

**TUESDAY,
DECEMBER 13, 2022**

**REGULAR
CITY COMMISSION MEETING**

@ 7:00 PM



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

www.indian-rocks-beach.com

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, DECEMBER 13, 2022 @ 7:00 P.M.
CITY COMMISSION CHAMBERS
1507 BAY PALM BOULEVARD
INDIAN ROCKS BEACH, FLORIDA 33785**

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

1. PRESENTATIONS.

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

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

(Any member of the audience may come forward, give their name and address, and state any comment or concern that they may have regarding any matter over which the City Commission has control, EXCLUDING AGENDA ITEMS. All statements made to the City Commission shall be made to the City Commission as a whole, not directed to any individual City Commission Member, and no personal, impertinent, or slanderous remarks shall be permitted. No speaker shall be interrupted, and no debate shall 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. **APPROVING** a Beach Parking Lease Agreement between the City of Indian Rocks Beach and Fifty Gulfside Condominiums for parking purposes located at a portion of the Central Avenue Beach Access.
 - B. **APPROVAL** of the November 9, 2022 Regular City Commission Meeting Minutes.
 - C. **APPROVAL** of the November 15, 2022 Special City Commission Meeting Minutes.

 6. **PUBLIC HEARINGS:**
 - A. **RESOLUTION NO. 2022-07 — PUBLIC HEARING.** A resolution of the City of Indian Rocks Beach, Florida, relating to lot mowing or clearing, providing for approval and endorsement of all assessments as finally fixed and adjusted.
 - B. **ORDINANCE NO. 2022-07 — PUBLIC HEARING/SECOND AND FINAL HEARING.** An Ordinance of the City of Indian Rocks Beach, Florida, providing for an amendment to Section 74-63 of the Code of Ordinances pertaining to the operation of vessels within the City's coastal waters in the Gulf of Mexico; providing for the incorporation of recitals; providing for approval of an amendment to the City's Code to establish a public bathing beach area limited to manually propelled vessels only to conform to Florida's Statutes and Administrative Code; providing for severability; providing for the repeal of all ordinances in conflict herewith; and providing for an effective date.

 7. **OTHER LEGISLATIVE MATTERS:**
 - A. **ORDINANCE NO. 2023-01.** An ordinance amending Chapter 50, "Solid Waste", Article II "Collection and Disposal", Division 3. "Fees and Charges", Section 50-91 "Fee schedule", to remove the fee schedule from the codified portion of the city's ordinances; providing for the subsequent adoption of a resolution setting forth the applicable fee schedule; providing for severability; providing for the repeal of ordinances or parts of ordinances in conflict herewith to the extent of such conflict, and providing for an effective date.

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

 9. **OTHER BUSINESS.**

 10. **ADJOURNMENT.**
-

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, no later than FIVE (5) days before the proceeding for assistance.

POSTED: December 9, 2022

**NEXT REGULAR CITY COMMISSION MEETING
TUESDAY, JANUARY 10, 2023 @ 7:00 P.M.**

**CITY COMMISSION WORK SESSION — SHORT-TERM VACATION RENTALS
TUESDAY, JANUARY 24, 2023 @ 5:00 P.M.**

AGENDA ITEM NO. 1A

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



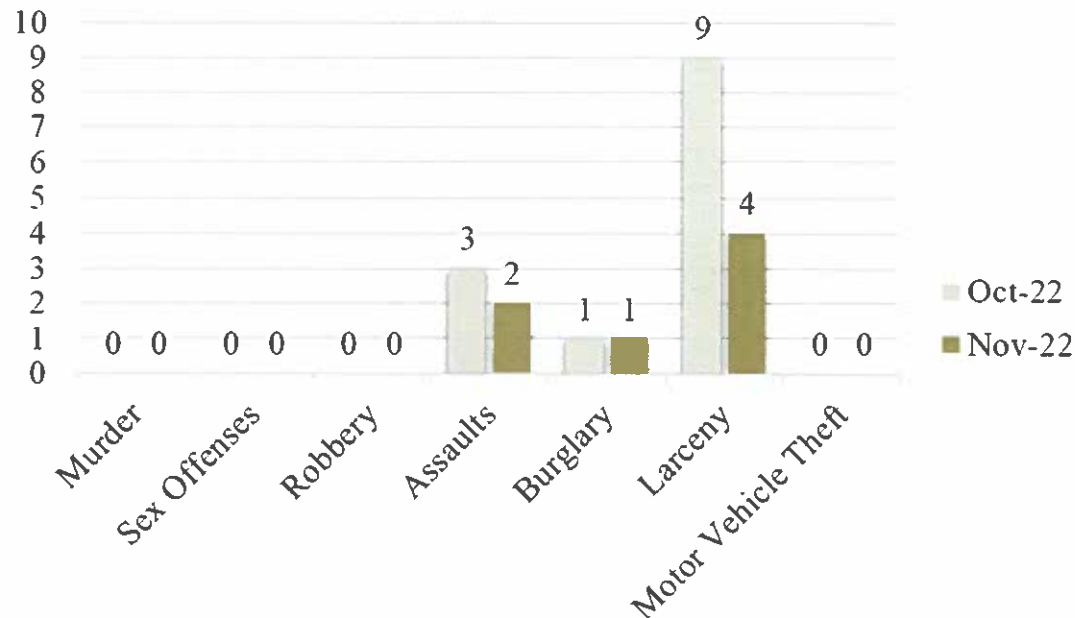
STRATEGIC PLANNING DIVISION

INDIAN ROCKS BEACH ANALYSIS

Select UCR Property & Person Crimes

November 2022

| Select UCR Property & Person Crimes | October 2022 | November 2022 | November 2021 YTD | November 2022 YTD |
|-------------------------------------|--------------|---------------|-------------------|-------------------|
| Murder | 0 | 0 | 0 | 0 |
| Sex Offenses | 0 | 0 | 3 | 1 |
| Robbery | 0 | 0 | 0 | 3 |
| Assaults | 3 | 2 | 42 | 44 |
| Burglary | 1 | 1 | 8 | 14 |
| Larceny | 9 | 4 | 44 | 59 |
| Motor Vehicle Theft | 0 | 0 | 5 | 5 |
| GRAND TOTAL | 13 | 7 | 102 | 126 |



Arrests

November 2022

There was a total of *12* people arrested in the City of Indian Rocks Beach during the month of November resulting in the following charges:

| ARREST TYPE & DESCRIPTION | TOTAL |
|--|-----------|
| Felony | 5 |
| Burglary-Structure | 1 |
| Domestic Battery By Strangulation | 1 |
| Possession Of Controlled Substance | 2 |
| Violation Of Probation/Community Control-Adult | 1 |
| Misdemeanor | 3 |
| Battery-Domestic Related | 1 |
| Petit Theft-Shoplifting | 1 |
| Possession Of Alcoholic Beverage Under 21 | 1 |
| Warrant | 4 |
| Warrant Arrest | 4 |
| Traffic Misdemeanor | 7 |
| Driver's License Suspended/Revoked | 5 |
| No Valid Driver's License | 2 |
| Grand Total | 19 |

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

Deputy Activity

There was a total of **715** events in the City of Indian Rocks Beach during the month of November resulting in **1,001** units responding.

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

November 2022

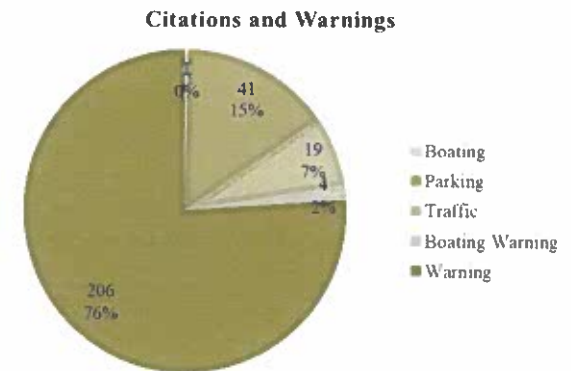
| DEPUTY ACTIVITY | TOTAL |
|------------------------------------|-------|
| Traffic Stop | 235 |
| Directed Patrol | 77 |
| Vehicle Abandoned/Illegally Parked | 66 |
| House Check | 61 |
| Assist Citizen | 37 |
| Suspicious Person | 32 |
| Noise | 18 |
| Trespass | 14 |
| 911 Hang-up Or Open Line | 13 |
| Transport Prisoner | 12 |
| Ordinance Violation | 12 |
| Information/Other | 11 |
| Area Check | 8 |
| Contact | 7 |
| Theft-Not In Progress | 6 |
| Suspicious Vehicle | 6 |
| Warrant Service/Attempt | 6 |
| Open Door/Window | 6 |
| Ambulance/Fire Department Call | 5 |
| Civil Matter | 5 |
| Supplement | 5 |
| Traffic/DWLSR | 5 |
| Animal Call | 4 |
| Boating Vessel Stop | 4 |
| Alarm | 4 |

Crash & Citation Analysis

There were **NO** crashes in the City of Indian Rocks Beach during November 2022. **Crash data is filtered by disposition type and may include "accident and hit and run" problem types.*

There were a total of **271** citations and warnings issued in the City of Indian Rocks Beach during November 2022.

| TOP 10 TRAFFIC CITATION LOCATIONS | TOTAL |
|-----------------------------------|-------|
| 7th Ave & Gulf Blvd | 3 |
| Gulf Blvd & 28th Ave | 2 |
| 5th Ave & 2nd St | 2 |
| 5th Ave & 1st St | 2 |
| Gulf Blvd & 6th Ave | 2 |
| Gulf Blvd & 18th Ave | 2 |
| Gulf Blvd & 19th Ave | 1 |
| 18th Ave & 1st St | 1 |
| Gulf Blvd & 5th Ave | 1 |
| Gulf Blvd & 16th Ave | 1 |



AGENDA ITEM NO. 1B

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

AGENDA ITEM NO. 2

PUBLIC COMMENTS.

AGENDA ITEM NO. 3A

REPORTS OF City Attorney

AGENDA ITEM NO. 3B

REPORTS OF City Manager

AGENDA ITEM NO. 3C

REPORTS OF City Commission

AGENDA ITEM NO. 4

ADDITIONS/DELETIONS


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

**Beach Parking Lease Agreement
Fifty Gulfside Condominiums**

INDIAN ROCKS BEACH CITY COMMISSION

AGENDA MEMORANDUM

MEETING OF: December 13, 2022 **AGENDA ITEM: 5 A**

SUBMITTED AND RECOMMENDED BY: Dan Carpenter, Finance Director 

APPROVED BY: Brently Gregg Mims 
City Manager

SUBJECT: Approving Beach Parking Lease Agreement between the City of Indian Rocks Beach and the Fifty Gulfside Condominiums for parking purposes located at a portion of the Central Avenue Beach Access.

BACKGROUND

In October 2001, the City of Indian Rocks Beach offered to lease a certain portion of the Central Avenue Beach Access to Fifty Gulfside Condominiums for parking purposes. The lease will expire in 2023 and both the City and Fifty Gulfside would like to renew the lease going forward.

ANALYSIS

The agreement will be for a period of five (5) years with automatic renewal every five (5) years to a maximum of twenty (20) years. There is a five percent (5%) escalator at the end of each five-year period.

The annual cost for the lease of One Thousand Square Feet (1,000 s.f.) of parking spaces is Six Hundred Sixty Eight Dollars and Fifty Four Cents (\$668.54) with sales tax of Forty Six Dollars and Seventy Nine cents (\$46.79) for a total of Seven Hundred Fifteen Dollars and Thirty Three Cents (\$715.33).

The new Lease is attached for review.

MOTION

Approve Beach Parking Lease Agreement between the City of Indian Rocks Beach and the Fifty Gulfside Condominiums for parking purposes located at a portion of the Central Avenue Beach Access.

PARKING LEASE

THIS PARKING LEASE (the "Lease") is entered into this ___ day of _____, 20___ by CITY OF INDIAN ROCKS BEACH, FLORIDA, whose address is 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785 ("City") and Fifty Gulfside Condominium Association whose address is 50 Gulf Boulevard, Indian Rocks Beach, Florida 33785 ("Lessee"), with reference to the following facts:

A. Lessee is the owner of that certain real property located at 50 Gulf Boulevard, Indian Rocks Beach, Florida. Indian Rocks Beach, Florida ("Lessee's Property").

B. The City is the owner of that certain real property more particularly described in **Exhibit A** attached hereto ("City Property"). The City Property the is the subject of this Lease presently includes eleven (11) parking spaces, with approximate dimensions of 9' x 10' each, and a path of ingress/egress to each.

C. In order to accommodate the use by Lessee of Lessee's Property, Lessee has requested, and the City has agreed to lease to Lessee the City Property for the sole purpose of parking motor vehicles in connection with the use of Lessee's Property, and subject to the other terms and conditions set forth in this Lease.

IN WITNESS WHEREOF, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Recitals and Exhibits. The foregoing recitals and all Exhibits attached hereto are hereby incorporated into this Lease by this reference and are deemed true and complete.

2. Term. City hereby leases to Lessee the City Property for a period of five (5) years, commencing on _____ ("Initial Term"). This Lease will automatically renew for three (3) successive 5-year periods, for a maximum term of twenty (20) years, unless either the City or Lessee provides written notice to the other, at least sixty (60) days prior to the expiration of the then- current five-year term, of its intention to terminate this Lease. For purposes of this Lease, the "Term" shall refer collectively to the Initial Term and any renewal terms.

3. Rent. Lessee agrees to pay the City annual rent of \$715.33 for each year of the Initial Term, for a total rent payment of \$3,576.65 for the entire Initial Term, in consideration for the use of the City Property. Lessee shall pay the City rent each year on or before the anniversary date of the commencement date of this Lease, with the first payment for the first year due upon execution of this Lease. Lessee shall have no rights to the City Property or under this Lease unless and until Lessee pays such rent to the City. The rental for each renewal term under this Lease shall be calculated as the rental in effect for the prior 5-year term increased by five percent (5%).

4. Taxes. The parties acknowledge that the City Property will be subject to real property taxes on account of the Lease of the City Property to Lessee for private purposes and will be subject to sales taxes associated with the rental payments to be made hereunder. Upon receipt of any real property tax bills received by the City with respect to the City Property, the City shall forward same to Lessee and Lessee shall pay the same to the City within fifteen (15) days of receipt thereof. In addition to the rental payments to be made pursuant to Paragraph 3 above, Lessee shall pay to the City annually with the payment of rent as sales tax on such rental amounts. All taxes to be paid pursuant to this paragraph shall constitute additional rent under this Lease.

5. Use of Spaces. Lessee shall use the City Property for motor vehicle parking purposes only associated with the Current Use (as defined in Paragraph 6 below) of Lessee's Property. Lessee shall not be entitled to park or store recreational vehicles, watercraft or the related trailers within the City Property, nor shall the City Property be used for storage or any other purposes other than expressly authorized herein.

6. Use of Lessee's Property. The current use of Lessee's Property is as Commercial Tourist (CT) ("Current Use"). The City reserves the right in the City Manager's sole discretion to terminate this Lease (1) in the event of any planned change of use or physical alteration or modification of the premises located on Lessee's Property for which the ordinances of the City requires a permit, or (2) in the event that Lessee's structures which constitute the current use of Lessee's Property for which this Lease is required, are damaged by an Act of God, disaster, or some other physical occurrence, included but not limited to, storm damage, fire, or flooding, such that the resulting damage to the existing structures represents fifty percent (50%) or more of the value of the existing structures. In the event the City elects to terminate this Lease pursuant to the terms of this provision, the City shall provide thirty (30) days' prior written notice to Lessee specifying the date such termination shall be effective.

7. Maintenance. Lessee shall maintain the City Property in good condition and repair at Lessee's sole cost and expense. If Lessee fails to maintain the City Property in good condition and repair in the reasonable discretion of the City Manager, then the City shall have the right to maintain and repair the City Property at Lessee's cost and expense and shall remit a bill to Lessee for such costs and expenses incurred by the City, which amounts shall become additional rent due under this Lease and shall be payable immediately upon Lessee's receipt of the bill therefor. If Lessee refuses or neglects to maintain the City Property after receiving notice from the City of such dereliction, the City Manager shall have discretion to terminate this Lease upon due notice.

8. Alterations. Lessee shall make no alterations or modifications to the City Property without the City Manager's prior written consent.

9. Access. Nothing in this Lease shall be construed to prevent the City and its officers, agents, employees, or representatives from entering upon the City Property in connection with the City's official business, needs, or acts.

10. Insurance. As a condition to this Lease, Lessee shall provide evidence of general liability and property insurance with coverage in amounts reasonably acceptable to the City. covering the City Property and the Lessee's use thereof, naming the City as an additional insured, and agreeing to provide the City with thirty (30) days' prior written notice before cancellation of such insurance policy. On or before the commencement date of the term of this Lease, Lessee shall provide a certificate to the City evidencing the foregoing terms and conditions and shall provide a similar certificate to the City prior to each renewal term of this Lease.

11. Indemnity. Lessee covenants and agrees to indemnify, defend and hold the City harmless from and against any and all liabilities, claims, damages, injuries, actions or causes of action, including without limitation property damage and personal injury, arising during the term of this Lease caused in whole or in part by Lessee, its officers, employees, agents or invitees, or incurred in connection with Lessee's use of the City Property. This indemnification obligation shall survive the termination or expiration of this Lease for any reason whatsoever.

12. Liens. Lessee shall keep the City Property free from all liens. Lessee shall indemnify and hold City harmless from and against and all liens, claims of lien, or other encumbrances sought to be

enforced against the City Property, of any kind or nature whatsoever, including statutory and mechanic liens, including attorney's fees and costs incurred by and arising out of such claims.

13. Default. The prompt payment of all amounts due hereunder and the faithful observance of the provisions of this Lease are conditions of this Lease, and any failure on the part of Lessee to comply with the terms of this Lease shall, constitute a default under this Lease. In the event that Lessee breaches any of the terms of this Lease, the City shall give Lessee written notice of such default and Lessee shall have fifteen (15) days from the date thereof within which to cure such default. Upon failure of Lessee to do so, City shall have the right to terminate this Lease immediately upon notice to Lessee. In addition, the City shall have all rights and remedies permitted under this Lease and Florida law, and the exercise of any right or remedy shall be without waiver of City's rights to pursue any other right or remedy. Further, to the extent that any amounts due hereunder are not paid by Lessee to the City when due, then such amounts shall accrue interest at the rate of eighteen percent (18%) per annum from the date due until the date paid, and the City shall be entitled to collect such interest in addition to any other amounts due hereunder and in addition to any other rights and remedies to which the City may be entitled under this Lease, at law or in equity.

14. Representation and Warranty. Lessee represents and warrants that it is the fee simple owner of Lessee's Property. Lessee further represents and warrants that it is authorized to enter into this Lease without the joinder and consent of any other party, and that the party executing this Lease on behalf of Lessee has full power and authority to bind Lessee to the terms hereof.

15. Successors and Assigns. Lessee agrees that the rights and obligations of this Lease shall not be assigned to another party. However, Lessee may assign the rights and obligations of this Lease to any purchaser of Lessee's Property provided such purchaser uses Lessee's Property for the Current Use as required by Paragraph 6 above. Subject to the foregoing, this Lease shall be binding upon and inure to the benefit of the parties and their successors and assigns.

16. Severability. If any clause or provision of this Lease is illegal, invalid, or unenforceable under present or future laws effective during the term of this Lease, then and in that event, it is the intention of the parties to this Lease that the remainder of this Lease shall not be affected by any such provision.

17. Time of the Essence. Time is of the essence of this Lease in the performance of its terms and conditions.

18. Attorneys' Fee. Should it be necessary for either party to employ an attorney to enforce by any legal means, including arbitration, any of the terms of this Lease, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs in addition to any other recoverable damages and awards granted by any arbitrator or court.

19. Entire Agreement. This Lease contains the entire agreement between the City and Lessee with regard to the matters set forth herein, and other prior or contemporaneous agreements and understandings, whether oral or written, express or implied, are hereby superseded and of no further force or effect. No amendments shall be made to this unless done in writing and signed by both parties to this Lease.

20. Notices. All notices to be provided hereunder shall be delivered to the parties at their addresses stated above either by certified mail, return receipt requested, in which case such notice shall be deemed given on the third business day after deposit in the U.S. Mail, or by hand delivery, in which case such notice shall be deemed given upon delivery to the above-specified address.

ON BEHALF OF THE CITY:

CITY OF INDIAN ROCKS BEACH, FLORIDA

By: _____
(name)

Title: _____

Date: _____

**ON BEHALF OF 50 GULFSIDE
CONDOMINIUM ASSOCIATION**

Name: _____

Title: _____
*By signing this agreement I covenant and
agree I have legal authority to bind the Lessee*

ATTEST

Deanne Bulino O'Reilly, CMC, City Clerk

APPROVED AS TO FORM AND SUFFICIENCY

Randol D. Mora, Esq.
City Attorney

AGENDA ITEM NO. 5B

**November 9, 2022
Regular City Commission Meeting
Minutes**

+

**MINUTES — NOVEMBER 9, 2022
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING**

The Indian Rocks Beach Regular City Commission Meeting was held on **WEDNESDAY, NOVEMBER 9, 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 ten seconds of silence.

PRESENT: Mayor-Commissioner Joanne Moston Kennedy, Vice Mayor-Commissioner Denise Houseberg, Commissioner Jude Bond (telephonically), Commissioner Philip J. Hanna, and Commissioner Joseph D. McCall.

STAFF PRESENT: City Attorney Randy Mora, City Clerk Deanne B. O'Reilly, MMC, Finance Director Dan Carpenter, CGFO, and Planning Consultant Hetty C. Harmon, AICP (telephonically).

ABSENT: City Manager Brently Gregg Mims.

1A. RECOGNITION OF IRB Veterans.

Mayor-Commissioner Kennedy honored the veterans in the community by presenting an American Flag to each of them that were in attendance for their service in the military.

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

The Pinellas County Sheriff's Office submitted a written crime analysis report for the month of September 2022.

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

Fire Chief Davidson, on behalf of the Pinellas Suncoast Fire and Rescue District, thanked the community and the elected officials for their support in helping to pass the ad valorem tax referendum vote. He said the Fire District has been serving IRB since 1951 and without the passage of the referendum, the Fire District would not have existed much longer.

Fire Chief Davidson presented the fire report for the month of October 2022.

2. PUBLIC COMMENTS.

Diane Daniel, 309-10th Avenue, stated she would be starting an initiative in January called Vacation Donations. She read the about page from her website, which is a good summary. *"Vacation Donations is a not-for-profit community resource in Indian Rocks Beach, Florida. We encourage vacationers and rental property managers to donate unused food, beach toys, books, and other items that travelers can't or don't take back with them. We also hope to inspire other communities to start similar projects. Indian Rocks Beach, or IRB as it is known to locals, covers 2.7 miles of shoreline on the Gulf Coast between Clearwater and St. Pete and has about 4,000 residents. Like many vacation communities around the country and beyond, it is filling up with short-term rentals, which have cooking facilities and encourages longer stays. Visitors who come from afar, especially by airplane, often buy food, beach supplies, books, and more while visiting and then must leave them behind. Too often, these items get thrown away or sit around unused. By providing a one-stop source of information, they are making it easier for travelers to give back before they go back."*

Ms. Daniel stated that is the crux of it. She is also trying to inspire other resort vacation communities to help them start similar programs if they are interested. What she is doing is having a clearinghouse of information. Everything on her website is things that already exist.

Ms. Daniel stated the items would be donated to IRB Pantry, thrift stores, veterinarian practices, etc.

Ms. Daniel is asking for the blessing of the City Commission because it will help when she launches the website in January. She would have like permission to use the City logo on her website and her banner of community friends.

John Pfanstiehl, 448 Harbor Drive South, thanked the City Commission for scheduling the November 15, 2022 City Commission Meeting about regulations on short-term vacation rentals. He asked how did the City ever get short-term rentals in residential areas in the first place. The definition of residential is to live in a place permanently for an extended period. Allowing transient lodgings in residential neighborhoods destroys the meaning of the word. It destroys the City's zoning. He cannot believe the citizenry has to explain why transients should not be lodging in residential areas. He bought his forever home in a neighborhood zoned single-family residential. Among the single-family residences are 200 unsupervised hotels with hundreds of transients each year. The size of IRB residents' outrage can be seen on the Harbor Drives, with signs stating they are against short-term rentals in residential areas.

Mr. Pfanstiehl stated the 2019 Florida AGO says that minor changes do not cause a city to lose its grandfather status. It is time to pay for a legal opinion as to whether the

elimination of the City's grandfather status can be challenged and regained on any of several fronts. Should that fail, the City should go with the City Attorney's May 2016 memorandum, in which he stated the City's best legal remedy to this problem is in Tallahassee. So, these actions can be started by: (1) Paying for a legal opinion to determine if there is a way to claw back IRB's grandfather status of three months. (2) Hiring a staff member to coordinate forming an alliance with the Florida counties and cities that are most affected and existing groups, AIRBNB, Home Rule of Florida, BIG-C, Florida League of Cities, etc. (3) Then hire a lobbyist.

Mr. Pfanstiehl stated it might be a long, hard fight to correct the injustice of commercial businesses being allowed in residential neighborhoods. However, if the City does not fight for the peace, safety, and sanctity of the City's homes and neighborhoods, what will the City fight for?

Mr. Pfanstiehl stated that millions of people across Florida and the United States are fed up. The City Commission can be leaders and heroes to them by making strong, decisive actions to gather communities together to fight this issue.

Mr. Pfanstiehl stated in advance he thanked the City Commission for taking strong, timely actions to correct this problem, and he appreciated the City Commission's attention.

Darlene Rusinowski Cavanaugh, 450 Harbor Drive South, speaking on behalf of her family, stated her family has owned that residence since the 1980s. She said they are against short-term rentals in residential areas. When her parents purchased the home, it was all residential with no short-term rentals. Over the past five years, short-term rentals started popping up along the Harbor Drives, causing traffic and parking issues. Her parents had to install cameras outside the residence because their neighbors advised that people were parking in front of their lawn and driveway with out-of-state plates. Her family is concerned with emergency vehicles being able to get down the street because of all the cars parked on the side of the road. She stated that golf carts are speeding up and down the Harbor Drives all hours of the night — young drivers.

Mayor-Commissioner Kennedy advised the public that if they are experiencing problems with short-term vacation rentals, they need to call the sheriff's office so that the incident can be documented.

Phil Wrobel, 112-13th Avenue, thanked the City for co-sponsoring Taste of IRB and stated the event was very successful. He thanked the volunteers and the participants for making it a great event.

Mr. Wrobel thanked the City for putting up the avenue signs at the end of the beach walkovers.

Mr. Wrobel stated the City Commission should consider charging non-residents for using the pickleball courts because all other communities are charging.

Mr. Wrobel stated Jim Palamara served as a City Commissioner for over 12 years and was President of the IRB HOA. He was involved in everything in the City in the 1990s and early 2000s. Mr. Palamara was one of the first City Commissioners he met because he turned something down that he asked for. After that, he got to know who he was, and he was a great guy, a fantastic person for the City. He thinks it was disrespectful that he was not mentioned under the ten minutes of silence at a City Commission Meeting like people have been since he has been coming to meeting for over 20 years ago. He feels that just showed total disrespect and special privileges for special people that passed away.

Rod Baker, 365 Bahia Vista Drive, stated he sent an email with recommendations on short-term vacation rentals to the City Commission, such as occupancy limitations and mandatory off-street parking spaces per occupant. There are also five ideas in his email on short-term vacation rentals.

Mr. Baker thanked the City for supporting their annual effort to clean the Intracoastal Waterway islands by placing the dumpster at the boat ramp. This year, they collected 200 pounds of plastic and bottles from the Intracoastal Waterway.

Judy Sexton, 405 Harbor Drive South, stated the entire strip of the Harbor Drive neighborhood, except for a few, had no short-term rental signs removed or stolen from their lawns. She stated that something should be done.

Mayor-Commissioner Kennedy reiterated that someone should report the crime to the sheriff's office if the signs are being stolen.

Teresa Pruchniewska, 316-6th Avenue, stated she does not like what is happening in her residential neighborhood. It used to be a private residential area. Now it is being overcome by businesses — short-term vacation rentals. She is being inconvenienced by the noise, traffic, parties, speeding golf carts, parking everywhere, the amount of garbage being produced, and everything else that is coming from the short-term vacation rentals. She does not feel safe anymore in her neighborhood. She stated she is being denied her living standards because of the short-term vacation rentals, and the property owners of these rentals do not live in the City. The residents of 6th Avenue want the short-term vacation rentals to go away. Residents are moving out of the City because they do not want to live near short-term vacation rentals and cannot enjoy their residential homes.

3A. REPORTS OF the City Attorney:

City Attorney Mora announced that there will be a City Commission Work Session on Tuesday, November 15, 2022, at 6:00 p.m., to discuss short-term vacation rentals.

3B. REPORTS OF the City Manager: No report.

3C. REPORTS OF the City Commission:

COMMISSIONER McCALL:

- *Taste of IRB:* He reported that Taste of IRB was a great success and the HOA received great feedback from the participants, sponsors, and vendors. He stated the HOA, along with A2K, put on these events for the City as fundraisers, and donate those funds back to the City for various projects. He stated it took over 100 volunteers to put the Taste of IRB on. The HOA wanted to make a special shout-out to the main sponsors: Crabby Bill's Seafood, Century 21 Beggins, and Plumlee Realty. He thanked the City for their partnership, especially Public Works Employee Bob Ashley, who was there from start to finish.
- *Holiday Joy Drive:* He stated the kick-off of the HOA Joy Drive would be November 14, 2022, at Anecdote Brewery, at 6:00 p.m., where toys, non-perishable foods, toiletries, or cash donations are being accepted for the IRB Food Pantry, Shepard's Village, Miracle on the Bay, and Silver Santas. There will be bins throughout the City where items can be dropped off for the drive. Donations can also be dropped off through December 16th at Century 21 Beggins.
- *HOA Donations:* The HOA donated \$1,500 to the Hurricane Ian Relief Fund and purchased a new banner for the West Pinellas Little League baseball field.

VICE MAYOR-COMMISSIONER HOUSEBERG:

- She stated IRB Fitness would be having a 5th Anniversary Party on November 19, 2022, where they are taking on the Pinellas Suncoast Fire and Rescue District in a boot camp-style workout to include tug-a-war and encouraged everyone to come and join in on the fun.

MAYOR-COMMISSIONER KENNEDY:

- She reviewed the City calendars for November and December.
- She stated she has discussed with former Mayor R.B. Johnson Code Section 110-131(5)(f)(4)(ii) side setbacks in the commercial tourist district. He thinks there is a discrepancy in the staff's interpretation of that Code Section. She recommended that this be forwarded to the Planning and Zoning Board for review.
- Commissioner Hanna stated that it is a clarification rather than an interpretation issue.

CONSENSUS OF THE CITY COMMISSION TO FORWARD THE PLANNING AND ZONING BOARD CODE SECTION 110-131(5)(f)(4)(ii) FOR REVIEW TO DETERMINE IF THAT SECTION SHOULD BE AMENDED OR CLARIFIED.

- She apologized for not dedicating moments of silence to former City Commissioner Jim Palamara. It was not meant intentionally. It was on her notes, and she forgot to

say something. She stated she served with former City Commissioner Jim Palamara on the City Commission and has known him for many years. She stated John Pfanstiehl, under Public Comments, did beautiful attribute on former City Commissioner Palamara.

4. **ADDITIONS/DELETIONS.** None.
5. **CONSENT AGENDA:**
 - A. **APPROVAL of the September 21, 2022 Special City Commission Meeting Minutes.**
 - B. **APPROVAL of the October 11, 2022 Regular City Commission Meeting Minutes.**

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

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

- 6A. **ORDINANCE NO. 2022-03 — SECOND AND FINAL READING.** An ordinance of the City of Indian Rocks Beach, Florida, amending Chapter 2, Administration; Article II, City Commission; Division 1, Generally; Section 2-31, Compensation of members; providing for an increase in the City Commission’s monthly compensation; providing for severability; providing for repeal of ordinances or parts of ordinances in conflict herewith, to the extent of such conflict; and providing for an effective date.

(Beginning of Staff Report)

BACKGROUND:

During the July 26, 2022 City Commission Budget Work Session, there was a consensus to increase the City Commission’s monthly compensation by \$100.00.

Charter Section 4.11, Compensation; expenses, states: The city commission may determine the annual compensation of the commissioners by ordinance, but no ordinance increasing such compensation shall become effective until the date of commencement of the terms of commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least three (3) months. Commissioners shall receive their annual compensation and necessary expenses incurred in the performance

of their duties and shall account therefore in accordance with appropriate state and federal statutes.

ANALYSIS:

Sec. 2-31. Compensation of members.

- (a) The mayor-commissioner shall be paid a per diem of ~~\$600.00~~ \$700.00 per month.
- (b) The commissioners shall be paid a per diem of ~~\$500.00~~ \$600.00 per month.

The increase in compensation will begin on April 1, 2023.

On October 11, 2022, the City Commission approved Ordinance No. 2022-03 on first reading.

LEGAL NOTICE: A legal notice was published in the Tampa Bay Times on Wednesday, October 26, 2022, in the matter RE: Notice of Public Hearing for Ordinance No. 2022-03.

(End of Staff Report)

City Attorney Mora read Ordinance No. 2022-03 by title only for second and final reading.

City Clerk O'Reilly presented Ordinance No. 2022-03 and briefly reviewed the Staff Report. She stated Ordinance No. 2022-03 would amend Sec. 2-31, Compensation of members, of the Code of Ordinances, by providing an increase of \$100 in compensation per month for City Commission Members.

City Clerk O'Reilly noted that the increase in compensation will begin on April 1, 2023.

City Clerk O'Reilly said the last time that the City Commission received an increase in compensation was in 2015.

MOTION MADE BY COMMISSIONER McCALL, SECONDED BY COMMISSIONER HANNA, TO APPROVE ORDINANCE NO. 2022-03, ON SECOND AND FINAL READING, AMENDING CHAPTER 2, ADMINISTRATION; ARTICLE II, CITY COMMISSION; DIVISION 1, GENERALLY; SECTION 2-31, COMPENSATION OF MEMBERS; PROVIDING FOR AN INCREASE IN THE CITY COMMISSION'S MONTHLY COMPENSATION.

ROLL CALL VOTE:

AYES: HANNA, McCALL, BOND, HOUSEBERG, KENNEDY
NAYS: NONE

MOTION TO APPROVE CARRIED UNANIMOUSLY.

6B. BOA CASE NO. 2022-13 — 525-20TH AVENUE

Considering a variance request from Sec. 94-86(a)(1) of the Code of Ordinance to encroach 9 feet into the required 12-foot side yard setback, resulting in a total side yard setback of 3 feet, along the northern property line, and to encroach 5 feet 10 inches into the required 12-foot side yard setback, resulting in a total side yard setback of 6 feet 2 inches along, the southern property line, for a new dock, boat lift and personal watercraft lifts for the property located at 525-20th Avenue, Indian Rocks Beach, Florida, and legally described as Lot 46 & Rip Rts, Fifteenth Addition to Re-Revised Map of Indian Beach. Parcel #: 06-30-15-42300-000-0460.

[Beginning of Staff Report]

SUBJECT: BOA CASE NO. 2022-13 – 525 20th AVENUE: Variance request from Sec. 94-86(a)(1), of the Code of Ordinance, to encroach 9 feet into the required 12-foot side yard setback, resulting in a total side yard setback of 3 feet along the northern property line and to encroach 5 feet 10 inches into the required 12-foot side yard setback, resulting in a total side yard setback of 6 feet 2 inches along the southern property line, to allow for a new dock, boat lift and personal watercraft lifts for property located at 525-20th Avenue, Indian Rocks Beach, Florida, and legally described as Lot 46, Fifteenth Addition to Re-Revised Map of Indian Beach as recorded in Plat Book 31, Pages 57 and 58, of the Public Records of Pinellas County Florida. Parcel #06-30-15-42300-000-0460.

OWNER: Tanya Campbell
Courtney Campbell
PROPERTY LOCATION: 525-20th Avenue
ZONING: S- Single Family Residential

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

BACKGROUND:

The applicant is requesting a variance of 9 feet to encroach into the required 12-foot side yard setback, resulting in a total side yard setback of 3 feet along the northern property line and to encroach 5 feet 10 inches into the required 12-foot side yard setback, resulting in a total side yard setback of 6 feet 2 inches along the southern property line, to allow for a new dock, boat lift and personal watercraft. The width of the lot is 45ft. The lot is an

inverse curve lot and the property lines project into the water at an angle causing the available side setback to be reduced as the lot lines are extended into the water. The owners to the north and south have agreed to the location of the dock, boat lift and personal water craft lifts.

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 narrower width and the angled property lines are not applicable to all lots in the same zoning district.*
- b. The special conditions and circumstances do not result from the actions of the applicant. *The applicant did not create any special conditions or circumstances.*
- c. Granting the variance will not confer on the applicant any special privilege that is denied by subpart B to other lands, structures or buildings in the same zoning district. *Granting the variance would confer special privileges to the applicant.*
- d. Literal interpretation of the provisions of subpart B would deprive other properties in the same zoning district under the terms of subpart B and would work unnecessary and undue hardship upon the applicant. *The approval of this variance request would not deprive other owners of use and enjoyment of their properties.*
- e. The variance granted is the minimum variance that will make possible the reasonable use of the land, structure or building. *This is the minimum variance to allow the owner to construct the dock and lifts 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 November 3, 2022, (Sec. 2-149 of the Code of Ordinances.)

CORRESPONDENCE: Nicholas Cerjanec, 521-20th Avenue, and Louis Russo, 529-20th Avenue, have signed off on the site plan in the Pinellas County Water and Navigation Permit Application stating no objection.

LEGAL NOTICE: A legal notice was published in the Tampa Bay Times on Wednesday, October 26, 2022, in the matter RE: Notice of Public Hearing for BOA Case No. O2022-13.

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

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

[End of Staff Report]

City Attorney Mora read BOA Case No. 2022-13 — 525-20th Avenue by title only.

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

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

City Attorney Mora stated, for the record, Commissioner Bond will not be voting on this matter because it is a quasi-judicial with visual evidence presented.

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

Planning Consultant Harmon presented the Agenda Item, BOA Case No. 2022-13, 525-20th Avenue.

Planning Consultant Harmon stated the applicants are requesting a variance to encroach 9 feet into the required 12-foot side yard setback, resulting in a total side yard setback of 3 feet along the northern property line, and encroach 5 feet 10 inches into the required 12-foot side yard setback, resulting in a total side yard setback of 6 feet 2 inches along the southern property line, to allow for a new dock, boat lift and personal watercraft. The width of the lot is 45 feet. The lot is an inverse curve lot, and the property lines project into the

water at an angle, causing the available side setback to be reduced as the lot lines are extended into the water. The owners to the north and south have agreed to the location of the dock, boat lift, and personal watercraft lifts.

Planning Consultant Harmon stated both adjacent property owners had signed off on the site plan in the Pinellas County Water and Navigation Permit Application, not objecting.

Planning Consultant Harmon made a PowerPoint Presentation depicting an aerial view of the property, the dock plan, and the dock cross-section. She explained the applicants are proposing a dock and boat slip on the northern side and on the south side two jet ski lifts. The jet ski lifts will lift out of the water and flip over to the dock, so when the jet skis are not in use, the applicants will almost meet the 12-foot side setback.

Mayor-Commissioner Kennedy stated the Staff Report says that the Board of Adjustments and Appeals denied the request, and staff approved the request.

Planning Consultant Harmon stated staff did recommend approval because both adjacent neighbors signed off on the site plan, and the Board of Adjustments and Appeals denied the request 5 to 0.

Mayor-Commissioner Kennedy asked Planning Consultant Harmon to explain why the Board of Adjustments and Appeals denied the request.

Planning Consultant Harmon stated the Board of Adjustments and Appeals felt that the applicants were putting too much within that site.

Planning Consultant Harmon stated the Board discussed narrowing the docks, then the jet ski lifts, which will take 3 to 4 feet of the 12-foot wide dock when they swing onto the dock.

Commissioner McCall asked if the new boat lift would be in the same existing boat lift position and stated it looked like it was sitting right on the property line.

Planning Consultant Harmon stated from a previous permit, the boat lift was off the property line.

Jason Rogers, Priority Marine Construction, 200 Midway Island, Clearwater, explained the variance request. He stated the current permitted structure is 5 feet off the property line. He said during the Board of Adjustments and Appeals Meeting, there was a discussion about adjacent property owners being unable to pull their boats in if they sell their homes. He stated the neighbors could not cross those riparian lines.

Mr. Rogers stated when the jet ski lifts are spun up on the dock, they will take up to 5 to 6 feet, and the remaining feet will give his clients enough space to access the boat lift and have a functional dock by going out 50 feet.

Mr. Rogers stated the required side yard setbacks are 12 feet unless the lot is a 45-foot inverse pie-shaped lot. Those side yard setbacks change according to Code Section 94-86(a)(3). *[Inverse curve lots that have more than or equal to 24 feet of water frontage and less than 45 feet of water frontage shall be allowed to construct a dock facility with diminishing setbacks from the side property line as extended into the water. Side setbacks for inverse curve lots shall start at ten feet from the property line as extended and encroach to within five feet of the property line as extended onto the water. The slips, boats, boat lift, dock, catwalks, lower landings, platforms, tie-poles, and personal watercraft lift shall not encroach into the setbacks.]*

Mr. Rogers stated that, technically, his clients are requesting 2 feet on the right side and nothing on the left side.

Mr. Rogers reiterated that both adjacent property owners have signed off on the site plan in the Pinellas County Water and Navigation Permit Application, not objecting. He stated the neighbor to the left has a dock 3 feet off his property line that the City permitted.

Mayor-Commissioner Kennedy asked Mr. Rogers what the hardship was, with Mr. Rogers responding to the setbacks.

Commissioner Hanna asked why his clients wanted the head of the dock so wide, with Mr. Rogers stating that the jet ski lifts spin up on the dock and there needs to be ample space to access the boat lift.

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

Mayor-Commissioner Kennedy stated it is unusual for City staff to recommend approval and for the Board of Adjustments and Appeals to recommend denial unanimously.

City Attorney Mora ultimately stated that it is for the City Commission as the final quasi-judicial body adjudicating the matter to weigh those decisions. Neither the recommendation of the Board of Adjustments and Appeals nor the City staff is binding on the City Commission's decision-making. However, the City Commission can consider those facts.

Mayor-Commissioner Kennedy stated that the City has boards for them to take their time to review the application and be part of the community. She feels that their input is valuable to the City Commission.

Planning Consultant Harmon stated historically, the City has approved a lot of dock variances. In other communities, if both adjacent property owners have signed off on the site plan in the Pinellas County Water and Navigation Permit Application, they are automatically approved by the city.

City Attorney Mora stated that each variance application stands on its own from a legal standpoint. The City Commission's decision-making is bound by the criteria in the City Code and not those in other communities.

Commissioner McCall asked if Mr. Rogers was correct on Code Section 94–86(a)(3) regarding the pie-shaped lot with the side setback requirements.

[City Attorney Mora noted that the City had lost telephonic connection with Commissioner Bond.]

Planning Consultant Harmon stated Code Section 94-86(a)(3) reads under 45 feet of water frontage and noted this lot is just at 45 feet.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY VICE MAYOR-COMMISSIONER HOUSEBERG, TO APPROVE BOA CASE NO. 2022-13, 525-20TH AVENUE. A VARIANCE REQUEST FROM SEC. 94-86(a)(1) OF THE CODE OF ORDINANCE TO ENCROACH 9 FEET INTO THE REQUIRED 12-FOOT SIDE YARD SETBACK, RESULTING IN A TOTAL SIDE YARD SETBACK OF 3 FEET, ALONG THE NORTHERN PROPERTY LINE, AND TO ENCROACH 5 FEET 10 INCHES INTO THE REQUIRED 12-FOOT SIDE YARD SETBACK, RESULTING IN A TOTAL SIDE YARD SETBACK OF 6 FEET 2 INCHES ALONG, THE SOUTHERN PROPERTY LINE, FOR A NEW DOCK, BOAT LIFT AND PERSONAL WATERCRAFT LIFTS FOR THE PROPERTY LOCATED AT 525-20TH AVENUE, INDIAN ROCKS BEACH, FLORIDA, AND LEGALLY DESCRIBED AS LOT 46 & RIP RTS, FIFTEENTH ADDITION TO RE-REVISED MAP OF INDIAN BEACH. PARCEL #: 06-30-15-42300-000-0460.

Commissioner Hanna stated he is concerned that an awful lot is going on out there, and the lot is small.

Commissioner Hanna stated the pie-shaped lot causes the hardship.

Commissioner McCall stated the applicants have a mean water problem that has pushed the dock out to 50 feet, exasperating the property line just getting smaller and smaller and pushing it in. He stated that pie-shaped lots are stuff to deal with, and he feels that going to the extra expense of having a swing-in jet ski lift to try and accommodate and keep viable space on the south of the dock.

ROLL CALL VOTE:

AYES: McCALL, HOUSEBERG, HANNA, KENNEDY
NAYS: NONE
ABSENT: BOND

MOTION TO APPROVE CARRIED UNANIMOUSLY.

7A. ORDINANCE NO. 2022-07 — FIRST READING.

An Ordinance of the City of Indian Rocks Beach, Florida, providing for an amendment to Section 74-63 of the Code of Ordinances pertaining to the operation of vessels within the City’s coastal waters in the Gulf of Mexico; providing for the incorporation of recitals; providing for approval of an amendment to the City’s Code to establish a public bathing beach area limited to manually propelled vessels only to conform to Florida’s Statutes and Administrative Code; providing for severability; providing for the repeal of all ordinances in conflict herewith; and providing for an effective date.

(Beginning of Staff Report)

BACKGROUND:

During the June 14, 2022 City Commission Meeting, the City Commission held discussions about the IRB City Buoy System/Waterway Markers.

As the City Commission is aware, the City has had a permitted Buoy System/Waterway Markers in the Gulf-of-Mexico in the Gulf-of-Mexico, within Pinellas County, since 1996.

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

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

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

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

FISCAL IMPACT:

Within the FY 22/23 Operational Budget, funding has been appropriated to accomplish the tasks of removing and re-installing the Buoy System.

Estimated costs are as follows:

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

(End of Staff Report)

City Attorney Mora read Ordinance No. 2022-07 by title only.

City Attorney Mora presented the agenda item and stated this item had been workshopped a couple of months ago by the City Commission. As the City Commission may recall, the state agencies with jurisdiction in the coastal waters found that the City's buoy system currently does not conform with the statutory regime for coastal waters. A city can make a few categories of designations, and a low or no wake zone absent of a host of other factors is not one of them.

City Attorney Mora stated the City was presented with a few options by the Florida Fish and Wildlife Conservation and Commission (FWC) that the City Commission discussed at some length. The City Commission's general consensus was inclined to exclude motorized vehicles from the buoyed area.

City Attorney Mora stated Commissioner Bond was concerned about wind-powered or alternative-powered vessels going at high speed within that same area but not having a motor. After significant research and time spent conferring with FWC and their legal counsel, a solution was found within the law.

City Attorney Mora stated Ordinance No. 2022-07 is a product of the City Code coming into compliance with Section 327.46, F.S., and Florida Administrative Code (FAC) which serves to interpret it.

City Attorney Mora stated under that statutory regime, the City is allowed to establish vessel-exclusion zones. The will of the City Commission was to lend toward a vessel-exclusion zone. A vessel-exclusion zone is defined as an area from which all vessels or certain classes of vessels are excluded. Within that zone, the City is allowed to designate a public bathing beach. However, Florida Statutes nor the FAC define a public bathing

beach. The City can use its home rule powers to define a public bathing beach as it best meets the City's needs as articulated by the City Commission.

City Attorney Mora stated the policy attempting to be captured here would be what is presently understood as a non-anchoring zone that would transition to the vessel-excluding zone, which would be a public bathing beach. In this public bathing beach, by operating the regulation, all vessels other than those propelled by oars, paddles, or poles are prohibited from entering the marked area. Vessels equipped with sails or a mechanical means of propulsion may enter the marked area only if the sails or mechanical means of propulsion is not in use and, if possible, to do so, the mechanical means of propulsion is tilted or raised out of the water.

City Attorney Mora stated a draft of this ordinance had been forwarded to FWC for their review and comment before the first and second readings. He said FWC had one limited comment he was prepared to make before the second reading: specify the area this ordinance covers. He stated the area covers the corporate boundaries from north to south along the gulf coast. It is not subsections or subdivided portions of the beach.

Mayor-Commissioner Kennedy opened the public comment section.

Rod Baker, 364 Bahia Vista Drive, cautioned the City Commission against passing this ordinance because it begins to step on the culture of Indian Rocks Beach and its residents. Many people launch small fishing boats from the beach with motors, and they go to the rock piles to fish. The City had gotten in trouble before when they usurped control that can seem in the moment but violate Constitutional guarantees in the State of Florida, like the right to fish and the statement that fishing is part of the culture as defined by the Florida Constitution. To do this throughout the entire City would mean that people who grew up here and have motorized boats cannot legally launch their boats from the beach to fish the rock piles. He stated it would make more sense to have this area at the public beach area, the County Park, and not try to do it across all the private beaches and the entire City at once.

April Jenkins, 1113 Ohio Avenue, Dunedin, St. Petersburg College Student, stated she is currently a student in Public Policy in Administration, Bachelor Program at St. Petersburg College, and she is here tonight to address Agenda Item No. 7A, Ordinance No. 2022-07, regarding the buoy system and waterway markers. After reviewing several documents from the original buoy system, the updated Florida Statute, the current agenda items, and her interview with the Public Works Director, she agrees with the recommendation that the City adopt the new ordinance designating a vessel-exclusion zone.

Ms. Jenkins stated that designating this area as a vessel-exclusion zone makes it fair to all residents and eliminates any confusion about where the areas are. Additionally, since

Indian Rocks Beach gets a fair amount of tourist traffic and they would not be familiar with the rules, this makes enforcement easier for FWC across the board.

Mayor-Commissioner Kennedy closed the public comment session.

Commissioner Hanna asked City Attorney Mora to address Mr. Baker's comment regarding motorized boats.

City Attorney Mora stated the City Commission, as the policymakers, can define the boundaries of any vessel-exclusion zone or zones that would be established, and staff could make that clear in markings. Nothing in this ordinance prohibits fishing in the area, and he understands the concerns about the viability of getting one's vessel from A to B through that area. As written, nothing prohibits a boat or vessel from being in that area so long as it is not under motorized or artificial, or wind power at the time. The equities that were being balanced based on the commentary from the public and the City Commission were the ability for people to traditionally recreate, swim, fish, and play in that area, or also paddleboarding, canoeing, and kayaking all of which are perfectly permissible in the area as written. It would be to the extent that the current practices of boats are allowed to traverse in that area with their motors engaged as long as they are in some low-speed situation. The City cannot regulate in that fashion any longer. This ordinance was the best means to adapt to that. If it was the desire of the City Commission to create any carve out of some portion of the beach or those coastal waters, the City Commission might have the ability to do that, and buoys could mark that.

Mayor-Commissioner Kennedy stated Mr. Baker commented about violating Constitutional rights and asked if the City would be doing anything like that.

City Attorney Mora stated he would not advise the City Commission ever to violate the Constitution. Any ordinance is susceptible to a Constitutional challenge. The viability of it, he is not going to opine on a legal claim he has not seen made. He certainly would not advise the City Commission to violate the City's residents' Constitutional rights.

City Attorney Mora stated the State has dictated through its administrative code and statutes that the City's ordinances establishing the safety zone and no anchoring are not viable. To the extent that the City has buoys that say no wake, low wake. The City cannot have them there. Indian Rocks Beach is not the only beach community in Pinellas County facing this issue. In fact, in part, this is the product of another beach community having this reported and then reporting Indian Rocks Beach and other communities to FWC.

City Attorney Mora stated the communication he had with the FWC concerning this draft ordinance was them following up with the City earlier in the week, saying they spoke to the City in June and that it is coming to the end of the year. FWC asked about the status of the City's amended buoy system ordinance. He stated FWC is tracking this issue and wants

to see some resolution, whatever it may be, within the City Commission's discretion as the policymakers.

Vice Mayor-Commissioner Houseberg asked if the City should exclude the motorized vessels in the public beach area, the County Park, and not in other areas where other people are fishing and putting in their sailboats.

Mayor-Commissioner Kennedy asked how the City would enforce that.

Vice Mayor-Commissioner Houseberg stated she does not know but how are stop signs enforced. The City Commission cannot just say well, if it is not enforceable, the City cannot do it.

Mayor-Commissioner Kennedy stated FWC contacted the City and informed the City that it has to comply with F.S. concerning the City's buoy system, and the City is being monitored.

Vice Mayor-Commissioner Houseberg questioned should the beach be shut down to all motorized vessels.

City Attorney Mora stated Vice Mayor-Commissioner Houseberg is talking about the ordinance as written. The current ordinance prohibits any motorized vessels on the beach, and she is asking if there could be a carve-out or a series of carve-outs for motorized vessels.

City Attorney Mora stated the buoy area could be interrupted. It does not need to be all or nothing. However, that was not something the City Commission discussed or expressed, so it was not memorialized in this draft. If the City Commission wishes to do, the City Commission can do that. He would suggest that the City Commission have some basis for the where and why of it. His job is to give the City Commission both sides of the issue. The other side is invariably the reverse nimby of why not that street. Ultimately, the City Commission lives and recreates in this community, and the City Commission knows the community well and that of the residents. He is not the policymaker. The City Commission can do that if the City Commission desires, but the City Commission would need to guide staff, and the ordinance would be drafted as such, or the City Commission can go as is.

Commissioner Hanna stated if FWC mandates the City to do this. The City has to address the buoy line now. If the City finds out, there is a way to make these carve-outs for motorized boats. The City Commission can make an addendum to the ordinance later.

City Attorney Mora stated the City Commission could make amendments once the ordinance is adopted. The City Commission can certainly amend the ordinance later if the City Commission so desires.

City Attorney Mora stated he wanted to be clear. However, when the City Commission says it can look into how to do that, it is just a policy decision as to where to place a channel to allow the motorized boats to go from the shore to the Gulf; that is all it takes to define the boundaries of it.

Commissioner Hanna asked if this would be something that the City would have to go to FWC for.

City Attorney Mora responded no. The City would advise FWC that this is the City's ordinance and it has blank number of public bathing beaches (vessel-exclusion zone) and their boundaries. The draft ordinance did not delineate channels for motorized boats because the City Commission did not discuss this issue previously.

Commissioner McCall stated if the City starts doing cut-outs, where would they be? As a boater from the other side, it is very unnerving when there are no buoys in other beach communities because swimmers are right next to the boats, and it is hard to see the swimmers.

Commissioner McCall stated does the community really think that tourists would understand where they can and cannot swim.

Commissioner McCall stated he appreciates Mr. Baker's comments. He sees many kayakers and people paddling through the buoy area and fishing the old pier and the fish rocks.

Commissioner McCall stated for him, it is all or nothing. Since he has been on the City Commission, there have been meltdowns of people fishing in beach areas.

Commissioner McCall stated the City would be causing a safety hazard by trying to make cut-outs for motorized boats. He thinks the City should meet FWC's compliance.

Commissioner McCall stated the budget for the buoy system is \$40,000, and the cost would increase if the City has cut-outs for motorized boats.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER McCALL, TO APPROVED ORDINANCE NO. 2022-07, ON FIRST READING, PROVIDING FOR AN AMENDMENT TO SECTION 74-63 OF THE CODE OF ORDINANCES PERTAINING TO THE OPERATION OF VESSELS WITHIN THE CITY'S COASTAL WATERS IN THE GULF OF MEXICO; PROVIDING FOR THE INCORPORATION OF RECITALS; PROVIDING FOR APPROVAL OF AN AMENDMENT TO THE CITY'S CODE TO ESTABLISH A PUBLIC BATHING BEACH AREA LIMITED TO MANUALLY PROPELLED VESSELS ONLY TO CONFORM TO FLORIDA'S STATUTES AND ADMINISTRATIVE CODE.

Commissioner Hanna stated Commissioner McCall brings up the most critical point and that is safety because swimmers are hard to see in the water when in a boat.

ROLL CALL VOTE:

AYES: *McCALL, HANNA, KENNEDY*

NAYS: *HOUSEBERG*

ABSENT *BOND (Lost telephone connection)*

MOTION TO APPROVE ON FIRST READING PASSED BY A VOTE OF 3 TO 1.

7B. DISCUSS AND AUTHORIZE the City Manager to execute a First Amendment Exclusive Residential Recycling Service Contract with Waste Connections of Florida, Inc.

(Beginning of Staff Report)

As the City Commission is aware, the City's current contract for Curbside Recycling will expire on December 31, 2022.

During the October 11, 2022 Regular City Commission Meeting, staff provided several options regarding the City's Recycling Program.

Per the City Commission's consensus, the following information is provided on the Recycling Program.

1. Implement a Hybrid Recycling Drop-Off Program within the City at special locations: Brown Park, City Hall, Nature Preserve, and Keegan Clair Park accepting aluminum and cardboard commodities only.

Upon further review, the option has been declared as not viable due to logistical reasons and service requirements of IRB and the capabilities of the City of Largo.

2. Continue with the Curbside Recycling Program with Waste Connections including/accepting additional operating costs.

This option has been further discussed by staff with the current contractor and a revised proposal to the City has been offered as follows:

2-Year Contract Extension

- \$11.53 per month for single-family home *(same as the current bid that was provided from Waste Pro to Madeira Beach)*.
- \$28.63 per pickup for condominiums.
- Current CPI language in contract remains the same.

- \$398,015.40 annually.

ANALYSIS:

It should be noted that this option is a 62.3% increase to the current Recycling Budget Expenditures and will require a rate increase for the solid waste customers.

FISCAL IMPACT:

The newly negotiated contract with Waste Connections has a financial impact on the current adopted FY 2023 solid waste rates.

The new recycling contract is \$389K per year or \$150K more annually than the previous recycling contract.

A 10% increase in solid waste rates will be necessary to generate the additional \$150K annually to cover the increases to recycling costs.

Current residential rates of \$62.50 bi-monthly would increased to \$68.75, and commercial rates will be increased 10% for all commercial containers.

If approved, an FY23 Budget Amendment and Solid Waste Rate Change Ordinance will be brought to the City Commission at a later date.

If the City Commission approves this option, it should also authorize the City Manager to sign all contract extension documents.

(End of Staff Report)

City Attorney Mora read the Agenda Item by title only.

Finance Director Carpenter presented Agenda Item No. 7, and briefly reviewed the Staff Report.

Finance Director Carpenter stated the City entered into a contract with Waste Connections in 2018 and renewed that contract with Waste Connections several times. This fall, when the the City went renewed its current contract with Waste Connections, it was not in a position to extend the contract under the provisions that were allowable to extend its contract with the City, based on the state of recycling and the inflationary costs. He stated that had led the City to where it is now to discuss it publicly. Staff started last month with a work session item. During that discussion, staff asked for policy direction from the City Commission, and they provided some insight and information about where the City has been, where it thought it was, and where it could go. He stated there was no unanimous

consensus from the City Commission to do one thing specifically. Staff did receive a majority consensus to look at two particular ways to go with recycling: (1) Implement a Hybrid Recycling Drop-Off Program within the City at special locations: Brown Park, City Hall, Nature Preserve, and Keegan Clair Park accepting aluminum and cardboard commodities only, and (2) Continue with the Curbside Recycling Program with Waste Connections including/accepting additional operating costs.

Finance Director Carpenter stated staff has reviewed the two options and thereafter explained the following results:

- 1. Implement a Hybrid Recycling Drop-Off Program within the City at special locations: Brown Park, City Hall, Nature Preserve, and Keegan Clair Park accepting aluminum and cardboard commodities only.**

Upon further review, the option has been declared as not viable due to logistical reasons and service requirements of IRB and the capabilities of the City of Largo.

- 2. Continue with the Curbside Recycling Program with Waste Connections including/accepting additional operating costs.**

This option has been further discussed by staff with the current contractor and a revised proposal to the City has been offered as follows:

2-Year Contract Extension

- \$11.53 per month for single-family home (*same as the current bid that was provided from Waste Pro to Madeira Beach*).
- \$28.63 per pickup for condominiums.
- Current CPI language in contract remains the same.
- \$398,015.40 annually.
- \$150,000 increase annually.
- \$6.00 increase bi-monthly, per household.

Commissioner Hanna asked if there is a termination clause for either party in the agreement.

Finance Director Carpenter stated there is a 60-days written notice to terminate without cause for both parties.

Commissioner McCall asked about the GPS tracking on trucks or on the recycling, and is the City getting what it is paying for.

Finance Director Carpenter stated the City did not pursue the GPS tracking, and if the City did dig into the GPS tracking device on the competitor, it would be on the trucks itself, not the specific contents that go into the truck.

Finance Director Carpenter stated the contract puts the control of the recycling materials into the hands of the contractor at the spot of curbside pickup that has not changed. The City would not have any different control over what really happens to the contents.

Mayor-Commissioner Kennedy opened the public comment session.

Paul Sacco, Director of Solid Waste for Pinellas County, stated his team is here to answer any questions that the City Commission may have.

Rod Baker, 364 Bahia Vista Drive, stated he was taking some items to the dump, and he noticed that there were recycling trucks and dump trucks in the same lines as him backing up to the incinerator. He spoke with some Pinellas County Commissioners, and they disclosed that not much of it is getting recycled. He was on the Environmental Stewardship Board when the City first initiated the Curbside Recycling Program. So, the question was posed why do people recycle? The County Commissioners responded that it gets people something good to feel about.

Mr. Baker stated that a \$400,000 City budget for recycling is a big purchase when the City considers the dovetail of doubling what it would be versus not doing it at all. He would be interested in understanding the impact on the City's general garbage pickup costs and making it public knowledge that the City made this decision because it was not actually getting recycled. Maybe someone could share with the City Commission and the public just how much is getting recycled and whether it is worth the money that the City is spending on recycling.

Ian Boyle, Government Affairs Manager of Waste Connections, stated Waste Connections had been the City's recycling partner for Indian Rocks Beach since 2011. In 2018, Waste Connections amended its contract with the City because the City wanted to go to a cart system. After all, Indian Rocks Beach was a heavily recycling community. He stated Indian Rocks Beach's material is being recycled and offered a tour of their facility to anyone in the audience and the City Commission. He said Commissioner Bond did tour the facility last month. He noted their facility recycles about 8,000 tons a month, which includes Hillsborough County, Pasco County, the City of St. Petersburg, and all their other contracts in Pinellas County. He stated Commissioner Bond did do a tour of their facility last month.

Mr. Boyle stated about 20% of recycling is contaminated, which are items that cannot be recycled, and third-party buyers are not buying them, so those items go to the burn plant. A total misconception that all recycling is going to the burn plant is just not true.

Mr. Boyle stated the statement about the trucks is a misconception as well. What happened back when recycling first started, they had dual stream — split body trucks, which were dedicated recycling trucks. To improve recycling, they went to a single-stream system where everything goes into one part, and the processor separates those materials. After that, Mr. Boyle explained that Waste Connections uses one truck for garbage pickup and recycling and explained in detail how the processor (the green machine) separates the recyclables.

Mr. Boyle stated it is not Waste Connections' intent or desire to increase their rates to their municipal contracts. But that is just the stress that Waste Connections is under right now. Everything is going up — diesel costs, labor costs. That is where the recycling market is right now.

Judy Sexton, 405 Harbor Drive South, stated the City would be going backward if the City decided not to have its Curbside Recycling Program anymore. She does not know what is happening to the City. She stated before the City starts to make this kind of decision, there should be a field trip to the recycling plant to see if they are recycling. She called Waste Connections directly, and they assured her that the recycling materials collected were being correctly recycled.

Ms. Sexton stated that she has no problem with the rate increase and it is okay to pay \$6.00 every two months for recycling, considering what flood insurance is and all the other things that have gone up.

Ms. Sexton stated everyone needs to be mindful of what everyone is doing here in the community. She believes the short-term rentals have no skin in the game, so they do not care where they put their trash. If 20% is not getting recycled, there is a reason for that. The residents must be mindful of what they put in their recycling cans. She will take her recycling down to Brown Park before she stops recycling.

Ms. Sexton stated the City Commission needs to consider its decisions where this is concerned. There are no fireworks allowed on the 4th of July because the City is worried about things getting trashed. However, some short-term renters are putting cigarette butts all over the place and not recycling where they need to be. The City has bigger fish to fry than whether to continue the Curbside Recycling Program for an increase of \$6.00 every two months.

John Thayer, 1819 Bay Boulevard, stated the misconceptions about recycling keep getting shot down by the people doing the recycling, yet the City and public still hear it. Granted, there is 20% or so of dirty recycled material, but the only way to get that fixed is to keep recycling and keep educating people about how to clean the recycled material. The way to do that is to have a nice clean recycling bin to put it in and Curbside Recycling Program. Recycling is the right thing to do, and the increase is minimal.

Finance Director Carpenter stated when this item was discussed during the October 11, 2022 City Commission Meeting, the City did not have a fixed negotiated price with Waste Connections. The numbers presented this evening are negotiated numbers with Waste Connections.

Finance Director Carpenter explained there are residents in town who recycle but do not live in curbside single-family homes and do not have a blue recycle can. But, the cost of recycling is pro-rated to all solid waste customers, whether they live in a condominium, a single-family home, or a commercial entity. The total cost is allocated across the entire operation and all bills generate the money within the Solid Waste Operation.

Mayor-Commissioner Kennedy stated the City tries to be as transparent as possible. The City Commission found out about the curbside recycling rate increase because the contract with Waste Connections was set to expire on December 31, 2022.

Mayor-Commissioner Kennedy stated several years ago that the City sent a postcard to all IRB citizens asking about their top priorities. Recycling was among the community's top three things citizens wanted to see done.

Mayor-Commissioner Kennedy stated the City sent out a postcard inviting residents to attend tonight's meeting if they were interested in this topic. She noted that she learned some things tonight different from what was told at the last meeting. She is glad that Waste Connections was present to advise what exactly is being recycled and how the recycling plant works. She stated the contaminated recycled materials are burned and then converted into electricity for 70,000 homes in Pinellas County.

Commissioner McCall stated this had been a learning experience for him. He said Public Works Director Scharmen advised him that the average cost per ton is \$200 for garbage and \$500 for recycled materials.

Commissioner McCall stated he is always about the more education, the better. He was surprised that Green Peace USA Recycling sent him two studies on plastics. They estimate that only 5% of plastics are recycled. One and two plastics are the only plastics that are being recycled. Three through seven plastics are not being recycled, and those plastics are going somewhere in a bale, a landfill, or burned, per Green Peace USA Recycling's article.

Commissioner McCall stated he was surprised by the articles. He said recycling has dropped. It was 8% in 2020, and now it is 5% in 2022 for plastics. Green Peace USA studied 357 recycling centers.

Commissioner McCall stated the bend of the article, in his opinion, was if people want to recycle and be good for the environment, do not buy single-use plastic.

Commissioner McCall stated the City initially contracted with Waste Connections in 2011. Then the market started to change in 2018 for the recycling market, especially when China stopped taking recycling material from the United States.

Commissioner Houseberg stated she has questions about the incineration of the contaminated recycled materials, like how that power is used.

Paul Sacco, Solid Waste Director of Pinellas County, stated all the materials that comes to the Solid Waste Facility that can be put into the feed chutes go into the boilers is incinerated. That volume is reduced by 10 percent. So, instead of putting 100 percent into the landfill, about 10 percent in volume would be placed in the landfill. The incinerated recycled materials generate power for 40,000 to 45,000 homes in Pinellas County. The ash that comes from that facility is used at the landfill. The ash is a recyclable material used as a cover needed for the permitting process of operating the landfill. The landfill needs to be covered daily with ash to eliminate the odors or vectors and things like that.

Commissioner Houseberg asked if those 45,000 homes are receiving electricity from the incinerator for free.

Mr. Sacco responded negatively. It is just the power equivalent. Pinellas County has a power purchase agreement with Duke Energy, and that power is put onto the grid. Then Pinellas County is paid money for that power, which offsets the tipping fees.

Mr. Sacco stated Pinellas County needs to be looked at as a community. Pinellas County does not have the luxury of having a lot of vacant land for another landfill. Pinellas County will never have another landfill. The Board of County Commissioners has passed a Master Plan discussing zero waste to the landfill by 2050. He stated that the landfill has approximately 80 years left.

Mr. Sacco stated when the landfill is full, the garbage would need to be trucked somewhere else if they take it, and if they do, what would be the cost for disposal?

Mr. Sacco spoke on the importance of reduce, reuse, or recycle, stating it is great for the environment and for protecting the landfill.

Stephanie Watson, Program Manager, Recycling Outreach & Programs, stated Pinellas County Solid Waste does provide tours of its Waste Energy Facility. The primary goal of the Waste Energy Facility is not to generate electricity; that is the secondary benefit. The primary benefit is to reduce the amount of garbage. So, for every ten trucks that come to its door, there is one truck left of ash that goes to the landfill. The goal of the Waste Energy Facility is volume reduction, and energy creation is great, but it is really so Pinellas County will not have a magnanimous landfill.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY VICE MAYOR-COMMISSIONER HOUSEBERG, TO AUTHORIZE THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT EXCLUSIVE RESIDENTIAL RECYCLING SERVICE CONTRACT WITH WASTE CONNECTIONS OF FLORIDA, INC.

ROLL CALL VOTE:

AYES: McCALL, HOUSEBERG, McCALL, KENNEDY

NAYS: NONE

ABSENT: BOND (LOST TELEPHONE CONTACT)

MOTION TO APPROVE CARRIES UNIANIMOUSLY.

8. WORK SESSION ITEMS [DISCUSSION ONLY]: None

9. OTHER BUSINESS. None.

10. ADJOURNMENT.

MOTION MADE BY COMMISSIONER McCALL, SECONDED BY COMMISSIONER HANNA, TO ADJOURN THE MEETING AT 9:10 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

December 13, 2022

Date Approved

Joanne Moston Kennedy, Mayor-Commissioner

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

/DOR

AGENDA ITEM NO. 5C

**APPROVAL OF
November 15, 2022
Special City Commission Meeting
Minutes**

**MINUTES — NOVEMBER 15, 2022
CITY OF INDIAN ROCKS BEACH
SPECIAL CITY COMMISSION MEETING**

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, NOVEMBER 15, 2022**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 6:00 p.m., followed by the Pledge of Allegiance and ten seconds 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 Mora, City Clerk Deanne B. O'Reilly, MMC, Finance Director Dan Carpenter, CGFO, Public Works Director Deanne Scharmen, and Captain Michael Leiner of the Pinellas County Sheriff's Office.

Guests: Mayor David Will of Redington Beach, Senator Ed Hooper, and Brendan Burke, Legislative Aide to Senator Nick DiCeglie.

1. DISCUSS AND REVIEW Short-Term Vacation Rentals in Indian Rocks Beach and Ordinance No. 2018-01.

City Attorney Mora provided a recap of what the City has been doing regarding short-term vacation rentals and where the City is trying to go in the future.

In 2018, after several hearings, the City Commission adopted an ordinance that attempted to provide some regulations to the short-term rental industry based on the policy direction determinations made by the City Commission at that time. The City Commission has changed, and time has passed. The community has evolved, and maybe residents' perceptions and feelings about issues or awareness about problems have changed. It is not uncommon to revisit policy positions.

City Attorney Mora stated no policy decisions are being made this evening. The City Commission will not adopt or amend any ordinances, no contracts will be executed, and no new enforcement measure above and beyond the existing code will begin after tonight. In a work session, the City Commission deliberates and discusses and sometimes takes feedback from the public to inform policy decisions. The City Commission will take no official action this evening.

City Attorney Mora stated the goal of code enforcement is compliance. He will promise that anything the City Commission adopts will be violated. No version of any code results in absolute adherence. That is the goal and the desire, and most people are well-intentioned

and will, and that is not reason enough not to adopt codes. But, he wanted to be very clear about the direction the City is going and what the City is aiming to do. The City is seeking to build a better Indian Rocks Beach, an Indian Rocks Beach that reflects the different interests of a diverse community. With that in mind, it is important to understand how the City got here.

In 2011, the Florida Legislature enacted a change to Chapter 509.032(7) regulating public lodging establishments. In doing so, they added preemption language that said a local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

On June 11, 2011, the IRB City Commission passed a variety of land development regulations. One of those land development regulations substantively amended the definition of transient living to temporary lodging. In that amendment, transient living accommodations was defined to mean a building or structure use for lodging, boarding, or temporary residential occupancy by one or more individuals possessing a lease-hold term of less than three months and offered to the public at large for compensation at daily, weekly, or seasonal rates. That definition changed substantively to say of under a lease of less than one month, more than three times in any consecutive 12-month period.

In September 2012, the IRB City Commission adopted another ordinance revising that definition, attempting to revert it back to the previous definition.

In 2014, the Florida Legislature changed its preemption. It walked back its preemption. Ordinarily, cities enjoy home rule powers, meaning cities can regulate their communities in the way they wish them to look. Absent preemption by the Florida Legislature saying that they cannot. This preemption was walked back to say that a local law, ordinance, or regulation in 2014 may not prohibit vacation rentals or regulate the duration or frequency of rentals or vacation rentals. And again, the paragraph did not apply to local law, ordinance, or regulation adopted on or before June 1, 2011.

With that, it has been his advice, when his office was asked to scrutinize this issue, to advise that to the intent, the City had duration and frequency limitations that they were preempted as having been adopted after that date. As a result of that, between 2017 and 2018, this community had no fewer than five meetings. Those were meetings where it was an agenda item, and it came up several times on short-term rentals and how to proceed and what to adopt.

The City has the regime in place now, which functionally requires a rental company to register with the State, pay State taxes, complete a City application, pay a City business tax receipt fee, and identify the responsible party, and so forth.

City Attorney Mora stated in 2017-2018, he provided the City Commission with three options Coke Zero, Diet Coke, and Coke. Coke Zero was that the City was not going to do anything. Diet Coke was establishing some light regulations by making sure the City knew who the players were in the community. The Coke option was more robust by establishing

a vacation rental program that the City would monitor and administer with applications, potential inspections, and a more robust bureaucracy surrounding it. The City Commission considered the Coke revision but ultimately declined to go in that direction at that time. That said, policy decisions evolve, perceptions change, and the discussion this evening is to discuss what options the City has going forward and what the City wishes in going forward.

City Attorney Mora stated that this community could not outright prohibit short-term vacation rentals, which is clearly within Florida Statutes and in case law interpreting it. The City cannot newly regulate the duration or frequency of short-term rentals, which presents a challenge because it is the thing everybody wants to do. It is the most common sense solution for some, but it is not an option for the City now.

City Attorney Mora stated the City adapts, adjusts, and amends. The City's option could include many options sent to City Commissioners by constituents. The City Commission can look at regulating occupancy, the application process, noise, trash, parking, and many items already in the code. How does the City deploy those resources and those provisions to best serve this community?

Mayor-Commissioner Kennedy opened the public comment session.

Don House, 2104 Beach Trail, stated that as he read through the Staff Report provided, he noticed a couple of items missing. During the July 12, 2011 City Commission Meeting, there was a vote taken that if the City Commission had not taken that vote, the City would not be in the position that it is in today. He stated that two sitting members of the City Commission voted for that ordinance. During the September 19, 2012 City Commission Meeting, again, two sitting members of the City Commission voted positive that dug the hole a little deeper for the City. He stated that City Manager Mims was not the City Manager when these actions occurred. He said there was a reference in the Staff Report, but it was misleading or misguided information.

John Pfanstiehl, 448 Harbor Drive South, stated as far as he is concerned, the past is the past. He desires to put the strictest possible regulation into a new ordinance and then rigorously enforce it. The City Commission's actions, not the past, will show the residents how seriously the City Commission takes this issue. Short-term rentals in residential neighborhoods are *"the most determinantal issue in our community."* He could not agree with the Mayor more when she said that. Go down the Harbor Drives; there are nearly 100 homes and no hotel signs in resident yards. The signs are there because the residents are outraged, clearly showing that problems from these transient lodgings are widespread and not just a handful of these commercial businesses. The City needs to do two things at the very least now: (1) Incorporate the stricter enforcement elements of Flagler Short-Term Rental Ordinance, along with other city ordinances that have held up in court, and (2) Aggressively enforce all portions of Florida Statute 509 and other Florida Statutes.

Mr. Pfanstiehl stated in looking at this issue, three points are undeniable: (1) Lodging for transients is a commercial business and should be regulated as such, and they do not belong in neighborhoods zoned residential. Otherwise, the word residential has no means. The problems from these many thousands of transients invading residential neighborhoods

are not rare, they are not temporary, and they are not minor. IRB residents know many wonderful neighbors who were forced to leave their cherished homes because they could not take the constant anxiety and anger from having hundreds of strangers over a year seven feet from their property line. The argument of short-term rentals in residential neighborhoods should exist because they bring money into the City and its businesses. It is a red-herring. IRB and its businesses did just fine financially before this invasion of transients. (2) Action can and should be taken on this immediately. At least three City Commissioners need to take a leadership role. Propose the above actions and complete them before the end of the year. Right now, more homes once occupied by residents, and good neighbors, are being converted into commercial lodgings.

Mr. Pfanstiehl stated IRB's beloved City and its friendly residential neighborhoods are being rapidly decimated by the cancer of short-time rentals.

Jennifer Riley, 510 Janice Place, expressed her concerns with short-term vacation rentals (STRs) specifically safety concerns for her family and her neighbors. She stated she spoke before the City Commission in 2018, and has the same concerns, however, the number of STRs has increased since the pandemic restrictions have lifted. Therefore, there is more noise, more traffic, more trash, drunk people roaming the streets, drunk drivers, speeders, more partying, and so forth.

Mr. Riley stated she is not against STRs and she understands that this is a tourist State, and they are not going to be able to stop that. The State makes money off of STRs.

Mr. Riley stated IRB residents also deserve to be safe in their community and to know that the City and the Pinellas County Sheriff's Office are behind them to help resolve their issues with STRs and follow through.

Mr. Riley stated the ordinances need to be strictly enforced, and would like to see some new ordinances that would make a difference.

Steve VanLeeuwen, owns a STR at 601-2nd Street, and that his rental is four bedrooms, and he does not want the bad elements at his rental either. He would like to defend the STRs stating there are a lot of good STRs, like his. He stated as running a rental, most of them understand that they have to keep the place clean, organized, and he does not want parties either because he does not want bad reviews. He stated STRs who violate the code should be fined. He has not received one violation from the City nor has the Pinellas County Sheriff's Office been called to his STR.

Mr. VanLeeuwen stated everyone needs to understand what STRs do for a community. He thereafter broke down where the 13% hotel tax goes that his guests pay, and stated most of his guests frequent IRBs restaurants.

Maria Bello-Perez, 815 Gulf Boulevard, stated she loves Indian Rocks Beach and purchased her property in 2012. She runs a short-term rental that in the beginning, she only rented to pay for taxes and insurances, but now it is a business. She rents through VRBO but she makes her guests sign a lease and within that lease there is a paragraph about noise. *"The property is in a quiet residential area. For this reason we must stipulate*

that no large parties or excessive loud noise will be allowed after 11:00 o'clock at night according to City ordinance. This is a City enforced stipulation and may affect negatively the short-term market. We respectfully request your cooperation." She requires all guests to provide a photograph identification card. She stated her neighbors have her telephone number and she has asked them to call her if there are any concerns or issues with her place.

Mayor-Commissioner Kennedy stated the correct time for loud noise is 10:00 p.m., and not 11:00 p.m., as Ms. Bello-Perez stated.

Ms. Bello-Perez stated she would adjust her guest sign this evening.

Sara (LNU), 2704-2nd Street, stated she owns a small residential cleaning company that services close to 30 STR clients and has been in business since January 2020. Over the past two years, she has become very selective of the hosts that she serves, and that bottom line comes down to what she believes is occupancy. Airbnb allows an STR to host up to 16 bodies in a vacation rental, regardless of size. She has serviced homes that are 5,000 square feet, 3,500 square feet, and cottages that are a few hundred feet. It is the hardest to provide for a property that, regardless of whether it wants to host 16 plus bodies and that, is typically where they most often see parties. Being on the inside doing the cleaning service, they see a huge logistical problem for her organization in terms of trash alone. She has had to beg her hosts to reach out to the City for additional trash cans or hire third private hauling companies to collect anywhere from six to 12 more trash bags off the streets so garbage did not sit there while the new guests checked in or until it was trash day.

Ms. Sara stated that looking at occupancy is very important in terms of code enforcement. She thinks the biggest problem is occupancy because it generates more trash, and parties create noise issues.

Kelley Cisarik, 448 Harbor Drive South, stated she would like to give her time, along with 37 other residents, to Bob Copeland to speak.

City Attorney Mora stated that was permissible within the City Commission Rules. However, the rules state: *"that in public comment shall be limited to three minutes for each speaker, but a speaker for a group of persons shall have the right to address the City Commission for 10 minutes."* So, any time yielded to Mr. Copeland is 10 minutes, and those who have yielded their time to him do not have the opportunity to speak on a second occasion.

Bob Copeland, 447-20th Avenue, stated he is a 37-year resident and has been on many boards and committees. He provided the City Manager and City Attorney two weeks ago, a memo concerning short-term vacation rentals. This evening, he presented the City Manager with a PowerPoint Presentation with the memo and exhibits and the Judge's ruling from 2015 in Flagler County.

Mr. Copeland wanted to show the City Commission and the public:

1. There is a clear path out of this.
 2. There is a clear path for funding that is not burdensome.
 3. Establish a citizen committee specifically to address the short-term vacation rental ordinance to get it expedited and resolved.
- All are subject to City Commission review and adoption.

Mr. Copeland stated his memo provides a clear path for the City to get out of this problem by merely applying the rules, particularly under Florida Statute 509 that currently exists, the City's ordinance, as well as following what Judge Orfinger ruled on June 2, 2015, in the 30 Cinnamon Beach Way LLC, v. Flagler County, for which the 50 DCA upheld that appeal and sustained Judge Orfinger's ruling Flagler County to regulate anything except frequency and duration that was done June 2, 2016. The law of what is allowed for regulation under the Flagler County ordinance is almost seven years old, and many municipalities have mirrored it. He has provided the ordinances for the cities of Marathon and Anna Maria because they are similar in nature. They are islands, which have a unique structure, and beach-resident communities. Not communities that are solely hotels.

Judge Orfinger ruled in 2015 that municipalities can amend their short-term ordinance. The amendments will apply with limited exceptions to existing licenses and future short-term licenses.

The Florida Legislature, under Florida Statute 509, authorizes short-term rentals, transient housing, and public lodging. The City must follow the State Statute. There is a list of various statutes contained within F.S. 509 that also need to be followed. STRs cannot ask to be here under F.S. 509 and not follow all the regulations in F.S. 509.

Mr. Copeland pointed out some of the F.S. 509 regulations and emphasized that these were not all the regulations:

- F.S. § 509.141 - Ejection of Undesirable Guests
- F.S. § 509.143 - Disorderly Conduct on Premises
- F.S. § 509.143 - Incorporation of F.S. § 877.03 Breach of Peace; Disorderly Conduct

These statute provisions set a lower bar for enforcement than the laws regarding those issues for the general public in a residential area. The State set a special law to control improper public behavior in public lodging.

Mr. Copeland pointed out a Safety and Welfare Statute:

- F.S. § 509.2112 Public Lodging Establishments: three stories or more in height; inspection rules.

Mr. Copeland stated what has been missed often is when these investors decided to buy a property as an STR, they have chosen to convert it from a residential use to a commercial use. The commercial zoning code, the building codes, the commercial fire codes, and the commercial safety codes are much higher than for a residential building.

Commercial buildings, aka STRs, have to follow the same rules as commercial buildings, and he thinks that has been missed.

Pinellas County requires a document called a "conversion agreement" to be signed when a residential structure is changed to a commercial property. This document is used when a residence is converted to a medical office, a law office, a behavioral counsel office, etc. It has now been converted from a residential district to a commercial project. The developer signs that document to acknowledge, among other things, when it is a commercial property. There is the right to inspect at any time on generally reasonable notice. That is what these STRs are subject to in IRB. The City does not have the right to waive or modify State Statute.

Mr. Copeland stated:

- F.S. § 509.2112, Public lodging establishments three stories or more in height; inspection rules, Subsection (1) states every public lodging establishment that is three stories or more in height in the State file a certificate stating that any and all balconies, platforms, stairways, and railways have been inspected by a person competent to conduct such inspections and are safe, secure, and free of defects.
- F.S. § 509.215, Fire safety, states Public lodging establishment, which is of three stories or more, shall be equipped with an automatic fire suppression system.

Mr. Copeland stated several of these STRs were built as residential structures. Residential building codes do not require automatic fire suppression systems. He said they voluntarily decided to switch the structure to commercial use. They probably need to follow the commercial code, Florida Building Code — F.S. § 553.80. Residential standards are different than commercial standards.

- Florida Fire Prevention Code F.S. § 633.022.
- F.S. § 515.27 — Residential Swimming Pool Safety Act and the City's ordinance. He knows that several STRs do not comply with the City's ordinance regarding the barrier around the pool.
- F.S. § 509.101 — Maintenance of Guest Register. Florida Statute mandates that all public lodging keeps a guest register on-site.
- F.S. § 509.261 — Revocation or suspension of licenses; fines; procedure.
- F.S. § 509.271 — Prerequisite for issuance of municipal or county occupational licenses.
- F.S. § 509.281 — Prosecution for violation; duty of state attorney; penalties (2nd degree misdemeanor). It says if the division or its agent is aware of a violation of F.S. 509, they shall report it to the state attorney. The state attorney shall

proceed to have the proper information prepared and shall proceed to have the party arrested. It is mandatory.

Mayor-Commissioner Kennedy stated the City Manager, the City Attorney, and the City Commission did receive his memo and the exhibits.

Mr. Copeland stated if the City could fix off-street parking and address maximum occupancy, the City would have gone a long way to improve the STR problems.

R.B. Johnson, 1206 Beach Trail, stated that the City's current short-term vacation rental ordinance is simply not working. The City needs not a Coke or a Diet Coke version but a Red Bull version of a code. He suggests a three-prong approach: (1) Much stronger regulations and rules than the City currently has, (2) Enhanced administrative appurtenances to monitor the code paid for by an increased rental license or inspection fees, or even increased millage if that is necessary. Whatever it takes to pay for the administration of the new code, and (3) The big stick. Make repeated violations hurt via chronic nuisance punishment. Escalating fines should lead up to the threat of possible revocation of the owner's license. If the property owners are not walking in fear of this, they will keep acting the way they have been. They have been misbehaving in many cases for many years all over town. The problem is not just east of Gulf Boulevard. Many residents on the west side of Gulf Boulevard have the same issues. He owns an STR, a cottage that has been in his family for nearly a hundred years. It is tranquil because he rents to couples and small families. There is no noise almost at all there. But, the house on the other side of him rents to eight to ten people every week that has a huge outside deck with a large table that functions as a dining table with a couch and multiple chairs. It is basically their outdoor living room with a pool and hot tub. There is noise there all the time at odd hours at night and during the weekdays.

Mr. Johnson stated that the City's current ordinance on STRs does not address the west side of Gulf Boulevard. He said motels and condos have rules and regulations. He stated new larger houses are popping up on the west side of Gulf Boulevard and are being used as STRs. Those homes house large numbers of people who like to party, creating unnecessary noise because there are no rules for STRs on the west side of Gulf Boulevard. There need to be rules applied to them to relieve residents on the west side of Gulf Boulevard.

Ashley Russell, owner of 511 & 513 1st Street, stated she had been an STR owner for the past six years. She and her husband are small business owners, have a long-term rental business, are licensed contractors, and build homes. She does not want parties and does not allow more than six in her condos, which are two bedrooms and two bathrooms. She is happy to follow the regulations and pay fines if the City finds that her properties violate any regulations, such as large parties, trash issues, etc. She asked that the City not blanket and restrict all STRs because so many STR owners are good. She does care about Indian Rocks Beach and is active in her HOA. She has an excellent relationship with the neighbors and other neighbors. They know that they can come to her with any complaints. She has outstanding reviews online and caters her properties to young families.

Ms. Russell stated the City should start enforcing the ordinances that are in place versus trying to make new restrictions.

Robert Lincoln, 333-6th Avenue, stated the City should start enforcing the laws on the books. He has noticed that many properties sold as three bedrooms and two bathrooms and are now advertised on Zillow as six bedrooms, four bathrooms houses. The original houses have almost doubled without going through the permitting process. One of the properties advertised has three bedrooms downstairs, which is against the Florida Building Code. He thinks the City could probably rein in some of the STR proliferation, especially by the speculator, just by adhering to the Florida Building Code.

Mr. Lincoln stated there are two types of property management styles: (1) on-site property manager, where the owner is there when the renters are there, and (2) the property is maintained by a business or corporation and they rent out these properties, and they comment on the Airbnb ad that the property sleeps up to 17, 18 people. Having that many people at one property causes a parking issue.

Mr. Lincoln stated he hopes the City can address STRs through the Florida Building Code enforcement.

Sean Stover, 361 La Hacienda Drive, thanked the City Commission and the City staff for holding this public forum for the City's very passionate residents to understand what the City is currently doing or planning to do to address the City's genuine concerns about STRs. While the City continues to have and need rental properties within IRB, it is tough to tell a property owner what they can and cannot do for their property. It is vital for everybody to understand what they can do but, probably more importantly, what they cannot do within the current restrictions established for the City by the Florida Legislature. The steps that the City Commission has taken so far and those that the City Commission is considering for this very challenging and complex issue will go a long way to continue code and ordinance violations to provide safe accommodations for the City's visitors. To hopefully convince some property owners that they should not turn their properties into businesses and to minimize the risk of expensive litigation.

Mr. Stover stated in addition to what the City is doing. IRB residents should continue to communicate with the Florida Legislature and provide proof of the issues with STRs to understand what the City is up against. The City needs assistance to change the restrictions to determine what works best in IRB.

Mr. Stover stated that he wants to maintain the small-town charm and values that so many of his fellow residents cherish and want to protect. He also wants to see IRB continue to thrive, but he does not want to bring in multi-story condos, like in Sand Key, or turn the residential neighborhoods into hotels and corridors. He truly believes that by working together, the residents can develop a smart, cooperative, and balanced approach that will allow IRB to prosper in a way that will benefit the privileged residents of this paradise. The businesses that provide so much support to so many. The visitors who want to experience what IRB has to offer. The developers that even want to build here. To do this, the City needs strong leadership who will fight for IRB and make the tough and sometimes unpopular decisions that will benefit IRB as a whole. He wants to take this opportunity to

let the residents know that he can fill this role and that he has started to submit the appropriate documents to become a candidate for the IRB City Commission.

Wendy Leigh, 1214 Bay Palm Boulevard, stated she lives directly across the street from a party house with a miniature putt-putt golf in front of the house. She said often, there are 15 cars parked there. There is always a party with many people screaming "shots, shots" all night. She stated she does not have an issue with STRs. It is more about occupancy, capacity, noise, and parking.

Cynthia Espiritu, 207-23rd Avenue, stated she is an STR owner and said there are rules that STR owners and managers can implement to help avoid party situations. As an owner, she does not want her properties used as party houses because it is very hard on the property. Parties cause damage and complaints. STR owners can self-police themselves by having their own rules for their properties. For example, minimum age of 25 to rent, minimum stay, maximum of two cars, noise regulations, etc. She further stated they communicate with their guests before arrival.

Darlene Rusinowski-Cavanaugh, 450 Harbor Drive South, stated her family purchased the home in the 1980s, and her parents have lived there since then. Since the influx of STRs in the Harbor Drives, her family has noticed that crime has increased. Cars are parked everywhere, in front of their home, blocking the driveway, and on their lawn. People entered her parents' property without permission to see the dolphins in their backyard. Her parents had trouble getting medical supplies delivered, and emergency vehicles had difficulty getting to her parents' house.

Ms. Rusinowski-Cavanaugh stated many of the homes of the Harbor Drives garages have been converted to bedrooms and are now STRs.

Wanda Rusinowski, 450 Harbor Drive South, stated that people are going into her backyard looking for dolphins, and she is scared because she does not know her neighbors. People are coming and going in her neighborhood.

Patty Katz, 124-13th Avenue, stated she feels scared when she is on her porch, and people walk by and start calling her names, and the wife has to say, "stop it, stop it." She does not know if they have a mental issue, if they are drunk, or what their problem is. She never thought she would have to see that. She is scared when she walks her dog. There are drunk people driving golf carts, and they are loud. She is scared of that kind of behavior and is not used to that kind of behavior in her neighborhood.

Ms. Katz stated that she does not think there could be some solution for STRs, but she is hoping there can be. She just wants to be safe. She has invested hundreds of thousands of dollars in her home. She loves her home and neighbors and would like to stay.

Laura Stovie, 305 Harbor Drive, stated they purchased her home one year ago. She has some amazing neighbors here this evening and are so thankful for the "grandparents" (as she calls them) that all live around them because they do not have any small children around them. She expressed concern that children should not see golf carts with

inappropriate items. People who are renting STRs are looking for places where they can gather and party.

Beth McMullen, 481 Harbor Drive South, spoke of the significant increase of boating, jet skis, and wave runner activity on the Intracoastal Waterways brought on by the influx of STRs. She explained that the visitors do not obey the water rules, wake zones, or idle speeds. She asked how the City could bring these rules and regulations to the attention of the STRs.

Ruth Coopee, 104-11th Avenue, stated she is a full-time resident and an STR owner. She said she moved to IRB in 2009, and the community was very small, with most rentals being managed on-site or owned by the owner. That is why she bought her house because she is hoping to retire and live in the dwelling. Since she moved here, she has noticed a trend that out-of-state investors are buying up homes. The home is renovated and converted into an STR, and it is then managed by a corporation or company off-site. There is no one to supervise the STR locally. She feels that maximum occupancy needs to be addressed because she thinks that is what is causing the traffic, parking, and trash issues.

Teresa Pruchniewska, 316-6th Avenue, stated she bought her home in a residential area, and now it has become a commercial area. Her neighborhood should have no businesses because it is zoned residential, not commercial, and STRs are a business.

Scotti Vaughan, 301 Harbor Drive, stated she is frustrated with STRs because everyone keeps saying there is nothing the City can do. STRs are just not an IRB problem. It is a big Florida problem and certainly a beach problem. It is a national problem. The City and the residents need to unite with all these other communities and the rest of the State. The residents need a voice, and they need to take this up with the Florida Legislators and let them know that IRB needs control of its community back. The Florida Legislature should not have the right to take-away cities' home rule powers and be able to make these rules that affect municipalities. Rules are made, and they can be changed.

Ms. Vaughan stated the City Commission needs to let the residents know what to do. She noted the City has an army. Residents in every one of these communities in Florida have had it. The City has the vote and the power of the people. The City needs to tell them what to do. The City needs to give them a little guidance, and they will show up. They just want IRB back.

Skip & Wendy Beach, 428-18th Avenue, stated they just love the City, the fire district, and the sheriff's office. His wife mentioned that the City does not have fireworks on the 4th of July or New Year's Eve because of the trash left on the beach and the noise it makes that bothers the veterans and pets, which is twice a year, and that is enforced.

Max Pinero, 110-10th Avenue, stated if any studies have been done on the escalation of crime in the City over the last couple of years that could be attributed to STRs. If the City has not, he thinks it would be a good idea for the City at this time since the City has been talking about this issue since 2018. He bought his first house in IRB in 2006. He absolutely loves the community. He stated there is a lack of enforcement of garbage. He sees garbage cans out on days that they are not supposed to be. He has seen inspectors drive

by and give a warning two and three times to the same property. He thinks that trash violators should be cited. He stated on 10th Avenue, there are cars parked on the front lawns of two-bedroom homes. He said there are a lot of noise issues on 10th Avenue. He stated that all of these complaints should be tracked because if they are not followed, how can the problem be addressed?

Mr. Pinero stated he has a problem with irresponsible people that own homes and rent them out. He has a problem with irresponsible property managers that are not doing their jobs. They are causing a problem for the City and for the residents. That being said, he is an STR owner who manages various properties throughout the City. Most of his properties are within walking distance of his house. He is a hands-on STR owner. He stated the problem is with the absentee STR owners.

Mr. Pinero stated are STRs the real problem or is it the irresponsible property managers or owners the real problem.

Rod Baker, 364 Bahia Vista Drive, stated he is a resident and also owns an STR and said it is the difference in the owners in how STRs are run. He submitted to the City a five-point plan that will dramatically impact what is going on with STRs. (1) Use the application process to influence owner behavior. Right now, the application process is simple. It is a two-pager. It does not say what the City can expect from the owners. The City can set expectations about what the City wants to see in a good owner. (2) Use the ability of the City to mandate maximum occupancy per square footage. Nine-five percent of STRs are not problem homes. The repeat offenders are often housed with remote owners of mismanaged property management companies. This type of management often includes maxing out the occupancy. This leads to too many people making too much noise in overcrowded dwellings. Other cities in this county have regulations that limit the number of occupants based on the square footage. The City should enact a maximum occupancy per square footage for STRs. (3) Use the ability of the City to mandate maximum off-street parking places per guest. One of the most common complaints of residents is the parking overflow from STRs. (4) Enhance communication between the City and STR owners. (5) Establish a vacation rental stewardship board of citizens. Stewardship boards have been used historically in the City to effect change for positive. A vacation rental stewardship board could provide additional resources for controlling and improving harmony between residents and vacationers. The board could find out who is operating STRs without licenses and what are the best practices for the licensed STRs that are working.

Martha Timmons, 309-12th Avenue, stated she came to Indian Rocks Beach to retire. She built her home and obeyed every ordinance and rule when she built her home and was respectful to her neighbors. Since she has been living here, she has two STRs across the water from her and three STRs at the end of her water cul-de-sac that has just been converted. She stated two of the historic stone homes have been converted into STRs with pools. This community is on the precipice, and the City and its residents have to decide what kind of community it is. The City is a residential community, and the residents do not have rights here. Everybody else has rights to do whatever they want to do. She has seen 1,500 square foot houses with 20 (kids) occupants in it with people urinating off the dock into the Intracoastal Waterway. The sheriff's office is called to tell these visitors to calm down—what a waste of law enforcement resources and taxpayers' money.

Ms. Timmons stated this City needs to decide what kind of City is this — Clearwater, Treasure Island, party central, or a residential community.

Todd Shear, 456 Harbor Drive North, stated his family has had a second home in Indian Rocks Beach since 2015 that they rent with the intent to be able to spend more time there. He is very respectful and appreciative of the year-round neighbors on either side of him and across the street from them. They have his cell number, which is also posted on his house. He has never received a negative phone call or complaint from his neighbors or the City regarding his residence. His beach home is his happy place. He wants his family to be a positive part of this community and give back to the community. He wants to be here full-time one day.

Irene Campbell, 2702-1st Street, stated she is one of the residents that have called the sheriff's office several times because of the behavior of STRs. She was advised that her calls to the sheriff's office are not reported to the City.

Erika Dietz, 534 Harbor Drive North, stated she is also a resident and STR owner. She said so many of the issues that residents face, she, too, is concerned with. She does not want to be woken up at 2:00 in the morning and certainly does not want to be run over by a wreckless golf cart. One of the things the City is challenged with is that many of the residents enjoy some of the same activities. She would encourage everyone not to create a scapegoat and not vilify all STRs because unless someone knows that is where the problem is coming from, it can create a similar issue if everyone starts pitting neighbor against neighbor.

Ms. Dietz stated after speaking with several STR owners, they communicated to her that several of them put language in their Airbnb and VRBO listings that are very clear about what kind of community IRB is and what type of behavior is expected. They will not rent to people who will not adhere to that. They also put similar language into their lease agreements that set forth expectations. Some even have policies that clearly state if they receive a call from neighbors, there is no return of the security deposit, two calls --- they are charged more, a call from the sheriff's office --- they are evicted with no refund. These are STR owners who care.

Ms. Dietz stated that enhanced communication between the City and STR owners needs to be improved and recommended the City Commission establish a vacation rental stewardship board of citizens.

Ms. Dietz stated the problem is with irresponsible hosts. It is not about all STR properties.

Eddie Bie, 497-20th Avenue, stated he is a resident and owns an STR. He said a citizen's committee should be appointed and voted on this evening to be put together by STR owners and residents with ideas that guide STRs. The City does have the power to change these laws.

Mr. Bie stated he has an STR in Lutz with five bedrooms and seven bathrooms and is very careful about who he rents to. He does not allow parties, no one under 25 years, so there

are protections that STR owners can put in the lease agreements. There are good and bad STR owners.

Mr. Bie stated the City has to put rules in place and follow them. State Statutes are State Statutes, and the City does not have a choice but to follow the State Statutes.

Lee Wilkerson, 490 Harbor Drive North, stated the fabric of Indian Rocks Beach has been changing. A significant number of the City's long-term rentals have become short-term rentals over the last 10 to 12 years. The City is losing its balance and harmony. Properties on the west side of Gulf Boulevard are self-policing. They have to be. The fire district inspects them. They are under scrutiny, under a microscope. On the east side, in the residential areas, these are unpoliced rentals. In the hotels on the west side, the owners are on their properties daily, managing the people and the guests. These STR owners still expect the residents to police their rentals because they are not there during the day, and many are out-of-town owners. The platform is not going to enforce. The STR owners are not going to enforce it. Having fewer people in the units is against their economic best interest. Daily rentals require daily management and hourly management.

Mr. Wilkerson stated the City's long-term goal should be seeking legislation to allow local zoning control to come back to the City. The residential areas should be residential. The City should have accommodations for long-term rentals so that the City can have people work in the City's restaurants. Everyone is driving over the bridge, no one can afford to live in IRB now. Everything has been turned into a short-term rental, adding to the City's parking problem.

Mr. Wilkerson stated the City needs to get its zoning back first. The City and the residents need to get the Florida Legislature involved. The City needs to get some big money in the community behind the City and take little steps.

Michael Davis, 14130 Rosemary Lane, Largo, former resident of IRB, spoke about increasing the business tax receipt fee for STRs.

Madonna Steinlage, 400-18th Avenue, stated the City has no limit on the number of STRs a person or investor can own and asked if there was a way that the City could limit how many STRs a person or investor can own.

Matt Campo, 416-20th Avenue, spoke on percentage limits for STR owners/investors within the comprehensive plan and zoning code.

Wallace McMullan, City of Largo, Code Enforcement Officer, stated the City of Largo is also experiencing the same issues as Indian Rocks Beach with STRs. Mr. McMullan reviewed the problems that Largo is having with STRs.

Mayor-Commissioner Kennedy closed the public comment session.

City Manager Mims stated when the City Commission approved the FY2023 Budget, the part-time Code Enforcement Officer position was changed to full-time, which is already starting to show results.

City Manager Mims stated he and the Code Enforcement Division met with the City of Holmes Beach Code Enforcement Department members concerning STRs. He chose Holmes Beach because they have experience in dealing with STRs, have the same law firm as IRB, and have been successful in court cases in Holmes Beach with STRs.

City Manager Mims reviewed some of the rules that Holmes Beach has regarding STRs:

- Require an inspection before a license is issued to determine the number of bedrooms and other safety issues. The first inspection is free. The second inspection costs \$50, and the third is \$75. Inspections are done every two years.
- The primary goal is safety in residences.
- Bi-annual registration fee of \$545.
- One parking space per bedroom.
- A landline telephone is required in residence for safety and emergency reasons.
- Occupancy limit. Two people per bedroom or six with a cap of ten, whichever is greater.
- Occupancy limits are enforced through the viewing of online advertising.
- There is a sign in every STR stating that the renter is vacationing in a residential area. Please be a good neighbor keeping the noise to a respectful neighbor. A scan code on the sign takes the renter to Holmes Beach rules and regulations.
- Holmes Beach has a host compliance company that locates STRs that ensures STRs are registered with the State and cities.
- Holmes Beach has a checklist that the City will implement.

City Manager Mims stated one of the things that makes IRB different from Holmes Beach and other communities is that the City had several meetings on parking. As the City Commission considers amendments to the STR ordinances, unfortunately, there is no limit to where people can park and how a person can park in IRB — boats, cars, trailers, etc. If the City requires additional parking spaces on-site, they will rip out landscaping and put pavers or concrete down for parking spaces that will make the STRs look more like commercial property.

City Manager Mims stated one of the things that they have in Holmes Beach that IRB would need to address is drainage in residential districts because of flooding and sea level rising.

City Manager Mims reviewed the administrative steps taken since October 1st for STRs.

- Converted the part-time Code Enforcement Officer position to full-time.
- Code Enforcement has contacted all STR owners to ensure their contact information was correct. Of the approximately 265 STRs on the east side of Gulf Boulevard, 14 did not respond and received a notice of violation.

- Code Enforcement has compiled a consolidated contact list of STR owners.
- A postcard was mailed to each property owner advising that there would be a Special City Commission Meeting on November 15, 2022, at 6:00 p.m., to discuss short-term vacation rentals as well as in the City's newsletter.
- Within the City's newsletter, there was an open letter to VRBOs and operators concerning the rules and regulations that apply to VRBOs and general information that the City wanted the VRBOs and owners to know about.
- The Code Enforcement Officer Division confirmed that all STRs have the proper signage posted for contact information.
- Of the 265 STR, the City has identified ten problem properties where it has received complaints. Every single one of those properties received a visit from the Code Enforcement Division, which resulted in some interesting details that the City will deal with, like some converted garages that should not have been converted.

City Manager Mims reviewed items that the City could be done:

- *RFP for Special Magistrate.* The City would use a Special Magistrate instead of going through the Local Ordinance Violation Calendar, which is long and drawn out. A Special Magistrate is quick and fast and can cite a violator daily until the violator complies. However, this would be the third time the City has requested RFPs for a Special Magistrate.
- *Business Tax Receipts (BTR).* The City is limited on how far it can push those fees, but the registration fee differs. He stated the City Commission needs to revisit the entire BTR fee schedule at a later date.
- *Registration fee.* Holmes Beach has a registration fee, and IRB can implement a registration fee.
- *Host Compliance Company.* A host compliance company would be a huge benefit to the administration. The only issue would be with the budget.
- *Occupancy limit per bedroom.* Enforcement would not be on the ground, it would be through online advertisement. Holmes Beach determines occupancy through tax records and certificates of occupancy.
- *Parking Requirements.* The City Commission can require more parking for STRs. However, the STRs will probably rip up the landscaping in the front yard to meet the parking requirements.
- *Lobbying in Tallahassee.* The City is a member of the Florida of League of Cities (FLC). The FLC has five lobbyists and represents all cities in the State of Florida. He explained the mission and goal of the FLC. He stated the residents need to write to their Florida Legislators and let them know how they feel about STRs and the issues and problems they are having with them.

- *FEMA*. The City needs to address the FEMA issues like STRs converting their garages into living spaces.

City Manager Mims stated the City regularly cites people — STR owners and full-time residents- over the last few months aggressively over garbage and trash cans. The problem with STR properties is that the City has an issue with the amount of garbage they produce. Under the City Code, the Public Works Director has the authority to require additional trash cans, thus charging them a commercial garbage rate. He stated someone mentioned earlier that all STRs should pay the commercial rate. He noted the majority of STRs do not present garbage problems.

City Manager Mims reviewed the fine structure: \$150, \$300, and \$500. Five Hundred Dollars is the cap for fines in the State of Florida for these types of offenses. The City Commission could eliminate the \$150 and \$300 steps and go directly to \$500.

City Manager Mims recommended that the City Commission immediately authorize the Mayor to send a letter to the Fire District Board of Commissioners Chairman and encourage them to adopt their ordinance. One of the key parts of this is public safety in fire standards, whether it be sprinkler systems, fire extinguishers, or whatever requirements. He thinks it would be important for the City Commission to communicate directly to the Fire District Board of Commissioners and ask them to go forward with an ordinance where they would set up their inspection process. He stated that if that were a success and implemented, the City and Fire District would coordinate the inspection and determine the issues and what needs to be done for compliance.

City Manager Mims stated the City can restrict but cannot eliminate STRs.

City Manager Mims stated he does not believe that the City needs a short-term vacation rental committee because the staff has identified the items that need to be addressed that legally can be addressed that other cities are doing.

City Manager Mims stated he had heard comments and received emails about the City Attorney. He stated that he has worked around city attorneys for the better part of 40 years and has never worked around a more qualified law firm than the firm in that City Attorney Mora is a partner. He stated when people talk about bringing in an expert, the City has an expert, and his firm has successfully represented cities in litigation with STRs.

City Manager Mims stated he is very optimistic about where the City is with communications with STR owners.

PCSO Captain Michael Leiner stated he functions as a liaison between the various cities and the sheriff's office. He noted this is not just an issue for Indian Rocks Beach. In his experience working with multiple municipalities, the only ones that do not typically have a problem related to this are the ones that have something on the books before 2011.

Captain Leiner stated he heard some people saying they were afraid, but no one should be afraid. Everyone has to be comfortable in their community. The sheriff's office is here to help enforce things. That is their job. If someone has an issue, they should call the

sheriff's office. That is what they are here for. He does not want anyone to leave here and think they are bothering the sheriff's office.

Fire Chief Jeffery Davidson introduced Assistant Fire Chief Doug Hagley, who is responsible for organizing fire prevention and life safety issues. The Fire District has been working on an ordinance they want to enact District-wide. The Florida Fire Prevention Code does not allow the Fire District to inspect single-family homes or duplexes. However, when a single-family home or duplex is rented, it is no longer a single-family home. It falls under lodging so the Fire District can inspect those residences, and their number one thing is life safety. The Fire District wants to make sure, from a life safety perspective, that emergency personnel can see the addresses from the street. That there are fire extinguishers and smoke detectors, that the doors do not lock from the inside, that there is an emergency plan, and so forth. The Fire District can inspect a triplex or anything above. The Fire District does annual life safety inspections.

Fire Chief Davidson stated the Fire District would work with the City to incorporate their inspection program to identify any issues the STRs may have during their annual inspection or change in ownership.

Fire Chief Davidson stated the Fire District would like to make part of the registration application a life safety inspection by the Fire District.

CONSENSUS OF THE CITY COMMISSION FOR THE CITY MANAGER TO REPORT BACK TO THE CITY COMMISSION ON THE FOLLOWING ISSUES:

- ***HOST COMPLIANCE COMPANY***
- ***OCCUPANCY LIMIT***
- ***SPECIAL MAGISTRATE***
- ***IMPLEMENT REGISTRATION FEE***
- ***MAXIMUM PARKING REQUIREMENTS***

City Attorney Mora stated that regarding registration fees, there was a representation of the business tax receipt in another community. There is a distinction, and it is a distinction with a meaningful difference. This was presented to the City Commission in 2018 and 2019 when the City Commission first discussed this issue. It sounds like this community is moving toward a licensing program. The business tax receipt is not a license but a tax to operate in the City. To have a separate license where the City penalizes as one of the proposed solutions or increase the registration fee to capture better administrative charges or administrative costs associated with implementing this program, the City can do that. However, he would caution against what that number is here this evening because he, Finance Director, and the City Manager would need to look at the actual costs of administrating this and bi-annual inspections. So that the number is not later challenged and invalidated as arbitrary, capricious, and just punitive, which is a concern that the City could face.

City Attorney Mora stated \$500 a day is the statutory maximum under Florida Statutes 162.09. In a case in Miami Beach decided in September 2020, they had a fine schedule with penalties of \$20,000 for the first offense, \$40,000 for the second, \$60,000 for the third, \$80,000 for the fourth, and \$100,000 for each subsequent offense. The courts said that

was an excessive fine and a direct violation of the statute. It is \$500 daily if the person goes through a Code Enforcement Board or a Special Magistrate.

City Attorney Mora stated there could be an augmented registration fee; however, it would have to correlate to something to be best defensible as a ratio and not an arbitrary decision of this City Commission.

Vice Mayor-Commissioner Houseberg stated she would like the City to present a best practices booklet to each STR operator when they register that tells them all the rules and expectations that the City has for STRs and how to operate a rental in a residential area.

Redington Beach Mayor David Will stated they have problems with STRs in Redington Beach. He encouraged the City not to give up and aim high. Local governments are responsible for adopting regulations regarding permitted uses of land — that is called zoning. If the City of Indian Rocks Beach were to do something like that, there would be a public hearing where property owners could come and weigh in aye or nay. Because of a preemption that has been taken away by the Florida Legislature, municipalities cannot regulate short-term vacation rentals. No local elected official voted for or against short-term rentals.

Mayor Will stated the City could not and its residents cannot give up on this because it came from Tallahassee. All municipalities have been handcuffed on what they can do about STRs. Tallahassee can undo this and suggested everyone talk to their representatives.

Mayor Will stated the problem with what is happening with preemption is not whether a person is for or against STRs, it is the inability to make that decision. The decision has been made for the municipalities by Tallahassee. Right now, there is a bill ready for the Florida Legislature that will return municipalities' ability to weigh in on zoning and let municipalities do their jobs here. Municipalities must support that bill and talk to the City's State representatives and senators. Cities and residents should ask where they stand on this bill and why they take the people's voices out of the equation. Local voices should be making local choices.

Mayor Will stated the bill does not have a number, but he calls it "*Local Voices*." It has been introduced to the FLC, and they strongly support it.

Commissioner McCall stated he was very impressed with all the input from the citizens and the great ideas. He wanted to thank Mr. Copeland for providing the Anna Maria, Marathon STRs ordinances, and Flagler ordinance. He picked out a couple of items from those ordinances that he would like for the City Commission to take a look at:

City of Anna Maria

- *Lease addendum.* Rules for the city are attached to the lease agreement.
- *Occupancy limit.*
- *Education Program.* Training program for STR owners or property managers that basically outlines the rules of the city. Suggested the

City could prepare a video to be viewed annually, which would eliminate the excuse that they did not know.

- *Fire and Life Safety Codes.*
- *Bedroom Count.*
- *Bedroom Definition.* He liked the definition of a bedroom.
- *Parking.* The City Commission would need to discuss this in detail.
- *Grandfather Clause.*

CITY OF MARATHON

- *Suspension/Revocation.*
- *Review of STRs annually.*
- *Communications with STRs.*
- *Registration Fees. Increase registration fees.*
- *Inspections.*

Commissioner McCall stated at this point, the City needs to manage what it is dealing with. There are two fronts: what the City does on a day-to-day basis and Tallahassee.

Commissioner McCall stated in this room, there is a lot of passion and ideas, and some could be punitive. The City Commission has to weigh what the City can do for residents to help manage what it deals with.

Commissioner McCall asked if litigation was brought against the City would the taxpayers pay for that litigation?

City Attorney Mora stated the City is insured through an insurance carrier, and he does not know what the City's policy says with its insurance carrier that handles litigations. However, the City's insurance carrier had picked up different claims, such as employment claims, trips and falls. He does not know. Some cities had reservations specific, or declarations pages within their insurance policies specific to Bert Harris Act claims. Holmes Beach had specifically purchased Bert Harris insurance.

City Attorney Mora stated in the City of Holmes Beach in 2015 and 2016, they adopted companion ordinances that ultimately set forth the short-term rental regime that was discussed at some length by the City Manager and otherwise today. That short-term rental regime included licenses based on the number of bedrooms, which the number of bedrooms, then, in turn, licensed the number of occupants and inspections for that with the vacation rental certificate, etc. Holmes Beach was challenged on two fronts. The first was a preemption challenge saying that F.S. 509.032 basically said a municipality could not do this. The court did not entertain that argument. The second argument they had and the crux of the other 27 different lawsuits and 62 claims that Holmes Beach faced were under the Bert J. Harris Act. The Bert J. Harris Act is F.S. 90.001, and what the Bert J. Harris Act provides is a cause of action where an action of government, ordinance, or resolution inordinately burdens a person's reasonable investment expectation in a person's property. They argued that they bought this to market it and rent it. Many of their claims were based on the occupancy restriction as violating their property rights. Those suits were pending when the City Commission last discussed this issue, and he owed it to his client to make the City Commission aware of the risks.

City Attorney Mora stated Holmes Beach did prevail on its occupancy restrictions, but why it prevailed is important. In 2009, in their comprehensive plan (constitution for the city's land development regulations), Holmes Beach had already introduced the idea of the occupancy in bedroom restrictions that were later codified in 2015 and 2016 in their land development regulations. He stated this predates this occupancy restriction and is not something new that Holmes Beach could not have done in the first place because the comprehensive plan only said they would do it.

City Attorney Mora stated his job is to make sure that the City Commission knows the risks that it is taking and what it is up against. There have been a lot of discussions this evening about residential and commercial zones and Euclidean zoning, *"a legal term as we have always known zoning to exist. The commercial stuff is over here, the industrial park over there, and my home is over here, and there is a reason for that."*

City Attorney Mora stated that F.S. 509, public lodging, the Florida Building Code, and the Fire Code define "occupancy" differently. So, a commercial occupancy for fire code purposes is actually not a commercial occupancy for purposes of the Florida Building Code and potentially not for ADA.

Commissioner McCall stated the City Commission has to balance both. In his opinion, there are definitely some things that the City can do. The City can help manage the STRs, but it has to stay within its legal confines.

City Attorney Mora stated the City cannot regulate the duration or frequency of STRs. There are a lot of things that the City can do or try. He is not advising the City Commission that the law says the City cannot do something; when he refers to legal issues, they are just issues. They are not obstacles, and they are not prohibitions. The prohibitions are in F.S. 509.0327(b).

Commissioner Hanna thanked everyone for coming this evening and for their comments, and Mr. Copeland for his work and research on STRs. He stated F.S. 509 sounds to him that is how the Florida Legislature slipped STRs in the residential areas. He said STRs are commercial properties not by zoning but by usage. It is the usage that is in question. Based on F.S. 509 and the Flagler County lawsuit, those are right under the commercial umbrella, which means fire codes, occupancy, parking spaces, golf carts, etc. There is a pathway and a way for the City to manage the STRs. The City can establish rules to control noise, occupancy, trash, and traffic, which are the main items that residents have heartache over including him. However, the City must look at the Bert Harris Act because it coincides with this issue.

Vice Mayor-Commissioner Houseberg stated residents need to feel safe in their homes with STRs around them. Safety is a huge issue, and something needs to be done. The unruly activity happening in the community should not be tolerated.

Vice Mayor-Commissioner Houseberg stated this evening was a good start, but she feels that the City is still in baby steps. There is a lot more that the City can do. There are many more items that the City Commission can add to an ordinance to feel safer and better in this environment.

Mayor-Commissioner Kennedy thanked the grassroots efforts that started up. She thanked the good vacation rentals in the community that are good neighbors. There are over 420 cities in the State of Florida, and one-fourth of them have lost their grandfather clause. IRB is not alone in it.

City Manager Mims recapped the City Commission's consensuses:

- Hire a Host Compliance Company.
- Implement Registration Fee.
- Occupancy Limits.
- Send a letter to the Chairman of the Board of Commissioners encouraging the Board to enact a Fire Prevention & Life Safety Ordinance regarding STRs.
- Parking Restrictions.

Commissioner Bond stated he feels that there are few different parking issues that need to be addressed Citywide.

City Manager Mims stated the City Commission had reviewed parking at length. After that, reviewed parking issues discussed by the City Commission previously. He said if the majority of the City Commission wanted to revisit parking, he would do it. However, he does not see the need for it.

THERE WAS NO CONSENSUS TO DISCUSS PARKING.

Mayor-Commissioner Kennedy stated it is very important to contact the Florida Legislature and stay in contact with them because there are bills annually on STRs, especially on removing the grandfather clause all together.

2. ADJOURNMENT.

MOTION MADE BY VICE MAYOR-COMMISSIONER HOUSEBERG, SECONDED BY COMMISSIONER McCALL, TO ADJOURN THE MEETING AT 9:25 P.M. UNANIMOUS APPROVAL BY ACCLAMATION.

December 13, 2022

Date Approved

Joanne Moston Kennedy, Mayor-Commissioner

ATTEST: _____

Deanne B. O'Reilly, MMC, City Clerk

/DOR

**AGENDA ITEM NO. 6A
QUASI-JUDICIAL HEARING**

RESOLUTION NO. 2022-07

Lot mowing or clearing, providing for approval and endorsement of all assessments as finally fixed and adjusted for the property located at 1216 Bayshore Boulevard.



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

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

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

MEMORANDUM

TO: Mayor Joanne “Cookie” Kennedy
Vice Mayor Denise Houseberg
Commissioner Joe McCall
Commissioner Jude Bond
Commissioner Phil Hanna

CC: Gregg Mims, City Manager
Randy Mora, Esq., B.C.S., City Attorney

FROM: Erica F. Augello, Esq., B.C.S., Code Enforcement Attorney *eta*

DATE: December 8, 2022

RE: Hearing on Assessments for Lot Mowing

Mayor, Vice Mayor, and Commissioners:

The City’s Code requires property owners to trim vegetation on their property and otherwise keep the premises clean and free of debris, trash, and other noxious matter.¹ If a property owner fails to maintain the property in such a fashion, the City may take steps to abate the property and charge the owner an assessment commensurate with the cost to the City to do so.²

Once the City completes the work in connection with the abatement of the property and upon proper notice to the necessary parties, “the city commission will meet to hear and determine any objections or defenses that may be filed in writing to the assessment of the amount thereof.”³ After the hearing is held, “[t]he city commission shall by resolution approve and endorse all assessments as finally fixed and adjusted at [a public hearing]. Such assessment shall, from the date of such confirmation, constitute a lien on the respective lot or parcels of land or other real property upon which they are levied... All persons who fail to object in writing to the proposed assessment in the matter provided in this article shall be deemed to have consented to and approved the assessment.”⁴

¹ § 26-61, City Code

² §§ 26-63, City Code

³ § 26-64, City Code

⁴ §26-65, City Code

Attached to this Memorandum is Resolution 2022-07 and corresponding Exhibit A – the Assessment List for Lot Mowing. The property owner or agent listed on the Assessment for Lot Mowing has failed to maintain the property per the City’s Code and has caused the City to abate the property and assess the listed costs for doing so. In this case, the property owner, Mr. Clemmer, is deceased. However, the City has been in contact with his next of kin, Diane Clemmer, regarding the status of the property. Ms. Clemmer has failed to maintain the property as required, and the City now seeks to recover its costs.

Staff recommends the Commission approve Resolution 2022-07.

**CITY OF INDIAN ROCKS BEACH
RESOLUTION NO. 2022-07**

**A RESOLUTION OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA,
RELATING TO LOT MOWING OR CLEARING, PROVIDING FOR
APPROVAL AND ENDORSEMENT OF ALL ASSESSMENTS AS FINALLY
FIXED AND ADJUSTED.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF INDIAN ROCKS
BEACH, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED, AS FOLLOWS:**

- 1) That the lot as described by the schedule attached hereto and made a part hereof were found to need mowing or clearing pursuant to the requirements of Chapter 26, Article III, Nuisances, of the City of Indian Rocks Beach City Code.
- 2) That said lot was mowed or cleared and a roll or list (Exhibit A) has been prepared showing the names of the owners of property upon which the nuisances have been abated and opposite such names a description of each lot proposed to be assessed for the cost of expense of abating such nuisance and the amount proposed to be assessed against each lot.
- 3) Notice of hearing has been published by the City Clerk not less than fifteen (15) days from the date of such public hearing in a newspaper regularly published and in general circulation within the said municipality, the City Commission of said municipality will meet to hear and determine any objections or defenses that may be filed in writing to said assessments of the amount thereof.
- 4) The said public hearing was held at the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, on the 13th day of December 2022, at 7:00 p.m.
- 5) After the aforesaid public hearing, this Resolution as it applies to one owner herein shall either be confirmed or not confirmed as to the Assessment List for Lot Mowing in Exhibit "A", attached.
- 6) Any assessment may be paid at the Indian Rocks Beach Finance Department, in full, without interest, within thirty (30) days after adoption of this resolution by the City Commission.
- 7) After thirty (30) days, improvement liens shall be filed with the Circuit Court as a lien against the parcels as listed in Exhibit A, attached, with a simple interest rate of ten (10) percent per annum plus filing fees until paid in full.
- 8) This resolution shall be in full force and effect immediately after its adoption and approval in the manner provided by law.

PASSED AND ADOPTED this 13th day of December 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

EXHIBIT "A" — RESOLUTION NO. 2022-07

ASSESSMENT LIST FOR LOT MOWING

| Name of Owner | Legal Description | Mowed/Cleared | Amount Assessed | Amount Paid |
|--|-------------------------|--|-----------------|-------------|
| Clemmer, Robert V. Est C/O Clemmer, Diane 9450 E. Turner Camp Rd Inverness, FL 34453-1152 | 01-30-14-42048-087-0220 | 01/20/2021 City of Indian Rocks Beach Property Cleanup | \$1,114.74 | |
| Clemmer, Robert V. Est C/O Clemmer, Diane 9450 E. Turner Camp Rd Inverness, FL 34453-1152 | 01-30-14-42048-087-0220 | 02/18/2021 City of Indian Rocks Beach Administrative Fee | \$100.00 | |
| Clemmer, Robert V. Est C/O Clemmer, Diane 9450 E. Turner Camp Rd Inverness, FL 34453-1152 | 01-30-14-42048-087-0220 | 02/21/2022 A Cut Above Lawn Services Cleaup/Bee Removal | \$600.00 | |
| | | | | |



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785

www.indian-rocks-beach.com

Administrative
727 595 2517
727 596 4759 (Fax)

Library
727 596 1822

Public Services
727 595 6889
727 593 5137(Fax)

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED NO. 7016 3560 000 8713 6669**

November 14, 2022

Clemmer, Robert V. Est
C/O Clemmer, Diane
9450 E. Turner Camp Road
Inverness, FL 34453-1152

**RE: 1216 BAYSHORE BOULEVARD
PARCEL #01-30-14-42048-087-0220**

Dear Ms. Diane,

On January 19, 2021, the property located at 1216 Bay Shore Boulevard, Indian Rocks Beach, Florida, and legally described as Indian Beach Re- Revised 1st Addition, Block 87, Lot 22, was cleaned up and mowed by the City of Indian Rocks Beach, and the amount assessed by the City is \$1,814.74.

A hearing will be held by the Indian Rocks Beach City Commission on **Tuesday, December 13, 2022, at 7:00 p.m.**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, to approve the final assessment.

If you desire to either object or feel that you have a defense(s) to this assessment, you must appear at the aforementioned hearing or submit in writing your defense(s) to the Indian Rocks Beach City Clerk, City of Indian Rocks Beach, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, 33785, or e-mail: doreilly@irbcity.com. All correspondence must be received by the City Clerk no later than Tuesday, December 13, 2022 by 2:00 p.m.

If you have any questions, please do not hesitate to contact Mike Kelley, Code Enforcement Officer, 727-595-2517.

Sincerely,

CITY OF INDIAN ROCKS BEACH


Deanne B. O'Reilly, MMC, City Clerk

/DOR

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|--|
| <ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) DIANE CLEMMER</p> <p>C. Date of Delivery 11/30/22</p> |
| <p>1. Article Addressed to: Cierrer, Robert V. Est C/O Clemmer, Diane 9450 E. Turner Camp Road Inverness, FL 34453-1152</p> | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> |
| <p>2. Article Number (Transfer from service label) 7016 3560 0000 8713 6669</p> |  |
| <p>PS Form 3811, July 2020 PSN 7530-02-000-9053</p> | <p>Domestic Return Receipt</p> |

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee
 \$

Extra Services & Fees (check box, add fee as appropriate)

Return Receipt (hardcopy) \$

Return Receipt (electronic) \$

Certified Mail Restricted Delivery \$

Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage
 \$

Total Postage and Fees
 \$

Sent to
 Clemmer, Robert V. Est
 C/O Clemmer, Diane
 Street and Apt. No., or PO Box No.
 9450 E. Turner Camp Road
 City, State, ZIP+4®
 Inverness, FL 34453-1152

INDIAN ROCKS BEACH FL 33785
 NOV 15 2022
 150 Bay Palm

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

O'Reilly, Deanne

From: Mims, Gregg
Sent: Tuesday, December 13, 2022 8:36 AM
To: _Commission
Cc: Mora, Randy (City Attorney); O'Reilly, Deanne; Kelley, Mike
Subject: FW: Clemmer Notices-
Attachments: Clemmer Notices.pdf

Commissioner,

Good morning. Please find attached additional information for tonight's agenda item #6A. The information includes notices, photo's etc.

Have a good day.

Brently Gregg Mims, City Manager
City of Indian Rocks Beach
1507 Bay Palm Boulevard
Indian Rocks Beach, Florida 33785
Phone: (727) 595-2517
Fax: (727) 595-4627
Website: www.indian-rocks-beach.com

"Don't Let Yesterday Take Up Too Much Of Today" Will Rogers

All government correspondence is subject to the public records law.

CITY OF INDIAN ROCKS BEACH

Petitioner,

v.

ESTATE OF ROBERT V
CLEMMER

PARCEL # 01-30-14-42048-087-0220

PROPERTY ADDRESS:

1216 BAY SHORE BLVD
INDAN ROCKS BEACH, FL 33785

LEGAL DESCRIPTION:
INDIAN BEACH RE-REVISED 1ST
ADD BLK 87, LOT 22

AFFIDAVIT OF POSTING

STATE OF FLORIDA
COUNTY OF PINELLAS

I, Michael Kelley, Code Enforcement Officer for the City of Indian Rocks Beach, who after being duly sworn, deposes and says that on 10/12/2020, a Code Violation Notice was posted at the above-property address.

FURTHER AFFIANT SAYETH NOT.

Dated this 12TH day of OCTOBER, 2020

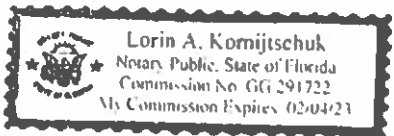

Michael Kelley, Code Enforcement Officer

PERSONALLY appeared before me, the undersigned authority, duly authorized to administer oaths and take acknowledgments, Michael Kelley, who first being duly sworn, acknowledges before me that the information contained herein is true and correct. He is personally known to me and has produced a Florida Driver's License as identification and did take an oath.

WITNESS my hand and official seal this 9 day of February, 2020 ^{ck}


Notary Public
My Commission Expires: 2.4.2023

ii





Administrative
727-595-2517
727-595-4627 (Fax)

Building Planning & Zoning
727-517-0414
727-595-4753 (Fax)

City Clerk
727-517-0314
727-595-4827 (Fax)

Libraries
727-596-1822
727-595-4627 (Fax)

Public Services
727-595-6444
727-595-5157 (Fax)

10/12/2020

**CODE VIOLATION NOTICE
220102784**

PROPERTY OWNER, AGENT, OR CUSTODIAN OF

PROPERTY LOCATED AT 1216 BAYSHORE BLVD, INDIAN ROCKS BEACH 33785
PARCEL # 01-30-14-42048-087-0220

The property described above is in violation of Sec 26-61 of the Indian Rocks Beach City Code. The specific violation, verified by an inspection, pursuant to F.S. 162 on October 9th, 2020 is as follows.

PROPERTY UNKEPT. GRASS , WEEDS , AND HEDGES OVERGROWN

The condition listed above constitutes a municipal code violation. It is the responsibility of the owner, agent, or custodian of the property to see that this violation is abated or corrected within 10 CALENDER DAYS OF RECIEPT OF THIS NOTICE pursuant to Florida Statute 162.

If the Code Enforcement Officer finds that this violation is not corrected within this time period the city manager or designee shall have the grass, and weeds cut , hedges trimmed , and the property brought into compliance with municipal codes. The property owner, agent, or custodian will be assessed the actual cost plus administrative fee's of \$100.00 .

Respectively

A handwritten signature in black ink, appearing to read 'Mike Kelley', is written over a horizontal line.

Mike Kelley – Code Compliance Officer – City of Indian Rocks Beach – 727-595-2517

10-12-2020

1216 Bayshore Report Posting

NMA











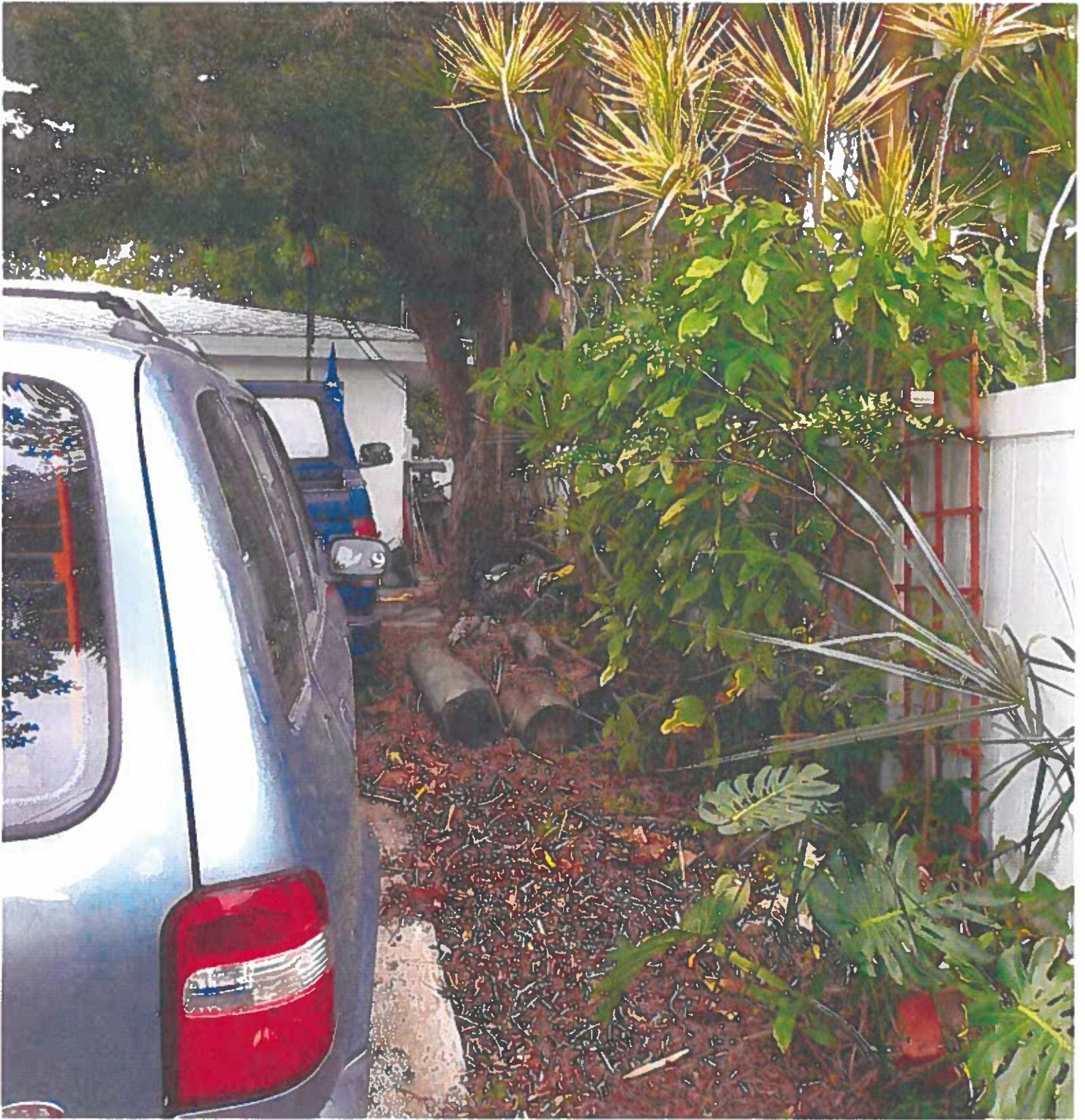






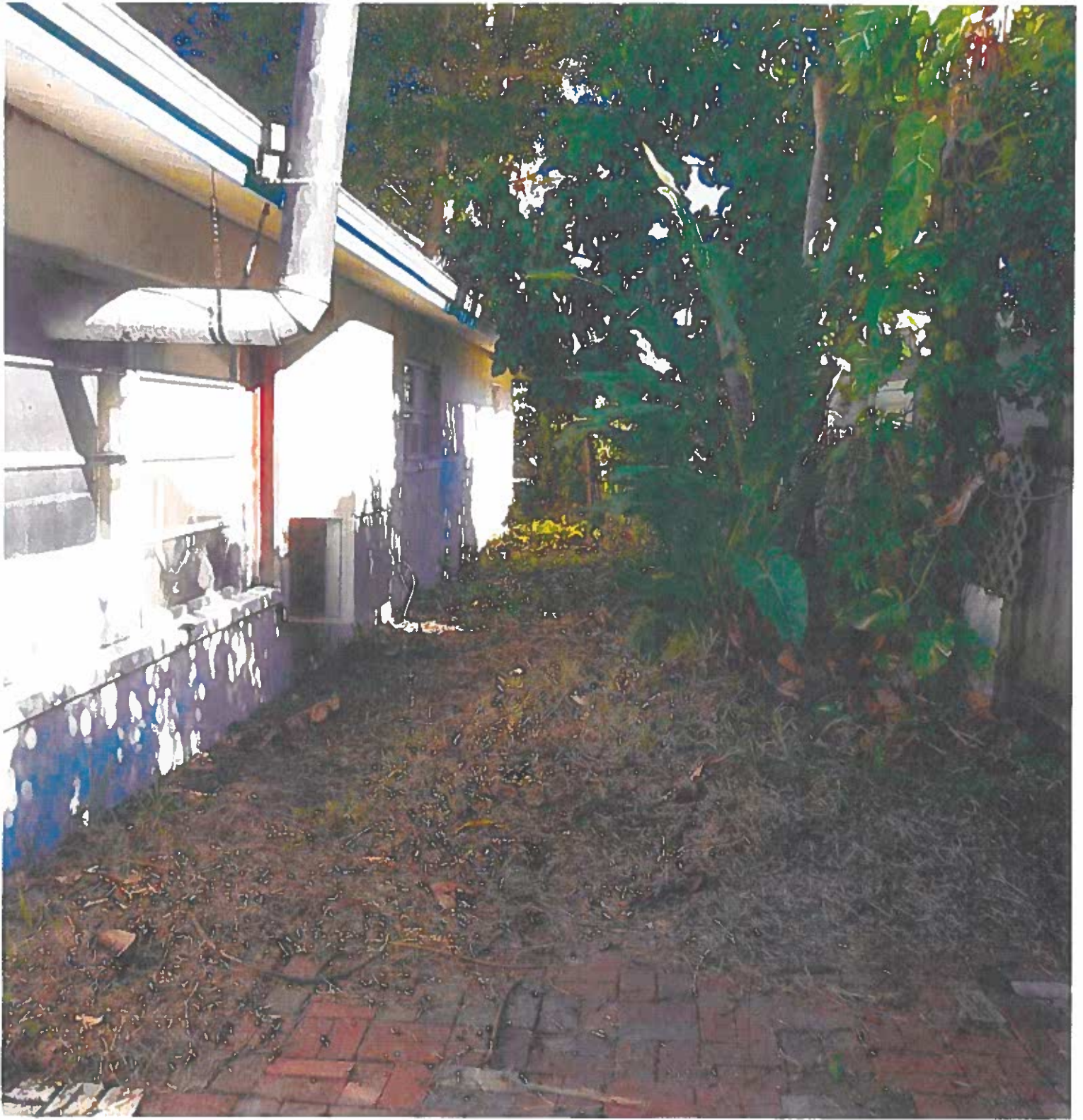










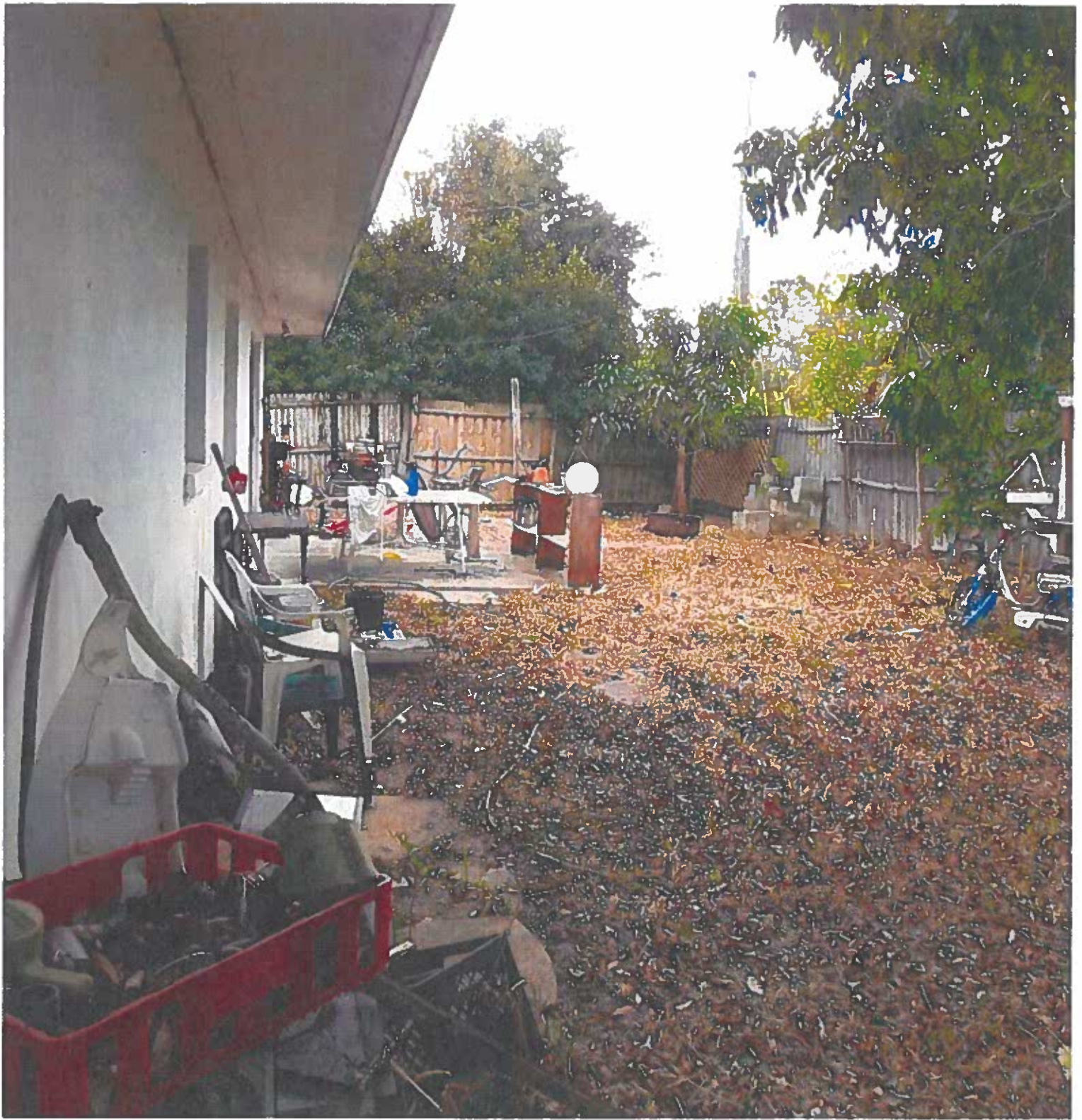




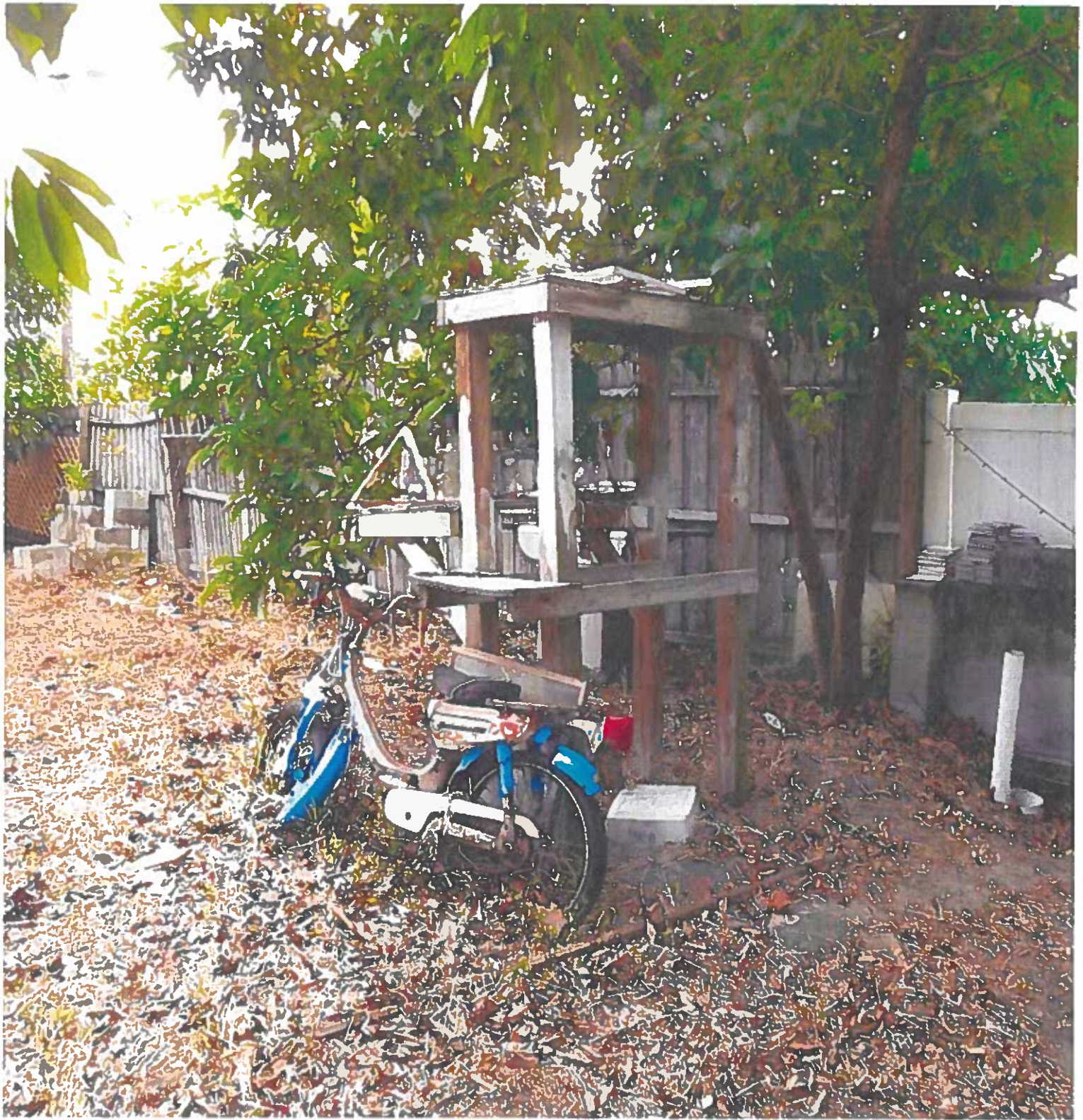
















Administrative
727 595 2517
727 506 4759 (Fax)

Library
727 506 1822

Public Services
727 595 6889
727 593 5137 (Fax)

COURTESY LETTER

03/29/2022

CASE #200102930

DIANE CLEMMER

CONCERNING THE PROPERTY AT 1216 BAYSHORE BLVD , INDIAN ROCKS BEACH
PARCEL # 01-30-14-42048-087-0220
LEGAL DESCRIPTION - INDIAN ROCKS RE-REVISED 1ST ADD BLK 87, LOT 22

A situation involving an ordinance violation has been brought to the attention of the City of Indian Rocks Beach, Code Enforcement Officer, which involves you. You may not be aware of these particular codes, so I am taking this step to advise you personally.

Diane, I am bringing this matter to your attention as you are listed as the executor of this property with the Pinellas County Property Appraiser. The two vehicles in the driveway must be brought into running condition and registered with current tags or be moved in garage or removed from property. Also the property is becoming again severely overgrown, please have property brought into compliance with municipal codes.

If you could address this issue it will be appreciated, and we can avoid any further action. Any questions please don't hesitate to call. 727-595-2517

Thank you, in advance for your cooperation.

Respectfully,


Mike Kelley
Code Enforcement Officer - 727-595-2517



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785
www.indian-rocks-beach.com

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

Library
727-596-1822

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

COURTESY LETTER

06/09/2022

CLEMMER, ROBERT V EST
C/O CLEMMER, DIANE

CONCERNING THE PROPERTY 1216 BAY SHORE BLVD , INDIAN ROCKS BEACH, FL
PARCEL # 01-30-14 -42048-087-0220
LEGAL DESCRIPTION – INDIAN BEACH RE-REVISED 1ST ADD BLK 87, LOT 22

Diane, the property mentioned above after being neglected for quite some time was cleaned up by the City of Indian Rocks Beach in February of 2021. The property has been assessed and has an overdue balance of \$1814.74 for the cleanup. Itemized invoice is attached. As the overseer of the estate the city is presenting you with the opportunity to settle this invoice.

This issue must be addressed in the next 15 days to avoid any further action. Any questions please don't hesitate to call. 727-595-2517

Thank you, in advance for your cooperation.

Respectfully,

Mike Kelley
Code Enforcement Officer - 727-595-2517

City of Indian Rocks Beach
 Attention: Elizabeth Atkinson
 1507 Bay Palm Blvd
 Indian Rocks Beach, FL 33785

Date: 2/18/2021
 Invoice # 1013

Bill To
 ROBERT V CLEMMER
 1216 BAYSHORE BLVD
 INDIAN ROCKS BEACH, FL 33785

Ship To
 ROBERT V CLEMMER
 1216 BAYSHORE BLVD
 INDIAN ROCKS BEACH, FL 33785

P.O. #
 Terms: Due on receipt

Ship Date: 2/18/2021
 Due Date: 2/18/2021
 Other:

| Item | Description | Qty | Price | Amount |
|----------------|---|------|--------|--------|
| Maintenance | PROPERTY CLEAN UP AT 1216 BAYSHORE BLVD INDIAN ROCKS BEACH, FL 33785 | | 600.00 | 600.00 |
| Maintenance | A CUT ABOVE LAWN SERVICE 2/11/2021 FORCE ACCOUNT LABOR | | 652.52 | 652.52 |
| Maintenance | 7 EMPLOYEES 28 HOURS | | | |
| Maintenance | TIPPING FEES 5.41 TONS @ \$42.00 P.T. | 5.41 | 42.00 | 227.22 |
| Maintenance | VEHICLE 5 HOURS @ \$47.00 P.H. | 5 | 47.00 | 235.00 |
| Administrative | ADMINISTRATIVE FEE | | 100.00 | 100.00 |

REFERENCE: CITY CODE CHAPTER 25 ARTICLE III
 SECTION 25-63


001-115-004-000-000 Lot Mowing


| | |
|------------------|------------|
| Subtotal | \$1,814.74 |
| Sales Tax (0.0%) | \$0.00 |
| Total | \$1,814.74 |
| Payments Credits | \$0.00 |
| Balance Due | \$1,814.74 |

City of Indian Rocks Beach

www.indian-rocks-beach.com

727-595-2517
 727-596-4759

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY | |
|--|---|--|
| <ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <i>X Diane Clemmer</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> | |
| <p>1. Article Addressed to:</p> <p><i>Diane Clemmer 9450 E Turner Camp Rd INVERNESS, FL 34453</i></p> | <p>B. Received by (Printed Name) <i>DIANE CLEMMER</i></p> | <p>C. Date of Delivery </p> |
| | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below.</p> | |
| <p>9590 9402 6808 1074 4995 27</p> | <p>Service Type</p> <p><input checked="" type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery</p> | |
| <p>2. Article Number (Transfer from service label)</p> <p>7016 3560 0000 8713 6508</p> | <p>Restricted Delivery</p> | |
| <p>PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt</p> | | |

| U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only | |
|---|---|
| <p>For delivery information, visit our website at www.usps.com</p> <p>OFFICIAL USE</p> | |
| <p>Certified Mail Fee</p> <p>\$ _____</p> | <p>Postmark Here</p>  |
| <p>Extra Services & Fees (check box, add fee as appropriate)</p> <p><input checked="" type="checkbox"/> Return Receipt (hardcopy) \$ _____</p> <p><input type="checkbox"/> Return Receipt (electronic) \$ _____</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery \$ _____</p> <p><input checked="" type="checkbox"/> Adult Signature Required \$ _____</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery \$ _____</p> | |
| <p>Postage</p> <p>\$ _____</p> | |
| <p>Total Postage and Fees</p> <p>\$ _____</p> | |
| <p>Sent To <i>Diane Clemmer</i></p> <p>Street, Apt. No., or PO Box No. <i>9450 E Turner Camp Rd</i></p> <p>City, State, ZIP+4® <i>INVERNESS, FL 34453</i></p> | |
| <p>PS Form 3800, April 2015 PSN 7530 02 000 9047 See Reverse for instructions</p> | |



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785
www.indianrocksbeach.com

Administrative
727 595 2517
727 596 4759 (Fax)

Library
727 596 1822

Public Services
727 595 6889
727 593 5137 (Fax)

COURTESY LETTER

08/11/2022

DIANE CLEMMER

CONCERNING THE PROPERTY 1216 BAY SHORE BLVD, INDIAN ROCKS BEACH, FL
PARCEL # 01-30-14-42048-087-0220

LEGAL DESCRIPTION - INDIAN BEACH RE-REVISED 1ST ADD BLK 87, LOT 22

Diane, the property mentioned above after being neglected for quite some time was cleaned up by the City of Indian Rocks Beach in February 2021. The property has been assessed an overdue balance \$1814.74 for the cleanup, which includes labor, equipment and dump fees. Itemized invoice is included. As the overseer of the estate the city is presenting you with the opportunity to settle this invoice. The city will begin proceedings to lien the property if we don't reach a suitable settlement agreement by Friday, 8/19/2022.

Thank you, in advance for your cooperation.

Respectfully,

Mike Kelley
Code Enforcement Officer - 727-595-2517



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

Library
727-595-1822

Public Services
727-595-0669
727-595-5137 (Fax)

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED NO. 7016 3560 000 8713 6669**

November 14, 2022

Clemmer, Robert V. Est
C/O Clemmer, Diane
9450 E. Turner Camp Road
Inverness, FL 34453-1152

**RE: 1216 BAYSHORE BOULEVARD
PARCEL #01-30-14-42048-087-0220**

Dear Ms. Diane,

On January 19, 2021, the property located at 1216 Bay Shore Boulevard, Indian Rocks Beach, Florida, and legally described as Indian Beach Re-Revised 1st Addition, Block 87, Lot 22, was cleaned up and mowed by the City of Indian Rocks Beach, and the amount assessed by the City is \$1,814.74.

A hearing will be held by the Indian Rocks Beach City Commission on **Tuesday, December 13, 2022, at 7:00 p.m.**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, to approve the final assessment.

If you desire to either object or feel that you have a defense(s) to this assessment, you must appear at the aforementioned hearing or submit in writing your defense(s) to the Indian Rocks Beach City Clerk, City of Indian Rocks Beach, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, 33785, or e-mail: doreilly@irbcity.com. All correspondence must be received by the City Clerk no later than Tuesday, December 13, 2022 by 2:00 p.m.

If you have any questions, please do not hesitate to contact Mike Kelley, Code Enforcement Officer, 727-595-2517.

Sincerely,
CITY OF INDIAN ROCKS BEACH,

Deanne B. O'Reilly, MMC, City Clerk

/DOR



City of Indian Rocks Beach

1101 E. Palm Beach Blvd, Indian Rocks Beach, Florida 33787

Clemmer, Robert V Est
C/o Clemmer, Diane
9450 E Turner Camp Rd
Inverness, FL 34453

Master

11/14/2022
US POSTAGE \$000.57⁰



ZIP 33785
011E11679255



City of Indian Rocks Beach

1101 E. Palm Beach Blvd, Indian Rocks Beach, Florida 33787



7036 3560 0000 8713 666
7036 3560 0000 8713 666

Master

11/14/2022
US POSTAGE \$007.82⁰



ZIP 33785
011E11679255



2022/11/14 10:45



Administrative: 727-581-2007
Liquor: 727-581-2000
Public Works: 727-581-2000
Police: 727-581-2000

**CERTIFIED MAIL, RETURN RECEIPT
REQUESTED NO 7016 3500 000 8713 6669**

November 14, 2022

Clennor, Robert V. Esq.
C/O Clennor Davis
9450 E. Turner Camp Road
Inverness, FL 34453-1152

**RE: 1216 BAYSHORE BOULEVARD
PARCEL #01-30-14-42048-087-0220**

Dear Ms. Diano,

On January 19, 2021, the property located at 1216 Bay Shore Boulevard, Indian Rocks Beach, Florida, and legally described as Indian Beach Rd Revised 1st Addition Block 07 Lot 22, was cleaned up and mowed by the City of Indian Rocks Beach, and the amount assessed by the City is \$1,814.74.

A hearing will be held by the Indian Rocks Beach City Commission on **Tuesday, December 13, 2022, at 7:00 p.m.**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, to approve the final assessment.

If you desire to either object or (a) that you have a defense(s) to this assessment, you must appear at the aforementioned hearing or submit in writing your defense(s) to the Indian Rocks Beach City Clerk, City of Indian Rocks Beach, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida, 33786, or e-mail clerk@irbcity.com. All correspondence must be received by the City Clerk no later than **Tuesday, December 13, 2022 by 2:00 p.m.**

If you have any questions, please do not hesitate to contact Mike Kolluy, Code Enforcement Officer, 727-585-2517.

Sincerely,
CITY OF INDIAN ROCKS BEACH
Deanne S. O'Reilly
Deanne S. O'Reilly, MMC, City Clerk

10/31

2022/11/14 10:38

CERTIFIED MAIL

2022/11/14 10:38

1. Check the return address on the envelope.
2. Place your return address on the envelope.
3. Attach this card to the back of the envelope, or on the flap if you are using a self-sealing envelope.
4. Address the envelope to the recipient.
5. Attach this card to the back of the envelope, or on the flap if you are using a self-sealing envelope.

Clennor, Robert V. Esq.
C/O Clennor Davis
9450 E. Turner Camp Road
Inverness, FL 34453-1152

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return this card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 Cierner, Robert V. Est
 C/O Clemmer, Diane
 5450 E. Turner Camp Road
 Inverness, FL 34453-1152



9590 9402 6808 1074 4993 74

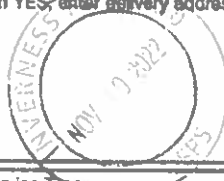
2. Article Number (Transfer from service label)

7016 3560 0000 8713 6669

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X *[Signature]* Agent Addressee
 B. Received by (Printed Name) C. Date of Delivery
 DIANE CLEMMER 11/30/22
 D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:



3. Service Type
- | | |
|--|---|
| <input checked="" type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® |
| <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ |
| <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery |
| <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Signature Confirmation™ |
| <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery | |
| <input type="checkbox"/> Insured Mail | |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |

Domestic Return Receipt

Kelley, Mike

From: O'Reilly, Deanne
Sent: Friday, December 9, 2022 1:02 PM
To: 'erica@cityattorneys legal'; Mora, Randy (City Attorney)
Cc: Kelley, Mike
Subject: FW: IRB - From Diane Clemmer

Please see below.

Deanne Bulino O'Reilly, MMC, City Clerk
City of Indian Rocks Beach
1507 Bay Palm Boulevard
Indian Rocks Beach, Florida 33785
doreilly@irbcity.com
727/595-2517

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Diane Clemmer <dc8980544butterflies277@gmail.com>
Sent: Friday, December 09, 2022 12:58 PM
To: O'Reilly, Deanne <doreilly@irbcity.com>
Cc: Diane Clemmer <dc8980544butterflies277@gmail.com>
Subject: IRB

I was never notified of anything? Your code person refused to talk to me? I was lied to about he was at lunch? Then he's on vacation? Bye the woman answering the phone? I asked for the codes that might be a problem? Never got any answers? Sent a bill a year later for \$1,814.74 for cutting grass and cleaning? I cleaned up the mess they made? I want to know who the seven people were that took everything out of the yard? The house was also broken into? The Sheriff said Kelly refused to talk to him about it? I asked him to STAY off the property, quite often! The no trespassing signs were taken down? That law was also broken? The garden hoses were taken,,,and the garbage cans I pay for every month were gone! Missing items from the inside of the house,also! The cherry trees are just that! TREES! Not a hedge? The plants that were worth money were destroyed! What was stolen from the house and yard were also MONEY and no one else's business? The bunny cage and other things, actually we're mine! I had already rented a truck and cleaned up the front yard! I was told he had nothing to do with the back yard! Couldn't be seen from the front of the house! Fencing also gone? Or no one would be trespassing to the back yard! I was only told the vehicles could not be their just this year? After your bill? Is this how you now do business down there? I have been there 69 years! Shame how you transplants now do the people? We do pay YOUR Salary's!
Clemmer

12/7/2022

Ms.

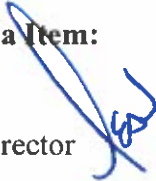
**AGENDA ITEM NO. 6B
PUBLIC HEARING**


**ORDINANCE NO. 2022-07
SECOND AND FINAL READING**

An amendment to Section 74-63 of the Code of Ordinances pertaining to the operation of vessels within the City's coastal waters in the Gulf of Mexico; providing for the incorporation of recitals; providing for approval of an amendment to the City's Code to establish a public bathing beach area limited to manually propelled vessels only to conform to Florida's Statutes and Administrative Code.

INDIAN ROCKS BEACH CITY COMMISSION AGENDA MEMORANDUM

MEETING OF: December 13, 2022 **Agenda Item:** 6B

SUBMITTED AND RECOMMENDED BY: Dean A. Scharmen, Public Works Director 

APPROVED BY: Brently Gregg Mims, City Manager 

SUBJECT: Ordinance No. 2022-07
IRB Buoy System / Waterway Markers Ordinance

BACKGROUND:

During the June 14, 2022 City Commission Meeting, the City Commission held discussions about the IRB Buoy System / Waterway Markers.

As the City Commission is aware, the City has had a permitted Buoy System / Waterway Markers in the Gulf of Mexico, within Pinellas County since 1996 and in April 2022, the City was contacted Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, Boating and Waterways who indicated that they had received a report from a neighboring jurisdiction that the IRB Buoy System may not comply with the current standards for a boating restricted area as outlined in Florida Statute 327.46.

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

In the case of IRB, the City had two-options:

1. Rescind Ordinance 591, which established the No Anchoring Zone and remove all the current Buoys in place.
2. Adopt a new Ordinance, which would designate the area as a swim zone and a boating-restricted area.

It was the consensus of the City Commission at the June 14, 2022 Meeting, to have staff prepare a revised Ordinance which would designate the area as a swim zone and a boating-restricted area.

The attached Ordinance on this matter is being presented for the 2nd and Final Reading.

FISCAL IMPACT:

Within the FY 22/23 Operational Budget, funding has been appropriated to accomplish the tasks of removing and re-installing the Buoy System.

“Estimated” costs are as follows:

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

ORDINANCE NO. 2022-07

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, PROVIDING FOR AN AMENDMENT TO SECTION 74-63 OF THE CITY'S CODE OF ORDINANCES PERTAINING TO THE OPERATION OF VESSELS WITHIN THE CITY'S COASTAL WATERS IN THE GULF OF MEXICO; PROVIDING FOR THE INCORPORATION OF RECITALS; PROVIDING FOR APPROVAL OF AN AMENDMENT TO THE CITY'S CODE TO ESTABLISH A PUBLIC BATHING BEACH AREA LIMITED TO MANUALLY PROPELLED VESSELS ONLY TO CONFORM TO FLORIDA'S STATUTES AND ADMINISTRATIVE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 74-63 of the City's Code of Ordinances presently regulates the operation of vessels in the City's coastal waters; and

WHEREAS, Section 327.46 (1) (b) 3. a., Florida Statutes, provides municipalities and counties with authority to regulate the permitted uses in the coastal waters of the Gulf of Mexico by adopting an ordinance establishing a "vessel-exclusion zone," if the area is designated as a "public bathing beach" or "swim area"; and

WHEREAS, through the Florida Administrative Code ("FAC") the Fish and Wildlife Conservation Commission articulates rules, pursuant to its rulemaking authority in Fla. Stat. § 327.41, to establish the permissible parameters for uniform waterway regulatory markers; and

WHEREAS, F.A.C. 68D-23.103 (3) (f) defines a "vessel-exclusion zone" as "an area from which all vessels or certain classes of vessels are excluded"; and

WHEREAS, though a "public bathing beach" is a cognizable category of a "vessel - exclusion zone," neither Florida Statutes nor the FAC define a "public bathing beach"; and

WHEREAS, Section 166.021, Florida Statutes acknowledges the City's governmental, corporate, and proprietary powers enabling it to conduct municipal government, perform municipal functions, and render municipal services, and that the City may exercise those powers for municipal purposes except when expressly prohibited by law; and

WHEREAS, the City's presently established "No-anchoring zone," does not conform to a permitted category within the State of Florida's existing legal framework; and

WHEREAS, the City's "No-anchoring zone" has historically been designated by a series of permitted regulatory markers and buoys visibly establishing its perimeter to advise mariners and the beachgoing public alike of its dimensions and the permissible activity therein; and

WHEREAS, in order to bring its local regulations into alignment with state statutes and

regulations, while continuing to balance the interests of vessel operators and the beachgoing public the City must amend its code; and

WHEREAS, the City Commission finds that this Ordinance is in the best interests of the City's residents and property owners and furthers the public interest in protecting life, safety and property values.

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Indian Rocks Beach, Florida, that:

SECTION 1. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. That Section 74-63 ("No-anchoring zone") of the Indian Rocks Beach City Code, is amended to read as follows:

Section 74-63 No Anchoring Zones

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

~~(b) Anchoring vehicles prohibited. It is unlawful for any person to anchor a watercraft within the restricted water area described in subsection (a) of this section and which is clearly marked by buoys.~~

Section 74-63. Public Bathing Beach Area.

(a) Purpose. This section is enacted for the purpose of protecting public bathers from dangers caused by increased and accelerated vessel operations along the beaches and shorelines of the City of Indian Rocks Beach. The purpose of this Section is to protect public bathers that bathe, wade, lounge, congregate, and engage in recreational activities in and on the shallow waters of the city. The city desires to ensure that such activities are conducted in a manner that is safe for any residents and visitors that engage in such activities, with protection from potential boating accidents, vessel congestion, and other navigational hazards. The city intends to designate the entire area from its northern corporate boundary to its southern corporate boundary and extending three hundred feet (300') from the city's shoreline and into the Gulf of Mexico, as a public bathing beach.

(b) Definitions. For purposes of this Section, the following terms, phrases, words, and derivations shall have the meaning given herein.

- 1) Boating restricted area. An area of the city's waters within which the operation of vessels is subject to specified restrictions or from which vessels, or certain classes of vessels, are excluded.
- 2) Buoy. Any device designed to float which is anchored in the water and used to convey a message, carry a sign, or support a mooring pennant.
- 3) Manually Propelled Vessels Only. All vessels other than those propelled by oars, paddles, or poles are prohibited from entering the marked area. Vessels equipped with sails or a mechanical means of propulsion may enter the marked area only if the sails or mechanical means of propulsion is not in use and, if possible to do so, the mechanical means of propulsion is tilted or raised out of the water.
- 4) Regulatory Marker. A device used to alert mariners to various regulatory matters such as permissible horsepower, speed, wake, or entry restrictions.
- 5) Vessel-Exclusion Zone. An area from which all vessels or certain classes of vessels are excluded.

(c) Public Bathing Beach Permitting Manually Propelled Vessel Only.

- 1) Public Bathing Beach Established. There is created a boating restricted area designated as a public bathing beach, wherein only manually propelled vessels are permitted. This area shall extend three hundred feet (300') from the city's shoreline into the Gulf of Mexico, and run parallel along the entirety of the city's shoreline abutting the Gulf of Mexico.
- 2) Public Bathing Beach Markers. This boating restricted area shall be designated by regulatory markers affixed to buoys, which shall be designed, installed, replaced, and maintained in conformity with any applicable state and federal regulatory requirements. The City may install, replace, and maintain the requisite regulatory markers and buoys, or cause such activity to occur.

(d) Violations.

- 1) Any operator or person in command of any motorized, wind-powered, or other artificially propelled vessel who intentionally or negligently navigates into the designated public bathing beach shall be deemed to have violated the restrictions set forth in this Section, which shall constitute a noncriminal infraction as set forth in F.S. § 327.73. Such restriction shall not apply to any

watercraft entering the vessel-exclusion zone as a result of an emergency or to any official emergency vessels.

- 2) The mooring of any vessel, watercraft, or other foreign object to markers or buoys placed by the city or other authorized governmental body shall be prohibited and punishable by a fine pursuant to Section 1-15 of the city's code of ordinances.
- 3) It shall be unlawful for any person to anchor a watercraft within the public bathing beach, which area shall be marked by buoys and permitted regulatory markers.

(c) Enforcement. Enforcement of the restrictions relating to the operation of any motorized, wind-powered or other artificially propelled vessel shall be by law enforcement officers from the Florida Fish and Wildlife Conservation Commission or County Sheriff Department, using the Uniform Boating Citation as provided for by applicable Florida law. Any other violations of this Section may be enforced by a city code enforcement inspector.

SECTION 3. If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

SECTION 4. All other ordinances of the City of Indian Rocks Beach, Florida, or portions thereof, which conflict, with this or any part of this Ordinance are hereby repealed.

SECTION 5. This Ordinance shall become effective upon adoption by the City Commission of the City of Indian Rocks Beach, Florida.

ADOPTED ON FIRST READING on the 9th day of November, 2022, by the City Commission of the City of Indian Rocks Beach, Florida.

PUBLISHED the 30th day of November, 2022 in the Tampa Bay Times newspaper.

ADOPTED ON SECOND AND FINAL READING on the 13th day of December, 2022, by the City Commission of the City of Indian Rocks Beach, Florida.

ATTEST:

Deanne B. O'Reilly, MMC, City Clerk

Joanne Moston Kennedy
Mayor-Commissioner

APPROVED AS TO FORM:

Randol D. Mora, City Attorney

AGENDA ITEM NO. 7A


ORDINANCE NO. 2023-01


FIRST READING

Amending Chapter 50, “Solid Waste”, Article II “Collection and Disposal”, Division 3. “Fees and Charges”, Section 50-91 “Fee schedule”, to remove the fee schedule from the codified portion of the city’s ordinances; providing for the subsequent adoption of a resolution setting forth the applicable fee schedule.

INDIAN ROCKS BEACH CITY COMMISSION AGENDA MEMORANDUM

MEETING OF: December 13, 2022 **AGENDA ITEM:** 7A

SUBMITTED BY: Dan Carpenter, Finance Director 
Dean Scharmen, Public Services Director

APPROVED BY: Brently Gregg Mims, City Manager 

SUBJECT: Ordinance No. 2023-01 – First Reading - Amendment to City Code Section 50-91, Solid Waste – Fee Schedule.

BACKGROUND:

The City's current contract for Curbside Recycling will expire on December 31, 2022. During the October 11, 2022, City Commission Meeting the Commission discussed several aspects of the recycling environment that have contributed to increased costs, including market for recyclables, fuel costs, labor shortages and inflation. Based on a high participation percentage from IRB residents and the desire to continue to recycle wherever possible for positive environmental impact, it was determined by the Commission that regardless of the increase to cost, recycling was too important of an effort to consider elimination at this time.

At the November 8, 2022, City Commission Meeting by unanimous consensus the Commission agreed to continue the IRB recycling program. The Commission unanimously provided authority to the City Manager to negotiate a new agreement with Waste Connections to continue recycling.

ANALYSIS:

The approved negotiation between the City Manager and Waste Connections led to an agreement for continued curbside residential and commercial recycling. The rates mirror those approved under a request for proposal recently completed by the City of Madeira Beach and match the discussion of rates at the November 8, 2022, City Commission Meeting. The successfully negotiated Agreement provides as follows:

2 Year Contract Extension

\$11.53 per month for S/F Home - (same as the current Bid that was provided from Waste Pro to Madeira Beach)

\$28.63 per pick up for Condominiums

Current CPI language in contract remains the same

\$389,015.40 annually

A 10% increase in Solid Waste rates will be necessary to generate the additional \$150k annually to cover the increases to Recycling costs. Current residential rates of \$62.50 bi-monthly will be increased to \$68.75, and commercial rates will be increased 10% for all commercial containers.

MOTION:

Move to approve/deny Ordinance No. 2023-01 on first reading to increase solid waste fees 10.00% for residential/multifamily and 10.00% for commercial solid waste customers effective February 1st, 2023.

**CITY OF INDIAN ROCKS BEACH
ORDINANCE NO. 2023-01**

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING CHAPTER 50, "SOLID WASTE", ARTICLE II "COLLECTION AND DISPOSAL", DIVISION 3. "FEES AND CHARGES", SECTION 50-91 "FEE SCHEDULE", TO REMOVE THE FEE SCHEDULE FROM THE CODIFIED PORTION OF THE CITY'S ORDINANCES; PROVIDING FOR THE SUBSEQUENT ADOPTION OF A RESOLUTION SETTING FORTH THE APPLICABLE FEE SCHEDULE; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith TO THE EXTENT OF SUCH CONFLICT, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, s. 180.13, Florida Statutes, authorizes a municipality to establish just and equitable utility rates; and

WHEREAS, the City of Indian Rocks Beach's solid waste service currently operates as an enterprise fund; and

WHEREAS, it is the intent of the enterprise fund to cover the cost of doing business; and

WHEREAS, pursuant to recent contract negotiations, the costs of operating the solid waste service as an enterprise fund has increased; and

WHEREAS, staff is recommending an increase to all portions of the Fee Schedule; and

WHEREAS, the Indian Rocks Beach City Commission desires to increase the solid waste fees for FY 2022/2023, effective October 1, 2022; and

WHEREAS, the Indian Rocks Beach City Commission desires to remove the corresponding fee schedule from its codified ordinances, and instead provide for their adoption and memorialization in a resolution.

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

SECTION 1. Section 50-91, of Chapter 50, "Solid Waste", Article II, Collection and Disposal, Division 3, Fees and Charges, of the Code of Ordinances of the City of Indian Rocks Beach, Florida, is hereby amended as follows:

Sec. 50-91. Fee schedule, Solid Waste Receptacles, and Frequency of Service.

(a) All fees for the City's collection and disposal of garbage, trash, and other solid waste shall be established by the City Commission, through the adoption of a resolution.

(a) ~~Basic fees.~~ The fees for pickup of garbage and trash are as follows:

- (1) Single unit rate, two times per week, per month \$22.78
- (2) Multi-unit rate, two times per week, per month \$21.65
- (3) Commercial business establishment, five cans, two times per week, per month \$28.44
- (4) Dumpster rates:
 - a. Two yards, two times per week, per month \$219.92
 - b. Four yards, two times per week, per month \$401.05
 - c. Six yards, two times per week, per month \$569.19
- (5) Each additional pickup:
 - a. Two yard dumpster, one time per week, per month \$110.01
 - b. Four yard dumpster, one time per week, per month \$200.56
 - c. Six yard dumpster, one time per week, per month \$284.39
 - d. Commercial can pickup, one time per week, per month \$14.23
- (6) Single one-time pickup:
 - a. Two yard dumpster \$110.01
 - b. Four yard dumpster \$200.56
 - c. Six yard dumpster \$284.39

~~(b) Additional per-unit fee.~~ In addition to the fees set forth in subsection (a) of this section, the amount of \$8.47 per unit per month shall be added to each of the basic

~~fees for subsections (1) and (2), and the amount of \$9.61 per unit per month shall be added to the basic fees for subsections (3), (4), (5), and (6).~~

~~(e) (b) Election to use cans instead of dumpsters.~~ Multifamily and/or commercial business establishments with less than four units may elect to utilize cans instead of dumpsters. Multifamily and/or commercial units with four or more units may be required to utilize dumpster service instead of cans at the discretion of the public services director. In this event, the dumpster rate will apply.

~~(d) (c) Authority of city to determine type and frequency of service.~~ The city reserves the right to determine the number of cans, the number and size of containers, and/or the frequency of disposal, with applicable charges, during any period of the year, for all customers. The city reserves the right to determine the location, accessibility and direction of pickup.

~~(e) (d) Single-family unit and multiunit defined.~~ For the purpose of this section and the imposition of corresponding fees established by resolution, a single-family unit shall be defined as a unit that is either a single-family residence or one unit of a duplex or other multifamily residence, each of which may or may not be owned separately, which are billed separately and not on a bulk rate for solid waste services. A multiunit shall be defined as two or more units owned by one or more people, which are not on a bulk rate for solid waste services and for which only one bill for services provided is mailed for all units.

~~(f) (d) Compactor and front-end loader dumpsters.~~ Compactor dumpsters and front-end loader dumpsters will be installed upon written request from the property owner or business owner and upon approval by the city manager. Any fees assessed in addition to those adopted by resolution will be based on rental charges, pull charges and dumping fees. ~~In addition, there shall be an administrative charge of \$258.72 per month for each compactor dumpster in excess of ten cubic yards. For compactor dumpsters and front-end loader dumpsters less than ten cubic yards, the administrative fee shall be \$129.37 per month per dumpster.~~ Billing shall be on a bimonthly basis.

~~(g) (e) Commercial construction roll-off dumpsters.~~ Commercial construction roll-off dumpsters shall be installed by the owner or the general contractor for all new construction and major remodeling projects. ~~There shall be an administrative charge of \$250.00 collected at the time of building permit issuance.~~

SECTION 2. Applicability. This ordinance shall apply in the City of Indian Rocks Beach.

SECTION 3. Inclusion in the Code of Ordinances. It is the intent of the City Commission that the provisions of this ordinance shall become and be made a part of the City of Indian Rocks Beach's Code of Ordinances, and that the sections of this ordinance may be renumbered or re-lettered and the word "ordinance" may be changed

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to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so declared.

SECTION 5. Effective Date. This ordinance shall take effect on February 1, 2023.

PASSED ON FIRST READING on the 13th day of December 2022, by the City Commission of the City of Indian Rocks Beach, Florida.

PUBLISHED on the ___ day of _____ 202__ in the Tampa Bay Times.

PASSED AND ADOPTED ON SECOND AND FINAL READING on the _____ day of _____ 2023, by the City Commission of the City of Indian Rocks Beach, Florida.

Joanne Moston Kennedy, Mayor- Commissioner

ATTESTED BY:

Deanne B. O'Reilly, MMC, City Clerk

AGENDA ITEM NO. 8A

WORK SESSION ITEMS: NONE

AGENDA ITEM NO. 9

OTHER BUSINESS

AGENDA ITEM NO. 10

ADJOURNMENT.