

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
MAY 4, 2020
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 Rodney Braden
Councilmember Cyron Marler
Councilmember Prebble Ramswell

Councilmember Parker Destin
Councilmember Skip Overdier (Virtual)
Councilmember Steven Menchel (Virtual)
Councilmember Chatham Morgan

Destin City Staff

City Manager Lance Johnson
Public Info Manager Catherine Card
Community Dev, Director Louis Zunguze
Code Compliance Manager Joey Forgione
Grants/Project Manager Jeffery Cozzard
Public Services Director Michael Burgess
City Land Use Attorney Kimberly Kopp

City Clerk Rey Bailey
Deputy City Manager Webb Warren
Engineer Assistant II Joe Bodi
Parks/Recreation Director Lisa Firth
IT Manager Matthew Pace
City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 p.m., which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

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

1. APPROVAL OF MINUTES

A. Approval of minutes of February 24, 2020 City Council Workshop

Councilmember Marler moved for approval of minutes of February 24, 2020 City Council Workshop; seconded by Councilmember Destin. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

2. PROCLAMATIONS / RECOGNITIONS / SPECIAL PRESENTATIONS / ANNOUNCEMENTS

A. Proclamation Code Enforcement Officers' Appreciation Week

The Mayor read the Proclamation recognizing and appreciating the outstanding service provided by Code Enforcement Officers and proclaiming the week of June 1-5, 2020 as *Code Enforcement Officers' Appreciation Week*; and then presented it to the City's Code Compliance Manager Joey Forgione.

B. Harbor Blvd Landscaping Candidate Plant Species - Ms. Pam Miner, Atkins Engineering

Ms. Pam Miner, Atkins Engineering, provided the following information to the City Council:

- FDOT has \$1 million set aside for the landscaping of US Hwy 98, from Harbor Blvd to Airport Road. It will be led and constructed by FDOT
- FDOT will entertain the City of Destin's request on median enhancement along that corridor
- A commitment letter is required from the City agreeing to maintain the corridor upon completion of the project
- A legal Maintenance of Agreement will be sent to the City for review and approval
- Will coordinate with the City as the design moves forward. The City will advise of any materials on the plant list or not on the plant list they want to use and present ideas by the week of May 11th
- 90% plan should be completed by May 25th

Councilmember Morgan pointed out it has been the consensus of this Council the past several years not to have Palm Trees and Crepe Myrtles planted on the medians.

Councilmember Destin agreed with Councilmember Morgan; adding he would prefer Live Oaks and Magnolias and would like to see Azaleas and other native plants added to the plant list.

Councilmember Marler commented that planting Hollies or Yuccas would help convince pedestrians to use the crosswalks instead of crossing the medians. He also pointed out that plants that grow so tall, such as Ligustrum, would be a safety hazard; adding they need to keep the view corridor for pedestrians who refuse to utilize the crosswalks.

Councilmember Ramswell recommends sending the information (plant palette) via email to members of the Parks and Recreation Committee, and asking the individual member submits recommendation to staff.

Councilmember Menchel recommends installing fencing or other pedestrian barriers in conjunction with the landscaping project on the medians along US Hwy 98 to help prevent pedestrian fatalities.

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

Mr. Mike Abadie, a Destin resident, noted that the City of Crestview is issuing \$2,500 grants to small businesses with 25 or fewer employees. The County Commission has reduced the business

tax receipt fee from \$35.00 to \$25.00 for each business. He urged the Council to come up with similar ideas to provide some assistance to small businesses in Destin.

Ms. Sandy Trammell, member of the Harbor CRA Advisory Committee, requested that the landscaping information be forwarded to the committee for their review and recommendation as well; adding that one of the committee's objectives this year involves landscaping on US Hwy 98.

Mr. Ken Wampler, a Destin resident, stated that ancillary businesses in the community rely heavily on hospitality and tourism. By the Governor's Executive Order, short-term vacation rentals are currently prohibited in the State of Florida while hotels/motels and time shares are continuing to operate. He asked the Council to reach out to Senator Gainer, Representative Ponder, and to the Governor and recommends lifting the ban on short-term rentals.

Mr. Marcie Bell, a Destin resident, noted that most hotels, motels and resorts are located within the zoning areas of the City that are not within a single-family residential neighborhood.

4. CITY MANAGER REPORTS

A. Capt. Royal Melvin Heritage Park - Update

The City Manager announced that on April 24th, the City of Destin received approval from Okaloosa County to rebid the project. The Requests for Proposals was then published the same day to the City of Destin website, Okaloosa County purchasing website, Northwest Florida Daily News, Pensacola News Journal, Goernmentbids.com and Demandstar.com.

B. US98 Median Revitalization East Pass Bridge to Airport Road Update, Letter of Support, and Intent

The City Manager requests authorization from the Council to send a Letter of Support and Intent to FDOT for the long-term care of the project after its completion.

Motion by Councilmember Braden, seconded by Councilmember Destin, to authorize the Mayor to endorse the letter of Support and Intent and forward it to the Florida Department of Transportation as soon as possible passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

C. FFY 2019 Byrne Grant Funding 51% Letter of Support

The City Manager requests authorization from the Council to authorize the Mayor to sign a letter of support for Okaloosa County's use of the Byrne Formula Grant Program funds for FY 2019.

Councilmember Destin moved to authorize the Mayor to sign the FFY 2019 Byrne Grant Funding – 51% Letter of Support; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

D. Livery & Beach Vendor Registration

The City Manager stated that due to many restrictions placed on these industries due to COVID-19, many of the businesses may have a problem paying their registration fees immediately. He asked for Council's direction to have something in place for hardship cases.

Code Compliance Manager Joey Forgione noted that the Livery and Beach Vendor Registrations expire on February 28th each year, and that the applications are currently being processed.

Councilmember Marler recommends reducing the registration fee by 50 percent for this year and extending the registration deadline to June 2020.

Following a brief discussion, it was the consensus of the Council to instruct staff to come up with creative ways the City could provide relief to their local businesses affected by COVID-19, whether it is through BTR reduction or fees reduction across the board; and for the Finance Director to determine what is financially feasible for the City and report back.

Councilmember Braden moved to approve a grace period to pay livery and beach vendor registration fees no later than June 1, 2020; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

E. Announcements

5. PUBLIC HEARINGS

A. Second reading of proposed Ordinance 20-07-CN - Providing for abandonment of a meandering portion of Harbor Lane right-of-way

The City Attorney read Ordinance 20-07-CN by title, and then presented it to the City Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR ABANDONMENT OF A MEANDERING PORTION OF HARBOR LANE RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Attorney sworn in the City staff members and members of the public who wish to provide testimony.

The City Attorney asked the members of the Council to describe any ex-parte communications they had with regards to the application.

Councilmember Braden reported having some communications with the applicant regarding his thoughts about the right-of-way vacation; however, he would be able to base his decision on the evidence provided to them tonight.

Councilmember Ramswell stated that she has discussed the application, both verbally and through emails, on several occasions with both the applicant and Ms. Sandy Trammell; however, she would be able to provide an unbiased decision based on the evidence provided at this meeting.

Councilmember Menchel noted having a recent phone conversation with Mr. Trammell regarding the application; however, despite this ex-parte communication, he would be able to provide an unbiased vote based on the evidence before the Council tonight.

Councilmember Overdier reported visiting the Harbor Lane location with both the applicant and Ms. Trammell and listening to their positions regarding the right-of-way vacation application. He also stated he will be able to provide an unbiased vote based on the evidence before them tonight.

Councilmember Marler revealed having communications with several citizens prior to the first reading of this ordinance; however, he has not had any communications since then other than receiving emails related to the subject. However, despite the ex-parte communications, he believes he will be able to give an unbiased vote based on the evidence before them tonight.

According to Councilmember Destin, he has not had any ex-parte communications with anyone since the first reading of the ordinance; and that despite of previous ex-parte communications, he will be able to provide an unbiased vote based on the evidence before them tonight.

Councilmember Morgan reported having some communications with the applicant and other members of the public; but not since the first reading of the ordinance. He continued he will be able to provide an unbiased vote based on the evidence presented to them tonight.

The Land Use Attorney requests the entire staff report and everything on the agenda packet related to this application to be entered into the record as the City Exhibit A. There were no objections from the applicant.

Attorney William Ketchersid, representing the petitioner briefly addressed the application for partial vacation of Harbor Lane right-of-way. He presented a spreadsheet of the text log between the applicant and the City's Code Compliance Division as well as photos showing vehicles parked in the right-of-way or blocking ingress and egress to the applicant's residence from March 13, 2020 to April 28, 2020. He stated that people are parking illegally despite the "no parking" and towing signs in that area. There were about a hundred photos showing vehicles parked throughout the day and evening hours; and that the pictures he selected for this presentation are based on recent occurrences.

Mr. Ketchersid requested that the entire package they submitted to the City as well as their presentation be admitted into the record. There were no objections from the City Land Use Attorney.

Councilmember Braden stated that many people seem to enjoy visiting that area and that he would not want to take that away from them.

Mr. Ketchersid explained that the increased traffic in that area coincided with the closing of the beaches due to COVID-19.

According to Councilmember Overdier, many believe they would not have been in this situation if the City had paved the right-of-way another 30 to 40 feet passed Mr. Krueger's property.

Mr. Ketchersid explained that extending the paving would have only worsen the problem because it would move the parking problem further towards the water.

At this time, the Mayor opened a public hearing to receive comments for or against the proposed vacation of the right-of-way.

Ms. Sandy Trammell, a Destin resident, made the following statements during her slide presentation:

- Mr. Krueger had always wanted the City to enforce the No Parking sign as required and provide security to ensure the right-of-way and park are a safe environment. There is a slide showing a camera located between Mr. Krueger's driveway and his fence line which makes a sound alerting them each time somebody passes by. This is almost a self-inflicted fear and anxiety
- Mr. Krueger submitted a paver plan to the LPA in 2018 which was not approved. However, his paver contractor went ahead and dug up the design in the unapproved plan
- Mr. Krueger swale is on the City's right-of-way. He received a one-time exemption for putting in swales in the right-of-way. Not everyone is aware of such an exemption
- The Council should take a closer look at the area where the roads end and Mr. Krueger's driveway begins. There is another driveway, which belongs to a Mr. Odom, that intersects that area and it is not on any survey
- There is an option to extend the road 40-50 feet which would:
 - ❖ Allow the homeowner to have a 24-foot driveway opening along his property line
 - ❖ Allow for signage, striping, lighting while allowing the public to walk down the road
 - ❖ Allows for a driveway that would be consistent with the rest of the road and unimpeded access
 - ❖ Option would increase the safety for property owners, reduce parking, and make it easier to patrol
 - ❖ Option would only require a permit and not involve a partial vacation

Ms. Trammell urged the Council to approve a plan that does not require a right-of-way vacation.

Mr. Mark Magouirk, a Destin resident, stated they are not trying to deny Mr. Krueger access to his property, but he should only be allowed a 12 to 15-foot driveway like everyone else. His driveway is a lot wider than what is allowable, and it basically extends in the middle of the park. It only leaves them about 5 feet of space to walk through. He stated that securing beach accesses they already have and obtaining new accesses must on top of their priorities; adding it does not make sense to give away something that residents have enjoyed for quite a while just to one private property owner.

Ms. Becky Pritchard, a Destin resident, stated that the closing of the beaches had made this right-of-way, which most people have always referred to as the harbor park, a lot more important. It is where people can go and enjoy themselves especially during this pandemic. She urged the Council not to vacate any public rights-of-way when there are other options available.

Mr. Scott Murrie, a Destin resident, stated that the City is willing to spend millions of dollars for water access. They should not give away one they already have. He also stated that extending the road about 40 feet is the most sensible option.

Ms. Joanne Bouchillon, a Destin resident, expressed her disappointment over the notification process for this meeting; adding it was a complete surprise to her. There was no sign on the property that indicates this meeting will be taking place this evening. She only learned about it through a phone call from a friend. She also questioned the sense of urgency in holding this meeting during a pandemic knowing there is an exceptionally large public interest in this right-of-way vacation. There are a lot of people who are adhering to the CDC guideline that are unable to participate because they do not have access to the internet. She also noted there was no sign posted on the property announcing the first Local Planning Agency (LPA) meeting when this issue was addressed. The sign for the first City Council meeting provided an incorrect location for the meeting. She further stated that she submitted some documents during the LPA meeting and slide presentation was allowed. They learned at the first Council meeting that slide presentation was not allowed and they were not allowed to present documents to the Council. They had to be presented to the City Clerk. The second meeting of the Council was cancelled, and she later learned from the City Clerk that the prior documents presented at the first meeting would have to be resubmitted for this meeting due to the new procedure adopted by the Council. She urged the Council to vote to deny the proposed partial right-of-way vacation because it is a beach access and it will directly impact many of the residents; adding that extending the road 40-50 feet is a better option.

Councilmember Ramswell asked staff to address the notification process for this particular item.

According to the Land Use Attorney, the sign was required to be posted for the first reading of the proposed ordinance, but it was not required for second reading. There was significant notice provided by the City's Public Information Officer.

Public Information Officer Catherine Card noted she had put out a press release regarding this subject and posted it on the City's website on April 17, 2020. It was also placed on the City's Government Facebook page. It was also provided in a release that was provided to the Media Distribution Group which is a very vast group that extends from Pensacola to Panama City which covers all the media outlets.

According to the Land Use Attorney, the City Clerk also published the second reading of the ordinance in the newspaper in accordance with Chapter 163 of Florida Statute.

Councilmember Ramswell reported that after the first reading of the ordinance, the City Council received an email packet from the City Clerk of all documentation that had been submitted by the public during that meeting. The Council's iPads also maintain all these documents and they have the ability to go back and view those documents at any time.

The Land Use Attorney also noted that the agenda was re-published today so everything that was submitted by the City over the weekend had been included.

Ms. Marcie Bell, a Destin resident, noted that a lot has happened since the first reading of this ordinance back in March due to COVID-19; with the President of the United States declaring a national emergency and the State Governor declaring a state of emergency through an Executive Order 20-91. It specifically cautioned the elderly and those with underlying conditions to avoid large gathering. Mayor Jarvis and the City's Deputy City Manager subsequently signed a Declaration of the State of Emergency for the City of Destin; and they were quoted in the paper saying *"it was to take prudent action necessary for the health, safety and welfare of our city."* The City's website also states, *"Citizens must adhere to CDC guideline of 6 feet of separation and avoid gathering of 10 or more people in a room."* She also noted that this room was packed with people during the first reading of this ordinance, and a lot of those people were not able to participate at this meeting. She expressed her support of all public beach accesses throughout the City of Destin; adding that the City's comprehensive plan and land development code are written to preserve those beach accesses.

At this time, the City Attorney addressed the issue of public participation at Council meetings. He stated that the City Council has adopted Resolution 20-05 and Resolution 20-08, both were on the published agenda on their meeting dates. Both resolutions described very particularly how the public can participate both by appearing physically and virtually; and, by allowing the public to submit written comments to the City via email. He added that the City has gone above and beyond the requirement of the law in providing access to the public.

The Mayor announced that anyone has an opportunity to participate in this meeting tonight either online, in person, and via email or text messages to the City Clerk.

Mr. Rob Bouchillon, a Destin resident, stated that even though only about 6 percent of the right-of-way is going to be vacated, as Mr. Krueger's attorney claims, what at stake here is the water view not the actual property. Putting up a fence there if the vacation is approved would hinder people's view of the water. The City's comprehensive plan encourages water view, and so approving this partial vacation is going against the comprehensive plan. He also pointed out that 31 people spoke against the vacation of right-of-way and 7 people supported it at the last meeting; and of those 7 people, only one person lives near the right-of-way location. He urged the Council to vote against the partial vacation of the right-of-way.

Mr. Brian Litchfield, a Destin resident, expressed his support for the right-of-way vacation. He stated that a lot of people believe approving the vacation means giving away a City park to the homeowner, which is not a good idea. In reality, the City would only be vacating a small portion of

the right-of-way, and it is not really a City park even though there is a picnic table and a trash can at that location. He added they could come up with a compromise by finding another piece of land that can be designated as a park.

Mr. Danny Davis, owner of Coastal Pavers that installed Mr. Krueger's driveway, noted that he had worked closely with the City on this project. He stated that the driveway is 12 feet wide for 42 feet (lengthwise) and then opens up to 27 feet which is permissible by the City of Destin. He also stated that Mr. Krueger is only asking the City to vacate a small piece of the property for the safety of his family and City residents; and so approving the partial vacation of the right-of-way makes sense.

Mr. Gill Sawyer, President of Dunes of Destin Homeowners Association, emphasizes the importance of personal safety in terms of the location of Mr. Krueger's property. He stated that this neighborhood has no longer become generally secure in the mindset of a family. They do not feel perfectly safe knowing there is a constant flow of strangers passing by their house and coming on to the property. He continued that one of the best ways to minimize these kinds of issues is for the City Council to support the vacation of the right-of-way and provide more safety in that area.

Mr. Tom Rooney, a Destin resident, stated that everyone has the right to privacy and to access their property and not have other people illegally parking their vehicles on their driveway. He added that Mr. Krueger is not asking too much and that he support his request for partial vacation of the right-of-way.

Mr. Karl Trammell, a Destin resident, urged the Council not to approve the partial vacation of the right-of-way and take the access to the water away from the citizens of Destin. He stated that a lot of the people who spoke against the right-of-way vacation are not present at tonight's meeting due to the pandemic. The City will have a hard time justifying receiving grants for waterfront properties when they give away land such as this right-of-way.

Councilmember Menchel clarified that the Council could only approve or disapprove the application for partial right-of-way vacation tonight. They are not in a position to negotiate a compromise.

The Land Use Attorney confirmed Councilmember Menchel's remark, stating that the Council needs to either approve or deny the request or approve it with conditions. Council would have to deny the vacation for any further conversations to go on between staff and the applicant.

At this time, Mr. Ketchersid announced the actual dimension of the property; noting that the right-of-way is approximately 31,620 square feet. The proposal for partial vacation is 2,001 square feet, which is precisely 6.3% of the property.

Mr. Ted Love, a Destin resident, recommends approval of the right-of-way vacation application.

Mr. Bill Kilpatrick, a Destin resident, urged the Council to vote in favor of the vacation of right-of-way; adding it is a reasonable request from the homeowner. He stated that extending the road 30 to 40 feet is not a viable option as the City would have to spend about \$80,000 of taxpayers'

money just to benefit one person. Also, the idea that this vacation would take away access to the water is untrue because it would not limit access in anyway.

Mr. Rachel Green, a Destin resident, expressed her opposition to the right-of-way vacation application. She stated that safety has been brought up many times, but it is really not an issue in this case. They had lived around that area for about 20 years and they have always felt safe in their neighborhood. With regards to the claim of illegal parking, they drive by that area quite frequently and all they ever see there are landscaping or furniture trucks. They have rarely seen other types of vehicles parked in front of that property.

Mr. Bryan Otto, a Destin resident, stated that his only objection is putting up a fence in the right-of-way.

Mr. Blake Krueger, a Destin resident, expressed support of the right-of-way vacation; adding that safety is definitely an issue. The Krueger's have to deal with the problems brought about by people coming and going into that right-of-way especially outside of the normal hours.

Mr. Eric Hill, a Destin resident, expressed his opposition to the right-of-way vacation. He stated that the right-of-way is a safe drop off and pick up point for their children who want to spend some time in the water, and that their vehicle is rarely park there for more than 20 seconds at a time.

Ms. Amanda Belcher, a Destin resident, stated that extending the road 30 to 40 feet should solve the problem. She also noted that her vehicle is shown on the screen as being illegally parked; but she was only there less than two minutes taking pictures of the signs.

Mr. Justin Ramo, a Destin resident, stated this is one of a kind access point in Destin. One of the goals in the City's comprehensive plan is to improve existing accesses to Joe's Bayou and to seek opportunities to secure additional surrounding property in reference to access points to Joe's Bayou; and approving the request to vacate a portion of this right-of-way would accomplish just the opposite of that goal.

At this time, the City Attorney sworn in the City Clerk for testimony to respond to an earlier comment about public records related to this hearing.

The Land Use Attorney asked the City Clerk if he was aware if the earlier reference to records have been provided to the City Council, and whether they were included in the agenda package.

The City Clerk replied affirmatively stating that approximately 50 pages of the documents in question have been included in the initial publication of the agenda packet. He continued that 50 more pages of documents had been sent to the City over the weekend, and that the agenda was republished earlier today to include those documents.

The Land Use Attorney inquired as to deadline for public input for this meeting.

The City Clerk responded that the original deadline was noon on Thursday by resolution of the Council. The first publication of the agenda was Thursday afternoon, April 30th; and the second publication was Monday morning, May 4th.

The Land Use Attorney asked what dates this public hearing were published in the newspaper.

The City Clerk replied that paid publication dates were April 22nd and April 29th.

Councilmember Ramswell asked if documents submitted during the first reading of the ordinance were automatically included in the meeting packet for second reading.

The City Clerk replied they were not automatically included because the newly approved Council resolution requires comments from a party with standings be delineated from those comments from the general public on quasi-judicial matters.

Councilmember Braden noted that even though it may be legal, it does not seem right that some documents submitted by the public for second reading of this ordinance did not automatically transfer when that meeting was rescheduled.

The City Clerk clarified that all documents submitted for the March 16th meeting, which was subsequently cancelled, were included in the meeting packet during the initial publication of tonight's agenda.

The City Attorney pointed out that the public also had access to those documents because they were included in the published agenda.

Mr. Rich Lacour, a Destin resident, stated that the access point to the water is wide enough, which is contrary to what other people believe. He and his family, with two of their double-strollers, made it through there without difficulty. He also stated that everything on Mr. Krueger's property was approved by the City in accordance with the comprehensive plan. He urged Council to approve the partial right-of-way vacation.

Mr. Matt Trammell, a Destin resident, noted that 98% of the people that expressed opposition to the right-of-way vacation lives within two miles of the park and they care about their neighborhood. He stated that he grew up at this park and it made him appreciate the natural environment. It is a beautiful park and if the right-of-way is vacated, his children will not see the view that he sees today. He pointed out that the Council does not have to approve this proposal tonight; and that there are other alternatives they could pursue, such as the roadway extension.

The City Clerk read an email submitted by Mr. Bill Reddington, a Destin resident. It reads, *"The attorney for Tim Krueger is quoting the measurements of the whole easement. The distance that Mr. Krueger's is approximately 120 feet on the easement. I vote not to vacate the easement."*

Ms. Michelle Boswell (online participant), a Destin resident, stated that she lives within a mile of the access point to the water. Extending the roadway should give Mr. Krueger ample access

to his property. She urged the Council to deny the vacation of this right-of-way because approving it would set precedence for other owners of properties located next to a right-of-way.

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

The Land Use Attorney questions staff for the record on comprehensive plan issue. She asked for staff's opinion regarding the application's consistency with the comprehensive Plan and its effect on the shoreline.

Engineering Assistant Joe Bodi noted that the proposed partial right-of-way vacation is consistent with the comprehensive plan, and that the shoreline is not affected by the proposed vacation.

The Land Use Attorney asked for the opinion of the City's Community Development Director Louis Zunguze regarding the proposed vacation's consistency with the comprehensive plan.

Mr. Zunguze noted that in most cases, right-of-way vacations would impede or take away access all together, but it does not apply in this case. The proposed vacation is not inconsistent with the comprehensive plan.

The Land Use Attorney asked whether the proposed vacation would jeopardize the current or future location of any utility.

Mr. Bodi replied the vacation of this right-of-way would not jeopardize the current or future location of any utility.

The Land Use Attorney asked whether the proposed vacation of right-of-way meets the following criteria: *"The proposed vacation is not detrimental to the public interest. City ownership of the ROW is no longer necessary to accomplish any valid city purpose. The city has not granted any easements which will be adversely affected by the vacation."*

Mr. Bodi stated that the above criteria, as described by the Land Use Attorney, has been met.

Mr. Ketchersid indicated that he does not wish to cross-examine City staff.

Mr. and Mrs. Tim and Jill Krueger both addressed the Council relative to the proposed vacation. They stated it has been a long and expensive journey. It has also been quite painful and stressful for their family; and that all they were asking for is 5/100 of an acre of property. They are not going after any monetary gain; they only want to ensure their safety and to have a peace of mind. They have tried everything possible to appease their neighbors and they have worked closely with the Local Planning Agency and City staff and trying to follow all the rules. Ms. Sandy Trammell represented the members of the community that were against this proposal, and that she presented several options to which they have agreed; but a lot of people are still harboring a feeling of hatred and resentment toward them and they have been portrayed as the

villain. They love their community and they give back to others at every opportunity. They urged the Council to approve their application for partial vacation of the right-of-way and honor their right to secure their family's safety.

At this time, Mr. Ketchersid moved that their presentation materials be entered into the record. There were no objections from the Land Use Attorney.

Mr. Ketchersid provided a brief closing statement reminding the Council that their only option tonight is to approve or disapprove the application for partial vacation of the right-of-way. He stated that the applicants have complied with everything throughout the entire process, from the public hearing before the Local Planning Agency to tonight's second reading of the ordinance; and that they deserve a decision from the City Council tonight.

At this time, the City Attorney turned the matter over to the City Council for their deliberation and decision.

Councilmember Ramswell recommends allowing Ms. Trammell's request to speak again and address the comments made by the applicants.

Ms. Trammell noted there is not one thing that she had done and presented to the Council that has not been supported by petition as well as her neighbors; adding she was selected and gladly served as their spokesperson. She continued that the applicants have not provided anything that indicates she has misrepresented any information.

Mr. Ketchersid announced the applicants will not respond to Ms. Trammell's comments.

Councilmember Overdier moved to direct staff to install streetlights at the end of Harbor Lane and approve proposed Ordinance 20-07-CN on second reading with the following conditions:

- 1. Putting up an opaque fence or barrier including shrubbery or anything that could create a vision impediment to the remaining right-of-way shall not be allowed.**
- 2. Provide a unity of title to tie the two properties within 30 calendar days.**
- 3. Vacation does not preclude obtaining permitting for any improvements as a result of the vacation**

Councilmember Ramswell provided a second to the motion.

Councilmember Marler stated that the photos provided by the applicant seemed to indicate that people are purposely parking illegally on the paved area of the property to harass the property owners. Most of the speakers who spoke against the vacation stated that they believe the applicant deserves access to his property, and yet they are blocking access to where the applicant cannot get in or out of his property. He also stated that the right-of-way location in question is not a park but a dead end of a road that ends at the waters edge. He asked how much right-of-way they would need to give up in order to provide the property owner access to his property if the proposed vacation is denied.

The Land Use Attorney explained that the property owner is legally entitled to access his property and to get the driveway with or without the vacation. The City's land development code prohibits fences and gates within a public right-of-way. The property owner would get the driveway, but he would not be able to put up a fence or a gate within the right-of-way. By the Council approving the vacation would enable the property owner to apply for a permit to get a fence and/or a gate; which is why some conditions have been added into the motion. She added that the area in question is not legally a park but legally a right-of-way. However, it has been used as a park by many of the residents over the years.

Councilmember Braden asked how a placement of a gate, or a fence on the driveway would change things for the applicant if this request is approved.

According to Mr. Ketchersid, a gate or a fence would hopefully serve as a deterrent to people that are illegally parking on the open space. That area would also transition from City property to personal property giving the property owner legal rights to enforce the no parking signs without relaying on the City's Code Compliance Department.

Councilmember Braden stated it was brought to his attention that the applicant has friends that are a member of the Local Planning Agency who voted but provided no reason to support the application.

The City Attorney noted that after the first reading of the ordinance, his office was tasked to look into this allegation to determine if there were any ethical violations that have occurred. They have investigated this issue and determined there were no ethical violations based on the facts provided.

Mr. Ketchersid stated they have denied the allegations; however, the Local Planning Agency can only make recommendations to Council. Regardless of how the Local Planning Agency voted, the applicants still have the absolute right to bring their case before the City Council for their consideration.

Councilmember Braden asked how prior staff could have allowed a gate or fence to be placed in the right-of-way.

According to the Land Use Attorney, it would have been an error on the staff's part to allow the placement of a gate or fence in the right-of-way.

Councilmember Ramswell noted this is definitely a terrible thing to have to go through for everyone; pro or against this application. It is friends against friends and neighbors against neighbors. Clearly there is no easy solution. She stated that the applicant was empowered to do some of the things he did by a former City employee who did not have the authority to do so. It is very difficult for the Council to decide one way or another. She continued that the right-of-way looks greatly improved. As much as this is being viewed as a taking away of the City's property, the access is still there, and it is beautified, and people could still go into the water. Lights would be put in to make it safer for everyone.

Councilmember Morgan stated he has a very hard decision to make because he has friends on both sides and people he truly respects on both sides. People should not be disrespectful by jeering when other people are speaking. Everyone has the right to be heard.

Councilmember Menchel noted that following first reading of the ordinance, the City Clerk provide the Council copies of the documents the public had presented at that meeting. One of the speakers presented a copy of Okaloosa County Property Appraisal legal description of this property to include partial vacation of the parcel. He contacted the property appraisal regarding this issue who then informed him that when Pleat and Smith sent in their routine letter to approved the vacation, the GIS representative in the property appraisal's office made an error and entered the vacated information into the property description. It is an example of how they need to take the time and review some of the information they receive.

At this time, the Mayor asked the following questions, followed by responses by the Land Use Attorney.

Mayor: *"If they vacate, does it prevent access to the water?"*

Land Use Attorney: *"No,"*

Mayor: *"If they do not vacate, can the applicant build a fence or put up a gate?"*

Land Use Attorney: *"No."*

Mayor: *"Is there an actual beach there at normal tide height condition?"*

Land Use Attorney: *"No."*

Mayor: *"In the first reading, as the result of Council's motion, is \$25,000 approved to be spent to improve that right-of-way."*

Land Use Attorney: *"Yes."*

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

6. CONSENT AGENDA

- A. Annual renewal of Contract with 3TP Ventures, Inc for Planning Consulting Services.
- B. Extensions 3 and 4 to the Amended Declaration of State of Emergency

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

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

A. Councilmember Braden

1. Harbor Blvd Streetscape

Councilmember Braden presented a proposed Harbor Blvd streetscape design and asked for Council's authorization to provide it to FDOT for incorporation into the design.

Councilmember Menchel suggests they consider putting up fencing or planting shrubbery to serve as a barrier to prevent people from crossing the medians and encouraging them to use the crosswalks.

Councilmember Destin noted that the Council had previously instructed staff to include streetscape design, resources and proficiency within the RFQ the City is seeking for undergrounding utility consultant/contractor, and to have the entire scope of services to be handled under one umbrella. He asked if this instruction was followed.

Mr. Zunguze stated that the draft RFQ is currently being finalized, and that he would make sure Council's direction is followed.

After a brief discussion, the Council reached a consensus to approve proposed Harbor Blvd streetscape configuration as presented and provide it to FDOT to incorporate into the design.

B. Councilmember Ramswell

1. Submerged Land Lease

Councilmember Ramswell noted that they have spent millions of dollars to stabilize Norriego Point, but they do not have a submerged land lease for Norriego Point. There was only a submerged land lease easement that was given to the City during the stabilization phase. She continued she had mentioned this to the City Land Use Attorney and staff at a recent meeting and they all agreed this is quite an important matter for the City to pursue. She asked Council to direct the Land Use Attorney and staff to look into the process of obtaining a submerged land lease for Norriego Point.

The Mayor noted that the City is not paying the submerged land lease since they have been granted an easement; however, if they obtain a submerged land lease for Norriego Point they may have to pay an annual fee.

Councilmember Ramswell noted that the current easement is temporary while the stabilization project is ongoing, and that it does not cover the entire Norriego Point. She continued they are not planning on having any commercial slips or dock, it is just purely for the management of the swim area surrounding the Point.

Motion by Councilmember Ramswell, seconded by Councilmember Braden, to direct the City attorneys and staff to investigate the feasibility of obtaining a submerged land lease for Norriego Point passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

Next, Councilmember Ramswell pointed out that the materials provided in the agenda packet included a copy of a bill the City received from the Fishing Fleet and a copy of a check the City sent to the Fishing Fleet to pay for the slips. She explained that the City has three slips for public use and for which they are not to be charged. However, the City paid the Fishing Fleet for the slips each year. The Fleet calculated the charges owed for 40 slips and divided it charging the City for three slips, which is a violation of their agreement with the Trust for Public Land. She also noted the following language contained on page 5 of the Riparian Rights Lease Agreement:

"Costs attributable to the operation, maintenance, submerged land lease fee, and other expenses attributable to the three slips allocated to the City will be paid on a pro-rata basis by the City."

She added that the City should not be charged any fees for the three slips for public use and on any commercial income-earning slips. She recommends having the City's attorneys reaching out both to the Fleet and the Trust to correct this issue.

The City Attorney suggests the Council directs them to engage in some information gathering at this time rather than going directly to the Fleet and Trust and bring information back to Council for further direction.

Councilmember Menchel recommends also looking into any refund that is due to the City.

Councilmember Ramswell moved to direct the City attorneys and staff to investigate the amount the Destin Fishing Fleet is charging the City for the transient, non-revenue generating slips, to include any refund that is due to the City; and then bring information back to Council for further direction; seconded by Councilmember Braden. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

Councilmember Ramswell also pointed out that the actual submerged land lease for the Heritage Park expired in 2018. The preliminary inspection report listed only the Destin Fishing Fleet as the sole owner of all upland property and with the contact person being Mary Ann Windes. The report also showed the sole use of all upland property was charter boat fishing and marina. She continued that the City has slips on the west side of which three are public transient, but the report listed zero public transient slips. The City owns the west 68' of the upland property and the Fishing Fleet owns 282'. The report showed the Fishing Fleet owning the entire 350'. She added that the Trust would not be happy to know the park they helped fund for millions of dollars is now listed on the State submerged land lease and inspection report as fully owned by the Fishing Fleet instead of the City, and is solely for charter fishing.

Councilmember Ramswell moved to direct the City attorneys and staff to contact FDEP about the renewal of the submerged land lease with the correct ownership information being reflected; seconded by Councilmember Menchel. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

Councilmember Ramswell moved to bring the information back to Council within 30 days; seconded by Councilmember Menchel. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

Referencing a satellite imagery and DEP Survey, Councilmember Ramswell noted it clearly showed the City of Destin (the public) owns 10 slips. The lease for riparian right does acknowledge the City has given use and control for three slips to the Fleet. The City was supposed to get the three northernmost slips and the Fleet will have the next three slips. The Destin Fire Control District boat was supposed to be in slip #4, but it is actually in slip #3, which is one of the City's three transient slips. The remaining four slips were never encumbered or have not been part of the lease agreement. They have not been addressed at all and yet they are in the City's riparian. She added that this issue needs to be addressed as this information has a tremendous value to the Destin taxpayers.

Councilmember Ramswell moved to direct the City attorneys and staff to coordinate with the Destin Fishing Fleet and the Trust for Public Land to look at the number of slips that are actually in the City's riparian and report findings back to the Council within 60 days; seconded by Councilmember Braden. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

Finally, Councilmember Ramswell asked staff to look at the potential access points along Bayou Drive and identify the location and the number of access points and what is feasible for the City to improve, and report information back to Council within 30 days.

C. Councilmember Menchel

1. Fiscal Year 2019 Edward Byrne Grant. 51% Letter of Support

Councilmember Menchel wants to make sure the City does not miss the opportunity to obtain additional funding to assist the Sheriff's Office next year.

Councilmember Menchel inquired as to the status of Airport Road construction.

Mr. Burgess noted that the design is still underway but it is scheduled to be completed very soon. The City received the initial maintenance agreement from FDOT about 10 days ago. The City Attorney's comments regarding the maintenance agreement have been forwarded back to FDOT, and they received FDOT's response today. Construction is still on track for completion by this summer.

Councilmember Menchel asked the City Manager to contact the County and make them aware of the state of disrepair of sand fences along James Lee Park.

Councilmember Menchel suggests using sequential numbers for all the items on the Weekly Task List instead of having sequential numbers for each department.

Councilmember Menchel requested the status of the towing contract.

The Land Use Attorney noted it is still under review by the attorneys and staff and it should be completed within the next 30 days.

Councilmember Menchel noted there are 101 streetlights that have been identified as not operational and asked if they have been replaced.

According to Mr. Burgess, they received an email from a representative from NextEra Energy stating the streetlights have been reentered into the system since their portal has changed. Staff will start checking their status on a quarterly basis.

Councilmember Menchel stated he still waiting for an accurate inventory of streetlights from Gulf Power to make sure the City is paying for the correct number of streetlights.

The City Manager will consult with the Finance Director to determine what kind of a hold they could put on payments to Gulf Power until they get this matter rectified.

D. Councilmember Overdier

Councilmember Overdier asked the City in how the City intends to use the \$25,000 to improve the Harbor Lane right-of-way access to the water.

According to the City Manager, the matter will be brought before the Parks and Recreation Committee for their recommendation.

E. Councilmember Marler

F. Councilmember Destin

Councilmember Destin asked the City Attorney and City Manager to investigate any liability that might have occurred with regard to turning off the power at Dalton Threadgill Park causing some spoilage of some food at the concession stand.

G. Councilmember Morgan

1. Coleman Lake Outfall

Councilmember requested that this item be placed on the next agenda.

2. Reopening of City Parks

Councilmember Morgan asked if they could go ahead and open their City parks and not just the playgrounds.

The City Manager noted it is required nationally to maintain social distancing of 6 feet and no gathering greater than 10 people. He added that practices can be held but they are not ready to resume the games.

H. Mayor Gary Jarvis

I. Land Use Attorney

J. Pointe Mezzanine Land Use Litigation Proposed Mediated Settlement Agreement

The Land Use Attorney requested approval of the proposed agreement.

Councilmember Menchel moved for approval of the proposed agreement; seconded by Councilmember Marler.

Councilmember Ramswell noted that in several places within the proposed agreement, it states that, *"The City shall process a development order application for the docking facility..."* She asked if they should use the word "review" instead of "process."

The Land Use Attorney explained it simply means they will place the issue into the process as it includes more than just a review. When it is ready, it would then be brought before the Council for processing into the code. She added it is not guaranteeing a result in any direction.

Councilmember Ramswell noted that page 3 of the proposed agreement states, *"The prevailing party in any proceeding to enforce or interpret the terms of this agreement or otherwise arising out of or related to this agreement shall be entitled to recover from the other its reasonable attorney's fees and costs..."* She asked if it means there could be other potential lawsuits; to which the Land Use Attorney replied affirmatively.

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

K. City Attorney

8. PUBLIC COMMENTS

The City Clerk read the following written comments submitted by Mr. Ken Wampler, a Destin resident.

"Attached is the letter and cleaning standards that I tried to reference. Not covered in this is the fact that one of the local management companies moved from their local vacation rentals to their Alabama vacation rentals valued at \$180,000. Please remember that for every dollar paid for accommodations you also get an additional \$3.00 so the lost economic value for this week for that one company is \$540,000. That is what know, but others have lost income that we cannot quantify as going to Alabama, but very likely.

The ask here for a City Council to endorse and/or reach out to all elected officials on the State and National level asking them to open up Vacation Rentals on or before May 15."

The Mayor requested Council's authorization to write the letter to the Governor.

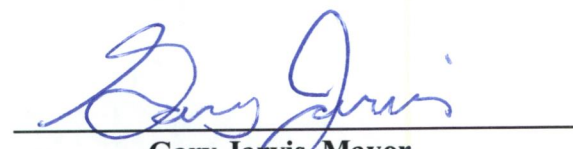
Councilmember Marler moved to direct the Mayor to write a letter to the Governor to recommend that he reevaluates his ban on short-term rentals for Destin; seconded by Councilmember Destin. Motion passed 5-2 (Council members Morgan, Destin, Marler, Overdier and Braden voted "yes"; Council members Ramswell and Menchel voted "no").

ADJOURNMENT:

Having no further business at this time, the meeting was adjourned at 10:55 PM.

ATTEST:


Rey Bailey, City Clerk


Gary Jarvis, Mayor