

**TUESDAY,  
August 8, 2023**

**REGULAR  
CITY COMMISSION MEETING**

**@ 6:00 PM**

**AGENDA**



# City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

[www.indian-rocks-beach.com](http://www.indian-rocks-beach.com)

Administrative  
727/595 2517

Library  
727/595 1807

Public Works  
727/595 6889

**AGENDA – 2nd Amendment**  
**CITY OF INDIAN ROCKS BEACH**  
**REGULAR CITY COMMISSION MEETING**  
**TUESDAY, AUGUST 8, 2023 @ 6:00 P.M.**  
**CITY COMMISSION CHAMBERS**

**1507 BAY PALM BOULEVARD INDIAN ROCKS BEACH, FLORIDA 33785**

**CALL TO ORDER**  
**PLEDGE OF ALLEGIANCE**  
**ROLL CALL**

**1. PRESENTATIONS.**

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

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

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

**3. REPORTS OF:**

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

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

**4. ADDITIONS/DELETIONS.**

**ADD TO THE CONSENT AGENDA:**

- **APPROVAL** of the July 25, 2023, Special City Commission Meeting Minutes.
- **CONFIRMING ACTION** taken during the July 25, 2023, Special City Commission Meeting.
- **APPROVAL** of the July 25, 2023, City Commission Budget Work Session Minutes.

**DELETION TO PUBLIC HEARINGS:**

- **BOA CASE NO. 2023-05-461 Harbor Dr S.** - to be rescheduled to a later date.

5. **CONSENT AGENDA:**

- A. **APPROVAL OF** the June 13, 2023, Regular City Commission Meeting Minutes.
- B. **APPROVAL OF** July 11, 2023, Regular City Commission Meeting Minutes.
- C. **AUTHORIZING** the Mayor- Commissioner to sign employment agreement with the City Clerk, Lorin A. Kornijtschuk.
- D. **REAPPOINTMENT** to the Board of Adjustments and Appeals, Stewart DeVore as a regular board member for a two-year term expiring June 30, 2025.
- E. **REAPPOINTMENT** to the Planning and Zoning Board, Dave Mott from 1<sup>st</sup> Alternate to regular member for a two-year term expiring June 30, 2025.
- F. **ACCEPT/FILE** the June 2023 Year-to-Date Financial Report.
- G. **APPROVAL** of the July 25, 2023, Special City Commission Meeting Minutes.
- H. **CONFIRMING ACTION** taken during July 25, 2023, Special City Commission Meeting.
- I. **APPROVAL** of the July 25, 2023, City Commission Budget Work Session Minutes.

6. **PUBLIC HEARINGS:**

- A. **BOA CASE NO. 2023-04 –449 Harbor Drive S.**  
Considering a variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 9 feet into the required 12 foot side setback, resulting in a total setback of 3 feet on the northwest side for the installation of a new boat lift for property located at 449 Harbor Dr. S. Indian Rocks Beach, Florida, and legally described as Lot 17 Nineteenth Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida. Parcel # 06-30-15-42372-000-0170.
- B. **BOA CASE NO. 2023-05 –461 Harbor Dr S.-- to be rescheduled to a later date.**  
~~Considering a variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 11 feet 3 inches into the required 12 foot side setback, resulting in a total setback of 9 inches on the northwest side for the installation of a new boat lift for property located at 461 Harbor Dr. S. Indian Rocks Beach, Florida, and legally described as Lot 2 Twenty Third Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida. Parcel # 06-30-15-42444-000-020.~~
- C. **BOA CASE NO. 2023-06 – 2209 Gulf Boulevard.**  
Considering a variance request from Sec.110-131(4)(f)(1) of the Code of Ordinances, of 15 feet into the required 25 foot front yard setback, resulting in a total setback of 10 feet and from Sec.110-344(1) of the Code of Ordinances, for an increase of 3 ft above the required 1 foot above grade for the pool height resulting in a pool height of 4 ft above the adjacent finished grade for the installation of 2 pools/swim spas for property located at 2209 Gulf Blvd. Indian Rocks Beach, Florida, and legally described as Lot 3, Block 45, RE-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County, Florida. Parcel#:01-30-14-42030-046-0030.

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

8. **WORK SESSION:**  
A. **DISCUSSION OF** Golf Carts

9. **OTHER BUSINESS.**

10. **ADJOURNMENT.**

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

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation to participate in this meeting should contact the City Clerk's Office with your request, telephone 727/595-2517 [lkornijtschuk@irbcity.com](mailto:lkornijtschuk@irbcity.com), no later than FIVE (5) days before the proceeding for assistance.

POSTED: AUGUST 4, 2023

**NEXT REGULAR CITY COMMISSION MEETING  
TUESDAY, SEPTEMBER 12, 2023 @ 6:00 P.M.**

**AGENDA ITEM NO. 1A**

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



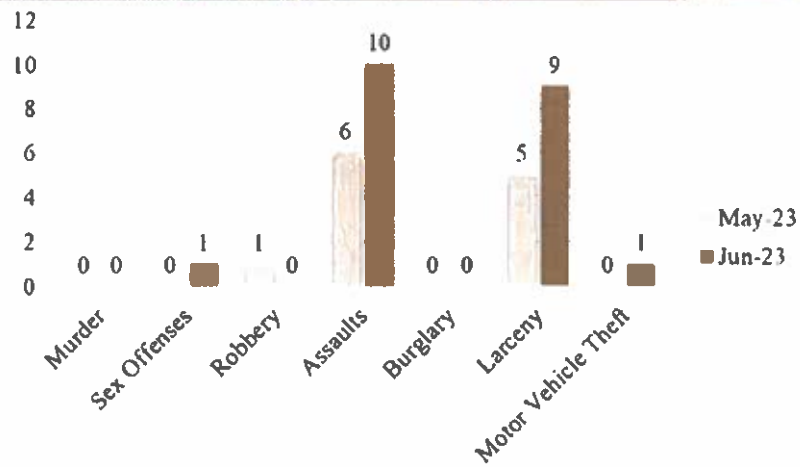
STRATEGIC PLANNING DIVISION

INDIAN ROCKS BEACH ANALYSIS

Select UCR Property & Person Crimes

June 2023

Select UCR Property & Person Crimes	May 2023	June 2023	June 2022 YTD	June 2023 YTD
Murder	0	0	0	0
Sex Offenses	0	1	0	2
Robbery	1	0	2	2
Assaults	6	10	22	34
Burglary	0	0	11	3
Larceny	5	9	39	59
Motor Vehicle Theft	0	1	4	6
<b>GRAND TOTAL</b>	<b>12</b>	<b>21</b>	<b>78</b>	<b>106</b>



**Arrests**

**June 2023**

There was a total of 27 people arrested in the City of Indian Rocks Beach during the month of June resulting in the following charges:

ARREST TYPE & DESCRIPTION	TOTAL
<b>Felony</b>	<b>9</b>
Aggravated Assault	1
Armed Burglary-Residential	1
Battery On LEO	1
Child Neglect	1
Domestic Battery By Strangulation	1
Marine Turtle Protection Act-Do Not Disturb Sea Turtle Nest	1
Possession Of Controlled Substance	1
Resist LEO With Violence	1
Utter Forged/Counterfeit Bill Checks, Drafts, Or Notes	1
<b>Misdemeanor</b>	<b>17</b>
Assault-Domestic Related	1
Battery-Domestic Related	5
Disorderly Intoxication	3
Petit Theft-Shoplifting	1
Possession Of Drug Paraphernalia	2
Resist/Obstruct LEO Without Violence	5
<b>Warrant</b>	<b>2</b>
Warrant Arrest	2
<b>Traffic Misdemeanor</b>	<b>11</b>
Driver's License Suspended/Revoked	3
Driver's License Suspended/Revoked-1st Conviction	1
Driving Under The Influence	5
No Valid Driver's License	1
Possession Of Al/Forged/Fictitious D.L.	1
<b>Grand Total</b>	<b>39</b>

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

## Deputy Activity

There was a total of **1,081** events in the City of Indian Rocks Beach during the month of June resulting in **1,467** units responding

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

### June 2023

DEPUTY ACTIVITY	TOTAL
Traffic Stop	218
House Check	184
Directed Patrol	122
911 Hang-up Or Open Line	114
Vehicle Abandoned/Illegally Parked	111
Assist Citizen	38
Suspicious Person	27
Ordinance Violation	20
Transport Prisoner	17
Trespass	16
Noise	16
Suspicious Vehicle	12
Traffic Violation	12
Contact	10
Accident	10
Lost/Found/Abandoned Property	9
Area Check	8
Information/Other	8
Building Check Business	7
Disorderly Conduct	7
Supplement	7
Assist Other Agency	7
Domestic-In Progress	6
Community Contact	6
Missing Juvenile	6

Prepared by: Casey Taylor

Data Source: ACISS UCR Offenses with Occurred Address, Arrested Subjects, Citation City Report  
 CAD: Crime Analysis Views, Crime Analysis Incident History (Dispo- 7)

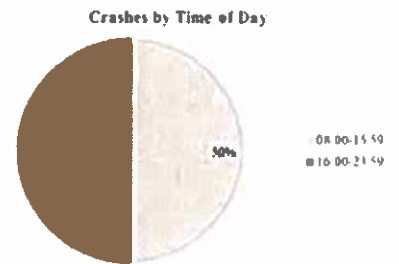
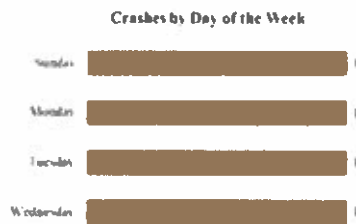
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 7/11/2023



## Crash & Citation Analysis

There were 4 crashes in the City of Indian Rocks Beach during June 2023. \*Crash data is filtered by disposition type and may include "accident and hit and run" problem types

CRASH LOCATIONS	TOTAL
1609 Gulf Blvd	1
213 Gulf Blvd	1
401 2nd St	1
401 Gulf Blvd	1



There were a total of 280 citations and warnings issued in the City of Indian Rocks Beach during June 2023.

TOP 10 TRAFFIC CITATION LOCATIONS	TOTAL
Gulf Blvd & 9th Ave	5
Gulf Blvd & 5th Ave	3
Gulf Blvd & 8th Ave	3
10th Ave & Gulf Blvd	3
13th Ave & 1st St	2
Gulf Blvd & 6th Ave	2
Gulf Blvd & 19th Ave	2
23rd Ave & Gulf Blvd	1
301 Gulf Blvd	1
24th Ave & Gulf Blvd	1



**AGENDA ITEM NO. 1B**

**REPORT OF  
Pinellas Suncoast Fire & Rescue  
District**

**AGENDA ITEM NO. 2**  
**PUBLIC COMMENTS**

**AGENDA ITEM NO. 3A**

**REPORTS OF City Attorney**

**AGENDA ITEM NO. 3B**  
**REPORTS OF City Manager**

**AGENDA ITEM NO. 3C**

**REPORTS OF City Commission**

**AGENDA ITEM NO. 4**  
**ADDITIONS/DELETIONS**

#### **4. ADDITIONS AND DELETIONS**

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##### **ADD TO THE CONSENT AGENDA:**

- **APPROVAL** of the July 25, 2023 Special City Commission meeting Minutes.
- **CONFIRMING ACTION** taken during the July 25, 2023 Special City Commission Meeting Minutes.
- **APPROVAL** of the July 25, 2023 City Commission Budget Work Session Minutes.

**/lak**



**AGENDA ITEM NO. 5A**

**CONSENT AGENDA**

**APPROVAL OF the  
June 13, 2023  
Regular City Commission  
Meeting Minute**

**MINUTES - June 13, 2023  
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, JUNE 13, 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.

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

**OTHERS PRESENT:** City Attorney Randy D. Mora, Interim City Clerk Lorin A. Kornijtschuk and Assistant Fire Chief Douglas Higley.

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

City Commission and City Manager presented James Labadie a plaque for his many years of service as an Indian Rocks Beach Commissioner and Board Member.

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

Pinellas County Sheriff's Office (PCSO) submitted a written Crime Analysis Report for the month of May 2023.

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

Assistant Fire Chief Douglas Higley presented the fire district's report for May 2023. The men and women of the fire department had 1304.5 hours of training. 99% of all annual fire inspections have been completed.

Assistant Fire Chief stated that June 8<sup>th</sup> was the Water Safety Hurricane Expo and was held in Bellaire Beach.

**2. PUBLIC COMMENTS.**

Phil Wrobel, 112 13<sup>TH</sup> Avenue, stated the Nature Preserve walkway came out beautiful, and hopes it will continue. The shower tower at 12<sup>th</sup> Avenue beach access is still flooding. Requesting the merry go round be replaced.

Jerry Newton, 438 Harbor Drive N., stated short- term rental administration fees should

not fall on the citizens and if it is possible for the city to fund a legal challenge regarding the events that led up to Indian Rocks Beach losing its grandfather status.

Don House, 2104 Beach Trail, stated, Jim Labadie is a nice guy and has served the city well, as a City Commissioner and President of A2K. The last conversation he had with Jim Labadie, he called him a selfish "F-A-Hole" for not signing the easement. 60% of the people on the beach are now "F-A-Hole's".

Mayor-Commissioner Kennedy closed the floor for public comments.

**3A. REPORT OF City Attorney: None.**

**3B. REPORT OF City Manager:**

City Manager Mims introduced Mark Porter, Project Manager from Utility Consultants of Florida, to provide an update of where the IRB Phase 2 Undergrounding Project is.

Mr. Porter stated that this project is broken into 3 phases: 5<sup>th</sup> to 8<sup>th</sup> Avenue is phase 1, 8<sup>th</sup> Avenue to 12<sup>th</sup> Avenue is phase 2, 12<sup>th</sup> Avenue to 15<sup>th</sup> Avenue is phase 3. Construction is ready to go, still waiting on material and Pinellas County permit. He will work with city staff to notify the residents prior to the start date.

City Manager stated that an oversized postcard was made and will be placed at the beach for people to take a photo with when they visit. IRB Chairs paid for half of the project.

City Manager read the Code Enforcement Report for May 2023.

**Code Enforcement Report for May 2023**

(122) parking citation does not include by the sheriff's office.

(29) violations.

(12) notices to appear.

(12) short-term rental inspections.

Staff continues to work on forms and the process to implement the new Short-Term Rental Ordinance. Per section 18-204 the start date of registration has been adjusted to August 1<sup>st</sup>, 2023, and forms will be published on or before July 14<sup>th</sup>, 2023. They will be posted online and will be emailed to those who are registered with the city.

The Friends of the City of Indian Rocks Beach Library partnered with the city and paid for half of all the computers that were replaced in the library.

The new bucket truck arrived this month, that was ordered in 2021, and a new garbage truck will arrive next month.

City staff is actively working on the proposed 2023-2024 budget and will be released to the Commission and the public before the deadline of July 7<sup>th</sup>, 2023.

Hurricane Season began June 1<sup>st</sup>. The city encourages all to take protective measures now, re-entry tags are available at City Hall, and there is additional information on the City website with a link to the County.

The subject of paid parking will be in the work session at the next commission meeting.

**3C. REPORT OF City Commission:**

Commissioner Vaughan requested to revisit seeking advice for a legal team to research City of Indian Rocks Beach grandfather status regarding the short-term rental ordinance. Commissioner Houseberg agreed. Mayor-Commissioner Kennedy recommended that each Commissioner should meet with the City Attorney for better understanding.

Commissioner Vaughan requested to further explore the Beach Renourishment Project, possibly issuing a state of emergency. City Manager replied that the city has been fully engaged; forums have been hosted, Commissioners have sent out letters, and Mayor Kennedy has visited the White House. The County is actively working on this issue. The Army Corps of Engineers is holding it up.

Mayor-Commissioner Kennedy suggested we wait for the County.

Vice-Mayor-Commissioner Bond requested that motorized bikes on the beach be placed on the next agenda. Commissioner McCall suggested including the new rules from Tallahassee for golf carts be included.

Commissioner Houseberg stated that Preston Smith's wife passed away in May, a service will be held on June 24<sup>th</sup> at the 24<sup>th</sup> Avenue beach access at 10:30 a.m.

Commissioner McCall stated the IRB Homeowners Association had changed its name to IRB Home, "Good People Doing Great Things". The next Mix and Mingle will be at Hurricane Eddies on June 22, 2023.

Mayor-Commissioner Kennedy stated a reminder that dogs are not allowed on the beach, tents are not allowed in the vegetation, if you put a hole in the beach you need to cover it up, and trash should go in the trash can. She acknowledged Deanne O'Reilly for her 31 years of service.

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

5. **CONSENT AGENDA:**

A. Approval of the April 11, 2023, Regular City Commission Meeting Minutes.

- B. REAPPOINTMENTS to the Planning and Zoning Board.
- C. PROCLAMATION: LGBTQ Pride Month.

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

Commissioner McCall requested that Item 5C be pulled for further discussion.

Mayor-Commissioner Kennedy asked for consensus on Agenda Items 5A and 5B.

**MOTION BY COMMISSIONER VAUGHAN TO APPROVE AGENDA ITEMS 5A AND 5B. SECONDED BY COMMISSIONER HOUSEBERG.**

**ROLL CALL VOTE:  
ALL AYES. MOTION CARRIED 5-0.**

Mayor-Commissioner Kennedy read consent agenda item 5C for discussion.

Commissioner McCall stated that he discovered that the City had no policy, process, or set criteria for a Proclamation. Mayor-Commissioner Kennedy agreed to having a set criteria and have the City Manager come back at another time for the Commission to review a set process for a Proclamation.

Mayor-Commissioner Kennedy asked for a consensus to move forward and have City Staff recommend a policy for future proclamations.

**MOTION BY COMMISSIONER VAUGHAN TO APPROVE A POLICY TO BE IN PLACE FOR FUTURE PROCLAMATIONS. SECONDED BY COMMISSIONER McCALL.**

**ROLL CALL VOTE:  
ALL AYES. MOTION CARRIED 5-0.**

Mayor- Commissioner Kennedy asked for a consensus on Agenda Item 5C.

**MOTION BY COMMISSIONER VAUGHAN TO APPROVE THE PROCLAMAION OF LGBTQ PRIDE MONTH. SECONDED BY COMMISSIONER BOND.**

Mayor-Commissioner Kennedy opened the floor for public comments.

**PUBLIC COMMENT.**

DIANE DANIELS, 309 10<sup>TH</sup> Avenue, thank you for your support, I was the one that brought this up. I thank you for your support, I hope this is the beginning of something

and this will continue and one day we see the rainbow flag and neon lights at city hall.

Mayor-Commissioner Kennedy closed the public comment section.

Mayor- Commissioner Kennedy asked if there were any comments from the maker or the second.

**ROLL CALL VOTE:**

**Ayes: Houseberg, Vaughan, Bond, Kennedy**

**Nayes: McCall**

**MOTION CARRIED BY A VOTE OF 4 TO 1, WITH COMMISSIONER McCALL CASTING THE DISSENTING VOTE.**

6. **PUBLIC HEARINGS-** None

7. **OTHER LEGISLATIVE MATTERS:**

**A. Resolution No. 2023-05. Vacation Rental Fees.**

City Attorney Mora read Resolution 2023-05. Vacation Rentals by title only and turned it over to City Manager Mims.

City Manager Mims stated that per the direction of the City Commission the annual registration fee is \$300.00 a year, initial inspection fee \$150.00, reinspection fee \$75.00. The new ordinance will start August 1, 2023, and the updated forms will be available on or before July 14<sup>th</sup>, 2023.

**PUBLIC COMMENT.**

Jerry Newton, 438 Harbor Drive N., asked if a resolution could be changed. City Mims replied yes, resolutions can be amended.

Diane Daniels, 209 10<sup>th</sup> Avenue, suggested that something should be put on the City Website even if it is not ready. Asked if Indian Rocks Beach Ordinance includes the Suncoast Fire and Rescue Inspection. City Manager Mims replied that out of courtesy to the fire department, the City of Indian Rocks Beach certificate will not be issued until the fire department is good to go.

Beth McMullen, 481 Harbor Drive S. asked if someone purchases a larger home before this ordinance hits on August 1<sup>st</sup>, is the occupancy still going to be 12 or will there be a grace period, and if they purchase it after August 1<sup>st</sup>, is there a grace period for that occupancy. City Attorney replied every application is going to be having to be taken on its merits. Timing will factor in which process. City Manager added that under the current

ordinance you are not going to get a business tax license unless you comply with the current ordinance.

Dennis Zweifel, representing homeowners at 1510 Gulf Boulevard, asked to be read the inspection fees again and stated that the fees seem higher than other municipalities, but that is the cost of doing business.

Mayor-Commissioner Kennedy closed the public comment section.

**MOTION BY COMMISSIONER HOUSEBERG TO APPROVE RESOLUTION 2023-05 VACATION RENTAL FEES AND THE AMENDED REVISION TO THE EFFECTIVE DATE OF AUGUST 1, 2023. SECONDED BY COMMISSIONER VAUGHAN.**

Mayor-Commissioner Kennedy asked if there were any comments from the maker or the second or any other Commissioners.

**ROLL CALL VOTE:  
ALL AYES. MOTION CARRIED 5-0.**

8. **WORK SESSION.** None
9. **OTHER BUSINESS.** None
10. **ADJOURNMENT.**

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**MOTION BY COMMISSIONER HOUSEBERG, SECONDED BY VICE-MAYOR COMMISSIONER BOND TO ADJOURN THE MEETING AT 7:45 PM UNANIMOUS APPROVAL BY ACCLAMATION.**

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Date Approved

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Joanne Moston Kennedy, Mayor-Commissioner

Attest: \_\_\_\_\_  
Lorin A. Kornijtschuk, Interim City Clerk

**AGENDA ITEM NO. 5B**

**CONSENT AGENDA**

**APPROVAL OF the  
July 11, 2023  
Regular City Commission  
Meeting Minute**



**CITY OF INDIAN ROCKS BEACH  
REGULAR CITY COMMISSION MEETING  
TUESDAY, JULY 11, 2023- 6:00 PM  
1507 BAY PALM BOULEVARD INDIAN ROCKS BEACH, FL 33785  
(MEETING CAN BE VIEWED AT WWW.INDIAN-ROCKS-BEACH.COM)  
MINUTES**

Mayor Kennedy called the meeting to order at 6:00 p.m., FOLLOWED BY THE Pledge of Allegiance and a moment of silence.

**MEMBERS PRESENT:** Mayor-Commissioner Joanne Kennedy, Commissioner Denise Houseberg, and Commissioner Lan Vaughan.

**OTHERS PRESENT:** Attorney Thomas Trask sitting in for City Attorney Randy Mora.

**MEMBERS ABSENT:** Vice-Mayor Jude Bond and Joe McCall.

For continuity, items are listed in agenda order, although not necessarily discussed in that order.

**1 A. REPORT OF Pinellas County Sheriff's Office.**  
A PCSO representative reviewed the monthly report.

**1 B. REPORT OF Pinellas Suncoast Fire & District.**  
Fire Chief Jeffrey Davidson reviewed the fire district's monthly report.  
Fire Chief Davidson stated the department will be performing short-term vacation rental live saving inspections and in August the department will be adding a lifesaving marine unit.  
Commissioner Houseberg asked if the check list for fire safety inspections was completed. Chief Davidson replied yes.

**2. PUBLIC COMMENTS.**  
John Phanstiel, 448 Harbor Drive S, stated many residents appreciate all the work the commission did on the new short-term rental regulations. The city should hire a lobbyist this summer and put a referendum on the ballot.  
Tom Wilson, 444 Harbor Drive S. thanked Commissioner Denise Houseberg for her presentation to the realtors explaining what is going on with short-term rentals. Thanked the sanitation department.

**3 A. REPORT OF the City Attorney.**  
Attorney Thomas Trask stated that he was filling in for City Attorney Randy Mora.

Commissioner Vaughan asked to defer City Attorney Mora's report that was requested at the last meeting to the next meeting to discuss short-term rentals and hiring someone to talk to the legislators.

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

City Manager Mims read the Code Enforcement Report for June 2023.

(93) parking citations, does not include Pinellas County's Sherriff's Office.

(2) courtesy letters sent

(21) violation letters.

(4) notices to appear.

(12) short-term renal inspections.

The City Manager stated the Proposed Budget was released, and he and Finance Director Dan Carpenter will be meeting with individual commissioners to discuss the proposed budget.

The City Manager announced the following dates to finalize the budget process:

July 25, 2023, at 4:00 pm City Commission Budget Work Session.

July 25, 2023, at 6:00 p.m. Special City Commission Meeting for the Tentative Millage Rate.

September 6, 2023, at 6:00 p.m. first public hearing to adopt a Tentative Budget and Millage Rate.

September 20, 2023, at 6:00 p.m. final public hearing to adopt a Final Budget and Millage Rate.

The City Manager presented the June 2023 Indian Rocks Beach Library stats.

The Manager reported that the city received a new garbage truck and a new bucket truck after waiting for two years. The Vacation Rental Ordinance Application and updated map have been uploaded on the website. In this year's budget the city allocated money for adaptive playground equipment for children with disabilities and will be installed by the end of this month. In the proposed budget there is more equipment that the city would like to add.

The City Manager stated that later this month he will have been with the city for 10 years, he thanked the Commission for the privilege to serve in his position, and looks forward to working with this Commission, Planning and Zoning Board, Board of Adjustment, and a great staff.

Commissioner Vaughan, and Commissioner Houseberg, thanked the City Manager.

Mayor- Commissioner Kennedy stated she was in the group that hired City Manager Mims, he is a multi-tasker, great with the commission, and always levelheaded. The city has benefited from his 40 plus years in government.

**3 C. REPORT OF the City Commission.**

Mayor-Commissioner Kennedy stated she spoke with a resident who said this was the least number of fireworks on 4<sup>th</sup> of July and spoke with another on the same street that said the ordinance should be thrown out because it is not being enforced. She said it is how you perceive things. She was told the beach was clean and she thought that enforcement went well.

**4. ADDITIONS/DELETIONS.**

Agenda Item 6D. BOA Case NO. 2023-03-2011 1<sup>st</sup> Street, was withdrawn by the applicant.

Agenda Item 8A. has been rescheduled for September 12, 2023, Regular City Commission Meeting.

**5. CONSENT AGENDA.**

**5 A. Approve May 9, 2023, Regular City Commission Meeting Minutes.**

**5 B. Authorizing the City manager to sign a one-year agreement to renew group health coverage with the Public Risk Management (PRM) Group Health Trust for FY 2023-2024.**

**MOTION** was made by Commissioner Vaughan and seconded by Commissioner Houseberg to approve the Consent Agenda.

**AYES:** Houseberg, Vaughan, and Kennedy

**NAY:** None

**ABSENT:** McCall and Bond

**Motion to approve carried unanimously.**

**6. PUBLIC HEARING.**

**6 A. ABT 19-2023- 1401 GULF BOULEVARD-INDIAN ROCKS CAFÉ DELI & MARKET.**

Considering a 2 COP Alcoholic Beverage Use Designation (Beer, wine, liquor. By the drink or in sealed containers for consumption on or off premises where sold), for Indian Rocks Café Inc., d/b/a Indian Rocks Café Deli & Market, located at 1401 Gulf Boulevard Suite 5,6 and 7, Indian Rocks Beach, Florida, and legally described as Indian Beach Re- Revised, Block 29, Lots 1, 2, and 3.

City of Indian Rocks Beach

Minutes, July 11, 2023

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City Attorney Trask read Agenda Item No. 6A, ABT Case No. 19-2023.

City Attorney Trask inquired of the City Commission members if they had any ex-parte communications with the applicant or their agent, with all members responding negatively.

City Attorney Trask inquired of the City Commission Member if any of them had conducted a site visit for the limited purpose of evaluating the application before them, with all members responding negatively.

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

Interim City Clerk Kornijtschuk presented ABT Case No. 19-2023, Indian Rocks Café Deli & Market, 2 COP Alcoholic Beverage Use Designation.

Mr. Jeff Tacy requested a 2COP Alcoholic Beverage Designation Application (Beer, wine, liquor. By the drink or in sealed containers for consumption on or off premises where sold) for the establishment Indian Rocks Café Deli & Market, located at 1401 Gulf Boulevard.

Indian Rocks Café is in the Sunrise Gallery Shopping Center located in the B-Business District. The surrounding zoning is B-Business to the north and south, R2-Medium density multifamily zoning district to the east and CT-Commercial Tourist on the west side of Gulf Boulevard at 1401.

The Planning Consultant & Pinellas County Sheriff's Office has signed off on the application.

A public notice was mailed, and legal notice published.

The City has updated the motion on this application to read:  
The City Staff recommends approval with the stipulation that repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or parking area may result in the revocation of the alcoholic beverage designation.

Jeff Tacy, 716 Gulf Boulevard, applicant stated they had expanded the Café into Boars Head Deli and Market. The closest retail to the Deli is USA Grocery. The Café is open until 2:00 p.m. and the market stays open to 6:00 p.m., the sale of alcohol will be retail, but the COP gives the customer the opportunity to drink it on the premises.

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

Mayor -Commissioner Kennedy asked if there would be alcohol sold. Mr. Tracy replied nothing more than 13%.

Commissioner Houseberg asked if the store hours would remain the same. Mr. Tracy replied yes. Commissioner Houseberg asked will your sales be carted away. Mr. Tracy replied he would bag it, but they could have a drink in the Café.

Mayor-Commissioner Kennedy reported that a letter not in favor was received from Groupers Restaurant.

City Manager Mims stated the letter from Groupers was regarding the distance requirement limitation, the city does not have one.

Commissioner Vaughan stated that he saw Groupers as a restaurant serving alcoholic beverages and the Café as a retail environment, so it could be taken home for consumption, but it also could be consumed on the premises.

**Motion** was made by Commissioner Houseberg and seconded by Commissioner Vaughan for ABT Case No. 19-2023 to include the stipulation that repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or parking area may result in the revocation of the alcoholic beverage designation.

**AYES:** Houseberg, Vaughan, and Kennedy

**NAY:** None

**ABSENT:** McCall and Bond

**Motion to approve carried unanimously.**

**6 B. ABT 20-2023- 409 GULF BOULEVARD-SAVOR THE MOMENT CATERING**

Considering a 13 CT Alcoholic Beverage Use Designation (By the drink for consumption on the premises only of any catered event at which the licensee is providing prepared food) for Big Claw Catering, LLC., d/b/a Savor the Moment Catering, located at 409 Gulf Boulevard Indian Rocks Beach, Florida, and legally described as Indian Beach Re-Revised, Block 8, Lots 5 & 6 Less RD R/W on W & Lots 7 thru 10 & Lot 11 & 12 Less RD R/W on S & Lots 13 thru 20.

City Attorney Trask read Agenda Item No. 6B, ABT Case No. 20-2023.

City Attorney Trask inquired of the City Commission members if they had any ex-parte communications with the applicant or their agent, with all members responding negatively.

City Attorney Trask inquired of the City Commission Member if any of them had conducted a site visit for the limited purpose of evaluating the application before them, with all members responding negatively.

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

Interim City Clerk Kornijtschuk presented ABT Case No. 20-2023, Big Claw Catering LLC., d/b/a Savor the Moment Catering, 13 CT Alcoholic Beverage Use Designation. Matthew Loder Sr. has requested a 13 CT Alcoholic Beverage Use Designation (By the drink for consumption on the premises only of any catered event at which the licensee is providing prepared food) for Big Claw Catering, LLC., d/b/a Savor the Moment Catering, located at 409 Gulf Boulevard.

The surrounding zoning is B-Business to the north, south and east with CT-Commercial Tourist on the west side of Gulf Boulevard.

The Planning Consultant & Pinellas County Sheriff's Office has signed off on the application.

A public notice was mailed, and legal notice published.

The City has updated the motion on this application to read:  
The City Staff recommends approval with the stipulation that repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or parking area may result in the revocation of the alcoholic beverage designation.  
Mayor-Commissioner Kennedy opened the public hearing.

Matt Loder, 401 Gulf Boulevard, stated this is a liquor license for catering to have alcohol off site.

John Pfanstiehl, 448 Harbor Drive South, stated Matt and his family have done so much for this community, and is completely for this.

Mayor-Commissioner Kennedy closed the public hearing.

**Motion** was made by Commissioner Vaughan and seconded by Commissioner Houseberg for ABT Case No. 20-2023 to include the stipulation that repeated or

intermittent nuisance activity and/or unlawful noise levels originating from the establishment or parking area may result in the revocation of the alcoholic beverage designation.

**AYES:** Houseberg, Vaughan, and Kennedy  
**NAY:** None  
**ABSENT:** McCall and Bond

**Motion to approve carried unanimously.**

**6 C. ABT 21-2023- 409 GULF BOULEVARD-SAVOR THE MOMENT CATERING**

Considering a 4 COP SFS Alcoholic Beverage Use Designation (Beer, wine, liquor. By the drink or in sealed containers for consumption on or off premises where sold) for Big Claw Catering, LLC., d/b/a Savor the Moment Catering, located at 409 Gulf Boulevard Indian Rocks Beach, Florida, and legally described as Indian Beach Re- Revised, Block 8, Lots 5 & 6 Less RD R/W on W & Lots 7 thru 10 & Lot 11 & 12 Less RD R/W on S & Lots 13 thru 20.

City Attorney Trask read Agenda Item No. 6C, ABT Case No. 21-2023, by title only.

City Attorney Trask inquired of the City Commission members if they had any ex-parte communications with the applicant or their agent, with all members responding negatively.

City Attorney Trask inquired of the City Commission Member if any of them had conducted a site visit for the limited purpose of evaluating the application before them, with all members responding negatively.

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

Interim City Clerk Kornijtschuk presented ABT Case No. 21-2023, Big Claw Catering LLC., d/b/a Savor the Moment Catering, 4 COP Alcoholic Beverage Use Designation. Matthew Loder Sr. has requested a 4 COP SFS Alcoholic Beverage Use Designation (Beer, wine, liquor. By the drink or in sealed containers for consumption on or off premises where sold) for Big Claw Catering, LLC., d/b/a Savor the Moment Catering, located at 409 Gulf Boulevard.

The surrounding zoning is B-Business to the north, south and east with CT-Commercial Tourist on the west side of Gulf Boulevard.

The Planning Consultant & Pinellas County Sheriff's Office has signed off on the application.

A public notice was mailed, and legal notice published.

The City has update the motion on this application to read:

The City Staff recommends approval with the stipulation that repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or parking area may result in the revocation of the alcoholic beverage designation.

Matthew Loder, 401 Gulf Boulevard, stated it is a necessity to have a 4 COP license to obtain a 13 CT license.

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

**Motion was made by Commissioner Houseberg and seconded by Commissioner Vaughan for ABT Case No. 21-2023 to include the stipulation that repeated or intermittent nuisance activity and/or unlawful noise levels originating from the establishment or parking area may result in the revocation of the alcoholic beverage designation.**

**AYES: Houseberg, Vaughan, and Kennedy**

**NAY: None**

**ABSENT: McCall and Bond**

**Motion to approve carried unanimously.**

**6 D. BOA CASE NO. 2023-03-2011 1<sup>ST</sup> Street (Withdrawn by the applicant )**

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

**8. WORK SESSION ITEMS.**

**8 A. DISCUSSION OF ~~paid parking program for Indian Rocks Beach.~~ (Rescheduled for September 12, 2023, Regular City Commission Meeting.)**

**9. OTHER BUSINESS.**

**9 A. City Clerk Vacancy**

City Manager Mims stated that on June 7, 2023, the City Commission unanimously appointed Lorin as the Interim City Clerk, they also authorized the City Manager, Mayor-Commissioner Kennedy and City Attorney to update the City Clerk Description. The position was posted on June 9, 2023, and closed on June 30, 2023. Four applications were received including Lorins.



City Manager read the email letter he sent to all the Commissioners. *Good morning. As you know a discussion of the City Clerk Position is on tomorrow night's City Commission Agenda (Agenda Item # 9). Detailed information concerning the applicants, Code and Charter provisions were included in the agenda packet. After a detailed review of the applicants and their qualifications the following is offered. As your City Manager I recommend that the Commission offer the position of City Clerk to Lorin Kornijtschuck and authorize the City Attorney and City Manager to negotiate an employment agreement. Further I would recommend that the starting salary be set at \$75,000. If this course of action is approved by the Commission the negotiated employment agreement will be placed on the August 8, 2023, IRB CC Meeting Agenda, for consideration and approval.*

City Manager Mims stated Lorin will have been with the city for 10 years this September. She has worked with every department including the City Clerk. She is well respected by all the employees of the city. The only other applicant that was remotely qualified was an individual from out of state, but she does not have the decade of knowledge that Lorin has on Florida rules, regulations, and restrictions.

City Manager Mims stated he had a conversation with Commissioner McCall on an unrelated matter, but briefly spoke about the City Clerk position. Commissioner McCall wanted it to be recorded that he supports the appointment of Lorin Kornijtschuk with conditions that have been laid out.

Commissioner Houseberg asked if there would be any interviews. City Manager Mims replied you are not obligated to and the only one other applicant was remotely qualified is out of state and does not have knowledge of Florida rules and regulations. Commissioner Kennedy stated she has worked with Lorin in her other positions and in time of need when the former City Clerk needed help Lorin was always there. Her experience working in the city and taking over this position while working on things that are needed, is stellar. I am pleased with her.

Interim City Clerk Lorin Kornijtschuk stated that she applied for her International Institute of Municipal Clerks certificate in 2018 and is an associate member. She pays the yearly dues, and takes classes, however, the only way to obtain a certificate is to be acting as a City Clerk.

Mayor-Commissioner Kennedy opened the public hearing.

John Pfanstiehl, 448 Harbor Drive S., stated he had worked on a few things with Lorin and she is qualified and if she gets chosen by the Commission the city would be very lucky. The City Manager and the City Clerk are chosen by the Commission.

City Manager Mims stated the City Commission appoints the clerk, duties are in the city code and the city manager supervises the day-to-day actions, this is not anything new. Mayor-Commissioner Kennedy closed the public hearing.

**MOTION** was made by Commissioner Houseberg and seconded by Commissioner Vaughan to approve Lorin Kornijtschuk as the City Clerk and to authorize the City Manager and City Attorney to negotiate an employment agreement with a starting salary of \$75,000.

**AYES:** Houseberg, Vaughan, and Kennedy

**NAY:** None

**ABSENT:** McCall and Bond

**Motion to approve carried unanimously.**

**10. ADJOURNMENT.**

**Motion** was made by Commissioner Houseberg and seconded by Commissioner Vaughan to adjourn at 7:05 p.m. Unanimous approval by acclamation.

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Joanne Moston Kennedy, Mayor-Commissioner

Attest: \_\_\_\_\_  
Lorin A. Kornijtschuk, City Clerk  
/LAK

**AGENDA ITEM NO. 5C**

**CONSENT AGENDA**

**AUTHORIZING the Mayor-  
Commissioner to sign employment  
agreement with the City Clerk,  
Lorin A. Kornijtschuk**

**EMPLOYMENT AGREEMENT  
CITY CLERK – CITY OF INDIAN ROCKS BEACH**

THIS EMPLOYMENT AGREEMENT (the “Agreement”) is entered into by and between the City of Indian Rocks Beach, a Florida municipal corporation (the “City), and Lorin A. Kornijtschuk (“Employee,” together with the City, the “Parties”).

**WITNESSETH:**

**WHEREAS**, the position of City Clerk for the City of Indian Rocks Beach became vacant in June 2023; and

**WHEREAS**, Section 6.1 of the City Charter provides that when a vacancy occurs, the City Commission shall immediately advertise the vacancy, and fill the vacancy as soon as the Commission deems possible; and

**WHEREAS**, Section 6.1 of the City Charter also provides that the City Commission may contract for the services of Charter officers and set forth the terms of employment including but not limited to services to be rendered, compensation and termination of contract; and

**WHEREAS**, after advertising the vacancy and reviewing applicant submissions, the City Commission desires to employ Lorin A. Kornijtschuk as City Clerk for the City of Indian Rocks Beach, Florida, as provided in Article VI, §§ 6.1 and 6.2 of the Charter for the City of Indian Rocks Beach; and

**WHEREAS**, the City, through its City Council, desires to establish the terms providing for the compensation and benefits to be provided to Employee, and to establish conditions of employment applicable to the role of the City Clerk; and

**WHEREAS**, Employee possesses the education, training, and experience in local government, and desires to accept employment as City Clerk for the City of Indian Rocks Beach under the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the promises, mutual covenants, conditions, provisions and undertakings herein contained, and for other good and valuable consideration, the parties do mutually covenant and agree to the following terms and conditions:

**SECTION 1: TERM**

This Agreement shall remain in full force and effect from August 9, 2023, until terminated by the City or Employee as provided in Section 5 of this Agreement.

Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Commission to terminate Employee’s services at any time, subject to the provisions set forth in the City Charter and this Agreement. Similarly, nothing in this Agreement shall prevent, limit, or otherwise interfere with Employee’s right to voluntarily resign at any time from her

position with the City, subject to the provisions set forth in this Agreement.

## **SECTION 2: DUTIES AND AUTHORITY**

**A.** Employee shall perform the duties specified in Article VI of the City Charter, as presently written or subsequently amended, and perform other legally mandated, permissible, and proper duties and functions as the City Code, State law, or Federal law may require, or the City Commission or City Manager may assign.

**B.** Employee shall prepare and publish all legal advertisements and notices of meetings by the City Commission and its subordinate or advisory boards, be custodian of all City records, documents, and papers, attest to all contracts and agreement to which the City is a party, serve as the custodian of the City's seal, and be authorized to affix the seal to such written instruments as necessary.

**C.** Employee shall supervise the City's elections and administer oaths as necessary.

**D.** Employee shall attend such meetings of the City Commission and such other boards as may be designated by the City Commission or City Manager, and keep a true and correct record of all such proceedings.

**E.** Employee shall be subject to the direct day-to-day supervision by the City Manager, consistent with Section 5.3 (2) of the City Charter, as it presently exists or may be amended, which provides that the City Manager shall supervise the Charter officers and the administration of all departments, offices, and agencies of the City.

**F.** Employee shall perform such other duties as may be required by the City Commission or directly assigned by the City Manager, as well as other duties required by the laws and administrative requirements of the State of Florida.

**G.** Employee shall perform the duties of the City Clerk with reasonable care, diligence, skill and expertise.

**H.** Employee cannot be reassigned from the position of City Clerk to another position without Employee's express written consent.

**I.** Employee shall devote her full working time to the performance of her duties and responsibilities as set forth above and agrees not to engage in any other employment or any contractual relationships for personal services during her employment with the City, unless she has secured the express written consent of a majority of the City Commission.

### **SECTION 3: COMPENSATION**

**A. Base Salary:** Beginning August 17, 2023, Employee shall be paid an annual base salary of **\$75,000**, payable in installments at the same time and intervals in which the City's other employees are paid, and subject to all applicable taxes and salary withholdings.

**B. Salary Increases:**

- i. Employee shall be entitled to the same cost of living salary adjustments the City Commission approves in its annual budget.
- ii. Nothing in this provision shall be construed to limit the City Commission's ability, within its sole discretion, to make provision for additional salary increases for Employee, based on her merit, performance, or tenure.
- iii. The City Commission shall consider raising Employee's salary upon Employee completing the requirements and receiving the designation of a Certified Municipal Clerk ("CMC"), and again upon completing the requirements and receiving the designation of a Master Municipal Clerk ("MMC"), through the International Institute of Municipal Clerks (the "IIMC"), or any successor entity to the IIMC.

**C. Benefits.** Except as otherwise provided in this Agreement, City shall provide Employee with the option of health/medical, dental, and vision insurance in the same manner and on the same terms as extended to all other full-time employees in the City.

**D. Leave.** Employee shall be accrue twenty (20) days of Annual Leave Employee shall accrue and receive compensation for accrued leave in the same manner and on the same terms as extended to all other full-time employees in the City. All vacation, sick, or other leave benefits Employee accrued while previously serving as a City employee shall be preserved and retained upon the execution of this Agreement.

**E. Retirement Benefits.** Employee shall be entitled to the same retirement contributions and benefits in the same manner and on the same terms as extended to all other full-time employees in the City.

**F. Nature and Hours of Work.** Employee recognizes and acknowledges that her role requires performance of essential executive level functions, including possession of unique knowledge, skills, and authority within the City. Further, while a considerable amount of time is spent in an office environment, Employee will frequently be required to attend public meetings. Despite the unique and, at times, unpredictable hours of service required from Employee, no additional compensation shall be paid or compensatory hours accrued for Employee's hours worked outside of or exceeding the City's ordinary hours of business.

#### **SECTION 4: EVALUATION AND PERFORMANCE REVIEW**

The City Manager shall conduct an annual performance evaluation which shall be submitted to the City Commission on or before August 1st of each calendar year. The City Commission may establish the base requirements for the contents or criteria to be addressed in the Employee's performance evaluation, and define Employee's goals and performance objectives as the Clerk. This review and appraisal criteria may be added to or deleted from time to time as the Commission determines is in the City's best interest.

#### **SECTION 5: TERMINATION, RESIGNATION, RETIREMENT, AND DEATH**

**A. Termination:** Consistent with Section 6.1 of the City's Charter, the City Clerk shall be appointed by and serve at the pleasure of the City Commission. The Commission shall have the ability to terminate the City Clerk with or without cause, upon a vote of at least three Commissioners at a lawfully noticed and convened public hearing. Nothing in this Agreement shall be construed to require the City Commission to publish an agenda specifically identifying Employee's termination as a topic of discussion at an otherwise lawfully noticed and convened public meeting.

**B. Resignation or Retirement:** In the event Employee voluntarily retires from or resigns her position with the City, Employee shall provide a minimum of thirty (30) days' notice, hand-delivered or mailed directly to the City Manager or, if the position of the Manager is vacant at the time, to the Mayor, unless the City and Employee agree otherwise. Unless the parties agree otherwise, in the event of Employee's voluntary resignation or retirement she shall not be entitled to any severance payment, and shall receive the value of any accrued leave in the same manner and on the same terms as extended to all other full-time employees in the City upon termination of employment. Alternatively, if Employee and City enter into a separation agreement, any severance payment provided in the agreement shall be subject to the limitations set forth in § 215.425 (4) (d), restricting total severance pay to an amount not to exceed the equivalent of twenty (20) weeks of Employee's current weekly gross compensation at the time of separation, or as subsequently amended.

**C. Disability.** Employee acknowledges and agrees that her services are unique and personal and her regular attendance to her duties is therefore essential to the performance of her position. If the Commission finds that Employee has become permanently disabled, or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity, or health for a period of four (4) successive weeks beyond any accrued sick and annual leave balances, this contract shall expire, and no severance shall be due, except for any obligation to pay any accrued leave balances or payment of any existing life insurance benefits provided to the Employee in the same manner and on the same terms as extended to all other full-time employees in the City.

**D. Death.** If Employee dies during the term of her employment, the obligations under this Agreement shall terminate except for any obligation to pay any accrued leave balances or payment of any existing life insurance benefits provided to the Employee in the same manner and on the same terms as extended to all other full-time employees in the City.

## **SECTION 6: GENERAL PROVISIONS**

A. **Effective Date.** This Agreement shall become effective on August 9, 2023.

B. **Voluntary Execution and Hold Harmless.** Employee acknowledges that her decision to enter into this Agreement is made freely and voluntarily, and that she has had the opportunity to secure independent legal counsel or financial planning expertise as she considered executing this Agreement. Employee further acknowledges that the City makes no promises, offers no assurances, and cannot provide advice concerning the personal or individual financial ramifications of any decision she makes concerning participation in any insurance, pension, or deferred compensation plan. Employee therefore holds the City harmless concerning said financial or retirement consequences or ramifications of decisions she makes concerning such matters.

C. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together will constitute one and the same instrument. Photocopies, fax copies, and electronic copies of signatures shall be deemed as binding as original signatures.

D. **Binding Effect.** This Agreement shall be binding on the City and the Employee as well as her heirs, assigns, executors, personal representatives, and successors in interest.

E. **Residence.** Employee is not required to reside within the corporate boundaries of the City.

F. **Surrender of City Property.** Employee agrees that all City property must be returned to the City before Employee's date of separation, regardless of the circumstances concerning such separation. By executing this Agreement, Employee represents and covenants that all City property in Employee's possession, custody or control (including without limitation, any equipment, credit cards, keys, files, tools, digital devices, phones, electronic files, user IDs and passwords) shall be timely returned to the City's possession or control.

G. **Surrender of Public Records.** Before Employee's date of separation, regardless of the circumstances concerning such separation, Employee shall also deliver to the City Manager, or the appropriate designee identified by the Manager, at or before the expiration of her tenure with the City, all public records kept or received by her in the transaction of official business.

H. **Ethical Commitments.** Employee will at all times uphold the tenets of the FACC Code of Ethics, the City Code of Conduct, and Florida Statutes. The City Commission, or any individual member thereof, shall not request Employee to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fundraising activity for individuals seeking or holding elected office.

I. **Precedence.** In the event of any conflict between the terms, conditions and provisions of this Agreement and the provisions of City's policies, or ordinances or rules and regulations, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of City's policies, ordinances, rules



and regulations, or any such permissive law during the term of the Agreement.

**J. Severability.** The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both City and Employee subsequent to the expungement or judicial modification of the invalid provision.

**K. Modification.** The City Commission, in consultation with Employee, may modify, amend, or fix such other terms and conditions of employment as may be determined from time to time to be necessary or appropriate, provided that such terms and conditions are not inconsistent with or in conflict with the City Charter or any other applicable law. Notwithstanding the foregoing, the City's Personnel Plan, as adopted and revised from time to time by the City Commission or City Manager, shall apply to Employee to the extent relevant and not in conflict with this Agreement or general law.

**IN WITNESS WHEREOF**, the City of Indian Rocks Beach has caused this Employment Agreement by and between the CITY OF INDIAN ROCKS BEACH, Florida, and LORIN A. KORNIJTSCHUK to be signed and executed on its behalf by its Mayor and upon approval by the City Commission:

Executed this \_\_\_\_ day of \_\_\_\_\_, 2023.

CITY OF INDIAN ROCK BEACH

CITY CLERK

\_\_\_\_\_  
Joanne "Cookie" Moston Kennedy  
Mayor, City of Indian Rocks Beach

\_\_\_\_\_  
Lorin A. Kornijtschuk

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM



\_\_\_\_\_  
Randy Mora, Esq, City Attorney

**AGENDA ITEM NO. 5D**

**CONSENT AGENDA**

**REAPPOINTMENT to the Board of  
Adjustments and Appeals, Stewart  
DeVore as a regular board  
member for a two-year term  
expiring June 30, 2025**

**AGENDA MEMO  
INDIAN ROCKS BEACH CITY COMMISSION**

**MEETING OF:** August 8, 2023      **AGENDA ITEM:** 5D  
**ORIGINATED BY:** Lorin A. Kornijtschuk, City Clerk   
**AUTHORIZED BY:** Brently Gregg Mims, City Manager   
**SUBJECT:** Reappointment to the Board of Adjustments and Appeals

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**ANALYSIS:**

Reappointment to the Board of Adjustments and Appeals as a regular board member, Stewart DeVore, for a two-year term expiring on June 30, 2025.

**MOTION:**

I move to **APPROVE/DENY** the reappointment to the Board of Adjustments and Appeals as a regular board member, Stewart DeVore, for a two-year term expiring on June 30, 2025.



/lak

**AGENDA ITEM NO. 5E**

**CONSENT AGENDA**

**REAPPOINTMENT to the Planning  
and Zoning Board, Dave Mott from  
1<sup>st</sup> alternate to regular member  
for a two-year term expiring  
June 30, 2025**

**AGENDA MEMO  
INDIAN ROCKS BEACH CITY COMMISSION**

**MEETING OF:** August 8, 2023      **AGENDA ITEM:** 5E  
**ORIGINATED BY:** Lorin A. Kornijtschuk, City Clerk   
**AUTHORIZED BY:** Brently Gregg Mims, City Manager   
**SUBJECT:** Reappointment to the Planning and Zoning Committee

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**ANALYSIS:**

Reappointment to the Planning and Zoning Committee as a regular board member, from 1<sup>st</sup> alternate, Dave Mott for a two-year term expiring on June 30, 2025.

**MOTION:**

I move to **APPROVE/DENY** the reappointment to the Planning and Zoning Committee as a regular board member, from 1<sup>st</sup> alternate, Dave Mott for a two-year term expiring on June 30, 2025.

**lak**

**AGENDA ITEM NO. 5F**

**CONSENT AGENDA**


**ACCEPT/FILE June 2023  
Year-to-Date Financial Report**


# DISCUSSION MEMO

## INDIAN ROCKS BEACH CITY COMMISSION

**MEETING OF:** August 8, 2023

**AGENDA ITEM:** 5F

**ORIGINATED BY:** Dan Carpenter, Finance Director 

**AUTHORIZED BY:** Brently Gregg Mims, City Manager 

**SUBJECT:** June 2023 Year-to-Date Financial Report

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### **BACKGROUND:**

Staff presents a quarterly discussion of year-to-date financial results to the City Commission.

### **ANALYSIS:**

Financial reports comparing June 2023 fiscal year-to-date actual revenues and expenditures to budget are attached.

**City of Indian Rocks Beach**  
**FY 2023 BUDGET TO ACTUAL REPORT**  
**AS OF JUNE30, 2023**

	6/30/2023 Period to Date Actual	FY 2023 TOTAL APPROVED BUDGET	OVER/(UNDER) BUDGET	% OF TOTAL FY 2023 APPROVED BUDGET
<b>001 GENERAL FUND</b>				
AD VALOREM TAX	\$ 2,947,094	\$ 2,963,060	\$ (15,966)	99%
FRANCHISE FEE	\$ 331,255	\$ 474,250	\$ (142,995)	70%
COMMUNICATIONS SERVICES TAX	\$ 60,508	\$ 80,000	\$ (19,492)	76%
BUSINESS REG & OCC LICENSES	\$ 47,624	\$ 47,310	\$ 314	101%
PERMITS & FEES	\$ 20,678	\$ 8,800	\$ 11,878	235%
INTERGOVERNMENTAL	\$ 319,181	\$ 426,600	\$ (107,419)	75%
CHARGES FOR SERVICES	\$ 7,514	\$ 7,000	\$ 514	107%
PARKING FEES	\$ 195,747	\$ 175,000	\$ 20,747	112%
FINES AND FOREFITS	\$ 70,272	\$ 40,000	\$ 30,272	176%
INTEREST ON INVESTMENT	\$ 154,216	\$ 25,000	\$ 129,216	617%
MISCELLANEOUS	\$ 28,019	\$ 24,420	\$ 3,599	115%
TRANSFERS	\$ 111,645	\$ 148,860	\$ (37,215)	75%
<b>TOTAL REVENUE</b>	<b>\$ 4,293,763</b>	<b>\$ 4,420,300</b>	<b>\$ (126,547)</b>	<b>97%</b>
CITY COMMISSION	\$ 42,420	\$ 55,070	\$ (12,650)	77%
CITY MANAGER	\$ 242,508	\$ 313,760	\$ (71,252)	77%
FINANCE	\$ 272,758	\$ 384,380	\$ (111,622)	71%
CITY ATTORNEY	\$ 97,651	\$ 87,700	\$ 9,951	111%
PLANNING	\$ 57,215	\$ 85,650	\$ (28,435)	67%
CITY CLERK	\$ 183,781	\$ 187,590	\$ (3,809)	98%
LAW ENFORCEMENT	\$ 992,473	\$ 1,189,100	\$ (196,627)	83%
BUILDING & CODE ENFORCEMENT	\$ 100,995	\$ 172,120	\$ (71,125)	59%
PUBLIC WORKS	\$ 826,873	\$ 1,216,560	\$ (389,687)	68%
LIBRARY	\$ 84,519	\$ 118,290	\$ (33,771)	71%
RECREATION	\$ 38,431	\$ 40,200	\$ (1,769)	96%
CENTRAL SERVICES	\$ 269,031	\$ 415,690	\$ (146,659)	65%
<b>TOTAL EXPENDITURES</b>	<b>\$ 3,208,665</b>	<b>\$ 4,266,110</b>	<b>\$ (1,057,465)</b>	<b>75%</b>
<b>001 CAPITAL PROJECTS</b>				
IC SURTAX PENNY FOR PINELLAS	\$ 453,226	\$ 500,000	\$ (46,774)	91%
UTILITY UNDERGROUND GRANT	\$ 969,317	\$ 1,418,693	\$ (449,376)	68%
GRANTS - AMERICAN RESCUE PLAN & D	\$ 28,856	\$ 2,169,688	\$ (2,140,812)	0%
<b>TOTAL REVENUE</b>	<b>\$ 1,451,399</b>	<b>\$ 4,088,381</b>	<b>\$ (2,636,982)</b>	<b>36%</b>
CONTRUCTION PROJECTS	\$ 1,640,067	\$ 4,301,911	\$ (2,661,844)	38%
<b>TOTAL EXPENDITURE</b>	<b>\$ 1,640,067</b>	<b>\$ 4,301,911</b>	<b>\$ (2,661,844)</b>	<b>38%</b>
<b>002 SOLID WASTE FUND</b>				
GRANT REVENUE	\$ 548	\$ 3,000	\$ -	18%
SOLID WASTE	\$ 1,194,454	\$ 1,584,560	\$ (390,106)	75%
<b>TOTAL REVENUE</b>	<b>\$ 1,195,002</b>	<b>\$ 1,687,560</b>	<b>\$ (390,106)</b>	<b>75%</b>
SOLID WASTE	\$ 1,529,580	\$ 1,792,960	\$ (263,380)	85%
<b>TOTAL EXPENDITURE</b>	<b>\$ 1,529,580</b>	<b>\$ 1,792,960</b>	<b>\$ (263,380)</b>	<b>85%</b>



**AGENDA ITEM NO. 5G**

**CONSENT AGENDA**

**APPROVAL of the July 25, 2023,  
Special City Commission Meeting**

**MINUTES-JULY 25, 2023  
CITY OF INDIAN ROCKS BEACH  
SPECIAL CITY COMMISSION MEETING**

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The Indian Rocks Beach Special City Commission Meeting was held on Tuesday July 25, 2023, at 6:00 p.m., 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.

**PRESENT:** Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Jude Bond, Commissioner Joe McCall, Commissioner Houseberg and Commissioner Lan Vaughan.

**OTHERS PRESENT:** City Manager, Gregg Mims City Attorney Randy D. Mora, Finance Director Daniel A. Carpenter, City Clerk Lorin Kornijtschuk, and Finance & Budget Review Committee Chair Jean Scott.

1. **RESOLUTION NO. 2023-06.** Establishing the tentative millage rate for Fiscal Year 2023/24.

**[Beginning of Staff Report]**

**BACKGROUND:**

Pursuant to Florida Statutes, the City has received Form DR-420, Certification of Taxable Value from the Pinellas County Property Appraiser.

In order for the Property Appraiser to mail out TRIM notices the City Commission is required to set a proposed millage rate.

The proposed millage rate is recommended to be 1.7300 mills. The Finance Director advises that the current rolled back rate would be 1.6219 based on the proposed valuation of \$ 1,894,393,810 for the City of Indian Rocks Beach. With an adopted millage rate of 1.7300 for FY 2023/2024, an additional \$208,740 ad valorem tax revenue will be collected over current year collections.

**ANALYSIS:**

Pursuant to Chapter 200.065 (4) (d) F.S., once the proposed millage rate is set, in no event may the final millage rate that is adopted in September exceed the millage rate tentatively adopted, however it may be lower.

City Attorney Mora read Resolution No. 2023-06 in its entirety.

**MOTION** was made by Commissioner Vaughan, seconded by Commissioner McCall to approve Resolution NO. 2023-06, establishing the tentative millage rate for FY 2023-2024 at 1.73.

**ROLL CALL VOTE:**

**AYES: McCall, Bond Houseberg, Vaughan, and Kennedy**

**NAY: None**

**Motion to approve carried unanimously.**

**2. PUBLIC COMMENTS.**

Mayor – Commissioner Kennedy opened the public hearing. Seeing and/or hearing no one, she closed the public hearing.

**3. ADJOURNMENT.**

**MOTION** was made by Commissioner Houseberg, seconded by Commissioner McCall to adjourn the Meeting at 6:08 p.m. Unanimous approval by acclamation.

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Joanne Moston Kennedy, Mayor-Commissioner

Attest: \_\_\_\_\_  
Lorin A. Kornijtschuk, City Clerk  
/LAK

**AGENDA ITEM NO. 5H**

**CONSENT AGENDA**


**CONFIRMING ACTION taken  
during July 25, 2023  
Special City Commission Meeting**

# AGENDA MEMO

## INDIAN ROCKS BEACH CITY COMMISSION

**MEETING OF:** August 8, 2023,      **AGENDA ITEM:** 5H

**ORIGINATED BY:** Lorin A. Kornijtschuk, City Clerk

**AUTHORIZED BY:** Brently Gregg Mims, City Manager 

**SUBJECT:** Confirming action taken during the July 25, 2023, Special City Commission Meeting.

---

**BACKGROUND:**

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

The City Commission took the following action during the July 25, 2023, Special City Commission Meeting:

I:      RESOLUTION NO. 2023-06. Established the tentative millage rate for Fiscal Year 2023/2024 at 1.7300. Unanimous approval.

**MOTION:**

I move to confirm the action taken during the July 25, 2023, Special City Commission Meeting.

/lak

**AGENDA ITEM NO. 5I**

**CONSENT AGENDA**

**APPROVAL of the July 25, 2023,  
City Commission Budget Work  
Session Meeting Minutes**

**MINUTES-JULY 25, 2023  
CITY OF INDIAN ROCKS BEACH  
CITY COMMISSION BUDGET WORK SESSION**

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The Indian Rocks Beach City Commission Budget Work Session was held on Tuesday July 25, 2023 at 4:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 4:05 p.m., followed by the Pledge of Allegiance and a moment of silence.

**PRESENT:** Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Jude Bond, Commissioner Joe McCall, Commissioner Houseberg, Commissioner Lan Vaughan.

**OTHERS PRESENT:** City Manager Gregg Mims, City Attorney Randy D. Mora, Finance Director Daniel A. Carpenter, City Clerk Lorin Kornijtschuk, and Finance & Budget Review Committee Chair Jean Scott.

Chair of the Finance Board Review Committee Jean Scott stated, Finance Director, Dan Carpenter led the meeting on July 12, 2023, and there was a unanimous vote to approve the budget and millage rate. The City is financially solid in case of an emergency. She thanked City Manager Mims and Finance Director, Dan Carpenter for doing a good job.

**1. REVIEW OF Five-Year Capital Improvement Plan (2024-28) and the FY 2023-24 Preliminary Budget.**

Finance Director Carpenter presented a PowerPoint Presentation on Revenues: General Fund, Solid Waste Fund, and Capital Improvement Fund.

The City of Indian Rocks Beach is primarily funded by over 65% of property taxes.

**Property Taxes**

- 50% Pinellas County & Other Taxing Authorities
- 39% School Board
- 11% City

**Different Property Taxpayers Defined**

- Homestead/Save Our Homeowners
  - 25% of properties
- Non-Homestead/Commercial Owners
  - 75% of properties
- New Construction
  - \$14 million for FY 2024 for new construction. Approximately \$24,000 in new property taxes are not calculated into the rollback mill rate.

According to the Pinellas County Property Appraiser's Office, our property tax assessed value is expected to increase by approximately 13.58% or 2.56% less than last year. Of the 13.58% increase in taxable values, over 16.2% is attributed to new construction. In total, the value of new construction exceeds \$13 million.

The proposed budget reduces the existing mill levy of 1.8326% to 1.73% which ensures our continued ranking among the lowest mill rates in Pinellas County, and one of the lowest in the State of Florida. All other revenue sources are stable, or rising slightly, which allows us to accurately make future projections. Our reserve fund remains strong and is significantly higher than the national average.

## **OTHER GENERAL FUND REVENUES**

- Franchise Fees: 6% on electric and gas, \$496,560 or 10.3% of FY 2024 total General Fund Revenue.
- State Revenues: Shared, ½ cent sales tax, communication services tax, \$528,000 of 10.9% of FY 2024 total General Fund Revenue.
- Parking Revenue: Pinellas County Beach Parking Lot, \$184,000 or 4% of FY 2024 total General Fund Revenue.
- Interest Earnings \$200,000.
- Vacation Rental Registration/Inspection \$100,000.

The General Fund expenses total \$4,813,030.

**The City of Indian Rocks Beach remains one of the only cities in Pinellas County that does not have a stormwater fee or utility tax.**

Currently, the city's unassigned reserves balance is approximately \$4,549,326 or 94.5% of General Fund expenditures. In addition to the General Fund reserve account, the budget includes an updated IRB Five Year Capital Plan with an estimated reserve balance at the end of the five-year period of approximately \$565,740.

## **SOLID WASTE FUND**

- Residential: Bi-monthly billing through Pinellas County Utilities.
- Commercial: Bi-monthly billing through Pinellas County Utilities.
- Proposed a 7% Increase for both residential and commercial accounts in FY 2024. A \$2.40 per month increase for residential accounts.
- 25% Reserve Balance or approximately \$400,000.

## **CAPITAL PROJECTS FUND — MAJOR REVENUE SOURCES**

- Local Option Sales Tax (LOST) or Penney for Pinellas. \$500,000. It is a restricted revenue and can only be used for utility infrastructure replacement and public safety capital improvements, i.e. The City uses this revenue for road construction, reconstruction, and stormwater.
- BIG-C/LOST Funding. Allocated by Pinellas County for undergrounding of utilities along Gulf Boulevard. \$5.6 million project.
- American Rescue Plan. Federal Stimulus for infrastructure. \$2.1 million. This fund is also a restricted revenue. The proposed budget has it entirely allocated for stormwater projects.
- Southwest Florida Water Management District (SWFWMD). \$197,500. Matching grant funds for stormwater projects.



Mayor-Commissioner Kennedy asked what the American Rescue Plan was used for. City Manager Mims explained that the legislature passed a bill that required all local governments to update their storm water plans. The city has an updated storm water master plan, approved by the City Commission with a number of projects. The Harbor Drive area has three designated projects. The city will review bids on these projects in the next few weeks.

Commissioner McCall stated that turnover in housing, people selling, people buying and the resetting of those taxes, is how the city has the appreciation number of 13.58%.

City Manager Mims presented the highlights of the General Fund Budget, the Solid Waste Budget, and the Five-Year Capital Improvement Plan as outlined in the Budget Letter.

Highlights of the proposed general fund budget include:

- Reduction of the existing mill rate of 1.8326% to 1.73%.
- Elimination of the cost allocation from the Solid Waste Budget to the General Fund Budget. Savings to the Solid Waste Budget of \$148,000.
- 4% cost of living increase for all team members.
- Continued allocation of \$50,000 for proactive drainage maintenance.
- Funding for a magistrate and associated legal counsel.
- Two new full-time team members. One Code/Solid Waste Enforcement Officer and one Revenue Officer.
- Two Code Enforcement vehicles. Replacement of an existing vehicle and a new vehicle to accommodate the Code Enforcement Team.
- Replacement of an existing Public Works dump truck and replacement of one pickup.
- 7.9% increase in the Pinellas County Sheriff's Law Enforcement Service Contract.
- Installation of adaptive playground equipment.
- Office Administrator's position reclassified as Administrative Assistant and 20% of the expense assigned to Code Enforcement.
- Permitting & Inspections Budget eliminated.
- 20% increase in property casualty insurance.
- 0% Medical Renewal Rates.
- Purchase portable message board for construction projects, public messaging and use during emergencies.
- Public Works divisions formed into one budget for clarity & transparency.

Highlights of the Solid Waste Budget include:

- Elimination of the cost allocation from the Solid Waste Budget to the General Budget.
- 4% cost of living increase for all team members.
- 7% rate increase for both residential and commercial customers.
- 6.8% increase in Pinellas County Tipping Fee.
- Replacement of and purchase of one (1) packer truck.
- 80% of the Administrative Assistants Salary is out of the City Managers Budget with the other 20% taken out of Code Enforcements Budget.

Commissioner McCall asked what the Neighborly Senior Service Program and Safe Harbor Program were. City Manager Mims explained that the Neighborly Senior Service Program is a

nonprofit organization that provides food delivery and other services to Seniors and the Safe Harbor Program is the Sherriff's Homeless Program.

Commissioner Vaughan asked with the increase in recycling, should the city revisit the issue in the next year. City Manager Mims replied that this is discussed every year and the commission should keep their eye on this issue.

Mayor-Commissioner Kennedy suggested another survey card be sent out to the residents. She stated Indian Rocks Beach residents are good recyclers with over 65% participants.

Commissioner Bond stated the more you encourage recycling the less we will spend on trash.

Highlights of the 2024-2028 Capital Improvement Plan:

- Annual funding for road milling, resurfacing, curbing & drainage.
- Allocation of \$4,431,480 from Pinellas County Penny to Gulf Boulevard Undergrounding Phase II. Work in process. Scheduled to be complete by 2025.
- Allocation of the City's American Rescue Plan funds (\$1,950,590) to future drainage enhancement projects. Projects to be designated by the City Commission upon review of the updated City of Indian Rocks Beach Storm Water Master Plan.
- \$328,020 for stormwater reconstruction projects (half of the total is funded by SWFWMD Grants). The two projects are at 601 2<sup>nd</sup> Street and 2008 16<sup>th</sup> Avenue.
- Annual funding for park maintenance and upgrades.

#### City Park Upgrades

In 2024 the plan provides for:

- Continue rehab of the IRB Nature Park Boardwalk (a multiyear effort). Wood decking and railing will be replaced with recycled composite material. In addition, support repair will be completed. \$300,000.
- Brown Park fence replacement. \$50,000.
- Adaptive Playground Equipment Installation. \$29,000.
- Other park improvements. \$29,000.

Commissioner McCall asked how the new catch basins will be maintained. City Manager Mims replied in house.

## 2. PUBLIC COMMENTS.

John Pfanstiehl, 448 Harbor Drive S., stated he appreciates the detailed explanation on the budget.

Scott Shapiro, 2032 20<sup>th</sup> Avenue Parkway, stated he was not in favor of a lobbyist. He suggested the following: the 4:00 p.m. budget work session meeting should start at a later time, short-term vacation rentals should pay for side yard garbage service, eliminate recycling except for glass, purchase a sand making machine to make sand from the glass and get the beaches sanded.

Commissioner McCall asked about what other services would be offered with the Host Compliant Company. City Manager Mims replied he would provide a copy of the proposal.

Mayor-Commissioner Kennedy stated that City Manager Mims goes to a City Managers Meeting every year and they use the City of Indian Rocks Beach as an example of how a city should be run financially. She thanked City Manager Mims and staff for doing a great job.

Commissioner McCall stated that the city should use caution on over expenditures, given the current marketplace.

**3. ADJOURNMENT.**

**MOTION** was made by Commissioner Houseberg, seconded by Commissioner McCall to adjourn the Meeting at 5:28 p.m. Unanimous approval by acclamation.

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Joanne Moston Kennedy, Mayor-Commissioner

Attest: \_\_\_\_\_  
Lorin A. Kornijtschuk, City Clerk  
/LAK

**AGENDA ITEM NO. 6A**

**PUBLIC HEARINGS**

**BOA CASE NO. 2023-04**

**449 HARBOR DRIVE S.**



provisions of subpart B will result in unnecessary and undue hardship. In order to recommend or decide any variance from the terms of subpart B, the board or the city commission shall consider each of the following.

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

*The property is located in an area where there the water is deep allowing the use the existing dock.*

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; and

*This is the minimum variance to allow the owner to construct the boat lift 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 July 3, 2023, (Sec. 2-149 of the Code of Ordinances.)

**LEGAL NOTICE:** A legal notice was published in the July 26, 2023-Edition, of the St. Pete Times Section of the Tampa Bay Times. For a public hearing that has been scheduled for August 8, 2023, for BOA Case No. 2023-04.

**CORRESPONDENCE:** Adjacent neighbors at 447 and 451 Harbor Dr S have signed off on the setbacks.

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

**MOTION:**

I move to recommend to the City Commission **APPROVAL/DENIAL** of BOA CASE NO. 2023-04 –449 Harbor Dr S -Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 9 feet into the required 12 foot side setback, resulting in a total setback of 3 feet on the northwest side for the installation of a new boat lift for property located at 449 Harbor Dr S Indian Rocks Beach, Florida, and legally described as Lot 17 Nineteenth Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida



449 Harbor Dr S  
BOA CASE NO. 2023-04





**BOA CASE NO. 2023-04 –449 Harbor Dr S**

Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 9 feet into the required 12 foot side setback, resulting in a total setback of 3 feet on the northwest side for the installation of a new boat lift for property located at 449 Harbor Dr S Indian Rocks Beach, Florida, and legally described as Lot 17 Nineteenth Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida

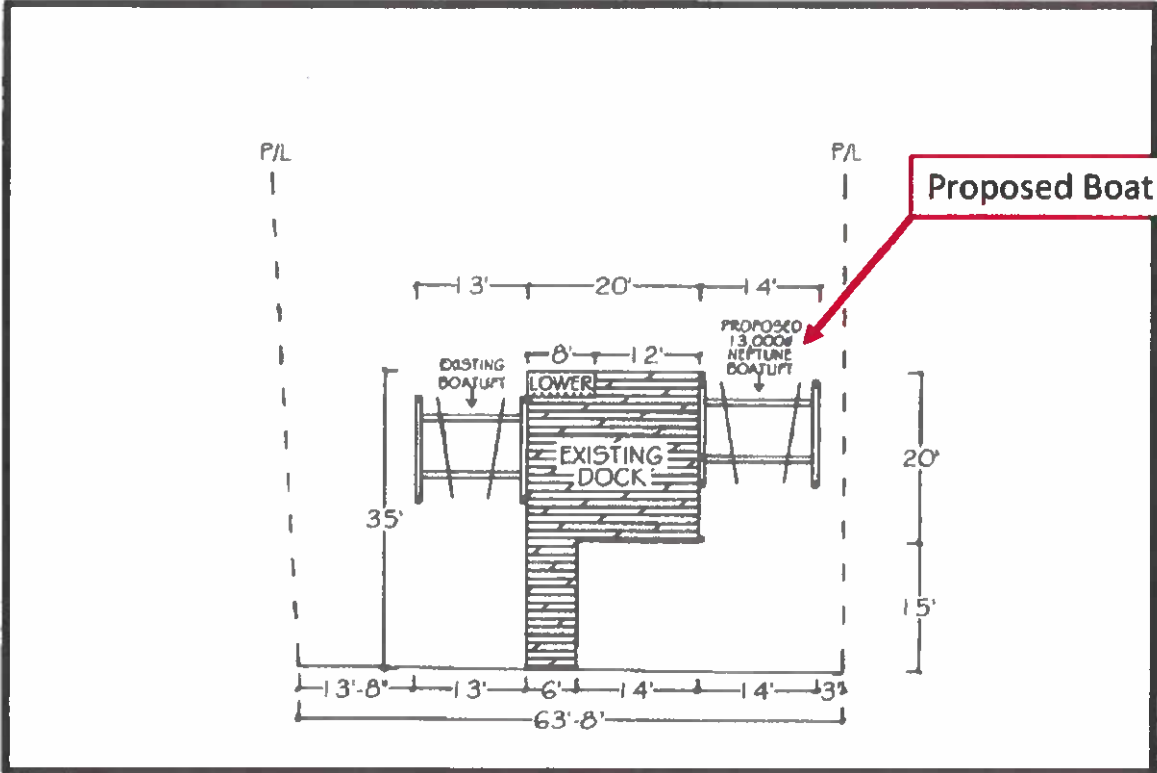


# 449 Harbor Dr S





# Proposed- Proposed Boat Lift



**AGENDA ITEM NO. 6B**

**PUBLIC HEARINGS**

**BOA CASE NO. 2023-05**

**461 HARBOR DRIVE S.**

**INDIAN ROCKS CITY COMMISSION STAFF REPORT**  
**MEETING OF: August 8, 2023      AGENDA Item: 6B**

**ORIGINATED BY:**                      Hetty C. Harmon, AICP, City Planner

**AUTHORIZED BY:**                      Brently Gregg Mims, City Manager 

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

**BOARD OF ADJUSTMENTS AND APPEALS:** The board of Adjustments and Appeals recommended denial to the City Commission by a vote of 5-0.

**SUBJECT:    BOA CASE NO. 2023-05 –461 Harbor Dr S**  
Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 11 feet 3 inches into the required 12 foot side setback, resulting in a total setback of 9 inches on the northwest side for the installation of a new boat lift for property located at 461 Harbor Dr S Indian Rocks Beach, Florida, and legally described as Lot 2 Twenty Third Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida  
Parcel # 06-30-15-42444-000-020

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**OWNER**    **Seth & Jackie Parker**  
**LOCATION of PROPERTY:**                      461 Harbor Dr S  
**ZONING:**    S- Single- Family Residential

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

**BACKGROUND:**

The applicant is requesting a variance for a boat lift to encroach 11 ft 3 inches into the 12 ft side yard setback for to install a boat lift. This dock is not centered on the lot and is the same for the tow lots to the north. The abutting property to the north who is impacted by the reduced setback has no objections and signed off on the location of the new boatlift.

**Sec. 2-152. - Variances.**

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

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

recommend or decide any variance from the terms of subpart B, the board or the city commission shall consider each of the following.

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

*The property is located in an area where there the water is deep allowing the use the existing dock.*

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; and

*This is the minimum variance to allow the owner to construct the boat lift 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 July 3 2023, (Sec. 2-149 of the Code of Ordinances.)

**LEGAL NOTICE:** A legal notice was published in the July 26, 2023-Edition, of the St. Pete Times Section of the Tampa Bay Times. For a public hearing that has been scheduled for August 8, 2023, for BOA Case No. 2023-05.

**CORRESPONDENCE:** Adjacent neighbors at 459 and 463 Harbor Dr S have signed off on the setbacks.

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

**MOTION:**

I move to recommend to the City Commission **APPROVAL/DENIAL** of **2023-05 –461 Harbor Dr S - Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 11 feet 3 inches into the required 12 foot side setback, resulting in a total setback of 9 inches on the northwest side for the installation of a new boat lift for property located at 461 Harbor Dr S Indian Rocks Beach, Florida, and legally described as Lot 2 Twenty Third Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida**





461 Harbor Dr S  
BOA CASE NO. 2023-05



**BOA CASE NO. 2023-05 –461 Harbor Dr S**

**Variance request from Sec.94-86 (a)(1) of the Code of Ordinances, of 11 feet 3 inches into the required 12 foot side setback, resulting in a total setback of 9 inches on the northwest side for the installation of a new boat lift for property located at 461 Harbor Dr S Indian Rocks Beach, Florida, and legally described as Lot 2 Twenty Third Addition to Re-Revised Map of Indian Beach recorded in Plat Book 36 Page 37 of the Public Records of Pinellas County, Florida**

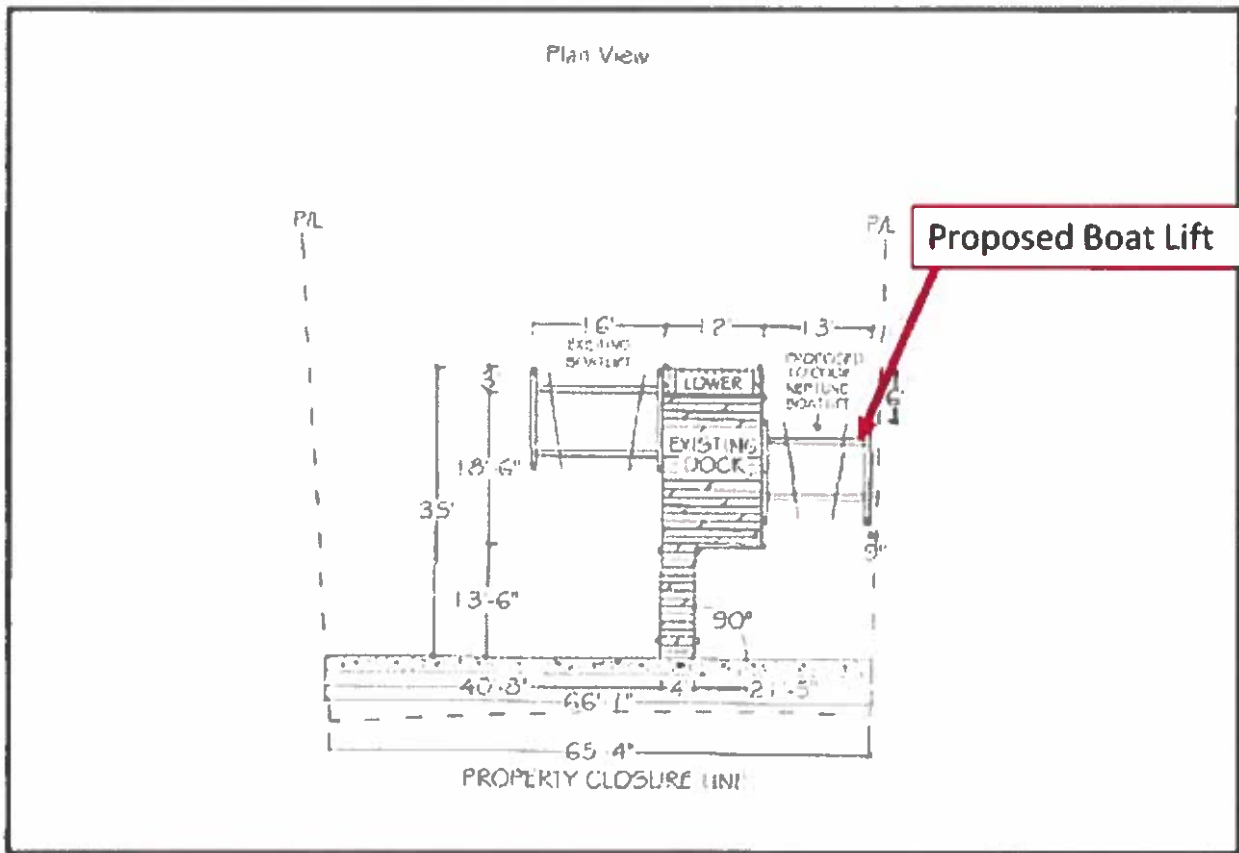


# 461 Harbor Dr S





# Proposed Boat Lift



**APPLICATION FOR VARIANCE**

**CITY OF INDIAN ROCKS BEACH PLANNING AND ZONING DEPARTMENT**

Enquiries: Tel: (727) 517-0404 Fax: (727) 596-4759  
Web: <http://www.indian-rocks-beach.com/>  
Address: 1507 Bay Palm Boulevard, Indian Rocks Beach, FL 33785

For Office Use Only

Application No.

Date Received

**APPLICANT**

Name:   
Address:   
City:   
Zip Code:   
Tel:   
Fax:   
Mobile:   
Email:

**AGENT/REPRESENTATIVE**

Name:   
Company:   
Address:   
City:   
Zip Code:   
Tel:   
Fax:   
Mobile:   
Email:

**SITE DETAILS**

Address:  Parcel ID:   
City:  Zip Code:   
Legal Description:   
Zoning:  Future Land Use:   
Size:

**SITE DETAILS CONTINUED...**

Does applicant own any property contiguous to the subject property?  Yes  No

If yes, provide address and legal description:

Have previous applications been filed for this property?  Yes  No

If yes, describe:

Has a certificate of occupancy or completion been refused?  Yes  No

If yes, describe:

Does any other person have ownership or interest in the property?  Yes  No

If yes, is ownership or interest contingent or absolute:

Is there an existing contract for sale on the property?  Yes  No

If yes, list all parties on the contract:

Is contract conditional or absolute?  Conditional  Absolute

Are there options to purchase?  Yes  No

**VARIANCE REQUEST**

**Regulation**

**Required**

**Proposed**

**Total Requested**

Gulf-front setback (feet):

Bay-front setback (feet):

Alley setback (feet):

**VARIANCE REQUEST CONTINUED...**

<u>Regulation</u>	<u>Required</u>	<u>Proposed</u>	<u>Total Requested</u>
Rear-no alley setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Rear-north/south street (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Side-one/both setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum green space (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Habitable stories (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Building height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Off-street parking (spaces):	<input type="text"/>	<input type="text"/>	<input type="text"/>
ISR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
FAR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock length (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock width (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Signage (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>

Other: We are requesting a side setback variance for a boatlift. Required side setback is 12'. Setback will be 9" at closest spot, for a variance of 11'-3".

What is the proposed use of the property? Single Family Residence



**HARDSHIP**

A variance is granted on the basis of evidence being presented that justifies an undue and unnecessary hardship upon the applicant; a hardship that prevents reasonable use of the property. The following criteria, set forth in Code Section 2-152, Variances, will be used to evaluate the request for variance in order to determine if a hardship is present and if the variance will impact the overall public welfare.

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:

With a lot width of only 66'-1", it is difficult to have a dock and two boatlifts that will allow us to safely moor and access our boats.

Special conditions and circumstances do not result from the actions of the applicant:

We did not create the size of the lot. The existing dock and boatlift were already in place when we purchased the property.

Granting this variance will not confer on the applicant any special privilege that is denied by the chapter to other lands, structures or buildings in the same zoning district:

Granting this variance will not confer any special privilege. Any homeowner in the City can apply for a variance to the required side setbacks.

The literal interpretation of the provisions of Subpart B, Code Sections 78 through 110, 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:

Literal interpretation of the code would prevent us from making full use of our waterfront property.

**HARDSHIP CONTINUED...**

The variance granted is the minimum that will make possible the reasonable use of the land, structure or building:

The requested variance is the minimum that will make the reasonable use of the land possible. This variance will allow us to safely store our boat.

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:

If approved, the variance will be in harmony with the general intent and purpose of Subpart B and will not be injurious to the area involved. There will be no navigational issues created by granting the variance or negative impacts to the neighborhood.

I (we) believe the Board of Adjustment and Appeals and the City Commission should grant this application because:

We would like to be able to safely moor and access our boat. The way to do that is to add the proposed boatlift.

**CERTIFICATION**

Date: MAY 17, 2023

I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature appearing below.

It is hereby acknowledged that the filing of this application does not constitute automatic approval of the request. Further, if the request is approved, I will obtain all necessary permits and comply with all applicable orders, codes, conditions and regulations pertaining to the use of the property.

I hereby grant authorization to any city official to inspect, as reasonable times, the site of the request.

SETH PARKER  
Before me this date personally appeared:

Name: SETH PARKER

Signature: Seth Parker

Personally known/Form of Identification DRIVERS LICENSE

Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 17<sup>th</sup> Month: MAY 20 2023

Notary Public State of Florida at Large: Lisa Rosenberg - Sully

Notary Public Commission Expiration: 07-04-2027

State of Florida  
County: Pinellas



APPLICATIONS FILED BY CORPORATIONS MUST BEAR THE SEAL OF THE CORPORATION OVER THE SIGNATURE OF AN OFFICER AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

OWNER NAME: Parker, Seth

SITE ADDRESS: 461 Harbor Dr. S. Indian Rocks Beach, FL. 33785

NATURE AND SIZE OF PROJECT: Remove existing davit. Set piling and install a new 10,000# capacity boatlift to the right of an existing dock. Replace any existing piling, framing, or decking if necessary.

TOTAL PROJECT SQUARE FOOTAGE: 312'

NEW SQUARE FOOTAGE: 0'

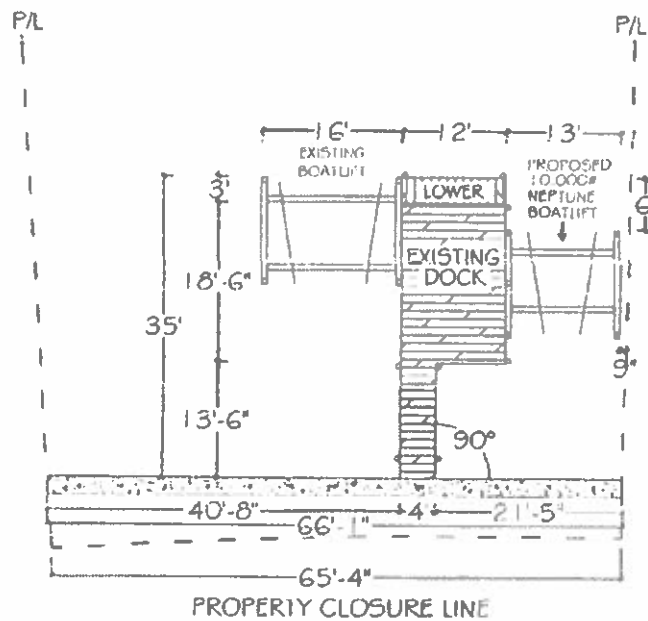
TOTAL NUMBER OF PILING: Four(4)

DIAMETER OF PILING: 8" T<sub>1</sub>

WATERWAY WIDTH: Over 400'

WATERFRONT WIDTH: 66'-1' (Per Survey)

Plan View



The undersigned does not object to the proposed project as drawn in the space provided above.

Left Owner: Joanne E. &/or Richard F. Schickel

Right Owner: Anchorstil, LLC.

Signature: Joanne E. Schickel Date: 5/17/23  
Municipality Approval

Signature: [Signature] Date: 5-17-23  
Water and Navigation Approval

**LETTER OF NO OBJECTION**

Left Lot Owner's Name Joanne E. &/or Richard F. Schickel

Mailing Address 463 Harbor Dr. S. Indian Rocks Beach, FL. Zip 33785

463 Harbor Dr. S.

I certify that I am the owner of Indian Rocks Beach, FL. 33785 which adjoins the property owned by the applicant who proposes to construct a structure at the following address:

461 Harbor Dr. S. Indian Rocks Beach, FL. 33785

I have seen the County permit application – including plans or drawings – for the proposed structure(s) and DO NOT OBJECT to the proposed structure(s).

OWNER'S SIGNATURE: X Joanne E Schickel Date X 5/17/23  
PRINT NAME: X JOANNE E. SCHICKEL RICHARD F. SCHICKEL

NOTARY:

STATE OF FLORIDA, PINELLAS COUNTY, the foregoing instrument was acknowledged before me by means of

physical presence or  online notarization this 17th day of MAY, 2023 by

personally known OR  produced identification

Type of Identification Produced DRIVERS LICENSE

Witness my hand and official seal this 17th day of MAY, 2023



X [Signature]  
Notary Public

My commission expires: 07-04-2027

Right Lot Owner's Name Anchorstl, LLC.

Mailing Address 4110 N. Service Rd. St. Peters, MO. Zip 63376

459 Harbor Dr. S.

I certify that I am the owner of Indian Rocks Beach, FL. 33785 which adjoins the property owned by the applicant who proposes to construct a structure at the following address:

461 Harbor Dr. S. Indian Rocks Beach, FL. 33785

I have seen the application – including plans or drawings – for the proposed structure(s) and DO NOT OBJECT to the proposed structure(s).

OWNER'S SIGNATURE: X [Signature] Date X 5-17-23  
PRINT NAME: X Angela Kirgin

NOTARY:

STATE OF FLORIDA, PINELLAS COUNTY, the foregoing instrument was acknowledged before me by means of

physical presence or  online notarization this 27 day of MAY, 2023 by

Personally Known OR  Produced Identification

Type of Identification Produced DRIVERS LICENSE

Witness my hand and official seal this 27th day of MAY, 2023



X [Signature]  
Notary Public

My commission expires: 07-04-2027

**VI. CONTRACTOR INFORMATION:**

I, Douglas R. Speeler, Jr., a Specialty Marine contractor,

whose contractor license # C-8853 expires on September 30, 2023,

swear that the above described project (the "Project") has not been constructed as of the date affixed by my signature below. If a permit for this Project (the "Permit") is granted by the County, I agree to design and construct the Project in full compliance with the Pinellas County Code and in full accordance with the drawings or plans attached hereto. I swear that the information provided in this application represents the full scope of the Project and that no material information regarding the Project has been omitted. In the event that either the Project is not constructed in full accordance with the Permit or the information provided in this application is not correct, I agree to either remove the Project or correct the deficiency.

Signed: 

Date: 5/30/23

- You must have USL&H insurance in order to construct a dock in Pinellas County; as well as be licensed with the PCCLB.

**VII. PROPERTY OWNER'S SIGNATURE:**

I hereby apply for a permit to perform the above described project (the "Project"). Should a permit for the Project be granted by the County, I agree to design and construct the Project in full compliance with the Pinellas County Code and in full accordance with the plans or drawings attached hereto; I likewise agree to maintain the Project in a safe condition throughout the Project's existence.

I hereby authorize the above stated contractor – and agent if listed – to act as my representative in all matters pertaining to the application. I understand that I, not the County am responsible for the accuracy of the information provided as part of this application. I further understand that it is my responsibility to obtain any necessary permits and approvals required for the Project at the Federal, State, and local levels; should the Project lie within a municipality. I recognize that approval from that municipality – in addition to the County – is required.

I swear that I own the upland property described in this application (the "Property"). While this application is pending, I expressly authorize the County and its agents to access the Property at any time as may be necessary to review and act on this application. Should a permit for the Project be granted by the County, I expressly authorize the County and its agents to access the Property at any time as may be necessary to monitor the Project and ensure compliance with the terms of the permit; this permission is valid until the Project has passed final inspection.

Signed: X 

Date: X 5-17-23

Print Name: X SETH PARKER

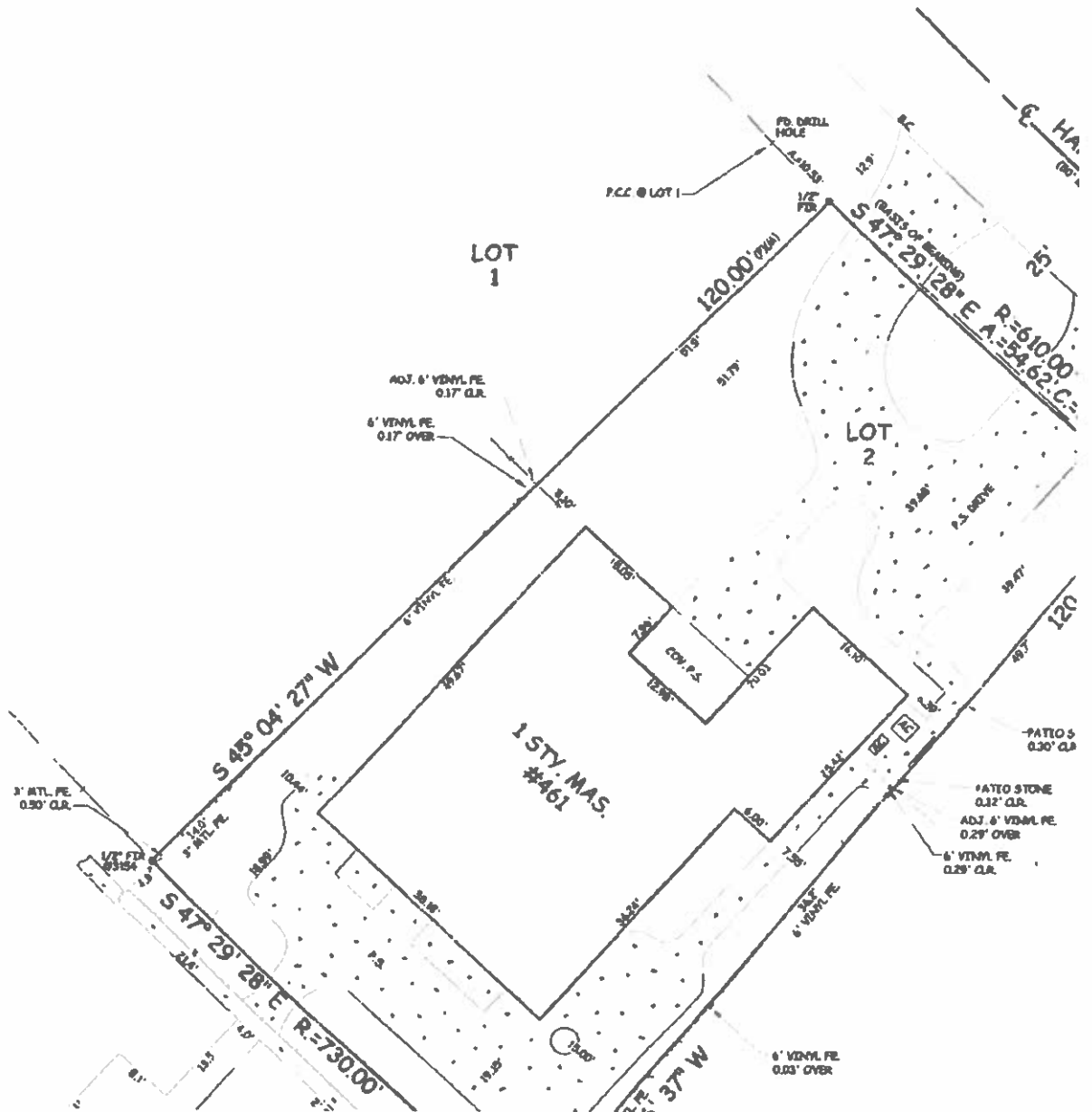
JOB NO.: 230419  
 DRAWN BY: MRB  
 CHECKED BY: EDM  
 DATE OF FIELD WORK: 4/12/2023

**MURPHY'S LAND SURVEYING, INC.**  
**PROFESSIONAL LAND SURVEYORS**  
 5760 11TH AVENUE NORTH  
 ST. PETERSBURG, FLORIDA 33710  
 WWW.MURPHYSLANDSURVEYING.COM

CERTIFIED TO: Seth Parker

SCALE: 1" = 20'

Survey not valid for more than one (1) year from date of field work.



**Kornijtschuk, Lorin**

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**From:** Joanne Schickel <jeschickel@att.net>  
**Sent:** Monday, July 17, 2023 9:20 AM  
**To:** Kornijtschuk, Lorin  
**Subject:** Variance Request- IRB Board of Adjustments and Appeals Meeting on 7/18/2023

Lorin Kornijtschukin,

We are emailing you regarding the 7/18/2023 Board of Adjustments and Appeals meeting for a variance request on the required setback for the property located at 461 Harbor Drive South, IRB.

We wish to state our full and complete support for this variance request of 11 feet 3 inches into the required 12 foot side setback. We request that that the Board would allow this variance.

If you have any questions or wish to contact us, please use this email address or call us at 727-466-6313.

Thank you very much.

1

Richard Schickel and Joanne Schickel

2



**AGENDA ITEM NO. 6C**

**PUBLIC HEARINGS**

**BOA CASE NO. 2023-06**

**2209 Gulf Boulevard**

**INDIAN ROCKS CITY COMMISSION STAFF REPORT**  
**MEETING OF: August 8, 2023 AGENDA Item: 6C**

**ORIGINATED BY:** Hetty C. Harmon, AICP, City Planner

**AUTHORIZED BY:** Brently Gregg Mims, City Manager

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

**BOARD OF ADJUSTMENTS AND APPEALS:** The board of Adjustments and Appeals recommended denial to the City Commission by a vote of 5-0.

**BOA CASE NO. 2023-06 –2209 Gulf Blvd**

Variance request from Sec. 110-131(4)(f)(1) of the Code of Ordinances, of 15 feet into the required 25 foot front yard setback, resulting in a total setback of 10 feet and from Sec. 110-344(1) of the Code of Ordinances, for an increase of 3 ft above the required 1 foot above grade for the pool height resulting in a pool height of 4 ft above the adjacent finished grade for the installation of 2 pools/swim spas for property located at 2209 Gulf Blvd Indian Rocks Beach, Florida, and legally described as Lot 3, Block 45, RE-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County, Florida  
Parcel#: 01-30-14-42030-046-0030

---

**OWNER** Aleksandr & Tatiyana Drigailo  
**LOCATION of PROPERTY:** 2209 Gulf Blvd  
**ZONING:** P-1- Professional Office

Direction	Existing Use	Zoning Category
North	Residential	P-1
East	Residential	RM-2
South	Vacant	P-1
West	Residential	CT

**BACKGROUND:**

The applicant is requesting to install two swim/spas for each side of the duplex in the front yard setback. The proposed swim/spas are reviewed as a "pool" since they are larger than the allowed 500 gallons for a spa. The swim/spas are 1200 gallons. Pools or spas are not permitted in the front yard setback.

**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.

*Pinellas County required access to the property from the alley and not from Gulf Blvd.*

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; and

*This is the minimum variance to allow the owner to install the swim/spas.*

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 June 30, 2023, (Sec. 2-149 of the Code of Ordinances.)

**LEGAL NOTICE:** A legal notice was published in the July 26, 2023-Edition, of the St. Pete Times Section of the Tampa Bay Times. For a public hearing that has been scheduled for August 8, 2023, for BOA Case No. 2023-06.

**CORRESPONDENCE:** Four letters of objection were received.

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

**MOTION:**

I move to recommend to the City Commission **APPROVAL/DENIAL** of BOA CASE NO. 2023-06 –2209 Gulf Blvd Variance request from Sec.110-131(4)(f)(1) of the Code of Ordinances, of 15 feet into the required 25 foot front yard setback, resulting in a total setback of 10 feet and from Sec.110-344(1) of the Code of Ordinances, for an increase of 3 ft above the required 1 foot above grade for the pool height resulting in a pool height of 4 ft above the adjacent finished grade for the installation of 2 pools/ swim spas for property located at 2209 Gulf Blvd Indian Rocks Beach, Florida, and legally described as Lot 3, Block 45, RE-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County, Florida



2209 Gulf Blvd  
CASE NO. 2023-06



**BOA CASE NO. 2023-06 –2209 Gulf Blvd**

Variance request from Sec.110-131(4)(f)(1) of the Code of Ordinances, of 15 feet into the required 25 foot front yard setback, resulting in a total setback of 10 feet and from Sec.110-344(1) of the Code of Ordinances, for an increase of 3 ft above the required 1 foot above grade for the pool height resulting in a pool height of 4 ft above the adjacent finished grade for the installation of 2 pools/ swim spas for property located at 2209 Gulf Blvd Indian Rocks Beach, Florida, and legally described as Lot 3, Block 45, RE-Revised Map of Indian Beach Subdivision recorded in Plat Book 5 Page 6 of the Public Records of Pinellas County, Florida



# 2209 Gulf Blvd

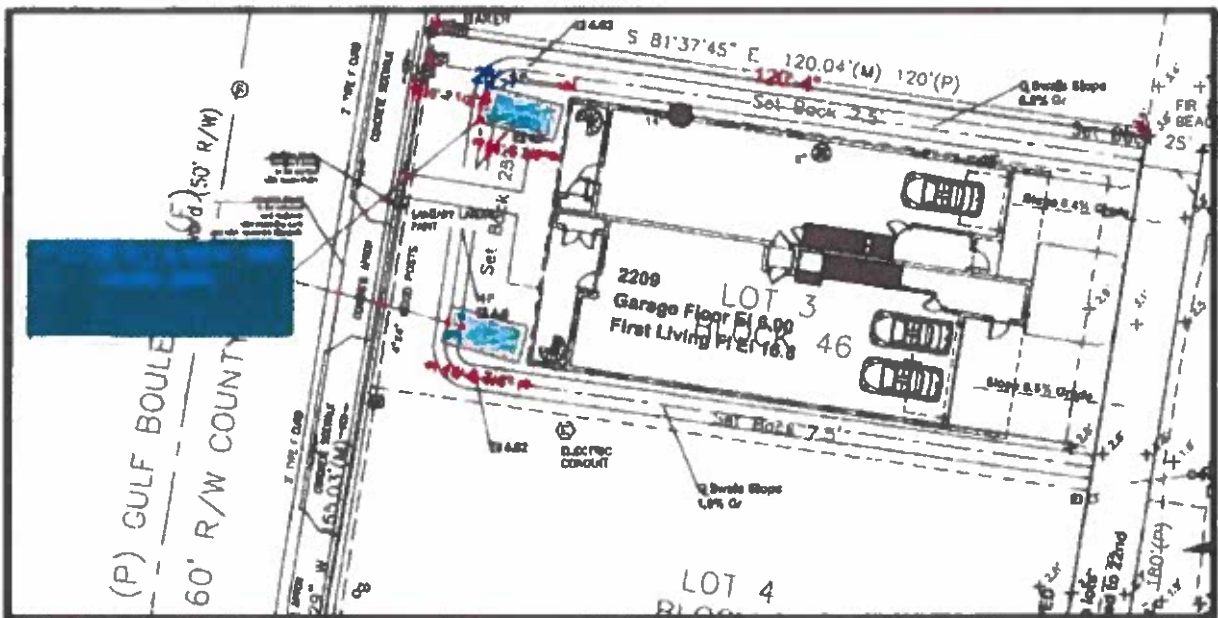




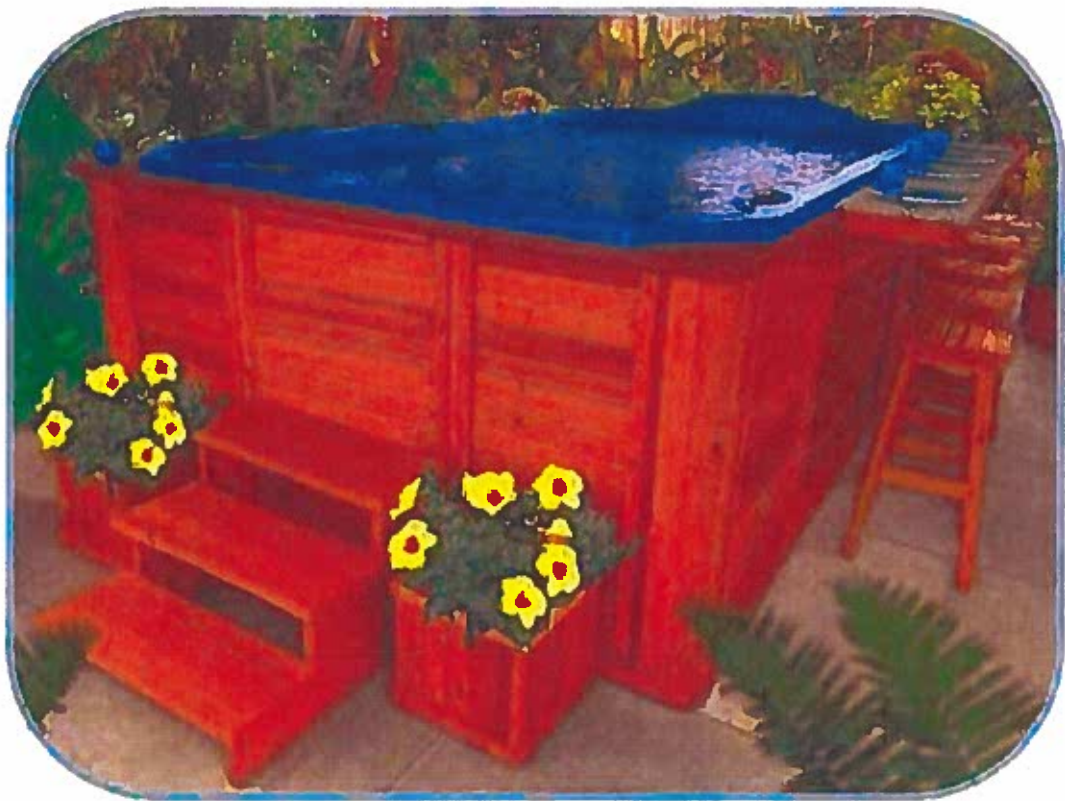




# Proposed Swim/Spa Locations



## Proposed Swim/Spa Specifications



**APPLICATION FOR VARIANCE**

**CITY OF INDIAN ROCKS BEACH PLANNING AND ZONING**

Enquiries City Hall: 727.595.2517 or Hetty Harmon: 863.646.4771 x211 Email: hharmon@ircbity.com  
Address: 1507 Bay Palm Boulevard, Indian Rocks Beach, FL 33785

For Office Use Only

Application No.

Date Received

**APPLICANT**

Name: Tanyara Dngailo  
Aleksandr Dngailo  
Address: 2209 Gulf Blvd  
City: Indian Rocks Beach  
Zip Code: 33785  
Tel: 425-647-8273  
Fax:   
Mobile: 425-737-7000  
Email: tdngailo@gmail.com

**AGENT/REPRESENTATIVE TBD**

Name: Solomon Tawiah  
Company: Polo Builders  
Address: 3111 US Hwy 19 N  
City: Palm Harbor  
Zip Code: 34684  
Tel: 727-336-0469  
Fax:   
Mobile: 727-336-0469  
Email: solomon@polobuilders.us

**SITE DETAILS**

Address: 2209 Gulf Blvd Parcel ID: 01-30 14-42030-046-0020  
City: Indian Rocks Beach Zip Code: 33785  
Legal Description: Indian Rocks Beach PE - Reused Blk 4w Lot 3  
Zoning: P-1 Future Land Use:   
Size: 100 x 120

**SITE DETAILS CONTINUED...**

Does applicant own any property contiguous to the subject property?  Yes  No

If yes, provide address and legal description:

Have previous applications been filed for this property?  Yes  No

If yes, describe:

Has a certificate of occupancy or completion been refused?  Yes  No

If yes, describe:

Does any other person have ownership or interest in the property?  Yes  No

If yes, is ownership or interest contingent or absolute:

Is there an existing contract for sale on the property?  Yes  No

If yes, list all parties on the contract:

Is contract conditional or absolute?  Conditional  Absolute

Are there options to purchase?  Yes  No

**VARIANCE REQUEST**

<b>Regulation</b>	<b>Required</b>	<b>Proposed</b>	<b>Total Requested</b>
Gulf-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Bay-front setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Alley setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>

**VARIANCE REQUEST CONTINUED...**

<b>Regulation</b>	<b>Required</b>	<b>Proposed</b>	<b>Total Requested</b>
Rear-no alley setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Rear-north/south street (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Street-front setback (feet):	25	10	15 ft
Side-one/both setback (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum green space (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Habitable stories (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Minimum lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Building height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Off-street parking (spaces):	<input type="text"/>	<input type="text"/>	<input type="text"/>
ISR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
FAR (%):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock length (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Dock width (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Signage (#):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Accessory structure height (feet):	<input type="text"/>	<input type="text"/>	<input type="text"/>
Lot size (sq. ft.):	<input type="text"/>	<input type="text"/>	<input type="text"/>

(15 ft  
by  
7 ft)

Other:  Variance request 1 ft allowable height above finished grade - this is a free standing jacuzzi sun spa.  
(Need 3 ft)

What is the proposed use of the property?

## HARDSHIP

A variance is granted on the basis of evidence being presented that justifies an undue and unnecessary hardship upon the applicant; a hardship that prevents reasonable use of the property. The following criteria, set forth in Code Section 2-152, Variances, will be used to evaluate the request for variance in order to determine if a hardship is present and if the variance will impact the overall public welfare.

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:

We were required to use our backyard area as the driveway/garage/panning area. We do not have a backyard due to not requirements we are using our front yard as a backyard.

Special conditions and circumstances do not result from the actions of the applicant:

Pinellas county road and TRB city did not give us access from Gulf Blvd to use our front as driveway. we were required to change the alley to our backyard for our garage/panning area.

Granting this variance will not confer on the applicant any special privilege that is denied by the chapter to other lands, structures or buildings in the same zoning district:

Due to now code we were not given direct access to Gulf Blvd. Almost everyone else has direct access ~~we~~ due to this we do not have a back yard and are using our front yard as a backyard.

The literal interpretation of the provisions of Subpart B, Code Sections 78 through 110, 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:

This variance will not effect anyone in anyone It is fully prepped in a safe area to be set It will not be visible from the front street and we are asking for a small area for variance to have a safe place for kids to swim. Beach for landscaping ~~including~~ ~~any~~ ~~front~~ ~~yard~~ ~~can~~ ~~be~~ ~~in~~ place. This front area is the only area what we can use as air for driveway.

**HARDSHIP CONTINUED...**

The variance granted is the minimum that will make possible the reasonable use of the land, structure or building:

We are asking to grant permission to have a jacuzzi swim spa (free standing jacuzzi) 15L x 7 ft width in our front yards (in a parking area) as we are using our front yard as a backyard area due to new code. It will be fully hidden from public view and taking up part of the sewage area.

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:

This variance will give us a way to have somewhat of a backyard area for our small kids to have some area to swim in. We are asking for a swim/water area to be allowed for our kids to swim. We have purchased and paid almost \$30,000 total for these 2 swim spa jacuzzi and piped area.

I (we) believe the Board of Adjustment and Appeals and the City Commission should grant this application because:

We have no backyard area and per code we had to use our "backyard" area as driveway/parking/garage area. We are asking for a small portion of our front yard that we are using as a back yard to allow us to put this jacuzzi. Our entire side/curb is the only place our kids can safely swim and we paid and or money to already purchase them and prep trees etc. This front area will be fully fenced/private blocked from any view with a full fence and privacy trees/bushes/plants may or fully landscaped top.



**CERTIFICATION**

Date: 6/16/23

I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature appearing below.

It is hereby acknowledged that the filing of this application does not constitute automatic approval of the request. Further, if the request is approved, I will obtain all necessary permits and comply with all applicable orders, codes, conditions and regulations pertaining to the use of the property.

I hereby grant authorization to any city official to inspect, as reasonable times, the site of the request.

Before me this date personally appeared: \_\_\_\_\_

Name: Aleksandr Dngailo

Signature: [Handwritten Signature]

Personally known/Form of Identification Washington Drivers lic

Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day 16<sup>th</sup> Month: June 2023

Notary Public State of Florida at Large: [Handwritten Signature]

Notary Public Commission Expiration: 12/4/2026

State of Florida  
County: Pinellas



APPLICATIONS FILED BY CORPORATIONS MUST BEAR THE SEAL OF THE CORPORATION OVER THE SIGNATURE OF AN OFFICER AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

AGENT OF RECORD

Date: 26/10/23

I, Alexandr Ongais do hereby designate and appoint Solomon Taiwaih as my agent of record for the purposes of representing me during the Planning and Zoning Department's review process of my application. My agent of record is hereby vested with authority to make any representations, agreements or promises, which are necessary or desirable in conjunction with the review process. My agent of record is authorized to accept or reject any conditions imposed by any reviewing board or entity.

Name: SOLOMON TAIWAIH Signature: [Signature]

My agent of record may be contacted at:

Company: POLO BUILDERS

Address: 3111 US Hwy 19 N

City/State: Palm Harbor Zip Code: 34684

Telephone: 727-336-0469 Fax: \_\_\_\_\_

Before me this date personally appeared:

Name: Alexandr Ongais

Signature: \_\_\_\_\_

Personally known/Form of Identification \_\_\_\_\_

Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 19 Month: June, 2023

Notary Public State of Florida at Large: [Signature]

Notary Public Commission Expiration: AUG 31, 2024

State of Florida  
County: Pinellas

OLENKA STASHCHAK  
Notary Public, State of Florida  
My Comm Expires Aug 31, 2024  
No MH 37748

**CERTIFICATION**

Date: 6/16/23

I hereby certify that I have read and understand the contents of this application, and that this application together with supplemental data and information, is a true representation of the facts related to the request; that this application is filed with my approval, as owner, evidenced by my signature appearing below.

It is hereby acknowledged that the filing of this application does not constitute automatic approval of the request. Further, if the request is approved, I will obtain all necessary permits and comply with all applicable orders, codes, conditions and regulations pertaining to the use of the property.

I hereby grant authorization to any city official to inspect, as reasonable times, the site of the request.

Before me this date personally appeared: \_\_\_\_\_

Name: Tatiana Diguila

Signature: [Handwritten Signature]

Personally known/Form of Identification Washington Driver's Lic

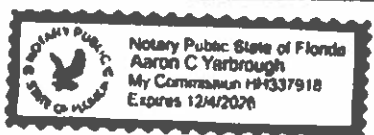
Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 16<sup>th</sup> Month: June 2023

Notary Public State of Florida at Large: [Handwritten Signature]

Notary Public Commission Expiration: 12/4/2026

State of Florida  
County: Pinellas



APPLICATIONS FILED BY CORPORATIONS MUST BEAR THE SEAL OF THE CORPORATION OVER THE SIGNATURE OF AN OFFICER AUTHORIZED TO ACT ON BEHALF OF THE CORPORATION.

## Kornijtschuk, Lorin

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**From:** Karen Keefe <kkeefe01@gmail.com>  
**Sent:** Friday, July 07, 2023 8:26 AM  
**To:** Kornijtschuk, Lorin  
**Subject:** Re: Objection to variance to 2209 Gulf Boulevard

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

>  
> Hello,  
> I am an Indian Rocks Beach resident and live at 2206 Beach Trail #5.  
>  
> I am strongly opposed to any variance to/for the property development at 2209 Gulf Boulevard.  
>  
> I think to granted variance would greatly increase the size of whatever structure would ordinarily be allowed. Therefore again, I am strongly opposed to any variance.

1

>  
> Best regards,  
> Karen Keefe  
> 2206 Beach Trail #5  
> Indian Rocks Beach, Florida 33785

> On Jul 7, 2023, at 6:54 AM, Kornijtschuk, Lorin <lkornijtschuk@irbcity.com> wrote:  
>  
> Good morning Ms. Keefe,  
> I just wanted to clarify; the variance is for 2209 Gulf Boulevard, not 2209 Beach Trail.  
> If you still feel the same, please respond again to this email and I will submit it to the Board of Adjustment Committee.  
> Respectfully,  
> Lorin A. Kornijtschuk  
> Interim City Clerk  
> City of Indian Rocks Beach  
> 1507 Bay Palm Boulevard  
> Indian Rocks Beach, Florida 33785  
> lkornijtschuk@irbcity.com  
> 727/595-2517

2

## Kornijtschuk, Lorin

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**From:** Kornijtschuk, Lorin  
**Sent:** Monday, July 10, 2023 9:12 AM  
**To:** \_Commission  
**Subject:** FW: BOA Case No. 2023-06

**From:** Raymond Springer <rspringer2200@gmail.com>  
**Sent:** Saturday, July 08, 2023 7:14 AM  
**To:** Kornijtschuk, Lorin <lkornijtschuk@irbcity.com>  
**Cc:** cookieIRB@gmail.com  
**Subject:** BOA Case No. 2023-06

I live across the street.

The building located at 2209 Gulf Blvd is very nice and I hope they plan to add more to the adjacent vacant property. But I don't believe the Board should recommend approval of a variance of this magnitude. We're not talking a few inches or even a couple of feet. The request is a substantial variance that, in my opinion, will detract from the overall appearance of an attractive property. I would not think the City would want other Gulf Blvd property owners to request the same.

1

I would be less concerned if the pools were installed in the ground versus sitting at ground level and rising four feet above the adjacent finished grade.

The building is complete and the pools must not have been considered essential when the property owners sought plan approval. They need to rethink how they can comply with existing Ordinances if these pools are now essential to their plan. But two pools rising 4 feet above finished grade, ten feet from the street does not seem to be a reasonable variance request. I suggest the Board not recommend approval.

Raymond Springer  
2200 Gulf Blvd. Unit 406  
IRB

2



2206 Beach Trail  
Indian Rocks Beach FL 33785  
July 14, 2023

Lorin A. Kornijtschuk/Interim City Clerk  
1507 Bay Palm Blvd.  
Indian Rocks Beach FL 33785

Reference: Variance Request BOA 2023-06: 2209 Gulf Blvd.

I am a full-time resident and property owner at 2206 Beach Trail. I have owned property and lived in Indian Rocks Beach full-time for 35 years.

According to the Pinellas County Tax Appraiser website, the owners of the property at 2209 Gulf Boulevard purchased this property in 2021 as an empty lot. There was no structure on the lot when they purchased it. Construction on the duplex started in 2022. The property next to this property at 2211 Gulf Boulevard is the same dimensions as the property at 2209 Gulf Boulevard (60 feet by 120 feet). That property has a multi-unit structure, with a driveway coming off Gulf Boulevard and a swim spa in the back of the property. When the structure for 2209 Gulf boulevard was being designed before construction, if the swim spas were considered an essential design feature, they should have been part of the design.

The basis for this variance is the owner's statement that "Pinellas County required access to the property from the alley and not from Gulf Blvd," and "we don't have a backyard." Since the current owners built the structure on the property, they could have adjusted their building plans to allow these swim-spas to be behind the property. Placing the swim spas in the front of the property directly on Gulf Boulevard will lead to noise disturbances to the neighborhood and possibly safety concerns that children might access these swims spas and drown. Are fences required around these "swimming pools"? Where would these be constructed given the limited space in the front yard of the 25-foot setback?

The owners state that this is a "vacation home," however, it includes two separate living units so at least one if not both will be rented, probably on a nightly basis. Adding swim spas seems to be a way to increase the rental income potentially at the detriment of the neighborhood.

Allowing a variance for 2209 Gulf Boulevard would confer special privileges to these owners. There are no other properties along the east side of Gulf boulevard with pools in the 25-foot front yard setback. Given there are 2 additional building lots next to this property, if this property is given a variance, the other properties would have precedence for their properties be awarded variances to place swim spas in the front yards.

For the reasons above, I object to approval of this variance for the property at 2209 Gulf Boulevard.

Thank you.

A handwritten signature in black ink, appearing to read "Carol Weideman". The signature is fluid and cursive, written over a horizontal line.

Carol Weideman

**From:** [Susan Allen](#)  
**To:** [Hetty Harmon](#); [tharmon@rbcity.com](mailto:tharmon@rbcity.com)  
**Cc:** ["Susan Allen"](#)  
**Subject:** Notice of Public Meeting BOA Case No. 2023-06  
**Date:** Tuesday, August 1, 2023 8:25:42 AM

---

Good Morning,

This email is in reference to the Public Meeting to be held on Tuesday August 8, 2023 BOA Case No. 2023 06.

My husband (Robert Chordar) and I own property at 2200 Gulf Blvd, Unit 204, Indian Rocks Beach, and we are NOT in favor of any of the variances that have been requested for 2209 Gulf Boulevard.

**Code of Ordinances:**

Variance Request from Sec. 110-131(4)(f)(1):

Do not grant a front yard setback reduction of 15' allowing them only to provide a 10' setback.

Variance Request from Sec. 110-344(1):

Do not grant an increase of 3 feet above the required 1 foot above grade for the pool height resulting in a pool height of 4' above the adjacent finished grade for the installation of 2 pools / swim spas..

It is apparent the entity who is requesting these variances knows that they are trying to fit too much on this site and are disregarding the City's carefully thought-out Ordinances.

Please respond to this email, as proof that you have received and will communicate our desires at the Board of Adjustments meeting on Aug 8<sup>th</sup>.

Feel free to contact me at 330 289 6334 if you need any additional information to communicate our desire to NOT allow these variances.

Susan Allen,  
AIA, ASID, IIDA, LEED AP BD+C, EDAC  
Vice President, Partner



## ARCHITECTS

**Turning Visions into Reality**

430 Grant Street  
Akron, Ohio 44311  
330-867-1093

2200 Gulf Blvd., Suite 204  
Indian Rocks Beach, FL 33785

[tcarchitects.com](http://tcarchitects.com)



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**AGENDA ITEM NO. 7**

**OTHER LEGISLATIVE MATTERS**

**None**

**AGENDA ITEM NO. 8A**

**WORK SESSION ITEMS**

**Golf Carts**



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

THOMAS J. TRASK, B.C.S.\*  
JAY DAIGNEAULT, B.C.S.\*  
ERICA F. AUGELLO, B.C.S.\*  
RANDY D. MORA, B.C.S.\*  
ROBERT ESCHENFELDER, B.C.S.\*  
NANCY S. MEYER, B.C.S.\*  
JEREMY SIMON  
MEGAN R. HAMISEVICZ

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

## MEMORANDUM

TO: City Commission, City of Indian Rocks Beach

CC: Brently Gregg Mims, City Manager

FROM: Randy Mora, City Attorney

DATE: August 4, 2023

RE: HB 949: Operation of a Golf Cart

In March 2020, I provided the City Commission with a memorandum analyzing state law relating to low-speed vehicles and golf carts (the "Memo").<sup>1</sup> The Memo detailed the substantive legal differences between golf carts, low speed vehicles, and other mobility devices. The Memo observed that pursuant to the then-operative version of § 316.212 (7), Fla. Stat., a golf cart could lawfully be operated on public roads and streets by any person over the age of 14. (the "Statute")

In November 2020, the City enacted Ordinance No. 2020-06 (the "Ordinance"), amending Section 62-40 of the City's Code of Ordinances to regulate golf carts and low speed vehicles.<sup>2</sup> The Ordinance, mirroring the restrictions in the Statute, provided that "[a]ny person operating a golf cart within the jurisdictional boundaries of the City must be at least 14 years old."<sup>3</sup>

On May 12, 2023, the Governor signed HB 949, amending the statute governing the requirements to lawfully operate a golf cart.<sup>4</sup> For the City's purposes the most important changes concern amendments to § 316.212 (7), Fla. Stat., governing who may lawfully operate a golf cart. Pursuant to this amendment a golf cart *cannot* be operated on public roads or streets by a person who:

- (a) is under 18 years of age, *unless* he or she possesses a valid learner's driver license or valid driver license; or

<sup>1</sup> A copy of the March 2020 memorandum is attached here as Exhibit 1.

<sup>2</sup> A copy of Ordinance No. 2020-06 is attached here as Exhibit 2.

<sup>3</sup> § 62-40 (2), IRB Code of Ordinances

<sup>4</sup> Fla. Legis. Chp. 2023-67; CS/CS/HB 949 (2023). A copy of the enactment is attached here as Exhibit 3.

(b) is over 18 years of age, *unless* he or she possesses a valid form of government-issued photographic identification.<sup>5</sup>

Said differently, anyone under 18 *can* lawfully operate a golf cart if they have their driver license or learner's license. Similarly, anyone over 18 *can* lawfully operate a golf cart if they have valid government-issued photo-ID. Though this amendment does not take effect until October 1, 2023, it was most likely intended to resolve the administrative challenges for law enforcement trying to determine and objectively establish the age of golf cart operators.

Considering this statutory amendment, I recommend the City amend its code to align it with state law.



Randy D. Mora, Esq.

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<sup>5</sup> Fla. Legis. Chp. 2023-67 at 2:43-47.

# EXHIBIT 1



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

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

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

## **M E M O R A N D U M**

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**DATE:** March 24, 2020

**TO:** Gregg Mims

**FROM:** Randy Mora, Esq., City Attorney

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

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

### **I. EXECUTIVE SUMMARY**

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

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

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

## **II. GOLF CARTS**

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

### **A. FLORIDA STATUTE**

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

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

While golf carts are not required to be licensed or insured, a golf cart may not be operated on public roads or streets by any person under the age of 14.<sup>7</sup>

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

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<sup>1</sup> § 316.003 (26), Fla. Stat.

<sup>2</sup> § 320.01 (22), Fla. Stat. (emphasis added).

<sup>3</sup> § 316.212, Fla. Stat.

<sup>4</sup> § 316.212 (1), Fla. Stat.

<sup>5</sup> § 316.2126 (1) (c), Fla. Stat.

<sup>6</sup> § 316.212 (8), Fla. Stat.

<sup>7</sup> § 316.212 (7), Fla. Stat.

<sup>8</sup> § 316.212 (5), Fla. Stat. (emphasis added).

<sup>9</sup> § 316.212 (8) (a), Fla. Stat.

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

## **B. PERSUASIVE AUTHORITY: ATTORNEY GENERAL OPINIONS**

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

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

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

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

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

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

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<sup>10</sup> § 316.212 (9), Fla. Stat.



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

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

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

### **III. LOW SPEED VEHICLES**

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

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

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

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

(1) A low-speed vehicle or mini truck may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle or mini truck from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour. (emphasis added).

(2) A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.

(3) A low-speed vehicle or mini truck must be registered and insured in accordance with Sec. 320.02 and titled pursuant to Chapter 319.

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<sup>11</sup> Sec. 320.01(41), Fla. Stat. (emphasis and internal parenthetical added).

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

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

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

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

## **B. ADDITIONAL LEGAL AUTHORITY**

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

## **C. CITY CODE PROVISIONS**

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

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

#### **IV. ALTERNATIVE TRANSPORTATION**

##### **A. MICROMOBILITY DEVICES & MOTORIZED SCOOTERS**

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

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

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

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

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

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

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

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<sup>12</sup> § 316.003 (38), Fla. Stat.

<sup>13</sup> § 316.2128(1), Fla. Stat

<sup>14</sup> § 316.2128(2), Fla. Stat.

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

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

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

## **V. CONCLUSION**

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

Encl:

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

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

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<sup>15</sup> § 316.003(3), Fla. Stat.

# EXHIBIT 2

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Section 3.** If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and

the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the City Commission would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

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

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

**ADOPTED ON FIRST READING** on the 13<sup>th</sup> day of October 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

**PUBLISHED** on this 28<sup>th</sup> day of October 2020 in the Tampa Bay Times.

**ADOPTED ON SECOND AND FINAL READING** on the 10<sup>th</sup> day of November 2020, by the City Commission of the City of Indian Rocks Beach, Florida.

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Joanne Moston Kennedy, Mayor-Commissioner

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

Approved as to form:

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Randy Mora, City Attorney

RM/dor

# EXHIBIT 3

## CHAPTER 2023-67

### Committee Substitute for Committee Substitute for House Bill No. 949

An act relating to operation of a golf cart; amending s. 316.212, F.S.; authorizing a water control district to designate certain roads for use by golf carts; requiring county approval before making such a designation; prohibiting a person under 18 years of age from operating a golf cart on certain roadways unless he or she possesses a valid learner's driver license or valid driver license; prohibiting a person 18 years of age or older from operating a golf cart on certain roadways unless he or she possesses a valid form of government-issued photographic identification; providing a penalty; amending s. 322.04, F.S.; conforming a provision to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (7) of section 316.212, Florida Statutes, are amended, and subsection (9) of that section is republished, to read:

316.212 Operation of golf carts on certain roadways.—The operation of a golf cart upon the public roads or streets of this state is prohibited except as provided herein:

(1) A golf cart may be operated only upon a county road that has been designated by a county, a municipal street that has been designated by a municipality, ~~or a two-lane county road located within the jurisdiction of a municipality designated by that municipality, or a road that is owned and maintained by a water control district and has been designated by that water control district,~~ for use by golf carts. ~~Before~~ Prior to making such a designation, the responsible local governmental entity must first determine that golf carts may safely travel on or cross the public road or street, considering factors including the speed, volume, and character of motor vehicle traffic using the road or street, and if such designation is to be made by a water control district, the district must also receive approval from the county in which the road to be designated is located. Upon a determination that golf carts may be safely operated on a designated road or street, the responsible governmental entity shall post appropriate signs to indicate that such operation is allowed.

(7) A golf cart may not be operated on public roads or streets by ~~a~~ any person:

(a) Who is under 18 years of age unless he or she possesses a valid learner's driver license or valid driver license.

(b) Who is 18 years of age or older unless he or she possesses a valid form of government-issued photographic identification ~~the age of 14.~~

(9) A violation of this section is a noncriminal traffic infraction, punishable pursuant to chapter 318 as a moving violation for infractions of subsections (1)-(5) or a local ordinance corresponding thereto and enacted pursuant to subsection (8), or punishable pursuant to chapter 318 as a nonmoving violation for infractions of subsection (6), subsection (7), or a local ordinance corresponding thereto and enacted pursuant to subsection (8).

Section 2. Paragraph (e) of subsection (1) of section 322.04, Florida Statutes, is amended to read:

322.04 Persons exempt from obtaining driver license.—

(1) The following persons are exempt from obtaining a driver license:

(e) A Any person 18 years of age or older operating a golf cart, as defined in s. 320.01, which is operated in accordance with ~~the provisions of~~ s. 316.212.

Section 3. This act shall take effect October 1, 2023.

Approved by the Governor May 11, 2023.

Filed in Office Secretary of State May 11, 2023.

**AGENDA ITEM NO. 9**  
**OTHER BUSINESS**

**AGENDA ITEM NO. 10**

**ADJOURNMENT**