

**MINUTES — MARCH 28, 2023
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING**

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, MARCH 28, 2023**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 6:00 p.m., followed by the Pledge of Allegiance and a moment of silence.

Seating of the new city commission.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Commissioner Bond, Commissioner Denise Houseberg, Commissioner Joseph D. McCall, Commissioner Lan Vaughan, and City Manager Gregg Mims.

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

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

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

The Pinellas County Sheriff's Office presented a crime analysis report for the month of January 2023.

1B. REPORT OF Pinellas Suncoast Fire & Rescue District. No Report.

1C. PRESENTATION BY Mayor-Commissioner Kennedy on her trip to Wasington, D.C., regarding beach renourishment funding.

Mayor-Commissioner Kennedy stated that she, Pinellas County Commission Chairperson Janet Long, Pinellas County Public Works Director Kelli Levy, and Pinellas County County Intergovernmental Liaison Brian Lowack went to Washington D.C. on March 6th to meet with the White House's Intergovernmental Affairs Director, Julie Chavez Rodriguez, who is also a senior adviser and assistant to President Biden in the West Wing.

Chavez Rodriguez and her team listened for over an hour while Pinellas officials explained the problem. Over half of the property owners along the Sand Key project area have yet to provide easements. Though the county has promised that private property will remain private, some residents have said they fear the easements would make their backyards

into public spaces. (The Sand Key Beach Renourishment Project notably excludes Belleair Shore, notorious for keeping its beach private.)

Officials, including Ms. Levy, were tasked with trying to convince the public that it was necessary, but it was hard to fault some of the objections. Not only had the Corps never required permanent easements before, but some of the easements it now wanted were on or inland of protected dunes, land it could not touch anyway.

The Pinellas group also emphasized the many vital roles beaches play in Pinellas, especially in storms. A storm the size of Hurricane Ian would wreak havoc on Pinellas; a direct hit without the protection of the beaches would be even worse.

The worst of Hurricane Ian missed Tampa Bay. What if it had not? What would happen to all the public and private infrastructure out there if that beach were not there? What would be the losses?"

The losses may already be coming. The Corps allowed a one-time exception to its policy so the 2018 renourishment could go as scheduled, but it has not budged on this cycle. Even if it had a change of heart today, it would be 2025 or 2026 before Sand Key got new sand.

Sand Key has been critically eroded, as the Florida Department of Environmental Protection reported last year. The shoreline of Indian Rocks Beach has also been disappearing; only 29% of the sand pumped in 2018 remains. In North Redington Beach, it is 0%. Seawater has begun infiltrating water pipes there, posing a slower but major threat to the local infrastructure.

The White House officials seemed receptive and quickly followed up to ask for more information. The Pinellas contingent does not know what will happen next, though they expect to hear some news soon.

2. PUBLIC COMMENTS.

Ed Hoofnagle, 2 Fifth Avenue, speaking on behalf of the Beach Arts Center (BAC) Board of Directors, thanked the city commission and the city staff for supporting its fundraising gala. Thanks to the support given to the BAC, they will be able to continue to offer classes and summer camp to the kids, classes for the seniors, and for young families to help explore their creative arts.

Mr. Hoofnagle thanked the two new city commissioners who volunteered their time to run for public office. There are 3,000 IRB registered voters, and 2,856 voters appreciate the job the city commission is doing. The public is very confident that the city commission will do a great job and are happy that it is working tirelessly to help keep the city as wonderful

as it is. Whether traveling to Washington D.C. or working on the ordinances, he stated the city commission is an asset to the community and thanked the city commission for its service.

Diane Daniel, 309-10th Avenue, congratulated the newly elected city commissioners. Review her laundry list of items: (1) An ad-hoc or standing committee of short-term rental stakeholders. The committee could include owners, property managers, residents, service providers, a code officer, etc. (2) Hire a beach manager like the city of St. Pete Beach. They have someone appointed to deal with everything at the beach. (3) The Pinellas County Sheriff's Office patrols and wonders if that is something that the city already utilizes or could, like parking tickets and dogs on the beach. (4) The city of Treasure Island has a non-profit group called "Friends of the Beach," which does a lot of cleanup-type work. They hand out trash bags during Spring Break when people are out in big groups, and they said that is effective. They do similar things to the Greenfest kids. (5) She stated she started Vacation Donations, encouraging reuse, repurposing, recycling, and food donations among short-term rentals. She would love to see a bin where people could leave their chairs, umbrellas, and coolers that can be reused because vacationers do not take these items with them. (6) She would love for the city to recognize June as gay pride month to let children know it is okay to be gay. (7) She briefly reported her food drive at the Reef Club last weekend.

Kelley Cisarik, 448 Harbor Drive South, stated the city should consider hiring a Tallahassee-based lobbyist. So much bad legislation is coming out of Tallahassee this year that it will take years to call it back. Relying on the Florida League of Cities (FLC) is not enough anymore. FLC is spread so thin this year, they are not even opposing the vacation rental bill. The League of Cities and the League of Counties are basically combined. They are at different ends of the same building. But at times, those two have opposing interests. The vacation rental bills would be one example because the counties benefit from SB714 and HB833 because of guaranteed revenue collection in those bills. But the cities do not benefit from those bills. The cities' powers in those bills will largely be lost if the bills are passed.

Ms. Cisarik stated, of course, it is not just about vacation rental bills, it is also about SB170, the local ordinance bill. The city needs a lobbyist. SB 170, the local ordinance bill, deals with local ordinances by adding to the process for local governments passing ordinances and giving certain additional rights to those challenging local ordinances. It requires counties and cities to produce a "business impact estimate" before passing an ordinance, with exceptions, and it creates new legal requirements to challenge an ordinance. This bill would open the city to more lawsuits due to the requirements for adopting an ordinance.

Ms. Cisarik reiterated that during this budget season, she would encourage the city commission budget for a Tallahassee-based lobbyist to represent the city's interests.

John Pfanstiehl, 448 Harbor Drive South, congratulated Commissioner Houseberg on being re-elected and Commissioner Vaughan on being elected to the city commission. He said it is clear from the election results that the residents are clear about their desire for strong regulations on short-term rentals in residential areas. It is good for everybody to keep that in mind because three more city commission seats will be coming up in March 2024. The voters are very clear about what is a good issue. He hopes that Senator DiCeglie has also looked at the election numbers — they are startling. He hopes that Senator DiCeglie has looked at the poll on Next-Door's Facebook Page on whether a voter would vote for him in 2024 based solely on SB 714; 90% of voters stated they would not vote for Senator DiCeglie. Vacation rentals are a big issue. It is not going away.

Mr. Pfanstiehl stated he is sorry to report that the companion bill to SB 714 passed the house (HB 833), and that is even more reason for the city commission to pass a resolution this evening saying that the city of Indian Rocks Beach and the city commission is firmly against and even condemns SB 714. The resolution would clearly show what the city's intent is. He does not know anyone in Tallahassee that could be for this bill. It strips out virtually everything that the city did in 2018.

Mr. Pfanstiehl reiterated that he hopes a member of the city commission would propose a resolution saying that the city of Indian Rocks Beach is strongly against SB 714.

Mr. Pfanstiehl stated Senator DiCeglie lives in Indian Rocks Beach, and it sends a message when his hometown is firmly against this horrible bill that he proposed.

Mr. Pfanstiehl stated the city absolutely needs a lobbyist. Florida League of Cities has lobbyists, but they are neutral (in their own words) on this bill. They are doing nothing about this bill. He stated other cities had hired a lobbyist. They knew this a long time ago. The city needs someone in Tallahassee to represent the city.

Preston Smith, 2308-1st Street, #5, congratulated the newly elected city commissioners — Commissioner Houseberg and Commissioner Vaughan. While running for the city commission, he had a chance to meet all of the city commission members, and he is happy to report that IRB is lucky and fortunate to have the employees they have, and they are all great people.

Mr. Smith said yesterday he finally got to hand count the ballots for the city's municipal election on the 14th. He pressed the Pinellas County Supervisor of Elections Office for weeks, and they did not want to give him a hand count to double-check the computer-generated results of the election.

Mr. Smith stated the Pinellas County Supervisor of Elections would tell and mislead the public by suggesting that the machines are not connected to the internet. But he is here blowing the whistle that computers are online and can be accessed criminally. It means

that computers are vulnerable to hacking. He was employed by the Pinellas County Supervisor of Elections Office for months last year during the primary and mid-term elections, so he had much hands-on experience with the machines. Yesterday, he had to pay a \$68 fee for the hand count, and it took him one hour and 15 minutes to tally the 1,110 ballots. Even though his count matches the official results, he has less faith in the computer tabulators now than when he started those requests because of how vehemently opposed the deputy supervisor elections were to a concerned citizen that wanted to hand count the ballots. The deputy supervisor of elections feels that the public should trust the secret ES&S computer source code and the public Verizon network to transmit the results. But after catching them selling the data and keeping the voter rolls so dirty, the public should not be trusting.

Mr. Smith thanked everyone who voted for him. He said it was inspiring.

3A. REPORTS OF the City Attorney:

City Attorney Mora thanked former Commissioner Hanna for his years of partnership and service to this community and congratulated Commissioner Houseberg and Commissioner Vaughan on their elections.

City Attorney Mora stated he circulated an ongoing draft of the vacation rental ordinance to the city commission and the interested shareholders in the process. The city manager will meet with the Pinellas County Sheriff's Office to discuss the vacation rental ordinance.

City Attorney Mora provided a summary review of the following legislative bills:

- *SB 714, Vacation Rentals.* The bill passed its first committee on a 5 to 2 vote on party lines. That bill is now in its next committee. It has not yet been scheduled, and there is no indication for this week or next. As it gets into the first week of April, the session is halfway over.
- *SB 798, Solid Waste Operations.* This bill would prohibit local governments from preventing private providers of solid waste services or setting/applying their rate structure to those private providers.
- *SB 170, Local Ordinances.* This bill would require a governing body of a municipality to prepare or cause to be prepared a business impact estimate before the enactment of a proposed ordinance. It also authorizes courts to assess and award reasonable attorney fees and costs, and damages in certain civil actions filed against local governments. The bill requires a municipality to suspend enforcement of an ordinance that is the subject of a certain legal action if certain conditions are met; provides certain procedures for continued meetings on proposed ordinances for municipalities, etc.

City Attorney Mora stated he continues to work on the vacation rental ordinance with city staff and is tentatively scheduled for the first reading on April 11, 2023.

Commissioner Vaughan stated, in light of the resolution mentioned during public comments regarding vacation rentals, that he believes the state government has put residents on the attack as a municipality. He asked the city attorney to write a letter to the Florida Legislature on behalf of the city.

City Attorney Mora stated that he would need a consensus of the city commission to write a letter communicating its policy position. Historically, this has been done in the past.

Commissioner Houseberg stated she would favor writing a letter about SB 714 and saying how displeased the city is. The city aims to restore peace and harmony in the residential neighborhoods. She stated the city needs to do something local and in Tallahassee to restore peace and harmony in the residential neighborhoods.

Commissioner Houseberg stated the city needs to let the state know that the city of Indian Rocks Beach is very serious about what is happening in Tallahassee concerning vacation rentals and then get other Pinellas County cities to jump on board with IRB.

Commissioner Vaughan stated he had written his fair share of letters to the state legislatures and would also ask the IRB citizens to do that.

Mayor-Commissioner Kennedy asked if there was a consensus to have a letter written concerning SB 714.

Commissioner Bond asked concerning what.

Mayor-Commissioner Kennedy stated the letter should say that the city is against SB 714 and wants peace and harmony back in the residential neighborhoods. The city feels that this bill will harm the city even more than it is already being harmed.

Commissioner Vaughan stated he would begin on SB 714 because the bill limits municipalities to a \$50 registration fee, which is unsustainable for the cities to do any investigations. It basically limits and handcuffs municipalities.

Commissioner Vaughan stated he would also include the companion House Bill 833 in the letter.

THE CONSENSUS OF THE CITY COMMISSION FOR THE CITY ATTORNEY TO WRITE A LETTER TO THE GOVERNOR AND THE PINELLAS COUNTY LEGISLATIVE DELEGATION EXPRESSING ITS OPPOSITION TO STATUTORY PREEMPTION OF

SHORT-TERM VACATION RENTAL REGULATION IN THE CURRENT LEGISLATIVE SESSION, SB 714 AND HB 833.

City Attorney Mora stated one set of correspondence that the city commission and the city staff had received representation or suggestions concerning the pending ordinance doctrine. The brief response to that suggestion is the pending ordinance doctrine is an obscure doctrine that does exist. What it concerns, however, is when zoning regulations are adopted as they relate to permitted or prohibited uses in a particular zoning district. Thus far, the development and potential implementation of a regulatory framework has been discussed. The city is not adopting any zoning ordinances as they relate to short-term rentals, and again that is because the city cannot regulate this through zoning. The city is adopting a regulatory framework with the scope of application within particular zones, but it is not creating or prohibiting any particular property uses. It is only managing the existing permitted uses. Therefore, the city cannot impose the preliminary application of an ordinance not yet adopted when it concerns regulatory framework as opposed to a zoning ordinance. Even then, there are specifications on how that works. When he says it is obscure, he means it is not commonly implemented. It is a synonym for moratoria — used when cities change a regulatory landscape for zoning.

3B. REPORT OF the City Manager:

City Manager Mims provided his city manager's report as follows:

- *SOLID WASTE*: Congratulated Derrick Laskett on his promotion to Solid Waste Supervisor. The city lost a long-term supervisory employee to the city of Tampa for double the pay.
- SB 798, Solid Waste Operations, is potentially destructive to the city's solid waste operations. Fifty percent of the city's revenue from solid waste is from commercial accounts, including condominiums. It does not include residential accounts.
- *MARCH ELECTION*: Congratulated Commissioner Houseberg on her re-election and to Commissioner Vaughan on his election. He looks forward to continuing to work together to move the city forward.
- *SCULPTURES*: On March 1st, the city unveiled its fifth sculpture — dolphins. The IRB Homeowners Association donated the sculpture. The sculpture is at the Pinellas County Beach Access Park.
- *RFPs for Special Magistrate and City Website* have been received, and both should be on the April City Commission Agenda for recommendations for consideration. He thanked Commissioner Houseberg for her continued involvement in the website project.
- *Code Enforcement Report — February*:
 - 83 Parking citations issued (does not include PCSO).
 - 12 Courtesy letters.
 - 1 Blowing leaves into the road

- 1 Hedges blocking visibility.
- 2 Vacant lot clean up.
- 1 An alleged overnight in a camper.
- 7 No house numbers on a structure.
- 19 Violation Letters
 - 1 Debris left in the street.
 - 7 Trash/recycling cart violations.
 - 3 Unlicensed STRs.
 - 1 Dump trailer in the road.
 - 6 FEMA building violations.
 - BTR sign violation.
- 7 Notices to Appear
 - 3 Trash/recycling cart violations.
 - 2 STRs operating with no license.
 - Vacate gas station issue
 - Un-operable vessel in yard
- New STR Inspections
 - 8 Passed
 - 2 Failed
- *Code Enforcement Letters.* Six code enforcement letters were sent to six vacation rental properties that the city believes violate the city code and FEMA requirements. An attorney for two of them is working with staff to resolve their issues and has been given an additional 30 days. The other four have not responded. They will be given a notice to appear within the next week or so. City staff has been provided documentation for 15 additional properties that allegedly have the same type of violations. City staff has not been to those properties yet. City staff will not inspect the interior of those properties until the new ordinance is adopted. After adopting the new ordinance, a comprehensive inspection of all vacation rentals will be done. An inspector must have firsthand knowledge of a violation, but internet records and photos can supplement the record for enforcement and court proceedings.
- *Host Compliance Company.* Paused negotiations with a prospective company until the city adopts the vacation rental ordinance. The cost will be based on the area defined in the final ordinance.
- *Auditorium Speaker Timer System.* A speaker timer system will be working and available at the next city commission meeting.
- *Meeting with the Pinellas County Sheriff's Office.* He stated that he and the mayor-commissioner would be meeting with the sheriff to talk about law enforcement and the enforcement of the vacation rental ordinance. He reiterated that there are limits to what a code enforcement officer can do legally.
- *SB 714, Vacation rentals.* Senator DiCeglie, an IRB resident, sponsored this bill. He has been actively working with FLC lobbyist Taggart, who has had four meetings with Senator DiCeglie. She has made some headway with him on changing some of the items he had in the bill.

Mayor-Commissioner Kennedy stated that she also spoke to FLC Lobbyist Taggart and reiterated what the city manager expressed to her concerning Senator DiCeglie's bill — the registration fee on how it would put a stress on the city and that the city needed the fee to be whatever this city commission decides it needs to be. The city actively participates with the FLC on the vacation rental issue, and the city has a good relationship with the FLC.

3C. REPORTS OF the City Commission.

COMMISSIONER McCALL:

- Announced the HOA Easter Egg Hunt at Kolb Park on Saturday, April 1, 2023. The hunt is being sponsored by Beggins Century 21. He stated this is a great community event.

COMMISSIONER HOUSEBERG:

- Stated the HOA is looking for volunteers for the Easter Egg Hunt.
- Thanked everyone for re-electing her to the city commission.

COMMISSIONER VAUGHAN:

- Thanked everyone for electing him to the city commission.

MAYOR-COMMISSIONER KENNEDY:

- Stated Olivia Carson, District Director for Anna Paulina Luna, spoke during the February BIG-C Meeting concerning the FY24 Renourishment for the Sand Key Beach Project. On behalf of BIG-C, Congresswoman Luna wrote a letter to Michael Connor, Assistant Secretary of the Army, to reconsider their position on the perpetual easements for the Sand Key Beach Project to remain on schedule for the renourishment in 2024. She provided each city commission member with a copy of the proposed letter.
- ***THE CONSENSUS OF THE CITY COMMISSION WAS FOR THE MAYOR-COMMISSIONER TO SIGN THE LETTER TO MICHAEL CONNOR, ASSISTANT SECRETARY OF THE ARMY, ON BEHALF OF THE CITY COMMISSION.***

4. ADDITIONS/DELETIONS. None.

5. CONSENT AGENDA:

- A. RESOLUTION NO. 2023-02. A Resolution of the City Commission of the City of Indian Rocks Beach, accepting the official results of the March 14, 2023 Indian Rocks Beach General Municipal Election, for two city commission seats; providing for an effective date.**
- B. APPROVAL OF the February 14, 2023 Regular City Commission Meeting Minutes.**

- C. **SETTING the dates for the City Commission Budget Work Sessions and Public Hearings for Fiscal Year 2023/2024 Operating Budget and Capital Improvements Budget.**
- D. **APPROVAL OF the January 24, 2023 City Commission Work Session Meeting Minutes.**
- E. **PROCLAMATION: National Public Works Week — May 21-27, 2023.**

City Attorney Mora read the Consent Agenda, consisting of Agenda Items 5A through 5E, for approval.

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER McCALL, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEMS 5A THROUGH 5E, AS WRITTEN. UNANIMOUS APPROVAL BY ACCLAMATION.

- 6A. **BOA CASE NO. 2023-02 — 608 GULF BOULEVARD.**
CONSIDERING a variance request from Sec. 110-344(4) of the Code of Ordinance to allow for a pool to encroach 5 feet into the 10 feet rear yard setback for the property located at 608 Gulf Boulevard, and legally described as Lot 16, Block 1, Haven Beach, as recorded in Plat Book 5, Page 27, of the Public Records of Pinellas County, Florida. Parcel #12-30-14-37764-001-0160.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2023-02 — 608 GULF BOULEVARD

Variance request from Sec. 110-344 (4) of the Code of Ordinance to allow for a pool to encroach 5 feet in the 10 feet rear yard setback for property located at 608 Gulf Blvd, Indian Rocks Beach, Florida, and legally described as Lot 16, Block 1, Haven Beach, as recorded in Plat Book 5, Page 27, of the Public Records of Pinellas County, Florida. Parcel #12-30-14-37764-001-0160.

OWNER: Westside Investments LLC
PROPERTY LOCATION: 608 Gulf Boulevard
ZONING: CT- Commercial Tourist

Direction	Existing Use	Zoning Category
North	Residential	CT
East	Residential	RM-2
South	Residential	CT
West	Gulf of Mexico	N/A

BACKGROUND:

The applicant is requesting a variance for a pool to encroach 5 feet into the 10-foot rear yard setback for a single-family residence.

Sec. 2-152. Variances.

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

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

- a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. *There are no Special conditions and circumstances which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the pool as proposed.*
- f. The granting of the variance will be in harmony with the general intent and purpose of subpart B, and such variance will not be injurious to the area involved or be otherwise detrimental to the public welfare. *Granting the*

variance will not be in harmony with the general intent and purpose of subpart B.

NOTICE: A public notice was mailed by first class mail to property owners within 150 feet in any direction of the subject property and posted on subject property on March 13, 2023 (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE: There was no correspondence.

BOARD OF ADJUSTMENTS AND APPEALS: The board of adjustments and appeals recommended denial to the city commission by a vote of 5-0.

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

[End of Staff Report]

City Attorney Mora read BOA Case No. 2023-02, 608 Gulf Boulevard, by title only.

City Attorney Mora stated the variance application before the board is a quasi-judicial matter.

City Attorney Mora asked if any city commission member had conducted any ex-parte communications with the applicant or their agent in advance of this evening. All members responded negatively.

City Attorney Mora asked if any city commission member had conducted any site visit for the purpose of evaluating the application before them. All members responded negatively.

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

Planning Consultant Harmon stated the applicant is requesting a variance for a pool to encroach 5 feet into the 10-foot rear yard setback for a single-family residence for the property located at 608 Gulf Boulevard.

Planning Consultant Harmon presented a PowerPoint Presentation depicting aerial views of the property, a survey, a site plan, the proposed pool plan, and site photos.

Planning Consultant Harmon explained the variance while presenting the PowerPoint Presentation. She stated this parcel was actually 610 Gulf Boulevard. Lot 7 and Lot 16 were joined together. The property had a couple of little cabins on it before. Since then, one person has purchased both lots and put a parcel number on each one because they

are legal lots. Currently, there is a single-family home on each of those lots. In the front is 608 Gulf Boulevard, and in the back is 610 Gulf Boulevard. There will be an easement from Gulf Boulevard to the rear house.

Planning Consultant Harmon stated the applicant is requesting to construct a 10-foot X 24-foot pool in the backyard of the front house. In the CT zoning district, the pool has to meet the rear yard setback of 10 feet. The applicant is proposing a 5-foot setback to that property line.

Planning Consultant Harmon stated both the staff and the board of adjustments and appeals recommended denial.

Thomas Smith, 424 Harbor Drive North, the representative for the applicant, stated the variance board did not look at this application at all. There were four older houses on this very crowded site. It had two pools on it. Then the new owners mistakenly split the property to get homestead. The property is in the CT zoning district. The property is on the west side of Gulf Boulevard and has nothing to do with residential neighborhoods.

Mr. Smith stated there would be a white PVC fence behind the pool. It does not matter necessarily what the setback is. It makes no difference whatsoever. The applicant owns both properties and if the applicant sold one of the properties, that white PVC fence would still be there. It affects nobody. There are units on both sides — high rises, 50 people each. Not one letter of opposition. Nobody cares. The encroachment would not hurt anybody, including the applicant who owns the house in the back. There will still be room between the fence and the pool to walk around and landscape.

Mr. Smith stated this site is good for six rental units. However, the applicant did not want to jam six rental units on this site. The back house will be the applicant's, and the front home will be a rental.

Mr. Smith stated this is a slam dunk. Nobody has talked against it. It is all their property. It affects no one, and he feels that the variance board made a mistake without looking at the facts of this application. None of the variance board members looked at the site beforehand, which they should have, but they did not.

Commissioner McCall asked who put the property line there.

Mr. Smith stated the property line was there. He explained that the front lot was legally Lot 7, and the back was legally Lot 16. The lots were subdivided to provide for two tax parcels only so that the applicant could get homestead exemption on the back lot, Lot 16. He stated that no lot lines were moved. Both lots had the same parcel number. If the lots were not assigned separate parcel numbers, there would be no need for a variance.

Mr. Smith stated that this is all about getting a homestead exemption for the back lot for the applicant. The applicant could have built six units but instead built a home for himself and a rental unit.

Commissioner McCall stated given the ordinance and the setbacks and so forth, he asked Mr. Smith if the rear lot line could be moved.

Mr. Smith reviewed the site plan with the city commission and the setback lines. He stated it is just a matter of keeping that lot line where it is. That is where it should be. He said moving the pool toward the backyard setback does not affect anyone. A fence will enclose the pool.

Mayor-Commissioner Kennedy stated the applicant is requesting a variance to encroach 5 feet into the 10-foot backyard setback, which is why he is here. The board of adjustments and appeals is very strict on setback encroachments.

Mr. Smith stated yes, that is why he is here. But this is a common sense thing. The setback is affecting no one. The applicant owns both lots. Again, not one neighbor had an objection to the variance or asked about it. He stated the lots were split because of tax purposes for the applicant. It makes no sense not to grant the variance.

Commissioner Vaughan asked why the pool could not be made smaller.

Mr. Smith stated it would be a 5-foot pool, which would be impossible.

Commissioner Vaughan suggested a lap pool or hot tub.

Mr. Smith stated the applicant wanted a pool for the rental.

Mr. Smith stated this site had four units and two pools before, and the site is permitted to have six units.

Commissioner Bond asked if the back structure was going to have a pool.

Planning Consultant Harmon responded affirmatively. She stated the setback is 35 feet from the center of the seawall.

Commissioner Bond asked when the property was subdivided.

Mr. Smith stated about four or five months ago. The site was always two lots with one parcel number under one ownership. All they did was go to the Pinellas County Property Appraiser and ask for separate parcel numbers for each lot so that the applicant could get homestead exemption on the back lot.

Commissioner Bond stated he would merge the properties and lose the homestead exemption on the back lot if needed.

Commissioner Bond stated that if one of the houses were sold, that variance would affect somebody.

Mr. Smith stated it would affect nobody because the fence would hide the pool.

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

Commissioner Bond asked Mr. Smith how they got that far along before they realized there was a problem.

Mr. Smith stated he did not know there was a 10-foot setback on that lot line. Why there would be, he does not know. A 10-foot setback on something as tight as that lot does not make sense, but that is what the city code calls for, so it is there. Five-foot works. It works for the pool. It works for landscaping. It affects no one negatively.

Commissioner Vaughan asked if it was a new structure.

Mr. Smith responded affirmatively.

Commissioner Vaughan stated the structure went through planning, and the architect planned this and submitted the plans, and the architect/builder knew the setbacks coming in when the building was being built.

Mr. Smith responded affirmatively to the buildings. He stated at that time, the lots were not split.

Commissioner Vaughan stated the applicant created the hardship on himself, which required the applicant to apply for a variance.

Commissioner McCall stated he is following the same lines as Commissioner Vaughan. There is no pie-shaped lot. The applicant created the hardship. The applicant wants a pool. It is a desire. He does not see the hardship.

MOTION MADE BY COMMISSIONER HOUSEBERG TO APPROVE BOA CASE NO. 2023-02, 608 GULF BOULEVARD. A VARIANCE REQUEST FROM SEC. 110-344(4) OF THE CODE OF ORDINANCE TO ALLOW FOR A POOL TO ENCROACH 5 FEET INTO THE 10 FEET REAR YARD SETBACK. MOTION DIED FOR LACK OF A SECOND.

MOTION MADE BY COMMISSIONER VAUGHAN, SECONDED BY COMMISSIONER McCALL, TO DENY BOA CASE NO. 2023-02, 608 GULF BOULEVARD. A VARIANCE REQUEST FROM SEC. 110-344(4) OF THE CODE OF ORDINANCE TO ALLOW FOR A POOL TO ENCROACH 5 FEET INTO THE 10 FEET REAR YARD SETBACK FOR THE PROPERTY LOCATED AT 608 GULF BOULEVARD, AND LEGALLY DESCRIBED AS LOT 16, BLOCK 1, HAVEN BEACH, AS RECORDED IN PLAT BOOK 5, PAGE 27, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA. PARCEL #12-30-14-37764-001-0160.

ROLL CALL VOTE:

AYES: McCALL, VAUGHAN, KENNEDY

NAYS: BOND, HOUSEBERG

THE MOTION TO DENY WAS CARRIED BY A VOTE OF 3 TO 2.

THE VARIANCE WAS DENIED.

7A. RESOLUTION NO. 2023-03. A Resolution of the City Commission of the City of Indian Rocks Beach, Florida, appointing a member of the City Commission to serve as Vice Mayor-Commissioner; and providing for an effective date.

[Beginning of Staff Report]

BACKGROUND:

Charter Section 4.4 authorizes the City Commission to appoint a Vice Mayor-Commissioner from among the members of the City Commission at its first regular meeting following certification each year.

The duties of the Vice Mayor-Commissioner shall be to preside over the meetings of the City Commission during the absence of the Mayor-Commissioner, and in general, in the absence or the incapacity of the Mayor-Commissioner, they shall do and perform those acts and things provided in the City Charter to be done by the Mayor-Commissioner.

ANALYSIS:

The City Commission should appoint a member of the City Commission to serve as Vice Mayor-Commissioner, which term shall commence on March 28, 2023. It shall expire on the newly elected City Commission's first meeting following certification of the March 19, 2024, Municipal General Election results.

[End of Staff Report]

City Attorney Mora read Resolution No. 2023-03 by title only.

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED COMMISSIONER McCALL, TO APPOINT COMMISSIONER BOND TO SERVE AS VICE MAYOR-COMMISSIONER EFFECTIVE MARCH 23, 2023, AND UNTIL THE FIRST MEETING OF THE NEWLY ELECTED CITY COMMISSION FOLLOWING CERTIFICATION OF THE MARCH 19, 2024 MUNICIPAL GENERAL ELECTION RESULTS. UNANIMOUS APPROVAL BY ACCLAMATION.

7B. RESOLUTION NO. 2023-04. A Resolution of the City Commission of the City of Indian Rocks Beach, Florida, appointing a voting delegate and first and second alternate voting delegates to represent the City of Indian Rocks Beach at the Barrier Islands Governmental Council (BIG-C) Meetings; and providing for an effective date.

[Beginning of Staff Report.]

BACKGROUND: The BIG-C By-Laws, Article III, Section 2, Representation, states that all elected officials of each municipality shall be members of the council, one of whom shall be appointed by the municipality as the voting delegate. Each municipality may appoint other elected officials as alternate voting delegates. Each municipality shall designate its delegates in writing.

Delegate #1 - Name - Voting Delegate.

Delegate #2 - Name - Alternate to Delegate #1.

Delegate #3 - Name - Alternate to Delegate #2.

An alternate voting delegate may vote when the voting delegate is absent. Each city is entitled to one vote.

The object of the BIG-C is to stimulate communications between the barrier island cities to focus on problems common to all, including but not limited to: tourism, recycling, public transportation, beach preservation, renourishment and access, marine environment, air and water quality, public safety, density management, waterway regulation, taxation based on permanent residents and average transient population, to unite and be able to have one voice addressing the county, state, and federal governments while respecting the individuality of each.

April, 2022 - March, 2023 - Voting Delegates

Mayor-Commissioner Joanne Moston Kennedy - Voting Delegate

Commissioner Joe McCall -1st Alternate

Commissioner Jude Bond - 2nd Alternate

ANALYSIS: The City Commission needs to appoint a voting delegate and two alternate voting delegates to the BIG-C.

The BIG-C meetings are held on the last Wednesday of each month at 9:00 a.m., with the location rotating between the membership cities.

[End of Staff Report]

City Attorney Mora read Resolution No. 2023-04 by title only.

MOTION MADE BY COMMISSIONER VAUGHAN, SECONDED BY COMMISSIONER HOUSEBERG, APPOINTING MAYOR-COMMISSIONER KENNEDY, AS THE CITY'S VOTING DELEGATE, AT THE BIG-C MEETINGS, WITH COMMISSIONER MCCALL, AS THE FIRST ALTERNATE VOTING DELEGATE, AND COMMISSIONER HOUSEBERG AS THE SECOND ALTERNATE VOTING DELEGATE. UNANIMOUS APPROVAL BY ACCLAMATION.

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

9. **OTHER BUSINESS.** None

10. **ADJOURNMENT.**

MOTION MADE BY COMMISSIONER HOUSEBERG, SECONDED BY VICE-MAYOR-COMMISSIONER BOND, TO ADJOURN THE MEETING AT 7:38 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

May 9, 2023
Date Approved

/DOR