

**REGULAR MEETING
DESTIN CITY COUNCIL
OCTOBER 16, 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 Kevin Schmidt
Councilmember Dewey Destin
Councilmember Jim Bagby

Destin City Staff

City Manager Lance Johnson
City Engineer Ryan Scott
Dep. Code Compliance Dir. Brian Davis
Engineering Assistant II Joe Bodi
Library Director Wen Levingston
Public Information Manager Tamara Young
City Attorney Kimberly Kopp

City Clerk Rey Bailey
Public Works Director Michael Burgess
IT Director Andy Peters
Parks/Rec Director Lisa Firth
Grants/Projects Manager Jeffrey Cozadd
Finance Director Krystal Strickland
Principal Planner Steve O'Connor

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

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

AGENDA APPROVAL

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

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

- A. Resolution 23-25, ADA Transition Plan, recommendation by Public Works/Safety Committee for Adoption.

Public Works Director Michael Burgess presented the item, explaining that the development and implementation of an ADA transition plan is a federal requirement. The pedestrian transportation system condition assessment and subsequent transition plan development are required by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disability Act of 1990 for all public agencies. By approving this item, the city will increase

its level of compliance with this mandate. The transition plan was executed in two phases; phase being comprised of a citywide pedestrian infrastructure survey and evaluation of their public walking infrastructure. Phase II is taking the data collected as part of Phase I and providing them with 3 major deliverables: An inventory and analysis of identified deficiencies and hindrance to access, a three-tiered prioritization of needed repairs, and high-level cost analysis to guide the work in the Public Works Department and the city's future capital improvement planning efforts. This plan was presented to the council a few months ago. The council requested at the time that it be presented to the Public Works/Safety Committee for their review and comments on the plan. The committee has reviewed the plan and supports the work that went into its development and recommends its adoption by the council.

Councilmember Schmidt moved to adopt the ADA Transition Plan for Pedestrian Facilities as provided; seconded by Councilmember Hebert. Motion passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).

2. PUBLIC COMMENTS

Mr. Jeff Cross, a Destin resident, stated that he owns a property at Gulf Terrace Drive. For the past 3 years, he has been trying to get some resolution and action in regard to the homeless encampment and the trash that has accumulated in that area and has yet to receive any satisfaction. He has gotten the involvement of the sheriff's Department who have responded when requested and have driven off, at least temporarily, the homes that lived there. But the homeless keep coming back and accumulating more trash. He addressed this issue at least 2 years ago with the city's code enforcement, but their process has been very ineffective. He recommends giving the property owner 30 days to clean up the mess after the homeless are driven off by hiring a contractor or reimbursing the city for their expenses to prevent the homeless from coming back; and putting a lien on their property when they are unable to do so after those 30 days.

Ms. Carroll McIver, a Destin resident and President of the Destiny East Homeowners Association, requests that a solution to their flooding issue be submitted for state appropriation to be considered for inclusion in the state's next fiscal year's budget. They believe that a weir drain will act as a permanent solution for controlling the flooding at 4-Prong Lake. They are in the process of getting the permits to be able to build that drain and have 3 of the 4 permits already secured and expect to obtain the other one soon.

3. CONSENT AGENDA

- A. Demolition of Three Structures for Crosstown Connector, authorization to issue a Purchase Order
- B. Replacement of Library Carpet, authorization to issue a Purchase Order
- C. Short-Term Rental Impact Committee Schedule - Resolution 23-24
- D. Destin High School, Inc. Annual 5/10k Run Event
- E. Approval of minutes of August 7, 2023, Regular City Council Meeting
- F. Capital Project Status - Informational Only

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

4. CITY MANAGER REPORTS

A. Cross Town Connector Update

According to the City Engineer, the purpose of this report is twofold:

1. Determine the right-of-way alignment.
2. Determine whether to pursue both federal and state grants or just state grants.

He stated that the council’s previous direction was for the right-of-way for the new portion of the cross-town connector to be set at the proposed location of the back of the curbing. Staff has since determined that any properties that were purchased using TRIP funds are required to be designated as right-of-way. With this new information, staff is providing that the right-of-way to be set as shown in the exhibits. It is critical to get the right-of-way set so that the subdivision process can start which, in turn, allows for all the other permitting/zoning to commence.

He stated that for the cross-town connector to be eligible for state and/or federal grants for construction, different variations of a Project Development and Environment (PD&E) study re-evaluation will need to be completed. After staff and Atkins met with FDOT, two different proposals have been provided.

1. Destin Crosstown Connector Re-eval Scope for potential state grants – proposal will allow Atkins to perform an Environmental Impact Report re-evaluation that will unlock the ability to apply for state grants.
2. Destin Crosstown Connector PD&E Scope for potential federal grants – Proposal will allow Atkins to perform a PD&E re-evaluation that will unlock the ability to apply for state and federal grants.

He stated that staff is looking for direction on the right-of-way location.

Staff is looking for direction from the city council on which direction shall be taken with respect to the PD&E re-evaluation. The three options are as follows:

1. Take no action – the project would not be eligible for any state or federal grant opportunities.
2. Approve DCTC Reeval Scope for potential State Grants
3. Approve DCTC PD&E Scope for potential federal grants. Allows for the project to be eligible for state and federal grant opportunities.

Following a brief discussion on this issue, Councilmember Schmidt moved to table this matter until such time staff is able to obtain additional information/details on this subject; seconded by Councilmember Destin. Motion passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted “yes”; Council members King and Sweetser were absent from the meeting).

Councilmember Bagby requests the following information be provided to the council for all 3 options with respect to the PD&E re-evaluation:

- Price
- Timeline

B. US98 Feasibility Study (Marler Bridge to Airport Road) & Signal Retiming Update - Informational Item

The City Engineer reported that FDOT started a PD&E study for the segment of Harbor Blvd from east abutment of Marler Bridge to Airport Road. The current study along Harbor Blvd/US 98 was closed at a feasibility level due to lack of funding with only preliminary data obtained. Staff received the Feasibility Report in September 2023. The report shows three overall options:

1. No build alternative
2. Four lane Access Management Alternative
3. Six Lane Access Management Alternative

Currently, FDOT plans to procure the PD&E study contract sometime between August to December 2023 that will look at the portion of US-98 on Okaloosa Island that will include the Marler Bridge.

FDOT has also finished a signal retiming study for 22 signals along US-98 through Destin. The project results anticipate the following savings and recommendations:

- Weekly time savings of approximately 5,500 vehicle-hours along the corridor.
- A weekly fuel savings of approximately 20,000 gallons.
- Recommendation to re-stripe the southbound thru-lane of Gulf Shores Drive at US-98 to a shared left-turn/thru lane.

According to Councilmember Bagby, there ought to be peak-season timing and off-season timing. He would like to have the opportunity to speak with FDOT representatives who conducted the retiming and discuss their methodology.

C. City Owned Properties

Community Development Director Louis Zunguze alluded to the list of all the real properties owned by the City of Destin in response to the council's direction at the October 2nd council meeting. He stated that the list is provided for the council's information; however, staff will look further into any properties of interest per city council's direction.

Councilmember Schmidt mentioned that if the council is interested in obtaining additional properties in the future, there are two available parcels on Indian Trail that could be converted into a community park.

D. State Appropriation Requests

Grants/Programs Manager Jeff Cozadd noted that Representative Maney has invited municipalities in his district to submit state appropriation requests through his office to be considered for inclusion in the state's next fiscal year's budget. Appropriation request applications are due November 1, 2023. He asked for the council's direction on which projects and funding amounts they should prepare for appropriation requests.

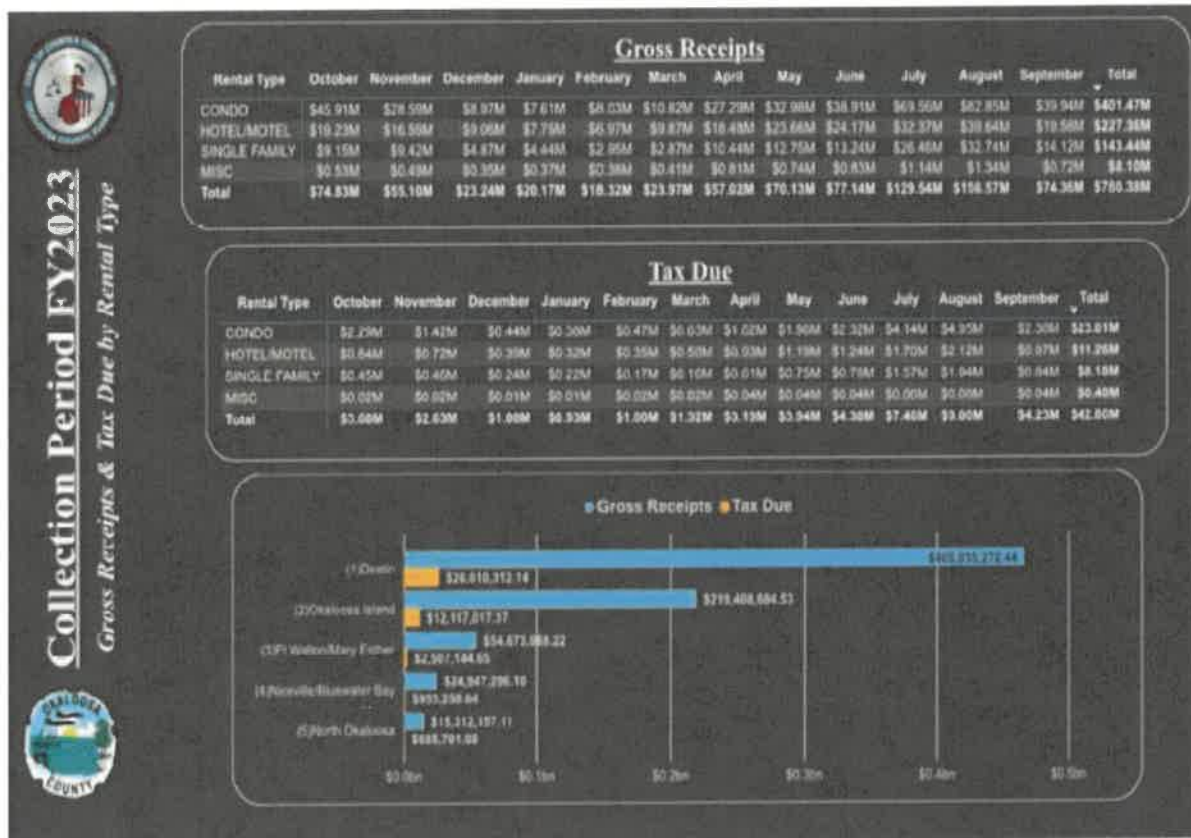
The following information was provided to the city council.

STRATEGIC OBJECTIVE			FY 2024	FY 2025	Max Appropriation Request Recommended (50%)
PRIORITY	Citizen/Council Directed				
1.3	UNDER	Undergrounding	16,000,885	-	8,000,000
1.6	EN615	Cross-Town Connector	9,003,151	-	4,500,000
1.2	CM001	Beach Acquisition/Beach Park Development	4,969,622	-	2,480,000
5.2	DREDG	Dredge Harbor	110,100	-	60,000
4.8	SW56	Mattie Kelly Naturewalk Outfall	175,000	1,200,000	690,000
	Growth Necessitated & Comp Plan				-
1.5	CRH60	Pedestrian Pathway Under Marler Bridge	-	-	-
1.4	EN617	Stahlman/US98 Intersection	-	-	-
	Other Capital Projects				-
4.11	CRT17	Town Center CRA Easement Trail/Linear Park	-	-	-
4.12	RC127	Pickleball Court	350,000	-	180,000
5.1	RC128	Morgan Bathrooms/Storage/Fieldhouse	250,000	-	130,000
5.1	RC129	Morgan - Field Lighting (LED)	255,000	175,000	220,000
5.1	RC130	Morgan - Artificial Infields	200,000	400,000	300,000
4.7	RC216	Clement Taylor Park Renovations	1,596,180	-	800,000
4.10	SW57	CTP Stormwater Mitigation	60,000	-	30,000
	Four Prong Lake Emergency Outfall cost estimate of \$1.5M to \$2M				

After considerable discussions by the council, Councilmember Destin moved to submit state appropriation requests for the following projects to be considered for inclusion in the state's next fiscal year's budget:

- Stahlman/US98 Intersection Improvements/Pedestrian Pathway Under Marler Bridge
- Undergrounding
- Cross Town Connector
- Four Prong Lake Emergency Outfall
- Harbor Dredging
- Morgan Sports Center – Artificial Infields

Councilmember Hebert provided a second to the motion, which passes 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).



F. Net Positive Environmental Benefit (NPEB) Fee – LDC 11.05.02.N

According to the city's Principal Planner Steve O'Connor, staff brought the recent issues of re-implementing the Net Positive Benefit Environment Benefit (NPEB) Fee before the city council on August 21, 2023. The city council requested that staff bring the issue forward to the Harbor & Waterways Board for their consideration and recommendation. Staff brought the following options to both the City Council and the board for discussion and consideration.

OPTIONS:

1. Keep assessing the NPEB fee to all projects within the Harbor and Canals adjacent to the Harbor, as Staff is currently implementing the regulations. This means any new dock, modification, or repair to an existing approved dock and the addition of, modification or repair to riprap will be assessed a fee of 25% of the construction cost (labor & materials).

2. Assess an initial 25% NPEB fee to all new facilities and expansions or major modifications, then a lesser percentage, for discussion purposes, a 10% fee, for any voluntary modification or repair not directly linked to an emergency event, such as a hurricane or other event out of the upland property owner's control.

The NPEB assessment for existing facilities can vary by marine facility type. For example, existing residential facilities can be assessed at a 10% NPEB fee, and non-residential can remain at 25% or some variation thereof.

3. Assess the 25% NPEB fee once, and no additional fees are required until an expansion or other major modification is proposed from the approved initial marine facility.

4. Any other option the Board may want to develop and recommend to City Council

The board listened to staff's options and then also took in the numerous public comments regarding the impact of the NPEB fee. As such, the board created their own recommendation as follows.

- The NPEB should apply to all new or expansion of existing marine facility projects within the Destin Harbor and canals adjacent to the Destin Harbor.
- The NPEB should not apply to any Board for Board replacement.
- The NPEB fee should be applied as follows:
 - 1. Class 1 Marine Construction Projects – 7%
 - 2. Class 2 Marine Construction Projects – 10%
 - 3. Class 3 Marine Construction Projects – 25%

As proposed in the draft Land Development Code (LDC) *Article 2 – Administration*, the board recommended breaking out various marine construction projects in the following manner:

- Class 1 – All State Self Certified docks
- Class 2 – Residential docks with 3 – 9 slips or larger than 1,000 sq. ft.
- Class 3 – All commercial docks and any residential projects that do not fit within Class 1 or 2

The last point of clarification Staff needs is whether to implement these recommended changes as soon as possible by amending the current LDC, or to wait until the LDC rewrite and reflect the approved changes. Staff is seeking guidance and direction from the council on the board's recommendation and timing for implementation.

Councilmember Schmidt moved for approval of the Harbor and Waterways Board recommendation on the application and implementation of the NPEB fee and direct staff to develop an ordinance to codify these changes into the LDC as soon as possible; seconded by Councilmember Hebert. Motion passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).

G. Announcements:

1. The Code Compliance Department will host a community workshop on Monday, October 23rd, from 6:00 – 7:30 p.m., in the City Hall Annex Council Chambers.
2. City of Destin Open House scheduled for Wednesday, October 25th, from 11:30 a.m. to 1:00 p.m., at the Destin Community Center.
3. The city's Annual Fall Festival is on October 30th at the Destin Community Center.
4. The city's Human Resources Department has increased the voluntary retirement contributions by 38%; reduced employee turnover rate by 12%; filled 80% of the vacancies in average of 45 days; offered 7 professional and personal development training courses to employees.
5. The city's Annual Pin Fish Classic is on in the morning of November 4th.

H. Undergrounding Overhead Utilities - FPL BCE and Conversion Agreement

Attorney Schef Wright, the city's special counsel for the undergrounding of overhead utilities project, presented the item to the city council. He stated that there are four contracts that embody the City's and FPL's agreements for the conversion of FPL's facilities for the Phase 1 Project. These agreements must be executed before November 17, 2023.

1. Underground Facilities Conversion Agreement (UFCA) for the 3.25-mile portion of Phase 1.
2. UFCA for the 2.44-mile portion of Phase 1.
3. Applicant-Installed facilities agreement that provides for the City's contractors to perform the work.
4. Right-Of-Way Agreement that provided FPL the right to use the City's ROWs for its underground distribution facilities.

He stated that these agreements are being presented for the Council's approval. Note that the cause for the 3.25 miles portion is zero, because of the favorable storm cost credit the city was able to negotiate with FPL. The cost for the 2.44-mile portion and thus the total cost to paid to FPL, is approximately \$690,000.

Next steps in the project include the following.

Once the City and FPL have executed the above agreements, the city will make the first payment (approximately \$690,000 from Electric Franchise Fee cash on hand) and FPL will order the materials. Conduit and transformers should arrive within 20 - 30 weeks of ordering.

Undergrounding Agreements will be negotiated this fall with the telecom providers, to pin Down costs and to allow them to order the materials to move their equipment from the poles.

If materials are ordered in November 2023, we estimate the undergrounded utilities will be ready to "go live" by September 2025.

Financing required for the construction phase will be planned in the December 2023 – February 2024 timeframe when more of the estimates are replaced with firm figures. The financing of this project will include use of cash on hand and debt in the form of either a bank loan or a bond issuance. The City's finance advisory team, which includes Ford & Associates and BMO Law will assist in identifying optimal terms and will assist with writing a financing request for proposals (RFP) or writing an official statement and possibly attaining a credit rating or two for the City.

Mr. O'Connor recommends approval of the binding cost estimates and conversion agreement with FPL.

Motion by Councilmember Bagby, seconded by Councilmember Hebert, to authorize the City Manager to execute the binding cost estimate and the overhead utility agreement with FPL, passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).

I. Resolution 23-22 -- Reimbursement Resolution for Undergrounding

Finance Director Krystal Strickland explained that this resolution allows the city to front cash to order materials and secure a conversion of overhead utility lines to underground with the understanding that the General Fund will be reimbursed with a tax-exempt debt issuance as soon as reasonable. This allows the General Fund to temporarily use cash that has otherwise been set aside for operating and capital purposes.

Motion by Councilmember Schmidt, seconded by Councilmember Hebert, to approve Resolution 23-22 passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).

5. PUBLIC HEARINGS

A. First reading of Ordinance 23-15-CC - Requiring undergrounding of utilities; changing the name of Chapter 18 of the Code of Ordinances from "Streets and Public Places" to "Utilities, Streets, and Public Places"; amending Chapter 18 of the Code of Ordinances to establish a new Article V "Undergrounding of Utility Facilities" and making other amendments to Chapter 18 for consistency with Article V.

The City Attorney read Ordinance 23-15-CC by title, and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, REQUIRING UNDERGROUNDING OF UTILITIES; CHANGING THE NAME OF CHAPTER 18 OF THE CODE OF ORDINANCES FROM "STREETS AND PUBLIC PLACES" TO "UTILITIES, STREETS AND PUBLIC PLACES"; AMENDING CHAPTER 18 OF THE CODE OF ORDINANCES TO ESTABLISH A NEW ARTICLE V "UNDERGROUNDING OF UTILITY FACILITIES" AND MAKING OTHER AMENDMENTS TO CHAPTER 18 FOR CONSISTENCY WITH ARTICLE V; ESTABLISHING PROVISIONS REQUIRING THE UNDERGROUNDING OF UTILITIES; PROVIDING FOR PRIVATE PROPERTY OWNER RESPONSIBILITIES; PROVIDING FOR DEFINITIONS; PROVIDING FOR PHASED CONVERSION OF EXISTING OVERHEAD UTILITY FACILITIES; PROVIDING FOR CERTAIN PERMITTING REQUIREMENTS; PROHIBITING PERMITS FOR NEW OVERHEAD UTILITY FACILITIES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Motion by Councilmember Hebert, seconded by Councilmember Destin, to approve Ordinance 23-15-CC on first reading and direct the City Clerk to advertise the second reading on November 6, 2023, passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).

Councilmember Bagby requests a GIS map showing electrical line locations be provided to the council when the ordinance is brought back for second reading.

- B. First reading of Ordinance 23-18-CN - Relating to a Natural Gas Utility Franchise of the Okaloosa Gas District extending Ordinance 13-02-CN for an additional ten years pursuant to the same terms and conditions set forth in Ordinance 13-02-CN.

The City Attorney read Ordinance 23-18-CN by title, and then presented it to the city council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO A NATURAL GAS UTILITY FRANCHISE OF THE OKALOOSA GAS DISTRICT; EXTENDING ORDINANCE 13-02-CN FOR AN ADDITIONAL TEN YEARS PURSUANT TO THE SAME TERMS AND CONDITIONS SET FORTH IN ORDINANCE 13-02-CN; PROVIDING FOR REPEALING; SEVERABILITY; AND PROVIDING FOR 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 consideration.

Motion by Councilmember Bagby, seconded by Councilmember Hebert, to approve Ordinance 23-18-CN on first reading and direct the City Clerk to advertise the second reading on November 6, 2023, passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).

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

- A. Councilmember Sweetser
- B. Councilmember Geile

1. Project Status Update

Staff provided an update on the following projects:

- 1 Harbor Blvd – Closing on the project is scheduled for October 17th. Everything is in order and progressing satisfactorily. The money is in escrow account and all the documents fully executed.
- Linear Park – DAG Engineering waiting on FPL to provide feedback on the 30% design. The design will be brought before the appropriate city committees for their feedback and then a public workshop will be scheduled.
- Tarpon Beach Park – 60% design completion. City Engineer waiting on some information before responding to questions from the county. Once the set of plans is received from the county, it will then be brought before the appropriate city committees for their review and feedback and then staff will conduct the normal processing.
- Harbor Dredging – Contract for the engineering survey has been approved and purchasing order established to start the work. Estimated start date for the work will be approximately two weeks after issuance of the Notice to Proceed
- Pickleball Court – Engineering survey for the pickleball site has been completed and Jenkins Engineering is moving on to the concept phase of the design. The design will then be taken to the appropriate city committees for review and feedback.
- Four-Pronged Lake – Stage one is approved. In the process of scheduling the boring on the ground to help relieve some of the stormwater. Currently looking at stage 2 which is the permanent fix. Looking for state appropriations to help with the funding.
- Crystal Beach Park – Appraisal has been ordered and should be completed within the next couple of days. Once the appraisal is received, staff will reach back out to the property owner for further negotiations and bring the result back to the city council.

- C. Councilmember Destin

Councilmember Destin requests a cost estimate for placing a 4-way stop sign at the intersection of Spring Lake and Kelly Streets, as well as on the Fleshman Drive intersection, be brought back at the next council meeting.

D. Councilmember Bagby

Councilmember Bagby announced a plan for him and other members of staff to go out to the west end of James Lee Park and at the Barracuda Beach access to determine the exact Erosion Control Line (ECL) location. He will provide a report at the next council meeting, at which time they can discuss enforcement of the ECL by the Sheriff's Office. He added that by law, all lands seaward of the ECL is public property.

E. Councilmember Hebert

1. Add an additional Council meeting on November 27, 2023.

Motion by Councilmember Hebert, seconded by Councilmember Destin, to schedule a Special City Council meeting on Monday, November 27th, passed 5-0 (Council members Schmidt, Hebert, Bagby, Destin, and Geile voted "yes"; Council members King and Sweetser were absent from the meeting).

F. Councilmember King

G. Councilmember Schmidt

Councilmember Schmidt requests the Parks and Recreation fee schedule be presented to the council at the next council meeting on November 27th.

H. Mayor Wagner

I. City Attorney

7. PUBLIC COMMENTS

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 8:15 PM.

ATTEST:

Rey Bailey, City Clerk

Bobby Wagner, Mayor