

**.0MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
APRIL 2, 2018
CITY HALL ANNEX COUNCIL CHAMBERS
6:00 PM**

The Council of the City of Destin met in regular session with the following members and staff present:

Destin City Council

Mayor Gary Jarvis	Councilmember Tuffy Dixon
Councilmember Chatham Morgan	Councilmember Rodney Braden
Councilmember Parker Destin	Councilmember Prebble Ramswell
Councilmember Cyron Marler	Councilmember Skip Overdier

Destin City Staff

City Manager Carisse LeJeune	City Clerk Rey Bailey
Public Information Manager Doug Rainer	City Engineer David Campbell
Community Dev Director Jennifer Bryla	IT Manager Webb Warren
Development Manager Steve Schmidt	Finance Director Bragg Farmer
Deputy Director Parks & Rec . Dept Lisa Firth	City Attorney Jeffrey Burns
Land Use Attorney Kimberly Kopp	

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Assistant Pastor Jess McCurnin of Coastline Calvary Chapel gave the invocation; which was then followed by the Pledge of Allegiance.

AGENDA APPROVAL (*Matters not specifically listed on the agenda may be added and acted upon with a super-majority vote of the Council members present and eligible to vote on the matter*)

- Move agenda item 6B after agenda item 2A
- Pull agenda item 5A

Motion by Councilmember Destin, seconded by Councilmember Morgan, to approve the agenda, as amended, passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

1. APPROVAL OF MINUTES

A) Approval of minutes of January 2, 2018 regular city council meeting

Motion by Councilmember Marler, seconded by Councilmember Overdier, to approve minutes of January 2, 2018 regular city council meeting passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

2. PROCLAMATIONS / RECOGNITIONS / **SPECIAL PRESENTATIONS / ANNOUNCEMENTS (NO PUBLIC COMMENTS)

A) Proclamation – National Library Week 2018

The Mayor read the proclamation, and then presented it to the Destin Library Director Jurate Burns.

Following this item, the next item discussed was agenda item 6B

3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS (ALL AGENDA ITEMS OTHER THAN THOSE UNDER NUMBER 6)

4. CITY MANAGER REPORTS

A. Appointment of members to citizen volunteer committees and boards

Board/Committee	Appointees	Nominated by:
Board of Adjustment	Tom Weidenhamer Kimberlee Van Damme Dena Critch	Braden Ramswell Overdier
Parks and Recreation Committee	Marc Nacol Dorothy “Dot” Jones Teresa Hebert Allison Johnson Matthew Sweetser Karen Parrish Myra Williams	Ramswell Dixon Destin Marler Braden Overdier Morgan
City Tree Commission	Aubrey Santucci Myra Williams	Mayor Jarvis
Harbor/Waterways Board	Guy Tadlock Richard Hoey	Ramswell Overdier
Harbor CRA Advisory Committee	Mike Raim Casey Jones Jan Best	Braden Ramswell Overdier
Local Planning Agency	Donald David Darryl Shelton	Overdier Ramswell
Public Works/Safety	Steven Menchel Tom Weidenhamer Mike Parker	Ramswell Braden Overdier
Town Center CRA Advisory Committee	James Foreman Retha Alexander	Overdier Ramswell

B. Appointment of City Council representatives to local/regional committees

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

C. City of Destin/Gulf Power Franchise Agreement discussions

According to the City Manager, the City received correspondence from Gulf Power on February 16, 2018, in response to the City’s counter-proposal franchise agreement and to extend the existing franchise agreement for a period of one year. She stated that Gulf Power denied an extension stating that it is premature to the expiration date of the existing contract, and that it could detract from the core objective of reaching consensus on a new agreement. Gulf Power also denied the City’s proposal to unilaterally reduce customer rates and to commit to undergrounding the entire distribution system for a fixed fee. Gulf Power stated that other elements of the City’s counter-proposal, including purchase option, warranted further dialogue. Gulf Power has agreed to provide a non-binding cost estimate to underground the entire distribution system within City boundaries. They also committed to providing a binding engineering grade cost estimate for a two-mile section along US Hwy 98. They are willing to discuss and review various options for lighting including LEDs along US Hwy 98, and the City’s facilities. They offered to develop beatification plans and drawings for landscaping at one or more of their substations. They also stated they are not conceptually opposed to working with the City to develop written project plans and develop agreements to utilize Gulf Power rights-of-way to accommodate walking/biking trails and parking, on behalf of the City, its residents and visitors.

Councilmember Destin volunteered to be the primary negotiator for the new franchise agreement; stating he has had some involvements with these types of negotiations as a practicing

attorney. He continued he would like the opportunity to sit down with Gulf Power representatives and try to come up with a contract that is agreeable to both parties before the May 19th deadline.

The City Attorney asked that he be relinquished from his duties as primary negotiator and allows him to act more as an attorney and adviser to the City.

Councilmember Destin moved that Council appoints him as the primary negotiator in the franchise negotiations with Gulf Power, and that the City Attorney Jeff Burns be relinquished from his duties as the primary negotiator. Also to direct the City Manager, the City Attorney and Special Legal Counsel Schef Wright to continue open negotiations with Gulf Power regarding the extension of the franchise agreement; and direct the City Manager and City Attorney to bring back at the next City Council meeting the necessary agenda item to vote to exercise the current franchise agreement purchase option. Councilmember Ramswell provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

D. Gulf Power franchise fees audit

The City Manager noted this item is for informational purposes only to keep the City Council apprised of a situation involving the billing of franchise fees and the potential of a negative impact to the City’s budget. She stated that when City staff performed an informal routine audit of the City’s franchise account data, they found what they believed to be potential irregularities regarding certain addresses that Gulf Power has listed as being within the Destin City limits. The difference between the over-collection and remittance of franchise fees to the City of Destin from customers located outside the City limits and the total amount which should have been billed to customers and remitted to the City of Destin has a net impact of \$14,554.11 that was over-collected and remitted to the City of Destin. They informed Gulf Power of these potential irregularities and recommends Gulf Power performs its own audit of addresses. Gulf Power is requesting an audit settlement letter from the City and will in turn, deduct from future franchise fee remittances in an agreed upon fashion. Staff is requesting additional documentations from Gulf Power, and upon review by the City Manager, Finance Director and City Attorney, staff will bring this item back for discussion and direction from the City Council.

Councilmember Ramswell noted that the City discovered this error and brought it to Gulf Power’s attention over a year ago. They also gave Gulf Power the record showing potential irregularities regarding certain addresses. She feels the City of Destin should not be responsible for the \$14,554.11 mistake.

Mr. Bernard Johnson, District General Manager for Gulf Power, noted this information was brought up last summer. He stated there were gray areas between the City and County properties resulting in some confusion with billings. They have conducted an internal audit at the request of the City and verified the addresses in question and came up with the net impact of \$14,554.11. He continued that they need to identify a process which they could all agree on to avoid this type of problem from happening in the future.

Councilmember Ramswell maintained that the City should not be liable to repay the \$14,554.11 since they have done everything they could to bring this issue to Gulf Power’s attention.

Mr. Johnson stated that waiving this amount could be part of their discussion with the City.

5. FIRST READING OF ORDINANCES NOT REQUIRING PUBLIC HEARINGS

- A) First reading of Ordinance 18-01-CN, abandonment of the northerly 0.10 acre segment of Calhoun Avenue right-of-way

Item pulled from the agenda

6. PUBLIC HEARINGS

- A) Second reading of Ordinance 18-07-CC, to repeal and replace Section 6-47, Administrative Amendments to the Florida Building Code and add Technical Amendments to the Florida Building Code

The City Attorney read Ordinance 18-07-CC by title, and then presented it to the Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS REFERENCED IN THE LAND DEVELOPMENT CODE, SECTION 7.12.01(A) 2 ZONING MAPS, BY ADDING THE ZONING MAP DESIGNATION OF GULF RESORT MIXED USE (GRMU) TO AN ANNEXED PARCEL OF LAND LOCATED AT 4111 COMMONS DRIVE WEST, DESTIN, FLORIDA; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR ZONING MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 Council for their consideration.

Councilmember Morgan moved to approve Ordinance 18-07-CC on second reading and direct staff to forward to the Municipal Code Corporation for incorporation into the City's Code of Ordinance; seconded by Councilmember Marler. Motion passed 6-1 (Council members Morgan, Marler, Overdier, Dixon, Ramswell and Braden voted "yes"; Councilmember Destin voted "no").

- B) **Second reading of Ordinance 17-22-PC, Comprehensive Plan: 2020 amendments**

The City Attorney read Ordinance 17-22-PC by title, and then presented it to the Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING ITS COMPREHENSIVE PLAN: 2020; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR TITLE; PROVIDING FOR JURISDICTION; PROVIDING FOR INTENT; AMENDING CHAPTER 1 - FUTURE LAND USE ELEMENT; AMENDING CHAPTER 2 – TRANSPORTATION ELEMENT; AMENDING CHAPTER 12 – ADMINISTRATION; AND AMENDING CHAPTER 13 – GLOSSARY; PROVIDING FOR

TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY;
PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING
FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

The Land Use Attorney noted that the ordinance the Council is considering tonight is exactly the same ordinance they had reviewed on first reading except that the grandfathering clause language has been modified. She continued that the new grandfather clause creates a process where an applicant can request a vesting determination. If the factor and criteria set forth in that provision are met, then staff will review the application package and make a recommendation to the City Council. The City Council will then decide as to whether vesting determination is issued.

The Land Use Attorney also noted that on December 20, 2017, the Local Planning Agency reviewed the revised ordinance and recommended its approval to the City Council. On January 16, 2018, the City Council voted to approve and transmit the ordinance to the Florida Department of Economic Opportunity (FDEO) for the Department's review. Staff did not receive any comments from the reviewing agencies related to any adverse impacts under the respective agencies' authorized scopes of review. She added that the City Council can approve the version of the comprehensive plan as it was in the first reading without the grandfathering language; or they could also approve it in its current version as presented with the new grandfathering language.

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

Mr. Dana Matthews, a local attorney, pointed out that the proposed language in Policy 1-2.1.5 – *Grandfather Clause* added a procedure for vested rights determination as the Land Use Attorney noted; however, there is a lot more information in that section dealing with grandfather clause that this Council needs to understand. It covers three different situations. In reference to the following language, "*Land uses, building heights, density and/or intensity which (a) are actual, present and which lawfully existed prior to the effective date of the adopted comprehensive plan, or (b) were authorized pursuant to a development order remained unexpired as of the effective date of the comprehensive plan, or (c) have received a vesting determination by the City Council pursuant to the procedure herein, shall continue to be legal, building heights, density and or intensity (as applicable) after adoption of the comprehensive plan;*" they are dealing with three different categories of properties that could be grandfathered in. It appears that categories (a) and (b) above require no ratification or further approval by the City Council. With regards to category (c), the words "land uses" were left out.

The Land Use Attorney clarified that "land uses" will be included in that language.

Mr. Matthews maintains that category (b) should also include "development agreements" for automatic vesting as there are development agreements that have not expired such as the development agreement between Silver Shells and the City. He continued he has an existing client with an annexation agreement with the City with vested rights that is written into the development agreement. They have been trying to get a written determination from the City that the City still acknowledges that annexation agreement in light of the comprehensive plan which would seek to limit the vesting that the annexation agreement provided. They feel a written and recorded annexation agreement should be just as vested as a development order.

Mr. Matthews referred to an existing language in the comprehensive plan that reads, “*All duty approved and recorded lots, subdivision and condominium plats of records, which existed as legal lots, subdivision and condominium plats of record prior to the adoption of this comprehensive plan shall continue to be legal lots, subdivision and condominium plats of record after adoption of the comprehensive plan.*” He stated that they have other types of plats such as townhome plats and duplex plats. He added there are some language in this section that may generate some unintended consequences and which may need to be reworked.

Mr. Darryl Shelton, a Destin resident, expressed his gratitude to the current Council for all the work they have done with the new comprehensive plan and urged them to move forward with it.

Ms. Leigh Moore, representing Howard Group, stated that they support the current version of the comprehensive plan amendment; and that they feel it will lead to sustainable and responsible development and redevelopment in Destin going forward.

Mr. Ron Sandstead, a Destin resident, expressed his support of the proposed comprehensive plan amendments.

Ms. Carrie Harberger, a Destin resident, urged the Council to pass the comprehensive plan amendments as presented by staff.

Mr. Christian Meyers, a Destin resident, stated there had been a lot of work put in to this ordinance and urged the Council to approve it.

Ms. Nikki Johnson, a Destin resident, stated she had made Destin her home and would like to see responsible development continues to grow in a sustainable way; and that she believes this comprehensive amendment will make it happen.

Ms. Retha Alexander, a Destin resident, stated that this comprehensive plan is about controlled and responsible development and she would like the Council to approve it. She stated that the harbor is Destin’s heritage and she would not want to see it built up with large buildings.

Mr. Matthew Switzer, a Destin resident, expressed his support of the comprehensive plan.

Mr. Mark Marler, a Destin resident, stated it is to this City’s advantage to approve this comprehensive plan as they are losing businesses to the east. They need to preserve Destin and allow future generations to enjoy it.

Ms. Patti Terjak, a Destin resident, stated that she is 100 percent in support of the passing of this comprehensive plan amendment.

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

Councilmember Morgan moved to adopt Ordinance 17-22-PC on second reading and direct staff to forward it to the Florida Department of Economic Opportunity and

reviewing agencies pursuant to Florida Statutes. Councilmember Ramswell provided a second to the motion.

Councilmember Destin expressed his concern about the addition of the grandfathering language in the ordinance. He stated it expands the general rights of people who would have grandfathering arguments; and that they could end up grandfathering a lot more people than they anticipated.

Councilmember Destin offered a substitute motion to adopt Ordinance 17-22-PC on second reading, as it was submitted on first reading, and strike the new addition to the grandfathering language; seconded by Councilmember Morgan.

Councilmember Overdier stated that a comprehensive plan is not supposed to have all the specificity that this proposed comprehensive plan has as it is currently written; adding that detailed information ought to be in the land development code. He continued they cannot afford to have any more major development until they solve the traffic, parking and transportation problems in Destin.

Councilmember Braden stated they received a lot of inputs from the community on this comprehensive plan; adding that no matter how it is written, they cannot make everybody happy. He believes adding more language into the grandfathering clause builds more loopholes into this document.

Councilmember Ramswell noted that the comprehensive plan came back with no objections from the State, which is somewhat unusual; adding it is a testament to the hard work put in to this plan by so many different people and groups. She believes the grandfathering clause language serves a very real and necessary purpose; and that she would support moving forward with the comprehensive plan as presented tonight.

Councilmember Marler agreed that some of the language in the comprehensive plan needs to be in the land development code instead. He also stated that traffic is not going to improve even if they approve this plan tonight. They have a lot of through traffic. Destin is a resort community. He added that the one major thing that bothers him about this plan is the possibility of a lawsuit through the Bert J. Harris Act.

Councilmember Morgan stated he would support the substitute motion on the basis of hearing Mr. Matthews and Councilmember Destin's concerns about the grandfathering clause; which he would prefer to discuss at a separate meeting.

The Mayor stated that this Council is very sensitive to wanting to support home rule; and that part of that home rule is addressing the needs of the citizens in this community. He continued that a comprehensive plan is supposed to be visionary and broad in nature. The community and this Council should have the flexibility of addressing certain areas of the City using the land development code and ordinances, and not rely on the State to dictate it. He also stated that Bert J. Harris Act is a law that the State passed. It allows people to file a lawsuit against a government entity if they feel certain regulations diminish the value of their property; and that all parties involved pay the price no matter who wins or loses this lawsuit. Furthermore, if a developer wins the Bert J. Harris lawsuit, that particular development would be done under a court order; and that neither the City nor the State would have any input on the matter.

The Mayor called for a vote on the substitute motion, which passes 5-2 (Council members Morgan, Destin, Overdier, Dixon and Braden voted “yes”; Council members Marler and Ramswell voted “no”).

Following this item, the next item discussed was agenda item 3.

7. ***CONSENT AGENDA (NO PUBLIC COMMENTS)**
A) Resurfacing of Indian Bayou Drive

Motion by Councilmember Braden, seconded by Councilmember Marler, to approve Consent Agenda item 7A, as printed above, passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

8. **COMMENTS/PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY (NO PUBLIC COMMENTS)**
A. Councilmember Braden
B. Councilmember Ramswell

Councilmember Ramswell requests staff alerts FDOT that proper signage needs to be installed at the Kelly Plantation Drive and US Hwy 98 intersection, and other intersections in similar condition, to alert motorists the road pattern had changed and there is no longer a median between the east bound and west bound traffic in this area of the road.

- C. Councilmember Dixon
D. Councilmember Overdier
E. Councilmember Marler
F. Councilmember Destin
G. Councilmember Morgan
H. Mayor Jarvis
I. Land Use Attorney
J. City Attorney

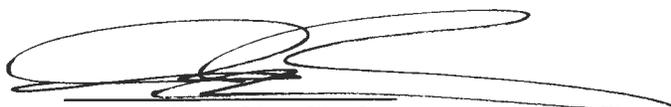
9. **COMMENTS/CONCERNS FROM THE AUDIENCE/PUBLIC ON ANY MATTERS CONSIDERED AT MEETING, OR ON ANY MATTERS NOT ON THE AGENDA**

Having no further business at this time, the meeting was adjourned at 8:05 PM.



Gary Jarvis, Mayor

ATTEST:



Rey Bailey, City Clerk