

TOWN OF WINDERMERE

Town Council Meeting Minutes

September 10, 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, Town Manager Robert Smith, Police Chief Dave Ogden, and Public Works Director Scott Brown were also present. Town Clerk Dorothy Burkhalter 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 (3 Minute Limit)

Mayor O'Brien stated that Genevieve Potthast, Richard Montgomery, and Brandi Haines have signed in to speak. He then stated that Mr. Montgomery and Ms. Haines will defer until the IPO items are discussed. Mrs. Genevieve Potthast of 425 Butler Street introduced herself. She stated that she would like the Town Council to carefully consider the fact that the Master Plan was developed by professional town planners to create a plan for the Town's future. Mrs. Potthast then commented that the Master Plan has been utilized for the parking area recently constructed. She then commented on the importance of following the guidelines for 111 W and 119 W 5th Avenue. Mrs. Potthast comment on the septic tank on 111 E 5th Avenue. She then stated that if the zoning changes, she would like to see a Restrictive Commercial zoning placed on the property.

2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS:

a. Officer William "Chip" Irwin 5 Year Service Award

Chief Ogden presented Officer Chip Irwin with a 5-year service award plaque.

3. TIMED ITEMS AND PUBLIC HEARING:

a. Second Public Hearing for First Amendment to Sunset Bay Developers Agreement

Mayor O'Brien introduced this item. He then closed the Town Council meeting at 6:08pm and opened the Public Hearing. There being no public speakers/comments, Mayor O'Brien closed the Public Hearing at 6:09pm and reconvened the Town Council meeting. Member McKinley made a motion to approve the first amendment to the Sunset Bay Developers Agreement. Member Sapp seconded the motion. Roll call vote was as follows: Andert – yes, Sapp - yes, Williams - yes, McKinley – yes, and Martini – yes. Motion carried 5-0.

b. Second Public Hearing Cases for Amendment to the Town Center Design District Guidelines Master Plan Boundary and Commercial Rezoning – 111 W 5th Avenue and 119 W 5th Avenue

i. An ordinance to amend the Town Center Design Guidelines Master Plan Boundary to remove the properties located at 111 W 5th Avenue and 119 W 5th Avenue (Ordinance 2019-02) (Attachments-DRB Recommends Denial 5-0);

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Mayor O'Brien introduced this item. He then closed the Town Council meeting at 6:09pm and opened the Public Hearing. Manager Smith explained the process which would allow the Ordinances to either pass or fail. He then gave a history review of the past Ordinances, passage of the Ordinances, and the PUD process. Manager Smith explained that the first Ordinance would remove two areas out of the overlay. He then explained that additional requirements were added to the Ordinance. Manager Smith explained that once they are removed, the map has to be amended. He then stated that Ordinance 2019-04 is for rezoning to match the Future Land Use, which would be commercial. Manager Smith commented on restrictions that can be placed on the uses, operating hours, etc. He then commented on language that could be included in the Ordinance. The presentation continued. Manager Smith stated that the Town Council can place any conditions, uses, and restrictions on the property. He then commented on the actions needed by the Town Council. Manager Smith turned the floor over to Brad Cornelius. Mr. Cornelius introduced himself. He explained that the maximum that could be built on the lot is 60%. Mr. Cornelius then explained that parking, septic, and stormwater will need to be considered which will reduce the size of the building. Mr. Cornelius stated that with these factors, the building will be relatively small. He then commented on the parking and the septic tank. Mr. Cornelius stated that the final count for notices returned that had been sent out were; for the Small-Scale Amendment mailings, 111 were in support in which 10 were within the 500' requirement and 8 in opposition in which all were within the 500' requirement. He stated that for the Rezoning, 112 were received in support which 11 were within the 500' requirement and 7 in opposition in which all were within the 500' requirement. Mr. Cornelius stated that the landowners were included in the mailing, and their responses were not included in the final counts. Mr. Cornelius completed his presentation. Mayor O'Brien then stated that public comments will be next. First to speak was Mr. David Sharpe of 1027 Oakdale Street. He questioned if the Paramore House and United Medical were part of the PUD? Manager Smith stated no. He also stated that the Art Room is not either. Mr. Sharpe questioned if the Town created the enclave (donut) by creating the parking lot. Manager Smith stated yes but the parking was allowed by the overlay. Mr. Cornelius explained how the overlay zonings work. Mr. Richard Montgomery of 11067 Schooner Way introduced himself. He stated that he is in support of the rezoning. Mr. Montgomery stated that future development is needed. He then commented that the needs in the past are not the needs of today. Mr. Chuck Ingram of 2134 Lilypad Lane introduced himself. He stated that progress isn't bad. He commented on businesses that were in Town in the past and are needed today. There being no further discussion, Mayor O'Brien closed the Public Hearing at 6:40pm and reconvened the Town Council meeting. He then turned the floor over to the Council members. Member Andert reported on conversations that she has had with some residents and their concerns of removing the overly and what if the church should sell their property. Mr. Cornelius explained that if the proposed Ordinance is adopted, it would still be protected by the Master Plan. Member Andert then requested an explanation as to how the rezoning would be a benefit and a risk. Mr. Cornelius commented on the Town's code regarding commercial and restricted commercial. Mayor O'Brien stated that the parking lot was a joint effort between the Town of Windermere and First Baptist Church. Member Sapp questioned if parking requirements change with the type of business. Mr. Cornelius explained the parking calculations and the process. Member Sapp then question parking mitigation. Mr. Cornelius explained that any deviation from the code would require approval by the DRB and Town Council. Mayor O'Brien stated that Member Williams will be abstaining from voting on this item. He explained that there needs to be a 70% majority vote. And in case of a tie he (Mayor O'Brien) would not be voting to break the tie. Mayor O'Brien stated that if there is a tie, it would be the same as a no vote. Manager Smith

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stated for the record that Member Williams has abstained from any discussion not only relative to the parking lot but this application as well. Member McKinley commented on the decision that needed to be made. Member Martini stated he did not see the Disney property on the Master Plan. Mr. Cornelius clarified that it does show on the Future Land Use map in the Comp Plan. Member Martini questioned the zoning on 111 W 5th Avenue. Mr. Cornelius stated that the property has Commercial Future Land Use designation which was adopted approximately two years ago. He then stated that the property still has a residential zoning with the Town overlay on top of it. Member Martini questioned if the parking overlay was removed, the property would still need to be rezoned. Mr. Cornelius stated yes. He then stated that once the overlay is removed, there would be a zoning and land use that are not consistent with one another. Member Martini questioned how much commercial will be lost when the Administration building is torn down. Manager Smith stated he was unaware of the exact amount. He then stated four commercial businesses will be gone. Member McKinley stated that the current zoning for 111 W 5th and 119 W 5th Avenues is residential. Mr. Cornelius stated residential with the Master Plan overlay. Member McKinley then stated that they are both designated for parking. Mr. Cornelius agreed. Discussion continued. Mayor O'Brien then stated that if there is no further discussion, a motion is needed. Manager Smith explained that for approval, motions would need to be made on an individual basis. He then stated that the following language would need to be added to the motion for Ordinance 2019-02. "The site plan and development of 111 W 5th Avenue and 119 W 5th Avenue must comply with the design guidelines set forth in the July 2004 Town Center Design Guidelines. Including building types, insight disposition, architectural guidelines, and landscape and street scape element. Prior to issuance of a building permit, review is required by the Development Review and approval by the Town Council all to ensure that the buildings conform to the design requirements." Mayor O'Brien stated a motion was needed for item (i). Member Sapp made a motion to adopt the Ordinance to amend the Town Center Design Guidelines Master Plan boundary and to remove the properties located at 111 W 5th Avenue and 119 W 5th Avenue which is Ordinance 2019-02 per condition upon adding the staff comments and adopting that the guidelines for the Master Plan stay with both properties, not just the one that is up for discussion and vote for rezoning at 111 W 5th Avenue but for the one that is currently a parking lot. Staff wording referenced in the motion, "The site plan and development of 111 W 5th Avenue and 119 W 5th Avenue must comply with the design guidelines set forth in the July 2004 Town Center Design Guidelines. Including building types, insight disposition, architectural guidelines, and landscape and street scape element. Prior to issuance of a building permit, review is required by the Development Review and approval by the Town Council all to ensure that the buildings conform to the design requirements." Seconded by member Martini. Mayor O'Brien questioned if the overlay on both properties would cause any unforeseen challenges. Mr. Cornelius stated it adds protection for the future. Manager Smith reminded the Town Council that if Ordinance 2019-02 passes, then 2019-03 and 2019-04 would also need to pass. Roll call vote was as follows: Martini – yes, McKinley – no Williams – abstain, Sapp – yes, and Andert – yes. Motion carried 3-1-1.

- ii. An ordinance for a small-scale amendment to the Future Land Use Map of the Town's Comprehensive Plan to remove the properties located at 111 W 5th Avenue and 119 W 5th Avenue from the Town Center Overlay District (Ordinance 2019-03) (Attachments-DRB Recommends Denial 5-0); and

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Mayor O'Brien introduced proposed Ordinance 2019-03. Member Sapp made a motion to approve Ordinance 2019-03 with the prior wording from staff included. Staff wording referenced in the motion, "The site plan and development of 111 W 5th Avenue and 119 W 5th Avenue must comply with the design guidelines set forth in the July 2004 Town Center Design Guidelines. Including building types, insight disposition, architectural guidelines, and landscape and street scape element. Prior to issuance of a building permit, review is required by the Development Review and approval by the Town Council all to ensure that the buildings conform to the design requirements." Member Martini seconded the motion. Roll call vote was as follows: Andert – yes, Sapp – yes, Williams abstain, McKinley – no, and Martini – yes. Motion carries 3-1-1.

iii. **An ordinance to rezone the property at 111 W 5th Avenue to Commercial (Ordinance 2019-04) (DRB Recommends Denial 4-1)**

Mayor O'Brien introduced proposed Ordinance 2019-04. Member Sapp made a motion to adopt Ordinance 2019-04 with the language that it would be viewed as a major development, and subject to DRB and Town Council approval. And, the property would meet the design guidelines. Member Martini seconded the motion. Member Andert commented on why she voted the way that she has. Roll call vote was as follows: Martini – yes, McKinley – no, Williams – abstain, Sapp – yes, and Andert – yes. Motion carried 3-1-1.

4. CONSENT AGENDA:

a. **Z19-13 – 3324 S. Lake Butler Boulevard – Dorothea O'Brien – Variance to allow replacement and expansion of an existing dock that encroaches 4 feet over the southeast projected property line**

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

5. NEW BUSINESS:

a. **MINUTES: None**

b. **CONTRACTS AND AGREEMENTS**

i. **Revised IPO #2 Bessie Street Drainage Study**

ii. **Revised IPO #3 Butler Street Drainage Study**

Mayor O'Brien introduced this item. Manager Smith explained that the proposals could be reduced, added to, and/or changed. Director Brown stated that he would discuss both IPOs and the motion and votes would need to be separate. He explained that per past Council direction, the both IPOs have been reduced. He stated that the construction plans and materials have been removed. Director Brown commented that the studies will be done. Mayor O'Brien questioned Director Brown on what information the Town will learn from the studies. Director Brown stated that the end goal is water quality and

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protection of the chain of lakes. He further stated that water quality and water control is the priority. Mayor O'Brien commented on the need for the videos but stated caution needed to be used with technology and the costs. Some discussion followed. Mayor O'Brien then opened the floor to the public. Ms. Brandi Haines of 835 Oakdale Street introduced herself. She then commented that there is not a test being done of the water that is entering the lakes from the roads. Ms. Haines stated that she commented on a previous study that was done by Orange County who hired ERD in a previous meeting. She further stated that a current study is needed and the number from the two different studies need to be looked at. She then stated that drones would not work as they are not used during an actual rain event. Ms. Haines commented on the requirement of holding the first inch of runoff during a 100-year storm. She further commented that this is when studies needed to be done. Ms. Haines commented on the Town's code regarding trees and defining sizes. She then questioned Manager Smith if he knew what the perceived conception of what the overlays will be of the dirt road right of ways with swales. Manager Smith stated not at this time. He then stated that there will be impact with the dirt roads and swales compared to the use of a pervious surface. Discussion continued. Mayor O'Brien thanked Ms. Haines for her comments. Member McKinley questioned the truth of a comment that was made at the past Council meeting, in which a question was asked to the Kimley-Horn representative regarding how much experience they had with unpaved roads; to which the answer was none. Director Brown stated that Kimley-Horn has a wide variety of experience in several fields. He then commented on the process of building a dirt road. Manager Smith stated that Kimley-Horn does have staff experienced with dirt roads. Member McKinley then commented on a portion of the staff summary. Discussion was made regarding berms and swales, the dirt roads, studies and engineering, and costs. Mayor O'Brien commented on the need of having professional engineers, plans, studies, and costs. Discussion followed regarding past road projects, cost of the repairs, stormwater runoff, and controlling runoff. Inaudible comments from audience member John Fitzgibbon. Member McKinley commented that it appears in the executive summary that staff is looking to do away with dirt roads. He then stated he would like to see the roads stay as small as possible, and the Town retain as many of the dirt roads as possible. Mayor O'Brien concurred. Manager Smith stated that these projects are part of the LMS. Member Andert thanked Ms. Haines for all her assistance. She then questioned if trees and shrubs would be included in the arborist's survey. Director Brown stated that they would be included in the survey. Member Andert then commented that the lake quality water testing that Kimley-Horn provided is not sufficient; that it is outdated. She stated that current data should be used with water testing from the Town's surrounding lakes. Director Brown stated that the Town has been working with Liz Johnson with Orange County EPD. He commented that EPD has monitoring stations that are used for ongoing testing programs. Member Andert questioned if Lake Bessie was included in the testing. Director Brown stated that he would need to research if Lake Bessie is included. Manager Smith explained that results won't been seen until the majority of the projects have been completed. He further explained that small projects here and there will not make an impact. Manager Smith commented on the accountability of the projects as well. Member Andert then commented on the cost for videos and drones. She stated that those funds could go towards hiring an expert who deals with the water in the lakes. Discussion followed regarding hiring of professionals, water quality testing, costs, current professionals and experience, and inclusion of berms and swales. Manager Smith commented that the Butler Chain Advisory Committee should be asked to fund the hiring the consultant. Member Andert stated that there is a meeting on Monday and she can research it. Ms. Haines stated that Lake Bessie is not part of the Butler Chain of Lakes and is not normally included in studies of the chain. She then commented on a process and a study that was done in 2007 that shows the Town's runoff impact. Ms. Haines stated that there were projects supposedly scheduled in 2006 and questioned if then same study has been done since those projects were completed. She further stated that if that particular study has not been done, it should be. Member Andert then read paragraph two of the staff report on this item. She then reported on a conversation that Ms. Haines had with FDOT. Member Andert commented that relative to FDOT and the Greenbook requirements, the Town is grandfathered in unless a designing of new roads or paving takes place. She then stated that traffic calming suggestions were made for the dirt roads. Manager Smith commented that the FDOT comments are guide, not requirements. Discussion followed. Member Andert questioned the requirements of the grant that the

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Town is trying to obtain. She stated her concerns with road widening and tree canopies. Manager Smith commented that requirements as such are not included in the grants. Member Andert thanked everyone for their input. After some discussion was made, Mr. Frank Krens of 727 Forest Street made a public comment. He stated his concern of the skill set of the current engineers. Mr. Krens stated that a “world class dirt road engineer” is needed. Mayor O’Brien advised the Town Council that they have two items before them. Member Sapp commented that photos will be vital but that he was not sold on drones. He then stated that he would like as much information included in the conceptual phase as possible, including utilities. Director Brown stated that utility companies will not mark for design or proposed locations, only for work being done. Member Sapp made a motion to approve IPO #102 and #IPO 103. Member Williams seconded the motion. Roll call vote was as follows: Andert – yes, Sapp – yes, Williams – yes, McKinley – yes, and Martini - yes. Motion carried 5-0.

6. MAYOR & COUNCIL LIAISON REPORTS:

Mayor O’Brien commented that liaison reports are attached in the packet. Member Williams questioned the Downtown Business Committee. Member Andert stated she has not attended a meeting since being elected. She then stated that a meeting is scheduled for the first of October. Mayor O’Brien reported that staff and engineers are looking at the Forest Street and 1st Avenue area, the upcoming budget hearings, the 911 Memorial, and the 1 cent proposed transportation tax. Member McKinley reminded everyone of the upcoming Elders Luncheon on October 1st. Member Andert commented that the new youth committee will be meeting with the Town Manager.

7. STAFF REPORTS:

a. TOWN MANAGER ROBERT SMITH – Mr. Smith reported on upcoming budget hearing, discussions with Mr. Byron Brooks – Orange County Administrator regarding the 1 cent transportation tax, thanked staff for the Dorian prep, upcoming workshop, Cops and Bobbers, National Night Out, and honoring of the Windermere Little League.

b. TOWN ATTORNEY HEATHER RAMOS – No report.


c. CHIEF DAVE OGDEN – Chief Ogden stated that volunteers are needed for the Cops and Bobbers event.

d. PUBLIC WORKS DIRECTOR SCOTT BROWN – Mr. Brown reported that the reflectors have been placed on the dock. He then stated that the contractor has located the beacons and other signage.

8. ADJOURN:

Mayor O’Brien adjourned the meeting at 8:24pm.


Dorothy Burkhalter, Town Clerk


Jim O’Brien, Mayor