**MINUTES**
**REGULAR MEETING**
**DESTIN CITY COUNCIL**
**SEPTEMBER 17, 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 Chatham Morgan
Councilmember Parker Destin
Councilmember Cyron Marler
Councilmember Tuffy Dixon
Councilmember Rodney Braden
Councilmember Prebble Ramswell
Councilmember Skip Overdier

**Destin City Staff**

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

## CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Nathan Sell of United Methodist Church provided the invocation; which was then followed by the Pledge of Allegiance.

## SPECIAL PUBLIC HEARINGS FOR FISCAL YEAR 2019 MILLAGE RATE AND BUDGET:

A) Second reading of Ordinance 18-18-CN Adopting Fiscal Year 2019 Millage Rate

The City Attorney read Ordinance 18-18-CN by title, and then presented it to the City Council on second reading.

> AN ORDINANCE OF THE CITY OF DESTIN OF OKALOOSA COUNTY, FLORIDA, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF DESTIN FOR FISCAL YEAR 2019; AND PROVIDING FOR AN EFFECTIVE DATE.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance. Hearing none, the Mayor closed the public hearing and sent the matter over to the City Council for their discussion and consideration.

**Motion by Councilmember Braden, seconded by Councilmember Ramswell, to adopt Ordinance 18-18-CN on second reading adopting the FY 2019 millage rate of 1.6150 mills which is more than the rollback rate of 1.5520 mills passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

B) Second reading of Ordinance 18-19-CN Adopting Fiscal Year 2019 Budget

The City Attorney read Ordinance 18-19-CN by title, and then presented it to the City Council on second reading.

> AN ORDINANCE OF THE CITY OF DESTIN MAKING APPROPRIATIONS FOR CERTAIN EXPENDITURES, EXPENSES, CAPITAL IMPROVEMENTS AND CERTAIN INDEBTEDNESS OF THE CITY OF DESTIN, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2018 AND ENDING SEPTEMBER 30, 2019; AND PROVIDING FOR AN EFFECTIVE DATE.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance. Hearing none, the Mayor closed the public hearing and sent the matter over to the City Council for their discussion and consideration.

**Councilmember Overdier moved to adopt Ordinance 18-19-CN on second reading to provide for a balanced budget for FY 2019; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

## AGENDA APPROVAL

The Mayor announced that agenda item 7J (1) *Gulf Power Franchise Discussion and Further Consideration of Options,* will be heard after the presentation portion of the agenda.

**Councilmember Destin moved to approve the agenda as amended; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

## 1. APPROVAL OF MINUTES

A) Approval of minutes of September 5, 2018 regular city council meeting

**Motion by Councilmember Ramswell, seconded by Councilmember Overdier, to approve the minutes of September 5, 2018 regular city council meeting passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

B) Approval of September 5, 2018 council executive session

Councilmember Destin announced he would abstain from voting on this item as he was not a participant at the executive session that was held on September 5, 2018.

**Motion by Councilmember Ramswell, seconded by Councilmember Overdier, to approve the minutes of September 5, 2018 council executive session passed 6-0 (Council members Morgan, Marler, Overdier, Dixon, Ramswell and Braden voted "yes"; Councilmember Destin abstained from voting).**

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

A) Presentation of the 30% plans for the Norriego Point Recreation Improvements
Mr. Pearce Barrett, Florida Department of Environmental Protection

Mr. Pearce Barrett of the Florida Department of Environmental Protection (FDEP) provided the following updates on the third phase of the Norriego Point Stabilization and Recreation Improvements project:

- ➢ The vegetation portion or stabilization of the dunes is expected to be completed by the end of September 2018
- ➢ The project is in a 30 percent design phase. A presentation was made to the City's Parks and Recreation Committee in August 2018
- ➢ During Phase 1 of the project:
  - ❖ 36,000 tons of rocks placed on Norriego Point
  - ❖ 136,000 cubic yards of sand dredged
  - ❖ Created approximately 7 additional acres
  - ❖ 825 linear feet of sheet piling placed along the shoreline
  - ❖ Created an additional 600 feet of new shoreline; excluding the two new embayment that were created
- ➢ The project was submitted and approved by the trustees and BP before the final settlement; including:
  - ❖ Stabilization of the shoreline
  - ❖ Park structure which includes:
    - A picnic pavilion being revised to be a handicapped accessible viewing structure
    - Restroom facility
    - New shower structure
    - Drinking fountain
    - Educational signage along the multi-use trail (boardwalk facility)
    - New bike racks
    - Additional vehicle parking in the entrance road into the project
    - A new access road into the project
    - Additional dune crossover structure
  - ❖ Above structures make it a NRDA project. Take any of the above components away and the project no longer qualifies as a NRDA project
- ➢ The project is at the 30 percent design stage
  - ❖ At this point, the components of the project do not change
  - ❖ Orientation of some of the areas of the project can be changed to some extent

- ❖ Size of the restrooms can change
- ❖ Providing area for ATV storage for Parks and Recreation being addressed
- ❖ Okaloosa County to have access for their beach being addressed
    - County provides cleanup activities and beach dressing

Mr. Barrett explained the detailed components of the 30% design of the park as shown on the screen. He then addressed some of the questions that were brought up during the Parks and Recreation Committee meeting.

- ➢ *Will the new project blend in with existing sidewalks and roadways?*
    - ❖ Response: Yes. They will make all effort to ensure a smooth transition
- ➢ *Could the existing dumpster located at the end of the City ROW, which is unsightly, be removed or relocated, and possibly use that area for additional parking?*
    - ❖ Response: It is being considered
- ➢ *Will there be crosswalks or access between the private property on the inlet side and the property on the harbor side?*
    - ❖ Response: Yes. There would be crosswalks placed in that area which would be coordinated through with developer of the property and the City
- ➢ *Will they leave the existing showers located at the end of the existing ROW?*
    - ❖ Response: It would depend whether the City wishes to leave those showers in addition to the new showers to be placed near the new restrooms
- ➢ *Will golf carts be considered in the parking plan?*
    - ❖ Response: Yes
- ➢ *Are bike racks considered in the design?*
    - ❖ Respond: Yes. As many as necessary. They will also be addressed in the 60% design
- ➢ *Is fencing a component of the project?*
    - ❖ Respond: The project does not currently include fencing as a component. They are not proposing fencing on the project as condo developments usually put their own fencing

Councilmember Marler suggests they consider other composites to replace the Trex surface due to the heat and lack of shades in that area.

According to Mr. Barrett, there are different composites on the market and they typically bid projects to other types of composites; adding that the current design shows a cement type surface for the boardwalk instead of Trex because it is a hot surface. He also added they may use traditional lumber for the crossover structure.

Councilmember Ramswell asked if the road that crosses through the private parcel extends from where the City's current road ends to the northern boundary of the private parcel.

Mr. Barrett stated it was his understanding the City was deeded 100 foot of right-of-way which extends from the City's existing right-of-way to Norriego Point.

The City Engineer David Campbell explained that the City was deeded the hundred foot right-of-way, as part of the private development to the south. It is 100 feet wide and 800 feet long and it begins from the paved parking lot. He added that the property owner was going to construct the roadway with a cul-de-sac as well as the parking, sidewalks, and lighting as part of the development order.

Councilmember Ramswell asked if the road has already been funded by the developer.

According to Mr. Barrett, the road has not been funded; however, according to the project description, the road is to be built by the private property owner as part of the owner's development order. He added that it would be a reimbursement at this point since they are moving forward with the project.

Councilmember Ramswell expressed some concern over the City making an advance payment for something that should have already been funded.

Mr. Barrett stated they plan to meet with the developer to make sure they are going to honor their portion of the development; adding they would either write a check to the City to finance the road or build it in a timely manner to coincide with the project.

Councilmember Ramswell asked if the City would be over-budget if they have to build this section of the roadway.

Mr. Barrett noted there is not enough money in the NRDA funding to pay for this section of the roadway. It is intended to be funded by the private property owner.

Councilmember Ramswell suggests FDEP or City staff meets with the developer sooner rather than later to discuss funding for this road.

Councilmember Dixon questioned the need for a retention pond.

Mr. Barrett explained it is required by the permitting authority. There need to be some sort of storm water attenuation.

Next item discussed was agenda item 7J (1) Gulf Power Franchise Discussion and Further Consideration of Option

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

Mr. Dewey Destin, a Destin resident, stated that as a member of the Council 32 years ago, they dealt with the very first Gulf Power franchise agreement. They understood they needed some kind of leverage to protect the citizens of Destin; and so they included the City's right to purchase the electric utility as well as to buy power wholesale from Gulf Power and sell it back at retail to the citizens. They could exercise these rights in the event rates became too high, or if they were not getting the service they thought the citizens of Destin deserved. He also remarked that the present Council is doing the right thing in exercising their right to purchase; adding they should preserve this leverage or they would find themselves at the mercy of Gulf Power. He urged the Council not to get intimidated by robocalls, which started again and with a lot of false information being circulated.

Ms. Leigh Moore, representing Howard Group, noted that Gulf Power has sold out for $5 billion and now trying to take away the opportunity for the citizens of Destin to improve critically needed infrastructure by "watering down" the purchase option and purchase agreement. She thanked the Council for protecting the rights of the City of Destin and its assets.

Ms. Casey Waterhouse, a Destin resident, stated that she practices law and services people throughout Okaloosa County. She stated that she negotiates for a leaving and truly believes leverage is of utmost importance. She also believes the Council is doing the right thing in using the only leverage they have against Gulf Power for the best interest of the community.

Mr. Felix Foret, a Destin resident, stated that the Council's decision affects everyone financially in a very meaningful way and so it should be put on a referendum for the citizens of Destin to vote. He asked what the motivation was behind the Council's action and whether they have some projections that could indicate how much this decision would save the citizens of Destin.

Mr. Darryl Shelton, a Destin resident, stated that the Council is making the right decision by exercising their right to purchase. There is no downside in moving forward. He continued there have been some misunderstandings as to what this decision could mean for the City of Destin. They would not be using general revenue bonds to purchase the utility; and so it would not bankrupt the City of Destin.

Mr. Guy Tadlock, a Destin resident, stated that he agreed with Mr. Dewey Destin's earlier comments regarding the franchise agreement with Gulf Power; adding that companies like Gulf Power are modern day monopolists. They have total control of their destiny with little risk on their part. He continued that the City of Destin has 15,000 meters; and that they fall under the term "Golden Nugget" because they are a highly profitable community. He also stated there is a lot of misinformation being circulated and so it would be to the City's benefit to put out as much factual information as possible.

Mr. Danny Tignor, a Destin resident, noted that he worked for Alabama Power and Southern Company for 36 years as a mechanical engineer. He stated that Southern Company provides dependable service to its customers; but, there is one thing it holds most sacred, which is their bottom line profit. It would be willing to sacrifice almost anything to keep money coming in. He continued that the Council is making a good decision in exercising their right to purchase because it would be foolish to let a profitable business such as electric utility get away.

Ms. Jean Carter, a Destin resident, asked what it would cost the City and what kind of profit they could expect to gain by purchasing their own utility company. She also stated that she is in favor of putting this issue directly to the people for a vote. She also stated that Gulf Power has good relationships with neighboring power companies which would normally provide some assistance in case the City is hit by a hurricane; otherwise, they could go for months without power.

Mr. Steven Menchel, a Destin resident, stated that exercising its right to purchase the electric utility does not lock the City into any specific course of action; and that they also left the door open for further negotiations with Gulf Power. He also noted that he recently received several robocalls providing an inaccurate synopsis regarding the action that was taken by the Destin City Council and urging him to attend the Council meeting and attempt to reverse the Council's decision. The telephone from which the robocalls originated was a LAN line in Tallahassee registered to an unidentified individual, and the source of funding was not provided. He filed an official complaint with the Department of Agriculture regarding the robocalls.

Ms. Diana VanOeveren, a Destin resident, urged the Council to extend the current franchise agreement with Gulf Power for one or two years, until such time NextEra's purchase of Gulf Power is complete; adding this could change some of the problems they are currently facing.

Mr. Mike Chesser, Destin Fishing Fleet attorney, stated that several years ago, there was a lawsuit filed by B.I., Inc. against the City of Destin to declare its right to the easement they claim exists on City property. He asked the court for permission to intervene in that action, and that the court granted that request. He continued there have been some efforts to settle that lawsuit made privately by individuals from the City and the plaintiff in that action. He tried very hard to include himself into that discussion as granted by the court to no avail. He also noted that at 5:05 p.m. on September 5, 2018, after the B.I.,Inc.'s attorney and the City met at 5:00 p.m., he received a copy of a multi-page proposed settlement agreement being considered by the City which he did not have time to review at the time. The settlement agreement was considered in an executive session, which is a private session. The Council then came back and convened a public meeting and approved the settlement agreement without any further discussions about the contents of that agreement. He argues that this issue should have been discussed and considered publicly.

The Land Use Attorney contends that she personally provided Mr. Chesser a copy of the proposed settlement agreement two weeks before the executive session; and that she had spoken about it with Mr. Chesser a couple of times on the phone. She also added that copies of the document, which is a public record, were also provided to other individuals who requested it. She also explained that the executive session is appropriate for the City Council to discuss pending litigation; and that the transcript of that session would be made available to the public at the conclusion of the litigation.

Councilmember Braden stated that the Council did not agree in private during the executive session. The vote was made in a public setting.

Mr. Chesser argues that under the Bert J. Harris Act, this particular issue should have never been discussed in private.

Councilmember Dixon expressed that the action this Council has taken was completely legal.

At this point, the Mayor stopped all discussions about this particular issue, stressing that this is not the time and place to have a back and forth argument about it.

Mr. Steven Menchel, a Destin resident, complimented the City staff for a fine job installing the raised pavement markers along Scenic 98, which is a tremendous safety device.

Mr. John Madden, a Destin resident, noted that at the last meeting, an individual made a presentation to the Council regarding pedestrian safety management solutions on Scenic Hwy 98. He stated that he represents the residents at Pompano Street, and that they have a lot of problems with the action taken by the Council to spend about $5,000 to purchase and post 27 beach access signs on Scenic Hwy 98. He continued that having that many signs is unnecessary; and that all the traffic is being directed to Pompano Street. He asked that Council's action be put on hold, and to schedule another meeting to discuss this subject and allow the affected parties to render their opinions.

Councilmember Destin suggests Mr. Madden goes before the Public Works/Safety Committee and expressed his grievances before that committee and perhaps they could come up with something more amenable to all parties involved.

The Interim City Manager asked if it would be necessary to rescind the motion the Council previously adopted regarding this subject at this time.

The Mayor suggests the Council entertain any motion following the public comments.

Mr. Madden also stated that the biggest need regarding the Gulf Power franchise issue is education.

Mr. Colon Terrell, a Destin resident, stated he is a volunteer ambassador for the Pickle Ball Association. He stated they are in dire need for pickle ball facilities in Destin and they are asking Council's approval to use the footprint at Buck Destin Park for 4 dedicated pickle ball courts instead of shared courts in that facility. He stated that during the Snow Birds season they sometimes have over a hundred people show up at the Destin Life Center and another 60 people show up at the Destin Community Center to play pickle ball. He added that pickle ball has been the fastest growing sport in the world for 5 years in a row.

Councilmember Ramswell noted that the Council voted to approve turning one of the tennis courts in Destin into pickle ball courts, and developing brand new pickle ball location in Destin at their previous budget meeting.

Mr. Scott Fischer, a Destin resident and previous Destin Mayor, stated that this Council made one of the toughest decisions they will ever make in deciding to exercise their rights to purchase Gulf Power's electric utility. They made that decision because they care about the City of Destin. He continued that a lot of research went into this decision. This Council has been reviewing this issue for a couple of years. They hired a research company that appraised the Destin asset at $70 million. He stated that asking the citizens to vote on this issue would be asking the people who have been receiving slanderous materials in the mail the last several years to decide. Thousands of these citizens have never attended a Council meeting and not aware of the details regarding this subject. He continued that this is the type of decisions elected officials need to make in a representative form of government. He also noted that statistics show that Destin pays 32 percent more for its power than many of the cities in Central Florida.

Mr. Bill Reddington, a Destin resident, expressed concern over the possible condition the City will find itself into if they run their own power company and a major storm hits the City. He continued that a City-owned entity may not have access to out-of-state power companies who would normally provide support in an emergency situation. He also noted that based on the robocalls he has been getting, it would cost every citizen of the City over $13,000 to make the switch; and that if they go with the $70 million dollar appraised value of the purchase, it would still cost each citizen over $4,000 to do so. He added that Destin does not have the infrastructure needed to run its own power company. He also added that the citizens of Destin should be allowed to vote on this issue.

At this time, the Mayor allowed the Council the opportunity to discuss the Gulf Power franchise issue.

Councilmember Destin explained that the City of Destin signed a franchise agreement with Gulf Power over 30 years ago. Under the current arrangement, the City collects approximately $1.7 million in franchise fees annually. The agreement included a provision that after 1996, and at any time thereafter to the year 2016, the City could purchase the electrical system. The purpose for this provision was to avoid a massive monopoly by the electric company. He continued that there is also an arbitration provision, which is a procedure that allows the City to meet with Gulf Power in front of a panel of judges to determine the value of the system. He stated that the City Council authorized him to negotiate a new franchise agreement with Gulf Power; which he has been doing so for the past 6 months. He suggested doing a similar franchise agreement they have had for the past 30 years with Gulf Power; however, Gulf Power declined to do because they wanted to eliminate the purchase provision from the agreement. He did not agree with eliminating the purchase provision from the agreement because it is the only guarantee Gulf Power will treat the City of Destin fairly in the future. He continued there have been some in-depth negotiations over the past several weeks. They were going to settle for a 15-year franchise agreement with a purchase provision the City would be allowed to exercise at year 5 and at any point until year 15. However, Gulf Power made a last minute amendment to that proposed agreement to where the City would only have one opportunity to exercise the purchase provision at year 5, and then another opportunity to do so at year 15. The actual purchase provision was also limited in scope. Gulf Power would not allow the City to actually purchase the asset with the substations (electrical distribution systems) included, which are a critical part in the operations of the power system. If they decide to purchase the system, they would have to obtain brand new substations they cannot afford, place them on land they do not have, and in a network that is already built out. For these and other reasons, they believe Gulf Power has no negotiated in good faith; and so on September 13th, the City exercised its right to purchase the system. It is a legal operation that preserves the City's right indefinitely to potentially purchase the system if they so desire at some future point. They are also continuing to negotiate, at a parallel path, for a new franchise agreement with Gulf Power.

Councilmember Marler contended that based on the language in the purchased resolution that they passed, the City has effectively purchased Gulf Power's assets.

Councilmember Destin disagreed, stating it is not an accurate assessment.

Councilmember Marler stated he still believes this issue should have been voted upon by the citizens of Destin.

Councilmember Ramswell noted that the main points of the robocalls were purchasing the electrical system would cost Destin taxpayers $200 million; their power bills and property and sales tax will increase tremendously; the reliability in service will drop; and hurricane response will suffer. She asked Mr. Schef Wright, the special counsel to the City, to address these issues.

Mr. Wright stated that the arbitration process has not started. This process would involve the appointment of the arbitration panel, and then the arbitration process itself. The purchase price will be determined at the conclusion of the arbitration process. He continued that Mr. Fischer has suggested it could cost as much as $200 million depending on how it purses out as a result of the estimated buy out price of Gulf Power by NextEra Energy. The research company the City hired appraised the value of the sale at $71 million, including all start-up costs. The arbitration panel might determine the fair market value to be somewhere between $71 million and $200 million. The debt service will be rolled into the rates. The estimates prepared by the research company, depending on their accuracy, indicated that the City could charge Gulf Power's rates, payoff all the debt service, replace the franchise fees and all other estimated costs, and still incur about $6.8 million a year in cash over and above the debt service payment. He added they would not be using general revenue bonds to purchase the utility. It would be electric revenue system debt and so no additional costs would come out of people's pocket. He also added that based on the professional estimates by the research company, there is no reason to assume the electric rates would increase. They could even reduce rates and have additional funds to devote to the undergrounding of utilities.

Councilmember Ramswell asked what could happen if they purchase the utility and then sell it to a third party.

According to Mr. Wright, if the City purchases the utility and then sells it, the process is complete. No further action is required.

Councilmember Ramswell asked Mr. Wright to address the concern that property and sales tax will increase tremendously.

Mr. Wright noted there is no correlation between property and sales tax and electric revenues.

Councilmember Ramswell inquired as to the concern regarding a decrease in reliability of service.

Mr. Wright replied there is no reason to think this assumption is true; adding there are 33 municipal utilities in Florida and 24 of them report distribution reliability data. He also added there is no reason to believe the quality of service will decline.

Councilmember Ramswell asked Mr. Wright to address the concern that hurricane response will suffer if the City runs its own utility.

Mr. Wright noted that municipal utilities in Florida are participants in municipal agreement that everybody participates in and help in storm activity.

Councilmember Ramswell stated that in terms of the argument about putting this issue out to a vote by the citizens, it was her understanding from the City Attorney's previous explanations that this is a procurement issue and the City Council decides on procurement matters such as contracts.

According to the Land Use Attorney, there is nothing in the City Charter that permits a referendum to interfere with contract negotiations.

Councilmember Ramswell suggests the City publishes a list of frequently asked questions (FAQ) on the City's website to give the citizens a clear understanding of this matter.

Councilmember Overdier asked whether exercising their right to purchase allows further negotiations with Gulf Power for a new franchise agreement, or it was to negotiate ns with Gulf Power to purchase the system only.

According to Mr. Wright, the Council has directed the City's attorneys to proceed towards the arbitration process. In terms of continuing negotiations towards a new franchise agreement with Gulf Power, the resolution Council adopted did not direct negotiations to continue, but there is no reason further negotiations cannot continue.

Councilmember Morgan remarked he cannot support a franchise agreement that takes away their right to purchase, which is their only leverage for future negotiations with Gulf Power. He is not willing to give up the City's rights and the City's future generations' rights to negotiate with their electric franchise.

The Mayor stated that the language in the adopted resolution seems to indicate that the City is committed to purchasing the electric utility.

Mr. Wright stated that it is a bifurcated process. If the price is not acceptable to the Council, they do not have to proceed with the purchase of the utility.

According to the Land Use Attorney, immediately after voting on the resolution exercising their right to purchase, the Council gave specific direction that the City Attorney, Councilmember Destin and Mr. Wright continue negotiating with Gulf Power for a new franchise agreement.

Councilmember Destin explained that the resolution has to contain very specific legal language that they intend to purchase the utility; otherwise, Gulf Power could argue in the court of law that the City has not fully executed their right to purchase. However, the Council has the right to change their mind if they do not find the price to be acceptable.

Mr. Wright explained that the Council has unequivocally exercised its right to purchase, and they have directed the City's attorneys to move toward the arbitration process; adding that continuing to negotiate for a new franchise agreement with Gulf Power is a separate and apart from this process.

Councilmember Marler inquired as to the consequences of Gulf Power not wanting to continue negotiation for a new franchise agreement.

Mr. Wright replied that they would have to proceed toward the arbitration process.

## 4. CITY MANAGER REPORTS

A) Sibert Avenue Parcel, additional parking opportunity

Deputy City Manager Steve Schmidt stated they have been contacted by the owner of 108 Sibert Avenue for consideration of purchase of the property. The approximately half-acre property is bounded on the northwest by City right-of-way (Sibert Avenue), on the southwest by property of the City (the currently existing Zerbe parking lot), on the southeast by property of the City (the Community Center) and on the northwest by property of the City (a half acre parcel next to the cemetery). The City has an appraised value of $250,000 for the property. Another appraisal that was provided earlier by the seller's representative has a value of $425,000 for the property. The property is currently listed on the market for $400,000.

**Councilmember Destin moved to direct the Interim City Manager, Deputy City Manager, and City Attorney to preliminarily approach the owner of Sibert Avenue parcel for possible acquisition of the property; seconded by Councilmember Morgan.**

Councilmember Dixon opined that this property is worth no more than $250,000.

Councilmember Braden stated he would support paying $250,000 but not $400,000 for this piece of property.

Councilmember Destin stated they can discuss this issue again once they receive the owner's expected price for the property.

The Interim City Manager will investigate and bring back an estimated amount for the property at the next Council meeting.

**Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

B) Interlocal Agreement for Waterfront Access Maintenance and Capital Improvements

According to the Interim City Manager, the Tourist Development Department (TDD) provides funding for the general maintenance and capital improvements at the City-owned and maintained beach access points and the City boardwalk; and that this interlocal agreement confirms their obligation for Fiscal Year 2019.

**Motion by Councilmember Ramswell, seconded by Councilmember Overdier, to approve the interlocal agreement for waterfront access maintenance and capital improvements between the City of Destin and the County TDD passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

C) Adoption of a new Investment Policy Resolution 18-27

The Finance Director explained that the City's current policy which the Council passed several years ago is not in complete compliance with the current State of Florida investment strategies. He continued it was recommended by the City auditor that the City writes and adopts an investment policy that brings the City Investment Policy in alignment with the State of Florida policy.

**Motion by Councilmember Morgan, seconded by Councilmember Ramswell, to adopt the Investment Policy Resolution 18-27 passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

D) Feasibility of OCSO deputy assisting code enforcement during peak season.

The Human Resources Manager stated that at the last meeting it was suggested by a member of the Council the possibility of hiring an off-duty Okaloosa County Sheriff's deputy to assist the City's code enforcement officers during peak season as needed. She continued that staff is asking Council to consider funding this initiative under contract services instead of a Sheriff's contract amendment to give staff the flexibility of bringing back more options such as hiring an off-duty officer or other individuals with some experience in security. The Council could also decide if they want to hire this individual either year-round or during peak season only.

Councilmember Dixon stated that he made the suggestion because he feels they are more likely to gain compliance in problem areas by the mere presence of a law enforcement officer rather than just code enforcement officers. It would also be more beneficial in areas with serious parking issues such as Holiday Isle and Crystal Beach. He added if the City fails to gain compliance, they could then turn the matter over to the Sheriff's deputy to deal with it in a slightly different level.

Councilmember Ramswell suggests they have a future discussion regarding the possibility of taking code enforcement out from under the Community Development Department's purview and making it a standalone department.

Councilmember Marler asked staff to also look into the possibility of utilizing Sheriff's posse to augment code enforcement.

The Land Use Attorney suggests they provide the Sheriff's Office a scope of work so they know what to expect and can make a decision.

**Councilmember Ramswell moved to direct the Interim City Manager to provide a scope of work to the Sheriff's Office; seconded by Councilmember Marler. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

E) Announcements/General Updates

The Human Resources Manager provided the following updates regarding the search for a full-time City Manager.

- Received 45 applicants
- Mr. Buzz Eddy of FCCMA has copies of all application and resumes
- Deadline for the applications is September 23rd
- Awaiting Council's direction moving forward

Councilmember Dixon asked that Council be provided copies of all the applications to give them a chance to pare them down if they so desire.

Councilmember Destin asked that the Council also be provided a copy of the qualifications rubric and the methodology the HR Manager and Mr. Eddy would probably apply in their effort to come up with a short list of candidates.

The Human Resources Manager provided the following updates regarding the search for a new Community Development Director:

- There are currently 16 candidates for the position
- The City's interview panel has narrowed the list to four
- Formal in-person interviews is scheduled in two days
- Seeking direction from the Council if they would like staff to schedule a "Meet and Greet" session with the top candidates

Councilmember Ramswell asked if the Interim City Manager has been involved in the process of narrowing down the candidates.

The Interim City Manager stated he would be involved with interviewing the final four candidates that will take place later this week.

Councilmember Braden asked who were on the interview panel.

The HR Manager replied that during the first round, the panel composed of the HR Manager, Building Official, the Deputy City Manager and the City Engineer. The Interim City Manager would be involved in the second round interviewing the top 4 candidates.

Councilmember Ramswell would like the Interim City Manager to be more involved in the process of narrowing down a large field of candidates and interviewing a short list of candidates since he has the ultimate hiring authority.

The Interim City Manager stated he would discuss this issue with the HR Manager after this meeting. His understanding was the candidates would be narrowed down to a number less than 15 and then he would be involved from that point forward.

Councilmember Destin noted that the City Charter gives the Council approval authority for the hiring of department heads. He also stated that he endorses the idea of scheduling a "Meet and Greet" session to give the Council the chance to meet the top candidates face to face.

Councilmember Overdier asked what would happen if the Interim City Manager selects and brings forward a candidate and members of the Council come up with their own choice of a suitable candidate.

Councilmember Destin suggests that after meeting with the candidates, each Council member meets with the City Manager and gives their individual opinion about the candidate of their choice. The Interim City Manager then takes all the opinion under consideration and tries to come up with the best candidate to bring forward to the Council. At that point, the Council's action will dictate the next course of action.

Councilmember Marler stated that the Council has the final decision on hiring department heads; however, it should be based upon the City Manager's recommendation because this is a part of his administrative duties. He added that members of the Council could meet individually with the City Manager to give their opinion, but he would not want the Council to get involved in a micro-managing situation.

Next, the Interim City Manager made the following announcements:

- Funding for resurfacing of Buck Destin tennis and pickle ball court was pulled, but there is money available for the project and that this item is under the Consent Agenda
- Tetra Tech, Inc. proposal for the cost for revising the plan for the Royal Melvin Heritage Park has been provided to the Council via email. This item will be placed on the next meeting agenda to seek firm direction from the Council on how to proceed

The City Engineer provided the following updates on the Crosstown Connector:

- The TDD agreed to fund construction of the crosstown connector. The amount of $4.8 million is due to the City on October 1, 2020
- FDOT's 5-year work plan contains right-of-way acquisition funds for $2.7 million in the years 2021 and 2022
- City needs to acquire the rights-of-way before construction can begin
- Staff will bring back a resolution at the next Council meeting for Council's approval for an advance funding agreement with FDOT

The City Engineer provided the following updates on the Structured Parking Solution's efforts.

- Conducting information gathering meetings w/ stakeholders in the harbor district and w/ the general public
- Will bring back a Memorandum of Understanding (MOU) at the next Council meeting
- Council's decision on the MOU will determine when to schedule a Transportation Workshop

## 5. PUBLIC HEARINGS

## 6. CONSENT AGENDA

A) Resolution 1832 Request FDOT for temporary closing of US Hwy 98 for the December 8, 2018 Destin Christmas Parade.
B) Tyler Content Management Software for Munis Financial System
C) Citizenserve Software Annual Licensing and Support
D) Buck Destin Tennis Court Resurfacings/Fencing

**Motion by Councilmember Destin, seconded by Councilmember Marler, to approve Consent Agenda items #6A thru #6D, as printed above, passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").**

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

A) Councilmember Braden
B) Councilmember Ramswell

Councilmember Ramswell suggested the idea of lengthening the Sunpass lane on the Mid-Bay Bridge by opening it up further back and positioning cones accordingly on turnover days.

Councilmember Destin suggests they invite the Executive Director of the Mid-Bay Bridge to attend a Council meeting to discuss this and other recommendations with him.

C) Councilmember Dixon

Councilmember Dixon asked staff to take the necessary actions to remove derelict vessels on Joe's Bayou and Marler Bayou.

D) Councilmember Overdier
E) Councilmember Marler

Councilmember Marler asked staff to place on the next agenda discussion of the City Charter relative to the process of hiring and firing of the City Manager and City Attorney.

F) Councilmember Destin
G) Councilmember Morgan
H) Mayor Gary Jarvis

The Mayor noted that according to the City Charter, the hiring and firing of a City Manager requires a super majority vote of the Council.

Councilmember Destin asserted that firing a City Manager only requires a simple majority vote of the Council.

I) Land Use Attorney

1) Amendment to Vested Rights Ordinance; Announcement of Pending Ordinance Doctrine

It was the consensus of the City Council to invoke the pending ordinance doctrine to allow the City Council to add a fourth category to the recently adopted Vested Rights Ordinance dealing with minor developments.

J) City Attorney

1) Gulf Power Franchise Discussion and Further Consideration of Options

According to the Land Use Attorney, Gulf Power and the Florida Public Service Commission have been notified that the City of Destin has elected to exercise its right to purchase the Gulf Power electric utility.

Following this item, the Council moved on to agenda item #3 for public comments.

Having no further business at this time, the meeting was adjourned at 9:20 PM.

**Gary Jarvis, Mayor**

**ATTEST:**

CITY OF DESTIN SEAL FLORIDA

**Rey Bailey, City Clerk**