

**MINUTES
SPECIAL MEETING
DESTIN CITY COUNCIL
DECEMBER 9, 2019
DESTIN CITY HALL
ANNEX COUNCIL CHAMBERS
6:00 PM**

The Council of the City of Destin met in special session with the following members and staff present:

Destin City Council

Mayor Gary Jarvis
Councilmember Rodney Braden
Councilmember Cyron Marler
Councilmember Prebble Ramswell

Councilmember Steven Menchel
Councilmember Parker Destin
Councilmember Skip Overdier
Councilmember Chatham Morgan

Destin City Staff

City Manager Lance Johnson
Public Information Manager Catherine Card
Building Official Noell Bell
Community Dev. Director Louis Zunguze
Land Use Attorney Kimberly Kopp

City Clerk Rey Bailey
Deputy City Manager Webb Warren
Code Compliance Manager Joey Forgione
City Attorney Kyle Bauman

CALL TO ORDER

Mayor Gary Jarvis called the meeting to order at 6:00 PM; followed by the recitation of the Pledge of Allegiance.

NEW BUSINESS

A. Bert J. Harris Claims:

- 1) 91 Dolphin Street
- 2) 82 Shirah Street
- 3) 71 Stingray Street
- 4) 86 Hutchison Street
- 5) 4488 Ocean View Drive
- 6) 3893 Sandprint Drive
- 7) 3890 Sandprint Drive
- 8) 3487 Scenic Hwy 98
- 9) 3473 Scenic Hwy 98
- 10) 3461 Scenic Hwy 98
- 11) 2968 Scenic Hwy 98
- 12) 633 Gulf Shore Drive
- 13) 627 Gulf Shore Drive
- 14) 85 Woodward Street
- 15) 84 Hutchison Street

- 16) 83 Woodward Street
- 17) 82 Hutchison Street
- 18) 80 Hutchison Street
- 19) 78 Hutchison Street
- 20) 75 Shirah Street
- 21) 64 Cobia Street
- 22) 8 Magnolia Drive
- 23) 3 Magnolia Drive
- 24) 4782 Ocean Blvd
- 25) 4729 Ocean Blvd
- 26) 4722 Ocean Blvd
- 27) 4659 Destiny Way
- 28) 4646 Destiny Way
- 29) 3892 Sandprint Drive
- 30) 3485 Scenic Highway
- 31) 3467 Scenic Highway
- 32) 3425 Scenic Highway
- 33) 112 Sandprint Circle
- 34) 93 Tarpon Street
- 35) 92 Pompano Street
- 36) 4443 Clipper Cove

The Land Use Attorney stated that staff has created a starting point based on staff's review of the properties. The formula they generally use to compare what the ordinance currently allows at 2 people per bedroom plus 4 other people; and then comparing that to an objective formula of one person per 200 square feet. The greater of the two number is what is being offered as long as it is equal to or less than the requested occupancy. If the Council approves one or more settlements tonight, it would go back to the property owner. If they accept the offer, that case is settled. If they deny the offer, they may opt to bring back a counteroffer which the Council could then accept or reject.

Councilmember Overdier stated that he agrees with the formula being used. He asked if they could make a "blanket" offer to all the properties listed above using this formula.

The Land Use Attorney replied affirmatively. She asked if the Council wanted to address parking and trash provisions as they did in the settlement proposals.

Councilmember Overdier stated that the formula for parking is simple, which is based on the square footage of the property; while the trash can issue is scheduled to be discussed at the next Council meeting when they review the recommendations from the Short-Term Rental Task Force.

The Land Use Attorney recommends they allow public comments before entertaining any motions.

The Mayor announced he will now allow public comments relating to this matter.

Mr. Erin Thomas, of the law firm of Najmy Thompson of Bradenton, Florida, addressed the parking issue. He stated he has not had the opportunity to discuss the settlement offers with the City's attorney and discuss them in depth with his clients. He expressed concern a settlement offer restricting parking would be considered unreasonable by his clients. He feels that adding a parking requirement in an effort to enforce what he believes is a new parking restriction on what would be considered legal non-conforming uses seems inappropriate under these circumstances. It is unreasonable to impose a stricter requirement to a home that was built and approved under a certain requirement. He continued that by just dealing with the occupancy issue, they would probably get a more favorable feedback from property owners who just want to settle and move on; but by imposing additional restrictions on parking and trash, most of these property owners would probably opt to reject the offer and litigate.

Mr. Stephen Tatum from the law firm of Matthews and Jones spoke next. He stated that he agrees with the statement made by Mr. Thomas. To try to apply the current parking standards on some of the older houses that were approved way back with a totally different parking scheme is quite unreasonable, and that most of his client would likely object to it. He noted that some of the parking numbers assigned to his clients are incorrect. For instance, one of his clients whose property was approved two years ago, has a 6-bedroom house with 6 parking spaces. He has an approved site plan showing 6 parking spaces; but the settlement agreement only allows 4 parking spaces. He stated that he did not discover this error until late today and has not been able to bring it up to City staff's attention. He further stated that one particular property he would really want to address is 3473 Scenic Hwy 98, which is the property listed as No. 9 on the agenda. That property was approved in 2017. The owner of that house received a permit for a garage conversion to a bunk room that sleeps 16 people. The plans for the bunk room showed 8 bunkbeds. Now the City is saying the house can only sleep 22 people. Which means the other 6 bedrooms in the house can only sleep 6 people. For this reason, the owner would have wasted \$80,000 to do the conversion.

Mr. Peter Johansson, a Destin resident and short-term rental owner, stated that he shares the sentiments of the previous speakers. He also supports the comments made by the Council about targeting habitual violators, which are the problem short-term rental owners, with some of the new short-term rental ordinances. He stated that he has been a short-term rental owner for 3 years; and there has not been any trash and noise complaints made against him. He continued that with this settlement agreement, the owners are being asked to give up their rights in perpetuity; and so he believes it is something that needs to be legislated rather than memorializing it in the form of an agreement with the owners.

Having no further comments from the public, the Mayor close the public comment portion of the session and turned the matter over to the City Council for discussion and consideration.

Councilmember Overdier moved to direct City staff to negotiate a settlement based on the formula which is either based on 2 persons per bedroom plus 4 additional persons, or 200 square feet per occupant based on square footage, and using the higher of those two numbers as long as it is equal to or less than the requested occupancy. Motion seconded by Councilmember Marler.

The Land Use Attorney asked if the Council wants to consider the parking provision. She explained that the reason this provision was put in and not legislated was because these

occupancies are beyond what was legislated; and so in an attempt to give the greater occupancy to the property owner, they try to mitigate secondary effects which are a problem for some of the neighbors. She added that they want to treat all the property owners equally, which is why they included this provision, and it is up to the Council whether they want to consider it.

Councilmember Destin remarks that he understands some of the concerns with regards to trash and parking. He stated it would be better for the Council to look at each property individually. If certain property owners would not agree to the restraints, then they could address those on a case-by-case basis. He continued this is simply an offer in a settlement negotiation. Some of the owners may not agree to it; in which case, the Council can consider it on a case-by-case basis and decide how to proceed.

Councilmember Ramswell noted that she reviewed the Property Appraisal's record for each of the listed properties to verify the number of bedrooms as provided by the property owners. The Property Appraisal's record shows fewer bedrooms for the following properties:

4722 Ocean Blvd – listed as 7 bedrooms – Property Appraisal shows 5 bedrooms
4729 Ocean Blvd – listed as 7 bedrooms – Property Appraisal shows 6 bedrooms
3892 Sandprint Drive – listed as 8 bedrooms – Property Appraisal shows 6 bedrooms

She recommends that these anomalies be rectified before they make a decision regarding these properties.

According to the Land Use Attorney, they would abide by the information in the Property Appraisal's record; unless they find something in the City's building files that shows otherwise. They will verify this on the properties before they finalize the settlement agreement and bring it back to Council.

Councilmember Ramswell noted that in some cases, the list shows a property is "Permitted" and "file not available." She asked for some clarifications in this case.

The Building Official Noell Bell explained that a lot of the City's files are currently with the scanning company to be scanned, as part of the City's new program; and so certain files are not readily available.

Councilmember Ramswell wants to make sure staff has been able to verify that all the listed properties have active registrations even though they currently do not have access to certain City files.

According to Ms. Bell, all the information is contained in the CitizenServe software with the Code Compliance Department and that they are able to verify information through that software.

Councilmember Ramswell noted there are several properties asking for an incredible amount of occupancy while the record shows they have committed numerous violations. She expressed concern with habitual offenders wanting more from the City while they have shown they cannot even maintain their home at its current occupancy level. She also stated that according to the

City's Land Development Code, 24 or more occupancy is considered a hotel; therefore, must adhere to the same safety standards as a hotel.

The Land Use Attorney noted that the code provides definition for a hotel, which is having 25 or more occupants, provided it is not a single-family residence. Since these structures have been reconstructed as single-family residences, they may not fall into that definition. However, the Council can make a policy decision that for the purposes of settling a Bert Harris claim, they want to treat these properties as a hotel and apply the commercial building code to if they have 25 or more occupancy.

Councilmember Ramswell asked if the City could be held liable if they were to allow an occupancy of 25 or more without requiring the safety standards to be applied and then an emergency occurred that resulted in injuries or loss of lives.

The Land Use Attorney replied the City would not be held liable under those circumstances. However, with the newer structures, they still hold the properties to that standard if they have that high of an occupancy. For instance, the City already approved settlements for two of the homes on Hutchinson Street. These homes have fire sprinklers and other safety necessities that some of the older houses did not have.

Councilmember Braden stated if they are allowing a higher occupancy than what is being requested, then the property would need to provide more parking. He recommends the parking provision be included in the settlement agreement.

Councilmember Marler asked if they were going to change the parking whether they would also change the greenspace requirement for the home.

The Land Use Attorney explained that they are calculating the area on the driveway and the parking area only. By code, one parking space is 9 feet by 19 feet; and that they have to take into account the current code does not allow tandem parking. She asked the motion be amended if Council wants to include the parking provision in the settlement agreement.

The Mayor asked Councilmember Overdier if he wants to amend his motion to include the parking provisions.

Councilmember Overdier stated they should go ahead and negotiate this settlement and if certain properties come back and want to discuss the parking provision further, each property will be addressed individually.

According to the Mayor, it is covered in the motion basically to agree with the Land Use Attorney's recommendation.

The Land Use Attorney asked for further clarification to include the parking provision in the settlement agreement. There were no objections from the Council.

At this time, Councilmember Menchel announced that the agenda packet consisted of 3,104 pages; and so, sending emails to the City Council late in the afternoon the day of the meeting pays

no benefit to the sender. And though he welcomes feedback from the citizens, he would like to have them early enough to be able to do his due diligence.

With regards to the motion on the floor, Councilmember Ramswell wants to know why they want to provide the higher of the two numbers based on the formula they use to calculate the occupancy level.

The Land Use Attorney explained they started looking at square footage determining that the bedroom calculation was not sufficient for the property owners; otherwise, they would not have brought the pre-suit notice. This resulted in a few cases in the number being less than what the ordinance allows. She continued there is not a way to settle a claim like this if they are going to offer something less than what the owners can already obtain; which is why they recommend going for the higher of the two numbers.

Councilmember Ramswell asked for everyone's opinion about retroactively requiring homes with occupancy greater than 25 to follow the fire safety standards based on the Land Development Code.

According to Councilmember Morgan, adding fire sprinklers on houses would not be cost feasible to the owners. It is quite expensive that the owners would be left with no other option but to litigate.

Councilmember Destin added that some of the homes are large enough that it could cost over \$100,000 to retroactively require them to install fire sprinklers; and so they may decide it is cheaper to go to court.

According to Councilmember Marler, one idea is enhancing the fire security and monitoring system already in existence in some of these homes.

Mr. Stephen Tatum requested and was allowed to provide additional comments prior to Council voting on the motion. He stated that the statute requires the City to make bona fide reasonable offer; and so if the City offers what the ordinance already allows, it is not really a genuine offer. He recommends offering what the ordinance allows, "plus one."

The Land Use Attorney stated they are trying to consistently apply the same process to every property; however, what Mr. Tatum was saying makes sense to an extent especially if they are adding the parking provision. They could work it out on the staff level. All settlement proposals will come back to Council for final approval.

Mr. Erin Thomas stated that by offering what the ordinance already provides in terms of occupancy, some of the owners may decide not to negotiate and choose to litigate. However, adding the "plus one" into the motion tonight may entice the owners to settle.

According to Councilmember Overdier, it does not make sense to him how adding one extra body could make such a difference in the negotiation.

The Land Use Attorney stated they would not nonchalantly include the "plus one." They would review it on a case by case basis and decide what is reasonable after talking with the property owners and reviewing the square footage and the bedrooms, and then bring their recommendations back to the Council for final approval.

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

B. PUBLIC COMMENTS

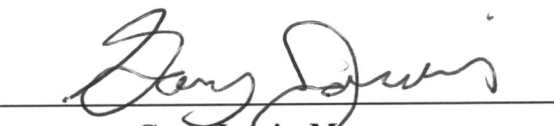
Mr. Bill Reddington, a Destin resident, stated that he goes to the Property Appraisal site almost daily and always find some errors; and so, they just need to keep in mind that neither the Property Appraisal's Office nor the City of Destin keeps a perfect record.

Mr. Stephen Tatum reiterated that the City is required by statute to make a reasonable settlement offer before the 150-day period expires; and that offering something that the ordinance already allows is not considered a reasonable offer. The 150-day period will be up on December 26th for approximately 7 properties he represents; and so, something has to be done before then.

The Land Use Attorney clarified that it does not mean the owners have to file a lawsuit on December 26th; it simply means it is the first day that they are able to file a lawsuit. If the City is actively negotiating with the owners, they could very easily choose to continue negotiating and not file a lawsuit on December 26th. She added that even if the owners file a lawsuit, they could still work on a settlement agreement throughout.

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 6:45 PM.



Gary Jarvis, Mayor

ATTEST:



Rey Bailey, City Clerk