

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
JANUARY 4, 2016
CITY HALL BOARDROOM
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 Mel Ponder	Councilmember Jim Wood
Councilmember Rodney Braden	Councilmember Jim Foreman
Councilmember Cyron Marler	Councilmember Prebble Ramswell
Councilmember Sandy Trammell	Councilmember Tuffy Dixon

Destin City Staff

City Manager Greg Kisela	City Clerk Rey Bailey
Community Development Director Ken Gallander	IT Manager Webb Warren
Parks/Recreation Director Lance Johnson	Library Director Jurate Burns
CRA/Development Manager Steve Schmidt	HR Manager Karen Jankowski
Land Use Attorney Scott Shirley	City Attorney Jerry Miller

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Mel Ponder called the meeting to order at 6:00 PM. Councilmember Marler delivered the invocation; which was followed by the Pledge of Allegiance.

SPECIAL PRESENTATIONS

1. Presentation of awards for the 2016 Christmas Outdoor Decorating Contest winners

The Mayor presented a plaque award to each of the following 2015 Christmas Outdoor Decorating Contest winner:

Best Decorated Home	83 Country Club Drive, Destin
Best Decorated Business	<i>Fudpucker's Beachside Bar & Grill</i> 20001 Emerald Coast Parkway, Destin
Best of Holiday	610 5 th Street, Destin
Best Decorated Organization	<i>Corpus Christi Catholic Church</i> 307 Beach Drive, Destin
Best on the Harbor	<i>Harborwalk Village</i> 10 Harbor Blvd, Destin

2. Presentation of awards for the 31st Annual Destin Christmas Parade winners

The Mayor presented a plaque award to each of the following 31st Annual Destin Christmas Parade winners:

Chamber Award – Best Commercial Entry	<i>Legendary Marine</i> Sponsor: Destin Area Chamber of Commerce
Noel Award – Best Band Entry	<i>Destin Middle School/Fort Walton Beach High School Band</i> Sponsor: Pavlic’s Florist
Civic Award – Best Civic Club Entry	<i>Emerald Coast Parrothead Club</i> Sponsor: Emerald Coast Knights of Columbus
Elf Award – Best Children’s Service Entry	<i>Destin Middle School Cheerleaders</i> Sponsor: Jim Liufau State Farm
Angel Award – Best Religious Entry	<i>Rocky Bayou Christian</i> Sponsor: Mike Cheney Allstate
Santa’s Helper Award – Best Children’s Commercial	<i>Resolute Martial Arts & Family Fitness</i> Sponsor: Sign Chick Signs
Crowd Pleaser Award	<i>AJ’s Seafood & Oyster Bar</i> Sponsor: Dixie Ectricar

3. Presentation of awards for City Employee of the Year – Nick Coleman

- a. City of Destin Awards presented by Mayor Mel Ponder

The Mayor presented a certificate, an etched plaque, and a reserved parking space (sign) to the City Employee of the Year Nick Coleman.

- b. Certificate of Special Congressional Recognition from Congressman Jeff Miller

The Mayor read a congratulatory letter and certificate from Congressman Jeff Miller, and then presented it to Mr. Nick Coleman.

APPROVAL OF MINUTES

4. Request approval of minutes of the December 21, 2015 regular city council meeting

Motion by Councilmember Trammell, seconded by Councilmember Wood, to approve the minutes of the December 21, 2015 regular city council meeting passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

PUBLIC HEARINGS

PUBLIC OPPORTUNITY TO SPEAK ON COUNCIL PROPOSITIONS

At this time, the Mayor asked if anyone from the public wishes to speak for or against agenda items #5 thru #21C.

Mr. Steve Menchel, a Destin resident, addressed agenda item 21b - Spring Break Supplemental Funding – Interlocal Agreement between the City of Destin, Okaloosa County, and the Okaloosa County Sheriff's Department. He stated that he is in favor of spending more money for additional Spring Break coverage; however, he feels the 70 percent of the total funding cost, or \$74,900 the City may have to pay, is too high and does not adequately reflect the correct numbers of Destin residents' calls for service to the Okaloosa County Sheriff's Office. He noted that during the City of Destin 2015 budget workshop, he outlined several options to help supplement the cost of law enforcement operation in Destin. He also pointed out that the City accounts for 64% of the County's bed tax receipt and only 36% of the bed tax revenue is collected from the rest of the County. He also noted that the Sheriff stated in his presentation before the Council that 82% of the calls for service in Destin are from tourists; which means only 18% of the calls are from Destin residents and taxpayers. Mr. Menchel further stated that according to the Okaloosa County Tax Collector, Destin accounts for 31.8% of the combined tax total; which is the highest percentage of any of the municipalities in the County. He continued the County should factor in these numbers and use them when considering funding requests and formulas for payments. He added that the TDC funds a portion of the beach safety lifeguards for the City of Destin because they realize their importance to the safety of the tourists while in and around the water; however, the safety of tourists is equally as important on land. He suggests the City of Destin studies the percentages of payment for the additional Spring Break coverage with Okaloosa County, work on drafting a special event plan, and submits the plan for funding by the TDC.

The next speaker was Ms. Diana Lynn, a Destin resident, who spoke of agenda item 21c – Conservation Land Use. She stated that the State of Florida has designated two areas in the City of Destin as Conservation; one such area is Norriego Pointe, and the other a 34 acre preserve, audubon habitat, and fresh water lake. The beach front lands next to the East Jetties on the Pass, along with private parcels B and C, are designated as State conservation land today; and that the federal and state governments continue to protect and preserve this area of beaches for the stability of sensitive environmental area. She pointed out that a federal easement encumbered the land in the 1960s and legally recorded it in 1972; and that a no-build order was placed over all the lands and recorded in the Okaloosa County Court House. She also noted that

she studied the 234 page document the City Manager provided to Council and found the document to be about Crystal Beach and that it does not provide any detail on Parcels B and C zone changes. She continued a 1996 map that was provided went from Conservation to blank space on parcel B and C; and that in 2005, the blank space was filled in as HDR in the Future Land Use Map. She further stated that the zone is in total conflict with the County and Destin Point court records that show Parcel B as a single family lot with a federal no-build order. The HDR zoning would allow future building of 234 residential homes. She also noted there was no mention in the City minutes, from 1996 to 2015, on the specific changes made on Parcels B and C; and that it appears the change took place without any discussion, that the US Government encumbered the two parcels and the rezoning of Parcels B and C from conservation to HDR was made without the proper record of the land use recorded. She stated that she presented a petition at a previous Council meeting containing 481 signatures for this land to remain protected and under the federal easement and conservation zone. She urged Council to correct the zoning on the encumbered parcels to avoid another law suit against the City, and to adopt an ordinance changing the zoning of Parcels B and C from HDR back to Conservation.

Next, Mr. Scott Monson, a Destin resident, asked Council to approve a motion changing the zoning of Parcels B and C from HDR back to Conservation. He also stated the package Council received from the City Manager included a case study of what may happen if the zoning is not changed and the City issues a development order. He also noted that by HDR definition, one of the primary tenets is that the parcel has to be buildable. She continued these parcels are not buildable and therefore must revert back to conservation to be consistent with abutting state land. He added that based on the City Manager and Land Use Attorney's prior statements, there is 100 percent encumbrance on Parcels B and C.

Ms. Gail Sheryl, a Destin resident, posed the following questions:

- How this land could have been rezoned HDR when Parcels B and C have been designated by the State of Florida as conservation, and the US Corps of Engineers has an easement that has been recorded with a no-build order?
- Why the Destin Pointe Homeowners Association, where this land is located, not contacted or included in the discussion on the re-zoning of this property when it is listed in their document as a single-family residents, and the owner of the property has been paying fees for a single-family residents for a long time?
- Why the property was rezoned without public notice and signs and without being listed on any of the City's meeting agenda?

Ms. Sheryl asks Council to consider rezoning this property back to conservation.

Next, Ms. Marcie Bell, a Destin resident, approached the dais and distributed some documents to Mayor and Council. She then spoke of the document the City Manager previously provided to the Council. She stated that item #6 of the document relating to Ordinance 380 has a

Future Land Use Map (FLUM) showing Parcels B and C as HDR; however, neither the language in the ordinance nor the minutes of the Council meeting for the first and second reading of this ordinance mention anything about Parcels B and C or Holiday Isle. Likewise, item #7 dated December 28, 2006 relating to Ordinance 06-01-LC has a zoning map showing Parcels B and C as HDR; and once again, neither the language in the ordinance nor the minutes of the Council meeting for the first and second reading of the ordinance mention anything about Parcels B and C or Holiday Isle. She also pointed out that the documents she had just distributed were not part of the document that came from the City Manager, but were part of the 165 page packet from the City Council Workshop on February 11, 2013, which was the beginning of Comprehensive Plan: 2020. She continued that the documents she distributed included an existing Future Land Use Map (page 134 of 165), dated September 21, 2012, where Parcels B and C are shown as conservation land; and Map 1-8 of Major Vacant Lands (Page 140 of 165) where major vacant lands are clearly marked in red while Parcels B and C are not marked.

Mr. Darryl Shelton, a Destin resident, was the next person to speak. He informed Council he has 7 letters from the US Army Corps of Engineers addressed to different individuals, developers and associations, which he would provide to the City Clerk afterwards. He then proceeded to read portions of the following letters:

- Letter dated May 3, 1993: *“This easement, known as Easement No. 101-E-6, East Pass, is a perpetual easement acquired by the government in 1973 which is used for maintenance of the jetty structure and the East Pass Channel. We consider this easement to be of vital importance to U.S. Army Corps of Engineers operations in the East Pass area and have vigorously opposed any proposed construction in the Pass. Since the Corps of Engineers is responsible for maintenance of the jetty during its remaining useful life, we plan to carefully guard our right to this easement against any construction in the future.”*
- Letter dated June 6, 1997: *“Tract 101-E-6 is as perpetual easement. In answer to your question about the government’s plans for continuing use of these tracts, we do not plan to release the easement rights on either tract.”*
- Letter dated June 30, 1997: *“The government has a perpetual easement on tract 101-E-6. The government does not plan to release the easement rights (allow any commercial or residential development) on this tract.”*
- Letter dated July 30, 2004: *“The government has no intentions of releasing these easement rights (allowing any commercial and/or residential development) on this tract of property, as to do so, would interfere with the government’s responsibility to operate and maintain the East Pass federal navigation project.”*
- Letter dated September 21, 2006: *“Tract 101-E-6 is the foundation end of the eastern jetty, and the availability of the entire surface area is considered to be of vital importance to any present or future maintenance requirements. We do not*

plan to release any portion of this tract or to allow any private construction thereon."

Attorney Dana Matthews approached the podium. He stated he represents the owner of Parcel B; and that his client has been involved in litigation with Destin Pointe Owners Association and Holiday Isle Improvement Association concerning issues with Parcel B and other use rights on property his clients own within Destin Pointe. He also noted that most of the people who spoke tonight and those who have sent e-mails to Council are well aware of the litigation that had been taking place in Okaloosa County for a number of years. He continued that these are civil matters that will be resolved by the courts, and that Council should not be spot zoning or trying to change the land use designation of the property his client acquired several years ago. He further stated the property has been zoned HDR for a long period of time; adding there is a US Army Corps of Engineers easement on only part of the property and not 100 percent of the property. He also added his client has not submitted a development order to the City of Destin because of actions taken by the homeowners association.

Next, Ms. Teresa Hebert, a Destin resident, spoke on agenda item 21b. She stated that she agrees with a previous speaker that only 18 percent, not 70 percent as previously reported, of the calls was made to the Sheriff's Department by Destin residents; and that she too wants to make sure Destin residents and taxpayers are not held responsible for funding the extra security needed during Spring Break.

CONSENT AGENDA*

5. Request approval for use of city streets for Destin Area Chamber of Commerce 5K / 10K Race on January 23, 2016
6. Request approval for use of city streets for Northwest Florida Track Club Annual Valentine's Day 8k Race on February 6, 2016
7. Request approval for use of city streets for the Destin 16th Annual Run with the Dogs 5K Run/Walk on March 19, 2016

Motion by Councilmember Trammell, seconded by Councilmember Foreman, to approve Consent Agenda items #5 through #7, as printed above, passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

RESOLUTIONS

COMMITTEE REPORTS

SCHEDULED PRESENTATIONS FROM THE PUBLIC **

PROJECT REPORTS AND COMMENTS FROM MAYOR AND COUNCIL

8. Councilmember Trammell
9. Councilmember Wood
10. Councilmember Marler

Councilmember Marler remarked it was an honor and privilege for him to ride along with the Sheriff's Department on New Year's Eve. He stated he had witnessed law enforcement at its finest

while dealing with different issues and consequences; and that he has several ideas on what the City could do to assist various first responders and would be working with staff to bring these ideas before Council for their approval.

Councilmember Marler also stated they have had a trying time in this Council over the past year; and that hurtful things have been said and accusations have been made against members of the City Council, citizens and staff. He urged his fellow council members to remember that they represent all citizens and not selected citizens of Destin; and that they have legislative and not administrative function. He continued they should act professional at all times and make sure they carefully research matters before bring any items into this Council; and not to use their positions to make accusations against citizens or City staff. He further stated they are the custodians of the City's tax dollars and to make sure they are using it right. He added that the City Council and citizens depends and trust the City Manager and staff to guide them to the right direction and are relying on them not to let them down.

Councilmember Marler also urged all citizens to have all the facts when they come to Council to ask them to take action on certain matters so that Council can make the right decision. He asked everyone to understand that Council must follow the law when voting on certain matter; and that they may not be able to make any decisions at times because they do not have the jurisdiction. He also asked citizens not to make any accusations they cannot prove. He challenged everyone to get involved by joining committees, attending Council meetings or by simply communicating with members of the Council and not relying on the social media on issues relating to the City.

11. Councilmember Foreman

Councilmember Foreman spoke of recent issues regarding the use of the City credit cards by the elected officials; and noting it was later determined they have administrative gaps in their rules and regulations pertaining to this matter.

Councilmember Foreman moved to direct the City Manager to develop a policy for the use of the City credit cards by the elected officials of Destin and bring it back at the first meeting in February 2016; and that the use of the City's credit cards by elected officials be suspended until this policy is approved; seconded by Councilmember Marler.

Councilmember Wood noted this is not an agendaed item and so they should either suspend the order of the day to allow it to be voted on or it would require a super majority to pass.

Motion by Councilmember Wood to set aside the order of the day was seconded by Councilmember Trammell and passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

Councilmember Ramswell stated she was under the impression staff was already working on this policy since this was a recommendation from the State Attorney.

According to the City Manager, it was a recommendation from the State Attorney; but, he would also need direction from the City Council.

Councilmember Dixon noted that some members of Council may have to travel within the next two weeks to attend meetings elsewhere and he does not want to prevent them from doing so by not having a credit card from the City.

Councilmember Ramswell stated that she would need to travel to Tallahassee for the upcoming Florida League of Cities Legislative Action Day; and that she would ask the City Clerk to make all the arrangements for her.

The Mayor called for a vote on Councilmember Foreman's motion, which was seconded by Councilmember Marler. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

12. Councilmember Dixon

Councilmember Dixon stated there are abandoned boats everywhere in Destin waterways; and that he is embarrassed by the hate slogan on the side of one of the boats. He also noted that barges that are out on Crab Island are being dragged into the harbor; adding that things are getting completely out of control.

Councilmember Dixon moved to direct the City Manager to develop a policy to regulate derelict boats, barges, and any floating objects in the Destin waters and brings it back within a reasonable amount of time for general discussion by Council; seconded by Councilmember Ramswell.

Councilmember Dixon suggests the City considers establishing a Harbor Master.

Relating to the written graffiti on one of the boats, Councilmember Ramswell asked how they could put something on the books that would allow the City to take immediate action in such cases.

The City Manager stated this is a difficult issue because of the First Amendment protection people have in the United States under the Federal Constitution; adding defining something as a hate crime is something with which State and Federal governments struggle all the time.

The Land Use Attorney noted that the City, as the governmental entity, was attempting to take the correct route of trying to obtain permission to paint over the graffiti. He also stated he would have to look at what the other jurisdictions are doing in similar cases before he could opine on this issue.

Councilmember Trammell announced that both she and Councilmember Ramswell will be travelling to Tallahassee for the Legislative Action Days in February to meet with legislators to discuss how they could assist on things impacting the city and its citizens. She asked that Council

and staff to come back with some bullet points or documentation that they could bring up or provide to the legislators.

Councilmember Marler asked if they need court's approval to remove a derelict boat that is impeding harbor traffic or is beached on City property.

The City Manager explained there is a difference in Florida statute relating to private property versus public property in this case. Private property owners can have a boat removed from their property after a summary notice; but, the City does not have the same recourse on public property.

The Land Use Attorney noted they have recommended closing the loop hole so that boats that are beached on public property are considered derelict vessels that can be subject to the summary notice for removal.

Councilmember Ramswell asked if they have the right to remove boats that are beached within 20 feet of Norriego Point.

The Land Use Attorney explained there are statutory prohibitions on removal of watercraft that are in essence in the wet sand area which is on sovereign land; just as if they are in the water. He continued there is a very specific definition of what constitute a derelict watercraft; and that if it meets that definition, they could go through the process of working with the Florida Fish and Wildlife Conservation Commission (FWC) and with the Sheriff's Office on the removal and disposition of the watercraft.

The City Manager stated that according to FWC, there are seven boats that fit the statutory definition of being derelict; four in the harbor and three in Joe's Bayou. He continued one of the boats had already been removed. They are in the process of getting the owner of the sailboat with a written graffiti on it to convey the title over to the City so the City could go ahead and remove it; otherwise, it would take a court order to authorize the City to remove it.

Having no further comments from the Council members, the Mayor called for a vote on the motion, which passes 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

Councilmember Dixon asked staff to look into establishing a policy eliminating any possible commercial use of Norriego Point.

Councilmember Wood suggests they expand the terminology and not get engrossed with the term "commercial"; adding if the concern is the beach chair setup on Norriego Point, three homeowners associations, not commercial entities, own these chairs and they will be exempt from any policies relating to commercial use of the Point.

Councilmember Dixon asked City staff to look into drafting a policy to regulate any possible use of Norriego Point.

13. Councilmember Ramswell

Councilmember Ramswell announced her participation in the 10th Annual Destin Fire Rescue Foundation “Polar Bear Plunge” on New Year’s Day, and that all proceeds benefit the Destin Junior Lifeguard.

Councilmember Ramswell asked for an update on the removal of the cell towers from their current locations as well as the time frame involved in the process.

The City Manager stated they are in the process of permitting the relocation of these towers; adding since the City Council asks that they be removed from the City’s rights-of-way, it authorizes the applicant to pursue relocation of cell towers on to a private property. He added two of the potential sites are on the Destin Water Users lift stations.

Community Development Director Ken Gallander noted they are making sure they obtain all the necessary information from the applicant to ensure they meet the co-location requirements of the City ordinance; adding the applicant has not been given a deadline as to when to provide all these information to the City.

Councilmember Trammell stated they should have provided staff a specific deadline when they voted to have the cell towers removed from the City’s rights-of-way.

Councilmember Braden moved to establish a deadline of 30 days from tonight for the removal of the cell towers from the City’s rights-of-way; seconded by Councilmember Wood.

The Mayor noted this is a walk-on item and asked for a motion to suspend the order of the day.

Motion by Councilmember Marler, seconded by Councilmember Foreman, to set aside the order of the day passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

Councilmember Wood asked what happens if the cell towers are not removed from the City’s rights-of-way once the 30 day period expires.

The Land Use Attorney noted the applicant had previously indicated they need to have the cell towers in place by spring break this year; and so the expectation is once they get through the permitting process, they bring the contractors out one time to remove the cell towers from their present locations and place them on their new locations. He added that a timeline for the removal of the cell towers may not even be necessary unless they notice that the applicant is no longer attempting to pursue an application; at which time they would bring it back to Council for direction.

The Mayor called for a vote on Councilmember Braden's motion to establish a deadline of 30 days from tonight for the removal of the cell towers from the City's rights-of-way; which was seconded by Councilmember Wood. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

14. Councilmember Braden
15. Mayor Ponder

STAFF REPORTS AND RECOMMENDATIONS

16. City Attorney comments
17. City Land Use Attorney comments
18. First reading of Ordinance 16-04-CC, Master Capital Project and Service Assessment

The City Attorney read Ordinance 16-04-CC by title, and then presented it to the City Council on first reading.

AN ORDINANCE RELATING TO THE PROVISION OF SERVICES, FACILITIES, PROGRAMS AND LOCAL IMPROVEMENTS IN THE CITY OF DESTIN, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF ASSESSMENTS AGAINST PROPERTY WITHIN THE INCORPORATED AREA OF THE CITY OF DESTIN; PROVIDING DEFINITIONS; PROVIDING FOR THE CREATION OF SPECIAL ASSESSMENT AREAS; ESTABLISHING THE PROCEDURES FOR IMPOSING ASSESSMENTS; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF ASSESSMENT ROLLS; PROVIDING THAT ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR AN ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES AND CLAIMS; PROVIDING PROCEDURES FOR COLLECTION OF ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; AUTHORIZING THE ISSUANCE OF OBLIGATIONS SECURED BY ASSESSMENTS AND PROVIDING FOR THE TERMS THEREOF; PROVIDING THAT THE CITY'S TAXING POWER SHALL NOT BE PLEDGED; PROVIDING REMEDIES; DEEMING THAT PLEDGED REVENUES SHALL BE CONSIDERED TRUST FUNDS; PROVIDING FOR THE REFUNDING OF OBLIGATIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The City Manager noted that approval of this ordinance would allow the City to use the uniform method of collecting non-ad valorem assessment for the acquisition and improvement of Regions Way. He continued the estimated cost for repair is about \$250,000; and that they have a petition from the majority of the affected property owners to use this system. He added the goal is to have everything completed by early summer.

Councilmember Braden moved for approval of Ordinance 16-04-CC on first reading and direct staff to schedule the second reading on January 19, 2016; seconded by Councilmember Dixon. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

19. Destin Youth Council By-Laws

The City Manager noted that after appointing several students to the Destin Youth at the previous meeting, the City Council had indicated they wanted to review and possibly amend the Destin Youth Council by-laws.

Councilmember Wood pointed out that the meeting attendance list provided by the City Clerk per his request showed four scheduled Destin Youth Council meetings cancelled in 2015 for lack of a quorum; and that there were a total of 12 members appointed in 2015 with a quorum of seven. He stated that many student members of the Youth Council are also involved in other activities such as band, soccer, tennis, and cheerleading, and sometimes are unable to attend meetings. He continued that amending the by-laws reducing the maximum number of membership, which is currently at fourteen, as well as changing the quorum standard should be the last resort. He recommends changing regular meeting dates and times to accommodate more students and taking no action on the by-laws at this time.

Councilmember Foreman stated that most students are usually gone on vacation or visiting colleges during the summer months.

Councilmember Ramswell noted that the average number of members present for meetings has been seven or eight during the past several years; and that the numbers of meetings that have been cancelled for lack of a quorum have been increasing. She suggests changing the number of maximum membership from 14 to eight; with each Council member and the Mayor nominating one member.

Councilmember Dixon suggests having an odd number for memberships in order to avoid deadlock caused by a tie vote.

Councilmember Wood stated they may be taking opportunities away from other students to join the Youth Council by reducing the membership number. He suggests allowing the current Youth Council members to review their by-laws and have the City Clerk bring back their recommendations to the City Council for their consideration.

Having no objections from the other members of Council, the Mayor moved on to the next agenda item.

20. Request to execute division of Water Restoration Assistance Grant for Heritage Run

The City Manager stated that Senator Gaetz and Representative Gaetz were able to incorporate this grant to the Fiscal Year 2016 budget. The State appropriation will reimburse the City \$500,000 for this project; and that the City allocated an additional \$500,000 from fund balance in its Fiscal Year 2016 budget to fund the project. He continued the period of agreement extends to September 2016. The project has been designed, and City staff is prepared to release the Request for Bids (RFB) for the project's construction once the agreement is executed.

Councilmember Wood moved to authorize the Mayor to execute DEP Agreement No. 50846 to provide financial assistance in the amount of \$500,000 for the Destin Heritage Run Drainage Project and reaffirm its commitment to fund the remaining \$500,000 of the project's cost from fund balance; seconded by Councilmember Foreman. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

21. City Manager comments

- a. Deepwater Horizon Oil Spill-Phase V proposed early restoration project – Leonard Destin Park – donation agreement

The City Manager informed Council the City of Destin was selected for the acquisition, construction and ten years of operation and maintenance activities for a new 3.42-acre park on Calhoun Avenue to be named Leonard Destin Park. The DEP has contracted with the Trust for Public Lands to acquire the property and to construct the park improvements. The Trust requires that the City of Destin agree to accept the property and the proposed recreation improvements as a precondition of them closing on the property. He asked Council to authorize up to \$16,000 in closing costs; \$10,000 to be funded from the City Council Contingency Fund and \$6,000 from the City Manager Contingency Fund.

Ms. Kate Brown, Senior Project Manager for Trust for Public Lands spoke on the subject. She remarked this is one of four parks they are building within the Florida Panhandle that will be funded with Deepwater Horizon Oil Spill Settlement Fund. The Trust for Public Lands will purchase lands using the settlement funds and spend a year to 18 months developing the parks and then donating them to local municipalities. She stated they have completed the conceptual plan for the Leonard Destin Park which includes such amenities as handicap accessible beach access, boardwalk and deck with a kayak launch, improvements to the existing dock, interpretive elements such as an historical seine boat and educational signage, public art, a playground, a splash pad, a restroom and a gravel parking area. Once the park is completed, ownership will be transferred to the City of Destin. There will be restrictions that will come with the property to make sure it is not converted to some other use in the future; and these restrictions will be conveyed to the City very soon.

Councilmember Trammell moved to authorize the Mayor to execute the Donation Agreement with the Trust for Public Lands to accept the property at 101 Calhoun Avenue and recreational facilities on the property once constructed. In addition, to authorize up to \$10,000 in closing costs to be funded from City Council Contingency (0151110-599000) and up

to \$6,000 to be funded from City Manager Contingency. Councilmember Ramswell provided a second to the motion. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

- b. Spring Break Supplemental Funding – Interlocal Agreement between the City of Destin, Okaloosa County, and the Okaloosa County Sheriff’s Department

At this time, the Mayor reminded Council of earlier comments made by Mr. Steve Menchel and Ms. Teresa Hebert relating to this item and asked that they consider these comments during their deliberations.

The City Manager remarked he had been working with Okaloosa County and the Okaloosa County Sheriff’s Department to address the concerns that the Spring Break behavior to the East of Destin would migrate to Destin as a result of increased enforcement activities in those jurisdictions. He stated that the Sheriff’s Department has developed a contingency plan that will enhance the resources to deal with Spring Break activities. He continued these additional resources will provide an enhanced level of service if the Spring Break behavior increased from years past; adding these additional resources will only be deployed if there is an increased problem with Spring Break behavior. He also stated Okaloosa County is proposing an interlocal agreement between the parties to implement this plan; and if approved, resources will be deployed on all of the beaches in the County if needed. He further noted that the cost of this enhanced level of service is expected to be \$107,150. He added that the Sheriff’s Department estimates that approximately 70 percent of the calls for service were from the Destin area in Fiscal Year 2015; and as a result, Destin’s share of the cost would be \$74,900. He also added the County Attorney has opined that the Tourist Development Department (TDD) funds cannot be used to cover the cost for these additional resources.

Councilmember Dixon stated that as the Council representative to the TDD, he supports having the TDD fund this initiative despite of TDD’s position that law enforcement is not a legitimate expenditure for TDD funds. He also noted that Okaloosa County Sheriff went before the TDD over a year ago to request funding; however, he is not sure whether the Sheriff specifically requested funding for additional resources to handle Spring Break activities. He added he would be willing to bring this up at the next TDD meeting, and possibly even make a motion for the TDD to consider Spring Break as a special event and provide some funding for it. He suggests they go ahead and approve the interlocal agreement tonight in the event the TDD declines the request.

Councilmember Marler inquired as to the Sheriff Department’s plans for handling Spring Break activities.

Capt. Ted Pecot from the Sheriff’s Department stated it would be business as usual. He continued if there is a possibility of losing control of a situation, the contingency plan gives them the opportunity to start making physical arrests and transporting people to jail rather than issuing warnings and allowing people to resume their activities. He also mentioned that the contingency

plan includes utilizing off-duty personnel, which would result in overtime pay. He added the majority of their problems last year came from larger rental homes.

Councilmember Wood moved for approval of the interlocal agreement with Okaloosa County and the Okaloosa County Sheriff's Department for additional Spring Break resources at no more than \$107,150 split 70%/30% between the City and County and fund the City's portion of \$74,900 with budget over-funding from the 2015A debt service account and make the appropriate budget amendment to the 2015A debt service and sheriff services accounts; seconded by Councilmember Trammell.

Councilmember Trammell asked if TDD could reimburse the City for their expenditures for the additional Spring Break resources by calling it a special event as they have done with other jurisdictions.

According to Councilmember Dixon, he would do what he could to secure funding from the TDD. He also asked that the City Manager come up with some ideas on how they could justify this initiative as a legitimate expenditure for the TDD.

Councilmember Ramswell noted she had been very vocal about this issue; and that she had gone before the TDD in April of last year asking them to be proactive about matter. She continued she presented TDD an 11-page document specifically pointing out within that document that the Bay County Tourist Development Council (TDC) began funding Spring Break as a special event back in 2013; and that they increased that funding to \$300,000 in 2015. They consider Spring Break as a special event and using TDC funds marking it for "special event security personnel." She also stated she sent this information to the TDC as well as the Board of County Commissioners. She also noted that Destin contributed 65% of the bed tax collected for Fiscal Year 2015; adding that Destin contributed approximately \$10.8 million of the \$16.7 million in bed tax revenue collected. She also added she is very much in favor of providing additional resources to handle Spring Break activities, but she believes it should be the Okaloosa County TDD and not the Destin taxpayers who should pay for it.

Councilmember Marler agrees with Councilmember Ramswell; adding that the TDD does a good job advertising for visitors to come to this area. But, TDD should also provide funding to make sure the infrastructure can support the influx of tourists every year. He added he supports passing the motion on the floor and then persuading TDD to provide most of the funding.

Councilmember Foreman mentioned that the hospitality industry has lobbied the legislature in Tallahassee to prevent using the funding that goes into the bed taxes for anything other than tourist development; and that even their own legislators who are supporting the effort to get them some relief had admitted they have been defeated in the legislature because of it. He added he believes this will be the case until the law is changed.

Councilmember Braden inquired as to the result of the effort from last year to have night club owners police themselves.

According to the City Manager, night club owners came to the City Council last year and basically stated they believe they could enforce the rules themselves; adding that club owners met with City staff afterwards and stated they would be able to handle behavioral issues by adding additional resources rather than having Council reduce their hours of operations. However, this particular issue involved calls for service at night clubs and not a specific Spring Break issue.

Councilmember Braden echoed Councilmember Ramswell's sentiments regarding the Spring Break issue, stating that he supports having the TDD, not the Destin residents funds the cost for additional resources to deal with Spring Break activities.

Councilmember Ramswell stated they should have the prerogative to ban consumption of alcohol on public beaches.

The City Manager noted they currently have rules prohibiting consumption of alcohol on public parks, beaches and beach accesses, but they have never been enforced. Predominantly, the enforcement of the laws has been with the underage drinking giving out notices to appear rather than physical arrests. The plan involves making the physical arrest and transporting the individual to Crestview versus giving out a notice to appear.

Capt. Pecot noted if they enforce the no alcohol on the beach rule in Destin it would only affect a small portion of the beach since the majority of the beaches in Destin are private.

Councilmember Ramswell asked what would happen if the motion on the floor is defeated.

Capt. Pecot stated that because of the heavy handed enforcement they have used in Bay and Walton counties, there would be a potential migration of spring breakers into this area; and that with the manpower resources they currently have, they would be overwhelmed very quickly without bringing in overtime personnel.

Councilmember Braden inquired as to the Sheriff posse's level of involvement with the beach during Spring Break.

Capt. Pecot stated they get volunteers from the posse to come out to the beach during Spring Break; however, most posse members work Monday thru Friday. He continued they typically have special events and festivals during the Spring Break timeframe that also require involvement from the posse. He added that the posse has to act under the direction of sworn officers, and so they are not a huge force multiplier when dealing with Spring Break activities.

Having no further comments from the Council members, the Mayor called for a vote on the motion, which passes 5-2 (Council members Trammell, Wood, Marler, Foreman and Dixon voted "yes"; Council members Ramswell and Braden voted "no").

Councilmember Trammell moved to authorize Councilmember Dixon to present this item and secure funding from the TDD with support from the City Manager; seconded by

Councilmember Marler. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

c. Conservation land use: discussion

At this time, the Mayor reminded Council of earlier comments from several citizens relating to this item and asked that they consider these comments as they discuss this subject.

The City Manager noted that a packet of documents relating to this subject matter was previously provided to Council in response to some questions relating to the historical overview of the designation for conservation as well as for the future land use and subsequently the zoning categories for Parcels B and C. He stated that in late 1995, part of the Summerchase litigation was against the City approving a development order which was subsequently challenged at some point. The project is now known as the Inn at Crystal Beach. One of the issues in that litigation was a 50' conservation zone on private properties. A memorandum by Ms. Jane Moore, the City's Planning and Zoning Director at the time summarizing the actual proposed settlement agreement between the parties that would resolve this litigation was sent to Council. Attorney Robert McGill, the Land Use Attorney during that period transmitted the proposed amendments to the City's comprehensive plan to the State, and then subsequently back to the City for first and second reading. It mirrored the language in Ms. Moore memorandum to the Council. The settlement agreement was signed at the end of 1995. It was memorialized on February 5, 1996 on first reading and February 20, 1996 on second reading deleting conservation land use category on privately owned property and creating conservation land use category on publicly owned property. The two parcels involved were what was then a County-owned Norriego Point as well as the State-owned land seaward of Parcels B and C. The High Density Residential (HDR) designation was placed on Parcels B and C. These were memorialized in the zoning ordinances and subsequently reaffirmed in the City's Comprehensive Plan: 2010 adopted in 2005. They were subsequently included in the zoning maps in 2006. The zoning should match up with the future land use for consistency, and this was accomplished in December 28, 2006.

The Land Use Attorney stated he had reviewed all the documents the City Manager provided to Council and that in his opinion the site had been legally designated as HDR for over 19 years.

Councilmember Braden argues that the documents they received from the City Manager do not explain how the zoning designation for Parcels B and C became HDR. He stated that during his recent conversation with Ms. Moore, she assured him the particular litigation referenced in the packet had nothing to do with Parcels B and C; and also according to Ms. Moore, Attorney McGill told her the same thing when they spoke on phone. He added that the documentation was all about Crystal Beach.

According to the Land Use Attorney, the settlement agreement had certain land use plan amendments attached to it; one of which created several modified land use categories. One was the conservation land use category which specifically applies only to government-owned lands. Since

only government-owned lands were eligible to be placed under conservation category, the City had to decide which category to place lands that did not fit into the conservation category. The zoning map that was attached to the final amendments placed Parcel B in HDR category, and placed the government-owned land adjacent to it, and just to the south and southwest of it, in conservation category. The zoning map became part of the comprehensive plan at that point, and these designations had been in place since February 20, 1996. The zoning map was amended in 2006, and it was adopted in the ordinance and currently in Section 7-12.01 in the City code. The zoning map that is attached to the ordinance clearly shows Parcel B being in HDR and the rest being in conservation. He added this is a legally permissible method by which to adopt a plan amendment, and that the ordinances were voted on by the Destin City Council and went into effect on February 20, 1996.

The City Manager noted that the original motivation for changing the conservation category did not have anything to do with Parcels B and C, as it involved litigation in the Crystal Beach area. In 1996 they deleted conservation category on privately-owned property. However, the unintended consequence of the litigation is that it basically changed conservation land designation for privately-owned parcel in other areas of the City; including Parcels B and C.

Councilmember Ramswell noted the minutes of the meetings back in 1996 did not include any discussions relating to any zoning change.

The Land Use Attorney stated there are no requirements that there be any discussion of any ordinance that comes before the City Council; and that the only requirements are for the ordinance title to be read and a legally constituted vote be taken. He added each individual map changes that may have occurred at the time, may not have been specifically discussed.

Councilmember Ramswell noted the amended FLUM attached to the 1996 ordinance did not include Parcels B and C.

According to the Land Use Attorney, the area on the FLUM that has "HDR" designates the entire block, going from Parcels B and C all the way to the northwest in to the privately owned area of Norriego Point.

Councilmember Ramswell noted that based on documentation, public comments, easement and on the Corps of Engineers, this particular parcel, whether it is publicly or privately owned, was originally seen as conservation land and not to be built on; adding she supports rezoning this area back to conservation as was originally intended.

The Land Use Attorney maintains that land held for spoils easement is not necessarily conservation land; and that if it is spoils easement that is used with some frequency, it is actually inconsistent for conservation purposes.

Councilmember Foreman asked when Parcel B first became private property.

Mr. Gallander stated that according to the property appraiser it was owned by the United States in 1973, and it became White Sands Corporation in 1980.

The City Manager added that pursuant to the settlement agreement in 1996, the City Council converted all privately-owned conservation land to some other land use designation; and that they believe Parcel B was designated HDR at that time.

Councilmember Marler stated that not knowing how much of this particular parcel is actually buildable is part of the problem; as well as the perception that the owner will develop on this land. He asked that Mr. Matthews be allowed to speak to render his opinion on this issue.

Mr. Matthews stated the property went into private ownership in 1980 when White Sands development received a 99-year lease with a 99-year option to renew on everything that is Holiday Isle today and proceeded to develop it. The conversion to fee simple was an act of the legislature. About 15 to 20 years ago, a mechanism was set up through the Okaloosa County Property Appraiser's Office to end up with a fee simple title; and most of the properties on Holiday Isle today are fee simple. Mr. Matthews also stated that Parcel B is fee simple title ownership and has been for quite some time; and that his client has owned that property for a few years. He continued the Destin City Council approved a 798 unit condo project for all of Destin Pointe, including Parcel B, at one time. They built a 66-unit building and went through some series of buying out some loans in the 1980s under the name of Destin Guardian. Mr. Bill Harrington of Little Rock, Arkansas converted it into a single family home subdivision which is what they see today.

Mr. Matthews also noted the litigation between the association and his client is about what they can and cannot build on that property; and that the Holiday Isle Homeowners' Association filed a separate lawsuit in that regard. He stated that Parcel B is about 13.5 acres, and all but 6 acres is subject to the spoils easement. There were 7 spoils easement from Norriego Point to the Jetties on the east side; but, the Corps of Engineers abandoned 6 of the spoils easement over the years. The one on Parcel B and probably part of Parcel C are all that remain. He also stated it would not make much sense to seek a development order to try to develop that property at this time because they would be facing a lawsuit from the Corps of Engineers. He continued there is no current plan to develop that property; however, that could change in the future. Right now it is a private property just like all the other properties that had the 50 foot buffer zone that were removed and had another land use designation put on it. Also according to Mr. Matthews, there was not a conservation land use element in place in 1996. There was an area drawn on the Gulf Front properties of the 50 foot buffer zone, which went away as part of the lawsuit with Summerchase. They created a brand new category called conservation, which is typically for publicly owned lands. He added if the City wish to obtain this property and possibly turn it into a public park, they have the option to purchase it or obtain it through imminent domain.

Councilmember Marler asked Mr. Matthew for a survey map that shows what is actually buildable on this private property.

Mr. Matthews stated he would provide staff a survey map with the Corps of Engineers easement overlay on it.

Councilmember Ramswell Mr. Matthews if he had any knowledge about a sand dike that transverses the spoil easement to the south parcel.

Mr. Matthews stated he has no knowledge of any actual boring, rock structure or anything similar.

Councilmember Dixon remarked he did not see any advertisements in the package they received from the City Manager notifying the public of the zoning change. He also asked if they could send a letter to the Corps of Engineers stating they would resist any attempts to remove the spoils easement on this property because it is essential to have a place to put the sand if they have to dredge the East Pass.

The City Manager stated they would research copies of any advertisements done in 1995 or 1996 for the zoning change. He also stated when they dredge the East Pass the sand is directed to the west, not to the spoils easement to the east; adding this was the settlement the Corps of Engineers entered into with property owners to the west as it relates to the sand. He continued it is currently the permit that is in place; however, the Corps of Engineers has committed to work with the City to modify the permit. He added the Inlet Management Plan they currently have in place allows sand to go to the beaches that are most critically eroded.

Councilmember Dixon noted he suggested at the last meeting that they hire an independent attorney to review and give a legal opinion on this issue.

Councilmember Dixon moved to hire a special Land Use Attorney to review all the appropriate paperwork that have been provided and determine whether or not this is a buildable piece of property; seconded by Councilmember Marler.

Councilmember Ramswell noted she had just sent a copy of a map from the Corps of Engineers to the IT Manager via e-mail. The map shows a sand dike that runs the entire length of Parcel B and down into the State-owned easement. It also shows a privately-owned easement at the top of the map essentially forming a "T."

According to the City Manager, he had also seen the rendering as well as the reference to the sand dikes. He stated the Corps of Engineers talks about the need for the sand dike on Parcels B and C for the structural integrity of the jetty; however, they do not have the authority to put the sand dike on this property. He added that the document they have on the legal easement refers more to the spoils easement not the sand dike.

Councilmember Foreman noted he was a member of Council on portions of the proceeding relating to amendments to the comprehensive plan in 1996, and that there were advertisements that went out inviting people to come to the public hearing. He also noted the comprehensive plan amendments also went before the City's Planning and Zoning

Commission, which was a formal body that first reviewed the proposed plan. He added the plan changed based upon litigation, and the result applied to the entire City.

Councilmember Foreman also stated he has no objection in hiring another attorney to study this issue; but, he needs for everyone to realize that this attorney will be presented with the same exact document that each of them already received. He does not think they will learn anything new and be in better position than they are now; adding the City could be injected in the middle of a lawsuit between two private entities. He suggests waiting for the outcome of that litigation.

Councilmember Wood stated he has no problem bringing in another attorney to review and opine on this issue as long as they accept that attorney's opinion and move forward.

Councilmember Braden reiterated that everything he had read and all the documentation they have on this issue relate to the Crystal Beach area and not to the entire City of Destin.

Councilmember Trammell asked if they would address some of the Holiday Isle issues in the comprehensive plan once the litigation has been settled.

According to the Land Use Attorney, there is a proviso in the plan that applies to height limitations only.

Councilmember Braden asked how they plan to hire the outside counsel; adding he would like to make sure they hire someone that could give an unbiased opinion on this issue.

According to the City Manager, they would follow the same procedure they used to hire the special counsel to review issues associated with B.I., Inc. They will look for someone outside of the immediate area, possibly in the Tallahassee area, and make sure that individual does not have any real or perceived conflict of interest.

Councilmember Trammell asked the City Manager to include the cost as well as the source of funding for this service when they bring it back for Council's approval.

Having no further comments from the Council members, the Mayor called for a vote on the motion, which passes 6-1, (Council members Trammell, Wood, Marler, Dixon, Ramswell and Braden voted "yes"; Councilmember Foreman voted "no").

COMMENTS FROM THE AUDIENCE

Mr. Jim Bagby, a Destin resident, commented on an earlier discussion relating to Spring Break supplemental funding and the City's plan to request funding from the TDD. He stated the Destin taxpayers should only pay for half of the 70 percent additional funding and the County should pay for the other half. He continued the single biggest call location is probably the James Lee Park, which is a County park; and that all of Destin beaches are in the County. He also stated the County

benefits from the property tax collected in Destin and they should be using these ad-valorem dollars in paying their fair share of the cost to manage Spring Break activities.

Mr. Steve Menchel went back to the podium to clarify his earlier statement. He stated he is in favor of spending the money for the additional resources needed for Spring Break. He is merely challenging the City's share of the cost. He also agrees with the idea of trying to convince the TDD to consider Spring Break activities as a special event and fund it accordingly. He would also like to impress upon the County that the safety of tourists is as important on land as it is while in and around the water.

Mr. Darryl Shelton referred to an earlier comment by Capt. Pecot when referring to Spring Break activities that the biggest problem last year was in single family housing; adding the City Council should commit to occupancy limits for single family.

Ms. Marcie Bell noted a picture on her phone that shows conservation land that is over the entire Parcels B and C and that it has been that way since 1982. She stated that since a part of their comprehensive plan states that a piece of property may be conservation or HDR according to its neighboring parcels, they should choose the one that has the most stringent zoning.

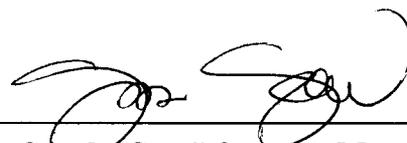
Having no further comments from the public, the Mayor closed the public comments portion of the meeting.

Councilmember Trammell noted that several times tonight they had to vote to set aside the order of the day to vote on walk-on items; and that they voted on these items without the benefit of public input. She stated that several years ago Council members agreed to govern themselves by making sure all items are agendaed and pertinent documentation provided to all members of Council and the public before discussing and voting on any issues. She suggests they continue to follow this practice.

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

ADOPTED THIS 7TH DAY OF MARCH 2016

By:



Sarah "Sam" Seevers, Mayor

ATTEST:



Rey Bailey, City Clerk