

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
APRIL 4, 2022
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 Jim Bagby

Councilmember Bobby Wagner

Councilmember Johnny King

Councilmember Kevin Schmidt

Councilmember Dewey Destin

Councilmember Rodney Braden

Councilmember Terésa Hebert

Destin City Staff

City Manager Lance Johnson

City Clerk Rey Bailey

Public Works Director Michael Burgess

Building Official Noelle Bell

Deputy Code Compliance Dir. Kris Mercurio

Land Use Attorney Kim Kopp

Deputy City Manager Webb Warren

IT Manager Matthew Pace

Parks & Rec Director Lisa Firth

Finance Director Krystal Strickland

Grants/Project Manager Jeffrey Cozadd

City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:20 PM. Pastor Logan Landes of the Grace Lutheran Church gave the invocation, which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

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

**1. PROCLAMATIONS / RECOGNITIONS / SPECIAL / PUBLIC
PRESENTATIONS / ANNOUNCEMENTS**

A. U.S. Coast Guard Presentation - Lt Steve Browning, US Coast Guard

Lt. Steve Browning of the U.S. Coast Guard presented the following information:

Types of Passenger Vessels

- Recreational
 - ❖ Bareboat Charters

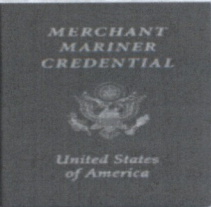
- Commercial
 - ❖ Uninspected Passenger (6 passenger or less unless over 100 gross tons, then 12 passengers)
 - ❖ Inspected passengers
 - Small Passenger Vessels (less than 100 gross tons)
 - Large Passenger Vessels (more than 100 gross tons)
- Passenger
 - ❖ 46 USC 2101(21)(A)
 - Individual Carried on a Vessel ... Except:
 - Master
 - Crew
 - Paid for services onboard vessel
 - Must not have contributed “consideration” for carriage
- Passenger for Hire
 - ❖ 46 USC 2101(21)(A)
 - *“Passenger for Hire means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel”*
 - Consideration:
 - Payment to individual, person or entity
 - Economic benefit including anticipated future gain
- Important !!
 - ❖ All it takes is one Passenger for Hire to change the service of the vessel
 - ❖ This prevents circumvention of the inspection laws by having only one person in a group pay

Merchant Mariner Credential (MMC)

- Must be the appropriate MMC



PASSPORT
United States of America



MERCHANT MARINER CREDENTIAL
United States of America



UNITED STATES OF AMERICA
MERCHANT MARINER CREDENTIAL
JOHNNIE T. MCPHERSON
100 FORDS DRIVE
MAST HIGHLAND, NY 12444
DOB: 01-01-1985
Exp: 01-01-2015
Iss: 01-01-2015
Signature: [Signature]
POUR LE MARCHAND MARINER S. S. JOHNNIE T. MCPHERSON

- Mariner's acting under the authority of their MMC must be enrolled in a drug testing program.

- Must be the appropriate MMC
- Mariner's acting under the authority of their MMC must be enrolled in a drug testing program
- Recreational Vessel
 - ❖ 46 USC 2101 (25)
 - Manufactured or operated primarily for pleasure
 - Leased, rented, or chartered to another for the latter's pleasure
 - Does not carry any passengers for hire
 - Bareboat chartered with less than 12 passengers (not including crew) – D8 Legal Direction
- Uninspected Passenger Vessel
 - ❖ 46 USC 2101 (42)
 - Less than 100 gross tons
 - 6 passengers or less, with at least one Passenger for Hire
 - 100 gross tons or more
 - 12 passengers or less, with at least one Passenger for Hire
 - Licensed operator
 - Operator of Uninspected Passenger Vessel
 - Not inspected by the Coast Guard
- Bareboat Charters
 - ❖ Contract between the owner and the charterer
 - ❖ Classified by 1993 Passenger Vessel Safety Act NVIC 7-94
 - ❖ There are stringent requirements to have valid charter
- Bareboat Charter Roles
 - ❖ Owner:
 - Relinquishes command, control, and possession of the vessel
 - Responsible for establishing a valid charter
 - Cannot serve as crew on own vessel
 - ❖ Charterer:
 - Takes temporary ownership of vessel
 - Provides compensation/consideration to owner
 - Responsible for safe/legal vessel operations
 - ❖ Master:
 - Responsible for safe/legal vessel operations
 - Cannot be the owner
 - Not required to be licensed
- Bareboat Criteria
 - ❖ Owner must relinquish command control, and possession of the vessel to the charterer
 - ❖ Charterer is responsible for the safe operation of the vessel, its crew, passengers, and all persons aboard during the charter
 - ❖ Charterer is responsible for ensuring that the vessel complies with all regulations which are applicable to the vessel's service
 - ❖ Operator may also be held accountable for the safe operation of the vessel as well as all equipment requirements and inspections

➤ Bareboat Criteria (from D8 Legal)

- ❖ Vessel is chartered, leased, rented to an individual through a written agreement
- ❖ The owner does not provide the crew; the charterer selects and pays the crew
- ❖ A licensed Master is not required to operate the vessel
- ❖ The owner can recommend a list of Masters for the charterer to hire, but cannot stipulate that the owner make a selection solely from the list provided
- ❖ The owner can require the charterer to hire a crew with a preset level of qualifications (e.g., Coast Guard issued Merchant Mariner's Credentials)
- ❖ The vessel carries 12 or fewer passengers (not including the master and crewmember)
- ❖ All food, fuel, and stores are provided by the charterer
- ❖ Insurance is obtained by the charterer, at least to the extent of covering liability not included in the owner's insurance
- ❖ The charterer may discharge for cause the Master or any crew members
- ❖ The vessel must be surveyed upon its delivery and return
- ❖ Any provision that tends to show retention of control of the vessel such as the owner being aboard during the charter contradicts the claim that a valid bareboat charter exists

Councilmember Schmidt asked for some clarifications of the rule with regards to a boat with a licensed captain.

Lt. Browning explained that an uninspected boat is only allowed to carry 6 passengers or less regardless on the size of the boat. The boat will need to be inspected by the Coast Guard to be able to carry more than 6 passengers. He added that each inspected boat will receive a Certificate of Inspection (COI). The COI will include a Route and Condition section; whereby, it will show locations where they are allowed to operate.

The Land Use Attorney noted that the city code can differ from that of the Coast Guard. They would still need to comply with city code in terms of operating at certain locations. For instance, commercial activities are not allowed in residential zoning district.

Councilmember Bagby commented that the US Coast Guard, the City's Code Compliance Department, Okaloosa County Sheriff's Department, and the US Fish and Wildlife Commission seem to have different rules on what is illegal and what is allowed in the water. A flowchart needs to be established that would show whose rule is being violated, who is responsible for enforcing that rule, and whom should an average person call to report a potential code violation, such as an overcrowded boat. He added they need to have a communication process to follow and an understanding as to who is responsible for starting that process.

According to Lt. Browning, federal and local agencies, as well as those who has mission in the water need to get together, discuss strategies, and establish a coalition. He also noted that the Station Destin Command Center has a communication center that can relay information to sector mobile which has the big command center that is operated 24 hours. They can do everything including dispatch air support, contact the local police department and Okaloosa Sheriff's Department, etc.

B. Parks & Recreation Annual Report & Work Plan Presentation

Ms. Sandy Trammell, Parks & Recreation Committee Chair, presented the committee's Fiscal Year 2022 Annual Report and Work Plans for council consideration. She provided the following work plan summary:

- Committee members are now inspecting all the parks and beach accesses twice a year. These are done before spring break and at the end of summer.
- The committee is developing guidelines for the Arbor Day Celebration to include "The Honor Tree" program where people can honor their loved ones with a tree somewhere in the city.
- The committee is developing a plan to assess the use of murals in Destin.
- The committee is developing a plan to create and publicize "Adopt A Tree"; "Adopt A Park"; and "Adopt A Bench" programs.
- The committee is working with Destin's Master Gardeners to develop a plan for park beautification. They are looking at Destin cemeteries as part of the park.

Also, in response to Councilmember Wagner's question as to why the parks close after sunset, Ms. Trammell noted there are no lights in the parks. Parks close after dark for safety reasons. Also, there is not enough personnel available to man the parks after hours.

Motion by Councilmember Hebert, seconded by Councilmember Wagner, to approve the Parks and Recreation Committee's Fiscal Year 2022 Annual Report and Workplans passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

2. PUBLIC COMMENTS

Mr. Jimmy Perkins, a Destin resident and business owner, distributed sample copies of a legal bareboat contract to members of the council. He noted that a non-Coast Guard inspected vessel can carry no more than 6 passengers out of the Destin Harbor; but, once a legal bareboat enters the water, it is no longer under the control of the U.S. Coast Guard. He reported that there are 10 to 15 companies operating on the Destin Harbor offering trips on a pontoon boat for one to 12 people on their websites on a daily basis. The City of Destin has an ordinance on bareboat. He has provided the city's Code Compliance Department a list of these companies and pictures of their boats. He asked that the rules be enforced, and punitive actions taken against code violators. He added that he has a legitimate bareboat company out of Fort Walton Beach for which he pays \$10,000 annually to the National Seashore and Okaloosa County for each boat.

Councilmember King moved to direct the City Manager to provide a quarterly report of the Harbor Compliance Officer's findings on the Destin Harbor to the council; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

Mr. Guy Tadlock, a Destin resident, noted that a bullet point in the presentation given by Lt. Browning of the U.S. Coast Guard stated that a charterer had liability responsibility over anything that the owner's insurance did not carry. He stated that he has two friends whose vessels were hit by rental pontoon boats causing major damage. In both cases, the rental company stated that their insurance would not cover the damage. They were not able to get the name of the operator or the charterer in neither of these cases. For rental vehicles, if the renter's insurance does not cover them driving that vehicle, the renter could obtain insurance from the rental car company. He stated they need to find out if pontoon rental companies offer rental insurance as there could be some very costly damages that may or may not be covered by either the renter's insurance company or the charter company itself.

3. CONSENT AGENDA

- A. Public parking support for Destin's 65th Annual Blessing of the Fleet and Community Fish Fry on Thursday, May 26, 2022
- B. Approval of minutes of March 7, 2022, Regular City Council Meeting

Motion by Councilmember Hebert, seconded by Councilmember King, to approve Consent Agenda items 3A and 3B, as printed above, passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

4. CITY MANAGER REPORTS

- A. Parks and Recreation Software and Customer Portal

The city's Information Technology Manager Matthew Pace and Parks/Recreation Director Lisa Firth provided a brief overview of the new cloud-based Parks and Recreation Software (RecOnline) and the online customer portal.

- B. Tyler Technologies SaaS (Cloud) Migration

IT Director Matthew Pace noted that during the 2022 Visioning Session, he recommended the option of migrating all Tyler Technologies to a cloud-based, hosted solution. The Software as a Service (SaaS) model is beneficial to the productivity of city staff for the following reasons:

- Less strain on IT staff resources
- 3rd Party Cloud Server Maintenance by Tyler Technologies and their SaaS team
- IT can act as a support conduit to Tyler Technologies for various departments
- Network Security Monitored by a 24/7 Security Operations Center (SOC) with direct access to IT Security Team

- Removal of on-site servers related to current Tyler applications relieving strained network resources
- Cloud Access assists with Remote Access for staff and minimizes application troubleshooting by IT staff
- IT will maintain control of version upgrades to allow for greater compatibility with current ICT infrastructure

He also stated that the hosted solutions provided by Tyler Technologies have become more advanced, making these services better suited for municipalities to provide excellence in service and provide better protected resources. Many of the platforms currently utilized by the city outside of Tyler Technologies have already been migrated to the SaaS model with great success. Cybersecurity and maintenance of critical network infrastructure is a high priority for the city and migrating to SaaS solutions assists in these efforts to maintain greater availability.

Councilmember Destin asked what obligations the city has as it relates to preserving public records with this new technology.

According to the City Attorney, it is the same as it would be for any other obligations for storing records off site. They need to make sure they maintain reasonable methods to secure and preserve those records in accordance with the state's retention schedule.

Councilmember Schmidt moved to allow the City Manager to engage in contract acceptance with Tyler Technologies to migrate platforms to a cloud solution with a not to <https://www.msn.com/en-us/feed> exceed amount of \$429,535. Councilmember Wagner provided a second to the motion, which passes 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

C. Announcements

- IT Manager Matthew Pace last day is Friday, April 8th. Deputy City Manager Webb Warren will serve as Interim IT Director until a new director is hired
- Community Development Director Louis Zunguze is away on vacation until April 20th. Building Official Noelle Bell will serve as Acting Director during his absence
- Code Compliance Director Joey Forgione's last day of service to the city was April 1st. City Manager Lance Johnson will serve as Interim Code Compliance Director until a new director is hired
- Ms. Sandy Trammell has volunteered to assist in providing training to the city's standing committees
- Annual Easter Egg Hunt at the Destin Library is scheduled for Wednesday, April 13th, at 10:30 AM
- Annual Easter Egg Hunt at the Morgan Sport's Center is scheduled for Saturday, April 16th, at 9:00 AM

- Ms. Cheryl Wyren, a long-time city employee, recently passed away
- Okaloosa County School District has cancelled school for Tuesday, April 5th due to possible inclement weather conditions

Capt Abbott of the Sheriff's Office laid out the plan of action for potential "pop-up parties" occurring in the city.

5. PUBLIC HEARINGS

- A. THIS ITEM HAS BEEN CONTINUED TO THE FOLLOWING TIME AND DATE CERTAIN, AT THE REQUEST OF THE APPLICANT: MONDAY, MAY 16TH AT 6 PM, OR AS SOON THEREAFTER AS MAY REASONABLY BE HEARD.

Indian Bayou West 1st Amendment – Curtis Gwin of Indian Bayou West, LLC, on behalf of Indian Bayou Properties, is requesting approval for a Major Deviation to a Major Development Order. The project is located at 1 Country Club Dr. E. (Parcel ID: 00-2S-22-0000-0046-0000), with the property totaling approximately 69.16 acres. The applicant is proposing an addition of 9 lots to the previously approved 86 single-family, long-term residential lots (approved under DO 21-12), for a total of 95 lots, utilizing the same project area. This project was previously reviewed by the City Council on January 3, 2022, but the request has been modified since that time. The proposed deviation is an amendment to the previous submittal.

The City Land Use Attorney announced that the Indian Bayou West 1st Amendment approval for a Major Deviation to a Major Development Order at 1 Country Club Drive East has been continued to Monday, May 16, 2022, at 6:00 PM, at the request of the applicant.

- B. Second reading of Ordinance 22-05-CC - Amending the Code of Ordinances to establish a Flag Warning System at City of Destin beaches.

The City Attorney read proposed ordinance by title, and then presented it to the City Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES TO ESTABLISH A FLAG WARNING SYSTEM AT CITY BEACHES; PROVIDING FOR FINDINGS OF FACT; 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. Having none, the mayor closed the public hearing portion of this item and turned the matter over to the city council for discussion and consideration.

Motion by Councilmember Hebert, seconded by Councilmember King, to approve Ordinance 22-05-CC on second reading passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

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

A. Councilmember Braden

Councilmember Braden requested an update on the Capt. Royal Melvin Park construction, and whether they expect construction of the park to be completed within the next 7 days.

According to the City Manager, he does not expect the park to be finished in 7 days. Some constructions are still underway. An on-site inspection of the property is scheduled for tomorrow. There is still quite a bit of materials that the contractor needs to remove from the property before they could proceed doing other things such as landscaping.

B. Councilmember Wagner

C. Councilmember Destin

Councilmember Destin moved to direct the Land Use Attorney to come up with reasonable percentage to assign to mixed use projects in the non-residential portion of mixed used zoning areas and bring back some recommendations for council to consider; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

D. Councilmember Bagby

E. Councilmember Hebert

1. TDC Update

Councilmember Hebert provided the following updates from the TDC:

- Average daily rate continues to soar ahead of last year while occupancy was slightly lower than last year
- Tourist development tax revenues year to date were up 18%
- Organic traffic to the www.destinfortwaltonbeach.com website is up 85%
- Visit Florida has invited the Destin/Fort Walton Beach TDC to join them for 2 spring media missions in New York and in the United Kingdom
- Coast Resource Team was recently featured on the Discovery Channel and will soon be featured on PBS Nova
- Second Annual Virtual Media Event will be on April 28th from all over the destination
- The Emerald Coast Open, the Lionfish Tournament, is scheduled for May 13th thru May 15th

F. Councilmember King

G. Councilmember Schmidt

Councilmember Schmidt requested a list of local businesses and partners that will be involved in the TDC's Little Adventure activities this year.

Councilmember Hebert stated that she will asked the TDC Director Jennifer Adams to include this information in her report to council on April 18th

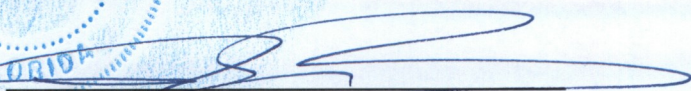
Councilmember Schmidt requests the TDC report to also include TDC's plans for the Crystal Beach parking lot and how they plan to use it this year.

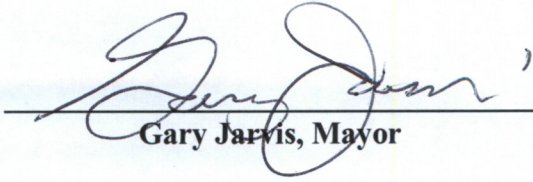
- H. Mayor Gary Jarvis
- I. Land Use Attorney
- J. City Attorney

7. PUBLIC COMMENTS

Having no further business at this time, the meeting was adjourned at 8:25 PM.

ATTEST:


Rey Bailey, City Clerk


Gary Jarvis, Mayor