

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
JULY 6, 2021
CITY HALL ANNEX COUNCIL CHAMBERS
6:00 PM**

The Council of the City of Destin met in regular session with the following members and staff present:

Destin City Council

Mayor Gary Jarvis
Councilmember Dewey Destin
Councilmember Terésa Hebert

Councilmember Schmidt
Councilmember Johnny King
Councilmember Prebble Ramswell

Destin City Staff

City Manager Lance Johnson
City Clerk Rey Bailey
Public Services Director Michael Burgess
Deputy Code Compliance Manager Kris Mercurio
Comm. Dev. Director Louis Zunguze
Finance Director Krystal Strickland
Grants/Project Manager Jeffrey Cozadd
Land Use Attorney Kimberly Kopp (Virtual)

Deputy City Manager Webb Warren
Public Information Manager Catherine Card
Building Official Noelle Bell
HR Manager Nichole De Vito
Planner Daniel Butler
Parks/Recreation Director Lisa Firth
City Engineer Donald Smith
City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Jarvis called the meeting to order at 6:00 pm; which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

Councilmember Ramswell requests "Special Counsel Agreement" be added to the agenda under CITY MANAGER REPORT following item 4G.

Motion by Councilmember Ramswell, seconded by Councilmember Hebert, to approve the agenda, as amended, passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

1. APPROVAL OF MINUTES

A. Approval of minutes of May 17, 2021 Regular City Council Meeting.

Councilmember Hebert moved for approval of minutes of May 17, 2021 Regular City Council Meeting; seconded by Councilmember King. Motion passed 5-0 (Council

members Schmidt, King, Hebert, Destin, and Ramswell voted “yes”; Council members Braden and Morgan were absent from the meeting).

2. PROCLAMATIONS / RECOGNITIONS / **SPECIAL PRESENTATIONS / ANNOUNCEMENTS

3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS AND ANY OTHER MATTERS NOT ON THE AGENDA

Ms. Carrie Harbarger, a Destin resident, expressed her misgivings about the Okaloosa County Tourist Development (TDD) initiative of giving away free popsicle during the 4th of July weekend in the harbor. She stated that she sells ice cream and that none of the businesses within the city limits were contacted regarding this program.

Mr. Larry Szczur, a Destin resident, stated that having tour helicopters hovering over his house is like living in a demilitarized zone, and that there were more helicopters that he had seen in quite some time. He stated that he attended the Okaloosa County meeting on June 6th regarding this issue. He along with many people raised their concern and irritation regarding the helicopter noise. He has also been sending emails to the County Commission as well as calling the Fly VPS hotline registering complaints. He stated that the behavior of the helicopter pilots is such that anything short of forcing them to fly different routes to minimize nuisance will not work. He urged everyone to keep calling the Fly VPS hotline and registering their complaints as these complaints are logged and documented. He asked if the city has a representative on a group that is involved in the negotiation of a new contract with Timberview Helicopter.

The City Manager noted that during a previous council meeting the Land Use Attorney has agreed and was appointed to serve in the committee that would be involved in the negotiation.

Attorney Stephen Tatum from Matthews and Jones noted that he is speaking on behalf of the owner of 355 Gulf Shore Drive property. He stated that the property was purchased by 355 Gulf Shore, LLC in October 2020 for \$1.6 million, and that the primary member of the LLC is Mr. Johnny Moseley. He stated that they applied for and received a permit for interior demolition of the property in November 2020 and started work on the property. They also applied for the interior buildout permit on the property on February 5, 2021. They began erecting walls for the plans that have been submitted even though they have not been issued the permit, which is a standard practice in construction business. They put their walls up to the point they are ready for an inspection. They are ready to remove the walls if a permit is not issued. He further stated that when the interior build out was reported to the city, Code Enforcement Officers came out and performed an inspection of the property and issued a Stop-Work Order; and so, they ceased inside construction of the property until the permit is issued and resumed work when they received the permit. He continued that a change order to place the rooftop deck was submitted shortly after February 5, 2021. He explained that the entire roof of the house is a rooftop deck, with railings all the way around the perimeter which is approximately 2000 square feet. They proceeded with the change in the middle of construction even though the permit has not been approved. When that portion of the construction was reported to the city, a Stop-Work Order was issued for the rooftop deck until a permit is issued. On June 7, 2021, the next-door

neighbors attended the city council meeting and complained about the project in general. There were statements made at this meeting that were completely inaccurate. About two days later, they received a complaint from the Holiday Isle Improvements Association (HIIA) about their posts for the rooftop deck being too tall, exceeding the height limitation in that neighborhood. They removed the posts which were in full length as they have not been cut to the right size. The city then issued a Stop-Work Order for the entire project. The city's building official also requested they provide information on the evaluation of improvements. On June 10th they were provided an itemized construction costs for all the portions that FEMA requires they provide. In order to not meet all the current standards for building, they cannot exceed the costs of the current construction by more than 50 percent with their new improvements. The Stop-Work Order was then lifted once they provided the pertinent and correct information as verified by city staff.

Councilmember Ramswell asked if it was standard practice to put the walls up before a permit is issued.

Building Official Noell Bell stated that a lot of contractors perceived that to be a standard practice; however, a permit when issued is the authority to proceed with any construction.

Councilmember Schmidt asked if it is a violation of the code to advertise short-term rentals on the website when a property is not currently approved for short-term rental.

According to the Land Use Attorney, it is a code violation to advertise as such if the property is not registered as a short-term rental with the city.

Mr. Tatum noted they have contacted all the pertinent websites to remove the advertisement, however, one website – Florida Rentals.com – has not complied. Somehow it is beyond their control to remove the advertisement.

Mr. Johnny Moseley, owner of 355 Gulf Shore Drive, noted that he hired a management company to advertise and managed the property. They notified them in writing to make sure they comply with the city's policies. He also stated that his neighbors have grossly represented the facts in this case during the June 7th meeting, especially the claim that he has defrauded the City of Destin. The city even talked about levying a heavy fine and/or taking him to court and foreclosing on his house even though they had a legitimate and approved permit and doing work in compliance with city policies. He felt he has been targeted and harassed as Code Enforcement officers have been showing up at the job site almost every other day. It also seems his neighbors and the HIIA will continue to battle him and keep him from being able to complete construction of this house. He added that even though he is fully represented by counsel, he wanted to address this issue before the city council to explain his side of the story.

Councilmember Hebert asked how many people they intend to allow to live in that house.

According to Mr. Moseley, they intend to abide by the city's current city policy for maximum occupancy of two people per bedroom plus 4 more people.

Councilmember King noted it has been reported that a bunkroom is being constructed in the downstairs area of the property that can accommodate over 20 people.

Ms. Mosely explained he is converting an existing 35 x 22 x 14 bay into a massive inside of a pirate ship experience with cannons mounted on the walls and with 12 different bunkbeds. However, he does not expect to have 24 people occupy those bunkbeds.

Councilmember Schmidt asked why even build a bunk room with 12 bunkbeds knowing they could only allow a maximum of 24 people in the entire house.

Ms. Mosely explained that people could choose where they want to sleep in that entire house.

Mr. Jimmy Perkins, a Destin resident, reported receiving a cease-and-desist order from the city on his business recently even though he does not believe he violated any city policy. He stated that he has sold ice cream on Crab Island for nearly 15 years. He was informed by the County last year that he could no longer sell ice cream on Crab Island and so he decided to pursue another line of business. He charts pontoon boats and put licensed Coast Guard captains on it, which is allowable according to city code. He sent 10 of his workers to attend a captain school to be designated as captains and placed them on the vessels. They carry 6 people and a licensed captain in each vessel. He stated that he turned in his business tax receipt application to the city back in May 2021 but has not received a response, and that he received a Stop-Work Order a few days ago. He stated that certain pontoon owners felt threatened by the presence of his boats and putting captains on each of these boats. He added there cannot be anything safer than having licensed captains taking people to Crab Island.

Mr. David Ott addressed the issue brought about by the previous speaker. He stated that a livery vessel as defined in the municipal code does not always mean a vessel under the control at all times by a Coast Guard licensed captain. Having Coast Guard certified captains on these vessels will contribute to public health, safety and welfare and monitor and provide reasonable means to ensure safe and reasonable operations of the vessels. He stated that changing the rules will remove experienced boaters certified by the Coast Guard from the waterways and those who can instruct others on waterways safety. He asked the city to lift the cease-and-desist order it has issued as it is preventing experienced people from being in the waterways.

Mr. Shawn Keets, a Destin resident and certified captain, noted that he has worked for Mr. Perkins for several years, and that Mr. Perkins runs Jimmy's Charter on Crab Island with certified boat captains. The cease-and-desist order is threatening the livelihood of Mr. Perkins as well as all of his employees. The cease-and-desist order mentioned several demands that need to be met to legitimize the business operations. He stated that the rental pontoon vessels should not be considered livery vessels, but charter vessels operated by US Coast Guard licensed captains. He added that the reason there is not an approved business tax receipt is due either to the city's failure to act or improper characterization of Mr. Perkins company as a livery company rather than a charter company.

CITY MANAGER REPORTS

- A. Approval of Contract with 3TP Ventures, Inc., for Mobility Plan, Including Fee Schedule and Scope of Work.

Community Development Director Louis Zunguze provided the following presentation:

BACKGROUND:

- At the March 1, 2021 City Council meeting, the City Council unanimously voted to replace transportation concurrency (Multi-Modal Transportation District aka MMTD) and associated Impact Fee Program with a Mobility Fee-Based plan.
- The outcome of the initiative will be to have a transportation strategy for the city that implements the Comprehensive Plan, supports current development decisions, mitigates the impact of new development, and promotes efficient, safe and convenient mobility options for Destin's residents, workers and visitors. The following major deliverables will be created for this project:
 - ❖ Transportation Trends and Conditions Report
 - ❖ Destin Mobility Plan
 - ❖ Mobility Fee Study Report
 - ❖ Mobility Fee Users Guide
- The work requires a number of specialized skills to include multimodal transportation planning, traffic engineering, land use planning, and market analysis and forecasting.

Parameters of Council's Direction:

- Keep Benefits of MMTD:
 - ❖ The MMTD shall emphasize the reduction of automobile mobility and vehicle miles traveled per person, in addition to the reduction of greenhouse gas emissions, while promoting accessibility by all modes through Development of the built environment through improvement of cycling, pedestrian, and transit networks.

Challenges of MMTD:

- Many of the on-site requirements designed to promote pedestrian, bicycle, and transit use were not implemented due to:
 - ❖ Multimodal Transportation Currency Evaluation Certificate (CEC) flexible point scoring system based on the project location, size, and traffic impact allows developers to pick and choose what design elements would be provided (up to 2018).

- ❖ De minimis thresholds that exempt many expansion/redevelopment projects from providing any MMTD design requirements. (e.g., outdoor dining not factored in parking calculation.)
- ❖ Multimodal impact fee was adopted at roughly 30% of amount required to fund projects to offset impacts from new development.
- ❖ Impact and mitigation fees collected from development projects completed from 2009 to 2015 totaled \$225,828.99 – only 2% of programed improvements.
- ❖ Transit ridership on routes serving Destin decreased by 41% from 2007

Mobility Plan and Fee

- It is a plan that provides a blueprint for the city to proactively prioritize multimodal projects to meet the growth, travel and mobility needs of the City in a manner that is consistent with the Future Land Use Element of the City's Comprehensive Plan.
- Mobility Plan will include maps that show the location of future multimodal improvements and tables that describe and prioritize multimodal projects in the city
- Mobility Plans are also required by Florida Statutes 163.3180(5) to serve as a basis for the development mobility fee.
- A mobility fee is a one-time fee paid by a developer to mitigate the impact of the City's transportation system and fund the multimodal projects adopted as part of the mobility plan.

Policy Parameters of the Plan required by State Statutes

The City of Destin has already adopted four of the six policies outlined in the legislation. These include:

- Provide long-term strategies to facilitate development patterns that support multimodal solutions, including urban design, and appropriate land use mixes, including intensity and density
- Adopt areawide level of service not dependent on any single road segment function.
- Assigning secondary priority to vehicle mobility and primary priority to ensuring a safe, comfortable, and attractive pedestrian environment, with convenient interconnection to transit.
- Establish multimodal level of service standards that rely primarily on nonvehicular modes of transportation where existing or planned community design will provide adequate level of mobility

Scope of Work for the Mobility Plan and Fee Development

- Carrying Capacity Study

- ❖ Existing transportation conditions
- ❖ Population and Employment Forecast from future development/redevelopment
- ❖ Future transportation
- ❖ Key findings and data to be utilized in the development of Plan and Fee

➤ Mobility Plan

- ❖ Develop multimodal transportation network
- ❖ Identify multimodal improvements
- ❖ Develop mobility plan project needs list with costs
- ❖ Identify and prioritize multimodal projects by type and location

➤ Mobility Fee

- ❖ Review alternative mobility fee structures and revenue resources
- ❖ Identify assessment areas to benefits districts
- ❖ Identify land uses to:
 - Encourage uses with the most impact
 - Calculate mobility fee
 - Prepare Mobility Fee schedule

Councilmember Schmidt asked whether they have a lot of surveys and studies on the harbor district parking currently being conducted by different firms. He wants to make sure they do not have overlapping services for which they are paying.

According to Mr. Zunguze, there is not one currently related to parking. The last study was conducted so far back that it needs to be updated. He continued that the Harbor Carrying Capacity Study will conduct some traffic counts but from a different perspective altogether.

Motion by Councilmember Destin, seconded by Councilmember Ramswell, to approve proposed contract with 3TP Venture, Inc. passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted “yes”; Council members Braden and Morgan were absent from the meeting).

- B. Approval of Resolution 21-07 - Determining the necessity to acquire certain property for public use.

The Deputy City Manager stated that this parcel represents the last parcel to be acquired in Phase 1 of the city’s beach acquisition initiative. The project consists of the acquisition of three parcels of beach front property located in Crystal Beach for purposes of providing public access to the gulf and beach recreational facilities. The two outer parcels were acquired by the city in late 2020 using a share of funds from the city and the county’s tourist development tax dollars.

According to the City Attorney, because the outer parcels have been acquired, it is now a necessity to acquire the middle parcel to begin the design and construction phase of the project. City and county staff remain optimistic that they will be able to successfully negotiate the

acquisition of this parcel without the need for judicial proceedings. The proposed Resolution of Necessity is the first step in an eminent domain or condemnation proceeding. Once the resolution is adopted, the city staff and attorney would be able to send the property owner a good faith offer for the appraised value of the property. Based on the appraisal obtained by the county, the good faith offer would be for \$5.3 million. This acquisition would be funded with a 59% commitment from the county and 41% commitment from the city in accordance with the previously entered into interlocal agreement. The resolution sets forth further details as to the need for the property in accordance with the laws. Adopting the resolution does not necessarily mean that condemnation via eminent domain will take place. However, it is a prerequisite to bringing such action should negotiations reach an impasse.

Councilmember Hebert moved to adopt Resolution 21-07; seconded by Councilmember Destin. Motion passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

C. .Low Speed Vehicles

Motion by Councilmember Ramswell, seconded by Councilmember Hebert, to continue agenda item 4C to the next City Council meeting passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

D. Regulations relating to electric bicycles

Motion by Councilmember Ramswell, seconded by Councilmember Hebert, to continue agenda item 4D to the next City Council meeting passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

E. Franchise and Undergrounding Agreements with Gulf Power - Special Counsel Schef Wright

The city's Special Counsel Schef Wright provided a brief update on the franchise and undergrounding agreements with Gulf Power. He stated that discussion relating to the franchise agreement has progressed to the point where a working draft is being presented to the council at this meeting for their input and direction. The undergrounding agreement discussion has steadily progressed but require some further refinement. There is one decision issue for the city to consider. The city had proposed that they be given the opportunity to enter into an undergrounding agreement for two projects within three years following the effective date of the franchise, and that if they are unable to reach such agreements, then the city's right to purchase would vest, with the opportunity for the city to elect to purchase Gulf Power facilities then continuing for an additional year. Gulf Power pushed back and asked that the city agrees to terms that would give the city the opportunity to enter into one undergrounding agreement within two years following the franchise effective date, with the same one-year election period beginning at the end of the initial 2-year period. He recommends the city endeavor to enter into one undergrounding agreement (one phase) within the first 2 years following the franchise

effective date, with the same one-year election period beginning at the end of the initial 2-year period.

Councilmember Destin noted that the franchise agreement dictated that the increase in the franchise fee can only be spent on undergrounding. If for some reason there is an economic downturn later on similar to what happened in 2008 and they decide to suspend the undergrounding work, whether Gulf Power would continue collecting that franchise fee.

Mr. Wright, suggest they pose that question to Mr. Bernard Johnson, Gulf Power Regional Manager, who is present at tonight's meeting.

Mr. Johnson stated they would not stop collecting franchise fees once they have started.

Councilmember Ramswell moved to enter into one undergrounding agreement (one phase) within the first 2 years following the franchise effective date, with the same one-year election period beginning at the end of the initial 2-year period; seconded by Councilmember Hebert. Motion passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

F. Capt. Royal Melvin Heritage Park Change Order Approval

The City Manager noted that the change order in the amount of \$69,818 includes changes that would provide a safer, more resilient, and easily maintained facility. This would include the following:

- Removing all drywall, tile, insulation, and other items that would be susceptible to high corrosion with such a damp environment
- Modifying all electrical to run on exterior surfaces
- Replace the ADA accessible ramp retaining wall with stainless steel handrail.
- Increase lighting on the lower portion of the park to create a safe and inviting environment

Councilmember Ramswell moved to approve Change Order #8 and authorize the City Manager to execute the change order. Councilmember Hebert provided a second to the motion, which passes 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

G. Implementation of Countywide Tourist Development Taxing District – Update from Legal Team

The City Attorney reported that at the direction of the city council at its second meeting in June, the city attorney, city land use attorney and city staff participated in a meeting with county staff and county attorney on June 22, 2021, where many aspects of the proposed taxing districts were discussed. Since that time, the attorneys and staff have diligently attempted to

work with county officials on this issue. Special Counsel Jeff Burns has focused on the legal research and drafted a report which has been provided to the council.

Special Council Jeff Burns noted that his report reaches a conclusion that the city council should ultimately direct the city attorney or staff to draft a resolution that will institute the commencement of the local government alternative dispute process under Chapter 164, Florida Statutes. The reasons for this conclusion are outlined in the report.

Councilmember Ramswell moved to authorize the drafting of a resolution that will institute the commencement of the local government alternative dispute process under Chapter 164, Florida Statutes, due to a clear dispute between the City of Destin and Okaloosa County and to bring the proposed resolution back at the next City Council meeting for public comments, council discussion, deliberation, and a possible vote. Councilmember Hebert provided a second to the motion.

Councilmember Schmidt asked whether the passing of this resolution delay or stop the county from going forward if they were to pass their ordinance with the referendum language.

Mr. Burns stated that the passing of this resolution will not stop the county from moving forward with the referendum.

Councilmember Schmidt asked whether there is an option for the city to create its own sub-district and collect its own taxes separately.

Mr. Burns stated they have to actually get the whole existing sub-district to vote to dissolve the current sub-district. They could also do a referendum to allow the county to carve the City of Destin out of the existing sub-district; however, in order to get the referendum question on the ballot they would need 15 percent of registered voters in the current sub-district to sign a petition to place the question on the ballot for the referendum and turn it over to the Supervisor of Elections. With regards to creating its own sub-district, it is much harder to do. They would need to initiate the process through the County Commission to form a new sub-district with just the City of Destin. It would require a petition to do so as well.

Councilmember Destin asked Special Counsel Jeffrey Burns to explore ways to slow down the county's ordinance process related to the proposed taxing district expansion; as well as to look into the county's ability to go forward with the ballot language with a resolution versus an ordinance.

Councilmember Ramswell asked if the City of Destin opted to do the referendum to carve the city out of the existing sub-district, whether they could, as a city, impose a municipal resort tax which is 4 percent on transient lodging and up to 2 percent on food and beverages.

The City Attorney noted he has previously and very briefly reviewed the particulars regarding the resort tax. It was fairly limited in the municipalities with certain large populations that could essentially levy that tax.

Councilmember Ramswell asked the City Attorney to investigate complaints from citizens that their receipts from certain businesses indicate “resort tax” payments; and the legality for certain local businesses to impose this tax.

Motion passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted “yes”; Council members Braden and Morgan were absent from the meeting).

H. Special Counsel Agreement – Attorney Jeffrey Burns

Motion by Councilmember Ramswell, seconded by Councilmember Destin, to approve the Special Counsel Agreement passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted “yes”; Council members Braden and Morgan were absent from the meeting).

I. Update: Tour Helicopters

Land Use Attorney Kimberly Kopp provided a brief update on the status of the contract negotiations between Timberview Helicopters and Okaloosa County. She stated that the contract negotiation was supposed to be a two-part process. Timberview Helicopters and the county will continue their negotiations. The county also set up a separate meeting with the airport and air traffic control tower as well as the City of Destin and the public to discuss proposed helicopter routes and allow the public to review the proposal and provide comments. However, that meeting has been cancelled. She has requested an update on the contract negotiations and will provide more information to council as they become available.

Councilmember Ramswell stated that she can attest to the statement Mr. Larry Szczur made earlier about the helicopters; adding that the situation could even be worse. She continued she has submitted a crude drawing to the county showing the route the helicopters are taking from her perspective sitting in her backyard. The helicopters have been flying over the south end of Indian Bayou Drive and onto the Twin Lakes neighborhood. They were flying over back yards in those neighborhoods. One of the main concerns is quality of life for residents.

According to Councilmember Hebert, the helicopters pilots do not seem to care they are flying over properties and bothering residents. Citizens are asking her what they could do to keep the situation from getting worse.

Councilmember Schmidt requests the City Manager contact the owner of Timberview Helicopters and/or the county to come to a council meeting and provide an update on the status of the contract negotiations.

J. Longevity Award

The Deputy City Manager Webb Warren noted that during the 2021 Council Visioning Session, a high priority was placed on the city offering and maintaining wages that attract and retain qualified staff. They have been researching different options as well as continuing to pursue a wage study. At this time, they are looking for some direction from the council whether

they should invest from some additional resources and pursuing the option for a longevity award as described in the agenda report to council. He added it is one way of expressing gratitude to city staff for staying with the city during a very competitive market.

Councilmember Hebert moved to direct staff to bring back additional details for a one-time longevity award program at the soonest possible council meeting; seconded by Councilmember King.

Councilmember Ramswell asked if they provide staff any type of compensation during the Christmas Holiday.

Mr. Warren stated that staff usually receives a gift card typically for Walmart or Winn-Dixie, but no monetary compensation.

Councilmember Ramswell noted that she likes the longevity award idea. She asked whether there is a plan to scale it.

According to Mr. Warren, there would be some sort of structure staff could bring back if the council decides to pursue this initiative.

Councilmember Hebert recommends setting up an annual Christmas compensation funds for city staff as part of the annual budget.

Councilmember Destin pointed out they will need a reoccurring fund source if they include this initiative as part of the annual budget. He recommends having the City Attorney investigate this matter from a legal perspective.

Motion passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

K. Announcements:

1. Budget Workshop #2 on July 12th at 5:30 pm.
2. The Harbor Capacity Study will be getting underway this month.
3. Airport Road curve safety improvements update

Public Services Director Michael Burgess reported that they had a conference call with FDOT and the contractor involved with this project. The timeline as proposed during that meeting were as follows:

- The Notice to Proceed was submitted to the contractor today. The contractor has 15 days to prepare and make the area safe and mobilize equipment. The city and FDOT's public information officers will make sure the public is aware this project is forthcoming.
- Additional signage and maintenance traffic devices will be installed during this period.

- The roads will be milled and subsequently resurfaced. FDOT assured staff there will be at least one travelable lane in each direction throughout this process.
 - After the road is resurfaced and temporarily striped, there will be a 30-day cure time for the asphalt. Following the 30 days, the contractor will return and apply the high friction surface treatment. The material will then be allowed to cure for 14 days, and then the permanent thermoplastic treatment and reflective pavement marking will be applied.
4. Community Center will be closed July 6,7 & 8 while the gym is being re-striped.
 5. Reminder: July is National Parks & Rec. month, get out and enjoy your parks!
 6. Steven O'Connor hired as the Principal Planner for Community Development Department
 7. Kris Mercurio – hired as Deputy Director of Code Compliance Department

4. PUBLIC HEARINGS

- A. Jesse Robinson, on behalf of Bamboo Box, LLC is requesting a Conditional Use (21-02-CU) approval for a specialty grocery store. The project consists of renovating the existing ±2,528 SF suite to include a display area, a kitchen, a storage area, restrooms, and a small office. The subject site contains 0.22 acres. The project is being proposed at 1209 Airport Road, Suite 11 (Parcel ID: 00-2S-22-001B-000-0020).

The City Attorney sworn in the following individuals for testimony:

- Daniel Butler – City Planner
- Jesse Robinson – Applicant

The City Attorney asked if there had been any ex-parte communications on this matter.

Each member of the council and mayor announced they have not been involved in any ex-parte communications regarding this project.

Mr. Butler stated that the project consists of renovating the existing suite to include a display area, a kitchen, a storage area, restrooms, and a small office. The subject site contains 0.22 acres. The project is being proposed at 1209 Airport Road, Suite 11, Destin, Florida. The proposed project was reviewed by city staff under the Conditional Use criteria outlined in Article 7.12.00, Land Development Code. The property has a Future Land Use Map designation of Commercial General. The project is consistent with Comprehensive Plan Policy 1-2: Future Land Use Element.

Councilmember Schmidt pointed out that according to the report, the only exterior improvements being proposed is the addition of 7 parking spaces to comply with the LDC requirements. He asked whether this is already happening on this parcel.

Mr. Butler noted that this parcel has a gravel lot that is connected. There is currently no parking allowed on that gravel lot. The extra 7 parking spots will be delineated based on the use.

The mayor opened a public hearing to receive comments for or against the proposed project. Having none, the mayor turned the matter over to the council for their discussion and consideration.

Motion by Councilmember Schmidt, seconded by Councilmember Ramswell, to approve Conditional Use 21-02-CU passed 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

5. CONSENT AGENDA

- A. Authorization to purchase two trailer-mounted 6" Self-Priming Trash Pumps
- B. Declaration of City Property as Surplus, authorization allowing the City Manager to execute a contract for Auction Services, provides for disposal of assets
- C. Board & Committee Minutes

Councilmember Hebert moved to approve Consent Agenda items 6A through 6C, as printed above. Councilmember King provided a second to the motion, which passes 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

6. COMMENTS/PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY

- A. Councilmember Braden
- B. Councilmember Ramswell

Councilmember Ramswell alluded to the tragedy that happened in Surfside, Florida where a condominium building collapsed killing or injuring hundreds of residents. She stated that council received several emails from citizens inquiring about the processes they have in the city that could help prevent a similar tragedy. She asked where the city stands in terms of subsequent inspection after the issuance of a Certificate of Occupancy.

The city's Building Official Noell Bell explained that once a Certificate of Occupancy is issued, the city's Planning Division is no longer involved with the property. Any follow up inspections are not within their purview per state statutes. However, if a homeowners association requests to have an inspection from the city, the city would then advise them to hire a structural engineer, who is the expert in that regard, to perform such an inspection. If they pursue that route and provide the city some type of report stating that some types of building deficiencies have been identified, the city will then conduct the due process of issuing an Unsafe Building Abatement Notice that would force the property owner to take care of the issues.

According to the Land Use Attorney, the city also has the ability to implement unsafe structure processes in accordance with the code if they receive a complaint or have knowledge about a building being unsafe. They will provide notice to the property owner to proceed to abate certain safety issues. She also stated that she has been discussing with the Community Development Director and Building Official about preparing an ordinance that would provide for additional periodic inspections and bring it before the council for discussion and adoption.

The City Manager also noted that he has directed staff to develop a Request for Proposal (RFP) for potentially hiring a structural engineering firm as a continuing services contractor that would be able to take a proactive approach of conducting inspections if necessary.

The mayor asked whether it is common for a city the size of Destin to place itself in a position to hire a structural engineer and to have a requirement to have periodic inspections. He stated that the city has a lot of tall buildings that are about 25 to 30 years old. He recommends looking into similar size communities that are providing this type of service.

Councilmember Schmidt noted that the city already has a process of responding to complaints about unsafe structures in the city. He asked how they would respond to complaints they have already received from citizens about a particular building in the city.

Ms. Bell replied that she and the City Engineer will visit that particular property to investigate and make proper determination whether additional evaluation by a structural engineer is necessary.

Councilmember Ramswell stated that even though the city's building inspector is not a structural engineer, she should have enough insight and education to look at something and determine it to be unsafe and that further investigation by a structural engineer is warranted.

Ms. Bell stated it would be as far as she would go before recommending the hiring of a structural engineer, if necessary.

Councilmember Destin recommends having the city's attorneys further investigate this issue from the legal perspective.

Councilmember Destin moved to direct the City Manager to have staff come back at the next meeting with some recommendations on a process for follow up periodic inspections of properties following the issuance of a certificate of occupancy. Councilmember Hebert provided a second to the motion. Motion passes 5-0 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Braden and Morgan were absent from the meeting).

- C. Councilmember Destin
- D. Councilmember Morgan
- E. Councilmember Hebert

- 1) Public/Private cooperation to commission murals in areas around the city in need of revitalization.

Councilmember Hebert asked Mr. Zunguze to share his thoughts regarding their prior discussion about enticing businesses and/or free-lance local artists to be part of this partnership.

According to Mr. Zunguze, they could certainly take that approach, or they could also make it a part of the project Councilmember Ramswell has already proposed to avoid duplication since they are quite similar.

Councilmember Ramswell stated that it seems to be a natural fit with the project she has previously proposed. The whole concept was decorating utility boxes, but they could expand it to incorporate multiple art projects or beautification projects around the city.

F. Councilmember King

G. Councilmember Schmidt

Councilmember Schmidt stated there are a lot of ways the public can submit a code violation complaint to the city – Facebook, website, email, or phone calls. He asked if every code complaint is officially categorized, registered, or forwarded to the code compliance department for action.

The City Manager stated that every code violation complaint is recorded and documented by the code compliance department.

According to the Deputy City Manager, there are several ways to receive code violation complaints, and they try their best to get each one into the system in a timely manner for actions by the code compliance department. However, with the EnerGov coming online is going to change the process. The IT department, public information officer, and code compliance department will work together to diagram and encourage this process. Some people will probably still use the process with which they are comfortable, but the preferred process is through EnerGov.

H. Mayor Gary Jarvis

1) Eglin Property

The mayor provided an update on the result of the meeting he and Commissioner Mel Ponder had with the Eglin Commander related to the Eglin property. He stated that the idea of allowing the city or the county to manage and police the property. But the Eglin Commander stated that it became such a problem that the only way they could protect that land is to barricade it. People could still access the park by boats, but they will not be able to park and walk from the base of the bridge or over the sand dunes to get there. It is a military property and if people want to access the property there are certain rules and regulations to follow. Unfortunately, some people have violated those rules, so it became necessary to put up the fences.

Next, the mayor asked staff to review Florida Statutes to differentiate between livery vessels and charter vessels and report back to council.

Councilmember Schmidt requests more explanation as to why a cease-and-desist order was issued for immediate shutdown of a business without proper warning.

Deputy Code Compliance Director Kris Mercurio explained they did not have an address for that particular company or any record of it being legally allowed to operate. There is also another company operating at that same location. He also stated that since this is an active and there is an ongoing investigation at this time, he cannot speak freely about this case.

Councilmember Schmidt asked if the business owner was given a warning before the issuance of cease-and-desist order since there is a process involved whereby businesses are given time to come to compliance before receiving order for immediate shutdown.

Officer Mercurio stated that no warning was issued to the particular company. He reiterated there are certain parts of the ongoing investigation that he cannot discuss in public because this is an active code enforcement case. However, they could further discuss the cease-and-desist order with the company if they decide to contact the city.

According to the City Manager, they seem to be getting close to an area where they probably should not be discussing in public. He asked the Land Use Attorney for advice.

The Land Use Attorney stated that she is not aware of this case but will discuss this matter with the Code Compliance Department, determine the proper way to move forward, and report back.

Councilmember Destin commented that it is not proper for the council to interfere or interject themselves on code enforcement matters in public. He also stated that the mayor's direction to staff to investigate and differentiate between livery vessels and charter vessels is better directed to the Land Use Attorney as it involves some legal issues.

I. Land Use Attorney

J. City Attorney

The City Attorney announced he received three separate emails in response to Councilmember Ramswell's earlier question on whether the city could levy for a municipal resort tax. The information came from three different sources - Special Counsel Jeff Burns, Finance Director Krystal Strickland, and Councilmember Ramswell herself. He announced that according to the 2020 Local Government Financial Handbook, the authorization to levy for the municipal resort tax is limited to municipalities and counties having a population not less than 330,000 and not more than 340,000, such as Broward County; and in counties having a population of more than 900,000, such as Miami-Dade County. Also, according to the 1960 decennial census, those whose charter specifically provided or as amended prior to January 1, 1968, to apply for this tax levy are eligible to impose it by ordinance adopted by the governing body.

7. PUBLIC COMMENTS

Ms. Maya Shulders, a livery operator, asked whether the Harbor Carrying Capacity Study that is currently underway goes into 2022. And if so, will the completion of the study not be done until the livery packets are due in March. She also asked whether the moratorium on livery vessels will continue because the study is holding up the moratorium.

Mr. Zunguze noted that the study will go into 2022. The Harbor Capacity Study Steering Committee will make their recommendations as soon as the study is completed. These recommendations will go to the city council around Fall of 2022. It would be up to the city council whether to continue the moratorium.

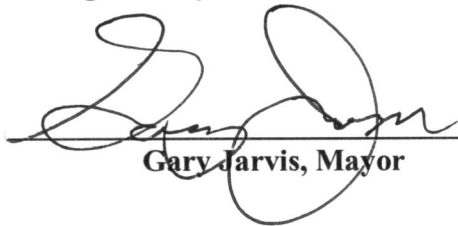
Mr. Jimmy Perkins noted that he submitted his application for business tax receipt in May for every single vessel, but they are being held up. He stated that they are not a livery company but a charter company. He sent several of his employees to school to obtain a captain's license. His lawyers previously spoke with the city lawyers and determined he is in compliance with the code. Now the city is taking away his livelihood and he believes there are some big pontoon companies that are behind it.

Mr. Jim Bagby, a Destin resident, addressed the topic related to the municipal resort tax. He stated that in 2005 the city thought they had the opportunity to get the same thing for Destin, but the county would not allow it to be passed in the legislature that year. The problem they will face with the municipal resort tax is the county will adamantly be opposed to it. In terms of the issue whether the city can be a separate county, the answer is no because the county will not let the city go.

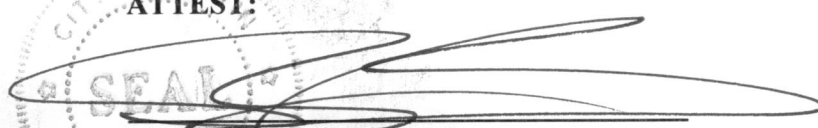
Mr. Bagby also noted that he managed a 21-story condominium facility. All kinds of inspections are conducted – roof, fire system, elevator, etc. – but none of which are performed by the county. The owners of the units are responsible. Problems that are identified are brought to the board who then votes on the action necessary to correct the problem. He expressed concern the city may have some liability if they get into the inspection regimen. He recommends the city's attorneys fully investigate this matter from the legal standpoint before involving the city in the inspection business and start hiring structural engineers.

ADJOURNMENT:

Having no further business at this time, the meeting was adjourned at 9:24 PM.


Gary Jarvis, Mayor

ATTEST:


Rey Bailey, City Clerk