

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
MARCH 7, 2016
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 Sam SeEVERS	Councilmember Jim Wood
Councilmember Jim Foreman	Councilmember Prebble Ramswell
Councilmember Cyron Marler	Councilmember Tuffy Dixon
Councilmember Sandy Trammell	Councilmember Rodney Braden

Destin City Staff

City Manager Greg Kisela	City Clerk Rey Bailey
Public Information Manager Doug Rainer	City Engineer David Campbell
Finance Director Bragg Farmer	Planning Manager Ashley Grana
City Planner Hank Woollard	IT Manager Webb Warren
Parks/Recreation Director Lance Johnson	HR Manager Karen Jankowski
CRA/Development Manager Steve Schmidt	City Attorney Jerry Miller
Land Use Attorney Scott Shirley	

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Sam SeEVERS 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. Proclamation – Harvest House 30th Anniversary

The Mayor read the proclamation recognizing the 30 years anniversary of the Harvest House, and then presented it to the Harvest House Board Chairman Jerry Ogle, Executive Director Lori Joyner, and Mr. Jason Belcher.

APPROVAL OF MINUTES

2. Request approval of minutes of the February 16, 2016 regular city council meeting
3. Request approval of minutes of the January 4, 2016 regular city council meeting

Motion by Councilmember Wood, seconded by Councilmember Marler, to approve the minutes of the February 16, 2016 and January 4, 2016 regular council meetings passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”),

PUBLIC HEARINGS

4. Second reading of Ordinance 16-09-CC - Amendment to Cemetery Ordinance

The City Attorney read proposed Ordinance 16-09-CC by title; and then presented it to the Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN REGULATING CITY CEMETERIES; PROVIDING FOR AUTHORITY; PROVIDING FOR PURPOSE; PROVIDING FOR MODIFYING CITY CODE SECTION 7-28 - *TOMBSTONES, MONUMENTS AND MARKERS*; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Manager noted this ordinance, which was approved on first reading, increases the size of grave markers, giving family members more of an opportunity to provide expressions to their family members and friends.

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

Councilmember Wood moved for approval of Ordinance 16-09-CC on second reading; seconded by Councilmember Foreman. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

5. Second reading of Ordinance 16-10-CN - Approval of perpetual and temporary easements and license agreements for FDOT US Hwy 98 project

The City Attorney read proposed Ordinance 16-10-CN by title; and then presented it to the Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, RELATING TO DONATION AND CONVEYANCE OF PERMANENT AND TEMPORARY EASEMENTS AND A LICENSE AGREEMENT TO THE FLORIDA DEPARTMENT OF TRANSPORTATION; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDING OF FACT; PROVIDING THE NEED FOR SUCH CONVEYANCE; PROVIDING FOR THE MAILING OF A CERTIFIED COPY OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

According to the City Manager, the Florida Department of Transportation (FDOT) is acquiring easements and license agreements for the purpose of widening U.S. Hwy 98 from the County line to Airport Road; and that they need certain access rights from the City in order to tie the reconstructed roadway to some of the existing City streets to provide smooth transitions to the City streets outside the scope of their existing rights-of-way.

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

Councilmember Wood moved for approval of Ordinance 16-10-CN on second reading; seconded by Councilmember Trammell. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

6. Second reading of Ordinance 15-17-PC: Comprehensive Plan: 2020 – Proposed Amendments to Chapter 1: Future Land Use Element and Chapter 13: Glossary

The City Attorney read proposed Ordinance 15-17-PC by title; and then presented it to the Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING ITS COMPREHENSIVE PLAN: 2020; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR TITLE; PROVIDING FOR JURISDICTION; PROVIDING FOR INTENT; AMENDING CHAPTER 1 - FUTURE LAND USE ELEMENT INCLUDING FUTURE LAND USE MAP 1-1 AND CREATING A PLANNING AREA MAP 1-1.a; AND AMENDING CHAPTER 13 – GLOSSARY; PROVIDING FOR TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The City Manager noted that on December 15, 2015, the City Council heard and approved Ordinance 15-17-PC on first reading and directed staff to forward the amendments to the Florida Department of Economic Opportunity (DEO) for review. On January 19, 2016, the DEO indicated they had no comments. In addition, staff has received no comments to change the proposed comprehensive plan amendment from other reviewing agencies pursuant to Florida Statutes.

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

Ms. Carrie Harbarger, a Destin resident, asked Council to consider delaying the approval of this ordinance until the new Council comes on board later this month. She stated this ordinance, as currently written, will lead to an increase in development with a lack of capacity, and that it will increase the height and density in some areas of the City. She continued the new Council will not have any oversight if this ordinance does not come before them.

The Mayor noted that the Council members are the oversight; and that the entire comprehensive plan was developed as a grass root efforts that came forward through the visioning process. She added that the plan came before the Council and they vetted all the issues.

According to Ms. Harbarger, when the developments come up, they would want the people they voted for to be accountable for what they want as citizens and stakeholders; and that they would like the new Council to take on that accountability.

Mrs. Mary Anne Windes, speaking on behalf of the Destin Fishing Fleet, read the following written statement for the record:

“My name is Mary Anne Windes, and I am the managing partner and spokesperson for the Destin Fishing Fleet Marina - a 3+ acre parcel on the Destin Harbor located at 210 Harbor Blvd. I'm representing 47 fishing families, many of whom have been around for multiple generations. This

city was built on the backs of our people. Many of the charter leaders would be here tonight but they are in Tampa at Charter for Hire Advisory Panel meetings to generate support for industry management.

As you know, the Fleet submitted a Tier III application for a proposed 15-story development that was previously brought before but not accepted by Council, and we have continued to anticipate bringing a development out of the ground - not by choice but out of necessity. It is our only way to secure the survival of our fisherman which is our corporate goal. I'm not a developer, contrary to what you might have read, but I am guilty of pouring my heart and soul into my support of the Destin fishermen. They didn't sell out, and we hope you guys will stand firm and not sell them out either.

Although the Canin plan represents an approximate loss to the Destin Fishing Fleet's development of 25% of our buildable space, we are, for the greater good of the entire City, supporting the Envision Destin recommendations "as written and presented in their entirety by Canin Associates on August 11, 2015" as long as you make no changes or modifications of any kind. Would we recommend changes? Yes, but we have to start somewhere, and by "WE" I mean the City of Destin, and you have the opportunity tonight to finish what you started.

Growth is inevitable. Trying to stop it by stopping this plan will let it continue at 15 stories.

The fishermen who I represent have watched Destin transform from a small fishing village to a world class destination. They've never denied anyone's opportunity, and they shouldn't be denied by "I got mine-er's". This is a huge opportunity for which you've already spent \$200,000 plus had considerable public input. Not everyone got their way - not us, not some others, but let's not waste that time, energy, and money. I've come to know the Comp Plan better than most people, but I know that I don't have near the talent, expertise, or knowledge to second-guess Canin or Scott Shirley, and I suspect that no one else in this room, with perhaps the exception of Steve Bennett, knows better what you should do than them.

You voted to approve the Comp Plan last time with a 5-2 vote. Five of you stood together in solidarity. Nothing has changed. If you plan to change your vote tonight, I hope you will be able to enlighten us with the new information that has come to light since December 16, 2015, and I pray that you don't try to hide behind the unfortunate loss of Community Director Ken Gallander which has NOTHING to do with the approval of this plan. I sympathize that some of you might feel a little squirmish because of the city election and you fear that a vote for the Comp Plan might hurt your political image, so I would suggest to you that if you do the right thing, every time, and not flip-flop your vote because of your own election fears, you will garner a lot more respect and votes than if you are seen as weak, timid, and wishy washy.

Please remember that a previous council failed to approve the previous Comp Plan 2 years ago on a second reading and handed the responsibility over to you. If you've handled it well, then vote to approve the Comp Plan again tonight.

Development is ramping up. How well do you think you will fare turning down large developments, if that's your game plan, before the lawsuits start piling up? You have an opportunity TONIGHT to reduce height to 10 stories, and it seems likely that you will get away with it. This opportunity may not come again. I'm concerned that you are playing with fire.

To be clear, the Destin Fishing Fleet is adversely affected by the changes. We envisioned a height limitation of 12 stories rather than 10 plus a greater FAR, and we never expected to lose units per acres, but we applaud your efforts in hiring Canin, believe in the greater good that you had in mind, and believe that they have done their best to try to make a fair compromise."

Ms. Leigh Moore, representing Howard Group, spoke next. She remarked they feel these amendments are important steps in the right direction and are urging Council to pass and move forward with this plan tonight. She added they are looking forward to continuing to improve on the comprehensive plan and making important changes to the Land Development Code that would serve all the citizens of Destin.

Ms. Reta Shreve, a Destin resident, stated that City staff has been allowed to sign development variance orders in the past without having to go before Council for a vote; and that she feels this comprehensive plan amendments would allow this practice to continue. She also stated that whenever there is a change in the development it should go before the City Council for approval. She asked Council to take a closer look at the plan and consider delaying their vote on whether or not to approve it; adding there is still a problem with this plan or it would have passed unanimously on first reading instead of a 5-2 vote.

Mr. Shane Moody, President and CEO of the Destin Area Chamber of Commerce, stated this plan is about Destin as a whole; and that it is a good plan that needs to be put into place. He continued it is not about Destin of today, but it is about Destin in the future. It sets the stage in creating the kind of community with good economy, with high skilled high wage jobs, and a place where businesses want to locate. He also noted that Destin is a City with about 13,000 permanent residents; but, with 85,000 to 90,000 people at certain times in a year. He continued they have to make big city decisions because they have big city problems to solve. He added the Chamber Board has been behind this plan from the beginning and is urging Council to approve this plan tonight.

Mr. Ken Wapler, a Destin resident, stated that the current version of the comprehensive plan is not perfect, but it is important for the greater good of the community to move forward with it. He continued they have had public input for over a year, and that major questions should have already been answered. He urged Council to approve the ordinance as submitted so that property owners who have been waiting for over two years can finally move forward and make plans for the development of their property.

Mr. Jonathan Ochs, Chairman of the Board of the Destin Area Chamber of Commerce, stated that the City Council needs to stay the course and make tough decisions even though the term for some of its present members may be coming to an end. He continued that the Board is absolutely in favor of approving the comprehensive plan amendments as written.

Having no other comments from the public, the Mayor closed the public hearing and turned the matter over to the Council members for discussion and consideration.

Councilmember Wood moved to adopt Ordinance 15-17-PC, as amended, incorporating amendments to Chapter 1: Future Land Use Element and Chapter 13: Glossary on second reading and direct staff to forward the final document to the Florida Department of Economic Opportunity. Councilmember Trammell provided a second to the motion.

Councilmember Foreman stated this process started over three years ago at which time a decision was made to pass the matter over to the next Council. He continued it is a continuing

process and does not start and stop on election days. He added the plan is generally well done, and that he would support the motion on the floor.

Councilmember Dixon stated he would support the adoption of this ordinance tonight, but he would also support the new Council if they decide to re-examine any part of this plan at a later date. He continued that the most important elements of the plan will be memorialized in the Land Development Code with Council's approval; and at that point, Council can make sure there is no deviation from the approved comprehensive plan.

Councilmember Marler explained that under the current tiering system, tier 1 and tier 2 developments do not require Council's approval. He stated the Emerald Grande was built before the tiering system was established; otherwise, it would have fallen under tier 3 development criteria which requires a developer to give something back to the community called public benefit. He also stated the developer, Council and the public did not always agree as to the appropriate public benefit for certain projects. Several tier 3 projects have been approved, but none had been developed due to economic downturn. He further stated the current plan is not perfect but it is a way to get started. They have been working on it for over four years and they have never had a complete agreement among the Council, developers and the public. He also added when they hired an outside firm to assist the City in developing this plan, meetings were scheduled where the public were allowed to provide their input. He explained that Council members did not attend these meetings to prevent hearing comments that could taint the way they normally vote.

Councilmember Trammell stated that every document including this plan is a continuing work in progress and nothing will ever be perfect. She continued this is only the first step with regards to this plan, and they would need to keep working to improve it.

Councilmember Ramswell remarked she had never been pleased with the current process. She then mentioned that there were some changes to the plan that were discussed at a previous meeting and referenced in the minutes of that meeting, that were not implemented.

Councilmember Ramswell referenced Chapter 13: Glossary (Exhibit A to Attachment E of the staff report), Policy 1-2.1.2, page 15. She stated that she finds the following language in this policy vague and needs to be clarified: "*Nonresidential uses are land use activities within land areas not defined as residential uses and which are predominantly connected with the sale, rental and distribution of products or performance of services...*" She added they have previously discussed removing the phrase "*within land areas.*"

The Land Use Attorney noted that the phrase "*within land areas*" will be deleted from two areas: Policy 1-2.1.2: Non-Residential Uses Define on page 18 of the plan as well as the Glossary definition on page 15.

Councilmember Ramswell also noted that Councilmember Braden previously pointed out there was a cross-reference in Policy 1-2.4.3. on page 1-34, referencing an incorrect policy area. The recommendation was to delete the cross-reference; however, the cross reference still exists.

The City Manager stated the cross reference will be deleted.

Next, Councilmember Ramswell suggests changing the zoning designation of Parcels B and C back to conservation since they have already received an opinion from a U.S. Army Corps of Engineers representative who has the authority on this subject.

The City Manager noted the standing motion which was adopted by Council several meetings ago was to retain outside legal counsel to evaluate whether or not Parcels B and C were buildable or developable and bring that back to Council. He continued he has identified a law firm capable of providing this service, and that the scope of services will be provided to the new Council shortly after they take office.

Councilmember Ramswell stated they could save the City some money if Council would agree to go ahead and make the change now after hearing the State's position on this matter. She asked if she could offer a motion in this regard.

The City Manager noted it is not what was submitted to the State on first reading.

The Land Use Attorney stated that he strongly recommends hiring an independent counsel and obtaining a legal opinion on this item.

Councilmember Ramswell stated it seemed very clear the public wanted less intensity and density, but it appears it is not what happened; adding the proposed plan showed increased intensity in multiple areas. She also added they need to make sure this document is a representative of the entire community of Destin and not just a few people.

Councilmember Braden stated if this plan passes, he would like to see the City put a halt on any application for minor or major development until the Land Development Code (LDC) is updated. He asked if they have started updating the LDC.

According to the City Manager, they cannot begin the amendment process until the comprehensive plan is approved; adding once the plan is approved they can start making LDC changes to match up with the approved comprehensive plan.

The Mayor asked if the State still allows Cities to submit two comprehensive plan amendments a year.

The Land Use Attorney stated that this particular rule has been repealed. He also mentioned that once Council adopts the comprehensive plan amendments, it will act as a repealer by reference to parts of the LDC; for instance a Tier 3 project will not be able to come in under the current LDC. He added they will proceed with the amendment process to the LDC to conform to comprehensive plan changes.

Councilmember Dixon noted that amendments to the LDC need to be adopted before they could start issuing development orders.

The Land Use Attorney replied affirmatively; adding it is especially true for the larger projects that are significantly impacted by these changes.

The City Manager stated that the point of significant change is the elimination of the Tier 3 process. He also noted that the problem with comprehensive plan: 2010 was the ability of the applicant to do the “double dip” and maximize the intensity and density; but, overall with these changes, they will get a much smaller project because of the elimination of the “double dip” and stacking.

The Mayor asked Councilmember Wood if he accepts Councilmember Ramswell’s proposed amendments to this ordinance.

Councilmember Wood stated he accepts the first two proposed amendments (deletion of the phrase “*within land areas*” from Policy 1-2.1.2 and a cross-reference in Policy 1-2.4.3.); adding he does not accept the proposal to change the zoning designation of Parcels B and C back to conservation as Council voted to retain outside legal counsel to evaluate the situation and provide a legal opinion on this matter.

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, Foreman, Dixon, and Braden voted “yes”; Councilmember Ramswell voted “no”).

**PUBLIC OPPORTUNITY TO SPEAK ON COUNCIL PROPOSITIONS
CONSENT AGENDA***

7. Request approval for use of City streets for the Northwest Florida Track Club’s Annual Chiropractic Run for Health 5k run on April 23, 2016
8. Request approval for use of City streets for the Destin Marathon and Half Marathon on April 17, 2016
9. Request for approval for use of City streets for the Destin Little League Opening Day Parade on March 12, 2016
10. Harbor and Town Center Community Redevelopment Agencies Annual Financial Reports
11. Award of bid for fence replacement at Morgan Sports Center
12. Indian Trail and Monique Court resurfacing
13. Repaving of Regions Way

Councilmember Braden requested that Consent Agenda item #11 be pulled for further discussion.

Motion by Councilmember Wood, seconded by Councilmember Trammell, to approve Consent Agenda items #7 thru #10, and #12 and #13, as printed above, passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

With regards to Consent Agenda item #11 – Award of bid for fence replacement at Morgan Sports Center – Councilmember Braden asked if they are replacing everything with galvanized post.

According to the Parks and Recreation Director Lance Johnson, they are going to all galvanized pole because the useful life is longer; adding they are replacing 80 percent of the fencing

in Phase 1 of the project. He continued that a few outfield fences that are in good condition will be replaced later on this year if they have enough money left from the allotted funds.

Councilmember Braden asked if covering portions of the stand is included in this project.

Mr. Johnson replied it is not part of this bid process; however, they are still pursuing the shade structures Council approved during the budget process and hope to get it done before the summer time.

Motion by Councilmember Braden, seconded by Councilmember Wood, to approve Consent Agenda item #11, as printed above, passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

RESOLUTIONS

14. Resolution 16-05 – Resolution of support for the Calhoun Avenue Pedestrian Facilities Plan

The City Attorney read Resolution 16-05 by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESTIN TO CONTINUE TO SUPPORT CONSTRUCTION OF THE CALHOUN AVENUE PEDESTRIAN FACILITIES IMPROVEMENTS WITH TRANSPORTATION ALTERNATIVE PROGRAM FUNDING; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Manager explained the City had applied for Transportation Alternatives Program (TAP) grant from FDOT last year for the Calhoun Avenue Pedestrian Facilities Plan. They received partial funding for the design last year. A new TAP application is required each year as well as a resolution of support from the City Council.

Councilmember Trammell moved for approval of Resolution 16-05, expressing support for the Calhoun Avenue Pedestrian Facilities Plan, and to further authorize the Mayor to sign Resolution 16-05 on behalf of the City Council. Councilmember Wood provided a second to the motion.

Councilmember Wood asked the City Manager to find out from FDOT if undergrounding the utilities is an authorized expenditure for TAP grant.

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”).

SCHEDULED PRESENTATIONS FROM THE PUBLIC**

15. Economic Development Council (EDC) Quarterly Report – Mr. Nathan Sparks, EDC Executive Director

Mr. Nathan Sparks, EDC Director, gave the following report:

Marketing Initiatives

- Exhibited at the National Defense Industrial Association's Air Armament Symposium held at the Emerald Coast Convention Center November 3 – 4
- Participated in the National Business Aviation Association's Annual Convention and Trade Show in Las Vegas November 17-19
- Served as signature sponsor and exhibitor at the Pacific Northwest Aerospace Association's annual meeting in Seattle February 9-11
- Developed the EDC's 2015 Annual Report

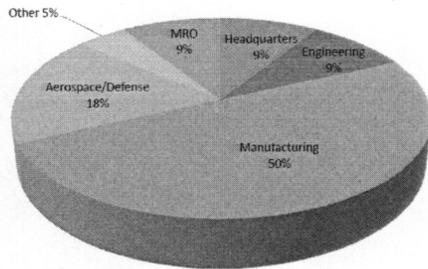
Strategic Initiatives

- Undertook select legislative advocacy geared toward:
 - Much needed funding for Enterprise Florida to promote Florida to businesses
 - Making the State sales tax exemption on manufacturing equipment permanent
 - Eliminating sales tax on commercial leases
 - Support of Governor Scott's proposed "Florida Enterprise Fund", structured as a \$250 million legislative appropriation request that will replace the State's woefully underfunded Quick Action Closing Fund (funded at \$12 million statewide)
- Completed and submitted a comprehensive package on February 12 nominating the community for the Association of Defense Communities inaugural "Great American Defense Community" Award
- Coordinated Okaloosa County's participation in the upcoming Northwest Florida Defense Coalition's Washington D.C. Fly-In scheduled for March 15-16
- Partnered with Florida's Great Northwest and economic development organizations from the seven other "disproportionately affected" counties of Northwest Florida to develop a comprehensive presentation for Triumph Gulf Coast, Inc.

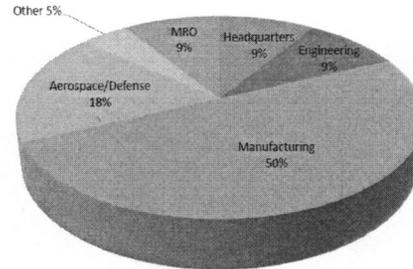
Project Activity

- The EDC continues to experience strong project activity, with 23 active projects currently in the pipeline.
 - Of these, 6 are expansions of existing Okaloosa County operations
 - Of these, 14 were locally generated as opposed to projects that come by way of Enterprise Florida and other state and regional partners
- Below graphs provide insight into the specific sectors and numbers of jobs represented within the EDC's current project pipeline

Industry Sector



Industry Sector



Website Update

- Continues to see good traffic at OkaloosaSite.Com (portal used to highlight specific businesses in terms of business demographic/consumer spending/wages/housing for businesses considering this area)
- Buildings getting the most traffic on the website. Good indicator of future occupancy
 - 124 Benning (2700 square feet of office)
 - 151 Regions Way (4800 square feet of office)
 - 4201 Indian Bayou Trail (6000 square feet of retail space)
 - 36468 Emerald Coast Parkway (a portion of 5000 square foot building)
- Destin continuous to be the most sought out community in terms of web searches
 - 111 searches related to economic development (business searches) since January 2016

16. Fiscal Year 2015 Comprehensive Annual Financial Report, presented by Bruce Nunnally/Partner - Carr, Riggs & Ingram, LLC

Mr. Bruce Nunnally from Carr, Riggs & Ingram, LLC presented the Fiscal Year 2015 Comprehensive Annual Financial Report. After providing a summary of the accounting processes, Mr. Nunnally reported that overall the City's financial statements are presented in accordance with general accounting principle and ready to be sent off to the General Accounting Office for the annual award. They did not see any major deficiencies. There are no significant comments or suggestions that need to be presented to the City Council. He also noted due to the nature of the City's assets, liabilities and revenues, it is one that is very well designed for confirmation, which is the most solid evidence. It is designed in such a way that would make it easier to confirm a lot of things than some other audits. They were able to confirm 100 percent of the City's cash balances, investment balance and debts (notes and bonds); 83 percent of account receivables; and 85 percent

of revenues. Overall, the City's audit is clean, in compliance with financial regulations, and has achieved a high degree of reliance.

The Mayor asked if Mr. Nunnally feels the City of Destin is financially sound; to which Mr. Nunnally replied affirmatively. He added that at this point the long-term debt on the balance sheet of the City is the lowest it has been for 10 or 12 years.

The Mayor commended the Finance Director Bragg Farmer and his staff for an outstanding job.

Motion by Councilmember Trammell, seconded by Committee member Wood, to accept the Fiscal Year 2015 audit passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

17. Trees Destin – Allen French – Discuss upcoming tree projects and thank current Council for all their support

Mr. Allen French, Trees Destin, expressed his appreciation to the Council for their support of Trees Destin and their Main Street Beautification/Enhancement/Tree Planting project in 2015. He also thanked City staff, especially the City Engineer, for being supportive and helpful in ensuring all requirements are met. He also noted that the City's \$5,000 investment on the project turned into a \$70,000 to \$80,000 in monetary and trees donations for the City of Destin up to this date. He then showed several photos of Main Street before and after the tree planting project as well as photos of other projects and future projects.

PROJECT REPORTS AND COMMENTS FROM MAYOR AND COUNCIL

18. Councilmember Braden
 - a. Nomination of Matthew Bomparola to the Destin Youth Council

Councilmember Braden moved to appoint Matthew Bomparola to the Destin Youth Council; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

Councilmember Braden discussed the air conditioning system being installed in the Destin Community Center; stating the current plan is to place the unit 30 feet away from the building and run the duct work from the unit to the Community Center; and that there will be a change order for about \$4,000 to run the metal duct along the wall to connect it to the building. He stated that he met with the contractor to find out what how much it would cost to place a retaining wall around the piece of property closer to the building, back fill it so they could put a slab and place the unit there instead, he was given an estimate of about \$9,000. He suggests spending that extra money for this project and doing it right instead of spending the money to hire a special counsel to provide a legal opinion on Parcels B and C. He added they have already heard from a representative from the US Army Corps of Engineers stating they have no intention of abandoning the easement on that property and therefore nobody can build on it.

According to the City Engineer, they put the air conditioning units where they are currently designed to go in order to save money; but, he would be willing to get pricing for the retaining wall.

The City Manager stated it is one of the things they considered when trying to evaluate where to place the units, adding will try to get a design and a firm estimate for the retaining wall.

19. Councilmember Ramswell

- a. Nomination of Travis Lee Ralph to the Local Planning Agency

Councilmember Ramswell moved to appoint Travis Lee Ralph to the Local Planning Agency; seconded by Councilmember Foreman. Motion passed 7-0. (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

Councilmember Ramswell noted that accidents are very prone to occur right on the curve on Airport Road; and that there were two more serious incidents that happened there in the last two weeks that people are asking her for a solution. She suggests installing a bar with multiple warning lights rather than just one.

The City Engineer stated they have reached out to FDOT on this issue two months ago and learned there is a program FDOT sponsor where a safety audit is performed at no cost to the City. He continued they have requested FDOT to do a safety audit at that particular curve as well as the signal on Commons Drive; and it is currently underway. He added they also plan to meet with the Tree Board to discuss planting trees along that curve that would fit within the safety audit.

20. Councilmember Dixon

21. Councilmember Foreman

- a. Nomination of Wesley Shackelford to the Destin Youth Council

Councilmember Foreman moved to appoint Wesley Shackelford to the Destin Youth Council; seconded by Councilmember Dixon. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

22. Councilmember Marler

Councilmember Marler noted there is a City referendum in the ballot for the March election; and that apparently a lot of people do not understand exactly what the City is trying to accomplish.

The City Manager stated that under the City’s ordinance, vacation of rights-of-way in Scenic Hwy 98 has to be placed in the ballot; and that this particular piece of property continues to be a right-of-way if its vacation fails in the referendum.

23. Councilmember Wood

Referring to an earlier discussion about the curve on Airport Road, Councilmember Wood noted he was at the scene of one accident that happened there about a week ago. He stated the driver of the vehicle was cited for driving too fast at that particular location. He continued most of

the accidents that happened in that curve had some mitigating issue – such as alcohol or speed related issue – and there is not much they could do to prevent them; adding people need to pay attention and obey the speed limit when driving at that location.

24. Councilmember Trammell

Councilmember Trammell noted the Harbor CRA Advisory Committee made a recommendation to place the following items on the CRA Board and City Council meeting agenda:

- Aggressive pursuit of a medallion or decal program to help identify authorize livery vessels to aid in code enforcement inspections for business and parking compliance
- Direct staff to create an ordinance to ensure out-of-service vessels in the Harbor District are on movable FDOT-approved trailers and are not allowed to impact the businesses' required parking
- Reduction of the speed limit in the Harbor District to 25-30 mph

Councilmember Trammell moved to place the three Harbor CRA Advisory Committee recommendations on the CRA Board and City Council meeting agenda at their second meeting in April for discussion; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

25. Mayor SeEVERS

Mayor SeEVERS mentioned that she presented a proclamation today to the Boys & Girls Club of the Emerald Coast who is celebrating the National Boys & Girls Club Week. She added the Boys & Girls Clubs get involved in a lot of community initiatives and that she congratulates them on all their accomplishments.

STAFF REPORTS AND RECOMMENDATIONS

26. City Attorney comments
27. City Land Use Attorney comments
28. Request for funding for Public Services facility sheet metal repair

The City Manager explained this is a request for funding to repair a water leak in the City's Public Services facility.

Councilmember Trammell moved that Porter Roofing Contractors, Inc. be approved to repair the sheet metal on the Public Services Facility in the amount not to exceed \$9,950.00, authorize the City Manager to sign the purchase order in the amount of \$9,950.00, fund the purchase order from the City's Repair and Replacement account and make the appropriate budget amendment. Councilmember Marler provided a second to the motion; which passes 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

29. Increase in contract amount for DRMP, Inc., inspection services for the Hutchinson Street Pedestrian Improvements

According to the City Manager, this is a request for an increase to the contract of DRMP, Inc. that is doing the inspection for the Hutchinson Street Pedestrian Improvements. He continued since this is basically a federal grant, the inspection services have to be separate and apart from the engineer of record, which in this case is the City Engineer David Campbell, pursuant to the grant guidelines. The project experienced persistent weekly rain events and several minor change orders that extended the completion of the project.

Motion by Councilmember Wood, seconded by Councilmember Ramswell, to approve an increase to the contact of DRMP in the amount not to exceed \$12,737.50 for the Hutchinson Street Pedestrian Improvements Project passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

30. Amendments to the Youth Council By-Laws

The City Manager informed Council the Destin Youth Council reviewed their bylaws, and that their proposed changes to the bylaws are outlined in the staff report.

Referencing Section 5 on page 1 of the bylaws that reads, "*Each member of the Destin City Council shall appoint two members to the Destin Youth Council*"; Councilmember Wood suggests changing the language to read "*Each member of the Destin City Council shall appoint up to two members to the Destin Youth Council*" to make it consistent with the Youth Council recommendation for the City Council to appoint "*maximum of 14 members, and a minimum of 6 members to the Destin Youth Council.*"

Councilmember Ramswell moved for approval of proposed changes to the Youth Council Bylaws as amended; seconded by Councilmember Trammell. Motion passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted "yes").

31. Award of bid for the Heritage Run Drainage Improvements

According to the City Manager, the City received a \$500,000 grant from the State and the City Council budgeted an additional \$500,000 to design and install a storm water pumping system to help alleviate the flooding problems at the Heritage Run subdivision. The City solicited bids for the project and received three submittals, and that Talcon Group, LLC submitted the lowest responsible bid of \$575,510.50. He continued the City will purchase the pumps and sole source the generator, and that these items will be presented to Council for approval at a future meeting. He also stated that Jenkins Engineering, LLC, the Continuing Engineering Consultant for the City has provided a proposal to conduct the Construction Engineering and Inspection services for the project in the amount of \$30,000. Also, the City is working with Gulf Power relating to the insulation of the necessary energy to be able to power this pumps station. He added that under the grant agreement with the State, the City is required to complete this project by September 2016.

Councilmember Wood moved to authorize the City Manager to execute the contract with Talcon, LLC in the amount of \$575,510.50 for the construction of Heritage Run Drainage Improvements and execute a contract with Jenkins Engineering, LLC, for construction inspection services in the amount of \$30,000.00. Councilmember Dixon provided a second the motion, which passes 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

32. Capt. Royal Melvin Heritage Park mediation results

The City Manager noted that at the January 19th Council meeting, the Council asked staff to attempt to mediate this issue with representatives from B.I., Inc. and their attorney. They had the mediation session scheduled for February 19th and they had made some progress. He continued they have committed to B.I., Inc. as part of the mediation that although he would not be comfortable recommending a settlement on this issue at this time, they have the right to present their proposed settlement to the City Council.

The City Manager outlined the criteria and rules that the Florida Community Trust has established related to land exchange, the result of the mediation, and the problems associated with the proposed settlement from B.I., Inc.

- The City’s Land Use Attorney and his firm , and the special counsel to the City Joseph Boyd have opined that B.I., Inc. does not have any rights to the existing road on the future Capt. Royal Melvin Heritage Park site
- State of Florida’s requirements for land exchanges as it relates to the grant money to the City of Destin to assist in the acquisition of the property are that:
 - ❖ Only local governments may participate; and then the exchange parcels:
 - must be contiguous to a Trust Project site
 - must be at least equal to or greater in terms of upland acreage
 - must have at least the same real estate value
 - must have a significant and clear net environmental, conservation and/or recreational benefit to the project site as determined by the Trust staff
 - ❖ Exchange cannot result in a lower score based on the approved application criteria
- Points of discussion/issues at the mediation
 - ❖ Easement grants to B.I., Inc.
 - B.I., Inc. had initially requested 2882 square feet of property in the middle of the park for an access drive
 - At the mediation, B.I., Inc. stated they needed additional square footage as they were unwilling to modify their restaurant to accommodate the driveway. This now may be less than 1,500 sq. ft. based on recent communication
 - Based on the above criteria, if the City/State gives up 1,500 sq. ft., they need to be able to get at least 1,500 sq. ft. as part of the exchange

- ❖ Boardwalk easement to the City
 - B.I., Inc. is offering 2000 square feet of property on the harbor front for operation and maintenance of the boardwalk
 - In January 2008, B.I., Inc. had committed to provide this easement as a condition of its building permit to remodel/renovate the restaurant
 - In compliance with Ethics Law, Mr. Destin was unable to affect this for at least two years after he came off the Council around March 2012
 - This was part of the original transaction and should not be included in this particular exchange
- ❖ Parking Easement
 - The City needs one handicap parking space and one regular parking space to accommodate the new park. B.I., Inc. has offered this square footage on their harbor parcel
 - The square footage for this parking is approximately 494 square feet, plus 24 foot drive space. The challenge with this accommodation is that Luther's Pontoon Boats, B.I., Inc.'s tenant on the harbor, is presently short parking spaces for the number of leisure rentals they are leasing on the property
- ❖ Riparian Rights for Transient Boats
 - B.I., Inc. has offered 3 transient boat slips on the eastern side of their deck. This is estimated to be approximately 900 square feet of riparian rights
 - The submerged land lease is owned by the State of Florida and the City would require a submerged land lease from the State. Currently, the City has 3 transient boat slips as part of the lease agreement with the Destin Fishing Fleet
 - By the above rule, since this property is not "upland" it cannot be counted as part of the square footage exchange
- Assuming all the previous requirements are met, then the Trust staff will request the following:
 - ❖ A written statement that at least 6 of the 7 City Council members support the proposed exchange
 - ❖ A revised Management Plan
 - ❖ A survey and legal description of the parcels to be exchanged (paid for by B.I., Inc.)
 - ❖ Title policy of the parcel(s) to be acquired
 - ❖ Separate appraisals for each parcel (paid for by B.I., Inc.)
 - ❖ Phase 1 environmental site assessments of the parcel(s) to be acquired (paid for by B.I., Inc.)
- Needed to create the driveway requested by B.I., Inc. (necessary exchange goal)
 - ❖ Proposed exchange by B.I., Inc.
 - 2,000 sq. ft. boardwalk easement (this is part of original 2008 building permit requirement for the restaurant conversion)
 - 900 sq. ft. dock space (not eligible to be considered in the exchange)

- 3,000 sq. ft. parking access easement (if they take parking, a portion of the access way should be attributable to the City)
- 536 sq. ft. parking/494 sq. ft. parking (whichever is the correct number is eligible for an exchange)

The City Manager also stated that based on the fact they really do not have an agreement they feel they could submit to the State and successfully gets through, and pursuant to the opinion of the special counsel, they recommend proceeding with building the fence and getting the project ready to be put out to bid; adding they anticipate the Restore money being available to the City in the July/August 2016 time frame. He also stated that Tetra Tech, Inc., the designer of the park, has completed the 60 percent design, and that if they revise the design to accommodate the driveway, it would require \$48,000 or \$49,000 in additional fee. He added he is reluctant to recommend B.I., Inc.'s proposals to the Council because he does not think it would meet the State's very strict criteria.

According to the Land Use Attorney, the proposed agreement states this is a public easement currently burden by a public access easement. He stated that the City cannot sign any document that includes that type of language; adding that a private transaction for a land exchange will not extinguish a public access easement. He also stated it is not their opinion there ever was a public access easement and a land swap will not remedy that situation. He further stated they do not know if the State is going to accept the riparian grant, and that they may not be able to structure it as an easement since it is a lease and they cannot put an easement on top of a lease.

At this time, the Mayor acknowledged the members of the public who wish to speak on the subject.

Mr. John Stephens, from Luther Pontoon Rentals, spoke first. He asked Council not to close the access road because it would potentially put them out of business. He stated they employees include include high school and college students, fishing fleet family members, retired military, and some members of the Destin firefighters.

Mr. Jim Bagby, a Destin resident, stated he did not understand the issue relating to property exchange since they are talking about an easement and are not exchanging properties. He then posed the following questions:

- *Where would the parking spots come from if they are not already there?*
- What is the City's plan for acquiring the two parking spots, their locations and how to access them?
- They previously discussed having a band stand area or an area for public gatherings. How would they access this area?

Mr. Bagby also suggests the City talks to B.I., Inc. about helping share the cost of improving the access way and to have an agreement that should they ever redevelop their property, the easement will cease to exist. He also encouraged everyone to continue to work out a settlement for the best interest of the harbor area and the entire City of Destin.

Mr. Dale Petersen, a Destin resident, spoke next. He stated he has been involved for many years with the fishing fleet; and that he and Mr. Kelly Windes met with Capt. Royal Melvin and signed an agreement that gave them a 99-year lease so they could have a submerged land, a park and additional pier for all the fishermen. He also stated the drawings he saw of the riparian rights is literally taking at least six of the boat slips of the sovereign land that they have had for over 25 years.

Mrs. Mary Anne Windes, a Destin resident, stated the Destin Fishing Fleet has worked with Capt. Royal Melvin since the early 1990's on this particular land, and that the Melvin Family gave them the right of first refusal on this land which the Destin Fishing Fleet plans to purchase. She continued that they gave up the right of first refusal for the City to build a park on this property; adding they were told there would be no parking on it, and that construction of the park would begin relatively soon. However, the City closed on the land in 2006, and it has been 10 years and nothing has happened. She continued that the price for an easement in the City of Destin on the harbor is \$42,000 a year; which is based on the amount the Destin Fishing Fleet receives from the property to the east and only for ingress/egress. The City has not had the benefit of receiving \$42,000 a year, and there has not been any talk of a refund. She further stated Mrs. Jean Melvin has warranted to the City that there was no easement on that property; and both the City's Land Use Attorney and the best real estate attorney in the State of Florida have opined there was no easement on that property. She added that no easement existed on this land and to try to give it away is unfair with the agreement the City made with the Destin Fishing Fleet.

Mr. Dewey Destin of B.I., Inc. came forward to address the issue. He stated it is hard to mediate with people who do not stay long enough for the meeting; adding that at the last mediation session, both the City Manager and the City's Land Use Attorney left following a lunch break and the session did not go any further. Mr. Destin proceeded to read the content of the letter from the mediator, a copy of which was also presented to the City Council:

"This letter follows the mediation session last Friday in the above-referenced matter. As agreed, Lisa will prepare her clients' best offer sometime this week and get it to Scott to be presented at the City Council meeting in early March. To be clear, neither Greg nor Scott will recommend the settlement/resolution. They will not actively oppose it other than to say that they cannot support it because of the two legal opinions to the effect that the City's position is correct. Now, what I am saying in this letter does not limit what Scott or Greg can say, but it is my understanding that while neither will support the proposal, they will not do their best to 'crater' it.

This letter will also confirm that both parties have agreed to waive the confidentiality of the mediation sessions."

Mr. Destin stated he is not sure if they are negotiating in good faith since staff did not want to agree to any compromise because of legal opinions against B.I., Inc.'s position; which means the City went in to the negotiation with no intention of negotiating. He then addressed the City of Destin report on mediation results that are contained in the staff report:

➤ Easement Grants to BI, Inc.

Mr. Destin stated that B.I., Inc. did not request 2882 square feet, and that this figure was submitted by the City who stated the Destin Fire Control District required a 20 ft. wide road under their code. He continued subsequent communication with the District has not substantiated any such requirement. Mr. Destin proceeded to read the following letter from the Destin Fire Control District:

“A primary purpose of the fire code requirements for a fire department access road is for the purpose of fighting fires in buildings and structures. The current design and plans for the Capt. Royal Melvin Heritage Park do not require a Fire Department Access Road. However, construction of a building or structure on this property, now or in the future, will require code compliant access.

Access for medical or other emergencies should be a consideration, but is not government by the Florida Fire Prevention Code.”

➤ Boardwalk Easement to the City

Mr. Destin stated this is the same ethical issue they discussed earlier. It was a violation of State Ethics Laws for B.I., Inc. and himself to exchange anything of value such as an easement for a building permit or Certificate of Occupancy (CO). It was also unlawful for the City to require him to violate the law as a condition of a permit or CO; adding this is the reason the City Attorney Jerry Miller stepped in and stopped these negotiations. Delaying the agreement, unlawfully negotiated at the time, would still leave him open to an ethics complaint. Negotiating a new agreement now would not be unlawful since he had been out of office for over two years; and that this is what they have been attempting to accomplish.

➤ Parking Easement

According to Mr. Destin, Luther’s Pontoon’s business license for the last five years has authorized them to have 15 rental boats. As of March 4, 2016, there are nine boats on site. They have met with the City staff to try and understand what new standard they were applying to Luther’s Pontoon’s and seek a solution. He continued that Mr. Ashley Grana from the City stated that he would find out what parking standard was being used; and that they told Mr. Grana they would provide additional parking across the street on their leased property if necessary. He also stated a record of that meeting can be found at City Hall. He further stated that to date the only contact with the City since that meeting was a code violation letter issued on February 29, 2016. He added he could only assume it is an attempt to “crater” the negotiations over the road/park issue.

➤ Riparian Rights for Transient Boats

Mr. Destin stated that the State does not own “submerged land leases.” It owns the submerged land itself. The State then grants submerged land leases to the upland property owners as part of their Riparian Rights. This 900 sq. ft. of submerged land lease is contiguous to the City’s

property and easements, specifically the boardwalk and proposed handicapped parking area, and is eligible to be counted.

Mr. Destin further stated the Destin Water Users has a main water line under the easement that services Holiday Isle. The current Heritage Park design requires a shaving down of the bluff's height necessitating the relocation of that pipe. By keeping that segment of easement in place, the cost of the redesign is offset by the savings made from not having to move the pipe or regrade the bluff and other significant portions of the park property. Additionally not re-grading the property will ensure preservation of numerous heritage Oak Trees located on site.

Mr. Destin then addressed the land exchange rules versus the changes that had been done in the past. He stated that during the lease amendment with the fishing fleet in 2010 on the property on the eastern boundary of the City's property, the Florida Community Trust has confirmed in writing that these changes were potential disallowable uses but were allowed and approved by the Trust. The City released three of its slips to the fishing fleet along with granting a 10 foot easement along the water front and rewrote their management plan in exchange for release of parking requirements by the fleet. Since the Florida Community Trust approved these changes internally, they could certainly allow them to move forward with this issue in the same manner. He continued that if they are successful, DEP and the City will receive in excess of \$1 million in benefits. He added this is not a land exchange. The lease amendment with the fleet was an exchange of easement, which is precisely what they are trying to accomplish.

Mr. Destin further stated that the road in the Heritage Park is the only public vehicular access to harbor walk, and without this access, the City would have to rely on the goodwill of private property owners along the harbor. All the boardwalk easement he reviewed allowed only east-west access and did not allow access across private property. The City would need vehicular access to maintain the boardwalk; and that the settlement they have proposed will give the City a non-exclusive easement to their restaurant parking lot to accomplish that task. He added that B.I., Inc. has always allowed the use of their property during the Annual Destin Seafood Festival. They have allowed the VIP tents, bathrooms and numerous booths to be located on their property as well as the Luther's Pontoon property. If the fence is built as shown in the drawings, it would make it impossible to work with the City and severely impede the public ability to move up and down harbor walk. He added they are offering to quit claim their rights to use 75 percent of the access road located on the park property and to close public vehicular access and re-route city vehicular access to their lot. They will also add public docking facilities and handicapped parking on their property in addition to dedicating the harbor walk easement and its construction costs which they have already incurred.

Next to speak was Ms. Lisa Minshew, attorney for B.I., Inc. Ms. Minshew pointed out the City's title policy for the property states this particular access easement is an exemption to the policy. She stated this exemption should not have been written in to the City's title policy if there is no possible legal opinion that there is an access easement. She stated they believe there is a public access way and a private access way; adding that according to her letter to Council, there are at least three different deeds that referenced the private access and the public access; and that she had not seen anything that would suggest the City has ever done anything to abandon the public's access. She further stated they do not understand there is opposition from the fishing fleet unless they are

planning some major development they think B.I., Inc. would effect. She stated the City provided them copies of the regulations at the last mediation; and that her letter to Council states they would meet or exceed all the regulatory standards. However, through direct communications with the City and looking back at City records, they found out the City has already done similar things with the fishing fleet without these regulations and the Trust did not require the City to go through this long procedure. They do not believe these regulations should apply in this case since they are extremely similar in nature – only an easement transfer with no land being acquired or exchanged.

Also, according to Ms. Minschew, the City Manager stated during mediation that he was not going to recommend denial of the proposed settlement; however, he did so by preparing the staff report for Council. She also mentioned that during mediation, they offered a 3,000 sq. ft. of access easement from US 98 to their parking lot for City staff to be able to use to maintain the boardwalk and to do improvement to the bathrooms. However, this number was not mentioned in the staff report. She asked Council not to vote to install the fence and allow them to proceed with the settlement agreement.

The City Manager explained the he and the Land Use Attorney left the mediation after the mediator basically stated the session was over because they are on an impasse and are not making any progress. He also stated that with regards to the allegation they were attempting to crater the settlement offer, there were copies of an e-mail the Land Use Attorney provided to the mediator stating that his intention was not to attempt to crater the settlement offer but to merely provide his best professional opinion whether or not this exchange met the rule and the criteria the State laid out. He also stated it is important to separate the issue with the fishing fleet with this exchange because there is a big difference with what is being proposed now with what was being proposed then. The Riparian agreement Capt. Royal Melvin entered into with the fishing fleet in early 1990's involved 6 commercial slips. The State would not fund anything that has a private purpose; and so they had to remove parking off that site in order to proceed with the funding. The City purchased the property at the end of 2006. They did not get the State approval on the grant until June 2010, and they were in the third and final extension of the grant. He further stated the City Council can consider the exchange, but it would require concurrence from the State because they are a funding partner in this project and the City has to follow certain criteria. He also believes they could craft something that is acceptable to the State; however, he does not believe the settlement offers that have been presented meet the State criteria. He added they have \$1,250,000 Restore funding coming to the City for the park; however, they cannot complete the design of the park until they know what this issue will do to the design. He also added if they do not proceed with their commitment to the State, the City would have to reimburse the State the \$2.7 million grant.

Councilmember Dixon moved that the City Manager and the City Land Use Attorney meet with B.I., Inc. and their attorney to further discuss the proposals that have been put forward and try to come up with a proposed resolution that is agreeable to both parties; and then for both parties to present that particular proposal to the Trust for Public Land for their approval. Councilmember Marler provided a second to the motion.

Councilmember Ramswell expressed her disappointment that no progress was made at mediation; adding that Council's direction was for both parties to mediate and report back to Council.

According to the City Manager, they mediated and then reached an impasse; and that they told the mediator the City would not be able to recommend what was being offered but B.I., Inc. has the right to report to the Council.

Councilmember Ramswell stated the letter from the mediator seemed to suggest the City Manager and Land Use Attorney entered the mediation session already of the mind the two legal opinions from the Land Use Attorney and special counsel were fixed and unchangeable.

The Land Use Attorney stated he would not change his legal opinion just because he was ordered into mediation. He continued they could not recommend a resolution, but they are bringing back a settlement offer for Council's consideration; and that if the direction from Council was to attempt to consummate this transaction, then it is exactly when they would do. He added that because he has previously given a legal opinion that B.I., Inc. did not have rights to access across the City parcel, it made it very difficult for him to consummate the transaction without additional input from the City Council.

According to the City Manager, he believes there is a way to resolve this issue and come up with a plan that the State would accept. He would be willing to go back to mediation; but, in his opinion the State would want the City to get equal to or greater than the square footage they are giving up in the middle of the parcel. He added if they could work the details out tonight, they should be able to resolve this issue.

Mr. Destin stated he also believe they could resolve his issue; adding they have more than enough to offer with the access to their parking lot and the handicap parking. He also added, they would be willing to start negotiating with the City tomorrow it that what it takes to resolve this issue.

Councilmember Ramswell noted a discussion in the packet about putting up a fence. She asked if the City had already applied for a permit; which the City Manager replied affirmatively, adding that the City applied for it earlier this year.

Councilmember Ramswell asked why the City applied for a permit without Council's direction.

According to the City Manager, the permit was applied for in the event the City Council wanted to proceed with building the fence; but, the fence will not be built without City Council's approval.

Councilmember Ramswell inquired if an easement actually does exist.

The City Manager stated there were two 8-foot easements on the west side of the property and there is a Destin Water Users easement for the water line. He continued these easements were noted in the surveys and in the title policy; however, translating that to mean B.I., Inc. has the right to use the City property is where the disagreement comes in. He added that both the Land Use Attorney and the special counsel have opined these easements existed but are now exhausted.

The Mayor noted the City Manager made a statement about the possibility of resolving this issue, and that Mr. Destin also stated that he believe they could come to some agreement. She suggests Council allows both parties to settle this issue.

Councilmember Ramswell noted they have an offer from B.I., Inc. for property and rights totaling \$1.4 million; an excellent offer which they should take advantage of and continue the mediation.

Councilmember Foreman suggests both parties equally share the cost associated with this issue.

Councilmember Trammell announced she would have to abstain from voting because her son, an engineer with Taylor Engineering, entered into a contract with B.I., Inc.

The Mayor called for a vote on the motion, which passes 5-1 (Council members Marler, Foreman, Dixon, Ramswell and Braden voted “yes”; Councilmember Wood voted “no”; Councilmember Trammell abstained from voting).

33. Deepwater Horizon Operations and Maintenance Grant Agreement

According to the City Manager, Council authorized 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. He continued the Operations and Maintenance Agreement that is before the Council tonight will allow the City to be reimbursed for related operations and maintenance expenses during the ten year agreement term. It will enable Destin to adequately maintain the facility for ten years.

Motion by Councilmember Trammell to approve the Deepwater Horizon Operations & Maintenance Grant Agreement and authorize the Mayor to execute the agreement on behalf of the City was seconded by Councilmember Wood and passed 7-0 (Council members Trammell, Wood, Marler, Foreman, Dixon, Ramswell and Braden voted “yes”).

34. City Manager comments

The City Manager made the following announcements:

- Ribbon Cutting for Hutchinson Street pedestrian improvements on Wednesday, March 9th, 3:00 PM
- Annual Run with the Dog on Saturday, March 19th

COMMENTS FROM THE AUDIENCE

Mr. Dale Petersen stated one of the statements he made regarding the encroachment on to the submerged land lease was in error; adding he looked at three drawings and he was not referring to the most recent drawing.

Mr. Jason Belcher, President-elect for the Destin Rotary Club, stated they have undertaken the renovation of 908 Airport Road (Food For Thought building). He stated this has been a community effort. He continued that Mr. John Kasac deserved a lot of credit for singlehandedly raising a tremendous amount of funds in addition to donating his personal services. The Chamber of Commerce Destin Forward Group also deserves a lot of credit. Their bowling fundraiser raised closed to \$6,000; and that many City employees also donated their personal time and effort to help renovate the facility.

Having no further business at this time, the meeting was adjourned at 10:30 PM.

ADOPTED THIS 18TH DAY OF APRIL 2016

By:



Scott Fischer, Mayor

ATTEST:



Rey Bailey, City Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Trammell Sandra Kay (Sandy)</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Destin City Council</i>
MAILING ADDRESS <i>3823 Indian Trail</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Destin Okaloosa</i>	NAME OF POLITICAL SUBDIVISION: <i>City Council</i>
DATE ON WHICH VOTE OCCURRED <i>3-7-2016</i>	MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Sandra (Sandy) Trammell hereby disclose that on March 7, 2016:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, Matthew A. Trammell _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

My son Matthew is an engineer with Taylor Engineering who has a contract with BI Inc.

3-7-2016
Date Filed

Sandy Trammell
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.