

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
AUGUST 6, 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

Deputy City Manager Steve Schmidt
City Engineer David Campbell
Parks & Recreation Director Lance Johnson
Deputy Parks & Rec Director Lisa Firth
Public Information Manager Doug Rainer
Land Use Attorney Associate Avery Smith

City Clerk Rey Bailey
HR Manager Karen Jankowski
IT Manager Webb Warren
Finance Director Bragg Farmer
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 Steve Farris of First Baptist Church gave the invocation; which was then followed by the Pledge of Allegiance.

AGENDA APPROVAL

Councilmember Marler moved to continue agenda item #5A - *First reading of Ordinance 18-15-LC – Wheeled Vehicle on the Beach*, to August 20, 2018 City Council meeting. Councilmember Overdier provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted yes).

Councilmember Ramswell moved to place agenda item #7i to the top of the agenda following agenda item #3 – *Public Comments*; seconded by Councilmember Morgan. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted yes).

Councilmember Braden moved to continue agenda item #4E and #5B to August 20, 2018 meeting; seconded by Councilmember Overdier. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted yes).

Councilmember Destin requested that discussion on the assignment of Mr. Steve Schmidt as Interim Community Development Director be placed under his name under the *Council Comments* portion of the agenda.

Deputy City Manager Steve Schmidt noted a scrivener's error under agenda item 6E; stating that "620 Gulf Shore Drive" should read "605 Gulf Shore Drive."

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

1. APPROVAL OF MINUTES

- A) Approval of minutes of July 16, 2018 council executive session

Motion by Councilmember Marler, seconded by Councilmember Overdier, to approve minutes of July 16, 2018 council executive session passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted yes).

- B) Approval of minutes of June 11, 2018 city council workshop

Motion by Councilmember Marler, seconded by Councilmember Destin, to approve minutes of June 11, 2018 city council workshop passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted yes).

2. PROCLAMATIONS / RECOGNITIONS / SPECIAL PRESENTATION / ANNOUNCEMENTS

- A) Presentation by Structured Parking Solutions, LLC

Mr. Greg Darden, Director of Business Development for Structured Parking Solutions, LLC, provided the following presentation to the City Council:

- Structured Parking Solutions (SPS) is a full service parking and transportation design and development company
- SPS provides a compliment of specialized services allowing us to exceed expectations for this important project
 - ❖ Consulting
 - ❖ Design
 - ❖ Development
 - ❖ Management System Development
 - ❖ Mechanized Parking
 - ❖ Financing

- Established a team with past working experience to provide professional and holistic services for this project. A team with experience working together:
 - ❖ SPS (Bullock Tice, PTAC Consulting Engineers) – lead designer
 - ❖ Volkert Engineering – civil engineering
 - ❖ Lanier Parking – parking operations
 - ❖ Lord And Sons Construction – general contractor
 - ❖ Jerry Pate Design – landscape design
 - ❖ Beggs & Lane – legal services
 - ❖ Corporate Realty – mixed-use developer

Initiative

- The purpose of this solicitation is to consider parking and other supporting characteristics to improve transportation and safety needs
- To make meaningful and lasting transportation improvements, other factors will need to be considered:
 - ❖ Funding
 - ❖ Managed Parking
 - ❖ Street and Pedestrian Improvements
 - ❖ Other portions of the City

Team Sensitivities

- As we develop our initiative, we will focus on:
 - ❖ Improvements for residents and visitor benefits
 - ❖ Safety needs
 - ❖ Improvements that do not become obsolete
 - ❖ Sensitivity to sustainability, ecology and economics
 - ❖ Sensitivity towards existing businesses and residents
 - ❖ Improvements through technologies
 - ❖ Sensitivity to future and new trends – electric vehicles, rideshare, autonomous vehicles

General Approach

- Approach includes a holistic grouping of parking and transportation professionals, bringing together master planning, design, construction, finance, and operations within a single-source of responsibility team
 - ❖ First step is to generate initial findings and develop a Letter of Intent (LOI) for City Council review
 - ❖ Once the LOI is executed, a preliminary masterplan and schedule will be created

- ❖ The masterplan is validated by design and constructions professionals to verify its constructability and budgets
- ❖ Identify sources of project funding
- ❖ Edit the masterplan based from findings and input from the City
- ❖ Once there is a viable and implementable masterplan, all information will be submitted to the City Council for review, edits and approval

The First Step

- City Council “selects” the team
- Team gathers preliminary information through stakeholder meetings and through other sources
- Team reports to City staff and mutually develops an LOI
- LOI is presented to the City Council for consideration
 - ❖ The LOI will outline the project phases, goals, schedules, and responsibilities of all parties during the LOI period
- If the City Council does not approve the LOI, all parties walk away without cost to the City

Councilmember Dixon suggests they schedule a workshop so they could mainly focus on this item.

Mr. Darden agrees scheduling a workshop and bringing the public in to provide input is a very good idea. He also stated it is important to have a group of transportation professionals involved to hear and help understand the need and wishes of the citizenship; adding that his team is willing and able to provide some assistance with that endeavor.

Councilmember Marler inquired as to the approximate amount of time to develop vertical parking.

Mr. Darden stated they have not had a chance to legally and formally meet with the City and stakeholders; however, the fastest time they have been able to develop vertical parking was 6 months for a 900-car garage project in Alabama. He added that it could take 12 to 14 month to design and physically construct a parking facility in this case.

Referring to the west garage plans fronting the west end of Zerbe and south end of Sibert; Councilmember Ramswel asked if the City owns that entire piece of property.

Mr. Darden explained that submitting teams are required to look at City-owned properties and give forward looking visions of what might happen on those properties. They only looked at City-owned and controlled properties and determined that the west side is fully contained on the property owned by the City.

Councilmember Ramswell inquired about a letter in the packet from one of the adjacent property owners giving a local developer permission to use the breezeway between McGuire's and the parking deck as an access and exit point to the parking deck.

Mr. Darden explained that the west garage is at a very low elevation as compared to U.S. Hwy 98; and that one of the most important things about doing any kind of parking expansion is making sure there is safe and convenient pedestrian passage from a place of business. He stated that his team conducted some research and immediately realized there is a breezeway in the middle of the shopping center where McGuire is located. They also learned that the breezeway was set up years ago anticipating parking behind that shopping facility. They try to verify with the building owner if they would be amenable to allowing pedestrians to traverse from that garage to an elevated crosswalk over Zerbe through that pedestrian way and heading right towards the boardwalk. It was his understanding the letter in question was from the current owner of the building to the original developer assuring the original developer they had access to the breezeway; and that the letter was made part of the packet to show proof they went to that effort to assure the City there could be pedestrian access through that building and they have obtained authority to allow people to go back and forth to that building if a parking garage is constructed.

Councilmember Marler noted that he was a member of the Council when the boardwalk was initiated; and that part of the easement agreement was a promise from the City to pursue construction of parking garages.

According to the Mayor, if the Council selects the Structured Parking Solution, LLC to begin the process, one of the things they plan to do is hold public meetings, which is in line with Council member Dixon's workshop suggestion.

Councilmember Morgan moved to select Structured Parking Solutions, LLC as a potential partner for some parking solutions for the City of Destin and give them the authorization to go forward to conduct stakeholders meetings and bring back a Letter of Intent to the City Council; seconded by Councilmember Overdier.

Councilmember Morgan stated he would not want taxpayers' money to be used to finance this project.

Mr. Darden announced they plan to have initial meetings with the public on their own expense, with the help, direction and advice from City staff; and then bring back the Letter of Intent to the Council within the next 4 to 6 weeks.

The Mayor called for a vote on the motion, which passes 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

B) Parks and Recreation Committee Recommendations

Ms. Teresa Hebert, Parks and Recreation Committee Chair, stated that the committee recently learned that the Restore Act funding was being put on hold because the Destin Fire Control District wants to add a fire station in the park. She stated that the committee feels it is a great idea; however, the Restore Act requirement states that temporary deviation from any of the operating schedule of the City's first submittal could negate the request the City made in 2013. She also stated that during their last meeting, the committee unanimously approved the following motion for this Council to consider.

- Motion to recommend to the City Council that the Clement Taylor Park Restore Act Grant submittal be taken off on-hold status and instruct the County staff to immediately move forward for approval by the Treasury Department
- Motion to recommend to the City council that the Destin Fire Control District substation be considered for construction at Clement Taylor Park after renovations are complete and Restore Act grant is closed out

Ms. Hebert added that the committee wants to make sure the State Treasury does not take the money away from Destin and give it to another city that wants it and is ready to move forward with a project.

Ms. Hebert also mentioned that during the same meeting, the committee reached a consensus to recommend to the City Council to authorize the addition of an on-leash dog friendly area when the Joe's Bayou recreation area is expanded.

Councilmember Ramswell asked if the Restore Act grant for Clement Taylor Park falls under the same structure as the Capt. Royal Melvin Heritage Park grant; and that they are not in danger of losing it as it has essentially been awarded.

According to the City Attorney, the only way they could jeopardize the grant money is if they change the plan and does not meet the front end requirements for the grant; and that according to Okaloosa County, they have 8 to 9 years to submit the application. The County also informed the City that it needs to update its procurement policy to meet the federal requirement guidelines for CFR-200 before they submit any more application. Otherwise, the Restore Act Committee would distribute the money to the County and by-pass the City. He added he would be willing to assist the City in updating its procurement policy, if necessary.

According to Deputy City Manager Steve Schmidt, staff has been working on updating the City's procurement policy to make sure it is fully compliant.

Councilmember Braden wants to make sure allowing the fire department at Clement Taylor Park does not violate the land development code or the comprehensive plan.

Mr. Schmidt stated that it would not qualify as recreational use and so they would probably have to make some changes to the land development code. He added that they may also need to look into the deed restrictions for the park.

The City attorney noted that according to the County, if the City does not make any changes to the preliminary plan, the amount of money they will receive will not change. The City will not get any more money to build additional structures.

Councilmember Destin moved to direct the City's Finance Director and City Attorney to get together and update the City's procurement policy to meet the federally requirement guidelines for CFR-200, and bring it back for Council's review and approval not later than the first meeting in September; seconded by Councilmember Overdier.

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

Councilmember Dixon believes the fire station, EMS station and police station are basically exempt from the majority of the zoning requirements; noting that the fire station was originally built in 1997. There was a process involved; but, zoning basically allowed for the fire station to be located where they felt it was needed. He asked what kind of predicament they could find themselves in if they decide to proceed with construction of the park and then consider adding the Destin Fire Control District substation after park renovations are complete and Restore Act grant is closed out.

The City Attorney recommends directly communicating with Restore Act representative before submitting the application regarding the consequences of adding the fire station to the park plans. He stated that the Royal Melvin Heritage Park grant has very strict guidelines on the funding; and that there may be similar restrictions in place for the Clement Taylor Park grant.

Councilmember Dixon moved to authorize the City Attorney and Land Use Attorney to discuss with the Restore Act representative the possibility of allowing the construction of a fire station at Clement Taylor Park property; and whether it is appropriate for it to be done upfront or after the park renovation is complete. Councilmember Ramswell provided a second to the motion.

Councilmember Ramswell stated that most fire and police stations as well as City facilities are zoned as Government.

Mr. Schmidt noted that Clement Taylor Park is zoned Institutional.

Councilmember Ramswell noted that the committee's third recommendation which is to authorize the addition of an on-leash dog friendly area when the Joe's Bayou recreation area is expanded does not require additional action at this point, but it is an interesting idea and it is certainly something they could discuss later on.

Ms. Hebert stated that the committee just wanted their wishes to be known. They do not expect the Council to address this issue tonight. Their main priority is the Restore Act grant for Clement Taylor Park.

Mr. Schmidt corrected his earlier statement stating that Clement Taylor Park is zoned Recreational; not Institutional.

The Mayor noted there is a current motion on the floor, but he is also seeking for a motion to invite a Restore Act representative to a Council meeting to explain exactly how the process work, the risks involved in changing or delaying the plans, and the time line involved with the process.

Councilmember Morgan stated that he feels they received enough clarification from the City Attorney that they are not at risk of losing the money for the park.

The City suggests they go ahead and invite a Restore Act representative to the Council meeting.

The Mayor called for a vote on the current motion on the floor, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes")

Councilmember Dixon offered another motion to request a Restore Act Committee representative, possibly Ms. Jane Evans, to attend a Destin City Council meeting, at their earliest convenience to discuss Restore Act grant; seconded by Councilmember Marler. Motion passed 6-1 (Council members Destin, Marler, Overdier, Dixon, Ramswel and Braden voted "yes"; Councilmember Morgan voted "no").

C) Electric Franchise Counter Offer

Mr. Schef Wright, Special counsel representing the City of Destin in the Gulf Power franchise negotiations, addresses the City Council regarding submittal of a counter proposal to Gulf Power for the ongoing franchise negotiations. Mr. Wright asked for Council's authorization for the negotiating team (Mr. Wright, City Attorney Jeff Burns, Councilmember Destin) to send a counter-proposal to Gulf Power Company. He then went through the red-lined portion of the franchise agreement and supplemental agreement.

Franchise Agreement

- Section 1
 - ❖ Changed the term from 20 year to 15 years
 - ❖ Changed the vesting period of the City's right to purchase from 5 years to 2 years
- Section 4
 - ❖ Kept the franchise fee rate at 6 percent
 - ❖ Added language to commit to the citizenry that they would designate anything greater than the 4 percent rate for the undergrounding of utility lines
- Section 6
 - ❖ Included a provision that would accelerate the right to purchase even if it was short of the 2 years in the event Gulf Power were to breach the franchise agreement
- Section 10
 - ❖ Deleted language that would have clearly express and get Gulf Power to agree that the City would have the regulatory power that they would otherwise have in the unlikely event that State regulation of public utility in Florida were to be repealed

Supplemental Agreement

- Section 1A
 - ❖ Added language that would require Gulf Power to give the City the best deal possible consistent with what the PSC has approved for any other utility in

Florida, including maximum credit, maximum debit against the cost and any value they could get in terms of technologies to be used in undergrounding

- Section 1B
 - ❖ Deleted the flat rate price asked for the undergrounding project (\$54 million)
- Section 2
 - ❖ Deleted overall retail rate cap. Kept the proposed protection against potential cost overruns associated with Kemper and Vogel projects
- Section 3
 - ❖ Deleted which included some provisions relating to LED lights
- Section 4
 - ❖ Deleted which included asking Gulf Power to support renewable and sustainability provisions
- Section 5
 - ❖ Kept the accelerated vesting of the right to purchase without respect to the two-year minimum vesting

Councilmember Dixon moved to authorize the City's negotiating team to submit the City's counter-offer to Gulf Power; seconded by Councilmember Overdier.

Councilmember Destin stated this is a good deal for both the City of Destin and Gulf Power Company; and that he fully supports the City's counter-offer.

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

Councilmember Destin stated that they are under a time constraints of a franchise agreement extension with Gulf Power which is due to expire in September, rather than bringing back every counter-offer from Gulf Power for Council's authorization, if the Council could authorize him to explore various contract proposal being related to the governing body for consideration would streamline the process.

The City Attorney stated that the motion should include rescinding Councilmember Destin's negotiating authority as the primary negotiator.

Councilmember Destin moved to rescind the primary negotiators negotiating authority to be able to explore various contract proposals being related to the governing body for consideration; seconded by Councilmember Morgan.

The City Attorney explained that Councilmember Destin would not be able to make any counter-offers but he would be able to obtain counter-offers from Gulf Power and bring them back for consideration by the City Council.

The Mayor called for a vote on the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes")

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

Mr. James Barnes stated that his family own property in Destin since 1995 and that a large amount of their tax dollars are allocated to the City of Destin. He asked that the City allows non-resident property owners and their immediate families to use Joe's Bayou boat ramp without having to pay the launch fee.

Parks and Recreation Director Lance Johnson explained that the purpose of the current system is to benefit year-round residents by not having to pay the launch fee.

According to Councilmember Ramswell, she seems to recall Council discussing this issue a couple of years ago. The rationale that was given at the time was many people in this situation would rent their homes and so the people that were renting and were the full time residents pay the fee and could use the boat launch. If they allowed the non-resident homeowners to use the boat launch, they would actually be allowing two people for the same fee in the same property.

Councilmember Marler stated that he does not remember Council having that discussion; however, there is a decal that has to be affixed to the left side of the trailer so it would be visible to the attendants when they pull it to the Joe's Bayou parking lot. He also stated they are required to have the boat and trailer registrations when they apply for the sticker.

Ms. Nikki Johnson, a Destin resident and member of the Parks and Recreation Committee stated that the committee's request for Council to authorize the addition of an on-leash dog friendly area when the Joe's Bayou recreation area is expanded is something they would not want to be pushed into the future. She stated they do not have one single park in the City that is on leash dog-friendly. The entire town is extremely dog-friendly. Most restaurants allow dogs on their decks. Almost anywhere they go they allow dogs except places where they are grass. Fort Walton Beach allows dogs in their parks and Walton County is known for being extremely dog-friendly. She also stated that they built the Destin Dog Park years ago and it is probably the most populated park in Destin. However, some people are not comfortable taking their dog and letting it off leash and run around in the dog park. They need a place where local residents and visitors could take their dogs on a leash. She suggests having at least one park in Destin that is on-leash pet friendly. She recommended the Mattie Kelly Park and Nature Walkover by Joe's Bayou because it is not a frequented park and so it is not going to affect a lot of people. Once Joe's Bayou is extended, they could extend the on-leash pet friendly area. She asked the City Council to consider this as an immediate need for the City.

Destin Fire Control District Chief Kevin Sasser distributed copies of a letter from the descendants of Clement Taylor expressing support of the Destin Fire Control District's plan for a proposed new fire station at Clement Taylor Park. Chief Sasser stated they feel it was very important that they contacted the descendants of Clement Taylor for whom the park was named after and get their feelings and thoughts on this issue; and that the descendants thought that a fire station at the park would be a fitting representation and tribute to their ancestor and would be a tremendous benefit to the residents and visitors of Destin. He also stated that the idea of placing a fire station at the park is not something that just came up recently. They have been working with City Manager and staff the last two years to make it come to fruition. They feel the safety

of their residents and visitors is paramount. They have had over 60 percent increase on calls for help in the water the last three years. They believe this idea makes a lot of sense with so many activities taking place on the water in and around Destin.

Next item discussed was agenda item #71 (1) - Consideration of Settlement Proposal in Destin v. Andry, et al

4. CITY MANAGER REPORTS

A) Third Quarter Financial and Investment Report

The City's Finance Director Bragg Farmer presented the Third Quarter Financial and Investment Report.

Councilmember Ramswell stated they have recently discussed the upsurge in legal fees and Finance has recently provided the Council a breakdown of the costs. She continued there was a Labor Attorney listed and she was not aware the City even had a Labor Attorney. She asked if there was an RFP issued for that service.

According to Mr. Farmer, they issue the RFP many years ago. They very rarely use the services of a Labor Attorney. They are typically used when they hire a new City Manager or if they have a labor dispute or some kind of incident at work that requires the services of a Labor Attorney. He continued they normally do not spend more than \$2,000 per year for a Labor Attorney so they are not a big factor in terms of budget.

The Mayor requested a cost analysis showing how much the City paid for legal fees for the past 3 or 4 year to determine if it would be more beneficial for the City to compensate the attorneys on an hourly basis as opposed to monthly or yearly basis.

Councilmember Braden asked for the name of the City's Labor Attorney.

Mr. Farmer replied it was Bob Larkin from Tallahassee.

Councilmember Ramswell noted that one reason their legal fees are much higher this year was because of the fees they paid to Mr. Schef Wright, the attorney representing the City in the Gulf Power franchise negotiation; which was \$97,000.

B) Library Director Confirmation

Councilmember Ramswell asked if they are required to re-advertise the position since the person that was initially hired subsequently resigned.

The City's Human Resources Manager Karen Jankowski stated that they typically offer the position to the second candidate in line to quickly fill the position; however, they could re-advertise the position if that is the will of the Council.

Councilmember Ramswell stated they they try to hire from within as much as possible; and that there was an internal candidate in this case. She asked if there was a particular reason this person did not move forward in the process.

Ms. Jankowski explained that they advertised both internally and externally simultaneously and made a statewide and national search; adding they always try to give consideration to internal candidates. They have about 25 current staff members that sit in a position for which they were internally hired. She also stated that when they rate the candidates they look at minimum qualifications for the position, time in service and they analyze the team dynamics and how candidates would fit in the particular department.

Councilmember Destin noted that he has been very upset about this process since the beginning. He did not like the way the criterion has been developed. He believes it was set up in such a way that it excluded people they did not want from the internal standpoint from qualifying; adding it was a decision that was made by staff and not by this Council. He also stated he wants this Council to be working hand in hand with the future City Manager and the Human Resources Manager in developing the standard by which department heads are going to be selected.

According to Ms. Jankowski, there is currently a contract under review by the City Attorney with Landrum Company, a professional hiring agency, to assist in the hiring of a Community Development Director. She stated this would give the Council a better understanding and idea of the candidates that are brought forward by this outside agency.

The Mayor stated that hiring an outside agency to assist in the selection process is a good idea as it would alleviate the Council's concern about internal strife, positioning or posturing that may be taking place; and it gets the Council out of the hiring process.

Councilmember Morgan asked if former Library Director Jurate Burns was part of the search committee.

Ms. Jankowski stated that Ms. Burns was not a member of the search committee; however, they reviewed the job description and discussed the selection process with her and asked for her opinion early on.

Councilmember Morgan expressed his disappointment that Ms. Burns was not part of the search committee; stating that she has been the Destin Library Director since the library was built and knew everything about the library. He continued he often feels frustrated with the direction the City is going, but he thinks the Destin Library and Parks and Recreation Department are two areas where the City really shines. He added that answers to the following questions should improve the City's hiring practices:

- *Have local qualified applicants been given fair consideration?*
- *Have the senior leaders been able to give input to senior management on prospective new hires and promotions?*
- *Have the rank and file employees been given the opportunity to verbalize the traits which they desire in the upcoming department head?*

- *Is the outgoing department head or manager able to assist in the screening of applicants?*

Councilmember Morgan added there have been at least 20 members of the public that were absolutely shocked that Mr. Will Rogers was not at least one of the finalists for the position.

Councilmember Destin stated that he agrees that hiring a third party to assist in the search for the right candidate is ideal, but he does not feel removing the Council from the hiring process is a good idea. He does not want them to face the same situation they find themselves in going forward.

Councilmember Destin moved to confirm Ms. Wendy Livingston as the Destin Library Director; seconded by Councilmember Morgan.

Councilmember Ramswell indicated that the Council has the authority to create and dissolve departments. She asked if the same holds true with the naming of department heads.

The City Attorney noted that the Council approves of the naming of department heads; which is exactly what they are doing tonight. However, he does not believe it is expressed in the charter that they can terminate a department head without dissolving the entire department itself.

Councilmember Ramswell asked if there was a requirement to re-advertise a position when someone is hired and then subsequently resigned, instead of just offering the position to another candidate.

The City Attorney stated it is part of an internal operating procedure; adding he is not aware of any ordinance or statute that dictates it.

Ms. Jankowski noted that the City has the internal operating procedure, and that the typical process they have used in the past was to go to the second candidate if the hiring of the first candidate fell through. However, they would re-advertise the position if that is the will of the Council.

The Mayor called for a vote on the motion, which passes 4-3 (Council members Morgan, Destin, Marler and Dixon voted "yes"; Council members Overdier, Ramswell and Braden voted "no").

C) Interim City Manager Candidate List

Mr. Buzz Eddy, a senior advisor for FCCMA, noted they were previously directed by the Council to identify Interim City Manager candidates and to come back as quickly as possible with recommendations. He stated there are three candidates for the position. They have reviewed their resumes and recommend selecting Mr. Lance Johnson as Interim City Manager and authorizing the Human Resources Manager and himself to advertise for a permanent City Manager position or to hire a recruitment firm to advertise and facilitate the selection process.

He also recommends authorizing the City Attorney to prepare an agreement with Mr. Johnson for Council's approval.

The Mayor asked how much it would cost to hire a recruitment firm.

Mr. Eddy stated it would cost approximately \$25,000. He stated that the FCCMA senior advisors are volunteers and they provide this service free of charge. They would take the applicants that respond to the advertisement, help the City review the applications and narrow down the list of candidates that meet the qualifications and provide it to the Council. He added it would take more involvement from the City Council to identify the characteristic of the person they would want to hire.

The City Attorney asked if the City could simultaneously utilize the services of FCCMA and a professional recruitment firm.

Mr. Eddy stated they do not have a policy in place and that option is available to the Council.

Councilmember Dixon moved to approve Mr. Lance Johnson as the Interim City Manager effective August 6, 2018, to authorize the City Attorney to bring an agreement back to the City Council, and to allow the Human Resources and Mr. Eddy to advertise for the permanent City Manager position. Councilmember Overdier provided a second to the motion.

Councilmember Overdier inquired as to the likelihood of a professional recruitment firm finding a more eminently qualified candidate than what the FCCMA can produce.

According to Mr. Eddy, it is a very difficult question to answer because it would depend on the type of applicants they receive. Most recruitment firms already have a cadre of prospective applicants they could immediately contact; and FCCMA does not have that luxury. However, Destin is a very attractive place to live and Council can expect to receive many eminently qualified applicants for the job whichever process they select.

Councilmember Overdier stated that it would be more beneficial for the Council to be more involved in the process.

The mayor called for a vote on the motion, which passes 6-1 (Council members Morgan, Destin, Marler, Overdier, Dixon and Ramswell voted "yes"; Councilmember Braden voted "no").

Councilmember Braden asked who would be taking Mr. Johnson's current position.

Councilmember Marler recommends appointing Ms. Lisa Firth as Acting Parks and Recreation Director, since she is already the department's deputy director.

Councilmember Marler moved to appoint Lisa Firth as Acting Parks and Recreation Director; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

Ms. Jankowski noted that Mr. Eddy has previously offered to provide some assistance to Mr. Johnson for such things as budget review or contract review; and that there is a potential cost involved because it is far and above Mr. Eddy’s duties with FCCMA.

Councilmember Dixon moved that Mr. Eddy submits to the Council at the next meeting an hourly rate that he would charge the City for providing some assistance to the Interim City Manager; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”)

- D) Request for CRA Board meeting on August 20, 2018 at 5:00 p.m. to review and discuss Harbor CRA Advisory Committee recommendations for the Royal Melvin Heritage Park and Clement Taylor Park

Mr. Schmidt asked that Council schedules a CRA Board meeting on August 20, 2018 at 5:00 p.m. to review and discuss the Harbor CRA Advisory Committee’s recommendations for the Royal Melvin Heritage Park and Clement Taylor Park.

Councilmember Dixon would like the meeting to be a joint meeting between the CRA Board and the Harbor CRA Advisory Committee; similar to the joint meeting they had back in June.

Councilmember Ramswell noted that at the June 13th joint meeting they had passed a motion to get a cost estimate for the plan redesign of the heritage park. She asked if this information is available.

Mr. Schmidt explains the information is not yet available because there was some ambiguity with the given instructions. During the June 28th special council meeting, several members of the Council expressed the desire to send the plans back to the advisory committee; which will make recommended changes to the plans and then send the plans back to the CRA Board for approval.

Councilmember Ramswell stated that she listened to the audio of the June 13th special meeting; and that the motion was for a cost estimate for a redesign of the park based on the six points presented at that meeting.

Mr. Schmidt noted that of the six points that were mentioned at that meeting, there was only one that was affecting the actual design of the park. The others were instructions to staff which they have already completed. He added that they received much more explicit recommendations from the advisory committee regarding the redesign of the park.

The Mayor commented that the Parks and Recreation Committee instead of the Harbor CRA Advisory Committee should be involved in this process because they are in-charge of all City parks.

Councilmember Dixon moved to direct staff to provide the City Council the total amount of money paid to Tetra Tech, broken down by year, for the design of the park; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes")

Councilmember Destin moved to schedule a Joint Harbor CRA Advisory Committee and CRA Board meeting on August 20, 2018 beginning at 5:00 p.m.; seconded by Councilmember Marler. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes")

- E) Investigation Report regarding Councilmember Prebble Ramswell's Public Statement and Remarks towards Deputy City Manager Steven Schmidt

Item continued to August 20, 2018 City Council meeting.

5. PUBLIC HEARINGS

- A) First reading of Ordinance 18-15-LC – Wheeled Vehicle on the Beach

Item continued to August 20, 2018 City Council meeting.

- B) First reading of Ordinance 18-16-LC – Vested Rights Process

Item continued to August 20, 2018 City Council meeting.

- C) First reading of Ordinance 18-17-LC – Safety Zone Regulations

The City Attorney read proposed Ordinance 18-17-LC by title, and then presented it to the City Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA CREATING A SAFETY ZONE FREE FROM EQUIPMENT ON THE BEACH SHORE; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT TO LAND DEVELOPMENT CODE; CREATING DEFINITIONS; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Dixon stated that this ordinance needs to be examined closely and that he would prefer the City's Land Use Attorney Kimberly Kopp is present when they discuss this it. He recommends continuing this item to the next meeting.

Councilmember Destin moved to continue this item to the August 20, 2018 City Council meeting; seconded by Councilmember Dixon.

The Mayor announced he would allow public comments before they vote on the motion to continue.

Mr. Steve Hill, owner of the Holiday Isle Beach Service, expressed concern over the new rule relative to the safety zone on the beach if the proposed ordinance passes. He stated that it is a huge safety concern for him and dozens of people he had spoken with to designate the wet area of the sand 20 feet landward on all beaches as safety zone and have emergency vehicles traverse in front of the public. There would normally be a wall of umbrellas within 20 feet from the water because it is where everybody wants to be; and it is unreasonable to expect people to stay away from that area. It would be unsafe especially for children playing near the water because they would not be expecting a vehicle coming down on the beach. He further stated it would be much safer to designate a safety zone on the back of the beach because the emergency responders would have a huge line of sight and they would be able to see people coming from the walkways.

Councilmember Marler noted there is a GPS coordinance for what the State considers the mean-high water line and he would like this coordinance brought it when they consider this item at the next meeting.

The Mayor called for a vote on the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes")

6. *CONSENT AGENDA

- A) Request for Council approval to purchase FY 18 budgeted equipment
- B) 18-04-PS, National Fish and Wildlife Foundation, Calhoun Avenue Drainage – Change Order #3
- C) Application to install a new boat lift and pilings in an existing slip at 320 Harbor Blvd (slip 19)
- D) Application to install a new boat lift and pilings at 420 Oak Harbour Lane, Unit 201 (slip 11)
- E) Application to install a new boat lift and pilings in an existing slip at 605 Gulf Shore Drive
- F) Application to install a new boat lift and pilings in an existing slip at 654 Harbor Blvd (slip 4)

Motion by Councilmember Dixon, seconded by Councilmember Destin, to approve Consent Agenda items 6A thru 6F, 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

Councilmember Braden noted they have already spent \$123,900 for the design of the Royal Melvin Heritage Park, excluding change orders, since 2013. He also reported that he continues to receive complaints about commercial activities being conducted at the Marler Bayou.

According to Mr. Schmidt, there are ongoing violations in that area and there are two properties on Marler Bayou that are currently going through the Special Magistrate process. He stated that he would check on the status and report back to Council.

Mr. Mike Buckingham, a Destin resident, noted that over two years ago, a letter was written, with multiple signatures from the owners in the bayou, about commercial activities being conducted at the Marler Bayou; and these activities are still going on. He stated that one of the violators went before the Special Magistrate two or three months ago; but, he continues to operate commercial activity in that area even after the Special Magistrate ruled against him. The City Manager had asked the property owners to provide as many pictures, videos for evidence because according to code enforcement, there is nothing they could do unless they witness it while it is occurring. He continued that these commercial activities have been going on for the last two years. There are rules on the books that prohibit the activity, but it continues to happen. He asked that the code be enforced to stop this activity.

Mr. Schmidt noted that the properties surrounding Marler Bayou are private, and the City does not have any public facility there where they could place a code enforcement officer to take pictures all day long. It is difficult to monitor this activity and obtain evidence to present to the Special Magistrate.

Councilmember Braden asked if the City could use the pictures and videos collected by the property owners at Marler's Bayou as they have done in the past.

According to Mr. Schmidt, they could use the current pictures and videos showing violations that are occurring at Marler's Bayou to present to the Special Magistrate.

Mr. Buckingham pointed out that about 19-21 property owners at Marler's Bayou have invited staff to come down on their property to monitor the situation since according to code enforcement; they could not do anything about it until they see it.

Councilmember Dixon asked what the penalties are if a code violator disregards a Special Magistrate's ruling.

According to the City Attorney, it would depend in the order issued by the Special Magistrate. Generally, there would be additional fines or a daily fine up to \$500 levied on the property owner.

Councilmember Dixon asked staff to provide a report to Council at the next meeting showing how many properties are in violation of the code, whether or not they have gone before the Special Magistrate, and where they are in the process or what the City needs to do to gain compliance.

The City Attorney noted that one of the City's options is to file a civil suit seeking an injunction to stop the individual from continuing to operate the business.

Councilmember Ramswell stated they should be able to put a lien on the property at a certain point.

According to the City Attorney, code enforcement liens do not have much power to them especially for a homesteaded property.

Councilmember Destin stated that if they cannot get code enforcement and the planning department to do their job, he would be willing to entertain a motion to dissolve and reorganize the entire department and find people who can deal with the situation.

B. Councilmember Ramswell

1) Discussion of submerged land lease

Councilmember Ramswell stated that during the July 18, 2016 City Council meeting, she presented some concerns stemming from the lease for riparian right the City has with the Destin Fishing Fleet. At the time, she requested a staff review and report back findings; which never happened. She stated that over the past few years, the Heritage Park and everything surrounding the Heritage Park has garnered more and more attention. Several of their committees have been asking about the park in different situations including the lease; and that she wanted to revisit it. She has also been following and doing more research into this issue. There are two leases in existence; the submerged land lease and the lease for riparian rights. A submerged land lease is a lease that a property owner has with the State to actually build over the submerged land adjacent to their property. They have a submerged land attached to the park. Before the City bought the park, the prior owner decided to enter into an agreement with the Destin Fishing Fleet to allow building the Marina that is currently in place. In 1993, Royal Melvin and the Destin Fishing Fleet entered into a lease agreement that dealt with the riparian right. Mr. Melvin at the time agreed to allow his submerged land, combined with the fleet's land, for the purposes of building the marina. The park and Melvins' property at the time had 68 feet of shoreline. The fleet has 281.51; and together they have 350 feet of shoreline. The submerged land lease is up on September 14 208 and these are 5-year leases. If they have any concerns or anything they would like to discuss and remedy, they need to do it now because the lease is coming up. She stated that she had provided the Council a packet of information pertinent to this issue. She pointed out there was an inspection that was conducted in April 2018 ahead of obtaining the renewal for the submerged land lease. She was surprised to see that not only is the City not listed at all as upland property owner, it also shows the fleet as the sole upland owner, and that they have all 350 feet of the upland property. It also shows there are absolutely no transient slips. The City has 3 transient slips, and they are required to have those slips for the FCT grant and for the park. It also states that the only upland use is a marina and charter boat business; which is obviously not true because they have a public park. There are no references to the City as a contact person and a joint owner or any aspect whatsoever. It is solely the fleet and it lists Mary Ann Windes as the contact person in the inspection report for the submerged land lease. She also stated she has some concern about this report because the fleet is not the sole owner. The City and the fleet are joint owners of the property; and that fact is misrepresented in this report. Also, the City has

transient slips. The report is inaccurate and needs to be corrected because it looks like the City has no riparian rights to the land that they own and for the City's taxpayers to use. She further stated that the fact that the submerged land lease was the result of what she believed and which she has presented to the City's attorneys, an improperly presented and misrepresented lease for riparian rights. In April 19, 2010, the lease agreement was presented to the Council on first reading. They voted and asked for a few changes to be made to the document. The lease agreement came back on May 3, 2010 for second reading. At that particular night, a document was handed out to the Council. It was not attached to their meeting packet, and so they did not have time to review it to make sure it is the same. Some of the Council members asked if it was the same document. They were told by the City Manager at the time that it was the same document; and that the only thing that changed was the parking. Another Council member asked if the changes were substantial enough that they should go back to first reading. The City Attorney at that time told the Council the changes were not substantial enough to go back to first reading. Councilmember Ramswell noted that both answers from the City Manager and City Attorney were incorrect because there were substantial changes. It was added that the City pays for the fleet's insurance. The fleet was added in as an additional insured party. The City also has to clean the fleet's property and provides bathrooms. They gave up control, use and income of their 3 slips. All of this information was added in the document that was handed out that night. She also stated that by Florida statute, anytime they pass an ordinance of this nature, the public has the right to inspect. They have 30 days to review Council's action, register any comments, complaints or concerns. The public did not have the opportunity to inspect. The document was executed on May 4, 2010; and that on May 10, 2010, it was recorded in Okaloosa County. In addition, the document was notarized by Ms. Mary Ann Windes, who is a beneficiary of the fleet. Notaries cannot notarize documents in which they are a beneficiary. She further stated that the public has begun questioning the lease. The committees are asking Council to review it because they feel something is not right; and that she believes that something is not right. She has 3 main points which are critical to understanding the whole basis of the lease for riparian rights that led to the fleet being allowed to get the submerged land lease. The document that was presented to Council on May 3, 2010, was the result of a development agreement that the fleet had presented to the City; which was a tier 3 development. It was presented to the City, which the City turned down for lack of sufficient public benefit. The fleet then made some changes and added the fishing museum to the development. When the fishing museum was added to the development agreement, they were going to put the fishing museum on their property. They also added several conditions that had to do with adding the fishing museum; one of which was the City had to clean their lot. This is how they came to be on this lease. All the items that were added in to support the fishing museum being on the fleet's property were put in to a lease for riparian rights that was handed out and passed by the Council without even knowing it. She stated that she provided the Council copies of the development agreement and the original lease that did not include these items. It even refers to the conditions the City must meet because of the fishing museum being added to the agreement. She stated they now have a lease for riparian rights that is based on a development that never happened, and conditions that the City had to meet based on a development that never happened. Another critical point she would like to make is that if they stand on their land and look out to the water behind it; that is their submerged land. She further stated that the lease discusses, and everybody had discussed for years that the City has 6 slips; but if they stand out there behind the park, behind the fleet property or Dewey Destin's restaurant and look out into the water, they will see there are more than 6 slips. The City actually has 10 slips in their submerged land. The lease only discusses 6 slips. There are 4

slips the City owns that are accounted for. The fleet is using them and garnering income that the City could utilize for the upkeep of the park; which the FCT allows the City to do. The City had slips they were leasing, which they were told they could put the income in an account and use it for the upkeep and maintenance of the park. As far as she could determine it was not done. People were told they needed to transfer their slips to the fleet, and the fleet will be handling their rental. These are her major concerns. The 4 slips are part of the City's property. The fleet has put the fishing museum on their property to the development agreement so they could get their tier 3 project approved. At the same time, the City was obtaining the FCT grant with the fishing museum being located on the City's property. The fishing museum cannot be in two places at the same time. The City had to put the fishing museum on their grant application in order to obtain approval of the grant. She stated that she does not think these leases are being properly handled. She does not think the lease agreement was passed properly. And she does not think they fairly represent the City and provide their taxpayers with what they truly deserve. She would like to direct City staff and attorneys to fully review these leases. She would also like the City to inform the FDEP that they need to review these leases and make sure they are properly worded, and that the City is properly listed as co-owner. The purpose of this is not to take the slips away from the fishermen and get them out of business or interrupt what they are doing; but, what she would like to happen was to rent the 4 slips that are unaccounted for to the fishermen. She added they have to make sure everything is properly noted to make sure their rights and the citizens of this town are protected.

The Mayor noted if they lease the slips to somebody, they would have to swim to their boats unless the fishing fleet allows them to walk on their dock to those slips. He also expressed concern that a lot of what was said tonight would lead the City to a lawsuit.

Councilmember Ramswell stated that she spoke the truth and presented all the paperwork to support everything she said; and that she stands by it.

Councilmember Dixon asked for a break before they vote so he could discuss this matter with the City Attorney.

The Mayor called for a 2-minute break.

The Mayor reconvened the meeting.

Councilmember Ramswell moved to direct the City Attorney and Land Use Attorney to review the lease agreement, inform the FDEP they are undergoing a full review by the City Council, and bring it back to Council; seconded by Councilmember Braden.

Councilmember Morgan stated he would support the City having to contact another governmental agency on this issue. He would like to see the results of the attorneys' review first before they are given authorization to approach the FDEP.

Councilmember Dixon announced he would abstain from voting because his wife is employed by the fishing fleet and his daughter did some legal work for the fishing fleet.

Councilmember Destin expressed some concern about pursuing this issue. He stated that he agrees that it was ill-advice for the City to approve the lease agreement in 2010, but he does not see how it could benefit the City from the legal standpoint.

Councilmember Morgan stated he cannot fault the fishing fleet for getting a very good deal; but, he would blame the former City Council and City Attorney for allowing it to happen.

The Mayor called for a vote on the motion which failed 2-4 (Council members Ramswell and Braden voted "yes"; Council members Morgan, Destin, Marler and Overdier voted "no"; Councilmember Dixon abstained from voting).

Councilmember Ramswell expressed her disappointment with the result of the voting. She stated that she presented the facts very clearly. There are loopholes and there are things missing that need to be addressed; and though she respects the Council's decision, she completely disagrees with it.

- C. Councilmember Dixon
- D. Councilmember Overdier

Councilmember Overdier discussed the parking situation at the Joe's Bayou boat launch; stating that it worsening as weeks go by. He would like to place this issue on the next agenda for further discussion.

- E. Councilmember Marler
- F. Councilmember Destin

1) Discussion on the assignment of Interim Community Development Director

Councilmember Destin stated that he disagrees with the designation of Mr. Steve Schmidt as Interim Community Development Director by the former City Manager. He feels it was intended to override this Council's oversight authority granted by the charter, and that he would like to invoke the power granted by section 1.01(a) of the City Charter to organize and regulate internal affairs of permanent offices, position and employments.

Councilmember Destin moved to direct the Community Development Department not to execute or communicate any official positions, opinions or findings to any member of the public without communications being reviewed and approved by the City's Land Use Attorney for legal sufficiency and compliance until they get a permanent Community Development Director; seconded by Councilmember Braden.

The Mayor noted that 3 people have already left the department, and that they are down to one planner and a contract planner. There are members of this Council that have personal issues with the way things had been run by the former City Manager, and have made their points very clear. This proposal is going to paralyze the department and hurt the citizens and especially contractors and businessmen with pending development orders; adding it is not good government.

Councilmember Morgan stated that the Community Development Department has been paralyzed for years. He has not heard a single good thing from his constituents about the department. They have been inefficient and ineffective, and a complete lack of customer service; adding he has received dozens of complaints which make the Council looks bad.

Councilmember Dixon wants to know if small projects such as pavers and fences need to go through the Land Use Attorney. He asked the motion be amended to exclude these types of small projects.

Councilmember Destin would like any development 2,000 square feet or more to come before the Land Use Attorney.

The City Attorney noted there is an ordinance scheduled to go before the Local Planning Agency that would make any development 10,000 square feet or more to be reviewed by the Land Use Attorney. He recommends amending the motion to include that this direction is temporary until that ordinance goes into effect.

Councilmember Destin moved to direct the Interim City Manager to take whatever steps necessary to put into place a procedure to ensure no official communications involving any development 2,000 square feet or more come out of the Community Development Department without first being reviewed by the City's Land Use Attorney for legal sufficiency and compliance until a full time Community Development Director is hired. This motion is temporary until the ordinance that requires that any development 10,000 square feet or more to be reviewed by the Land Use Attorney goes into effect; seconded by Councilmember Braden. Motion passed 6-1 (Council members Morgan, Destin, Overdier, Dixon, Ramswell and Braden voted "yes"; Councilmember Marler voted "no").

- G. Councilmember Morgan
- H. Mayor Jarvis
- I. Land Use Attorney

- 1) Consideration of Settlement Proposal in Destin v. Andry, et al (involving settlement of code enforcement cases and subsequent appeal for certain structures with non-compliant first floors in the floodplain)

The Land Use Attorney Associate Avery Smith noted there is one small change Mr. David Theriaque, the Respondent's attorney in this case, would like to make with the agreement that was reached with his client. She also stated that the change meets the approval of the City's Land Use Attorney.

Attorney Theriaque noted there was one minor change that they made to the settlement agreement, and it pertains to Mr. and Mrs. Graham Hill. Mr. Hill has been wheelchair bound for about 33 years with permanent disability. The City recently increased the flood elevation requirement from one to two feet. If it remains at one foot, Mr. Hill believes he can bring his bottom floor to compliant with FEMA requirement. His bathroom on the top floor is not ADA compliant and he cannot make it ADA compliant. The reason he bought this unit was the

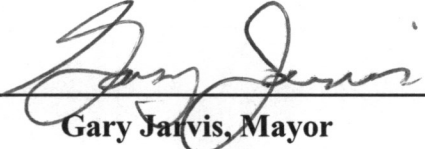
bathroom on the bottom floor. He continued there was a new language added to the settlement agreement that would grandfather Mr. Hill to be able to rely upon the one foot elevation rather than the two-foot elevation; and that the City's Land Use Attorney has agreed with this recommendation.

Councilmember Ramswell moved to approve the subject settlement agreement and direct the City Land Use Attorney to proceed in the matter in accordance with its terms and conditions; seconded by Councilmember Braden. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

The next item discussed was agenda item #4A – Third Quarter Financial and Investment Report

J. City Attorney

Having no further business at this time, the meeting was adjourned at 9:30 PM.



Gary Jarvis, Mayor

ATTEST:



Roy Bailey, City Clerk