

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
MARCH 20, 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 Terésa Hebert

Councilmember Jim Bagby
Councilmember Dewey Destin
Councilmember Johnny King

Destin City Staff

Acting City Manager Webb Warren
Finance Director Krystal Strickland
Senior Planner Daniel Butler
Engineering Assistant Joe Bodi
Public Works Director Michael Burgess
Community Development Director Louis Zunguze
Land Use Attorney Kimberly Kopp

City Clerk Rey Bailey
Public Information Manager Tamara Young
City Engineer Ryan Scott
Building Official Noel Belle
Lisa Firth (virtual)
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 Steve Farris, First Baptist Church of Destin, gave the invocation, which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

Motion by Councilmember Hebert, seconded by Councilmember King, to approve the agenda passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

Councilmember Bagby moved to pull item 3D from the Consent Agenda and place it under the City Manager Report, and to move Consent Agenda item 3G under Public Hearing passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

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

A. Destin Youth Council Presentation - Approval of Resolution Supporting Discounted

Mid-Bay Bridge Toll Rates for Local High School Students

Destin Youth Council Chair Grace Fountain requests council's support of a resolution asking the Mid-Bay Bridge Authority (MBBA) to initiate a review of its toll schedule with the goal of discounting the Mid-Bay Bridge toll rates and providing additional relief to eligible high school students.

Councilmember Hebert moved for approval of proposed Resolution 23-05 – Discounted Mid-Bay Bridge Toll Rates for High School Students, seconded by Councilmember King.

Councilmember Bagby recommends contacting State Representative Maney's office and inquiring about a local bill Representative Maney is introducing moving the MBBA under the county's jurisdiction. He also noted that several businesses in the harbor are planning to petition the MBBA for a reduction in rates for nighttime traffic. He recommends contacting the Chamber of Commerce regarding this initiative.

Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

B. Proclamation - April Water Conservation Month

Mayor Wagner read the Proclamation declaring the month of April as *Water Conservation Month* for the City of Destin, and then presented it to Mr. Lockwood Wernet, General Manager of the Destin Water Users.

C. Okaloosa-Walton Homeless Continuum of Care - Ms. Crystal Harrison, Executive Director for the Homelessness & Housing Alliance

Ms. Crystal Harrison, Executive Director for the Homelessness and Housing Alliance discussed the homelessness issue in the community and the actions being taken to combat homelessness. She stated that Homelessness & Housing Alliance is the lead agency in the Okaloosa-Walton Homeless Continuum of Care. They believe that this community can end homelessness by working together to invest in affordable housing and implement best practices to help families and individuals in crisis. As the lead agency for the Okaloosa Walton Continuum of Care, they bring together homeless services providers, local governments, law enforcement, behavioral health provides, hospital, and affordable housing developers to ensure the community's programs work in tandem to meet the immediate needs of the homeless and to address long term drivers of homelessness. She stated that they recently completed their Annual Point in Time Count. The Count is an unduplicated count on a single night of the people in a community who are experiencing homelessness that includes both sheltered and unsheltered populations. She continued that out of the total number of people experiencing homelessness, about 37% suffer from mental illness and substance abuse, or are survivors of domestic violence abuse. Furthermore, homelessness is a humanitarian issue, a public health issue, an economic issue, and a moral issue; and that organizations can provide assistance through partnership, advocacy as well as education and awareness.

2. PUBLIC COMMENTS

Ms. Carrie Harbarger, a Destin resident, noted that Code Compliance officers have been quite vigilant on issuing citations to those who are using feathered flags in the City of Destin. She stated that feathered flags are not offensive in other communities and urged the council to change the rules regarding feathered flags.

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

3. CONSENT AGENDA

- A. Auction Services, agreement with GovDeals.com, piggyback off Okaloosa County contract
- B. Resurfacing and Re-Striping Scenic Hwy 98, west loop to Cobia Street
- C. ForeRunner Floodplain Management Software, authorization for purchase
- D. Public parking support for Destin's 66th Annual Blessing of the Fleet and Community Fish Fry on Thursday, May 18, 2023
- E. Easement consent for the placement of utility undergrounding equipment
- F. Tymco 600ss Street Sweeper, authorization to purchase, acceptance of trade-in offer
- G. Single-Family Residential Marine Construction Proposed at 523 Norriego Rd
- H. Single-Family Residential Marine Construction Proposed at 525 B Calhoun Ave
- I. Single-Family Residential Marine Construction Proposed at 783 Bayou Dr.
- J. Single-Family Residential Marine Construction Proposed at 4136 Belcourt Dr
- K. Approval of minutes of March 6, 2023 Regular City Council Meeting

Councilmember Bagby moved for approval of Consent Agenda items 3A thru 3C, 3E, 3F, 3H thru 3K; seconded by Councilmember Hebert. Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

Discussions followed relative to Consent Agenda item 3D above. Councilmember Bagby remarked that since they are already issuing two free parking stickers for every eligible household that has full-time residents, he does not see the rationale for waiving the parking fees for the Annual Blessings of the Fleet or other similar festivals.

Councilmember Destin pointed out that the Destin Annual Blessings of the Fleet is an event supported by all the churches in Destin. Now that the parking fee has been increased to \$20.00 per day, he would not want to charge the members of the churches in Destin who are not residents of Destin to pay a large parking fee for attending a religious ceremony. He recommends waiving the parking fee.

Councilmember King agreed stating this is more than just a parade. It is a spiritual tradition supported by boat captains, deckhands, and other people in the industry.

Councilmember King moved to waive the parking fees at the Marler Parking Lot on May 18, 2023, for the 2023 Blessing of the Fleet, seconded by Councilmember Destin.

Councilmember Bagby stated that if they waive the parking fees for this event, they need to be prepared to do the same thing for several other events in the city as a sense of fairness.

Councilmember King noted that the waiver is just for a single day, not for an entire week's event.

Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

4. CITY MANAGER REPORTS

A. FY 2022 Annual Audit and Financial Statements

Mr. Wade Sansbury of Mauldin & Jenkins gave the following presentation:

General Information About the Annual Comprehensive Financial Report

- Introductory Section
- Letter of Transmittal; Organizational Chart; Directory of Officials; Certificate of Achievement for Excellence in Financial Reporting
- Financial Section
- Independent Auditor's Report; Management Discussion & Analysis (MD&A); Financial Statements and Footnotes
- Statistical Section
- Financial Trends Information; Revenue Capacity Information; Debt Capacity Information; Operating Information

Compliance Report

- The financial report package contains a report on our tests of the City's internal controls and compliance with laws, regulations, etc. The report is not intended to provide an opinion on internal controls and compliance with applicable rules and regulations.
- This report and the procedures performed are required by *Government Auditing Standards*.
- We reported one compliance finding regarding investment compliance.

Single Audit

- The City received and spent approximately \$772 thousand of federal awards and approximately \$1.5 million of state financial assistance. This required us to perform two single audits covering approximately \$1.7 million of expenditures from the RESTORE Grant and the TRIP Grant.
- We noted no issues with regard to the use of these funds.

Required Communications

Significant Accounting Policies

- Management is responsible for the selection and use of appropriate accounting policies.
- The significant accounting policies used by the City are described in Note 1 to the basic financial statements.
- During the current year, the City implemented Governmental Accounting Standards Board (GASB) Statement No. 87, *Leases*. There was no significant effect on the City's financials as a result of this standard.
- The policies used by the City are in accordance with generally accepted accounting principles.
- In considering the qualitative aspects of its policies, the City is not involved in any controversial or emerging issues for which guidance is not available.

Management Judgment/Accounting Estimates

- Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events.
- The City uses various estimates as part of its financial reporting process – including actuarial assumptions.

Relationship with Management

- We received full cooperation from the City's management and staff.
- There were no disagreements with management on accounting issues or financial reporting matters.

Management Representation

- We requested, and received, written representations from management relating to the accuracy of information included in the financial statements and the completeness and accuracy of various information requested by us.

Consultation with Other Accountants

- To the best of our knowledge, management has not consulted with, or obtained opinions from, other independent accountants during the year, nor did we face any issues requiring outside consultation.

Significant Issues Discussed with Management

- There were no significant issues discussed with management related to business conditions, plans, or strategies that may have affected the risk of material misstatement of the financial statements.

Audit Adjustments

- There were no unrecorded or passed audit adjustments.

Financial Statement Disclosures

- The footnote disclosures to the financial statements are also an integral part of the financial statements and the process used by management to accumulate the information included in the disclosures was the same process used in accumulating the statements. The overall neutrality, consistency, and clarity of the disclosures was considered as part of our audit.

Information in Documents Containing Audited Financial Statements

- Our responsibility for other information in documents containing the City's basic financial statements and our report thereon does not extend beyond the information identified in our report. If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, we must be provided with printers' proof for our review and approval before printing. You must also provide us with a copy of the final reproduced material for our approval before it is distributed.

Auditor Independence

- In accordance with AICPA professional standards, M&J is independent with regard to the City and the financial reporting process.

General Information about the City - 2022

Year-end Numbers 2022

\$1,391 SPENDING PER
RESIDENT 

\$1,465 
DEBT PER RESIDENT

AVERAGE EMPLOYEE SALARY

\$60K 

 **\$28.1M**
GENERAL FUND -
FUND BALANCE

APPROXIMATE
NUMBER OF
EMPLOYEES **81**

 **42%**
PERCENTAGE OF GENERAL
FUND BUDGET SPENT ON
SALARIES AND BENEFITS

6.72%
INCREASE
FROM PRIOR YEAR



Other Information in Auditor's Discussion & Analysis

Additional report Issued by our Firm Annually Which Documents the Following:

- All Auditor Required Communications
- Summary of Current Year Findings and Recommendations for Improvements:
 - None
- Listing of All Upcoming GASB Standards and Pronouncements

Councilmember Hebert moved to accept the 2022 Annual Audit and Financial Statements for the City of Destin and for the City of Destin Community Redevelopment Agency; seconded by Councilmember King. Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

B. Discussion on Code Amendment for Code Compliance Lien Reduction Requests

The Land Use Attorney noted that the council has been asked to review multiple code compliance lien reduction requests, which request are authorized by the city code. However, notwithstanding this code authorization, the city code does not currently contain guidelines or criteria that might help the city council in making the determination. The city council directed that proposed code compliance lien reduction code provisions be brought back to the city council for consideration. The Land Use Attorney presented a list of proposed criteria to consider in order for the city council to reduce a lien imposed by the special magistrate in a code compliance case.

Councilmember Bagby recommends deleting the following from the proposed list of criteria:

- Criteria #6 – *“Whether the applicant acquired the subject property with knowledge of the subject lien.”*

Councilmember Bagby stated that with the applicant not having knowledge of the subject lien should be between them and the title company, and not something with which the city needs to get involved.

- Criteria #9 – *With respect to a speculator, non-homestead purchaser of the subject property, the accrued amount of the code compliance fine or lien as compared to the investment/profit that will be gained as a result of the purchase or sale of the property and the reduction or satisfaction.”*

Councilmember Bagby requests that at least the word “speculator” be removed and just leave it as a “non-homestead purchaser.”

After further discussions, Councilmember Bagby moved to direct the City Land Use Attorney to prepare an ordinance establishing the code compliance lien reduction with the following modifications: Removal of criteria #6 and #9. Councilmember King provided a second to the motion, which passes 4-1 (Council members King, Hebert, Bagby, and Destin voted “yes”; Councilmember Geile voted “no”).

C. Acquisition of Property for the Crosstown Connector

The Deputy City Manager noted that the Beach Drive to Benning Drive project is the last unconnected leg of the city’s Crosstown Connector, an east-west corridor intended to relieve traffic congestion on U.S. Hwy 98. There are several properties located within the project area that will require purchase by the city, both complete and partial acquisitions.

Motion by Councilmember Hebert, seconded by Councilmember King, to approve the purchase of 700 Legion Drive and authorize the City Manager to execute the purchase agreement and proceed with closing passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

Motion by Councilmember Hebert, seconded by Councilmember King, to approve the purchase of 609 Sandalwood Drive and authorize the City Manager to execute the purchase agreement and proceed with closing passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

D. Issuance of Certificate of Occupancy - Capt. Royal Melvin Heritage Park

The Deputy City Manager noted that the city is a subrecipient, through Okaloosa County, of RESTORE Act Grant funding furthering the development of the Capt. Royal Melvin Heritage Park. Staff is proposing a plan to open the park by Memorial Day, 2023.

The Land Use Attorney requests that council directs the City Manager to provide the county and the US Treasury a formal notice of the city’s desire to complete Punch List Work at a cost to be borne by the city, to authorize the City Manager and legal to take the steps necessary in order to complete the Punch List Work in an amount up to \$50,000, to authorize an internal budget transfer of \$50,000 from the Buck Destin Restroom project to complete the Captain Royal Melvin Park and obtain a certificate of occupancy for the park prior to Memorial Day 2023.

Councilmember Destin expressed his support of the proposed motion from the council to complete the Captain Royal Melvin Park except for taking funding away from the Buck Destin Restroom project; adding that completion of the latter is a high priority for the Parks and Recreation Committee which recommended it. He recommends taking the money from the fund balance.

Finance Director Krystal Strickland noted that transferring the money from the fund balance will require a budget amendment.

The City Attorney suggests doing an internal transfer from the council contingency tonight to expedite matters, and then have another motion to bring back a budget amendment transfer from the fund balance back to council contingency at the next meeting.

Councilmember Destin moved to direct the City Manager to provide the county and US Treasury formal notice of the city’s desire to complete the Punch List Work at a cost to be borne by the city, to authorize the City Manager and legal to take the steps necessary in order to complete the Punch List Work in an amount up to \$45,000, to authorize an internal budget transfer of \$45,000 from the Council Contingency Fund, to complete the Captain Royal Melvin Park and obtain a certificate of occupancy for the park prior to Memorial Day 2023. Councilmember Hebert provided a second to the motion, which passes 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

Motion by Councilmember Bagby, seconded by Councilmember Destin, to direct staff to bring back a budget amendment at the next council meeting in the amount of \$50,000 from the Fund Balance to the Council Contingency Fund was seconded by Councilmember Hebert and passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

E. Subaward Agreement Extension - Restore Act/Captain Royal Melvin

The City Attorney explained this is a housekeeping item required of the city's Restore Act Grant with Okaloosa County and the US Treasury. The subaward agreement will need to be extended due to the fact that the park is not open, and the subaward agreement requirements have not been satisfied yet. This amendment will extend the Subaward Agreement to June 15, 2023.

Motion by Councilmember Hebert, seconded by Councilmember King, to authorize the mayor to execute Amendment Four to the Subaward Agreement No. 2020-R14 passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

F. Announcements:

1. Five new hires, one internal promotion, no resignations or employment termination for the month of February 2023 for the City of Destin.
2. Planner position in the Community Development Department that was vacant for 157 days has been filled.
3. The city's Public Information Manager met with the County's Emergency Manager Patrick Maddox, toured the County EOC, and undergone 4 levels of FEMA certification for crisis preparation.
4. Thank you to Council members Hebert and Bagby for attending last Friday's Destin Library anniversary celebration.
5. The Destin Library has an Easter Treat Trail events scheduled for April 5th, 10:00 AM, for toddlers and preschoolers.
6. The city's annual Easter Egg Hunt for youth ages 12 and under will be on April 8th at the Morgan Sports Center beginning at 9:00 AM.
7. The Buck Destin Park will be hosting a community yard sale on March 25th from 8:00 AM till noon. Anyone interested in selling their belongings can sign up for a fee of \$15 for Destin residents and \$20 for non-residents.
8. The city's strategic partners with Okaloosa Coastal Resource Team deployed and sunk a 191-foot vessel about 16 miles offshore. This public artificial reef will be very beneficial for Destin fishing and diving industries.
9. There have been some media attention on the Sargassum in the Atlantic. The city has been monitoring that issue closely. All parties are involved not only with permits but with public information dissemination, as necessary. The city is working closely with the county. If it becomes a significant problem, there is a plan for swift action.

5. PUBLIC HEARINGS

- A. Second 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-LC by title, and then presented it to the city council on second 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 for approval of Ordinance 23-03-CC on second reading; seconded by Councilmember Geile. Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

B. Single-Family Residential Marine Construction Proposed at 523 Norriego Road.

The City Attorney asked whether the mayor and any members of the city council have been involved in any ex-parte communication with regards to the proposed project.

Each mayor and council responded that despite the email they received with regards to the proposed project, they feel they can make a fair and balanced judgement tonight.

Next, the City Attorney swore in the following individuals for testimony:

- Building Official Noell Bell
- Senior Planner Daniel Butler
- City Engineer Ryan Scott
- Scott Shackley of William F. Davis Construction
- Robert Champagne, Property Owner – 523 Norriego Road
- Charles Mülle – 521 Norriego Road
- Larry Edwards – 525 Norriego Road
- Pam Edwards – 525 Norriego Road

Attorney Travis Morock, representing the applicant, noted that Seaside Property acquired the property at 523 Norriego Road a few years ago. Since acquiring the property, they have been engaged in a lengthy process reconstructing a single-family residential dock originally permitted in the 1990s. The dock was dilapidated and in bad need of repair. All the required documents and requirements have been satisfied. The project is consistent with the city’s comprehensive plan and land development code. It complies with all city codes and regulations. There is no anticipated effect on the budget as well as on the level of service. There is no legal basis to deny this project. The adjacent property owner’s claim on the basis that the project has a negative impact on the view from his property is not a basis to deny this project and is not superior to his

client's use and enjoyment of their own property. He asked for the council's approval of the project as submitted.

Councilmember Hebert asked whether the property owner applied for a board for board replacement of their dock when they initially applied for a permit.

Attorney Morock replied it was applied for and reconstructed exactly the way it was previously.

Councilmember Hebert pointed out there is a party deck that is being built above the pier that was not originally part of the original pier but is now being added.

Mr. Scott Shackley from William F. Davis Construction stated that the original plan that was submitted to the City of Destin showed that they were taking a 52-foot wide double barrel roof style and converting it to a flat deck under a rebuilt permit. It is the exact footprint replication. It is not a party deck, just an observation deck. The original permit with the City of Destin showed the stairs, the handrail, and the entire flat deck structure. It met all the city's requirements. The city only had an issue when the neighbor started complaining that the project would interfere with their view.

Councilmember Hebert asked staff whether there had been any alterations to the entire deck structure that were originally permitted.

Building Official Noell Bell noted that the board for board permit was submitted in June 2022. When it was issued in November and construction started was when the complaints came in; not that the view was obstructed necessarily but that the work was not being done in accordance with the permit. She went out to the construction site to verify whether the work was being done in accordance with the permit and discovered that it was not, so a stop work order was issued. Since this is a residential dock that was not for a board for board permit because there were changes made, it was then referred to the Harbor and Waterways Board. The Harbor and Waterways Board considered two motions during its meeting; one to approve and the other to deny the application. Both motions resulted in a 3-3 tie, resulting in no recommendation from the Harbor and Waterways Board.

Mr. Shackley noted that their initial application to add a flat deck instead of a roof was based on the Florida Department of Environmental Protection (FDEP) approving it as a rebuilt with a flat roof.

Councilmember Geile stated it is a definite intention change by definition; adding that they cannot put the same material on a roof that they can put on a deck that has foot traffic.

Mr. Shackley maintains that the original dock 30 years ago did not have a deck. It had a very large roof.

Councilmember King stated that he does not understand why this application is even an issue at this time since it meets all the code requirements and is approved by the Building Division.

At this point, the mayor opened a public hearing to receive comments for or against the application.

Mr. Charles Mulle of 521 Norriego Road, a neighbor on the west side of the property, noted that the applicant requested and received a permit for board for board replacement, which has certain conditions including notifying the neighboring properties of the project. He stated that he did not receive any notification. He pointed out that a covered boathouse requires a submerged land lease, and likewise for a boat dock in excess of a thousand feet. He added that the entire original structure was removed and rebuilt. It is all brand new construction that is much larger and not in the same footprint. He objects to the elevated party deck. There are no lavatory facilities. He also learned that FDEP has category stated that this project would require a submerged land lease, in which case would require consent of the neighboring properties. He further stated that he attended the Harbor & Waterways Board meeting where this project was discussed. The Board was deadlocked in both the approval and denial of this project, but not over the issue that this is all brand-new construction and not a board for board construction that was permitted.

Mr. Larry Edwards, a resident of Jackson, Mississippi, noted that they have owned the property at 525 Norriego Road, located on the east side of the property, for 35 years. They do not rent the property. It is strictly a beach house for him and his family. He pointed out that the construction was much larger than was permitted. He stated that he has aerial photos of the property dated 2013 and also in 2015 when it was totally rebuilt. He added there are approximately 40 houses on Holiday Isle and Sandpiper Cove combined, but there are only 5 lots that have a deck above the water. This project would be the largest if it is allowed to be completed. It should require a submerged land lease from FDEP. He pointed out there was an email to the city where FDEP has indicated that a submerged land lease would not be required since this is a board for board replacement. However, since this is a completely new construction, they should be required to have a submerged land lease from FDEP and the consent of the adjacent property owners.

Mr. Will Ellison, 744 Kelly Street, noted that this project meets all the code requirements. The previous speaker is not even a full time resident and has indicated that they use their property as a vacation home. He urged the council not to deny a resident the full use of their property.

Ms. Pam Edwards, a resident of Jackson, Mississippi and owner of the property at 525 Norriego Road, stated that their property at 525 Norriego Road is not just a summer home. She and her entire family spent a lot of time at that house and practically raised their children there. They have owned that home for over 35 years.

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

Building Official Noell Bell noted that the city provided FDEP with all the details of the proposed dock construction as well as all the information submitted to the Harbor & Waterways Board. They informed FDEP that the deck was going to be added. The FDEP responded back stating they will not require a submerged land lease as they considered the footprint to remain the same.

Councilmember Bagby pointed out that the applicant was granted a permit for a board for board replacement. They have a process in place whereby staff approve a board for board replacement. Now that it has been revealed it is not a board for board replacement but a new construction, the aforementioned permit should not even be valid because the applicant would need to go through a different process. This process includes going before the Harbor & Waterways Board and obtaining approval from the city council. He asked if there has been a change in price for the construction.

Ms. Bell noted that the cost remains at \$69,000.

Councilmember Hebert inquired as to the purpose of this dock with a deck being built on an empty lot.

Attorney Morock explained that the lot is currently vacant. The dock is being built so that the property owner can go ahead and store their boat at the property.

Mr. Robert Champagne, the applicant, noted that they have a residence in Destin where he and his family stay during the summer. They are not building a party dock. He purchased two vessels which he intends to store on his property at 523 Norriego Road and launch them from there with his family. He stated that neighboring property owners are in opposition because he is supposedly blocking the view that he paid for. He stated that his neighbors' docks are twice the size of his dock, and so they should tear up their dock if they want a better view.

Councilmember Geile stated whether someone's view is being obstructed is not his main concern. He wants to make sure the exact letter of the law is being followed. He would also like to have the opportunity to read the minutes of the Harbor & Waterways Board meeting to get more details on how the board members came up with the deadlocked votes on this subject. He also noted that as a contractor himself, he knows that when he is building something and some adjustments to the plan need to be made, the permit fees should increase based on the increase in construction costs.

Councilmember Bagby inquired as to the FDEP setback requirements that would trigger a submerged land lease review.

Ms. Bell stated that she is not sure of FDEP's setback requirements. She reiterated that all the details with regards to the dock construction were submitted to FDEP, and based on that information, FDEP determined that the dock is in the same footprint as the original dock and a submerged land lease review is not necessary.

Councilmember Bagby requests a copy of the materials staff sent to FDEP and a copy of FDEP's response to staff be provided to the council.

Senior Planner Daniel Butler noted that a copy of FDEP's response email to staff was provided to the council by the City Clerk prior to tonight's meeting.

Councilmember Bagby stated that he has not read all the materials provided to council that were not part of the original packet. He also stated that the permit fee needs to be re-examined because he feels this is more than a \$60,000 dock. He added he is not willing to make

any decisions on this matter until they are able to review the cost of the facility and obtain answers to all the questions that have been posed tonight.

Councilmember Destin noted that since they are treating this application as a quasi-judicial matter tonight, there should be an expert testimony that could testify whether this dock reconstruction interferes with anyone's riparian rights.

The Land Use Attorney noted that the City Engineer can testify to the riparian rights issue because it was the same issue on another dock that was recently denied by the council. The City Engineer has conducted an analysis on this matter.



Referencing the above exhibit, the City Engineer provided the following information:

- Above exhibit comes from the Okaloosa County Property Appraiser website
- The exhibit shows the overlaps for both properties
- The existing property on the left encroaches about 18 ½ feet into the riparian rights
- The dock that is in question tonight encroaches about 6 feet into the riparian rights. Since it was built about half a foot bigger on each side, the length will be about 6 ½ feet encroachment into the riparian rights.

Councilmember Destin asked when the 25-foot rule on riparian setback came into effect.

Mr. Butler stated he cannot attest as to the date the 25-foot rule came into effect, however, if it is within the 25-foot setback they notify the neighbor based on city code.

Councilmember Destin noted that the 25-foot rule came in after the City of Destin was incorporated in 1984. Structures that were in existent prior to that date should be grandfathered in and not subject to that rule.

The Land Use Attorney stated that structures that fall under that category would be considered legal non-conforming based on the city code.

Councilmember Destin noted that they received testimony tonight that the dock in question, and possibly the docks on either side of it, were in existence before the city's incorporation. Which means there is no riparian issue involved in this case. He recommends verifying all this information and seeking a legal opinion regarding this matter.

Councilmember Bagby opined that if it was a board for board replacement, the grandfathering status should apply; however, a new construction that is not in the existing footprint should fall under the city's current code and existing FDEP setback.

The Land Use Attorney stated that statement would be true under the city's code if it involves a total alteration of the deck.

Attorney Morack reiterated that this project is in full compliance with city codes with city staff's recommended approval. It is consistent with the city's comprehensive plan. All the discussions about what FDEP may or may not do and the riparian rights issue are irrelevant in this case.

According to Councilmember Hebert, this project was brought before the Harbor & Waterways Board for their approval and recommendations to the city council because the stairs and the deck were not part of the original plan.

Councilmember Bagby moved to table this item to the second meeting in April 2023; seconded by Councilmember Destin. Motion passed 4-1 (Council members Hebert, Bagby, Destin, and Geile voted "yes"; Councilmember King voted "no"; Council members Schmidt and Sweetser were absent from the meeting).

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

A. Councilmember Sweetser

B. Councilmember Geile

1. CivicRec

Councilmember Geile noted that the city currently has a program in place called CivicRec where people can reserve the ballfields. It seems there is miscommunication as the Parks and Recreation staff are being directed by different people into making the reservations for them causing a burden for the staff and creating an unpaid balance on fees.

Councilmember Geile moved that city staff re-trains the Destin High School on the usage of the city's CivicRec online service in reserving the ballfields and redirects the high school to utilizing that program; seconded by Councilmember Bagby. Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

2. Parking Fees

Councilmember Geile asked Mr. John Stephens, a Destin resident and business owner to briefly discuss some of the issues they are encountering in the harbor with regards to the parking fees and parking fee increases.

Ms. Stephens stated that the \$20 parking fee the council recently approved in the harbor will create a burden for employees in the harbor as there are more members of the service community that work in the harbor that do not reside in the city and are not able to take advantage of the free parking passes for residents. This will create staff shortages as the service staff will seek other employment outside the City of Destin. He recommends offering businesses the ability to purchase these parking passes so they can provide them for their staff.

Councilmember Geile moved to direct staff to come up with parking options for the employees in the harbor, bring it before the Public Works/Safety Committee for their review and recommendation to this council; seconded by Councilmember Destin. Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

C. Councilmember Destin

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

Councilmember Destin moved for the council to appoint him as the council's liaison to staff and the city's consulting engineer Baskerville-Donovan to help facilitate the US Hwy 98 and Stahlman Intersection/Traffic Corridor Study; seconded by Councilmember Geile. Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

Councilmember Destin moved to appoint Denise Owen to the Short-Term Rental Impact Committee was seconded by Councilmember Geile and passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted “yes”; Council members Schmidt and Sweetser were absent from the meeting).

Councilmember Destin requested an update on the Linear Park Design from staff. He expressed concern about losing the city’s legislative funding if that money is not encumbered by October 2023.

Grants/Project Manager Jeffrey Cozadd informed the council that a Request for Qualification (RFQ) has been published and all bid submissions are due on March 30th. The city’s Bid Committee will then review the bid submissions and provide their recommendation to the city council for the firm that will perform the work. He also stated that according to FDOT, an extension can be extended if necessary.

Councilmember Destin asked whether the Linear Park design is being segregated from the 98 Palms Extension conceptual design as previously discussed.

Mr. Cozadd explained that the RFQ was written such that both projects can be designed separately or at the same time by the same firm.

According to the City Attorney, the RFQ will provide the qualifications of the companies. The city could then frame the contractor in the negotiation phase. They can then do it as two contracts or one contract split into different sections.

Councilmember Destin expressed concern about mixing the two projects together and losing the funding.

- D. Councilmember Bagby
- E. Councilmember Hebert

Councilmember Hebert announced the Ms. Jennifer Adams, the TDC Director, will attend the next council meeting and provide updates on the Little Adventures and address the two local vendors that will help with the popsicle giveaways this summer.

- F. Councilmember King
- G. Councilmember Schmidt
- H. Mayor Wagner

1. Red Light Cameras on U.S Hwy 98

Councilmember Hebert moved to direct the City Manager to look at 3-laned portions of US Hwy 98 and use available data in determining whether there are intersections suitable for red light cameras and bringing that information back to the council at the first meeting in July; seconded by Councilmember Geile. Motion failed 1-4 (Councilmember Hebert voted “yes”; Council members King, Bagby, Destin, and Geile voted “no”; Council members Schmidt and Sweetser were absent from the meeting).

2. Annexation - Fact Finder

Motion by Councilmember Geile, seconded by Councilmember Hebert, to appoint Mayor Wagner as the annexation fact finder passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

3. Pickleball Update

Mayor Wagner announced that the Mattie Kelly Arts Foundation and the Destin Aquatic Center are on board in making the pickleball court project come to fruition. A Destin Aquatic representative will attend the next council meeting to discuss some of the details and proposals for this project.

I. Land Use Attorney

J. City Attorney

1. Resolution 23-05 - Adopting fees for the purchase of burial plots

Motion by Councilmember Destin, seconded by Councilmember Hebert, to approve Resolution 23-05 passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

2. The city council to excuse the absence of Councilmember Matthew Sweetser

Councilmember King moved to excuse the last 3 absences of Councilmember Matthew Sweetser; seconded by Councilmember Hebert. Motion passed 5-0 (Council members King, Hebert, Bagby, Destin, and Geile voted "yes"; Council members Schmidt and Sweetser were absent from the meeting).

7. PUBLIC COMMENTS

8. ADJOURNMENT

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 9:15 PM.



Rey Bailey, City Clerk



Bobby Wagner, Mayor