

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
FEBRUARY 4, 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 Chatham Morgan

Councilmember Skip Overdier

Councilmember Rodney Braden

Destin City Staff

City Manager Lance Johnson

Acting Public Services Director Tim Pietenpol

Code Compliance Manager Joey Forgione

Community Development Director Louis Zunguze

Public Information Manager Catherine Card

Parks & Recreation Director Lisa Firth

City Land Use Attorney Kimberly Kopp

City Clerk Rey Bailey

IT Manager Webb Warren

Library Director Wen Livingston

Finance Director Bragg Farmer

Building Official Noell Bell

City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Eric Partin of Shoreline Church gave the invocation; which was then followed by the Pledge of Allegiance.

AGENDA APPROVAL

Motion by Councilmember Menchel, seconded by Councilmember Overdier, to add “East Pass Gap Easements with Oceana” under City Attorney Comments passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted “yes”; Councilmember Ramswell was absent from the meeting).

Motion by Councilmember Braden, seconded by Councilmember Destin, to move agenda item 4A immediately after agenda item 2A passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted “yes”; Councilmember Ramswell was absent from the meeting).

Councilmember Menchel moved to approve the agenda as amended; seconded by Councilmember Overdier. Motion passed 6-0 (Council members Morgan, Destin, Marler,

Overdier, Menchel and Braden voted “yes”; Councilmember Ramswell was absent from the meeting).

1. APPROVAL OF MINUTES

A. Approval of minutes of December 3, 2018 Regular City Council Meeting

Motion by Councilmember Destin, seconded by Councilmember Marler, to approve minutes of December 3, 2018 regular City Council meeting passed 5-0 (Council members Morgan, Destin, Marler, Overdier and Braden voted “yes”; Councilmember Menchel abstained from voting; Councilmember Ramswell was absent from the meeting).

B. Approval of minutes of November 27, 2018 Special City Council Meeting

Motion by Councilmember Destin, seconded by Councilmember Marler, to approve minutes of November 27, 2018 regular City Council meeting passed 5-0 (Council members Morgan, Destin, Marler, Overdier and Braden voted “yes”; Councilmember Menchel abstained from voting; Councilmember Ramswell was absent from the meeting).

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

A. Presentation RFQ 1815PS Airport Road Signing and Pavement Marking Project

- 1) Connelly & Wicker, Inc.
- 2) Dewberry Engineers, Inc.
- 3) Gortemoller Engineering, Inc.
- 4) Volkert, Inc.

The above listed firms provided the following presentation to the City Council:

Connelly & Wicker, Inc.

- Local office for 25 years
- Current local projects
 - ❖ South Walton County Fire District – Fire Station
 - ❖ Destin Commons – Engineer of Record
 - ❖ Apartments on SR 331 – Reserve at Washington
- Airport Road is an innovative project
 - ❖ Experience with FDOT Local Agency Program (LAP) for cities and counties
 - ❖ Team with Prosser, Inc. – safety experts
- Project scope
 - ❖ Curb warning signs
 - ❖ Pavement marking improvements
 - ❖ High friction surface treatment

- ❖ Guardrail
- ❖ Resurfacing
- High Friction Surface Treatment (HFST)
 - ❖ Cost - \$59 per square yard
 - ❖ Safety improvements
 - Reduction of wet weather crashes by 84% (current statistics)
 - ❖ Life – 5-10 years
- Experience
- Project management
 - ❖ On-schedule – deadline of July 12, 2019
 - ❖ Within budget
 - ❖ Staff available to meet deadline

Dewberry Engineers, Inc.

- Organization Information
 - ❖ Headquarters – Fairfax, Virginia
 - ❖ Year established – 1956
 - ❖ Family-owned
 - ❖ 50 locations in 18 states
 - ❖ Number of employees – 2000-plus
- Prior work experience
 - ❖ Scenic Gulf Drive Phase III Improvements/Walton County
 - ❖ 11th Street paved shoulders and sidewalks (FDOT LAP)/Bay County
 - ❖ Calhoun Avenue Drainage Improvements and Sidewalks (NFWF Grant)/City of Destin
 - ❖ Juanita Avenue, Kelly Street and Snapper Drive Drainage Improvements and Sidewalks (NFWF Grant)/City of Destin
- Project understanding of critical issues
 - ❖ Sidewalks and crosswalks not meeting standards
 - ❖ Excessive drop off at curbing
 - ❖ Inadequate signage and reflectivity
 - ❖ Vehicle runoffs
 - ❖ Lack of pedestrian safety-need for barriers and lighting
 - ❖ Pavement surface deterioration and lack of friction
- Design recommendations
 - ❖ Installation of raised curbing with inlets; installation of guardrail (as needed) to allow for vehicle recovery after loss of control
 - ❖ Replacement of sidewalks and crosswalks to meet FDOT, ADA, and City of Destin requirements
 - ❖ Re-designing roadside swales to remove drop off
 - ❖ Installation of high friction surface treatment to improve vehicle traction
 - ❖ Installation of new thermoplastic striping and high visibility audible / vibratory pavement markings to improve driver awareness
 - ❖ Replacement of all signage with retro-reflective posts and coatings

- ❖ Installation of additional roadway and sidewalk lighting to improve visibility

Gortemoller Engineering, Inc.

- Firm Information
 - ❖ Located in Panama City Beach
 - ❖ Formed in 2002
 - ❖ 14-15 experienced staff members
- Experience
 - ❖ Served FDOT, Bay County, City of Panama City Beach the past 6-10 years
 - ❖ Services ranged from drainage, roadways, sign and pavement parking
 - ❖ Resurfaced over 105 miles of FDOT projects in Northwest Florida
 - ❖ Currently designing State Road 20 from State Road 77 to US 231
 - ❖ 3R projects at Wakulla County
 - ❖ State Road 85 from Okaloosa County line to Alabama State line
 - ❖ State Road 81 from Walton County to Alabama State line – 22 mile resurfacing project
 - ❖ East Avenue in Panama City – sign and pavement markings
 - ❖ Sign and pavement markings on East Avenue in Panama City
 - ❖ Sign and pavement markings on State Road 388
 - ❖ Resurfacing and reconstruction of Frankfurt Avenue
 - ❖ Sign and pavement marking on State Road 4 in Santa Rosa County and State Road 71 in Gulf County
 - ❖ Currently working on 4 different safety projects for FDOT as a sub-consultant providing sign and pavement markings and drainage
- Goal – The following will be added to improve safety
 - ❖ High friction surface treatment
 - ❖ Chevron signs
 - ❖ Curb warning
 - ❖ Guardrail
 - ❖ RPMs

Volkert, Inc.

- Credentials
 - ❖ A leading roadway design firm in Northwest Florida and the nation
 - ❖ #19 in the US in highway design (*Engineering News Record*)
 - ❖ Long-term partner in Northwest Florida transportation projects (since 1994)
 - FDOT District 3 (leading provider)
 - Local municipalities
 - Eglin AFB
 - Gulf Island National Seashore

- Mid-Bay Bridge Authority
 - ❖ Over two dozen PD&E studies for FDOT
 - ❖ Hundreds of miles roadway for FDOT and municipality clients
- Understanding of Scope
- ❖ FDOT Local Agency Program (LAP) project to provide safety upgrades for Airport Road from Mattie Kelly Blvd to Quail Circle in accordance with the FDOT Road Safety Audit for Airport Road, dated September 2016. Safety upgrades to include:
 - High Friction Surface Treatment (HFST)
 - Enhanced delineation – signage and pavement marking
 - Chevron signs – oversized and highly retro-reflective
 - Curve warning signs – oversized and highly retro-reflective
 - Speed limit signs
 - Raised Pavement Markers (RPM)
 - Thermoplastic striping
 - Guardrail (if needed)
 - Recovery Zone Enhancements – identified in safety audit not currently in scope
 - Lighting – identified in safety audit not currently in scope
 - What is High Friction Surface Treatment (HFST)
 - Pavement surface treatment composed of extremely hard, polish and abrasive resistant aggregate bonded to the existing pavement
 - Increases skid resistance and friction characteristics of the road surface
 - Aggregate typically calcined bauxite adhered with polymer resin binder
 - “Spot treatment” where warranted
 - Surface treatment – minimal thickness – 1/8”-1/4”
 - Can be installed over virtually all pavement types with minimal lane closures required
 - Contractor selection and construction oversight very important to project success
 - First used in US during the 1970s, used throughout Florida FDOT 50-100 projects
 - Project safety benefits
 - Enhanced delineation – Signage and pavement markings
 - ✓ Non-intersection fatal and injury crashes reduced by 16%
 - ✓ Proper chevron signs have shown a reduction of nighttime crashes by 25%

- HFST
 - ✓ Wet pavement crashes reduced by 75%
 - ✓ Total crashes reduced by 32%
- Similar work experience
 - LAP project experience
 - King Middle School sidewalk improvements
 - ✓ Santa Rosa County
 - ✓ Provide safe pedestrian passage
 - ✓ ADA compliance upgrades
 - Glover Lane sidewalk improvements
 - ✓ Santa Rosa County
 - ✓ Provide safe pedestrian passage
 - ✓ ADA compliance upgrades
 - Front Beach Road sidewalk improvements
 - ✓ Bay County
 - ✓ Provide safe pedestrian passage
 - ✓ ADA compliance upgrades
 - FDOT D3 on-call safety contract
- Why choose the Volkert Team
 - ❖ Client satisfaction is the priority
 - ❖ One of the most experienced and trusted roadway design teams for FDOT D3 work
 - ❖ FDOT pre-certified in 3.1 Minor Roadway
 - ❖ Trusted local consultant with nationwide experts
 - ❖ High friction surface coating knowledge/training

Following the presentations the Mayor called for a 10 minute break while the City Clerk tallies the scores assigned by each member of the Council and then moved on to agenda item 4A.

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

Mr. Mike Chesser, attorney for the Destin Fishing Fleet, announced he has filed an objection in the court to the settlement agreement that was tendered between the City of Destin and BI, Inc. He continued it has always been their contention that there never was a legitimate easement adjacent to the Destin Fishing Fleet property; and that they feel the court would have agreed with this argument had the lawsuit was allowed to continue. But, the City scheduled an executive session to consider a settlement proposal that went far beyond the issues that were being litigated. He then read the following two sections of the settlement agreement:

Paragraph 4D: *“The City acknowledges and agrees that BI, Harborside LLC and 200 Harbor LLC qualify for exceptions to the development order process as stated in the City’s*

Land Development Code to permit all uses, construction and activities contemplated in this agreement and/or the BI 2018 Survey.”

Paragraph 8: “The City acknowledges and agrees that any otherwise permitted use of construction on the BI Property or the 200 Harbor property shall not be denied a permit or development order by the City of Destin based upon any limitation in width, length, slope, adjacency to any other use, condition, construction material, side yard, drainage, or other City of Destin requirement or limitation for parking for businesses, residences or properties, created by the agreement”

Mr. Chesser noted that he previously represented the owner of 200 Harbor Blvd, a large piece of property located adjacent to Dewey Destin Seafood Restaurant. The owner came before the City after the livery vessel ordinance was adopted and requested an ordinance waiver while he adjusts the use of his property; however, the City staff denied his request. He continued that 200 Harbor Blvd is not a party to the lawsuit, but it is somewhat a beneficiary of the settlement agreement. The settlement agreement releases the restriction on 200 Harbor Blvd and the owner of the property; adding that if the settlement agreement is approved tonight, this property is no longer restricted by the livery ordinance. He suggests the proposed settlement agreement not be voted on tonight; and that it be brought before the Local Planning Agency and the Board of Adjustment for review.

Ms. Lisa Minshew, special counsel for BI, Inc. and Dewey Destin, Harborside LLC, noted that Mr. Chesser is trying to prolong something that has already been resolved. He held up the settlement agreement for being entered into by the judge by filing a lengthy objection. She continued that the only reason this issue was brought up, and in agreement with the City’s insurance counsel and with the Land Use Attorney, was as a result of an annual Circuit Court rotation, the Circuit Court Judge assigned to the litigation has changed. They wanted to give the new judge some flexibility so they are not locked into the exact wording that was in the final judgment that they approved. She continued there was nothing new about the property; and that 200 Harbor Blvd is not a party to the litigation and cannot enforce anything about these terms. The only reason it is mentioned in the settlement agreement is that BI, Inc. has a lease to use part of the property so they could get access. She urged the Council to proceed forward with this issue.

4. CITY MANAGER REPORTS

A. Selection RFQ 18-15-PS Airport Road Signing and Pavement Marking Project

Councilmember Destin moved to award RFQ 18-15-PS (Airport Road Signage and Pavement) to Volkert, Inc., seconded by Councilmember Braden. Motion passed 5-1 (Council members Morgan, Destin, Marler, Menchel and Braden voted “yes”; Councilmember Overdier voted “no”; Councilmember Ramswell was absent from the meeting).

Following the vote, the Mayor returned to Agenda item #3 – Public Comments

B. Request to rescind Council motion to install temporary guardrail on Airport Road curve.

The City Manager noted that on December 17, 2018, Council approved a motion to install guardrails along portions of Airport Road near the curve location as a temporary safety measure. Staff is recommending that Council rescinds this motion based on the reasons outlined in the staff report.

Motion by Councilmember Overdier, seconded by Councilmember Marler, to rescind Council's previous motion to install temporary guardrail on Airport Road curve passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted "yes"; Councilmember Ramswell was absent from the meeting).

C. BI, Inc. Litigation Settlement Agreement

According to the Land Use Attorney, the Final Settlement Agreement both parties entered into on September 6, 2018 has not yet been approved by the Circuit Judge. It is subject to approval by the Circuit Judge at a future hearing. She continued that none of the substantive issues discussed as far as the land use on the property is affected by it. Since the Circuit Court Judge assigned to the litigation has changed, the relevant year for the judgment should be corrected to state "2019" instead of "2018." They would also offer two different options to the judge regarding the legal language for approval of the agreement that is set forth in the stipulated final judgment.

Councilmember Morgan asked the Land Use Attorney to explain the reason for the executive session and why the proposed settlement agreement had to be discussed in private.

The Land Use Attorney explained that the Sunshine Law has an exception to the requirement to hold public meetings and to allow them to be held at the executive session during certain limited circumstances; which includes discussions pertaining to litigation strategies and negotiations. The executive session was recorded by a certified court reporter verbatim; which record will be available to the public as soon as the litigation concludes. She added that the City has the right to negotiate a settlement outside of a public meeting; and that the City does not agree with some of the statements made by Mr. Chesser tonight.

Councilmember Overdier moved to approve the Amended Settlement Agreement, including the exhibits; seconded by Councilmember Menchel.

Councilmember Destin announced he would abstain from voting as he is related to one of the litigants in this case.

Motion passed 3-2 (Council members Morgan, Menchel and Overdier voted "yes"; Council members Marler and Braden voted "no"; Councilmember Destin abstained from voting; Councilmember Ramswell was absent from the meeting).

D. Schedule of Fees

Motion by Councilmember Overdier, seconded by Councilmember Menchel, to adopt Resolution 19-01 and the associated Schedule of Fees for Fiscal Year 2019 passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted “yes”; Councilmember Ramswell was absent from the meeting).

E. Discussion on draft ordinance for privately-owned pay-to-park facilities.

The City Manager noted that at their previous meeting, the City Council directed staff to draft an ordinance for privately-owned pay-to-park facilities. The draft ordinance is before the Council tonight for their review, and that staff is seeking direction from the Council as to whether to proceed to finalize a draft of this ordinance for consideration by the LPA, and ultimately, by the Council. He also noted that the City has its own parking facilities and would fall under the same rules; and so he would recommend looking at the ordinance holistically across the City for both commercial and public parking.

According to the Land Use Attorney, there is currently no City ordinance that covers this particular issue. The draft ordinance would need more work especially with respect to the entrance to the facility. It currently states that acceptance of payments will not be permitted at the entrance to the facility, but it can be required anywhere in the parking facility, or at the exit point. She continued that they would need to provide clear definition of entrances or come up with other requirements to pay for the parking spot to prevent vehicles from backing up.

Councilmember Marler noted that according to the proposed ordinance, a pay-to-park facility that causes or allows vehicles to back-up and spillover on to any City, State or federal highway, road or street is subject to civil or criminal penalties. He pointed out that traffic will always back up, especially during the summer months, even if they do not collect payments at the entrance point if the driveway only holds a few cars and there are dozens of cars trying to turn into the same property.

Councilmember Overdier asked if there is a plan to meet and obtain inputs from parking lot owners along US Hwy 98.

The Land Use Attorney stated they have recently met with a representative from the Emerald Grande; but, unless directed otherwise by the Council, the goal is to continue working on the ordinance without focusing on any specific property since this is a city-wide ordinance.

Councilmember Menchel pointed out that all the constructions on US Hwy 98 would create a significant issue no matter what they do within the next two years. He also stated that if a particular lot is full, someone should put up a sign stating so to prevent others from turning into that lot.

The Land Use Attorney recommends coming up with a clear definition for entrances and setting measurable distances as collection points that would apply to public and private parking

lots. She asked if the Council wants to see the ordinance again before it goes to the Local Planning Agency.

There was a general consensus to allow staff to make appropriate amendments to the draft ordinance, bring it before the Local Planning Agency for review and recommendation, and then to the City Council for first reading.

F. Actions resulting from City-owned Paid Parking Workshop

The City Manager noted that a workshop was held earlier this evening regarding City-owned parking facilities; and that the City Council arrived at some consensus on some of the items discussed at that workshop. He asked the Council to consider making some motions with regards to those items and giving official directions to staff.

Councilmember Destin moved to instruct staff to bring back a fee ordinance to reflect parking fees to be charged for Fiscal Year 2019; seconded by Councilmember Overdier. Motion passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted “yes”; Councilmember Ramswell was absent from the meeting).

Motion by Councilmember Destin, seconded by Councilmember Overdier, to fund 108 Sibert parcel improvements for Fiscal Year 2019 from the fund balance, solicit bids, make the appropriate budget amendments, and bring the bids back for final approval by the Council, passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted “yes”; Councilmember Ramswell was absent from the meeting).

Councilmember Destin moved to instruct staff to solicit bids for the installation of a gate system in parking management plan in Fiscal Year 2020 and then bring them back for final approval by Council; seconded by Councilmember Menchel. Motion passed 6-0. (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted “yes”; Councilmember Ramswell was absent from the meeting).

G. Announcements

The City Manager announced that the Florida Fish and Wildlife Conservation Commission Coyote Presentation is scheduled for Thursday, February 7th, 5:00 PM, at the Destin Community Center.

5. PUBLIC HEARINGS

- A. Second reading of Ordinance 18-23-LC – Amend Section 7.12.01(A) 2 of the Land Development Code 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 proposed Ordinance 18-23-LC by title, and then presented it to the City Council on second 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 Land Use Attorney explained that the City Council approved this ordinance on first reading. It went before the City Council on second reading on January 21, 2019, and was continued to tonight's meeting at the request of the applicant. The ordinance is now back before the Council on second reading. The applicant has requested that the Council approves the ordinance with a provision that caps multi-family residential density at 192 units. She continued that two versions of the ordinance are provided to the Council. They are identical except that one version includes the language requested by the applicant.

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

Councilmember Overdier moved to approve Ordinance 18-23-LC on second reading, and include the language requested by the applicant capping multi-family residential density at 192 units; seconded by Councilmember Morgan. Motion passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted "yes"; Councilmember Ramswell was absent from the meeting).

6. CONSENT AGENDA

A. Amendment to the Okaloosa County Public Library Cooperative Interlocal Agreement

Motion by Councilmember Menchel, seconded by Councilmember Overdier, to approve Consent Agenda item 6A, as printed above, passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted "yes"; Councilmember Ramswell 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

1. Discussion on holding a public question and answer meeting with staff

Councilmember Menchel stated that the City now has an incredible staff that is providing excellent customer service. If elected as permanent City Council member, he plans to schedule a town hall meeting, possibly an hour in the morning and an hour in the afternoon, where he, the City Manager and department directors meet with the citizens and allow the citizens to come and discuss ideas and issues with them. He feels this is something they ought to do on a regular basis.

Councilmember Menchel noted that he conducted an audit of street signs in 2016 and discovered there were 16 missing signs along US Hwy 98. He worked with Okaloosa County, and the County actually replaced and paid for all the signs. He recently noticed there are two signs, on Gulf Shore Drive and Beach Drive, which are in dire need of replacement. He asked staff to contact the County and asked if they could replace those signs.

D. Councilmember Overdier

1. Motion to Consider Rescission of previous action of the council: *"Motion to adopt a recommendation of purchasing wayfinding signs and installing them in the Crystal Beach area according to the diagram provided by Mr. Stephen Deranian, which passes 6-1"*

Councilmember Overdier moved to rescind a previous action of the Council to adopt a recommendation of purchasing wayfinding signs and installing them in the Crystal Beach area according to the diagram provided by a citizen; seconded by Councilmember Braden.

Councilmember Overdier explained there have been a lot of complaints from citizens of Crystal Beach about the proposed number and size of these signs. During their discussions with the citizens, staff has come up with a different approach of possibly placing fewer and smaller wayfinding signs in that area of Crystal Beach.

Motion passed 6-0 (Council members Morgan, Destin, Marler, Overdier, Menchel and Braden voted "yes"; Councilmember Ramswell was absent from the meeting).

E. Councilmember Marler

F. Councilmember Destin

G. Councilmember Morgan

H. Mayor Gary Jarvis

I. Land Use Attorney

J. City Attorney

1. East Pass Gap Easement with Oceana - update

The City Attorney announced that he and Mr. Ken Oertel, the special counsel for the City, are drafting some language in the easement agreement that would be protective of the City, the

Army Corps of Engineers and the “gap” property owners which are providing easements for the placement of sand on Reach 2. He continued that Oceana, which is one of the “gap” properties, has been skeptical of executing the easement agreement as it currently existed and wanted more protections; and that they have received a proposed language to the easement agreement from Oceana’s attorney. They are essentially asking for \$3,000 for upfront cost for execution of the easement; and then \$1,000 in liquidated damages for every day the project goes passed April 15th. Though it is not the final language, they have given an indication they are not willing to budge too much off this language. He also stated that he does not believe the current iteration would be in the City’s best interest as it could place the City in a large financial and legal risk. It could be a very expensive proposition especially not knowing for sure how long the project could last. He asked the Council for direction on how to proceed; and whether to continue trying to obtain these easements or divert their efforts elsewhere.

The Mayor inquired as to Oceana’s motivation behind this provision and holding them at ransom while there are many people in need in this community.

The City Attorney stated that he would not speculate as to Oceana’s motivation other than they wanted to be sufficiently protected, and they see this provision as a way to provide that protection. He also noted some engineering issues with the easement. Though it allows for heavy equipment to go across the property, it would be impossible to lay the pipes down to spread the sand on Reach 2; and so for this reason, he recommends Council directing him to stop pursuing the “gap” easements and focusing their attention elsewhere.

According to Mr. Guy Tadlock, he had been talking to some of the residents of Oceana as well as with the County; and that he is optimistic there could be a chance they would approve the agreement if they could alleviate some of the concerns about the temporary easements. He also stated there are 22 “gap” properties; 3 of which are condominiums. The other 19 are single family homes; some of which are observing what Oceana would do before they sign the agreement.

Councilmember Morgan stated that he personally think the whole idea behind the “gap” properties is just irrational, considering the fact they are receiving the benefits of their tax dollars. He recommends withholding sand until the property owners get on board or declare customary use and move forward.

Councilmember Overdier asked how this would affect federal funding if they cannot get the sand to Reach 2.

According to the City Attorney, the Army Corps of Engineers (USACE) performs the project and the initial \$1.5 million in federal funding is available. The 3 parties involved in the agreement – Okaloosa County, the petitioners, and FDEP – all need to come to terms before they could proceed with the project under the USACE’s permit. He also stated that the agreement is not contingent upon being able to obtain all 22 easements. Depending on whether they were able to get to Reach 2 would affect the amount of sand that would be placed on Destin and on Okaloosa Island.

The Mayor stated that the City has its own dredging permit; and that they would try to put their permit in a position where they could execute it and be minimally invasive to avoid legal actions. He also stated that he has declared a State of Emergency as Mayor, and they hope FDEP would do the same thing.

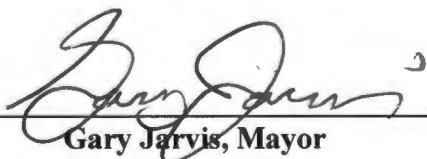
The City Attorney believes the financial conditions are unacceptable from the City's risk standpoint.

Ms. Marcie Bell stated that spring break is coming and there is no place to put the people on the beach. They should not allow 19 property owners in Oceana to affect a critical beach serviced by so many people at Sandpiper Cove. She continued that Sandpiper Cove is a huge rental community, and so if they are worried about being sued, there are many more property owners at Sandpiper Cove than Oceana that could file a lawsuit.

The City Attorney stated they are devising some strategies to avoid this type of situation in the future; which he would discuss with the Council at a later date. They are also trying to make sure the East Pass gets dredged by early March at the latest.

The Mayor stated that the East Pass needs to be dredged; and that the sand needs to go where it is most needed in accordance with the Florida Land Management Plan. He also believes that is the exact position of this Council and it is the direction to where they need to focus their attention. He also stated that if the agreement the County made with FDEP is not reached, they may have to go before the County TDC and asked that they fund the entire project.

Having no further business at this time, the meeting was adjourned at 8:35 PM.



Gary Jarvis, Mayor

ATTEST:



Rey Bailey, City Clerk