

TOWN OF WINDERMERE

Town Council Meeting Minutes (Virtual Meeting Covid-19)

September 8, 2020

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, Public Works Director Scott Brown, and Town Clerk Dorothy Burkhalter were also present.

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

Member McKinley led everyone in the Pledge of Allegiance. Mayor O'Brien then gave the invocation.

1. OPEN FORUM/PUBLIC COMMENT (3 Minute Limit)

Mayor O'Brien stated he has received a list of individuals that would like to speak regarding agenda items. All deferred until specific items were being heard.

2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS

3. TIMED ITEMS AND PUBLIC HEARING:

- a. ~~Resolution 2020-02 of the Town Council for the Town of Windermere, Florida pertaining to the Non-Ad-Valorem Assessment Roll for Lot Clean-Up.~~

Agenda item removed and placed on the September 9, 2020 Tentative Budget Hearing

- b. Z19-11: 111 W 5th Avenue – Owner 111 5th Ave, LLC – Request for Conditional Use Approval for Micro-Brewery and Taproom

- i. RESOLUTION 2020-05 - 111 W 5th Avenue Conditional Use

Whereas, Section 2.02.02(2)0, Land Development Code, provides that the Town Council may approve a proposed use not identified within the list of permitted uses with specific approval of Town Council with a finding that the proposed use is similar in character to another permitted use and is consistent with the overall purpose and intent of the Town's land development code and comprehensive plan

Mayor O'Brien introduced this item. He then commented on the protocol that will be followed for this item. Mayor O'Brien opened the Public Hearing at 6:03pm and read the title of proposed Resolution 2020-05 for the record. Manager Smith stated that the applicant and Mr. Cornelius will also have presentations/comments on this item. He then stated that the Resolution will be completed once the Town Council determines what action is needed. Mayor O'Brien opened the floor to the public. There being no comments from the public, Mayor O'Brien closed the Public Hearing at 6:06pm and reconvened the Town Council meeting. Manager Smith stated that Mr. Brad Cornelius would present this item for the Town and then Applicant Andrew McGhee would have a presentation. Mr. Cornelius, Town Planner, introduced himself. He then presented the request for the Conditional Use for 111 W 5th Avenue. Mr. Cornelius explained that there are two reasons this is before the Town Council. One is for a Conditional Use for a Micro-Brewery/Taproom and the other is to allow serving/consumption of alcohol less than one thousand feet from the First Baptist Church and Tim's Wine Market. He then stated for the record, "that one of the conditions of the approval of the rezoning was that any kind of approvals for development

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would come to the DRB and Town Council and be consistent with the Town Center Design Guidelines.” Mr. Cornelius then commented that in the Code, there are conditions that would allow the Town to revoke the Conditional Use. He then commented on hours of operation, which have been revised from what the DRB had reviewed, production, distribution/on-site alcohol consumption, shared deliveries, shared dumpster, parking, traffic and trip generation, noise and entertainment, outdoor storage, and public notices. Mr. Cornelius further commented on the past DRB meeting discussion in which there was a tie vote of 2 in favor and 2 not in favor. He stated that he had received a comment from Member Stephen Withers who was absent from the DRB meeting, but that he had stated he was in favor with hours of operation and Covid-10 conditions in place. Mr. Cornelius completed his presentation. Applicants Andrew McGhee and Joseph Ata were the next speakers. Mr. McGhee introduced himself. He then commented on the founding of Windermere Brewing Co. Mr. McGhee gave a presentation regarding commitment to the community, sustainability, definition of a microbrewery, production and brewhouse size, production odors, Bar vs Taproom, environment, opening ramp up period, proposed operating hours options 1, 2 and 3, entertainment/noise and smoking policy, deliveries and pick-ups, beverages, responsible drinking, and traffic and parking. Mayor O’Brien thanked Mr. McGhee and Mr. Ata for their presentation. He then opened the floor to the Town Council. Member Andert questioned if vaping was included in the No Smoking. Mr. McGhee agreed and stated that it can be placed in their self-regulations. Member Andert questioned the parking calculations, patrons, and outdoor seating. Mr. Cornelius addressed her concerns. Member McKinley questioned if the Church had been notified. Mr. Cornelius stated yes but did not receive a response. Member Sapp stated that he would like to see the conditional use survive the ownership for the parking and shared facilities. Mr. Cornelius stated that approval would need to come from the Town Council. Member Martini questioned the odors. Mr. McGhee explained odors with larger breweries. Member Martini questioned if the hours included brewing times. Mr. McGhee stated no. He then clarified that operations would begin 8:00-9:00 am. Mayor O’Brien questioned the seating capacity. Mr. Cornelius stated that the fire capacity had not yet been established. Mayor O’Brien then commented on the current dumpster issues. Mr. Cornelius stated it will be addressed. Mayor O’Brien questioned food service. Mr. McGhee stated that food can be ordered and delivered to the Taproom. He then stated that talk has been made with Dixie Cream for the future. Mayor O’Brien then commented on the challenged parking. Member McKinley questioned the process if the applicant wanted to change operating/business hours. Mr. Cornelius stated that the request would need to come before the Town Council. Member Sapp made a motion to approve Resolution 2020-05. Member McKinley seconded the motion. Much discussion was made regarding conditions. Conditions to be included into the Resolution are as follows: Operating hours as Monday – 3pm to 10pm, Tuesday – 3pm to 10pm, Wednesday – 3pm to 10pm, Thursday – 12pm to 10pm, Friday – 12pm to 11pm, Saturday – 12pm to 11pm, Sunday – 1pm to 8pm, Last call 15 minutes prior to all closing times, All outdoor common areas will shut-down at 10pm every night, Special hours for holiday weekends or Town events may be approved by the Town Manager, The brewery manufacturing hours of operation are 8am to 10pm every day, No smoking or vaping in the building nor on the subject property, A living wall/landscape buffer of at least 8 feet in height shall be installed along the West and North property lines, Shared use agreements for parking, trash disposal (dumpster), and loading/unloading. Roll call vote was as follows: Martini – aye, McKinley – aye, Williams – abstain, Sapp – aye, and Andert – aye. Motion carried 4-0-1.

4. CONSENT AGENDA

a. **Z20-07: 111 W 5th Avenue – Owner 111 5th Ave, LLC – Request for Major Development Approval for Commercial Development**

Mayor O’Brien introduced the consent agenda. Member McKinley made a motion to approve consent agenda item a as presented. Member Andert seconded the motion. It was determined that a motion and vote was not needed for item “a.”

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b. Z20-010: 826 Oakdale Street – Owner Will and Anna Headley – Request for Variance to Allow a Floor Area Ratio of 51.1% and Impervious Area Ratio of 48.4%

Mayor O'Brien introduced this item. Mr. Cornelius gave an overview of the variance request. He stated that the DRB was focused on the pervious/impervious area. Mr. Cornelius reviewed options that the DRB had suggested. Mr. Cornelius stated that the DRB recommended approval with stormwater plan being provided for the entire property. He then stated that in speaking with Mr. Willard, who had been working with Kimley Horn, a rain garden was designed for the south side of the property. Mr. Cornelius stated it would not hold the first inch of run-off as required but it would hold a half inch. He stated that if the Town Council chooses to accept the Kimley Horn proposal dated September 3, 2020, he would like it so-stated in the motion. Mayor O'Brien turned the floor over to the applicant. Mr. Willard, representative/father of Mrs. Anna Headley introduced himself. He then stated that he concurs with the presentation by Mr. Cornelius. Mr. Willard comments on the proposed rain garden. Member Andert questioned if this would be an improvement. Mr. Cornelius stated yes. Some discussion followed. Mayor O'Brien opened the floor to the public. Mrs. Brandi Haines of 835 Oakdale Street stated she is in support of the rain garden. Member Sapp made a motion to approve the variance request per the Kinley Horn proposal dated September 3, 2020. Member Williams seconded the motion. Roll call vote was as follows: Andert – aye, Sapp – aye, Williams – aye, McKinley – aye, and Martini – aye. Motion carried 5-0.

c. Z20-11: 11214 Lake Butler Boulevard – Owner Lewis and Janet Ashenheim – Request for Variance to Allow a 1,474 square foot Addition to a Non-Conforming Detached Garage with Guest Suite

Mayor O'Brien introduced this item. Mr. Cornelius gave an overview of the proposed variance request. He then stated that the adjacent owner who opposes the request is in attendance with his attorney. Mr. Cornelius stated that the DRB recommended to deny the request due to no hardship which ended in a tie vote. Attorney Ramos stated that it's the applicant's responsibility to supply fact-based evidence for the variance. Mayor O'Brien turned the floor over to Mr. Huels, representing attorney for Dr. Shure, who then introduced himself. He then gave a presentation of why his client is in opposition of the request. Dr. Shure also gave comments of opposition of this request. Mayor O'Brien then turned the floor over to the applicants. Mr. and Mrs. Ashenheim, owners of 11214 Lake Butler Blvd introduced themselves. He then gave a rebuttal to Mr. Huels' presentation. They then gave reasons as to why the variance is needed. After some discussion was made, Member McKinley made a motion to deny the variance request. Member Williams seconded the motion. Roll call vote was as follows: Martini – aye, McKinley – aye, Williams – aye, Sapp – aye, and Andert – aye. Motion carried 5-0.

5. NEW BUSINESS

a. MINUTES

i. Town Council Meeting Minutes August 8, 2020 (Attachments-Staff Recommends Approval)

Member Andert made a motion to approve the minutes of August 8, 2020 as presented. Member Martini seconded the motion. Roll call vote was as follows: Andert – aye, Sapp – aye, Williams – aye, McKinley – aye, and Martini – aye. Motion carried 5-0.

b. RESOLUTIONS/ORDINANCES FOR APPROVAL/FIRST READING

c. CONTRACTS & AGREEMENTS

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i. FY 2021 Renewal of Wade Trim Agreement for ON Call Land Planning Services

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

ii. KHA IPO Pedestrian Bridge

Mayor O'Brien introduced this item. Manager Smith commented on the proposed Pedestrian Bridge. He further commented on possible funding for the project. Some discussion followed. Member Sapp questioned if the Town will have any say in the pre-fab selection. Public Works Director Scott Brown explained how the structure will be constructed, delivered, and placed. Member Sapp questioned how the bridge manufacturer is selected by Kimley Horn. Director Brown explained the proposed process. Member Martini stated he has researched a few companies that have their own engineers on staff. He questioned the cost of using the bridge manufacturers instead of Kimley Horn. Director Brown commented on the benefit of having Kimley Horn in the process. Member McKinley made a motion to approve the IPO for the Pedestrian Bridge. Member Sapp seconded the motion. Roll call vote was as follows: Andert – aye, Sapp – aye, Williams – aye, McKinley – aye, and Martini – aye. Motion carried 5-0.

d. FINANCIAL

e. OTHER ITEMS FOR CONSIDERATION:

6. MAYOR & COUNCIL LIAISON REPORTS:

Mayor O'Brien opened the floor to the Town Council. Member Andert commented on the Tree Board, virtual Treebute, Farmers Market manager, WAY Committee, and Butler Chain Advisory Board. Mayor O'Brien commented on Commissioner VanDerLey's Bird Island swim area. Discussion followed.

7. STAFF REPORTS:

a. TOWN MANAGER ROBERT SMITH – Mr. Smith stated that the Tentative Budget meeting will be Wednesday September 9, 2020.

b. TOWN ATTORNEY HEATHER RAMOS – No report.

c. POLICE CHIEF DAVE OGDEN – Chief Ogden reported on upcoming training, updating of the Ordinance for cooler checks.

d. PUBLIC WORKS DIRECTOR SCOTT BROWN – Director Brown reported on the upcoming Projects Meetings. Updates from that meeting will be sent out.

e. TOWN CLERK DOROTHY BURKHALTER – No report.


8. ADJOURN:

Mayor O'Brien adjourned the meeting at 8:45pm.


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Dorothy Burkhalter, MMC, FCRM
Town Clerk



Jim O'Brien, Mayor