

**TUESDAY, AUGUST 9, 2022**

**REGULAR  
CITY COMMISSION MEETING**

**@ 7:00 PM**



Administrative  
727/595-2517  
727/596-4759 (Fax)

Library  
727/596-1822

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

**AGENDA**  
**CITY OF INDIAN ROCKS BEACH**  
**REGULAR CITY COMMISSION MEETING**  
**TUESDAY, AUGUST 9, 2022 @ 7:00 P.M.**  
**CITY COMMISSION CHAMBERS**  
**1507 BAY PALM BOULEVARD**  
**INDIAN ROCKS BEACH, FLORIDA 33785**

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**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 take place between the speaker and the City Commission.)

**3. REPORTS OF:**

- A. City Attorney.**
  - B. City Manager.**
  - C. City Commission.**
- [3-minute time limit per City Commission Member.]**

**4. ADDITIONS/DELETIONS.**

5. **CONSENT AGENDA:**
    - A. **APPROVAL** of the July 12, 2022 Regular City Commission Meeting Minutes.
    - B. **APPROVAL** of the July 26, 2022 Special City Commission Meeting Minutes.
    - C. **CONFIRMING ACTION** taken during the July 26, 2022 Special City Commission Meeting Minutes.
    - D. **APPROVAL** of the July 26, 2022 City Commission Budget Work Session Minutes.
    - E. **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 2022-23.
    - F. **RESOLUTION NO. 2022-05.** A Resolution of the City Commission of the City of Indian Rocks Beach, Florida, nominating St. Pete Beach Mayor Alan Johnson to the Forward Pinellas Board to represent the BIG-C municipalities, (excluding the City of Clearwater); and providing an effective date.
  
  6. **PUBLIC HEARINGS:**
    - A. **BOA CASE NO. 2022-11 — 2036- 20<sup>TH</sup> AVENUE PARKWAY**  
Considering a variance request from Sec. 110-131(1)(f.)(2)(i) of the Code of Ordinance to encroach 3 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 22 feet, to allow for an awning to be installed on the rear of the house for property located at 2036-20<sup>th</sup> Ave Parkway, Indian Rocks Beach, Florida, and legally described as Lot 16, Ninth Addition to Re-Revised Map of Indian Beach as recorded in Plat Book 27, Page 56, of the Public Records of Pinellas County , Florida. Parcel #06-30-15-42192-000-0160
  
  7. **OTHER LEGISLATIVE MATTERS:** None.
  
  8. **WORK SESSION ITEMS [DISCUSSION ONLY]:**
    - A. **DISCUSSION OF** regulating the restriction of smoking on any public beach and public parks that the City owns, except for unfiltered cigars.
  
  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 [doreilly@irbcity.com](mailto:doreilly@irbcity.com), no later than FIVE (5) days before the proceeding for assistance.

POSTED: August 5, 2022

**NEXT REGULAR CITY COMMISSION MEETING**  
**Tuesday, September 13, 2022 @ 7:00 P.M.**

**SPECIAL CITY COMMISSION MEETINGS — BUDGET HEARINGS**  
**Wednesday, September 7, 2022 @ 6:00 P.M.**  
**Wednesday, September 21, 2022 @ 6:00 P.M.**

**AGENDA ITEM NO. 1A**

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

**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**

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

**APPROVAL OF  
July 12, 2022 Regular City  
Commission Meeting Minutes**

**MINUTES — JULY 12, 2022  
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, JULY 12, 2022**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

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

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

**STAFF PRESENT:** City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, and Engineer Consultant Mark Frederick, P.E.

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

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

The Pinellas County Sheriff's Office presented the crime analysis report for June 2022.

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

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

Fire Chief Davidson stated the Fire District in partnership with the City, will be hosting a Paddling for Autism on Saturday, July 16, 2022, from 9:00 a.m. to noon, at the Pinellas County Beach Access Park.

**2. PUBLIC COMMENTS.**

**John Pfanstiehl, 448 Harbor Drive South**, stated, like many people in town, that party houses for transients adjacent to residential homes are about the worst threat a person can imagine to a safe place to raise children and a peaceful retirement for senior citizens. Now, IRB has hundreds of party houses in residential neighborhoods. The City did not have this problem 11 years ago. There was a 3-month minimum stay in residential neighborhoods.

He is hoping with fresh minds on the City Commission that short-term vacation rentals will become a top priority by minimizing or eliminating this issue and committing substantial resources to restore the safety and peace of the City's residential neighborhoods.

Mr. Pfanstiehl stated the City Manager could start this by directing City staff to search for short-term IRB residential neighborhoods by searching on Airbnb, VRBO, Craigslist, Home Away, the internet, etc., to make sure all STRs clearly show the City-issued business tax number on all online advertising as per Ordinance No. 2018-01. The City could post the list of all known STRs online, so the neighbors can determine if nearby rentals are legal. He stated that included in the published list each STRs: Florida Department of Revenue, Certificate of Registration, Florida Department of Business & Professional Regulation License, City Business Tax Records, and their sworn statement that the property complies with all City Codes per Ordinance No. 2018-01 and all complaints registered to the property so that public can see it.

Mr. Pfanstiehl stated the main purpose is to make having party houses in Indian Rocks Beach less desirable.

Mr. Pfanstiehl stated on the State level the City should not give up. The City should pay for a legal opinion from a specialized counsel as to whether the elimination of IRB's grandfather's status can be challenged.

Mr. Pfanstiehl suggested the City form an alliance with the five Florida Counties that are most affected, which Pinellas is one of them, the hotel/motel lobby, and existing groups like Airbnb Watch, Home Rule Florida, the BIG-C, and the Florida Leagues of Cities.

Mr. Pfanstiehl stated the City should hire a lobbyist and then work to get funding for lobbying from the above organization.

Mr. Pfanstiehl stated IRB would become a tourist trip, not a place for families or senior citizens.

Mr. Pfanstiehl stated he hopes a majority of the City Commission will make a motion tonight for a work session to examine potential actions and then eventually commit substantial resources to take the residential neighborhoods back.

Mr. Pfanstiehl stated the City needs to eliminate or minimize unmonitored party houses for transients next to seniors and children.

**Jerry Newton, 438 Harbor Drive North**, stated short-term vacation rentals are not the people's will here. That is not why he invested in his neighborhood or the City. STRs are not in the best interest of the City unless maybe there is a lot of tax revenue; maybe there is something there that makes sense from a city management point of view as opposed to a resident's point of view. Even if that is the case, STRs are ruining the neighborhoods.

STRs are spreading cancer throughout the residential neighborhoods in IRB.

Mr. Newton stated he does not believe any member of the City Commission has that intent. It is happening, and it continues to occur. The City Commission keeps saying there is nothing that the City can do about STRs, and the residents are saying the City has to do something about it. As residents and investors in this City, the City needs to find a solution to STRs.

Mr. Newton stated if the City Commission cares about representing the residents of Indian Rocks Beach, they need to find a way to deal with the STRs by limiting, restricting, and monitoring STRs that will discourage STRs.

**Adrienne Dauses, 2008 Gulf Boulevard, Unit 3**, stated she wanted to bring attention to a problem that is starting to reoccur at the beach accesses. She started when the "No Parking After 11:00 p.m." signs were removed from the beach accesses, there have been constant troubles on the beach accesses. The 21<sup>st</sup> Avenue Beach Access has turned into a RV campground. People are spending the night in their cars since the signs were removed, and a lot of trash is being left behind by these individuals that the residents are constantly picking up.

Ms. Dauses stated the house next-door to her is abandoned and there is a problem with homeless people congregating there on the porch doing all sorts of things. She stated the Pinellas County Sheriff's Office visits this property once a week because people are sleeping on the porch.

**Beth Flynn, 914 Harbour House Drive**, stated she is aware of the restrictions that State laws have placed on the City's rights to restrict frequency and duration in regards to STRs. She believes that there are other things that can be done to protect the rights of the City's homeowners and more permanent residents. The City can control the number of people, the number of cars, and noise. The City can make sure that the City's ordinances are enforced for that type of activity.

Ms. Flynn stated Pinellas County has rules and guidelines for STRs, and they have a registration form and it does have limitations in regards to the number of people in the house and the number of cars that are allowed on a property.

Ms. Flynn stated she does know that the City Commission is trying to do their best trying to figure out what can be done especially based on the fact that the City does not have its own rules. It is very important that the City address STRs. The City needs to be much more up front and informed about what is going on from a citizen's perspective. She read the City Attorney's Memoranda dated May 2016 that was posted on the City's website, but has no idea what it says because she is not an attorney. She said it basically says that a city cannot regulate frequency and duration but there are other things a city can do, and she

is interested in those other things that a city can do because they can make a difference. Indian Rocks Beach is too special to allow it to become a party house or even to have too many transient people that are creating unlivable conditions for people.

### **3A. REPORTS OF the City Attorney.**

#### *Short-Term Vacation Rentals*

City Attorney Mora, upon the request of the Mayor-Kennedy, spoke on the ability of the jurisdiction to regulate occupancy as part of its regime regulating short-term vacation transient rentals. As a statement of the law, a city can regulate occupancy. He has never asserted anything to the contrary. He has said in the past that other communities have regulated occupancy and faced significant legal challenges to those. He had represented another jurisdiction that passed occupancy restrictions and successfully defended it. Those were premised upon comprehensive plan amendments that had been in place since 2009, which was the basis of that legal victory. It was premised on regulations that had been in place before 2011 and simply codifying those.

City Attorney Mora stated there is nothing in s. 509.032(7)(b), F.S. prohibiting municipalities from regulating occupancy. One of the core challenges that committees face when regulating occupancy is the enforceability of the measure. That is not to say it is altogether an impossibility but the enforceability and the resources required to be directed to that, especially if occupancy is tied to the number of bedrooms. A city would need the data point of exactly how many bedrooms are in every single structure operating as a rental, typically done through an inspection regime, which is resources, etc. It is an administrative and legal challenge.

City Attorney Mora stated that the other element is how a city objectively establishes that fact once the measure goes before the local ordinance violation court, code compliance magistrate, or code enforcement board.

City Attorney Mora stated that depending on how that is codified. The other challenge is whether that is done in a way that uniformly applies throughout the city such that the city does not now put residents in violation of occupancy limitations when they have a party.

City Attorney Mora stated he wanted to be clear in his statements that he is not a policymaker in this community. The City Manager is not a policymaker in this community. The City Commission is the policymaker for this community. The City Manager and himself try to ensure the City Commission's policy is sound and are here to advise on the City Commission on their policymaking decisions. If the City Commission has a majority direction, he will investigate it and provide counsel. The City Commission can proceed, ignore, and do what the City Commission wishes. The City Commission is the policymaker, and that is the City Commission's power. He wants to be clear that his job is to make sure



that he provides the City Commission where the dangers may be and where the challenges may be.

City Attorney Mora stated beyond parking and occupancy limitations with STRs is one that has evolved since 2011 with additional developments in 2014. The Country has had an intervening global pandemic in the middle that substantially changed the economics, public health, and property landscapes in Florida and otherwise. There are families whose entire livelihood depends on how they use their properties and the economic engines of these communities and trying to balance their interests. He is not insensitive to the concerns of members of the public and the long-time residents of this community. He stated he is sensitive to how the laws have changed in Florida in the last ten years. The public has seen a change in what home-based business can be, how transient rentals operate, the difference in Bert Harris Act, and how challenges to law use regulations.

City Attorney Mora stated changes in the Florida laws have substantially led to a difference in what the community looks like. That change is not precisely the fault of the City Commission or its predecessors.

Commissioner Hanna asked when he prevailed in his lawsuits with the other municipality, was there much precedent in as far as other communities throughout the State that helped in going in that direction.

City Attorney Mora responded in the negative. He stated the City of Holmes Beach was faced with several million dollars in liability for Bert Harris cases for regulations concerning the number of rooms and the number of occupancies permitted in a structure. All of those were part of Holmes Beach's short rentals regime through an adopted ordinance. Holmes Beach had dozens of cases that were ultimately settled after the city prevailed on a handful of occupancy cases.

City Attorney Mora briefly reviewed the requirements of the Holmes Beach short-term rental ordinance. He stated it is a full-time job for a staff member to investigate and report on STRs. Holmes Beach enforcement is a robust regime. That was presented to this City Commission as an option at the time, but it was not the direction the City Commission wished to go.

### **3B. REPORTS OF the City Manager.**

#### *Gulf Boulevard Utility Underground Project Update*

Mark Porter, Principal/Project Manager, Utility Consultants of Florida, presented a PowerPoint to the City Commission showing the Gulf Boulevard Utility Underground Project Update. He said Phase II of the project would begin at 5th Avenue and end at 19th Avenue. The target construction date is fall.

### *Code Enforcement Report*

78 Parking Citations Issues (excluding PCSO)

3 Notices of Violations

7 Notices to Appear in Court

3 Courtesy Letter

### *No Smoking on the Beach*

The Florida Legislature passed, and the Governor signed into law HB105, that in theory, allows local governments to pass ordinances to restrict smoking on Florida beaches and public parks, except for unfiltered cigars.

This item has been scheduled for the August 9, 2022 Regular City Commission Agenda as a work session item to discuss the pros and cons of enforcement if the City adopts a no smoking on the beach ordinance.

### *Fireworks*

The City had actively pursued and enforced the fireworks laws this Fourth of July at the direction of the City Commission with no significant events or casualties. Over the years, the City has done a lot of education on fireworks and has publicized that fireworks are prohibited in this community. This year, the City had extra Pinellas County Sheriff's Office patrols plus both Code Enforcement Officers on duty, and as always, the Fire Department helped the City out also.

### *Beach Accesses — 2004 Gulf Boulevard*

The house at 2004 Gulf Boulevard, the detached dilapidated garage, was demolished by City after several notices and a public hearing. A lien has been placed or will be placed on the property for the cost of the demolition and previous boarding and clean-up bills.

The City is in contact with the owner regarding the despairing condition of the house. The City has boarded up the house several times and cleaned up the property by mowing it and trimming back the bushes.

### *City Manager's 10-Year Anniversary*

Mayor-Commissioner Kennedy said City Manager Mims would be with the City for a decade in a few days. She just wanted to say thank him for his time with the City. There are a million reasons why she can tell everyone he is fantastic. The City is one of two cities that do not have a stormwater fee or utility tax. The City's finances are in excellent shape, which they were not in 2008 and 2009 when she first got back onto the City Commission. Then the City Commission hired a new City Manager, Mr. Mims. She cannot say enough about the job that he has done. He came here at the very beginning of the short-term rentals. He hired two code enforcement officers. There is so much she can say about him. She thanked him for his service and stated she appreciated him.

City Manager Mims stated that he has enjoyed every minute he has worked for the City and hopes to work here for several more years. He would like to thank the City Commission and the various City Commissions he has worked with because every City Commission has always been supportive and has always worked together to figure things out.

City Manager Mims stated the vacation rental item is a very tough issue. His observations and concerns about what was a small city with cottages are rapidly changing. The City's population is significantly being reduced and continues to be reduced. The Code Enforcement Officers are in a lose/lose situation with vacation rentals.

City Manager Mims stated he is blessed to be working in the most friendliest place in has ever worked and lived in and looks forward to many more years.

### **3C. REPORTS OF the City Commission.**

#### **COMMISSIONER McCALL:**

- *Homeowners Association.* Stated between the Homeowners' Association, Action 2000, Inc., and the Rotary Club of Indian Rocks Beach, they are community groups that get together, volunteer, raise money, and give it back to the community.
  - HOA Report
    - July 21st — Mix & Mingle/ VIP Cantina
    - November 5th — Taste of IRB
    - \$2,500 donation to St. Patrick's Catholic School/kitchen fund
    - \$7,000 donated for artwork/dolphin statute

#### **VICE MAYOR HOUSEBERG:**

- *Short-Term Vacation Rentals.* Stated she will meet with the City Attorney and the City Manager on short-term rentals on July 26, 2022. She stated she agrees that there probably is more than the City can do, and she will make the City Manager tell her no on things that she thinks the City can do. She would announce that at the next meeting on what she found, or maybe the City Commission should have a work session. She stated she has been working on a fact sheet about the absolute truth about short-term rentals and what a city can do about short-term rentals, raising registration fees, parking, noise, occupancy limitations, and increased inspections. Stated she asked the Pinellas County Sheriff's Office deputy this evening if they were able to abstract from the data the calls to short-term vacation rental properties or visitors/residents, and the PCSO had advised that they could not do that.
- *City Website.* Stated during her budget meeting with the City Manager, they told about adding appropriating funding in the budget to revitalize the website.

#### **COMMISSIONER BOND:**

- *Short-Term Vacation Rentals.* Asked when the City Commission could propose a

roundtable discussion on short-term vacation rentals. City Attorney Mora stated that if it is the City Commission's will, then a work session could be scheduled on short-term vacation rentals.

**COMMISSIONER HANNA:**

- *Short-Term Vacation Rentals.* Stated he hears it and has been living it, and he would like to get information from everybody about what is on their minds. He stated he is interested in receiving more information on occupancy limitations. He said whenever staff, the community, and City Commission come together, a solution seems to be found for the issue. He stated that he would like to schedule a work session on short-term vacation rentals.

**MAYOR-COMMISSIONER KENNEDY:**

- *Short-Term Vacation Rentals.* She stated staff had done their due diligence by putting together regulations and restrictions, and they follow them incredibly. She bothers the Sr. Code Enforcement Officer, who always has a smile on his face, weekly regarding STRs, i.e., cars parking in the yard and garbage. She has said from the beginning that she will fight until the last person stands on this issue. She has been to Tallahassee twice on STRs and has spoken in front of committees. On one occasion, the elected officials from around the State were successful. Through the Florida League of Cities, she won the Home Town Hero Award twice, not for anything else but short-term vacation rentals.

Mayor-Commissioner Kennedy stated about six weeks ago, the beach mayors met with Representative Nick DiCeglie to discuss short-term vacation rentals. Representative DiCeglie said that the leadership does not see this issue as the beach communities do. This issue is seen as a rights issue. When the mayors asked about the rights of neighbors, who have been here forever, even those who have not lost their grandfather clause, there was no comment from the leadership of the legislators concerning short-term rentals and those who live here.

Mayor-Commissioner Kennedy stated she met with several residents to discuss short-term rentals. She said that they were unaware of the short-term rental regulations and advised them that should they have any problems or concerns, they should call the Pinellas County Sheriff's Office or Code Enforcement. She explained that the City needs to document complaints regarding short-term rentals to present to Representative DiCeglie.

Mayor-Commissioner Kennedy stated she had developed a relationship with the hoteliers, and they have some of the same problems with STRs as the City does. Mayor-Commissioner Kennedy spoke with the City Manager about raising the STRs registration fees.

- *No smoking on the beach.* Stated no smoking on the beach is scheduled for the

August 9, 2022 Regular City Commission Meeting as a discussion item.

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

5. **CONSENT AGENDA:**

A. **APPROVAL of the June 14, 2022 Regular City Commission Meeting Minutes.**

City Attorney Mora read the Consent Agenda, consisting of Agenda Item No. 5A, by title only.

**MOTION MADE VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER McCALL, TO APPROVE THE JUNE 14, 2022 REGULAR CITY COMMISSION MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.**

6. **PUBLIC HEARINGS:** None.

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

8A. **DISCUSSION OF Citywide Stormwater Master Plan by CivilSurv.**

*[Beginning of Staff Report]*

CivilSurv completed an update to the Stormwater Master Plan (SWMP) analyzing all of the stormwater treatment and collection systems for the City of Indian Rocks Beach. The analysis and summary were based on the House Bill 53 requirements to develop a needs analysis for its jurisdiction over the subsequent 20-years. The updated SWMP will allow the City to plan for the funding for future improvements and assist in operating the stormwater system under the Municipal Separate Storm Sewer System (MS4) Phase 1 permit.

Overall, in the updated Stormwater Master Plan that was recently completed, a list of major projects were compiled based on factors including potential water quality benefits, stormwater collection benefits, and the condition of the existing systems. Some of the major projects also include projects that have been identified as priorities for the City and are currently planned for improvements. Since the focus of the SWMP is for the next 20-years, it was decided that even though additional projects could have been defined, the 13 projects would be enough to cover the given time period. The main goal for the City is to complete these 13 projects in the next 20-years which means that they could be modified or phased based on field conditions or other constraints. Prioritization of the projects will be determined by the City.

The total estimate for major projects in present day values is \$13,357,000, which can be seen in the Engineer's Opinion of Probable Construction Costs (EOPCC) table in the SWMP. In addition to the major projects, there is a list of minor projects that are lower priority but should be completed as well. The minor projects should be completed based on a prioritization from the City, but they can be completed as needed due to any complications that might arise in the storm sewer system. The overall estimate for the minor projects, which is shown itemized in the EOPCC, is \$836,600. Each of the 13 major projects will be discussed in the presentation with individual values.

In accordance with the SWMP, it is highly recommended that the City continues to proactively administer their stormwater management program to comply with applicable regulations. A prioritization plan needs to be completed by the City for the 13 major projects and the minor projects to determine when each project should be completed. In the past, the City has completed major projects at a rate of approximately 1 project every 2 years with 2 project locations often being completed when budgets are available. If the City continues at this rate, all or nearly all of the major projects could be completed in the 20-year timeframe in addition to the minor projects. It is important to note that the tidal influence on the City's stormwater management system is a significant factor. Some of the grate elevations are lower than high tides which will result in short-term street flooding occurring even after the improvements have been made. However, it is anticipated that the improvements will improve the drainage collection and conveyance following high tides which could improve and shorten some street flooding conditions. In addition to improving the drainage collection, the improvements each include a water quality improvement component which is expected to provide a significant water quality benefit to the area. It is also recommended in the SWMP that there is drainage easement acquisition and utilization of a spatially referenced database for stormwater infrastructure management.

*[End of Staff Report]*

City Manager Mims stated last year, the Florida Legislature passed a bill, an unfunded mandate, that required all cities and counties to have updated stormwater plans for their local area. He stated the City received \$2.1 Million in American Rescue Funds, and about \$100,000 was set aside to update the City's stormwater plan.

City Manager Mims stated the City Commission authorized CivilSurv Design Group to undertake a citywide review of drainage, drainage basins, and pipes.

City Manager Mims stated CivilSurv had completed the update to the Stormwater Master Plan, analyzing the City's stormwater treatment and collection systems.

City Manager Mims stated Mark Frederick, Engineering Consultant, CivilSurv Design Group, will go over 13 projects to be completed over the next 20 years. The \$2.1 Million in American Rescue Funds that the City received was earmarked to be used for drainage,

and the estimated cost for all 13 projects in present-day values is \$13 Million.

Engineering Consultant Frederick reviewed the 13 projects to be completed over the next 20 years with individual values. He stated most of the projects are focused on water quality, including nutrient separating baffle boxes to achieve that water quality (NSBB) component.

*(Projects are not listed in order of priority. They are in order of Outfall Number.)*

**Proposed Project 01 — Outfall 02**

- Location
  - Between 426 & 428 Harbor Drive North
- Description
  - Improvements to existing
    - 2 inlet structures
    - 187 LF of 14" X 23" ERCP
    - Outfall structure at seawall
  - Addition of a nutrient separating baffle box (NSBB)
- Cost
  - \$456,000

**Proposed Project 02 — Outfall 03**

- Location
  - Between 444 & 446 Harbor Drive North
- Description
  - Improvements to existing
    - 2 inlet structures
    - 168 LK of 14" X 23" ERCP
    - Outfall structure at seawall
  - Addition of a NSBB
- Cost
  - \$454,700

**Proposed Project 03 — Outfall 04**

- Location
  - Harbor Drive North; Janice & Barry Place
- Description
  - Improvements to existing
    - 5 inlet structures
    - 533 of LF of 14" X 23" ERCP
    - 134 LF of 19" X 30" ERCP
    - Outfall structure at seawall
  - Addition of a NSBB
- Cost

- \$886,800

#### **Proposed Project 04 — Outfall 17**

- Location
  - Bay Boulevard: 20<sup>th</sup> & 21<sup>st</sup> Avenues
- Description
  - Improvements to existing
    - 6 inlet structures
    - 1 manhole structure
    - 62 LF of 19" X 30" ERCP
    - 44 LF of 24" X 38" ERCP
    - 305 LF of 29" X 45" ERCP
  - Addition of a NSBB
- Cost
  - \$967,400

#### **Proposed Project 05 — Outfall 27**

- Location
  - 1<sup>st</sup> Street: 17<sup>th</sup>, 18<sup>th</sup>, & 19<sup>th</sup> Avenues
- Description
  - Improvements to existing
    - 10 inlet structures
    - 89 LF of 14" X 23" ERCP
    - 285 LF of 19" X 30" ERCP
    - 472 LF of 24" X 38" ERCP
  - Addition of a NSBB
  - 180 LF concrete valley gutter
- Cost
  - \$1,151,800

#### **Proposed Project 06 — Outfall 28**

- Location
  - 206 & 208 16<sup>th</sup> Avenue
- Description
  - Improvements to existing
    - 2 inlet structures
    - 86 LF of 19" X 30" ERCP
    - Outfall structure at seawall
  - Addition of a NSBB
  - 60 LF concrete valley gutter
- Cost
  - \$431,600



**Proposed Project 07 — Outfall 29**

- Location
  - Bayshore Boulevard: 15<sup>th</sup> & 16<sup>th</sup> Avenues
- Description
  - Improvements to existing
    - 9 inlet structures
    - 304 LF of 14" X 23" ERCP
    - 317 LF of 19 X 30" ERCP
  - Addition of a NSBB
- Cost
  - \$893,200

**Proposed Project 08 — Outfall 33**

- Location
  - Bay Pine Boulevard: 12<sup>th</sup> Avenue
- Description
  - Improvements to existing
    - 5 inlet structures
    - 29 LF of 14" X 23" ERCP
    - 630 LF of 24" X 38" ERCP
    - Outfall structure at seawall
  - Addition of a NSBB
- Cost
  - \$973,500

**Proposed Project 08 — Outfall 36**

- Location
  - Bay Pine Boulevard: 11<sup>th</sup> & 12<sup>th</sup> Avenues
- Descriptions
  - Improvements to existing
    - 5 inlet structures
    - 27 LF of 14" X 23" ERCP
    - 166 LF of 19" X 30" ERCP
    - 172 LF of 24" X 38" ERCP
    - Outfall structure at seawall
  - Addition of a NSBB
- Cost
  - \$728,800

**Proposed Project 08 — Outfall 37**

- Location
  - Bay Pine Boulevard: 10<sup>th</sup> & 11<sup>th</sup> Avenues
- Description

- Improvements to existing
  - 8 inlet structures
  - 50 LF of 14" X 23" ERCP
  - 494 LF of 19" X 30" ERCP
  - 179 LF of 24" X 38" ERCP
  - Outfall structure at seawall
- Additional of a NSBB
- Cost
  - \$994,000

**Proposed Project 09 — Outfall 42**

- Location
  - East Gulf Boulevard: 8<sup>th</sup> Avenue
- Description
  - Improvements to existing
    - 6 inlets structures
    - 119 LF of 14" X 23" ERCP
    - 96 LF of 19" X 30" ERCP
    - 215 LF of 24" X 38" ERCP
    - Outfall structure at seawall
  - Addition of a NSBB
- Cost
  - \$911,100

**Proposed Project 10 — Outfall 45 & 46**

- Location
  - East Gulf Boulevard: Windrush Boulevard, Bates Avenue & Bahia Vista Drive
- Description
  - Improvements to existing
    - 8 inlet structures
    - 228 LF of 14" X 23" ERCP
    - 159 LF of 19" X 30" ERCP
    - 270 LF of 24" X 38 ERCP
    - Outfall structure at seawall
  - Addition of a NSBB
- Cost
  - \$1,031,800

**Proposed Project 11 — Outfall 47**

- Location
  - 603-2<sup>nd</sup> Street
- Description
  - Improvements to existing

- 1 inlet structure
- 66 LF of 19" X 30" ERCP
- Outfall structure at seawall
- Addition of a NSBB
- Cost
  - \$468,200

#### **Proposed Project 12 — Outfall 51**

- Location
  - 4<sup>th</sup> Avenue: 1<sup>st</sup> & 2<sup>nd</sup> Streets
- Description
  - Improvements to existing
    - 13 inlet structures
    - 3 manhole structures
    - 53 LF of 14" X 23" ERCP
    - 140 LF of 19" X 30" ERCP
    - 370 LF of 24" X 38" ERCP
    - 347 LF of 29" X 45" ERCP
    - 1 - 29" X 45" end wall structure
  - Addition of a NSBB
- Cost
  - \$1,711,700

#### **Proposed Project 13 — Outfall 52**

- Location
  - 1<sup>st</sup> Street: 3<sup>rd</sup> & Miami Avenue
- Description
  - Improvements to existing
    - 12 inlet structures
    - 1 manhole structure
    - 299 LF of 19" X 30" ERCP
    - 85 LF of 24" X 38" ERCP
    - 427 LF of 29" X 45 ERCP
    - 1 - 29" X 45" endwall structure
  - Addition of a NSBB
- Cost
  - \$1,296,400

Mayor-Commissioner Kennedy asked when would any of these projects be started.

City Manager Mims stated the City Commission would discuss these projects during the budget work session, and the City Commission would decide the priority of the Proposed Projects. He said the FY 2023 Preliminary Budget has \$2 Million earmarked for drainage projects, and the City will continue to apply for SWFMD Grants that the City has been

successful in receiving in past years.

City Manager Mims stated the highest elevation in the City is approximately 6 feet, maybe 7 feet. He wanted to make clear that these drainage projects do not "fix drainage problems" and stated if there is a super moon, high tide, with two or three inches of rain, the streets will flood until the tide goes down.

Mr. Frederick stated that the storm sewer design calculations for the tailwater analysis, essentially the elevation in the harbor, are tidally influenced. There are some factors in there that CivilSurv looked at that they followed FDOT's criteria there. The tailwater elevation calculated was higher than some of the inlets' elevations. He said as long as the City has that connection through the drainage pipe to the harbor to those inlets, they will be wet during high tide. The improved capacity of the system when the tide goes down and in normal conditions, the systems would drain better.

Commissioner Hanna asked about the nutrient separating baffle box (NSBB).

Mr. Frederick explained that the NSBB is to capture the sediments, the total suspended solids from the waters, a basket to catch the larger floatables, and a screening baffle that has filter media in it.

Commissioner Hanna asked about the maintenance and cleaning of the NSBBs.

Mr. Frederick stated it would be seasonally variable, at least once a month and after a significant rainfall event.

## **9. OTHER BUSINESS.**

Mayor-Commissioner Kennedy commented on the Beach Bee Article, Walsingham and Bie descendants meet at Indian Rocks Beach Historical Society, by Jeff Rosenfield. She stated that the Bies and the Walsinghams are intertwined with the early history of Pinellas County. She said records show Jesse Ancil Walsingham came to the region in the late 1890s when it was still part of Hillsborough County. Walsingham was known as a businessman and civic leader who is credited with helping found the Pinellas County Fair, among other accomplishments. Norman Bie was a Tampa real estate agent who moved to Indian Rocks Beach during the Depression and whose original family home — a 100-old boat house at 81 Gulf Boulevard.

Mayor-Commissioner Kennedy stated that descendants of both families, Joyce Walsingham Nicholson and Billy Bie, met at the Indian Rocks Beach Historical Museum. She was allowed to be part of this historic event.

## **10. ADJOURNMENT.**

**MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER McCALL, TO ADJOURN THE MEETING AT 8:35 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.**

August 9, 2022  
Date Approved

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

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

/DOR

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

**APPROVAL OF  
July 26, 2022 Special City  
Commission Meeting Minutes**

**MINUTES — JULY 26, 2022  
CITY OF INDIAN ROCKS BEACH  
SPECIAL CITY COMMISSION MEETING**

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The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, JULY 26, 2022**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

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

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

**OTHERS PRESENT:** City Attorney Randy D. Mora, Finance Director Daniel A. Carpenter, CGFO, City Clerk Deanne B. O'Reilly, MMC, and Finance & Budget Review Committee Chair Jean Scott, and Finance & Vice Chair Budget Review Committee Member Earl Wesson..

**1. RESOLUTION NO. 2022-04. Establishing the tentative millage rate for Fiscal Year 2022/2023.**

*[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 tentative millage rate.

The tentative millage rate is recommended to be 1.8326 mills. The Finance Director advises that the current rolled back rate would be 1.6038 based on the proposed valuation of \$1,666,866,873 for the City of Indian Rocks Beach. With an adopted millage rate of 1.8326 for FY 2022/23, an additional \$411,449 ad valorem tax revenue would be collected over current year collections.

**ANALYSIS:**

Pursuant to Chapter 200.065 (4) (d) F.S., once the tentative 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.

*[End of Staff Report]*

City Attorney Mora read Resolution No. 2022-04 in its entirety.

Mayor-Commissioner Kennedy said the City has ample reserves in case of an emergency, unforeseen issues, and natural disasters. The City pays for the damages up-front and is reimbursed by the Federal Government much later.

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

City Attorney Mora noted, for the record, that there was no public present for public comment.

There were no City Commission comments.

**MOTION MADE BY COMMISSIONER HANNA, SECONDED BY VICE MAYOR-COMMISSIONER HOUSEBERG, TO APPROVE RESOLUTION NO. 2022-04, ESTABLISHING THE TENTATIVE MILLAGE RATE FOR FY 2022-2023 AT 1.8326.**

**ROLL CALL VOTE:**

**AYES: McCALL, BOND, HOUSEBERG, HANNA, KENNEDY**

**NAYS: NONE**

**MOTION CARRIED UNANIMOUSLY.**

**2. ADJOURNMENT.**

**MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER McCALL, TO ADJOURN THE MEETING AT 7:05 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.**

August 9, 2022

Date Approved

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

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

/DOR



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

**CONFIRMING ACTION  
taken during the July 26, 2022  
Special City Commission Meeting**

**AGENDA MEMO**  
**INDIAN ROCKS BEACH CITY COMMISSION**

**MEETING OF:** August 9, 2022      **AGENDA ITEM:** 5C

**SUBMITTED AND**

**RECOMMENDED BY:** Deanne Bulino O'Reilly, City Clerk, MM 

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

**SUBJECT:** Confirming action taken during the July 26, 2022  
Special City Commission Meeting.

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**BACKGROUND:**

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

The City Commission took the following action during the July 26, 2022 Special City Commission Meeting:

- 1. RESOLUTION NO. 2022-04.** Established the tentative millage rate for Fiscal Year 2022/2023 at 1.8326. ***Unanimous approval.***

**MOTION:**

I move to confirm the action taken during the July 26, 2022 Special City Commission Meeting.

/DOR

**AGENDA ITEM NO. 5D  
CONSENT AGENDA**

**APPROVAL OF  
July 26, 2022 City Commission  
Budget Work Session Minutes**

**MINUTES — JULY 26, 2022  
CITY OF INDIAN ROCKS BEACH  
CITY COMMISSION BUDGET WORK SESSION**

---

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, JULY 26, 2022**, 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 Denise Houseberg, Commissioner Jude Bond, Commissioner Philip J. Hanna, Commissioner Joseph D. McCall, and City Manager Brently Gregg Mims.

**OTHERS PRESENT:** City Attorney Randy D. Mora, Finance Director Daniel A. Carpenter, CGFO, City Clerk Deanne B. O'Reilly, MMC, Finance & Budget Review Committee Chair Jean Scott, and Finance & Vice Chair Budget Review Committee Member Earl Wesson.

**1. REVIEW OF Five-Year Capital Improvement Plan (2023-27) and the FY2022-23 Preliminary Budget.**

*[Beginning of City Manager's Budget Letter]*

In accordance with Section 5.3(6) of the City Charter, he is honored to present to the City Commission the City Manager's Proposed Budget for Fiscal Year 2022-23 for the City of Indian Rocks Beach. This proposed budget is balanced in all funds and provides a roadmap that guides operational decisions that strengthen the City's organizational values. The proposed budget represents a comprehensive plan for the City's spending activities and an overall plan for providing City services during the coming fiscal year. The appropriation levels reflect the requirement to balance the budget while maintaining conservative budgeting principles and proactively elevating the City's infrastructure. The proposed budget promotes accountability and tells the story of the City's continued successes in working together.

As the City continues to deal with the impacts of COVID-19, the City Team has not wavered in the City's efforts to provide outstanding services to the City and the City's thousands of yearly visitors. Every team member demonstrates resiliency, innovation, and commitment to five-star service. He is honored and thankful for leading such a great team.

The proposed budget acknowledges the importance of investing in the City's greatest resource, the City's IRB Employee Team. The proposed budget provides a continued

competitive benefits package and ensures that the City is competitive in the public sector market. The budget proposes no increases to team member premiums nor recommends any changes to out-of-pocket maximums. The proposed budget does not include a pay raise for the City Manager or the City Clerk. During the budget review, the City Commission will determine if a raise should be granted for these Charter positions. Mayor-Commissioner Kennedy has requested a pay increase of \$100 per month for each member of the City Commission. This should be discussed and considered by the City Commission at the budget work session.

## **REVENUE/APPROPRIATION/RESERVES OUTLOOK**

According to the Pinellas County Property Appraiser's Office, the City's property tax assessed value is expected to increase by approximately 16.14%, or 8.73% higher than last year's increase. Of the 16.14% increase in taxable values, over 11.7% is attributed to new construction in the last year. In total, the value of new construction exceeds \$26 million. Higher assessed tax values primarily contribute to higher home prices, a competitive market, conversion of traditional residential to vacation rentals, and the ability for many to work from home.

The proposed budget provides for maintaining the mill levy at 1.8326%, which ensures the City ranks 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 the City to accurately make future projections. The City's Reserve Fund remains strong and is significantly higher than the national average.

The General Fund expenses total \$4,159,830. The proposed budget provides for the transfer of \$213,550 from the General Fund to the Capital Improvement Fund for stormwater improvements.

These transferred funds are generated from a portion of the increase in the City's property tax assessed values. The City 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 \$3.8 million, or 105% 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 \$772,010.

## **ELEVATING OPERATIONS**

Highlights of the proposed General Fund Budget include:

- Continued reduction of the cost allocation from the Solid Waste Budget to the General Fund Budget.
- 5% cost of living increase for all employees.
  - Does not include City Manager or City Clerk. The City Commission to determine.

- Continued allocation of \$50,000 for proactive drainage maintenance.
- Continued funding for the installation of solar-powered lights at beach accesses.
- 4.77% increase in the Pinellas County Sheriff's Law Enforcement Service Contract.
- \$35,000 allocated for installing adaptive playground equipment at the 10th Avenue Park, Kolb Park, and Brown Park for individuals with disabilities.
- Office Administrator's salary and benefits moved from Permitting & Inspections to the City Manager's Budget.
- Permitting & Inspections Budget reduced from \$21,430 to \$5,000.
- Increase in janitorial services. The City will be going out for an RFP.
- \$41,000 was allocated for the buoy system.
- Replacement of a flatbed truck.
- 2% decrease in health insurance costs.
- 10% increase in property insurance.
- Computer cyber security upgrade.

## **PROVIDING OUTSTANDING SOLID WASTE OPERATIONS**

*Highlights of the Solid Waste Budget include:*

- Continued reduction of 25% of the cost allocation from the Solid Waste Budget to the General Budget.
- 5% cost of living increase for all employees.
- 6% rate increase for both residential and commercial customers.
- 6.8% increase in Pinellas County tipping fee.
- Replacement of and purchase of one packer truck.

## **ELEVATING INFRASTRUCTURE**

*Highlights of the 2023-2027 Capital Improvement Plan:*

- Annual funding for road milling, resurfacing, curbing & drainage.
- Allocation of \$4,035,033 from Pinellas County Penny to Gulf Boulevard Undergrounding Phase II.
- Allocation of the majority of the City's American Rescue Plan funds (\$2,019,688) to future drainage enhancement projects.
- Projects to be designated by the City Commission upon review of the updated City of Indian Rocks Beach Stormwater Master Plan.
- \$600,000 for stormwater reconstruction projects (half of the total is funding by SWFWMD Grants)
- Grant allocations and requests may be updated based on City Commission's updated stormwater master plan review.
- Annual funding for park maintenance and upgrades.

## **CITY PARK UPGRADES**

- Rehabilitation of the IRB Nature Park Boardwalk (a multi-year effort).

- Wood decking and railing will be replaced with recycled composite material and support repair.
- Electrical improvements, including decorative lighting at Chic-A-Si Park and the 12th Avenue Park to accommodate gatherings and events.
- Fencing replacements.

City Manager Mims would like to express his appreciation to his outstanding IRB Team Members for their energy and effort in delivering exceptional City services. The professionalism and commitment of this team to the City of Indian Rocks Beach are unprecedented. The IRB Team appreciates the City Commission's support and input throughout the budget process. Working together, the IRB Team continues to provide superior services to IRB citizens.

*[End of City Manager Budget Letter]*

City Manager Mims recapped the budget process thus far and announced two public hearings: Tuesday, September 7, 2022, at 6:00 p.m., and Tuesday, September 21, 2022, at 6:00 p.m.

City Manager Mims recognized the Finance & Budget Review Committee Members for attending this meeting.

City Manager Mims stated that the Finance and Budget Review Committee reviewed the budget on July 13, 2022, and unanimously recommended approval to the City Commission.

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

#### *Property Taxes*

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

#### *Different Property Tax Payers Defined*

- New Construction
  - \$26.8 million for FY 2023 for new construction. Approximately \$50,000 in new property taxes are not calculated into the rollback mill rate.
- Homestead/Save Our Homeowners
  - 1241 of 35% of properties
  - \$467 million or 28% of total taxable value
  - Maximum of 3% taxable value increase annually per statute
- Non-Homestead/Commercial Owners
  - 2274 or 65% of properties
  - \$1.2 billion or 72% of total taxable value
  - Maximum of 10% taxable value increase annually per statute

## **OTHER GENERAL FUND REVENUES**

- Franchise Fees: 6% on electric and gas, \$474,000 or 10.7% of FY 2023 total General Fund Revenue.
- State Revenues: Shared, ½ cent sales tax, communication services tax, \$500,000 of 11.5% of FY 2023 total General Fund Revenue.
- Parking Revenue: Pinellas County Beach Parking Lot, \$175,000 or 4% of FY 2023 total General Fund Revenue.
- Administration Overhead Transfer. \$148,000 Solid Waste transfer for Administrative Services, including the City Commission, City Manager, Finance, City Attorney, and Central Services.

## **SOLID WASTE FUND**

- Residential: Bi-monthly billing through Pinellas County Utilities.
- Commercial: Bi-monthly billing through Pinellas County Utilities.
- Proposed a 6% Increase for both residential and commercial accounts in FY 2023. A \$1.76 per month increase for residential accounts.

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

- Local Option Sales Tax (LOST) or Penney for Pinellas. This tax has averaged between \$500,000 to \$550,000 a year. 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.
- American Rescue Plan. Federal Stimulus for infrastructure. This fund is also a restricted revenue. The proposed budget has it entirely allocated for stormwater projects.
- Southwest Florida Water Management District (SWFWMD). Matching grant funds for stormwater projects.
- Interfund Transfer. The proposed transfer of ad valorem from FY 2023 Solid Waste collections.

Commissioner Bond asked what is the total amount from the American Rescue Plan.

Finance Director Carpenter responded the City had received \$1.79 million, and the City is supposed to receive another \$1.79 million. The City is called a non-entitlement city because the City is under \$10 million in appropriations and under 50,000 in population. The City should be receiving approximately \$2.15 million in total.

Commissioner Bond asked about the Gulf Boulevard Underground of Utilities Project.

City Manager Mims stated Phase II of the project would begin at 5th Avenue and end at approximately 19th Avenue. The target construction date is fall.



Commissioner Bond asked about the SWFWMD grants.

Finance Director Carpenter stated that the SWFWMD's revenues are budgeted at \$300,000 over three years. SWFWMD will match up to 50% of the project and up to \$150,000 total.

Commissioner Bond asked what account would the City's matching come from, the General Fund, with Finance Director responding the General Fund.

City Manager Mims thanked and acknowledged Finance Director Carpenter's work in putting together the FY 2022-2023 Preliminary Operating Budget and the FY 2023-2027 Capital Improvement Plan.

City Manager Mims reviewed his budget letter to the City Commission and presented the FY 2022-2023 Preliminary Operating Budget and Five-Year Capital Improvement Plan.

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

## **SOLID WASTE BUDGET**

City Manager Mims stated he receives a lot of compliments about the City's Solid Waste employees and said they are excellent at keeping the City clean.

City Manager Mims informed the City Commission that Pinellas County would increase tipping fees by 6%, which would be the first in three years. Pinellas County is now on a program that tipping fees would be going up 6% a year, but that does not mean the City would need to raise rates yearly.

City Manager Mims stated that this year the City would be replacing a garbage truck, which would cost around \$300,000.

## **CITY COMMISSION BUDGET**

Mayor-Commissioner Kennedy recommended that the City Commission receive a \$100 monthly salary increase.

***MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER BOND, TO INCREASE THE SALARY OF THE CITY COMMISSION BY \$100 PER MONTH. UNANIMOUS APPROVAL BY ACCLAMATION.***

## **CITY MANAGER BUDGET**

City Manager Mims stated his budget had increased, which was driven by the transfer of the total salary of the Office Administrator from the Permitting and Inspection Budget.

City Manager Mims stated the City Commission needs to determine the salary adjustment for the City Manager because he is a Charter Officer.

***MOTION MADE BY COMMISSIONER BOND, SECONDED BY VICE MAYOR-COMMISSIONER HOUSEBERG, TO APPROVE A 5% COST OF LIVING ADJUSTMENT FOR THE CITY MANAGER BEGINNING OCTOBER 1, 2022. UNANIMOUS APPROVAL BY ACCLAMATION.***

## **FINANCE AND PERSONNEL**

- Accounting and Auditing Line Item increased by \$4,000 for a separate audit for the American Rescue Fund.

## **CITY ATTORNEY BUDGET**

City Manager Attorney Mora stated the City issued RFPs twice for Special Magistrates and received no responses. He said such informal legal guidance in the form of Attorney General Opinions has suggested that attorneys cannot serve as magistrates in more than one community.

## **CITY CLERK**

City Manager Mims stated the City Commission needs to determine the salary adjustment for the City Clerk as she is a Charter Officer.

***MOTION MADE BY COMMISSIONER BOND, SECONDED BY COMMISSIONER McCALL, TO APPROVE A 5% COST OF LIVING ADJUSTMENT FOR THE CITY CLERK BEGINNING OCTOBER 1, 2022. UNANIMOUS APPROVAL BY ACCLAMATION.***

## **LAW ENFORCEMENT**

- Law Enforcement Budget increased by 4.77%.

## **BUILDING — PERMITTING AND INSPECTIONS BUDGET**

City Manager Mims stated the City is phasing itself out of the building permitting operation. As the City Commission recalls, the City entered into a contract, over a year ago, with Pinellas County. The budget has decreased from \$21,430 to \$5,000 to close out the existing permits issued by the City,

## **CODE ENFORCEMENT**

City Manager Mims stated the City has a full-time and part-time Code Enforcement Officer.

City Manager Mims stated several City Commission Members inquired about additional staffing in the Code Enforcement Division by having two full-time Code Enforcement Officers.

City Manager Mims stated the Sr. Code Enforcement Officer would work the standard hours, Monday through Friday. The second person would work a different schedule and would work weekends. If the City Commission wanted to increase the part-time Code Enforcement Officer to a full-time position, the cost would be approximately \$50,000. The funding would come from the additional money collected from ad valorem.

Mayor-Commissioner Kennedy stated she has heard from the residents that the City needs more code enforcement.

City Manager Mims stated the City has been very aggressive with code enforcement over the past year, especially with illegal parking.

City Manager Mims stated if the City had another full-time Code Enforcement Officer, that person would work alternate hours and days. Part of his time could be allocated to research the internet on the City's short-term vacation rentals and to ensure the paperwork is in order and correct. Currently, the staff looks at websites daily for the operation of illegal short-term vacation rentals.

City Manager Mims stated it is important to know the difference between a code enforcement officer and a law enforcement officer. In the City's case, a code enforcement officer can write parking citations and code violations. A code enforcement officer cannot arrest individuals or ask individuals for their driver's license; in those cases, they would need to call a law enforcement officer.

Commissioner McCall stated upgrading the part-time code enforcement officer goes hand-in-hand with short-term vacation rentals. The City Commission should not decide on this position until it has a work session on short-term vacation rentals.

Commissioner McCall stated that increasing the Code Enforcement Budget by 30%+ on what the City may do makes no sense to him. Fifty Thousand Dollars is a lot of money to him, when the City is already paying \$1.2 Million to the Pinellas County Sheriff's Office. They are the mechanism, and does the City need better enforcement by the Pinellas County Sheriff's Office? He stated once it is expended, the City can always find a way to use it. To him, it is not worth \$50,000 for someone to scroll through the internet and look things up. It just seems a little excessive, in his opinion.

City Manager Mims stated there is no short-term vacation rental work session scheduled.

City Manager Mims stated nothing would prevent the City Commission from making a budget amendment to upgrade the part-time code enforcement officer position to a full-time position later in the year.

Commissioner Bond stated parking issues are still a significant concern for the community, and increased code enforcement hours would be another purpose beyond short-term vacation rental violations.

Commissioner McCall stated that is why a part-time code enforcement officer was added to the budget last year to issue parking citations. He said the part-time code enforcement officer has worked out fantastic and is an asset to the City.

Commissioner Hanna stated he is looking at it from a different direction. He said \$50,000 is a lot of money, but he thinks the important thing is the visual aspect of this. There are more people on the street. People are going to see the code enforcement officers driving around town. Sunday mornings are a prime example; he sees constructors working before the hours and so forth.

Commissioner Hanna stated he does not have so much of a problem with the money as to what he can see that he can add and bring to the table. The City is fortunate to have had the time with him to understand what he brings to the table.

Vice Mayor-Commissioner Houseberg stated she is all for upgrading the part-time code enforcement position to a full-time position. It makes sense for the size of the community and what the City is trying to manage here. It does look good to the public when the City says yes, the City is enforcing the City Codes, and there are two full-time code enforcement officers.

***MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER HANNA, TO INCREASE THE PART-TIME CODE ENFORCEMENT OFFICER POSITION TO A FULL-TIME POSITION. MOTION APPROVED WITH COMMISSIONER McCALL OBJECTING.***

## **PUBLIC SERVICE — BUILDING MAINTENANCE**

- Janitorial Services Line Item increased by \$17,500. The City will be going out for RFPs.
- Repair and Maintenance Line Item increased by \$10,000 to replace the windows in City Hall to open so the employees have better air quality.

## **PUBLIC SERVICES — PARKS**

- Buoy System Line Item increased by \$35,000 for the new buoy system to comply with State law.
- Machinery & Equipment — Vehicles Line Item increased by \$75,000 for the purchase of a flatbed truck.
- Machinery & Equipment — Adaptive Line Item increased by \$35,000 for playground equipment for disabled children at Kolb Park, 10th Avenue Park, and Brown Park.

## **LEISURE SERVICES**

- Crabby's Bill will be the sponsor of IRB Hallowfest again this year.

## **CENTRAL SERVICES**

- Insurance Line Item increased by \$15,500 for property insurance.
- Machinery & Equipment — Cyber Security. \$15,000 was allocated for computer cyber security.

### *Website Redevelopment*

Vice Mayor-Commissioner Houseberg stated the City's website is antiquated and is not user-friendly. The City needs to redevelop its website and bring it into the 21st century, where residents can fill out and submit forms through the website.

Vice Mayor-Commissioner Houseberg recommended that the City Commission consider allocating funding to develop a new website. She stated the estimated cost would approximately be \$25,000 and \$4,000 for annual support/maintenance fees. She said the City would have to go out for RFPs.

***MOTION MADE VICE-MAYOR HOUSEBERG, SECONDED BY COMMISSIONER McCALL, TO ALLOCATE \$25,000 FOR DEVELOPMENT OF A NEW WEBSITE AND \$4,000 FOR ANNUAL SUPPORT/MAINTENANCE FEES. UNANIMOUS APPROVAL BY ACCLAMATION.***

## **SOLID WASTE FUND**

- Increase of \$12,740 in Waste Disposal
- Increase of \$6,980 in Curbside Recycling
- Increase of \$20,000 in Gas & Oil

## **CURBSIDE RECYCLING**

City Manager Mims stated the City has a multi-year contract with Waste Connections for recycling, and the City purchases recycling cans from that contractor.

City Manager Mims stated curbside recycling is very expensive. Most of what the City and everyone else sends to the recycling area in St. Petersburg is loaded on a second truck and taken to the Pinellas County Landfill to be burned. It is then generated into electricity to run the Pinellas County Solid Waste Disposal Facility, and the glass is taken to a facility in Sarasota.

Commissioner Bond asked when does the contract expire, and if there are any penalties if the City terminates the contract.

City Manager Mims stated there is a notice requirement within the contract for both Waste Connections and the City to terminate the contract.

Commissioner Bond stated since the system the City is using now is so ineffective, would there be any value to getting together as a group on ways with other communities might be able to recycle more effectively?

City Manager Mims stated there is no way to do that because there is no recycling market. City Manager Mims noted this is not an Indian Rocks Beach problem. Recycling is a global problem. China and Vietnam are the two biggest buyers of recyclables, and they do not want recyclables right now.

Mayor-Commissioner Kennedy stated several years ago, the City sent out a postcard asking what their three top concerns/issues were, and recycling was one of the top three. She stated that GreenTown Kids have had at least two recycling events to encourage recycling and how to recycle household products.

Mayor-Commissioner Kennedy stated she would like another postcard survey to see if the residents are still interested in curbside recycling. Regardless, she does think that the residents do want to recycle.

Commissioner Bond confirmed that the City is generating as much garbage as recycling.

Finance Director Carpenter said that was correct and explained the recycling cost is based on a contracted annual fee, and garbage is volume driven. He stated that recycling does save the City money on waste disposal fees.

City Manager Mims suggested that a work session be scheduled on recycling.

## **FIVE-YEAR CAPITAL IMPROVEMENT PLAN**

City Manager Mims stated it is important to focus on the 2023 Budget Year because the out years are projections.

City Manager Mims reviewed the Capital Improvement Plan revenue sources.

	<b>FY 2023 BUDGET</b>
<b>Carry Forward Balance</b>	<b>\$1,542,010</b>
<b>LOST (Penny Funding) Fund Revenue Earned</b>	<b>\$500,000</b>
<b>General Fund: Unassigned Reserves</b>	<b>\$213,550</b>
<b>Grants: Pinellas County Dune Walkovers</b>	<b>—</b>
<b>Grants: SWFWMD</b>	<b>\$150,00</b>

<b>Grant: American Rescue Plan</b>	<b>\$2,019,668</b>
<b>Grant: Pinellas County LOST/BIG-C</b>	<b>\$1,418,693</b>
<b>Total Revenues</b>	<b>\$4,301,911</b>

City Manager Mims stated that CivilSurv Design Group completed an updated Stormwater Master Plan that analyzed all of the stormwater treatment and systems for the City. CivilSurv presented the plan to the City Commission during their July 12, 2022 Regular City Commission Meeting. The analysis and summary were based on House Bill 53 requirements to develop a need analysis for the City over the subsequent 20 years. CivilSurv identified 13 major and minor projects.

City Manager Mims stated that American Rescue Funds would be used for the Stormwater Projects.

City Manager Mims stated staff is recommending the following Stormwater Projects for the FY 2023 CIP Budget:

- *Proposed Project 01 — Outfall 02*
  - Between 426 & 428 Harbor Drive North
  - Cost: \$456,000
- *Proposed Project 02 — Outfall 03*
  - Between 444 & 446 Harbor Drive North
  - Cost: \$454,700
- *Proposed Project 03 — Outfall 04*
  - Harbor Drive North: Janice & Barry Place
  - Cost: \$886,800

***MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER McCALL, TO APPROPRIATE FUNDING FOR STORMWATER PROJECTS NO. 1, PROJECT NO. 2, AND PROJECT NO. 3 IN THE FY 2023 OPERATING BUDGET. UNANIMOUS APPROVAL BY ACCLAMATION.***

**STORMWATER RECONSTRUCTION PROJECTS**

- Stormwater Reconstruction Projects will be at: 206-15th Avenue and 601-2nd Street.

**PARKS UPGRADES**

- Rehabilitation of the IRB Nature Preserve Boardwalk (a multi-year effort).
- Wood decking and railing replaced with recycled composite material and support repair.
- Electric improvements, including decorative lighting at Chic-A-Park and 12th Avenue Park to accommodate gatherings and events.

- Fencing replacements.

City Manager Mims reviewed the Fiscal Year-End Unassigned Fund Balance from the Actual September 30, 2008 (\$148,066) to the Proposed FY 2023 Budget (\$3,881,496). He stated the City is prepared for any unforeseen natural disaster or issue.

City Manager Mims stated the City does not have any debt, like so many other Pinellas County cities have that is all to the credit of previous city commissions, city managers, and staff members. He further stated that the City has no stormwater fee or utility tax like most other cities have.

Commissioner Bond thanked City Manager Mims for the report on Pinellas County Gulf Boulevard Pedestrian Crosswalks and asked if any is budgeted for crosswalks.

City Manager Mims stated this portion of Gulf Boulevard is a Pinellas County road, and Pinellas County would make all improvements. He said the City would be responsible for the landscaping within the median islands.

City Manager Mims stated this project would probably begin when Pinellas County repaves Gulf Boulevard.

## **2. PUBLIC COMMENTS.**

Finance & Budget Review Committee Vice Chair Wesson commended the management team. He stated it was a pleasure to work with Finance Director Carpenter and said Finance Director Carpenter was incredibly explanatory about the budget to the Committee.

He stated that the City Manager had shown outstanding leadership here, and the Committee is very thankful for having these gentlemen help run the City along with the City Commission.

Mr. Wesson asked if the waste disposal fee was based on weight or volume, with Finance Director Carpenter responding volume, tonnage.

Mr. Wesson said two of them in his household produce one large garbage bag twice a week. But, they fill the recycling can almost to the top, which probably weighs 4 or 5 times what the garbage weighs.

Mr. Wesson stated when staff is estimating costs, they are going to have to estimate when that recycling is going to cost in disposal fees.

## **3. ADJOURNMENT.**

***MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER MCCALL, TO ADJOURN THE MEETING AT 6:00 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.***



August 9, 2022  
Date Approved

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

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

/DOR


**AGENDA ITEM NO. 5E  
CONSENT AGENDA**

**RENEWAL OF  
Health Insurance**

**INDIAN ROCKS BEACH CITY COMMISSION  
AGENDA MEMORANDUM**

**MEETING OF:** August 9, 2022 **AGENDA ITEM:** 5E

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

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

**SUBJECT:** Renewal of Group Health Insurance coverage with Public Risk Management for FY 2022-23. Authorizing the City Manager to sign and approve one year agreement to renew Group Health coverage.

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**BACKGROUND:**

The fully funded, self-insured Group Health Trust operates on the premise of spreading risk with cost saving advantages of group purchasing which provides more stability during annual renewals. The Pool is governed by representatives of each participating entity. Members play an active role in the decision making process that enables the entity to be more responsive to their employees' healthcare needs. The City of Indian Rocks Beach has been a member of the Group Health Trust since 2009, and has benefitted significantly from its loss control, insurance and employee benefits programs. The health insurance coverage is up for renewal for FY 2022-23

**ANALYSIS:**

The IRB renewal quote for FY 2022-23 for the PRM health insurance is a 2.0% decrease in cost over the current FY 2021-22 premiums. The way the PRM health pool is structured, the 65 members are divided into 3 groups each year based on their individual group's loss ratio. The members with a loss ratio (claims paid to premium paid) better than 10% of the pool average will receive up to a 6% reduction to the pool's base rate increase (this year 4.0%), and the members with a worse loss ratio (more than 10%) will receive up to a 6% increase to the pool's base rate. All those within 10% will receive the pool average. This is done to ensure that incentives remain for each member to control costs to the greatest degree possible, but if a member should experience a bad year, their increase is capped at the base rate plus 6%. For FY 2022-23 the IRB loss ratio was well below the pool average and the pool's base rate increase of 4.0% was decreased 6.0% resulting in a 2.0% decrease in rates.

**MOTION:**

Authorize the City Manager to sign a one-year agreement to renew Group Health coverage with the PRM Group Health Trust for FY 2022-23.


**AGENDA ITEM NO. 5F  
CONSENT AGENDA**

**RESOLUTION NO. 2022-05  
Appointment to the  
Forward Pinellas Board**

# AGENDA MEMO

## INDIAN ROCKS BEACH CITY COMMISSION

**MEETING OF:** August 9, 2022      **AGENDA ITEM:** 5F

**SUBMITTED AND RECOMMENDED BY:** Deanne B. O'Reilly, MMC, City Clerk 

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

**SUBJECT:**                      **RESOLUTION NO. 2022-05**—Nomination to Forward Pinellas Board to represent the BIG-C municipalities.

**BACKGROUND:**

The joint Pinellas County MPO/PPC was established by an amendment of the PPC'S Special Act.

Forward Pinellas is governed by a 13-member board of elected officials. These officials represent municipal governments, the Board of County Commissioners and the Pinellas Suncoast Transit Authority. The composition of Forward Pinellas is determined by Chapter 339.175, Florida Statutes. Several of the board positions rotate on a two-year basis. Each individual agency is responsible for selecting its membership on the Board.

Forward Pinellas serves as the planning council and metropolitan planning organization for Pinellas County.

**ANALYSIS:**

***Indian Rocks Beach Mayor-Commissioner Joanne "Cookie" Kennedy is no longer eligible for reappointment to the Forward Piellas Board due to term limits.***

During the July 27, 2022 BIG-C Meeting, the BIGC nominated St. Pete Beach Mayor Alan Johnson to the Forward Pinellas Board to represent the BIG-C.

As one of the 10 barrier island communities that share a representative on the board, the City of Indian Rocks Beach is being asked to participate in the member appointment process developed by the Barrier Islands Governmental Council (BIG-C).

Each BIG-C municipality (excluding Clearwater) shall take formal action to either nominate one of its own elected officials, support the nomination of an

elected official from another community or the reappointment of the current representative.

Forward Pinellas' operating procedures call for a new representative to be appointed by January 23, 2023, with the term lasting for two years.

**MOTION:**

I move to ***approve/deny*** **RESOLUTION NO. 2022-05**, nominate St. Pete Beach Mayor Alan Johnson to serve on Forward Pinellas Board with a term expiring January 2023 to represent the BIG-C municipalities.

/DOR

**CITY OF INDIAN ROCKS BEACH  
RESOLUTION NO. 2022-05**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, NOMINATING ST. PETE BEACH MAYOR ALAN JOHNSON TO THE FORWARD PINELLAS BOARD TO REPRESENT THE BIG-C MUNICIPALITIES, (EXCLUDING THE CITY OF CLEARWATER); AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Forward Pinellas is governed by a 13-member board of elected officials. These officials represent municipal governments, the Board of County Commissioners and the Pinellas Suncoast Transit Authority. The composition of the Forward Pinellas Board is determined by Chapter 339.175, Florida Statutes. Several of the board positions rotate on a two-year basis. Each individual agency is responsible for selecting its membership on the Board; and

**WHEREAS**, Forward Pinellas serves as the planning council and metropolitan planning organization for Pinellas County; and

**WHEREAS**, as one of the 10 barrier island communities that share a representative on the board, the City of Indian Rocks Beach is being asked to participate in the member appointment process developed by the Barrier Islands Governmental Council (BIG-C); and

**WHEREAS**, each BIG-C municipality (excluding the City of Clearwater) shall take formal action to either nominate one of its own elected officials, support the nomination of an elected official from another community or the reappointment of the current representative; and

**WHEREAS**, Indian Rocks Beach Mayor-Commissioner Kennedy is no longer eligible for reappointment to the Forward Pinellas Board due to term limits; and

**WHEREAS**, Forward Pinellas' operating procedures call for a new representative to be appointed by January 1, 2023, with the term lasting for two years; and

**WHEREAS**, during the July 27, 2022 BIG-C Meeting, the BIG-C nominated St. Pete Beach Mayor Alan Johnson to the Forward Pinellas Board to represent the BIG-C municipalities.

**NOW, THEREFORE THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS BEACH DOES HEREBY RESOLVE, that:**

**Section 1.** St. Pete Beach Mayor Alan Johnson is hereby nominated to represent the BIG-C's municipalities on the Forward Pinellas Board, with a term expiring on January 2025.



**Section 2.** A copy of this Resolution shall be forward to Alan Johnson, President of the BIG-C, 155 Corey Avenue, St. Pete Beach, Florida 33706-1839.

**Section 3.** This Resolution shall become effective immediately upon passage and adoption.

**PASSED AND ADOPTED** this 9<sup>th</sup> day of August 2022, by the City Commission of the City of Indian Rocks Beach, Florida.

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

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

/dor

**FORWARD PINELLAS**

P: (727) 464.8250

F: (727) 464.8212

forwardpinellas.org

310 Court Street

Clearwater, FL 33756



June 28, 2022

The Honorable Cookie Kennedy, Mayor  
City of Indian Rocks Beach  
1507 Bay Palm Blvd.  
Indian Rocks Beach, FL 33785

RE: Forward Pinellas Membership Appointment/Re-appointment

Dear Mayor Kennedy:

As you are aware, at the end of this year the rotating-seat appointments to the Forward Pinellas Board will expire. This includes your term with us for which you are no longer eligible for reappointment due to term limits. Forward Pinellas's operating procedures call for a new representative to be appointed by January 1, 2023, with the term lasting for two years.

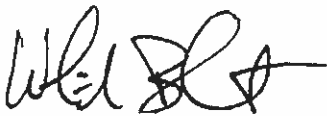
As one of the 10 barrier island communities that share a representative on the board, your local government is being asked to participate in the member appointment process developed by the Barrier Islands Governmental Council (BIG-C):

- Step 1: Each BIG-C municipality (excluding Clearwater) shall take formal action to either nominate one of its own elected officials or support the nomination of an elected official from another community. The name of that individual should then be transmitted to Alan Johnson, President of the BIG-C, 155 Corey Avenue, St. Pete Beach, FL 33706-1701, before the August 31<sup>st</sup> BIG-C meeting;
- Step 2: After nominations are received, at its August 31<sup>st</sup> meeting, the BIG-C, by majority vote, shall recommend an appointment;
- Step 3: The municipal government board on which the recommended elected official serves shall confirm the appointment; and
- Step 4: The municipal government board on which the recommended elected official serves shall transmit the name of the appointee to Forward Pinellas.

It will be important to coordinate this Forward Pinellas appointment with the other beach communities by August 31<sup>st</sup> to allow time for the BIG-C to make its recommendation and for the local government on which the elected official serves to confirm the appointment.

Please contact myself or Tina Jablon at 727-464-5307 if more information or clarification is needed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Whit Blanton', with a stylized flourish at the end.

Whit Blanton, FAICP  
Executive Director

cc: Alan Johnson, President, BIG-C  
Deanne O'Reilly, Clerk, City of Indian Rocks Beach

**AGENDA ITEM NO. 6  
PUBLIC HEARING**

**BOA CASE NO. 2022-11  
2036-20<sup>TH</sup> AVENUE PARKWAY**

**CITY OF INDIAN ROCKS BEACH  
CITY COMMISSION STAFF REPORT**

**MEETING OF:** August 9, 2022    **AGENDA ITEM NO.:** 6A

**SUBMITTED AND**

**RECOMMENDED BY:** Hetty C. Harmon, AICP, Planning Consultant

**APPROVED BY:**

Brently Gregg Mims, City Manager



**SUBJECT:**

**BOA CASE NO. 2022-11 — 2036-20<sup>th</sup> Avenue Parkway**  
Variance request from Sec. 110-131(1)(f.)(2)(i) of the Code of Ordinance to encroach 3 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 22 feet, to allow for installation of an awning on the rear of the house, for property located at 2036-20<sup>th</sup> Avenue Parkway, Indian Rocks Beach, Florida, and legally described as Lot 16, Ninth Addition to Re-Revised Map of Indian Beach as recorded in Plat Book 27, Page 56, of the Public Records of Pinellas County, Florida. Parcel #06-30-15-42192-000-0160.

**STAFF**

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

**BOA**

**RECOMMENDATION:** The Board of Adjustments and Appeals recommended approval to the City Commission by a vote of 5-0.

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**OWNER:** Timothy S Davis Trust  
**PROPERTY LOCATION:** 2036-20<sup>th</sup> Avenue Parkway  
**ZONING:** S- Single Family Residential

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

**BACKGROUND:**

The applicant is requesting a variance of 3 feet into the rear yard setback to install an attached awning to the east side of the house. The current rear setback of the west half of the house is 17.5 feet from the seawall and was constructed in 1956.

**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 house was built in 1956 and was approved before the new land development code was adopted in 1981. In 2014, the rear enclosed area on the west side was reconstructed.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the awning 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 25, 2022, (Sec. 2-149 of the Code of Ordinances.)

**CORRESPONDENCE RECEIVED:** A letters of no objection were received from Gordon Ross, 2038-20<sup>th</sup> Avenue Parkway (adjacent property owner) and Gail Lyders, 2034- 20<sup>th</sup> Avenue Parkway (adjacent property owner on the southwest side).

**LEGAL NOTICE:** A legal notice was published in the July 27, 2022-Edition, of the St. Pete Times Section of the Tampa Bay Times, for a public hearing that has been scheduled for August 9, 2022, for BOA Case No. 2022-11.

**MOTION:**

I move to **APPROVE/DENY BOA CASE NO. 2022-11 – 2036-20<sup>th</sup> Avenue Parkway.** A variance request from Sec. 110-131(1)(f.) (2)(i) of the Code of Ordinance to encroach 3 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 22 feet, to allow for the installation of an awning on the rear of the house, for the property located at 2036- 20<sup>th</sup> Avenue Parkway, Indian Rocks Beach, Florida, and legally described as Lot 16, Ninth Addition to Re-Revised Map of Indian Beach as recorded in Plat Book 27, Page 56, of the Public Records of Pinellas County, Florida.

HH



2036 20<sup>th</sup> Avenue Parkway  
BOA CASE NO. 2022-11



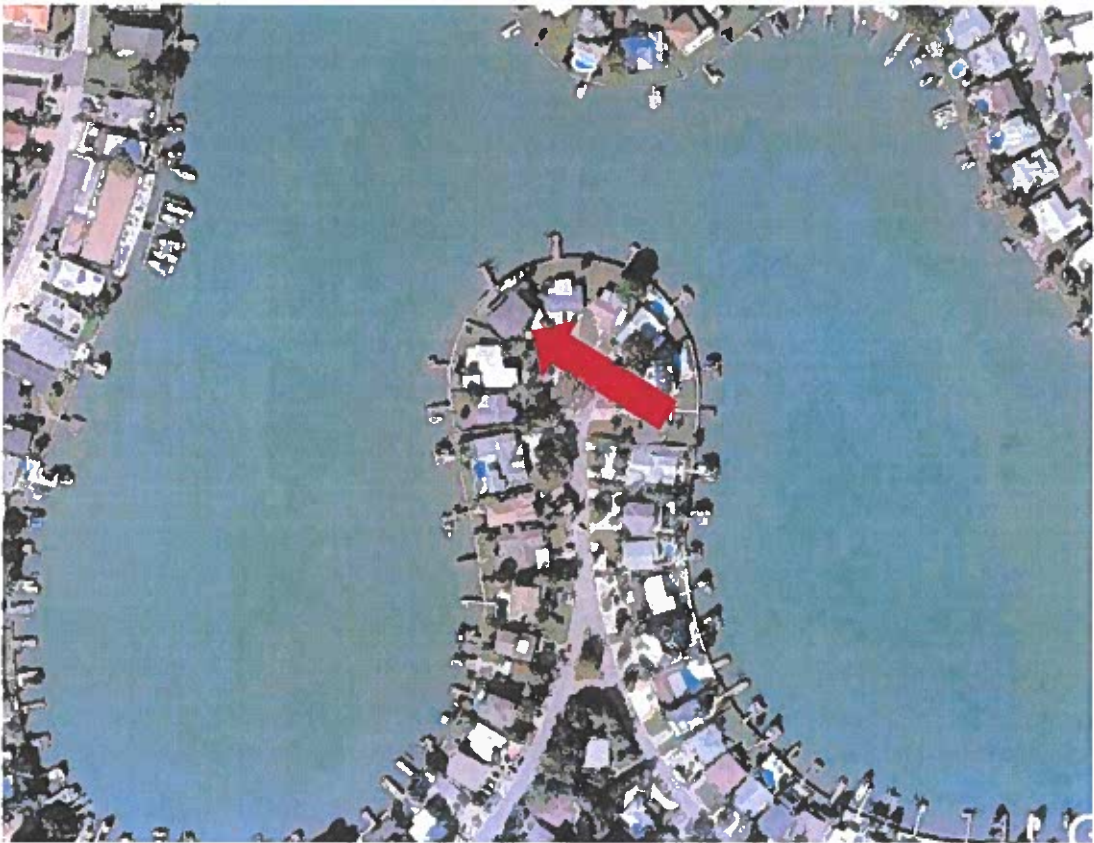


**BOA CASE NO. 2022-11 – 2036 20<sup>th</sup> Ave Parkway**

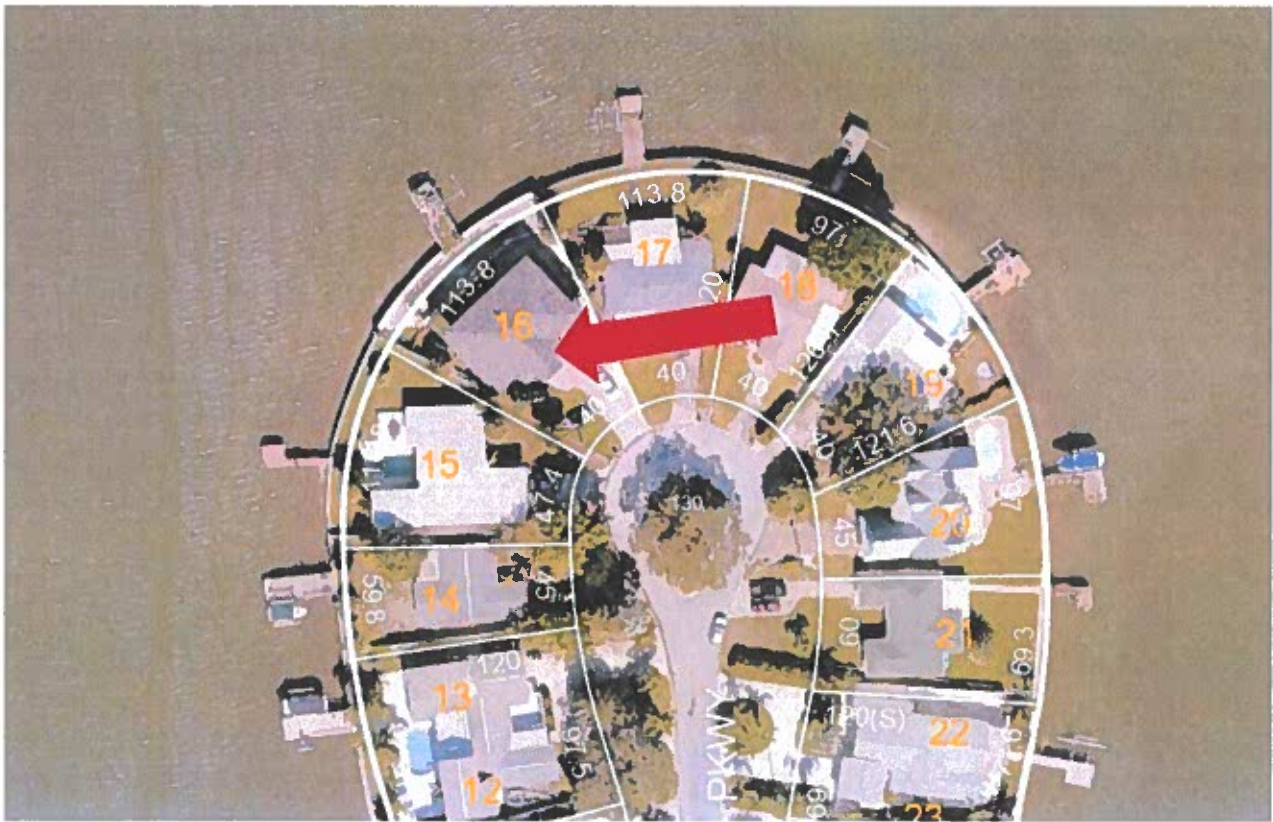
Variance request from Sec. 110-131(1)(f.) (2)(i) of 3 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 22 feet, to allow for an awning to be installed on the rear of the house for property located at 2036 20<sup>th</sup> Ave Parkway, Indian Rocks Beach, Florida, and legally described as Lot 16, Ninth Addition to Re-Revised Map of Indian Beach as recorded in Plat Book 27, Page 56, of the Public Records of Pinellas County, Florida.



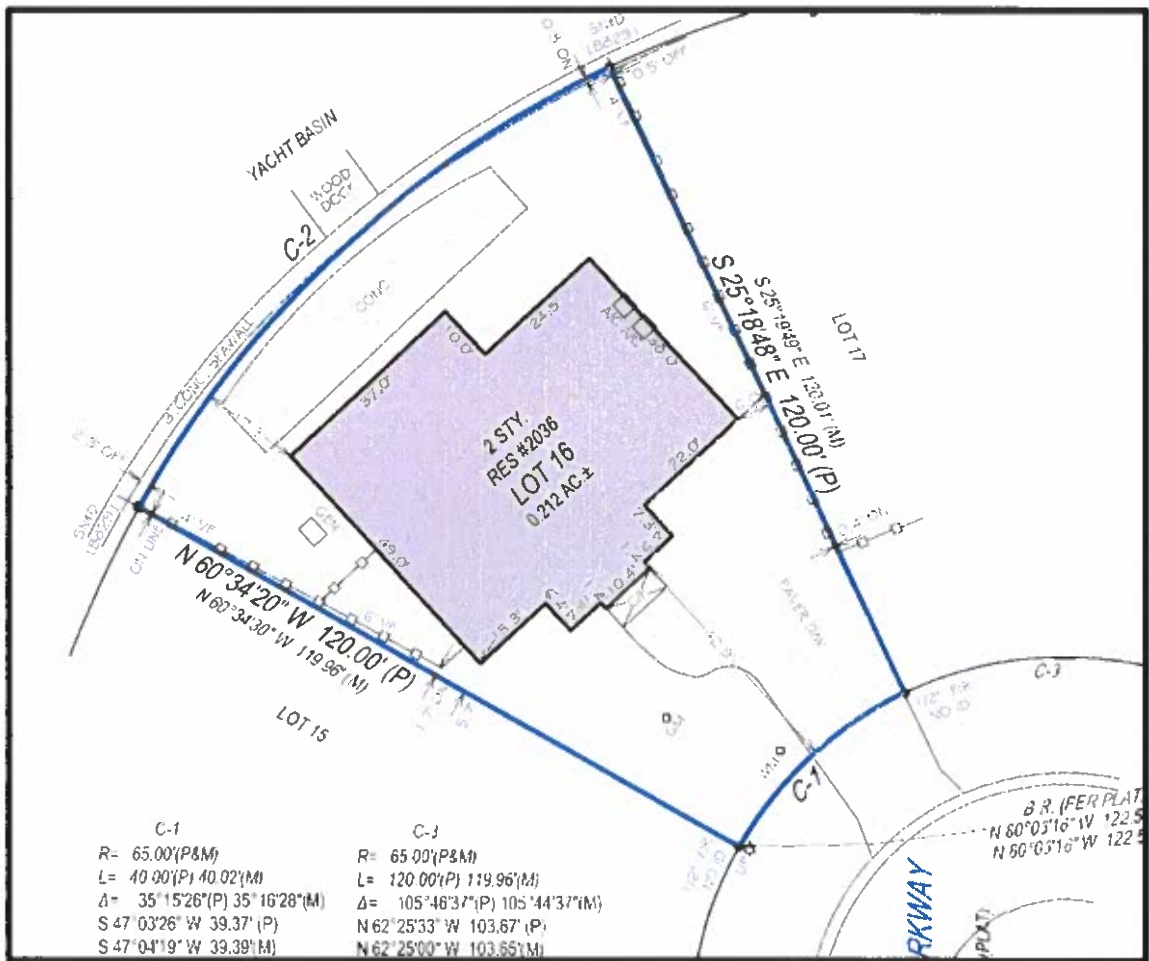
# 2036 20<sup>th</sup> Avenue Parkway



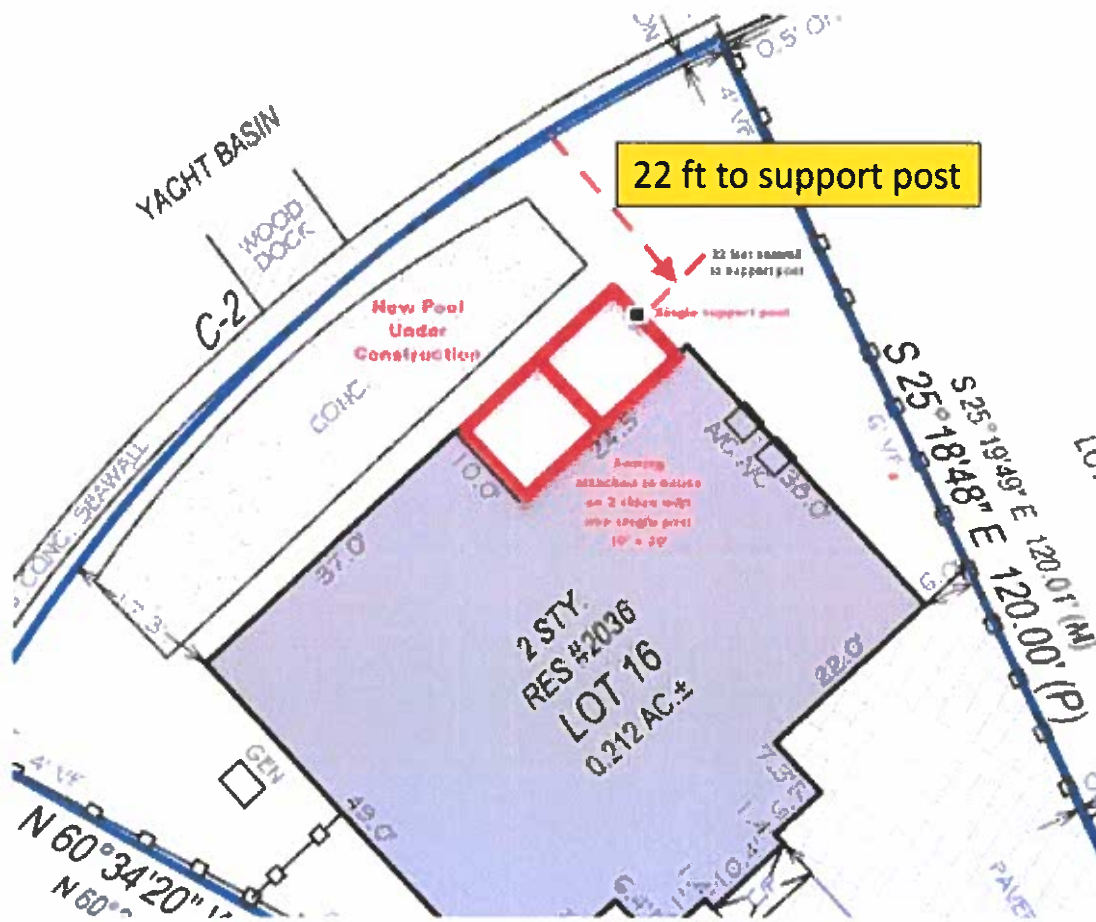
# 2036 20<sup>th</sup> Avenue Parkway



# Survey



# Proposed Awning





## Awning location

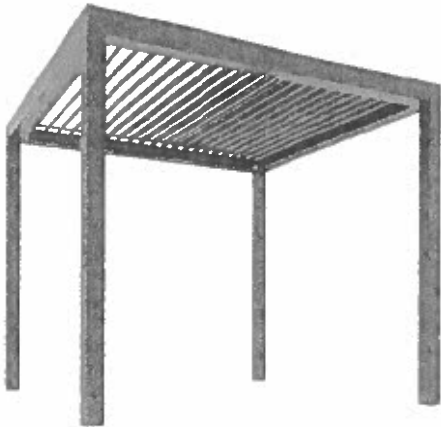


## Example of Awning

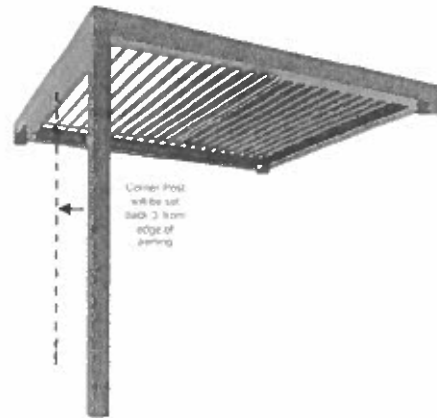


# Awning Detail

StruXure X Awning



Our Modified StruXure X awning





Memorandum for City of Indian Rocks Beach

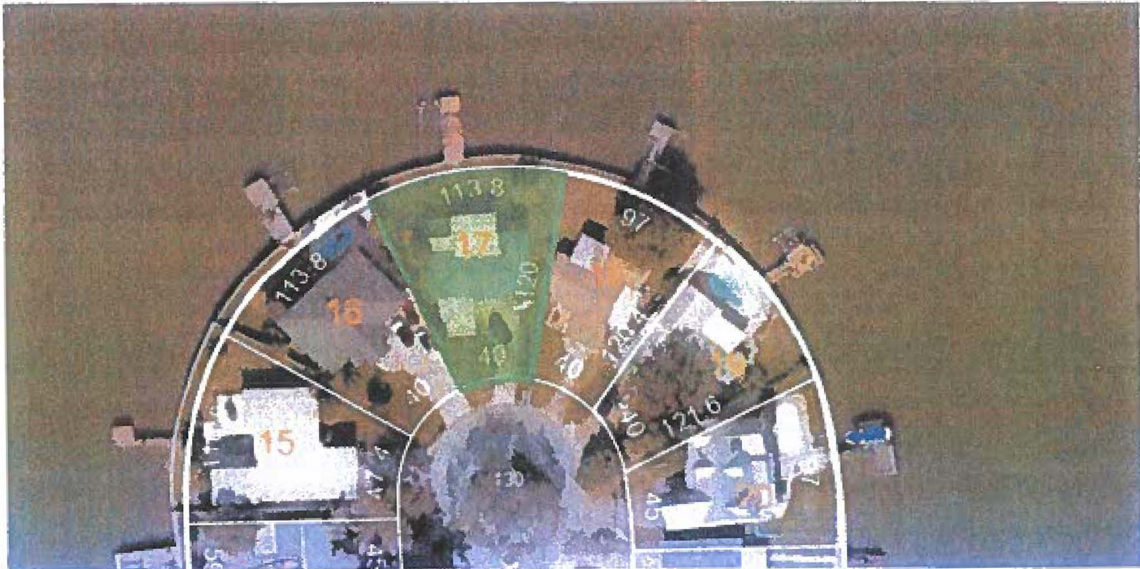
Subject: Request for Variance to Add Outdoor Awning to Davis Residence, 2036 20<sup>th</sup> Ave Parkway

My name is Gordon Ross. I am the owner of the property bordering the Davis Property to the EAST, closest to the proposed location of the awning this variance addresses. I have no objections to the immediate approval of this variance and as both our properties are on the tip of the Cul-de-sac and are pie shaped, our lots are not the shaped of the lots the 25 feet variance is designed to protect. I do not view any of the existing or proposed structures on the Davis' property.

My address is 2038 20<sup>th</sup> Ave Parkway; parcel id

**06-30-15-42192-000-0170**

Highlighted in green below



Gordon Ross  
Homeowner and Neighbor.



**JULY 19, 2022**

**BOARD OF ADJUSTMENTS AND  
APPEALS MINUTES**

**MINUTES — JULY 19, 2022  
CITY OF INDIAN ROCKS BEACH  
BOARD OF ADJUSTMENTS AND APPEALS**

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The Regular Meeting of the Indian Rocks Beach Board of Adjustments and Appeals was held on **TUESDAY, JULY 19, 2022**, at 6:00 p.m., in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

1. **CALL TO ORDER.** Chair DeVore called the meeting to order at 6:00 p.m.

2. **ROLL CALL:**

**PRESENT:** Chair Stewart DeVore, Vice-Chair David Watt, Board Member Rick Alvarez, Board Member Jim Labadie, and 1<sup>st</sup> Alternate Board Member Karen O'Donnell.

**OTHERS PRESENT:** Assistant City Attorney Jeremy Simon and Planning Consultant Hetty C. Harmon.

**ABSENT:** Board Member Michael A. Campbell.

**VACANT POSITION:** 2<sup>nd</sup> Alternate Board Member.

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

3. **APPROVAL OF MINUTES:           MAY 17, 2022**

**MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE, TO APPROVE THE MAY 17, 2022 BOARD OF ADJUSTMENTS AND APPEALS MINUTES AS SUBMITTED. UNANIMOUS APPROVAL BY ACCLAMATION.**

4. **BOA CASE NO. 2022-11 — 2036- 20<sup>TH</sup> AVENUE PARKWAY**

**Owner/Applicant:           Timothy S. Davis**

**Agent/Representative:    ANIKS**

**Subject Location:         2036-20<sup>th</sup> Avenue Parkway, Indian Rocks Beach**

**Legal Description:        Indian Beach Re-Revised 9<sup>th</sup> Add Lot 16 & Rip Rts.**

**Parcel #:                    06-30-15-42192-000-0160.**

**Variance Request:         Variance request from Sec. 110-131(1)(f).(2)(i) of the Code of Ordinances to encroach 3 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 22 feet, to allow for an awning to be installed on the rear of the house.**

*[Beginning of Staff Report]*

**SUBJECT: BOA CASE NO. 2022-11 – 2036-20<sup>TH</sup> AVENUE PARKWAY**

Variance request from Sec. 110-131(1)(f.)2(i) of the Code of Ordinance, to encroach 3 feet into the required 25-foot rear yard setback resulting in a total rear yard setback of 22 feet, to allow for an awning to be installed on the rear of the house for property located at 2036-20<sup>th</sup> Avenue Parkway, Indian Rocks Beach, Florida, and legally described as Lot 16, Ninth Addition to Re-Revised Map of Indian Beach as recorded in Plat Book 27, Page 56, of the Public Records of Pinellas County, Florida. Parcel #06-30-15-42192-000-0160

OWNER Timothy S Davis Trust  
PROPERTY LOCATION: 2036-20<sup>th</sup> Avenue Parkway  
ZONING: S- Single Family Residential

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

**BACKGROUND:**

The applicant is requesting a variance of 3 feet into the rear yard setback to install an attached awning to the east side of the house. The current rear setback of the west half of the house is 17.5 feet from the seawall and was constructed in 1956.

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

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

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- 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 house was built in 1956 and was approved before the new land development code was adopted in 1981. In 2014, the rear enclosed area on the west side was reconstructed.*
- b. The special conditions and circumstances do not result from the actions of the applicant.

*The applicant did not create any special conditions or circumstances.*

- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the awning 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 1, 2022, (Sec. 2-149 of the Code of Ordinances.)

**CORRESPONDENCE:** A letter of no objection was received from Gordon Ross, 2038-20<sup>th</sup> Avenue Parkway.

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

*[End of Staff Report]*

Assistant City Attorney Simon read Agenda Item No. 4, BOA Case No. 2022-11, for 2036-20<sup>th</sup> Avenue Parkway, by title only.

Assistant City Attorney Simon asked the members if they had any ex-parte communications with the applicant or their agent in advance of tonight's meeting concerning the application before them. All members have responded in the negative.

Assistant City Attorney Simon asked the members if they had conducted a site visit for the limited purpose of evaluating the application they are considering this evening. All members

have responded in the negative.

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

Planning Consultant Harmon stated the subject property is located at 2036-20th Avenue Parkway and is located at the end of a cul de sac (on a curved lot). The applicant is requesting a variance from Section 110-131(1)(f.) (2)(i) of the Code of Ordinances to encroach 3 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 22 feet, to allow for the installation of an awning on the rear of the house.

Planning Consultant Harmon presented a PowerPoint Presentation on BOA Case No. 2022-11 for the property located at 2035-20th Avenue Parkway. The presentation consisted of aerials of the property, a survey of the property, a sketch of the proposed awning, a photo of the awning location, and an example of the awning (photo) with details. She explained the variance request as she went through the presentation. She noted that the awning was hurricane-protected.

Vice Chair Watt stated that the corner of the house already encroaches into the rear setback and noted the house was built in the 1950s before the adoption of the land development codes, which Planning Consultant Harmon confirmed.

Vice Chair Watt stated that the other corner of the house meets the City Code, which Planning Consultant Harmon said was correct.

Vice Chair Watt asked how does the City Code define canopies?

Planning Consultant Harmon stated that the City Code does not define canopies.

Vice Chair Watt said this is an actual physical structure attached to the house. The applicant could put a screen on it, and then it would be a screened-in porch.

Vice Chair Watt asked why did the City recommend denial?

Planning Consultant Harmon stated the City recommended denial because of the encroachment into the rear yard setback.

Vice Chair Watt said just for that purpose.

Planning Consultant Harmon responded just for that reason. She further stated that there was a letter of support from his neighbor on the right-hand side.

Planning Consultant Harmon stated she is unsure if the applicant plans to cover the structure, but some do have fabric that goes back and forth, and some leave them open.

Vice Chair Watt asked that if the applicant installed a retractable awning, no variance would be required.

Planning Consultant Harmon stated that is correct. She discussed that with the applicant, but the applicant thought this was much stronger than the retractable awnings.

Vice Chair Watt asked, what if a retractable awning was mounted to the house and supported, and there was an overhang? Would that require a variance?

Planning Consultant Harmon stated that would require a variance only because it would involve a permanent post in the ground.

**Timothy Davis, 2036-20th Avenue Parkway**, stated the post is for updrafts, better support, and hurricane rating; that is why they went with the post. It is seamless next to the house and will fit perfectly there. The proposed awning does not create any obstacles whatsoever. He stated he has a pie-shaped lot and has 140-feet of seawall. He has just replaced his seawall and pool because they were leaking. The awning would provide shade to allow them to enjoy the pool and to have a covered space next to the pool.

**Susan Davis, 2026-20th Avenue Parkway**, stated the heat is ridiculous in their backyard because they have western sun exposure.

Member Labadie asked if the roof of the awning was angled?

Mr. Davis explained the awning has a roof louver system that has electricity. The louvers close when it rains. He explained that it has a rain gutter system that will go into his gutter that goes to the seawall.

Ms. Davis stated the photo of the example is the picture of the awning at the Marriott Riverwalk in Tampa.

Assistant City Attorney Simon opened the public comment session.

**Scott Shapiro, 2032-20th Avenue Parkway**, stated the applicant lives one house away from him. His house faces 270 degrees due west, and Mr. Davis is probably at 285 degrees due west. He stated the Board would not believe the weather residents get whose homes face west across the bay direct unobstructed, whether it is wind or sun. There is no way a retractable awning would last more than a year or two on the applicant's house. It would get blown off and ripped to shreds and become a hazard.

Mr. Shapiro stated the hardship is the sun — skin cancer. What is the remedy? Shade. He noted the other hardship is the applicant's pie-shaped lot. He stated that they are permanent residents and are great neighbors.

Assistant City Attorney Simon closed the public comment session.

Chair DeVore stated this is a solid structure that will be hurricane-grade. Like generators, he was against them because of the overhang, but now the hardship is that residents are struggling, and generators could help residents and their neighbors. He believes the City should do what it can to protect residents' homes and their neighbors, and it is for 3 feet only.

**MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER LABADIE To recommend APPROVAL TO THE CITY COMMISSION ON BOA CASE NO. 2022-11, 2036-20<sup>TH</sup> AVENUE PARKWAY. A VARIANCE REQUEST FROM SEC. 110-131(1)(f)(2)(i) OF THE CODE OF ORDINANCE TO ENCROACH 3 FEET INTO THE REQUIRED 25-FOOT REAR YARD SETBACK, RESULTING IN A TOTAL REAR YARD SETBACK OF 22 FEET, TO ALLOW FOR THE INSTALLATION OF AN AWNING IN THE REAR OF THE HOUSE, FOR PROPERTY LOCATED AT 2036- 20<sup>TH</sup> AVENUE PARKWAY, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOT 16, NINTH ADDITION TO RE-REVISED MAP OF INDIAN BEACH AS RECORDED IN PLAT BOOK 27, PAGE 56, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.**

**AYES: ALVAREZ, LABADIE, O'DONNELL, WATT, DEVORE  
NAYS: NONE**

**MOTION TO RECOMMEND APPROVAL TO THE CITY COMMISSION APPROVED UNANIMOUSLY.**

**5. OTHER BUSINESS.**

**A. CITY COMMISSION ACTION:**

- 1. BOA CASE NO. 2022-10, 1104 Beach Trail. Withdrawn by applicant prior to the June 14, 2022 Regular City Commission Meeting.**

Planning Consultant Harmon stated there will be an August Meeting.

**6. ADJOURNMENT.**

**MOTION MADE BY MEMBER ALVAREZ, SECONDED BY MEMBER O'DONNELL, TO ADJOURN THE MEETING AT 6:19 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.**

August 16, 2022

Date Approved

\_\_\_\_\_  
Stewart DeVore, Chair

/DOR



Memorandum for City of Indian Rocks Beach

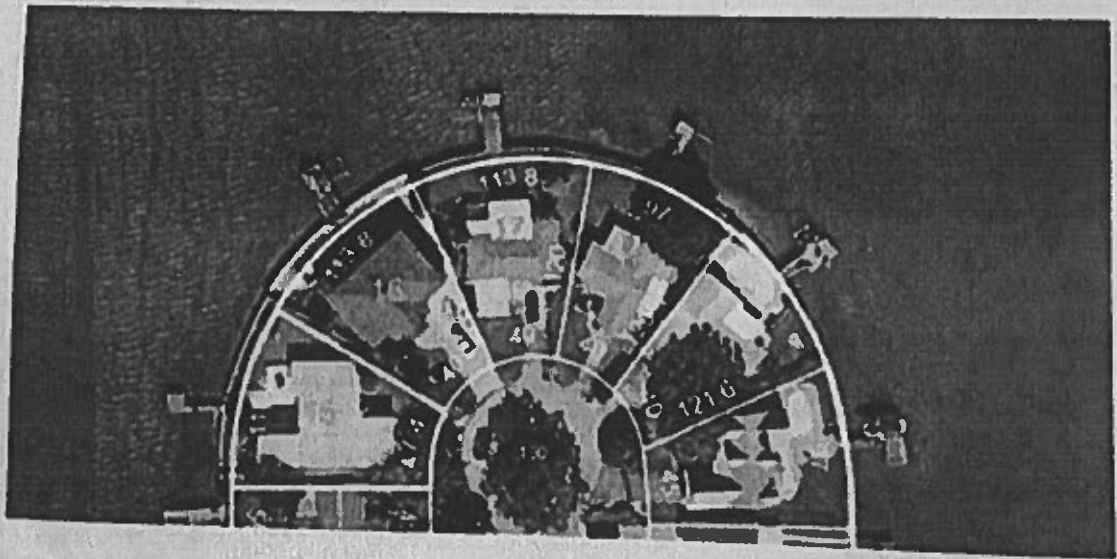
Subject: Request for Variance to Add Outdoor Awning to Davis Residence, 1036 20<sup>th</sup> Ave Parkway

My name is Gail Lyders. I am the owner of the property directly adjacent to the subject property on Southwest side. I have absolutely no objections to the immediate approval of this variance and as both our properties are on the end of the cul-de-sac and are pie shaped and this addition will have absolutely no negative effects on any property.

My address is 2034 20<sup>th</sup> Ave Parkway, Parcel ID:

**06-30-15-42192-000-0150**

Highlighted in green below as shown on the Pinellas Count Property Appraisers web site.



*Gail Lyders*

Gail Lyders  
Homeowner and Neighbor

Memorandum for City of Indian Rocks Beach

Subject: Request for Variance to Add Outdoor Awning to Davis Residence, 2036 20<sup>th</sup> Ave Parkway

My name is Gordon Ross. I am the owner of the property bordering the Davis Property to the EAST, closest to the proposed location of the awning this variance addresses. I have no objections to the immediate approval of this variance and as both our properties are on the tip of the Cul-de-sac and are pie shaped, our lots are not the shaped of the lots the 25 feet variance is designed to protect. I do not view any of the existing or proposed structures on the Davis' property.

My address is 2038 20<sup>th</sup> Ave Parkway; parcel id

**06-30-15-42192-000-0170**

Highlighted in green below



Gordon Ross  
Homeowner and Neighbor.

ENCL 2

1374 21



Administrative  
727/595-2517  
727/596-4759 (Fax)

Library  
727/596-1822

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

**NOTICE OF PUBLIC MEETING**  
**THE CITY OF INDIAN ROCKS BEACH CITY COMMISSION MEETING**  
**TUESDAY, AUGUST 9, 2022 @ 7:00 P.M.**  
**1507 BAY PALM BOULEVARD, INDIAN ROCKS BEACH, FLORIDA 33785**

The City Commission of the City of Indian Rocks Beach, Pinellas County, Florida, will conduct a public hearing on **TUESDAY, AUGUST 9, 2022**, which meeting convenes at 7:00 p.m., or as soon as thereafter, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, on **BOA CASE NO. 2022-11**.

**YOU ARE HEREBY NOTIFIED** as a property owner of land within 150 feet of the property located at the **2036-20<sup>th</sup> Avenue Parkway, Indian Rocks Beach, Florida**, and legally described as Lot 16 & rip rts, 9<sup>th</sup> Addition to Re-Revised Map of Indian Beach as recorded in Plat Book 27, Book 56, of the Public Records of Pinellas County, Florida. Parcel #06-30-15-42192-000-0160.

**Variance request from Sec. 110-131(1)(f)(2)(i) of the Code of Ordinances to encroach 3 feet into the required 25-foot rear yard setback, resulting in a total rear yard setback of 22 feet, to allow for an awning to be installed on the rear of the house.**

**FOR FURTHER INFORMATION REGARDING THIS REQUEST, PLEASE CONTACT PLANNING CONSULTANT HETTY C. HARMON AT 863/646-4771, EXT. 211 OR E-MAIL: [hharmon@irbcity.com](mailto:hharmon@irbcity.com)**

If you desire to either support or object to the referenced variance, you may appear at the Indian Rocks Beach City Commission Meeting on said date, or submit in writing your support or objections to Deanne B. O'Reilly, City Clerk, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, 33785, or e-mail: [doreilly@irbcity.com](mailto:doreilly@irbcity.com). All correspondence must be received by the City Clerk no later than **TUESDAY, AUGUST 9, 2022 by 2:00 p.m.** The City will make such records available during normal business hours, Monday through Friday, 7:30 a.m. to 4:00 p.m., to any interested person at his or her request and expense.

If any person desires to appeal a decision made with respect to this request, such person will need a record of the proceedings and for such purposes, they 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 Section 286.0105, Florida Statutes. Verbatim transcripts are not furnished by the City of Indian Rocks Beach and should one be desired, arrangements (i.e. court reporter) should be made in advance by the interested party.

In accordance with Section 286.26, Florida Statutes, persons with a disability requiring reasonable accommodations in order to participate in this meeting should contact the City Clerk's Office with your request by telephone (727/595-2517) or email: [doreilly@irbcity.com](mailto:doreilly@irbcity.com) no later than seven (7) business days prior to the proceeding.

Notice was mailed by first class mail to the property owners within 150 feet in any direction of the subject property and posted on subject property on July 25, 2022. (Sec. 2-149 of the Code of Ordinances.)

**APPLICATION FOR VARIANCE**

PERMIT #  
CPB-22-02871



**PLANNING AND ZONING DEPARTMENT**

**CITY OF INDIAN ROCKS BEACH**

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

There is a link to the Indian Rocks Beach Code of Ordinances at the website noted above.

(This form was revised MARCH 2022 and replaces and supersedes all previous application forms)



### What is a variance?

A variance is a modification from the literal interpretation of one or more provisions of the land development regulations set forth in Subpart B of the Indian Rocks Beach Code of Ordinances. A variance allows deviation to a specific regulation when a property is uniquely burdened by the application of a law to the extent that the application prevents reasonable use of the property. The applicant must present evidence that substantiates an undue and unnecessary hardship, whereby it is concluded that the hardship present is not a personal, self-created result of an intentional or negligent violation of the code either due to unfamiliarity with the code, personal preference and/or inconvenience.

### What materials must be included to complete an application?

- Application for variance
- Agent of record
- Certification
- Survey
- Plans, other drawings or supplementary information

### Is there a fee to submit an application?

Yes. The particular fee required is based on the request, as set forth in the Indian Rocks Beach Code of Ordinances, Sections 15-20 through 15-24, Schedule of fees. This is **NOT** an all-inclusive schedule of fees.

**Sec. 15-20. - Public hearing fees.** The following fees shall be paid in addition to any other fees in this chapter where an application is filed requiring action. The appropriate fees, costs, and other charges specified shall be submitted with, and paid at the time of, initial application submission or other initial document submission except otherwise specified in this Code.

(1) *Variance applications to board of adjustments and appeals:* Public hearing fees for variance or special exception/conditional use applications to be heard by the board of adjustments and appeals shall be as follow:

a. Special exceptions ....\$400.00

b. Variances:

- |  |          |
|--|----------|
| 1. Existing, nonconforming conditions ..                 | \$250.00 |
| 2. New projects or existing, conforming conditions ..... | \$400.00 |
| 3. Accessory uses .....                                  | \$200.00 |
| 4. Flood variances .....                                 | \$100.00 |
| 5. Other variances ....                                  | \$400.00 |

**c. The applicant shall pay the advertising and notification costs of the public hearing prior to a permit being issued, or within 30 days after final action.**

**NOTE: Advertising includes the cost of running ads in the newspaper. Notification costs include the cost of postage for each letter mailed to surrounding property owners within 150 feet of the subject property for both the Board of Adjustment and Appeals hearing and the hearing before the City Commission.**

**In signing this application, the applicant is responsible for these fees regardless of whether the application is approved or disapproved by the City Commission.**

**What is the application process?**

Each application is assigned a BOA Case number and is scheduled for two public hearings. The schedule is determined by the date the application is received by the department. Hearing one is before the Board of Adjustment and Appeals. The board will make a recommendation to either approve or deny the request. The recommendation will be forwarded to the City Commission, who will render a final decision during hearing two.

**Where can further information be found and what else do I need to know?**

The required application forms are provided on the following pages. Additional copies are available from City Hall or from <http://www.indianrocksbeach.com/> - permits/pdfs

GRAPHICS: Graphics such as surveys, site plans, drawings, photographs, etc., should be submitted by email to: [de@cityofirb.com](mailto:de@cityofirb.com), in either PDF or JPEG format.

All information submitted with the application or provided at a public hearing will be kept by the City of Indian Rocks Beach as part of the record of the application and hearing.

If the information submitted with the application is incomplete or insufficient, the Planning and Zoning Consultant may postpone having the application heard by the Board of Adjustments and Appeals and the City Commission until the application is deemed sufficiently complete for public presentation.

Most applications for variances will not pass the variance review criteria. A variance hearing is a quasi-judicial proceeding. Please be prepared to argue your case. A good presentation can greatly assist an applicant.

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@irbcity.com  
Address: 1507 Bay Palm Boulevard, Indian Rocks Beach, FL 33785

For Office Use Only

Application No. BOA 2022-11

Date Received 06/10/2022

APPLICANT

Name: Tim Davis  
Address: 2036 20TH AVE PRKW  
City: IRB  
Zip Code: 33785  
Tel: 727-365-4599  
Fax:  
Mobile: 727-365-4599  
Email: TIMOTHYSHANE@ME.COM

AGENT/REPRESENTATIVE

Name: RANDOLPH G. BAILY  
Company: ANIKS  
Address: 9937 RACE TRACK RD  
City: TAMPA FL  
Zip Code: 33626  
Tel: 813-224-0774  
Fax:  
Mobile:  
Email: JESSIKA@ANIKS.COM

SITE DETAILS

Address: 2036 20TH AVE PRKW Parcel ID: 06-30-15-42192-000-0160  
City: IRB. Zip Code: 33785  
Legal Description: <sup>RETRACT RE-</sup> INDIAN ~~ROCKS~~ BEACH REVISED 9TH ADD LOT 16 + RIP RTS  
Zoning: Future Land Use:  
Size: 83 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**

**Regulation**

**Required**

**Proposed**

**Total Requested**

Gulf-front setback (feet):

Bay-front setback (feet):

Alley setback (feet):



**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):	<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:

What is the proposed use of the property?

SINGLE FAMILY (220SF ALUMINUM AWNING FOR SHADE)  
NEW AWNING IS TO COVER OUTDOOR KITCHEN

**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:

SEE ATTACHMENT ~~OUT~~ A.

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

SEE ATTACHMENT A

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:

See Attachment A

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:

See Attachment A

**HARDSHIP CONTINUED...**

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

*See Attachment A*

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:

*See Attachment A*

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

*See Attachment A*

Attachment A to Application to Variance for Permit # CPB-22-02871 to Install Awning Attached to Single Family Home located at 2036 20<sup>th</sup> Ave Parkway, Indian Rocks Beach. FL 33785.

1. Request immediate approval of this application for variance from Sec 110-131 (1) (f)(2)(i) rear yard setbacks. The following is a list of what you term "HARDSHIPS"
2. HARDHIP 1. is my house was built too close to the seawall. THIS IS ABOUT 3 Feet. That is how much our only support post will encroach into the seemingly arbitrary 25' setback. Obviously this was not a concern in 1956 when my home was built but was enacted in 1981 as a blanket requirement. Our "HARDSHIP" is the existing footprint of house already being in the 25 foot setback however this plan DOES NOT intrude FARTHER into this arbitrary 25 foot setback. At it's closest point, which is the Southwest corner of my home, opposite of the proposed awning location, my home was built according to my most recent survey 17.5 feet from Seawall. The one and only support post for this awning will be no closer than 22 feet from seawall.
3. Second "HARDSHIP" lack of shade for pool area making it unusable for much of the time. It is 100% hurricane proof and will not blow away like a cheap fabric awning.
4. This Awning addition occurs 100% within the existing footprint of the house and does not interfere with any other persons view outwardly. The decision in 1981 to place a blanket 25 foot setback from seawall incorrectly assumes that all lots are the same shape and size. Our lot is clearly different placed on the end of a cul-de-sac (Encl 1) and as such has a much wider seawall (Pie Shaped) front which negates the implied intent of this ordinance which we assume was to protect line of sight of adjacent properties. Our lot offers a much wider range than those placed on the inside corner of the bay (a reverse pie shape).
5. My neighbor to the Northeast, closest to awning location, Gordon Ross, 2038 20th ave parkway, gladly provided the attached signed letter him stating he has no issue or concern what so ever with the proposed awning location (encl 2) and it does not infringe on this view or property in the slightest.
6. 5<sup>th</sup> HARDHIP. This awning is an essential part of our outdoor living space and It will provide much needed shade to allow us to maximize our outdoor time provide protection and a covered place to enjoy the water front while not protruding past the existing envelope of the house.
7. The picture below is from the StruXure web page. On the left is the stock awning and on the right you can see I have made every effort to minimize the footprint the awning makes by attaching it to the existing house and I have removed 3 of the 4 posts they show as they are not needed and add to the minimalistic effect this awning will have. Additionally, we have custom made the dimension so it will not exceed the existing elevations of the house on the any side. This custom size along with the decision to attach to the house on two sides allowing us to cantilever the post back 3 feet were I believe this in complete compliance with INTENT of the change in the set back in the first place by
  - a. eliminating 3 posts and attaching to house
  - b. not extending past the plane of the existing house on any sides
  - c. cantilevering the post back as far as structurally possible which encroaches on 25 foot setback by 3 feet.

9 of 21

StruXure X Awning



Our Modified StruXure X awning



The second photo is the ACTUAL StruXure AWNING installed at the Waterside Marriott near Amalie Arena in Downtown Tampa. As you can see this is a classy enhancement to ANY waterfront location and will seamlessly blend into our existing house.

REAL Life application of StruXure Awning @ 505 Water St Tampa installed on waterfront.



8. Since I gained ownership of property in 2011, I have been granted two permits # 201300031 and 201300046 by the city of Indian Rocks in 2013 (encl 3) which are in the exact plane of the new awning we would like to install. I have included photos of this allowed and permitted construction at enclosure 4, 4a & 4b. This construction is pertinent in that the proposed awning attaches directly to this newly constructed area and is not closer than to set back than this allowed construction 9 years ago and should be handled in the same manner and without variance.

9. I have enclosed a modified copy of our most recent survey that shows our new pool design and proposed awning location (Encl 5).
10. Enclosure 6 is an exert from the property appraisers web site that I used to show the footprint of the new awning location and clearly not protruding in any direction past the existing envelope of the home.
11. In Summary, request immediate approval of this variance because:
  - a. It seamlessly integrates into existing structure
  - b. Home built in 1956 inside of 1981 setback rules
  - c. Does not impact anyone else
  - d. Our neighbor has signed on with his approval
  - e. Home is on the end of the Cul-de-sac end affording much wider seawall exposure
  - f. Does not further encroach on the waterside setback
  - g. Falls into existing home envelope; does not extend past in ANY direction
  - h. Is needed for cover and shade from sun
  - i. Attaches to previously permitted structure
  - j. It is a classy addition to any waterfront.
  - k. Hurricane Proof and it makes more sense than umbrellas or fabric awnings
12. Thank you for your consideration.

Original Signed 6/7/22  
Timothy S. Davis, Homeowner

**CERTIFICATION**

Date: 3 July 2022

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: Timothy S. Davis

Signature: 

Personally known/Form of Identification 

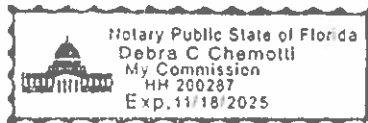
Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 3 Month: June, 2022

Notary Public State of Florida at Large: Debra Chemotti

Notary Public Commission Expiration: 11/18/25

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: 3 JUNE 2022

I, TIMOTHY S. DAVIS do hereby designate and appoint

ANIKS OUTDOOR COMFORT SOLUTIONS 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: TIMOTHY S DAVIS

Signature: [Signature]

My agent of record may be contacted at:

Company: ANIKS OUTDOOR COMFORT SOLUTIONS

Address: 9937 RACE TRACK RD.

City/State: TAMPA FL.

Zip Code: 33626

Telephone: 813-224-0774

Fax: \_\_\_\_\_

Before me this date personally appeared:

Name: TIMOTHY S. DAVIS

Signature: [Signature]

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

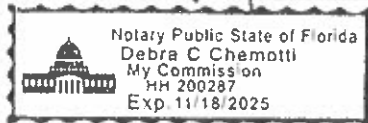
Who, being first duly sworn, deposes and attests that the above is a true and correct certification.

Sworn to and subscribed before me this: Day: 3 Month: JUNE, 2022

Notary Public State of Florida at Large: Debra Chemotti

Notary Public Commission Expiration: 11/18/25

State of Florida  
County: Pinellas







ENCLOSURE 1, MY HOUSE

12 OF 21

Memorandum for City of Indian Rocks Beach

Subject: Request for Variance to Add Outdoor Awning to Davis Residence, 2036 20<sup>th</sup> Ave Parkway

My name is Gordon Ross. I am the owner of the property bordering the Davis Property to the EAST, closest to the proposed location of the awning this variance addresses. I have no objections to the immediate approval of this variance and as both our properties are on the tip of the Cul-de-sac and are pie shaped, our lots are not the shaped of the lots the 25 feet variance is designed to protect. I do not view any of the existing or proposed structures on the Davis' property.

My address is 2038 20<sup>th</sup> Ave Parkway; parcel id

**06-30-15-42192-000-0170**

Highlighted in green below



Gordon Ross  
Homeowner and Neighbor.

ENCL 2

134 21

Permit Number	Description	Issue Date	Estimated Value
CRP 210481	SEA WALL	19 May 2021	\$48,000
CRP 200695	POOL	11 Dec 2020	\$0
PERM CRP-03912	HEAT/AIR	20 May 2020	\$6,367
PERM CRP-03610	ROOF	14 May 2020	\$16,883
201700955	WINDOWS/DOORS	27 Nov 2017	\$9,570
201700955	MISCELLANEOUS	27 Nov 2017	\$9,570
201600684	MISCELLANEOUS	05 Oct 2016	\$6,200
201300444	HEAT/AIR	24 Jul 2013	\$7,485
201300031	ADDITION/REMODEL/RENOVATION	29 Jan 2013	\$43,000
201300046	DEMOLITION	23 Jan 2013	\$43,000
201100637	POOL	26 Oct 2011	\$26,637
200500739	MISCELLANEOUS	07 Sep 2005	\$26,810
200500063	ROOF	08 Mar 2005	\$6,805
200400979	ADDITION/REMODEL/RENOVATION	07 Dec 2004	\$73,887
P3097301	DOCK	07 Mar 2002	\$0
200100801	BOAT LIFT/DAVIT	14 Feb 2002	\$4,500
0100189	POOL	27 Apr 2001	\$18,215
0000050	ADDITION/REMODEL/RENOVATION	23 Jun 2000	\$1,000
0000027	ADDITION/REMODEL/RENOVATION	23 Jun 2000	\$6,700
9900815	ROOF	30 Nov 1999	\$6,500

16 of 21

ENCL 3

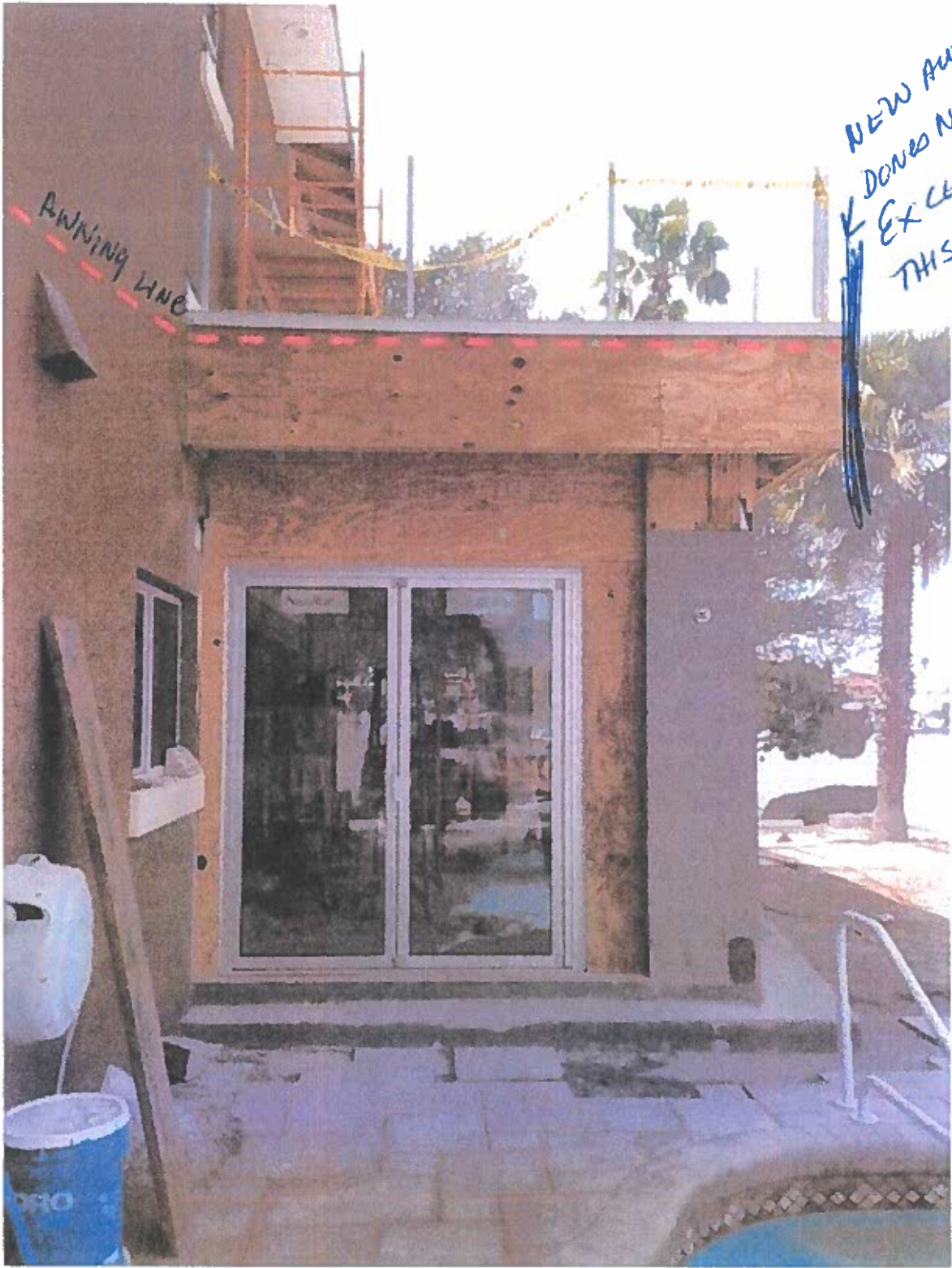




ENCL 4

1.7.21

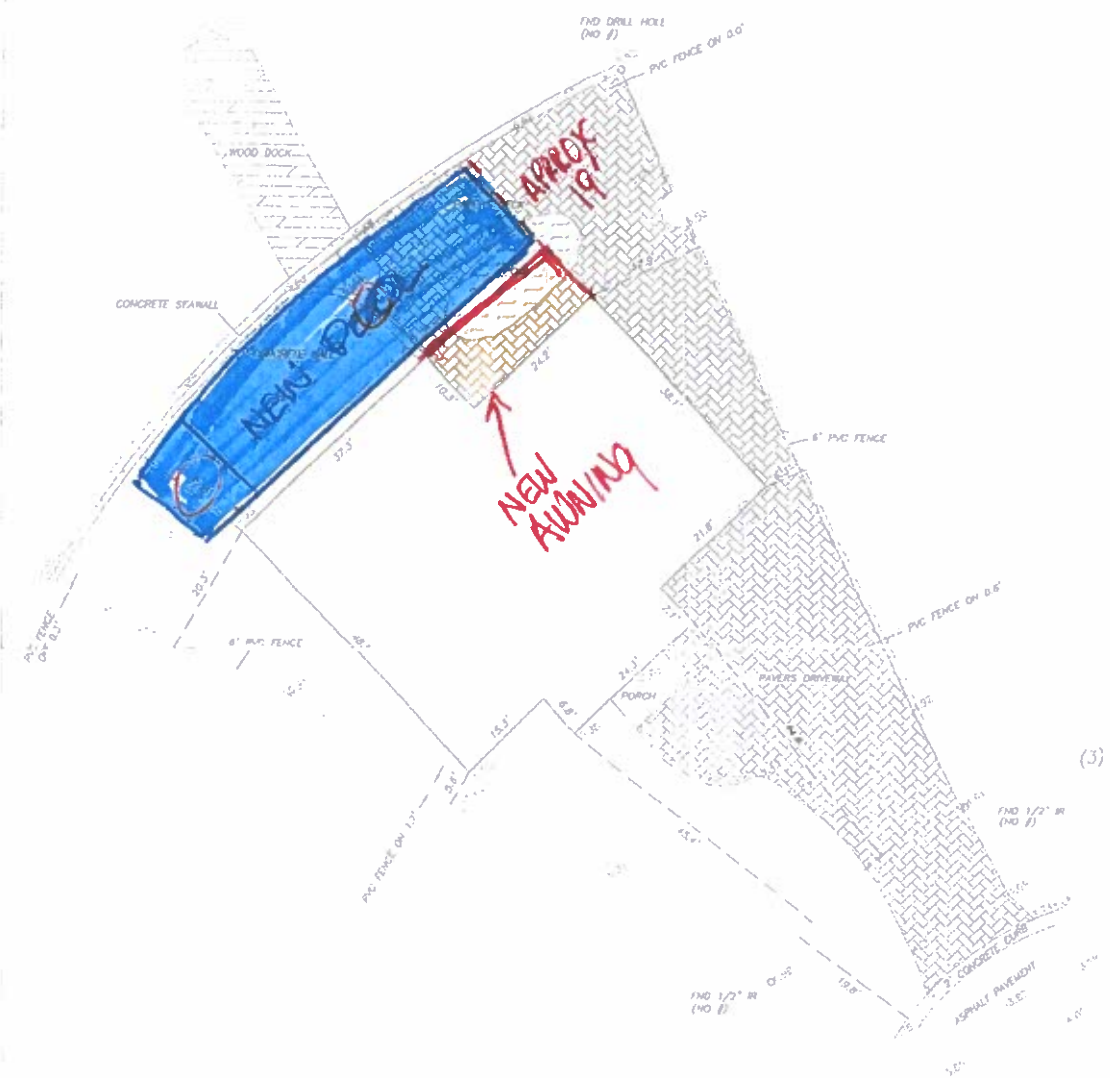




ENC 4a NORTHEAST ATTACHMENT POINT

18 OF 24

BOUNDARY SURVEY 6. No other matters located except as shown.  
7. This Survey is prepared for the exclusive use of those parties certified herein and is valid for one (1) year from Date of Certification.



KNCL 5

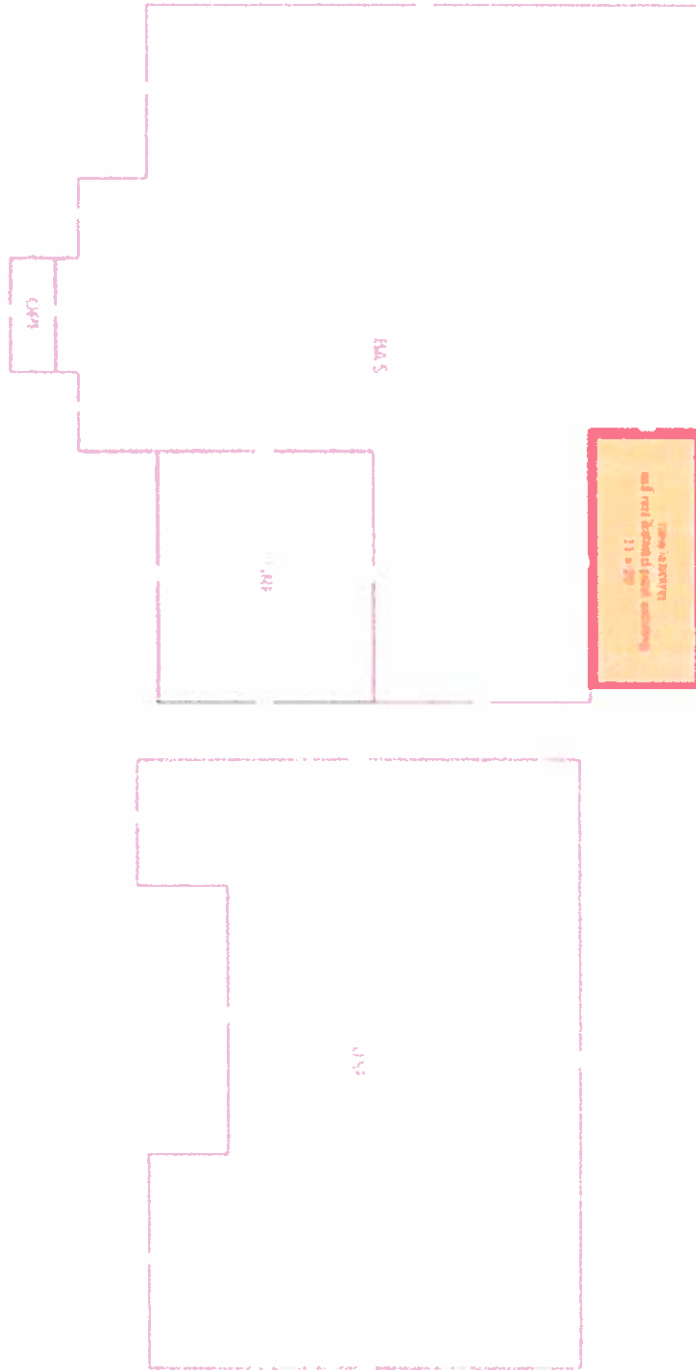
19 of 21





ENCL 4B.

20 of 21.



ENCL. 6

21 of 21



**AGENDA ITEM NO. 7**

**OTHER LEGISLATIVE MATTERS**

**NONE**

**AGENDA ITEM NO. 8A**

**DISCUSSION OF regulating the restriction on any public beach and public parks that the City owns, except for unfiltered cigars.**

## CHAPTER 2022-213

### Committee Substitute for House Bill No. 105

An act relating to the regulation of smoking by counties and municipalities; revising the title of part II of ch. 386, F.S.; amending s. 386.201, F.S.; revising a short title; amending s. 386.209, F.S.; authorizing counties and municipalities to further restrict smoking within the boundaries of public beaches and public parks under certain circumstances; providing an exception; amending ss. 381.84 and 386.211, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Part II of chapter 386, Florida Statutes, entitled "INDOOR AIR: SMOKING AND VAPING," is renamed "SMOKING AND VAPING."

Section 2. Section 386.201, Florida Statutes, is amended to read:

386.201 Short title Popular-name.—This part may be cited as by the popular-name the "Florida Clean Indoor Air Act."

Section 3. Section 386.209, Florida Statutes, is amended to read:

386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and supersedes any county or municipal municipal or county ordinance on the subject; however, counties and municipalities may further restrict smoking within the boundaries of any public beaches and public parks that they own, except that they may not further restrict the smoking of unfiltered cigars. A municipality may further restrict smoking within the boundaries of public beaches and public parks that are within its jurisdiction but are owned by the county, unless such restriction conflicts with a county ordinance, except that they may not further restrict the smoking of unfiltered cigars. School districts may further restrict smoking by persons on school district property. This section does not preclude the adoption of county or municipal municipal or county ordinances that impose more restrictive regulation on the use of vapor-generating devices than is provided in this part.

Section 4. Paragraph (h) of subsection (3) of section 381.84, Florida Statutes, is amended to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.—

(3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department shall conduct a comprehensive, statewide tobacco education and use prevention program consistent with the recommendations for effective program components contained in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended by the CDC. The

program shall include the following components, each of which shall focus on educating people, particularly youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco:

(h) *Enforcement and awareness of related laws.*—In coordination with the Department of Business and Professional Regulation, the program shall monitor the enforcement of laws, rules, and policies prohibiting the sale or other provision of tobacco to minors, as well as the continued enforcement of the Florida Clean Indoor Air Act prescribed in chapter 386. The advertisements produced in accordance with paragraph (a) may also include information designed to make the public aware of these related laws and rules. The departments may enter into interagency agreements to carry out this program component.

Section 5. Section 386.211, Florida Statutes, is amended to read:

386.211 Public announcements in mass transportation terminals.—Announcements about the Florida Clean Indoor Air Act shall be made regularly over public address systems in terminals of public transportation carriers located in metropolitan statistical areas with populations over 230,000 according to the latest census. These announcements shall be made at least every 30 minutes and shall be made in appropriate languages. Each announcement must include a statement to the effect that Florida is a clean indoor air state and that smoking and vaping are prohibited except as provided in this part.

Section 6. This act shall take effect July 1, 2022.

Approved by the Governor June 24, 2022.

Filed in Office Secretary of State June 24, 2022.

**HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS**

**BILL #:** CS/HB 105 Regulation of Smoking by Counties and Municipalities  
**SPONSOR(S):** Health & Human Services Committee, Fine and others  
**TIED BILLS:** IDEN./SIM. BILLS: CS/CS/SB 224

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**FINAL HOUSE FLOOR ACTION:** 105 Y's 10 N's **GOVERNOR'S ACTION:** Approved

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**SUMMARY ANALYSIS**

CS/HB 105 passed the House on February 24, 2022, and subsequently passed the Senate on March 2, 2022.

The Florida Clean Indoor Air Act (FCIAA), implements Article X, Section 20 of the Florida Constitution. Article X, Section 20 of the Florida Constitution prohibits a person from smoking tobacco or using a vapor-generating electronic device in an enclosed indoor workplace, with certain exceptions. Current law preempts the regulation of smoking and does not allow counties or municipalities to regulate smoking.

CS/HB 105 amends the FCIAA to allow counties and municipalities to restrict smoking within the boundaries of any public beach or park they own, except for unfiltered cigars.

The bill changes the title of the "Florida Clean Indoor Air Act" to the "Florida Clean Air Act" to account for the broader application of the act proposed in the bill.

The bill has no fiscal impact on state government and an indeterminate, negative fiscal impact on local governments.

The bill was approved by the Governor on June 24, 2022, ch. 2022-213, L.O.F., and will become effective on July 1, 2022.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Present Situation

##### Smoking Regulation

While the Food and Drug Administration (FDA) regulates the manufacture, distribution, and marketing of tobacco and vaping products, it does not regulate smoking or vaping in public places – leaving that to the states.

In 1985, the Florida Legislature enacted the Florida Clean Indoor Air Act (FCIAA)<sup>1</sup> to protect the public health, comfort, and environment by creating areas in public places and at public meetings that were reasonably free from tobacco smoke. The FCIAA originally prohibited smoking<sup>2</sup> in certain indoor public places (e.g. government buildings, elevators, public transportation, hospitals, day care centers) or common areas of an indoor public place (e.g. lobby, hallway, stairwell, restrooms), but did permit designated smoking areas of specified indoor public places such as places of employment, retail stores, indoor arenas, and restaurants.

#### Article X, Section 20 of the Florida Constitution

In the November 2002 General Election, Floridians voted to create Article X, Section 20 of the Florida Constitution, titled “Workplaces without tobacco smoke,” which further restricted smoking indoors.<sup>3</sup> The purpose of this citizens’ initiative was to protect people from the health hazards of secondhand tobacco smoke by prohibiting smoking in enclosed indoor workplaces, which are defined as:

Any place where one or more persons engage in work,<sup>4</sup> and which place is predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings; or open or closed windows, жалousies, doors, or the like.<sup>5</sup>

The provision also provided various other definitions and exceptions to the smoking ban, and required the Legislature to implement the section in law by the following legislative session. Accordingly, in 2003, the Legislature amended the FCIAA to conform existing law and implement the constitutional provision in a manner consistent with its broad purpose and stated terms.<sup>6</sup>

In the November 2018 General Election, Floridians passed Amendment No. 9, which amended Article X, Section 20 of the Florida Constitution, banning the use of vapor-generating electronic devices, or vaping, in enclosed indoor workplaces, consistent with the prohibition on tobacco smoking.<sup>7</sup>

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<sup>1</sup> Ch. 386, Part II, F.S.; ch. 85-257, Laws of Fla.

<sup>2</sup> “Smoking” is defined as “inhaling, exhaling, burning, carrying, or possessing any lighted tobacco product, including cigarettes, cigars, pipe tobacco, and any other lighted product. S. 386.203(11), F.S.

<sup>3</sup> Text available at: <https://dos.elections.myflorida.com/initiatives/fulltext/pdf/34548-1.pdf> (last visited March 3, 2022). The constitutional provision does not preclude the Legislature from enacting more restrictive regulation of tobacco smoking.

<sup>4</sup> “Work” is defined as “any persons providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not.” Fla. Const., art. X, s. 20. “Work” includes, without limitation, any such service performed by an employee, independent contractor, agent, partner, proprietor, manager, officer, director, apprentice, trainee, associate, servant, volunteer, and the like. The term does not include noncommercial activities performed by members of a membership association. S. 386.203(17), F.S.

<sup>5</sup> The smoking ban applies to all enclosed indoor workplaces regardless of whether work is occurring at any given time, Fla. Const., art. X, s. 20.

<sup>6</sup> Ch. 2003-398, Laws of Fla.

<sup>7</sup> Text available at p. 26-30 <https://dos.myflorida.com/media/699824/constitutional-amendments-2018-general-election-english.pdf> (last visited March 3, 2022). Note: Amendment No. 9 also amended article II, section 7 of the Florida Constitution to ban offshore oil and gas drilling.

The FCIAA prohibits smoking and vaping in an enclosed indoor workplace, unless it is a:<sup>8</sup>

- Private residence that is not being used commercially to provide child care, adult care, or health care, or any combination thereof;
- Retail tobacco shop;
- Designated smoking guest room in a public lodging establishment;
- Stand-alone bar;<sup>9</sup>
- Smoking cessation program or medical or scientific research; or
- Customs smoking room in an airport.

However, an owner, lessee, or a person otherwise in control of an enclosed indoor workplace may further prohibit or limit smoking or vaping therein.<sup>10</sup>

Additionally, no one under the age of 18 years old may smoke tobacco or vape in, on, or within 1,000 feet of a public or private grade school between 6 a.m. and midnight.<sup>11</sup> Violators of this provision are subject to a citation from a law enforcement officer.<sup>12</sup>

Persons in charge of enclosed indoor workplaces are required to develop and implement smoking and vaping prohibition policies in line with the FCIAA requirements.<sup>13</sup> Persons in charge of a smoking or vaping cessation program, medical or scientific research, or an airport terminal that includes a customs smoking room must all post signs clearly stating that smoking is only permitted in the designated areas.<sup>14</sup> Additionally, public transportation carriers in certain locations are required to make regular announcements regarding the smoking and vaping prohibition.<sup>15</sup>

The Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) are each responsible for the enforcement of the FCIAA as it relates to their respective areas of regulatory authority.<sup>16</sup> If an enclosed indoor work place violates the FCIAA and does not correct the violation within 30 days, DOH or DBPR may impose fines against the owner and pursue compliance in circuit court, if necessary.<sup>17</sup> Additionally, any person who violates the FCIAA by smoking or vaping in an enclosed indoor work place commits a noncriminal violation and may be subject to a fine of up to \$100 for the first violation and up to \$500 for each subsequent violation.<sup>18</sup>

Currently, the state preempts the regulation of smoking and does not allow counties or municipalities to regulate smoking, except school districts may further restrict smoking on school district property.<sup>19</sup> The

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<sup>8</sup> Ss. 386.204 and 386.2045, F.S. Additionally, s. 386.203(5), F.S., by definition of an "enclosed indoor workplace," excludes any facility owned or leased by and used exclusively for noncommercial activities performed by the members and guests of a membership association, including social gatherings, meetings, dining, and dances, if no person or persons are engaged in work.

<sup>9</sup> A stand-alone bar is a licensed premises that predominantly or totally serves alcoholic beverages and in which serving food is merely incidental to the sale of alcohol. Also, it must not share a common entryway or indoor area with a business that predominantly serves food during the hours the stand-alone bar is operating its business, s. 386.203(11), F.S. See also s. 561.695, F.S.

<sup>10</sup> Fla. Const., art X, sec. 20(b).

<sup>11</sup> S. 386.212(1), F.S.

<sup>12</sup> S. 386.212(2), F.S.

<sup>13</sup> S. 386.206(1), F.S.

<sup>14</sup> S. 386.206(2)-(3), F.S.

<sup>15</sup> S. 386.211, F.S.

<sup>16</sup> Ss. 386.207(1) and 561.695, F.S. DBPR enforces the FCIAA in restaurants, bowling centers, dog tracks, horse tracks, bars, billiards, bingo halls (with food service), and civic/fraternal organizations. DOH enforces the FCIAA in all facilities not regulated by DBPR. Florida Department of Health, *Florida Clean Indoor Air Act, Enforcement*, <http://www.floridahealth.gov/PROGRAMS-AND-SERVICES/prevention/tobacco-free-florida/indoor-air-act/index.html> (last visited March 3, 2022).

<sup>17</sup> S. 386.207(3), F.S.

<sup>18</sup> S. 386.208, F.S.

<sup>19</sup> S. 386.209, F.S.

state does not currently preempt the regulation of vaping. Thus, local governments impose more restrictive regulation on the use of vapor-generated electronic devices.<sup>20</sup>

### County and Municipally Owned Parks

The Division of Recreation and Parks within the Florida Department of Environmental Protection maintains a comprehensive inventory of the existing park facilities and outdoor resources in Florida. The inventory provides details about the parks and recreation areas in the state and contains information on more than 13,000 outdoor recreational facilities in Florida, the majority of which are county and municipal parks.<sup>21</sup>

There are 67 county park systems and more than 400 municipal park systems in the state.<sup>22</sup> Such parks provide a wide variety of activities to the public, including nature trails, bird watching, youth and adult athletics, bike paths, horse trails, boat ramps, fishing piers, outdoor gyms, and outdoor pavilions.<sup>23</sup> For example, Orange County maintains and operates 118 county-owned parks, which consist of a wide array of available activities and facilities.<sup>24</sup> Additionally, municipalities within Orange County also own and operate parks and outdoor recreational facilities. For example, the City of Winter Park owns and operates 11 city parks, which offer similar recreational activities to county-owned parks.<sup>25</sup>

### Public Beaches

Florida has 825 miles of sandy coastline, attracting over 19 million tourists each year.<sup>26</sup> A significant portion of Florida's beaches is publicly owned, including federally-owned areas managed by the National Park Service, parts of Florida's 175 state parks, and the many beaches owned and managed by local governments on the coast.<sup>27</sup> In general, access to these beaches is free through the numerous public access points along the coast however; some state parks, counties and municipalities charge an access fee.

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<sup>20</sup> Id.; "Vapor-generating electronic devices" means any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a nicotine product or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a solution or other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

<sup>21</sup> Florida Division of Recreation and Parks, *Florida Outdoor Recreation Inventory*, <https://floridadep.gov/parks/florida-outdoor-recreation-inventory> (last visited March 3, 2022).

<sup>22</sup> Florida Department of Environmental Protection, Division of Recreation and Parks, *Frequently Asked Questions*, <https://prodenv.dep.state.fl.us/DrpOrpcr/StaticFiles/FAQ.pdf> (last visited March 3, 2022).

<sup>23</sup> Id.

<sup>24</sup> Orange County Government Florida, *Parks*, <http://www.orangecountyfl.net/CultureParks/Parks.aspx> (last visited March 3, 2022).

<sup>25</sup> City of Winter Park, *Parks*, <https://cityofwinterpark.org/departments/parks-recreation/parks-playgrounds/parks/> (last visited March 3, 2022).

<sup>26</sup> Department of Environmental Protection, *Beaches*, <https://floridadep.gov/water/beaches> (last visited at March 3, 2022).

<sup>27</sup> National Park Service, Canaveral National Seashore, *Natural Features & Ecosystems*, <https://www.nps.gov/cana/learn/nature/naturalfeaturesandecosystems.htm> (last visited March 3, 2022). Canaveral National Seashore's 24 miles of undeveloped beach is the longest such stretch on the east coast of Florida; National Park Service, Gulf Islands National Seashore, *Things To Do*, <https://www.nps.gov/guis/planyourvisit/things2do.htm> (last visited March 3, 2022). Gulf Islands National Seashore stretches for 160 miles along the coasts of both Florida and Mississippi; DEP, *Beaches and Coasts at Florida State Parks*, <https://www.floridastateparks.org/learn/beaches-and-coasts-florida-state-parks> (last visited March 3, 2022). Florida's state parks include 100 miles of beaches; DEP, *Map of Florida's Coastal Counties*, <https://floridadep.gov/fco/fcmp/documents/map-floridas-coastal-counties> (last visited March 3, 2022); Beaches in coastal counties are important for tourism and Florida's "brand"; DEP, Florida Coastal Management Program, *Final Assessment and Strategies, FY 2016 – FY 2020*, 30 (2015) [https://floridadep.gov/sites/default/files/FCMP\\_FY2016-20\\_Assessment.pdf](https://floridadep.gov/sites/default/files/FCMP_FY2016-20_Assessment.pdf) (last visited March 3, 2022). Based on shoreline access sites, there are approximately 439 miles of public saltwater beach in Florida.



## Health Concerns

In 2021, an estimated 15.5 percent of the adults in Florida were tobacco smokers.<sup>28</sup> Tobacco smoke contains over 7,000 chemicals, including hundreds that are toxic and up to 69 that are known to cause cancer.<sup>29</sup> More than 480,000 deaths annually in the United States are caused by cigarette smoking, with exposure to secondhand smoke causing an estimated 41,000 deaths each year.<sup>30</sup> Secondhand smoke is generally defined as smoke from burning tobacco products or smoke that is exhaled by a tobacco smoker.<sup>31</sup> Exposure to secondhand smoke can cause numerous health problems and has been causally linked to cancer and other fatal diseases.<sup>32</sup> Studies suggest that secondhand smoke in crowded outdoor areas can cause concentrations of air contaminants comparable to those caused by indoor smoking.<sup>33</sup>

## Effect of Proposed Changes

### Smoking Regulation

CS/HB 105 narrows the existing preemption of smoking regulation to the state: it authorizes counties and municipalities to restrict smoking within the boundaries of any public beaches and public parks they own. Municipalities may also restrict smoking within the boundaries of public beaches and public parks that are within their jurisdiction, but owned by the county, unless such restriction conflicts with county ordinance. However, counties and municipalities may not restrict the smoking of unfiltered cigars in these settings.

The bill changes the title of Part II of ch. 386, F.S., from "Indoor Air: Smoking and Vaping" to "Smoking and Vaping" to conform to the bill's expansion of the act to address outdoor smoking.

The bill makes conforming changes.

The bill provides an effective date of July 1, 2022.

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<sup>28</sup> United Health Foundation, *America's Health Rankings, Annual Report*, <https://www.americashealthrankings.org/explore/annual/measure/Smoking/state/FL> (last visited March 3, 2022).

<sup>29</sup> *Id.*; U.S. Department of Health and Human Services, *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*, 148 (2014), <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf> (last visited March 3, 2022).

<sup>30</sup> Centers for Disease Control and Prevention, *Tobacco-Related Mortality*, [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/tobacco\\_related\\_mortality/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm) (last visited March 3, 2022).

<sup>31</sup> Centers for Disease Control and Prevention, *Secondhand Smoke (SHS) Facts*, [https://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/secondhand\\_smoke/general\\_facts/index.htm](https://www.cdc.gov/tobacco/data_statistics/fact_sheets/secondhand_smoke/general_facts/index.htm) (last visited March 3, 2022).

<sup>32</sup> *Id.*

<sup>33</sup> Nipapun Kungskulniti et al., *Secondhand Smoke Point-Source Exposures Assessed By Particulate Matter At Two Popular Public Beaches in Thailand*, 40 *J. Public Health* 3, 527–532 (2017), <https://academic.oup.com/jpubhealth/article/40/3/527/4110319?questAccessKey=5947c328-fd75-4b6c-acfe-28f989c4c639> (last visited March 3, 2022); James Repace, *Benefits of Smoke-free Regulations in Outdoor Settings: Beaches, Golf Courses, Parks, Patios and in Motor Vehicles*, 34 *WM Mitchell L. Rev.* 1621, 1622–1624, 1638 (2008), <https://open.mitchellhamline.edu/wmlr/vol34/iss4/15/> (last visited March 3, 2022).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

To the extent that any imposed smoking restrictions deter or encourage visitation of county and municipal beaches and parks, local governments may experience and indeterminate fluctuation in revenues generated by any fees for beach and park admittance.

2. Expenditures:

Counties and municipalities that opt to restrict smoking within the boundaries of public parks may incur indeterminate expenses related to enacting and enforcing such restrictions.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Visitors to county or municipal parks who violate smoking restrictions imposed by a county or municipality may be subject to any applicable fines or civil penalties for such violations.

### D. FISCAL COMMENTS:

None.

## ARTICLE VI. TOBACCO-FREE PARKS

### Sec. 38-52. Usage regulations.

- (a) All persons shall recognize that skateboarding, inline skating, and skating are inherently dangerous and risky activities which may result in injury or damage to persons or properties. All persons engaging in such activities shall recognize that they must know their own abilities and that they will be skating at their own risk.
- (b) A valid permit shall be necessary for skating in the skate facility for anyone under the age of 17 years. Anyone under the age of 17 years may not engage in any skateboarding, inline skating, and skating until the governmental entity has obtained written consent, in a form acceptable to the governmental entity, from the child's parents and/or guardians as per F.S. § 316.0085. Persons under the age of 17 years found skating or possessing skate equipment inside the skate facility without a valid permit shall be considered trespassers. Skaters under the age of 17 shall wear a helmet. Spectators of any age who are not skating and do not possess skate equipment may enter without a permit but shall be subject to the same rules of conduct as permit holders.
- (c) Allowable skate equipment shall be limited to:
  - (1) Skateboards.
  - (2) Roller blades.
  - (3) Roller skates.
  - (4) Scooters (self-propelled).
- (d) The skate facility shall be closed when it is raining and when ramp surfaces are wet.
- (e) The skate facility may not be used by the general public when reserved for a special recreational program, or when a special time period has been designated for beginners or special age categories.
- (f) The following are prohibited within and around the vicinity of the skate facility:
  - (1) Food and beverages (except in designated areas).
  - (2) Glass containers.
  - (3) Smoking.
  - (4) Profanity.
  - (5) Amplified sound, including, but not limited to, radios and

cassette/CD players. Radios, tape/CD players and similar audio equipment may be used when the sound is limited to headsets.

- (6) Ramp or obstacle equipment not provided by the city.
  - (7) Moving obstacle or other equipment.
  - (8) Waxing skateboards or other equipment on city premises.
  - (9) Unnecessary noise.
  - (10) Chewing gum or tobacco.
  - (11) Climbing fences.
  - (12) Graffiti, stickers, posters and defacing of property.
  - (13) Skateboarding is prohibited on the tennis, basketball and/or racquetball/handball courts.
  - (14) Non-skaters are prohibited from sitting on obstacles within the facility.
  - (15) Bicycles.
- (g) Users of the skate facility shall immediately comply with any instructions given by city staff, code enforcement officers or law enforcement officers.

### **DIVISION 3. DOG PARK**

#### **Sec. 38-131. Usage regulations.**

- (a) Hours of operation for the dog park shall be between 7:00 a.m. and dusk.
- (b) Dogs shall be the only animals permitted in the dog park. A maximum of two dogs per handler shall be permitted. Dogs shall be properly licensed and documented by having the dog license tag affixed to the dog collar.
- (c) Dogs shall be attended by a handler and under voice control at all times. Dogs shall be well behaved and barking shall not be excessive. Dogs that are not under such control shall be removed.
- (d) Handlers shall pick up and dispose of dog droppings in provided containers. Handlers shall be responsible for any damages to any person or property resulting from usage of the dog park.
- (e) The city has made this dog park available for the convenience of the public. Use of this facility is at your own risk. The city reserves the right to close the park for maintenance at any time.
- (f) Users of the facility shall behave in a courteous manner and refrain from littering, smoking, using profanity, using radios or amplified sound, excessive noise, or any other behavior that could be considered a nuisance.

- (g) Dogs shall be on a leash held by a handler at all times when outside the fence area of the dog park.
- (h) Users of the dog park shall immediately comply with any instructions given by city staff, code enforcement officers, or law enforcement officers.
- (i) Handlers must stop their dog(s) from digging and are responsible for filling any holes their dog(s) make(s).
- (j) Children under age of 12 are not permitted to enter the dog park without a responsible adult.
- (k) No food permitted within the fenced area.

**Sec. 38-150. Cigarettes, cigars and tobacco products prohibited.**

- (a) The use of cigarettes, cigars or any tobacco product and smoking as defined in F.S. § 386.203(10) shall be prohibited in and around the immediate area of any Indian Rocks Beach youth athletic field or facility and children's outdoor play areas. More specifically, this prohibition shall include:
  - (1) All of Kolb Park including Campalong Field, the Skate Park, tennis courts and its three children's playgrounds;
  - (2) Brown Park including its children's playground;
  - (3) 10th Avenue park including its children's playground;
- (b) Such prohibited areas shall be posted and all signage shall reference this article.

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**AGENDA ITEM NO. 9**

**OTHER BUSINESS**

**AGENDA ITEM NO. 10**  
**ADJOURNMENT.**