes. No golf cart travel shall be allowed along Gulf Boulevard.

(9) *Prohibition on micromobility devices.* Micromobility devices may not be operated on streets, sidewalks, or sidewalk areas within the jurisdictional boundaries of the city.

Section 2. For purposes of codification of any existing section of the Indian Rocks Beach Code herein amended, words underlined represent additions to original text, words stricken are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the City Commission would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Indian Rocks Beach City Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon its adoption.

ADOPTED ON FIRST READING on the ____ day of _____ 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the ____ day of _____ 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

Joanne Moston Kennedy, Mayor-Commissioner

Attest: _____
Deanne B. O'Reilly, MMC, City Clerk

Approved as to form:

Randy Mora, City Attorney

AGENDA ITEM NO. 7

OTHER LEGISLATIVE MATTERS

NONE

AGENDA ITEM NO. 8
WORK SESSION ITEMS
NONE

AGENDA ITEM NO. 9

OTHER BUSINESS:

AGENDA ITEM NO. 10
ADJOURNMENT.