

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
APRIL 4, 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 Scott Fischer

Councilmember Chatham Morgan

Councilmember Parker Destin

Councilmember Cyron Marler

Councilmember Tuffy Dixon

Councilmember Prebble Ramswell

Councilmember Rodney Braden

Destin City Staff

City Manager Greg Kisela

Public Information Manager Doug Rainer

Finance Director Bragg Farmer

Code Enforcement Manager David Bazylak

City Planner Hank Woollard

Parks/Recreation Director Lance Johnson

CRA/Development Manager Steve Schmidt

Land Use Attorney Scott Shirley

City Clerk Rey Bailey

City Engineer David Campbell

Planning Manager Ashley Grana

IT Manager Webb Warren

HR Manager Karen Jankowski

Library Director Jurate Burns

City Attorney Jerry Miller

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

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

INAUGURATION OF COUNCILMEMBER CYRON MARLER

Okaloosa County Circuit Court Judge Patt Maney administered the Oath of Office to newly elected Councilmember Cyron Marler, who then signed his Oath of Office and assumed his place on the dais.

SPECIAL PRESENTATIONS

1. Proclamation – Library Week

The Mayor read the Proclamation designating April 10-16 as National Library Week; and then presented it to the Destin Library Director Jurate Burns.

APPROVAL OF MINUTES

2. Request approval of minutes of the March 21, 2016 regular city council meeting

Motion by Councilmember Ramswell, seconded by Councilmember Marler, to approve the minutes of the March 21, 2016 regular city council meeting passed 6-0 (Council members Morgan, Destin, Marler, Dixon, Ramswell and Braden voted "yes"; Councilmember Foreman was absent from the meeting).

PUBLIC HEARINGS

3. First reading of Ordinance 16-02-CN, providing for abandonment of the northeast 0.08 acre segment of Tarpon Street right-of-way

The City Attorney read proposed Ordinance 16-02-CN by title, and then presented it to the City Council for their consideration on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR ABANDONMENT OF THE NORTHEAST 0.08 ACRE SEGMENT OF TARPON STREET RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Manager noted this is a request to vacate a portion of the public right-of-way on Tarpon Street; and that Tarpon Street dead end into Gulf Power easement at this particular location. He stated that the City most likely will never build a road on Gulf Power easement; and that adjacent property owners requested that the City vacates this portion of the public right-of-way. He added the private property owners will receive the 22 ½ feet area on one side and the City will retain the 15 foot area in the middle.

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

Councilmember Braden asked if this would change the buildout footprint on the lot if that portion is released.

According to the City Manager, the setback would change on both lots either to the east or west.

Councilmember Marler moved for approval of proposed Ordinance 16-02-CN on first reading and to schedule it for second reading; seconded by Councilmember Destin.

Councilmember Ramswell asked if they could turn the actual right-of-way into a road.

According to the City Manager, the area to the north is the Gulf Power easement for electric transmission line; and that it is not known at this time who actually owns the fee simple under the Gulf Power easement.

Councilmember Ramswell expressed concern they are getting into a habit of giving away their rights-of-way upon request; adding that she is against setting this type of precedence.

Councilmember Marler noted that this particular road leads to nowhere because of the Gulf Power easement; and that vacating this portion of the right-of-way would benefit the City in terms of additional tax revenues.

Having no further comments from the Council members, the Mayor called for a vote on the motion, which passes 4-2 (Council members Morgan, Destin, Marler and Dixon voted “yes”; Council members Ramswell and Braden voted “no”; Councilmember Foreman was absent from the meeting).

4. First reading of Ordinance 16-03-CN, providing for abandonment of the northwest 0.08 acre segment of Tarpon Street right-of-way

The City Attorney read proposed Ordinance 16-03-CN by title, and then presented it to the City Council for their consideration on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR ABANDONMENT OF THE NORTHWEST **0.08 ACRE** SEGMENT OF TARPON STREET RIGHT-OF-WAY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Manager noted this is similar to the previous ordinance Council just considered, and that this is the property on the west side of Tarpon Street.

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

Councilmember Marler moved for approval of proposed Ordinance 16-03-CN on first reading and to schedule it for second reading; seconded by Councilmember Destin. Motion passed 4-2 (Council members Morgan, Destin, Marler and Dixon voted “yes”; Council members Ramswell and Braden voted “no”; Councilmember Foreman was absent from the meeting).

5. First reading of Ordinance 16-05-PC, which amends Comprehensive Plan: 2020 by amending the Future Land Use Map (FLUM) designation of the east 150' of 802 Cross Street, from Bay Estates (BE) to Low Density Residential (LDR)

The City Attorney read proposed Ordinance 16-05-PC by title, and then presented it to the City Council for their consideration on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING COMPREHENSIVE PLAN: 2020; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR THE ADOPTION OF A SMALL SCALE AMENDMENT TO COMPREHENSIVE PLAN FUTURE LAND USE MAP 1-1, TO INCLUDE A CHANGE IN FUTURE LAND USE DESIGNATION OF A PARCEL OF LAND FROM BAY ESTATES (BE) TO LOW DENSITY RESIDENTIAL (LDR); PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The City Manager noted that the current owner of 802 Cross Street wishes to rezone the property from Bay Estates (BE) to Low Density Residential (LDR); adding that the Local Planning Agency has reviewed the request and found it to be consistent with Comprehensive Plan: 2020 and recommends its adoption by the City Council.

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

Mr. Mick Parker, a Destin resident, stated he was under contract to purchase the property under discussion last July. He continued he went to the Community Development Department and inquired the same exact thing that is being proposed tonight but was told it could not be done; and that he was told it is spot zoning and it is illegal to change the zoning of a section of a piece of property. He stated that he decided to get out of the contract for this reason and pass on the opportunity to purchase the property. However, another individual purchased the property and is now proposing the same exact thing he was previously told by the City it could not be done.

Mr. Mark Siner, owner of Choctaw Engineering and the agent for the applicant stated they submitted a formal application on behalf of Mr. Josh Reiker who is the current owner of the property. He continued they are only asking for the back half of the property to be rezoned LDR to make it contiguous with the LDR which is just to the north of it. He also stated it does not constitute spot zoning but a common planning practice, which is continuing an existing future land use zoning category. He explained that the owner wants to sub-divide the two pieces of property to the north which is basically contiguous with the smaller lots to the north on Sibert; and to maintain the lot on the front facing Cross Street which will meet the Bay Estates requirements. He added this is consistent with existing development pattern in this area which is two homes facing toward Sibert and one house facing towards Cross Street. He also added it is consistent with the City's comprehensive plan.

Mr. Parker went back up to the podium and, referring to the map on the screen, pointed out that in the opposite corner of the Bay Estates (lots 564 and 771), a piece of property had already been sub-divided into two equal parts but maintains its Bay Estates zoning category. He added it seems a special exemption is being made for this particular application.

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

According to Councilmember Braden, he brought this issue up to Council in July last year for Mr. Parker who wanted to know if he could sub-divide the piece of property he was purchasing. He stated he was told at that meeting they could not single out the one lot and rezone it as it would constitute spot zoning; and that they would have to rezone the entire "L" shape area that goes around Cross Street to the north. He further stated that Councilmember Trammell commented at the time that she did not want to set precedence for other owners to make similar requests. He added it is the reason a formal application was never submitted.

The City Manager stated that the issue of the subdivision of Bay Estates had been a subject of a lot of discussions over the years. He noted that when this item was presented in July 2015, the person who had the property under contract was looking for the City to take the initiative to change the land use/zoning on this piece of property from BE to LDR; however, that request did not get a legislative support from the City Council. He added this current case is different because the property owner himself had taken the initiative to submit an application for the zoning change.

The City Attorney pointed out that the item before Council tonight is for a comprehensive plan amendment only and not for a rezoning, which is a separate item. He continued there are different standards that apply to this particular amendment; and that it was a property owner application initiative for a comprehensive plan amendment.

The Mayor asked if anyone wish to make a motion to consider this item. Hearing none, the Mayor announced this item dies for lack of a motion unless a Council member wishes to reconsider.

Councilmember Destin moved to reopen the public hearing as some members of the public wish to be heard; seconded by Councilmember Dixon.

The Mayor ruled the motion is well taken and reopened the public hearing portion of the meeting.

Mr. Siner is back at the podium. He stated that what happened in July 2015 had nothing to do with this current application; reiterating that the request does not qualify as spot zoning. They are adjoining a piece of property that already has a future land use category of LDR. He continued there is nothing in the code that prohibits it, and that it has been approved by both City staff and LPA. He added that it meets all the technical requirements; and that it is also good for the City as it increases the tax base.

Mr. Parker also returned to the podium. Referring to the map on the screen, he pointed out there were two homes built on one corner lot with no division and that the zoning category remains Bay Estates; and that in another corner there were three homes built on two lots. He explained that he, along with the previous owner of the lot he was trying to purchase, brought this item before the City's development office expressing his intent to build three homes on the piece of property. However, he was told the rezoning of the property from BE to LDR is not possible. He was also told that even though the City Council has the final decision on this issue, what he is trying to do is not an option.

Mr. Siner spoke once again and told Council the advice that was previously given to Mr. Parker should not have any effect on this current application; adding it should be a standalone issue.

At this time, the Mayor closed the public hearing portion of this item.

The City Attorney noted that the item on the floor is an application by property owner for a comprehensive plan amendment; and that if the Council's intent was to deny the application, he would recommend that Council takes this action and recites for the record the reasons for the denial.

Councilmember Ramswell moved to deny the application based on tonight's discussion and based on the minutes of the July 20, 2015 City Council meeting when a similar case was presented and discussed and the City Council decided not to move forward with it. Councilmember Braden provided a second to the motion.

Councilmember Dixon suggests they continue this item instead of totally dismissing it to gather more information so Council can make a more informed decision.

Councilmember Dixon moved to postpone this item until the April 18, 2016 City Council meeting; seconded by Councilmember Marler.

Councilmember Destin inquired as to the future land use zoning designation for Bay Estates.

According to the Land Use Attorney, it will remain Bay Estates based on the recent comprehensive plan amendments.

Councilmember Braden reiterated that a similar case was presented to Council in July 20, 2015 during which staff told Council it cannot be done.

Councilmember Ramswell stated she cannot support this application particularly after the discussion they had on the same exact lot and the decision Council made on the July 20, 2015 meeting.

Councilmember Marler stated that by his recollection Councilmember Braden brought this item up on July 20, 2015 in his time slot during the Council comments portion of the agenda; adding it was not put forth before the City Council until that time. He also stated they would have to decide if they would rather see a larger house in that particular corner of Bay Estates or three smaller houses that are compatible with the rest of the houses in that area.

Councilmember Braden noted they are not talking about just one lot but the entire Bay Estates; adding the decision they make on this issue affects the entire Bay Estates area.

The Mayor called for a vote to postpone this item until the April 18, 2016 City Council meeting, which passes 4-3 (Council members Destin, Marler and Dixon voted "yes"; Council members Morgan, Ramswell and Braden voted "no"; Mayor Fischer cast the tie-breaking vote of "yes"; Councilmember Foreman was absent from the meeting).

6. First reading of Ordinance 16-06-LC, which amends the official zoning map designation of the east 150' of 802 Cross Street, from Bay Estates (BE) to Low Density Residential-Village (LDR-V)

The City Attorney stated this item would be moot for tonight since there was no action taken on agenda item 5 (Ordinance 16-05-PC).

The Land Use Attorney noted if they do not hear item 6 (Ordinance 16-06-LC) tonight and item 5 passes on first reading on April 18th, they would have to re-advertise item 6 for a later date.

The City Attorney stated this would be his recommendation because, based on what happened tonight, it is hard to separate the very distinct actions between a comprehensive plan amendment which is legislative and a site specific rezoning.

The Land Use Attorney stated they will only postpone first reading of the comprehensive plan amendment; and that if the comprehensive plan amendment is approved on first reading, they will go ahead and re-advertise the rezoning ordinance.

PUBLIC OPPORTUNITY TO SPEAK ON COUNCIL PROPOSITIONS

CONSENT AGENDA*

7. Beach facilities decking repairs
8. Heritage Run pumps bid award and generator direct purchase
9. Request approval to extend disaster recovery continuing services contract with Crowder-Gulf
10. Agent-Broker of Record for Health & Ancillary Benefits
11. Request approval to construct a 584 square foot dock addition with a covered boat lift / Debbie Origer / Marine Construction

Referring to Consent Agenda item 9, Councilmember Braden asked how much of an increase is associated with the extension of contract. The City Manager replied the rate would be the same as last year's rate.

Motion by Councilmember Marler to approve Consent Agenda items #7 thru #11, as printed above, was seconded by Councilmember Ramswell and passed 6-0 (Council members Morgan, Destin, Marler, Dixon, Ramswell and Braden voted "yes"; Councilmember Foreman was absent from the meeting).

RESOLUTIONS

12. Resolution 16-07 – Opening invocations at Council meetings

The City Attorney read Resolution 16-07 by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA AMENDING THE CITY COUNCIL RULES OF PROCEDURE, RESOLUTION 13-15, CONCERNING AMENDING ORDER OF BUSINESS AND CEREMONIAL, OPENING INVOCATIONS AT COUNCIL MEETINGS PRIOR TO WHEN OFFICIAL POLICYMAKING OR LEGISLATIVE FUNCTIONS ARE PERFORMED; ADOPTING A POLICY OF NON-EXCLUSION FOR SELECTION OF VOLUNTEER INVOCATION SPEAKERS AND A DIVERSITY OF VIEWPOINTS; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE

The City Manager explained that the United States Supreme Court has provided strict criteria for public entities that desire to continue to perform an opening invocation at a public meeting. He stated that to honor a diversity of viewpoints on religious matters, they have to establish a list of eligible congregations from the City of Destin and Okaloosa County and that the invocation will be rotated pursuant to the congregation list. He also stated that as an alternate to provide an opening invocation, the City Council can simply establish a moment of silence so individuals can perform their own reflection.

The Mayor asked if they could still do the moment of silence if they do the rotational system and a member of a clergy scheduled to perform the invocation is not able to make it to the meeting.

According to the City Attorney, in this particular scenario, they could either do nothing by removing it from the standard agenda order of business or do the moment of silence.

Councilmember Dixon moved to direct the preparation of a resolution providing for a moment of silence prior to the City Council meeting. Councilmember Braden provided a second to the motion.

Councilmember Marler asked if this rule affects certain City functions such as the Christmas Tree Lighting where they offer prayers.

The City Attorney stated he would have to look at this issue separately.

The Mayor called for a vote on the motion, which passes 6-0 (Council members Morgan, Destin, Marler, Dixon, Ramswell and Braden voted "yes"; Councilmember Foreman was absent from the meeting).

COMMITTEE REPORTS

SCHEDULED PRESENTATIONS FROM THE PUBLIC **

PROJECT REPORTS AND COMMENTS FROM MAYOR AND COUNCIL

13. Councilmember Morgan
14. Councilmember Destin

Councilmember Destin inquired as to the current status of the press box at the Morgan Sports Complex.

According to the Parks and Recreation Director, they have had to put a new epoxy surfacing down; but, they should be able to start moving furniture back up there soon.

15. Councilmember Marler
16. Councilmember Foreman
17. Councilmember Dixon
18. Councilmember Ramswell

Councilmember Ramswell offered her congratulations to Ms. Skylar Babin who is a current member of the Destin Youth Council and who was just named semi-finalist in the Emerald Coast Sing Off contest.

Councilmember Ramswell also announced there was a new sign up on Hwy 98 and Hwy 293 that reads "Hutchinson." She stated this is something that had been discussed frequently over the past year and that it was brought to her attention by Mr. Steven Menchel who serves on the City's Public Works/Safety Committee and who has been working diligently behind the scene and primarily responsible for getting this sign up.

Councilmember Ramswell stated that she resides at Indian Bayou Drive and that they received a notice from their homeowners' association that they are having a severe problem with coyotes. She continued that the association is speaking with someone to come out and to possibly set up a trap and are advising dogs and cat owners that live in the area to monitor their pets really closely.

Councilmember Ramswell stated she had been working diligently trying to get the TDC funds up to 10 percent for first responders; adding it is part of House Bill 7099 which has gone all the way to the Florida Governor for signature.

Councilmember Ramswell asked for an update on the study to be conducted in a pilot program for parking meters.

According to the City Manager, they have been working on this item for the Marler Parking Lot and would be bringing back some ideas to Council within the next few weeks.

Councilmember Ramswell asked for the status of the request she made back in November 2015 to extend the festive market place boundary. She stated that the City Manager was supposed to discuss this issue with the Sheriff's Office to determine the proper boundary and language.

The City Manager stated the proper language has been prepared and will be scheduled to go before the LPA, and subsequently to the City Council.

Councilmember Ramswell asked for the status of the taxi regulations. She stated she could not find anything on it after September 8, 2015 when they had speakers come in and were given different parameters in terms of their desires for insurance and things of this nature.

According to the City Manager, they were waiting for Okaloosa County to adopt an ordinance regulating taxi services so they could determine if the City would be able to incorporate its plan with the County's plan.

Councilmember Ramswell asked for status of Main Street repairs where they have planned to fix different things including the brill mats.

The City Engineer reported that they ordered the brick pavers 45 days ago and they just came in three days ago. He continued they are now in the process of scheduling the City's contractor to install the pavers. He also stated the contractor is currently pouring concrete pads for the air conditioning units for the gymnasium; but, they should be ready to begin the Main Street project in about two weeks.

Councilmember Ramswell inquired on the status of their previous discussion relating to medical marijuana dispensaries.

According to the Land Use Attorney, they have done preliminary work gathering various ordinances that are being pursued in other communities while waiting for instructions to enter into this process.

Councilmember Ramswell noted the previous instruction was to go back and review all their allowable uses to ensure they will not have medical marijuana dispensaries near residential areas.

The Land Use Attorney stated that non-narcotics would be allowed to be distributed at any licensed pharmacies, and so the City will have no jurisdiction whatsoever over it. He also stated some may depend on the precise wording of any constitutional amendment. He also would have to review the several different approaches to it with the Planning staff. He continued that under their current zoning, commercial dispensaries are regulated in the same manner as any other commercial retail type businesses such as pharmacies.

Councilmember Ramswell stated there is a concern they could be placed anywhere that is zoned Institutional; adding there are currently rehab centers on Crystal Beach.

The Land Use Attorney stated he does not believe medical marijuana dispensaries could be classified as Institutional; rather they would be commercial for-profit businesses more akin to a pharmacy or a medical type facility. He added they could do a very mild type of zoning to a very aggressive type of zoning which is similar to what they did for sexually oriented businesses. He also added they would not be located in residential areas; but, they have to determine which commercial areas would be an appropriate location for these dispensaries.

Councilmember Ramswell requested an update on the temporary permitting from FDOT for the "dip sign" to be placed in front of Big Kahuna's on Hwy 98.

The City Engineer stated that he had already approach the FDOT several times regarding this issue and he was told they do not feel a sign is appropriate at this location. He also stated he

would go ahead and move forward with the permitting process. He would also speak to FDOT's continuing services provider about actually paving this area.

Councilmember Ramswell reported that one of the cell towers that were removed from the City's right-of-way had now been placed in an area where it is not permitted or allowable and is within 10 feet of someone's patio. She asked if this tower has been removed from that particular location.

According to the City Manager, he had discussed this issue with the Destin Water Users (DWU) and they were waiting for a letter from the homeowners' association requesting it be removed before they make the final determination. He also stated DWU had represented to the City as part of the permitting process that they believed they had an easement; however, after conducting their research, they found out they had authorization pursuant to the plat to put water and sewer line and lift station in that particular area but not a specific easement.

Councilmember Ramswell suggests the City review and improves its permitting process by making sure things are accurate before issuing a permit.

a. Amendment to the 99-Year Lease with Destin Fishing Fleet, Inc

Councilmember Ramswell stated that the discussion on Heritage Park brought into question some of the different Riparian right especially with regards to parking. The Amendment to Lease Agreement for Riparian Rights was executed back in 2010. She stated that the original version of the agreement that was presented at first reading on April 19, 2010 was missing from the packet, and copies of which were handed out tonight. She continued that the version of the agreement that was presented at second reading on May 3, 2010 and subsequently signed on May 4, 2010 was significantly different from the original version; adding there were five substantial changes between the original version and the executed version of the agreement.

Referencing page 2, paragraph 1 of the executed agreement, Councilmember Ramswell stated that not only is the City relinquishing its right to income, it is also giving up the right to use, the right to control, and the right to income of three of its six slips to the Destin Fleet. It also switches their slips from the southernmost slips to the northernmost slips; adding there is a difference in value from the southernmost slips to the northernmost slips.

Referencing page 5, paragraph 7 of the executed agreement, Councilmember Ramswell noted that the City must pay the fleet all fees, maintenance, lease cost and other expenses on the 3 slips even though the City does not have the submerged land lease, which was given to the fleet in this agreement.

Referencing page 8, paragraph 15 of the executed agreement, Councilmember Ramswell pointed out that the City must now clean the fleet parking area; and that the City must provide temporary and permanent restroom facilities.

Referencing page 7, paragraph 12 of the executed agreement, Councilmember Ramswell noted that the City must add the fleet to the City's insurance as a certificate holder and an additional insured party.

Councilmember Ramswell stated the above changes were very significant changes, and that they were not mentioned in the staff report for that particular meeting. She also stated that she discussed it with two previous members of Council during that period, and that they were surprised of all the changes she detailed above.

Referencing page 4 of the May 3, 2010 meeting minutes, Councilmember Ramswell read the portion of the minutes that states, *"The City Attorney requested the motion include adoption of the substitute document marked as 'Exhibit B' to the ordinance as distributed in tonight's meeting."* She also read the following comments on pages 4 and 5 of the minutes:

"Councilmember Bagby stated the City owned the right to the 6 slips, and that they are not getting anything for the 3 slips they are giving up. He felt the entire negotiation was unnecessary, and stated he has been disappointed with it from the beginning."

"Councilmember Destin asked whether the changes that were made between the first and second reading of the proposed ordinance were substantial enough to go back to first reading. The City Attorney replied they could adopt the ordinance on second reading since this is a proprietary action, not a regulatory action. He added if this were a regulatory action he would be taking this ordinance back to first reading. He also stated once they are done with the adoption process for the proposed ordinance, he would ask each council member independently to approve Exhibit B as an amendment to the lease agreement."

Councilmember Ramswell reported that she did some legal research on this subject. She stated that Florida Statutes do not differentiate between proprietary and regulatory action in terms of process. Florida Statutes state that in the event there are substantial and material changes that the ordinance needs to go back to first reading. Furthermore, Florida Statutes require that the public be given the opportunity to inspect the ordinance. She pointed out the executed version of the agreement was provided to Council the evening of May 3, 2010, it was signed the morning of May 4, 2010 and filed on May 10, 2010.

Councilmember Ramswell also noted that Ms. Mary Ann Windes notarized the agreement as shown on page 9 of the document; adding it violates Florida Statutes Section 117.10712 which states the notary public may not serve as a notary for a transaction in which they have a financial interest.

The City Manager stated there were changes made from the proposed agreement presented on April 19, 2010 to the one that was presented and subsequently adopted by Council on May 3, 2010; but, there was nothing deceitful about those changes. He continued that part of the reason for the changes was that the fleet no longer had a desire to require the City to provide parking on the proposed Marler Parking Lot they were in the process of acquiring back then. As a result, the arrangement was shifted from transferring certain parking spaces over to the fleet to trying to basically simplify things to the point where the City retained three boat slips. He also noted that

back in 1993, Capt. Royal Melvin entered into an agreement with the fleet where he received six commercial boat slips by transferring the Riparian rights for 99 years. He added that Capt. Melvin was provided 15 spaces on his property as each slip requires 5 parking spaces.

The City Manager also explained the City pre-acquired the Capt. Royal Melvin property from strategic standpoint because they needed 10 bonus points from the State of Florida to be able to get the grant; adding it is a \$4.6 million dollar piece of property and they anticipated the State reimbursing the City about \$2.3 million. He continued that the State examined the Riparian agreement that is now assigned to the City of Destin and recognized there were private parking on the land they were being asked to reimburse. The City had to basically strip the property of any private use, which the amended lease agreement was able to accomplish. He further stated they were on a deadline and were having a shortage of time back in 2010 when they got their third and final grant extension from the State; adding that if they did not come up with the amendment to the Riparian agreement to satisfy the State, they would not get the grant. He continued one of the motivations for amending the agreement was to remove all private parking on the property to satisfy the State. He also noted they tried to summarize the significant changes to the agreement, and that to his knowledge, Council had copies of the proposed lease agreement. He added that the City Attorney opined at the time that the changes that were made did not require them to take the ordinance back to first reading. They proceeded and the ordinance was subsequently adopted and the City received approximately \$2 million grants from the State.

Councilmember Destin asked whether the fleet changes its mind about the parking spaces during the time between the first and second reading of the ordinance.

According to the City Manager, the fleet originally was willing to accept from the City the 15 parking spaces the City was required to remove from the property and take these spaces in the Marler Parking Lot; however, they decided later on they no longer needed that off-site parking. Instead, the City would basically takes 3 slips and converts them to transient slips that did not require parking; and the fleet would take the other 3 slips, which required parking, and that they would accommodate parking on their property.

Councilmember Destin asked about the term for the lease amendment.

The City Manager replied the lease amendment mirrors the term on the original lease.

Councilmember Destin stated the fishing fleet has not been a good neighbor, but he would not want to rehash what happened 6 years ago; adding they have a lot of things they want to accomplish at the harbor and everybody just have to commit to being a good neighbor and a good community partner.

Mr. Mike Chesser, a Niceville resident, stated that he had worked with the Destin Fishing Fleet and can attest to the fact they are the most interested and most involved corporate citizens. He stated the fleet has a restaurant that had done business in the harbor since 1995. They built two extra bathrooms downstairs in the restaurant for those people expected to be making use of the parking spaces. However, when harbor walk came, it brought in thousands of people to that area and these bathrooms soon became the most overworked piece of real estate in the City of Destin.

He also mentioned that the fleet had the option to purchase the property next door, and that this is reflected in all the documents. The fleet got the first right of refusal to buy this property, but they back away from it and let the City buy it. He further stated that with regards to the lease amendment language, the fleet was not telling the City to clean their parking lot. They were merely asking that, if the City holds a special event in the park and the people park their cars in the fleet parking lot, the City should clean up the parking lot. With regards to Mrs. Mary Ann Windes notarizing the lease document, he stated that Mrs. Windes does not own the property. The document did not even have to be notarized to make it valid or to make it a fair agreement between the two parties. He added that the fleet had done nothing that was unfair to the City of Destin; and that everything was done in public and not in a deceitful manner.

Councilmember Destin noted that instead of the fleet just relinquishing their right to use 15 parking spaces on the Destin parcel, the City ended up giving them 3 boat slips worth \$600,000 based on the slips appraisal.

Mr. Chesser maintains it was a fair trade – 15 parking spaces for the 3 slips; adding that the 15 parking spaces could even be worth more than \$600,000.

Councilmember Ramswell commented that there would not have been any need for parking spaces have all the slips been converted to transient. She also asked if all the additional changes to the agreement which she detailed earlier came as a result of the issue relating to the 15 parking spaces.

Mr. Chesser stated that he considered the changes to the agreement relatively innocuous; adding he would have come prepared with answers had he known those questions were going to be asked.

Councilmember Ramswell stated that nothing was pre-designed; and that she reviewed the documents and wrote down those questions before she came to the meeting. She added that these documents have been in existence since 2010.

19. Councilmember Braden

Councilmember Braden stated that according to a parking study done in the past, a charter boat that carries 49 passengers is required to have 5 parking spaces, while a sight-seeing Dolphin Cruise boat that carries the same number of passengers is required to have 30 parking spaces. He asked for the reason for the disparities.

The City Manager stated it was his understanding the parking requirements as they relate to head boats, charter boats or other types of boats have been that way for decades.

Councilmember Morgan commented it seems a similar logic is being applied to the outdoor seating requirements. He stated that La Paz is a fairly small Mexican restaurant has 64 parking spots, while a deli next to it that does more business was permitted with 18 parking spots.

The Land Use Attorney stated that according to the current code, for a small charter fishing boat with one to 6 passenger capacity requires 2 parking spaces for passengers plus 1½ spaces for the crew. Large charter fishing boat with several more passengers requires one parking space for each 4 passengers based on the maximum US Coast Guard rated passenger capacity. Fare carrying vessel requires one parking space for each 4 passengers based on the US Coast Guard rated maximum capacity. He added that the head boats and fare carrying boats appear to be the subject of the same identical passenger standards.

Councilmember Braden stated he would provide the parking study to staff so they could determine if mistakes are made. He also would like to know when a parking study is required and when it is not required.

20. Mayor Fischer

Mayor Fischer expressed his intention to call for a workshop meeting on Thursdays prior to a regularly scheduled Council meeting for a purpose of discussions and asking questions about the agenda items to make sure everyone is up to date on all issues. He stated that by charter, the agenda items should be finished and available by noon on Thursday prior to the meeting. He stated the workshop would be properly posted and open to the public. Attendance is not required since no formal action will be taken. It will only be for discussion among the Council members so they could be better prepared to make decisions at the regular Council meeting and eliminate the need for members of Council to meet individually with the City Manager. He added that the charter allows the Mayor to call this type of meeting.

Councilmember Dixon noted that individual item to be discussed at a workshop session has to be listed and advertised; and that to advertised this meeting in a timely fashion, the agenda has to be completed several days before.

The City Attorney stated that the City Clerk's Office and his office will work together on the advertising requirements and will accomplish it appropriately. He also stated they would not be able to discuss quasi-judicial matters on the workshop sessions, and that item #6 on tonight's agenda is a good example of a quasi-judicial item.

Councilmember Ramswell suggests simply noticing the session as an agenda workshop or posting the items on the website making it available to the public.

Councilmember Destin stated that he has a philosophical objection to a workshop. There will almost be no public participation due to the public's inability to attend a workshop held during the middle of the day on a Thursday; and that there is no back and forth communication between the Council and the public at these sessions. He also stated a lot of these items need to be discussed in a meaningful forum where the entire public has a practical ability to attend and participate. He added he cannot support this proposal.

According to Councilmember Marler, any member of Council can contact the City Manager at any time if they have any questions on any items on the agenda, and the City Manager can refer them to City staff if necessary. He also stated that in the past, they only scheduled a workshop if

they had specific issues to discuss. He added that most people, including himself are employed during the day and will be unable to attend the workshop.

The Mayor stated he would go ahead and call for a workshop on next Thursday at 4:00 PM as it is his right as Mayor to do so; and then they can decide whether or not it is productive and whether or not to continue having it.

Councilmember Destin moved to overrule the chair; seconded by Councilmember Marler.

The Mayor asked if the Council has the right to overrule the Mayor's right to call a workshop.

According to the City Attorney this issue is up to Council's interpretation of the charter; if the power of the Mayor to call a meeting also includes the power to call a workshop. He continued that when they had workshops in the past, it has been by action of the City Council. He then proceeded to read Section 3.11(a) of the City Charter:

"Meetings. The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meeting may be held on the call of the mayor or of a majority of the members and, whenever practicable, upon no less than a 12-hour notice to each member and the public. All meetings will be public."

The City Manager noted they have a visioning session in May; and this is something that they may want to discuss at that forum.

Councilmember Marler stated he likes the idea of discussing this issue at the visioning session since that session is also open to the public.

The Mayor stated by consensus of Council, they can just wait until the visioning session to discuss this item.

Councilmember Destin withdrew his motion on the floor.

STAFF REPORTS AND RECOMMENDATIONS

21. City Attorney comments
22. City Land Use Attorney comments
23. Appointment of members to citizen volunteer committees and boards

The City Council made the following appointments to the City's standing committees and boards:

Board/Committee	Appointees	Nominated by:
Board of Adjustment	David Emerson	Dixon
Environmental/Parks & Rec Committee/Tree Board	Dot Jones Anthony Ramswell	Dixon Morgan
Harbor/Waterways Board	Matthew Trammell	Dixon
Harbor CRA Advisory Committee	James Green Mike Buckingham	Dixon Morgan
Local Planning Agency	Andrew McDowell Steven Menchel Jim Wood	Destin Morgan Marler
Public Works/Safety	Phillip Jata Anthony Ramswell Nancy Weidenhamer	Dixon Destin Marler
Town Center CRA Advisory Committee	Lockwood Wernet Michelle Sandstead	Dixon Morgan

24. Appointment of council representatives to local/regional committees

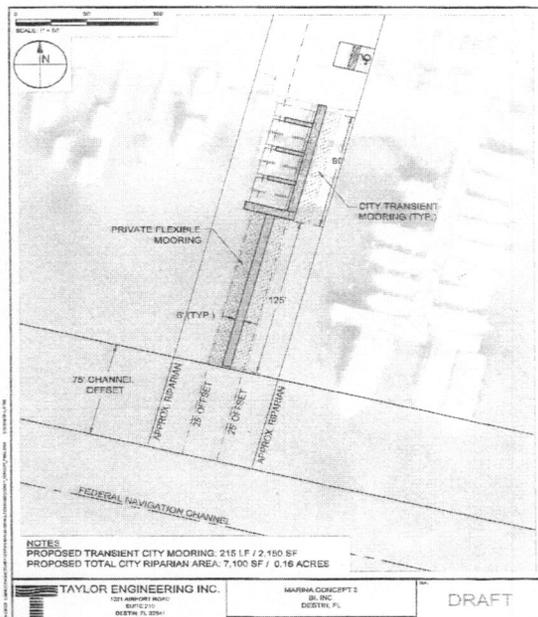
The following members of Council have been appointed as primary and alternate representatives to local and regional committees:

Local and Regional Committees	Appointees
Economic Development Council Policy Board	<u>Primary</u> – Mayor Fischer <u>Alternate</u> – Ramswell
Northwest Florida League of Cities	<u>Primary</u> – Ramswell <u>Alternate</u> – Destin
Northwest Florida Military Sustainability Partnership	<u>Primary</u> – Foreman <u>Alternate</u> – Ramswell
Okaloosa-Walton Transportation Planning Organization	<u>Primary</u> – Destin <u>Alternate</u> – Foreman
Okaloosa County League of Cities	<u>Primary</u> – Ramswell <u>Alternate</u> – Mayor Fischer
Okaloosa County Public Library Cooperative	<u>Primary</u> – Braden <u>Alternate</u> – Marler
Okaloosa County Public Transit Cooperative	<u>Primary</u> – Foreman <u>Alternate</u> – Braden
Tourist Development Council	<u>Primary</u> – Foreman
Walton/Okaloosa/Santa Rosa Regional Utility Authority (RUA)	<u>Primary</u> – Foreman <u>Alternate</u> – Braden
West Florida Regional Planning Council	<u>Primary</u> – Foreman <u>Alternate</u> – Morgan
BRAC Task Force Sub-Committee	<u>Primary</u> – Mayor Fischer <u>Alternate</u> – Braden

25. City Manager comments

a. BI, Inc. Riparian Rights – South Harbor Mixed Use (SHMU) – Dock Length

The City Manager noted that on March 10, 2016, B.I., Inc. submitted three marina concepts for conveyance of certain riparian rights to the City of Destin; which B.I., Inc has subsequently refined it down to concept #3 as their preference. According to the City Manager, they are reluctant at this time to schedule a meeting with the State to submit these proposals because none of the three alternatives currently meet the City's Land Development Code (LDC). He stated that the LDC allows properties in the South Harbor Mixed Use (SHMU) area to extend their docks 1½ times the width of the property. B.I., Inc. property is 75 feet which limits their dock length to 112.5 feet. A portion of the code allows properties in the SHMU to extend docks to 200 feet if a Tier 1 or Tier 2 project is proposed. B.I., Inc does not propose any upland development as part of this application. There is a provision in the code that allows adjacent property owners to combine their properties. He noted that riparian rights have been transferred by Mr. Melvin back in 1993 to the fleet. There is no way to locate the proposed dock on the property line without impacting the fleet's riparian rights. One of the options will be to amend the LDC to allow everybody in the SHMU to extend their docks to 200 feet to resolve the issue about the length of the dock. If property owners extend their docks to 200 feet, the current code requires a minimum of 10 percent of the total number of slips in the project set aside for fare carrying boats and a minimum of 10 percent of the total slips set aside for transient slips. To avoid a proliferation of personal water crafts and/or pontoon boats in the harbor, bay and East Pass, they suggest increasing the percentage of transient and fare carrying slips to 25 percent. This would enhance private boat access to the harbor as well as providing additional slip available for charter boats. He added that from a policy standpoint, they would like to know which option Council wants staff to pursue. They could then take this information to the Florida Communities Land Trust staff, and subsequently to the committee. He added they were hoping to be able to go to the Florida Communities Trust Board meeting in May; however, they may have to wait now until the August time frame.



Referring to the proposed marina concept #3 as shown above, the City Manager explained that the reconfiguration of the B.I., Inc. slips for their water related activities is on the north side and the transient slips that would be conveyed to the City are on the east side of those slips. One of the challenges under this concept is that the State required that any modifications or expansions of the dock require the adjacent property owner to consent or sign a waiver to any encroachment. They would have to sort through with the State of Florida whether the riparian rights belong to the fleet or the upland property owner which is the City.

Councilmember Dixon stated that this is a very complicated issue. He suggests scheduling a workshop so they could discuss every detail relating to this matter and come up with a reasonable decision.

The Mayor stated he would allow members of the public who submitted a Request to Speak card to come forward and speak on this item at this time.

Mr. Claude Perry, a Destin resident, spoke first. He stated this is a complicated matter and would agree to have a workshop to have more discussions about it. He also stated he is one of the property owners in the harbor who are having discussions with DEP and the Corps of Engineers about extending the dock; adding it is in the best interest of the City and the festive market place to have additional transit parking for boats. He also would like to see the City work things out with B.I., Inc. and achieve a compromise that would benefit the entire City.

Mr. Dewey Destin, Destin resident and owner of B.I., Inc. spoke next. He stated that this issue is quite simple. The current LDC allows neighboring parcels to combine and extend their docks 1½ times the length of the property; and this is what they are suggesting. He also stated that riparian rights are not mentioned in the LDC; and that State's rules refer to upland owners not riparian rights. He further stated that the easternmost dock that is on their property is a non-conforming legal dock; adding the DEP code states if the dock was in existence before the 25 foot setback requirement was passed then it is not subject to it. He stated this dock was indeed in existence before the 25 foot setback requirement was passed. However, they are proposing to move the entire structure over to get it in compliance with the present rule and regulation. He further stated where the structure connects to the land on their side is about 15 feet from the riparian boundary with the City. He also received a letter from the fleet who expressed some concern the structure would impact the maneuvering of the 3 slips that belong to the City. They are hoping the fleet and the City would be supportive of moving the dock over and out of the 25 foot setback. He asked for Council's approval of this concept.

The next speaker was Ms. Lisa Minshew, attorney for B.I., Inc. She stated the application they submitted to the City for the dock should be approved because code provision 11.05.001(m) provides that a lot may be combined with neighboring lots, and that the neighboring lot is owned by the City. She also noted that the drawing did not show any encroachment in the 25 foot riparian area; adding that the City code states nothing should be placed within the 25 foot setback unless there is an objection received from the adjoining property owner, which is the City. She continued the Florida Administrative Code also talks about the 25-foot setback. B.I., Inc. was not in it, but, if they were, the only entity that has to concur is the affected adjacent upland owner which is the City. She stated that they have reviewed the lease amendment with the fleet and one of the provisions that

were added provides that the City shall have the use and the control of the slip areas. She suggests moving forward and approving the plan submitted by B.I., Inc. either under the provision that allows for the tiering or under the proposal to share it with the City. They would also like to have the opportunity to talk to the Florida Communities Land Trust staff on this matter. She stated that B.I., Inc.'s proposal is much better than what the City approved for the lease amendment with the fleet. There was also a 10 foot egress/ingress access easement given to the fleet across the City park property to maintain and operate their marina, which is a commercial use; which is not any different than allowing a similar size driveway to connect the front and back of B.I., Inc. property. She added that the 3 commercial slips given to the fleet for 99 years could add up to about \$2 million in revenue for the fleet; whereas, the B.I., Inc. proposal could give the City about \$2 million in value.

Councilmember Dixon stated he has no problem with going to the 200 feet in this particular case; adding he does not think anybody else is going to be offering transient parking on private property. He asked staff if they think this is a workable solution.

Mr. Destin expressed that this particular solution will not set precedence for any of other parcels along the harbor and it does not give the right for 200 foot dock for any of the other parcels. It would only apply to this particular case and it is only being made possible because of two adjacent parcels combining to extend the dock.

The Land Use Attorney stated that they feel it is a workable solution; however, they need policy directions from Council as to which alternative they want staff to pursue and bring forward to the State.

Councilmember Dixon stated he has no problem with combining the properties as long as it is legitimate and that it has been done in other areas of Destin.

The City Manager stated he does not think the proposed alternative complies exactly with LDC regulations, and that they would have to find a way to amend the code. He continued it does not fit the provisions in Section 11.05.06 of the code dealing with joint ownerships of docks because the dock is expected to be in the property line and this dock is not in the property line. He also stated the amended process could parallel with the City meeting and discussing these issues with the State.

The Land Use Attorney noted that 11.05.001(m) of the code talks about extending the dock 1½ times the width of the property by combining lots with neighboring lots and the code does not describe how this provision differs from joint ownerships of docks. He continued there is also the issue of the lease of the riparian rights, and that he would prefer for the fleet to be on board with this so they do not interject themselves to any part of this process and making it more difficult for them to complete it.

Mr. Chesser walked up to the podium to address this issue. He stated there is a non-conforming use provisions in the code that does not allow a non-conforming property to be rebuilt; adding they cannot suddenly amend the code to allow it because the people who may be interested in the issue of extending the docks may not even be present at this meeting and they should not be

ignored. He added they need to be included in the discussion if it means scheduling a workshop session to discuss this issue.

Mr. Chesser also noted that according to the lease agreement, the Destin Fishing Fleet has the access easement to the 10 foot parcel all the way across the City's parcel in order to take care of the boats parking on that space; and that they own at least the easement across the waterfront and they intend to use it; however, they would be glad to sit down and discuss this issue with all parties involved.

Councilmember Ramswell asked what the fleet has to lose by having this dock extended.

Mr. Chesser explained that as the boats come of their mooring they have to have at least the 50 feet of space that has been provided; and that the longer the dock is extended, the more difficult it would be for the boats to navigate around the end of that dock. He continued the fleet is not interested in that dock as long as they have the 50 feet from the edge of their riparian interest and 25 feet into the riparian line; adding there is a 25 foot setback within the riparian line that is important to the fleet.

Councilmember Ramswell asked if the 50 feet means the 25 feet on the park side plus the 25 feet on the B.I., Inc. side.

According to the Land Use Attorney, the other 25 feet would be the line they would draw just to the east of the current property boundary and towards the fleet which is not shown on the diagram.

Referring to the map on the screen, the City Manager noted that the northern portion of the "L" shape area on the map is encroaching into the 25 feet; and that the activity is not just the dock itself.

Mr. Chesser stated the disagreement they are having now is one of the reasons for his suggestion for all interested parties, including the Destin Fishing Fleet, to come to the table and discuss this issue.

According to Mr. Destin, they have made two attempts to meet with a fleet's board of directors; and they were informed at their last attempt the board of directors will not meet until November after the fishing season. He added they would be glad to meet with Mr. Chesser.

Referring to the map on the screen, Councilmember Ramswell noted the hash mark on the map equals 25 feet; on the south side of the hash is another 25 feet; and then at least another 50 feet on the other side of the hash. She added the total does not correlate with what is being discussed.

Referring to the map on the screen, the City Manager explained that the dock is on the center of B.I., Inc.'s property – 75 feet of property, 37½ feet each way. He continued that none of the activity would encroach into the City/Destin Fishing Fleet riparian; but any docking of boats would encroach into that 25-foot setback and into the City/Destin Fishing Fleet riparian rights.

Mr. Destin noted the City has the ability to either grant a waiver or make that portion of the dock a wildlife observation platform as required in the grant application.

Councilmember Braden moved to direct staff to submit Marina Concept 3, as it was discussed tonight, to the Florida Community Land Trust. Councilmember Morgan provided a second to the motion.

Councilmember Destin announced he would abstain from voting on this issue because his father has interest on B.I., Inc.

Councilmember Dixon noted they have directed staff to go to mediation with B.I., Inc. at their last meeting and for both of them to discuss their proposal to the Florida Community Land Trust. He suggests they follow the same path.

Councilmember Braden stated that is exactly the path they have to take and it is the intent of this motion.

Councilmember Ramswell asked if by voting to approve the motion on the floor means they are approving whatever agreement is presented, to include all the other pieces in place, and moving forward with this issue.

According to the City Manager, the parties met last week with regards to egress/ingress, and that they are aware of the square footage. They are also aware of the parking issues. They have also reviewed the agreement and find it consistent with the application they have made with the State for the original grant. He continued the only issue that would remain is whether or not the fleet has any objections as they relate to their riparian rights. He added it could be a State issue related to permitting under their guidelines; but they will meet with the Florida Community Land Trust to see if they will endorse this agreement.

The Mayor called for a vote on the motion, which passes 5-0 (Council members Morgan, Marler, Dixon, Ramswell and Braden voted "yes"; Councilmember Foreman was absent from the meeting; Councilmember Destin abstained from voting).

COMMENTS FROM THE AUDIENCE

Mr. Jim Bagby, a Destin resident, stated there have been a lot of discovery learnings with the new Council, which is normal for any organizations; but, the visioning session will really be beneficial to them. He also stated that during discovery learning, staff is the institutional knowledge and Council should work as closely as possible with staff. He also stated though the workshop the Mayor suggested is a good idea, it could work against people with jobs and who might not be able to participate for that reason. He also stated the agenda packet sometimes consists of hundreds of pages and there would not have enough time to review it and then conduct a workshop.

Ms. Carissa Harbarger, a Destin resident, stated they recently had their third DUI checkpoint at their residential neighborhood. She would like to know the source of funding for these initiative.

The City Manager stated it was part of the federal grant for DUIs.

Ms. Harbarger asked why they chose the residential areas for these checkpoints and not the harbor or Mountain Drive where it is closer to the bars.

According to the City Manager, the Sheriff's Office makes the determination where to set up their DUI checkpoints; and that they make these decisions based on past experience. He stated they will ask the Sheriff's Office if they need some ideas and suggestions from the City.

Mr. Steven Menchel, a Destin resident, announced that every mast arms in Destin now has a street sign for the first time in 10 years.

Having no further business at this time, the meeting was adjourned at 10:20 PM.

ADOPTED THIS 2ND DAY OF MAY 2016

By:

A handwritten signature in black ink that reads "Scott Fischer". The signature is written in a cursive style and is positioned above a solid horizontal line.

Scott Fischer, Mayor

ATTEST:

A handwritten signature in black ink that reads "Rey Bailey". The signature is written in a cursive style and is positioned above a solid horizontal line.

Rey Bailey, City Clerk