

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
NOVEMBER 16, 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 Parker Destin
Councilmember Cyron Marler
Councilmember Chatham Morgan
Councilmember Terésa Hebert
Councilmember Johnny King

Councilmember Prebble Ramswell
Councilmember Rodney Braden
Councilmember Steven Menchel
Councilmember Skip Overdier
Councilmember Kevin Schmidt
Councilmember Dewey Destin

Destin City Staff

City Manager Lance Johnson
Deputy City Manager Webb Warren
Community Dev. Director Louis Zunguze
Public Information Officer Catherine Card
City Planner Traci Goodhart
Finance Director Krystal Strickland
Parks/Recreation Director Lisa Firth (Virtual)
HR Manager Karen Jankowski
City Land Use Attorney Kimberly Kopp (Virtual)

City Clerk Rey Bailey
Public Services Director Michael Burgess
Grants/Project Manager Jeffrey Cozadd
Library Director Wen Livingston
Building Official Noelle Bell
City Engineer Assistant II Joe Bodi
IT Technician James Lauria
City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

The Mayor called the meeting to order at 6:00 PM. Pastor David J. Butler of Faith Assembly Christian Church gave the invocation, which was then followed by the recitation of the Pledge of Allegiance.

APPRECIATION TO OUTGOING CITY COUNCIL MEMBERS

Farewell and presentation of gifts to outgoing City Council members Chatham Morgan, Parker Destin, Cyron Marler and Steven Menchel.

INAUGURATION OF INCOMING CITY COUNCIL MEMBERS

Judge Jeffrey Burns administered the Oath of Office to newly elected Council members Kevin Schmidt, Johnny King, Terésa Hebert and Dewey Destin.

ELECTION OF MAYOR PRO TEM

Motion by Councilmember Overdier, seconded by Councilmember Ramswell, to appoint Councilmember Dewey Destin as Mayor Pro Tem passed 7-0 (Council members Schmidt, King, Hebert, Overdier, Destin, Ramswell, and Braden voted “yes”).

AGENDA APPROVAL

Councilmember Schmidt requests “*Destin Christmas Parade Discussion*” be added as agenda item 7G(1).

Councilmember Overdier moved for approval of the agenda, as amended, seconded by Councilmember Destin. Motion passed 7-0 (Council members Schmidt, King, Hebert, Overdier, Destin, Ramswell, and Braden voted “yes”).

1. APPROVAL OF MINUTES

A. Approval of Minutes of November 2, 2020 Regular City Council Meeting

Motion by Councilmember Hebert, seconded by Councilmember Overdier, to approve minutes of November 2, 2020 Regular City Council Meeting passed 7-0 (Council members Schmidt, King, Hebert, Overdier, Destin, Ramswell, and Braden voted “yes”).

B. Approval of minutes of September 28, 2020 City Council Workshop

Councilmember Ramswell moved for approval of minutes of September 28, 2020, seconded by Councilmember Overdier. Motion passed 7-0 (Council members Schmidt, King, Hebert, Overdier, Destin, Ramswell, and Braden voted “yes”).

2. PROCLAMATIONS / RECOGNITIONS / SPECIAL PRESENTATIONS / ANNOUNCEMENTS

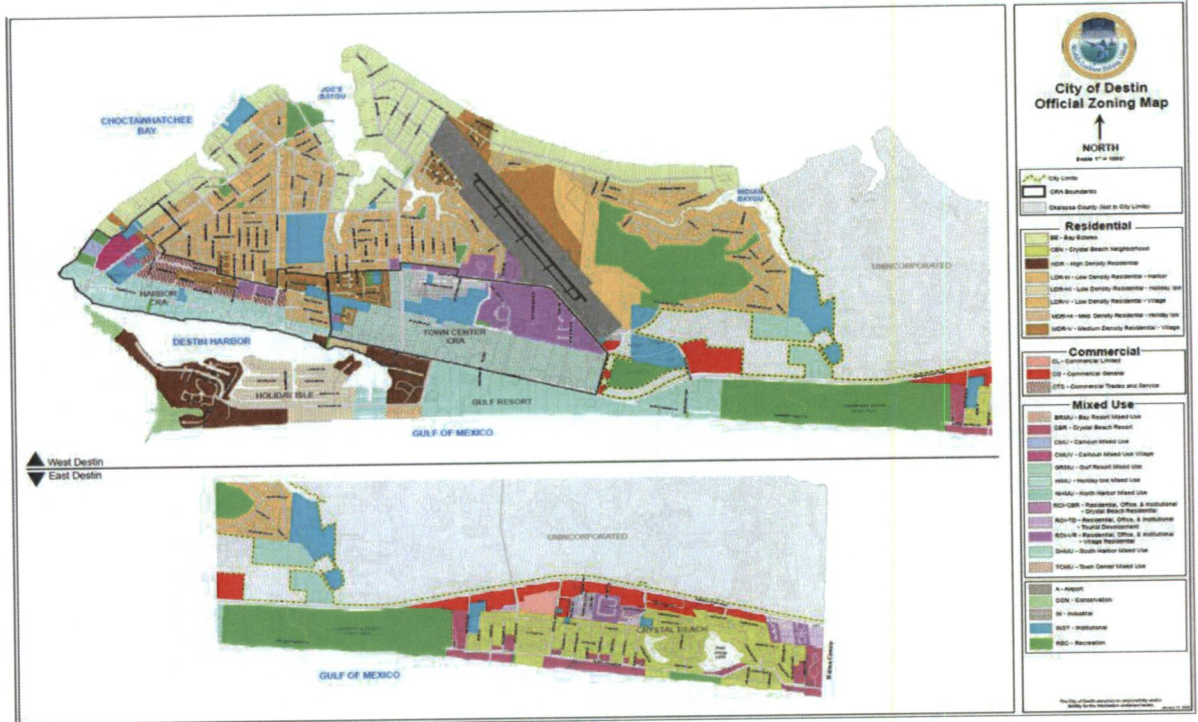
3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS AND ANY OTHER MATTERS NOT ON THE AGENDA

4. CITY MANAGER REPORTS

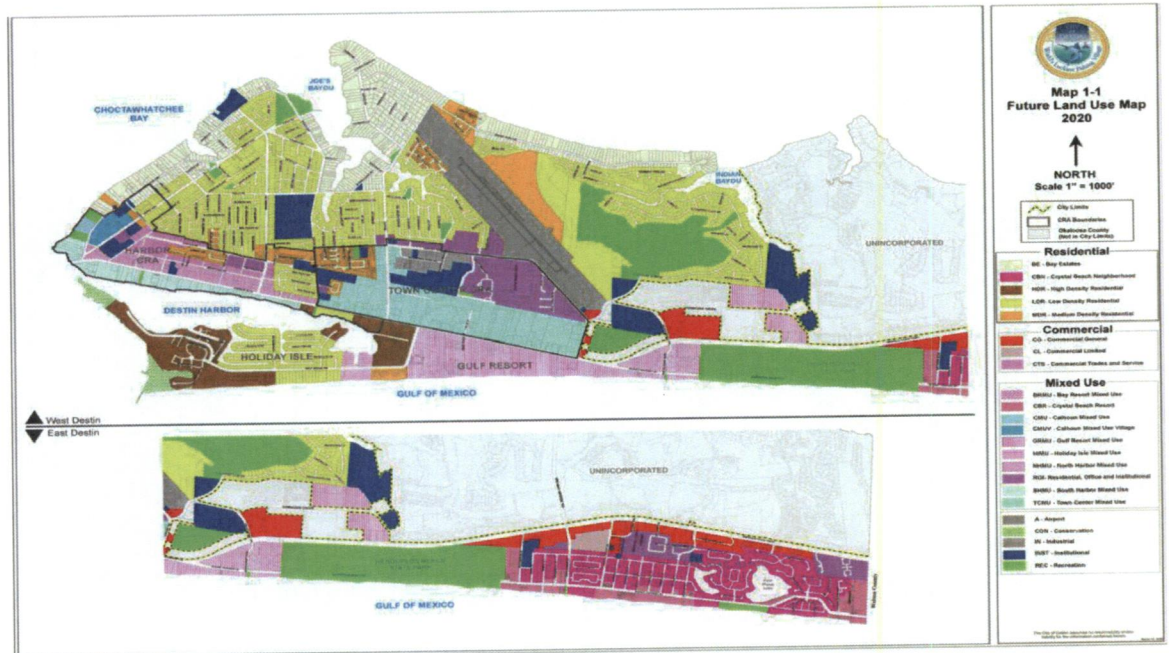
A. City Land Use Update

The City’s Community Development Director Louis Zunguze provided an update on the status of the City’s land use framework; covering all work completed to date and addressing the conflicts between the Comprehensive Plan Future Land Use Map and Zoning Map. He also outlined the work ahead with respect to updating the Land Development Code which is instrumental to implementing the Comprehensive Plan.

The Road Travelled



Current Zoning Map - 2020
 Aligned with Future Land Use Map



Current Future Land Use Map - 2020
 Aligned with Zoning Map

The Road Ahead:

- **Revise, Reorganize and Update. Issues to be addressed:**
 - ❖ **Context and goals**
 - Now that the Comprehensive Plan Future Land Use Map (FLUM) and Zoning Map are aligned, next step is to revise, reorganize and update the Land Development Code (LDC)
 - The goal of this endeavor is to align the LDC with the policies of the Comprehensive Plan FLUM and Zoning Map
 - ❖ **List of requested changes from City departments**
 - **City Manager's Office**
 - Require recycling facilities to be shown on plans at the time of development
 - **Code Compliance Department**
 - Consolidate citation authority
 - Revise types of allowable signs
 - Solicitation on the beach
 - **Public Services Department**
 - Low speed vehicles
 - Street classifications
 - ROW protections
 - Clear visibility triangle
 - **Community Development Department**
 - **Engineering Division**
 - ✓ Stormwater requirements
 - ✓ Refuse collection in ROW
 - ✓ Add change of use requirements for residential uses (STRs)
 - ✓ Allowed surfaces for parking lots
 - ✓ Hold harmless agreements for residential driveways
 - **Building Division**
 - ✓ Redefine building height
 - ✓ Clarify public lodging facility requirements
 - ✓ Require code compliance inspections for short-term rentals
 - ✓ Revise building related definitions
 - ✓ Revise requirements of pool enclosures
 - ✓ Add exemption for foundation and "As-Built" surveys
 - ✓ Add special events section and criteria
 - ✓ Revise floodplain section
 - **Planning Division**
 - ✓ Clarify accessory use requirements
 - ✓ Clarify noticing/sign requirements for development projects

- ✓ Update use table to current NAICS manual
- ✓ Street classifications – Restrict accessways of specific uses on certain roadways
- ✓ Strengthen criteria for PUDs
- ✓ Clarify mobile home definitions
- ✓ Clarify residential uses: single-family attached/detached vs. multi-family
- ✓ Incorporate standards based on planning areas
- ✓ Outdoor dining/seating parking standards
- ✓ Specify requirements for nonconforming uses
- ✓ Parking agreements/analysis criteria
- ✓ Common boundary buffer
- ❖ Policy Issues. Policy needing further discussion with City Council prior to update of the LDC
 - Planning areas
 - Multi-Modal Transportation District
 - Impact Fees
 - Hold Harmless for driveway pavers
 - Utility requirements
- ❖ Current LDC format and challenges
 - Conflicting code language
 - Difficult to navigate – requirements in different locations within the LDC and Code of Ordinances
 - Policies outlined in the Comprehensive Plan that are not adequately implemented through the LDC
- ❖ Proposed LDC Format
 - General Provisions/Legal
 - Planning Area – Zoning Districts
 - Permissions: Permitted/Conditional Uses
 - Lot dimensional requirements
 - Transportation
 - ✓ Corridors
 - ✓ Access Management
 - ✓ Capital Improvement Projects
 - Site development conditions
 - Parking requirements
 - Landscape requirements
 - Signs
 - Building standards
 - Special design criteria – Uses/Structures
 - Infrastructure/Stormwater Management
 - Coastal Management
 - Natural Resources
 - Recreation
 - Conservation

- Conflicting ordinances
- Concurrency Management System/Level of Service
- Glossary/Definitions
- Administration
 - Checklists
 - Schedule of Fees
 - Impact Fees
 - Public Participation
 - Intergovernmental Coordination
- Building Regulations
- Citation Authority

Councilmember Destin moved to schedule a Council workshop to further discuss policies prior to the update of the Land Development Code. Councilmember Ramswell provided a second to the motion. Motion passed 7-0 (Council members Schmidt, King, Hebert, Overdier, Destin, Ramswell, and Braden voted “yes”).

B. Operations Financial Report

Finance Director Krystal Strickland presented the monthly Operations Financial Report highlighting the General Fund, status of the two Community Redevelopment Agencies (CRAs) – Harbor and Town Center – as well as the unassigned fund balance.

C. Capital Project Status

Ms. Strickland presented a summary of the current capital improvements projects the City has adopted, and Council has prioritized, for the upcoming cycle; briefly discussing the status and year-to-date expenditures and encumbrances.

D. Announcements

5. PUBLIC HEARINGS

- A. Proposed Major Development (20-17-SP)/Major Subdivision (20-18-MS) and Conditional Use (20-01-CU) Harbor Place Townhomes.

The City Attorney sworn-in the following individuals for testimony:

Traci Goodhart, City Planner
 Dean Burgis, Project Design Engineer, Emerald Coast Associates, Inc.
 Mr. Shane Cannon, Project Developer

The City Attorney asked members of the Council to disclose any ex-parté communications they might have had regarding the project.

Councilmember Schmidt noted that this project was presented to the Local Planning Agency of which he was a member prior to his election to the City Council.

The Land Use Attorney requested that the staff report be entered into the record as Staff Exhibit A.

With no objections from the applicant, the staff report was entered into the record as Staff Exhibit A.

City Planner Traci Goodhart presented the project; noting it is a request for a major development order and preliminary plat approval of a major subdivision and conditional use approval. The project consists of 54 long-term residential downhome units. The subject site contains 4.57 acres to be divided into 54 lots.

The Community Development Director stated that the project meets the land development standards and regulations outlined in the Comprehensive Plan and Land Development Code.

Mr. Dean Burgis, Project Design Engineer, Emerald Coast Associates, Inc, offered some information with regards to the proposed project; stating that the project is proposed at the southeast corner of the intersection of Azalea Drive and Melvin Street. This area is a transition from the industrial development along Mountain Drive to the south and the single family-residential development that exists north of Azalea Drive. The proposed project lies within the ROI-VR zoning category, in which multi-family attached development is designated a conditional use according to the City of Destin Land Development Code. The required open space for the zoning category is 25 percent. The proposed project provides 48.14 percent open space. The location of the open space is not only utilized throughout the development to provide privacy and recreation space for the residents, but it is also significantly dedicated on the eastern side of the property, adjacent to the nearest single-family development. All setbacks provided are well in excess of the required setbacks. Fifty-five and a half feet of setback are provided along the eastern boundary of the project. That and the unused 50-foot right-of-way between the subject development and the single-family lots provide a total of about 105.5 feet of separation between the land uses. The property lies between a dramatic change of uses – from industrial along Mountain Drive to single-family residential north of Azalea Drive. A multi-family townhome development with mitigation measures to the single-family development to the east provides the necessary transition.

Councilmember Ramswell noted she was under the impression this would all just residential town home development, but the applicant alluded to the fact there could be long-term rentals. She asked if there could be a condition upon purchase of the property that it must be used as a full-time residential property.

Mr. Burgis stated that the properties would be platted and sold. It would be up to the individual user coupled with covenants and restrictions for the neighborhood. At a minimum, they would not be short-term rentals. If an owner wants to rent their property, it will have to be long-term rental. The remainder of the units would be owner-occupied. They cannot be precluded by law to rent their properties.

Councilmember Hebert asked how much parking is assigned to the units.

Mr. Burgis replied they would be providing 120 parking spaces out of a maximum of 135, which is about 2.2 parking spaces per unit. He continued there would be additional parking spaces in certain areas throughout the neighborhood which could be utilized as overflow parking for visitors.

There were some inquiries made about the Homeowners Association (HOA) with regards to the project.

Mr. Shane Cannon, Project Developer, explained that the street and infrastructure, signage and landscaping would all be maintained by an HOA through a common area assessment for every property owner. The property is fee simple, and so each owner will have a deed platted accordingly, but it will be restricted to their access and the governance of an HOA everything from lighting to noise restrictions.

Councilmember Hebert asked how the driveway would be set up.

Mr. Cannon noted that some driveways would be longer than others, and others would be side by side parking as each pad has a different topography.

Councilmember Destin pointed out that one of the conditional use criteria for a development is compatibility. He asked if there had been a compatibility study done for this project by an expert.

According to Mr. Zunguze, there had not been a typical compatibility study done as this is a private development; however, the project was looked at from the compatibility standpoint from three different criteria – existing zoning, the use itself, and the Comprehensive Plan policies that encompass that area. He added that the review conducted by staff and the product produced by the applicant have led to staff's recommendation for approval of the project.

Councilmember Destin pointed out that when compatibility was a large part of their development order process in the past, they were required to have expert testimony. He stated that he likes the project but there is too much density for that site, and there are 54 units but only 108 parking spaces.

Mr. Cannon reasoned that the zoning district is Residential, Office and Institutional (ROI), and that apartments could have been an option but a townhome is less than intense than apartments because it is fee simple and is more compatible with single-family neighborhood. He continued that they have a hundred-foot right-of-way to the north and so they are buffered pretty well from the only single-family neighborhood and directly abutting the Industrial area. He added that a townhome is a good compatible use in this area.

Councilmember Destin noted that 108 spaces for 54 units do not provide adequate parking as there may be more than 2 cars per unit. He mentioned that the current multi-modal concept gives a substantial reduction in parking but without implementing any of the necessary infrastructure necessary to achieve those reductions. There is also a maximum parking put into

the multimodal concept to force people to park in parking garages that were never built. He added these are things they would need to address very soon.

Councilmember Ramswell asked if they know at this point how many bedrooms each unit will have.

Mr. Cannon noted there would not be any one-bedroom units; and that most of the units would have 3 bedrooms.

At this time, the Mayor opened a public hearing to receive comments for or against the proposed development.

Ms. Tammy Groff, a Destin resident, expressed concern over compatibility, density, traffic and safety. She stated there are only two lanes on Melvin Street and two lanes on Azalea Drive and she is concern about the safety of her children with the additional traffic the proposed project will bring. She also expressed concern over the safety of the bicyclist who frequently travel on those streets.

Mr. Josh Tatum, owner of a business on Azalea Drive, stated they employ a lot of people and this is a good chance to bring housing to their staff.

Ms. Karen Belcher, a Destin resident, pointed out there are houses where vehicles go in and out of both Azalea Drive and Melvin Street. It would be very difficult for homeowners to get in and out of their driveway. There is also a crosswalk that does not have good signage and lighting where some of the children cross to catch the school bus.

Mr. Karl Trammell, a Destin resident, expressed concern over the vibration during construction of this project coming from bulldozers and the extensive damage it could bring to homes and buildings which would reduce their property values. The development should not be allowed to use equipment that could cause this damage. He also expressed concern over the damage the vibrations could do to his fencing. He also stated that Melvin Street already needs some repairs and dump trucks should not be allowed to travel on that road.

Mr. Michael Fell, Chairman of the Destin Commerce Park, a business community at the corner of Commerce Drive and Azalea Drive. He stated that several businesses in this area employ about 85 people who need housing, and that this project will allow them to live close to where they work. He urged the Council to approve the proposed development.

Mr. Joshua Garrett, a Destin resident, expressed his support of the proposed development. He stated that everything in that area is very dated, and property values are quite stagnant; and that the proposed development would provide the needed boost.

Mr. Burgis provided a brief response to some of the concerns expressed by previous speakers. He stated they provided a compatibility report as part of the conditional use. The buffering, and a vegetated 70-foot setback should work well to mitigate the impact of the development to the adjacent properties; adding there are 105 feet between the development and their neighbors to the east. With regards to traffic, townhomes produce a lower trip rate than

single-family homes. He stated there is a need for townhomes in the area, and that those who spoke in favor of the project realize these townhomes will be a real asset to the community as people will be owning rather than renting their property. Regarding access, signage and safety concerns at the intersection of Melvin Street and Azalea Drive, they are doing some improvements with a widen sidewalk. They are adding a crosswalk at the intersection to make it function better and safer for children catching the school bus in that area. Also, he does not anticipate using any vibratory equipment. They intend to fence the entire perimeter of the development and do a vibration analysis report as part of their submittal. They will have street lighting as well as bench seating along the sidewalks as part of the multi-modal concept requirements.

Councilmember Braden inquired as to the average square footage of the town homes.

Mr. Burgis replied it would be about 1700 – 1800 square feet.

Councilmember King stated that he likes the development; but the issue he sees is not whether people would be able to afford the \$1,700 to \$1,900 month payment, but whether they would qualify to purchase a home in a \$325,000 range.

Councilmember Overdier moved for approval of proposed Major Development (20-17-SP) / Major Subdivision (20-18-MS) and Conditional Use (20-O1-CU), as proposed by the developer; seconded by Councilmember Hebert.

Councilmember Destin explained that a request for conditional use means Council can add any condition they see fit towards approval of the project. He stated that the project is too dense, with most of the 54 units having 3 bedrooms according to the applicant. They would need approximately 160 parking spaces if each of the bedroom occupant has a car, especially when it becomes workforce housing with many people renting. He added that since parking seems inadequate, the Council could ask for more parking spaces or for reduced number of units as part of the conditional use. He asked for legal advice whether Council could ask for more parking spaces and exceed the maximum the code allows under the multi-modal concept since the proposed development is for conditional use.

According to the Land Use Attorney, if Council feels the project is adverse to the public's interest as it is, they could potentially exceed the maximum for parking.

Mr. Cannon noted they would be able to maximize parking by adding 15 more parking spaces, which is quite substantial.

Councilmember Overdier stated he believes it is the function of the homeowners' association to restrict the number of cars for each unit, but he would be willing to amend his motion to add more parking spaces as a conditional use.

Councilmember Destin pointed out they have no control over the action of the homeowners' association. They could only control what is before them tonight.

Councilmember Overdier offered an amended motion to approve proposed Major Development (20-17-SP)/Major Subdivision (20-18-MS) and Conditional Use (20-01-CU), and for the applicant to add 15 more parking spaces to the project. Councilmember Hebert provided a second to the amended motion. Motion passed 6-1 (Council members Schmidt, King, Hebert, Overdier, Ramswell, and Braden voted “yes”; Councilmember Destin voted “no”).

The Mayor called for a short recess at 8:05 PM. The meeting reconvened at 8:15 PM.

The Mayor announced that Councilmember Destin had to leave the meeting to attend to a prior engagement.

- B. First reading of Ordinance 20-31-CN – Amending Article VII "General Provisions" of the City Charter to create a new section prohibiting the conveyance, sale, lease or other transfer of interest of City parks without a unanimous decision of the City Council; providing for a referendum on the charter amendment, providing for a ballot question for a vote at the March 9, 2020 Special Election

The City Attorney read proposed Ordinance 20-31-CN by title, and then presented it to the City Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA AMENDING ARTICLE VII “GENERAL PROVISIONS” OF THE CITY CHARTER TO CREATE A NEW SECTION PROHIBITING THE CONVEYANCE, SALE, LEASE OR OTHER TRANSFER OF INTEREST OF CITY PARKS WITHOUT A UNANIMOUS VOTE OF THE COUNCIL; PROVIDING FOR A REFERENDUM ON THE CHARTER AMENDMENT; PROVIDING FOR A BALLOT QUESTION; PROVIDING FOR A VOTE AT THE MARCH 9, 2021 SPECIAL ELECTION ON WHETHER TO PROHIBIT THE CONVEYANCE, SALE, LEASE OR OTHER TRANSFER OF INTEREST OF CITY PARKS, SUBJECT TO CERTAIN EXCEPTIONS AS PROVIDED IN THE CHARTER; PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS; PROVIDING FOR CONFLICTS; SEVERABILITY; AND AN EFFECTIVE DATE.

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

Councilmember Braden moved to approve Ordinance 20-31-CN on first reading and direct staff to advertise for second reading; seconded by Councilmember Ramswell.

The Mayor feels they would probably see better government if they change “unanimous” to “super-majority” (5 of 7) vote of the Council; adding it would prevent one dissenting vote from shooting down an issue that may very well have the support of the entire community.

Councilmember Schmidt agreed that to get the unanimous vote of Council on a controversial issue even with full community support may be quite challenging. A good example

was the Clement Taylor Park issue where some members of the public recommended alternative locations for the firehouse.

Councilmember Braden stated that quite possibly over 90 percent of Council's votes have been unanimous; and it is hard for him to fathom not getting a unanimous vote on an issue that is for the best interest of the community unless someone has a personal reason for voting against it. However, he would be willing to amend his motion to require a "super majority" rather than a "unanimous" vote of Council to convey, lease or transfer interest of City parks.

Councilmember Braden offered an amended motion to create a new section of the City Charter prohibiting the conveyance, sale, lease, or other transfer of interest of City parks without a super majority vote of the City Council; seconded by Councilmember Ramswell. Motion passed 6-0 (Council members Schmidt, King, Hebert, Overdier, Ramswell, and Braden voted "yes"; Councilmember Destin was not available during the voting).

The City Attorney announced that proposed Ordinance 20-31-CN would have to go back to first reading.

- C. Second reading of Ordinance 20-33-CN – Providing for a twelve-month extension of Ordinance 19-30-CN (Temporary Moratorium on Livery Vessel Permits)

The City Attorney read proposed Ordinance 20-33-CN by title, and then presented it to the City Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO LIVERY VESSELS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR A TWELVE MONTH EXTENSION OF ORDINANCE 19-30-CN (TEMPORARY MORATORIUM ON LIVERY VESSEL PERMITS); DIRECTING STAFF TO DEVELOP RECOMMENDATIONS FOR REGULATION OF LIVERY VESSELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR EXPIRATION OF MORATORIUM; AND PROVIDING FOR AN EFFECTIVE DATE.

Councilmember Hebert noted that many of the people who spoke at the last meeting requested that the Council schedules a workshop to discuss this matter prior to voting on a moratorium; which is why she spoke with the Community Development Director prior to this meeting and asked him to explain to the public why it was necessary to adopt this ordinance at this time.

According to Mr. Zunguze, he and his staff have met with the livery vessel business owners a few times this year and are very much aware of their issues. They have studied some of the changes that they have suggested to alleviate some of the concerns that have been identified. He also noted that two meetings ago, the City Council extended the timeline for submission of livery vessel applications, and that the Code Compliance Department is currently amending the application process to make it simple and more consistent. They must also do a Harbor Capacity Study in order to form a position of strength. The study has been delayed due to COVID-19 as

well as the delay in federal funding. They are now prepared to move forward with the study in March 2021. He continued that the Harbor Capacity Study Committee appointed by the Council could be the vehicle for all the issues the livery vessel business owners may wish to share. He added there is plenty of time for public input regarding this matter. This moratorium will not stop livery vessel business owners from selling their business. The moratorium will only prevent business expansions and new livery business from starting.

The Land Use Attorney explained that selling and transferring of existing livery vessel businesses will not be affected by this moratorium. The only thing they cannot do is to expand their businesses to a greater number of vessels than what they previously had permitted. The moratorium will also prevent new business from starting. The goal is to have the Harbor Capacity Study evaluates the safety and environmental impacts in the harbor prior to addressing future regulations this Council may wish to consider.

Councilmember Ramswell expressed concern this action will impact a large group of individuals, and that there are still some confusions regarding this issue. Their main concern is that they are not being heard. She recommends scheduling a workshop, possibly in early December, and allow the business owners to provide their inputs and for staff to provide some clarity to some of the confusing issues. She also recommends delaying approval of the proposed moratorium extension until after the workshop.

According to the Land Use Attorney, the moratorium has expired as of November 1st this year. If the proposed ordinance is not adopted on second reading tonight, individuals could start submitting applications for new livery vessel businesses or expand existing businesses, which would have to be approved if they meet code requirements. It would be to the Council's discretion to prevent that from happening until after the completion of the Harbor Capacity Study which is scheduled to commence around March 2021 as the Community Development Director has indicated. She continued that the Council could schedule a workshop with or without the moratorium, and at anytime after they adopt this ordinance if they so desire. After the workshop, if the Council determines that the moratorium is no longer, they could simply repeal the ordinance. She added that the Harbor Capacity Study Committee appointed by the Council would evaluate the issues in the harbor and the result of the Harbor Capacity. This committee may also want to hold a workshop before they formulate their recommendation to the Council.

Councilmember Ramswell asked when new applications would be processed if Council does not adopt the moratorium extension tonight and new applications are submitted.

The Land Use Attorney noted that the Council recently passed an ordinance for applications to resume in November through February; and so, these applications would be processed immediately.

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

Ms. Peggy Matthews, Florida Representative from Tallahassee for the American Watercraft Association, stated that Florida Statutes do not prevent the adoption of any ordinance or local regulation relating to operations of vessels; however, counties or municipalities may not

enact, continue to affect, or enforce an ordinance or regulation discriminating against personal watercraft. She noted that the City's livery vessel ordinance is in violation of Florida Statute Chapters 327-60(2)(d) as it is obvious that the intent of the City of Destin ordinance is to ban personal watercraft from the harbor. She also stated that the ordinance does not allow business owners to expand or relocate their business. It also does not allow new businesses in the harbor or livery vessel owners to sell or transfer their business, which is wrong in every level.

Mr. Greg Fisher, Santa Rosa Beach resident, pointed out that a livery vessel as defined by Florida Statutes 327-02 is a vessel leased, rented or chartered to another for consideration; which means that pontoon boats, charter boats, tour boats, kayaks and personal watercraft are considered livery vessels under Florida Law. He continued that according to the City's Code of Ordinances Section 13-141, as amended by Ordinance 17-02, "Livery vessel is as defined in Florida Statutes Section 327.02, but does not mean: (1) a vessel under the control at all times by a United States Coast Guard license captain, or (2) paddleboards, kayaks, canoes, or any other vessel not powered by an internal combustion engine." He stated that this definition takes away from the Florida Statute definition of livery vessel. It discriminates against personal watercraft and pontoon boat rentals. He also pointed out that Jet Ski is a brand name of Kawasaki and a Wave Runner is a brand name of Yamaha; and these are personal watercrafts. He also noted that the City's Land Use Attorney has indicated that the number of livery vessels cannot expand during the moratorium, but sightseeing tour boats and charter fishing boats can expand, and they are livery vessels by definition. He added there is misinformation being shared at City Council meeting. He urged the Council to correct the vague interpretation of livery vessel in the City's ordinance.

Mr. John Stephens, a Destin resident and pontoon boat rental owner, noted that he sent an email to staff on October 21st asking them if he could submit a livery vessel application in November when the moratorium expires. He was told that he cannot because the City's new software program will not be activated until January 2021.

The Land Use Attorney clarified that the moratorium expired on November 1st which is a Sunday. The moratorium extension passed on first reading on November 2nd. For this reason, there is a pending ordinance doctrine which means the application will not be accepted because there is a pending ordinance, and that they cannot allow anything that violates that ordinance to occur. She added that if the ordinance is not adopted by Council tonight, applications will be accepted and processed starting tomorrow.

Mr. Ed Rogers, a Destin resident, and owner of Sunshine Watersports, asked if he could sell his assets to anyone without actually selling his business. He also stated there are some things that affect the business owners which they do not know or hear about until the Council is ready to vote on them, or they read about them in the newspapers. He also stated that the City has a lot of new and young staff members which contribute to the miscommunications. Scheduling regular workshops on livery vessels and allowing the business owners to provide inputs should prevent those miscommunications. He added that the livery vessel moratorium is unnecessary as they already have a parking ordinance. If they do not have enough parking, they should not be allowed to add any more boats.

Councilmember Hebert asked the Land Use Attorney if the business owners could sell their business assets without actually selling the business.

The Land Use Attorney explained that business owners can sell their business in any manner they want as long as the number of vessels either stays the same or reduced as the number of vessels cannot expand during a moratorium. She continued that the permit itself cannot be transferred. A business can be sold or transferred; however, the new entity that takes over the business must simply obtain another permit under their name so that the City has the correct information. When the business is transferred or sold, the new entity can obtain a permit under their name.

Mr. Lee Pardeau, a Santa Rosa Beach resident and business owner, stated that his business is growing, but he had lost revenue because he had to turn guests away this summer since he is not allowed to expand his business. For this reason, a lot of the businesses are moving away, which would eventually have an impact in all the businesses in Destin and less revenue in the Harbor District. He continued that they have a lot of good young people in the community that are growing up in this industry and it is a great first job for them. With less jobs available, they could decide to move elsewhere just like the other businesses in this community. He added there are businesses in Destin that do not have a permit at all, and that businesses such as his that follow the rules and obtain their permit every year should not be penalized.

Mr. Mike Abadie, a Destin resident and business owner, stated that he is not against a moratorium, but he is opposed to the proposed moratorium extension because of the way it was worded. The language in the proposed ordinance discriminates against Jet Skis and personal watercrafts. The legal opinions the business owners in the industry is getting is different from the legal opinion the City Council has been receiving, such as whether the business owners are allowed to sell their business. He continued that if the City continues to do things quickly and force all these regulations to this industry, they will be forcing the business owners to take legal actions against the City, which they do not want to do. They would rather work things out with the City. He urged the Council to delay approval of the moratorium extension until after they hold a workshop session on livery vessel.

Having no further comments from the public, the Mayor closed the public hearing portion of this item and turned the matter over to the City Council for their discussion and consideration.

After some discussion, it was the consensus of the Council to hold a Livery Vessel Workshop on Monday, December 14, 2020.

Councilmember Overdier moved for approval of Ordinance 20-33-CN on second reading; seconded by Councilmember Braden.

The Mayor explained that the City recognized a proliferation of livery vessels in the harbor a few years back and decided to enact a moratorium until they are able to get the Harbor Capacity Study completed and to evaluate and assess how much the harbor could take and what is best for the people who do business on the harbor.

Councilmember Schmidt asked what the ultimate goal is that they are trying to achieve with the Harbor Capacity Study, and whether they have secured the federal funding to allow them to conduct the study in March as planned.

Mr. Zunguze explained that the harbor is one of the most active places they have in the community. A combination of business, leisure, environmental issues, and normal living in such a small area has become a concern. This issue has been discussed and studied thoroughly by the Harbor CRA Advisory Committee. It was brought before the City Council who then decided to conduct the study which is similar to what has been done at Key West. He also stated they have completed the study questionnaire and plan to launch the study in March 2021.

Councilmember Schmidt expressed some concern with the way the livery vessel ordinance is written. For instance, the language that states that the owners shall notify the City within 10 days of ownership change or any permit shall automatically be revoked. He feels this language is a little harsh, especially in a case where the owner passes away and the surviving family members will need to remember to notify the City while making funeral arrangements, so they do not lose the permit for the business. He also noted that the justifications for the moratorium, as written in the ordinance, include the following statements:

- The Destin Harbor is severely overcrowded resulting in a dangerous congestion of vessels
- Livery vessel rental businesses significantly contribute to the congestion by renting livery vessels to an abnormally high number of inexperienced and ineffective livery vessel operators, which severely increases the danger to the public's health, safety, and welfare
- Livery vessel rental businesses significantly contribute to the deterioration of water quality in the waterways of the City of Destin and the wasteways immediately adjacent to the City of Destin

He asked how the City was able to come up with these conclusions before the Harbor Capacity Study is even conducted. He also feels they are singling out pontoon boats because there is nothing to stop the owners from adding other allowable vessels to their assets as long as they meet the code, which could then add to the congestion in the harbor. He asked what the current process is for starting a livery vessel business in the harbor in the absence of a moratorium.

According to the Land Use Attorney, an individual generally submits an application to include a site plan. The application is reviewed by City staff to determine if it meets the code requirements; and if so, a permit is issued. She added that if an application is submitted while a moratorium is in place, the applicant would have to prove the business was in existence before the moratorium was enacted; or if one of the exceptions in the moratorium applies such as substantial hardship.

The Mayor pointed out that the charter business is being regulated as well, though it has nothing to do with the moratorium. They have about 64 State license guides. They are not under federal regulations. They have to buy a permit; and they are required to have a US Coast Guard license and captains on board to operate. They have restrictions on where they can operate as dictated by the State. Some are being denied the opportunity to do business in Destin. They are

launching their boats at Joe's Bayou or in Fort Walton Beach because there are no slips available no place for them to operate in Destin, and one of the reasons was the proliferation of livery vessels in the harbor.

Councilmember Hebert suggests they adopt the moratorium ordinance tonight, move forward with the Livery Vessel Workshop, and then repeal the ordinance following the workshop if the Council feels it is necessary.

Having no further comments from the Council members, the Mayor called for a vote on the motion, which passes 4-2 (Council members King, Hebert, Overdier and Braden voted "yes"; Council members Schmidt and Ramswell voted "no"; Councilmember Destin was not available during the voting).

6. CONSENT AGENDA

- A. Approval of RFID Vendor for IMLS Grant
- B. Draft minutes of standing committee and board meetings

Motion by Councilmember Hebert, seconded by Councilmember Schmidt, to approve Consent Agenda items 6A and 6B, as printed above, passed 6-0 (Council members Schmidt, King, Hebert, Overdier, Ramswell, and Braden voted "yes"; Councilmember Destin was not available during the voting).

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

A. Councilmember Braden

- 1) Citizen or Resident Who has standing before the City Council?

Councilmember Braden asked the City Manager to comment on this issue.

The City Manager noted that this issue came about as a result of comments from a former Council member. Though he cannot speak on the former Council member's intent in making those comments, he has never known this Council to not listen to anyone who wanted to speak or voice their opinion on any subject. He continued that whether a person has "standing" before the City Council is a legal term. It depends on how they go about defining the "standing" issue. If the question is whether a person can request staff to do work that requires resources or impacts the priority list of the strategic plan, then it would require a policy direction from the Council because the Council approves the budget as well as the strategic plan.

Councilmember Ramswell stated that it begs question as to who their public is. In terms of public records requests, whether they should only respond to requests from local residents and not those who live outside the City limits.

The City Manager explained that the Statute is clear with regards to public records in that anyone can submit a public records request to any jurisdictions and those requests must be honored.

Councilmember Braden noted that the City receives emails or phone calls from visitors who are leaving Destin that are complaining about the City for various reasons, and they have been responding to those complaints. But lately, they seem to pick and choose as to whose email to respond and whose phone call to return. He has been receiving complaints from both Destin residents and non-residents in this regard.

The City Manager pointed out that previous Council has voted as to who their customers are in the City of Destin in priority order – Residents, businesses, and visitors – and it is in their strategic plan. It would be up to this Council to change that order. Staff tries to answer routine questions, but if staff is being asked to divert human or financial resources for other purposes other than what is in the City’s strategic plan, they would need that direction from the Council.

2) Norriego Point Deed and Dedication

According to Councilmember Braden, the Council had previously requested staff to communicate and clarify the Norriego Point deed and dedication with Okaloosa County and the status of the road that the County was supposed to put in and maintain. He asked if that meeting has taken place.

The City Manager noted that he and the City Attorney met with the County Administrator and County Attorney and discussed this matter. There was not much discussion about the road because there is a pending application currently in process. He continued that he did not get the impression that the County is opposed to putting in some type of road to meet the requirement. However, they do not feel it is appropriate to discuss it at this time until Destin’s application process has run its course.

The City Attorney noted they discussed everything that is related to the road to include a pending development application; and that they do not intend to put in the road at this time.

Councilmember Ramswell pointed out that the dedication clearly states they would build and maintain the Gulf Shore Drive from US Hwy 98 all the way to the park. The City, not the County has maintained Gulf Shore Drive.

The City Attorney stated the unbuilt portion of 1 Gulf Shore Drive was specifically addressed at the meeting and not much with regards to the maintenance of the road. Although according to the County Administrator stated it would probably come out of TDC funding which could have some impacts on other City projects.

3) Norriego Point Survey

Councilmember Braden asked the City Manager to comment on the Norriego Point survey requested by the Council and state whether he is satisfied with the survey.

The City Manager stated that he believed the survey was performed to which staff understood they needed to move it forward. The survey was conducted by a reputable firm and he trust they are doing their best to provide the City the information they need to make decisions.

Councilmember Braden stated that the surveyor seems to be using somebody else's property or deed instead of those that were provided by the City.

The City Attorney noted that at this point the surveyor stands by his product. He is aware there were some questions raised. His opinion was the shared boundary line between the park and 1 Gulf Shore Drive is the same under all deeds that he had seen. He would also be willing to attend a Council meeting to address this and any other issues with the Council.

Councilmember Ramswell stated they have the northern property line at 45 instead of 4419 which is something she has brought up previously. It is something that needs to be investigated and properly notated. Also, page 9 of 13 of the survey, there is apparent error in deed record in terms of the right-of-way. Every single deed has similar curvature of this line, including the 1998 deed prepared by Attorney Jerry Miller, which is not accurate.

After further discussion, the Council reached a consensus to invite the surveyor to attend the December 7th City Council meeting to address the Norriego Point survey results.

- B. Councilmember Ramswell
- C. Councilmember Destin
- D. Councilmember Overdier
- E. Councilmember Hebert
- F. Councilmember King
- G. Councilmember Schmidt

1) Destin Christmas Parade

Councilmember Schmidt recommends going forward with the Destin Christmas Parade.

Councilmember Schmidt moved to support staff's efforts to proceed with this year's Destin Christmas Parade; seconded by Councilmember Hebert.

There were some discussions relative to actions to be taken to promote social distancing and ensuring the safety of the participants.

Councilmember Overdier noted that the situation with the pandemic is getting worse, and to go forward with the Christmas Parade can be perceived as being irresponsible. They can expect to hundreds if not thousands of people on the street and not all of them would be wearing a mask and having the proper social distancing would be impossible.

After further discussions, the Mayor called for a vote on the motion, which passes 5-1 (Council members Schmidt, King, Hebert, Overdier, and Braden voted "yes"; Councilmember Ramswell voted "no"; Councilmember Destin was not present during the voting).

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

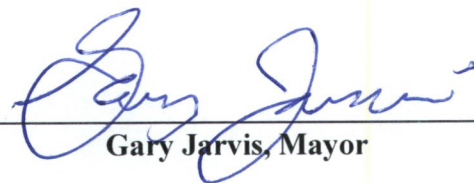
PUBLIC COMMENTS:

Mr. Steven Menchel, Destin resident and former Council member, stated that mistakes have been made on the Norriego Point survey; and though anybody can make a mistake, they need to call to question some of the mistakes that have been made on the survey. He noted that the task order the City's Public Works Director put out for the recent survey accurately depicted everything the Council has requested. However, it was the fourth tasking Council had given staff for the same survey, and each one had been different. They have asked the survey company to do different things three different times. The initial tasking was given in May 2020. There was a field survey done on August 7th and nothing has changed from that field survey. The surveyor was operating from an August survey based on the November request form the Council.

Mr. Menchel also noted that when New Orleans held their parades this year, they had a tremendous spike in COVID-19 cases immediately after the parades. He urged the City of Destin to be extra careful if they decide to go forward with the Christmas Parade this year.

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 10:37 PM.



Gary Jarvis, Mayor

ATTEST:



Rey Bailey, City Clerk