

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
MARCH 6, 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 Torey Geile
Councilmember Kevin Schmidt
Councilmember Terésa Hebert

Councilmember Jim Bagby
Councilmember Dewey Destin
Councilmember Johnny King

Destin City Staff

City Manager Lance Johnson
City Clerk Rey Bailey
Principal Planner Steve O'Connor
Human Resources Manager Jaime Dittmer
Finance Director Krystal Strickland
Code Compliance Deputy Director Danny Sullivan
Community Development Director Louis Zunguze
Land Use Attorney Kimberly Kopp

Deputy City Manager Webb Warren
Public Information Manager Tamara Young
Recreation Director Lisa Firth
City Engineer Ryan Scott
Senior Planner Daniel Butler
Public Works Director Michael Burgess
Grants/Project Manager Jeffrey Cozadd
City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Bobby Wagner called the meeting to order at 6:00 PM. Pastor David J. Butler of Faith Assembly Christian Church gave the invocation, which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

Councilmember Bagby requests agenda item 6G(1) be moved up on the agenda following approval of Consent Agenda items.

Motion by Councilmember Hebert, seconded by Councilmember Bagby, to approve the agenda, as amended, passed 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted "yes"; Councilmember Sweetser was absent from the meeting).

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

A. Flood Awareness Week - March 6-12, 2023

The mayor read the proclamation proclaiming the week of March 6th as *Flood Awareness Week* in the City of Destin, and then presented it to Public Works Director Michael Burgess.

2. PUBLIC COMMENTS

Ms. Jeannie Hawkins, a Destin resident, commented on the FAA's decision to allow tour helicopters to resume conducting their business from the Destin Executive Airport. She doubts whether the FAA has investigated the flight path and altitude taken by the Timberview Helicopters Company in 2020 and 2021, or if they have conducted an environmental impact study prior to making that decision. She stated that Destin is a small densely populated city with a very busy airport. These helicopters cannot fly at a safe altitude and avoid flying over homes. They affect the health and welfare of residents and visitors. She also noted that she has voiced her concern to county representatives and requested that they appeal that decision and asked the city council to do the same. She added that she would like to see an ordinance passed in the future which would eliminate this type of business in the City of Destin.

Mr. Shane Moody, President and CEO of the Destin Chambers of Commerce, addressed the current parking fee stating that charging \$5.00 for the entire day at Marler Parking Lot is way too low. They need parking garages, and they need money to build them. Raising the parking fee is one way to gain additional revenue.

3. CONSENT AGENDA

- A. Request from Pointe Mezzanine, LLC and Pointe Resort, LLC For Acceptance of Final Plat
- B. Morgan Sports Center Sod
- C. Miscellaneous Asphaltic Concrete Continuing Services, authorization to execute a contract
- D. Approval of minutes of February 6, 2023 Regular City Council Meeting
- E. Minutes of Board & Committees

Councilmember Bagby moved to approve Consent Agenda items 3A thru 3E, as printed above, seconded by Councilmember Destin. Motion passed 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted "yes"; Councilmember Sweetser was absent from the meeting).

Next item discussed was agenda item 6G(1) – Positions of City Manager and Deputy City Manager.

Councilmember Schmidt moved to set aside the order of the day and allow the council to have an open discussion related to the above topic prior to having a motion to consider; seconded by Councilmember Geile.

Councilmember Destin stated it would be necessary to have a motion first so they could set parameters around the item being discussed.

Councilmember Bagby agrees there need to be a motion first so that they know which direction to go with their discussion and prevent them from having to debate this issue all night.

Motion to set aside the order of the day failed 3-4 (Council members Schmidt, Hebert, and Geile voted “yes”; Council members King, Bagby, and Destin voted “no”; Mayor Wagner cast the tie-breaking vote of “no”; Councilmember Sweetser was absent from the meeting).

Councilmember Schmidt moved to place the City Manager on a 120-day probationary period, and then re-evaluate his performance at the first council meeting following the 120 days. During the next 120 days, the item to be considered will include but not limited to the following:

- **Fill all vacancies at the Community Development Department**
- **Fill all vacancies at the Finance Department**
- **Fill all vacancies at the Code Compliance Department**
- **Provide monthly code compliance report to include total number of cases and violations responded based upon complaints versus the total number of cases and violations created on by the Code Compliance Department personnel on their own accord; as well as the number of open cases and the number of cases that were closed due to coming into compliance**
- **Complete the Capt. Royal Melvin Heritage Park**
- **Execute the 100% plan and kickoff the start of the Clement Taylor Park renovation**
- **Provide a written plan of what tools, actions, and other items to be used to maintain the city’s employees and prevent them from leaving the City of Destin**
- **Provide a written plan on the Code Compliance Department actions to increase successful enforcement of illegal vessel operators at Joe’s Bayou Launch**
- **Complete items 2.4(a) thru (h) under the Management Objectives for Fiscal Year 2023**
- **Provide and publish a list of all transient boat slips along the Destin Harbor**
- **Complete a quality control assessment on the Code Compliance Department to create standards that are used with the city’s policies and procedures**

Councilmember Geile provided a second to the motion.

Councilmember Schmidt stated that as a member of the council, it is his duty to represent the citizens of Destin as their number 1 priority, the Destin businesses as their number 2 priority, and their visitors as their number 3 priority. He also agrees with the mission statement that they have established. He stated that during his tenure, he has done some research and come to realize a few things about the operations of city hall and the leadership within it. He also heard from residents, business owners, and visitors. The following are some of his areas of concern:

- **Personnel decisions within the City of Destin in regard to high level personnel (directors and managers). Certain employees that may not be doing the best job expected of them but are being retained at their current positions over the past years.**
- **There were employees getting numerous complaints from citizens about the job that they are doing along the streets of Destin, but they remain on the staff.**
- **There have been key employees that left, and there are those that have an opportunity to go somewhere else but are giving the city the opportunity to**

retain them. The City Manager has not been community these issues with the council in a timely manner.

- The council is constantly asking for status of directions that have given years ago but have not been completed. For instance, they have been discussing enforcement of illegal operators at Joe's Bayou for 3 years, but there have not be a single actionable thing that has taken place to help remedy this situation.
- He does not believe that all city employees love working for the City of Destin as others have claimed for the following reasons:
 - Fiscal year 2020 ended with 24 vacancies, and 17% turnover rate
 - Fiscal year 2021 ended with 23 vacancies, and 18% turnover rate
 - Fiscal year 2022 ended with 30 vacancies, and a 37% turnover rate
 - No actions are being taken to correct this situation or reverse this trend.
 - Leadership is not instituting things to improve upon this situation. The ultimate responsibility lies with the person in charge, which is the City Manager
- City Manager's Office personnel costs the City of Destin nearly half a million dollar a year in salaries and benefits.

Councilmember Geile asked whether members of the council have the opportunity to provide the City Manager an annual review; and if so, how many of the members typically provide the review.

According to the City Manager, each council member has an opportunity to provide an annual review around July each year, but only one or two members typically provide a review.

Councilmember Geile asked how many council members regularly meet with the City Manager to discuss any of their topics of concerns outside of an official city council meeting, and how often do those meetings take place.

The City Manager noted that on rare occasions, one or two members of the council would asked to individually meet him to discuss specific items.

Councilmember Geile stated that as a newly elected member of the council, he met with all the directors for the city. When asked, the Human Resources Director felt that the cause for the high turnover rate had more to do with pay and expectations from the younger generation, more so than management style. He stated that the council needs to figure out how much of that is their responsibility, and how much should fall on the City Manager and staff.

Councilmember Hebert noted that she has been working and communicating with the City Manager for many years and since he was still the Parks and Recreation Director. She has pointed out some of his successes and what she believes are his shortcomings, as well as some of the complaints they have been receiving. He gave her a litany of things he has taken care of, many of which without having to go before the city council. She communicates with the City Manager on a regular basis. There are things on the list Councilmember Schmidt outlined that are beyond the control even by an overly aggressive City Manager. She also feels they are moving in the right direction, and a lot of things are falling into place. She added that giving the

City Manager 120 days to accomplish everything on the list, especially completion of two city parks, is unrealistic and unfair.

Councilmember Bagby believes a lot of the problems they currently have are council's problems. They have not been clear in setting direction, objectives, or goals. For instance, the crosstown connector has been an issue for over a decade, and even though they have already bought the land, they are not yet close to completion. The council have made changes to the plans over the years to address issues such as ensuring a two-lane road, park addition, and drainage/ He recommends each council member meets with the City Manager and discuss their expectations.

Councilmember Destin offered a substitute motion for each council member to address their issues with the City Manager during the City Manager's evaluation in July; seconded by Councilmember Bagby.

Councilmember Schmidt explained that half of the list of things he outlined and which he would like the City Manager to complete are from the list of objectives the council approved and to be used to evaluate the City Manager's performance this year; adding that the deadlines to complete some of those tasks have already passed. He has also noted that he has discussed how he stood on these issues with the City Manager month ago.

The mayor asked for a vote on the substitute motion, which passes 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted "yes"; Councilmember Sweetser was absent from the meeting).

4. CITY MANAGER REPORTS

A. EnerGov Assist Consulting and Implementation Services

The Deputy City Manager noted that the city and Tyler Technologies recently performed a major upgrade to Energov (COMPASS) and MUNIS systems. All major upgrades of this magnitude require a lot of staff and technical support resources to successfully implement. City staff spent substantial time training for the new versions as well as working through inevitable bugs associated with a project of this magnitude. This upgrade allows the city to decommission the locally hosted server farm that hosted both the MUNIS and Energov systems. This move will reduce both employee and financial resources required to maintain a large database and servers associated with it.

Motion by Councilmember Hebert, seconded by Councilmember Bagby, to direct the City Manager to execute a contract with Tyler Technologies for Energov Assist up to the amount of \$80,000 from account 12552400-531000 passed 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted "yes"; Councilmember Sweetser was absent from the meeting).

B. Use of ADA Detectable Warning Mats, Surface Applied and Anchored

Councilmember Hebert moved to authorize the City Manager to use surface applied and anchored ADA Detectable Warning Devices on public sidewalks and within city properties in addition to cure-in-place products; seconded by Councilmember Geile. Motion passed 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted “yes”; Councilmember Sweetser was absent from the meeting).

C. Resolution 23-04 - Formation of Short-Term Rental Impact Committee

Councilmember Hebert moved for approval of Resolution 23-04; seconded by Councilmember Geile. Motion passed 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted “yes”; Councilmember Sweetser was absent from the meeting).

Councilmember Schmidt moved to appoint Ms. Marcie Bell to the Short-Term Rental Impact Committee; seconded by Councilmember Geile. Motion passed 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted “yes”; Councilmember Sweetser was absent from the meeting).

Councilmember King moved to appoint Ms. Casey Gates Ward to the Short-Term Rental Impact Committee; seconded by Councilmember Schmidt. Motion passed 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted “yes”; Councilmember Sweetser was absent from the meeting).

D. Legion Drive Traffic Safety & Operational Evaluation - update

Public Works Director Michael Burgess provided the following update:

- Council requested that a traffic analysis be performed on Legion Drive from Beach Drive to Main Street at its meeting on January 17th. The motion requires the study to be completed within 4 months.
- Staff solicited a scope of work and fee proposal from Volkert Engineering, one of the city’s continuing service providers.
- This proposal was presented to the Public Works/Safety Committee at their meeting on February 21st. At that meeting, the committee recommended that council move forward with this study.
- Subsequent to the Public Works/Safety Committee meeting, staff met to discuss the scope of work for the project. Staff has asked Volkert Engineering to make some modifications to the original scope and associated cost proposal.
- Staff has not yet received the revised documents.
- The scope of work, cost proposal, and deliverables will be provided for council consideration once received.

E. Tarpon Beach and Shore of Crystal Beach Park Plans

The Deputy City Manager noted that the council previously approved an ordinance modifying the interlocal agreement between the City of Destin and Okaloosa County to improve beach access in Destin by acquiring and developing an additional four gulf-front properties known as Tarpon Beach. For the new Tarpon Beach properties, the city and county will split the costs of acquisition, design, and park construction expenses. The county recently provided the updated task order to Baskerville Donovan, their design engineer, and is working on these projects.

Councilmember Bagby moved to accept the plans for Tarpon Beach and The Shore of Crystal Beach and direct the City Manager to work with Okaloosa County to procure a construction contract for the parks. Councilmember Hebert provided a second to the motion, which passes 6-0 (Council members Schmidt, King, Hebert, Bagby, Destin, and Geile voted “yes”; Councilmember Sweetser was absent from the meeting).

F. Paid Parking Fees

The City Manager noted that on July 1, 2020, the city expanded the paid parking program to include beach parking area south of US Hwy 98. Prior to this time, the only city paid parking lots were in the harbor district, Marler and Community Center parking lots. The rates for these parking areas were established as: Harbor District - \$5 for 24 hours; beach areas - \$5 for 5 hours. The resident park passes provide Destin residents with free access to the city’s paid parking lots. The council has indicated they would like to evaluate paid parking fees. Staff is requesting direction on this item.

Councilmember Geile recommends increasing the parking fees to \$50 to \$100 because Destin is a desirable place and people would be willing to come here and pay the fees.

Councilmember Hebert suggests charging a flat \$30 parking fee throughout the city to make things easy and obtain additional revenues to help finance a much needed parking garage for the city. She also noted there are several local restaurants that will now charge a parking fee at their place of business, and other places like the Emerald Grande plan to double their parking fees.

Councilmember Hebert moved charging a flat \$30 parking fee throughout the City of Destin. Motion died for lack of a second.

Councilmember Destin noted that the Marler Parking Lot only reaches its full capacity during a holiday weekend. They use it because it is convenient, and the fee is reasonable. Visitors will do just about anything to avoid paying for parking. He expressed concern that by raising the parking fee too high, they will stop using the parking lot and start parking everywhere else.

Councilmember Bagby moved to direct the City Manager to adjust harbor parking fees to \$2.00 per hour, beach parking fees to \$5.00 per hour; seconded by Councilmember Hebert.

Councilmember Schmidt offered a substitute motion to direct the City Manager to adjust harbor parking fees to \$20.00 per day, beach parking fees to \$20.00 for 4 hours, and paid parking fines to \$100.00, and to make the appropriate amendment to the fee schedule. Councilmember King provided a second to the motion.

Councilmember Bagby recommends directing the City Manager to present a paid parking revenue report to the council in the August time frame and adding that to the motion.

Councilmember Schmidt amended his substitute motion to direct the City Manager to adjust harbor parking fees to \$20.00 per day, beach parking fees to \$20.00 for 4 hours, and paid parking fines to \$100.00, and to make the appropriate amendment to the fee schedule. In addition, direct the City Manager to present a paid parking revenue report to the council in August. Councilmember King provided a second to the motion, which passes 5-1 (Council members Schmidt, King, Hebert, Bagby, and Geile voted “yes”; Councilmember Destin voted “no”; Councilmember Sweetser was absent from the meeting).

G. Joe's Bayou Passes and Fees

According to the City Manager, Destin residents currently receive Joe's Bayou annual passes free of charge, and that the daily launch fees are \$20.00. Staff is asking for council's consideration of Destin residents' annual passes to be reinstated at \$30.00 per calendar year and increasing the daily launch fees to \$30.00. Council's direction will be incorporated into the Schedule of Fees.

Councilmember Schmidt stated he would rather have the residents continuing to receive free annual passes and increasing the daily launch fees.

Councilmember Geile agrees that residents should come first, and that they should continue to offer this benefit to the residents.

Councilmember Hebert moved to direct the City Manager to reinstate the Destin residents' annual passes at \$20.00 per calendar year, to increase the daily launch fees to \$25.00, and to incorporate these changes into the Schedule of Fees tied; seconded by Councilmember King. Motion passed 4-3 (Council members King, Hebert, and Bagby voted “yes”; Council members Schmidt, Destin, and Geile – “no”; the mayor cast the tiebreaking vote; Councilmember Sweetser was absent from the meeting).

Councilmember Bagby requested that the council be provided a copy of the city ordinance or resolution which states that services that the city provides would be self-sustaining prior to the next council meeting.

Councilmember Geile left the meeting at 7:30 PM.

H. Announcements

1. City staff participated in a successful cleanup effort at the Destin History and Fishing Museum last week, with a representative from each city department.

2. The city's Parks and Recreation Department is working with the Destin High School Leadership Class on a beach cleanup scheduled for March 7th at June White Decker Park, from 7-9 AM.
3. The Destin Library will celebrate 20 years in its current Sibert Avenue building on March 17th. An entire week of festivities is planned to mark the occasion.
4. The city's Public Information Officer is working with the mayor to collaborate on collecting magazine columns that will help spread the word on various Destin subjects from safety and parking to inside stories showing local interests.
5. The city has hired two new code compliance officers, which are both certified parking in parking authorities, and who can help regulate parking in Destin.
6. Several vacant city positions have been filled since February 1st. Finance Department has hired a senior accountant. The Community Development Department has hired a new planner and an Engineering Assistant.
7. A city council workshop on Harbor Capacity Study has been scheduled for May 4th.
8. The first two draft Articles of the Land Development Code are now available for public review. The public can now access these draft articles through a link available on the city's website.

Councilmember Destin announced that Okaloosa County is going forward with the project to improve their public safety communications. It entails putting a 230-foot tall tower on Main Street. He asked that this item be placed on the agenda for the council's review and approval by April, or as soon as they can legally advertise it as a public hearing.

5. PUBLIC HEARINGS

- A. Second reading of Ordinance 23-02-CC - Amending Chapter 15 - Parks and Recreation, Section 15-38 of the Code of Ordinances, prohibiting smoking in city-owned public parks and city-owned public beaches.

The City Attorney read proposed Ordinance 23-02-CC by title and then presented it to the city council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES TO PROHIBIT SMOKING IN CITY-OWNED PUBLIC PARKS AND CITY-OWNED PUBLIC BEACHES; AMENDING CHAPTER 15 "PARKS AND RECREATION", SECTION 15-38, "BEHAVIOR", OF THE CODE OF ORDINANCES; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Councilmember Hebert moved to adopt Ordinance 23-02-CC on second reading; seconded by Councilmember King. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

Councilmember Destin moved to direct the City Manager to have staff erect signs that state that smoking is prohibited in city-owned public parks and beaches, reiterate the public health risks from smoking, and direct the public’s attention to the stop smoking programs in the State of Florida that are currently in place; seconded by Councilmember Bagby. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

- B. First reading of Ordinance 23-03-CC - Providing for modifying city code Section 7-21 - Definitions, Section 7-23 - Burial Plots and Mausoleum Niches, Section 7-28 – Tombstone, Monument, and Markers - of the ordinance of the City of Destin Regulating city cemeteries allowing upright monuments on burial plots throughout the Destin Memorial Cemetery Phase II, and restricting sales to only residents and immediate family, as currently defined in the code.

The City Attorney read proposed Ordinance 23-03-CC by title and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, REGULATING CITY CEMETERIES; PROVIDING FOR AUTHORITY; PROVIDING FOR MODIFYING CITY CODE SECTION 7-21 – DEFINITIONS, SECTION 7-23 – BURIAL PLOTS AND MAUSOLEUM NICHES; SECTION 7-28 – TOMBSTONES, MONUMENTS AND MARKERS; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Councilmember Hebert moved to approve Ordinance 23-03-CC on first reading and direct staff to advertise for second reading; seconded by Councilmember Bagby. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

- C. David Campbell of Civil Engineering, Inc., on behalf of Valiant Investment, LLC is requesting approval of Conditional Use 22-64-CU. This project includes the construction of an 8-unit long-term, multifamily attached (townhome) development, and the associated site infrastructure. The subject project is located at 807 & 809 Airport Road (Parcel IDs: 00-2S-22-3091-000J-0150 & 00-2S-22-3091-000J-0140), totaling approximately 0.84 acres.

The City Attorney asked whether there have been any ex-parte communications that have taken place relative to the application.

Each mayor and council members present replied “none.”

The City Attorney sworn in the following individuals for testimony:

- Principal Planner Steve O’Connor
- Senior Planner Daniel Butler
- David Campbell, Civil Engineering, Inc.

The Land Use Attorney request the agenda report and all its exhibits be admitted into the record as Staff Composite Exhibit A.

With no objections from the applicant, the mayor approved entering the agenda report and all its exhibits into the record as Staff Composite Exhibit A.

Mr. David Campbell of Civil Engineering, Inc., on behalf of Valiant Investment, LLC, requests approval of Conditional Use 22-64-CU. This project includes the construction of an 8-unit long-term multifamily attached (townhome) development and the associated site infrastructure. The subject project is located at 807 and 809 Airport Road. The proposed use is located within the Residential, Office & Institutional – Village Residential (ROI-VR) zoning district. The proposed use of long-term, multi-family attached dwellings is a conditional use in the Residential, Office & Institutional – Village Residential (ROI-VR) zoning district. The city’s Local Planning Agency has unanimously recommended city council’s approval of this application.

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

Councilmember Schmidt asked how the trash receptacles would work for this project.

Mr. Campbell stated there will be individual pickup. The site was designed in a manner that the truck could pull in, pick up the containers and then back up. do a T-turn and then pull out.

Motion by Councilmember Hebert, seconded by Councilmember King, to approve Conditional Use 22-64-CU passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

- D. John Green of ECM, on behalf of Pelican Adventures, Inc., is requesting approval of a Major Deviation to a Major Development Order and a Commercial Marina at 548, 580, & 600 Harbor Blvd (Parcel IDs: 00-2S-22-0310-000C-1390; 00-2S-22-0310-000C-139A; 00-2S-22-0310-000C-140B), with additional offsite parking to be located at 106 Benning Dr (Parcel ID: 00-2S-22-0310-000C-396A). The project proposes to expand the existing docks and construct parking areas to support an existing watersports business.

The City Attorney asked whether there have been any ex-parte communications that have taken place relative to the application.

Each mayor and council members present replied “none.”

The City Attorney sworn in the following individuals for testimony:

- Principal Planner Steve O'Connor
- Senior Planner Daniel Butler
- John Green, ECM

The Land Use Attorney request the agenda report and all its exhibits be admitted into the record as Staff Composite Exhibit A.

With no objections from the applicant, the mayor approved entering the agenda report and all its exhibits into the record as Staff Composite Exhibit A.

Mr. John Green of ECM, speaking on behalf of Pelican Adventure, Inc., requests approval of a Major Deviation to a Major Development Order and a Commercial Marina at 546, 580, and 600 Harbor Blvd, with additional offsite parking to be located at 106 Benning Drive. The project proposes to expand the existing docks and construct parking areas to support a watersport business. The business has 8 vessels total, per the approved plans. There are 3 vacant slips. There are no livery operations proposed or reviewed with this request. The project, as required by the Comprehensive Plan and the Land Development Code, has undergone a compatibility review and meets the minimum requirements.

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

Capt. Gary Jarvis, a Destin resident, stated there have been a lot of commercial docks built and/or repaired in quite some time in the harbor. In this particular case, the applicant is not increasing their slips but simply upgrading their facilities. They have run a professional business and have been quite transparent with all their activities. They are one of the few businesses on the harbor that are actually trying to take care of parking first. He highly recommends council's approval of the project.

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

Councilmember Hebert moved for approval of Pelican Adventures, a Major deviation to a Major Development Order and a commercial marina, as presented; seconded by Councilmember King. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

- E. Michael Dombrowski of MRD Associates, Inc., on behalf of ABC Amusement Co., is requesting approval of a Commercial Marina application at 530 Harbor Boulevard (Parcel IDs: 00-2S-22-0630-0000-03A1; 00-2S-22-0630-0000-03A3; 00-2S-22-0630-0000-03A2). The project proposes to construct a 4,353-square-foot, 17-slip wooden dock to the east of the existing 20-slip Gilligan's docking facility. Approximately 36 timber mooring piles will be installed within the slips.

The City Attorney asked whether there have been any ex-parte communications that have taken place relative to the application.

Councilmember Hebert replied "none."

Councilmember Bagby replied "none."

Councilmember Destin replied "none."

Mayor Wagner replied "none."

Councilmember Schmidt announced that he has had some communications with several individuals regarding this project, but those will not affect his decision making tonight.

Councilmember King also announced he has had some communications with other individuals about this project, but it will not affect his decision making tonight.

The City Attorney sworn in the following individuals for testimony:

- Principal Planner Steve O'Connor
- Michael Dombrowski of MRD Associates, Inc.
- Mike Abadie of ABC Amusement Co.

The Land Use Attorney request the agenda report and all its exhibits be admitted into the record as Staff Composite Exhibit A.

With no objections from the applicant, the mayor approved entering the agenda report and all its exhibits into the record as Staff Composite Exhibit A.

Mr. Michael Dombrowski of MRD Associates, on behalf of Mike Abadie of ABC Amusement Co. presented the proposed application for the construction of a commercial marina located at the existing Gilligan's marina. To the east is Harbor Docks, and to the west is an existing 20-slip marina that is part of Gilligan's that was built in 2010. They are asking for 17 additional slips for a total of 37 slips which is the maximum number they can have at that location. On March 1st, the Board of Adjustment reviewed, deliberated and approved a request for a variance from the LDC which limits dock length in the harbor to 200 feet. However, due to the existing environmental conditions limiting the location of vessel slips, the Board of Adjustment determined there was a hardship and voted 5-0 to grant the variance. He continued that this is a working harbor. This marina is not going to have pontoon boats or Jet Skis. They have been contacted by charter boats on 15 of the 17 boat slips. This will be more of a commercial than a residential marina and those 15 slips will go toward the charter boats.

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

Mr. Glenn Shelly, a Destin resident, stated that 266 feet out into the harbor is almost the length of a football field. He noted that the city is in the middle of a Harbor Capacity Study and so they should not approve anything that would increase activity in the harbor until after completion of that study.

Mr. Randy Taylor, a resident of the Destin Harbor Place, stated that he is speaking on behalf of the residential community in the harbor. The Destin Harbor Place is located right next to Gilligan's and that he is concern about the increased boating and other activities that could take place if this project is approved. He stated that he has been a resident on the harbor for over 10 years. Although he respects the fact this is a commercial harbor, there are people who live on the harbor and pay heavy taxes to live there. Their ability to enjoy their property is being taken away because of the congestion and all the activities taking place in the harbor. He urged the council to consider the wellbeing of the residential community on the Northside and the southside of the harbor as they deliberate on this proposed project.

Capt. Gary Jarvis, a Destin resident, stated that this dock and additional slips are sorely needed. He stated that their heritage in Destin is the charter commercial fishing fleet, and that he highly supports anything that will bring commerce in the harbor for the charter fishing fleet.

Mr. Kenneth Hanes, a Fort Walton Beach resident, stated that he is a frequent visitor to Destin, and he is concern that if they approve this application to extend the dock, they will be obligated to approved subsequent requests in order to be fair to all. He stated that the harbor is already very congested especially during peak season. He urged the council to delay deciding on this matter at least until after completion of the Harbor Capacity Study.

Capt Christian Myers, a Destin resident, stated that he has a charter boat down on the harbor. His biggest obstacle when he started his business was the lack of available slips as it took him years to get one. It was also very expensive especially to people like him who was just starting out on the business. He stated that he fully supports this project. It will not be a hazard since this dock is located in the widest part of the harbor and will not be in the way of navigation. He added that he would like to see more docks and more slips become available for his type of business.

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

Councilmember Destin asked whether this council has a legal authority to table this item until after completion of the Harbor Capacity Study.

The Land Use Attorney noted that the Board of Adjustment has approved the variance for the length of the dock. The circuit court and not the council is the appellant authority of the Board of Adjustment. There is a 30-day appeal period to circuit court. The only thing the council should legally be considering is section 11.05.01T – Marina Siting Standards which states that "No dock shall unreasonably interfere with the riparian rights of others." If the council feels there is unreasonable interference, they could deny the project on that ground; otherwise, they should approve the project.

Councilmember Bagby stated that though he really wants to support this project because they are one of those who do things right, he believes it will negatively impact the riparian rights of other people in the harbor.

Councilmember Bagby moved to deny the Commercial Marine Construction project located at 530 Harbor Blvd based on Marina Siting Standard Section 11.05.01T; seconded by Councilmember King.

Councilmember King noted that the aerial map of the property shows the shallow nature of the shoreline, and that it has gotten progressively worse over the years. He added that if the applicant wants to add as many slips as being proposed, there ought to be a dredge permit involved.

According to the Land Use Attorney, it was her understanding the Army Corp of Engineers and FDEP would not allow any slips in the shoaling area because there needs to be a one foot clearance between the bottom of the vessel and the bottom of the water or the sand area. There would need to be a dredge to get that much space if they would approve it.

Principal Planner Steve O'Connor stated that the Army Corp of Engineers and FDEP do not generally approve dredge permits when variances are allowed, as it was on this particular project, due to the fact dredging highly disturbs environmental sensitivity of the area.

Councilmember Schmidt wants to know for sure whether the applicant has the option to dredge in this case.

Mr. Dombrowski explained that during their pre-application meetings with the Army Corp of Engineers and FDEP, one of the things they discussed was whether there are ways of minimizing or avoiding dredging. One of the options discussed was to go before the Board of Adjustment to apply for variance to maximize the number of boat slips. In which case they would not have justification for a dredging permit at that location because of the option available to them.

Councilmember Schmidt asked whether they will be setting a precedence if they approve this project.

The Land Use Attorney explained there are code criteria that need to be reviewed for each individual property. A variance is unique to each specific property. There is also the Marina Siting Standards that need to be applied to the specific property. The council will not be setting a precedence by approving this specific project.

Mr. Dombrowski pointed out there is not a moratorium for docks in the Destin Harbor; and that in terms of riparian rights, they will not be impeding on anyone's riparian rights. Riparian rights are the extension of the property lines east and west. They have an existing dock of Gilligan's between what they are proposing and the Destin Harbor Place. Their other riparian rights line is the Harbor Docks which they have not expressed any impediment or opposition to this project.

Councilmember Destin asked in what manner would they interfere with the riparian rights of others in this case.

Mr. O'Connor stated that staff has no factual determination in that regard.

Councilmember Destin asked whether the council is allowed to dictate what kind of boats the applicant can have on the slips, and whether they can prohibit livery vessels.

According to the Land Use Attorney, there is nothing in the code that provides for that determination; adding that it is in the applicant's prerogative to volunteer that information. She also pointed out that the Board of Adjustment put the condition on the variance related to the types of vessels; however, it is more of a request rather than a demand.

"The applicant shall be encouraged but not required the prioritization of private yachts or vessels in slips E-8 thru E-11 as identified on the marine plan."

Councilmember Destin asked whether the applicant consent for this condition to be added to the permit.

Mr. Mike Abadie, the applicant, stated he is in the livery vessel business, and 20 of his current slips are for livery vessels, and that he has no intention to rent his slips to other livery vessel operators. The livery vessel moratorium may become permanent and livery vessel operators will not be able to obtain a permit from the city to add more livery vessels. He has a verbal commitment for 15 of his slips to the US Coast Guard licensed captain vessels. He will also rent to commercial vessels, private yachts, or to any vessel that is legal.

The mayor called for a vote on the motion, which passes 3-2 (Council members King, Hebert, and Bagby voted "yes"; Council members Schmidt and Destin voted "no"; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

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

- A. Councilmember Sweetser
- B. Councilmember Geile
- C. Councilmember Destin

- 1. Direct city staff to obtain a written document from the owner of the future Publix Shopping Center site in Destin indicating that they are interested in working with the city or selling a portion of the property to the city

Councilmember Destin moved to direct city staff to enter into negotiations with the Publix Shopping Center and obtain in writing that they are interested in working with the city or to sell or make a portion of their property available for the city's use. Councilmember Hebert provided a second to the motion, which passes 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted "yes"; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

2. Direct the City Manager to come up with written criteria for simplifying and making the permitting process much quicker

Councilmember Destin moved to direct the Land Use Attorney to work with the City Manager and Community Development Director in developing criteria for simplifying the permitting process and to bring the proposed item back for council's consideration by the first meeting in May; seconded by Councilmember Hebert. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted "yes"; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

3. US Hwy 98 and Stahlman Avenue Intersection / Traffic Corridor Study / Direction

Councilmember Destin requests this item be placed on the next council meeting agenda to allow the council time to review the Baskerville Donovan proposed US Hwy 98 and Stahlman Avenue Intersection/Traffic Corridor study.

D. Councilmember Bagby

Councilmember Bagby requests a coverage map that shows locations of existing structures as well as locations of other antennas at the proposed site of the 230-foot tower the county plans to build to improve their public safety communication be provided to council. He also asked city staff to communicate this matter with Eglin Air Force Base to make sure proposed structure will not negatively impact their mission.

Councilmember Bagby noted there have been a lot of public records requests lately coming from members of the council. In communications with some of his peers, he found out there are city or county regulation that states that if an elected official files a public records request that could take more than 2 hours of staff time to fulfill, it has to come before the entire body for approval; or they could also elect to pay the standard rate charge for public records requests. He stated that he will work with the City Manager in drafting a resolution pertaining to this matter and bring it back for council's consideration.

According to Councilmember Destin, he seems to recall a state statute that requires employees of a municipality to provide any information requested by an elected official. He recommends the city attorney and staff research this matter to make sure no state law is violated.

E. Councilmember Hebert

1. TDC - Popsicle Giveaways

Councilmember Hebert recommends tabling this discussion to the next council meeting, at which time the TDC Director is scheduled to make a presentation to council.

2. Joe's Bayou Code Compliance

Councilmember Hebert moved to direct the City Manager to bring back the costs associated with hiring either a part-time/seasonal or full time Code Compliance Officer

primarily for Joe's Bayou; seconded by Councilmember Destin. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted "yes"; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

3. Amendment to the LDC related to the length of Docks

Councilmember Hebert moved to direct the Land Use Attorney and staff to bring back a proposed ordinance disallowing variances for dock length; seconded by Councilmember King. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted "yes"; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

Councilmember Bagby moved to direct the Land Use Attorney and staff to bring back a proposed ordinance transferring the responsibility of hearing and deciding upon applications for variances from the Board of Adjustment back to the city council; seconded by Councilmember Hebert. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted "yes"; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

Councilmember Hebert recommends directing the Land Use Attorney and staff to reach out to FDOT and inquire as to the process and timeline involved in obtaining a portion of FDOT's excess funds this year to help in 3-laning Airport Road to the Marler Bridge; or in constructing a new Marler Bridge or extending the bridge.

Councilmember Bagby recommends assigning this matter to the council's representatives to the TPO instead.

The mayor stated that as one of the council's representatives to the TPO, he will address this matter with the TPO.

Next, Councilmember Hebert moved to appoint Capt. Gary Jarvis to the Short-Term Rental Impact Committee; seconded by Councilmember Destin. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted "yes"; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

F. Councilmember King

G. Councilmember Schmidt

1. Positions of City Manager and Deputy City Manager

Item discussed earlier in the meeting.

2. Nomination of Mr. Joshua Cowsert for membership to the Town Center CRA Advisory Committee.

Councilmember Schmidt moved to appoint Mr. Joshua Cowsert to the Town Center CRA Advisory Committee; seconded by Councilmember Hebert. Motion passed 5-0 (Council

members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

3. Picnicking/Splashpad at Leonard Destin Park

Councilmember Schmidt asked staff to obtain clarification to the language that was provided by the state as it relates to the pool deck/wet deck.

H. Mayor Wagner

1. Pickleball Legislative Sponsor

Motion to designate the mayor as a fact-finder for the pickleball issue passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

2. ADA Compliant Beach Mats

Councilmember Hebert moved to direct staff to inquire into the process involved in putting the mats in place in accordance with federal, state, county and city laws; seconded by Councilmember Destin. Motion passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

The mayor requests that “Red Light Cameras on US Hwy 98” be placed under his name on the next council meeting agenda.

I. Land Use Attorney

- 1. Request to call for an executive session on March 20, 2023, at 5:30 p.m., pursuant to section 286.011(8), Florida Statutes, in the case of Destin Fishing Fleet, Inc., v. City of Destin, Okaloosa County Court Case No. 2019-CA-000425-F.**

Motion by Councilmember Destin, seconded by Councilmember Bagby to schedule the executive session on Monday, March 20th, at 5:30 PM, passed 5-0 (Council members Schmidt, King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile was not present during the voting; Councilmember Sweetser was absent from the meeting).

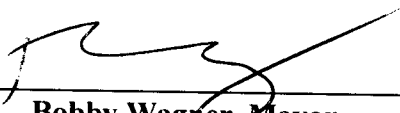
J. City Attorney

- 1. Update to qualifications for membership to CRA Advisory Committees – Resolution CRA 17-01**

Councilmember Schmidt moved to amend the city's resolution allowing a business owner within the CRA district who is not a Destin resident to be eligible for appointment to the CRA Advisory Committee. Motion failed for lack of a second.

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 9:36 PM.



Bobby Wagner, Mayor

ATTEST:



Rey Bailey, City Clerk