

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
JULY 2, 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

City Manager Carisse LeJeune
Community Dev Director Jennifer Bryla
Deputy City Manager Steve Schmidt
Parks & Recreation Director Lance Johnson
Public Information Manager Doug Rainer
Use Attorney Kimberly Kopp

City Clerk Rey Bailey
HR Manager Karen Jankowski
IT Manager Webb Warren
Finance Director Bragg Farmer
City Engineer David Campbell
City Attorney Jeffrey Burns

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Steve Farris of First Baptist Church gave the invocation; which was then followed by the Pledge of Allegiance.

AGENDA APPROVAL

Councilmember Ramswell moved that both sets of minutes be pulled from the agenda as she found missing and erroneous information in both of them; seconded by Councilmember Braden.

Councilmember Ramswell stated she would go through the items in question with the City Clerk sometime after the meeting.

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

The City Attorney announced that Councilmember Braden will sponsor the walk-on of the Second Amendment to the City Manager's Employment Agreement.

Councilmember Braden would like the Second Amendment to the City Manager's Employment Agreement be placed under his name under the *PRESENTATIONS FROM MAYOR AND COUNCIL* section of the agenda. He stated it is in reference to health benefits.

The City Attorney explained that the City Manager indicated she wanted to add a health insurance provision to the agreement, which they were able to do by making a change to the agreement before the start of this meeting. He continued that copies of this agreement has been provided to Council, and that he would walk them through everything when that item comes up later on the agenda.

Councilmember Braden requested that item #2 listed under his name, "*Discuss dissolving the Deputy City Manager position*" be pulled from the agenda.

Councilmember Braden moved that discussion relating to the City Manager's Employment Agreement be added and discussion on dissolving the Deputy City Manager position be pulled from the agenda; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

1. APPROVAL OF MINUTES

- A) Approval of minutes of June 18, 2018 regular city council meeting
- B) Approval of minutes of June 13, 2018 special city council meeting

Above items were pulled from the agenda.

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

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

Ms. Renee Wood, a Destin resident, stated she would like to address agenda item #7(J), under "City Attorney" comments: "*Motion and discussion to ratify all of the motions passed at the June 28, 2018, Special City Council Meeting.*" She asked if she should wait to give her comments until they get to that subject.

The City Attorney stated there is an issue relating to this particular subject; adding that Ms. Wood could either come back later on in the meeting for that portion or the Council could vote to bring the item forward and discuss it at this point.

Ms. Wood stated she would reserve her comments for later.

Attorney Mike Chesser stated that he would like to comment about the Heritage Park, which is probably part of item #7(J); but, he would like to reserve his comments later on if that item becomes relevant.

The City Manager arrived at the meeting at 6:09 PM.

The Mayor suggests they move agenda item #5A, "*First reading of Ordinance 18-14-CC, relating to prohibiting gambling within the Destin city limits*" forward, which is under the **PUBLIC HEARING** section of the agenda, to give the City Manager time to get organized.

Motion by Councilmember Destin, seconded by Councilmember Marler, to move agenda item #5A forward passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

Next item discussed was agenda item #5A – first reading of Ordinance 18-14-CC, relating to prohibiting gambling within the Destin city limits.

4. CITY MANAGER REPORTS

At this time, the City Manager apologizes for being late for the meeting. She stated she was handed an amendment to her employment contract for resignation for mutual benefit of parties at 3:00 PM today and she was not able to contact her lawyer until 5:00 PM. She also spent some time reviewing the document preparing for discussion at tonight's meeting.

A) Resolution 18-19 – Schedule of Fees

The City's Finance Director Bragg Farmer explained that occasionally during the year, the Council passes items that change fees they charge for services in the City. They have 3 small changes that were made over the last two months which they need to incorporate into the fee schedule. The 3 changes were: 1) Fees for short-term rental rates for late payment of fees; 2) The addition of parking fines not already included in the fee resolution; and 3) The addition of fees for upright headstones at the Destin Memorial Cemetery.

Councilmember Ramswell asked if the headstone cost was the item the Council voted on last year and put into ordinance.

Mr. Farmer replied affirmatively.

Councilmember Morgan moved to adopt Resolution 18-19 and the associated schedule of fees for Fiscal Year 2018; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

B) Library Director Confirmation

The City Manager stated this is for Council's confirmation of her selection of a new Library Director. She continued that 20 individuals applied for the Library Director position. Several finalists were selected and interviewed. They then narrowed the list down to a few candidates and conducted a second interview. She has selected Ms. Robin Newell from Emporia, Kansas. She is very well qualified with education credential. She has been a library director and administrator for several organizations and they feel she will be a very good fit for this organization.

Councilmember Braden asked if this position was offered to in-house candidates.

The City's Human Relations Manager stated that all vacant positions are internally and externally advertised.

Councilmember Ramswell moved to confirm Ms. Robin Newell as the new Library Director; seconded by Councilmember Overdier. Motion passed 6-1 (Council members

Morgan, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”; Councilmember Destin voted “no”).

C) Norriego Point Boat Parking Restriction

The City Engineer David Campbell explained that before Norriego Point was stabilized, the Council voted to place signs restricting boat parking within approximately 400 feet from the tip of Norriego Point. Because of the covenants in the deed regarding boat parking on the harbor shoreline, staff needed approval from the County to restrict boat parking on the shoreline. The deed states, *“This conveyance is made and accepted with the covenant and understanding that the harbor side shoreline of this property shall remain accessible for the use and enjoyment of boaters unless the City’s coastal engineers determine armoring is necessary to protect this side of the property.”* Since then, Norriego Point has been armored. The mouth of the harbor now contains rock stabilization and a 100 foot long retaining wall with a concrete cap extending along the shoreline into the harbor. This area is not appropriate for boat parking and should be posted accordingly because of the obstruction and the possible damage to a boater and a possible injury that could happen in that area. He added that because of the construction and the dredging activities, the shoreline, for the most part, is at least 50 feet from the channel. Additional signage shall be at the discretion of the City Council and will have to be brought before the Okaloosa Board of County Commissioners for approval.

The Mayor suggests using basic verbiage on the signs such as, *“No boat harboring beyond this point”* starting from the zero point, and putting a few more signs as a reminder as they go around the whole point. He suggests putting additional signage about not walking on the dunes further back to the east.

Councilmember Overdier asked how far back from the tip should they prohibit boat parking.

Mr. Campbell recommends signage be concentrated at the tip and retaining wall; and then Council can decide if they want the signage placed further down.

According to Councilmember Marler, he brought up the signage issue because he works down on the harbor and has witnessed a lot of problems created by boats parking on the shoreline of Norriego Point, narrowing the channel and creating a safety hazard. There are usually swimmers and inexperienced boaters in that channel, and yellow boards and kayaks are all over the place. There have been near collisions because they are not visible to bigger boats. He further stated the signage were located approximately halfway to the seawall where most people currently park their boats. He suggests monitoring it for the next few weeks and determining if the signage needs to be placed further back.

Councilmember Ramswell asked how far down to the point was the actual armoring.

Pointing to a diagram on the screen, Mr. Campbell explained that the line shown from the rocks configuration goes back 100 feet towards the east to the retaining wall that has a concrete cap covered with sand, he continued it is up the City Council to determine if they want additional signage for no boat parking in that area for safety reasons.

Councilmember Ramswell noted that the deed stipulates they have to maintain the north side open for the enjoyment of boaters and people to park. She asked if it would be necessary to

create an amendment to the deed and go back to the County because they may be violating the deed by putting in the no boat parking signs.

Mr. Campbell stated that the City Council went to the Board of County Commissioners in 2012 to ask for approval for the placement of the signage. He recommends going back to the Board of County Commissioners to request a permit if the Council decides to place the signage further than the tip of the point.

The Land Use Attorney stated they could go that route if directed by the City Council.

According to Councilmember Braden, he went through that particular area during the past weekend and noticed three "no boat parking signs", which seem adequate to him at that point. The farthest sign was located about 200 feet down from the concrete wall. There were people climbing over the orange construction fence and ruining the sand dune. He further stated that as much as he would like to leave the area open for people to enjoy, he would suggest keeping people away from that area until the next phase of the Norriego Point stabilization project is completed.

The Mayor noted that directly across from the sign is the Harborwalk Marina where a lot of boats are going in and out. He suggests putting the first sign across from the location of the Pirate Ship, and then back to the east to help prevent congestion. He also encouraged the public to take some photos over the July 4th Holiday weekend and provide them to the City to help this Council makes the final decision on the proper placement of the signs.

D) Resolution 18-22 – Amending Rules of Procedures for Council Meeting – Agenda Process

The City Manager stated this is an amendment to the City Council meeting resolution as directed by the Council, specifying that the Council is to receive their agenda items not later than Wednesday, rather than a Thursday, prior to a regularly scheduled council meeting.

Motion by Councilmember Ramswell, seconded by Councilmember Marler, to adopt Resolution 18-22 passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

E) Update on Norriego Point Recreational Activities

The City Manager announced that the hardening and buildup of the dune on Norriego Point is complete. The dune has been secured with fencing and signage, and the plantings for natural grass and shrubbery will be underway shortly. The recent work completed at Norriego Point resulted in the establishment of four embayment areas that will be used as public swimming area. In the meantime, the FDEP Project Manager for the project and grant recently informed City staff that the State is opening Norriego Point to the public until which time the Phase II recreational elements will begin construction sometime this winter. She noted that on June 20th, she met with Fire District Chief Kevin Sasser and the Life Guard Chief Joe D'Agostino to discuss the current use of Norriego Point by the public and the approaching July 4th holiday. Previous understanding from both the City and the Fire District was that Norriego Point would not be open to the public until both phases of construction were complete, and neither agency made budgetary requests to the TDC for this current summer season. Now that the public is using the waterfront at Norriego Point, serious safety concerns have been identified. She continued that she and the Fire District Chief and

Lifeguard Chief went before the TDC on June 26th and requested additional funding for lifeguards this summer season and in the coming budget year. The TDC was agreeable to providing the additional funding and that the Fire District will begin their lifeguard patrol on June 29th. To help protect the users of the embayment areas, staff has ordered swimming buoys, ropes, anchors and appropriate signage. The ropes and buoys will be installed at the outer edge of each of the embayment areas to help define the swimming areas and protect the swimmers. Appropriate signage will also be installed outlining safety protocols and park rules. The overall cost for the material is estimated at \$3,000; and that adequate funds are available in the current beach/boardwalk budget to cover these expenditures.

Referring to a map on the screen, the Mayor noted that lifeguards would be stationed on the East Pass side of the point.

Councilmember Ramswell expressed concern about the current being so strong that the rope and buoy would not be sufficient to protect the swimmers. She asked if there were any additional measures they plan to put in place to prevent people from going under the rope and being sucked into the water.

Fire District Chief Sasser stated that with water coming in and out of that location, putting mesh under water would only collect particles which would create more hazard; but, he and Lifeguard Chief D'Agostino are continuing to discuss putting in additional safety measures. He also stated there will be one lifeguard stationed at that location this year. They have proposed to the TDC to allow two lifeguards next year because it would be very difficult for one lifeguard to cover that waterway area.

The Mayor stated he has previously expressed his concern with the City Manager that putting ropes and buoys across the mouth of those cutbacks could create a hazard to the boating community especially in low light conditions early in the morning, late in the afternoon or at night. He suggests putting a no boating and no swimming designation in that area due to the strong current.

Councilmember Ramswell inquired as to the placement of the buoys and how far they are from the end of embayment.

The Parks and Recreation Manager Lance Johnson stated that buoys will be placed all the way to the outer edge of the embayment.

F) Updates on Henderson Beach Road and Commons Drive Intersection and 820 Beach Drive Concrete Plant Boat Trailer Parking

The City Manager noted that at the June 18th City Council meeting, members of the Council requested some information regarding improvements to the Henderson Beach Blvd and Commons Drive intersection, and potential boat trailer parking at the former CEMEX Plant at 820 Beach Drive.

Councilmember Braden wants to know the reason concrete and dirt were still piled up on the old CEMEX Plant. He stated he was under the notion they hired a contractor to clean the place up and get it ready for the City to use.

Mr. Campbell stated that the contractor left the plant in a fairly good condition. They removed a lot of concrete, including big slabs at least 8 to 10 inches thick. They also removed a lot of the gravel and aggregate from there which left a hole. The underground exfiltration in their stormwater project generated a lot of dirt. They needed the dirt to fill those holes. They filled the holes to a large degree and stock piled the rest of the sand because they are going to need it at that site. The broken concrete is from the sidewalk staff removed on Indian Trail. It is being placed there temporarily until they are able to dispose of it. He further stated that the reason they have not done anything to it recently was because they allowed Luhr Brothers, the contractors working on Norriego Point, to utilize that site; and that particular contract has just ended.

The Mayor noted that according to the City Manager's report, they are trying to stabilize some of that area to withstand trucks and trailers so they could be used for parking. He asked if the Council wants to consider approving such a project.

Mr. Campbell stated that the estimate staff came up with to stabilize that area was \$39,000.

Councilmember Braden asked what happened to the gravel they removed from the plant.

According to Mr. Campbell, they had a great price at \$50,000 for the contractor to crush all the concrete on site; adding that part of the contract was for the contractor to remove and sell the 57 stones from the site.

Councilmember Morgan expressed that he would not want to entertain a conversation of expanding the boat launch because it only reaches its full capacity about 14-21 days in a year and it is not worth the investment. He would rather see it used as an open space park.

There were considerable discussions relative to the Henderson Beach Road and Commons Drive Intersection.

According to Mr. Campbell, part of an interlocal agreement between the City and County is to jointly review any development plans along Commons Drive, since a portion of it belongs to the City and the other portion belongs to the County. It was recognized during the Sea Glass Apartment development that Commons Drive is over capacity. It was previously agreed upon to have Sea Glass Apartment provide the City \$100,000 towards improvements to that intersection. He stated that a traffic signal would cost between \$250,000 to \$300,000 for that intersection, which is located in the County. It is the County's responsibility to either cost or do the improvements. The \$100,000 provided by Sea Glass Apartment to the City has a 5 year deadline; and that the City only has 4 years left to spend the money. He has contacted the County to encourage them to place this item on their 5-year plan. There have been some discussions about transferring the \$100,000 from the City to the County so they could get the engineering done while identifying other possible funding sources, such as sales tax, TDC, gas tax, etc.

Councilmember Ramswell noted she has voiced a concern in October 2016 that this particular intersection was becoming a very busy, and this was right before Sea Glass Apartments was about to be developed. The Venue Apartments had done a traffic warrant analysis before it was built. After it was built, they were supposed to conduct second study, but it was never accomplished. According to the minutes of that meeting, the City might have to bring this issue before the Special Magistrate or seek relief from the County since they are responsible for paying part of this improvement. She asked if there was ever any investigation done on this matter.

According to Mr. Campbell, the stipulation in their development order was they would conduct a traffic warrant analysis. He stated that Venue Apartment did conduct a second traffic warrant analysis and it showed a traffic light was not warranted at that time.

Mr. Campbell stated that the City still has \$100,000 towards improvements to that intersection. They have other possible developments coming along, and that the County has demonstrated their willingness to work with the City to resolve this issue.

Councilmember Braden asked if Sea Glass Apartments is required to conduct a traffic study.

Mr. Campbell stated they did conduct a traffic study, and it showed Commons Drive is at over capacity. When there is a segment of a roadway that is over capacity, the County allows mitigating improvements such as extra turn lanes, safety upgrades such as signal or round-a-bout at that intersection.

Councilmember Braden argues that the apartments should not have been allowed to be built since that intersection is over capacity.

Mr. Campbell stated that the City of Destin's multi-modal system allows it.

Councilmember Marler asked if there were any short-term solutions available for this intersection.

Mr. Campbell noted this intersection is scheduled to close within the next two or three weeks for the US Hwy 98 construction. The access from US Hwy 98 to the Henderson Beach Blvd will be closed. This would increase the traffic on Commons Drive going to Wal-Mart Shopping Center.

According to Councilmember Marler, the problem that exists at that intersection is more for the people coming from the apartment complex having a hard time turning left or right out of the complex; and that if they are closing that road he suggests asking the County to put in a 3-way stop or something of that nature to try to alleviate this problem. He also mentioned that according to Commissioner Windes, the City has to initiate it in order for the County to take action.

Mr. Campbell stated he will speak with Mr. Autrey, the County's Public Works Director, about a temporary measure they could take.

Councilmember Destin suggests the Council directs Mr. Campbell to work with the County to see if the \$100,000 can be transferred to the County, with stipulations that the money is returned to the City if it is not spent within a year.

Mr. Campbell stated it would be a good idea so they could at least get the engineering started and spend the money for construction shortly afterwards.

Councilmember Ramswell asked if a roundabout has been considered at that location.

Mr. Campbell stated that a roundabout has been discussed; and that one of the advantages is it would keep the 4 legs of that intersection moving; however, one downside is that, similar to the

roundabout at Indian Bayou Trail, when it stacks back, it would lock everything up in the roundabout.

Councilmember Ramswell stated the same thing could happen with a traffic light.

Councilmember Overdier stated that if Sea Glass is the reason they are over capacity and they gave the City \$100,000 to use for road improvements, then that money should go to the County since the road belongs to the County.

Mr. Campbell stated that the City has had some conversation with the County in the past regarding this matter. It was determined the appropriate thing to do was to give the money to the City because the City and County would end up working together to improve that intersection.

Councilmember Overdier wants to know why Sea Glass only gave the City \$100,000 when they are the reason the road is over capacity and it would cost a lot more to improve that road.

Mr. Campbell stated that Sea Glass is not the only reason that road is over capacity and that particular intersection is dysfunctional.

Councilmember Destin moved to direct the City Engineer to work with the County's Engineering Department, and to work with the City Attorney to draft some language in the agreement adding stipulations that the \$100,000 Sea Glass Apartments contributed towards the intersection improvements of Henderson Beach Blvd and Commons Drive money is returned to the City if it is not spent within a year. Councilmember Ramswell provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

G) Update on City Grants Procurement and Awards Process

The City Manager stated that in lieu of recent issues and concerns regarding the City's Grants Procurement and Award process, she is currently working with staff to review and revise processes and procedures to create a standardized Grants Guidelines Manual. They will be using best practice examples from municipalities and counties throughout the State of Florida that have successfully been awarded and manage grants according to established, adopted processes and procedures that meet all local, state and federal guidelines. When complete, the draft document will be brought forward to City Council for review and discussion, and adoption by resolution. The Grants Manual will be the guiding document for every stage in the grant process. They would also be requesting additional software purchase in the upcoming budget workshops to efficiently track, manage and research grants and grant opportunities. This will provide a single repository for all grant related documents, additional oversight tracking and review by the City Manager, and greater access to State and Federal grant opportunities. With the potential for decreasing revenue streams through unfunded mandates, additional Homestead Exemptions, and changing State Tax Laws, they would need to aggressively take advantage of grant opportunities for projects and infrastructure improvements that will move the City forward according to the will and direction of the City Council Staff. She also stated that the construction grant for the Clement Taylor Park Renovation Project has been moving on the same track as the Royal Melvin Heritage Park grant. They are looking for direction from the City Council whether to continue on the current trajectory for the Clement Taylor Park Renovation Project with submittal for final award of grant to Okaloosa County grants administrative staff or to bring forward to Council and 90% design plans for the park and

request Okaloosa County Commission and staff to hold submittal of grant until approved by the Destin City Council.

Councilmember Dixon stated he would like to see the plans before they are submitted.

The Mayor announced that the Destin Fire District Chief Kevin Sasser would like to speak on this subject.

Councilmember Dixon moved to direct the City Manager to bring forward to Council the 90% design plans for the park and request Okaloosa County Commission and staff to hold submittal of grant until approved by the Destin City Council; seconded by Councilmember Ramswell.

Chief Sasser stated that the Fire District had previously made some plans to put in a fire station at the west end of the City. They also have a fire boat that protects the fishing fleet and the visitors to the area that recreate in the water. He stated this would give them the opportunity to co-locate a fire boat with the personnel that need to respond on that boat and their equipment, and provide them the ability to respond to a medical call in a boat quickly. He continued that at their current location, it takes 5 to 10 minutes just to get to the boat and get it out of the lift to begin to respond to an emergency. They have the largest fishing fleet in the State and they believe this is an excellent opportunity for the Fire District to work with the City to provide for the safety of its citizens and visitors. He added they are committed to making the foot print as small as possible and utilizing their own dollars to help offset some of their impact on the park.

Councilmember Ramswell asked how many fire boats are available to respond to calls.

Chief Sasser replied there is only one fire boat for the entire district.

Councilmember Ramswell asked if there were more calls for a boat response in the harbor, Crab Island or Joe's Bayou area.

According to Chief Sasser, they have responded to all three locations and as far out as the Mid-Bay Bridge for different boating emergencies; but, he would need to analyze the data to provide the Council a percentage breakdown.

Councilmember Ramswell noted they are doing something at the old concrete plant on Joe's Bayou and that the slip the fire boat is using is behind the Heritage Park. She asked if it would make more sense to utilize the area at Clement Taylor Park now; or possibly the Fire District having two boats in the future to have one at its current location and another one perhaps with a slip at the launch.

According to Chief Sasser, they have had some discussions about a second boat, but it is not anything that is forthcoming in the near future. He stated that the priority would be at Clement Taylor Park. It is a perfect spot where they can quickly respond to anywhere they might be needed. It is fairly close to Crab Island where they have received a number of emergency calls. They are also not very far from the harbor and to the Gulf where they can respond to medical emergencies on a charter boat to provide immediate assistance.

Councilmember Overdier asked if the fire station will for a fire boat only; or will it house EMS vehicle or a fire truck.

Chief Sasser explained that the fire boat will be in a lift out on the water. In case of an emergency, they will get it out of the lift to response to an emergency. They will either utilize an existing dock or put in another dock for the fire boat. He continued they would not want to build a fire station with just one bay for one truck. They want to be able to place an ambulance there in the event they get into the EMS transport business.

Councilmember Overdier expressed concern having a fire truck with red light flashing and speeding through the park to respond to on land emergency with all the people especially small children being in the park.

Councilmember Dixon stated that the fire station can be located up by the road instead of deep inside the park or down by the water.

Chief Sasser agreed with Councilmember Dixon.

Councilmember Destin asked Councilmember Dixon if he could amend his motion to include having the Destin Fire Control District and the Harbor CRA Advisory Committee to work together and discuss any possible problems that may occur.

Councilmember Braden asked if the Fire District plans to lease or purchase the land from the City.

Chief Sasser stated he anticipates a long term lease from the City very similar to what they did when the fire station was in the Sheriff's Offices' current location, as long as they are legally able to maintain it because they expect to spend a significant amount of money in the boating itself.

Councilmember Dixon moved and to allow the Destin Fire Control District and the Harbor CRA Advisory Committee to work together to resolve any possible issue that may occur as they relate to this subject; to direct the City Manager to bring forward to Council the 90% design plans for the park and request Okaloosa County Commission and staff to hold submittal of grant until approved by the Destin City Council; Councilmember Ramswell provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

Following this item, the next item discussed was the Consent Agenda.

5. PUBLIC HEARINGS

- A) First 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 first 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.

Mr. Shane Moody, President and CEO of the Destin Chamber of Commerce, stated they have strongly opposed the expansion of gambling in Florida. They have passed numerous resolutions and have written many letters to State legislators. They have also spoken several times to State gaming committees, with the State Senate and representative legislative committees. The Chambers worked closely with the City in 2013 to have something passed to prohibit gambling in the City limits. He added they stand by their position of being opposed to expansion of gambling in the State.

Mr. Darryl Shelton, a Destin resident, stated that he agrees with the proposed ordinance; however, he is concerned about gambling boats and having a big gambling boat in the Destin Harbor in the very near future. He urged the Council go a little bit deeper into this issue and include a provision in the ordinance that there should be no debarkation from the boat while in this harbor.

The Mayor noted there is already a provision in the proposed ordinance regarding gambling boats, departing and arriving in the City of Destin.

Having no further comments from the public, the Mayor closed the public hearing and turned the matter over to the Council for discussion and consideration.

Councilmember Overdier moved to approve Ordinance 18-14-CC on first reading and direct the City Clerk to advertise it for second reading; seconded by Councilmember Marler.

Councilmember Ramswell asked if the issue relating to gambling boats is adequately covered in the proposed ordinance.

The City Attorney replied the gambling boat issue is covered in the ordinance, and it includes the language that is used in other parts of the State that try to prohibit them. He stated they would have to see whether or not it is adequate when someone tries to run a gambling boat.

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”).

Following this item, the Council moved on to Section 4 (City Manager Reports) portion of the agenda.

6. *CONSENT AGENDA

- A) TORO GM4300D Lease-Purchase
- B) National Fish and Wildlife Foundation, Chickasaw Drive Drainage Improvements Project

Motion by Councilmember Dixon, seconded by Councilmember Ramswell, to approve Consent Agenda items #6A and #6B, as printed above, 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

- 1) Review City Manager's performance/Second Amendment to the City Manager's Employment Agreement.

The City Attorney noted that copies of the Second Amendment to the City Manager's Employment Agreement are being provided to members of the City Council. The agreement includes some provisions providing for some compensation if the City Manager retires by certain time frames. Both he and the City Manager have signed the agreement and it is now before the City Council for consideration. He also stated he sent a copy of the agreement to the City Council members via email before the start of the meeting indicating that Ms. LeJeune is reviewing the agreement.

Councilmember Dixon stated that he had not seen the agreement.

The Mayor called for a 5-minute recess while the City Council reviews the agreement.

Upon return from the break, Councilmember Braden moved to accept the Second Amendment to the City Manager's Employment Agreement.

The City Attorney stated that the Council was previously provided the full and complete version of the agreement. The City Manager wanted to delete a sentence from the very end of the first page. After the phrase "dedicated service" the remainder of the sentence was crossed out. This is the only correction made to the version that was emailed to the City Council.

Councilmember Braden asked if his motion was sufficient.

The City Attorney asked if the motion was to accept the proposed Second Amendment to the City Manager's Employment Agreement, then the motion is sufficient.

Councilmember Braden replied affirmatively. Councilmember Destin provided a second to the motion.

Councilmember Overdier stated that he is seeing the agreement for the first time; other than a brief phone call he received about an hour prior to the City Council meeting. He stated he has only been with the Council for about 4 months and has had contact with the City Manager on a personal basis. He has had a standing meeting with the City Manager every Monday morning either to go over issues on the agenda or to answer some of his questions. He has received nothing but

professional and reliable advice from the City Manager. He asked what exactly are they trying to accomplish tonight.

Councilmember Marler stated he has been through 5 City Managers as member of the Council; one of them twice. Destin has a reputation of not being able to hold on to the City Manager. He stated he was also caught off-guard with this issue, and he does not like the way it is being handled. He does not think the City Manager has done anything wrong; and that she has stated many times that she follows the will of the Council. He stated that the Council is a legislative and not administrative body; and that they have a City Manager-City Council form of government. The City staff is doing their job. They have to follow State rules and regulations. If the City Council does not agree with a certain ordinance, they have the power to amend it. Councilmember Dixon made a motion at the last Council meeting to have the Mayor, City Manager and City Attorney sit down, discuss and try to resolve some issues. This has not happened and now they are asking for the City Manager's resignation. He wants to know what the City Manager has done wrong before he could vote on this matter.

Councilmember Dixon stated he does not like the way this issue is being handled, and that he will not support the motion.

The Mayor stated he does not approve the way this issue is being handled. He wants to know how something like this could transpire, or whether or not the City Attorney is allowed to poll Council members to come up with this of plan since they are not supposed to communicate with each other. Nobody would do this if they do not think they have the 4 votes necessary to make it happen. He wants some justification for this action. His goal as Mayor is to make this place a better place to do business. If there is a problem, they need to identify the problem. Bring the parties together and try to resolve the problem and come up with a solution. He further stated there seemed to be a personal vendetta to get rid of the City Manager. The City Manager has been nothing but accurate and professional, and that this looks bad for the City of Destin.

Councilmember Ramswell asked the City Manager to give her perspective on the issue.

The City Manager stated that she was presented with the amendment to her contract sometime between 2:00 and 3:00 p.m. today. The fact that it was presented to her at all lets her know she does not have the full confidence of the Council; which is very difficult for a City Manager. She continued that if the Council votes tonight for her to tender her resignation, she has the ability to maintain her reputation as a professional, as a public servant and leader. Even though it pains her greatly to leave her staff and the wonderful citizens of Destin, if there is no hope to have a solid working relationship with all the members of the Council, perhaps she is not a good fit for the City. In the City Manager profession, it is very important that the City Manager has the full confidence and trust of the Council; otherwise, they cannot work efficiently. She added it would be up to the City Council if they want to approve the amended employment agreement tonight. If the Council does not approve it, she would continue to do her very best to preserve the trust of her staff and the citizens, and work as hard as she could to regain the trust and confidence of the Council.

Councilmember Ramswell stated that this is very difficult for everybody; adding she has not seen this document until now and she honestly does not know what to say.

Councilmember Marler moved to table this item until they get all the facts, what brought this issue about. Councilmember Overdier provided a second to the motion.

Councilmember Overdier stated he does not understand what is going on; and so far no one has provided any explanations.

The Mayor called for a vote on the motion.

Councilmember Ramswell stated she is not sure of what to do at this time. The City Manager seems very unhappy. There have been some concerns, and she too had some concerns which she had brought up to the City Manager.

Motion failed 3-4 (Council members Marler, Overdier and Dixon voted "yes"; Council members Morgan, Destin, Ramswell and Braden voted "no").

The Mayor announced they are back to the original motion. He asked the City Clerk to read the motion on the floor.

The City Clerk stated that the motion is for Council to accept the proposed Second Amendment to the City Manager's Employment Agreement as presented.

He asked if any member of the public wishes to comment on the motion to fire the City Manager or to accept her resignation.

The City Attorney clarified that the motion was to accept the amendment to the City Manager's contract; and that there is no resignation involved in what is being provided to Council tonight. He continued that the City Manager has two weeks to decide to tender her resignation or nothing happens at all.

The Mayor retracts his statement.

Attorney Mike Chesser stated that the Heritage Park grant would be in serious jeopardy unless something happens soon. He stated he is not sure if that has anything to do with the issue relating to the City Manager; but, it appears to him that votes have already been taken. He stated that Destin employees should be entitled to the fact that if there is displeasure with the person they work for, that there would be some discussion of that fact that would provide some logic and rationale behind this action; and that their job as an employee of the City is not in jeopardy. He continued that at least 4 members of the Council knew what was going to happen tonight, and that somebody put this contract together.

At this time, Councilmember Ramswell objected to Mr. Chesser's comments; stating that she takes offense to Mr. Chesser's accusation of polling.

Mr. Chesser continued by stating that a plan like this that took somebody some time to put together would not have come together without some consensus of opinion that it was a good idea. The City Attorney would have to explain why it was done and whether one member of the Council has the right to tell the City Attorney what contract to prepare and what to put in it; or whether he did on his own. He added that this action is an insult to the members of the Council who were not consulted beforehand, and to the people who work for the City of Destin.

Ms. Vandy Vela, a Destin resident, stated that she is very disappointed of what has transpired this evening. She stated that she respects the Office of the Mayor and City Council; and

that as a Destin resident and voter, she expects integrity and trust from them as they set the example for the State on what to expect in the City of Destin. She also stated she has confidence in the City Manager. Every time the City Manager spoke at Triumph funding meetings, she spoke with confidence, knowledge and professionalism, making her proud to be a resident of Destin. She is a person of integrity and she has served the City well; and that she sees her as a leader she would want her daughter to follow. She urged the Council to reconsider their thoughts and action.

Capt. Mike Parker stated that he does not understand what is going on. He stated that he has always had full confidence on the City Manager. She is honorable, professional and an ethical person; and that the entire City of Destin has confidence in her and wants her as their City Manager. He asked the Council to abide by their wishes.

Ms. Mary Anne Windes, a Destin resident, noted that at their last meeting, the City Council had to ratify the City Attorney's actions before the County Commission which he took without the vote of Council.

The City Attorney clarified that the City Council ratified two emails that were put in the agenda packet that two City Council members have sent.

Ms. Windes continued that after the City Council has ratified his actions, the City Attorney then told the City Council they have violated the Sunshine Law and have to re-ratify those actions today.

The City Attorney asked the Council to move to censor Ms. Windes as she is making accusations.

Councilmember Ramswell stated she is making that motion.

Ms. Windes asked the City Attorney who requested that he prepares the City Manager's contract.

The City Attorney stated that Councilmember Braden asked him to draft the contract.

Ms. Windes asked if the City Attorney takes direction from Councilmember Braden.

The City Attorney stated that all 7 Council members and the Mayor are his clients.

The Mayor asked Ms. Windes to direct her comments on the issue at hand, which is the City Manager.

Mr. Claude Newlin, a Destin resident, stated that he has heard people explain why they think it is not a good move to get rid of the City Manager; but, he has not heard from the other Council members. He stated that each member of the Council should explain their position before making a decision for the City.

Councilmember Braden noted that according to the agenda, there are no public comments allowed in this section of the agenda; adding that if they are going to allow public comments, it should be voted upon by the Council.

Councilmember Braden also stated that it does not matter what his rationale might be, some of the people's mind is made up and they will believe what they want to believe. He continued there is a lot more that goes on between this Council, the City staff and City Manager, and those who want to experience it should run for Council. He added it is the City Council's job to hire and fire a City Manager, and would rather not explain his position and discredit someone.

Councilmember Morgan stated it is very difficult to speak about this issue because they are talking about a person's job. As an employer, it is difficult to talk about someone's performance and take action on an employee behind closed doors. It is even more difficult and awkward in a public meeting for both the Council and City Manager. No member of the public attends every Council meeting. For quite a while now, there has been a division brewing between the City Council and City staff. There are members of the Council that have serious reservations and trust issues with City staff and that he was one of them; though he believes it is not all the City Manager's fault. For example, the Council recently received an ordinance about handicapped parking in the Harbor District. The intent was to solve the parking problem at the Heritage Park. It was to remove all handicapped parking from the Harbor District. He felt the ordinance was not transparent, and he does not appreciate the way it was presented. He later determined it was a way to address the handicapped parking issue at Heritage Park which should have been revealed beforehand. Also, the Heritage Park plans were submitted two weeks prior to a workshop without the Council's approval, which he considers a subversion of the City Council. In addition, the 8-hour Visioning Session that was recently conducted was a total waste of time. Not once as a Council member and policy maker was he asked about his vision for the community. It clearly showed that City staff was not interested on his vision for the community. Furthermore, City staff and specifically the City Manager have not been able to get along with the City Attorneys. The City's Building Department has been a mess. There is a deep mistrust between the City staff and the City Council. There is a large portion of this City Council that does not have confidence on the City Manager, which would make it very difficult for her to effectively lead this city.

Councilmember Ramswell stated she would like to echo what Councilmember Morgan said; but, for her the bigger concerns are the issues she has pointed out, asked but not received clarification; and specifically some concern with staff members and some of their actions. Two things were to have been acknowledged before last Thursday's meeting, and to this date have not been acknowledged. Part of it is the City Manager's extremely loyalty to staff, which she respects; but, there comes a point when it becomes a detriment, not just to her but to the Council and the City as a whole. When there are issues that must be addressed and job performance that needs to be addressed, that is within the City Manager's purview. But, the City Council can certainly share those concerns and provide evidence. When nothing is done, it becomes a problem that grows and festers. Another one of her concerns was hearing from committee members that they are getting their meeting agenda an hour before a meeting, and sometimes not at all. They would show up to a meeting only to find out it has been cancelled. They requested things from staff for these meetings and never received them. She found out recently that the City Attorneys have been copied on documents that they never received and they show up at a Council meeting and see their name on a document they never received. She stated she has been the City Manager's strongest supporter and defender since day one; but, this kind of problems just cannot occur. It is hard to see someone lost their job; but, she has to follow what she believes to be the right thing.

The Mayor called for a vote on the motion to accept the proposed Second Amendment to the City Manager's Employment Agreement, which passes 4-3 (Council members Morgan,

Destin, Ramswell and Braden voted “yes”; Council members Marler, Overdier and Dixon voted “no”).

2) Discuss dissolving the Deputy City Manager position

This item was pulled from the agenda.

B. Councilmember Ramswell

Councilmember Ramswell noted she had asked for the plans for the park on Calhoun Avenue to be sent to the City Council. She stated she has not had a chance to review the plans. She asked if the Harbor CRA Advisory Committee has reviewed these plans and who has already approved them. They have talked about incorporating the Destin Fire District into these plans, which would obviously result in some costs added to it because the plans have to be revised, and they have not come before the Harbor CRA Advisory Committee or the City Council.

C. Councilmember Dixon

D. Councilmember Overdier

Councilmember Overdier announced that on Thursday, July 5th at 6:00 pm down on the harbor, a group called Crispy Warriors, comprised of retired veterans, will be honoring one of their members who will be 100 years old. He invites people to attend the ceremony.

E. Councilmember Marler

According to Councilmember Marler, he has had complaints from tourists and local residents about the app they are using for parking. There are certain phones that will not download the app. He suggests they consider budgeting for parking lot attendants at their parking facilities and a straight-forward price for parking as they go into the next budget cycle.

F. Councilmember Destin

G. Councilmember Morgan

- 1) Nomination of Mr. James Galloway for membership to the Board of Adjustment

Motion by Councilmember Morgan, seconded by Councilmember Ramswell, to appoint Mr. James Galloway to the Board of Adjustment passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

H. Mayor Jarvis

I. Land Use Attorney

- 1) Executive Session – July 16, 2018, 5:00 PM

B.I. Inc, Dewey Destin Harborside LLC, Plaintiff, vs. CITY OF DESTIN, FLORIDA, Defendant, in the Circuit/County Court of the First Judicial Circuit, in and for Okaloosa County, Florida, Case No. 2016-CA-003672F

The Land Use Attorney announced the forthcoming executive session as listed above.

- 2) Consideration of Special Magistrate's recommendation in Proceedings pursuant to the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes, regarding the following City Code Enforcement matter: Destin v. Garguilo, Code Enforcement Case 16-1094

The Land Use Attorney explained this is a code enforcement case involving an order from the City of Destin Special Magistrate where the alleged violation was that the first floor (grade level) of the residence is located in the flood zone, and has been modified into habitable space without permits or approval by the City, and was being used for other than storage. The property owner did not have an attorney at the Special Magistrate hearing but subsequently obtained an attorney afterwards for the appeal of the decision of the City's Special Magistrate. She stated that both parties agreed to have a third party Special Magistrate to preside over the appeal process, and that the third party Special Magistrate upheld the City's order. This item is before the City Council tonight to decide whether to accept, reject or modify that order. She further stated that the property owner's attorney, David Theriaque, is present at this meeting to express an objection. The City's insurance counsel has opined that the objection is not relevant to this specific item; however, she has no problem with letting Mr. Theriaque speak if the Council would allow it.

It was the consensus of the Council to allow Mr. Theriaque to speak.

Mr. David Theriaque stated that he represents Ms. Brooke Andry, the seller of the property that was the subject of the Special Magistrate proceeding. He noted there were two statements in the recommended decision that he would request to be stricken if the City Council would approve those recommendations. He continued that it is not based upon a disputed issue of fact, but it is based upon time. The notice of violation that was provided to Brooke Andry was dated April 28th; however, it was mailed on April 30th. It was returned for insufficient postage on May 3rd, and was then re-sent to Ms. Andry's New Orleans address. The closing occurred on May 5th. The average time for mail to go from Destin to New Orleans is 2 to 7 days. The letter/package was not sent by overnight delivery. It is physically impossible for Ms. Andry to have received the notice. He stated this is the basis for their objection. The Special Magistrate assumed that because the notice was dated April 28th, that his client had knowledge prior to the closing which occurred on May 5th. These are all undisputed facts. He requested that the following statements from paragraph 2, page of the recommendation be stricken if the Council accepts the Special Magistrate's recommendation:

"At the time of the purchase of the Residence, the property was the subject of a Notice of Violation issued by the City of Destin Code Enforcement Department on April 28, 2016, to the previous owner, Brooke Andry. The prior owner of the home did not disclose the pending code enforcement action to the Garguilos."

He reiterated it was impossible for his client to have received the Notice of Code Violation prior to the closing that occurred on May 5th; which is why they were objecting to these two sentences. He also stated he agrees with Mr. Warner those two sentences are irrelevant to the ultimate conclusion of the Special Magistrate. But, they fear that if Council accepts this recommendation and issue a final order, that somebody will use these two statements as grounds to sue his client because his client has actual knowledge prior to the closing. He added that if those two statements are irrelevant to the final decision, then deleting them would cause no harm to the final decision.

Councilmember Overdier asked Mr. Theriaque if his client did the modification to the property when they obtained the property; or did they know when the property was modified.

Mr. Theriaque replied he was not aware of his client doing the modification on the property. He stated that his client had MLS statements that disclosed that the number of rooms, bedrooms, bathrooms, etc. that were in place when she bought the property.

The Land Use Attorney stated she does not object to Mr. Theriaque's request. It is not relevant to the final decision, and it is up to the Council to have the two statements stricken from the Special Magistrate's recommendation. She also stated that the recommendation is for a 1316 notice, which means the property owner cannot get subsidized flood insurance from FEMA. The other portion of the order was to remove the first floor. That order was affirmed by the Special Magistrate, and so if the Council accepts the order, they are basically approving that recommendation. She added that the Council can modify or deny the recommendation.

At this time, the Mayor asked Ms. Cathy Garguilo, Petitioner, if she wanted to comment on this issue.

Ms. Garguilo stated that she purchased the home on May 5, 2016; and that she has learned through her experience that the City of Destin did not have a policy in place to protect a buyer from purchasing a home that has permitting issues. In this case, it involves two bedrooms, a den, kitchen, and a full bath; which have been in place for 18 years. She stated that the County and City records show the property was initially built with 3 bedrooms; but, they are not sure what happened afterwards. She stated that everybody seems to view permitting as a minor issue. She continued that she works for a city government in Georgia, and that this particular situation would have never happened in their city because they have strict guidelines for their residents. Their jurisdiction is their property, and that "the buck stops" with them. She stated that the City of Destin did not know what to tell her when she asked for advice about demolishing the bottom floor of her property; adding that the only response given to her was to find a builder who could tell her what to do. She stated that the City of Destin does not view permitting as a big issue, and that the City's policy needs to change to prevent this type of situation from happening to another homeowner. She stated that the City did not have a copy of the permit for her home, which she considers unacceptable. They have a 10 year retention period on permitting records of construction, which are vital records and should be kept in perpetuity.

Ms. Garguilo also noted there are continuing problems at the Destin Pointe Subdivision. There had been litigation for years between the developer of Emerald Grande and the Destin Pointe Homeowners Association. There have also been multiple code violations that have surfaced because each party was trying to get back at one another. She continued it was the City of Destin's responsibility to make sure her neighborhood, especially the homeowners' association, understood they needed to follow FEMA guidelines; and that there are strict requirements and there will be severe consequences if these requirements are violated.

Ms. Garguilo also recommends the City of Destin establishes a relationship with homeowners associations. They are an excellent resource as they can relay important information to homeowners in terms of what they can and cannot do with their property. She added she now owns half of a home; and that she had asked the previous home owner to purchase the home back because this is their problem to solve.

Councilmember Marler announced he would abstain from voting due to an email Ms. Garguilo sent to the City of Destin, naming one of the people that own his employment; and then making that statement at tonight's meeting.

Councilmember Destin asked if this was Ms. Garguilo's primary home.

Ms. Garguilo replied it is a beach house, and not her primary home.

Councilmember Destin asked if there was an informal mediation in this case and the result of that mediation.

The Land Use Attorney noted there was mediation pursuant to the statute and it was in the form of a hearing.

Ms. Garguilo stated that the Special Magistrate completely understood what was going on in this case, and that the final decision belongs to the City Council. She added she is not the only person in her neighborhood that has this problem. There are others that are currently dealing with it now, and more to follow.

Councilmember Destin asked to hear the Council's options again with regards to Special Magistrate's recommendation.

The Land Use Attorney reiterated that the Council can accept the Special Magistrate's recommendation as presented. They can reject it in its entirety, or modify it. She added that even though it is included in the order for the City to actually require the property owner to demolish or take out the first floor of the property, the City would need to go to Circuit Court to obtain a court order. The Council would have to give that direction; otherwise, it would just be an outstanding order.

Councilmember Destin asked if it would be appropriate to schedule something similar to an executive session where Council could sit down and try to come up with a more just result that would not compromise the City's obligation and would not put the City in a predicament from the liability standpoint.

The Land Use Attorney recommends all discussions be conducted in public a public setting.

The City Attorney explained that an executive session involves the Council discussing a settlement offer involving litigation. He stated that a previous City Attorney conducted an executive session involving a similar situation years ago and was advised by the Ethics Commission not to conduct another one under similar circumstances. He also stated that this case might have already gone to the Circuit Court on appeal.

According to the Land Use Attorney, there were three other cases involving flood plain issues for which Mr. Theriaque was the attorney of record that have gone to the Circuit Court on appeal, and in which Council heard in an executive session. This particular case came to the City beforehand and had a different result in front of the City's Special Magistrate. The City prevailed in this case, but not in the other three cases.

Councilmember Destin stated he would not want procedures to dictate an unjust result.

The Land Use Attorney noted that the Council has the option of modifying the Special Magistrate's recommendation to essentially match up with the other settlement agreement.

Councilmember Overdier stated his initial inclination was to modify and bring the property up to City code, and to apply the 1316; however, Ms. Gargiulo stated she was not in favor of 1316.

According to Ms. Gargiulo, the 1316 does not really help her when she tries to re-sell her home. She continued she cannot get flood insurance on her home, and there is also a possible liability on her part if anything happens to someone on the lower level. Also, no property manager would agree to rent the property under those conditions.

Councilmember Overdier stated that it leaves this Council with no other alternative but to accept the Special Magistrate's recommendation as presented.

Ms. Gargiulo stated that she just wanted things to be right. She is also hoping the previous homeowner would purchase the property back because she would not be able to sell it under the present condition.

The Mayor noted that based on Ms. Gargiulo's previous statement, her main motivation was to help avoid having another homeowner find themselves in a similar predicament.

The Land Use Attorney noted that the City has changed its policy; adding that when a Notice of Violation is issued, it is recorded in the public records.

Ms. Gargiulo maintains that the City's inspectors and survey companies should be held accountable because they knew about this information and failed to disclose it.

Councilmember Ramswell asked if Ms. Gargiulo has homeowner's insurance on the property.

Ms. Gargiulo replied she has homeowner's insurance but not flood insurance on the property.

Councilmember Ramswell asked when the buildout was completed.

According to Ms. Gargiulo, there has been some confusion regarding this matter. The County's record shows that when the house was built, it was built with 5 bedrooms; but, the City's record shows the home was originally built with 3 bedrooms, and that 2 bedrooms were then added on the first floor. She added that the homeowners' association holds a copy of the layout of the home that shows the lower level was approved with a restroom; while the City's copy shows the exact same thing but someone marked a red "X" on top of it.

Councilmember Ramswell asked if Ms. Gargiulo was the second owner of the home.

Ms. Gargiulo stated she is the fourth owner of the home; adding there had been multiple owners including Ms. Andrey who also was not aware of the situation when she purchased this property. She also added they purchased the home from Ms. Andry in May 2016.

Councilmember Ramswell inquired as to the criteria Ms. Gargiulo has to meet in order to be in compliant with City code.

According to the Land Use Attorney, Ms. Gargiulo has to demolish the first floor of the property or make it not habitable; adding that the Special Magistrate also ordered the 1316.

The City Attorney noted that the 1316 designation is required to be put in place for all the other homeowners in the City of Destin; otherwise, their flood insurance would be at risk.

Councilmember Destin moved to adopt the recommendation of the Special Magistrate for the Gargiulo vs. City of Destin, Code Enforcement Case No: 16-1094, and instruct the City's Land Use Attorney to make the modifications to the language as requested by Attorney David Theriaque. Councilmember Overdier provided a second to the motion

Councilmember Ramswell wants to make sure this motion is simply agreeing with the Special Magistrate's recommendation and that additional actions would be necessary in order for the City to enforce the other aspects of that recommendation.

The Land Use Attorney stated that the City is required to obtain a court order to force Ms. Gargiulo to demolish the first floor of the property; and that direction has to come from the City Council.

The Mayor called for a vote on the motion, which passes 6-0 (Council members Morgan, Destin, Overdier, Dixon, Ramswell and Braden voted "yes"; Councilmember Marler abstained from voting).

3) Vested rights Procedures Ordinance – discussion

The Land Use Attorney stated this item is just for discussion purposes to look at the vested rights procedure. The City Council has directed for her and the City Attorney to work together on this item. The City Attorney has drafted the ordinance and she has reviewed it. They will forward the ordinance to the Local Planning Agency if directed by the Council.

The City Attorney noted some typographical errors that would be corrected prior to submitting the ordinance to the Local Planning Agency.

At this time, Attorney Mike Chesser commented on the executive session previously announced by the Land Use Attorney. He stated that he received orders in the circuit court case this afternoon, all of which gave the fishing fleet the right to appear and argue those cases and for the most part lay all the easement issues to rest. He will provide copies of the orders to the City Clerk to provide to the members of the Council.

Councilmember Destin moved to direct the City Attorneys to take the Vested Rights Procedures Ordinance to the Local Planning Agency and to correct any scrivener's errors that have been identified; seconded by Councilmember Overdier.

Councilmember Overdier asked if "vested rights" and "grandfathering" similar terms.

The Land Use Attorney stated it is not a simple explanation, but she would be glad to discuss it with Councilmember Overdier after the meeting.

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

J. City Attorney

- 1) Motion and discussion to ratify all of the motions passed at the June 28, 2018, Special City Council Meeting

The City Attorney explained that prior to the June 28, 2018, there was a concern that potentially there has been a Sunshine Law violation by two emails that were sent by two members of the Council to the County, and the County responding to those emails; and those emails being included in the agenda materials. The Land Use Attorney reviewed it and determined it was not a violation; but to be safe, he is asking the Council to approve a motion to ratify the 4 motions that were passed at the June 28, 2018 meeting.

Councilmember Destin moved to ratify all the motions that were passed at the June 28, 2018 Special City Council; seconded by Councilmember Ramswell.

Councilmember Ramswell asked the City Attorney to clarify that the potential Sunshine Law issue was not about the two people that sent the emails separately.

The City Attorney explained the potential violation was in the fact that the emails were included in the agenda materials; and that the Land Use Attorney later determined it was not a violation.

Councilmember Overdier noted he has recently attended a quasi-judicial meeting where members of the committee have made declarations that they have had ex-parte communications. He asked if members of the Council are required to make such declaration.

The City Attorney explained that in a quasi-judicial hearing, if any members of the committee perform their own investigation or meet with someone from the public who has knowledge of the situation, including an applicant, the member should disclose it at the start of the meeting. Normally it would be the applicant who will challenge it if the ruling goes against them. He urged the Council to do the same thing when a quasi-judicial matter is brought before them.

The Land Use Attorney noted that at the meeting Councilmember Overdier alluded to, she became aware of the ex-parte communication and advised the members involved to talk to the City Attorney who is the Board of Adjustment attorney. If they have a specific knowledge of an ex-parte communication, they would advise the board member to disclose it.

At this time, the Mayor announced he would allow public comments with regards to the motion on the floor.

Attorney Mike Chesser expressed his concern that the grants given by the State of Florida are not forever grants; and if they are not careful, they may lose the grand funding for their park. If that happens, the law provides that the piece of Florida goes back to the State of Florida, who would then bids the property to the highest and best user. There are also public allocations to that property.

The agreement the City signed and the State Statutes require the property to go back to the State. He added they have information from the County that the time runs out on September 28th. It was an email from the County attorney.

The City Attorney noted that the Restore Act Coordinator for Okaloosa County, Jane Evans, stated that it is an arbitrary deadline. If it is missed, they would just close the application period for one month and then the City can continue to apply. He suggests inviting Ms. Evans to attend a Council meeting or a workshop. He also offered to give Ms. Evans a call and have her discuss this matter with Mr. Chesser.

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").

Having no further business at this time, the meeting was adjourned at 9:25 PM.

ADOPTED THIS 20TH DAY OF AUGUST 2018

By:



Gary Jarvis, Mayor

ATTEST:



Rey Bailey, City Clerk