

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
NOVEMBER 1, 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 Johnny King

Councilmember Prebble Ramswell
Councilmember Jim Bagby
Councilmember Rodney Braden
Councilmember Kevin Schmidt

Destin City Staff

City Manager Lance Johnson
City Clerk Rey Bailey
Public Info Manager Catherine Card
Floodplain Manager Traci Goodhart
Grants/Project Manager Jeffrey Cozadd
Community Dev. Director Louis Zunguze

Deputy City Manager Webb Warren
Finance Director Krystal Strickland
Building Official Noelle Bell
Code Compliance Manager Joey Forgione
City Attorney Kyle Bauman
Land Use Attorney Kim Kopp

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 pm. Pastor Logan Landes of Grace Lutheran Church provided the invocation, which was followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

Motion by Councilmember Hebert, seconded by Councilmember King, to approve the agenda passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted "yes").

1. APPROVAL OF MINUTES

A. Approval of minutes of October 21, 2021 Special City Council Meeting

Councilmember Braden moved for approval of minutes of October 21, 2021 Special City Council meeting; seconded by Councilmember King. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted "yes").

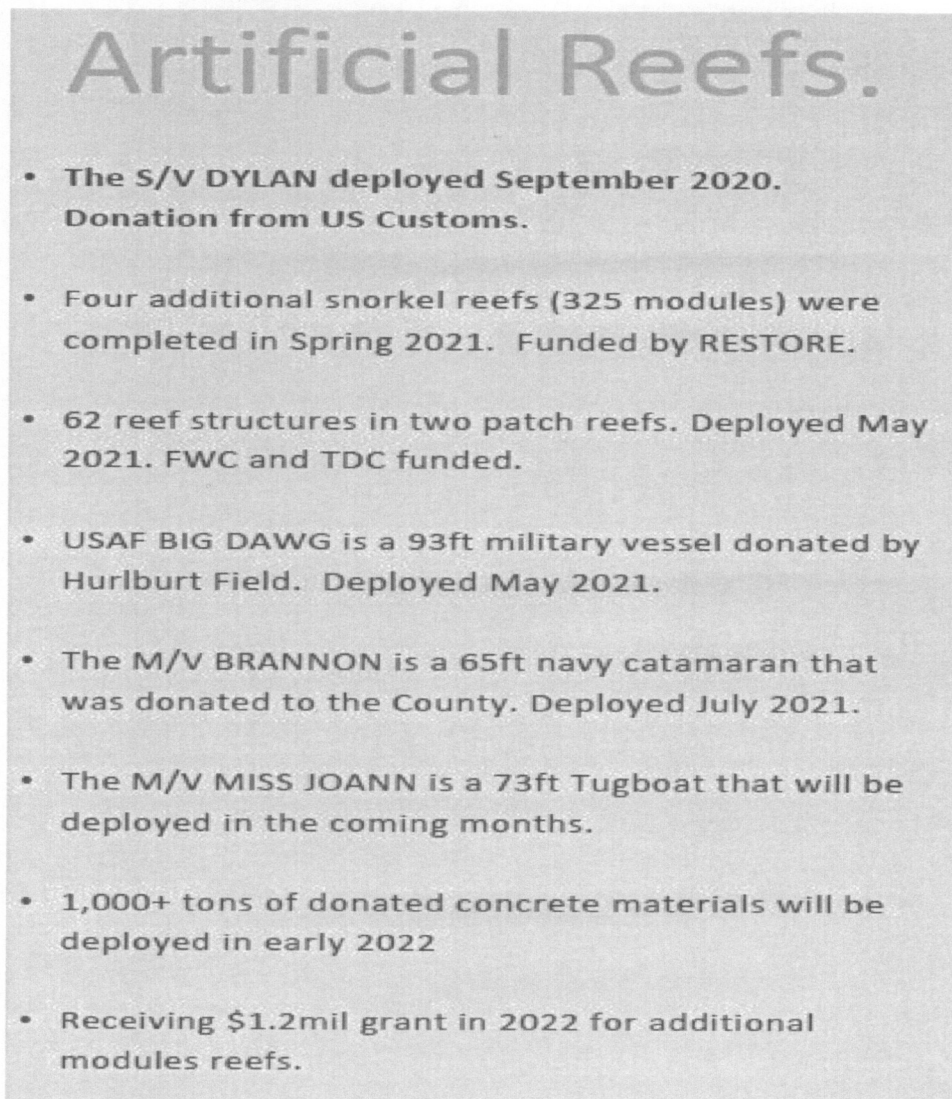
B. Approval of minutes of September 7, 2021 Regular City Council Meeting

Motion by Councilmember Braden to approve minutes of September 7, 2021 Regular City Council meeting was seconded by Councilmember Ramswell and passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted “yes”).

2. PROCLAMATIONS / RECOGNITIONS / SPECIAL PRESENTATIONS / ANNOUNCEMENTS

A. Artificial Reef Program Presentation

Mr. Alex Fogg, Okaloosa County Coastal Resource Manager, provided the following presentation:

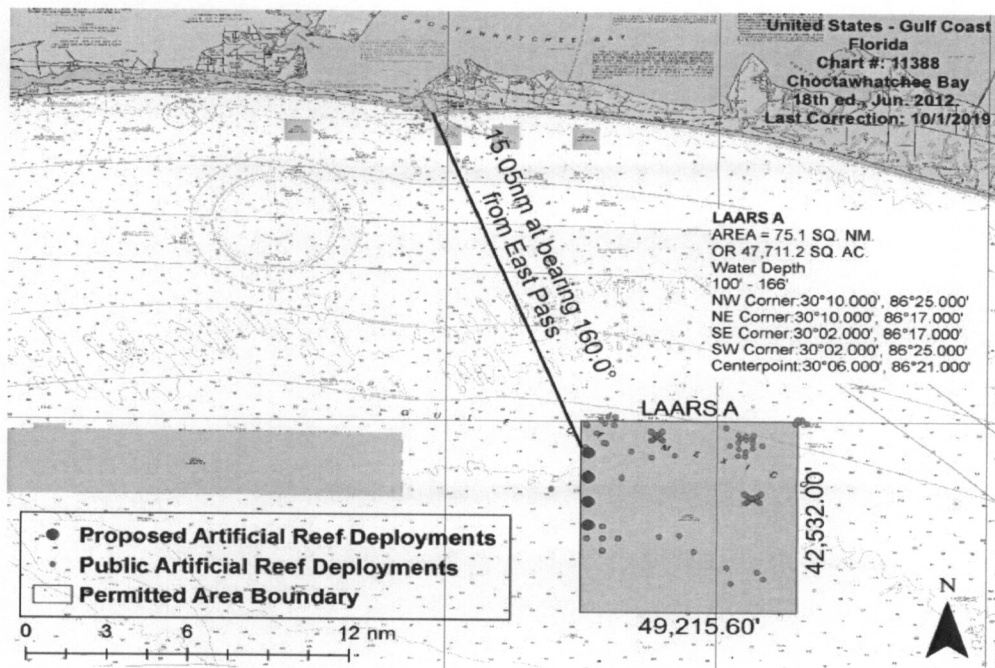


Artificial Reefs.

- The S/V DYLAN deployed September 2020. Donation from US Customs.
- Four additional snorkel reefs (325 modules) were completed in Spring 2021. Funded by RESTORE.
- 62 reef structures in two patch reefs. Deployed May 2021. FWC and TDC funded.
- USAF BIG DAWG is a 93ft military vessel donated by Hurlburt Field. Deployed May 2021.
- The M/V BRANNON is a 65ft navy catamaran that was donated to the County. Deployed July 2021.
- The M/V MISS JOANN is a 73ft Tugboat that will be deployed in the coming months.
- 1,000+ tons of donated concrete materials will be deployed in early 2022
- Receiving \$1.2mil grant in 2022 for additional modules reefs.

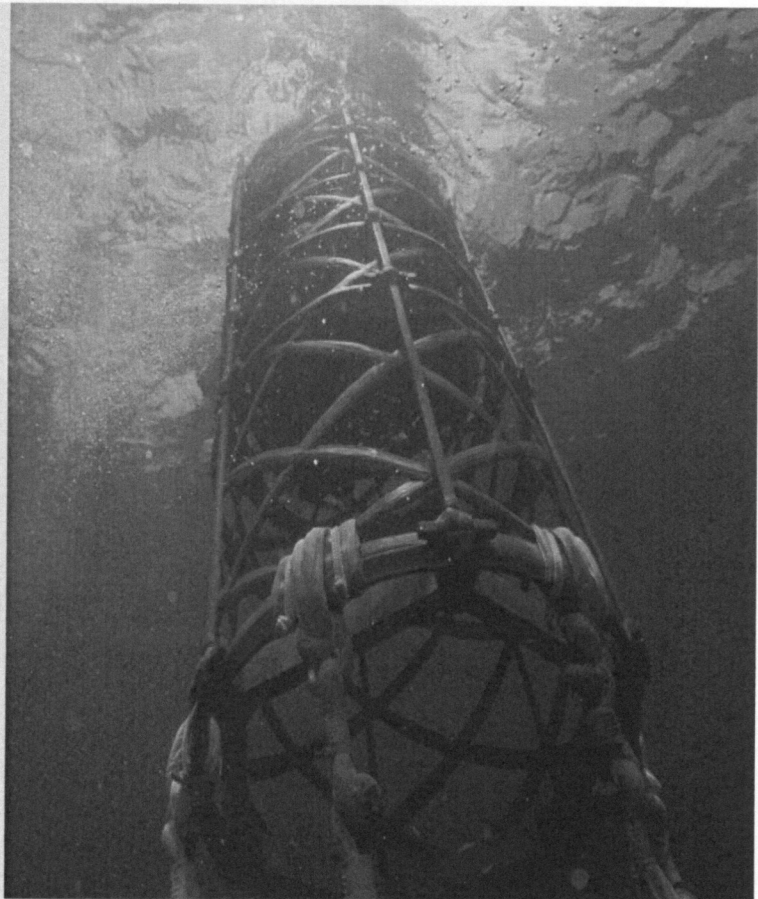






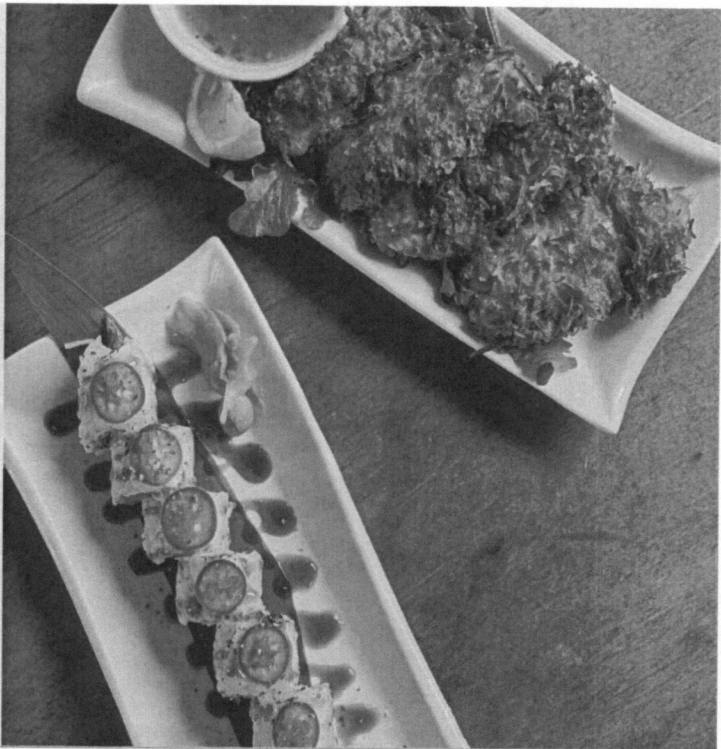
Fish Aggregating Devices.

- First four FADs deployed August 11, 2020.
- Pelagic species are being caught, including Blue Marlin and large Yellowfin Tuna.
- Impacted by numerous tropical systems. No damage.
- Final four FADs were deployed January 2021.
- Installed eight acoustic dataloggers to track fish association and movement.
- October 2021, FAD #6 broke lose. Combination of factors contributed to failure.



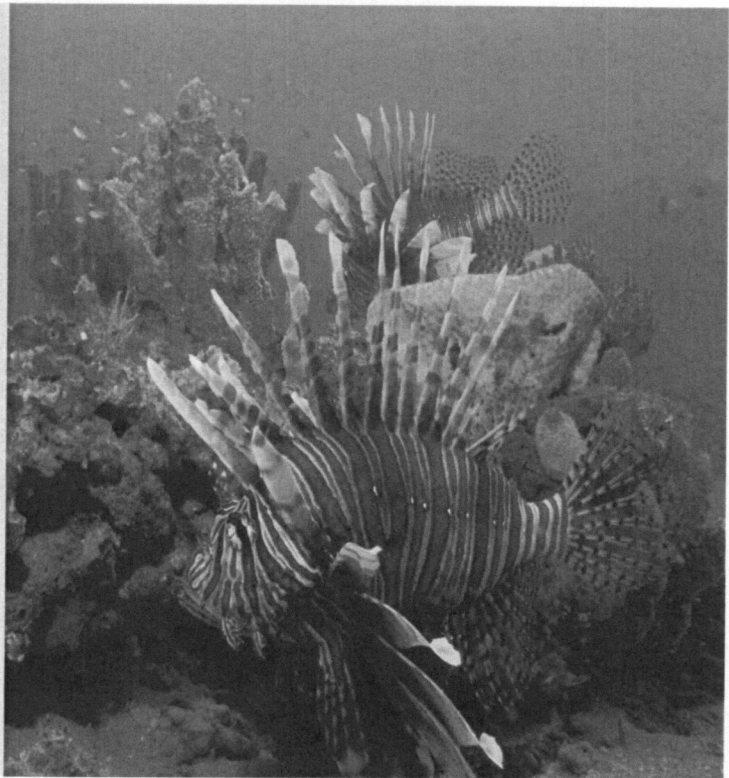
ECO by the Numbers.

- 2019 event resulted in more than 19,000 lionfish being removed.
- 2020 Main event and festival postponed and eventually canceled.
- 2019 and 2020 lionfish restaurant weeks involved 14 different restaurants that combined, served more than 1,000lbs of fillets.



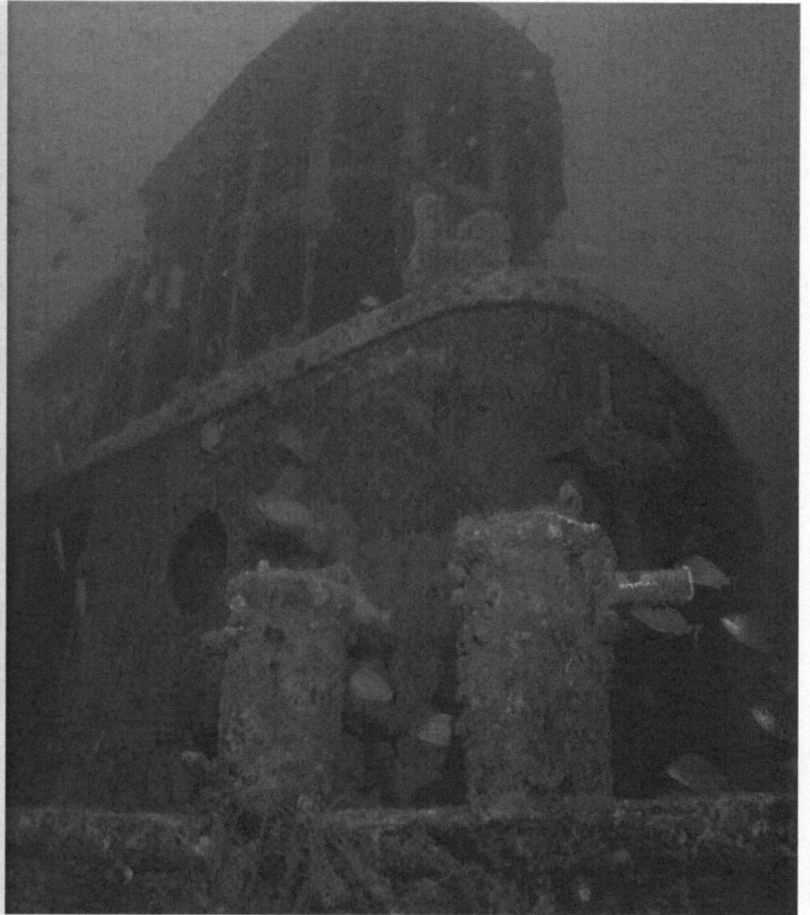
ECO 2021.

- Pretournament started Feb 1, 2021.
- Main event and festival was May 14-16, 2021.
- 145 registered participants.
- 10,250 lionfish removed.
- Continuing partnership with FWC and local businesses.



Other Project Updates.

- Post hurricane season beach surveys and reports showed moderate sand loss from last years hurricane season.
- Sea Turtle monitoring and outreach is increasing.
- No wake sign inventory and repair.
- Derelict vessel removal.
- Cobia Tagging in collaboration with the Cobia World Championship.
- Beach cleanup and marine debris removals in April and September.
- Conduct Red Tide sampling for FWC.



Councilmember Bagby inquired as to the date Okaloosa County last surveyed the Erosion Control Line (ECL) and requested a copy of a map showing location of ECL and mean high water line.

Mr. Alex Fogg will obtain the information and provided it to the council.

The mayor requests council's authorization to send a letter to members of Congress supporting the REEF Act that encourages the US Navy to prioritize the repurposing of retired vessels into artificial reefs to reinforce marine environments and create essential ecological benefits and unique recreational opportunities for residents and tourists.

Mr. Fogg explained that the purpose of the letter is to encourage Congress to reprioritize decommissioned Navy vessels as artificial reefs as opposed to them being discarded or being converted to scrap metal. The Okaloosa County Board of Commission is being asked to sign a similar letter.

Councilmember Schmidt moved to authorize the mayor to send a letter to members of Congress supporting the REEF Act that encourages the US Navy to prioritize the repurposing of retired vessels into artificial reefs to reinforce marine environments and create essential ecological benefits and unique recreational opportunities for residents and tourists; and includes economic benefits that will generate financial growth for local businesses. Councilmember Hebert provided a second to the motion, which passes 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted "yes").

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

Mr. Bill Crosdale, a resident of Holiday Isle and Chairman of the Architectural Review Committee for the homeowners' association, explained that the committee's responsibility is to look after the safety compliance of things that are improved or built on Holiday Isle and make sure they comply with the city's building code. They also have their own policies and procedures to which they try to adhere. He stated there are some issues they believe they need to work together with the city. They have tried to establish communications with some of the departments in the city as well as the City Manager but have been unsuccessful so far. He requests scheduling a workshop to further discuss Ordinance 21-19-LC - Floodplain Management, which is on tonight's meeting agenda before considering it as it directly impacts Holiday Isle. He also mentioned that the city's COMPASS system is not user friendly.

The City Manager explained that Holiday Isle has sent a list of their concerns to the city. He stated they are not trying to dismiss their request to meet and discuss those issues with staff, but they are merely trying to get to them in order. The list has been provided to appropriate staff members to formulate a response to issues that have been identified.

Community Development Director Louis Zunguze explained that city staff and the Land Use Attorney are currently reviewing the series of questions posed by Holiday Isle. They are trying to delineate the city's responsibilities and clearly define the role of each of the parties involved in this matter, and that staff expects to be able to address those issues by the end of this week.

Ms. Marcie Bell, a Destin resident, stated that she resides within 300 feet of the property which is scheduled for a Board of Adjustment Hearing soon, and that she has received a notification letter from the city's Community Development Department. She stated she expects issues that are before the Board of Adjustment Hearing to be negated by two of the ordinances scheduled for first reading tonight.

4. CITY MANAGER REPORTS

A. Quarterly Investment Report

The current quarterly investment report with schedules showing the current status of the city investment accounts with Raymond James has been provided to the council. Mr. Brian Haugens and Mr. Steve Cann from Raymond James were present to respond to questions from the council.

Councilmember Ramswell pointed out that based on the valuation of the Certificate of Deposits (CD), it seemed it lost more than a million dollars.

Mr. Cann explained that the CDs were created a few years back. The council previously approved shifting money from different accounts to the CD account. As some of the early CDs matured, the rates for reinvestment opportunities were very poor. They did not lose the money. That money was simply shifted back to the other alternative investment accounts.

Councilmember Braden noted that according to the report, the city's total investments as of June 30, 2021 is \$15,087,603. He asked if this was the correct value of the account as of today.

Mr. Cann stated it is the current real time value of the total investments.

Councilmember Bagby stated that as the original legislative sponsor for the city's investment policy, he requests council's authorization for him to work with the Finance Director in amending the policy and bringing back a revised investment policy no later than the first meeting in February 2022. He added he had previously discussed with matter with both the Finance Director and City Manager.

Councilmember Destin moved to authorize Councilmember Bagby to work with the City's Finance Director in reviewing and bringing back a revised investment policy for the City of Destin not later than the first meeting in February 2022, and to be the legislative sponsor for the new investment policy. Councilmember Hebert provided a second to the motion, which passes 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted "yes").

B. Announcements

The City Manager announced the following:

- Annual Pin Fish Classic on Saturday, November 6th, in the docks behind AJ's Restaurant.
- Veteran's Day Holiday on Thursday, November 11th. All City facilities will be closed.

5. PUBLIC HEARINGS

A. Second reading of Ordinance 21-22-CN - Electric Franchise Agreement with Gulf Power Company

The City Attorney read Ordinance 21-22-CN by title, and then presented it to the city council on second reading.

AN ORDINANCE GRANTING TO GULF POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY

PAYMENTS TO THE CITY OF DESTIN, AND PROVIDING FOR AN EFFECTIVE DATE.

The mayor opened a public hearing to receive comments for or against the proposed ordinance. Having none, the mayor closed the public hearing portion and turn the matter over to the city council for their discussion and consideration.

Councilmember Hebert moved for approval of Ordinance 21-22-CN on second reading; seconded by Councilmember King. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted "yes").

- B. First reading of Ordinance 21-19-LC - Amending Land Development Code Section 11.04.00 - Floodplain Management, amending sections relating to flood-resistant development
- C. First reading of Ordinance 21-20-CC - Amending Chapter 6, Article II "Building Code" of the City Code of Ordinances relating to flood zone regulations

The Land Use Attorney announced that the Community Development Director has received a request from Holiday Isle as well as a recommendation from the Local Planning Agency to schedule a workshop for proposed Ordinances 21-19-LC and 21-20-CC, and that does not object to this request. They recommend the city council forego first reading of these two ordinances tonight and direct the City Manager to schedule a workshop to discuss both items.

Motion by Councilmember Bagby, seconded by Councilmember Hebert, to pull first reading of Ordinance 21-19-LC and Ordinance 21-20-CC from the agenda and direct the City Manager to schedule a workshop to discuss both items passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted "yes").

- D. First reading of Ordinance 21-23-CN - Providing for a six-month extension of Ordinance 20-33-CN (Temporary Moratorium on Livery Vessel Permits); Directing staff to develop recommendations for regulation of livery vessels.

The City Attorney read Ordinance 21-23-CN by title, and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO LIVERY VESSELS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A SIX-MONTH EXTENSION OF ORDINANCE 20-33-CN (TEMPORARY MORATORIUM ON LIVERY VESSEL PERMITS); DIRECTING STAFF TO DEVELOP RECOMMENDATIONS FOR REGULATION OF LIVERY VESSELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXPIRATION OF MORATORIUM; AND PROVIDING FOR AN EFFECTIVE DATE.

The mayor opened a public hearing to receive comments for or against the proposed ordinance.

Ms. Kimberly Cole introduced herself as an attorney based in Okaloosa County who represents the interest of several local businesses who operate out of the Destin Harbor as livery

vessel owners. She stated that her clients oppose the proposed ordinance. They oppose the restrictions on the number of livery vessels that was put in place in April 2019, and therefore oppose any extension to that ordinance. She continued that the initial ordinance as it was passed in 2017 initially called out two areas of concern. One of which involved issues of overcrowding, and the second related to environmental issues, specifically the water quality in and around Destin. It was later decided to have the United States Army Corps of Engineer (USACE) get involved by performing a Harbor Capacity Study to identify the carrying capacity as well as the existing and future use of the Destin Harbor. However, the city only called out one specific type of business to impede and control by limiting the number of permits issued for livery vessels only. These concerns brought no restrictions to fishing vessels, parasail operations, tour vessels for hire, commercial vessels, or private vessels, all of which contribute greatly to the amount of traffic within the harbor. Limiting the number of livery vessel permits raises questions of undo restriction on navigation that specifically targets one subset of businesses in this area. The state has regulation methods in place to oversee the rental of livery vessels and to minimize safety concerns that are raised by renting vessels to others. There is Florida Statutes 327.54, which specifically regulates the number of persons per vessel, the age of the renter, instructions that must be provided to the operator to educate them on the characteristics of the vessel, safety, local waterways, and so forth. There are also insurance requirements that these businesses must meet, and there are sanctions in place for operators who violate these laws. She added that the city has taken the position that there are too many vessels using and operating out of the Destin Harbor; however, they recently voted to approve the development of a new marina on the harbor which is completely contrary to that position. The new marina will bring 53 additional vessels within that body of water. During the October 18th public hearing, one of the council members raised concern that the city was approving 53 new slips without having the data from the Harbor Capacity Study. Her clients do not necessary oppose the new development. They all support free enterprise and fairness in business regulation. However, they believe the city is only targeting one industry, and to continue to restrict this type of business without the data to back it up is unacceptable. She urged the city to continue pursuit of the Harbor Capacity Study but lift the moratorium to allow for these businesses to pursue their trade which is already regulated by the state. When the data from the study is available, the city should then form a comprehensive plan for the regulation of harbor use that is fair and reasonable to all industries.

Mr. Jimmy Perkins, a Destin resident and business owner, stated that by pushing the moratorium out in the harbor, they are only limiting the business industry in Destin from making money and they are only allowing similar businesses at Fort Walton Beach and Shalimar to flourish.

Ms. Marcie Bell, a Destin resident, stated that she understands the purpose of the moratorium, but she also understands and support the statement made by the first speaker. She stated that it only takes a few bad players to ruin an entire industry, and that the city is inundated by bad players who ruin it for others who follow the rules.

Mr. John Stephens, a Destin resident and business owner, noted that most of the properties have already reached maximum parking capacity and so he does not know how the moratorium is going to make a difference.

Having no further comments from the public, the mayor closed the public hearing portion and turned the matter over to the city council for their discussion and consideration.

Councilmember Schmidt reiterated that they have not considered the Harbor Capacity Study, for which they have spent a lot of money to perform, in a recent decision that they made. He recommends pausing any potential development in the harbor that would include the placement of docks, except for single-family residential docks, until completion of the Harbor Capacity Study.

Councilmember Schmidt moved to modify the ordinance to include a moratorium on all developments in the harbor, except for single-family residential docks, until the Harbor Capacity Study is completed; seconded by Councilmember Braden.

Councilmember Braden noted that he would not have supported the development of the 53-slip marina has he been present at the October 18th council meeting when the development was approved by council. He recommends waiting until data from the Harbor Capacity Study becomes available before considering any potential development in the harbor.

Councilmember Ramswell noted that the code prohibits spot zoning, and that the proposed moratorium extension serves a similar purpose as they are singling out a certain industry. She continued that if moratorium extension is necessary, it should apply to all and not just one particular industry.

Councilmember Destin stated that an ordinance generally addresses one subject, but the current motion addresses several subjects; and that there is no public notice that council may be considering placing a moratorium on all developments in the harbor.

The Land Use Attorney explained that any changes made to the ordinance will result in the ordinance going back to first reading after proper notice is given to the public.

The mayor commented that the Harbor Capacity Study is not just about how many vessels can be on the water at any one time. The proposed moratorium extension is only for 6 months until the Harbor Capacity Study is completed. One of the main goals of the study is to determine how they want the harbor to look like in the future and how the community is going to utilize the harbor and not just limiting the number or the types of boats that can operate on the harbor. He continued that the Harbor Capacity Study Committee also discussed the possibility of moving the channel in the middle of the harbor so that southern docks can be expanded to provide more opportunity for the charter industry and commercial docks. He added that the moratorium that has been in placed has not prevented anyone from doing business in the harbor and from being profitable. The moratorium has actually prevented intrusion from outside sources.

Councilmember Bagby inquired as to the estimated number of development orders around the harbor that would be affected by the moratorium.

The Land Use Attorney replied that the moratorium, if approved, will not affect existing development orders. It will only affect new applications. She added that the proposed 6-month extension of the moratorium was based on the assumption they will begin to obtain initial amount of data from the study thta might be enough for the city council to make a decision on how they wanted to proceed.

Councilmember Bagby stated that a 6-month moratorium would not be a huge factor since they are not in the middle of the season. He is more concern about the language of the proposed ordinance because it does not actually identify the problems they are trying to solve. He also stated that he cannot support the current motion on the floor because there are too many unknowns and too many variables at this time.

According to the Land Use Attorney, the council has the option of passing the proposed ordinance on first reading so that the moratorium stays in effect, and have staff come back with a second ordinance to address the new information discussed tonight. They could also invoke the pending ordinance doctrine on one of the ordinances that stops all submerged land constructions on the harbor for six months, excluding single-family residential docks.

Councilmember Schmidt explained that the purpose of his motion was to solve the unknowns that could potentially impact the harbor; adding that to treat everyone in a fair way, they should pause all potential developments for all and not just one specific industry. It would be very interesting what comes from the study and the actions and policies this council has to put forth. Depending on the results of the study, there is going to be some permanent decision they possibly have to make.

The Land Use Attorney clarified that the moratorium does not stop any existing livery vessel operations from operating. All it does is stop new vessels from being added to the existing companies until after completion of the Harbor Capacity Study. Livery vessel operators can still sell, rent or continue their businesses. She continued that at the time the moratorium was passed, the council was addressing commercial use based on safety concerns that were unique to the businesses and they wanted the study to backup whether it is true. Nobody was picking on livery vessel operators; they were just found to have unique issues, such as they did not have license captains, or they were coming at a frequency and intensity that is greater than that which occur at a residential docking facility. However, it is within the council's purview to change the ordinance and consider other issues.

Councilmember Destin offered a substitute motion to approve Ordinance 21-23-CN on first reading and direct the City Clerk to advertise for second reading on November 15, 2021; seconded by Councilmember Bagby.

Councilmember Bagby noted that if the substitute motion passes, Councilmember Schmidt will still have the option of offering up another motion to direct staff to bring back another ordinance that would place a moratorium on all permitting on the harbor across the board.

Motion passed 5-2 (Council members Schmidt, King, Hebert, Bagby and Destin voted "yes"; Council members Ramswell and Braden voted "no").

6. CONSENT AGENDA

A. Shore at Crystal Beach Expansion - Initial Design and Survey Services

Councilmember Hebert moved for approval of Consent Agenda 6A, as printed above, seconded by Councilmember King. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Ramswell, Destin, and Braden voted “yes”).

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

A. Councilmember Braden

Councilmember Braden stated that the COMPASS System has been lived for several months and that he has received complaints about its effectiveness from different sources. He asked that the council be provided a list of complaints/problems, recommendations for improvement, and other feedback from the department heads relating to the COMPASS System, and what if anything has been done to mitigate those issues.

According to Mr. Zunguze, the turnaround time for his department has been reduced by 50 percent, just for moving to an automated environment and before making any process changes. He learned that the main problem involves people failing to register to use the system, which is a requirement. He expects to reduce their turnaround time even more once people become more comfortable utilizing the new system.

Deputy City Manager Webb Warren stated there have been a lot of efforts put into this system. It is one of the items in the city’s management plan. There is certainly some room for improvement, and they will continue to find those process improvements as they move forward.

The mayor suggests having some contractors sign on to the system, let them go through the process, and to have a team of staff evaluate their efforts and obtain their feedback. This will help determine what portions of the system need to be addressed.

The City Manager stated he has some ideas along and the same line and would like to have the opportunity to work with Councilmember Braden in evaluating and looking for ways to improve the COMPASS System.

Next, Councilmember Braden requested an update on the status of the Harbor Compliance Officer.

Code Compliance Manager Joey Forgione noted that an individual assigned as the Harbor Compliance Officer has been in training to obtain code enforcement certification and is due to return next week.

B. Councilmember Ramswell

Councilmember Ramswell requested a copy of the city’s standard operating procedures / security protocols in place for visitors at City Hall facilities.

Councilmember Ramswell stated she has been approached by an individual trying to obtain a permit or business license to do pop-up picnic on the beach. They were told by city staff that the city does not issue permits or licenses for any such ventures on the beach. She asked

how this venture would be any different from the Sandcastle people or people throwing weddings, or any activities for which the city has issued permits on the beach.

The City Manager stated that the city would not allow any commercial activities on city-owned properties because they reserve the space for residents and visitors to use as beach area. However, the city's regulation allows for one wedding a day at certain parks on the water.

Mr. Forgione noted that the individual has approached him and wanted to operate a business from one of the city-owned parks, which is not allowed by code.

- C. Councilmember Destin
- D. Councilmember Bagby
- E. Councilmember Hebert
- F. Councilmember King
- G. Councilmember Schmidt

Councilmember Schmidt stated he would like to offer the following motion for the sake of bringing fairness and equality across the board and putting a lot of weight and highlighting the importance of the Harbor Capacity Study.

Councilmember Bagby asked why single-family residential use is being excluded when single-family residences that have already been permitted would not be affected by a moratorium.

Councilmember Schmidt explained there are no specific reasons other than the fact that when a resident wants to build and house on the harbor and place a dock behind it, it would not be a major problem to the harbor. However, it could potentially be a major issue when someone wants to develop something larger.

Councilmember King stated that as council, Destin residents are their number one priority, and that they should have the right to build a dock behind their property if they so desire.

Councilmember Bagby stated he would very much like to support the moratorium if it applies across the board.

Councilmember Schmidt offered an amended motion to direct the City Manager to instruct staff to bring forth an ordinance that would impose a moratorium on adding new developments and modifying usages to any harbor property that directly impacts activity inside the harbor waterways, and that would coincide with the livery vessel moratorium. Councilmember Braden provided a second to the amended motion, which passes 6-1 (Council members Schmidt, King, Hebert, Bagby, Ramswell, and Braden voted "yes"; Councilmember Destin voted "no").

H. Mayor Gary Jarvis

1. City Council Meeting Procedures

After a brief discussion, the mayor and council agreed to the following changes to the resolution on rules of procedure for council meetings:

- Move Proclamations / Recognition/ Special / Public Presentation / Announcements following Agenda Approval
- Move Consent Agenda up following the 1st Public Comments section
- Move Approval of Minutes under Consent Agenda
- Eliminate requirements for yellow card/blue card
- Bring back a resolution combining all previous amendments to Resolution 13-15

I. Land Use Attorney

J. City Attorney

1. City Manager Evaluation Process

The City Attorney noted that at the October 4, 2021 meeting, the city council directed the City Attorney and staff to revise the City Manager Evaluation Process. There were two primary issues; one related to the complexity of the actual evaluation form and the other related to potential Sunshine Law implications providing all evaluations and scores to the mayor who summarizes the evaluation and provides recommendation to the council. A proposed simplified evaluation form has been provided to council for their consideration. The form will be updated each year to reflect the current strategic plan. He recommends that each council member submits the completed evaluation form to the HR Manager who will simply tabulates the scores and provide the information back to council at a public meeting. He added that once the council has provided their input, the new evaluation process will be memorialized in a resolution and brought back for council's approval at the next council meeting.

Councilmember Bagby stated he would still feel more comfortable with the mayor receiving copies of the evaluation, tabulating the scores, and providing a proposal to council with regards to compensation. Obviously, the HR Manager will not be able to do that because she works for the City Manager. But she could bring information on comparable communities and the amount of raise given to their City Managers for this council to consider. The mayor can simply recuse himself from voting in the event of a tie vote since he was the one that provided the recommendation.

Councilmember Destin noted that the City Manager serves at the pleasure of the council, whereas regular city employees have a list of rights that are protected by labor law. He has always spoken to the City Managers in private in the past to express his displeasure with the job they are doing and has given them the opportunity to address it, rather than putting the shortcomings in a public document. He continued that any one of the 7 council members can have a private conversation with the City Manager, and anyone can make a motion to give the City Manager the appropriate raise. He also stated that he supports the City Attorney's recommendation as there could be potential Sunshine Law implications to have the mayor in charge of tabulating the scores and making recommendations to council with regards to compensation. .

The City Attorney pointed out that the resolution as currently written contemplates that each council member and mayor has sit down meetings with the City Manager. He continued that there is a section in the evaluation form where the council could document weaknesses if they feel it is necessary.

Councilmember Braden stated that simply offering a motion for a raise in City Manager's salary could result in hour-long conversation as everybody might have different ideas on the amount. It would be more ideal for everyone to complete an evaluation form and provide scores, and then base the amount of compensation on the information provided.

Councilmember Bagby noted that the mayor does not evaluate the City Manager. Individual council member may elect to meet with the City Manager and discuss the City Manager's performance during the previous fiscal year. Should the council member elect to use the performance evaluation form, they will be signed and retained by the City Manager. He has had face to face meetings with previous City Managers and had a frank conversation with them rather than putting his evaluation in writing to avoid sharing it with the public in the event of a public records request. He did however assign City Manager performance ratings on the evaluation form. In the past, the City Manager has provided the mayor a copy of the completed evaluation forms. The mayor then brought a recommendation for a compensation to council based on the information given by the City Manager.

Councilmember Schmidt pointed out that since there is no requirement to fill out the evaluation form, the mayor can only make a recommendation based on the number of forms submitted, which could only be one.

Councilmember Hebert moved for approval of proposed new City Manager evaluation form and to amend the resolution such that the evaluation forms are submitted to the HR Manager who will simply tabulate the scores and provide information back to the council at a public meeting. Councilmember Destin provided a second to the motion. Motion passed 5-2 (Council members Schmidt, King, Hebert, Destin, and Ramswell voted "yes"; Council members Bagby and Braden voted "no").

Next, Councilmember Ramswell noted she had sent an email to the City Attorney about a week ago and copied the council and city manager requesting the city cover her legal expenses and in retaining an attorney to handle her case. Florida case law states that any elected official is entitled to legal representation at public expense.

The City Attorney stated that as the city's attorney, he has ethical duties to individual council members and to the governing body as a whole, and he has ethical duties to the municipal corporation. Any time there is potential situations where the interests of these 3 parties do not align, he simply cannot provide advise to any of these 3 entities individually. He, along with the City Manager and Deputy City Manager, have spoken to the city's labor attorney Robert Larkin, who is very well respected throughout the state and is familiar with this area of law, and has done this for other city and county attorneys throughout the state. Attorney Larkin informed them that he would look at this issue and provide the city a memorandum that will describe to the city its duties and obligations and its ability to do under this circumstance both at this stage, and at the stage where if Councilmember Ramswell were successful in her defense.

Councilmember Ramswell noted she is prepared to present complete case laws and attorney general's opinion stating that legal representation is literally not contingent on the outcome but simply about the elected official being entitled to having the legal representation. It is also not a matter of whether it is a criminal case or civil case, and it is not whether it is after the fact or before the fact, it is simply about the elected official being entitled to legal representation at any point.

Councilmember Bagby inquired as to the city's insurance carrier's obligations as it relates to this case.

According to the City Attorney, they have also discussed this matter with the city's insurance carrier and informed them they will be submitting a claim on behalf of Councilmember Ramswell.

Councilmember Bagby requests they place this item on the agenda once they received their Labor Attorney's opinion.

Councilmember Braden asked how a Labor Attorney would be an expert as far as a council member being entitled to legal representation when the individual is innocent until proven guilty.

The City Attorney replied it is not a matter of expertise. There is a body of law which relates to when a public agency has a duty or an ability to provide such things as criminal defense retainers to a public official accused of a crime within the scope of their duty or outside the scope of their duty. He added that Attorney Larkin is quite confident as he has worked on this type of issue with several agencies, including the Okaloosa County School District, throughout the state.

Councilmember Destin noted that Attorney Larkin has worked on a similar issue with the Okaloosa County School District. He has also worked with the City of Destin for the past 20-25 years. He continued that he is looking forward to his legal opinion because the whole issue begs the question of the risk that elected officials take while serving the community as well as the exposure they face every time they make a decision.

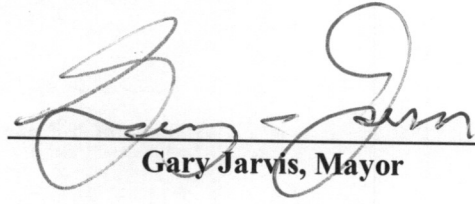
The City Attorney noted that Attorney Larkin will be preparing a legal memorandum which will have a conclusion stating what the city can and cannot do and the reasons behind that conclusion.

8. PUBLIC COMMENTS

Ms. Marcie Bell stated that she uses the COMPASS System quite often, and she contracts the IT Manager or City Clerk when she encounters some difficulty with it. She also stated that with regards to citizens participation, they cannot expect to get much citizen participation because they are afraid to find themselves on the opposite end of a lawsuit. She added she is taking some risks by speaking out at these council meetings. She also added there is no comparison with what happened at the Okaloosa County School Board and what is currently happening at the City of Destin, because the person involved in the former was a paid county employee. Members of the Destin City Council do not get paid.

ADJOURNMENT:

Having no further business at this time, the meeting was adjourned at 9:30 PM.



Gary Jarvis, Mayor

ATTEST:



Rey Bailey, City Clerk