MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
OCTOBER 15, 2018
CITY HALL ANNEX COUNCIL CHAMBERS
6:00 PM

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

Destin City Council

Mayor Gary Jarvis	Councilmember Tuffy Dixon
Councilmember Chatham Morgan	Councilmember Prebble Ramswell
Councilmember Cyron Marler	Councilmember Skip Overdier

Destin City Staff

Interim City Manager Lance Johnson	City Clerk Rey Bailey
Acting Parks & Recreation Director Lisa Firth	HR Manager Karen Jankowski
Acting Community Dev. Director Steve Schmidt	Finance Director Bragg Farmer
Public Information Manager Doug Rainer	Library Director Wen Livingston
City Land Use Attorney Kimberly Kopp	City Attorney Jeffrey Burns

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Father Mike Hesse of Immanuel Anglican Church gave the invocation; which was then followed by the Pledge of Allegiance.

AGENDA APPROVAL

Motion by Councilmember Morgan, seconded by Councilmember Overdier, to approve the addition of the following items to the agenda passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

- **Acting Public Services Director – place under CITY MANAGER REPORTS**
- **Tetra Tech contract – place under CITY ATTORNEY COMMENTS**
- **Discussion on City Manager resumes – place under CITY MANAGER REPORTS**

Councilmember Marler moved to allow Mr. Joseph Dougherty to make a presentation under agenda item #2; seconded by Councilmember Overdier. Motion passed 4-1 (Council members Morgan, Marler, Overdier, and Ramswell voted "yes"; Councilmember Dixon voted "no"; Council members Destin and Braden were absent from the meeting).

Motion by Councilmember Marler, seconded by Councilmember Overdier, to pass the agenda, as amended, passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

1. APPROVAL OF MINUTES

A. Approval of minutes of September 13, 2018 special city council meeting

Councilmember Marler moved to approve minutes of September 13, 2018 special city council meeting; seconded by Councilmember Ramswell. Motion passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

2. PROCLAMATIONS / RECOGNITIONS / **SPECIAL PRESENTATIONS / ANNOUNCEMENTS

A. Presentation by Mr. Joseph Dougherty – Reinterpretation of rules for swimming pools under the Land Development Code

Mr. Joseph Dougherty, of Dougherty Architecture, distributed some written materials to the City Council. He then read the following provisions under Section 9.06.00 – <u>Accessory Structures and Uses</u> – of the Land Development Code (LDC):

A(1) – *The location of swimming pools should be regulated as to minimum distances from buildings or structures for safety reasons and from side or rear property lines for human safety, constructional integrity reasons and to abate noise.*

E – *Location. No portion of a swimming pool outside a building shall be located at a distance less than three feet from a building measured from the building to the water's edge.*

According to Mr. Dougherty, swimming pools are becoming more sophisticated, and more and more a component of the house, not just a leisurely place for the family to enjoy. They have a number of clients in the City of Destin and the surrounding counties that are pushing for certain styles of pool that would not conform to the LDC requirement as it is currently written. He stated that when he met with City Manager and staff, he was told permits for these types of pool would not be granted. He noted that Walton County code addresses the 48 inch high fence for the pool, but they have no provisions regarding distance from the resident. He asked the Council to consider re-interpreting the code and differentiating between a commercial and a residential pool.

The Land Use Attorney stated they could amend the LDC and address the concern with the building code if the Council so desires.

The Mayor suggests the Land Use Attorney look at this issue from the legal aspect and coordinates matter with the City Engineer to make sure there are no underlying issues involved; and then come back to Council with some recommendations.

According to the Land Use Attorney, if they were to make changes to the LDC such as allowing pools to get closer than three feet to the house, the proposed changes would go before the Local Planning Agency for recommendations and then to Council for two readings; unless the Council wants to review the proposed changes and provide policy direction first.

There was a general consensus among the Council members to allow the Land Use Attorney to present the proposed LDC amendments to the Local Planning Agency for recommendation, and then to the City Council for adoption.

3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS AND ANY OTHER MATTERS NOT ON THE AGENDA

Mr. Allen French, representing Trees on the Coast, informed the Council they have started planting the 49 Sand Live Oaks, and that many more would be planted soon. He expressed his gratitude to the Council for partnering with the Trees on the Coast; adding that great things happen when a government, community, non-profit organization and local businesses all work together for a common cause. He also announced their plan to conduct a ceremony this coming Saturday for fallen heroes. They will be honoring the 11 servicemen who tragically perished in the Blackhawk helicopter crash two years ago.

4. CITY MANAGER REPORTS

A. Separation of Code Enforcement Division from Community Development Department

The Interim City Manager requested that the City Council considers separating the existing Code Enforcement Division from the Community Development Department forming a new Code Enforcement Department. He stated that both community development and code enforcement are of critical importance within the City and carry heavy workloads. He believes that separation of community development and code enforcement into two separate departments would allow staff to more effectively and expeditiously handle the high volume of work currently handled by the existing single department. He noted that the three available options for the Council are (1) to take no action at this time; (2) to separate the existing Code Enforcement Division from the Community Development Department creating a new Code Compliance Department with a Code Compliance Manager; or (3) to create a new Code Compliance Department and commence the process for selecting a director to oversee the new department. He added that the second option may be the best option at this time as they have not budgeted for a new director. The Code Compliance Manager could report directly to the City Manager until such time they could afford to pay for a new director.

Councilmember Morgan moved to accept the City Manager's recommendation to separate the existing Code Enforcement Division from the Community Development Department and create a new Code Compliance Department; seconded by Councilmember Ramswell.

Councilmember Ramswell stated this is a good idea because she feels code enforcement is better suited as a standalone entity; and that it would ease the burden on the Community Development Department.

Councilmember Marler stated that he agrees with the City Manager on separating the code enforcement from community development; however, he is deeply saddened by the recent resignation of the former Code Enforcement Manager John Mahone. He also feels the Council is violating the City Charter by interfering in the administrative duties of the City Manager with all the email inquiries about code enforcement as well as all the accusations at public meetings. He continued they need to look at their charter a bit closer and make any changes they feel are appropriate by putting on a referendum for the next election cycle. He added that the City Council's job is to legislate and not interfere with the performance of the City Manager's administrative duties.

Councilmember Morgan stated that other than criticizing a department that he personally does not think has been well run, he would like to hear one specific example of how the Council has micromanaged their Code Enforcement Division and violated the charter.

Councilmember Marler stated that one example is the hundreds of emails certain Council members have requested from staff to find out different things about code enforcement and then making negative comments in public rather than having the City Manager look into any potential problems. He added that the Council pretty much put down their Code Enforcement Division during several public meetings which hurt the morale and led to resignations by several staff members.

Councilmember Morgan argues that the Council's job is to address problems in the City in a public forum.

The Mayor stated that separating community development and code enforcement is a good idea; but, he would like to make sure the new position have clear and definitive directions and goals that are publicly known. The City Manager would then evaluate those goals to make sure they are being met as time goes by. It should also allow the Council to take a look at the job performance of the department and bring to the attention of the City Manager any problems they may have with the way things are being done.

The Mayor called for a vote on the motion, which passes 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

B. Acting Public Services Director

The Interim City Manager requested that the City Council affirms his appointment of Mr. Tim Pietenpol to the position of Acting Public Serviced Director until such time that a permanent replacement is hired.

Motion by Councilmember Dixon, seconded by Councilmember Marler, to approve the appointment of Mr. Tim Pietenpol as Acting Public Services Director passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

C. Announcements & Updates

The Interim City Manager expressed his gratitude to City staff for the work they did before and immediately after the storm. He announced that Friday is the normal pick-up day for storm debris and yard waste; adding that debris must meet normal Waste Management requirements.

Councilmember Dixon asked if the City has conducted an inventory of all their docks and seawalls to see if they have sustained enough damage to be able to request assistance from FEMA.

According to the Interim City Manager, they are tracking both the time spent and materials used leading up to and after the storm, as well as calculating the cost of any necessary repairs. He stated there has been no declaration of a disaster area for the County yet; and so until that happens they are weighing other options they have to pursue reimbursement through FEMA. He further stated that other types of debris such as boards destroyed by the wave action ending up on people's yard, would require special pick-up by Waste Management. These types of debris are mostly located along Indian Trail and Calhoun Avenue and small section of Beach down by Mattie Kelly Fishing Pier. It would cost approximately $2,500 to $5,000 and would require Council's approval

Councilmember Morgan moved to authorize the Interim City Manager to execute a contract with Waste Management for a one-time special residential pickup of storm debris on Beach Drive, Calhoun Avenue and Indian Trail within the next two weeks; seconded by Councilmember Marler. Motion passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

The Interim City Manager proceeded with the rest of his announcements:

- Monday, October 22nd, at 5:30 p.m. – City Council workshop on cross-town connector/parking
- Thursday, October 25th – City of Destin Open House at the Destin Community Center, from 11:30 a.m. to 1:00 p.m.
- Thursday, October 25th at 5:30 p.m. – City Council workshop on short-term rentals
- Monday, October 29th from 5:00 to 8:00 p.m. – 18th Annual Fall Fest at the Destin Community Center
- Thursday, November 1st , 5:00 to 6:00 p.m. – Meet and Greet for the 4 finalists for the Community Development Director position
- Saturday, November 3rd, 8:30 – 10:00 a.m. – Annual Pin Fish Classic at the docks behind A.J.s Restaurant
- November 5th - CRA Board Meeting to approve the CRA FY 2019 budgets
- Tuesday, October 16th, at 1:00 p.m., at the Catholic Church in Miramar Beach - Memorial services for Andy Fette, City's Park Supervisor. Mr. Fette was a great individual and an asset to the community. He will be greatly missed.

D. City Manager resumes

According to Councilmember Ramswell, she is a little confused as to where they are on this process and what is expected of the Council tonight. She stated that her understanding after the last Council meeting was for each Council member to send a list of their top 5 or so candidates to the Human Resources Manager and Mr. Buzz Eddy from FCCMA. Mr. Eddy would then sort through the votes and come up with another list of the top candidates and present that list to the Council tonight so they could discuss and agree on the number of candidates to interview; but the list was not included in their meeting packet.

The Human Resources Manager Karen Jankowski stated they have only received two lists thus far. Other members of the Council have not submitted their list.

According to the Mayor, one good reason for the delay may have been the recent storm that passed through the area. He suggests they hold themselves to a date certain to where they could get a list to Ms. Jankowski and Mr. Eddy.

After a brief discussion, the Council agreed to set a deadline of Monday, October 29th to submit the list to Ms. Jankowski and Mr. Eddy. Ms. Jankowksi would then bring back a list of finalists on the November 5th Council meeting based on inputs from the Mayor and Council.

5. PUBLIC HEARINGS

A. First reading of Ordinance 18-22-CC – Requirements for Wireless Facilities in the City Rights-of-Way

The City Attorney read proposed Ordinance 18-22-CC by title; and then presented it to the City Council on first reading.

> AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING CHAPTER 13 OF THE CITY CODE OF ORDINANCES, CREATING ARTICLE IX OF THE CITY CODE OF ORDINANCES FOR THE PURPOSE OF ESTABLISHING REQUIREMENTS FOR WIRELESS FACILITIES IN THE CITY RIGHTS-OF-WAY; CREATING SECTION 13-175 TITLE; CREATING SECTION 13-176 FINDINGS, INTENT AND PURPOSE; CREATING SECTION 13-177 DEFINITIONS; CREATING SECTION 13-178 REGISTRATION; CREATING SECTION 13-179 NOTICE OF TRANSFER, SALE OR ASSIGNMENT OF ASSETS IN PUBLIC RIGHTS-OF-WAY; CREATING SECTION 13-180 PERMIT REQUIREMENTS AND CONDITIONS; CREATING SECTION 13-181 STANDARDS FOR COMPATIBILITY WITH SURROUNDING NEIGHBORHOOD; CREATING SECTION 13-182 ENFORCEMENT OF PERMIT OBLIGATIONS; SUSPENSION AND REVOCATION OF PERMITS; CREATING SECTION 13-183 APPEALS; CREATING SECTION 13-184 INSURANCE; PROVIDING FOR SEVERABILITY; 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 discussion and consideration.

Councilmember Overdier moved to approve Ordinance 18-22-CC on first reading; seconded by Councilmember Marler. Motion passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

B. First reading of Ordinance 18-06-LC – Establishing the Technical Review Committee (TRC) to streamline the development review process

The City Attorney read proposed Ordinance 18-06-LC by title; and then presented it to the City Council on first reading.

> AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO ESTABLISHING THE TECHNICAL REVIEW COMMITTEE (TRC) TO STREAMLINE THE PROCESS OF DEVELOPMENT REVIEW; PROVIDING FOR AMENDMENT TO ARTICLE 2 – ADMINISTRATION REVISING THE DEVELOPMENT REVIEW PROCESS; PROVIDING FOR AMENDMENTS TO ARTICLE 3 – DEFINITIONS, YARD; PROVIDING FOR AMENDMENT TO ARTICLE 5 – GENERAL PROVISIONS; PROVIDING MODIFICATION TO ARTICLE 6 – CONCURRENCY MANAGEMENT SYSTEM; PROVIDING FOR AMENDMENT TO ARTICLE 20 – BUILDING REGULATIONS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; 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 discussion and consideration.

Councilmember Morgan asked if staff feels this ordinance would help move the development order review much faster.

According to the Acting Community Development Director Steve Schmidt, it will help cut out some of the delay by not having to send information out to various technical review team members and wait for responses. The proposed ordinance also addresses and clarifies some other issues in the LDC that should make the process run a lot smoother.

The Mayor asked for an update on how close they are getting in aligning the Land Development Code with the Comprehensive Plan.

Mr. Schmidt explained there were some changes made to the comprehensive plan and the Land Development Code needed to be aligned with those changes. Prior to that effort, the Comprehensive Plan went through another change and so the Land Development Code is currently two changes behind. He also stated that due to recent turnover of personnel, the Planning Department is down to just one planner who has only been with the City for a little over 6 months and a consultant that comes in two days a week. Both planners live in Panama City that was devastated by a recent storm event. He also noted they are currently in the process of hiring a Community Development Director and another planner, and they should be able to get things moving along once they come on board.

Councilmember Overdier asked if all the other agencies such as the Destin Water Users, Okaloosa Gas and Gulf Power have agreed to send representatives to the meetings. He stated that the process will not work unless they all agreed to attend the meetings.

According to Mr. Schmidt, most of these organizations are happy with the new process and have agreed to participate.

Motion by Councilmember Marler, seconded by Councilmember Ramswell, to approve Ordinance 18-06-LC on first reading passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

C. First reading of Ordinance 18-15-LC – Use of wheeled vehicles on public and private of the beach

The City Attorney read proposed Ordinance 18-15-LC by title; and then presented it to the City Council on first reading.

> AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO THE USE OF WHEELED VEHICLES ON PUBLIC AND PRIVATE AREAS OF THE BEACH; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT TO LAND DEVELOPMENT CODE SECTION 11.08.02, AND CREATING SUBSECTIONS C(i) THROUGH C(v); PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Overdier moved to approve Ordinance 18-15-LC on first reading and direct staff to schedule a second reading for final adoption; seconded by Councilmember Ramswell.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance.

Ms. Marcie Bell, a Destin resident, stated that she lives out by the jetties; and that she was thankful there was no driving allowed on that private beach that broke down the dune system that protected her home. Her house did not wash away and all the dune systems held up quite well after a near miss from Hurricane Michael. She continued that the only real breach that she recognized out on the public and private beach was by the Osteen beach access. There was a wash through the dunes that came around the first dune. She added that the Corps of Engineers may need to be contacted about the sand washout at that jetty.

Mr. Alex Metz, owner of Sunny Sand Beach Service, spoke next. He stated that after the last meeting, they asked that this ordinance be amended to include provisions for beach vendors. They forwarded recommendations to the City Manager and the City Council; but, none of their recommendations were accepted. There were some amendments made, specifically for permitting; and it seems everybody has been addressed in the ordinance except for beach vendors. He stated that without specific language allowing beach vendors to access their properties and their businesses on a daily basis would affect their livelihood. He recommends allowing one heavy wheeled vehicle and one light wheeled vehicle, such as an ATV or a gator, per vending permit location registered at the beginning of the year so they do not have to wait on City staff to approve specific permitting times after sunrise and before sunset. They would not be allowed to leave the vending property unless it is during heavy wheeled vehicle times to prevent an ATV from traversing when it is the most heavily populated time on the beach. He also recommends having a preseason and postseason open week to allow heavy wheeled vehicle to access the beach during daylight hours. This would be the last week in February and the first week in November which is after the typical beach service season to remove their equipment. He added this would also prevent them from clogging City offices with requests to drive on the beach.

Councilmember Dixon asked why they would need to have a heavy vehicle for daily use.

According to Mr. Metz, they do not have to use the heavy vehicle daily; only if they have a box break at the end of the day or if they have broken equipment. He stated that every beach service has different issues that come up at different times. They may need to access the beach every two weeks to get to their property to pull broken equipment off or to get boxes off if they anticipate a storm event. They serve at the discretion of a homeowners association; and so if they make a request today, they have to abide by it usually within 24 hours. He added they would like to have the ability to operate their business as needed.

Councilmember Dixon noted that the main concern is having too many vehicles on the beach creating an erosion problem, as well as protecting the sea turtles. He understands that the boxes where all the chairs and umbrellas are kept are very big and it takes a heavy vehicle to get them off the beach; but, he has reservations about heavy vehicles traversing the beach on a daily basis.

Mr. Metz stated they would only use the vehicles on an as needed basis; adding that nobody wants to drive on the beach unless they have to because the wear and tear on the truck would cost a lot of money.

Councilmember Ramswell suggests including a language such that heavy wheeled vehicle may be utilized to address repair issues as needed.

Mr. Metz agrees, stating that they would even agree to put a time limit on it such as before 8:30 a.m. if they need to do something.

According to the City Attorney, this is the first input he had received from a vendor, and that he never received their recommendation when he was drafting the ordinance and so he intentionally left the vendor provision off the ordinance. He suggests allowing a smaller truck and putting a time limit on when it can be driven on the beach.

Mr. Metz suggests leaving it up to the professionals to determine the appropriate size of the truck that is needed; and then revisit the issue if they feel it is being abused.

Councilmember Dixon remarked that he would not want to stop the beach vendors from conducting their business; but, he also does not want to see trucks coming and going several times a day on the beach. He suggests limiting it to maybe one time a day. He also agrees to allow the experts to determine the appropriate size and weight of certain vehicles to be used.

Councilmember Ramswell asked Mr. Metz to forward to the City Attorney the recommendations he previously sent to the Council. She also stated she liked the idea of allowing the vehicle on the beach maybe an hour in the morning or an hour in the evening to take care of any issues that might arise to avoid the main thrust of the crowd coming in.

Mr. Metz asked that they also include allowing one wheeled vehicle per vending permit location to be registered at the beginning of the year.

Mr. Steven Tatum of Matthews and Jones suggests the City considers rewriting the definition of beach; noting that sub-section number 4 of the proposed ordinance might include the Pointe One property. He continued if they could not have a wheeled vehicle on the beach but they have an existing development order, it would be hard to exercise the development order.

According to the City Attorney, exceptions could be made once the development is completed; however, it would be up to the Council to make that decision.

Having no further comments from the public, the Mayor closed the public hearing and turned the matter over to the City Council for discussion and consideration.

Councilmember Ramswell offered a substitute motion to incorporate inputs received this evening into the ordinance and bring it back to Council for direction passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

6. *CONSENT AGENDA

A. Request for use of city right-of-way for McGuire's Annual Halloween Fun Run
B. Resolution 18-41 – FY 2018 Audit Contract
C. Resolution 18-40 – Okaloosa County Public Library Cooperative Interlocal Agreement
D. 2018-2019 agreement with the Choctawhatchee Basin Alliance – Resolution 18-42
E. Resolution 18-43 – Designation of an On-Leash Park for currently licensed dogs as a pilot program

Councilmember Dixon requested that Consent Agenda item 6E be pulled for further discussion.

Motion by Councilmember Morgan, seconded by Councilmember Ramswell, to approve Consent Agenda items 6A thru 6D passed 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

Councilmember Dixon addressed Consent Agenda item 6E; stating that they want the citizens to know they are a pet friendly community, but they do not have to allow dogs in all the parks. There ought to be places where people could go in and have fun without animals being involved.

Councilmember Dixon moved to approve Consent Agenda item 6E; seconded by Councilmember Ramswell.

The Mayor stated that the City Manager's suggestion to have a trial on-leash area for dogs is a very good idea.

Councilmember Overdier noted this is only a 6-month trial period, and that it is the dog owner's responsibility to pick-up after their pets and comply with the other rules. It is not the City staff's responsibility to clean up after the animals or to get involved with altercations between the animals.

Councilmember suggests they add Main Street Park to the on-leash areas since there is no playground equipment and hardly any children in that park. He would like to revisit this issue after 6 months once the pilot program ends.

The Mayor called for a vote on the motion, which passes 5-0 (Council members Morgan, Marler, Overdier, Dixon and Ramswell voted "yes"; Council members Destin and Braden were absent from the meeting).

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

A. Councilmember Braden

B. Councilmember Ramswell

According to Councilmember Ramswell, there have been two recent serious traffic accidents right outside the Destin Middle School on Hwy 293 towards the Mid-Bay Bridge right as school let out and children were everywhere. There is no crossing guard over there and the school is asking for some assistance from the City of Destin. They have already asked the school board for help but they have not received any responses. She continued it is a County property but they should try to assist them in getting some sort of crossing guard in that area because there are many students that walk or ride their bikes home and they are crossing that road regularly. It is a highly accident prone area.

The Mayor suggests having the City Manager draft up a letter from the Mayor or the City Council urging the school board and the County Commissioners to assign a crossing guard to guide or control vehicular and pedestrian traffic in that area. He also suggests that a member of this council attends a school board meeting, and then either he or Councilmember Overdier, attends a County Commission meeting to discuss this matter.

C. Councilmember Dixon

Councilmember Dixon noted that he had recently attended a Public Works and Safety Committee and discussed some of the steps they could take to do something about dangerous curve on Airport Road; including the possibility of putting in some guardrails. He continued they have received some preliminary estimate of the costs and he would like to come back at the next Council meeting with some recommendations on how they should proceed and what they could do to speed up the project.

Councilmember Dixon also stated that someone brought up the idea of placing "You are here" signs on the Harbor Boardwalk to give people, especially the tourists, an idea about the locations of certain businesses. He stated that he would bring this up again at the next CRA Board meeting.

D. Councilmember Overdier

1) Discussion for specific projects related to the ½ cent sales tax

Councilmember Overdier noted that the half-cent sales tax will be on the ballot for the upcoming election. If approved, the City is going to receive about $10 million. He suggests they discuss and come up with some ideas on how they intend to spend that money. He stated that some of the ideas he and the former City Manager came up with are stormwater improvements, streets and sidewalks infrastructure improvements and undergrounding the electric utilities. He also noted there is a newspaper article criticizing them for not having any plans on how to spend the money.

Councilmember Morgan stated his business would collect approximately an extra $50,000 a year, but they would only keep roughly $4,500. He continued he was not overly excited about funding the County's projects north of the City but he went ahead and supported it in an effort to mend ties with Okaloosa County. He feels it is the job of the County and the Destin Chamber of Commerce to garner public's support for this initiative because the City of Destin will generate the bulk of this money but they will not get back its fair share of the money for this community. He added that based on their discussion the past few years, it was clear that this Council's priorities include stormwater and undergrounding utilities; and so these is where they should generate their focus if the money is approved. It would not be hard for them to find ways to spend the money because they also have a long list of capital projects that are not funded every year.

Councilmember Ramswell noted that their City Engineer has a multi-page list of capital projects that they do not have the money to fund; and so they could surely use the money to fund these important projects.

E. Councilmember Marler

Councilmember Marler noted that Hurricane Michael narrowly missed Destin and devastated their neighbors to the east; and for that reason, he is making the following recommendations to prepare the City for the after effects of the hurricane and to assure their readiness in the event another storm of such magnitude threatens this area again:

- Workshop to review and update the City's hurricane preparation procedures for City facilities
- Workshop to clarify hurricane rules and procedures for the citizens of Destin
- Workshops to discuss how to prepare the City for the following:
  - Arrival of Snowbirds this winter
  - Influx of spring breakers and summer visitors

❖ Residents of areas affected by Hurricane Michael relocating in Destin

Councilmember Morgan remarked that the things that happened to those areas hit by Hurricane Michael justify the need to underground their electric utilities. Affected communities are not expected to have power for an extended period of time, and underground utilities could certainly have prevented some of those extended power outages.

F. Councilmember Destin
G. Councilmember Morgan
H. Mayor Jarvis

1) Update: Public Beach Initiative

The Mayor provided a brief update on the public beach initiative. He stated that he and the City Attorneys have met with various landowners and have identified four pieces of property that could really benefit the City of Destin and have willing sellers. They plan to prepare a presentation at the next Council meeting to show the Council those properties and possibly ask the Council to prioritize then and possibly give their authorization to begin negotiations with the owners of the properties. He also stated he has discussed the funding aspect of it with the City Attorney and expect to get a clearer picture soon of what is going to be required in terms of applying for grant money to pay for the property.

The City Attorney noted they have also inquired about the previous Holiday Inn property located across the Big Kahuna's and was told it is not for sale as the owner has other plans for it.

I. Land Use Attorney
J. City Attorney

1) Tetra Tech contract

City Attorney associate Steve Baumann noted they were directed by the Council to review the Tetra Tech contract for purposes of termination. In doing so, they found an area of concern, and that was ownership of documents upon termination. Technically, in an architectural or engineering setting, they retain ownership of these types of documents that they produced for the job even when the contract is terminated. However, there is a specific statutory provision in Section 6.1, Article 6, that specifically states that the City would retain ownership of all the documents produced by Tetra Tech for this particular project should it be terminated as long as the City is fully paying its invoices to Tetra Tech. He also noted that Section 7.2 states that the City may terminate this agreement upon conclusion of or during any phase in which consultant shall be entitled to compensation for services performed prior to the notice of termination. Section 7.1 gives the City the right to terminate with a 30-day notice, the purpose of which may be to cure any breach of the contract. It is not written precisely in those words, but the City would be well within its rights to terminate should it chooses to do so. He suggests giving the 30-day notice just to be on the safe side. The City would not have to claim any cause for termination. It would also serve as a professional courtesy.

Mr. Baumann also stated that they discovered a continuing services contract between the City and Hartmann Associates for engineering services. It appears that Tetra Tech most likely bought out Hartmann and Associates. It was dated back to 2005 because there was an assignment of that agreement from Hartmann Associates to Tetra Tech.

The Interim City Manager stated he has not yet determine the validity of this contract, but staff is looking into it because he was advice of the possibility there may be some outstanding small projects that were linked to that contract.

Mr. Baumann noted that if the council chooses to terminate the second agreement, it has the same provision regarding ownership of documents and a clear 60-day notice requirement to terminate that agreement and without requiring a cause for termination. He also noted there is an attorney fee provision within that contract so that if there were any litigations, the prevailing party would recover attorney's fees from the non-prevailing party; and so there is some risk from that standpoint.

The Mayor asked if the contract gives the provision for the contractor to defend themselves from this action from the standpoint that they are given the opportunity to speak at the next council meeting or through written communication between the attorneys.

According to Mr. Baumann, there is no requirement in the contract to give just cause for termination or to give them a chance for rebuttal if the Council decides to entertain a motion to terminate this evening. He suggests Council have counsel write a letter setting forth their decision to terminate.

Councilmember Dixon asked if they would need to pass a motion to set aside the order of the day if they wish to make a motion regarding this issue tonight.

According to the City Attorney, it would not be necessary for the motion to terminate the contract with Tetra Tech since the Council added this item to the agenda during the agenda approval process at the start of the meeting. He suggests waiting until the next meeting to terminate the secondary contract.

Councilmember Ramswell asked if the secondary contract listed Hartman and Associates as the ongoing service provider in the contract with Tetra Tech regarding the park; or if it was a completely separate agreement that has nothing to do with the park whatsoever.

Mr. Baumann explained it was a completely separate agreement that dates back to the early 2000. Hartman and Associates had the original contract and then it was assigned to Tetra Tech. He continued it was their assumption Tetra Tech may have bought out Hartman and Associates.

Councilmember Ramswell noted that the secondary contract was dated back in 2005 and the City bought the park and established service with Tetra Tech in December 2005 going into January 2006. She asked why Hartman and Associates would be listed in the contract as a secondary provider if they were already owned by Tetra Tech by that time.

Mr. Bauman stated the Hartman and Associates contract was dated back all the way to March 2000, and that it was assigned in April 2005.

Councilmember Overdier asked if the park would be placed on hold for the time being until they could find someone else to replace Tetra Tech.

The City Attorney noted that the City has another continuing services contract with another engineering firm.

The Interim City Manager stated he would check with Jenkins Engineering, their other continuing services contractor, if they would be able to handle a project of this scope.

Councilmember Overdier noted that the reason they are terminating Tetra Tech was because they are too expensive. He stated it would not make sense to terminate the contract unless Jenkins Engineering or another firm would charge the City less.

Councilmember Dixon stated that no one in the City monitored the charges from Tetra Tech, and that he feels they took advantage of the City. He also opined that Tetra Tech's presentation to the City a few months ago was unacceptable.

Councilmember Dixon moved to provide Tetra Tech, Inc. a 30-day notice to cancel their contract with the City for the Royal Melvin Heritage Park, and to direct the City Attorney to write a letter setting forth the Council's decision to terminate the contract with Tetra Tech; seconded by Councilmember Ramswell. Motion passed 4-1 (Council members Morgan, Overdier, Dixon and Ramswell voted "yes"; Councilmember Marler voted "no"; Council members Destin and Braden were absent from the meeting).

Councilmember Ramswell asked if they should review the contract with Jenkin's Engineering.

According to Mr. Bauman, they have not had a chance to review the contract, but there is a chance that the contract, as it exists now, could cover the work necessary for the park.

The Mayor suggests the Interim City Manager gives a report to the Council as to the status of the contract.

Having no further business at this time, the meeting was adjourned at 8:10 PM.

Gary Jarvis, Mayor

ATTEST:

SEAL

Rey Bailey, City Clerk