

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
JULY 11, 2022
CITY HALL ANNEX COUNCIL CHAMBERS
6:00 PM**

The Council of the City of Destin met in regular session with the following members and staff present:

Destin City Council

Mayor Gary Jarvis
Councilmember Jim Bagby
Councilmember Terésa Hebert
Councilmember Dewey Destin

Councilmember Johnny King
Councilmember Bobby Wagner
Councilmember Rodney Braden
Councilmember Kevin Schmidt

Destin City Staff

City Manager Lance Johnson
City Clerk Rey Bailey
Community Development Director Louis Zunguze
Engineering Assistant Joe Bodi
Code Compliance Deputy Director Danny Sullivan
Finance Director Krystal Strickland
Land Use Attorney Kim Kopp

Public Works Director Michael Burgess
Public Info Mgr. Catherine Card
Building Official Noel Belle
Deputy Parks & Rec Director Ryan Reed
Parks/Recreation Director Lisa Firth
Grants/Project Manager Jeffrey Cozadd
City Attorney Kyle Baumann

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Harold Staples of the First Baptist Church of Destin gave the invocation, which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

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

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

A. Public Works/Public Safety Committee Work Plan 2022-2023

Mr. Jim Wood, Chairman of the Public Works/Public Safety Committee, presented the committee’s work plan for Fiscal Year 2022-2023.

He informed the council they have added stormwater discussions to their monthly meeting agenda. He also noted they have continued to divide the City of Destin into 7 different

areas with committee members looking into those areas for issues and reporting back to the committee. He also mentioned that the city received \$100,000 in Fiscal Year 2022 for traffic safety. Public Works Department use the money to purchase some Hawk Flashing Beacon and other items for placement around the Destin Elementary School. Expenditures also included two message boards and a stop sign placed at the corner of Luke and Dalton Streets. He continued that the city received a 5% allocation of the Okaloosa County half-penny sales tax for Fiscal Year 2023 totaling \$271,000. The committee will discuss proposed expenditures for some of that money at their August meeting, present it to staff for review, and then briefed the council possibly at their August 15th meeting.

Mayor Jarvis noted that crosswalks on Old Hwy 98 are not lit and not visible at night, making it hazardous for people crossing the street specially in the fall when it gets dark early. So many people are either coming off the beach or going to the beach to watch the sunset. He asked the committee to take stock of those crosswalks and consider recommending using part of the funding to place flashing pavement lights on each of those crosswalks.

Councilmember Destin echoed the mayor's sentiments stating he has been approached by several residents of Crystal Beach expressing similar concerns about the crosswalks and people getting hit and made a similar suggestion. He added that it should be one of their priorities.

Councilmember Bagby suggests the committee review their prioritized list for sidewalks, paving and striping projects and recommend the use of the available funding for those items that require funding.

Councilmember Wagner inquired as to the best way for people to report any safety issue they observe to the committee.

Mr. Wood suggests contacting either the staff liaison to the committee Mr. Michael Burgess or himself to have that item placed on the agenda for discussion at their meeting which takes place the second Tuesday of each month.

Councilmember Schmidt moved to adopt the 2022-2023 Public Works/Public Safety Committee's work plan; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

B. Request for Speed Humps - Pastor Harold Staples

Pastor Harold Staples requests placement of speed bumps at the school markings just north of Sandalwood, the crosswalk on Beach and Bent Arrow, and at the school markings just south of the Methodist Church entrance. This is to slow down the traffic between the schools at First Baptist Church and First Methodist, as well as safety for the various public-school students who cross and catch the school bus at that location. He stated that the rate of speed as well as traffic has increased and that this issue needs to be dealt with before someone gets hit, hurts or killed. He asked this to be done before school starts this year. He also requests the placement of speed bump at the parking lot exit on the preschool on Sandalwood Drive; adding is on church property but within the 15-foot right-of-way south of the markings for pedestrians.

Councilmember Destin moved to direct the Public Works Department to bring back an estimate for construction of speed bumps at proposed locations, and to bring back alternative materials that are available for construction of the speed bumps. Councilmember Hebert provided a second to the motion.

Councilmember Bagby asked staff to also bring back a prioritization list for the speed bumps; adding that 3 speed humps within 80 feet from each other seems excessive.

Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

2. PUBLIC COMMENTS

Mr. Mike Buckingham, a Destin resident, discussed his vision regarding construction of a city marina, and the city being able to bring back the fishing tournaments in Destin. He stated that a city marina is a very lucrative endeavor, and that it will also help bring back the city to the way it was as a fishing community. He added there are people on the harbor with property big enough to accommodate a city marina.

Mr. John King., a Walton County resident and a long-time former resident of Destin, stated that the Destin Cross Town Connector has been discussed for over 16 years. This project consists of 6 acres and 31,000 square feet of pavement and so having an exfiltration system would be quite expensive. Properties they need for the project will just cost a lot more if they wait any longer to purchase them. He urged the council to move forward with the project.

Ms. Marcie Bell, a Destin resident and member of the Public Works/Safety Committee noted that the committee has had a conversation over the past year about crosswalks and lighting. She asked Public Works Director Michael Burges, the staff liaison to the committee, to elaborate more on that discussion.

Mr. Burgess explained that the type of product they were considering was a combination Hawk Beacon, a rectangular rapid flashing beacon, with a streetlight. Unfortunately, it was not an FDOT approved product, and so they are still looking for other options. He continued they are in the process of converting a lot of their streetlights into LED. They may be able to take that opportunity to enhance lighting in few other areas.

The mayor recommends crosswalk lights that blink across the road, in the ground in the crosswalk, and flashing light on the pole, similar to what they see in Walton County; adding it is the most effective in gaining people’s attention and it should be the standard for crosswalks in Destin.

Mr. Claude Perry, a Destin resident, expressed concern about an article in the newspaper regarding a PD&E Study being conducted at state level to add two more lanes on US Hwy 98 through Destin. He asked the city to elaborate more about this article.

Councilmember Hebert, council representative to the Okaloosa-Walton Transportation Planning Organization (TPO), stated it is simply a feasibility study that has not even began.

Engineering Assistant Joe Bodi added that the feasibility study is to determine if it is practical to create a 6-lane roadway section. At this point, more information is still being gathered.

Mr. Jim Wood, a citizen representative to the TPO, stated it is purely a feasibility study; adding that at this time they do not believe 6-laning Hwy 98 is possible as they would have to give up buildings, sidewalks, bike lanes and other amenities to support it. He added that this corridor has been studied at least 3 times, and they really do not need to do it again.

Councilmember Bagby stated that they need to be proactive about this issue as Destin residents deserve to have a voice on this matter. They need to know the scope of the PD&E study, who is conducting it and when they plan to start.

3. CONSENT AGENDA

- A. Resolution 22-06 - 401(A) Money Purchase Plan Agreement
- B. FY23 Agent-Broker of Record for Health & Ancillary Benefits, Contract Renewal
- C. Approval of Destin High School Tri-Party Agreement Amendment
- D. Operations Financial Report
- E. Capital Project Status
- F. DO-20-02 The Charles Final Plat Approval
- G. Re-Striping of Luke Ave and John Ave
- H. Pond Lease - First Amendment to Reclaimed Water Lease Agreement with DWU
- I. Third Amendment to Morgan Sports Center Lease
- J. Approval of minutes of June 20, 2022 Regular City Council Meeting
- K. Approval of minutes of June 23, 2022 Budget Workshop
- L. Draft Minutes of Board and Committees
- M. Committees/Boards Monthly Absentee Report

Councilmember Bagby requests Consent Agenda item 3A be pulled for further discussion.

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

With regards to Consent Agenda item 3A, Councilmember Bagby recommends adding in Resolution 22-06 or in the agreement the amount of contribution to the City Manager’s plan.

The City Manager stated that the amount should be up to 5 percent, which is based on the City Manager’s contract. The logic behind leaving it blank initially was because at times staff needs to be able to adjust the amount going in because the city cannot put in more than the maximum amount allowed by the IRS. It would just be easier to make corrections moving forward.

Councilmember Bagby moved for approval of Consent Agenda item 3A, with the addition of “*up to 5 percent as our contribution to the City Manager’s plan*” was seconded by Councilmember Destin and passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

4. CITY MANAGER REPORTS

A. Post Certificate of Occupancy Building Inspections- Update

The City Manager noted that the council has previously directed the City Land Use Attorney and staff to draft a resolution for the mayor’s signature addressed to the State Legislature, specifically State Representative Maney, Senator Gainer, and Governor DeSantis, requesting they strengthen the state’s oversight of condominium maintenance by raising the threshold for owners to waive raising the necessary money to protect their investment. The recommendation was made to table establishment of city regulations on these issues until after adjournment of the state’s legislative session. Since then, the Florida Legislature passed Senate Bill 4D, which was subsequently signed by Governor DeSantis and made effective immediately. In relevant part, Senate Bill 4D amends Chapters 553 and 718 of Florida Statutes relating to mandatory structural inspections for condominium and cooperative buildings. The Bill establishes a statewide structural inspection program, requiring condominium and cooperative associations to conduct milestone structural inspection of their buildings and to perform structural reserve studies to ensure the condominium and cooperative buildings are safe for continued use. Staff is requesting council’s direction to prepare an ordinance for compliance with the new state laws, and to establish measures for local enforcement.

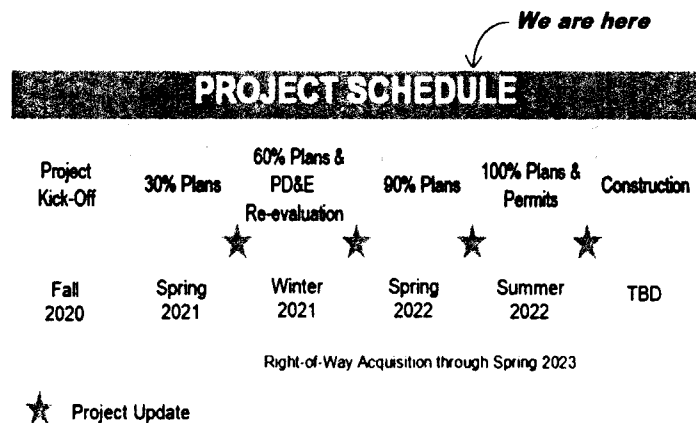
Councilmember Schmidt moved to direct the City Land Use Attorney and staff to prepare an ordinance compliant with the new state law; seconded by Councilmember King. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

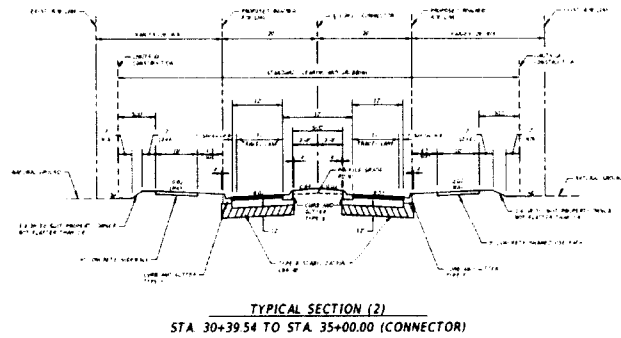
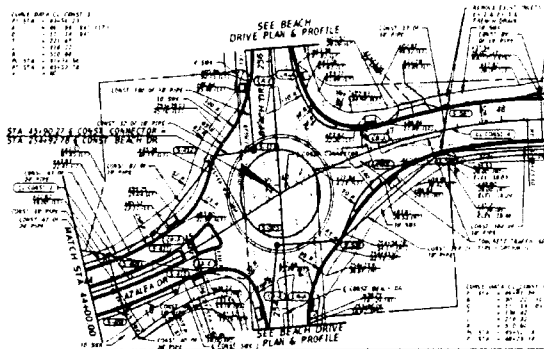
B. Cross Town Connector Design - 90% Update

Mr. James Park of Atkins Engineering discussed the Destin Cross Town Connector 90% design.

90% Plan Updates

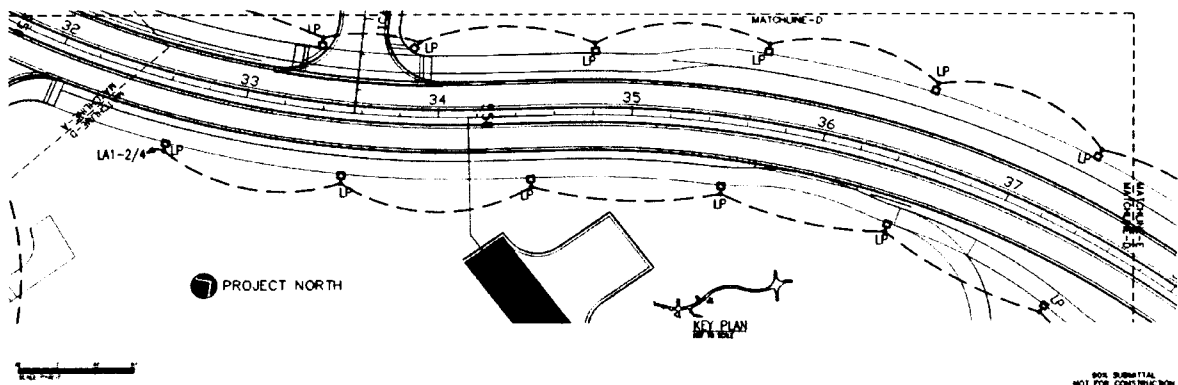
- › 90% Plans Submitted 5-31-2022
- › Incorporated City comments from 60%
- › Quantities and Cost Estimate
- › Design Updates:
 - › Roadway
 - › Signing and Pavement Marking
 - › Drainage & Permitting
 - › Landscaping
 - › Lighting





90% Plan Updates

- › Roadway Plan Updates
 - › Designated R/W at Back of Curb
 - › Additional 10' sidewalk locations
 - › Safety Improvements
 - › Reduced radii at side streets and intersections



90% Plan Updates

- › Lighting Plan Updates
 - › Update layout to match roadway changes
 - › Typical spacing 100'
 - › Back of sidewalk location
 - › Architectural pole and fixture

In Progress

- Addressing 90% design comments
- Develop Specifications Package
- 100% submittal – September 2022
- PD&E Re-evaluation
- Right-of-Way Designation (Back of Curb)
- Major Development Order/Major Subdivision Application
- Right-of-Way Acquisition (By City)
- NFWMD Permit Application Submittal to City Review – July 12, 2022

Right-of-Way Acquisition

- Parcel 1 – Winton – Benning Drive
- Parcel 2 – 602 Sandalwood Drive
- Parcel 3 – 604 Sandalwood Drive
- Parcel 4 – 605 Sandalwood Drive
- Parcel 5 – 609 Sandalwood Drive
- Parcel 6 – 611 Sandalwood Drive
- Parcel 8 – 700 Legion Drive
- Parcel 10 – 606 Sandalwood Drive
- Parcel 11 – 608 Sandalwood Drive

Councilmember Schmidt moved to direct the City Manager to continue the design of the Destin Cross Town Connector as presented. Councilmember Hebert provided a second to the motion.

Councilmember Schmidt asked if they could still potentially utilize the north side of the connector for parks and recreation to include ideas and options such as placement of benches or fountain.

Mr. Park stated that it would be a separate effort from this design project, but there is ample space to the north side for parks and recreation. He continued they are doing the landscaping to allow for future developments.

Councilmember Destin stated that they have not gotten any kind of indication of how they are going to get this cross-town connector back on to US Hwy 98. The only opportunity they have is through Stahlman Avenue, which is probably the most dysfunctional intersection they have in Destin. They are going to attract traffic from US Hwy 98 by routing it through residential areas in Destin. He stated that their job as the council is to make things better for the citizens, not worse. But, until they figure out a way to put traffic back on US Hwy 98 and actually improve traffic congestion on that roadway, this would be the worse idea a Destin City Council has ever pursued.

Councilmember King noted that they purchased the property for the cross-town connector in 2008 for over \$4.5 million to get traffic off of Legion Drive and Mountain Drive. People area running the stop signs and speeding through those streets. The cross-town connector

will be a welcome relief for the people who live there. He continued that people are not necessarily using the back roads to get back to US Hwy 98 but to get to other parts of the city. At this point they are blatantly wasting more money and staff's time. The time is now to move forward with this project.

Councilmember Bagby noted that the landscaping plan seemed very robust. He asked if this plan has been vetted through the appropriate committees for their input or whether it is simply the contractor's idea of what they feel needs to be part of the project.

Community Development Director Louis Zunguze noted that the next phase of the review includes the subdivision and other related matters, which would be reviewed through their code and brought through the Local Planning Agency.

The mayor commented that it is against the best practices for any governmental entity not to increase its connectivity whenever possible. The majority of the cross-town connector traffic will go to different parts of the city and not necessarily through Stahlman Avenue back to US Hwy 98. Several years ago, a petition with 62 signatures from residents of Legion Drive and Mountain Drive, was presented to the city encouraging the council to move forward with the cross-town connector to get the traffic out of their houses. Building the cross-town connector will give residents a better way to get around town and will make the City of Destin a better place to live.

Councilmember Schmidt echoed the mayor's sentiments adding that one of the biggest goals he heard since he was elected to council was to alleviate traffic in Destin, especially in places like Legion Drive and Mountain Drive. He feels building the cross-town connector will really help attain that goal, and the advantages of going forward with this process will far outweigh the negative issues that have been mentioned.

Councilmember Hebert stated they have already spent a lot of money and will continue to spend more money if they do not move forward with this project immediately; adding there are a lot of citizens begging them to do so.

Councilmember Bagby stated that he wanted to see little pocket parks where residents could walk through a park no matter where they live in this town, which they would not be able to do because of the swales. He added that if they are going to spend a lot of money purchasing land for this project, they need to have other use for it other than water retention. He would also like to see the cost for the landscaping.

Councilmember Destin offered a substitute motion to modify the 90% plan, place the drainage on the ground (exfiltration drainage), and not create a retention pond, and have the property available for a linear park, seconded by Councilmember Bagby.

Councilmember Schmidt inquired as to the timeline and the cost involved if the substitute motion passes.

Mr. Park stated it would push the design back to 60% and moving forward from that again, because it would be a completely different design with different design elements.

Councilmember Schmidt added it could cost \$300,000 to do an underground drainage system, plus the increase cost of the additional valuation of the properties they are trying to obtain. The last time they did a property appraisal was in the fall of 2021 and they can expect the price to be higher now.

Mr. Park stated that building the exfiltration system could cost significantly higher than \$300,000.

Councilmember King stated that he absolutely cannot support moving forward with a plan that would set the design back to 60%.

Councilmember Destin asked whether changing the drainage design would prevent them from acquiring the rights-of-way they will discuss later in this meeting.

The City Attorney expressed they will still be able to acquire the properties.

Councilmember Destin stated that changing the design would not be much of a factor in delaying the project as it will not stop them from acquiring the properties they need, their construction price is now \$9 million which is not yet budgeted, they have more properties to acquire, and that they are at least 4 years away from construction of the project.

The mayor called for a vote on the substitute motion, which passes 4-3 (Council members Bagby, Destin, Wagner, and Braden voted “yes”; Council members Schmidt, King, and Hebert voted “no”).

At this time, the mayor called for a 5-minute break.

Upon return from the break, the mayor asked Mr. Park to share the information he just received with regards to the exfiltration system.

Mr. Park informed the council that in speaking with staff, they were able to recall a statement made by Atkins’ stormwater engineer during their discussion regarding the 60% plan that they would not be able to replace the entire pond with the exfiltration system. They would still have a portion of the pond that would need to remain; adding they would be able to determine the exact percentage of what could be replaced during the redesign.

Councilmember Destin noted that the intent of the motion was to have the property available for a linear park, which means the entire retention pond has to be removed. He asked that Atkins Engineering bring back a detailed explanation why the removal of the entire pond is not possible, and any option available to be able to comply with the spirit of the motion.

Councilmember Bagby requests they invite the stormwater engineer to discuss all the facts involved in not being able to remove the entire pond.

The City Manager noted that the costs to amend the design could be well above his threshold. He asked if they should bring the cost estimate to council for approval beforehand.

It was the consensus of the council to bring back the additional amount necessary for amending the design if it exceeds the City Manager's spending threshold.

C. Acquisition of Properties for the Crosstown Connector

Ms. Marsha Hayes of Atkins Engineering informed the council that she has been working to acquire purchase agreements for the needed properties, and that she has secured purchase agreements for the following properties:

- **605 Sandalwood:**
Purchase of Property - \$345,000
*Closing Costs on Purchase - \$5,000
Relocation - Land Lord Eligibility (LLE) Reestablishment - up to \$25,000
Relocation - Tenant Rent Supplement - \$60,632.46
*Relocation - Tenant Move Costs - \$5,000
Total Costs - \$440,632.46
- **606 Sandalwood:**
Purchase of Property - \$265,000
*Closing Costs on Purchase - \$5,000
Relocation - Land Lord Eligibility (LLE) Reestablishment - up to \$25,000
Relocation - Tenant Rent Supplement - \$26,334
*Relocation - Tenant Move Costs - \$5,000
Total Costs - \$326,334.00
- **608 Sandalwood:**
Purchase of Property - \$345,000
*Closing Costs on Purchase - \$5,000
Relocation - Land Lord Eligibility (LLE) Reestablishment - up to \$25,000
Relocation - Tenant Rent Supplement - \$37,800
*Relocation - Tenant Move Costs - \$5,000
Total Costs - \$417,800.00
- **Vacant Land (Winton) - Anna Street & Benning Drive:**
Purchase of Property - \$752,450
*Closing Costs on Purchase - \$10,000
Total Costs - \$762,450.00

Ms. Hayes stated that the first 3 properties are tenant-occupied townhomes. There are tenants that would have to relocate and reestablished in another home. She continued that in accordance with the Federal Uniformed Act, the landlords are entitled to relocation benefits to reestablish those income producing properties.

Councilmember Bagby asked whether staff has come up with a response to his questions relating to eminent domain.

According to the City Attorney, the TRIP agreement is completely silent as to whether funds can be used in an eminent domain process. They have submitted the question to their

FDOT representative, but they have not received a response. It is impossible to say just based on the contract language whether FDOT would allow the funds to be used for an eminent domain process.

The Land Use Attorney stated that he has had a conversation with an FDOT representative recently. She was informed there is not a prohibition on using the funds for eminent domain.

Councilmember Bagby asked if they should attempt to reopen negotiations and use this information as leverage.

Ms. Hayes stated that based on her 35 years' experience in negotiating properties, if this becomes an eminent domain project, they will be paying attorney fees, costs for the appraisal, and any other items that the opposing attorney determine are needed for their client. This is also under the Uniformed Act and FDOT guidelines and policies. She continued that an eminent domain is a quick means of getting possession of the property for government entities, but the negotiations are virtually the same.

Councilmember Destin asked whether they could do a parcel-by-parcel decision if they are convinced that some prices are more outrageous than the other, or their decision applies to all the properties.

The City Attorney stated that a parcel-by-parcel decision is recommended.

Councilmember Schmidt moved for approval of the purchase of 605 Sandalwood and to authorize the City Manager to execute the purchase agreement and proceed with closing; seconded by Councilmember King. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

Councilmember Schmidt moved for approval of the purchase of 606 Sandalwood and authorize the City Manager to execute the purchase agreement and proceed with closing; seconded by Councilmember Wagner. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

Councilmember Schmidt moved for approval of the purchase of 608 Sandalwood and authorize the City Manager to execute the purchase agreement and proceed with closing; seconded by Councilmember King. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

Councilmember Schmidt moved to approve the purchase of the vacant land at the corner of Anna Street and Benning Drive and authorize the City Manager to execute the purchase agreement and proceed with closing; seconded by Councilmember King. Motion failed 4-3 for lack of supermajority vote (Council members Schmidt, King, Hebert, and Wagner voted "yes"; Council members Bagby, Destin, and Braden voted "no").

Motion by Councilmember Destin, seconded by Councilmember Wagner, to continue negotiations on the vacant piece of property located at the corner of Anna Street

and Benning Drive passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

D. Proposed Ordinance 109.11 - Amending the City's Personnel Rules and Regulations

The City Manager explained that staff is proposing to incorporate the federal holiday schedule into the city's holiday schedule to be in line with area municipality holiday schedules as well as other government entities. The two federal holidays not currently on the city's holiday schedule are the Columbus Day Holiday and the Juneteenth Holiday.

Councilmember Hebert moved to direct staff to bring back proposed Ordinance 109.11 for first reading; seconded by Councilmember Wagner.

Some members of the council do not feel a blanket approval for future federal holidays is appropriate and would like to make that determination on a case-by-case basis.

Councilmember Destin offered a substitute motion to direct staff to bring back the proposed ordinance for first reading and include all federal holidays in effect as of the effective date of the ordinance. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

E. Auditor Selection Committee - Formation and appointment of members

Finance Director Krystal Strickland explained that Florida Statute 218.391 requires that the City establish an Audit Selection Committee to choose an Audit Firm. The committee must include a minimum of three members. The Chairman of this Committee must be a Council Member. City staff may serve in an advisory capacity but may not serve as committee members.

Motion by Councilmember Hebert, seconded by Councilmember Destin, to appoint Councilmember Bagby as the Chairman of the Auditor Selection Committee passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

Councilmember Bagby moved to appoint Jim Wood as member of the Auditor Selection Committee; seconded by Councilmember Wagner. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

Councilmember Bagby moved to appoint Tom Weidenhamer as member of the Auditor Selection Committee; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

Councilmember Bagby moved to appoint Marcie Bell as member of the Auditor Selection Committee; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

F. Announcements

1. Proposed process to annex unincorporated properties or services to the City of Destin to be brought before the council for adoption in August 2022.
2. Third Budget Workshop to be held on Thursday, July 14th, at 5:30 PM.
3. Annual Big Truck Day scheduled for Friday, July 29th, 9-11 AM, at the Destin Community Center

5. PUBLIC HEARINGS

A. First Reading of Ordinance 22-09-CN - Exclusive Solid Waste Franchise Agreement with Waste Management, Inc, of Florida

The City Attorney read proposed Ordinance 22-09-CN by title, and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA PROVIDING FOR THE EXCLUSIVE FRANCHISE TO WASTE MANAGEMENT, INC. OF FLORIDA, A PRIVATE CORPORATION, FOR THE COLLECTION AND DISPOSAL OF ALL RESIDENTIAL AND COMMERCIAL TRASH, GARBAGE, AND OTHER REFUSE WITHIN THE CITY LIMITS; PROVIDING FOR THE COLLECTION OF RESIDENTIAL RECYCLABLE MATERIALS WITHIN THE CITY LIMITS; PROVIDING FOR DEFINITIONS; GRANT OF FRANCHISE; LIMITS OF FRANCHISE; TERM; FRANCHISE CONSIDERATION; ASSIGNMENT; BANKRUPTCY OR INSOLVENCY; DEFAULT; RATE CHANGES; RIGHTS OF FIRST REFUSAL; RESTORATION; COMPLIANCE WITH LAWS, LIABILITY INSURANCE, HOLD HARMLESS, WORKERS COMPENSATION; PERFORMANCE BOND; RIGHT TO REQUIRE PERFORMANCE; DISPUTE RESOLUTION; OPERATIONS DURING DISPUTE; STANDARD OF PERFORMANCE; CURBSIDE RECYCLABLE MATERIALS COLLECTION AND DISPOSAL; RECYCLING PROGRAM; COLLECTION SERVICES AND OPERATIONS; OFFICE AND COLLECTION HOURS; COLLECTION EQUIPMENT; DISPOSAL ROUTES AND SCHEDULES; GRANTEE PERSONNEL; SPILLAGE AND LITTER; STORMS AND OTHER EMERGENCIES; NONDISCRIMINATION PROVISION; RATES AND CHARGES; RATE CHANGES; DELINQUENT ACCOUNTS; ACCOUNTING, RIGHT TO AUDIT; COMPLAINTS; CHARGES FOR FAILURE OF PERFORMANCE; VENUE; SOVEREIGN IMMUNITY; CONFLICTING ORDINANCES AND RESOLUTIONS; SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Ms. Marcie Bell, a Destin resident, urged the council to add a language in the ordinance requiring that each garbage can is properly identified as to which property it belongs to avoid any confusion and cans stay where they belong. This will stop people from placing the can in front of other people's home, especially those of the absentee owners, just because they do not want it in front of their homes.

Ms. Bell also recommends getting rid of recycle cans. The people who choose to recycle will take their recycle materials to a drop-off location. As it stands, the recycle cans are being filled with garbage rather than recycle materials.

Mr. Doug Rainer of Waste Management stated there may be some very significant cost involve but they will look at it.

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

Councilmember Hebert moved for approval of Ordinance 22-09-CN on first reading and direct staff to schedule it for second reading on August 1, 2022; seconded by Councilmember King.

Councilmember Braden stated that he has been getting calls from citizens who are not happy with the additional fees they have to pay if their trash can is overflowing, or there is contaminant in the recycle materials.

Mr. Jake Alderfer of Waste Management stated that they have been seeing an extraordinary amount of trash. A lot of the trash cans are overflowing. He also stated that possibly only 8 percent of the customers will be affected by this, mostly short-term rental properties, because they do not have the correct number of trash cans.

Mr. Rainer stated they have added some educational components for the overage and contamination fees. Customers will not get fined for the first and second violations, instead they will receive a notice and a photograph showing the violation. Fines will be imposed starting on the third violation. He added that, violations are relatively low at this point, especially for residential customers.

Councilmember Destin stated that even though he understands the overage and contamination issues, he feels a little uncomfortable with the current language in the proposed ordinance with regards to fines to be imposed for violations. He is not sure how they arrived at those numbers.

Mr. Rainer explained that those figures came from their corporate office. Several changes have been made to those numbers. For the ease of not having to do math and figuring things out percentagewise each time, they have decided on a flat rate of \$10.00 and \$5.00 as punishment for the violations.

Councilmember Destin stated that those numbers could add up depending on the number of pickups each month and could even double the monthly service rate. He recommends having a limiting language on the contract.

Councilmember Bagby stated he is happy with the price staff has negotiated with Waste Management. He also understands the contamination fee as he has witnessed people putting trash in the recycling bin; and 90% of those are probably short-term rental customers. He added that people will learn after they get fined.

Councilmember Schmidt stated he has some issues with Waste Management being the only company that was able to submit a bid for the service. Also, they are already increasing the pickup charges, and now they are adding contamination and overage charges.

Councilmember Schmidt also noted there is no language in the contract that stipulates how and that Waste Management not the City of Destin is responsible for educating the customers and make them aware of the changes in the contract.

Mr. Rainer stated that Waste Management will work with the City of Destin with regards to the educational aspect. The city has a direct contact with its residents through many channels, and Waste Management has a direct contact with them as customers. He added that the length of public education is infinite, however, they could look at drafting a language if the council so desires.

Councilmember Schmidt offered a substitute motion to remove the overage and contamination fees, and to put language in the contract with regards to how Waste Management will notify customers of the changes. Substitute motion dies for lack of a second.

Councilmember Destin stated that a 5-year contract is too long. He recommends adding a language in the contract that the overage and contamination sections of the ordinance will be subject to renegotiation after two years. They should be able to determine how these issues are working out within that two-year period and can make some necessary adjustments.

Councilmember Hebert offered an amended motion to approve Ordinance 22-09-CN on first reading and direct staff to schedule it for second reading on August 1, 2022; and that the overage and contamination sections of the ordinance will be subject to renegotiation at the two-year period. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).

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

A. Councilmember Braden

1. Signage from Airport Road to the Marler Bridge

Councilmember Braden provided some photos showing different size banners and flags at business locations on different parts of the city. He stated that some of these signs are in the rights-of-way, and most are on private property; adding that some have been there for years, and the city has not done anything about it even though these types of signage are illegal in the City of Destin.

Code Compliance Deputy Director Danny Sullivan noted that some of the signage being shown have either been taken down or addressed by the Code Compliance officers. Business owner have been informed that those signs are not allowed in the city. They have also been provided a pamphlet showing which signs are illegal and which signs are permitted on the property. Some of the businesses have been given 3 to 14 days to comply, and that they will be cited if they are not in compliance after that period. He added that this information is programmed into the EGov system and follow up inspections are conducted. Further code enforcement actions will be taken against those that failed inspection.

The Land Use Attorney noted that in addition to the Notice of Violation process when they have to give the respondents reasonable time to correct the violation, there is another method of code enforcement that can be used and the city does use dealing with signs, which is simply issuing a citation. Code Compliance officers can provide one warning and then issue monetary fines for non-compliance.

Councilmember Braden stated that code compliant seemed to be complaint driven. Nothing is done unless someone files a complaint. He added that Code Compliance officers need to be more proactive in enforcing the code.

The City Manager explained that the concept the code compliant is complaint driven was how the Code Compliant Department was originally formed many years ago similar which is similar to the Sheriff's Office; but it is not the only way violations are being addressed now. The department has been moving towards being more proactive the past several years. Eight officers are being asked to make rounds throughout the entire city. There are 70 miles of roads within the city limits of Destin, which includes US Hwy 98. If an officer identifies a code violation, they are required to contact the person in-charge, especially with regards to construction projects. He added that if it was not for the fact the department has been responding to so many complaints which are documented, they would have more time to go out and be more proactive. They are doing their best, but they have to balance where they spend their time.

Councilmember Destin stated that the sign ordinance is not as easy to enforce as everybody thinks because there are constitutional issues and a whole lot of exceptions involved. They need to look at the ordinance and make the necessary changes, and possibly make it simpler and not expect Code Compliance officers to accomplish impossible missions.

B. Councilmember Wagner

Councilmember Wagner announced his plan to ride in the Waste Management truck, take a tour of their facility, and gather some facts by taking pictures and video of the facility. He has scheduled this tour on July 20th through Waste Management.

C. Councilmember Destin

D. Councilmember Bagby

1. Procurement Policy

Councilmember Bagby discussed the two versions of a draft ordinance on procurement policy which have been presented to council for review.

After a brief discussion, the council reached a general consensus to have staff finalize and bring back version 2 of the two alternative resolutions provided by Councilmember Bagby for their adoption consideration.

Councilmember Bagby moved to appoint Mr. Curtis Smith to the Public Works/Safety Committee; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

- E. Councilmember Hebert
- F. Councilmember King
- G. Councilmember Schmidt

1. Destin High School baseball field at Morgan Sports Complex

Councilmember Schmidt stated that he looks forward to hearing an update on this issue at their August meeting.

Councilmember Schmidt requests an update on the big barge in the harbor he previously reported to Code Compliance and City Manager.

Captain Fulghum from the Sheriff's Office that the barge used to be a Crab Island Sand Bar. When the new ordinances came into effect, the owner decided not to continue doing business out there and has sold the barge. They intend to contact the new owner of the barge and find out what they intend to do with it. The barge now has a motor and has been registered and so it is now considered a vessel and it is legal to be at its present location.

Next, Councilmember Schmidt asked why the City of Destin has never put a franchise tax on Destin Water Users.

Mr. Lockwood Wernet, General Manager of Destin Water Users, noted there was a franchise fee. There was a litigation, and the franchise fee was determined to be illegal as they pre-dated the City of Destin. They stop collecting fees and paying the city in the 1990s. They were operating in the rights-of-way and has continued to operate in the rights-of-way of the City of Destin.

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

7. PUBLIC COMMENT

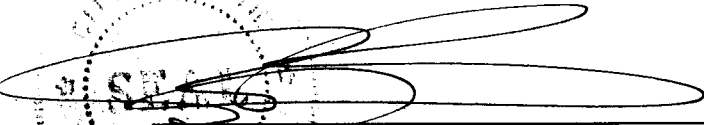
8. ADJOURN

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



Gary Jarvis, Mayor

ATTEST:



Rey Bailey, City Clerk