

INDIAN SHORES

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TOWN COUNCIL WORKSHOP MINUTES TUESDAY, FEBRUARY 12, 2019, BEGINS AT 2:30 P.M. INDIAN SHORES MUNICIPAL CENTER, 4TH FLOOR

The meeting convened at 2:30 p.m.

Those present: Mayor Patrick C. Soranno, Vice Mayor Diantha Schear, Councilor Mike Hackerson, Councilor Mike Petruccelli, Councilor Bill Smith, and Town Attorney Regina Kardash.

Also present: Town Administrator Bonnie Dhonau, Town Clerk Freddie Lozano, Building Official Steve Tetlak, Fire Commissioner Larry Schear, and Resident Art Newsome

ITEM # AGENDA ITEM

1.0 Discussion and review of proposed Leave No Trace Ordinance 2018-04.

Mayor Soranno started the meeting by opening the floor for input.

Attorney Kardash mentioned that the Leave No Trace Ordinance was created with the help of sources from the model ordinance regarding turtles and from neighboring communities who have enacted their own Leave No Trace Ordinances.

She proceeded to point out that the restrictions do specify that items cannot be left on "any portion of the public beach located in Indian Shores," and that the items need to be placed next to a structure onto a private property away from the dunes or native vegetation. There is mention of no digging on the beach and holes cannot be left unattended and should be filled back in after using.

Patrick C. Soranno
Mayor

Diantha Schear
Vice Mayor

Mike Hackerson
Councilor

Michael (Mike) Petruccelli
Councilor

William F. (Bill) Smith
Councilor

Bonnie Dhonau
Town Administrator

E.D. Williams
Interim Chief of Police

Susan L. Scrogam
Director of Finance
and Personnel

Freddie G. Lozano
Town Clerk

Steve Tetlak
Building Official

Regina Kardash, Esq.
Town Attorney

Mayor Soranno asked how the state statute on customary use interacts with this ordinance with regards to wet and dry sand.

Attorney Kardash replied that the state statute is specific to the interaction with private property. This ordinance is worded so that it deals with the public beach accesses located within Indian Shores.

Councilor Hackerson referred to the ordinance's definition of "beach", which defines the area being addressed. He added that the definition also answers Councilor Petruccelli's concern regarding furniture in the dune area on private property.

Vice Mayor Schear noted that it does address bringing back items to the building on private property.

Mayor Soranno would like to make sure the Town does not cede their right for an argument for customary use.

Attorney Kardash added that we define "customary use" as the public recreational sites used by the public. This ordinance does not infringe on that.

Mayor Soranno thought it would be helpful to add the term "customary use" in Section 54-4 of the Town's General Ordinances.

Councilor Hackerson pointed to Section 34-125 regarding rentals posting leave no trace and warning signs.

Attorney Kardash thought it would be helpful for those people who are not in Indian Shores all the time or for those here for the first time to gain the knowledge that items cannot be left at the beach. If enacted, maybe the property/rental owners can be informed to let their visitors know by posting the sign in their rooms.

Councilor Petruccelli asked if posting the notices on the properties is being mandated.

Attorney Kardash replied yes.

Councilor Smith added that many of these rental properties are handled by one rental agent that can distribute the information to multiple properties.

The conversation ensued on how to enforce posting the notice including advising the Home Owners Associations, posting notices on gates, entrances, and in units, attaching the notice to rental agreements, and posting in common areas accessible to all residents.

Attorney Kardash asked if there should be mention of providing the notice to tourist and rental units.

Councilor Hackerson feels that once enforced, the condominium associations will post the sign to avoid complaints from people asking where to put their items.

Mr. Schear commented that this shouldn't be only for multi-family dwellings. The renter, who may have already left, may be the only one to go after if there is no mention of the property owner or authorized agent in the ordinance. He suggested leaving it the way it is.

Mayor Soranno stated possibly relying on voluntary compliance. If the issues persist, then enforce something stronger if necessary. He would like the associations to be advised to post the notices in prominent locations for all to read.

Ms. Dhonau stated that if the owners are being asked to post the sign, then she agrees that Section 34-125 should be in the ordinance.

Attorney Kardash added that if the posting is being mandated, then yes Section 34-125 should be in the ordinance. If the owners are being asked to post the signs, then the section can be removed. It can be added back if necessary if the matter continues to be an issue.

Council reached a consensus to remove Section 34-125 providing that it can be added back if the issue continues.

Ms. Dhonau read Section 34-122(a) regarding personal property left on the beach from sunset until sunrise daily. She wanted to make sure if the time is from 10 p.m. – 6 a.m.

Councilor Petruccelli likes 10 p.m. due to the sun setting around 5 p.m. during the beginning of the year.

Councilor Smith added that there are people who come for the sunset who stay longer.

Council reached a consensus to set the time from 10 p.m. – 6 a.m.

Ms. Dhonau read Section 34-122(b) regarding personal property left at any time within any Indian Shores public beach access areas. She gave an example of leaving a chair and taking a 3-mile walk and asked if that would be in violation.

Attorney Kardash replied that this is specific to the public beach access areas so that items are not left obstructing others' access to the walkway.

Ms. Dhonau pointed out that Section 34-122(c) mentions "during marine nesting season" and thought it would be in the Town's interest to enforce it year-round.

Councilor Smith added there should be consistency and have it enforced year-round.

Councilor Hackerson said to delete "during turtle nesting season" to enforce it year-round.

Mayor Soranno mentioned barbeques (bbqs) on the beach where hot coals could be dumped and covered with sand and could potentially be stepped on. He feels bbqs on the beach should not be allowed.

Attorney Kardash referred to Section 38-1(e) that prohibits the disposing or burying of any combustion by-product (ash or charcoal). It is currently a violation.

She will be amending Section 38-1(a) by removing the exceptions regarding any appliances used to bbq. She will add a separate subsection that strictly prohibits grills, bbqs, and cooking on the beach. Section (d) will be removed.

Ms. Dhonau mentioned Section 34-122(c) in the Leave No Trace Ordinance regarding the removal of property left on the beach by police, public works or code enforcement, kept for 90 days and then disposed of. She would like to see a resolution that would enact an impoundment fee of \$25 to be collected at the time any items are retrieved from impoundment by the party claiming the item. This would help make up for the extra time it takes for the Town staff to pick up and tag the items.

She will follow up with the Police Department to see if there is already an impoundment fee process in place. If not, then a resolution will be created.

Attorney Kardash concurred that the impoundment fee would be a good way to recoup for town personnel time.

Councilor Smith thought the undefined term "public beach", that is referenced twelve times in the ordinance, should be clarified and defined.

Attorney Kardash will look at how the State Statutes for customary use defines public beach to further clarify the proposed ordinance.

Meeting adjourned at 3:39 p.m.

A handwritten signature in black ink, appearing to read "Freddie Lozano", written over a horizontal line. The signature is highly stylized with large loops and flourishes.

Freddie Lozano
Town Clerk