

**MINUTES  
REGULAR MEETING  
DESTIN CITY COUNCIL  
OCTOBER 17, 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  
Finance Director Krystal Strickland (virtual)  
Code Compliance Director Kim Corbin (virtual)  
Community Development Director Louis Zunguze  
Grants/Project Manager Jeffrey Cozadd  
City Planner Daniel Butler  
Land Use Attorney Kimberly Kopp

Deputy City Manager Webb Warren  
Public Information Manager Catherine Card  
Engineering Assistant Joe Bodi  
Public Works Director Michael Burgess  
Parks/Recreation Director Lisa Firth  
City Engineer Ryan Scott  
City Attorney Kyle Bauman

**CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor David J. Butler of the Faith Assembly Christian Church in 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 Destin, 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. Proclamation - Larry Hatchet Fishing Day**

The mayor read the proclamation designating October 22, 2022 as *Larry Hatchett Fishing Day*, and then presented it to Mr. Bob Wilder, President of Larry Hatchett Fishing Foundation.

## **2. PUBLIC COMMENTS**

Ms. Marcie Bell, a Destin resident, stated that she reports violations mainly related to garbage cans, non-registered short-term rentals, and parking to the city pretty regularly, and that the Code Compliance Department has not been very responsive to these complaints. She noted that by Florida Statute, the complainant has to divulge their names when they filed a complaint. She feels the Code Compliance Director indirectly threatened her by hinting she may be subject to retaliation by doing so.

Mr. Bill Reddington, a Destin resident, remarked that coyotes are back in town and that some have been spotted near Benning Drive where he resides. He tried to contact the Emerald Coast Fish and Wildlife Commission but received no response. He urged the city to take actions as these coyotes are a danger especially to little children.

Mr. Reddington also addressed an item on the agenda indicating that the city will refrain from trying to acquire the middle parcel at the Shores of Crystal Beach mainly due to a price increase. He stated that it does not make sense not to acquire this property as the city has already spent million of dollars purchasing the two properties on each side of that particular parcel, which are currently being utilized for golf cart parking. He urged the council to continue to negotiate with the owner of the property.

Mr. Bill McKissick, a Destin resident, stated that he has witnessed the traffic flow at the part of town where they plan to place the crosstown connector throughout the years he has been living in Destin. He recommends making Stahlman a one-way street heading south, and Palmetto a one-way street going north. By doing so, they could open up two or three lanes on Stahlman – two heading west and one heading east, which could then ease the flow of traffic in that area.

Mr. Todd Buhr, a Destin resident, addressed the section of the agenda dealing with Capital Project Management. He stated that he is a Department of Defense Certified Project Manager and has been a project manager for the past 10 years. He also stated that the company being considered for this service has a good experience and submitted a great proposal, however, they only have licensed project engineers and no certificated project managers. He recommends picking a company with the right credentials.

## **3. CONSENT AGENDA**

- A. Capital Project Status
- B. Operations Financial Report
- C. Single-Family Residential Marine Construction Proposed at 155 Calhoun Avenue (PARCEL ID: 00-2S-22-0630-0000-14B2)
- D. Resolution 22-16 - Amendment to the Youth Council ByLaws
- E. Approval of minutes of September 19, 2022 Regular City Council Meeting

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

#### 4. CITY MANAGER REPORTS

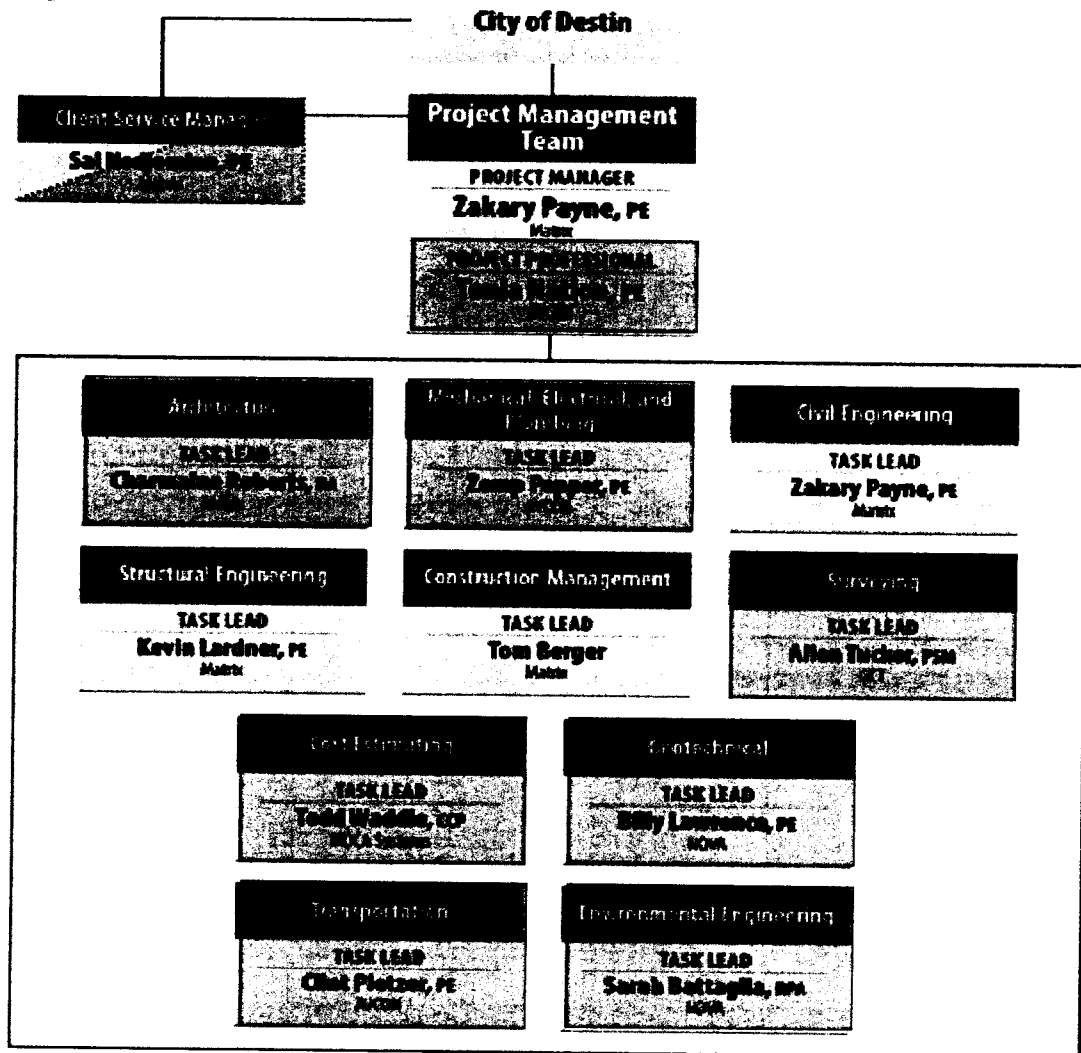
##### A. Capital Project Management / Matrix Contract

Mr. Cameron Bowski of Matrix Corporation gave the following presentation:

#### Staffing

#### Organizational Chart

##### Matrix Team Organizational Chart



##### ➤ Local Core Team

- ❖ Sal Nodjomanian, Client Service Manager
- ❖ Tonia Nation – Project Professional
- ❖ Charmaine Roberts – Task Lead – Architecture

- ❖ Zemp Pepper – Task Lead – Mechanical, Electrical, and Plumbing
  - ❖ Allen Tucker – Task Lead – Surveying
  - ❖ Todd Waddle – Task Lead – Cost Estimating
  - ❖ Billy Lawrence – Task Lead – Geotechnical
  - ❖ Clint Pletzer – Task Lead – Transportation
  - ❖ Sarah Battaglia, Task Lead – Environmental Engineering
- Additional team local to area
    - ❖ Calvin Palmer – Civil / Inspector
    - ❖ Michael Brooker – Inspector
    - ❖ Christine Gentry – LA / Inspector
  - Permanent staff adjusted dependent on workload

### **Review of Scope of Services**

| Task                                       | Percent of Total | Onsite | Reach Back |
|--------------------------------------------|------------------|--------|------------|
| Pre-Design & Design Services               | 20%              | 25%    | 75%        |
| Management of Construction                 | 40%              | 80%    | 20%        |
| Management of Post Construction Activities | 30%              | 80%    | 20%        |
| Program Management                         | 10%              | 15%    | 85%        |

### **Conflict Avoidance**

- Only potential conflict in pre-design and design services
- Pre-Design and Design Services
  - ❖ *“Develop a program which facilitates the use of qualified local design professionals to complete the construction documents...”*
  - ❖ *“Firm may be allowed to self-perform certain aspects of the design services with prior approval of the city.”*
- *Our expectation....serve as extension of city staff*
  - ❖ *Develop continuing service solicitation documents*
  - ❖ *Review proposals and submittals from continuing service contractors*
  - ❖ *Oversee electronic document management systems/processes*

## Conflict Avoidance

| Tasks Matrix Will Perform (as Tasked)                | Tasks Matrix Will Not Perform                       |
|------------------------------------------------------|-----------------------------------------------------|
| Develop design standards and specifications          | Develop final design and construction drawings      |
| Pre-design planning activities and schematic design  | Serve as general contractor overseeing construction |
| Develop budgets and cash flow schedules              | Serve as onsite construction manager for builder    |
| Solicit and evaluate proposals for design            |                                                     |
| Manage design contracts and review all submittals    |                                                     |
| Prepare bidding documents and construction budgets   |                                                     |
| Organize and manage general contractor selection     |                                                     |
| Provide construction administration services         |                                                     |
| Inspect & accept/reject work performed by contractor |                                                     |
| Review and approve all requests for payment          |                                                     |
| Oversee close-out and punch list completion          |                                                     |
| Secure O&M manuals and all warranty information      |                                                     |

## Review of Master Services Agreement

- No showstoppers
- Preferred Additions/Changes
  - ❖ Revised Indemnification (Article 10)
  - ❖ Revised Manager's Responsibilities (Article 1)
  - ❖ Addition of Force Majeure
  - ❖ Addition of Corporate Protection
- Pricing proposed as follows:
  - ❖ Project Specific
    - Lump sum fee as a percentage of total project cost
    - Less than \$500,000 – 8%
    - Between \$500,000 and \$1,000,000 – 6%
    - Greater than \$1,000,000 – 4%
    - Lump sum fee applied like graduated tax rate
      - Ex. \$1,200,000 project = \$500K.08 + \$500K.06 + \$200K.04 = \$78,000
  - First year savings devised through Value Engineering/innovation returned to city; negotiate shared savings on options years

## DISCUSSIONS:

Councilmember Schmidt asked Mr. Bowski to address the company's certified project manager experience.

Mr. Bowski noted that the organizational chart provided only shows the core team and not everyone that will support the specific contract. He stated there are dozens of certified project management personnel among the team that can support the project.

Councilmember Schmidt asked what is included in the 8 percent charge for this project.

Mr. Bowski explained that the 8 percent charge is for everything that is articulated in terms of pre-designed services active project management during construction. The city may not award some of those projects, in which case, MATRIX will support all due diligence necessary to get as close as possible to projects that are awarded. They would not be charging 8 percent for the project they are not managing.

Councilmember Schmidt stated that one of the issues they have had the past two years is the need for a project manager to oversee the general contractor, and that the idea and goal were to hire a project manager that will oversee the general contractor during the day-to-day construction of the project.

According to Mr. Bowski, they would not want to take away the responsibility of the general contractor to still fill that role. The company stepping in does not exonerate the general contractor from taking care of their responsibilities. The company will still take a role of a project manager in terms of day to day on site support, administration, scheduling, and budgeting so they could do the quality assurance that is absolutely necessary for their project management.

Councilmember Bagby reiterated that they need a project manager that will manage the project through to completion.

Ms. Charmaine Roberts, Architect, Matrix noted that while working with the Air Force Enlisted Village on a \$20 million construction project, MATRIX provided an owner's representative function where they stepped in to coordinate between the Air Force Enlisted Village, the architect, and the general contractor to make sure everything was handled flawlessly. As the owner's representative, MATRIX had the Air Force's interest in mind first.

Councilmember Hebert noted that the intent was to acquire a broad range capital project management service for the City of Destin. Someone that will manage the general contractor to make sure the job gets done; adding they have a park down on the harbor that had not been completed because they do not have a project manager.

According to Councilmember Bagby, he does not believe MATRIX ought to be performing about 90 percent of the tasking outlined in Article 2 Scope of Services; adding he is interested to know whether MATRIX will only charge the city the 8 percent for project management function as opposed to everything in Article 2 Scope of Services if the city uses its other continuing services contract engineering consulting firms.

Mr. Bowski explained that MATRIX anticipates that 80 percent of every hour spent on this contract will be that construction management on site watching the construction and communicating with the contractor performing the work.

Councilmember Destin moved to authorize the City Manager to execute the Master Services Agreement with Matrix Design Group for Capital Project Management, with stipulations that the final decision on assignment of which project shall go forward will be made by the city council at the recommendation of the City Manager; the city council will approve the scope on each individual project; and the city council will have a designee that will serve as the liaison on each project. Councilmember Hebert provided a second to the motion. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").

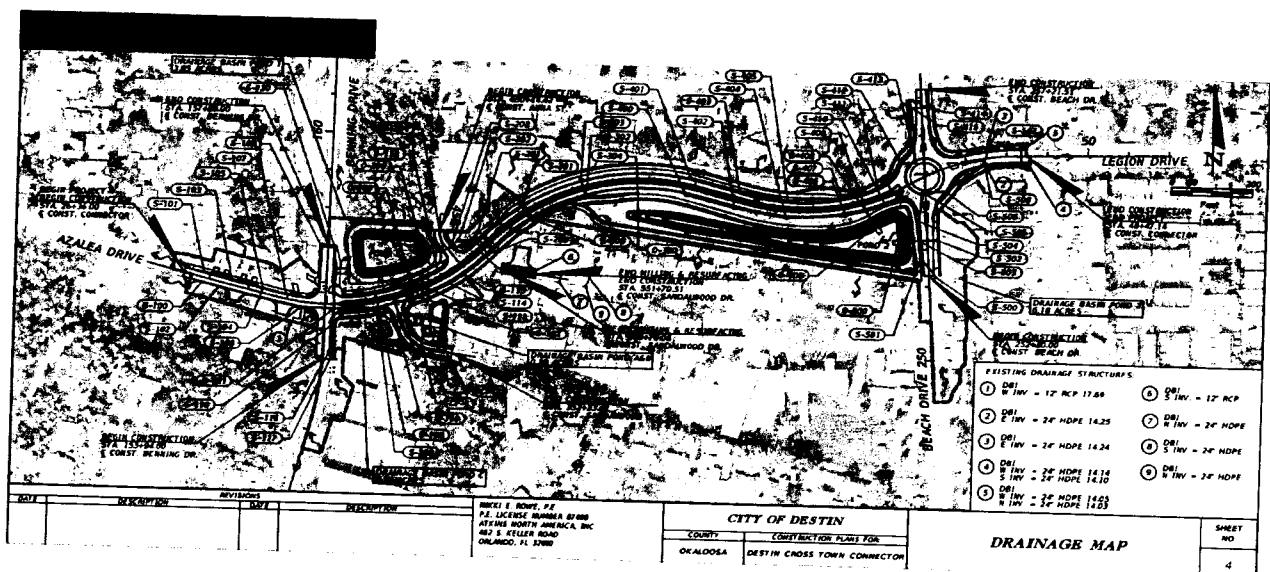
#### B. Water Quality Improvement Fund (Resolution 22-13)

Finance Director Krystal Strickland explained that the Water Quality Improvement Fund will be set up as a special revenue fund. Special revenue funds are for committed or restricted funds that may be used for either operating or capita project. Special revenue funds are budgeted annually. Capital Project funds are not used for operating and maintenance. Staff recommends reclassifying the NPEB funds from Restricted Capital Projects fund into this fund to better accommodate acceptable use of the NPEB funds, which includes maintenance and repair of infrastructure or ecology programs that improve or maintain water quality of the Destin Harbor. The NPEB fees collected will continue to be tracked with their own revenue and expenditure accounts and will keep their own bank account so as to not be commingled with other city revenues. Staff also recommends reclassifying the Stormwater Trust fund from Restricted Capital Projects fund into the new special revenue fund for Water Quality Improvement. This will allow for annual budgeting of maintenance and repairs for the stormwater discharge units.

Motion by Councilmember Schmidt, seconded by to adopt Resolution 22-13 – *Water Quality Improvement Fund* – to track activity of the Stormwater Trust Fund and NPEB fees collected passed 7-0.

#### C. Cross Town Connector - Stormwater Design Update

City Engineer Ryan Scott gave the following presentations:



- At the July 11, 2022 city council meeting, the city council directed staff to obtain costs associated with the redesign of an underground retention system for the cross town connector project, instead of an open surface retention system.
- During the August 1, 2022 city council meeting the city council directed staff to move forward with redesign of retention area #2 so that it is completely underground.

| Comparison Table |           | \$77,384 Difference                                         |                                                                                 | Contech                                                                               | Triton                                                                                                    | StormTrap                                                        | Traditional Retention                                                                                      |
|------------------|-----------|-------------------------------------------------------------|---------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| Cost             | Pond 1    | \$457,157.00 (+)                                            | \$810,778.00                                                                    | \$768,105.00                                                                          | \$360,156.00 (+)                                                                                          | \$1,024,140.00                                                   | \$139,966.00                                                                                               |
|                  | Pond 2    | \$827,114.00 (+)                                            | \$1,470,296.00                                                                  | \$1,392,912.00                                                                        | \$653,121.00 (+)                                                                                          | \$1,857,216.00                                                   | \$253,820.00                                                                                               |
| Inspection       | Frequency | Annual                                                      | Annual                                                                          | Annual                                                                                | Annual                                                                                                    | Annual                                                           | Annual                                                                                                     |
| Maintenance      | Type      | Vacuum Truck                                                | Jet/Vac Truck                                                                   | Jet/Vac Truck                                                                         | Jet/Vac Truck                                                                                             | Jet/Vac Truck                                                    | Mower/Trash & Sediment Removal                                                                             |
|                  | Frequency | Vacuum Sediment as needed<br>Typically once a year          | Typically every 5-15 years                                                      | Typically every 2-years                                                               | Sediment exceeds 10" in sumo or 3" in header row<br><br>Over 15-year period<br>4.5 times more maintenance | Sediment reaches 10%-15% Design Volume                           | As needed                                                                                                  |
| Material         |           | Polyethylene                                                | Polypropylene Resin                                                             | Aluminized Steel                                                                      | Reinforced Soybean                                                                                        | Reinforced Concrete                                              | Earth/Sod                                                                                                  |
| Minimum Cover    | Paved     | 18"                                                         | 18"                                                                             | 12"                                                                                   | 18"                                                                                                       | 6"                                                               | N/A                                                                                                        |
|                  | Unpaved   | 24"                                                         | 24"                                                                             | 18"                                                                                   | 24"                                                                                                       | 6"                                                               | N/A                                                                                                        |
| Service Life     |           | 100 years                                                   | 100 years                                                                       | 75 years                                                                              | 100 years                                                                                                 | 100 years                                                        | 100 years                                                                                                  |
| Comments         |           | Only system that doesn't require Jet/Vac                    | Fastest manufacturer response time. Already provided preliminary system design. | Same volume in 25% smaller footprint than plastic chambers. Only 75 year service life | Lightest chamber on market. Eco-friendly, LEED credits available                                          | Only system that can support trees on top. Most Expensive option | Lowest cost and minimal maintenance. mowing & trash pickup. Occasional sediment removal. Can be landscaped |
| Notes            |           | NDS cost is for material ONLY (no stone, installation, etc) |                                                                                 |                                                                                       | Triton cost is for material ONLY (no stone, installation, etc)                                            |                                                                  |                                                                                                            |

- Per city council's directive, the Atkins consultants have provided 5 different design options to underground the retention area #2. The city's Engineering Division has reviewed each option and determined which is best suited to incorporate a park area for recreational activities. The 5 options and costs were as follows:

- ❖ ADS StormTech: \$1,470,296
- ❖ Contech: \$1,392,912
- ❖ NDS: \$827,144
- ❖ StormTrap: \$1,857,216
- ❖ Triton: \$653,121
- ❖ Traditional Retention: \$253,820

- NDS and Triton systems pricing did not include installation or gravel bed costs, making the final cost unknown compared to the other options and therefore have been removed from consideration.
- Storm Trap is the most expensive of the options and therefore was removed from consideration.
- The two remaining options were ADS StormTech and Contech.

## StormTech

### Pro:

- Better long-term durability
- Longer life span
- Less maintenance required
- Depth = ±6'

### Con:

- Bigger footprint
- More upfront cost

## Contech

### Pro:

- Smaller footprint
- Lower upfront cost

### Con:

- Less durable
  - Indian Bayou Drainage issues with CMP
  - Overtime can rust and fail
- Less of a life span
- More maintenance required
- Higher maintenance cost
- Depth = ±9'

- Contech uses metal pipe, has a more frequent long-term maintenance requirements, the shortest service life, and is almost three feet deeper when compared to ADS StormTech, and has a higher probability to fail.
- The ADS StormTech system uses plastic pipe, requires less frequent maintenance, has a longer life expectancy, and is three feet shallower.
- The expected construction cost difference between the two is approximately \$77,384.
- The StormTech system provides a balanced quality standard for best value and park usage.
- ADS StormTech is recommended by the Engineering Division in consultation with the Public Works Department.

**Councilmember Destin moved to direct the City Manager to continue the redesign of the Destin Cross Town Connector retention system utilizing the ADS StormTech system to underground retention area #2; seconded by Councilmember Bagby.**

Councilmember Schmidt noted that the report did not include the source of funding for this project.

The City Manager stated that if the council gives the direction to pursue this option, the Finance Director will bring back potential funding options.

Community Development Director Louis Zunguze noted that if the motion is approved, they will be moving forward to a 100 percent design.

Councilmember King also expressed his concern regarding the funding for this project and how it could affect future expenses and funding for other projects. He also questioned whether it is worth spending \$1.5 million for a small piece of green space.

**Motion passed 6-1 (Council members King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes"; Councilmember King voted "no").**

**D. Viability of Cross-Town Connector property as temporary recreational area**

According to Councilmember Hebert, this is a wonderful way to give that area of town a nice place for residents to walk their dogs from dawn to dusk until that area is finished being developed. She also stated this will not be a maintenance issue for the city as she expects the owners to clean up after their dogs.

**Councilmember Hebert moved to direct the City Manager to make all necessary preparations to improve the Cross-Town Connector property to allow the walking of citizens and their dogs; seconded by Councilmember Destin. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted "yes").**

**E. Resolution 22-17: Repealing Resolution 21-07 - Eminent Domain**

The Deputy City Manager Webb Warren explained that with the receipt of the latest appraisal intimates it quickly became clear that the Shores at Crystal Beach property value had again grown beyond the city's budget estimates, and that it may behoove them to stand back from what may be a real estate anomaly and to also consider other opportunities; what initially started with a contract purchase price of \$3.6 million, has grown to more than \$7.2 million with further valuation uncertainty. However, this action does not forever close the door on the acquisition of this property but would do so for the immediate future. The proposed resolution will formally end the eminent domain process by repealing Resolution 21-07. While proposed Resolution 22-07 will end the eminent domain process at this time, it is not intended to prejudice the city from reengaging in the process at a time when acquisition, either voluntary or involuntary, becomes feasible. The County Commission is also considering a resolution withdrawing its resolution of support at this time. In a corresponding move, the city and county also proposed amending the latest interlocal agreement regarding beach acquisitions. The amendment to the interlocal agreement is straightforward. It removes references to the middle parcel, updates cost figure, and lowers the amount advanced to the city from \$10 million to \$7.5 million with corresponding and proportionate, lower repayments amount each year.

Councilmember Braden stated that they should not have waited two years to try to obtain this property. It is the crucial middle piece of the 3 properties they needed, and they have already obtained the two properties on either end of it. They should have taken a harder stance and been more aggressive in trying to obtain it earlier with the means available to them instead

of putting up with the property owner's procrastination and hoping he would come around and sell.

Mr. Warren explained this is a complicated process as there are multiple partnerships associated with it as well as different entities from which to get the funding.

Councilmember Schmidt asked what would happen if the seller decided to sell two years from now.

The City Attorney stated that they would need to follow a similar process.

**Councilmember Bagby moved to adopt Resolution 22-17; seconded by Councilmember Wagner.**

Councilmember King recommends not pursuing the middle parcel at its current price. He stated they already own the two parcels that people see when they come down Hutchinson Street, which in his opinion are the two most important properties. He recommends selling the easternmost parcel and redirecting their efforts on the number one piece of property which is Tarpon Street and putting the rest of the money for something else.

Councilmember Destin inquired as to the thought process behind the idea of obtaining the conservation easement.

The City Attorney stated it was Commissioner Boyle's idea. He thought they could stretch the money a lot further with a large-scale conservation easement now that they created the pathways for access for the public to traverse up and down the beach. He added they would need to engage the services of an appraiser to assess the market value for the easements.

Councilmember Bagby stated he would not support pursuing the middle parcel as he does not believe in rewarding bad behavior. The property owner procrastinated. He may not have any intention of selling his property at all.

Councilmember Braden expressed that he would not support spending \$7 million for a piece of property. He would also like to know more about the idea of obtaining a conservation easement as well as the process involved in it.

The City Attorney explained that the property owner of the beach grants to the city and/or the county on behalf of the general public the ability to use a certain section of the beach – for example, 5 feet from the toe of the dune to the erosion control line – for general beach activities such as sunbathing, swimming, and ingress/egress. The city would essentially purchase a small portion of the property owner's right. The idea is that this option would be much cheaper than buying the whole piece of property.

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

**Motion by Councilmember Destin, seconded by Councilmember Hebert, to direct the City Manager to pursue, in cooperation with the county, the acquisition of a conservation**

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

**F. Announcements**

1. Joint Workshop of the Town Center CRA and Harbor CRA Advisory Committees on Wednesday, October 19<sup>th</sup>, 5:30 PM, in the Annex Council Chambers, regarding the undergrounding of utilities.
2. The city’s Open House is scheduled for Thursday, October 20<sup>th</sup>, 11:30 AM to 1:00 PM, at the Destin Community Center.
3. Annual Fall Fest at the Destin Community Center on Monday, October 24<sup>th</sup>, from 5:00 to 8:00 PM.

**5. PUBLIC HEARINGS**

- A. First reading of Ordinance 22-15-CN - Amending appropriations for certain expenditures, expenses, capital improvements, and certain indebtedness for the City of Destin, Florida for the fiscal year beginning October 1, 2021 and ending September 30, 2022.

The City Attorney read proposed Ordinance 22-15-CN by title, and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN AMENDING APPROPRIATIONS FOR CERTAIN EXPENDITURES, EXPENSES, CAPITAL IMPROVEMENTS AND CERTAIN INDEBTEDNESS FOR THE CITY OF DESTIN, FLORIDA FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2021, AND ENDING SEPTEMBER 30, 2022; AND PROVIDING FOR AN EFFECTIVE DATE.

The mayor opened a public hearing to receive comments for or against the proposed ordinance. Having none, the mayor closed the public hearing portion and turned the matter over to the city council for discussion and consideration.

**Motion by Councilmember Bagby, seconded by Councilmember Destin, to approve Ordinance 22-15-CN on first reading passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).**

- B. First reading of Ordinance 22-16-CN - Providing for a six-month extension of the temporary moratorium on livery vessel permits; directing staff to develop recommendations for regulation of livery vessels; providing for expiration of moratorium on June 30, 2023.

The City Attorney read proposed Ordinance 22-16-CN by title, and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO LIVERY VESSELS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A SIX-MONTH EXTENSION OF

THE TEMPORARY MORATORIUM ON LIVERY VESSEL PERMITS; DIRECTING STAFF TO DEVELOP RECOMMENDATIONS FOR REGULATION OF LIVERY VESSELS; PROVIDING FOR EXPIRATION OF MORATORIUM ON JUNE 30, 2023, 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. Gene Eisenmann, a Destin resident, informed the council that he is the new president of the Water Sports Coalition. He stated that they have no major opposition to the proposed ordinance; however, there are some concerns about illegal livery operations taking place. He stated there is no distinction between bare boats and livery. He asked for more enforcement in this regard.

Mr. John Stephens, a Destin resident and livery operator, pointed out that part of the proposed ordinance is about directing staff to develop recommendations for regulation of livery vessels. He stated that he sent an email to the council detailing recommended additions to livery vessel regulations. He urged the council to consider adopting his recommendations as they have a lot to do with enforcement and safety.

Ms. Maya Shulder, a livery operator, questioned the precedence of a temporary 5-year moratorium on livery vessels. She stated that a 5-year moratorium does not equate to a temporary moratorium. She also asked if there are any other precedence for a temporary moratorium for any other industry that has taken this long.

Mr. Mike Abadie, a Destin resident and livery operator, stated that they have been trying to figure out for years how to stop the rogue operators, which have increased to the creation of this moratorium, from operating. They have calculated about a thousand illegal rentals in the City of Destin over the past summer. This equates to over \$1 million of untaxed and unpermitted businesses. Rogue operators are being allowed to operate freely and without much opposition. He also noted that he has filed a public records request that covered the period of January 1<sup>st</sup> to August 7<sup>th</sup> this year. The information revealed that there have been 5 verbal warnings, no written warnings, no citations issued, and no fines imposed during that period. For this reason, there is no risk for these rogue operators to continue to operate. He recommends imposing a \$10,000 fine for anyone operating on the city's waterways without a livery license and a \$5,000 fine for operating without a Business Tax Receipt (BTR) and failed to comply within 48 hours following a written citation. He also recommends the Sheriff's Department of the US Coast Guard seizing the vessels of those that are caught operating illegally. He added that he would be willing to offer a \$1,000 reward to anyone that provided information about an illegal operation to the city that resulted in the above punishment.

Having no further comments from the public the mayor closed the public hearing portion and turned the matter over to the city council for discussion and consideration.

**Councilmember Schmidt moved for approval of Ordinance 22-16-CN on first reading; seconded by Councilmember Wagner.**

Councilmember Schmidt recommends they schedule a city council workshop beginning in January 2023, soon after they receive the complete Harbor Capacity Study results, to discuss development of livery vessel regulations.

The Land Use Attorney noted that with regards to fines, the State Legislature does not allow local jurisdictions to impose fines as high as what Mr. Abadie was recommending. They are limited under citation authority to amount much lesser than those numbers. The Special Magistrate can allow them to impose a fine of \$250 a day for the initial violation, and a maximum of \$500 day for a repeat violation. She continued that she has had lots of discussions with the Code Compliance Director and the City Manager about ways to make the process more efficient and have come up with some ideas. The warning will need to stop as everyone should be aware of the rules by now. There should be shorter time for compliance. They also plan to schedule a Special Magistrate Hearing twice a month rather than just once a month.

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

- C. Candi Gray of Emerald Coast Permitting, Inc., on behalf of Wayne Lung of Heron’s Nest LLC has submitted an application for City Council review and determination for construction of a 26-slip commercial marina to be located at 105 and 109 Calhoun Avenue. The marina is proposed to consist of one (1) 392’ x 8’ access pier, one (1) 171’ x 9’ terminal platform, six (6) 30’ x 4’ finger piers, four (4) 25’ x 3’ finger piers, and two (2) 21’ x 3’ finger piers, comprising a total of ±5,821 square feet. The marina is also proposing to provide a Water Taxi Boarding Area.

The City Attorney sworn in the following individuals for testimony:

Daniel Butler, Senior Planner, City of Destin  
Mike Buckingham, Applicant’s Representative

Next, the City Attorney asked whether there have been any ex-parte communications pertaining to this project that have taken place.

Councilmember Schmidt announced he has had some conversations with different individuals recently regarding this application; however, he does not feel any of it would prejudice his ability to make an impartial decision regarding this project.

Councilmember Destin stated he has spoken to several people in the community regarding this project, but it will not affect his ability to make an impartial decision.

Councilmember Wagner announced he had spoken with several individuals about this project, but it will not affect his decision-making tonight.

Councilmember King – no ex-parte communications  
Councilmember Hebert – no ex-parte communications  
Councilmember Bagby – no ex-parte communications  
Councilmember Braden – no e-parte communications

Senior Planner Daniel Butler presented the project.

The project was heard and received recommended approval by the Harbor and Waterways Board on Monday, September 26, 2022. Also, the project requested a Variance from *LDC Section 11.05.01.M*, regarding the maximum length of dock allowed. The maximum length allowed along the Choctawhatchee Bay is 1.5 feet per linear foot of water frontage. The plans show 208 feet of waterfront, allowing for a 312' long pier. The proposed project is proposing a 392' long pier. The excess length is due to an identified environmentally sensitive area of sea grass within the first 100+/- feet of the pier. The Variance Request was approved at the regularly scheduled Board of Adjustment on October 5, 2022.

There are inconsistencies in the requested number of slips illustrated on the "revised" site plan submitted to the city versus the site plan submitted to the Florida Department of Environmental Protection (FDEP) and the United States Corps of Engineers (USACE). The number of slips on the approved USACE and FDEP plans are thirty-three (33). However, the applicant is requesting twenty-six (26). Twenty-five (25) commercial slips plus one (1) transient slip are identified as a "Transient Mooring Area." This transient mooring area is considered a slip and therefore shall only allow for one (1) transient vessel at a time. The applicant will be required to revise and resubmit the plans accordingly.

It is worth noting there are two existing docks at the site and portions of both structures exist within 25' of the riparian lines. The dock to the south will retain one boat slip or lift as identified on the site plan. The dock to the north is identified to have the existing boat lift removed. However, the dock layout is remaining untouched.

City staff has reviewed the application and determined that the plans comply with City codes and regulations, aside from the approved Variance requested for the maximum length of the dock.

Councilmember King inquired as to the uses of the allotted slips.

According to Mr. Buckingham, he has been pushing very hard over the years for a city marina to protect the fishermen. Their goal now is to have bay boat fishing and allow bay boat fishermen to have a place in the bay to operate their boats and their businesses.

The mayor stated they get a lot of west wind, but he did not see break water in the plans for this dock.

Mr. Buckingham stated it is something they are taking into consideration. They would have to go to the Florida Department of Environmental Protection and the Corps of Engineers first and then come back and request for break water.

The mayor opened a public hearing to receive comments for or against the proposed ordinance. Having none, the mayor closed the public hearing portion and turned the matter over to the city council for discussion and consideration.

**Councilmember Schmidt moved to approve the Commercial Marine Construction project located at 105 and 109 Calhoun Avenue, subject to the recommended Harbor and Waterways Board conditions and all applicable federal, state, and city permit requirements; and with stipulation that the city council has final approval on the development order. Councilmember Hebert provided a second to the motion.**

Councilmember Schmidt requests to see the whole plan before it is finally approved as either a Minor or Major Development Order.

Councilmember Bagby noted there has to be parking associated with this dock, which is what they have previously agreed upon on Norriego Point.

According to the Land Use Attorney, they would have to provide parking, which is part of their development order. The applicant needed a variance from the Board of Adjustment to get this dock at this length, which is why they went to that process first before determining what they were going to do for their development order. She also pointed out there are different parking requirements based on the type of vessels that go into those slips; adding this information will be provided during the development order process.

**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**

Councilmember Braden commented that with regards to the allegations made earlier by a citizen against the city’s Code Compliance Director, he feels a complaint process ought to be initiated regardless of whether the complainant decides to file a formal complaint.

The City Attorney will review the city’s current formal complaint process in detail.

##### **B. Councilmember Wagner**

##### **C. Councilmember Destin**

1. Installing a raised pedestrian crossing on Sibert Avenue similar to the raised pedestrian crossing located at the corner of Zerbe and Calhoun.

**Councilmember Destin moved to instruct the City Manager to install a raised pedestrian crossing on Sibert Avenue similar to the raised pedestrian crossing located at the corner of Zerbe and Calhoun; seconded by Councilmember Bagby. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).**

Councilmember Destin requests staff search for a set of plans that they have discussed in the past regarding intersection improvements for the crosstown connector and provide them to the council. He also recommends taking a comprehensive look at FDOT’s proposed solution for improving the intersection.

Councilmember Destin announced that former City of Destin Mayor Ken Beaird passed away recently.

**Councilmember Bagby moved to lower city flags at city facilities located within the city limits to half-staff immediately until sunset the day of interment in honor of former Destin Mayor Ken Beaird; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Wagner, and Braden voted “yes”).**

D. Councilmember Bagby

1. Code Compliance Process

Councilmember Bagby noted that the code compliance process has been the number one issue for over 9 years that he has been a member of the council. Historically, there have been a lot of problems not just in the city but in the county. It is an issue at Walton County, and they have 20 officers just for beach code enforcement. He continued that the Code Compliance Department is getting all the blames but not all of the problems they have are with the code compliance team. They are all partly to blame as they do not educate their citizens on the rules or process involved and what they ought to be doing. They are not giving their Code Compliance officers the tools they need to function more effectively. He noted that the city has a City Help Desk section online that the citizens can use to submit a complaint to the city on about 40 different subject matters. The complainant receives a tracking number that enables them to track the status of the complaint, the action taken and the length of time it took to resolve the problem. He agrees that verbal or written warnings are no longer necessary, but they have to empower these officers to start writing citations. They need to start identifying the specific instances and specific areas in the city where written citations rather than warnings would be more appropriate. They need to empower the new Code Compliance Officer and her team to do the job they want them to do.

According to the Land Use Attorney, the struggle for staff is knowing the priorities of the the council; adding that input from the council as what those priorities are would be very helpful for staff.

Councilmember Destin agrees that the council needs to identify their priorities to the City Manager who in turn conveys them to staff. They also need to train their Code Compliance officers and give them a clear standing of the code as it is very hard to enforce anything if they do not have a clear standing of the code. He also stated that he is relying on the city's attorneys to conduct a workshop with the officers and provide that training. Once the council has identified their priorities, they should sit down with staff and explain the ordinances that deal with those particular subject matters to make sure they have the knowledge necessary to go forward and enforce the codes.

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

Councilmember Schmidt recommends having the Code Compliance Director discuss the direction of her department for this coming year at a future council meeting.

H. Mayor Gary Jarvis

1. Returning to traditional sports seasons or to successful city-run sports programs in the past for each individual sport.

The mayor will discuss this item at the next city council meeting.

I. Land Use Attorney

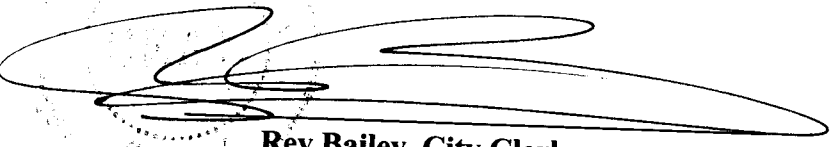
J. City Attorney

## 7. PUBLIC COMMENTS

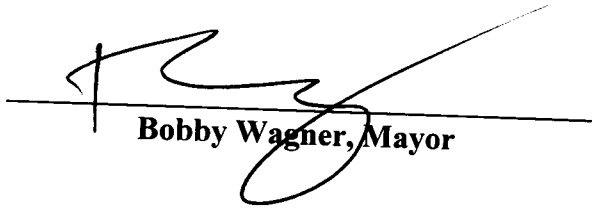
## ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 9:42 PM.

**ATTEST:**



Rey Bailey, City Clerk



Bobby Wagner, Mayor