

**MINUTES — NOVEMBER 10, 2020  
CITY OF INDIAN ROCKS BEACH  
REGULAR CITY COMMISSION MEETING**

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The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, NOVEMBER 10, 2020**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy welcomed everyone to the November 10, 2020 Indian Rocks Beach Regular City Commission Meeting.

Mayor-Commissioner Kennedy called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance and a moment of silence in honor of all veterans.

**PRESENT:** Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Philip J. Hanna, Commissioner Diane Flagg, Commissioner Edward G. Hoofnagle, Commissioner Joe McCall (attended the meeting virtual).

**OTHERS PRESENT:** City Manager Brently Gregg Mims, City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, and Technology Moderator Consultant Matt Sabella.

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

**1A. Pinellas County Sheriff's Office.** (Written report submitted)

The Pinellas County Sheriff's Office (PCSO) submitted a written Crime Analysis Report for the month of September 2020.

**1B. Pinellas Suncoast Fire & Rescue District:** (Written report submitted):

The Pinellas Suncoast Fire and Rescue District submitted a written report for the month of October 2020.

**1C. PRESENTATION BY the Florida City and County Management Association.**

Safety Harbor City Manager Matthew Spoor, FCCMA District 7 Director, presented the City Commission and the City Manager with a Certificate of Recognition recognizing the City's 50<sup>th</sup> anniversary by the International City/County Management Association (ICMA) of its operation under the commission-manager form of government.

**2. PUBLIC COMMENTS.**

**Lee Wilkerson, 490 Harbor Drive North**, stated the City parks, including the dog park, tennis courts, and child play areas are meant to serve the residents first, and parking in the City parks should be limited to the residents and with time limits. Using signage should be able to limit long term visitor parking at the dog park, tennis courts, and child play areas. He asked that this be made a priority discussion item with the same spirit as the proposed parking ordinance.

**Don House, 2104 Beach Trail**, stated he feels that Indian Rocks Beach will not see any sand because of the lack of perpetual beach easements. He stated beachfront owners who have been here a long time were never, or never, asked for the sand to begin with. When he read the qualifications about how the high watermark was supposed to be set, the Army Corps of Engineers (the Corps) was supposed to interact with the property owners. Indian Rocks Beach has the lowest percentage of people who have agreed positively to the easements. He stated the perpetual easement has a lot of implications that need to be addressed.

Mr. House stated the beachfront property owners have many concerns, and they will not sign the easements unless they are addressed.

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

City Attorney Mora reviewed his email on electric bicycles and the regulation thereof. The Florida Legislature did pass a statute this year on the regulation of electric bicycles, treating them precisely as bicycles. Motor vehicles are vehicles generally regulated by Chapters 316 and 318 of Florida Statutes. There is an argument that electric bicycles cannot be operated on beaches because vehicles cannot be operated on beaches. Bikes for some purposes in Florida Statutes are treated as vehicles. The section that language comes from does not define a vehicle, and courts have customarily, when left with no definition of a vehicle, chosen to impose the plain meaning of a truck or car. There is nothing in the Florida Statutes that bars the operation of an electric bicycle on the beaches.

City Attorney Mora stated one of the questions presented was, "Does Florida Statutes already prohibit that?" There is nothing in Florida Statutes that prohibits that. If the City desires to regulate electric bicycles, the City can do so as it relates to the City streets, highways, roadways, shoulders, bicycle lanes, and other multi-use paths. Noticeably absent from that list are beaches.

City Attorney Mora stated the issue of the beaches and who owns what and where the City regulates gets messy and a little more complicated. Even if the City could adopt an ordinance without issue regulating electric bicycles' operation on the City streets and sidewalks, there is no clear authority in Florida Statutes, allowing the City to do so on the beaches.

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

City Manager Mims reported on the following issues:

- Provided an update on Tropical Storm Eta, and the City's pre-storm preparations.
- Duke Energy Franchise Agreement.
- On the City's website is an update of last several years' capital improvement projects.
- RFQ for Special Magistrate for code violation issues.

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

#### **COMMISSIONER HOOFNAGLE:**

- Expressed gratitude to the company that has invested in making the Red Lion Pub a new restaurant, and observed that nothing has really happened for a long time. The communication that he has received has some questions and complaints from local residents inquiring what is going on because it does not look like anything is happening. He is hoping that maybe there is some way the City can encourage them to move along and continue the investments and turn it into something that the City would be proud to have in its community.

#### **COMMISSIONER FLAGG:**

- Last week, the City of Indian Rocks Beach and Action 2000, Inc., hosted a grand opening of the newly renovated Kolb Park Gazebo. The majority of funding for the renovation was made possible by Action 2000, Inc. (A2K).

#### **COMMISSIONER MCCALL:**

- Announced the Community Turkey Drive for the Beach Food Pantry, sponsored by the IRB Homeowners, C21 Beggins, and Plumlee Realty. Drop-off locations are from 5:00 to 8:00 p.m. at the following locations/dates:

November 11 <sup>th</sup>	Crabby Bill's
November 13 <sup>th</sup>	Anecdote Brewery
November 18 <sup>th</sup>	Chicago Jaqx
November 20 <sup>th</sup>	18 on the Rocks

or drop-off anytime at C21 Beggins

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

- Announced the City events for the month of November.
- *Beach Perpetual Easements*: Stated she spoke with Congressman Charlie Crist and his aide who will be putting together a meeting with Pinellas County and the Army Corps of Engineers to try to resolve the issues with the perpetual easements.

4. **ADDITIONS/DELETIONS.** None.
5. **CONSENT AGENDA:**
  - A. **APPROVAL of the October 13, 2020 Regular City Commission Meeting Minutes.**
  - B. **RESOLUTION NO. 2020-10. Calling for a Municipal General Election for the purpose of electing, at large, qualified candidates to fill the vacancies of two Commissioner Seats for two-year terms.**

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

***MOTION MADE BY COMMISSIONER FLAGG, SECONDED BY VICE MAYOR-COMMISSIONER HANNA, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS. 5A AND 5B. UNANIMOUS CONSENT BY ACCLAMATION.***

- 6A. **ORDINANCE NO. 2020-04 — PUBLIC HEARING/SECOND AND FINAL 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.**

*[Beginning of Staffing Report.]*

#### **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.

On October 13, 2020, the City Commission approved Ordinance No. 2020-04 unanimously.

#### **LEGAL NOTIFICATION:**

A legal notice was published in the October 28, 2020-edition, of the St. Pete Times Section of the *Tampa Bay Times*, to advertise for public hearing that has been scheduled on November 10, 2020, for Ordinance No. 2020-04.

**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 Code

- (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~~ 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.

*[End of Staffing Report]*

City Attorney Mora read Ordinance No. 2020-04 by title only for second and final reading.

Mayor-Commissioner Kennedy opened the public hearing.

City Manager Mims introduced the Ordinance No. 2020-04. He explained there is a generic plan review fee in the City Code that can be charged for any plan review. The amendment breaks the plan review fee into two categories, one for commercial, and one for residential.

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

**MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO APPROVE ORDINANCE NO. 2020-04, ON SECOND AND FINAL READING, 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.**

**ROLL CALL VOTE:**

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

**MOTION CARRIED UNANIMOUSLY.**

**6B. ORDINANCE NO. 2020-05— PUBLIC HEARING/SECOND AND FINAL READING. An Ordinance of the City of Indian Rocks Beach, Florida, repealing Section 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.**

*[Beginning of Staffing Report.]*

**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.

On October 13, 2020, the City Commission approved Ordinance No. 2020-04 unanimously.

**LEGAL NOTIFICATION:**

A legal notice was published in the October 28, 2020-edition, of the St. Pete Times Section of the *Tampa Bay Times*, to advertise for public hearing that has been scheduled on November 10, 2020, for Ordinance No. 2020-04.

**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)~~

*[End of Staffing Report]*

City Attorney Mora read Ordinance No. 2020-05 by title only, for second and final reading.

City Attorney Mora introduced Ordinance No. 2020-05, and stated the area in question is not within the City's jurisdiction, and stated FWC does explicitly have jurisdiction over these things. He stated the City is not the agency charged or tasked with doing so. FWC is and FDEP maybe, and permits required for certain forms of fishing.

City Attorney Mora stated Ordinance No. 2020-05 is bringing the City Code into conformity with the Florida Administrative Code and Florida Statutes.

Commissioner Hoofnagle questioned if it would make sense to reference Florida Statutes that govern this in the City Code.

City Attorney Mora stated that would be a decision for the City Commission.

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

**MOTION MADE BY COMMISSIONER MCCALL, SECONDED BY VICE MAYOR-COMMISSIONER HANNA, TO APPROVE ORDINANCE NO. 2020-05, ON SECOND AND FINAL READING, REPEALING SECTION 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.**

**ROLL CALL VOTE:**

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

**NAYS: NONE**

**THE MOTION CARRIED UNANIMOUSLY.**

**6C. ORDINANCE NO. 2020-06—PUBLIC HEARING/SECOND AND FINAL 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.

*[Beginning of Staffing Report.]*

The City Commission 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 miles per hour do not require insurance and do not require a driver's license.

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 operations, as they can regulate unlicensed drivers and may not require anything further than state statute permits. Municipalities are empowered to regulate and prohibit low-speed vehicles. The City Code presently regulates golf carts, but aspects of the provision are likely invalid and unenforceable.

While the City Code is currently silent on low-speed vehicles and micromobility scooters, the City does have statutory authority to enact ordinances that prohibit or regulate the operation of low-speed vehicles or micromobility scooters.

## **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 be registered or insured. State statute and the Florida Attorney General opinions hold that while municipalities may regulate some golf cart operations, these regulations may only apply to unlicensed drivers. Further, as there is no requirement that a golf cart operator has 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 STATUTES**

Florida Statute defines golf cart as “[a] motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.” [§316.003(26), F.S.] Another section of Florida Statutes also define golf carts as “[a] motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational and that is not capable of exceeding speeds of 20 MPH.” [§320.01(22), F.S.]

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 [§ 316.212, F.S.]. 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 the county, a municipal street that has been designated by a municipality, or a two-lane county road located with the jurisdiction of a municipality, for the use of golf carts. [§ 316.212(1), F.S.]. Further, golf carts may only be operated on roads with a posted speed limit of 30 mph or less. [§ 316.2126(1)(c), F.S.]. According to Florida 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. [§ 316.212(8), F.S.].

While golf carts are not required to be licensed or insured, a golf cart may not be operated on public roads by any person under the age of 14. [§ 316.212(7), F.S.]

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 golf carts have headlights, brake lights, turn signals, and a windshield. [§316.212(5)]. Local governments may enact an ordinance relating to golf cart operation and equipment that is more restrictive than Florida Statute, but the ordinance may only apply to unlicensed drivers, and the municipality must post signs regarding the more restrictive golf cart ordinance. [§ 316.212(8)(a), F.S.]

Violations of § 316.212, F.S. (golf cart operating Florida Statute) are considered noncriminal traffic infractions punishable as a moving violation. [§ 316.212(9)]. Violations of golf cart ordinances enacted to § 316.212, F.S., 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, § 316.212, F.S., 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 § 316.212, F.S., by opining that state statute clearly authorizes unlicensed drivers to operate golf carts pursuant to § 322.04, F.S., 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.

### **C. CITY CODE PROVISIONS**

Presently, the City Code regulates golf carts in Chapter 62 of the Code of Ordinances. The City Code states that golf carts must be equipped with headlamps, stop lamps, turn lamps, tail lamps, reflectors, brakes, rearview mirrors, windshields, and standard hop restraints.[Section 62-40(1) of the Code of Ordinances.] Because the City allows golf carts to operate between the hours of sunset and sunrise, this additional required equipment language is likely permissible under the City's authority found in § 316.212(5), F.S.

The City Code also requires that golf cart operators must possess a valid driver's license. [Sec. 62-40(2) of the Code of Ordinances]. This section is preempted by Florida Statutes and likely unenforceable as noted above. AGO 16-07 in conjunction with § 316.212, F.S. 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 the 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. Low-speed vehicles 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 low-speed vehicles on any road under their jurisdiction.

#### **A. FLORIDA STATUTE**

Florida Statute 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. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 (federal safety standards) and § 316.2122 F.S." [§ 320.01(41), F.S.]

Section 316.2122, F.S., deals with the safety standards and operations of low-speed vehicles or mini trucks. Operations of low-speed vehicles 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, tail lamps, 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 § 320.02, F.S., and titled pursuant to Chapter 319.
- (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 § 316.2122, F.S., only authorizes the operation of low-speed vehicles on certain public roads, low-speed vehicles are not permitted to operate on sidewalks. The Florida Department of Highway Safety and Motor Vehicles also permits the conversion of golf carts to low-speed vehicles by allowing golf cart owners to modify their golf carts to comply with low-speed vehicle statute restrictions.

## **B. ADDITIONAL LEGAL AUTHORITY**

While there have been no AGOs interpreting the low-speed vehicle statute, one Appellate Decision from the Eleventh Circuit has stated that, under Florida law, low-speed vehicles 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 low-speed vehicle. The Eleventh Circuit held that, under Florida law, low-speed vehicles (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 low-speed vehicles within the City.

As low-speed vehicles 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 low-speed vehicle operation. The City has the authority to outright ban low-speed vehicles 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 micromobility devices and scooters.

Micromobility devices are defined 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. This term includes motorized scooters and bicycles as defined in this chapter.” [§ 316.003(38), F.S.]

Section 316.003(45), F.S. By comparison, the statutory definition of a “motorized scooter,” includes micromobility devices 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 § 316.2128, F.S., which is now titled “micromobility devices, motorized scooters, and miniature motorcycles, requirements.” Section 316.2128, F.S. that micromobility devices and scooter operators have all the rights and duties of bicycle riders except those found in § 316.2128(1), F.S. (child safety restraint requirements). Further,

local governments are expressly authorized to adopt ordinances governing the operation of micromobility devices and motorized scooters on, “streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction.” [§ 316.2128(1), F.S.]

Similar to golf carts, micromobility devices and scooters are not required to be registered or insured. [§ 316.2128(2), F.S.] Operators of micromobility devices and scooters are not required to have a driver’s license.

The First District Court of Appeal recently issued an opinion regarding micromobility devices in Panama City Beach, holding that a City may prohibit the daily rental of micromobility devices without outright banning all micromobility devices. 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 micromobility devices or scooters, whether generally or in the daily rental scheme.

## **B. MOTOR ASSISTED BIKES & ELECTRIC BICYCLES**

Currently, electric bicycles (“e-bikes”) fall under the statutory definition of a bicycle. Florida Statutes 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.”

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 low-speed vehicles 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 low-speed vehicles and micromobility devices. 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 low-speed vehicles and micromobility devices, but the City does have authority to prohibit low-speed vehicles and micromobility devices, or regulate them within the confines of Florida Statutes.

*[End of Staffing Report]*

### PROPOSED ORDINANCE AMENDMENTS:

The following amendments are recommended to Section 62-40, Golf carts, low-speed vehicles, and micromobility devices.

#### **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.



***During the October 13, 2020 City Commission Meeting, the City Commission by motion deleted “and low-speed vehicles”. Therefore, allowing low-speed vehicles to travel north or south on 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 City 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.

#### **LEGAL NOTIFICATION:**

A legal notice was published in the October 28, 2020-edition, of the St. Pete Times Section of the *Tampa Bay Times*, to advertise for public hearing that has been scheduled on November 10, 2020, for Ordinance No. 2020-06.

City Attorney Mora read Ordinance No. 2020-06 by title only.

City Attorney Mora introduced the agenda item and reviewed his Staffing Report.

Mayor-Commissioner Kennedy opened the public hearing.

**Don House, 2104 Beach Trail**, asked about the regulations for Segways.

City Attorney Mora stated Ordinance No. 2020-06 does not regulate Segways, and will address Segways after the City Commission's action on this ordinance.

**John Thayer, 1819 Bay Boulevard**, expressed his concern with the safety of golf carts and the lack of enforcement of golf carts driving on sidewalks and on Gulf Boulevard. He stated low-speed vehicles (registered, licensed, and insured) are allowed on Gulf Boulevard only per Florida Statutes.

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

City Attorney Mora stated he is of the opinion that Segways would fall under "personal assisted mobility device," regulated by Section 316.2068, Florida Statutes, and they are allowed to be operated on a road or street where the posted speed limit is 25 mph or less, on marked bicycle path, on any street or road where bicycles are permitted, at an intersection to cross the road or street, even if the road or street has a posted speed limit of more than 25 mph. A valid driver's license is not required to operate personal assisted mobility devices. The City is allowed to regulate the operation of such devices on its streets and sidewalks in much the same way as the language pertaining to electric bicycles.

City Attorney Mora stated Ordinance No. 2020-06 does not regulate Segways.

City Manager Mims stated once adopted, the Pinellas County Sheriff's Office will begin the educational process with the City assigned deputies on the golf cart rules and regulations, and then enforcement will begin.

City Manager Mims encouraged the City Commission and the public to report golf carts to the Pinellas County Sheriff's Office directly.

***MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO APPROVE ORDINANCE NO. 2020-06, ON SECOND AND FINAL READING, 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 DELETING THE WORDS “AND LOW-SPEED VEHICLES” FROM SECTION 62-40(3).**

**ROLL CALL VOTES:**

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

**NAYS: NONE**

**MOTION CARRIED UNANIMOUSLY.**

**7A. ORDINANCE NO. 2020-07 — FIRST READING.**

**An Ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 62 – “Traffic and Vehicles,” Article II – “Stopping, Standing and Parking,” Section 62-39 of the Code of Ordinances by adding the following provision: [Section] of the Code of Ordinances of the City of Indian Rocks Beach by adding Section 62-39, to provide for controlled parking in residential areas, to authorize parking by permit only in designated residential areas with penalties and limited exceptions, to provide for the issuance, renewal and potential revocation of parking decals for permit parking; providing for severability, resolution of conflicts and an effective date.**

*[Beginning of Staffing Report]*

**EXECUTIVE SUMMARY:**

Following the City Commission’s previous work session on the matter, this ordinance was drafted as a proposed means for addressing parking on the congested roadways within the City’s residential districts.

Though the ordinance sets forth a series of administrative guidelines and restrictions, foremost among them is that the streets located North of 5th Avenue, East of Gulf Boulevard, and South of 28th Avenue would be designated as “parking by permit only” between 9:00 a.m. and 5:00 p.m. Violators may be issued a parking citation and fine, or towed (subject to the adoption of additional language).

The ordinance details the evidence the City will consider in determining whether to issue a resident permit, and generally describes the process for securing one.

**BACKGROUND INFORMATION:**

In recent years, most especially in the early months of the global health pandemic and consequent quarantining restrictions, the City has observed intensified attendance to its parks and beaches. Paired with the City’s finite amount of public parking spaces, this increase in vehicular traffic has led to increased daytime street parking on the City’s

traditionally residential roadways. If adopted, this ordinance would codify a proposed solution limiting daytime street parking to vehicles bearing a parking permit, which will only be issued upon sufficient evidence that the vehicle's owner resides in the City.

*[End of Staffing Report]*

City Attorney Mora read Ordinance No. 2020-07 by title only, for first reading.

City Manager Mims stated in 2014, the City Commission had a couple of work sessions, and the topic was generally the beach and things associated with the beach. As a result, many changes were implemented, such as additional solid waste collection for the beach, more mechanical raking of the beach, consolidated multiple beach signs, enhanced parking enforcement, increased residential parking, increased parking fines from \$20 to \$40.

City Manager Mims stated after 2014, no parking signs have been installed to restrict parking on one side or both sides of the streets east of Gulf Boulevard for at least the first block. He stated two options were discussed. Option A: Install no parking signs on side streets and other streets where there are issues with beach parking, which staff did. Option B: Impose parking restrictions on streets east of Gulf Boulevard, and residents with decals could only park there during certain times of the day, in certain areas of the City.

City Manager Mims stated about 230 no parking signs had been installed on the side streets. Some streets have no parking on both sides for the first block, with the majority having no parking on one side of the street only.

City Manager Mims stated in March 2020, there was an agenda item on-street parking, and the City Commission directed City staff to schedule a work session on on-street parking.

City Manager Mims stated during the July 23, 2020 City Commission Work Session, two options were presented to the City Commission:

- Option A — Continue what the City started in 2014 or
- Option B — Adopt an ordinance that in some form that would require a resident parking decal to park on the streets from 5th Avenue north to 28th Avenue on the east side of Gulf Boulevard, including the fingers.

City Manager Mims stated by consensus of the City Commission during the July 23, 2020 City Commission Meeting, staff drafted an ordinance, posted it to the City's website on October 12 for comments, mailed a postcard to all registered voters, and followed up with press releases.

Vice Mayor-Commissioner Hanna asked if COVID played a part in increasing traffic and visitors to the beach and if the newly-installed no parking signs have been useful.

City Manager Mims stated no parking signs were installed on one or both sides of the street on the first block on the east side of Gulf Boulevard and 1st Street, and some of the feeder streets to Gulf Boulevard have no parking signs further back into the neighborhoods.

City Manager Mims stated it is a fact that what Pinellas County experienced back in the early Spring was unusual. He reiterated that COVID was a driving force that brought people to all of the Pinellas County beaches, not just Indian Rocks Beach.

City Manager Mims stated the City had resolved 99.9% of the parking problems through the additional no parking signs and enhanced enforcement.

Vice Mayor-Commissioner Hanna clarified that the signs have been working since COVID has calmed down.

City Manager Mims stated the signs have been working, and no parking signs have been installed on 1st Street from 16th to 28th Streets before the summer holidays.

Commissioner Flagg stated as far as COVID-19, this year is in no way represented of what the City's parking conditions have been over the last five or six years. Every year has gotten continually worse. She does have to say that the signs have helped some. The year before COVID, the City was massively affected by congested streets and parking in the residential neighborhoods. COVID is a whole different story, and locking down the beach and then having people come was an extraordinary event.

Commissioner Flagg stated when you look back at the parking situation, and she thinks the City Manager mentioned that 50% of the City's signage on the east side of Gulf Boulevard is no parking.

Commissioner Flagg stated when the season comes, the City can expect cars to be tooling around and cruising for parking spaces and going in and out of each side street from 5th to 28th Avenues and back on Gulf Boulevard looking for parking spaces in the residential neighborhoods. As much as she thinks the signage has helped some, traffic and parking have increased over the last four to five years, and COVID had nothing to do with that. She stated people come to Indian Rocks Beach because of the publications of free parking in the City, which has created extreme situations in some residential areas.

Mayor-Commissioner Kennedy opened the public comment portion of this agenda item.

**Heather McCarty (chat room)**, "with regard to parking, we are not Belleair and we do not want to be Belleair. We live on East Gulf and have no problems with street parking. The vast majority of visitors are extremely respectful!"

**Stewart Devore (chat room)**, "I agree! If anything, let's let this be tabled until next year. We have enough going on trying to just get through this time. I am all about supporting our local businesses.

**Maria Heshmati, 350 La Hacienda Drive, (ZOOM call)**, stated she is supporting resident-only parking in the residential area.

**Lee Wilkerson, 490 Harbor Drive North, (ZOOM call)**, stated the average home value in Indian Rocks Beach is over \$500,000. The City provides a significant amount of beach access and a lot of free parking, which attracts many people.

Mr. Wilkerson stated it is essential to the City's integrity and authenticity that the City does not become auto-centric.

**Ira Heshmati, 350 La Hacienda Drive, (ZOOM call)**, stated Indian Rocks Beach is very popular for beachgoers because of the free parking. He supports the resident-only parking in residential areas during the weekends.

**Linda Newton, 438 Harbor Drive North, (ZOOM call)**, stated she is against the ordinance as it would impair the way they live and what they do in Indian Rocks Beach.

**John Thayer, 1819 Bay Boulevard**, stated after the July 2020 Work Session, he drove Indian Rocks Beach every Sunday. There are very few parking problems since the signage has been installed at 9th Avenue and East Gulf Boulevard. Some of the issues are caused by resident parking, Bay Boulevard between 22nd and 23rd Avenues, and the first block of 12th Avenue and most of those cars have beach decals on them.

Mr. Thayer stated the no parking signs are working, and the ordinance should be tabled until after next summer.

**Heather McCarty, (chat room)**, "we walk the fingers with our dogs regularly, the vast majority of people parking on the fingers are residents, not beach visitors."

**Jim Sampey, 434 Harbor Drive North, (chat room)**, "good point by Commission and manager about pandemic anomaly was a significant issue . . . spot on!!! Adhere and enforce any existing challenges with current no parking designated areas . . . don't penalize and/or harm your existing residents from controlling legitimate friends and family visitation . . . also explore other commercial parking options for tourists."

**Karen (LNU) (chat room)**, "Agreed, this issue should be tabled until next year."

**Christine Bergman (chat room)**, "I believe that we need to stay an open beach, access should be free to visitors and guests. The current parking limits are sufficient!"

**Karen (LNU)(chat room),** "I agree Christine, I think we're making an issue where there isn't one."

**Robert Servetter, 209 Bahia Vista Boulevard, (chat room),** "Thanks to all for considering this parking restriction. In front of my home, it is always packed each weekend and this was pre-COVID as well. Please do move forward with looking into this."

**Scott Holmes, (chat room),** "I agree with Christine."

**Christine Bergman, (chat room),** " Let's not be Belleair."

**Katie (LNU), (chat room),** "Great point, Jim Sampey. Do not penalize or harm existing residents. Many of us, due to COVID, have had more family having to stay with use."

**Mike Fowler, 102 Marcdale Boulevard, (chat room),** "As a resident and business owner, I can easily see both sides of this decision. Having said that I think we can all agree this is the most unsettling time that most of us have ever been through. Therefore, it would be my opinion that we table this difficult decision."

**Stewart DeVore, 410 20th Avenue, (chat room),** "Would you want to have your guests have to park in your lawns? Agreed with Mike Fowler."

**Kelly Cisarik, 448 Harbor Drive South, (chat room),** "Would benefit from a 'no parking here to corner sign' on even side from 400 address to Maxwell place. This would allow access for emergency vehicles. Now parking is on both sides and often blocked."

**David Ardman, 351 La Hacienda Drive, (ZOOM call),** stated he agrees with the comments that there are locations in Indian Rocks Beach that are impacted more than others, such as La Hacienda Drive and East Gulf Boulevard, and 7th and 8th Avenues."

**Kirstin Sturtz, (chat room),** "Residents should realize that the premium we get from the outside visitors are great business at our community doorsteps that would not survive without the outsiders sponsorship."

**Don House, 2104 Beach Trail,** stated parking has gotten worse over the last few years, and it started from a very simple thing, the County started charging for parking at Ben T. Davis Beach at Courtney Campbell Causeway, Clearwater.

**Adam McLean, La Hacienda Drive,** the businesses would not survive without the beachgoers.

**Paul Jenkins, Crabby Bill's Seafood**, suggested the City look into building a parking garage or other parking solutions for the future. If this ordinance is adopted, it will hurt the small businesses.

**John Pfanstiehl, 448 Harbor Drive South**, stated he thanked the City for sending out the postcard, and he thinks it was a great idea to inform residents about ordinances when they are coming up, and he hopes that continues.

Mr. Pfanstiehl stated all the residents he has talked to on Harbor Drive North or South, except one person, are against the parking ban.

**Carol McGlaughlin, 115-21st Avenue**, stated she has lived on 21st Avenue for the last 47 years, and she has seen the changes in parking and the people who are coming to the beach. She stated in some cases, people are abusing the beach and the right to park in the community.

Ms. McGlaughlin stated currently, there are no parking signs along 1st Street and asked if those signs will remain if the ordinance is adopted. She stated the no parking signs on 1st Street have worked, and she would appreciate it if those signs could stay even if the ordinance is adopted.

**Carol Sampey, 434 Harbor Drive North**, stated she is against the ordinance and said there are no beach-goers parking in her residential neighborhood. She would like for the City to stick with what they are currently doing.

**Bob Linderman, 455-20th Avenue**, stated he commends the City Commission for taking this on. Parking is one of the most important issues in Indian Rocks Beach because it is not only a safety issue, but it is about getting traffic through the streets, trucks, emergency vehicles, golf carts, bicycles, and pedestrians. The no parking signs are just pushing them further back into the residential neighborhoods. It used to be only around 1st Street, now it is north of Bay Boulevard at 20th Avenue, where beachgoers are parking.

Mr. Linderman stated parking is what drove him and his wife off the beach after 15 years because they could not take the constant circling around 8th Avenue behind Kooky Coconuts. He favors having some identifier that allows a resident to park during the day. There are no parking problems in the evening, so restaurants and shops can use on-street parking for their patrons.

As a businessman, Mr. Linderman stated that businesses and short-term rentals need to figure out how they will park their renters or patrons off the street so that they do not become a problem.



**Linda Dalina, 1201 Bay Palm Boulevard**, stated 12th Avenue is a hot spot for beach parking that has parking only on one side of the street. The beach parking goes back to Bay Palm Boulevard. Twelfth Avenue is a heavily trafficked road.

Ms. Dalina stated the City already provides a public parking lot and free parking spaces at the beach accesses.

Ms. Dalina stated the City owes it to its residents, the children, and renters to provide safe streets and a safe environment, and something needs to be done with the proposed ordinance.

**Rebecca Sacra, 368 La Hacienda Drive**, asked if there were any restrictions for residents with a beach decal.

**Tammy McCutchan, 201-7th Avenue**, stated she has lived in Indian Rocks Beach since 1987 and has started a petition for parking on one side street only. She said there are two crucial issues concerning the parking situation: (1) making sure that the emergency vehicles can get through all the roads, and (2) making sure that the small businesses will not be affected by this decision. Small businesses are what make communities. This decision will hurt small businesses' revenue. One side street parking only should help the street parking, and maybe parking meters could be installed.

**Pete Dalina, 1201 Bay Palm Boulevard**, stated there are parking clusters on many streets where cars have to pull over to the side and wait for vehicles to pass, and bicyclists have to be very careful not to get hit. The streets need to be safer and more comfortable for emergency vehicles.

**Joanne Inguaggiato, 340-12th Avenue**, stated she would like to see this ordinance tabled. She does not believe any of these proposals are answers to the parking problems.

**Ann Todia, 919 Harbour House Drive**, thanked and supported the City Commission and the City Manager's team for their time and energy spent researching, visiting with and listening to citizens, and developing these proposed ordinances.

Ms. Todia stated over the past 15 years, the City has lost control over its street parking without having any street parking ordinance. Larger and larger numbers of non-residents, vacationers, and beachgoers come to Indian Rocks Beach parking anywhere they can find a spot or an imagined spot. This haphazard approach increases accidents, mishaps, property damage, trash, and lawlessness. It puts joggers, walkers, and bikers at a greater risk. The City provides many specific designated parking areas. She asked the City Commission to put some balance back, so residents can enjoy the City again without fighting for space to walk, run, bike, or even park.

**Dana McCutchan, 201-7th Avenue,** stated it is tough to ask for no parking. They have parties and family members who park on the street all the time. No parking signs on the side streets would change their lifestyle and others, and they disagree with it.

**John Ashby, 513 Hidden Harbour Drive,** stated he appreciates the amount of due diligence and the tremendous amount of work that the City Commission and City staff has put into this proposed ordinance. From his perspective, there is validity and value to a permit parking solution for three reasons: (1) It supports safety. (2) It supports the small-town feeling and preserves and maintains that feeling. (3) Accessibility of emergency vehicles at any unknown point and time.

**Phil Wrobel, 112-13th Avenue,** stated there have been many great comments, and he agrees with some of the pros and cons. Twelfth, 13th, and 14th Avenues are speedways and stated the City just needs to enforce its current rules and regulations.

Mr. Wrobel stated he is one that pushed for parking on one side of the street only. He recalls during the work session held in the evening that the majority of the residents wanted one side of the street parking. He thinks this could work with enforcement. It would help on the speed, but it comes down to enforcement.

Mr. Wrobel stated the local businesses in his area, 13th, 14th, and 15th Avenues, need parking on the street to survive, and the City knows that no businesses in that area have a large parking lot.

**Bill Sheridan, 470 Harbor Drive North, (chat room),** "Enforcement and certain rules can help residents that experience issues. The ordinance would attempt to legislate who can visit my home."

**Chin Mah, 1206 Gulf Boulevard, (chat room),** "I agree that we need to look at limiting parking from people going to the beach. As it is, the City already provides a lot of parking at the beach accesses as well as the City parking lot."

**Myra Treutel, 2504 Gulf Boulevard, #503, (chat room),** "Please table this. I live in a 40-unit condo with 9 guest parking spots. At times our guests have no place to park."

**Karen (LNU), (chat room),** "I also live on 12th Street, the big vehicles are the contractors who are building the homes at the end. And I disagree that residents are parking in the street to keep the driveways clear. I walk it daily and watch as more become rentals and are typically contractors."

**Katherine Keeney, 2206 Beach Trail, (chat room),** "Dear City Commission, please do not ban overnight beach access parking. The parking use is very low from 11:00 p.m. to

6:00 a.m., little maintenance is required during that time, and the residents located in this area have no street parking."

**Paula Shiminske, 109-11th Avenue, (chat room),** "If we can just enforce the no parking signs , we are still having issues with people parking on both side of the streets."

**Scott Holmes, (chat room),** "Has the City considered commandeering the right of ways? This could be used to widen the road and/or add parking . . . even paid parking. There is about 10 feet on each side of almost every street in IRB that is owned by the City."

**Karen (LNU), (chat room),** "One-sided street parking and/or speed humps would be great. We're out there at 6:45 a.m., and the contractors are moving us over to get to the site by 7:00 a.m."

**David Ardman, IRB Fire Commissioner, (chat room),** "Thanks for all your statements, Commissioner McCall. You're right . . . we were all once beach-goers to IRB at one point."

**Karen (LNU), (chat room),** "Commissioner Flagg consider the visual pollution of signs everywhere in our tiny town. Clearly, it's not a one-size-fits all problem."

**Jim's iPad, (chat room),** "Let's get the facts on ticketing and safety issues."

**Stewart DeVore, (chat room),** "What about folks who have taken ownership as a second home? Do they get permits as well?"

**Patty Zagami, (chat room),** "Please enforce existing parking restrictions and see if that solves the problem."

Mayor-Commissioner Kennedy closed the public comment session.

City Manager Mims addressed the following questions asked under public comments:

- Decals will be issued biannually.
- Enforcement has been enhanced by hiring a part-time Code Enforcement Officer, the full-time Code Enforcement Officer, and the Pinellas County Sheriff's Deputies by citing more vehicles for parking violations.
- Received an email from the Fire Chief with some requests that will be addressed and considered after the City Commission decided what direction they were going in. The Fire Chief is concerned explicitly with on-street parking at the end of cul-de-sacs, where fire trucks may have trouble making that radius turn.
- Existing No Parking Signs. Staff will review the existing signs and determine which signs should stay.

City Manager Mims stated once the City Commission had their discussion and heard public input, the City Commission has three options:

- (1) Decide up front if the City Commission wants to go forward with the ordinance.
- (2) If the City Commission does not want to go forward with the ordinance, make a motion not to go forward with it. or
- (3) Go forward with it with the way it is written or make amendments to it.

Commissioner McCall stated he had a meeting with Fire Chief Burton, who advised him that there are three tight turn radiuses for emergency vehicles; however, there had been no incidences. He also reviewed the past 12 months of the Fire Department reports, and he did not see any indication where the Fire Department had an issue with those tight turns.

Commissioner McCall stated the health and safety of this community are paramount. He stated the City Manager mentioned that 230 no parking signs were erected, and stated the City Manager did state that there are three tight turns for emergency vehicles that could potentially be dangerous.

Commissioner McCall stated the Pinellas County Sheriff's Office has done a fantastic job in enforcing the parking rules and regulations and asked the City Commission to expand the enforcement area ten-fold.

Commissioner McCall stated he owned a little deli in Indian Rocks Beach and stated his revenues were three-fold on the weekends from locals, beachgoers, and tourists. So, when people said beachgoers do not spend money at the restaurants and shops, that was not a true statement.

Commissioner McCall stated anyone who lives in Indian Rocks Beach is blessed. Everyone was a beachgoer of Indian Rocks Beach at some point in time.

Commissioner Flagg clarified that any resident with a parking decal could park at any legal parking spaces, including resident-only parking spaces. There are no restrictions for residents unless the resident does not have a decal.

Commissioner Flagg stated before COVID-19, the City's traffic and street parking congestion were very much out of control. Since 2014 the City has been proactively erecting no parking signs. Still, when the City was in season and the no parking signs were up, it did not discourage beachgoers from cruising the City streets looking for parking spaces, leaving trash behind, damaging residents' private property, and blocking mailboxes and driveways. This is a reality for most residents east of Gulf Boulevard. She knows that the Harbor Drives are not nearly as affected as the other streets closer to Gulf Boulevard.

Commissioner Flagg stated the quality of life is affected by on-street beach parking, and from a health and safety standpoint, it is essential to look over those different things. As stated, this is not a one-size-fits-all solution, but how does the City handle the onslaught of the congested streets.

Commissioner Flagg stated this year, the City cannot compare what the parking is like. But the City does provide public parking and welcomes daily visitors. The City has beach accesses and public parking, and the Business Downtown District, which is not included in the decal program.

Commissioner Flagg stated she does not know if there will be a perfect plan, but she thinks that the City should look into some options for the residents struggling with the beachgoers parking. She stated residents have advised that the beachgoers are parking further down the streets as the no parking signs are installed.

Commissioner Flagg stated she feels that there are hazardous traffic conditions on the streets and is concerned with the emergency vehicles being able to pass through the City streets to get to the Harbor Drives. It is a Citywide problem.

Commissioner Hoofnagle stated that the City has lawlessness regarding the rules around parking due to the fines being too low. It is cheaper to get a parking ticket here than to pay for parking in Clearwater, which is why he supports raising the parking fines to \$75.

Commissioner Hoofnagle stated he did not think this ordinance should include the Harbor Drive fingers. It would be a great experience to exclude them because if they were taken out and fill up with beach parking, the City knows the answer to the question, and if that is the case, the Harbor Drive fingers could be included.

Commissioner Hoofnagle stated he supports leaving many of the existing no parking signs because they are not only for beach traffic but are also for the City's general flow.

Commissioner Hoofnagle stated tabling this item is the easiest thing that the City Commission could do, but the City Commission does not get paid to table items.

Vice Mayor-Commissioner Hanna stated he has heard that beachgoers come to Indian Rocks Beach for its free beach parking. He stated he had been an advocate of charging for beach parking for a long time and stated this could be another revenue source for the City and reduce traffic congestion.

Vice Mayor-Commissioner Hanna stated if there is a charge for beach parking, what will happen to the local businesses that rely on tourists and beachgoers.

Vice Mayor-Commissioner Hanna stated he feels that the no parking signs have been working.

Vice Mayor-Commissioner Hanna suggested doing a comprehensive study on specific areas to place the no parking signs before the ordinance was adopted.

Mayor-Commissioner Kennedy stated what is interesting to her is whether a resident wanted parking on their street or a resident wanted more restrictions or not, everyone still believes in the small-town atmosphere. Everyone always wanted to make sure that the City was safe, and everyone wanted to reach out to all of the Indian Rocks Beach residents. So, how does the City come to the middle? She does not want to see something that is more polarized on each side. She wants to see something that is for the greater good of everyone.

Mayor-Commissioner Kennedy stated there had been a change in traffic in the last five years, and it is her opinion that COVID-19 polarized it.

Mayor-Commissioner Kennedy inquired if the City Commission was interested in removing the Harbor Drive fingers. She stated she spoke with both the City Attorney and the City Manager, who advised that the City Commission find something that worked for the entire community.

The City Commission inquired why of the City Manager.

City Manager Mims stated this is a small beach town, and having two different sets of rules could become confusing for the residents and beachgoers. In 2014, Option A staff put in place regulating areas immediately off of Gulf Boulevard with no parking signs, and it has been working. He asked the City Commission if this is what they are trying to do.

City Manager Mims stated the City Commission could adopt whatever they wish to do. Still, he is obligated to advise the City Commission of the administrative side and the challenges and confusion of where zones begin and end.

City Attorney Mora stated his consistent advice has been not to devise a solution in search of a problem. He has encountered this in other communities, especially related to parking, where the city commission starts discussing a global solution to a problem that seems to be endemic to a few blocks. His concern had nothing to do with tonight's input, and his conversation with the Mayor-Commissioner was several weeks ago. His advice was if she is trying to find a unified solution. She sees herself having to morphed every few blocks, then perhaps the answer is not a legislative one, but an administrative one in the form of signs or otherwise.

City Manager Mims stated staff and the City Commission know what all the issues are. The staff has prepared a draft ordinance for consideration by the City Commission. He stated there are no more studies to be done.

**MOTION MADE BY VICE MAYOR-COMMISSIONER HANNA, SECONDED BY COMMISSIONER FLAGG, TO CONTINUE THE MEETING AFTER 9:30 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.**

Commissioner Hoofnagle stated he would like to amend the designation of the parking by permit only zone from "North of 5th Avenue, East of Gulf Boulevard, and South of 28th 27th Avenue," excluding the Harbor Drive fingers.

Mayor-Commissioner Kennedy stated what has been put into place has been working, and staff will continue to monitor and continue to erect no parking signs where necessary. She stated the City needs to work with the Fire District to place no parking signs on the tight turn radiuses on the cul-de-sacs.

**MOTION MADE BY COMMISSIONER MCCALL, SECONDED BY VICE MAYOR-COMMISSIONER HANNA, TO DENY ORDINANCE NO. 2020-07, ON FIRST READING, AMENDING CHAPTER 62 – "TRAFFIC AND VEHICLES," ARTICLE II – "STOPPING, STANDING AND PARKING," SECTION 62-39 OF THE CODE OF ORDINANCES BY ADDING THE FOLLOWING PROVISION: [SECTION] OF THE CODE OF ORDINANCES OF THE CITY OF INDIAN ROCKS BEACH BY ADDING SECTION 62-39, TO PROVIDE FOR CONTROLLED PARKING IN RESIDENTIAL AREAS, TO AUTHORIZE PARKING BY PERMIT ONLY IN DESIGNATED RESIDENTIAL AREAS WITH PENALTIES AND LIMITED EXCEPTIONS, TO PROVIDE FOR THE ISSUANCE, RENEWAL AND POTENTIAL REVOCATION OF PARKING DECALS FOR PERMIT PARKING; PROVIDING FOR SEVERABILITY, RESOLUTION OF CONFLICTS AND AN EFFECTIVE DATE.**

Commissioner McCall stated that as many residents have pointed out, the City has been doing a fantastic job installing the no parking signs. He does not feel this is the time to place more burdens on the local businesses and community.

Commissioner McCall stated he would like to see what City staff can accomplish. The City Commission can always address parking-related issues in the future if it continues to get out of hand.

Commissioner McCall stated if this ordinance does go forward, he would like for Bahia Vista Drive to be removed from the ordinance.

Vice Mayor-Commissioner Hanna stated that there is no one cure to fix this whole problem. He believes in letting City staff try to resolve the parking issue immediately east of Gulf Boulevard and not try to have one-size-fits-all. The City Commission can always bring this ordinance back for consideration.

Vice Mayor-Commissioner Hanna stated the easiest thing to do is to continue with the no parking signs, evaluate the outcome, and if the signs do not work, bring back the ordinance for consideration.

Commissioner Flagg stated she was hoping the City Commission could work on the proposed ordinance and maybe relieve some of the parking problems that many residents are having. The City Commission hears about parking complaints year-after-year and stated the new signage is helping, but that is only on one side of the east side of Gulf Boulevard. She recognizes that some of the streets do not have problems. If the answer is to put no parking on the whole east side of Gulf Boulevard from 5th Avenue to 28th Avenue, then perhaps next year the finger streets will come back and ask to have decal parking on their roads because it is just a matter of someone finding free beach parking.

Commissioner Flagg stated there are also problems on the west side of Gulf Boulevard. Residents complain about the excess congestion and trash on the beach and the irresponsible behavior of the City's environmental conditions on the beach.

**ROLL CALL VOTE:**

**AYES: HANNA, MCCALL, KENNEDY**

**NAYS: FLAGG, HOOFNAGLE**

Mayor-Commissioner Kennedy suggested revisiting the parking issue in six to nine months.

**MOTION TO "DENY" CARRIED BY A VOTE OF 3 TO 2.**

*[The City Commission took a 5 minute recess.]*

**7B. ORDINANCE NO. 2020-08 — FIRST READING.**

**An Ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 62 – Traffic and Vehicles, Article II – Stopping, Standing and Parking; increasing the fee for parking violations; restricting the hours of parking on the City's beach accesses, amending the requirements for securing a resident parking permit decal; repealing the provision for temporary guest parking permits; amending the fee for replacing a city-issued parking permit; providing for severability and an effective date.**

*[Beginning of Staffing Report]*

**EXECUTIVE SUMMARY:**



Following the City Commission's previous work session on the matter, this ordinance was drafted as a proposed means for addressing parking violations, with added restrictions relating to the beach accesses.

Specifically, this proposed ordinance increases the fine for parking violations from \$40 to \$75. The proposed ordinance eliminates the use of "temporary guest parking permits." Also, while those with a valid resident parking permit may park in "resident-only" spots at the beach accesses, all persons are barred from parking on the beach accesses between 11:00 p.m. and 6:00 a.m. unless issued a temporary parking permit.

## **BACKGROUND INFORMATION:**

In recent years, most especially in the early months of the global health pandemic and consequent quarantining restrictions, the City has observed intensified attendance to its parks and beaches. Paired with the City's finite amount of public parking spaces at or near its beach accesses, this increase in vehicular traffic has led to increased parking violations. If adopted, this ordinance would codify a proposed increase to the fine for parking violations, would eliminate a category of temporary permits, and clarify the restrictions concerning the use of resident spots at beach accesses.

City Attorney Mora stated before he begins he would like to note for the record that the City Commission was provided with a revised version of Ordinance NO. 2020-08. He will be reading the title as to the revised version handed out in hard copy following the failure of the previous ordinance.

City Attorney Mora read Ordinance No. 2020-08 by title only. *"Ordinance No. 2020-08. An Ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 62 – Traffic and Vehicles, Article II – Stopping, Standing and Parking; increasing the fee for parking violations; restricting the hours of parking on the City's beach accesses, amending the requirements for securing a resident parking permit decal; specifying permissible uses of a resident decal, repealing the provision for temporary guest parking permits; amending the fee for replacing a city-issued parking permit; providing for severability and an effective date."*

City Attorney Mora stated the reason for the revised ordinance is the previous ordinance included administrative language concerning the elements for applying for a parking decal, the proof necessary for that, and also the process for that application. He stated with the failure of Ordinance No. 2020-07, he wanted to make sure that the administrative language was set forth in revised Ordinance No. 2020-08.

City Attorney Mora stated Ordinance No. 2020-08 increases the parking violation fines.

Commissioner Hoofnagle stated just as a point of order, he would move that the City Commission has time to read revised Ordinance No. 2020-08. He has not had a chance to read it, and he is not comfortable being asked to make a decision without a chance of reviewing it. He would move to discuss this item at the next meeting.

City Attorney Mora stated he understands and respects that, but he wants to make it clear for the record. Ordinance No. 2020-08 is exactly in its prior form, except for the two sections that were in Ordinance No. 2020-07 titled: “*Entitlement to Non-Transferable ‘Parking by Permit Only’ Decals*” and “*Application for Parking Permits*”. Those two sections were copied and pasted from Ordinance No. 2020-07.

***MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY VICE MAYOR-COMMISSIONER HANNA, TO TABLE ORDINANCE NO. 2020-08, ON FIRST READING, TO THE DECEMBER 8, 2020 CITY COMMISSION MEETING, AMENDING CHAPTER 62 – TRAFFIC AND VEHICLES, ARTICLE II – STOPPING, STANDING AND PARKING; INCREASING THE FEE FOR PARKING VIOLATIONS; RESTRICTING THE HOURS OF PARKING ON THE CITY’S BEACH ACCESSES, AMENDING THE REQUIREMENTS FOR SECURING A RESIDENT PARKING PERMIT DECAL; REPEALING THE PROVISION FOR TEMPORARY GUEST PARKING PERMITS; AMENDING THE FEE FOR REPLACING A CITY-ISSUED PARKING PERMIT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.***

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

***MOTION CARRIED UNANIMOUSLY.***

City Manager Mims stated beach parking decals expire at the end of December. The City will honor the decals until the end of January.

City Manager Mims stated Ordinance No. 2020-08 does the following:

- Increases parking fines from \$40.00 to \$75.00.
- Simplifies 15<sup>th</sup> Avenue Boat Ramp violation fines from \$25 per axle to \$75.00.
- Establishes an application for parking permits. In order to receive a parking decal, the resident must show two or more of the following: (1) State of Florida driver’s license identifying the driver’s address within the City for which the permit is sought, (2) a valid automobile registration reflecting the address within the City for which the permit is sought, (3) the applicant or a member of the immediate family being listed on the current real property tax rolls at the address with the City for which the permit is sought, or (4) a copy of one utility bill, bearing the address within the City for which the permit is sought.
- A lessee, with a lease term of at least one year, is entitled to the issuance of a parking decal.

City Manager Mims stated the decals should be issued to “truly full-time residents” of Indian Rocks Beach. He thereafter provided examples of how the decals are being abused by renters, nonresidents, and so forth.

- Deletion of the following paragraph because it is so vaguely written: *“~~The City Manager may, upon request, issue temporary guest parking permits to motels/motor lodges, businesses or residences on the condition that business tax receipts, if applicable, are paid. No fee shall be charged for this permit. These temporary guest permits may be used in the spaces designated for residents only. The parking permits used must be visible from the rear of the vehicle.~~”*
- The following language was added to temporary parking permits. *“Temporary parking permits are available for all situations, requiring parking between the hours of 11:00 p.m. and 6:00 a.m., at or near the City’s beach accesses. A Fee of \$5.00 per night for each parking permit will be required, The fee shall be \$3.00 per night for each parking permit and the permit shall not exceed a three-day maximum. Temporary parking permits may not be used in spaces designed for residents only. All parking permits must be visible from the rear of the vehicle.”*

City Manager Mims stated this paragraph should be amended to read clearer because in some cases the vehicles do not move for a while.

City Manager Mims explained that residents go and park their vehicles at the beach accesses for a week up to a month, and there is nothing keeping them from parking on the beach accesses. He stated approximately seven beach accesses were built with grant money, and they were built to provide access to the beach, and the rest of the beach accesses through the years were built with City money.

- The ordinance further restricts or clarifies who can park at the beach accesses and how they can do it.

#### **7C. ORDINANCE NO. 2020-09 — FIRST READING.**

**An Ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 74 – Waterways, creating Article IV, to be entitled ‘Leave No Trace’, creating Section 74-100 – Purpose and Title; creating Section 74-101 – Definitions; creating Section 74-102 – Digging holes on beach; creating Section 74-103 – Obstructions on the beach and beach access areas prohibited; creating Section 74-104 - Exceptions; creating Section 74-105 – Permits; creating Section 74-106 – Fires prohibited; repealing Chapter 26 – Environment, Article V - Junked, Wrecked or Abandoned Property, Division 1 – Generally, Section 26-131 – Confiscation of abandoned property; repealing Chapter 74 – Waterways, Article III – Beaches, Division 1 – Generally, Section 74-65 Tents,**

**canopies, and volleyball nets; creating a leave no trace ordinance prohibiting the leaving or abandonment of personal property on the city's beaches; prohibiting unfilled holes on the city's beaches; prohibiting the obstruction of the beach and beach access; providing for exceptions; providing for a permitting process; prohibiting fires on the beach; providing for legislative findings; and providing for an effective date thereof.**

*[Beginning of Staffing Report]*

## **EXECUTIVE SUMMARY:**

Following the City Commission's previous work session on the matter, this ordinance was drafted to prevent the City's residents and visitors from leaving their tangible personal property on the beach overnight.

## **BACKGROUND INFORMATION:**

The City's ordinances currently prevent individuals from leaving items such as tents, canopies and volleyball nets on the beach overnight. With limited exceptions, this ordinance expands the scope to all tangible personal property left on the beach for any amount of time between 10:00 p.m. and 6:00 a.m., daily. This proposed amendment also enhances a handful of other safety measures, such as explicitly prohibiting fires and requiring people to fill any unattended holes that they dig on the beach.

City Attorney Mora read Ordinance No. 2020-09 by title only.

City Manager Mims presented Ordinance No. 2020-09 and stated the current ordinance only references three different items that cannot be left on the beach, volleyball nets, tents, and canopies. The proposed ordinance states anything that a person brings to the beach, they need to leave with it. If they do not, this ordinance provides authority to the City to remove the items left behind.

City Manager Mims stated he had seen more permanent beach chairs located on the south end of the beach in the dry sand, particularly in front of the cottages.

City Manager Mims stated with all the items being left on the beach, it impacts the City's ability to pick up garbage cans and rake the beach. It also has a significant impact during turtle nesting season.

City Manager Mims stated there is a State Law if a city picks something up off the beach, it has to be retained by the city for 90 days, and then the city can get rid of it. The majority of the items that are taken off the beach are the \$99.00 canopy tents and other low dollar items, and no one comes to claim them.

City Manager Mims stated the proposed ordinance is modeled after the Town of Indian Shores, which was adopted last year.

Commissioner Hoofnagle referred to Section 74-103, Obstruction on the beach and beach access areas prohibited, Subsection (d), "From 10:00 p.m. until 6:00 a.m. daily on the beach, items of personal property that are relocated as close to, but not on, the toe of the dune or native vegetation, or where there are no dunes or native vegetation, are relocated as close as practicable to an existing permanent structure or the line of buildings, will not be considered discarded by the owner, abandoned or a violation of this article, provided:"

Commissioner Hoofnagle stated he is concerned that this language might encourage people to think that they can just fold their stuff up and put it right before the dune and leave it there overnight.

City Manager Mims offered for the City Commission's consideration, the following language: "The dry sand area of the beach is defined as the zone of unconsolidated material that extends landward from the mean high-water line to the place where there is marked change in material or physiographic form, or to the line permanent vegetation, usually the effective limit of storm waves, whichever is more seaward."

Commissioner McCall referred to the stricken Section 74-65, Tents, canopies, and volleyball nets, Subsection 6(d), "This section shall not effect or in any way restrict the riparian rights or property owners," and recommended that this language be added to the proposed ordinance.

Mayor-Commissioner Kennedy opened the public comment session for this agenda item.

**Kelly Cisarik, 448 Harbor Drive South, (chat room),** "Requirement for filling holes on the beach. . .is sorta silly. The next high tide fills in the holes. Also, you'd have to cite the sea turtles for nest building."

**John Pfanstiehl, 448 Harbor Drive South,** stated he supports the purpose of "leave no trace." He goes running on the beach, and every time he goes running, he stops multiple times to pick up trash. He very much likes what the City is trying to do with this, and everything sounds good. He would suggest that the City be bolder by banning disposable food and drink containers and going one step further by banning plastic toys for the kids.

**R.B. Johnson, 1206 Beach Trail,** stated Section 74.103(d) is a little ambiguous about whether or not people could store their items up against the toe of the dune. It sounds like the customary use definition would prevent people from essentially doing what would probably cover that territory. Most dunes now go anywhere from 80 to 100 feet out from the seawall, and most beachfront private property is at the most 40 feet from the seawall because the erosion control line demarcates the difference between the private property

and the State-owned beach is more or less in the middle of the dunes. It is nowhere near the outer edge of the dunes.

Mr. Johnson stated beachfront property owners do store their chairs, canoes, kayaks, and other items next to their seawalls, which is on their property. The biggest problem the City is trying to deal with is on the dry sand between the dunes and the water, where people leave piles of chairs or canopies.

Mayor-Commissioner Kennedy closed the public comment session.

**MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER FLAGG, TO APPROVE ORDINANCE NO. 2020-09, ON FIRST READING, AMENDING CHAPTER 74 – WATERWAYS, CREATING ARTICLE IV, TO BE ENTITLED ‘LEAVE NO TRACE’, CREATING SECTION 74-100 – PURPOSE AND TITLE; CREATING SECTION 74-101 – DEFINITIONS; CREATING SECTION 74-102 – DIGGING HOLES ON BEACH; CREATING SECTION 74-103 – OBSTRUCTIONS ON THE BEACH AND BEACH ACCESS AREAS PROHIBITED; CREATING SECTION 74-104 - EXCEPTIONS; CREATING SECTION 74-105 – PERMITS; CREATING SECTION 74-106 – FIRES PROHIBITED; REPEALING CHAPTER 26 – ENVIRONMENT, ARTICLE V - JUNKED, WRECKED OR ABANDONED PROPERTY, DIVISION 1 – GENERALLY, SECTION 26-131 – CONFISCATION OF ABANDONED PROPERTY; REPEALING CHAPTER 74 – WATERWAYS, ARTICLE III – BEACHES, DIVISION 1 – GENERALLY, SECTION 74-65 TENTS, CANOPIES, AND VOLLEYBALL NETS; CREATING A LEAVE NO TRACE ORDINANCE PROHIBITING THE LEAVING OR ABANDONMENT OF PERSONAL PROPERTY ON THE CITY’S BEACHES; PROHIBITING UNFILLED HOLES ON THE CITY’S BEACHES; PROHIBITING THE OBSTRUCTION OF THE BEACH AND BEACH ACCESS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A PERMITTING PROCESS; PROHIBITING FIRES ON THE BEACH; PROVIDING FOR LEGISLATIVE FINDINGS; AND PROVIDING FOR AN EFFECTIVE DATE THEREOF WITH TWO MODIFICATIONS (1) IS TO UPDATE THE DEFINITION IN 74-103(d) AS FOLLOWS: “THE DRY SAND AREA OF THE BEACH IS DEFINED AS THE ZONE OF UNCONSOLIDATED MATERIAL THAT EXTENDS LANDWARD FROM THE MEAN HIGH-WATER LINE TO THE PLACE WHERE THERE IS MARKED CHANGE IN MATERIAL OR PHYSIOGRAPHIC FORM, OR TO THE LINE PERMANENT VEGETATION, USUALLY THE EFFECTIVE LIMIT OF STORM WAVES, WHICHEVER IS MORE SEAWARD,” AND TO ADD SUBSECTION (e) TO SECTION 74-103 “THIS SECTION SHALL NOT EFFECT OR IN ANY WAY RESTRICT THE RIPARIAN RIGHTS OR PROPERTY OWNERS”.**

**ROLL CALL VOTE:**

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

**NAYS: NONE**

**MOTION CARRIED UNANIMOUSLY.**

**7D. ORDINANCE NO. 2020-10 — FIRST READING.**

**An Ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 38 – Parks and Recreation, Article II – Parks, Section 38-31 – Park hours; special events; amending Article III – Skate facility, Section 38-51 – Hours of operation; Amending Article IV – Nature Preserve, Division 1 – Generally, Section 38-100 – General; amending Division 2 – Boardwalk, Section 38-116 – Usage regulations; amending Article V – Keegan Clair Boat Docks, Section 38-140 – Hours of operation; amending the hours of operation of parks throughout the City; reserving repealed sections; providing for legislative findings; correcting scrivener’s errors and providing for an effective date thereof.**

*[Beginning of Staff Report]*

**EXECUTIVE SUMMARY:**

This ordinance amendment is advanced in order to streamline and clarify the operative park hours, and limit park access to protect the City’s residents, visitors, and infrastructure within the City.

**BACKGROUND INFORMATION:**

This ordinance consolidates the specified park hours to a single section. Going forward the parks shall be open as follows:

- Brown Park & Nature Preserve: 7:00 a.m. to dusk
- Boardwalk: 7:00 a.m. to dusk
- Keegan Clair Park: 7:00 a.m. to 9:00 p.m.
- Keegan Clair Boat Docks: 7:00 a.m. to 11:00 p.m.
- Kolb Park: 7:00 a.m. to 9:00 p.m.
- Skate Facility: 10:00 a.m. to 9:00 p.m.

*[End of Staffing Report]*

City Attorney read Ordinance No. 2020-10 by title only.

City Manager Mims introduced the agenda item.

City Manager Mims reviewed the park hours:

- Nature Preserve & Boardwalk. . . . . 7:00 a.m. to dusk

- Keegan Clair Park & Boat Docks . . . . . 7:00 a.m. to 11:00 p.m.
- Brown Park, 12<sup>th</sup> Avenue Park . . . . . 7:00 a.m. to dusk
- Kolb Park . . . . . 7:00 a.m. to 9:00 p.m.
- Skate Facility. . . . . 10:00 a.m. to 9:00 p.m.
- 

Underlined words represents additions to the original text.

***CONSENSUS OF THE CITY COMMISSION TO AMEND ORDINANCE NO. 2020-10, BY ADDING THE HOURS OF 12<sup>TH</sup> AVENUE AS 7:00 A.M. TO DUSK, AND AMENDING THE HOURS OF THE KEEGAN CLAIR PARK TO 7:00 A.M. TO 11:00 P.M., DUE TO THE BOAT DOCKS LOCATED WITHIN THAT PARK.***

City Manager Mims recommended that in Section 38-100, General, Subsection (a), that “Grills for cooking may be used in designated areas” be deleted.

***CONSENSUS OF THE CITY COMMISSION TO AMEND ORDINANCE NO. 2020-10, BY DELETION “GRILLS FOR COOKING MAY BE USED IN DESIGNATED AREAS” FROM SECTION 38-100, SUBSECTION (a).***

There were no public or City Commission comments.

***MOTION MADE BY COMMISSIONER FLAGG, SECONDED BY COMMISSIONER HOOFNAGLE, TO APPROVE ORDINANCE NO. 2020-10, ON FIRST READING, AMENDING CHAPTER 38 – PARKS AND RECREATION, ARTICLE II – PARKS, SECTION 38-31 – PARK HOURS; SPECIAL EVENTS; AMENDING ARTICLE III – SKATE FACILITY, SECTION 38-51 – HOURS OF OPERATION; AMENDING ARTICLE IV – NATURE PRESERVE, DIVISION 1 – GENERALLY, SECTION 38-100 – GENERAL; AMENDING DIVISION 2 – BOARDWALK, SECTION 38-116 – USAGE REGULATIONS; AMENDING ARTICLE V – KEEGAN CLAIR BOAT DOCKS, SECTION 38-140 – HOURS OF OPERATION; AMENDING THE HOURS OF OPERATION OF PARKS THROUGHOUT THE CITY; RESERVING REPEALED SECTIONS; PROVIDING FOR LEGISLATIVE FINDINGS; CORRECTING SCRIVENER’S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE THEREOF BY AMENDED.***

***ROLL CALL VOTE:***

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

***NAYS: NONE***

***MOTION CARRIED UNANIMOUSLY.***

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

**9. OTHER BUSINESS.**



Commissioner Flagg inquired if the City Commission would like to workshop the idea, presented by resident Lee Wilkerson, of placing a 2-hour parking limit at the City parks. She stated that beach-goers are parking at the various parks throughout the City.

City Manager Mims stated he would not recommend that idea, and he does not see this as a regular issue.

## **10. ADJOURNMENT.**

***MOTION MADE BY COMMISSIONER HOOFNAGLE, SECONDED BY COMMISSIONER MCCALL, TO ADJOURN THE MEETING AT 10:41 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.***

January 12, 2020

Date Approved

/DOR

## ATTACHMENT — ZOOM CHAT TEXTS

18:45:21 From Heather McCarty : WRT: Parking. We are not Bellaire, and don't want to be bellaire. We cannot allow a few to dictate for the rest. We live on E Gulf and have no problem with the street parking. The VAST majority of visitors are extremely respectful. The only thing accomplished by this is to punish residents that occasionally need to park on the street for various reasons...

18:52:12 From Heather McCarty : In many places it would ever hamper the smaller restaurants which we all love...

18:55:12 From Stewart DeVore : I agree! If anything, let's let this be tabled until next year. We have enough going on trying to just get through this time. I am all about supporting our local businesses! Hi Randy!

19:48:02 From Indian Rocks Beach : FYI, the non-emergency number for the Pinellas County Sheriff's office is 727-582-6200.

20:02:40 From karen : please speak into the mics!

20:10:34 From Heather McCarty to Indian Rocks Beach(Privately) : We walk the fingers with our dog regularly. the vast majority of people parking on the fingers are residents, not beach visitors.

20:12:20 From Jim's iPad (3) : Jim Sampey, 434 harbor drive north... good point by commission and manager about pandemic anomaly was a significant issue..... spot on!!! Adhere and enforce any existing challenges with current no parking designated areas.... dont penalize and or harm your existing residents from controlling legitimate friends and family visitation..... also explore other commercial parking options for tourists

20:12:47 From karen : agreed, this issue should be tabled until next year

20:13:13 From Teresa Martin : Mike Fowler 102 Marcdale Blvd IRB

20:13:17 From Christine Bergman : I believe that we need to stay an open beach, access should be free to visitors and guests. The current parking limits are sufficient!

20:14:31 From karen : I agree Christine, I think we're making an issue where there isn't one!

20:14:39 From miho to Indian Rocks Beach(Privately) : Servetter- 209 Bahia Vista Blvd. Thanks to all for considering this parking restriction. In front of my home it is always packed each weekend and this was pre-Covid as well. Please do move forward with looking into this. As Ira just said perhaps we need to do this on weekends and holidays.

20:14:43 From miho to Indian Rocks Beach(Privately) : Thanks

20:15:07 From norbt : I agree with Christine.

20:15:29 From Scott Holmes : I agree with Christine

20:15:42 From Christine Bergman : Let's not be Belleair!

20:16:29 From Katie : Great Point, Jim Sampey--do not penalize or harm existing residents. Many of us, due to Covid, have had more family having to stay with us. This family may have a vehicle. I agree parking options for others--non residents and tourists--should instead be considered!

20:17:08 From Teresa Martin : Mike Fowler - 102 Marcdale Blvd IRB As a resident and business owner I can easily see both sides of this decision. Having said that I think we can all agree this is the most unsettling time that most of us have ever been through.

Therefore it would be opinion that we table this difficult decision. We are in slow season so the urgency has settled and the issue can wait until more stable times. Thank you Mike Fowler

20:19:15 From Elizabeth Flynn : Lost video in city hall

20:19:40 From Elizabeth Flynn : Video is back

20:19:57 From Stewart DeVore : If this were to go into effect, would you want to have your guests have to park in your lawns? Agreed with Mike Fowler! 410 20th Ave IRB.

20:22:04 From KC : From Kelly Cisarik Harbor Dr. S. would benefit from a "no parking here to corner sign" on even side from 400 address to Maxwell place. This would allow access for emergency vehicles. Now parking is on both sides and often blocked.

20:23:12 From Kirstin Sturtz : Residents should realize that the premium we get from the outside visitors are great business at our community doorsteps that would not survive without the outsiders sponsorship. If we want to become a business desert like Belaire, letâ€™s move there. Business in IRB are in much more fragile situation than most people realize. This should be shelves for the foreseeable future.

20:29:25 From norbt : Please table this. I live in a 40 unit condo with 9 guest parking spots. At times our guests have no place to park at times. Please do not charge my personal guests and family pay to visit me. Myra Treutel 2504 Gulf Blvd #503

20:32:09 From Bill Sheridan : Bill Sheridan 470 Harbor Drive N, had Zoom hand raised. agree with many points made. as john Thayer said this is about beach parking so solve that problem don't drive a thumb tack with a sledgehammer. enforcement and surgical rules can help residents that experience issues. you are trying to legislate who can visti my home

20:33:40 From Bill Sheridan : apologize, not "you". the ordinance would attempt to legislate who can visit my home

20:38:07 From Mah's iPad : Chin Mah, 1206 Gulf Blvd

20:41:30 From karen : I also live on 12th street, the big vehicles are the contractors who are building the homes at the end. And I disagree that residents are parked in the street to keep the driveway clear. I walk it daily and watch as more become rentals and are typically contractors.

20:43:02 From Mah's iPad : I agree that we need to look at limiting parking for people going to the beach. As it is, the city already provides a lot of parking at the beach accesses as well as the city parking lot. A large number if the people donâ€™t patronize our businesses because I see a lot of them with their coolers etc. Thank you. Chin Mah, 1206 Gulf Blvd.

20:43:28 From Katie : Katherine Keeney--2206 Beach Trail--Regarding: "Permit Parking on the Beach Accesses" Dear City Commission--Please do not ban overnight beach access parking--the parking use is very low from 11 pm-6 am, little maintenance is required during that time, and the residents located in this area have no street parking. The beaches and the businesses are closed and demand is low. This area's residents face the same issue as those on the east side--and yet overnight parking is not being banned

20:43:50 From Paulaâ€™s iPad : Paula Shiminske - 109 11th Ave, if we can just enforce the no parking signs, we are still having issues with people parking on both side of the streets.

20:43:54 From Paula's iPad : the police need to enforce illegal parking and ticket them. this is an ongoing problem on our street. thank you

20:45:48 From norbt : Agree with Katherine

20:48:21 From Scott Holmes : Has the city considered commandeering the right ways? This could be used to widen the road and/or add parking.. even paid parking. There is about 10' on each side of almost every street in IRB that is owned by the city.

20:53:46 From karen : Thanks for your comments John! One sided street parking and or speed humps would be great. We're out there at 6:45 am and the contractors are moving us over to get to the site by 7am.

21:12:52 From David Ardman : Thanks for all of your statements, Joe McCall. You're right - we were all once beach-goers to IRB at one point. Good comments from everyone! A difficult issue that is not one-size-fits-all. I'm confident that Chief Burton and Gregg Mims can address any PSFRD concerns and I hope we can adequately address everyone else's.

21:13:00 From karen : Diane - Kindly consider the visual pollution of signs everywhere in our tiny time. Clearly, it's not a one size fits all problem. Perhaps we should consider a validated study to determine real vs perceived need. Many thanks

a

21:13:08 From Jim's iPad (3) : lets get the facts on ticketing and safety issues....

21:13:11 From Stewart DeVore : What about Folks who have taken ownership as a second home? Do they get permits as well? There are many people here who do not classify their home as primary. For me, this is just not the time to make this decision.

21:13:40 From karen : Thanks for sharing your business and personal experience Joe!

21:13:52 From Heather McCarty : This Commissioner already spoke....she has taken up far too much time

21:16:54 From norbt : Cant hear him

21:17:04 From Maria Heshmati : please speak directly to the Microphone

21:19:10 From karen : Doesn't an impartial study always make sense for the greater good?

21:19:17 From Stewart DeVore : MIDDLE! YES!

21:20:50 From Indian Rocks Beach : Regarding audio issues, I will mention it to staff and ask adjustments be made for the future.

21:21:25 From Maria Heshmati : please speak into mic, can't hear

21:21:37 From karen : PLEASE

21:22:15 From miho to Indian Rocks Beach(Privately) : ask him to get clower to mic

21:22:47 From Marilyn W : I have brought it up in past and it hasn't changed. Some of them just don't ever speak into the mic.

21:23:03 From Patty Zagami : please enforce existing parking restrictions and see if that solves the problem.

21:23:14 From Jim's iPad (3) : harbor drive north, and south can be defined and managed.... we are not manhattan....

21:24:42 From karen : Clearly, it would be more work to roll out a customized solution for our little town. Ultimately, it is the right thing to do which is often the most difficult'

21:25:10 From Jim's iPad (3) : we have defined areas with no parking today, that the

city manager manages.... enforce it!!!!

21:25:20 From Beth McMullen : Administrative or not, it effects the residents and isn't necessary in certain parts of the town.

21:25:47 From Maria Heshmati : and city manager

21:27:41 From Indian Rocks Beach to miho(Privately) : You may want to try increasing your audio output levels and/or possible use a headset/headphones for optimal audio. We are maxed out at this time.

21:27:46 From Jim's iPad (3) : thank you ed.... good comment on eliminating 28th and harbor drive

21:28:04 From Indian Rocks Beach : You may want to try increasing your audio output levels and/or possible use a headset/headphones for optimal audio. We are maxed out at this time. 21:28:23 From karen : Again, a real safety and scientific impact study is a better choice than

21:28:58 From karen : winging it ðŸ˜‰

21:29:37 From J Newton : Thank you, Ed. That is simple and easy to resolve that portion of the objection. .

21:29:54 From Patty Zagami : Joe - you are the voice of reason. Well done.

21:29:56 From Elizabeth Flynn : Agree with Karen... feel there are better options that are more specific to areas that are impacted is a better way â€¦ but there are neighborhoods that have issues

21:31:32 From Patty Zagami : cannot hear

21:31:56 From Maria Heshmati : phil can not hear

21:32:18 From Stewart DeVore : Thanks, Joe McCall!!!

21:32:56 From Maria Heshmati : thank you Diane Flag

21:33:28 From norbt : Thank you Joe McCall

21:34:02 From Stewart DeVore : Everyone wants the same thing... Let's find a better solution. Thanks to all Commissioners!

21:34:20 From Ira Heshmati : well said Diane

21:34:58 From Kirstin Sturtz : As Joe McCall points out the measures are working and more enforcement can go a long way.

21:35:10 From norbt : Thank you Cookie

21:36:27 From Maria Heshmati : Disappointed commissioners

21:36:37 From Jim's iPad (3) : nice job commissioners!!!! good job Phil, Cookie and Joe!!!!

21:36:37 From norbt : Thank you Phil

21:37:06 From Elizabeth Flynn : You may want to mute everyone during the recess

21:37:37 From David Ardman : I don't believe that Phil Hanna's mic is on. Perhaps someone could check during this recess. Thank you.

22:03:17 From Stewart DeVore : What if the property is a secondary home and not a primary and do not rent? Can they get a decal as well?

22:05:19 From KC : Gregg please work with the decal vendor to make sure they use a less aggressive adhesive on the next batch of decals. The 2018 version took the paint off my back bumper upon removal!

22:06:15 From Ryan : Can we increase towing for cars without a decal parked in

decal only spots, I see a lot of that.

22:11:01 From Katie : Katherine Keeney--2206 Beach Trail--Will the newly revised ordinance be available on the website? When?

22:13:31 From KC : from Kelly Cisarik 448 Harbor Dr. South

22:14:27 From Heather McCarty : Closer to the mic please Greg

22:15:56 From KC : Kelly Cisarik Re: requirement for filling holes on the beach-that section is sorta silly. The next high tide fills in the holes. Also-you'd have to site the sea turtles for nest building.

22:27:27 From Ryan : Lmao yea banning kids toys, does that dude even have a kid.

22:37:52 From chfoley1 : Are you reading emails that were sent in? I/m carol Foley at 431 Harbor drive N and sent an email agreeing with other residents here on my street - we have no issues with parking and this would only create a hardship for our family and friends. Thank you, Carol.

22:38:41 From Indian Rocks Beach : I will forward you e-mail to City Management

22:39:13 From Indian Rocks Beach : Correction: Carol, I will forward your concern regarding your e-mail and topic. Thank you.