

**MINUTES  
REGULAR MEETING  
DESTIN CITY COUNCIL  
JANUARY 7, 2019  
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 Steven Menchel

Councilmember Cyron Marler

Councilmember Parker Destin

Councilmember Prebble Ramswell

Councilmember Skip Overdier

Councilmember Rodney Braden

**Destin City Staff**

City Manager Lance Johnson

Acting Public Services Director Tim Pietenpol

Community Development Director Louis Zunguze

Public Information Manager Catherine Card

Parks & Recreation Director Lisa Firth

City Clerk Rey Bailey

IT Manager Webb Warren

Finance Director Bragg Farmer

City Attorney Kyle Bauman

City Land Use Attorney Kimberly Kopp

**CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Russ Whitten of the Destin Church of Christ gave the invocation; which was then followed by the Pledge of Allegiance)

**RECONFIRM APPOINTMENT OF INTERIM CITY COUNCILMEMBER FOR  
THE CITY OF DESTIN**

Councilmember Ramswell moved to reconfirm the appointment of Mr. Steven Menchel as Interim City Councilmember for the City of Destin; seconded by Councilmember Overdier. Motion passed 5-0 (Council members Destin, Marler, Overdier, Ramswell and Braden voted "yes"; Councilmember Morgan was absent from the meeting).

**INAUGURATION OF INTERIM CITY COUNCIL MEMBER FOR THE CITY OF  
DESTIN**

The City Clerk administered the Oath of Office to newly appointed Interim City Councilmember Steven Menchel.

**AGENDA APPROVAL**

**Motion by Councilmember Destin, seconded by Councilmember Overdier, to approve the agenda passed 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

## **1. APPROVAL OF MINUTES**

**A. Approval of minutes of November 5, 2018 regular city council meeting**

**Motion by Councilmember Destin, seconded by Councilmember Ramswell, to approve minutes of November 5, 2018 regular city council meeting passed 5-0 (Council members Destin, Marler, Overdier, Ramswell and Braden voted “yes”; Councilmember Menchel abstained from voting; Councilmember Morgan was absent from the meeting).**

**B. Approval of minutes of October 1, 2018 regular city council meeting**

**Motion by Councilmember Destin, seconded by Councilmember Ramswell, to approve minutes of October 1, 2018 regular city council meeting passed 5-0 (Council members Destin, Marler, Overdier, Ramswell and Braden voted “yes”; Councilmember Menchel abstained from voting; Councilmember Morgan was absent from the meeting).**

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

**A. 2018 City of Destin Outdoor Decorating Contest Winners**

The Mayor recognized and presented plaque awards to the following 2018 City of Destin Outdoor Decorating Contest winners:

|                                                                                     |                                                                                            |
|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Winner: Best Home<br>Janet Gray<br>5 Pahokee Lane, Destin                           | Honorable Mention: Best Home<br>Robert and Karen Lyverly<br>124 Indian Bayou Drive, Destin |
| Winner: Best Business<br>City Market<br>36150 Emerald Coast Parkway                 |                                                                                            |
| Winner: Best Organization<br>Destin Community Center<br>101 Stahlman Avenue, Destin |                                                                                            |
| Winner: Best of Holiday<br>Sally Biederharn<br>808 Mars Street, Destin              | Honorable Mention: Best of Holiday<br>Stephen and Teresa Hebert<br>716 Main Street, Destin |
| Winner: Best of the Harbor<br>Harborwalk Village<br>10 Harbor Blvd, Destin          |                                                                                            |

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

Mr. Ron Sandstead, a Destin resident, discussed the Banner Art Program on Main Street. He reported that the banners for the first phase of artwork would be installed on the poles on Monday January 14<sup>th</sup> at 9:00 a.m. and invited the the Council to come out to the location for the event.

### **4. CITY MANAGER REPORTS**

#### **A. Update on FLUM and Zoning Map Inconsistencies**

The City Manager requests Council's direction on updating the FLUM and Zoning Map inconsistencies in the Comprehensive Plan.

The Community Development Director explained the importance of meeting the State's requirements by adopting a set of regulations within the year of adopting the Comprehensive Plan which guides the implementation of the Council's vision. He stated that he and his staff have placed a high priority in obtaining that vision and they are ready to begin the process of drafting the ordinances that would guide that vision to fruition.

Mr. Tim Whaler, with 3-TP Ventures, explained that he is tasked with reviewing the Future Land Use Map (FLUM) and the Zoning Map to identify any inconsistencies where the FLUM and the Zoning Map are not consistent. He then provided the Council with the zoning map showing the following locations (numbered from 1 to 8) where these inconsistencies occur:

- #1 - Future Land Use category was changed from Calhoun Mixed Use to Recreation to allow for the Capt. Leonard Destin Park development order. The FLUM was changed, but the Zoning Map did not change
- #2 - an area in the map where the Future Land Use category is Calhoun Mixed Use – Village, a new land use category created with the 2020 Comprehensive Plan; and the underlying zoning is Residential Office Institutional (ROI) General Development. In order to reconcile this portion, a new zoning district will have to be created into the Land Development Code for Calhoun Mixed Use Village; since it does not exist at this time
- #3 and #4 – the underlying zoning is Commercial General and the FLUM was changed to Town Center Mixed Use
- #5 – the FLUM is Town Center Mixed Use but the underlying zoning is ROI General Development
- #6 – the FLUM is Town Center Mixed Use and the underlying zoning is Commercial General
- #7 – was changed to Town Center Mixed Use and the underlying zoning remains Institutional. This is the old Destin Water Users parcel
- #8 - an area in Crystal Beach, just south of Highway 98 the Future Land Use is commercial general and the underlying zoning is Residential Office Institutional

Tourist Development TD. This one was also changed with the comprehensive plan update in March 2016

Council member Ramswell noted that items 3 to 7 in the zoning map show several other colors indicating other categories besides Town Center Mixed Use; and that logic dictates they would have to rezone everything within the Town Center CRA boundary to Town Center Mixed Use.

Mr. Whaler explained that that Future Land Use change that was done as part of the comprehensive plan focused on those parcels that front US Hwy 98.

Council member Destin expressed his concern for the areas Mr. Whaler spoke of, particularly 1, 2 and 8 and suggested they schedule a workshop to fully discuss their options for resolving FLUM and Zoning Map inconsistencies.

The City Manager will provide the Council a list of possible dates for the workshop.

Councilmember Ramswell asked staff to provide the Council a list of all allowable uses for each zoning classification that they could use to do a comparison.

B. Discussion regarding short turn lane into Emerald Grande as part of 3R FDOT Hwy 98 reconstruction project

Councilmember Overdier stated that an FDOT representative informed him the City could simply send a letter to the FDOT 3R project manager if they do not want the dedicated right turn lane into the Emerald Grande installed. He continued that the Emerald Grande parking lot manager was very much against the idea as it may become a safety issue if they block off the first entrance to the Emerald Grande in the summer time and have everybody drive down to the stop light to get into the Emerald Grande. People may then decide to find a way to get back into the two lanes of traffic coming off the bridge. He added that the Emerald Grande property managers/owners want the turn lane; but, they may need to find some solutions to the safety issue.

Councilmember Marler spoke of the recent meeting between the Emerald Grande property managers/owners and FDOT representatives regarding the turn lane. He stated that property managers/owners want the turn lane as it may prevent the problems they had last year where people were parking illegally and blocking the sidewalk. They are working with FDOT to possibly make a slight modification to the schedule by having a traffic study done at a later date and then building the turn lane a year later and not as part of the 3R project.

According to Councilmember Ramswell, she seems to recall requiring Emerald Grande to keep the first entrance to the facility open as they looked into the traffic back-ups last year.

Councilmember Marler noted they did not want the turn lane at that entrance as it was only supposed to serve as a service entrance for commercial traffic as well as an emergency entrance for

fire and safety. It was never designed for heavy traffic. He added it would make more sense to install the dedicated turn lane at the traffic light.

Both the City Attorney and City Manager would look into this issue to find out if FDOT requires the first entrance to be left open for all traffic.

Councilmember Menchel noted that a barricade was placed across that entrance; however, the Emerald Grande was forced to open it up when Public Works/Safety committee addressed that issue.

Councilmember Destin asked staff to place an item under his name on the next Council meeting agenda to discuss the possibility of creating an ordinance provision of collecting parking fees at the exit and not at the entrance to a private pay for parking facility. He continued there are no modern public parking facilities that try to collect parking fees at the front end. They are typically collected on the way out. It keeps the traffic congestion inside the property and not out onto the roadways and jeopardize public's safety and welfare.

#### C. Captain Royal Melvin Heritage Park & Plaza Engineering Redesign Proposal

The City Manager requests Council's authorization to execute the Jenkins Engineering, Inc. contract for the redesign of the Captain Royal Melvin Heritage park and Plaza for \$26,500.

**Councilmember Overdier moved to authorize the City Manager to execute the Jenkins Engineering, Inc. contract for the redesign of the Captain Royal Melvin Heritage Park and Plaza for \$26,500 with funding from recreation impact fees and make the appropriate budget amendment; with Councilmember Ramswell providing the second.**

Councilmember Destin announced he would abstain from voting as the park is part of a litigation involving a family member.

**The motion passed 5-0 (Council members Marler, Overdier, Menchel, Ramswell and Braden voted "yes"; Councilmember Destin abstained from voting; Councilmember Morgan was absent from the meeting).**

#### D. Paid Parking – Seeking Direction

The City Manager explained that the pilot program for paid parking has ended and staff is looking for direction from Council as to whether the City should continue, discontinue, or modify the parking program.

The City's Information Technology Manager Webb Warren informed the Council the paid parking program is about to enter its second year. He stated there are some potential improvements they could implement if the Council wishes to move forward with the program. He then detailed the following options available to the Council:

- Discontinue the paid parking program
- Continue on with the paid parking program. Enhance the program by minimizing the staff effort associated with it on a day-to-day basis by coming up with a more sustainable and more cost effective program, as follows:
  - Simple flat fee program instead of hourly fee
  - Research and issue RFP for automated gate system; which would minimize the staff time with regards to monitoring

Mayor Jarvis suggests scheduling a City Council workshop to discuss paid parking options. There were no objections from the Council members.

Councilmember Braden stated that if they decide to continue on with the paid parking program, he would prefer implementing the automated gate system with parking arms and kiosk where payment is collected at the exit.

Councilmember Overdier agrees they should continue with the paid parking program and suggests formalizing a flat fee of \$5.00 per day. He also feels that they need to come up with a system that is easily manageable by staff, as well as the people who will utilize it.

Councilmember Marler agrees with implementing the automated gate system and the pay-as-you-go method of payment.

Councilmember Ramswell asked staff to come up with a system for monitoring and controlling overnight or long-term parking if they choose to implement a flat daily parking fee.

The City Manager stated that staff would bring back some options for the workshop.

#### E. Confirmation: Parks & Recreation Director

**Motion by Councilmember Overdier, seconded by Councilmember Ramswell, to confirm the appointment of Lisa Firth as the permanent Parks and Recreation Director passed 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

#### F. Hiring Appraisal and Economics Associates as the City’s appraiser for the Destin Fishing Fleet property in the Bert J. Harris claim

#### G. Independent Planning Consultant for Evaluation of Destin Fishing Fleet Claim

The Land Use Attorney addressed both agenda items F and G as printed above.

She requests direction from the Council to first address the threshold issue in the Fleet’s Bert Harris claim to determine whether there is a vested right or existing use on the property that has been inordinately burdened. Once that has been determined, the Council could then reconsider whether to enlist the services of an appraiser. She recommends hiring a third party planning

consultant to independently evaluate the development rights in the effect of the Comprehensive Plan amendments, if any, on the Fleet's property. She also stated she could provide the Council with the qualifications Ms. April Fisher, a planning consultant who has indicated her availability to reach a determination by the January 22, 2019 Council meeting. Her service rate is \$150 an hour. She has estimated a maximum of 40 hours or \$6,000 to complete the job. She would provide a written report regarding the effect of the Comprehensive Plan amendments on the Destin Fishing Fleet property.

The Land Use Attorney requests Council authorizes the City Manager to enlist the services of Ms. Fisher to prepare an independent evaluation along a separate legal opinion from her as to whether there is an existing use or vested right on the Destin Fishing Fleet's property that has been inordinately burdened.

**Councilmember Overdier moved to direct the City Manager to enlist the services of Ms. April Fisher to prepare the independent evaluation, to go along with a separate legal opinion from the Land Use Attorney as to whether there is an existing use or vested right on the Destin Fishing Fleet property that has been inordinately burdened. Councilmember Ramswell provided a second to the motion, which passes 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes"; Councilmember Morgan was absent from the meeting).**

#### H. Update on Public Beach Initiative and Appraisal Process

The City Manager explained that at their December 17<sup>th</sup> meeting, the City Council authorized him to proceed with hiring Mr. Phil Houston to perform appraisals on a property in the Crystal Beach area. However, staff has subsequently learned that they needed to hire someone who performs commercial appraisals. He asked for Council's permission not to follow through with the contract with Mr. Houston and to pursue a commercial appraisal instead.

**Councilmember Destin moved to grant the City Manager permission not to follow through with their prior direction to contract with Mr. Phil Houston of Appraisal Services and to pursue a commercial appraiser for the project; seconded by Councilmember Overdier. Motion passed 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes"; Councilmember Morgan was absent from the meeting).**

#### I. Public Services Director and City Engineer

The City Manager explained that during the 2007/2008 timeframe, the Public Services Director and City Engineer positions were combined due to the economic downturn. The City has recovered from that time period, and since then has experienced a lot of projects and growth. He feels this position has taken on too many roles with past consolidation of duties and so he recommends separating the City Engineer's role from the Public Services Director position. This would lessen the workload of just one person, and that the City Engineer would be able to focus on project management as that position was originally intended to do so. Salary for the City Engineer position is not budgeted. Potential effect on budget would be \$92,384 annually

including benefits. Since they are one quarter into the new fiscal year, the cost would be \$69,295.50 for the remainder of Fiscal Year 2019.

**Councilmember Overdier moved to fund the position of City Engineer who will report to the Public Services Director, and authorize the City Manager to make any necessary budget amendments. Councilmember Marler provided a second to the motion. Motion passed 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

#### J. Announcements

The City Manager introduced Ms. Catherine Card as the City’s new Public Information Manager.

### 5. PUBLIC HEARINGS

#### A. Second Reading of Ordinance 18-28-CC - Amendment to Harbor and Waterways Ordinance

The City Attorney read Ordinance 18-28-CC by title, and then presented it to the City Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN RELATING TO CITY WATERWAYS; PROVIDING FOR ADDITIONAL FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF SECTION 5-2 OBSTRUCTING CHANNELS; UNLAWFUL ANCHORING, MOORING OR DOCKING; PROVIDING FOR SEVERABILITY AND PROVIDING 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 turned the matter over to the City Council for their discussion and consideration.

**Councilmember Overdier moved to approve Ordinance 18-28-CC on second reading; seconded by Councilmember Marler. Motion passed 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

#### B. Second reading of Ordinance 18-27-CN - Acquisition of 108 Sibert Avenue

The City Attorney read Ordinance 18-27-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, RELATING TO THE PURCHASE OF CERTAIN REAL PROPERTY; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDING OF FACT; PROVIDING FOR CITY COUNCIL APPROVAL OF A CONTRACT

FOR PURCHASE OF PROPERTY LOCATED AT 108 SIBERT AVENUE,  
DESTIN, FLORIDA; 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 turned the matter over to the City Council for their discussion and consideration.

**Councilmember Ramswell moved to approve Ordinance 18-27-CN on second reading and direct the City Manager to take the necessary steps to complete the purchase of the property. Councilmember Menchel provided a second to the motion, which passes 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

C. First reading of Ordinance 18-23-LC – Amend Section 7.12.01 (A) 2 of the LDC changing the designation of an 11.543 acre parcel of land located on U.S. Highway 98 from Commercial General (CG) to Town Center Mixed Use (TCMU)

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

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS REFERENCED IN THE LAND DEVELOPMENT CODE, SECTION 7.12.01(A)2 ZONING MAPS TO INCLUDE A CHANGE IN THE ZONING DESIGNATION OF AN 11.543 ACRE AREA OF LAND LOCATED ON U.S. HIGHWAY 98, DESTIN, FLORIDA FROM COMMERCIAL GENERAL (CG) TO TOWN CENTER MIXED USE (TCMU); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR ZONING MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Clerk sworn in the following individual for testimony:

Mr. Park Lamberts, Applicant - 5156 Meadow Lake Drive, Dunwoody Georgia

According to the Land Use Attorney, The City Council considered this ordinance on first reading on November 19, 2018, but continued the item to allow the applicant to provide additional information at a future meeting. The applicant has provided additional information for the City Council’s consideration.

The applicant Mr. Park Lamberts explained that they are now further down the line with the plan; and that they have provided a site plan which is in the agenda packet showing what they are proposing. They are requesting a zoning changed from Commercial General (CG) to Town Center Mixed Use (TCMU) to allow for long term rentals of the property.

According to the Land Use Attorney, the applicant would need the rezoning for the long term rental because the CG only allows for short term rentals of multi-family residential. The

density is not exactly the same; it is 16.9 under the CG and 24 under the TCMU. The height is the same for both.

Councilmember Destin stated that he would not have any problems with changing the zoning designation of the property from CG to TCMU to allow for long term rentals; however, there are no assurances that the applicant would not change his mind and add such thing as a parking deck thereby increasing the density.

The Land Use Attorney noted they would not be able to deny development order based on density if the zoning district allows for a higher density.

**Councilmember Marler moved to approve Ordinance 18-23-LC, amending the Official Zoning Map to change the zoning designation of the property on U.S. Hwy 98, from “Commercial General” to “Town Center Mixed Use” on first reading and direct staff to bring it back for second reading. Councilmember Overdier provided a second to the motion.**

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

Councilmember Ramswell questioned the need to rezone the subject property prior to the upcoming workshop where they would discuss options for resolving FLUM and Zoning Map inconsistencies.

According to the Mayor, it is a business issue with the applicant. They have a contract for the sale of the property which is contingent on the parcel being rezoned.

Councilmember Menchel inquired as to the time frame for the contract; and if they could wait until after the workshop to make a decision without impeding the contract.

Mr. Lambert stated they have 30 days to do their due diligence and another 60 days to work with the City on the next step in the process.

**The Mayor called for a vote on the motion, which passes 4-3 (Council members Marler, Overdier and Menchel voted “yes”; Council members Ramswell, Braden and Destin voted “no”; the Mayor cast a tie breaking vote of “yes”; Councilmember Morgan was absent from the meeting).**

- D. First reading of Ordinance 18-29-CC - Amendments to Short-Term Rental Ordinance and Establishing Maximum Occupancy Limits.

The City Attorney read Ordinance 18-29-LC by title, and then presented it to the City Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO OCCUPANCY LIMITS FOR SHORT-TERM RENTALS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF CODE OF ORDINANCES ARTICLE VI- REGISTRATION OF SHORT- TERM RENTALS; AMENDING SECTION 13-108, LOCAL RESPONSIBLE PARTY REQUIRED; AMENDING SECTION 13-114, POSTING OF SIGNAGE; CREATING SECTION 13-117, OCCUPANY LIMITS; CREATING SECTION 13-118, EXEMPTION FOR PRE-EXISTING AGREEMENTS; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Ms. Karen Lugo, who resides in Austin, Texas but owns two properties in Destin spoke first. She informed the Council she is a constitutional law attorney and that she is challenging the steps taken by the City to create the ordinance to regulate short-term rentals. She argues that the City never informed the approximately 800 property owners who are directly impacted by the proposed ordinance. None of the homeowners in the City who rent has been contacted. She asserts that the ordinance must be developed and applied with sensitivity for private property right and not be unduly restrictive. Property owners must be free from actions by others which would harm their property or constitute an inordinate burden. She opined that the Short Term Rental Task Force created by the City was egregiously biased; that it was not properly represented with no homeowners serving. She continued that 5 of the 7 members were intent on regulating occupancy in short-term rental homes. She added that a factual finding was never prepared by the City to determine how many Bert Harris claims might be filed and how much they might cost the City.

Ms. Laura Sims, a Destin resident, stated that she agrees with the entire statement made by the previous speaker. She stated she was casually made aware of this ordinance and does not fully understand why a property she has worked hard for 30 years to obtain is suddenly being regulated. She urges the City to enforce the ordinances currently in place as she does not understand how they can possibly enforce a regulation limiting occupancy.

Mr. Shawn Hickey, a Destin resident, stated that he attended every one of the task force meetings and knows for a fact the task force was property represented by homeowners in the City. He also stated that he fully supports the proposed ordinance as written because he lives in Crystal Beach and he is very much aware of the adverse impacts of nonresident property owners packing houses to make a profit, having multiple cars park on the streets, and the noise from people having wild parties. He asked the City to reexamine and reduce the size of the signage required to be placed in front of short-term rental houses for safety reason. He feels that 24" x 48" is too large and a potential danger in the event of a hurricane. He also noted page 6, section 13.117 paragraph F, line 4 of the proposed ordinance contains the phrase "*may cap*" with regards to the grandfathering clause. He feels replacing it with "*shall cap*" would carry more weight.

Mr. Jason Sprenkle, a member of the Short Term Rental Task Force, asked the Council to give the comprehensive changes proposed by the task force that were already put into effect, at least

a season to work. He stated that he has had enough conversation with short-term rental property managers and owners to know that the risk of Bert Harris claims is a certainty; and that a lot of Bert Harris claims would be filed. He also noted that the grandfathering language on page 6 of the proposed ordinance does not reflect the intent of that section of the ordinance. He added that if the proposed ordinance passes, it should not apply to all bookings made subsequent to the enactment of the ordinance.

Ms. Sally Mauer, a Destin resident, noted that her rental home sleeps 18 people and the bedrooms are not crowded. She feels it is within her rights as property owner to be able to advertise for the number of people her house could accommodate. She also feels it is unfair to only target the short term rental homes in single family residences; adding they should also be charging condominium owners rental fees.

Mr. Ben Giles, a Miramar Beach resident, stated that the proposed ordinance seems more like an advertising ordinance than an occupancy ordinance. He stated that property values are going to be reduced starting the date this ordinance is enacted. No one would buy a vacation rental home knowing that in 5 years, occupancy would go down to a level that would make it a bad investment. He continued that it is in the best interest of every property owner, whether it is owner occupied, short or long-term rental homes, to file a Bert Harris claim to protect the long term value of their property. The City could expect 10 to 20 percent of homeowners to file Bert Harris claims. The City would need to hire more staff to be able to keep up with all the Bert Harris claims and pay an inordinate amount of money on trials and judgment with no insurance to cover the costs.

Mr. Bill Remington, a Destin resident, noted that the first speaker brought up a very good point that nobody has contacted the property owners that would be effected by the proposed ordinance. He stated he has the names of all the property owners in his database and that he would be more than happy to do a mailing to them and inform them of what is going on with the ordinance. He also believes the City ought to be enforcing the ordinances that are already on the books.

Ms. April Cove, a Destin resident, claims she is being targeted by both the Holiday Isle Improvements Association and the City of Destin for exercising her rights as a homeowner; adding she recently received a certified letter in the mail from the Association for a hearing for leaving her trash can out at midnight. The letter also included a photograph of her trash can. She added they threaten to charge her \$100 for the violation.

Mr. Ed Smith, a Destin resident and real estate broker, opined that the City has more of an enforcement problem than an occupancy problem because they have been unable to enforce the ordinances that are already on the books. He feels the occupancy issue is moot unless the City has the ability to enforce these regulations.

Ms. Marcie Bell, a Destin resident, stated that a property owner is not necessarily a homeowner; and that no property owner should be able to infringe upon her right as homeowner. She also stated there is a definite problem in Destin when a short-term rental owner tries to pack 18 people in a home normally occupies by 3 people. She added that setting an occupancy standard is a must.

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

**Councilmember Marler moved to continue first reading of Ordinance 18-29-CC to October 21, 2019 to allow the Code Compliance Department to gather data and enforce the current short-term rental ordinance; and for the City Council to determine at that time if other rules and regulations need to be applied. Motion died for lack of a second.**

Council member Overdier noted that the grandfathering clause seems to only apply to properties that are currently being rented. He continued that people with a valid development order issued by the City of Destin, and the property is either under construction or there is an anticipated start of construction; and that they have done things in good faith with the idea they are going to develop the property and use it as a rental property should fall under the same rules of the grandfathering clause and with this language added to the ordinance.

According to the Land Use Attorney, they could add that language to the ordinance without having to go back to first reading if that is the desire of Council.

Councilmember Overdier referred to the language on page 6 of the ordinance that reads, *"The Grandfathering Application and supporting proof shall be submitted to the City for review by the City staff in consultation with the City Land use Attorney, and such staff shall make a written determination as to the maximum occupancy of such short-term rental."* He asked what guidelines would be used to make such a determination.

According to the Land Use Attorney, the guidelines are written on the same page, which read as follows:

*"The short-term rental owner, or agent, as applicable shall complete a Grandfathering Application as prescribed by the City, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of:*

- 1. The use as a short-term rental was existing and legally established as of January 21, 2019.*
- 2. The number of bedrooms in the short-term rental was existing and legally established as of January 21, 2019. The number of bedrooms shall be based upon the Property Appraiser's residential profile of the property, and other documents of record, as needed.*
- 3. The short-term rental must be registered with the City and must be in compliance with all applicable City of Destin codes and ordinances."*

Council member Marler asked how the occupancy standard could be enforced since the Code Compliance Manager had already stated they would not do a head count.

According to the Land Use Attorney, this particular ordinance is intended to be enforced by monitoring short-term rental advertisements and making sure signage provides for the appropriate occupancy. They would be looked at in conjunction with the City's existing regulations dealing with noise, trash and parking. She also stated that the commercial event ordinance would be factored in if it passes.

**Councilmember Destin moved to direct staff to advertise Exhibit B, of Ordinance 18-29-CC, which provides for a maximum overnight occupancy of two persons per bedroom, plus four, and bring it back for second reading on January 22, 2019; seconded by Councilmember Overdier.**

Council member Ramswell suggests they also discuss the appropriate size of the signage before passing this ordinance.

According to the Land Use Attorney, the size has to be large enough to allow for all additional information to fit on the sign.

Mr. Zunguze stated there is a lot of information that needs to go into the sign such as occupancy, number of parking spaces and contact information for the responsible party; adding that information has to be visible on the road to Code Compliance Officers as they drive by the property.

Councilmember Ramswell addressed some of the concerns expressed tonight by members of the public. She stated this is not an effort to stop tourism. Destin is a town built on fishing, and visitors come here to enjoy the beaches and other amenities. They do not want to prevent people from making money by renting their properties. They want visitors to come, but they also want to protect the quality of life of the City's permanent residents who live and pay taxes to the City, and who elected the members of Council to ensure that their quality of life is not disturbed. They need to have some sort of parameter. A single family residential home is built for a single family resident and not for continuous parties by a great number of people. With regards to the assertion that limiting occupancy would decrease property value, there are people who have lived in Destin for a long time that have decided to move away. But they could hardly sell their house for what its worth because when a potential buyer looks at the house, they get discouraged when they see a party going on next door. With regards to comments about the Short-Term Rental Task Force being biased and not fully represented, this Task Force consisted of a diverse group of people. There were at least two homeowners that were not rental agents or rental property managers, as well as large and small rental property managers. The Council wanted a diverse group so they could hear diverse opinions on the subject of short-term rentals. The Task Force did a terrific job.

Councilmember Menchel suggests having a mandatory 24-hour hotline that citizens can report problems. He also stated they should evaluate the two people per bedroom plus four occupancy standards at the end of the season to determine its effectiveness.

The Land Use Attorney stated that the 24-hour hotline does not have to be included in the ordinance. The Council could just direct the City Manager and staff to do it.

**The Mayor called for a vote on the motion, which passes 5-1 (Council members Destin, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Marler voted “no”; Councilmember Morgan was absent from the meeting).**

E. Dock application at 288D Harbor Blvd

F. Dock application at 302 Harbor Blvd

The City Attorney addressed both items E & F simultaneously as they are located adjacent to each other and have the same owner.

The City Clerk sworn in the following individual for testimony:

Mr. Claude Perry, owner  
Mr. Matt Trammel, Taylor Engineering, Inc.

Mr. Matt Trammell provided the Council with the background information for the two projects. The applications have been reviewed and approved by the Florida Department of Environmental Protection (FDEP), the U.S. Army Corps of Engineer (USACE), City staff, and the City of Destin Harbor and Waterways Board. He stated that they fall under an exception that is allowed under the current Land Development Code; but, each one of the properties falls slightly short of that exception. They are providing well beyond the public slips required. They are providing one water taxi dock on each property as opposed to two water taxi dock 50 feet from one another. Since they are not providing the required commercial slips; they could think of it as Mr. Perry giving an additional public benefit. They are two fare carrying slips short on one of the properties and one fare carrying slips short on the other. Mr. Perry would be happy to add more commercial slips if the Council so desires or they could approve the projects as proposed.

**Councilmember Overdier moved to approve the applications for marine construction at 288D Harbor Blvd, by exercising the City’s police powers in a manner which maximizes the public’s benefit; seconded by Councilmember Menchel.**

Councilmember Braden asked how it would affect the other if one of the parcels is sold.

According to the City Attorney, the Council is approving one dock at a time. He presented the projects simultaneously since Mr. Perry owned both properties. However, the permits for each parcel are separate.

Mr. Trammell explained that each property could have its own separate dock. They are connected through an upland boardwalk and an upland dock; but, neither one is dependent on another. There is no encroachment over the property or offshore riparian lines. The FDEP allows

for the docks to be constructed up to the property line. Since Mr. Perry owns both properties and he is his own adjacent property owner, he is giving himself the setback waiver authorization.

Council member Ramswell stated that she would support any project that provides for public docking slips as opposed to commercial or fare carrying slips on the harbor.

The Mayor spoke of the need to define fare carrying vessel as a charter for hire vessel or dolphin cruise and not a livery vessel to remove any ambiguity.

The City Attorney agreed they need to have a better definition of fare carrying vessel in the Land Development Code.

The Mayor opened a public hearing to receive comments for or against the above projects:

Ms. Marcie Bell asked how the transient slips are going to be managed.

The Mayor explained that it would be up to Mr. Perry to hire someone to manage the slips.

**The Mayor called for a vote on the motion, which passes 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

Mr. Trammell confirmed that the next request is the same type of request; and that Mr. Perry is the owner of the property and that he same conditions apply as the previous one.

The Mayor opened a public hearing to receive comments for or against this project. Having none, he turned the matter over to the City Council for their consideration.

**Motion by Councilmember Overdier, seconded by Councilmember Menchel, to approve the applications for marine construction at 302 Harbor Blvd, by exercising the City’s police powers in a manner which maximizes the public’s benefit passed 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

## 6. CONSENT AGENDA

- A. Interlocal Agreement between Okaloosa County and the City of Destin for Design and Construction of improvements to the intersection of Commons Drive and Henderson Beach Road.
- B. Financial System (MUNIS) Continuing Services/Licensing and Support Renewal for 2019

C. Separation Agreement

**Motion by Councilmember Marler, seconded by Councilmember Overdier, to approve Consent Agenda items A thru C, as printed above, passed 6-0 (Council members Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”; Councilmember Morgan was absent from the meeting).**

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

- A. Councilmember Braden
- B. Councilmember Ramswell
- C. Councilmember Menchel

Councilmember Menchel thanked the Council for supporting his nomination for Interim City Council member to fill the position vacated by Mr. Tuffy Dixon.

D. Councilmember Overdier

- 1. Nomination of Mr. Jim Foreman for membership to the Board of Adjustment

The City Attorney recommends waiting until March 2019 to make this nomination, as it would make it a year since Mr. Foreman has left the Council, which is a requirement of the City Charter.

The City Clerk asked if that stipulation also applies to other committees as Mr. Foreman has already been appointed to the Town Center CRA Advisory Committee.

According to the City Attorney, Mr. Foreman should resign from that committee and be re-appointed in March as well.

Council member Ramswell requested a list of the current committees, their members, and any vacancies.

The City Clerk will provide the information to the Council via e-mail.

- E. Councilmember Marler
- F. Councilmember Destin
  - 1. Coyote mitigation

According to Councilmember Destin, many of the citizens have been contacting him during the past few months about the coyote problems and how their domestic animals are being attacked and killed by the coyotes. He stated they are now at a point where they should direct the City Manager to hire a professional trapper to capture the coyotes, similar to the action the City took about 15 years ago.

The Mayor remarked that he spoke with County Commissioner Kelly Windes about this issue. The County has a similar problem and that the County Commission may be willing to co-share the expense, and that they have some information on some of the companies they have hired in the past.

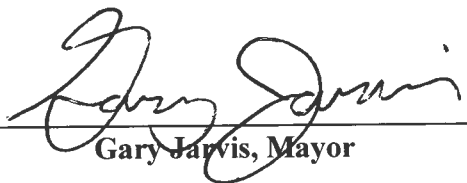
It was the consensus of the Council to instruct the City Manager to employ professional trappers, within his spending capability, to address the coyote problems.

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

1. Update to East Pass Dredge Administrative Actions by the Donovan's and the Sherry's

The City Attorney explained that the Donovan's and the Sherry's filed an administrative action naming the City of Destin as a respondent; and that at the last meeting the City Council hired Mr. Ken Oertel to represent the City. However, the FDEP recently dismissed that action and have given the Sherry's until January 16<sup>th</sup> to deal with some outstanding issues. The Sherry's have made a settlement offer that the County Commission will be considering next week. The gist of the offer is that the area on Okaloosa Island, called Reach 3, will be getting between 80-120 thousand cubic yards of sand. This would depend upon the City being able to obtain the necessary easements to be able to deposit the sand in Reach 2, which is located at the Sandpiper Cove area. The Sherry's are also agreeing to carve out from their administrative challenge the portion of the challenge that is preventing the USACE from dredging the pass to free up the 1.5 M in Federal Funding for the FDEP to grant the USACE the permit to dredge. He added that the entire agreement is dependent upon the FDEP granting the USACE a notice to proceed under this term.

Having no further business at this time, the meeting was adjourned at 8:55 PM.

  
\_\_\_\_\_  
Gary Jarvis, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Rey Bailey, City Clerk