

MINUTES — DECEMBER 13, 2022
CITY OF INDIAN ROCKS BEACH
REGULAR CITY COMMISSION MEETING

The Indian Rocks Beach Regular City Commission Meeting was held on **TUESDAY, DECEMBER 13, 2022**, in the City Commission Chambers, 1507 Bay Palm Boulevard, Indian Rocks Beach, Florida.

Mayor-Commissioner Kennedy called the meeting to order at 7:01 p.m., followed by the Pledge of Allegiance and a moment of silence.

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

OTHERS PRESENT: City Attorney Randy D. Mora, City Clerk Deanne B. O'Reilly, MMC, and Finance Director Daniel A. Carpenter, CGFO.

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

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

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

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

Fire Chief Davidson presented the fire statistics for the month of November 2022.

1C. PRESENTATION BY Women's Tea.

The Women's Tea presented checks to the following organizations: IRB Community Food Pantry, IRB Paddleboard for Autism, Pineapple Projects, and Fighting for Alyssa.

2. PUBLIC COMMENTS.

Commissioner Hanna asked if the City Commission would give Bob Copeland additional time to finish his presentation from the November 15, 2022 Special City Commission Meeting.

Mayor-Commissioner Kennedy stated this would be addressed when Mr. Copeland came to the podium.

Kelly Cisarik, 448 Harbor Drive South, stated as the City develops its updated short-term vacation rental ordinance, she wanted to call the City Commission's attention to a critical area of safety for vacation rental guests that need to be addressed: child drownings.

The Florida Legislature addressed swimming pool safety for residential pools in 2000 with the passage of the "*Preston de Ibern/Mckenzie Merriam Residential Swimming Pool Safety Act.*"

F.S. 515.23 Legislative findings and intent. — The Legislature finds that drowning is the leading cause of death of young children in this State and is also a significant cause of death for medically frail elderly persons in this State, that constant adult supervision is the key to accomplishing the objective of reducing the number of submersion incidents, and that when lapses in supervision occur a pool safety feature designed to deny, delay, or detect unsupervised entry to the swimming pool, spa, or hot tub will reduce drowning and near-drowning incidents. In addition to the incalculable human cost of these submersion incidents, the health care costs, loss of lifetime productivity, and legal and administrative expenses associated with drownings of young children and medically frail elderly persons in this State each year and the lifetime costs for the care and treatment of young children who have suffered brain disability due to near-drowning incidents each year are enormous. Therefore, it is the intent of the Legislature that all new residential swimming pools, spas, and hot tubs be equipped with at least one pool safety feature as specified in this chapter.

Ms. Cisarik stated that vacation rental businesses should have compliance standards like assisted living facilities and daycare centers. Those businesses can also exist in residential neighborhoods, and in both cases, they can house vulnerable younger people or older residents, and those populations need more protection.

Ms. Cisarik stated several Florida cities had incorporated the swimming pool inspections from this legislative act into their city ordinances. She would highly recommend that a program be in place to inspect for swimming pool barriers that are not just for those pools built after 2000 when the STR ordinance is amended. She feels all STRs with swimming pools in residential neighborhoods are raised to the same standards and could save some lives.

Carol McGlaughlin, 115-21st Avenue, stated she was a former IRB motel and apartment owner of Indian Rocks Beach for 47 years. In the November 24, 2022 Edition Beach Beacon, an IRB Airbnb owner stated that 6% of the booking fee (she is assuming that he actually meant the 6% tourist development tax) goes to the City right off the top. In reality, the Tourist Development Commission uses that 6% County tourist tax or bed tax for advertising and other related expenses to attract tourists to Pinellas County. The City does not receive any revenue directly from the 6% tourist development tax. He also took issue with the word "transient," referring to "tourist." According to Florida Statutes and the City Code, transient is the term used to define any rental of fewer than six months and a day.

She hopes this explanation helps the City's Airbnb owners further understand the concept of commercial properties in Pinellas County. She thinks it is crucial that if a person plans to be in the commercial rental business, they should understand where the taxes and fees are going and the terms referred to the customers.

John Pfanstiehl, 448 Harbor Drive South, thanked the City Commission for scheduling another STR City Commission Work Session for January 24, 2023. He did not realize how rapidly the City was dying until the last City Commission Meeting. The City Manager informed the public that there are now 270 transient lodgings east of Gulf Boulevard. That means the community has lost over 500 residents, about 15%, or 1 out of 6 families. The seniors that lived here are no longer here. STRs have hurt this community. On his street alone, there are three homes where very nice neighbors used to live that are now being converted to short-term rentals, and at the other end of the street, there are two monster houses with six bedrooms that are being converted to short-term rentals. The STR issue is becoming a crisis because it needs monitoring. Every month that the City Commission has a meeting, the City Commission should find out how many residences the City has lost to short-term rentals and how many new short-term rentals have been registered.

Mr. Pfanstiehl stated that the City Commission had heard the other point about taking a balanced approach to short-term rentals. To him, that does not make any sense. If the City Commission looks at the numbers, about one percent of Indian Rocks Beach residents own an STR east of Gulf Boulevard. Compare that to the 99% of the other residents. It does not make sense for the one percent of people who pushed unsupervised hotels (STR) into the residential neighborhoods to be given the equal amount of weight as the 99% of the people who live here.

Mr. Pfanstiehl stated that IRB needs the strictest possible STR regulations to protect the community and renters. It is up to the City Commission to save what is left of the community. In this case, perhaps only 85%.

Mayor-Commissioner Kennedy stated before Mr. Copeland started, she wanted to thank him for all the work that he had done and all the comments that he had made at the Special City Commission Meeting. The City Commission and staff have read the Florida Statutes. The City Commission has discussed and worked on the parking issue for over 12 months. She will give Mr. Copeland three minutes and if there is anything else that he would like to add to his great comments from the November 15, 2022 Special City Commission Meeting.

Bob Copeland, 447-20th Avenue, brought to the attention of the City Commission, Rule 23b, Resolution No. 2015-24, Rules of the City Commission, "*The speaker for a group of persons shall have the right to address the City Commission for a total of ten (10) minutes on any particular items. Any deviation from this rule must be approved by the consensus of a majority of the City Commission, but no vote need be taken to waive this requirement.*"

Mr. Copeland stated he was speaking for a group of residents and would like to have at least 10 minutes, possibly more.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY VICE MAYOR-COMMISSIONER HOUSEBERG, TO ALLOCATE MR. COPELAND 20 MINUTES FOR HIS PRESENTATION TO THE CITY COMMISSION.

ROLL CALL VOTE:

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

NAYS: NONE

MOTION FOR APPROVAL CARRIED UNANIMOUSLY.

Mr. Copeland stated the City is in the process of dealing with an amended STR ordinance. He thinks that it is quite a monumental task to ask staff to put together and thinks perhaps that it is not reasonable to ask that of staff.

Mr. Copeland stated he attempted to retain Greg Stewart, the premier expert in the State of Florida on short-term rentals and Bert Harris problems, to come to a City Commission Meeting and address the City and provide independent advice. However, Attorney Stewart advised that his firm would not allow him to represent people. His firm represented Flagler County in their lawsuit and appeal and probably wrote the ordinance.

Mr. Copeland suggested the City hire Attorney Stewart as a special consultant who reports directly to the City Commission, and the cost is relatively insignificant. He suggested that Attorney Stewart review the final draft ordinance and provide final input and advice to the City Commission on the final draft ordinance. The cost is insignificant as to the problems.

Mr. Copeland stated the Bert Harris Act is a very manageable risk. However, he has not heard how the City Commission would handle it. But Attorney Stewart knows how to handle Bert Harris lawsuits. He understands that the Bert Harris Act is a big worry of the City.

Mr. Copeland stated § 509.141, F.S., ejection of undesirable guests, and § 509.143, Breach of peace; disorderly conduct, do not need to be in the City Code and can be enforced now by the Pinellas County Sheriff's Office. He asked if the City has empowered the sheriff's office to start utilizing these statutes concerning STRs.

Mr. Copeland stated he has one of the destination party mic-mansions a couple of doors down from him. They are just out of control, and the 10:00 p.m. noise ordinance for residence neighborhoods does not work. It was not designed for that.

Mr. Copeland stated he takes the position that every short-term rental permit that the City has issued has been issued illegally and improperly. He takes that position because not

one of them complies with the off-street parking, Code Sec. 110-372(15). He thinks there is a generic catch-all in Ordinance No. 2018-01 that states short-term vacation rentals shall be subject to the City's ordinances, noises, and parking.

Mr. Copeland stated the restaurants and other businesses, Crabby Bill's, Hurricane Eddie's, and Salt Public House, had to comply with all the City Codes before they received their permit to open up.

Mr. Copeland stated he knows there are short-term rental licensed properties that do not have the physical capacities to put in the required parking spaces. Nothing in the records shows that they comply with the City Code.

Mr. Copeland recommended the following items:

- A more detailed business tax receipt form, like Flagler County.
- Increase the Registration Fee, which will fund the City's STR licensing management program.
- Mandatory inspections. (Costs to be borne by the STR owner, which will fund the City's STR licensing management program).
- Mandatory training classes for STR owners that the City provides for a nominal fee.
- Someone needs to be local to respond to complaints.
- Detailed rules that the STR owners are required to sign for that are turned in with the application. Attaching the rules to the application would avoid a discussion with the STR owner they did not know.
- Require an STR owner to provide a written report from a licensed Florida professional that states the property is in compliance with all the provisions of the Florida Building Code, Florida Fire Prevention Code, Florida Fire Safety Code, Florida Swimming Pool Act, etc.
- Establish a maximum occupancy for STR properties.

James Izzolo, 458-20th Avenue, stated he has two young children with a party house across the street from his home. His children are scared of the noises late at night. His children cannot sleep at night. When there is a party, they blare the music, the noise is ridiculous, and cars cruise up and down the street at 3:00 a.m., burning rubber.

Mr. Izzolo stated his children do not ride their bikes on the street anymore because he is afraid they might get hit by irresponsible golf cart drivers (drunk or wasted).

Mr. Izzolo stated they are one of the few young families left. There will not be any more young families left because of the noise and the behavior of the short-term renters unless the City controls this issue.

Mr. Izzolo stated he wanted to raise his family in a nice, peaceful beach community, but it is not like that anymore. It is truly sad. Not everybody is a bad renter. Certain people

come to IRB with their family, husband, wife, and children, for a week. They are respectful and have a good time. But, right across the street, two gargantuan houses have weddings and all-night parties. It is insanity.

Mr. Izzola stated IRB is becoming wild. It is the City Commission's responsibility to help the residents and the backbone of the community.

Stacy Conte, 735-1st Street, stated she is an STR owner. She is a real person, and she is not a corporation. She has three children and is a single mother, and this is how she supports her family. She owns vacation rentals in many markets. She travels a lot, and when she travels, she rents her properties on Airbnb. As an owner, the most important thing to her is that she maintains her property well and that she runs her property well. She owns long-term rentals as well. Those bring in less income, so there is less money to reinvest in the property. That is just basic economics. The party houses that everyone speaks of, she is sure that happens, but that is not the majority of them. Most of them are business owners who want to run their businesses properly.

Ms. Conte stated Airbnb puts these restrictions and training already on STR owners. If STR owners do not have a 4.5 out of 5 stars, Airbnb will shut the property down. There is plenty of training available for owners; the most important thing for owners is their ratings. They want to run their businesses well. They want to provide good guest experiences and maintain their properties well.

Ms. Conte stated most of these properties are \$500,000 and up, so these are not low-income properties. They take pride in their properties, reinvesting money, and improving the community.

Luke Lirot, Attorney, 2240 Belleair Road, Suite 190, Clearwater, stated he would like to address the short-term vacation rental issue on behalf of his clients who engage in the short-term rental business. He would suggest that there are ample regulations both Countywide, Statewide, and certainly in Indian Rocks Beach to address the nuisance characteristics of the descriptions that the City Commission has been given this evening of places that do not want to comply with apparently any ordinance.

Attorney Lirot stated a Florida Statute prevents local governments that, if they do not already have a prohibition against short-term rentals, from adopting an ordinance that would restrict short-term rentals for any period after the date in the statute of 2011. This statute makes it difficult for Indian Rocks Beach, as a local government, to address all of the concerns and balance out the interest of those who want the City to prohibit those short-term rentals. And indeed, it suggests to the City Commission that it adopt a series of different rules and regulations. He stated that while the ordinance would not prohibit short-term rentals, it is designed to try to accomplish that through the backdoor.

Attorney Lirot stated his clients are not resistant to any public health, safety, and welfare regulations. Everybody wants to make sure that everybody is safe. The pool enclosures and things suggested by the public were not bad ideas. Anything that makes sense is a good idea. But, if it is designed to hamper the private property rights of the people who engage in short-term rentals, then obviously, that will not be hard to see. Indeed, not in the way that it was suggested and not in the way it was exposed.

Attorney Lirot asked for additional time as he is representing multiple clients.

THE CITY COMMISSION, BY CONSENSUS, GRANTED ATTORNEY LIROT AN ADDITIONAL 10 MINUTES.

Attorney Lirot stated there needs to be a balance. He looks forward to participating in the work session. But, to try to create some byzantine, overly onerous regulatory process to try to achieve what the statutes pretty much say that the City cannot do in trying to prohibit short-term rentals, which does not make sense. He knows there is a balance that can be reached. Maybe enforcement of noise ordinances might be better than it seems that it would be applicable to any business, any home, or any use of property that violates the City Code, regardless of whether it is being used for short-term rentals or not.

Attorney Lirot stated, in addition to the other cases, the only two that made it an Attorney General Opinions (not binding on anyone): City of Wilton Manors: "Wilton Manors is considering enacting a zoning ordinance that would set distance separate requirements between vacation rentals or limit the percentage or number of vacation rentals on city streets or in city neighborhoods and that the city represented that the ordinance would implement various health, safety, welfare goals, such as reducing vehicle traffic, reducing the need for additional parking, reducing noise detrimental to surrounding residential usages, reducing the need for additional police, fire, emergency services. . ." Wilton Manors tried to adopt an ordinance that did not, on its face, restrict the ability to engage in a short-term vacation rental. They did it by adopting this ordinance or presenting it to the Attorney General's Office as a suggestion for something they would adopt. The AGO said that Wilton Manors could not do that.

Attorney Lirot stated he would respectfully submit that he thinks it is one hundred percent possible that they all work together to try to come up and participate in the upcoming work session on January 14, 2023, with the proper balance. There is a way to create some form of a regulatory scheme that would benefit the City and protect the residents who live here. But would also allow the protection of the private property rights of his clients who are not the bad people they have been painted to be.

Kenny Hazlett, 1201 Bay Pine Boulevard, owner of Beach Time Rentals, stated he manages over 30 properties locally. The STR owners hear the concerns and complaints that the residents have regarding the vacation rentals — the noise, garbage, and parking.

He stated he loves this community and wants to support the community. Short-term rentals are here to stay. He noted the City, the community, and the STR owners need to find a way where everyone can co-exist. They need to have common sense discussions about what makes sense in keeping the bad actors out of this profession. He has heard numerous times this evening about party houses, and those are the bad actors. He has engaged with the leadership at Airbnb to inform these party houses that the property will be removed from the platform if they continue this action. The STR owners are pulling together as a cohesive group to self-manage and are putting guardrails in themselves. His company has exceeded the ordinance regulations. They have occupancy limits, parking, etc. He stated if one of their customers steps out of line, the deposit is retained. They are very hands-on. They have check-in and check-out concierges that advise the renter of the rules and regulations of the property. He has seen firsthand how STRs can be run properly, and if STRs are executed effectively, they can co-exist in residential neighborhoods. The STR owners hear the concerns, and they take them seriously. They look forward to working with the City Commission on crafting something that makes sense for all parties involved.

Don House, 2104 Beach Trail, stated he lives on the west side of Gulf Boulevard. There is a beach access parking lot 150 feet north of his residence that allows overnight parking. He said anyone can park their vehicle overnight at any beach access parking lot without any permit, problem, or limitations from the City for three days. However, they are not allowed to sleep in the vehicle. This is not a product of Tallahassee, but a product of this City Commission that changed the beach access parking rules. He stated this affects the property owners on the west side of Gulf Boulevard.

Mr. House stated Beach Trail is a one-way road. The traffic increases on Beach Trail over the summer months when transient people go from one beach access parking lot to another, using Beach Trail, looking for a parking space. This needs to be addressed as the City Commission addresses the other transient issues.

Dan Munsberge, 442 Harbor Drive North, stated there had been a lot of calls for the City Commission to assemble a committee to assist with drafting ordinances concerning short-term rentals. He believes that there could be a benefit to such a committee. However, he is concerned that the makeup of this group though short-term rental owners that are also primarily residents, make up less than three percent of the 2,700 households in Indian Rocks Beach. Whatever size group is considered, they should in no way account for more than three percent of this committee. Short-term owners have already assembled a group of more than 50 owners to fight against the City's concerned citizens. They offer a view of regulations that will only meet their needs and are attempting damage control by appearing cooperative. They post claims that the signs around their neighborhood are hurting the vibe of IRB. This vibe is being compromised, negatively affecting the citizens of IRB. Residents have used their time and money to purchase and install these signs in an effort to get the City Commission to represent them. Many of these signs have been stolen. There is talk that there are only a few bad actors in the short-term rental group. How can you crack rule

breakers when there are no rules? There is a place for these accommodations, just not inside residential areas. Please listen to the residents and get this issue resolved for the citizens of IRB.

Teresa Pruchniewska, 316-6th Avenue, stated there is a serious conflict, and it is not natural when the City tries to put two zones together: business with residential. Those two zones have nothing in common, and they cannot live peacefully together because they have two different lifestyles. The City is putting residents in danger by putting hotels next to residential homes. They are illegal and not in compliance with the City Code. Short-term rentals do not belong in residential neighborhoods. Zoning should be respected, which is why the City has different zoning districts.

R.B. Johnson, 1206 Beach Trail, stated he lives on the west side of Gulf Boulevard, where the City's current short-term vacation rental ordinance does not apply. But he does believe that any new ordinance has to apply in some sense or fashion to at least some of the properties on the west side that are not condominiums that have condo associations or homeowner associations' rules. Properties that simply do not have any rules but function just like they do on the east side of Gulf Boulevard, as many hotels do. He stated that for the last five or so years, he has lived next to a house on a narrow 50-foot wide lot, but it is large enough to have and advertises as five bedrooms, and sleeps 12 and 14 if the queen-sized blow mattress is used. This short-term rental is a relatively tiny property with anywhere from 10 to 12 people, many even 14, who come there weekly. There are way too many people, and there are no rules for them, like the hotels, cottages, and the condos on the west side of Gulf Boulevard. There needs to be some application for these properties on the west side of Gulf Boulevard.

Mr. Johnson stated he also wanted to mention occupancy. He thinks there definitely needs to be occupancy limits. The City already has a phrase or term called "residential equivalent use" in its City Code, and it underlies a philosophy about what is appropriate for the City's neighborhoods. It is utilized for bed and breakfasts and some group homes and things that could perhaps end up in the City's neighborhoods. It has a three-bed limit. It is in the City's comprehensive plan and City Code already. He thinks that could be used as a basis for the limit because he cannot think of a single condo, for instance, on the west side of Gulf Boulevard, where the City has always allowed vacation rentals, that has more than three bedrooms. He stated when it is above three beds, basically six people plus one, it is getting too much per unit, too much per property, and too much of an impact on the adjoining neighborhood or neighbors.

Mr. Johnson stated another area where much of the noise and problems eminent are from pools and hot tubs. Again, if a person lives on the west side of Gulf Boulevard, like him, there are no rules for pools and hot tubs. Therefore, they can go as loud and as long as they want unless someone calls the sheriff's office on them at 2:00 a.m. The City should

be proactive and apply rules to short-term vacation rentals all over the City for pools and hot tubs, just like the City for condos and hotels/motels.

Linda Newton, 438 Harbor Drive North, stated she bought her forever Indian Rocks Beach home almost 20 years ago, which is not the same neighborhood. Her neighborhood is not a commercial area. They are residential. She has grandchildren that come and stay with her. She will not let them walk to Brown Park because she knows there are over nine short-term vacation rentals on Harbor Drive South, and some have over 20 people at a time in each of them. She has, at times, trouble driving home because of the number of vehicles. She is distraught with what is going on with Indian Rocks Beach. The community used to work together, organize events for this City, and enjoy having guests come in and enjoy Taste of IRB and the Biggest Beach Party. She does not see how that will ever last if the City gets rid of all the neighborhoods and the City is working on it.

Ms. Newton stated she did some analysis and reviewed the tax rolls and how they are advertised online. On the tax rolls, it says a three-bedroom house, but on Zillow, it says six bedrooms. It is not uncommon for garages to be enclosed and made into living quarters. People are sleeping downstairs in the enclosed garages. Magically, bathrooms have changed from 2 to 3, 4, or 5. She asked who was watching this.? It is not the City. Who is watching the City Code?

Ms. Newton stated the City must have doubled its ad valorem revenue from selling homesteaded properties to non-homesteaded properties (conversion on traditional homes to short-term vacation rentals).

Ms. Newton stated she noticed that the short-term rental online spreadsheet had much more information on it than what it currently has on it, such as the BTR number, contact telephone numbers, etc.

Ms. Newton stated her friend, a short-term vacation rental owner, received her first short-term vacation rental City newsletter and said she would like to receive those newsletters, so she knows what is happening.

Jerry Newton, 438 Harbor Drive North, stated it is abundantly clear what the City's constituents want. The City is supposed to work together to balance regulations and fees. He said he wanted to reinforce the conversation about establishing a committee about why there would be five from each side if there were ten members when one percent or two percent of people favor short-term rentals. He believes that the favorable short-term rental group is investors who make money off short-term rentals. It is not the residents. It is abundantly clear what the residents want, and he does not understand why the City cannot get something done. The regulations that are going to be put into place that everyone says they are working on need to have some bite to them. The City needs to have some reasonable regulations that resolve these problems, whether noise, garbage, or fees. The

regulations need to have some meat to them to settle anything. If they do not, the City will be right here again in six months having the same conversation, and nobody wants that.

Sara (LNU), 2704-2nd Street, stated during the November 15, 2022 Special City Commission Meeting, she spoke on maximum occupancy limits, which she still stands by. She cannot disagree with what anybody else said this evening. She is a service provider (house cleaner) to the short-term rental industry in Indian Rocks Beach and stated the ordinance could have a costly impact on small companies, such as herself and the people she employs. She just asked that the City Commission keep her in mind.

3A. REPORTS OF THE CITY ATTORNEY:

City Attorney Mora announced the City Commission has scheduled a City Commission Work Session for Tuesday, January 24, 2023, at 5:00 p.m., to discuss short-term vacation rentals.

3B. REPORT OF THE CITY MANAGER:

City Manager Mims provided the following report:

- *Code Enforcement Report:*
 - 5 Notices of Violations
 - 1 Courtesy Letter
 - 3 Notices to Appear
 - 2 relating to trash
 - 1 DEP violation
 - 44 parking citations (does not included PCSO citations)
- *Capital Projects:*
 - *The Gulf Boulevard Underground Project Phase II.* The City is waiting on Duke Energy to sign off on the final design. This is a multi-year project.
 - *Nature Preserve Boardwalk Project.* The Nature Preserve Boardwalk Project is part of the FY2023 Budget and is a multi-year project. The City has secured a contractor and the construction should begin in April.
 - *Street Reconstruction.* Bay Boulevard between 23rd and 27th Avenues will be reconstructed. There is a preconstruction meeting next week with construction beginning in January.
 - *Red Tide.* Red tide is off the coast of the Gulf of Mexico. Pinellas County always takes the lead in red tide response for small cities, like Indian Rocks Beach. Pinellas County has initiated some primary work with contractors. Hopefully, IRB will not end up with any dead fish. However, if dead fish washes ashore on Indian Rocks Beach, the City is ready to respond by raking the fish and debris off the beach. Anything broader than that, including mass fish kills will be

- handled by Pinellas County. He noted that dead fish did come ashore on St. Pete Beach over the weekend.
- *Short-Term Vacation Rentals.* The City has distributed its second monthly email to all registered short-term rental owners. This month's email emphasized on noise after 10:00 p.m., and that inspections are most likely coming in a more formal fashion, noted beach regulations — dogs on the beach and removal of items after 10:00 p.m. on the beach. The monthly short-term rental emails will be posted to the City's website, under the Short-Term Rental banner, so they are available to all residents.
 - *Host Compliance Company.* Staff is seeking a contract with a host compliance company to provide the City with information about short-term rentals and where they are, those who have not registered, and those who are not in compliance. This action was authorized by the City Commission, through a consensus, during the November 15, 2022 Special City Commission Meeting.
 - *Short-term Vacation Rental Ordinance.* He and the City Attorney are actively meeting and will continue to meet to work on a list of possible amendments to the existing short-term vacation rental ordinance and other City ordinances because some issues dealing with short-term vacation rentals are located in different parts of the City Code.
 - *Fire District's Ordinance for Short-Term Vacation Rentals.* The Fire Chief expects to bring to the Fire Board of Commissioners an ordinance in January that will set up their own requirements in writing about what their requirements will be on short-term vacation rentals. The annual short-term vacation rental inspection will be coordinated with the City's Code Enforcement Division, the Fire District, and someone from the Pinellas County Building Department.
 - *Holiday Events.*
 - *The Holiday Tree Lighting* went very well. He thanked Action 2000, Inc., Crabby Bill's, and City staff for making that happen.
 - *The Holiday Street Parade* went well.
 - *The Holiday Lighted Boat Parade* is Saturday, December 17th, starting 7:00 p.m., at Holiday Inn Harbourside.
 - *Thank Yous.*
 - City Manager Mims thanked the volunteers, the Board of Adjustments and Appeals, the Planning and Zoning Board, and the Finance Budget and Review Committee on behalf of the City for their time and commitment.
 - City Manager Mims thanked the Pinellas Suncoast Fire and Rescue District and the Pinellas County Sheriff's Office.
 - City Manager Mims thanked the employees that he has had the pleasure of managing. He thinks the City has today the best team that the City has had since he became the City Manager.
 - City Manager Mims thanked the City Commission and stated he appreciates all members of the City Commission. On behalf of he and his wife Merry Christmas.

3C. REPORT OF THE CITY COMMISSION:

The City Commission wished everyone a Merry Christmas and a Happy New Year.

COMMISSIONER HANNA:

- He thanked everyone for coming tonight and sharing their ideas and thoughts on short-term vacation rentals. He stated the speakers do not fall on deaf ears even though they think that they do. He is taking this very seriously. The City Commission is trying to get their arms around it. They have to be equitable with everyone because everybody lives here or owns something here and pays taxes here. Be confident it is going to be solved.

VICE MAYOR-COMMISSIONER HOUSEBERG:

- Asked if individual members of the City Commission could meet with the City Manager and the City Attorney on the short-term vacation rental ordinance, with City Manager Mims responding in the affirmative.

COMMISSIONER McCALL:

- He stated that IRB still has a community here. He sees a lot of volunteers and people at the events. He loves shaking hands and see everybody out and enjoying themselves at the Taste of IRB and other events.
- *HOA IRB JOY DRIVE*. He stated the HOA is still collecting toys, non-perishable food, items, or cash for the joy drive and stated the items will be distributed to the following groups: Beach Food Pantry, Pineapple Projects, Silver Santas, Miracle of the Bay, and Shepard's Village. He stated the HOA could not do this event and could not make this community without the help from the following restaurants: Crabby Bill's Beach Waves, VIP, Groupers, Anecdote Brewery, Jimmy Guana's, Slyce, Hurricane Eddie's, Chicago and JAQX.
- The HOA Mix & Mingles will start up again in January, the third Thursday of each month.

MAYOR-COMMISSIONER KENNEDY:

- Announced there will be a City Commission Work Session on January 24, 2023, to further discuss short-term vacation rentals to include: a maximum occupancy limit, registration fee and certificate fee increases.
- The Fire Chief is in the process of doing an inspection requirement ordinance on short-term vacation rentals.
- She thanked the City Commission for their constant support and appreciated the City Commission Members who would be going with her tomorrow for her last day as Chairperson of Forward Pinellas. She has served on Forward Pinellas for 11 years and has represented all the beach communities for those past 11 years.

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

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

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

- 6A. **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.

[Beginning of Staff Report]

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. 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.

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." 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."

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.

[End of Staff Report.]

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

City Attorney Mora stated the City 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. If a property owner fails to maintain the property in such 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.

City Attorney Mora stated the resolution concerns the property legally described as 01-30-14-42048-087-0220, the name of the owner is the Estate of Robert V. Clemmer, C/O Diane Clemmer, with an address in Inverness, Florida.

City Attorney Mora stated this agenda item is structured as a quasi-judicial hearing.

City Attorney Mora inquired of the City Commission Members if they had any ex-parte communications with the property owner other than any written submissions that are part of the record, with all members responding negatively.

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

City Attorney Mora stated the City funds cannot be used for the benefit of individual private property owners. The City has engaged in abatement and self-care and the City is seeking to recover those costs and establish a lien on that property.

City Manager Mims stated the property is located 1216 Bayshore Boulevard. He stated on November 12, 2000, the City had received complaints on this property alleging that the grass was overgrown, and there was a dilapidated fence.

City Manager Mims stated per State Statutes and the City Code, a registered letter was mailed to the property owner who was deceased and by first class mail also. After the property was cleaned by the City, a neighbor gave the City's Code Enforcement Officer a telephone number to Diane Clemmer, the deceased property owner's sister. The Code Enforcement Officer told Ms. Clemmer of the issues with the property. It should be note,

at that point, the property owner still appeared on the tax rolls as Robert V. Clemmer's name.

City Manager Mims stated the property was posted on October 12, 2020 prior to the City cleaning the property.

City Manager Mims stated in March 2022, the City sent a registered courtesy letter to Diane Clemmer because her name now appeared on the tax rolls as executor of Robert V. Clemmer Estate. The letter addressed the vehicle in the driveway and the condition of the property.

City Manager Mims stated in June 2022, the City mailed a registered courtesy letter with an itemized invoice for \$1,814.74 to Diane Clemmer requesting remittance to the City for property cleanup expense. Ms. Clemmer did sign for this letter.

City Manager Mims stated on August 11, 2022, the City mailed a courtesy letter to Diane Clemmer advising the City cleanup the property located 1216 Bayshore Boulevard in February 2021, and the cost for this cleanup is \$1,814.74. This letter led to a conversation with the Code Enforcement Officer, which led to no progress and no payment.

City Manager Mims stated he directed staff to proceed forward with placing a lien on the property, which is before the City Commission this evening.

City Manager Mims stated Ms. Clemmer sent an email to the City Clerk where she claims that no one from the City communicated ever with her. However, he just explained to the City Commission the process and the communication (written and verbal) that the Code Enforcement Officer had with Ms. Clemmer.

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

MOTION MADE COMMISSIONER McCALL, SECONDED BY COMMISSIONER HANNA, TO APPROVE 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.

Commissioner McCall stated the City had done its due diligence and has made notification to the property owner. The City had performed per its guidelines.

Commissioner Hanna stated the City does not lien property lightly. The City tries to give property owners every opportunity to remedy the situation before the City takes legal action.

ROLL CALL VOTE:

AYES: BOND, HOUSEBERG, HANNA, McCALL, KENNEDY

NAYS: NONE

MOTION TO APPROVE CARRIED UNANIMOUSLY.

6B. 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.

(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 stated the only substantive change in the ordinance between first reading to second reading was the addition to the language as follows:

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.

City Attorney Mora stated this language was added in response from the Florida Fish and Wildlife Conservation Commission (FWC) feedback asking for boundaries of the public bathing beach.

Commissioner Bond asked what does extending 300 feet west from the shoreline into the Gulf of Mexico mean.

City Attorney Mora stated the ordinance does not state from the erosion control line, the coastal construction control line, because those are not fixed points along the beach. He

stated buoys as they float, do not stay in a fixed location. So, it is to give general guidance from that. The City will ask FWC how do they administer this from the permitting side. He believes the FWC looks to the mean high water line generally.

City Manager Mims stated after this ordinance is adopted, the City will apply for a permit through the State where the buoys will be laid out by the State probably through GPS.

Mayor-Commissioner Kennedy opened the public hearing.

Don House, 2104 Beach Trail, stated everyone lives in Indian Rocks Beach, but he lives "*on Indian Rocks Beach*." This is again taking away some of the beachfront property owners' rights. He understands that there might be some pressure from the outside to do this, but a few points: (1) Does the City Commission really know what they are voting on? Beachfront property owners have riparian rights, and this ordinance would further erode those rights. Before, people could sail through the buoy area with their sailboats, and people with power boats could drop people and items off at the shoreline but could not park at the shoreline, (2) Is anybody here taking any money for this? Is there any reason anybody would have to disclose that they have anything going on here? (3) The City is taking away the boat rights of the beachfront property owners to come up to their property.

Mr. House stated that if the State allowed all property owners to vote for beach renourishment, sand would be pumping on the beach right now because property owners on the east side of Gulf Boulevard would vote for beach renourishment while two-thirds of the beachfront property owners would not. He stated that two-thirds of the beachfront property owners feel they would lose some of their property to the State by signing off on the perpetual beach easement. He said many beachfront property owners did not sign the beach easement because this is part of the mistrust. Adopting this ordinance would further ensure the City is taking more of the beachfront property owners' rights.

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

City Attorney Mora stated as written, the ordinance does not prohibit a boat from traversing the area, but boats cannot be under motor or wind power at the time for that span.

City Manager Mims stated the State of Florida mandated this amendment. The State of Florida placed the City on notice approximately six months that it had an invalid buoy permit.

City Manager Mims stated Florida Statutes were amended, which made the City's permit invalid. The ordinance clarifies the problem that the City has had for years. This was mandated by the State of Florida, and the City is complying with the State Law.

MOTION MADE BY COMMISSIONER BOND, SECONDED BY COMMISSIONER HANNA, TO APPROVE ORDINANCE NO. 2022-07, ON SECOND 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.

ROLL CALL VOTE:

AYES: McCALL, HANNA, BOND, KENNEDY

NAYS: HOUSEBERG

MOTION TO APPROVE CARRIED BY A VOTE OF 4 TO 1.

7A. 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.

[Beginning of Staff Report.]

BACKGROUND:

The City's current contract for Curbside Recycling will expire on December 31, 2022. During the October 11, 2022, City Commission Meeting, the City Commission discussed several aspects of the recycling environment that have contributed to increased costs, including the 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 City Commission that regardless of the increase in cost, recycling was too important of an effort to consider elimination at this time.

During the November 9, 2022, City Commission Meeting, the Commission agreed to continue the IRB Recycling Program by unanimous consensus. 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 Madeira Beach's bid provided by Waste Pro)
- \$28.63 per pick up for Condominiums
- The current CPI language remains the same
- \$389,015.40 annually

A 10% increase in solid waste rates will be necessary to generate the additional \$150,000 annually to cover the increases to curbside recycling costs. Current residential rates of \$62.50 bi-monthly will be increased to \$68.75, and commercial rates will be increased by 10% for all commercial containers.

[End of Staff Report.]

City Attorney Mora read Ordinance No. 2023-01 by title only on first reading.

City Attorney Mora explained to the City Commission what is happening here procedurally so that it is clear. Over the last few months, the City Commission had some meetings about solid waste and recycling. The City Commission directed the Administration to renegotiate the terms of that recycling contract. The City Commission agreed to extend that contract, understanding it would come at an increased cost. With that increased cost, Administration is proposing to increase the solid waste fee schedule as it is set forth in the ordinances.

City Attorney Mora stated as a matter of legal advice to the Administration to pull the fee schedule out of the City's codified ordinance and have it be a resolution. Resolutions can be amended on first readings, one reading. A resolution would codify this fee schedule later, so the ordinance strikes out all of the fee schedule language. Because this is the first reading of the ordinance, but on the second and final reading, there will be an accompanying resolution that has the solid waste fee increases. For clarity in the record, solid waste fees are located in Code Section 50-91, and the fees have been struck through. However, the accompanying resolution will indicate the increases. After that, he reviewed the increases:

- (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~~ \$25.06
 - (2) Multi-unit rate, two times per week, per month. ~~\$21.65~~ \$23.82
 - (3) Commercial business establishment, five cans, two times per week, per month
 ~~\$28.44~~ \$31.28
 - (4) Dumpster rates:
 - a. Two yards, two times per week, per month ~~\$219.92~~ \$241.91
 - b. Four yards, two times per week, per month ~~\$401.05~~ \$441.16
 - c. Six yards, two times per week, per month ~~\$569.19~~ \$626.11
 - (5) Each additional pickup:
 - a. Two-yard dumpster, one time per week, per month. ~~\$110.01~~ \$121.01
 - b. Four-yard dumpster, one time per week, per month ~~\$200.56~~ \$220.62
 - c. Six-yard dumpster, one time per week, per month. ~~\$284.39~~ \$312.83
 - d. Commercial can pickup, one time per week, per month ~~\$14.23~~ \$15.65
 - (6) Single one-time pickup:
 - a. Two-yard dumpster ~~\$110.01~~ \$121.01
 - b. Four-yard dumpster ~~\$200.56~~ \$220.62
 - c. Six-yard dumpster ~~\$284.39~~ \$312.83

City Attorney Mora stated he wanted to give the City Commission an explanation on why the ordinance does not look like it usually does. A resolution is only adopted on one reading. So, if and when this ordinance were to pass on second and final reading, the very next agenda item would be the resolution establishing the schedule of fees at these increased amounts. In the interest of transparency and disclosure of the public, he wanted to make sure what that resolution will say because the solid waste fees will be increased.

Mayor-Commissioner Kennedy opened the public comment session.

Ian Vaughan, 301 Harbor Drive, clarified that the solid waste fee structure is based on different forms of pickups, i.e., commercial, business, and residential.

Mayor-Commissioner Kennedy closed the public comment session.

MOTION MADE BY COMMISSIONER HANNA, SECONDED BY COMMISSIONER BOND, TO APPROVE ORDINANCE NO. 2023-01, ON FIRST READING, 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.

ROLL CALL VOTE:

AYES: MCCALL, HOUSEBERG, BOND, HANNA, KENNEDY

NAYS: NONE

MOTION TO APPROVE CARRIED UNANIMOUSLY.

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

9. OTHER BUSINESS. None.

10. ADJOURNMENT.

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

January 10, 2023

Date Approved

/DOR