

TOWN OF WINDERMERE

Town Council Meeting Minutes

June 11, 2019

CALL TO ORDER:

Present were Mayor Jim O'Brien, Council Members Bill Martini, Bob McKinley, Andy Williams, Chris Sapp, and Liz Andert. Town Attorney Heather Ramos, Police Chief Dave Ogden, Public Works Director Scott Brown and Town Clerk Dorothy Burkhalter were also present. Town manager Robert Smith was absent.

Mayor O'Brien called the meeting to order at 6:00pm and stated all Council members were present.

1. OPEN FORUM/PUBLIC COMMENT:

Mr. Joe Foglia of 215 Butler Street introduced himself. He then stated that with the aid of Theresa Myers, he was able to contact Duke Energy regarding the neighbor's dead tree he spoke about at the May Town Council meeting. Mr. Foglia stated that Duke Energy removed the tree at no cost. He then stated that only the stump remains.

2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS:

a. Detective John Allen 5 Year Service Award

Chief Ogden presented Detective John Allen with a 5-year service appreciation plaque.

b. Swearing in Reserve Officer Carollee Burrell

c. Swearing in Reserve Officer Kevin Tuck

Chief Ogden introduced two new Reserve Officers; Carollee Burrell and Kevin Tuck. He then performed the swearing in ceremony.

3. NEW BUSINESS:

a. MINUTES:

i. Town Council Meeting Minutes – May 14, 2019

ii. Town Council Workshop Meeting Minutes – May 22, 2019

Mayor O'Brien introduced the meeting minutes for approval. Member McKinley made a motion to approve the minutes as presented. Member Williams seconded the motion. Roll call vote was as follows: Martini – yes, McKinley – yes, Williams – yes, Sapp – yes, and Andert – yes. Motion carried 5-0.

b. APPOINTMENTS: COMMITTEES AND BOARDS:

i. Tree Board: Debra Neill

ii. Tree Board Leslie Brabec

Mayor O'Brien introduced this item. Member Sapp made a motion to approve the appointment of Debra Neill and Leslie Brabec to the Tree Board. Member Martini seconded the motion. Roll call vote was as follows: Andert – yes, Sapp – yes, Williams – yes, McKinley – yes, and Martini – yes. Motion carried 5-0.

c. CONTRACTS AND AGREEMENTS:

i. Sunset Bay Developers Agreement

Mayor O'Brien introduced this item. He then turned the floor over to Attorney Heather Ramos. Attorney Ramos explained that the Sunset Bay HOA has met with Manager Smith and Legal regarding the Sunset Bay Developers Agreement, which originated in 1988. She stated that there are a few items that the Association would like changed. First, is the Termination Date. Attorney Ramos stated that currently the agreement does not have a termination date. She stated that Manager Smith would not like

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this changed in the current agreements. Attorney Ramos explained the second request as they would like the Town to split the costs of resurfacing. She explained that the current agreement requires the homeowners to pay all of the costs for resurfacing, which they currently are doing for the next ten years. Third, is for the Town to be responsible for the costs of the lights within the Down Pointe subdivision. Attorney Ramos stated that Manager Smith would recommend approval for this, as this is outside the Sunset Bay area. Fourth, that the Town inspect the sidewalks along 6th Avenue to determine needed repairs, and that the Town bears the cost of the repairs. Attorney Ramos stated that the Town currently does this and will continue inspecting and repairing sidewalks as necessary. She then stated that the sidewalks within the Association will remain the Association's and homeowners' responsibility. Fifth, the Town is responsible for any future sign repair and replacement. Attorney Ramos stated that it is recommended that the Town Council approve this request. Sixth, the Association would like to install a six-foot-high wall along the length of the property bordering 6th Avenue. Attorney Ramos stated that a variance application could be submitted to request approval to the code that currently allows up to four feet. Mr. Brent Spain, Attorney/representative for the Sunset Bay HOA, introduced himself. He then stated that the Developers Agreement was written in 1988 and needed to be rewritten. Mr. Spain stated that an expiration date/termination clause is needed. He then commented on a Developers Agreement vs a Development Order. Mr. Spain stated that they are seeking a five-year term. He then stated that a maintenance agreement would go into effect at a 50/50 rate. Mr. Spain stated that lighting is not addressed in the original Developers Agreement. He then stated that they would like the Town to take over paying the street lights that are outside of Sunset Bay as well as tying into when the Developers Agreement expires, that to cost of lights within Sunset Bay will no longer be the responsibility of the HOA but the Town. Mr. Spain then commented on two discrepancies for the wall in the current agreement. He then commented on other walls along 6th Avenue. Mr. Spain stated that the HOA would like to have a wall. Member McKinley questioned item #5 – Signs. Mr. Spain stated that historically, the HOA has paid to restore the signs. Some discussion followed regarding signage, process of approving a new agreement, obligations of lighting public roads and resurfacing, and variance procedure for the wall. Member Martini stated that the subdivision entry sign would not be included as a responsibility for the Town. Mr. Spain requested that it be stated that the HOA would be allowed to apply for the variance due to the current Developers Agreement stating that a wall is not allowed. Member McKinley stated that he believes the revisions requested are being approved. Member McKinley then made a motion to the effect that we authorize Town Staff, following the responses that they have presented with the exception of item five which is signage that would be applied only to regulatory signage. Member Andert seconded the motion. Roll call vote was as follows: Martini – yes, McKinley – yes, Williams – yes, Sapp – yes, and Andert – yes. Motion carried 5-0.

Mayor O'Brien stated that the Liaison reports are now attached to the agenda packet and are posted online for anyone to review. He then stated that Attorney Ramos would be giving an update regarding FEMA. Mayor O'Brien questioned legal if they would like to move forward in the liaison reporting. Attorney Ramos stated she could give the report. Mayor O'Brien moved Staff Reports – Legal forward. Member McKinley questioned if this item needed to be placed on the agenda. Mayor O'Brien stated that this item has been discussed in the past and this is only a report. He then stated that should an action be needed; the item could then be placed on the agenda.

5. STAFF REPORTS:

b. **TOWN ATTORNEY HEATHER RAMOS** - Attorney Ramos introduced Attorney Brock Magruder who is also with Gray Robinson. She stated that a memo has been included in the agenda packet. Attorney Ramos stated that many of the current Town Council members were not in office during the 2004/2005 Hurricanes. She further stated that Mr. Magruder was present to give an update, as he has been at the Tallahassee office where much discussions has taking place. Mayor O'Brien stated that he requested that the sequence of events be written out for everyone. Mr. Magruder introduce himself. He stated that the storms in question are Hurricane Jean and Hurricane Francis. Mr. Magruder explained that the appeal of the de-obligation by the Town to the State had been done in the timeframe allowed. He further explained that the State (DEM – Division of Emergency Management) did not notify FEMA of the Town's appeal, therefore, FEMA considered that the Town had been notified of the de-obligation. Mr. Magruder stated that the State accepted responsibility for missing the deadline. He then explained that the State admitted that the Town should not be held accountable for their failure. Mr. Magruder stated that the Town has been approved for approximately \$600,000.00 for reimbursements from Hurricane Irma, in which, the State stated it could recoup the de-obligated funds of

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an estimated \$500,000.00 from the Hurricane Irma payment. He then commented that the Town does have an option to sue the Federal government until 2024. Discussion followed. Member Williams questioned the remaining amount that could be de-obligated should the Town be hit with another storm? Mr. Magruder stated that there would not be any further funds owed. Further discussion followed. Mayor O'Brien questioned the Town's options moving forward. Mr. Magruder explained that suing the Federal Government is the only option at this point. Discussion regarding the cost to fight compared to what could be gained was made. Member Andert questioned if the de-obligated funds could be divided into repayments so that all the funds are not taken from Hurricane Irma. Mr. Magruder stated he was unaware of any policy to allow for that. He further stated that he would research the suggestion. Attorney Ramos stated that updates will be passed along to the Town Manager, Mayor and Town Council once Mr. Magruder has any further answers. Discussion followed. No action was taken.

4. MAYOR & COUNCIL LIAISON REPORTS

a. **MAYOR JIM O'BRIEN** – Mayor O'Brien thanked Council members Bill Martini and Liz Andert for attending the Horizon West Town Hall meeting. He then reported on The Willows new Home Owner's Association members, right-of-way opportunities, the multi-modal plan, and the upcoming visit from Senator Scott on June 17th.

Member Martini commented on the Horizon West meeting he attended. He stated that the project encompasses 4% of Orange County and is responsible for 46% of their permits.

5. STAFF REPORTS:

- a. **TOWN MANAGER ROBERT SMITH** – Absent – no report.
- b. **TOWN ATTORNEY HEATHER RAMOS** – Reported earlier in the meeting, FEMA.
- c. **CHIEF DAVE OGDEN** – Chief Ogden stated that the traffic report will be available for the next Council meeting. He then reported on training, qualifications, team building event, active shoot training, Officers graduating Crisis Intervention Training, host of "FINDER," staffing, water/lake issues and possible funding from Windermere Water Navigation Board and the Butler Chain of Lakes Advisory Board to pay for off-duty coverage at Lake Butler.
- d. **PUBLIC WORKS DIRECTOR SCOTT BROWN** – Mr. Brown reported that he attended the hurricane conference and the TSMO meeting. He then reported on projects (new and upcoming), the new water fountain in Town Hall, bid updates, and staff. Mayor O'Brien questioned if reflectors could be placed on the new 4th Avenue dock for safety. Director Brown stated he would look into it. Discussion was made regarding the renovated dock and plantings.

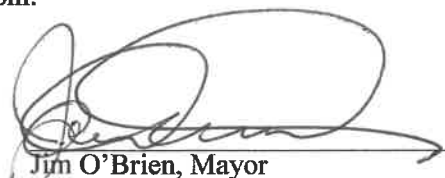
Member McKinley questioned the scanning project. Clerk Burkhalter stated that minutes have been scanned back to 1938. She then commented that scanning of the older minutes is time consuming as they are in bound books and handwritten. Clerk Burkhalter stated that the handwritten documents will not be OCR – Optical Character Recognition searchable. If a record is needed that far back, the Clerk's office would be able to search individual records should it be needed.

Member McKinley then stated that he has concerns with the agenda. He stated that if an item is going to be discussed, whether action is going to be taken or not, it should be on the agenda.

6. ADJOURN:

Mayor O'Brien adjourned the meeting at 7:19pm.


Dorothy Burkhalter, Town Clerk


Jim O'Brien, Mayor