MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
JUNE 4, 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
Public Information Manager Doug Rainer
Land Use Attorney Kimberly Kopp
City Clerk Rey Bailey
HR Manager Karen Jankowski
IT Manager Webb Warren
Finance Director Bragg Farmer
City Attorney Jeffrey Burns

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Reverend Kim Cannon of the Destin United Methodist Church gave the invocation; which was then followed by the Pledge of Allegiance.

AGENDA APPROVAL

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

1. APPROVAL OF MINUTES

A. Approval of minutes of May 21, 2018 council executive session (public meeting portion)

Councilmember Marler moved to approve minutes of May 21, 2018 council executive session; seconded by Councilmember Overdier. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

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

A. Seeking vested right status for Dieter Blasbichler/Traship Holdings AG - David B. Pleat, Esq.

Attorney David Pleat came forward and stated that he represents Dieter Blasbichler/Traship Holdings A G that owns the Sea Oats Property on Old Hwy 98. He continued that Mr. Charlie Clary and Mr. Pat Ballasch of DAG Architects are also present at this meeting; adding that DAG Architects and his firm, Pleat & Perry, P.A. were part of the original Tier 3 team, along with Mr. Blasbichler, on behalf of his interest, 10 years ago when this item first came before the City Council. He requests grandfathering status under Policy 1-2.1.5 of the City's Comprehensive Plan of Mr. Blasbichler's Tier 3 project that was originally approved in 2008. The project began in May 2004 with a final development order. The original order which was a Tier 1 approval was on May 2, 2005. It was approved at that time as 4 stories, 64 unit, 50-foot tall project. Mr. Blasbichler came back in March 2008 to seek a Tier 3 designation, allowing for the project to go to 80 units, 5 stories, and 60 feet. It was approved by the Council with then Mayor Craig Barker casting the deciding vote. Conferred benefits were provided to the City without having the project come out of the ground and realize a profit. And then the recession and the oil spill hit in 2008 and beyond and completely depleting the real estate market and collapsing the value of this property and the interest in the development of the property at the time. There is now a renewed interest in the possibility of developing this parcel. The public benefit that was already provided to the City was the Tarpon Street public access. In addition, Mr. Blashbichler funded the development of 5 public parking spaces on Tarpon Street. Along with these public benefits to the City, Mr. Blashbichler had to commit under the development order to tier 3 enhancements, which include multi-modal pathway, trolley stops, enhanced landscaping, pedestrian amenities and underground utilities. The estimated cost for the easement to the beach and the construction of the boardwalk was $49,500.00. The actual cost was $37,648.81. The City agreed to pay part of the cost for construction of $23,419.87. Mr. Blashbichler funded $14,228.94 of the construction cost. The value of the land was difficult to assess; however, the City's meeting minutes reflect the City acknowledged a $350,000.00 value to the easement to the land. The overall property value at the time was $65,000 per square beach front foot. He further stated that Mr. Blashbichler is asking the City Council to consider the unique status of his project and the conferred benefit that has been going on for almost 10 years. The easement itself was recorded in 2006. While the tier 3 would allow up to 144 units, only 80 was sought, and that Mr. Blashbichler is more than willing, as a condition of any grandfathering, to restrict any tier 3 construction in the future to 80 units; adding that if he was to develop the property, it still must be reviewed for consistency with the current comprehensive plan.

Councilmember Destin suggests they table this item indefinitely into the future; noting they have a vested rights determination discussion later on the agenda that could help formulate a more formalized procedure for this type of issue.

Councilmember Destin moved to table this item indefinitely; seconded by Councilmember Braden.

Councilmember Ramswell pointed out there were three public benefits brought forward to the City – the easement, parking, and walkover.

Mr. Pleat replied affirmatively.

Councilmember Ramswell stated that from reading the meeting minutes of the City, she determined the easement had 6 access points, which would eventually be reduced to two; and that the actual easement deeded to the City was the relocation of one easement that was in between two parcels.

Mr. Pleat noted there was an entry point between the two parcels to provide access. The access point on the easternmost side of the parcels is a Kokomo Cove easement. The Tarpon Street easement is the 5-foot easement which the public currently uses.

Councilmember Ramswell maintains there were six different entry points, which was then reduced to two; and one was moved to the western boundary on Tarpon Street.

Mr. Pleat explained there was only one access point as it relates to public access. There were other access points for patrons of Sea Oats Property and building owners on the Traship parcel.

Councilmember Ramswell also noted from the minutes that current County Commissioner Kelly Windes expressed concern that parking is going to force people into a small area; making it more of a liability than a benefit to the City.

Mr. Pleat noted there would be two places to park – the five parking spaces and the public parking spaces that ran parallel at that intersection. If the development was completed, there would be additional enhancements under that project that would allow for multi-modal pathway, trolley stops and other pedestrian amenities.

Councilmember Ramswell pointed out that the letter the City received from Mr. Blashbichler seeking reimbursement for the walkover indicated that the reason he wanted to be reimbursed for it was because they were unable to get the project underway before the final deadline of March 28, 2015. She continued that the Council agreed on a subsequent date to go ahead and reimburse Mr. Blashbichler the $23,419.87 he spent for construction. She also noted that the development order was null and void because it has completely expired.

Mr. Pleat remarked that Mr. Blashbichler still has to go through the analysis and the review for consistency under the tier 3 requirements in the comprehensive plan moving forward if he is grandfathered-in under the existing comprehensive plan. He also stated there were several one-year extensions to the development order brought forth by legislation during the economic downturn.

Councilmember Ramswell maintains there are no current tier 3 guidelines because tier 3 no longer exists.

According to Mr. Pleat, Mr. Blashbichler's project was approved under the previous development order at 5 stories, 60-foot and 80 units; which he was asking for consideration by the Council.

The Mayor called for a vote on the motion, which passes 5-2 (Council members Morgan, Destin, Overdier, Dixon and Braden voted "yes"; Council members Marler and Ramswell voted "no").

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

Okaloosa County Commissioner Graham Fountain addressed agenda item 4C – *Proposed Resolution in support for a voter referendum for half-cent sales tax for Okaloosa County*. He stated that the County has a lot of great plans for the future that would benefit all its citizens and it would be very difficult if not impossible if they do not come up with some new revenue. They are also trying to transition away from charging property owners in the County, adding to the tax base on property, by looking at sales tax and other taxes. He further stated this item will be in the ballot in the upcoming election and urged Council's support of the resolution.

Okaloosa County Administrator John Hofstad requested Council's support of the half-cent sales tax for Okaloosa County. He stated they have a number of pressing needs within the County including getting much needed infrastructures completed. He also stated that the Board of County Commissioners is committed to it and stands in support of this Council and this community's initiatives whether it be the cross-town connector, beach re-nourishment or East Pass dredging. He also feels there is a renewed sense of cooperation between the Board of County Commissioners and this Council.

Ms. Leigh Moore, representing Howard Group, stated they support the half-cent sales for for much needed infrastructures in Okaloosa County and they believe it would benefit the entire County. She suggests the City finds out beforehand how the Council plans to spend the additional tax revenue.

Mr. Robert Perry, speaking on behalf of the Destin Chamber of Commerce, stated that the Chamber did not get behind this initiative until they know which projects would benefit from it. They have come up with the following 4 projects, which they have shared with the County Commissioners:

- Improvements to US Hwy 98/Stahlman Avenue intersection
- Installation of a traffic signal at the Commons Drive and Henderson Beach Drive intersection as well as other improvements for traffic flow in that area
- Add sidewalks for pedestrian safety along Commons Drive
- Improvements to drainage problem along Commons Drive

He continued that the above projects are outside the city limits of Destin but would be of benefit to the City.

Councilmember Morgan asked if the Chamber received a cost estimate from the County on these projects.

Mr. Perry stated they did not get specific cost estimates from the County; however, they are aware there would be approximately $10 million in sales tax revenue over a 10-year period.

Ms. Jennifer Green, representing Expedia, owner of HomeAway and VRBO, spoke on agenda item 5A – *Registration of Short-term Rentals.* She stated they understand the disruption in neighborhoods as well as the citizens point of view with regards to short- term rentals. She stated that concerns about occupancy limits, licensing requirements and modifying rooms after the issuance of certificate of occupancy are valid concerns. However, they are concern about having a responsible party residing within 30 miles of the rental property to address complaints. They would be available to advise the Council and provide some options without prohibiting out of state owners or those that live outside City limits, from renting their property because they do not know of anyone who lives nearby. She further stated that they understand the issue of weddings and large events, and advertising for these types of events; but, there are many different websites out there that one property could be listed on several different advertising platforms. They have a Stay Neighborly Program that tries to get everyone that advertisers short-term rental homes to include information that the local community requires and help ensure they are working with local governments.

4. CITY MANAGER REPORTS

A. Agent-Broker of Record for Health & Ancillary Benefits, RFP 1810HR

The City Manager stated that staff solicited proposals for an Agent-Broker of Record for Health and Ancillary Benefits. Several proposals were received and opened at a public bid opening meeting on May 24, 2018. The City's Bid Committee met and approved a short listing of the proposers.

The Human Resources Manager Karen Jankowski noted that the following firms are appropriately licensed and credentialed:

- Barton, Fenstermaker, Tondello & Associates, LLC
- FBMC Benefits Management, Inc.
- Risk Management Associates, dba PRIA

She also stated that a ranking sheet is available if the Council wishes to rank these firms.

Councilmember Overdier stated that he would prefer to accept staff's recommendation rather than ranking the firms.

Councilmember Overdier moved to authorize the City Manager to enter into an agreement for Agent-Broker of Record with Barton Fenstermaker Tondello and Associates, LLC; seconded by Councilmember Braden. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes")

B. Vested Rights Determination Discussion

The City Manager stated that the Future Land Use Element of the current City of Destin Comprehensive Plan, Policy 1-2.1-5: Grandfather Clause, states that "*Existing land uses that were lawfully conforming uses prior to the effective date of the comprehensive plan shall continue as lawful uses and shall be regulated through administrative remedies for vested rights* *issues that shall be included in the LDC."* Currently, there are no existing administrative processes for determining vested rights written in the LDC, and staff is looking for policy direction from the City Council to establish an administrative process and criteria for future vested right determination. The meeting packet that had been provided to Council included a draft Grandfather Clause that could be converted into ordinance form and incorporated into the LDC as regulations that implement the comprehensive plan. The intent is to establish a procedure for vested rights determinations under Policy 1-2.1.5, in order to provide for an equitable process for the determination of whether a property owner has vested rights.

According to the City Attorney, if the Council wishes to give any developers vested rights in the future, it would make sense to formulate something in the form of an ordinance. He stated that the proposed language though very well written is designed for a comprehensive plan. He proposes to work with the Land Use Attorney in developing a simpler and clearer grandfathering language and then bringing it back for Council to evaluate and make their decision.

According to the City Manager, the language prepared by the Land Use Attorney is based in concept on the Bert Harris Act. If a property owner or developer wishes to come forward and request a vesting based upon the previous comprehensive plan, they would have the burden of proof in showing that the criteria leads to inequity or unfairness on the part of not being allowed to continue to develop their property under the previous comprehensive plan. Staff also feels the language the Land Use Attorney has put together is not necessarily complicated but gives them enough information to bring forward a report to Council that would allow them to make a policy decision as to whether or not the criteria has been met that would then invoke a vesting determination on the property or development.

Councilmember Destin stated they do not want to incorporate a language that is so vague that it would result in an avalanche of applications for vesting rights determination. He continued that he would support having the City Attorney and Land Use Attorney work together to come up with a grandfathering language with a sunset provision and a procedure to evaluate whether or not a property qualifies to be vested.

The Land Use Attorney stated that the proposed language is the language that is originally intended for the comprehensive plan. It was included in the agenda item as an example. The suggestion would be to put in into the form of an ordinance, for LDC form, and to include an appropriate sunset provision for the ordinance.

Councilmember Braden wants to see a plain and simple language in which no attorney would be able to find a loophole.

Councilmember Destin moved to direct the Land Use Attorney and City Attorney to work together to develop a rubric or procedure, possibly based on the Land Use Attorney's previous proposal, for a grandfathering language, to include a sunset provision; and bring it back for Council consideration. Councilmember Overdier provided a second to the motion.

Councilmember Morgan stated that the entities with which the City entered into an annexation agreement are entitled to certain vested rights; and if they revert back to the old comprehensive plan and submit for the rights in which the Council voted on to give them when they were annexed into the City, they would be able to sue the City if it sunsets and they are not ready to build. In which case, it could render the effectiveness of the grandfathering clause for these annexation properties useless.

According to the Land Use Attorney, they have a year to build; however, if they are not ready to build within a year, they could request a vesting determination. It is a 5-year default, but it would depend on what changes are made to the vesting language as it is currently written. The default is 5 years, but the Council could grant more time if they feel a particular project can reasonably be vested for a longer period of time.

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").

C. Proposed Resolution in support for a Voter Referendum Half-Cent Sales Tax for Okaloosa County

Councilmember Dixon moved to approve Resolution 18-18 and authorize the Mayor to sign the proposed resolution and direct the City Clerk to forward Resolution 18-18 to the Okaloosa County League of Cities and the Okaloosa County Board of County Commissioners. Councilmember Braden provided a second to the motion.

Capt. Charlie Nix of the Okaloosa County Sheriff's Department, expressed the department's support for the half-cent sales tax as it would definitely help them with their infrastructure and with public safety. He stated they currently have a heroine epidemic and over-crowding in their jails. Their training center badly needs an update and their medical examiner's office is in absolutely terrible condition and needs to be replaced. They are also one of the leaders in boating accidents in the State of Florida; and that the City's support of this referendum would also be a support for their local law enforcement and first responders.

The Mayor noted that the City of Destin was supposed to receive $999,000 annually out of this proposed sales tax; which the City could spend on various projects such as the under-grounding of electric utilities, handling stormwater runoff issues and building some infrastructure on Commons Drive that would directly benefit the City. He added that the vote the Council is taking tonight is to merely support the County's initiative. The citizens of the County and the City would ultimately decide the outcome of the referendum.

Councilmember Morgan expressed concern they are being asked to support a $200 million tax over a 10-year period without seeing how the money is going to be spent. He agrees that the City has capital projects that could use the money they would receive annually. He also believes the Sheriff's Office desperately needs money for their infrastructure. But, he would like to know how much of that money is going to the Sheriff's Office as well as to the projects the County has promised the Chamber that they would fund before they support this tax increase. He stated that the City of Destin contributed about 33 percent of all property taxes in 2017. They would also be paying the biggest portion of the sales tax as compared to other municipalities, but he does not feel they would be getting enough in return. He suggests they table this issue until they get more information on how the sales tax revenue is going to be spent.

Councilmember Morgan offered a substitute motion to continue this item to a later date; seconded by Councilmember Ramswell.

The City Manager asked Mr. Hofstad if he has a general estimate on the amount of the projects the County presented to the Chamber of Commerce.

Mr. Hofstad stated they developed a list of needs for the County last year and the total costs far exceeds the available revenue coming in. There is a pressing need for over $60 million just for storm water improvements alone. They have identified a number of projects in the County to include the PJ Adams corridor or southwest bypass, which this Council has previously supported by adopting a resolution. This project alone requires a commitment of $25 million which the County does not currently have. They have also identified a number of projects in partnership with FDOT at Commons Drive and some intersection improvements through Destin to which the County could contribute dollars to accelerate these projects. In terms of the projects inside the jurisdiction of Destin, up to $1 million annually and $10 million over the life of the sales tax is available for the City to spend the way they see fit. In terms of public safety, the Sheriff's Office has provided the County an exhaustive list of needs. They have a growing list of capital projects. The County fully funds the Sheriff's Office through property taxes, and they are set to receive about a third of this revenue. They will also have a citizens oversight committee, a 5 person committee that will be appointed by the Board of County Commission to make recommendations in terms of priorities for these competing needs.

The City Manager asked if Destin is represented on the oversight committee.

Mr. Hofstad stated that the oversight committee has not been empaneled. The County has an item on their next meeting agenda for a re-draft of the referendum language. The panel will be appointed once it is approved by the commissioners. He also noted there is a State requirement to evaluate every jurisdiction in the State that is considering a local option sales tax to determine if there is a defined need for that particular jurisdiction.

Councilmember Dixon asked Mr. Hofstad to address the County's initiative towards easing the traffic on Hwy 85, which is the road their military installations use to conduct their mission.

Mr. Hofstad stated that he personally met with the 96th Test Wing Commander several times. The Base Commander has previously remarked that their number one mission impact is the inability to have needed resources, airmen and fuel, transferred over to Duke Field in time because of traffic on Hwy 85. He also stated that the Wing Commander provided the County a letter of support for their initiative.

Okaloosa County Commissioner Kelly Windes noted that the Citizens Committee would consist of 5 members, with each County Commissioner appointing a member. He assured the Council that at least one member of this committee would come from the city limits of Destin; and that he would consider any recommendations from this council.

The Mayor suggests the Council vote against the substitute motion and then adopts the resolution of support for the sales tax. He stated that the sales tax will ultimately be decided by the citizens of this County, not by the County Commissioners or the City Council. This tax will directly benefit the City, and with this Council deciding how the money will be spent. He added that improvements to the Sheriff's capability to serve the County as well as any infrastructure improvements, especially in transportation, would indirectly benefit the City.

Councilmember Destin expressed that the City and County need to work together as there are tremendous needs within the City of Destin and Okaloosa County as a whole. He continued that the City of Destin needs to start undergrounding their electric utilities in order to have a chance to compete with the likes of South Walton and other world-class destinations within the next 10 to 20 years.

Councilmember Ramswell provided the following estimated distribution of the $19 million collected tax in 2017:

- Okaloosa County - $12.6 million
- Crestview - $1.8 million
- Fort Walton Beach - $1.6 million
- Niceville - $1 million
- Destin - $998,000

She stated that Destin is the "cash cow" for the County and should be getting more in return; however, she realizes that Florida Statutes and not the County determine the distributions of tax funds. She also agrees they all have major needs and must learn to work together to accomplish their goals.

Councilmember Morgan stated he is withdrawing his substitute motion; but he still believes the City of Destin is entitled to a larger portion of the tax because they are contributing a lot more into the system.

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

D. Announcement

The City Manager made the following announcements:

- Monday, June 11th, @ 5:30 p.m., City Hall Annex – Short Term Rental Workshop
- Wednesday, June 13th, @ 5:30 p.m., City Hall Annex – Joint Special Meeting of the CRA Board and Harbor CRA Advisory Committee on the Royal Melvin Heritage Park
- Wednesday, June 13th, @ 6:30 p.m., City Hall Annex – Special City Council Meeting on the Royal Melvin Heritage Park
- Friday, 9:00 a.m. to 5:00 p.m., City Hall Boardroom – City Council Strategic Visioning Session

5. PUBLIC HEARINGS

A. First reading of Ordinance 18-10-CC to amend Code of Ordinance Article VI Registration of Short-term rentals

The City Attorney read proposed Ordinance 18-10-CC by title, and then presented it to the Council on first reading.

> AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, RELATING TO SHORT-TERM RENTAL REGISTRATIONS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF CODE OF ORDINANCES ARTICLE VI – REGISTRATION OF SHORT-TERM RENTALS: AMENDING SECTIONS 13-105 – 13-110, 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. Seeing none, he close the public hearing and turned the matter over to the City Council for their discussion and consideration.

Councilmember Overdier moved to approve Ordinance 18-10-CC on first reading and direct staff to schedule it for second reading; seconded by Councilmember Dixon.

Councilmember Ramswell stated that in reviewing some of the Short Term Rental Task Force meeting minutes, she noticed that staff's recommendation vary from what the task force has recommended within the penalty phase. According to the minutes, there are three steps in the penalty phase; whereas, the recommendation from staff was only a flat $200 fine.

The City Manager stated that they changed this one area of the penalty phase and that Community Development Director Jennifer Bryla would explain the changes that were made. She continued the purpose for this action was to get the maximum punitive action against the violator; and that it was discussed thoroughly with Ms. Bryla and the Land Use Attorney.

Ms. Bryla explained that one of the recommendations from the task force was to limit the ability of short-term rental owners to rent their property. She stated that in her experience with short-term rentals, she does not believe this is an effective way to regulate the owners' behavior. Losing their ability to register their property does not matter because experience dictates they would rent their property anyway. It would then be up to code enforcement to catch the violators in the act; otherwise they would come up with various excuses. The way the regulation is currently written, violators would be brought before the City's Special Magistrate who can impose a fine up to $250 a day for code violation. They believe this would be a more impactful punishment for the short-term rental. They have been very successful in getting people to register their rental property. They have a data base which they closely monitor to make sure they catch unregistered rental properties located within the City's jurisdiction; and to require them to register each year or provide documentation of their homestead.

The City Manager added that the punitive action could also be increased. The City could impose a $250 a day fine; but the State would allow them to impose up to $500 a day, which would severely cut into the profit margin of property owners. The City could also put a lien on their property, if necessary. They believe this would be more punitive than taking away their ability to register their property because they are going to rent their property anyway and the City would have the burden of trying to catch them in the act.

Councilmember Ramswell asked where that entire process is written in the ordinance.

Ms. Bryla noted that Section 13-110 states that, *"If a property owner fails to register their short-term rental unit in a timely manner, fines will be imposed consistent with the schedule of fees as amended. If a property owner fails to register their short-term rental unit within 90 days of receipt of the notice to register, the property owner is subject to code enforcement proceedings."* She stated that staff would bring the amended fee schedule, which is done by resolution, at the second reading of this ordinance.

Councilmember Ramswell asked if rather than saying "subject to code enforcement proceedings" which she believes is vague, if they should specify the violation and the actual proceeding.

According to the Land Use Attorney, this language was intended to be broad so they could be subject violators to all code enforcement proceedings rather than limiting it to a certain one. Fines would be imposed by the Special Magistrate, but staff generally asks for a maximum daily fine of $250 a day for the first violation, and then $500 a day fine for a repeat violation. She added that short-term rentals are not homestead property and so if the City imposes a lien on the property, the City could then foreclose on the lien after three months.

Councilmember Ramswell stated she would prefer they stay with the original recommendations from the task force because they put so much effort in developing them. She asked staff why they feel the solution they came up with was better than the recommendations from the task force.

The City Manager explained that the Council asked staff to bring the task force's recommendations back in the form of an ordinance. Part of staff's responsibilities is to analyze the recommendations so that they could fit into the ordinance. They were trying to find the maximum punitive action that would force people to register their short-term rental properties. They felt that taking the owners' ability to register their rental homes would not be that punitive because they would rent them anyway and then it becomes a different process of trying to catch them in the act. Whereas, if they start paying a fine imposed by the Special Magistrate, it would hurt them more because it would cut into their profit margin.

According to the Land Use Attorney, they there were also some legal concerns about the language because according to State Statutes, they cannot prohibit short-term rentals. It could be interpreted as prohibiting a short-term rental by denying them the ability to register; thereby giving them a reason to sue the City.

Councilmember Ramswell argues that prohibiting short-term rentals from registering would only be as a punitive device because they lost the privilege; to which the Land Use Attorney stated could certainly be their defense.

The Mayor stated that the task force was represented by full-time residents of the City as well as short-term rental owners/managers. They worked very hard in formulating their recommendations, including a unanimous decision in this particular case; but, he believes that the language staff has provided not only lives up to the intent of the task force's recommendation, but actually made it better by injecting more enforcement power into it.

Ms. Patti Brown, a member of the Short-Term Rental Task Force, stated that she initially did not agree with the changes staff made to their recommendation; however, after additional research and after discussing this issue with the Community Development Director, she now believes these are valid changes. She continued that Flagler County tried to prohibit owners from renting their houses, but failed because it is against Florida Statutes. However, she would recommend escalating the fines because it would certainly cut into owners' profits and would serve as deterrent for repeat violators.

The City Attorney noted there is an upcoming workshop on short-term rentals during which they may receive more suggested changes. He recommends passing the current version of the proposed ordinance so they could have something in place this summer. If there is a consensus later on to change the language, they could amend the ordinance again.

The City Manager recommends approving the proposed ordinance on first and second reading; and whatever changes come out of the workshop, they could bring back as an additional ordinance.

Mr. Darryl Shelton, a member of the Short-Term Rental Task Force, stated that he and the other members of the task force that are present in tonight's meeting agree with Ms. Brown's recommendation to go forward with the proposed ordinance as written; adding that staff explained the changes better tonight than the task force previously understood them.

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").

6. *CONSENT AGENDA

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

A. Councilmember Braden
B. Councilmember Ramswell

Councilmember Ramswell noted that she was appointed to Veterans Florida in 2014 by the Florida Senate President. This committee looks to give opportunities and helps in making the transition from military to veteran status easier as well as to keep military veterans in Florida. During a meeting this week, they gave out their first annual Vetepreneur of the Year Award, which rewards people who have come up with good ideas and completed the training and different programs that are being offered to help them realize some goals.

C. Councilmember Dixon
D. Councilmember Overdier
E. Councilmember Marler

Councilmember Marler stated that during a tropical storm when a warning was issued that vessels and any floating structures need to be put in safe harbor, an individual put his barge on safe harbor and later was issued a Notice to Appear before the Special Magistrate because he violated a City Ordinance. He continued he was advised by the City Attorney that during a natural disaster, the City Manager has the authority to suspend the ordinance; however, the ordinance did not include a provision for non-motorized floating structures. He suggests they revisit the code in the near future and make provisions for natural disasters to try to be fair with everybody. He asked that this item be placed on the next agenda for discussion.

The City Manager asked for some clarifications with regards to the actual discussion on this issue. She stated that by code she has the authority to make decisions as they relate to this matter. She made a decision to have the Crab Island boating structure removed from Marler Bayou based on a complaint of a resident who was afraid it would create damage to his property. Other boating structures that were in the East Pass seemed to be far enough away to pose any danger to other property or vessel. They asked the marine unit to deal with this issue per the City code and because of the complaint from a property owner.

Councilmember Marler would discuss this issue with the City Manager.

F. Councilmember Destin
G. Councilmember Morgan

Councilmember Morgan asked the City Manager to send the revised Department of Business and Professional Regulations Crab Island letter to Council for review before sending the letter out.

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

Having no further business at this time, the meeting was adjourned at 8:10 PM.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk