MINUTES
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING

The Indian Rocks Beach Regular City Commission Meeting was held on ***Tuesday, June 22, 2010***, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

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

PRESENT: Mayor-Commissioner R.B. Johnson
Vice Mayor-Commissioner Daniel J. Torres
Commissioner Joanne "Cookie" Kennedy
Commissioner Terry Hamilton-Wollin
Commissioner Phil J. Hanna
City Manager Charles S. Coward
City Attorney Maura J. Kiefer
City Clerk Deanne Bulino O'Reilly
Public Services Director Dean A. Scharmen

1A. PRESENTATIONS - REPORTS OF the Pinellas County Sheriff's Office.

Sergeant Joseph Gerretz reviewed the May 2010 Crime Analysis Report, and addressed the City Commission questions and/or concerns.

Mayor Johnson expressed concern regarding the buoy zone where anchoring and fishing is prohibited, and advised that he has reported this activity to the Pinellas County Sheriff's Office several times in the past few weeks.

Sergeant Gerretz explained that boats are allowed to be anchored in the swim zone as long as they are not occupied as it has been explained to him; however, he will research to make sure that is correct for Indian Rocks Beach.

City Manager Coward advised that staff will be bringing a modification to the ordinance possibly to the next Commission Meeting.

City Attorney Kiefer requested Sergeant Gerretz provide her with the source of his information and what other cities are doing for her to research as well.

2. PUBLIC COMMENTS.

Bert Valery, 447-18th Avenue, thanked Public Services Director Scharmen and his Department on the well done job in repairing the potholes on Gulf Boulevard in the bike lane. Mr. Valery also addressed the issue of the local preference vendor provision in the bidding process, which gives extra points to local businesses, and requested that the City Commission establish such a policy for the City.

3. ORGANIZATIONAL REMARKS. None.

4A. REPORTS OF THE CITY ATTORNEY:

WHITEHURST LAWSUIT: City Attorney Kiefer reported that a Request for Reconsideration was filed; however, there has been no response at this time from Judge Linda Allen. She further stated Judge Allen has not yet signed any order on the denial of the Motion for Summary Judgement.

4B. REPORTS OF THE CITY MANAGER:

MAY 2010 FINANCIAL REPORT: City Manager Coward presented the May 2010 Financial Report.

TRANSMITTAL OF THE FY2010/11 PROPOSED BUDGET: City Manager Coward presented the FY2010/11 Preliminary Budget to the City Commission.

CODE COMPLAINT - 349 BAHIA VISTA: City Manager Coward reported that Code Enforcement is following up on the complaint.

REQUEST FOR QUALIFICATIONS (RFQs) FOR ARCHITECTURAL FIRMS: City Manager Coward advised that the RFQs are due July 1, 2010, and staff will make a report during the July 13, 2010 City Commission Meeting.

4C. REPORTS OF THE CITY COMMISSION:

COMMISSIONER WOLLIN:

- Announced that the next Barrier Islands Governmental Council (BIG-C) Meeting is scheduled for Wednesday, June 30, 2010 at 9:00 a.m. in St. Pete Beach.
- Announced the "Hands Across the Sand" Event is Saturday, June 26, 2010, at noon.

VICE MAYOR TORRES:

- Addressed the issue of the upcoming budget and the possibility of no employee raises again, and suggested consideration of something for the employees versus a salary increase in terms of some kind of bonus like parking decals and so forth.

COMMISSIONER HANNA:

- Commented regarding the issue of neighborhood speeding and noted that a UPS driver came through his neighborhood at a fairly high rate of speed, and he made a complaint to UPS regarding his observation. He also noted that many delivery trucks go through the neighborhoods at too high of speeds.

COMMISSIONER KENNEDY:

- Commended Public Services Director Scharmen and his staff for their work on cleaning up the excess garbage on the beach over the weekends at 4th Avenue.
- Inquired whether the information on the Gulf Oil Spill from Deepwater Horizon is on the City's website. City Manager Coward explained there are links to the State and County websites that have the updated information. Commissioner Kennedy noted that the Environmental Stewardship Board should be made aware of the Deepwater Horizon information received.

MAYOR JOHNSON:

- Stated Brian Smith, Director of the Metropolitan Planning Organization, (MPO), advised there is a beach appointment vacancy on the MPO Citizens Advisory Committee, and inquired if the City Commission knew of anyone who might be interested in serving on this Committee. He noted that Indian Rocks Beach Resident Nick DiCeglie is an "at large" member on that Committee. He further requested that Commissioner Wollin bring this matter up at the next BIG-C Meeting.
- Advised, regarding the Gulf Oil Spill, Ray Dempsey, Vice President of BP, spoke to several local mayors and businesses regarding tourism advertising and the submission of $2.5 million specifically for Pinellas County. He stated he spoke at that meeting regarding the importance of BP being open and flexible to new circumstances involved in the oil spill

and the importance of the claims process. He noted that the discussion indicated that BP will honor claims; however, they want to see documentation that will show a dip in business. He stated another issue that was discussed was the declining property values, which are not known for this year as of yet.

- Reported on the receipt of an email from County Commissioner Karen Seel inquiring about the change in alcohol sales from 2:00 a.m. to 3:00 a.m. ***CONSENSUS OF THE CITY COMMISSION WAS THEY WERE NOT IN FAVOR OF CHANGING THE TIME OF ALCOHOL SALES FROM 2:00 A.M. TO 3:00 A.M. IN INDIAN ROCKS BEACH.***

5. ADDITIONS/DELETIONS. None.

6. CONSENT AGENDA:

A. APPROVAL OF the May 19, 2010 City Commission Work Session Minutes.

B. APPROVAL OF the May 25, 2010 Regular City Commission Meeting Minutes.

City Attorney Kiefer read the Consent Agenda, consisting of Agenda Items Nos. 6A and 6B.

MOTION MADE BY COMMISSIONER KENNEDY, SECONDED BY COMMISSIONER HANNA, TO APPROVE THE CONSENT AGENDA, CONSISTING OF AGENDA ITEM NOS. 6A AND 6B.

UNANIMOUS APPROVAL BY ACCLAMATION.

7. PUBLIC HEARINGS: None.

8A. RESOLUTION NO. 2010-46. Accepting the non-exclusive license for three of the Plein Aire Cottage Artists' paintings from the Plein Aire Cottage Artists to the City of Indian Rocks Beach and acknowledging that the non-exclusive license for the set of three paintings will be utilized appropriately for the benefit of the Osprey Nest Project.

BACKGROUND: During the May 11, 2010 City Commission Meeting, Mary Rose Holmes presented to the City the copyright to a set of three paintings of osprey by the Plein Aire Cottage Artists.

The City Commission recognizes and appreciates the generous contribution that the Plein Aire Cottage Artists have made by the transference of a nonexclusive license agreement to reproduce and market the image of the paintings to generate revenue for the preservation and maintenance of osprey bird nests.

ANALYSIS: The agreement is for the donation of the three paintings done by Artists Helen Tilston, Mary Rose Holmes, and Violetta Shtumeyzen-Chalmers. It is the City Attorney's understanding that these artists desire the ability to reproduce this artwork for their own purposes, for some or no compensation, notwithstanding the donation to the City. Accordingly, the City Attorney has prepared a nonexclusive license agreement which would allow the City to reproduce the same paintings for the generation of revenue, or not. The main purpose of the donation is noted to be the Osprey Project.

City Attorney Kiefer read Resolution No. 2010-46 by title only.

City Attorney Kiefer presented the Agenda Memorandum, and explained that she drafted a nonexclusive license agreement, because she understands that the three artists would like the ability, if they desire, to market the paintings. She also stated that included in the agreement is a stipulation that if the City does sell any copies of the paintings, the primary focus of the funds would be for the Osprey Nest Project; however, the City would not be required to set up a dedicated bank account. She further stated there is nothing in the agreement that will detract from the artists' rights to do what they want. The City will not have to pay any royalties to the artists if the City should raise any revenue from these paintings. She also put in a termination clause for the artists if they change their minds with a 90-day notice.

Mayor Johnson clarified that if the Resolution is approved, it is with the anticipation of the Plein Aire Cottage Artists signing the agreement.

MOTION MADE BY COMMISSIONER WOLLIN, SECONDED BY COMMISSIONER KENNEDY TO APPROVE RESOLUTION NO. 2010-46, ACCEPTING THE NON-EXCLUSIVE LICENSE FOR THREE OF THE PLEIN AIRE COTTAGE ARTISTS' PAINTINGS FROM THE PLEIN AIRE COTTAGE ARTISTS TO THE CITY OF INDIAN ROCKS BEACH AND ACKNOWLEDGING THAT THE NON-EXCLUSIVE LICENSE FOR THE SET OF THREE PAINTINGS WILL BE UTILIZED APPROPRIATELY FOR THE BENEFIT OF THE OSPREY NEST PROJECT.

Commissioner Wollin advised she has spoken with the artists and they have agreed this is what they would like to see happen.

UNANIMOUS APPROVAL BY ACCLAMATION.

8B. RESOLUTION NO. 2010-47. Appointing a Special Magistrate.

BACKGROUND: Recently, the City enacted amendments to its Code of Ordinances providing for the appointments of special magistrates to hear select code enforcement cases. The City Attorney's office recommended appointing more than one special magistrate in the event of a conflict or unavailability of any one magistrate.

Accordingly, the City Attorney is recommending Attorney John R. Thomas of St. Petersburg. Attorney Thomas is an extremely experienced attorney in the community, and specializes in administrative hearings, environmental, and land use law.

Attorney Thomas is willing to serve as a special magistrate for the City at an hourly rate of $150, which is greatly reduced from his normal rate.

City Attorney Kiefer read Resolution No. 2010-47 by title only.

City Attorney Kiefer presented the Agenda Memorandum explaining that Attorney Thomas is willing to serve as a special magistrate for the hourly rate of $150, which is greatly reduced form his normal rate. She commented that it is important to have an alternate in the event of the unavailability of any one special magistrate.

MOTION MADE BY COMMISSIONER WOLLIN, SECONDED BY COMMISSIONER HANNA TO APPROVE RESOLUTION NO. 2010-47, APPOINTING JOHN R. THOMAS AS A SPECIAL MAGISTRATE FOR THE CITY.

Commissioner Wollin commented that she has noticed that more cities are going to this process which seems more appropriate and efficient.

Commissioner Kennedy commented that she feels this is one of the most important actions of this City Commission in relation to issues in the neighborhoods.

UNANIMOUS APPROVAL BY ACCLAMATION.

8C. RESOLUTION NO. 2010-48. Appointing residents to serve on the Environmental Stewardship Board.

BACKGROUND:

Chapter 2, Division 8, Environmental Stewardship Board, establishes the Environmental Stewardship Board.

Section 2-249, Terms of Office; Forfeiture of Office; Quorum, Subsection A, Term of Office: *Term of office. The term of office for each regular member of the environmental stewardship board shall be for two years; however; in order to provide continuity, three (3) initial members shall be appointed for a one (1) year term of office and thereafter all members shall be appointed to two (2) year terms. The Mayor and each City Commissioner shall nominate one regular member to be appointed to the Board, which nomination shall be confirmed and approved by the City Commission as a whole. The term of office shall run concurrent with the City Commission Member's term. The two alternate members shall be appointed for terms of two years.*

Currently, there exists two vacancies on the Environmental Stewardship Board, the first and second alternate positions.

ANALYSIS:

The current members of the Environmental Stewardship Board are:

Scott Holmes, Chair (Commissioner Wollin)
Ted Simon, Vice Chair (Commissioner Torres)
Rod Baker, Board Member (Mayor Johnson)
Jill Ginter, Board Member (Commissioner Kennedy)
Carol McGlaughlin, Board Member (Commissioner Hanna)
Vacant, 1st Alternate (At-Large)
Vacant, 2nd Atlernate (At-Large)

City Attorney Kiefer read resolution No. 2010-48 by title only.

Mayor Johnson recognized that several of the candidates were present and asked if they would like to speak regarding their interest on being appointed to this Board.

Laurence Troiano, 1000 Gulf Boulevard, commented that while he has lived in Indian Rocks Beach for two years, he has owned property here for ten years. He stated he has a growing concern for the issues addressed this evening. He reviewed his credentials that include health, safety, and education experience in environmental issues.

Ruth McGee, 2008-20th Avenue Parkway, commented she is a new resident to Indian Rocks Beach, but lived in Dunedin for twelve years. She commented that she likes the commitment to keeping the community special, and she has attended the Homeowners' Association and Action 2000, Inc. Meetings. She stated she sees this as an opportunity to become involved with the City. She noted that her background is mainly in the healthcare industry. She stated she can bring some enthusiasm and commitment to the environmental issues.

Thomas Chittenden, 510 Garland Circle, stated he has been a resident since 1957. He stated he has no experience or background in environmental concerns; however, he wants to help and it would be a learning experience. He stated if not on this committee, he would serve on another committee and help in any way that he can.

Emily Maney, 2008 Beach Trail, stated she moved here because she loves the feel of Indian Rocks Beach, and she wants to maintain it. She commented she does little things like cleaning her beach access; however, she feels there are more things that she can do to help keep the City clean and nice. She commented she does not have any background in environmental issues.

Vice Mayor Torres commented he has spoken with Ruth McGee, and he feels that she would be very assertive in dealing with the environmental issues.

City Manager Coward read the results of the written ballot as follows:

Laurence Troiano	(Hanna, Kennedy, Wollin, Torres, Johnson)
Emily Maney	(Wollin)
Ruth McGee	(Hanna, Kennedy, Torres, Johnson)

MOTION MADE BY COMMISSIONER KENNEDY, SECONDED BY VICE MAYOR TORRES, TO APPROVE RESOLUTION NO. 2010-48, APPOINTING LAURENCE TROIANO AS 1ST ALTERNATE AND RUTH McGEE AS 2ND ALTERNATE TO THE ENVIRONMENTAL STEWARDSHIP BOARD WITH TERMS EXPIRING MARCH 31, 2012.

UNANIMOUS APPROVAL BY ACCLAMATION.

9. ORDINANCES, first reading: None.

10A. DISCUSSION OF letter to the Pinellas County Board of County Commissioners regarding Deepwater Horizon — Pinellas County Supplemental Plan.

City Manager Coward presented for consideration a draft of the letter as requested by the City Commission during their June 8, 2010 meeting. He explained that the letter, on behalf of the City Commission, requests the Pinellas County Commission to create a supplemental plan for the oil spill response and safety of the area from potential intrusion of oil.

Mayor Johnson commented that the letter seems to cover most of the City Commission's discussion and specifically what Environmental Stewardship Board Member Rod Baker was bringing to attention, the idea of additional strategies for booming of the inlets and avoiding the negative impacts of the use of detergents on the environment, and skimming technologies. Mayor Johnson advised he was able to talk to most of the County Commissioners since the last meeting and brought it to their attention that the City was considering this letter to be written after suggestions from the City's Environmental Stewardship Board.

Commissioner Kennedy inquired if the letter would be forwarded to the Environmental Stewardship Board.

City Manager Coward explained that the letter is addressed to the Pinellas County Division of Emergency Management Director Sally Bishop, and suggested copying the Pinellas County Commission and the IRB Environmental Stewardship Board as well.

Mayor Johnson noted that the City receives multiple updates regarding the oil spill. In the last several notices, there was a reference to supplemental booming strategies being undertaken in the Panhandle counties, which was referenced by Environmental Stewardship Board Member Baker and is in the letter.

Vice Mayor Torres asked if the State itself can trump what the Federal government is doing; does the State have more power or enough power to go beyond the national level.

City Attorney Kiefer stated it is true that the State has rights.

Mayor Johnson noted that those are limited rights; just like locally, there is a home rule, but basically the cities are a subset of the State of Florida.

City Manager Coward commented that the issue is not so much the State's rights or what has to be done as much as who is paying for it and this is not a Federal Emergency Management Agency (FEMA) event. Therefore, it is a matter of doing things in a way to be qualified for reimbursement by the private entity, BP, not the Federal government. He stated there is a chain of command set up for the qualification.

Mayor Johnson stated that part of his discussion with Ray Dempsey, Vice President of BP, was if the City takes proactive measures that are not the official response and the City goes above and beyond that, would BP be flexible and open to reimbursement to local entities for those actions. He stated that in the end, there is no guarantee, without BP's okay, that a local entity would be reimbursed, but that may not be the issue as it might become more important to go ahead and take care of things. He explained that for Pinellas County, the official plan is to keep infiltration out of the Intracoastal Waterways and then cleanup the beaches after.

Beth Stokes , 1400 Gulf Boulevard, asked if the letter would be posted on the City's website. City Manager Coward advised that the letter would be posted.

CONSENSUS TO FORWARD THE LETTER RE: DEEPWATER HORIZON - PINELLAS COUNTY SUPPLEMENTAL PLAN TO PINELLAS COUNTY DIVISION OF EMERGENCY MANAGEMENT DIRECTOR SALLY BISHOP AND TO COPY THE PINELLAS COUNTY BOARD OF COMMISSIONERS AND THE INDIAN ROCKS BEACH ENVIRONMENTAL STEWARDSHIP BOARD.

11. CITIZEN PARTICIPATION.

Jim Driscoll, 481 Harbor Drive North, referred to the Whitehurst Lawsuit stating that he found that the petitioner from Indian Shores on the abutting property has installed a new fence at a cost of a good amount of money to indicate he thinks that he is prevailing on this issue. Mr. Driscoll stated that he is bothered by this because over time, he has witnessed the loss of territory in the City, and he does not want to see the loss of Whitehurst Avenue. He stated Whitehurst Avenue is a beautiful place for parking for the people who have paid

for beach renourishment and who have given money to Indian Rocks Beach, and they should eventually be able to use it. He stated that one man adjacent would prefer to make it his private driveway and build some great building. Mr. Driscoll stated throughout the judicial hearings, it seemed that the City prevailed, but then the other party comes in and gets a little further ahead. He asked what is happening and when can he expect with the technology today, that someone will realize that boundaries are easily established.

City Attorney Kiefer explained that she filed a very comprehensive Motion for Summary Judgement in February and that she fully expected it to be granted; however, for some reason, it was denied. She explained that Attorney James Yacavone, attorney for the Town of Indian Shores, was to send an order reflecting the judge's order, which he did not do until June 2. Therefore, she has filed a request for the judge to reconsider her ruling, and if that is not done and the Motion for Summary Judgement is denied, then she is prepared to appeal that denial to the Second District Court of Appeal in the State of Florida, which is very rare, but would be in good faith and appropriate under the circumstances. City Attorney Kiefer stated she is frustrated as well, and she has read no less than 350 cases on this issue and reviewed several thousand pages of documents in order to create on the record that there can be no dispute that this is a boundary, that this fight should end, and the City should prevail. She stated she believes in this case and that the City is doing the right thing and she is moving as quickly as possible and the end is coming. She noted she inherited the case and she had to do some things differently.

Mayor Johnson commented that this City Commission is unanimous in wanting that fence to come down and the understanding of the boundary between Indian Shores and Indian Rocks Beach.

12. OTHER BUSINESS.

Commissioner Wollin addressed Mr. Valery's comments regarding the adoption of a local preference for the bidding process and requested a consensus to place that item on a future agenda. She noted that it is not only counties that adopt this kind of provision, but also colleges, universities, states, cities, post offices, veterans' entities, and so forth as it is common.

CONSENSUS TO PLACE THE ISSUE OF A LOCAL PREFERENCE PROVISION IN THE BIDDING PROCESS ON A FUTURE WORK SESSION AGENDA.

13. ADJOURNMENT.

MOTION MADE BY COMMISSIONER WOLLIN, SECONDED BY COMMISSIONER KENNEDY, TO ADJOURN THE MEETING AT 8:20 P.M.

UNANIMOUSLY APPROVED BY ACCLAMATION.

July 27, 2010 _____
Date Approved R.B. Johnson, Mayor-Commissioner

ATTEST:_____
Deanne Bulino O'Reilly, MMC, City Clerk