

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
JANUARY 3, 2023
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 Bobby Wagner
Councilmember Jim Bagby
Councilmember Terésa Hebert
Councilmember Kevin Schmidt

Councilmember Dewey Destin
Councilmember Torey Geile
Councilmember Matthew Sweetser
Councilmember Johnny King

Destin City Staff

City Manager Lance Johnson
City Clerk Rey Bailey
Finance Director Krystal Strickland
Community Development Director Louis Zunguze
Grants/Project Manager Jeffrey Cozadd
Land Use Attorney Kimberly Kopp

Deputy City Manager Webb Warren
Human Resources Manager Jaime Dittmer
Public Works Director Michael Burgess
Building Official Noelle Bell
City Engineer Ryan Scott
City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Bobby Wagner called the meeting to order at 6:00 PM. The mayor called for a moment of silence, which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

Councilmember Sweetser requests the nomination of Mr. Christian Meyers to the Harbor CRA Advisory Committee be added under his name on the agenda.

Motion by Councilmember Schmidt, seconded by Councilmember Sweetser, to approve the agenda, as amended, passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser passed 7-0).

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

A. 2022 Destin Christmas Parade Winners

The mayor presented an award plaque to each of the following winners at the City of Destin 38th Annual Destin Christmas Parade:

- Noel Award / Band Award: Fort Walton Beach High School and Destin Middle School Bands
- Elf Award / Children Service: Destin Middle School Cheerleaders
- Santa's Helper Award / Children Commercial: Studio6twenty5
- Angel Award / Religious Award: Destin United Methodist Church
- Chamber Award / Commercial: Legendary Marine Service Department
- Civic Club / Civic Award: Miss North Florida Scholarship Pageant
- Crowd Pleaser: Destin Water Users

B. Recognition of 2022 Holiday Decorating Contest Winners

The mayor presented an award plaque to each of the following City of Destin Holiday Outdoor Decorating Contest winners:

- Best Decorated Home: Sarah Micholic, 307 Cardinal Lane
- Best Decorated Business: The Village Veterinarian, 155 Stahlman Avenue
- Best Decorated Organization: The Palms of Destin Homeowners' Association, 4201 Indian Bayou Trail
- Best Overall Holiday Award: Andy Murphy, 618 Sea Oats Drive

C. Lien Reduction Request - Ms. Carolyn Jones

Ms. Carolyn Jones presented a formal request to the city council for a lien reduction on two properties owned by her now deceased father: 74 Terra Cotta Way and 79 Tranquility Lane. The subject properties were previously the subject of code compliance actions before the city's special magistrate, and were found in violation of city code for failure to register as a short-term rental. The property owner is now deceased, and the property is currently going through probate proceedings. The property has now come into compliance through actions of the property owner's daughter, Ms. Carolyn Jones, to pay outstanding fees and properly register as a short-term rental. Ms. Jones requests that the lien be released. She provided several documentation in support of her request, including the timeline of events leading to the request for review by the council. She informed the council that daily fines were being imposed on her late father's property since 2018 without the knowledge of his family while her father was going through serious on-going health issues at the time. The fees accrued were more than the equity in the home. She asked the city council for some leniency towards this matter.

Councilmember Geile noted that Ms. Jones' statement with regards to fees accrued being more than the equity in the home might be misleading; adding that fees accrued for each home were \$330,000, and that Ms. Jones is combining both fees into the equity for one home. He also stated that since the deceased father was self-managing his properties during his illness, he was still accruing revenues on his properties while failing to fulfill his obligations to the city.

Councilmember Schmidt moved to decrease the accrued fines to \$45,000 for each property; seconded by Councilmember Sweetser.

Councilmember Hebert inquired as to the amount of money offered on both properties before the amount of the fines became known.

Ms. Jones stated they were only in the process of selling one of the properties and were in line to receive about \$300,000 in equities; adding they have not placed the other property on the market.

Councilmember Destin stated that they owe it to the citizens to enforce the fines. However, it was the deceased who violated the law and not the family members left behind. It would not be fair to obligate them to pay the full amount of the fines. They should only be responsible from the time they took charge of the properties.

Councilmember Destin offered a substitute motion to reduce the fines to \$20,000 for each property for a total of \$40,000. Councilmember Schmidt withdrew his motion on the floor and seconded the substitute motion.

Councilmember Bagby stated that they need to have a written policy on lien reduction. He feels the amount of lien being proposed is too low. It is not fair to the citizens, and that he is concerned about the message they will be sending to the public if they approve the motion.

Councilmember Schmidt stated this is a unique situation that warrants some leniency. It is not a scenario where someone is asking for a lien reduction without a valid reason.

Councilmember Geile noted that according to their strategic plan, their number one priority is their citizens. They will be denying them revenue from someone who was competent enough to manage and continued to accrued revenue on his properties while failing to comply with the law and pay his fees to the city.

Councilmember Sweetser stated that they should be able to show some compassions on these kinds of situations. He does not feel they would be setting a bad precedence by showing some compassion. .

Councilmember Bagby offered a substitute motion to reduce the lien amount to 10%, for a total of \$66,000 for both properties. Councilmember Hebert provided a second to the motion which passes 6-1 (Council members Schmidt, King, Hebert, Bagby, Destin, and Sweetser voting “yes”; Councilmember Geile voted “no”).

Councilmember Bagby moved to direct staff to bring back a proposed plan on lien reduction by the end of March 2023; seconded by Councilmember Destin. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser passed 7-0).

D. Lien Reduction Request - Mr. William Roof - 351 Sailfish

The current code compliance lien on the subject property is in the total amount of \$50,250. This amount reflects 201 days of noncompliance from January 22, 2022 through August 11, 2022 at \$250 a day. The property was brought into compliance on August 11, 2022, and the lien stopped accruing additional fines on that day. The applicant was asked to pay administrative fees in the amount of \$1,000 to reflect actual costs incurred by the city in staff

time for enforcement and special magistrate hearings, but the applicant has not paid the administrative fines to date due to a claim of financial hardship. The subject property was previously the subject of a code compliance action before the city's special magistrate and was found in violation of city code for excessive junk in the front yard. After entry of the order of violation, the city recorded the lien in the public record on June 17, 2022. The property is now in compliance through actions of the property owner, Mr. William Roof.

Mr. Roof explained that he was incarcerated during the time the lien was put on his property. Prior to the incarceration, he has been working on his property to get it up to code. He stated that his house was in compliance after the issuance of the initial citation. After he left the state for a divorce hearing, he came back to a new citation issued by another code officer. He continued that after his incarceration, it became his priority to clean up his property. He brought his property into compliance, however, the city's code officer insisted he returns to future special magistrate hearing for his property to stop incurring further penalties. He requested that the lien on his property be removed. His property was brought up to code following the initial citation, and due to unforeseen circumstances, he was unable to personally take care of his property after being issued the additional citation. He added that his property currently meets all codes and that he intends to keep it that way in the future.

Councilmember King stated that this is also a unique situation, adding he has known the applicant for quite a while to be a hard worker and a contributing member of the society.

Councilmember Geile noted that he has conducted his own investigations into this matter, knocking on doors, and talking to Mr. Roof's neighbors and asking questions about him. The majority of his neighbors described Mr. Roof as a good person always ready to help other people. He also stated he is more inclined to show leniency in this case since Mr. Roof's property is not a rental property. However, he noticed other things that need to be cleaned up on the property. In addition, Mr. Roof has a utility trailer and a vehicle in his driveway blocking the sidewalk, and another vehicle parked halfway on the street. He recommends giving Mr. Roof 30 days to fix these other issues and to be in full compliant, and the council could then reevaluate the situation and make their decisions at that time.

The Land Use Attorney noted that the violation on the property involved trash on the yard and not for parking in the right-of-way. Under the statutes, they would not be affording Mr. Roof due process if they held him to that condition in order to reduce or remove the lien on his property. The council's decision should be based solely on staff finding the applicant in compliant with respect to the trash on the yard.

The Land Use Attorney also noted it was her understanding the Deputy Code Compliance Director served Mr. Roof the notice of the hearing while incarcerated and could have assigned someone to represent him at the special magistrate hearing. However, there is no statutory requirement to physically hand-delivered the notice of the hearing in jail. The statutes only require the address of the respondent to be served, which staff has done, and so Mr. Roof was afforded due process in this case.

Mr. Roof denied being served with the notice of the hearing while in jail.

Councilmember Schmidt moved to reduce the fees to \$2,500; seconded by Councilmember Hebert.

The Land Use Attorney noted there is also an amount of \$1,000 in administrative fee which have not been paid. She asked whether the \$2,500 involves the fee.

Councilmember Bagby stated he would be more inclined to support reducing the fines to \$5,000 and allowing the applicant to come back in a year to request abatement for that amount.

Councilmember King stated this is a very different situation and that he feels they should forgive the entire lien amount.

Councilmember King offered a substitute motion to reduce the lien to zero and to have the applicant pay the administrative fee in the amount of \$1000; seconded by Councilmember Hebert.

Councilmember Bagby stated that violations involving trash in the yard are committed by residents and not short-term rentals, and so he will adhere to his previous recommendation. He feels they will be sending a bad message to the code compliance officers who are working hard writing up the violations resulting in fines only to be waived by the council because they feel sorry for the individual.

Motion passed 6-1 (Council members Schmidt, King, Hebert, Destin, Geile, and Sweetser voting “yes”; Councilmember Bagby voted “no”).

2. PUBLIC COMMENTS

3. CONSENT AGENDA

- A. Purchase of a John Deere ProGator 2020A and HD200 Select Sprayer
- B. Budget Amendment - Adjust to grant balance
- C. Approval of minutes of December 12, 2022 Council Executive Session
- D. Approval of minutes of December 12, 2022 Regular City Council Meeting

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

4. CITY MANAGER REPORTS

- A. Budget Amendment- authorization to fund two new full-time positions in the Finance Department

The Finance Director explained that the Finance Department is currently understaffed and unable to meet the full service demands of the city; and that this is due to a number of factors:

1. The revenue for the city, mostly due to a large increase in grants since 2020, has increased the amount of administrative time spent on complex projects as well as financial accounting.
2. Upcoming major upgrade and implementation of MUNIS and ENERGOV information systems requires a large amount of finance staff time.
3. The Finance Director must have the necessary time to develop staff to execute the day-to-day functions and financial processes to ensure the city is sustainable in operations, has financial accountability, and is meeting strict financial regulatory mandates.
4. The city has experienced significant growth in grant programs in recent years. Additional staffing is needed to maintain the current and future levels of grant and project activity.

Councilmember Schmidt moved to approve the budget amendments to authorize two new full-time positions in the Finance Department; seconded by Councilmember Hebert.

Councilmember Destin noted there is no actual budget amendments attached to this item, and that he cannot support this motion without knowing possible revenue sources of funding for these positions.

Councilmember Destin offered a substitute motion to approve the two new positions in the Finance Department and ask the City Manager to bring back sources of funding as a budget amendment in February; seconded by Councilmember Hebert.

Councilmember Geile noted they just relinquished over \$600,000 in fines that could have gone to the General Funds, and which could have been used to fund these two new positions.

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

B. Public Information Manager Confirmation - Ms. Tamara Young

According to Councilmember Bagby, by the charter, the council confirms the director’s position and not the manager position. The City Manager has the authority to hire a manager without confirmation from the council.

Councilmember Destin moved to authorize the City Manager to exercise his proper authority to hire a Public Information Manager, or any manager he sees fit, was seconded by Councilmember Bagby and passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser passed 7-0).

C. Proposed Request for Qualifications (RFQ) for Post Certificate of Occupancy Building Inspections

Building Official Noell Bell noted this item was tabled during the November 7, 2022 council meeting, but the council agreed to bring it back for further discussion tonight. The RFQ is in correlation with the recently adopted city ordinance based on the Florida Legislature’s

adopted Senate Bill signed into law on May 27, 2022. This law requires Condominium and Cooperative Associations to conduct Milestone Structural Inspections of building and to perform Structural Integrity Reserve Studies to ensure the buildings are safe for continued use. The Milestone Structural Inspection must be performed by a licensed architect or engineer authorized to practice in Florida for the purposes of attesting to the lift safety and adequacy of the structural components of the building and determining the general structural condition of the building as it affects the safety of such building, including a determination of any necessary maintenance, repair or replacement of any structural component of the building. The purpose of the milestone structural inspection is to determine if the condition of an existing building is in compliance with the Florida Building Code or the Fire Safety Code:

- Phase One Milestone Inspection: Visual examination of habitable and non-habitable areas of the building.
- Phase Two Milestone Inspection: Must be performed if any substantial structural deterioration is identified during phase one

Upon determining that a building must have a milestone inspection, the city's Community Development Department Building Division will provide written notice of such required inspection to the condominium association or cooperative association. Milestone inspection reports shall be submitted to the city's Building Official who shall review the reports and interprets the results of the inspections performed. Staff recommends the use of a professional consultant to help with the interpretations and understanding of the inspection reports.

Councilmember Schmidt moved to approve the proposed RFQ for Post Certificate of Occupancy Building Inspections; seconded by Councilmember Hebert.

Councilmember Bagby pointed out that nowhere in the statutes where it says, "It is the city's responsibility to review the milestone reports provided and interpret the results of the inspections performed."

The Land Use Attorney stated it is not required by the statutes. It is in the council's discretion.

Councilmember Bagby opined that the city is trying to do something that is not required and not envisioned in the state statutes at this time and could potentially put a liability on the city. He also feels they are way too far ahead of the process at this time; and that they may still be about two years away from needing to have a Structural Engineer on staff. He added that they may not be a requirement for them to do anything regarding this matter once some of the inconsistencies or the unknowns in Senate Bill 4D are worked out during the upcoming Legislative Sessions.

According to the Land Use Attorney, if the city ever taken any action, they could make an argument they are increasing liability on the part of the city.

Councilmember Hebert offered a substitute motion to continue this item to the second meeting in May; seconded by Councilmember Bagby. Motion passed 5-2 (Council members King, Hebert, Bagby, Geile, and Sweetser voted "yes"; Council members Destin and Schmidt voted "no").

Councilmember Destin asked whether the ordinance they recently passed pertinent to this issue contain the section Councilmember Bagby had concern about that would require the city to perform at Phase 2 Milestone Inspection. The Building Official replied that it does not.

D. Announcements

- Snowbirds' registration took place at the Destin Community Center today. So far, 860 people have registered.
- January 10, 2023 – Stakeholders' meeting on the Harbor Capacity Study results beginning at 5:30 PM in the Annex Council Chambers.
- City facilities will be closed on Monday, January 16th in observance of Martin Luther King Jr. Day. Next city council meeting is scheduled for Tuesday, January 17th.

5. PUBLIC HEARINGS

- A. First reading of Ordinance 23-01-CN - Providing for amendment of Sections 2-61 through 2-65 of the City of Destin Code of Ordinances on disposal of surplus property.

The City Attorney read proposed Ordinance 23-01-CN by title, and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AMENDMENT OF SECTIONS 2-61 THROUGH 2-65 OF THE CITY'S CODE OF ORDINANCES, DISPOSAL OF SURPLUS PROPERTY; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Motion by Councilmember Hebert, seconded by Councilmember King to approve Ordinance 23-01-CN on first reading and direct staff to advertise for second reading passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser voted "yes").

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

A. Councilmember Sweetser

1. Nomination of Mr. Jerod Hayden for an appointment to the Harbor and Waterways Board

Motion by Councilmember Sweetser, seconded by Councilmember Hebert, to appoint Mr. Jerod Hayden to the Harbor and Waterways Board passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser voted “yes”).

2. Nomination of Mr. Christian Meyers to the Harbor CRA Advisory Committee

Motion by Councilmember Sweetser, seconded by Councilmember Hebert, to appoint Mr. Christian Meyers to the Harbor CRA Advisory Committee passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser voted “yes”).

B. Councilmember Geile

1. Amendment to Section 7-28 - Tombstone, Monument, and Markers - of the ordinance of the City of Destin regulating city cemeteries designating another section of the Destin Memorial Cemetery Phase II to allow for tombstones, markers, or other monuments.

Councilmember Geile requests they open another section at the Destin Memorial Ceremony Phase II where they would allow upright monuments on burial plots. They currently only have one section opened and they have all been purchased. He stated that doing so would provide the city an additional revenue of approximately \$102,000.

Councilmember Geile moved to amend the ordinance allowing tombstones, markers, or other monuments on burial plots in sections FF, K, L, and OO at the Destin Memorial Cemetery Phase II located on Sibert Avenue; seconded by Councilmember Hebert.

Councilmember Sweetser stated that they should not be limited on what they could place on burial plots for their loved ones; adding that upright monuments should be allowed throughout the cemetery.

Councilmember Destin noted that he was a member of the council when they passed the ordinance to only allow flat markers at this cemetery. He did not agree to it then and he does not agree with it now.

Councilmember Bagby noted that the main reason that rule was created was for ease of maintenance. However, he would be agreeable to allowing upright monuments on burial plots throughout the cemetery as long as they meet existing parameters in terms of height, width, and so forth.

Councilmember Destin offered a substitute motion to amend the ordinance to allow for tombstones, markers, or other monuments on burial plots throughout the Destin Memorial Cemetery Phase II located on Sibert Avenue as long as they meet existing requirements, including height and width limitations, was seconded by Councilmember Hebert and passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser voted “yes”).

Next, Councilmember Geile recommends adjusting the fees to charge a non-resident substantial cost to purchase burial plots in the City of Destin, such as 10 times the amount charged to a resident, or not allowing them to purchase one at all. He added that they have over 13,000 residents and a very limited number of burial plots. Local residents are their number one priority according to their strategic plan.

The City Attorney noted that there are some legal issues they need to consider, such as the Equal Protection Clause. There are also special laws pertaining to cemeteries that they need to research to avoid any civil violations for the city.

Councilmember Geile moved to direct the City Attorney to work with staff in researching and bringing back proposed fee increases for the purchase of burial plots that is fair and reasonable and is supportable under the law; seconded by Councilmember Hebert. Motion passed 7-0 (Council members Schmidt, King, Hebert, Bagby, Destin, Geile, and Sweetser voted “yes”).

- C. Councilmember Destin
- D. Councilmember Bagby
- E. Councilmember Hebert

Councilmember Hebert requests the following items be placed under her name on the next council meeting agenda:

- Utility boxes paint project update
- Status update on the \$200,000 State Representative Maney received from the legislature to be used to design the Linear Park

- F. Councilmember King
- G. Councilmember Schmidt

1. Nomination of Capt. Jim Green for an appointment to the Harbor and Waterways Board

Councilmember Schmidt moved to appoint Capt. Jim Green to the Harbor and Waterways Board; seconded by Councilmember Hebert. Motion passed 6-1 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted “yes”; Councilmember Sweetser voted “no”).

Councilmember Schmidt requests scheduling workshop sessions with the city council to discuss the results of the Harbor Capacity Study, and what regulations, if any, they would need to put into place before the existing livery vessel moratorium expires in June 2023.

Councilmember Schmidt stated they need to adopt some type of regulation or a resolution to the FAA to disallow tour helicopters from infringing upon the City of Destin airspace. They are a safety issue, and the noise is ruining the outdoors.

Councilmember Destin noted that these tour helicopters are regulated by the FAA. They tried to control it several times in the past and ended up with similar results. The helipad for these helicopters is not located within the city limits. He added that there is current litigation whereby the

tour helicopter company is suing the county, and the city does not want to get involved in that litigation.

Councilmember Bagby stated they may have a chance to do something against the tour helicopters if they have video evidence they are violating FAA rules and regulations.

Councilmember Schmidt requests the following items be placed on the next council meeting agenda:

- Helicopter Safety
- Code Enforcement Inconsistencies

H. Mayor Wagner

1. Smoke-free parks and beaches in the City of Destin

The mayor asked staff to determine how the county voted on this issue

Councilmember Hebert asked staff to bring back a proposed ordinance at the next council meeting prohibiting smoking at any public beaches and parks in the City of Destin.

I. Land Use Attorney

J. City Attorney

1. City of Destin Enhanced Public Records Policy

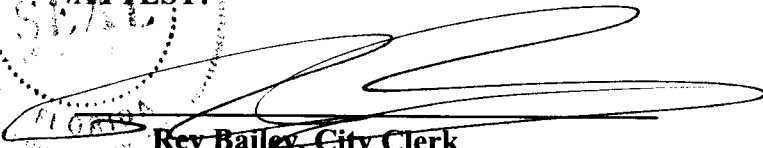
The City Attorney briefly discussed Resolution 19-27 – The City of Destin’s Enhanced Public Records Policy.

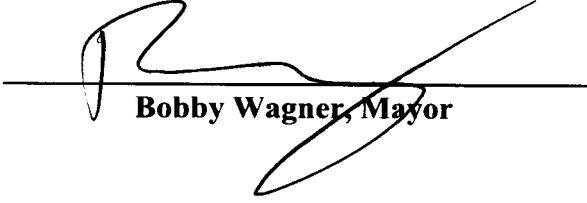
7. PUBLIC COMMENTS

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 9:00 PM.

ATTEST:


Rey Bailey, City Clerk


Bobby Wagner, Mayor