

MINUTES — JUNE 14, 2022
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, JUNE 14, 2022**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance and a moment of silence for the children of Robb Elementary School, Uvalde, Texas.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Denise Houseberg, Commissioner Jude Bond, Commissioner Philip J. Hanna, Commissioner Joseph D. McCall, and City Manager Brently Gregg Mims.

STAFF PRESENT: City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, and Public Works Director Dean A. Scharmen.

(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 the crime analysis report for May 2022.

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

Fire Chief Davidson introduced Betsy McKenna as the new Fire Commissioner for Seat 2, Indian Rocks Beach.

Fire Chief Davidson presented the Fire District's report for May 2022.

City Manager Mims presented on behalf of the City to the Fire District Autism Sensory Kits that consist of 24 items including earmuffs, sunglasses, and toys specifically designed to stimulate one or more of the senses. This simulation helps to ease the agitation commonly experienced by autistic children when they are in emergency situations requiring a fire department response. One kit will be placed on each fire engine, with the fourth on the shift commander's truck, ensuring availability when needed.

Fire Chief Davidson thanked the City for the Autism Sensory Kits.

Fire Chief Davidson stated that on Thursday, July 16, 2022, the Fire District would have an Autism Event in the morning.

2. PUBLIC COMMENTS. None.

3A. REPORTS OF the City Attorney. None.

3B. REPORTS OF the City Manager.

City Manager Mims provided a status report on the following items and projects:

Code Enforcement

111 Parking Tickets Issues (plus 59 issued by PCSO) for a total of 170 issued

11 Notices to Appear

2 Code Violation Letters

1 Courtesy Letter

Capital Improvement Project Completed

Basketball Court

Kolb Park Tennis Court/Pickleball

Bay Boulevard from 18th to 23rd Avenue Road Reconstruction

Campalong Baseball Field

The IRB Little League Field Project begins in July. The project will consist of a new backstop fence and general work on the field. The field will be closed for approximately one month.

FY2023 Budget

On June 24, 2022, the FY2023 Proposed Budget will be delivered to the City Commission. The City Commission Budget Work Session is on Tuesday, July 26, 2022, at 4:00 p.m.

Individual meetings with each City Commission Member will be scheduled with the City Manager and the Finance Director to review the FY 2023 Proposed Budget.

Gulf Boulevard Undergrounding of Utilities

The City is actively working on a grant application through the State of Florida for additional funding for underground utilities on Gulf Boulevard. The Public Works Director has been working very hard on this grant. Staff cannot guarantee that the City will receive any funding from this grant.

Public Art

The City's 4th public art piece will be installed at the entrance of the IRB Nature Preserve. The date and time of unveiling will be determined soon. Action 2000, Inc has sponsored this art piece.

Staff is working on the 5th public art piece that will be installed in front of the County Beach Access Park.

IRB Stormwater Master Plan

During the July 12, 2022 Regular City Commission Meeting, CivilSurv will be presenting the updated IRB Stormwater Master Plan to the City Commission. The City received approximately \$2M under the American Rescue Plan Funds, which have been earmarked for drainage improvements through previous discussions with the City Commission. The City Commission will hear the presentation in July of the updated plan that has 13 drainage projects that have been identified. The City financially cannot do 13 projects all at one time. The projects would be done over a period of years. The City Commission must decide what projects should be done first based on fund availability. The City will also apply for SWFMD grants, which are 50/50 matching grants.

3C. REPORTS OF the City Commission.

The City Commission stated the Rotary Club did a fantastic job with the Flag Day Retirement Ceremony, an amazing event.

The City Commission requested that Commissioner Hanna's pictures from the Flag Day Retirement Ceremony be posted on the City's FaceBook page.

VICE MAYOR-COMMISSIONER HOUSEBERG:

Short-Term Vacation Rentals

Vice Mayor-Commissioner Houseberg stated last year the City sent out the refrigerator door magnet to all short-term rental properties. The magnet welcomed the STRs to the City and advised them of the dos and don'ts of the City.

Vice Mayor-Commissioner Houseberg stated that the residents and visitors still do not understand that the City does not have complete control over Airbnbs. Whenever she sees a comment or someone passes her on the street, they will ask her why the City has not done anything about all these short-time rentals (STRs). The STRs are ruining the beach.

Vice Mayor-Commissioner Houseberg stated the City needs to put out some factual information about STRs since the amount of misinformation out there on STRs is a mountain. She sees all sorts of people wanting to run for the City Commission to ensure they will resolve the STRs problems once elected. She stated that there are probably some

things that STR owners, of those not registered with the City, need to know what the fines are if they do not register.

Mayor-Commissioner Kennedy asked Vice Mayor-Commissioner Houseberg what she had in mind, i.e., a work session to resend the magnet.

Vice Mayor-Commissioner Houseberg stated more detailed information about STRs needs to be posted on the City's website and maybe even in a mailer. The informational page or mail-out needs to be attractive enough that people will read it so that it does not look like a government document coming in the mailbox — something that will pique the readers' interest.

City Manager Mims stated that Vice Mayor-Commissioner Houseberg was a huge help in putting together the "Welcome to Indian Rocks Beach" magnet. He suggested that he and Lorin work with Vice Mayor-Commissioner Houseberg to develop some PR-type stuff.

City Manager Mims stated he would not recommend a work session that would serve no purpose.

Commissioner Bond stated is the goal to educate the residents about STRs and what the City can and cannot do, with Vice Mayor-Commissioner Houseberg responding in the affirmative.

Commissioner Bond asked Vice Mayor-Commissioner Houseberg the best way to do that.

Vice Mayor-Commissioner Houseberg stated the informational page has to be a marketing piece. The City is marketing this information as an education piece. She wants residents and visitors to stop and read it.

City Manager Mims stated City Attorney Mora wrote a memorandum in 2016 concerning STR that can be used as a timeline for the STR informational page. He noted the City has the information. It is just a matter of putting it into a format where people can clearly and easily read from the beginning how the Legislatures took away the City's powers of regulating STRs.

Vice Mayor-Commissioner Houseberg recommended that this informational page be placed in the Indian Rocks Beach Neighborhood News, Griffin Publications.

Commissioner Bond stated there are several people in town that people listen to for better or worse. He said if the City could communicate to them this situation, perhaps they could spread the word.

Mayor-Commissioner Kennedy stated she was invited to a home on Harbor Drive where there is an influx of STRs. She met with four full-time resident couples ranging from being

residents from 7 years to one year. The couples were unaware of the steps the City had taken concerning STRs. She stated the couples were fact-finding because they did not know what steps the City had taken and where the City was going with STRs.

Mayor-Commissioner Kennedy stated Vice Mayor-Commissioner Houseberg's idea is excellent, and Vice Mayor-Commissioner Houseberg should go forward with the project.

City Manager Mims stated that since the Legislature in 2011 and then some further action taken locally, the City does not have the ability to regulate STRs in terms of where they can and cannot go. There was a period during COVID where the transition from traditional residential housing to STRs in Indian Rocks Beach slowed up. But now, the purchase of traditional residential homes to STRs is rising. Properties are being converted monthly to STRs.

City Manager Mims stated the ordinance adopted by the City only has basic requirements, i.e., registering with the City, providing ownership, providing a 24-hour on-call person that can be contacted, and a sign in front of the residence with the 24-hour on-call person's name and telephone number.

City Manager Mims stated Code Enforcement is actively enforcing the ordinance, and there are no more warnings. He said several STRs are paying commercial garbage rates because the volume of trash exceeds the traditional level.

City Manager Mims stated until the Legislature acts, there is nothing to stop traditional residential housing in IRB from being converted to STRs. The long-term effect of STRs on IRB is tremendous because he received a letter from the U.S. Census Bureau asking the City to verify or give an opinion about the City's estimated population count. The population has consistently been above 4,000. In fact, when he had that conversation with a Ph.D. from USF, they were trying to jump the population to 4,600. He asked them if they understood what was not only happening in IRB but in other cities concerning the STR boom. He explained to the Ph.D. that IRB has daily traditional residential housing converted to STRs. Therefore, IRB's population is not going up. It is going down. He said it publicly before and will say again tonight that if the City is not there already, it will be there within a year or two at the longest. When he started here, the estimated population was 4,200, and now the City has half of that population because that is how many properties have been converted to STRs. That is just one of the downsides or impacts of STRs.

City Manager Mims stated if anyone has heard anything from someone that the City Commission, by ordinance, by resolution, can call a public hearing and adopt an ordinance to stop STRs, that is not true. The City no longer has the ability to regulate STRs as it has been taken away by the State Legislature.

City Manager Mims stated the City had been left with what the City could do. The adopted STR ordinance does not stop STRs, does not stop cars being parking everywhere, etc.

Mayor-Commissioner Kennedy stated a press conference was held in Indian Rocks Beach about a year and a half ago with all the beach members. She said that many beach communities are in the same boat or some are afraid they will soon be in the same boat as IRB. She stated the press conference aired. The Mayors explained the hazards of STRs and the problems that the STRs are causing for the communities.

Mayor-Commissioner Kennedy stated the residents should know what the City can and cannot do concerning STRs.

MAYOR-COMMISSIONER KENNEDY:

- *June 29, 2022 BIG-C Meeting.* The City will be hosting the June 29, 2022 BIG-C Meeting at 9:00 a.m. A light breakfast begins at 8:30 a.m. The guest speaker is Property Appraiser Mike Twitty.
- *Flag Day Retirement Ceremony.* The Rotary Club held the Flag Day Retirement Ceremony earlier today, which was an excellent event. She wanted to share this piece about the flag. She stated the flag's history tells a story of America itself. "The flag represents the freedom, dignity, and true meaning of being an American. It has been with us through our war times, our sad times, but also in times of our greatest joys and triumphs."

4. ADDITIONS/DELETIONS.

City Manager Mims stated the Florida Fish and Wildlife Conservation Commission (FFWC) brought to the City's attention that the City's buoy ordinance was not in compliance with the current standards for a boating restricted area as outlined in Florida Statute 327.46.

CONSENSUS TO ADD AGENDA ITEM NO. 9A, OTHER BUSINESS, DISCUSSION OF THE CITY'S BUOY ORDINANCE.

5. CONSENT AGENDA:

- A. APPROVAL of the May 10, 2022 Regular City Commission Meeting Minutes.**
- B. REAPPOINTMENT OF KATHRYN BLANKENSHIP ALVAREZ to the Finance and Budget Review Committee for a 3-year term, expiring May 31, 2025.**
- C. RECEIVE/FILE the Pinellas County Annual Report to the FloodPlain Management Program for Public Information (PPI) and the Local Mitigation Strategy (LMS).**

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

MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER McCALL, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS. 5A THROUGH 5C. UNANIMOUSLY APPROVAL BY ACCLAMATION.

6. **PUBLIC HEARINGS:** None.
7. **OTHER LEGISLATIVE MATTERS:** None.
8. **WORK SESSION ITEMS [DISCUSSION ONLY]:** None.
9. **OTHER BUSINESS.**
 - A. **DISCUSSION OF IRB Buoy System and Waterway Markers (Sec. 74-63, No Anchoring Zone)**

Sec. 74-63. No Anchoring Zone.

- (a) *Established; buoys; speed; transit.* There is hereby established a no-anchoring zone, which is defined as that portion of the Gulf of Mexico lying between the northerly and southerly city limits of the city and easterly from the buoy line. The line shall be marked by regulatory buoys placed in accordance with permits and spaced, nominally, at 300-foot intervals along its length. As the buoys will move about their anchor location with the tides or currents, enforcement of this section shall extend to the area defined by the buoys at the water's surface at the time of infraction. Any boat or watercraft operating within the no-anchoring zone shall proceed cautiously at a speed not in excess of idle speed. The boat or watercraft shall transit the no-anchoring zone in the shortest and most direct route possible taking into consideration safe navigation and the safety and enjoyment of other users of the area.
- (b) *Anchoring vehicles prohibited.* It is unlawful for any person to anchor a watercraft within the restricted water area described in subsection (a) of this section and which is clearly marked by buoys.

City Manager Mims stated the City has had a buoy ordinance for decades. The City was placed on notice by the Florida Fish and Wildlife Conservation Commission (FFWC) because the City's buoy system was not in compliance with the current standards. He stated the City's permit for placement of uniform water markers in the Gulf of Mexico does not meet Florida Statutes.

Public Works Director Scharmen stated in 1996, the State of Florida Department of Environmental Protection issued Permit Number 96-123 to the City of Indian Rocks Beach for the placement of uniform waterway markers in the Gulf of Mexico within Pinellas County.

The City of Indian Rocks Beach Code of Ordinances, Chapter 74, Waterways, Article III, Beaches, Section 74-63, No Anchoring Zone, specifically references Buoys, Speed, Transit, and Anchoring.

On April 21, 2022, the City was contacted by Thomas Arrington, Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways, who indicated that they had received a report from a neighboring jurisdiction that the IRB Buoy System may not comply with the current standards for a boating restricted area as outlined in Florida Statute 327.46.

On May 3, 2022, City Manager Mims, City Attorney Mora, and Public Works Director Scharmen had a conference call with the FFWC regarding the IRB Buoy System.

Based upon the conversations with FFWC, it appears that in 2009 the Florida Statutes changed, limiting what types of boating restricted areas municipalities have the authority to establish.

In the case of IRB, the City has two options:

- 1) Rescind Ordinance 591 that established the No Anchoring Zone and removed all the current buoys.
- 2) Adopt a new ordinance, which would designate the area as a swim zone and a boating-restricted area.

Should the City choose to move forward with enacting a new ordinance, the staff would request funding within the FY 2022/23 Operational Budget to accomplish the tasks of removing and re-installing the buoy system.

Estimated costs are as follows:

Permitting/Engineering	\$ 3,500
Equipment/Hardware	\$ 26,500
Boating Services	\$ 8,500
Contingency	\$ <u>1,500</u>
Total	\$ 40,000

City Manager Mims stated the City Commission has two options:

- 1) Repeal the existing ordinance and have no buoy system.

- 2) Repeal the existing ordinance and adopt a new ordinance with language that basically says that the area inside the buoys is a vessel-exclusion zone.

City Manager Mims stated that the new ordinance must clarify that paddle boards, kayaks, and other non-motorized boats are allowed within the restricted boating area.

City Manager Mims stated he would not recommend repealing the ordinance and not adopting a new buoy ordinance. He said if the City does not have a restricted area, the City will have a problem with boats pulling up and anchoring off the shoreline.

City Manager Mims stated in the Proposed FY 2023 Budget that funds have been appropriated to replace the buoys.

City Attorney Mora stated the City Commission has three mutually exclusive options. The City has had a no-wake zone, and people are accustomed to bringing a motor boat into this area so long as the boat is not anchored and comes in at a slow speed and exits at a slow speed. Based on the Florida Administrative Code and Florida Statutes, the City cannot have that anymore.

City Attorney Mora stated the City could either have:

- 1) The City can have no buoys, and it would be open season for all uses;
- 2) The City can have buoys and say anything without a motor, and everything else with a motor is prohibited; or
- 3) The City could say this is just a swim zone — a vessel-exclusion zone.

City Attorney Mora stated that staff has politely advised or discouraged no buoys whatsoever because the City has had inquiries about how the City regulates fishing, jet skis, and other uses with concerns toward the safety of swimmers, youth, and otherwise. Staff is proposing that the City Commission consider either a vessel-exclusion zone or a vessel-exclusion zone for the purpose of motor boats so that paddle boards, kayaks, and the like can pass through the buoy zone because of the inherent harm difference from a combustion engine as opposed to human propelled speed.

City Attorney Mora stated that based on the City Commission feedback, staff would bring an ordinance back to the City Commission in August for first reading with the City Commission's direction.

City Attorney Mora stated that FFWC would also provide comments on the draft ordinance. He said FFWC is trying to find compliance, and there is currently no threatened enforcement action.

Sec. 74-35(d). Boat parking Permit.

"Boat parking permit. All gulf-front property owners shall, upon application, be issued a boat parking permit for parking their boat directly adjacent to the seawall on the beach area within 25 feet of the property owner's seawall. Proof of property ownership shall be required for such permit. Other property owners in the City who have written permission from a gulf-front property owner shall, upon application, be issued a boat parking permit for parking their boat directly adjacent to that property owner's seawall on the beach area within 25 feet of that property owner's seawall who had granted permission to the non-gulf-front property owner. A nominal fee, based on production and administrative cost, shall be charged for each permit. Any storage of boats and trailers overnight on the beach without a city boat parking permit is prohibited. Boats left on the beach overnight without a boat parking permit or otherwise in violation of this subsection shall be ticketed and/or removed by the City at the owner's expense."

City Manager Mims stated Sec. 74-35(d) says all gulf-front property owners can come into City Hall and obtain a boat parking decal for parking their boat on the beach. He advised that this program is not used very widely. Currently, there are six sailboat-type boats on the beach. If the City Commission does not want vessels within the restricted, this code section would need to be repealed.

City Manager Mims stated in July that he would be here for ten years. There has always been confusion among people who go to the beach to sunbathe about what those buoys mean, and the boaters are just as confused by the buoy line.

Vice Mayor-Commissioner Houseberg asked how many boat parking permits does the City currently have?

City Manager Mims stated there are currently six sailboats on the beach. He said Code Enforcement is on the beach every day, and they have not seen those sailboats move, and some might even be abandoned.

City Manager Mims stated the Clearwater Marine Aquarium does not like having boats on the beach during turtle season because the turtles try to climb under and over the boats.

City Manager Mims stated if the City Commission decided to eliminate the possibility of gulf-front properties from securing a permit to park their boat on the beach, Section 74-35(d) would need to be repealed.

Vice Mayor-Commissioner Houseberg clarified that the current boats would be removed from the beach.

City Manager Mims stated there is a provision in the City Code for the removal of abandoned boats.

Commissioner Bond asked if City could grandfather in those six existing boats on the beach.

City Manager Mims stated if the City Commission wants to allow residents with sailboats that do not have a motor, there is a way that could be worded.

City Manager Mims stated that the City does not have good records on boat parking permits, so that would be a problem with grandfathering.

City Attorney Mora stated grandfathering can be done from a legal standpoint. He said staff could look into the possibility and visibility of doing that. He stated the City Manager aptly noted often the challenge with grandfathering is by what objective evidence in line is the City going to establish whether somebody legitimately held that permit. For example, a property owner could have been storing a boat in the garage with a permit and the City did not see it.

Commissioner Bond asked what the staff's recommendation was.

City Manager Mims stated the following: (1) Adopt a new buoy system ordinance, and (2) the City Commission needs to decide what kind of vessels would be allowed within the buoy area — motorized or non-motorized.

City Attorney Mora stated there are also vessel-exclusion zones that are interrupted, where swim zones are interrupted by jet skis through paths (Clearwater Beach). However, the staff does not recommend this.

Commissioner McCall stated the City could not have a free-for-all within the buoy zone, or there would be people skiing up and down the beach. He said boat parking permits are not a fight he would want to take up. There is no safety reason with boats being parked on the beach. He said that is a benefit of owning gulf-front property.

Commissioner McCall stated the City Commission does need to adopt a new buoy ordinance.

Mayor-Commissioner Kennedy stated staff needs to determine if any of those six boats on the beach are abandoned.

City Manager Mims stated if the City Commission still allows the gulf-front property owners to have the ability to obtain a boat parking permit, those permits should be issued on an annual basis. He stated his concern is how Sec. 74-35(d) is written because it does not say sailboat; it says boat. If a new ordinance is adopted, this needs to be addresses.

Commissioner Bond stated that despite public perception, people can pull anything onto the beach right now.

Mayor-Commissioner Kennedy asked when Code Sec. 74-35 was adopted.

Public Works Director Scharmen stated Code Sec. 74-35 was adopted when the City applied for a permit to establish the buoy system in 1996.

Commissioner Hanna stated the budget for this item also includes engineering costs, so this is just not a simple replacement of buoys.

City Manager Mims stated the City needs to apply for a new permit with FFWC for a buoy system based on amendments to Florida Statutes.

Commissioner Hanna stated he understands about non-motorized and paddle boards. He said boats come in different sizes and asked would there be an issue if somebody had a rather sizeable non-motorized sailboat.

City Manager Mims stated his push toward any ordinance is the practicality of enforcement. Listing the size of sailboats would be hard to enforce. He said if the City Commission goes with no motorized vessels, there could be some definitions for sailboats, and staff could enforce that. He stated the ordinance needs to be clear and concise to avoid confusion with the boaters or sunbathers.

Commissioner Hanna asked if the State had given the City any timeline for when this ordinance should be adopted.

City Manager Mims stated the State would give the City the time needed to enact an ordinance so long as the City continues to work on it and does not drag its feet.

Commissioner Bond asked if there is any way to distinguish between human-powered vessels, wind, or motorized vessels, and is there any way to separate to make that the line that it has to be person powered?

City Attorney Mora stated he would have to ask the FFWC because the categories in Florida Statutes say under the power of oar or sail. He is not aware of any authority within that, that allows the City to subdivide. The City is in regular communication with FFWC, and staff can address that question with them.

CONSENSUS OF THE CITY COMMISSION TO AMEND SECTION 74-63, TO CONFORM TO CURRENT STATE REGULATIONS PERMITTING THE ESTABLISHMENT OF AN AREA PROHIBITING THE OPERATION OF MOTORIZED VESSELS WITHIN DESIGNATED AREAS.

CONSENSUS OF THE CITY COMMISSION FOR STAFF TO AMEND SEC. 74-35(D), BOAT PARKING PERMIT, TO CONFORM TO THE REVISED VERSION OF 74-63.

Mayor-Commissioner Kennedy stated the new buoy ordinance would be placed on the August 9, 2022 City Commission Meeting for first reading.

10. ADJOURNMENT.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY VICE CHAIR-COMMISSIONER HOUSEBERG, TO ADJOURN THE MEETING AT 8:06 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

July 12, 2022
Date Approved

/DOR