

## TOWN OF WINDERMERE

### Town Council Meeting Minutes

July 13, 2021

#### CALL TO ORDER:

Present were Mayor Jim O'Brien, Council Members Andy Williams, Chris Sapp, Bill Martini, Mandy David, and Tony Davit. Town Manager Robert Smith, Attorney Heather Ramos, Police Chief Dave Ogden, Public Works Director Tonya Elliott-Moore, and Town Clerk Dorothy Burkhalter were also present.

Mayor O'Brien called the meeting to order at 6:00pm and stated that a quorum was present. He then led everyone in the Pledge of Allegiance and gave the invocation.

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

Mayor O'Brien opened the floor for public comment. The following deferred to speak until the Boathouse agenda item; Jerry Fay of 28 Pine Street, George Poelker of 405 W 3<sup>rd</sup> Avenue, Judy Black 405 W 3<sup>rd</sup> Avenue, Curt Fraser of 45 W 3<sup>rd</sup> Avenue, and Doug Kegler of 316 Palm Street. Ms. Suzi Karr of 637 Ridgewood Drive introduced herself. She then commented on the removal of the speed humps in front of her home. She also stated that her neighbors would also like them removed. Next to speak was Mr. Bob McKinley of 536 Magnolia Street. Mr. McKinley stated that ownership of the boathouses needed to be determined. He then commented on the hard work of the Parks and Recreation Committee. Mr. McKinley stated that he takes exception to recent comments that have been made towards the members. He then thanked all committee members for volunteering and doing such a great job.

#### 2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS

##### a. **Officer DeCarlo swearing in ceremony**

Chief Ogden introduced and swore in Officer DeCarlo. He then welcomed him to the Police force.

##### b. **Special Chiefs Award: Marcelino Hoyo**

Chief Ogden presented Marcelino Hoyo with the Special Chief's Award. He stated that due to Mr. Hoyo response to seeing a man in distress and contacting authorities, the distressed gentlemen was returned to his family safely.

##### c. **Officer Griffen Hebel 5 Year Service Award**

Chief Ogden presented Officer Hebel with a 5-year service award.

#### 3. TIMED ITEMS AND PUBLIC HEARING:

#### 4. CONSENT AGENDA

- a. **Fernwood Park DC Integration \$9,280**
- b. **Lake Street Park (5<sup>th</sup> Street) DC Integration \$8,270**
- c. **Lake Down Park (4<sup>th</sup> St) DC Integration \$6,800.00**

Mayor O'Brien introduced this item. Manager Smith explained that this was an "after the fact" approval. He further explained that even though this is under his spending threshold, he wanted the Town Council to be advised. Member Sapp made a motion to approve the above spending. Member Davit seconded the motion. Roll call vote was as follows: David – aye, David – aye, Martini – aye, Sapp -aye, and Williams – aye. Motion carried 5-0.

#### 5. NEW BUSINESS:

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#### 6. MINUTES:

##### a, b & c - MINUTES

- i. Town Council Workshop Meeting Minutes May 25, 2021
- ii. Town Council Public Workshop Minutes May 26, 2021
- iii. Town Council Meeting Minutes June 8, 2021

Member Martini made a motion to approve the minutes. Member Williams seconded the motion. Roll call vote was as follows: Williams – aye, Sapp – aye, Martini – aye, Davit – aye, and David - aye. Motion carried 5-0.

#### 7. APPOINTMENTS: COMMITTEES AND BOARDS

##### a. WAY Committee members

- i. Maci Mitchell
- ii. Madeline Rumble
- iii. Ethan Kraus (ex-officio)
- iv. Rhea Maniar (ex-officio)

Member Mandy David made a motion to approve Maci Mitchell, Madeline Rumble, Ethan Kraus, and Rhea Maniar to the WAY Committee. Member Martini seconded the motion. Roll call vote was as follows: Williams – aye, Sapp – aye, Martini – aye, Davit – aye, and David- aye. Motion carried 5-0.

#### 8. CONTRACTS & AGREEMENTS

- a. Boathouse Lease Executive Summary
- b. Boathouse Lease Extension

Mayor O'Brien introduced this item. Manger Smith stated that staff is requesting direction whether to move forward with the proposed lease agreement and/or another option. He then stated that legal representation was present for the current lessees. Mayor O'Brien opened the floor to the lessees. First to speak was Mr. Jerry Fay of 28 Pine Street. Mr. Fay stated he had owned one of the boathouses since the 1960s. He then commented on concerns with the proposed lease. Next to speak was Ms. Judy Black of 405 W 3<sup>rd</sup> Avenue. She deferred her three minutes to Mr. George Poelker. Mr. Poelker of 405 W. 3<sup>rd</sup> Avenue introduced himself. He then commented on fairness, solutions, socialism, history of past and current owners, solution committee of a Town Council member and a boathouse house owner, and an independent attorney. Next to speak was Mr. Curt Fraser of 415 W 3<sup>rd</sup> Avenue. Mr. Faser stated he would like to keep the boathouse and a new lease needed to be considered. Mr. Doug Kegler of 316 Palm Street stated that the boathouses needed to remain. He then commented on the need for proof of ownership, warranty deeds not quick claim deeds, and righting the wrong. Attorney representing the lessees was Ms. Allison Turnbull of Winderweedle, Haines, Ward & Woodman, located at 329 Park Avenue, Winter Park, FL. Ms. Turnbulll stated that there are open issues that need clarifying. She then stated that they would like authorization to continue negotiating the lease. Mayor O'Brien then turned the floor over to Manager Smith. Manager Smith that the Town is not considering demolition of the boathouses. He then commented on the 1986 lease which comments on relinquish rights, refurbishment, moving forward with lease agreements, costs, hard reset, and direction from Town Council on which way to move forward. Mayor O'Brien stated that past discussion had been made by prior Town Council members to demolish the boathouses. He stated that the current Town Council has not made any mention of demolishing the boathouses. Clerk Burkhalter read for the record (attached) an email comment from Mr. Gentry who could

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not be present for this meeting. Mayor O'Brien then turned the floor over to Attorney Ramos. Attorney Ramos stated that the Town Council sets the policy to be followed. she stated she would answer any questions the Town Council has. Attorney Ramos then commented on the current lease Section 12 regarding "rendering ownership at the end of the lease." Mayor O'Brien advised the Town Council that discussion on the interest to move forward with the existing proposed lease, amending it or different options needed to be made. He also stated that demolition/removal of the boathouses is not an option. Member Davit stated that he takes exception to the socialism comment made by Mr. Poelker. He then stated that many government levels lease back properties that they own. Member Davit stated that he believes the Town owns the property that the boathouses reside on which include the boathouses. He then stated he has been in favor of a hard reset. Member Williams commented that the proposed lease needs further review. He then stated that some rights need to be given to the existing lessees. Member David stated she is in favor of a hard reset. Member Martini commented on defining ownership, Section 12 of the proposed lease, quick claim deeds, December 2020 executive summary comments, one boathouse lease per resident, and proposed lease needs tweaking. He then stated that he does not have enough information to make a decision. Member Sapp commented on past discussions regarding the boathouses, lower lease terms 20-25 years, survivorship, proposed lease clean-up, and title searches. Mayor O'Brien stated that consensus seems to work with current proposed lease with amendments and bring back to the Town Council at the next meeting. Member Davit stated his direction is the hard reset. Mayor O'Brien stated that it was the consensus of the other three council members to work with the proposed lease. Attorney Ramos stated that ownership is still in question. Discussion followed regarding ownership. Member Martini stated he is opposed to the line which states that the Town has ownership of the boathouses. He then questioned if a title search had ever been done. Attorney Ramos stated that title searches have been done. She stated that the findings were quick claim deeds which only transfer the interest that one has. Manager Smith stated that in a past meeting, it was stated that ownership needed to be defined. He then questioned Member Sapp and Member Williams if they were still favor of that. Member Sapp stated that he has not seen anything that states that the boathouses are not the Town's. Member Martini stated he hasn't seen anything that states that Town does own them. Mayor O'Brien questioned Member Martini if he agreed that the boathouse sat on property that the Town owns. Member Martini stated yes. All agreed with Mayor O'Brien. Attorney Ramos suggested asking the boathouse lessees that if they are given a 20-25-year lease, would they agree that the ownership is with the Town. Mr. Poelker stated he is speaking on behalf of himself. He stated that his position that the owners would take in court is that they have had adverse possession for the past 100 years. He then stated that the Town owns the land to the high-water mark, while from the high-water line is owned by the State. Mr. Poelker stated that due to his age, he would agree to the ownership being the Town. Mr. Fay stated that they are not renting the boathouse, just the access to them. He then stated that he would agree to the 20 years but would like to see another lease before to committing to anything else. Mayor O'Brien stated that at this point, the lease will need to be reviewed with amendments being made and them brought back before the Town Council. Member Martini stated that if the owners are open to Town ownership and a twenty-year lease with an option to renew, he would be agreeable to it. Attorney Ramos stated she has a list from the boathouse lessees which she believes is reasonable and willing to work with. Mayor O'Brien stated that ownership also needed to be addressed. He then stated that Town Council could approve a twenty-year lease with the Town having ownership and the rest to be worked out later. Discussion followed regarding defining the lease, ownership so this item is not back in another twenty-years, and bill of sale or warranty deeds. Mr. Doug Fay of 506 Butler Street, brother of Jerry Fay introduced himself. He then stated they could sell the quick claim deeds to the Town. Member Martini commented on the need to determine ownership. Mayor O'Brien stated that this item will be table, discussion between a boathouse lessee representative, a Town Council member, the Town Manager, and Town Attorney to negotiate the lease of twenty years will take place. Manager Smith questioned the ownership. Discussion followed. Manager Smith stated that the current leases expire in August in which a month to month hold over can be done. Mayor O'Brien included "for no more than three months" for the extension. Member Martini stated that two weeks should be all that's needed. Member Davit read Section 12 Surrender of the 2001 lease. He then asked Attorney Ramos that in her opinion, does that include the structure? He further stated that by

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the way he is reading, it is only the real property/installed equipment. Attorney Ramos stated yes. She also stated that in Sections 5, 6 and 7 which states that the premises shall be used and occupied by lessee exclusively for storage of the watercraft, and they know the condition of the premises and accept it in the same condition, and they agree to maintain the premises in good repair and in clean, safe, and sanitary condition. Member Davit questioned if the structure is considered part on the premises. Attorney Ramos stated yes. Member Williams questioned the Fays regarding their understanding the intent to be when they signed their lease. Mr. Fay stated it was a ten year with a ten-year option. He further stated that it was his understanding that after twenty-years, the Town would take them back. Mayor O'Brien questioned who would like to volunteer as the Council Liaison. Member Martini stated he would volunteer. Mayor O'Brien stated that Member Martini, Attorney Ramos, Manager Smith, and a lessee representative will confer and bring this item back to the Town Council. Mr. Poelker stated that the lessees will determine who the representative will be for them.

#### 9. FINANCIAL

##### **Bayshore Weir Construction NTE \$5,200.00**

- a. **Bayshore Weir Construction Executive Summary**
- b. **PJQ Inc. Quote**
- c. **Gregori Quote**

Mayor O'Brien introduced this item. Public Works Director Elliott-Moore stated that this is a past project that should have been done and is in need of being done. Member Davit made a motion to approve Bayshore Weir Construction with the not to exceed \$5,200.00. Member Martini seconded the motion. Roll call vote was as follows: David – aye, Davit – aye, Martini – aye, Sapp- aye, and Williams – aye. Motin carried 5-0.

#### 10. OTHER ITEMS FOR CONSIDERATION:

##### **i. Butler Basin Stormwater Improvements 45% design approval**

Mayor O'Brien introduced this item. Manager Smith stated that per prior discussion, this item is being brought back to the Town Council for approval. This will also go before the public. Member Davit made a motion to approve the 45% plan. Member Sapp seconded the motion. Roll call vote was as follows: Williams – aye, Sapp – aye, Martini – aye, Davit – aye, and David – aye. Motion carried 5-0.

##### **ii. Lake Street Designation Discussion**

Mayor O'Brien introduced this item. Member Martini commented on resident concerns regarding the Lake Street Park, other parks in Town, and park visitors. He stated that he would like to discuss this item further and receive input regarding returning FRDAP funds and privatizing the park. After some discussion was made, this item will be forwarded to a workshop agenda.

#### 11. MAYOR & COUNCIL LIAISON REPORTS:

Mayor O'Brien stated that the Pancake Breakfast was a success. He then thanked everyone involved with the event. Member Davit stated that the LRP did not meet and the Projects meeting will be coming up. Member David stated that the Farmers Market/Food Truck Committee met, as well as the Parks and Recreation Committee. Member David left the meeting at 7:56pm.

#### 12. STAFF REPORTS:

a. **TOWN MANAGER ROBERT SMITH** – Manager Smith reported on an email from Rep Demings, upcoming Q&A, upcoming budget workshops and meetings, RFP for IT, and the Project

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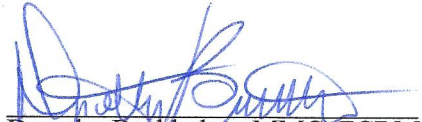
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meeting notes.

- b. **TOWN ATTORNEY HEATHER RAMOS** – Attorney Ramos had no report.
- c. **POILCE CHIEF DAVE OGDEN** – Chief Ogden reported on training, meetings, the upcoming school year, and the Post Office re-naming. Member Sapp questioned if the counters will go back out when school begins. Chief Ogden stated that he will look into it.
- d. **PUBLIC WORKS DIRECTOR TONYA ELLIOTT-MOORE** – Director Elliott-Moore reported on projects, cameras in the parks, RFPs, Main Street bridge, paver repairs, tree trimming, road grading, sidewalk repairs, road base material project, and traffic calming.
- e. **TOWN CLERK DOROTHY BURKHALTER** – No report.

13. **ADJOURN:**

Mayor O'Brien adjourned the meeting at 8:13pm.



Dorothy Burkhalter, MMC, FCRM  
Town Clerk



Jim O'Brien, Mayor