

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
SEPTEMBER 8, 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 Carisse Lejeune

Public Information Manager Doug Rainer

Comm. Dev. Interim Director Steven Schmidt

Parks/Recreation Director Lance Johnson

Deputy Parks/Recreation Director Lisa Firth

Finance Director Bragg Farmer

Land Use Attorney Scott Shirley

City Clerk Rey Bailey

City Planner Hank Woollard

City Engineer David Campbell

IT Manager Webb Warren

HR Manager Karen Jankowski

Library Director Jurate Burns

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Scott Fischer called the meeting to order at 6:00 PM. The Mayor allowed for a moment of silence; which was followed by the Pledge of Allegiance.

SPECIAL PRESENTATIONS

1. City Attorney Legal Services for the City of Destin
 - a. Anchors-Smith-Grimsley, PL
 - b. Conerly, Bowman & Dykes, LLP
 - c. Powell Injury Law, P.A.

The Human Relations Manager Karen Jankowski noted that the request for proposal announcement for city attorney legal services was posted on July 16, 2016 with the bid opening taking place on August 18, 2016. The proposal was advertised in the Northwest Florida Daily News, Pensacola News Journal, Florida League of Cities, Florida City and County Management Association and the City of Destin website. She stated that 8 firms requested the bid package information and 3 firms responded to the bid with detailed proposals. The 3 firms are present here tonight to provide a brief presentation to Council.

- Anchors-Smith-Grimsley, PL

Making the presentation for Anchors-Smith-Grimsley, PL was Attorney Jeffrey Burns. Mr. Burns informed the Council his law firm has 53 years of municipal experience. It is the longest practicing law firm in Okaloosa County. Some of the clients they represent are the Okaloosa County School District, Town of Cinco Bayou, several fire control districts, including the Ocean City-Wright, Okaloosa Island, Florosa and Holley-Navarre fire control districts. They also

represent the Okaloosa County Clerk of Court Comptroller as well as a number of quasi-municipal utility companies including the South Walton Utility and CHELCO. He also stated if selected he will function as the lead attorney that would attend every council meeting, but the 9 other attorneys in the firm will work with him in representing the City of Destin. They would encourage each member of Council to feel free to share their opinions at Council meetings and they would not stop them from attending the Local Planning Agency and other City committee and board meetings because they are elected by their constituents to represent their interest.

Following the presentation, Councilmember Dixon inquired about a possible conflict of interest since Mr. Burns' mother is a department director for the City of Destin.

Mr. Burns replied there would not be a conflict of interest; adding if his mother in her capacity as department director ever presents a legal issue to the City, another attorney in the firm would be able to handle the matter. And if there is a conflict with the firm itself, the firm will build into the contract with the City a process whereby a competent replacement firm can be hired to handle that particular issue and charge the same rate.

Councilmember Marler suggests Mr. Burns reconsider his statement about encouraging the members of Council to attend meetings of their standing committees, such as the Local Planning Agency. He stated these are their advisory committees, and if they attend their meetings it might influence their decision on certain matters before they are even presented to Council.

Mr. Burns promises to research this issue further if his firm is selected.

Councilmember Destin asked Mr. Burns to explain the difference between his firm's proposed retainer fees of \$6,000 and the proposed \$3,000 from Powell Injury Law, P.A.

Mr. Burns stated he does not know the exact details of Mr. Powell's proposal; however, his firm's proposal will provide the City with 45 hours of normal legal services a month. He continued their hourly rate is \$145.00 per hour, which is by far the lowest rate of any of the firms that submitted an application. They have also built in a discount for the City with their monthly retainer of \$6,000 as it comes out to approximately \$133.33 per hour of legal services if they keep it to 45 hours per month. He added that if selected by the City, they would be willing to negotiate that amount; and if the City is more comfortable with a lower amount, they would lower their retainer and adjust the expectations accordingly.

The City Manager noted that City staff has not vetted any of the proposals for this RFP. They were provided to Council without staff's recommendation. She inquired as to the firm's philosophy about their availability and responsiveness to the City Manager and staff, since a lot of the work the City Attorney will be doing will directly involve them.

Mr. Burns stated he will make himself available to the City Manager and staff at any time, especially by telephone or e-mail.

Councilmember Braden asks if there will be an additional charge to the City if the firm has to consult with any of their colleagues.

Mr. Burns stated the City will not be charged extra for any consultations.

Councilmember Ramswell asked Mr. Burns why he wants this job.

Mr. Burns replied he was born and raised in Destin, and had lived in Destin for 30 years; and that his father was one of the first attorneys in Destin. He loves the City and personally, he had always wanted to be Destin's City Attorney.

Councilmember Destin asked if the firm is familiar with the Roberts Rule of Order; to which, Mr. Burns replied affirmatively.

➤ Conerly, Bowman & Dykes, LLP

Making the presentation for Conerly, Bowman & Dykes, LLP was Mr. Hayward Dykes. Mr. Dykes stated that his firm is more than qualified to act as Destin's City Attorney. They currently represent 3 municipalities – City of Fort Walton Beach, City of Mary Esther and City of Valparaiso. They also represent the Northwest Florida State College Board of Trustees and the Walton County Board of Adjustment. He personally had been in Destin since 2006 working as an associate attorney for the firm. They are well versed in the Sunshine Law of Florida, ethics, contract negotiations, leases and land development. He also stated they could help bring Synergy to this position. They could take the experience they had with other cities and use it to maximize service with the City of Destin. He would also try to make himself available to the Council at any time because he would rather handle issues sooner rather than later.

Councilmember Braden asks what the \$7500.00 retainer entails.

Mr. Dykes replied they currently charge the other cities by the hour instead of a monthly rate. They are charging anywhere from \$170.00 to \$180.00 an hour for the legal work they provide to these cities. The \$7500.00 retainer equates to about \$66.00 per hour of legal service; and that anything beyond that would be \$180.00 per hour. He continued if appointed to the position, they would be glad to negotiate that rate with the City of Destin and possibly go into an hourly rate like the other cities. He added this is a fair rate based on their experience and the type of service they could provide to the City of Destin.

Councilmember Marler asked who would be the City's point of contact and who would function as the City Attorney should this firm is selected.

Mr. Dykes stated he would be the point of contact and he would function as the Destin City Attorney. He also noted there would be a conflict between the City of Destin and City of Mary Esther with regards to their monthly meeting schedules. If his firm is selected, another attorney will function as the City Attorney for Mary Esther. He added there will be times, whether for personal or business reasons that he would have somebody, either as well qualified as he is or very close to it, acting as City Attorney for Destin.

Councilmember Ramswell asked if this firm considers working with 3 other cities a benefit in terms of knowledge, or if they view it as a negative in terms of perhaps being overextended.

Mr. Dykes replied they would not consider it a disadvantage; adding that he and his partners sat down and discussed how they would handle everything before they submitted their proposal.

The City Manager noted that the RFP was compiled but not vetted by City staff; and that they made no recommendations to the City Council. She also stated since many key functions of the City Attorney will involve City staff, she would like to know the firm's philosophy regarding making themselves available to the City Manager and staff.

According to Mr. Dykes, they would not normally bill the City for any questions that they could answer without requiring any research. Otherwise, they would bill the City for that time once they exceeded the 45 hour mark.

➤ Powell Injury Law, P.A.

Mr. Dixie Dan Powell gave the presentation for Powell Injury Law, P.A. He informed Council that he currently represents the City of Niceville. He has been involved with municipal work and litigation for approximately 30 years. His father was a City Attorney for the City of Niceville, City of Mary Esther and the Okaloosa Gas District; and that he worked with him during the early years of his career and then he started handling litigation matters for these entities. He also stated that selecting him for the position of City Attorney for Destin would substantially reduce the need to outsource other legal services for the City because of qualification as a trial lawyer and litigation specialist. He also noted that the fee that he charges for municipal work is very competitive and reasonable; and that he charges the same amount for litigation matters. He further stated that the proposed retainer amount of \$3,000.00 would include ordinance preparation, attending all meetings, taking phone calls and answering questions on legal matters, and being available on weekends if necessary. He also mentioned that he has 5 paralegals and 6 other lawyers in his other law firm; and that in rare occasions when he cannot attend a City meeting, another lawyer will always be available to attend for him.

Councilmember Ramswell noted that the firm specializes in injury law and that it is their main focus. She asked how they plan to transition into municipal law.

Mr. Powell explained that injury practice being a trial practice gives a broad spectrum of trial experience. However, he enjoys doing municipal work; and that he makes it a priority in his practice.

Councilmember Marler asked who would be the City's point of contact and who would function as the City Attorney and attend all meetings should this firm is chosen.

Mr. Powell stated he will function as the City Attorney; and that their lead paralegal with vast municipal experience would be the City's main point of contact at the office.

The Mayor wants to know if this firm is selected whether they are hiring a firm with one attorney or if both firms will be involved.

Mr. Powell explained that the City would only be hiring his firm Powell Injury Law, P.A., and with him as the City Attorney. He continued the lawyers from the other law firm, Powell, Powell & Powell, in which he owns 40 percent shareholder interest, would stand-in for him when necessary.

Following the presentation, Councilmember Dixon expressed concern that only 3 firms submitted a proposal.

Councilmember Braden stated that staff has done a good job reaching out to different firms to obtain as many proposals as possible, and that several other firms requested copies of the bid package information. He continued if they decide to re-advertise the RFP, they could conceivably end up with the same result.

Councilmember Destin stated that most of the attorneys in Northwest Florida are either in Pensacola or Tallahassee; and even though there are several local attorneys that specialize in municipal law, he does not expect to get more applicants if they decide to rebid this service.

Councilmember Ramswell stated that after reviewing the firms' applications, reviewing their references and listening to their presentations, she feels comfortable making a decision tonight.

At this time, the Mayor asked the City Council members to score and rank the firms using the "City Council Rating Form" provided by staff, and then present the forms to the City Clerk who will then tabulate the scores.

Following a short break, the City Clerk provided the results of the scoring to the City Council.

The Mayor announced that Anchors, Smith, Grimsley, PL was ranked number one by the City Council. He then asked for a motion from the Council.

Councilmember Braden moved to retain the services of the law firm of Anchors, Smith, Grimsley, PL, and authorize the City Manager to produce a contract agreement for signature. Councilmember Dixon provided a second to the motion.

Councilmember Marler asked when the new City Attorney will start work for the City.

According to the Interim City Attorney, it could take a week to negotiate the contract; and then staff may be able to present that contract for Council's approval at their next meeting.

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

APPROVAL OF MINUTES

2. Approval of minutes of the June 6, 2016 regular city council meeting

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

PUBLIC HEARINGS

3. First reading of Ordinance 16-22-CN, adopting Fiscal Year 2017 Millage Rate

The City Attorney read proposed Ordinance 16-22-CN by title, and then presented it to the Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN OF OKALOOSA COUNTY, FLORIDA, ADOPTING THE FINAL LEVYING OF AD VALOREM TAXES FOR THE CITY OF DESTIN FOR FISCAL YEAR 2017; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Manager stated that staff had brought forward a balanced budget to Council at a 1.5 millage rate. She noted that during the budget workshop discussion there are other items Council wanted to consider for funding for Fiscal Year 2017 and therefore set a tentative rate of 1.7 mills; and that the City's Finance Director would be willing to facilitate discussion of these additional items.

The Finance Director Bragg Farmer pointed out that the only items that were added to the current budget following the budget workshop were \$90,000 to cover the payroll and benefits for a Harbor Code Enforcement Manager along with \$35,000 for security systems for City facilities. He continued the budget is currently placed with a 1.7 millage rate, which leaves an additional \$671,532 unallocated amount with which they have to discuss and resolve tonight. The cost for a marine patrol that had been discussed by the Council has not been placed into the budget, as well as the cost for potential additional law enforcement duties during spring break for approximately \$60,000.

The City Manager noted that the prioritized storm water projects presented by the City's Public Services Director have not been included in the budget. She also stated the Council has to decide whether to add a Sheriff's Office Marine Unit to police the harbor waterways and all the other considerations that had been brought to her attention since the budget workshop. She continued with regards to the Sheriff's Office Marine Unit, instead of the officer having a wave runner, which was included in the \$74,412 price tag, there was a suggestion to explore the possibility of the officer being in a marine unit boat. The City would be responsible for purchasing the boat, retrofitting for the Sheriff's Office equipment, and the ongoing operations and maintenance for the boat. The Council has been provided a cost estimate for the boat at \$49,000. She added that the remaining infrastructure projects that were not included in the storm water priority list and the unfunded projects for the Morgan Sports Complex have also been provided for Council's consideration.

The Mayor stated they have needs for more money than they have available. He asked if staff has prioritized these needs for Council.

The City Engineer David Campbell stated the immediate priorities would be the storm water improvement list of priorities and the sidewalk repair and replacement totaling approximately \$515,000.

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

Mr. Jim Bagby, a Destin resident, spoke first. He pointed out that Council had already spent several minutes discussing budgetary items while the proposed ordinance currently before them only deals with the millage increase. He stated the proposed budget items that have been presented to Council have no backup materials; and that they are only based upon an educated guess on the part of City staff. He continued there were no inputs from the City's standing committees. The Council has not prioritized anything and has not given any guidance to staff. He also stated this is the single largest millage increase in the City since its incorporation in 1984 and the Council does not have any plans on how to spend the extra funds. He added that the City currently has \$10 million in reserve funds when ideally they only need about \$6 million for the required 4 months emergency operations.

Next to speak was Mr. Daryl Shelton, a Destin resident. He stated there may have been a 5.27 percent increase in the property values; but, according to the property appraiser, \$39 million of that increase was for new buildings. He added that new buildings put additional stress in their infrastructure.

Ms. Sandy Trammell, a Destin resident, stated that she too disagrees with the proposed tax increase especially when the Council had not made any plans on how to spend the additional funds. She added that the items they are discussing tonight should be part of their preparation for next year's budget. She asked how many of the current road projects are on the State Transportation Planning Organization (TPO) list or whether the City has explored every effort to get them on the list. She urged Council not to increase the millage rate and find other ways to fund the additional projects.

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

Councilmember Ramswell stated that she originally made the motion to raise the millage rate and that she still strongly supports it. She continued the City has done a phenomenal job applying for grants, but grants alone will not address all of their problems. They have infrastructure problems that are their responsibility to fix. They have areas with no swales and where the storm water system had collapsed because they are old. She also stated it would be necessary to raise taxes to address storm water issues and fix damaged sidewalks that are causing injuries to people; adding that since past Councils were unwilling to increase the millage, they now face critical dire needs that they have to address. She also added that with regards to comments that this Council does not have a plan, the City Engineer presented a list of projects before she even made a motion for a millage increase.

Councilmember Ramswell then asked staff to put up her personal copy of the proposed tax plan on the screen. She explained that a 1.5 millage rate equates to \$1.50 per every \$1,000.00 of the assessed land value; and that raising the millage rate from 1.5 mil to 1.7 mil equates to 13.33 percent raise. She pointed out her personal taxes would go from \$281.87 to \$315.01, which is an increase of \$33.14 a year. She stated she would be willing to pay this amount to help fix some of their infrastructure problems and improve the City.

Councilmember Morgan noted the City of Destin is in the bottom 5 percent of cities with the lowest millage rate; and that if they increase their millage to 1.7 percent, the City of Destin will remain in the bottom 5 percent. He continued it is a \$40.00 increase for a house appraised at \$250,000.00, or \$3.33 a month; and that it is not worth the outrage for the projects they outlined. As a business owner, he represents about 15 properties in the City; but, he would be willing to make a minimal sacrifice to make Destin a better city to live in. They identified these problems during hours of discussions and provided viable solutions. The City has such a lean budget with a lot of pressing infrastructure needs because of a heavy increase in population during the summer months.

Councilmember Ramswell moved to adopt Ordinance 16-22-CN on first reading adopting a FY 2017 millage rate of 1.700 mills which is more than the rollback rate of 1.5427 mills; seconded by Councilmember Morgan.

Councilmember Dixon suggests not going to the full 1.7 mil, but keeping it somewhere between 1.5 mil and 1.7 mil and trying to work within those parameters.

Councilmember Destin stated that he represents directly and indirectly significant amount of taxable value within the City of Destin; and that he feels the full 1.7 mil is a lot. He agrees they have problems with their infrastructure and they need to address them now; and raising the millage rate around 1.6 should be enough to take care of some of their priorities this year.

Councilmember Marler stated that he agrees with an earlier comment that they should have started addressing their priorities last year for next fiscal year's budget; which would have made increasing millage rate to 1.7 more acceptable to the public. He suggests they start discussing their priorities for fiscal year 2018 at the beginning of fiscal year 2017. He added he does not agree with using their reserve funds for this purpose.

According to the City Manager, if the Council wishes to identify a few of the priority items that were brought forward at the request of Council, the Finance Director is prepared to tell Council what millage rate would be necessary in order to achieve those priority items.

Councilmember Ramswell noted that dropping the millage rate down to 1.675 would bring in approximately \$699,000 in revenue. She asked if this is enough to cover all their critical needs.

According to the Finance Director, they would first have to account for the Sheriff's Office Marine Unit, additional funds for spring break coverage, the Harbor Code Enforcement Manager position and inclusion of the boat for the marine patrol before they start addressing the infrastructure items; unless the Council wants to go directly to the infrastructure items.

Councilmember Ramswell stated the infrastructure items are very important based on their previous discussions. She asked if it would send the proposed ordinance back to first reading if she offers a substitute motion to drop the millage rate to 1.675 and it passes.

The Finance Director explained that the budget is a unique document when it comes to ordinance within the State of Florida. They could adopt a 1.675 millage rate tonight, and then drop if further at the second budget hearing without the ordinance going back to first reading.

The Mayor stated that Council could adopt a 1.7 millage rate tonight, make a budget revision if necessary, and then reduce the millage rate to match the budget at the next meeting.

According to the City Attorney, they could either undertake a revised motion or passed the current motion on the floor and then revise the millage rate at the next budget hearing.

The Finance Director informed Council a formal advertisement has to be placed in the paper, and that the deadline to submit that information to the newspaper is two business days from tonight; adding that Council's decision tonight will be included in the advertisement.

Councilmember Ramswell stated she would leave the current motion in place.

Having no further comments from the Council members, the Mayor called for a vote on the motion, which passes 4-3 (Council members Morgan, Ramswell and Braden voted "yes"; Council members Destin, Marler and Dixon "no"; Mayor Fischer cast a tiebreaking vote of "yes"; Councilmember Foreman was absent from the meeting).

4. First reading of Ordinance 16-23-CN, adopting the Fiscal Year 2017 Budget

The City Attorney read proposed Ordinance 16-23-CN by title; and then presented it to Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN MAKING APPROPRIATIONS FOR CERTAIN EXPENDITURES, EXPENSES, CAPITAL IMPROVEMENTS AND CERTAIN INDEBTEDNESS OF THE CITY OF DESTIN, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016 AND ENDING SEPTEMBER 30, 2017; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Manager reiterated that with the 1.7 millage rate tentatively set at the budget workshop, staff is ready to facilitate discussions on prioritizing additions to the budget. The budget is currently set at 1.5 mil, and it would be up to the Council to instruct staff on which projects they wish to add to the budget.

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

Mr. Jim Bagby reiterated that the proposed budget items City staff had provided to Council did not include any detailed backup documents; and that they are merely based on educated guess on the part of staff. He continued since Council did not do its job of setting their priorities early enough and had not given staff clear guidance to enable them to fully accomplish their job; adding that the Council is trying to make decisions based on incomplete information. He also added the City has enough money in the reserve funds to spend on storm water improvements.

The Mayor stated he is not aware of anyone that is capable of putting together exact prices on any projects and have it reflected in the budget until it is finished, finalized, engineered and bid out. He continued they know exactly what they need because they have a good City Engineer who has estimated the value of the projects.

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

Councilmember Ramswell stated she took offense to Mr. Bagby's remarks because the present Council should not be the only one to blame in this matter. A lot of the critical needs that have been identified should have been addressed at least a decade ago by previous councils. She continued she has personally been addressing the storm water issues for over two years and a lot of their critical needs have been discussed during their visioning sessions; and that the City Engineer is very much aware of these needs. She also stated they cannot wait until things start failing before they start acting. She added they need to do preventive maintenance now or make improvements as necessary and provide for the needs of the City; however, they would need more money to do it.

The City Manager noted it was made very clear to staff during the budget workshop that the Council was interested in the City Engineer's priorities for storm water improvements; and the particular projects they were not able to fit in the budget under the 1.5 millage rates. The City Engineer did an excellent job bringing forward the list of projects. She continued that a Harbor Master was also identified during the visioning session; and after much exhaustive research by staff, it was determined that a Harbor Master is not the right fit for the Destin Harbor. However, they believe a Harbor Code Enforcement Manager would resolve a lot of the issues that were brought to their attention. She also noted there was an interest in having additional law enforcement for the spring break because it seemed to work well during this season. The additional information that

was provided to Council was compiled following the visioning session, based upon her one on one meetings with members of the Council. She added that the enforcement of the waterways is not within the City of Destin's jurisdictional authority; and that they have invited representatives from the Florida Fish and Wildlife Conservation Commission (FWC) to attend tonight's meeting to answer any specific questions from the Council. She also added if Council wants the waterways patrolled, it is necessary to have a Sheriff's Office Marine Unit.

Councilmember Marler noted his priorities for the fiscal year 2017 budget cycle are the storm water improvement projects, a Harbor Code Enforcement Manager and law enforcement services for spring break.

The City Manager asked the Finance Director to calculate the total dollars and millage rate necessary to include these 3 items plus the storm water improvement priorities identified by the City Engineer.

The Finance Director noted the total is about \$560,000 out of the \$800,000 budget.

Councilmember Ramswell wants to know the difference between the \$515,000 and the 420,000 figures given for the storm water priority.

The City Engineer explained the storm water priority amount totaled \$410,000 and the sidewalk repair/replacement came up to \$105,000.

According to the Finance Director, it would take a millage rate of 1.65 to cover the Harbor Code Enforcement Officer, law enforcement services for spring break, and the \$410,000 for the storm water projects.

Councilmember Dixon asked why they would want to pay for a marine patrol if the City does not have jurisdiction over the harbor waterway.

Capt. Ted Pecot from the Sheriff's Office explained the marine patrol unit would basically enforce the County/City ordinance or the State Statutes in the waterway. He continued the City has jurisdiction over the land on both sides of the waterway; which means the City would have jurisdiction over the harbor and Joe's Bayou.

The City Attorney opined that the Okaloosa County Sheriff's Office would have law enforcement jurisdiction in that area. The limitation occurs when the City would be endeavoring to apply other codes with regard to operation of vessels which is preempted in large part to State law. In terms of the enforcement of such things as criminal code, the Okaloosa County Sheriff's Department in a patrol boat would have jurisdiction.

The Mayor asked the FWC personnel to comment on the issue.

Lieutenant Keith Clark of FWC noted that Florida Statutes 327.40 and 327.60 empower municipalities or counties to establish mooring fields; and that local governmental authorities are prohibited from regulating the anchoring of vessels outside of such mooring fields.

Councilmember Marler noted there is a helicopter service that uses a barge in the harbor as a landing pad, and that the City adopted an ordinance barring the landing of seaplanes on the harbor and Joe's Bayou. He asked if the City has the authority to regulate these types of activities.

According to the City Attorney, the City's limitations on its jurisdiction only come in to play where vessels are concerned within the definition of Florida Statutes; and that seaplanes are not considered vessels under that definition. The seaplane landing pad was not a vessel within the meaning of that jurisdiction and was a none-water dependent use under the City's comprehensive plan and therefore was not allowed in any of the water areas in the City. There was a case law allowing the City to adopt an ordinance involving the seaplanes.

Lieutenant Clark stated they are very much aware of the issue involving the Timberlake Helicopter Service and the barge they used as landing pad located near the Marler Bridge. He stated the FDOT has to permit what they consider a helicopter landing facility, and that they would not permit the barge for that purpose.

Councilmember Marler asked if the City has jurisdiction over the removal of derelict vessels from the waterways.

Officer Gerald Moulner of FWC stated that an ugly boat is not necessarily a derelict boat; and that the State of Florida has jurisdictions over derelict vessels. A vessel has to meet the State definition of derelict before it can be considered a derelict vessel; and that it is up to the investigating officer to make that determination. It also has to be in public waters; and that the Destin Harbor would be considered public waters. Once a vessel is determined to be derelict, there would be an intensive effort to contact the owner. Then they have to give a certain number of days for the boat to be removed. The entire process could last 3 months to years depending on the status of the boat.

Lieutenant Clark stated if the City decides to hire the Sheriff's Office to patrol the harbor, they are also empowered to investigate derelict vessels.

The City Manager asked if a Harbor Master or a Harbor Code Enforcement Officer for the City would have enforcement authority over boats that are moored in the waterway without having a mooring field.

Lieutenant Clark replied the City would not have that authority without a mooring field.

The City Manager asked if they would have enforcement authority over people speeding through no wake zones.

Lieutenant Clark stated only sworn law enforcement officers could address violations of the idle speed zones in the harbor.

The City Manager asked the same question with regards to someone driving a boat while under the influence of alcohol.

Lieutenant Clark replied only a sworn law enforcement officer is empowered to take action regarding this type of violation.

Councilmember Morgan stated that being steward of public safety they need to be proactive and include the marine patrol unit in the budget.

Councilmember Morgan also stated their recreation sports complexes are one of the great successes they have in Destin; and that the list of unfunded projects they were provided are worthy of funding and would like to see those included in the budget.

Councilmember Dixon spoke of some barges that get moved from Crab Island over to the harbor, which add to the congestion problem in the harbor. He continued these barges have no motor and no lights at night. He asked if they could regulate the anchoring of these vessels if they establish a mooring field; to which Lieutenant Clark replied affirmatively.

Councilmember Ramswell asked for one of the FWC officers to explain the following language in Section 327.60 of Florida Statutes: *“Local governmental authorities are prohibited from regulating the anchorage of non-livaboard vessels engaged in exercise of rights of navigation.”*

According to Lieutenant Clark, they can establish a mooring field through this mechanism which would control the number of days a boat can moor up. But, the first thing they need to get is a submerged land lease from the State Department of Environmental Protection (DEP).

Following a short break, the Mayor announced he had asked the Finance Director to list the items City staff considers most important and then include the items Council had discussed at their visioning session and tally them up. He then asked the Finance Director to read these items.

The Finance Director read the following line items:

- Harbor Code Enforcement Manager - \$90,000 (includes benefits and health insurance)
- Sheriff's Services (spring break) - \$42,500
- Storm water improvements priorities - \$410,000
 - Engineering analysis for flooding problem on 2nd Street - \$35,000
 - Replace corrugated metal pipe on Chickasaw Way (Indian Bayou) - \$75,000
 - Line the hydrodynamic separator on Gulf Shore Drive/Repair Gulf Shore Drive - \$125,000
 - Replace drainage system at the tunnel on Scenic Hwy 98 - \$25,000
 - Upgrade storm system at Main Street and Indian Trail to include addressing the chronic standing water on Mars Street - \$150,000
- Sidewalk repair/replacement at multiple locations throughout the City - \$105,000
- Marine Patrol Unit - \$75,000
- Marine Patrol boat - \$50,000
- Marine Patrol boat operation expenses for 1 year - \$20,000

He stated it would require Council to adopt a millage rate of 1.7mills to include all the above items into the current budget.

Councilmember Marler suggests they eliminate the Harbor Code Enforcement Officer at this time due to the City's lack of jurisdiction on the harbor waterways.

Councilmember Destin stated that if they drop the Harbor Code Enforcement Officer position and the marine patrol unit, they should be able to fund all the infrastructure improvement repair costs.

Councilmember Morgan stated he would like for them to consider funding the projects for recreation sports complexes if there is enough money available once they eliminate some of the items listed above; adding they have been very successful and they have to make sure they stay successful.

The Finance Director noted if they eliminate the Harbor Code Enforcement Officer and marine patrol unit, Council would need to adopt a millage rate of 1.65 mills to cover the rest.

The Mayor asked the City Manager if she feels they would be able to properly enforce the code on dry land around the harbor and Joe's Bayou without the Harbor Code Enforcement Officer position.

The City Manager stated that based on her previous conversation with the Code Enforcement Supervisor, the greatest frustration was not having a strong enough regulation; and that he felt confident that if they have codes that actually have punitive actions attached to them, code enforcement could adequately take care of some of the issues that have been plaguing the City.

Councilmember Braden stated he would prefer removing the \$105,000 for sidewalk repair and applying the money towards hiring a Harbor Code Enforcement Manager.

Councilmember Marler agreed they could eliminate the sidewalk repair cost of \$105,000 since they have a 5-year sidewalk plan and should be able to fix some if not all the sidewalks; however, he would like the marine patrol unit to remain on the list. He continued they could probably work with some of the local marine salesmen who have a vested interest on the harbor and get a better price on a boat; or they may even consider donating one to the City as a goodwill gesture. He added he would prefer they reduce the millage rate to 1.65 mills.

Councilmember Destin asked the City Engineer if they could possibly eliminate any of the 5 items listed under the storm water improvement priorities and reconsider them on the next budget cycle.

The City Engineer stated they could possibly eliminate item #5 (upgrade storm system at Main Street and Indian Trail to include addressing the chronic standing water on Mars Street) at this time since they have money in the current budget for an engineer to design the improvements for this area. He added he would have a much better number once the engineering analysis is completed.

Councilmember Destin proposed dropping item #5 from the list.

Councilmember Ramswell noted she recently received an email from an individual with a picture of his home on Main Street that is flooded, and that there is a dire need to address that problem.

The City Engineer noted they have in the current budget the money for the engineering design for that area; but not for the repair.

Councilmember Ramswell asked if the City have some measure in place to assist the homeowner in that area such as sending City staff out there with the pumps.

According to the City Engineer, they actually sent the pumps out in that area about 3 years ago; adding they can offer some assistance if necessary if they happen to have another rain event.

Councilmember Dixon stated that he believes there were problems identified on the Airport property which affected this particular piece of property on Main Street; and that the County took some steps two years ago to help alleviate some of the problems in that area. He asked the City Engineer to look into it.

Councilmember Dixon noted he was the one who pushed hard for the Harbor Master; however, in light of the fact they do not have the jurisdictional authority over the harbor waterways, he is willing to concede they do not need one at this time. But, he still believes they need another Code Enforcement Officer who can concentrate their time and effort on the harbor and boardwalk.

The Mayor asked the Finance Director to update the list and provide the millage rate considering all the comments from the Council members.

The Finance Director provided the following line items:

- Sheriff's Services (Spring Break) - \$42,500
- Storm water maintenance / repairs - \$260,000
- Sidewalk repairs - \$105,000
- Marine Patrol Unit (using the smaller jet-ski) - \$75,000

He stated the current list brings the millage rate to 1.63 mills.

Councilmember Destin suggests dropping the sidewalk repair for \$105,000 and substitutes the hiring of a code enforcement officer.

Councilmember Morgan disagrees, stating the sidewalks are in dire need of repair and that it would only cost each taxpayer about 20 cents a month to fix the sidewalks.

The City Engineer noted that based on the analysis by the Deputy Public Services Director, each one of the areas identified has a raised sidewalk of more than half an inch, which is a tripping hazard.

Councilmember Ramswell asked the Finance Director to calculate the required millage rate if they were to add the \$150,000 to upgrade the storm system at Main Street, Indian Trail and Mars Street.

The Finance Director stated it would be at 1.667 mills.

Councilmember Destin prefers leaving it off the list since they would not be able to provide immediate relief to the homeowners since they are only in the process of designing the improvements in these areas. He added they would know more about the exact amount of money they would need once the design phase is completed.

Councilmember Marler stated they need to investigate if the flooding on Main Street is caused by the airport; and if so, they need to start a dialogue with the County.

Councilmember Destin moved to adopt Ordinance 16-23-CN on first reading to provide for a balanced budget for FY 2017 and schedule the second reading on September 20, 2016; and to incorporate the following changes as identified by Council and as read into the record by the City's Finance Director:

- Sheriff's Services (Spring Break) - \$42,500
- Storm water maintenance / repairs - \$260,000
- Sidewalk repairs - \$105,000
- Marine Patrol Unit (using the smaller jet-ski) - \$75,000

Councilmember Ramswell provided a second to the motion which passes 5-1 (Council members Morgan, Destin, Marler, Ramswell and Braden voted "yes"; Councilmember Dixon voted "no"; Councilmember Foreman was absent from the meeting).

5. First reading of Ordinance 16-14-LC, which amends the City of Destin Land Development Code to allow land use "4412 Other Motor Vehicle Dealers" as a conditional use in the Town Center Mixed Use (TCMU) zoning district.

Councilmember Morgan moved to continue first reading of proposed Ordinance 16-14-LC to the October 3, 2016 city council meeting; seconded by Councilmember Marler. Motion passed 5-1 (Council members Morgan, Destin, Dixon and Ramswell voted "yes"; Councilmember Braden voted "no"; Councilmember Foreman was absent from the meeting).

6. Second reading of Ordinance 16-15-CC, which amends the City of Destin Code of Ordinance to prohibit commercial concession activities on Norriego Point.

The City Attorney read proposed Ordinance 16-15-CC; and then presented it to the Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO CODE ENFORCEMENT; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AN AMENDMENT OF CODE OF ORDINANCES CHAPTER 14, OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE IV CODE ENFORCEMENT CITATION PROGRAM AND PROCEDURES, SECTION 14-94 APPLICABLE CODES AND ORDINANCES, CLASS VIOLATION; PROVIDING FOR AMENDMENT OF CODE OF ORDINANCES CHAPTER 15, PARKS AND RECREATION, ARTICLE II STANDARDS OF BEHAVIOR AND OPERATION ON PUBLIC PARKS, SECTION 15-37, RECREATIONAL ACTIVITIES; PROVIDING FOR AN AMENDMENT OF CODE OF ORDINANCES CHAPTER 15, PARKS AND RECREATION, ARTICLE II, STANDARDS OF BEHAVIOR AND OPERATION OF PUBLIC PARKS, SECTION 15-42 PENALTY; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Attorney noted a correction that needs to be made on page 2, Section 14-94(5) of the ordinance: Change "15-42(b) (2)" to "15-42(b) (7)"

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

Mr. Bruce Craul, a Destin resident, alluded to a portion of the ordinance that reads: "*For purposes of this prohibition, 'concession' is defined as the provision of any type of goods or services by a person or entity regardless of whether such goods or services are provided for compensation.*" He then asked the following questions:

- *Does this mean a chair or an umbrella cannot be set up on Norriego Point, even without monetary transaction taking place?*
- *Are they trying to restrict anybody that lives on the harbor from going to Norriego Point?*
- *Would it be against the law for the little guy on a Zodiac that sells peanuts to sell them to the people on the beach?*
- *Can a person who paid to rent a wave runner pull up on the beach?*

Capt. Jerry Jarvis, a Destin resident, spoke next. He stated that he owns and operate a charter boat company on the harbor. He expressed concern about the language in the proposed ordinance; stating that it seemed they want to prevent any entity from establishing a profit oriented business on a City park land to align itself with the original agreement when the County deeded that property to the City. He wants to know if this is an attempt to reduce the present use of Norriego

Point because it may be bothersome to people that live in the areas surrounding it. He also noted that under the language of the proposed ordinance a vendor will be ticketed and receive \$100 fine if they stop at the request of a citizen who is on Norriego Point and sell something; or if they drop a citizen off on Norriego Point. He also wants to know what would happen if a group of people or a family decides to put up a tent and set up chairs for a picnic on Norriego Point. He also noted if this ordinance passes, it would prevent the City from doing anything other than special events. It would also prevent the City from leasing out certain areas of Norriego Point to a concessionaire to receive funds that could be used to make improvements to Norriego Point. He urged Council not to adopt this ordinance.

Mr. Dana Matthews, a local attorney, also addressed the issue. He distributed copies of documents relating to Norriego Point. He then read the following highlighted portion of a document dated April 24, 1961 when the State of Florida dedicated the property to Okaloosa County: *"and said county in exchange therefor has agreed to make a dedication of a portion of said lands for public park and recreational purposes..."* He noted that the intent is stated on this deed; and that it was a reservation of rights in favor of the state that continue to exist to this date. He also read the following statement contained in the deed: *"It is further covenanted and agreed that Okaloosa County does hereby set aside and dedicate and will keep open and maintain a suitable roadway of adequate width across Santa Rosa Island to permit passage from U.S. Hwy 98 of two-way traffic into said dedicate park area hereinbefore described."* He then referred to the copy of the deed from Okaloosa County to the City of Destin dated July 13, 2010 and read the following highlighted portion: *"This conveyance is subject to the terms and conditions set forth in the dedication of this property as recorded in Book 194 at page 573 of the official records of Okaloosa County, Florida."* He explained that by this statement, the County is reaffirming that this covenant continues to exist. He also noted that this deed also contained the following language: *"This conveyance is made and accepted with the covenant and understanding that any use of the property by a non-governmental person other than in such person's capacity as a member of the general public is prohibited."* He stated this language implies that the general public should not be prohibited from using this land for recreational or public park purposes. He also pointed out the above language were not cited in the staff report; rather, the staff report says no concession is allowed; and that the City came up with a new definition of "concession." He argues that since "concession" is not defined in the deeds, the City would need to go to court and obtain a court order to declare what "concession" means; or asks the County to accept the definition change on the deed the County provided to the City.

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

Councilmember Destin stated that he does not understand the reason for Mr. Craul's presence at this hearing tonight advancing the arguments for the "peanut salesmen"; except part of this ordinance could possibly interfere with the ability of the Emerald Grande to make money by continuing to use Norriego Point for commercial purposes and to be able to market for buildings that do not have a beach.

Mr. Craul noted that Emerald Grande has a beach; and that he is not here for selfish interest, but, he is also speaking for others. He argues that the City is prohibiting the public from going in a public park, including Emerald Grande owners. These owners are the largest group of tax payers in one place in the whole County, and the City is trying to prohibit Emerald Grande from putting a beach chair and umbrella on that beach for them even though they pay nothing for it.

Councilmember Dixon moved to adopt Ordinance 16-15-CC on second reading and direct staff to forward it to the Municipal Code Corporation for incorporation into the City of Destin Land Development Code; with the correction of "15-42(b)(7)" on page 2, Section 14-94(5), line 2 of the ordinance. Councilmember Braden provided a second to the motion.

Councilmember Marler stated that the original intent of this ordinance was to prevent people without a business tax receipt from profiting using City property. He also announced he would abstain from voting as he is an employee of the Emerald Grande, which was mentioned during the public hearing portion of this item.

Councilmember Ramswell noted that the current language in the ordinance could be interpreted as prohibiting a member of the public from placing their own umbrella and towel and lying out on the beach.

Councilmember Ramswell also pointed out the original language in the ordinance read: "*Concession is defined as the provision of any type of goods or services by a person or entity, other than the park user, regardless of whether such goods or services are provided for compensation.*" She stated that the part taken out was the wrong part; and that she was under the impression the rest of the sentence following "other than the park user" will be removed. She would like staff to make sure they have an "air-tight" language that does not have any loop holes in this ordinance.

The City Attorney commented he is aware of what the Emerald Grande is doing, and that in his opinion, it is going to be difficult to accommodate that under the language of the deed restriction. He also stated the City believes somebody is paying for the chairs and umbrellas and they are being provided for commercial reasons; which is why the language "*regardless of whether such goods or services are provided for compensation*" is included so they will be able to deal with that situation. He added he does not believe anyone is going to attempt to interpret this provision in such a way that an individual user cannot go to the beach with a chair and umbrella.

Councilmember Destin offered a substitute motion to continue this item to the next Council meeting to give staff an opportunity to meet with Mr. Matthews and try to craft an ordinance that is more specific and without any ambiguities. Motion dies for lack of a second.

The Mayor called for a vote on the original motion, which passes 4-1 (Council members Morgan, Dixon, Ramswell and Braden voted "yes"; Councilmember Destin voted "no"; Councilmember Marler abstained from voting; Councilmember Foreman was absent from the meeting).

7. Second reading of Ordinance 16-19-LC, which amends the City of Destin Land Development Code imposing a temporary moratorium on the permitting of new mobile vendors in the Harbor Community Redevelopment Area

The City Attorney read proposed Ordinance 16-19-LC by title; and then presented it to the Council on second reading.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DESTIN RELATING TO MOBILE VENDORS IN THE DESTIN HARBOR COMMUNITY REDEVELOPMENT AREA (CRA); ADOPTING FINDINGS OF FACT; PROVIDING A DEFINITION OF MOBILE VENDORS; IMPOSING A TEMPORARY MORATORIUM ON THE PERMITTING OF NEW MOBILE VENDORS IN THE HARBOR CRA; DIRECTING STAFF TO DEVELOP

RECOMMENDATIONS FOR REGULATION OF MOBILE VENDORS IN THE HARBOR CRA;
PROVIDING FOR EXCEPTIONS; PROVIDING FOR EXPIRATION OF TEMPORARY
MORATORIUM; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE
DATE.

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

Mr. Bruce Craul stated the proposed moratorium does not adequately address existing businesses on the harbor. He suggests they allow existing mobile vendors the ability to transfer ownership to another; and that the new owner be able to conduct business within the confines of the existing ordinance. He also wants to know if an existing business has a one year license, whether it can renew this license or be considered a new business.

Capt. Gary Jarvis stated that he supports this ordinance to prevent further growth of the mobile food vendors and buildings on the harbor. He also expressed concern by the Destin Charter Boats Association that their historical presence on the harbor is being threatened by a carnival atmosphere. But, he also believes the language in the ordinance needs to be clarified to let existing businesses know where they stand in terms of this moratorium.

Mr. Dana Matthews stated that he represents 7 property owners on the harbor who have this type of portable building as defined in the code. He explained that the purpose of the moratorium is to retain the "status quo" until such time that they adopt rules and regulations that meet the intent by which they are trying to accomplish. He suggests a clarifying sentence be added on the second page under Section 3 of the ordinance that if the license for existing businesses come up for renewal that they will be renewed. Also, existing businesses will be able to transfer their licenses to the new owner, provided there are no changes in the use previously permitted.

Ms. Erin Peterson, spoke next. She stated that she owns and operates a food truck on the harbor. She stated she followed all the processes that are in place by all regulatory agencies including the City of Destin. She feels that by this moratorium the City is trying to take her livelihood away from her by potentially trying to change the requirements that they have already been agreed upon. She stated that the City thrives on tourism and unless they are able to provide them with new experiences, people will go elsewhere. Food trucks and mobile food vending are very popular throughout the country. She pays the State every year for her permits and inspection fees and she pays a lot of money in taxes. This is her primary source of income and that she provides jobs to Destin residents. She stated the language in the ordinance does not specify the moratorium is for new vendors. She wants to make sure her business is safe and secure and not negatively impacted by this moratorium or any subsequent changes in rules and regulations regarding mobile food vendors.

Councilmember Dixon noted there is nothing in the proposed ordinance that would prohibit anyone who is properly licensed to operate a business to be able to renew that license.

Ms. Peterson stated she does not feel the language in the ordinance is clear enough and that her business is actually protected. She wants to know exactly what the phrase "proposed new changes", which she has heard several times, mean to someone who already has a license and has complied with all existing regulations. She wants to make sure her business is grandfathered in and that language is included in the proposed ordinance.

Ms. Melissa Aiken, a Destin resident and owner of a mobile business on the harbor, stated that she also have the same concerns about her business. She continued she is all for

businesses being licensed, regulated and held to the same standard; but it has to be consistent. There should not be threats of limiting business hours for food trucks in Destin or in the harbor district. She would like to have some clarifications on this moratorium and the regulations to come.

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

Councilmember Braden stated that he agrees with Mr. Matthew's statement. Anyone who is currently licensed to operate their business on the harbor should be able to renew that license. He stated it was his understanding this moratorium only applies to new businesses on the harbor.

Councilmember Braden moved to approve Ordinance 16-19-LC on second reading; seconded by Councilmember Dixon.

Councilmember Morgan stated that originally, his biggest concern was having businesses that are operating on the harbor with a business tax receipt. This moratorium is going to give them time to develop ordinances that would allow them to effectively regulate these businesses.

Councilmember Destin announced he would abstain from voting on this item as he owns a food truck in the north harbor district.

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

PUBLIC OPPORTUNITY TO SPEAK ON COUNCIL PROPOSITIONS (Agenda items #'s 8, 9, 10, 11, 12, 13, 14, 15, 26, 27, 28A)

CONSENT AGENDA*

8. ADA Compliant Outdoor Showers for City Beach Accesses and Beach Parks
9. Reimbursement to Councilmember Jim Foreman for expenses incurred at the Florida League of Cities Annual Conference in Hollywood, Florida on August 17-21, 2016
10. Reimbursement to Mayor Scott Fischer for expenses incurred at the Florida League Mayors Conference and Florida League of Cities Annual Conference in Hollywood, Florida on August 16-21, 2016
11. Reimbursement to Mayor Scott Fischer for expenses incurred at the Okaloosa County League of Cities Quarterly Dinner/Meeting in Laurel Hill, Florida on July 29, 2016
12. Request for use of City of Destin rights-of-way for Maguire's Irish Pub of Destin 5k / 10k Annual Halloween Walk/Run on October 29, 2016
13. Amending the 5-year Citywide Streets Resurfacing Plan to include Kel-Wen Circle

Motion by Councilmember Marler, seconded by Councilmember Ramswell, to approve Consent Agenda items #8 thru #13, as printed above, passed 6-0 (Council members Morgan, Destin, Marler, Dixon, Braden and Ramswell voted "yes"; Councilmember Foreman was absent from the meeting).

RESOLUTIONS

14. Resolution 16-14 – Interlocal Agreement with Okaloosa County for Funding of the Emergency Maintenance Dredging of the Old Pass Lagoon Channel

The City Attorney read Resolution 16-14 by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESTIN PROVIDING AUTHORITY FOR THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH OKALOOSA COUNTY FOR FUNDING OF THE EMERGENCY MAINTENANCE DREDGING OF THE OLD PASS LAGOON CHANNEL; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion by Councilmember Ramswell, seconded by Councilmember Braden, to adopt Resolution 16-14 authorizing the Mayor to sign the Interlocal Agreement with the Okaloosa Board of County Commissioners for the emergency maintenance dredging of the Old pass Lagoon Channel passed 6-0 (Council members Morgan, Destin, Marler, Dixon, Braden and Ramswell voted “yes”; Councilmember Foreman was absent from the meeting).

15. Resolution 16-15 – Interlocal Agreement with Okaloosa County for Waterfront Access Maintenance and Capital Improvements

The City Attorney read Resolution 16-15 by title.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA; ACCEPTING AND ADOPTING THE FISCAL YEAR 2017 INTERLOCAL AGREEMENT BETWEEN THE CITY OF DESTIN AND THE OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONERS FOR WATERFRONT ACCESS MAINTENANCE AND CAPITAL IMPROVEMENTS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF THE CITY OF DESTIN; AND PROVIDING FOR AN EFFECTIVE DATE.

Motion by Councilmember Braden, seconded by Councilmember Marler, to adopt Resolution 16-15, approving the Interlocal Agreement with Okaloosa County for Waterfront Access Maintenance and Capital Improvements, and to authorize the Mayor to execute the agreement on behalf of the City of Destin passed 6-0 (Council members Morgan, Destin, Marler, Dixon, Braden and Ramswell voted “yes”; Councilmember Foreman was absent from the meeting).

PROJECT REPORTS AND COMMENTS FROM MAYOR AND COUNCIL

16. Councilmember Morgan
17. Councilmember Destin
18. Councilmember Marler
19. Councilmember Foreman
20. Councilmember Dixon

Referring to a picture shown on the screen, Councilmember Dixon pointed to vendor set up off of a property on Norriego Point. He spoke of the issues they are having on this piece of property. He asked for staff's update regarding this situation.

Interim Community Development Manager Steve Schmidt stated that the Code Enforcement Manager had been in touch with the owner's representative, and they have indicated they are planning to install some signs on the property that would prohibit overnight storage of boats or

equipment on that property. He also stated they would be following up to ensure these signs are posted shortly.

21. Councilmember Ramswell

Councilmember Ramswell asked if they would schedule another comprehensive plan workshop as suggested by Council.

The City Manager stated she was not familiar with a request from Council about another comprehensive plan workshop; and that she was tasked with putting out a request for proposal for a planning firm that would write the comprehensive plan amendment and bring it back to Council for approval.

22. Councilmember Braden

Councilmember Braden asked for an update as to why the sidewalk installation on 98 Palms is being delayed.

The City Manager stated that according to Mr. Joe Bodi, there was an issue with the waterline in that section causing a delay in the project; and that she would provide another update as soon as possible.

23. Mayor Fischer

STAFF REPORTS AND RECOMMENDATIONS

24. City Attorney comments

25. City Land Use Attorney comments

26. First reading of Ordinance 16-26-CN - Temporary Tree Cutting Moratorium

The City Attorney read proposed Ordinance 16-26-CN by title; and then presented it to Council on first reading.

AN ORDINANCE ENACTING A TEMPORARY MORATORIUM ON THE REMOVAL OF PROTECTED TREES WITHIN THE DESTIN CITY LIMITS, PENDING CONSIDERATION OF CHANGES TO CITY ORDINANCES; PROVIDING DEFINITIONS; PROVIDING FOR A TEMPORARY MORATORIUM ON PERMITS ALLOWING REMOVAL OF CERTAIN TREES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR APPEALS; AND PROVIDING FOR AN EFFECTIVE DATE AND TERM.

The Parks and Recreation Director Lance Johnson stated they crafted an ordinance on temporary moratorium for tree cutting within the City limits of Destin as directed by Council on August 1, 2016. The proposed ordinance has been presented and unanimously approved by the Environmental, Parks & Recreation Committee/Tree Board.

Councilmember Dixon noted that the language of the ordinance seems to indicate that an 8 or 12 inch Oak Tree in the middle of a piece of undeveloped property could stop the owner from being able to build a house on that property. He continued he would like to protect the tree but he would not want to interfere with an owner's right to build a home on their property.

Mr. Johnson noted there are specific criteria involved in this case. It would have to be a very well established tree to be a qualifying tree. There is also an appeal process that residential owners could pursue if necessary.

Councilmember Dixon stated he is aware of the appeal process but still concern about how long it could take. He would not want a tree to stop someone from being able to build a home.

The City Attorney opined that the way the ordinance is currently written would preclude construction of a residential home. He suggests allowing him to work with staff and incorporate an additional exception in the proposed ordinance that would accommodate construction of a single family home; and then bring it back for first reading.

There were no objections from the Council.

27. Heritage Run Drainage Improvements – Change Order #1

Motion by Councilmember Destin, seconded by Councilmember Dixon, to authorize the City Manager to execute Change Order #1 to the contract with Talcon, LLC in the amount of \$95,772.21 passed 6-0 (Council members Morgan, Destin, Marler, Dixon, Braden and Ramswell voted “yes”; Councilmember Foreman was absent from the meeting).

28. City Manager comments

The City Manager made the following announcements:

- Cox Communications will air this Sep. 8th budget hearing on Friday, Sep. 9th at 10:30 a.m. and 9:30 p.m.
- The 2016 International Coastal Cleanup of Norriego Point public beach access on Saturday, Sep. 17th, from 9-11 a.m.

a. Gulf Power negotiations

The City Manager requested and the Council agreed to allow her to reach out to Mr. Robert Wright, the lawyer who assisted the City in the drafting of the Gulf Power Franchise extension, and ask him for a proposal to take part in the contract negotiation with Gulf Power.

COMMENTS FROM THE AUDIENCE

Ms. Leigh Moore, representing Howard Group, suggests the City explores the option of purchasing the Gulf Power utility. She also states that if the Council considers this option, the first step will be to put out a Request for Proposal (RFP) to hire a professional to do a feasibility analysis.

Councilmember Destin asked that the City Manager place on the next council meeting agenda a discussion on potentially exploring the option of purchasing the Gulf Power utility and putting out a Request for Proposal (RFP) to hire a professional to do a feasibility analysis.

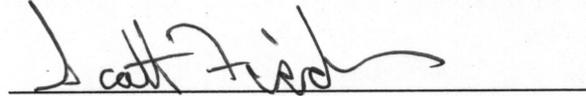
Ms. Moore also stated that with regards to writing a stronger tree ordinance, the arborist who volunteered to assist in the writing of the ordinance has not submitted the rough draft and it has been over a month since the Council decided to accept his offer. She suggests Council considers putting out an RFP to hire a qualified arborist or firm that specializes on this type of issue.

Councilmember Braden asked that the City Manager place on the next council meeting agenda a discussion on putting out an RFP to hire a qualified arborist to assist in the writing of the City's tree ordinance

Having no further business at this time, the meeting was adjourned at 11:25 PM.

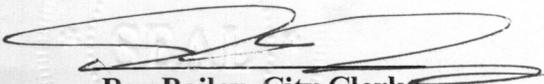
ADOPTED THIS 20TH DAY OF SEPTEMBER 2016

By:



Scott Fischer, Mayor

ATTEST:


Rey Bailey, City Clerk