MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
SEPTEMBER 5, 2018
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 Chatham Morgan
Councilmember Parker Destin
Councilmember Cyron Marler
Councilmember Tuffy Dixon
Councilmember Rodney Braden
Councilmember Prebble Ramswell
Councilmember Skip Overdier

Destin City Staff

Interim City Manager Lance Johnson
Acting Parks & Recreation Director Lisa Firth
Deputy City Manager Steve Schmidt
Deputy Public Services Director Tim Pietenpol
Public Information Manager Doug Rainer
City Land Use Attorney Kimberly Kopp
City Clerk Rey Bailey
HR Manager Karen Jankowski
Finance Director Bragg Farmer
Library Director Wen Livingston
City Attorney Jeffrey Burns

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. He asked for moment of silence; which was then followed by the Pledge of Allegiance.

EXECUTIVE SESSION (MOTION):

At this time, Mayor Jarvis asked if any member of the Council wishes to offer any motion from the preceding executive session.

Councilmember Overdier moved to accept the proposed settlement agreement between the City of Destin and B.I., Inc.; seconded by Councilmember Ramswell.

Councilmember Braden remarked that he would not be supporting the proposed settlement agreement as it has more terms and conditions than the one that what presented at a previous executive session, which he was ready to approve.

Councilmember Destin announced he would abstain from voting as he is related to one of the parties involved in the litigation.

The Mayor asked if anyone in the public wishes to make a statement with regards to the motion on the floor. Hearing none, the Mayor called for a vote on the motion.

Motion passes 5-1 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Councilmember Braden voted "no"; Councilmember Destin abstained from voting).

SPECIAL PUBLIC HEARINGS FOR FISCAL YEAR 2019 MILLAGE RATE AND BUDGET:

A. First Reading of Ordinance 18-18-CN, Adopting Fiscal Year 2019 Millage Rate

The City Attorney read proposed Ordinance 18-18-CN by title; and then presented it to the Council on first reading.

> AN ORDINANCE OF THE CITY OF DESTIN OF OKALOOSA COUNTY, FLORIDA, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF DESTIN FOR FISCAL YEAR 2019; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Destin moved to adopt Ordinance 18-18-CN on first reading adopting a proposed FY 2019 millage rate of 1.6150 mills which is more than the rollback rate of 1.5520 mills; seconded by Councilmember Morgan.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance. Hearing none, the Mayor closed the public hearing and turned the matter over to the City Council for their discussion and consideration.

The Mayor called for a vote on the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

B. First Reading of Ordinance 18-19-CN, Adopting the Fiscal Year 2019 Budget

The City Attorney read proposed Ordinance 18-19-CN by title; and then presented it to the Council on first reading.

> AN ORDINANCE OF THE CITY OF DESTIN MAKING APPROPRIATIONS FOR CERTAIN EXPENDITURES, EXPENSES, CAPITAL IMPROVEMENTS AND CERTAIN INDEBTEDNESS OF THE CITY OF DESTIN, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019; AND PROVIDING FOR AN EFFECTIVE DATE.

Finance Director Bragg Farmer provided an overview of the proposed 2019 Budget:

<u>Budget Highlights</u>

A) General Fund Revenue has increased 5.3% -- $ 682,019
B) Property Values Increased by 6.42% from $4,731,978,391 to $5,035,622,039
C) Tentative millage rate remains at 1.650 mills
D) Grant Revenue -- $2,056,401

E) TDD Operating Funding	--	$ 454,526
F) Town Center CRA revenue increased	--	$ 86,661
G) Harbor CRA revenue increased	--	$ 54,436

Revenue Highlights

- Property Tax Value Revenue Increase -- $ 421,610
- State Revenue Sharing up -- $ 33,000
    - Communications Service Tax – down $31,000
    - ½ Sales Tax, Municipal Tax – up $64,000
- Gas Tax up -- $ 49,000
- Grant Revenue
    - Airport Road Curve Redesign -- $ 104,953
    - Clement Taylor Park Renovations -- $ 729,918
    - Capt. Royal Melvin Park -- $ 1,216,530

General Fund Expenditures Highlights:

- Operating Expenditures Increased 7.3% -- $ 847,595
- Capital Spending -- $ 733,180
- General Fund Decrease to Town Center CRA -- ($ 60,831)
    a. FY19 Contribution - $69,184 ($2,314,144)
- Sheriff Contract -- $2,160,198
    a. $185,118 increase 9.4% ($78,280)

Capital Project Funding -- $3,376,901

A) General Fund	--	$ 272,500
B) Gas Tax	--	$ 703,000
C) Impact Fees	--	$ 340,000
D) Grants	--	$2,056,401
E) CRA (Harbor)	--	$ 5,000

Capital Improvement Projects

A) Road Resurfacing Plan	--	$ 870,000
B) Calhoun Avenue Pedestrian Walkway	--	$ 118,000
C) Wayfinding Plan	--	$ 10,000
D) Airport Road Curve Redesign	--	$ 104,953
E) Clement Taylor Park Restoration	--	$ 729,918
F) Capt. Royal Melvin Park	--	$1,216,530
G) Airport Road Landscaping Design	--	$ 12,500
H) Playground Renovations	--	$ 50,000
I) Storm Water System Planet Drive to Indian Trail	--	$ 260,000
J) Gulf Power Easement Trail	--	$ 5,000

Personnel: 81 Full Time & 17 Part-Time Positions

- 2% COLA -- $ 72,000
- 2% Merit -- $ 52,000
- Health insurance increase 3.27%
- New positions changes:
  1. Parks Maintenance Custodian -- $ 34,401
  2. Maintenance Technician/Custodian -- $ 52,302
  3. Mechanic/Maintenance Technician -- $ 56,796

Changes from the Budget Workshop

- Removed the funding for the Beach to Benning ROW access - $2,700,000
- Removed the receipt of mutual funding from DOT for the Hwy 98 crosswalks - $750,000

Councilmember Destin moved to adopt Ordinance 18-19-CN on first reading to provide for a balanced budget for FY 2019 and schedules the second reading on September 17, 2018; seconded by Councilmember Morgan.

Councilmember Overdier inquired about the cost to incorporate phase 2 employee salary adjustments into this budget to bring the salary of certain employees up to industry standards.

Mr. Farmer noted it would cost approximately $65,000 to incorporate the phase 2 employee salary adjustments into the budget; adding the Public Services and Recreation departments were able to come up with that amount in the event Council decides to include it in the FY 2019 budget.

Councilmember Dixon asked how much it would cost to add the phase 3 employee salary adjustment to the budget.

The Human Resources Manager Karen Jankowski replied that the cost would be approximately $7,000.

Councilmember Dixon moved to include both phase 2 and phase 3 employee salary adjustments in the proposed budget to conform to industry standards without exceeding the advertised budget amount; seconded by Councilmember Ramswell.

The Mayor suggests voting on the original motion first before adding any amendments to it.

The City Attorney advises making all the amendments to the final motion before voting on it.

Councilmember Ramswell discusses the City Manager's salary and trying to make it more competitive with other municipalities in Florida; noting that the Interim City Manager has provided some documentation, and she has also provided some information from the Florida League of Cities in this regard. She stated that most of these salaries are based on year-round population, and they would need to consider the fact Destin is a city dealing with way more than just a typical year-round population. She suggests increasing the salary range for the Destin City Manager.

Councilmember Destin stated that he supports an increase to the City Manager's salary; however, it was his understanding they have discussed passing the budget first and then potentially doing a budget amendment at a later date to include the salary increase, which would then come from the reserve account.

Mr. Farmer stated it would be the easiest way to fund it because they currently have a balanced budget. If they include the salary increase now, they would have to cut the full amount the Council agrees on somewhere from the budget; whereas, if they wait until the full-time City Manager is hired, they could make a budget amendment at that time based on the actual contract and fund it with the fund balance for the current year and make it part of the regular budget for the next fiscal year.

Councilmember Ramswell noted that an individual went before the Council earlier this year and provided some statistics regarding the popularity of pickleball. She stated there have been some concerns the City is constructing additional tennis courts and not addressing the need for pickleball courts. She suggests they consider construction of a pickleball court or a multi-purpose court.

According to Interim City Manager Lance Johnson, they currently have two tennis courts at Buck Destin Park; and that they budgeted this year for resurfacing and re-striping those two tennis courts to include lining them for pickleball and improving the fencing. He continued that during the budgeting process with the previous City Manager, they also offered the option of building two more courts; approximately $20,000 to $40,000 for each court. They have some space next to the small dog park to build these courts.

Councilmember Ramswell stated that pickleball is a growing sport, much like the Little League Baseball, and that she would be in favor of constructing a pickleball court in Destin.

The Mayor agreed with Councilmember Ramswell, stating that pickleball applies to all ages, but it caters to some of their elderly visitors and permanent residents. He suggests constructing a combination tennis and pickleball court.

Councilmember Ramswell moved to include as an amendment the funding for one pickleball court; seconded by Councilmember Marler.

Councilmember Dixon wants to make sure the proposal was to resurface the tennis court making it a dual purpose court, and constructing a new pickleball court; and that they would end up with at least two pickleball courts.

Mr. Johnson replied affirmatively.

Councilmember Destin asked where they propose to get the funding for the pickleball court.

Mr. Farmer replied the impact fees would fund the pickleball court. He suggests adding as part of the motion the construction of one pickleball court for about $40,000 to be funded by impact fees.

At this time, the Mayor opened a public hearing to receive comments for or against the proposed ordinance. Hearing none, the Mayor closed the public hearing and turned the matter over to the City Council for their discussion and consideration.

Ms. Teresa Hebert, Parks & Recreation Committee Chair, spoke in favor of constructing a pickleball court. She stated that the committee believes it is a sport that will grow in popularity and they will be inundated with people from across the nation wanting to hold pickleball tournaments in Destin because of the weather.

A citizen came forward and addressed the City Manager position. He asked why the Council feels the need to look externally to find somebody to fill the position of full-time City Manager as opposed to monitoring the performance of the Interim City Manager, who has worked for the City for years, and possibly considering him for the full-time position.

Councilmember Ramswell offered a substitute motion to adopt the budget as presented with the following amendments:

- **Incorporate Phase 2 and Phase 3 employee salary adjustments to conform to industry standards; and**
- **Incorporate funding for one pickleball court at a cost not to exceed $40,000 to be funded by impact fees.**

Councilmember Overdier provided a second to the substitute motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

AGENDA APPROVAL

Councilmember Destin requested that an item be added under his portion on the agenda with regards to possibly scheduling a workshop with regards to the crosstown connector and parking congruency.

Councilmember Braden asked that Consent Agenda item #6L be pulled for further discussion.

The City Attorney requested that an item be added on the agenda under his name regarding discussion on the possibility of assigning a sheriff's deputy to augment the City's code enforcement officers.

Motion by Councilmember Destin, seconded by Councilmember Marler, to adopt the agenda as amended passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

1. APPROVAL OF MINUTES

A. Approval of minutes of July 26, 2018 special city council meeting

Motion by Councilmember Dixon, seconded by Councilmember Ramswell, to adopt minutes of July 26, 2018 special city council meeting passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

B. Approval of minutes of August 13, 2018 Budget Workshop

Motion by Councilmember Dixon, seconded by Councilmember Overdier, to adopt minutes of August 13, 2018 budget workshop passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

2. PROCLAMATIONS / RECOGNITIONS / **SPECIAL PRESENTATIONS / ANNOUNCEMENTS (No public comments)

A. Proclamation Recognition of Beach Safety Lifeguards

The Mayor read a proclamation recognizing the efforts of and expressing appreciation to the Destin Fire Control District Beach Safety Lifeguards for their life-saving efforts and for keeping the community safe.

B. Pedestrian Traffic Management Solution Mr. Stephen Deranian

Mr. Stephen Deranian, a Destin resident, provided the following presentation:

<u>Pedestrian Traffic Management Solution – Improving</u> the pedestrian flow to/from the beaches for safety reasons within Crystal Beach

- Beach Access Points – Matthew Street to Dolphin Street (6)
  - Each beach access point has an associated crosswalk
- Problem
  - Within the last 20 years, Crystal Beach has experienced massive growth in population
    - A majority of this population is vacation/rental
    - This results in growth of pedestrian traffic
  - Many people are attempting to find the beach access points without any direction/signage
    - This results in people crossing Scenic Hwy 98 anywhere
    - Many are crossing the road without a crosswalk resulting in unsafe situations due to automobile traffic
  - For safety reasons, recommend signs be posted to direct people to the proper beach access points
    - Utilize the funneling features of a street to safely steer people towards the access points

        - Only placing a sign on end of street is ineffective
- Traffic count of pedestrians
    - During a normal summer day, 1540 people traversed to/from the beach on one street in Crystal Beach
        - Approximately 27% or 415 people crossed Scenic 98 without a crosswalk and no access point
- Two areas of excessively high volume pedestrian traffic
    - Village of Crystal Beach
        - Only one road to the beach (Cobia Street) for approximately 2,000 people and no signage
    - Holiday Inn on Hutchinson Street
        - Only one road to the beach (Hutchinson Street) for the entire hotel population and no signage
- Manual on Uniform Traffic Control Devices
    - A 2009 issue with 2012 amendments (the most recent version) regarding signage in Florida
        - A great reference material for signage
- Recommended signage – from Matthew Blvd to Dolphin Street
    - 27 signs with "BEACH ACCESS" and appropriate arrows
    - 24" x 30" sign with white letters and blue background
- Ultimate goal is to provide safety for pedestrians to/from the beach
- Other options
    - Improve/widen sidewalks similar to Matthew Blvd and Hutchinson Street
    - Add more beach access points

Councilmember Ramswell asked for the approximate cost per sign.

Mr. Deranian stated it would be about $150.00 to $200.00 per sign; and that each sign post cost about $45.00.

Councilmember Ramswell inquired as to the City's current wayfinding sign program.

Mr. Johnson noted that the City formed an internal committee to look at the wayfinding sign system and they feel this can be incorporated into the system; but, they could also work on this ahead of time.

Councilmember Dixon moved to adopt a recommendation of purchasing wayfinding signs and posts and installing them in the Crystal Beach area according to the diagram provided by Mr. Deranian; seconded by Councilmember Ramswell.

Councilmember Braden noted that he attended the Public Works/Safety meeting when this issue was discussed. Following the meeting, he heard several people say that tourists who want to go to the beach do not go east or west where the signs point and then head south. They head directly south and get as close to the beach as possible and then find the easiest way to get there.

Mr. Deranian stated that the signs are also for safety reason. They point the pedestrians to the location of the crosswalks.

Councilmember Braden stated it would be better to have a sign at the south end of every street pointing to the direction of the beach so that they do not have signs all over the neighborhood.

Councilmember Ramswell asked if there could be some sort of grant available for this type of program because of the number of accidents and fatalities on US Hwy 98.

Capt. Nix of the Okaloosa Sheriff's Department stated there is a possibility of grant funding available for this program because of the number of fatalities they had within the City limits.

At this time, the Mayor asked if any member of the public wishes to comment on this issue. Seeing none, the Mayor called for a vote on the motion.

Motion passed 6-1 (Council members Morgan, Destin, Marler, Overdier, Dixon and Ramswell voted "yes"; Councilmember Braden voted "no").

C. Helicopters and Tourism in Destin Mr. Rick Chappell

Mr. Rick Chappell, a Destin resident, expressed his concerns related to the Destin beaches and Destin tourism. He stated there is a situation that currently exists with respect to helicopters that significantly degrades the beach environment because of noise pollution created by these helicopters constantly flying overhead from Henderson Beach to East Pass. He urged the Council to try to put a stop to it.

Mr. Allen French, a Destin resident, stated he is passionate about making Destin the best place to live, work and play. He stated that Destin has a serious problem with helicopters and noise pollution. They fly about 150 feet overhead and up and down the beaches every 5 to 10 minutes at 85 decibels making it difficult for beachgoers to hear each other talk. This would have a negative impact on tourism, loss of tax dollars, income and property values; and most importantly, it is a safety issue.

Mr. Tom Alison, a Destin resident, stated that these low flying helicopters pose a safety threat to beachgoers in violation of the FAA regulations 91.119, a copy of which has been provided to the members of the City Council. He stated that according to this section, no person may operate an aircraft "*over any congested area of a city, town, or settlement, or over any open-air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.*" Within the same section, it further states that "*helicopters may be operated at less than the minimum prescribed altitudes if the operation is conducted without hazard to person or property on the surface.*" He further stated there was a study that was conducted that shows the taxes from the helicopter beach tourist operation generates less than one percent of the total money from the tourists in Destin. He also pointed out that a recent article in the Wall Street Journal states "*there have been more than 170 fiery helicopter crashes in the United States alone, at least 80 avoidable fatalities and ballooning legal liabilities for both manufacturers and operators.*"

Mr. Alison then showed a professionally created video which he states demonstrates the lack of safety created by the helicopters.

Councilmember Destin stated these helicopters are a clear threat to long-term tourism; but, there may be a jurisdictional issue. The FAA controls the airspace. He stated that if the City's attorneys could look into other beach communities that have similar issues with helicopters they could probably come up with a logical solution to this problem.

According to Mr. Alison, they have communicated this issue with the FAA and provided them a copy of the video, and they were told they could not do anything unless they have more documentation. He suggests the Council putting more pressure on the FAA to take some action.

The City Attorney stated that the video showed a helicopter seemingly making some dangerous maneuvers, and so the City could probably write a letter to the FAA supporting this complaint.

The Mayor suggests holding a stakeholders meeting inviting home owners, helicopter company owners and possibly some representatives from Eglin Air Force Base, and try to come up with a solution to this issue; if not, they could then look at their legislative capabilities and try to legislate a solution.

Councilmember Braden noted he was also working on a presentation on the helicopter issue. He stated that received a letter in July this year from an individual who owns a condominium on the beach and forwarded the letter to the County commissioners. The individual sat on his balcony for several hours and recorded 150 helicopter flights that occurred every 2.8 minutes. He continued he was staying on the 12th floor of the same condominium building at the same time. He went up on the roof and videotaped the flights, which were extremely loud. He then played the flight recording from his cell phone.

Councilmember Dixon noted there was a stakeholders meeting held in Destin nearly two years ago. Some of the helicopter companies attended the meeting. They promised to do things differently and make things better; but it has not happened. He continued they need to get the FAA involved as they seemed to be reluctant in taking action against the helicopter companies. He suggests inviting an FAA representative to come to Destin during a Fourth of July weekend so they could observe the helicopter flights themselves.

Mr. Alison stated that the FAA is already aware of the problem; adding they need to provide some data such as elevation, decibel readings and crash reports.

Councilmember Dixon also noted that the one helicopter company that is operating in Destin is located in the County; and that the County is allowing them to operate.

Councilmember Ramswell stated that a statement contained within FAA regulations 91.119, "*helicopters may be operated at less than the minimum prescribed altitudes if the operation is conducted without hazard*" did not specify how much less than the minimum is allowable. Also, it did not give a definition of hazard, which is subjective.

Councilmember Ramswell also pointed out that according to Section 135.203 of the Code of Federal Regulations (CFR-14), *"No one can operate under the Visual Flight Rule (VFR) for helicopters in a congested area at an altitude less than 300 feet."* She also suggests looking more at Section 91.13 which is *Careless and Reckless Navigation*; adding if they cannot make the argument for altitude, the behavior they are seeing and experiencing are certainly reckless.

Councilmember Braden suggests checking with the Sheriff's Department about an individual who used to fly a helicopter on Okaloosa Island across from the Gulfarium. He crashed his helicopter three times several years ago, and the department should have a record of these incidents.

The City Attorney asked and received general direction from the Council to look into this issue.

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

Mr. Guy Tadlock, a Destin resident, stated that he agrees with everything that has been presented with regards to the helicopter issue as he hears similar complaints from other tourists about the helicopter noise. He also mentioned that a stakeholders meeting last fall also involved some of the Destin Airport air traffic controllers and the company that is in charge of the air traffic control tower. There were a lot of discussions about this helicopter issue. A lot of people that attended the meeting left angry because the tower, which is supposed to solve the problem, and which the County spent over $5.3 million building, has not been able to do so. He urged that they take immediate action because the quality of life of their residents and visitors are being negatively impacted; and that many tourists have repeatedly stated they are not coming back to Destin.

Ms. Leigh Moore, representing Howard Group, stated they recently learned that Gulf Power is about to install some new overhead facilities in the City – on Main Street and all of Bayou Drive. She continued that they have already installed one pole and destroyed one Live Oak Tree on Bayou Drive. She asked if Gulf Power is communicating their plans for new facilities with the City since the City is currently pursuing undergrounding the utilities in the entire community.

Councilmember Ramswell stated she seemed to recall Gulf Power stating in a public meeting they were not going to install any new overhead facilities; and that if they have to add anything it would automatically be underground.

Councilmember Destin stated that the franchise negotiations with Gulf Power did not include Gulf Power's compliance or non-compliance with tree preservations; adding they seemed to be disinterested in the business of undergrounding the utilities.

4. CITY MANAGER REPORTS

A. Membership appointment to the Destin Youth Council

Councilmember Ramswell moved to appoint the following 9 applicants to the Destin Youth Council:

- **Cameron Farrah**
- **Harrison Farrah**
- **Spencer Mackenzie**
- **Broc McPherson**
- **Anastasia Miller**
- **Katherine O'Leary**
- **Alexandra Rodriguez**
- **Luke Seekamp**
- **Wesley Shackelford**

Councilmember Morgan provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

B. Announcement for Public Meeting with interested parties for Structured Parking Solutions

The Interim City Manager Lance Johnson announced that the City of Destin will host a public meeting on Thursday, September 6th, at 5:30 p.m. at City Hall, to gather citizens' feedback on parking and other items related to transportation and pedestrian concerns in and around the harbor and boardwalk.

C. Announcements

Mr. Johnson made the following announcements:

- Tuesday, Sep. 11th, 4-30 to 6:00 p.m. at the Destin Library – Meet and greet for the new librarian
- Wednesday, Sep. 12th, 5:30 p.m. – Harbor CRA-AC meeting
- Thursday, Sep. 13th, at 5:30 p.m. – Special Council meeting on Gulf Power franchise negotiations
- Friday, Sep. 14th, noon to 5:00 p.m. – end of season City staff picnic at Clement Taylor Park
- Saturday, Sep. 15th, 9-11 a.m. – Coastal Cleanup at Norriego Point
- There are currently 29 applicants for the City Manager position from 15 different states. Requested salary range from $85,000 to $160,000
- Dolphin Street Widening project – the City possesses enough rights-of-way necessary to widen the road

The Mayor inquired on the status of the banner poles for the Town Center CRA.

Mr. Johnson noted that the City has possession of the banner poles and the anchoring materials, and that they plan to have the poles installed very soon.

Mr. Johnson noted that his contract requires Council's approval to hire attorneys to perform work for the City. He asked for the Council's authorization to hire a Labor Attorney.

Motion by Councilmember Braden, seconded by Councilmember Ramswell, to authorize the Interim City Manager to hire a Labor Attorney passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

5. PUBLIC HEARINGS

A. Second reading of Ordinance 18-14-CC, Relating to Prohibiting Gambling within the Destin City Limits.

The City Attorney read proposed Ordinance 18-14-CC by title; and then presented it to the Council on second reading.

> AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO PROHIBITING GAMBLING WITHIN CITY LIMITS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE CREATION OF CODE OF ORDINANCES, CHAPTER 14, ARTICLE VII, GAMBLING PROHIBITED WITHIN CITY LIMITS; ARTICLE VII, SEC.14-200. – LEGISLATIVE INTENT; ARTICLE VII, SEC. 14-201. – DEFINITIONS; ARTICLE VII, SEC. 14-202. – PROHIBITED GAMBLING AND GAMING ACTIVITIES; ARTICLE VII, SEC. 14-203. – OPERATIONS; ARTICLE VII, SEC. 14-204. – ENFORCEMENT OF THIS ARTICLE; ARTICLE VII, SEC. 14-205. – NOTICE TO AUTHORITIES; ARTICLE VII, SEC. 14-206. – ENFORCEMENT OF THIS ARTICLE; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance. Hearing none, the Mayor turned the matter over to the City Council for their discussion and consideration.

Motion by Councilmember Overdier, seconded by Councilmember Ramswell, to approve Ordinance 18-14-CC on second reading passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

B. Second reading of Ordinance 18-16-LC, Vested Rights Process

The City Attorney read proposed Ordinance 18-16-LC by title; and then presented it to the Council on second reading.

> AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA AMENDING ARTICLE 2 OF THE LAND DEVELOPMENT CODE TO ESTABLISH A PROCESS FOR VESTED RIGHTS DETERMINATIONS; PROVIDING FOR INTENT; PROVIDING FOR ELIGIBILITY TO APPLY FOR A VESTED RIGHTS DETERMINATION; PROVIDING FOR APPLICATION REQUIREMENTS, APPLICATION CATEGORIES, AND APPLICATION PROCEDURES; PROVIDING FOR APPEALS; PROVIDING FOR ULTRA VIRES PROTECTIONS; PROVIDING FOR NOTICES TO

THE STATE; PROVIDING FOR AUTHORITY; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Mr. Shawn Snell, resident of Defuniak Springs, stated that he was informed by the former Community Development Director that this proposed ordinance would allow for their project, The Affordable Banquets, to have a roof slope that is not a 5/12 to 12/12 roof slope. However, when he discussed this matter with the Interim Community Development Director Steve Schmidt, he was informed that without a change to the Vesting Rights ordinance that would allow the 5/12 roof slope to be changed; he would need to change the slope of the building. He continued that the building has been under designed for nearly 8 months. The development order application was submitted on April 4, 2018, but it has not been approved. He stated that at the August 20, 2018 Council meeting, he pointed out that the City's Comprehensive Plan that went into effect on June 8, 2018 had a provision that all future buildings shall have a 5/12 but not greater than a 12/12 roof slope. This provision was added into the comprehensive plan as it was not in there previously. Their project was submitted on April 4, 2018. The 5/12 roof slope provision is an impediment to the City's approval of the development order for his project, which has been designed over 8 months ago with a lower slope roof. The provision would also be an impediment to other projects, such as retail stores, parking garages and other buildings that cannot afford to have a high roof slope. He stated that he checked with other local municipalities and counties, and no one requires all roof slopes on future buildings to be 5/12 to 12/12 pitch. The 5/12 roof pitch is more expensive because it has to be structured more heavily for high wind loads. He further stated that Section 1-2 of the comprehensive plan that reads, *"Fully pitched roofs are required to cover not less than 60% of the roof surface on all buildings a minimum pitch of 5/12 and a maximum pitch of 12/12 are required for the fully pitched roof above the cornice line"* is a mistake in the comprehensive plan. He also pointed out that according to Figure 7.2 – <u>Roofline Design</u> of the Land Development Code, *"The use of varied rooflines, through the utilization of parapets and/or sloped roofs, is required."* Parapets indicate a low slope roof which is practically in every building in Palm Plaza and in Holiday Isle because they are in a high wind zone. He added that since the application for his project was submitted on April 4th, prior to the comprehensive plan that went into effect on June 8th, it should be evaluated with respect to the comprehensive plan, Land Development Code, and Florida Building Code that were in effect on April 4th.

Councilmember Dixon asked why this application was not evaluated based on the current rules when the application was submitted; and if the proposed ordinance addresses this issue.

According to the Land Use Attorney, the proposed ordinance does not address this particular situation. She also stated that under the current comprehensive plan, grandfathering clause and the proposed ordinance, there is no room for staff to give the applicant some kind of variance. She also stated that the way the grandfather clause is written, building heights have to be actual and present and lawfully existing or has an authorized development order to be grandfathered in; adding that if someone submits an application but their development order is not final when the new comprehensive plan went into effect, they would not be grandfathered in.

The Mayor asked if this is an issue for the City's Board of Adjustment.

According to the Land Use Attorney, the Board of Adjustment would get involved only if it was a Land Development Code provision and not a comprehensive plan provision.

Councilmember Marler stated that in the past, when an application was in process, it fell under the existing comprehensive plan provision. He asked when that procedure was changed.

Councilmember Ramswell stated she seemed to remember a similar interpretation of the rule as that of Councilmember Marler.

According to the Land Use Attorney, the new grandfathering clause provides that the building heights, density or intensity has to be actual and present and lawfully existing prior to the effective date of the comprehensive plan or was authorized pursuant to a development order. However, if the Council wants to establish a policy that a pending application can be considered for the comprehensive plan that was in effect at the time the application was submitted, they can direct staff to draft that language.

According to the City Attorney, the applicant is entitled to go in front of the Board of Adjustment under the old comprehensive plan that was in effect when the application was submitted.

Mr. Stephen Taylor of Matthews and Jones stated that he supports the proposed ordinance. He stated that the reason the current comprehensive plan does not grandfather the applicant was because the City would not accept the language his firm brought to them that would have allowed it to happen. They only have a year to apply for their vested right determination. A lot of people do not pay attention to legal notices. It would be worth doing larger ads that people would actually see.

Motion by Councilmember Braden, seconded by Councilmember Destin, to approve Ordinance 18-16-LC on second reading passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

6. *CONSENT AGENDA

A. Contract Extension with H&T Contractors, LLC for Miscellaneous Asphalt Continuing Services
B. Contract Extension with S.H. Hayes Enterprises, LLC for Miscellaneous Concrete Continuing Services
C. Contract Extension with The Emerald Group of Florida, Inc. dba Gulf Coast Electric for Miscellaneous Electrical Continuing Services
D. Contract Extension with RONCO Electric Service, LLC for Miscellaneous Generator Continuing Services

E. Reimbursement for Councilmember Prebble Ramswell for expenses incurred while attending the Florida League of Cities Annual Conference on August 1519, 2018 at Hollywood, Florida
F. Reimbursement for Councilmember Skip Overdier for expenses incurred while attending the Florida League of Cities Annual Conference on August 1519, 2018 at Hollywood, Florida
G. Contract Extension with Florida Septic & Sewer Service, Inc. for Miscellaneous Stormwater Continuing Services
H. Contract Extension with Porter Roofing Contractors, Inc. for Miscellaneous Roofing Services
I. Contract Extension with Florida Pest Control & Chemical Company for Miscellaneous Pest Control Continuing Services
J. Contract Extension with Emerald Coast Striping dba Coastline Striping, Inc. for Miscellaneous Road Striping Continuing Services.
K. Contract Extension with Advance Protective Technologies for Miscellaneous Alarm/Fire Safety Continuing Services
L. Contract Extension with S.H. Hayes Enterprises, LLC for Miscellaneous Fencing Continuing Services
M. Contract Extension with Gulf Coast Environmental Contractors, Inc. for Miscellaneous ROW/Median Landscape Maintenance Continuing Services
N. Destin Fishing Rodeo Trailer Temporary Placement
O. 2018 Destin Seafood Festival Co-Sponsorship

Motion by Councilmember Marler, seconded by Councilmember Overdier, to approve Consent Agenda items #6A thru #6K and items #6M thru #6O, as printed above, passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

Councilmember Braden addressed Consent Agenda item #6L. He stated he asked for this item to be pulled for discussion because he could not find any type of material amount or hourly rate.

The Deputy Public Services Director Tim Pietenpol stated that he believes it is a time and materials contract; meaning an hourly rate plus a percentage on the materials used. However, he would need to verify it and come back with a definitive answer.

Councilmember Braden asked if they have a limit as far as the project amount on these continuous services contracts; and it goes out for bid if the amount exceeds that limit.

Mr. Pietenpol replied the limit is $15,000.

Mr. Johnson added that anything over $15,000 would come to the Council for their approval.

Councilmember Braden moved to approve Consent Agenda item #6L, as printed above, seconded by Councilmember Marler. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

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

A. Councilmember Braden

Councilmember Braden asked the Interim City Manager to provide the Council a copy of the Royal Melvin Heritage Park plan or design originally submitted for the Restore Act grant funding application.

Mr. Johnson stated that he would provide that information to Council. He also informed the Council the current dollar amount for the design fee for the Heritage Park which the Council previously asked for was $175,000.

Councilmember Braden also asked for a copy of any grant applications the City have currently submitted.

Councilmember Dixon addressed the dollar figure Mr. Johnson provided relative to the current dollar amount for the design fee for the Heritage Park. He stated that the figure the previous City Manager showed him amounted to over $290,000.

According to the Finance Director, the difference between the figure provided by the Interim City Manager and the one provided by Councilmember Dixon came from the 3 invoices coded for the Heritage Park, but, were actually engineering drawings for the boardwalk. This was corrected within their accounting system.

B. Councilmember Ramswell

C. Councilmember Dixon

Councilmember Dixon questioned the $100,000 engineering fee just to design a curb; adding that a private corporation would not pay the same amount of money for this type of work.

The Finance Director explained that the $104,000 allotted for the curb is not necessarily the amount they would pay. It was the amount FDOT has allocated to the City in a grant to cover the cost. The total cost might only be $50,000, but they are not going to know until they hire a firm for the job.

Councilmember Dixon wants to know why they cannot utilize the City Engineer for this purpose.

The Mayor stated that FDOT may have a reason for it. He suggests putting the project out for bid so that the Council may make a decision based on monetary consideration.

Councilmember Dixon asked the City Manager to look into the buckle in the sidewalk in front of the Army Recreation Camp, one of the busiest areas in Destin. It has been in that condition for at least two months.

C. Councilmember Overdier

Councilmember Overdier asked if they have changed the advertised salary for the City Manager to a higher amount.

Mr. Johnson stated the number has not changed because it has not been approved by Council.

The Finance Director stated the Council can offer any amount they want for the position. It is completely beside the budget. He added that professionals that apply for this type of job typically put a pay range in their application.

Councilmember Overdier moved to re-advertise for a higher amount for City Manager salary to $140,000; seconded by Councilmember Morgan.

The Mayor suggests they consider what the City Manager actually has to manage as compared with other cities when they are trying to determine the salary. Destin does not have its own police department, fire department, waste management, and power company, and it has the least amount of employees than most cities of equal size.

Councilmember Ramswell noted that Destin has unique problems and major issues that require constant attention, and above and beyond what other similar size cities are facing.

The Mayor asked if any member of the public wishes to comment on the motion. Seeing none, he turned the matter over to Council for their consideration.

The City Manager stated that the salary offer is at $120,000. He suggests advertising a range of $120,000 to $140,000 so they are not committed to a certain amount.

Councilmember Overdier offered an amended motion to re-advertise for a higher amount for City Manager salary to a range of $120,000 to $140,000; seconded by Councilmember Morgan. Motion passed 6-1 Council members Morgan, Destin, Marler, Overdier, Ramswell and Braden voted "yes"; Councilmember Dixon voted "no").

E. Councilmember Marler

Councilmember Marler asked the City Manager to provide the Council a list of all projects under review for development orders with current status for each one; and to include any reasons for the delay.

F. Councilmember Destin

1) Proposed Gulf Power Franchise Agreement

Councilmember Destin stated it has been very difficult trying to negotiate with Gulf Power. The City has given a lot of concessions, and basically has taken the conversation of purchasing and running the power utility off the table in an attempt to have good faith negotiations for a franchise agreement with Gulf Power. He continued that they have discussed the potential curtailing of the scope of the City's purchase provision. Gulf Power wanted a language incorporated into the agreement that would basically narrow the scope of the application of the purchase option by prohibiting the City from purchasing and then selling the power utility. He also stated it did not appear they would get an electric utility undergrounding agreement done in time, and so as a concession, they have taken that part off the table with hopes that future Council would understand it is something that they need to negotiate in the future. The City has also given up a concession for their protection from Southern Company's overruns on the Kempler and Vogle power plants. The proposal that Gulf Power provided to the City is basically the same thing they could have gotten two years ago; and that he feels it is a bad deal for the citizens of Destin. The City would not be allowed to exercise its purchase option for 10 years should they enter into the franchise agreement. Which means the City would be under the control of Gulf Power's parent company, NextEra Energy, which owns Florida Power and Light, for an entire decade. According to the trade reports on the acquisition of Gulf Power by NextEra from Southern Company, NextEra is going to be paying a sky high premium for Gulf Power. It will be approximately 29 times the price to earnings ratio; which many analysts believe is an insane amount of premium. NextEra is not buying Gulf Power to bring lower rates and help the City underground their electric utility. He would like to have one last opportunity to talk to Gulf Power before the September 13th Special Council meeting; and that if Gulf Power does not make significant movements from its current franchise offer, he would recommend they exercise their purchase option and put out an RFP to sell the entire grid system to a competitor for lower rates and a better franchise.

The City Attorney stated that the Council is being asked to vote on the City's proposed counter-offer to Gulf Power which has been included in the Council's briefing materials. And, although the City is giving up a lot with this counter-offer, Gulf Power has essentially indicated they are not going to accept it by commenting on the counter-offer; but they have not officially declined it.

The City's Special Counsel Schef Wright provided the following explanations with regards to the City's proposed counter-offer to the franchise agreement:

- Fifteen-year franchise agreement with 2 years vesting period
- Dropped the undergrounding of electric utilities
- Dropped the protection against Kemper and Vogle overruns
- Beefed up the use of the franchise fee for undergrounding, but at no cost to Gulf Power

Mr. Wright noted that the expiration of the existing franchise pursuant to the recent extension is Friday, September 21, 2018; adding that the scheduled special meeting on September 13th is for Council's further consideration of this issue depending on Gulf Power's response to Council's decision tonight. He also added that if Council takes no action by September 21st, their right to purchase will expire; which is a bad thing for the City of Destin.

Councilmember Ramswell stated she is tired of the way the City of Destin is being treated by Gulf Power. She continued that Gulf Power has gone from the position of openness and willingness to help at one meeting, and then a complete turnaround at the next meeting. The City has already given a lot of concessions. Gulf Power feels the City will do whatever they want and she will not tolerate it any longer. They are not gaining anything by continuing to negotiate with Gulf Power; adding that Fort Walton Beach has functioned for several years without an electrical contract.

Mr. Wright reiterated that if the Council approves the counter-proposal, and it is accepted by Gulf Power, it will provide the City a 15-year franchise with the opportunity to purchase the electrical system after two years. It will be an ultimate protection for the citizens of Destin against future high rates.

Councilmember Ramswell asked if they have any options to purchase the electric utility after their current contract ends.

Mr. Wright explained they would need to exercise the option to purchase, get an extension on the franchise or approve a new franchise by September 21st; otherwise, they would lose the right to purchase. He added they could still buy the system through imminent domain process; however, it would expose the City to a $3 or $4 million of legal fees and engineering consultants.

Councilmember Ramswell stated that the City of Destin is a valuable consumer to Gulf Power and they do not deserve the treatment they are getting from them.

Councilmember Morgan stated that Gulf Power has not negotiated in good faith from the beginning. They are not a good community partner. They have defamed some of the members of this Council and misled the public. They are also one of the most expensive energy companies in Florida. The City has an excellent opportunity to exercise their option to purchase, and that he is prepared to vote on it tonight. He would like the City's attorneys to have all required documentations to exercise their option to purchase prepared by the next meeting. He added that they do not necessarily have to sell the system. They could go ahead and hire the people to manage it.

Mr. Wright noted that the City of Winter Park hired some people and ran their own system. Their rates over a 10 year period have been lower than the rates they were paying to the previous utility company. They have continued to increase the amount of undergrounding using revenues generated by the utility system.

Councilmember Marler asked if the sale of Gulf Power been approved by the State of Florida.

According to Mr. Wright, the State of Florida has no jurisdiction to approve or disapprove the sale. The approval would come from the Federal Agency Regulatory Commission and the Federal Trade Commission under the anti-trust laws.

Councilmember Marler asked if it would be possible for the City to negotiate with the new owner, NextEra Energy or Florida Power and Light. If so, it is something they should consider as they continue to negotiate. He added he does not see the City of Destin, with a $14 million budget being able to purchase and manage a power company.

According to Councilmember Morgan, they could do so through municipal bonds.

Councilmember Marler would like to see more inputs from the citizens before the Council makes such a big decision.

The Mayor stated that he likes the City's proposed counter-offer; and if Gulf Power rejects it and is not willing to comprise, then the Council could decide to take a different route comes the special meeting on September 13th. He asked the Council not to vote on this issue based on emotion but to make sure they conduct the forensic analysis and have the net positive benefit data to present to the citizens of Destin prior to making a decision.

Mr. Wright stated it would take 2 or 3 years to go through this process and to be able to do the due diligence or forensic analysis. It could be done with the next franchise with the two-year purchase option. Otherwise, if Gulf Power rejects the City's counter-offer, they could exercise the purchase option now and conduct the due diligence while the arbitration process is going on.

Councilmember Dixon asked if there would be a recommendation for the City to exercise the purchase option if Gulf Power rejects the City's counter-proposal and refuses to compromise.

Mr. Wright stated it would be the only valid option to preserve their ability to protect themselves from higher rates, unless they get another franchise extension.

According to the City Attorney, it is a low risk for the City to exercise the purchase option in terms of costs. The costs the City would bear is moving forward and start doing all the due diligence studies.

Councilmember Overdier agrees that Gulf Power has not negotiated in good faith with the City; adding that the City has given up a lot and Gulf Power has not given up anything in return. But, he expresses his concern the City could go bankrupt if they decide to exercise the purchase option then tries to run the system and fails.

Councilmember Destin explained that the actual revenues from the system, not the actual assets of the City, would be the collateral on the bond debt. He added the City does not have any valid options if they do not come to terms with Gulf Power.

Councilmember Ramswell asked for Councilmember Destin's recommendation on this matter.

Councilmember Destin recommends sending the City's counter-offer to Gulf Power and giving them another opportunity to negotiate in good faith.

Councilmember Dixon moved to approve the City's proposed counter-offer and send it to Gulf Power; seconded by Councilmember Overdier.

Councilmember Braden stated that he and his family have suffered through this issue during the election. He was voted to protect the citizens of this community. He feels conducting the due diligence is the right thing to do since Gulf Power has not made any effort to negotiate in good faith. He would support the decision to exercise their purchase option once they reach that point.

The Mayor called for a vote on the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

2) Workshop on the Crosstown Connector and parking congruency

Councilmember Destin requested that the Council schedules a workshop to discuss the crosstown connector and parking congruency. He stated they have allocated funds to build the crosstown connector, but they have not had a workshop to fully discuss it. They need to analyze how this infrastructure would fit with any potential parking garages and other City facilities.

After some discussion, the Council asked the Interim City Manager to schedule the workshop within the next month.

G. Councilmember Morgan

1) Beach issues and code enforcement

Councilmember Morgan moved to direct the City's attorneys to draft an ordinance that would prohibit the roping off and possibly curtailing some of the signs on the beaches; seconded by Councilmember Destin.

The Mayor mentioned that Walton County is having a special meeting this coming weekend about customary use and a member of this Council of City staff should probably attend that meeting and bring back some information. He asked the Interim City Manager to look into it and obtain some information about this meeting.

Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

H. Mayor Gary Jarvis

Mayor Jarvis stated he was a huge supporter of the Town Center CRA when he got elected as Mayor. He is a believer that the Town Center CRA could become something more that it is now; and doing such things as moving the Destin Community Center in the middle of the district so that the Town Center actually becomes the central focal point for the community. He would like to have some discussions on this issue possibly the October/November time frame to include some discussions about the crosstown connector.

Mayor Jarvis stated that the City has a right-of-way that has power lines along it from Main Street to Commons Drive. There have been some discussions about creating paths big enough for biking, walking and possibly golf carts. He would also want this issue to be a part of their discussions this fall.

I. Land Use Attorney

1) Request direction from the City Council regarding inconsistency between the Destin Comprehensive Plan and Land Development Code zoning district

The Land Use Attorney asked for Council's authorization to have the City's attorneys to look at the comprehensive plan for any inconsistencies with the Land Development Code zonings districts and direct them to come back with a proposed ordinance.

Councilmember Braden moved to authorize the City's attorneys to review the comprehensive plan for any inconsistencies with the Land Development Code zoning districgts and come back with a proposed ordinance; seconded by Councilmember Ramswell.

Councilmember Dixon noted that they hired Canine and Associates to perform this task.

According to the Land Use Attorney, they have some proposed LDC regulations that they prepared that they could bring before the Council; but, these proposed regulations may need additional work.

Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

J. City Attorney

1) Preliminary Draft of Purchase Option Resolution Gulf Power Franchise Agreement

The City Attorney stated he would bring back this proposed resolution on September 13^{th} for the Council to vote on.

The City Attorney noted that the City's Finance Director Bragg Farmer has updated the City's Procurement Policy. This document consists of over a hundred pages. He asked for Council's authorization to send the document to the County and the Treasury Department for their review and approval to make sure it is CFR-2 compliant.

Councilmember Braden moved to allow the City Attorney and Finance Director to send the City's proposed Procurement Policy to the County and Treasury Department for their review before bringing it back to the City Council for approval. Councilmember Ramswell provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

The City Attorney noted there was an interest a few months back about possibly updating the Sheriff's contract to include a deputy that would augment the City's code enforcement division. The Sheriff asked the City to provide them a scope of work so he could conduct some analysis for which to make a decision. He asked if the Council is interested in pursuing this initiative.

There was a consensus of the Council to place on the next meeting agenda a discussion regarding the possibility of amending the Sheriff's contract to include a deputy that would supplement the City's code enforcement officers.

Having no further business at this time, the meeting was adjourned at 9:45 PM.

ADOPTED THIS 17TH DAY OF SEPTEMBER 2018
By:

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk