

**MINUTES
SPECIAL WORKSHOP
DESTIN CITY COUNCIL
JULY 13, 2023
ANNEX COUNCIL CHAMBERS
5:30 PM**

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

Destin City Council

Mayor Bobby Wagner
Councilmember Kevin Schmidt
Councilmember Torey Geile

Councilmember Jim Bagby
Councilmember Terésa Hebert

City of Destin Staff

City Manager Lance Johnson
Principal Planner Steve O'Connor
Code Compliance Officer Brian Davis
Public Information Manager Tamara Young
Land Use Attorney Kimberly Kopp

Deputy City Clerk Kim Montgomery
Senior Planner Daniel Butler
Planner Christopher Willis
Planner Rachel Hoag
IT Director Andy Peters

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Mayor Bobby Wagner called the meeting to order at 5:30 PM. The mayor called for a moment of silence, which was then followed by the recitation of the Pledge of Allegiance.

WORKSHOP

A. Electric Bikes (E-Bike) Regulations

The city's Principal Planner Steve O'Connor noted that the city council has requested staff to gather current regulations and guidelines concerning electric bikes, or e-bikes, within the City of Destin, as well as provide researched results of similar communities and their implementation standards regarding e-bikes. He stated that the city does not regulate privately owned devices. They only regulate the commercial operations/rental of e-bikes. They currently prohibit rental of this micro mobility device within the city. Florida Statutes also allow the city to implement regulations on such things as to how and where and the manner which people can operate e-bikes on sidewalks, speed limits, wearing of the proper head gear, and so forth, which the city does not currently regulates.

Mr. Jim Wood, Public Works/Safety Committee Chair, reported that the committee unanimously approved the following motion at their May 9th meeting:

- E-bike rentals within the City of Destin by commercial/private entities are not authorized (consistent with the prohibition on scooter rentals in the city).
- E-bike personal ownership and uses are authorized under the following conditions:

- ❖ E-bikes are authorized on the wider 6, 8, and 10-ft multipurpose paths. This is the preferred use for over roadways for safety purposes.
- ❖ E-bikes may be operated on roadways or bike lanes on roadways as desired by the operator with the understanding there are increased safety risks in these venues.
- ❖ E-bikes will not be operated within city parks (grass fields and/or walking paths).
- ❖ E-bikes must not be operated in a reckless manner:
 - It must not be operated without willful or wanton disregard for the safety of others.
 - It must be operated in such a manner that it is not to cause unreasonable risk or harm to a person or property of others on a city multipurpose path or roadways.
 - It must be operated in such a manner that is reasonable and prudent under the conditions existing at the time having regard to the actual and potential hazards that exist.

Mr. Wood stated that the committee believes the above motion makes things more consistent, provides the Sheriff's Office a better tool for enforcing the code, and will make it safer for e-bikes operators.

Councilmember Bagby noted there are sidewalks that are 3-feet wide where a pedestrian cannot co-exist with e-bikes. There are multi-use paths that are 6-10 feet wide.

Mr. Wood explained that the committee is only in favor of allowing e-bikes on 6-10 feet wide multi-purpose paths.

According to Councilmember Geile, there have been some incidents in the past year regarding bicycles speeding on the sidewalk, heading into the street without stopping, hitting a vehicle, and then claiming they had the right-of-way. He stated there need to be an understanding as to who has the right-of-way in that situation. He continued that they cannot put the responsibility or liability on the person operating the vehicle who is looking to their left to make a right turn, not anticipating a fast-moving bike heading towards the crosswalk on the road. The responsibility in that situation should fall on the biker.

Councilmember Bagby noted that according to state law, pedestrians and bicyclists traveling on a multipurpose path, 6 to 10 feet wide usually have the right-of-way over a motorized vehicle. He recommends not giving the right-of-way to a person operating a bike on a sidewalk that is less than 6 feet wide.

Capt. Fulghum from the Sheriff's Office explained that in a situation like this, it does not automatically make the driver of the car at fault; adding that according to state law, a pedestrian or a biker on a sidewalk has the right of way unless they leave the sidewalk and onto the street without stopping at the same time the vehicle arrives at the crosswalk and the driver of the vehicle did not have a reasonable amount of time to stop. But sometimes, it could be very difficult for a law officer conducting the investigation to determine the fact following an accident.

At this time, the mayor opened the floor for public comments.

Mr. Mike Raim, a Destin resident, stated that a bigger problem they have right now are these unicycles going down the road at 40-45 mph with children in control. State statutes only allow a speed of 25-30 mph. He continued that any bike that can run at that high rate of speed needs to be on a real bike path and not on a sidewalk and should be required to stop at the stop signs. He has also witnessed e-bike riders wearing dark clothing which is not visible at night and cutting through the middle of an intersection. He added that there ought to be some licensing requirements for e-bikes as there are operators who have no idea about the rules of the road.

Having no further comments from the public, the mayor turned the matter over to the city council for further discussions.

Councilmember Schmidt asked what the rules are for cyclists or bicyclists when they come upon an intersection with stop signs or crosswalk.

According to Capt. Fulghum, they can go from the sidewalk to the crosswalk without stopping unless there is already a vehicle close by and that it is not reasonable to expect the driver to yield the right-of-way. That determination would have to be made by the law officer conducting the investigation in the event of an accident. He also noted that the law allows a municipality to set the speed for e-bikes on the sidewalk. However, it is very difficult to track their speed using a conventional radar because there is a triangle visibility and the radar will pick up the largest and fastest item on that triangle and it will rarely be for the e-bike. But if the city decides to establish a speed limit for e-bikes, they will do their absolute best to enforce it.

The Land Use Attorney stated that if they decide to regulate e-bikes on the sidewalk, state statutes require they set a speed limit of 15 mph. However, the other problem will be enforcement.

Councilmember Schmidt stated that multi-use paths/sidewalks are for walkers, for people to walk their dogs, and for casual biking. Mopeds, e-bikes, or other motorized vehicles should be driven on the road or bike lanes; adding that regulating them on the sidewalks and enforcing the rules will be nearly impossible.

Councilmember Hebert agreed that motorized vehicles belong on the road, not on the sidewalk.

The Principal Planner pointed out that Florida State Statutes updated laws regarding the definition and operation of e-bikes within the state, allowing local governments to adopt an ordinance that governs the operation of e-bikes. New rules are as followed:

Florida Statutes 316.003(23) defines an electric bicycle as, A bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

1. "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
2. "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.

3. "Class 3 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.

The mayor agreed that motorized vehicles do not belong on a 3-foot sidewalk; but they have multi-modal pathways that are almost the size of a roadway, and it would be a waste of space if they do not allow e-bikes to operate there. He added that with the increasing number of e-bikes operating in the city, getting them off the road will help alleviate their traffic problems. He asked if there have been any sidewalk incidents in Destin involving e-bikes.

According to Capt. Fulghum, e-bikes are fairly new in the area, and they currently do not have any statistics of crashes on sidewalks involving e-bikes.

Councilmember Geile pointed out that the real issue is not the sidewalk incidents involving bicycles or e-bikes. Once they crossed the intersection and into the roadway is when accidents happen, and that statistic is not being counted as a sidewalk incidents. It is considered a roadway incident.

Capt. Fulghum explained that in terms of traffic crashes, unless there is a criminal law broken – a misdemeanor or felony – what they do in their investigation makes very little bearing on who is found at fault. They are merely gathering information for the insurance companies, but insurance companies are not obligated to abide by their findings whatsoever.

The mayor stated that in terms of safety precautions, he would be supportive of making sidewalks more accessible to e-bikes and trying to leave enforcement to a minimum; adding that it would be a great way for residents to go from one side to the other without having to drive their vehicles.

B. Wind Sign Regulations

The Principal Planner Steve O'Connor stated that staff conducted an analysis of the city's Land Development Code regarding wind signs as well as a few surrounding or similar communities within Florida, and some additional background from cities outside of Florida. This information is presented in the staff report. He pointed out that wind signs, as defined in the city's Land Development Code consist of "one ore more banners, pennants, ribbons, spinners, streamers, or captive balloons, or other objects or materials." The city prohibits wind signs as defined all together, either permanently or temporarily.

At this time, the mayor opened the floor for public comments.

Mr. John Stephens, a Destin resident and livery operator, noted that windsocks are prohibited according to the LDC, but the Destin Airport uses them.

Mr. O'Connor explained that it is allowed at the airport because it is a government mandated entity and exempt from the sign code. He added that the windsocks at the airport are required by the FAA.

Mr. Stephens remarked that he has a wind feather in his dock, and it is used to determine what side of the dock their boats need to come in so they can avoid hitting the dock. They consider it a directional sign which is allowed. He asked that the city considers allowing it.

Mr. Stephens also mentioned that a lot of people wants wind feathers. He asked the city to consider allowing it at least in the festive marketplace or allowing its use during the day and to take them down at night. He added that he had seen wind feathers on vehicles. He also added that the sign setback of 10 feet from property lines needs to be looked as there are signs that are really close to the property line.

Mr. Will Ellison, a Destin resident, noted that his mother was written up on Mountain Drive for having a wind on her go-cart. There are numerous places within the city limits of Destin, including churches, that have wind flags and are not being ticketed. He also learned that some of the churches pulled a special permit to be able to use it.

According to Mr. O'Connor, he was not aware of any special permits being pulled for signage at this time, but he will investigate.

Ms. Carrie Harbarger, a Destin resident and business owner, stated that he does not understand why the city finds feathered flags so offensive. Destin is a community of businesses and so it makes no sense prohibiting the use of a simple item like a feathered flag if they look nice and not tattered. The city is regulating the small businesses while allowing the churches to line them up in front of their building. The businesses should be allowed to use feathered flags, and they are opened to some stipulations.

Having no further comments from the public, the mayor closed the public comments portion and send the matter over to the city council for discussions.

Councilmember Schmidt inquired as to the exact location of the Festive Marketplace and the comments made earlier about a 10-foot setback for signs.

Mr. O'Connor stated that the Festive Marketplace is the South Harbor Mixed Used district; and that ground signs that are permitted are required to have a 10-foot setback from the property line. There is a limited location that allows some signs to be closer to the road which is between Gulf Shore Drive and the Marler Bridge.

Councilmember Schmidt asked whether there are rules about flags on flag poles.

Mr. O'Connor stated that flags that communicate a commercial type of operations are prohibited.

Councilmember Schmidt asked why posts with banners in the Town Center CRA district are allowed.

Mr. O'Connor explained they are permitted because they are not impacted by wind action.

According to the Land Use Attorney, the code defines a flag as "Any fabric or flexible material having a horizontal orientation and rectangular shape, where length does not exceed

1.7 times the width and the width is not less than 0.5 times the length. Flags are attached at one end and are displayed by means of a flagpole or similar device.”

Councilmember Schmidt recommends changes to the code with regards to signs. He stated that businesses on the harbor, on the water, or the Festive Marketplace should be able to advertise to make sure people know they exist. Wind feathers that show the direction of the wind should be allowed to be used by boaters for the safety of their crews and passengers. It should not be a hindrance in the Festive Marketplace to have these types of flags. He added that he does not really want to see hundreds of flags in the city, but maybe they can approve their use with some stipulations.

Councilmember Hebert stated that the city may have gone overboard by flatly not allowing flag signs. They should allow it and possibly limit one for each business for business representation; and not just for certain districts but for all the businesses in the city no matter where they are located.

According to Councilmember Bagby, the city has given conscientious efforts in the last 20 years to reduce the visual clutter in the city. They have amended the sign ordinance at least twice to make signs smaller and they have restricted the number of billboards. They are getting ready to spend \$20 to \$30 million to underground the utilities. All conceptual drawings show clear lines, view corridors, and the natural beauty of the area. There are no billboards or feathered flags. He added that for the sake of cleanliness and simplicity, he will not be in favor of amending the sign ordinance to allow wind signs or feathered flags.

Councilmember Geile stated that since windsock is supposed to improve safety because it can serve as a tool for measuring wind speed and direction, they could probably approve its use and put some at the park on Norriego Point for the entire harbor to utilize. It could be very beneficial especially to livery operators who have no idea what they are doing.

Councilmember Geile also recommends looking at this issue as all-encompassing and not just for the benefit of small businesses. He opined that if they allow the use of feathered flags, things could definitely get out of control very quickly especially at Crystal Beach as every single short-term rental out there will start displaying feathered flags at every yard to advertise, which would definitely have a negative effect on the local residents in that area.

According to Councilmember Schmidt, he disagrees on the premise that if they do it for one they must do it for all because in this city, businesses on one location are different from businesses on another location. Businesses on the water are obviously different from businesses located on US Hwy 98 or Mountain Drive. He recommends looking at differentiating those areas.

The Land Use Attorney warned against allowing only certain entities to use wind flags because signs are a form of expression. They can allow everybody to use them for a limited period. In terms of enforcement, when a business comes in for a permit, the permit can show how long the business can display the flag. Code Enforcement can just look at the permit if they want to know when the flag is supposed to be taken down.

Councilmember Geile stated that this can be done when somebody complains, otherwise, they neither have the manpower nor the time to constantly monitor flag usage.

C. Mobile Vending Regulations

The city council directed staff to compile the City of Destin requirements and regulations regarding mobile vending (food trucks, etc.) and provide the same from other cities and municipalities around the area.

Senior Planner Daniel Butler noted that mobile vending is currently regulated within the City of Destin through the Land Development Code (LDC) and Code of Ordinances. He stated that mobile vendor is defined as such:

A person who is in the business of selling food, beverages, flowers or other merchandise or services from a vehicle, except, however, that the provisions of this ordinance shall not apply to mobile caterers, generally defined as a person engaged in the business of transporting, in motor vehicles, food, beverages, or service equipment to residential, business and industrial establishments pursuant to prearranged schedules, and dispensing from the vehicles the items or services at retail, for the convenience of the personnel of such establishments. The city distinguishes between short-term and long-term mobile vending. Short-term mobile vendors may operate on a lot, parcel, or property for less than 72 hours, while long-term mobile vendors may operate for more than 72 hours.

Mr. Butler noted that the following are the zoning districts in which long-term and short-term operations are permitted, per the LDC:

- Short-term operations:
 - ❖ South Harbor Mixed Use (SHMU)
 - ❖ Calhoun Mixed Use (CMU)
 - ❖ North Harbor Mixed Use (NHMU)
 - ❖ Commercial Trades and Services (CTS)
 - ❖ Industrial (IN)
 - ❖ Institutional (INST)
 - ❖ Town Center Mixed Use (TCMU)
 - ❖ Residential Office and Institutional-General Development (ROI-GD)
 - ROI-GD is no longer a zoning district within the City of Destin, per Ordinance 19-24-LC, which changed all ROI-GD zoning designations to ROI-VR.
- Long-term operations:
 - ❖ South Harbor Mixed Use (SHMU)
 - ❖ Calhoun Mixed Use (CMU).

Mr. Butler also noted that the LDC currently reads as to require a permit be obtained for any mobile vendor to operate on public or private property. However, state statutes now preempt the City from requiring a separate license, registration, fee, or permit other than what is required by the State, for a mobile vendor to operate within the City. Additionally, a municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction. Therefore, the city no longer requires any permits be obtained by mobile vendors. The location and duration of such mobile vendors is what is currently regulated by the City of Destin. Additionally, a municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating

within the entirety of the entity's jurisdiction. This means the city cannot ban mobile food vendors entirely from the city, but they can regulate where and how they can operate in the city.

Mr. Butler also noted that staff has compiled the following 4 options for the city council to consider when revisiting the mobile vending regulations:

Option 1: This option could be considered the 'status quo option'. This would entail simply revising the LDC to align with the State's current regulations (not requiring any other permits), while not altering the zoning districts and durations in which mobile vendors are permitted to locate within the City, as previously described in this report.

Option 2: This option would be to revise the LDC to align with the State's current regulations, while also allowing mobile vendors to operate in the zoning districts in which 'limited-service restaurants' are permitted/conditional and removing the differentiation of 'short' vs 'long' term, as it is difficult to track exactly how long a mobile vendor has been located on a parcel. This means that mobile vending would become permitted in the Commercial Limited (CL), Commercial Trades and Services (CTS), Crystal Beach Resort (CBR), Town Center Mixed Use (TCMU), South Harbor Mixed Use (SHMU), North Harbor Mixed Use (NHMU), Gulf Resort Mixed Use (GRMU), and the Holiday Isle Mixed Use (HIMU) zoning district. 'Limited-service restaurants' are also permitted in the Bay Resort Mixed Use (BRMU) and the Airport (A) zoning districts; however, these would not be appropriate for mobile vending, as BRMU is not utilized, and A is not feasible for a mobile vendor. Meanwhile, mobile vendors would be a conditional use within the Commercial General (CG), Calhoun Mixed Use (CMU), and Calhoun Mixed Use – Village (CMU-V) zoning district.

Option 3: This option would be to revise the LDC to align with the State's current regulations, while also allowing mobile vendors to operate in any zoning districts that were not residential or owned by the City (these are typically zoned Recreation – REC), on a permitted basis. This would allow mobile vendors to operate in all of the zoning districts listed above, including the zoning districts that were previously under the 'conditional use' category.

Option 4: This option would only allow mobile vendors to operate in the non-residential zoning districts south of Highway 98, which includes CG, CL, INST, CBR, HIMU, & GRMU.

At this time, the mayor opened the floor for public comments on this topic.

Ms. Carrie Harbarger stated that she started operating an ice cream truck and doing mobile vending about 30 years ago. About 20 years ago they negotiated a deal which provides her business a grandfathered status. She does not feel that the Code Compliance officers are properly trained. She is a legal business, but she got shutdown on a 4th of July weekend by a Code Compliance officer. She was not given the opportunity to come before the council or to the city's Special Magistrate to plead her case. She got shutdown while two illegal businesses were allowed to operate. She stated that her business – Rainbow Frost Ice Cream – was grandfathered in and a business license was issued in 1996 due to the fact her business was already in operation prior to the

city's regulation on mobile vending being enacted. Her business was approved to remain in operation as an existing nonconforming mobile vending business. She also stated there was another business that has not been operating for a couple of years, it was sold, and the business license was renewed this year. She would like the city to look into this matter.

The Land Use Attorney asked for a copy of the documents Ms. Harbarger was referring to so she could review it as well as the other issue that she discussed.

Having no other public comments, the mayor closed the public comments portion and turned the matter over to the city council for discussion.

Councilmember Bagby remarks that he is between Option 2 and Option 4 as provided above. He recommends that staff provides recommendations based on these 2 options. He stated that they need to come into compliance with state statutes and put mobile vending where it makes sense. He added he will not support putting it in residential areas, even for a temporary use.

Councilmember Hebert stated that she is a huge advocate of mobile vending as she believes they add a certain flair to the city. She asked whether the city has any pending mobile vending applications; for which the Land Use Attorney replied affirmatively.

Councilmember Schmidt asked whether the city could still charge BTR fee for food trucks.

The Land Use Attorney explained that according to state statutes, they cannot charge fees for any additional licenses or permits; and that they interpreted that to include BTRs.

There were some discussions relating to catering involving food trucks and whether or not it is allowable.

According to Mr. O'Connor, a food truck that caters only to a certain residential unit is allowable as there is no point of sale. Having a food truck come and set up for anyone on the residential unit or anyone on the beach to come and purchase food, is not allowable because there is a point of sale, unless they are located in one of the zones where food trucks are allowed. But they still have to meet all the requirements including parking. However, since they can no longer required food trucks to get a BTR or any food vending permits, it is very difficult for the city to ensure that parking standard requirements are being met.

The mayor would like to be able to allow food trucks in some of their bigger parks, at Morgan's Sports Center or the community center where there is a lot of available parking without opening it up for everybody else since commercial activity is not allowed in their parks.

According to Councilmember Bagby, they need to try to avoid competing with the other businesses in Destin, especially those who are trying to make their money 5 months out of the year and are paying for their BTRs.

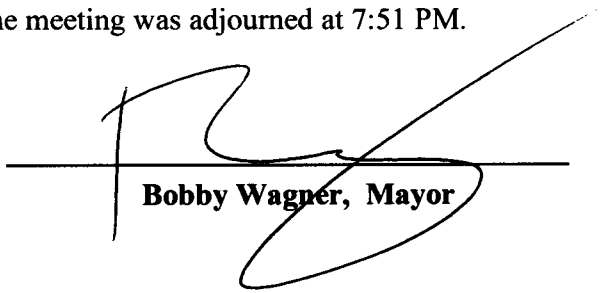
The Land Use Attorney stated that this session being a workshop, there is no official action that can be taken. However, they have had a good conversation, and when they come back at some point and the council decides exactly what they want to do, they can just tell staff their goal and staff will figure out the codes and bring back some recommendations.

ADJOURNMENT:

Having no further business at this time, the meeting was adjourned at 7:51 PM.

ATTEST:


Rey Bailey, City Clerk


Bobby Wagner, Mayor