

**TOWN OF WINDERMERE**

**Town Council Meeting Minutes**

**October 12, 2021**

**CALL TO ORDER:**

Present were Mayor Jim O'Brien, Town 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 to the public. Mr. George Poelker deferred until later in the meeting. Ms. Nora Brophy of 426 Magnolia Street introduced herself. She then commented on the playground equipment for the Windermere Recreation Center, the past workshop, negative comments regarding parking and noise with pickleball, the upcoming Run Among the Lakes, and the Halloween event. Ms. Brophy thanked Member Martini, Ms. Liz Andert, and all those that have assisted with the upcoming functions.

**2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS**

- a. Windermere Proclamation Declaring November 6-13, 2021 as Week of the Family

This item was tabled until November.

- b. 10 Year Service Award: Robert Smith, Town Manager

This item was tabled until November.

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

**ORDINANCE NO. 2021-02**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA; AMENDING SECTIONS 1.03.02 AND 7.03.01 OF THE TOWN'S LAND DEVELOPMENT CODE AND SECTION 8-19 OF THE TOWN'S LAND DEVELOPMENT CODE REGARDING HOME OCCUPATIONS TO BE CONSISTENT WITH THE NEW GENERAL LAW ON HOME-BASED BUSINESSES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

Mayor O'Brien read the title of proposed Ordinance 2021-02 for the record. He then closed the Town Council meeting at 6:06pm and opened the Public Hearing for public comments. There being no public comments/speakers, Mayor O'Brien closed the Public Hearing at 6:06pm and reconvened the Town Council meeting at 6:06pm. Member Williams made a motion to approve Ordinance 2021-02. Member Davit seconded the motion. Roll call vote was as follows: Martini – aye, Sapp – aye, Williams – aye, David – aye, and Davit – aye. Motion carried 5-0.

**4. CONSENT ITEMS:**

- a. #Z21-03: Jason and Anita Roland: Variance to allow for a generator to be located in a front yard of a corner lot between the building and W 1<sup>st</sup> Avenue

Mayor O'Brien introduced this item. There being no discussion, Member Williams made a motion

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to approve variance request Z21-03. Member Martini seconded the motion. Roll call vote was as follows: David – aye, Davit – aye, Martini – aye, Sapp – aye, and Williams – aye. Motion carried 5-0.

**5. NEW BUSINESS:**

**a. Minutes:**

- i. Town Council Workshop Minutes August 24, 2021
- ii. Tentative Budget Hearing Minutes September 8, 2021
- iii. Town Council Meeting Minutes September 14, 2021
- iv. Final Budget Hearing September 20, 2021

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

**b. Resolutions/Ordinances for approval/First Reading**

- i. Ordinance 2021-03: Civil Citations

**ORDINANCE NO. 2021-03**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO CODE ENFORCEMENT; REVISING ARTICLE IV OF CHAPTER 2 OF THE TOWN’S CODE OF ORDINANCES TO AUTHORIZE THE TOWN TO USE A CODE ENFORCEMENT CITATION PROGRAM; DESIGNATING CODE ENFORCEMENT OFFICIALS; PROVIDING FOR PROCEDURES, INVESTIGATION OF VIOLATIONS, AND THE ISSUANCE OF CITATIONS; PROVIDING FOR THE PAYMENT OF FINES, COURT HEARINGS AND ADOPTING A SCHEDULE OF CIVIL PENALTIES AND FINES; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Mayor O’Brien read the title of proposed Ordinance No 2021-03 for the record. He then stated that the second reading/public hearing will be held at the November Town Council meeting. Attorney Ramos commented on the designation by Town Manager for enforcement, tier classes for citations, and citation amounts. Chief Ogden commented on jurisdictional issues and boat restocking. Discussion followed regarding citations, enforcement, fine amounts, reviewing current fee schedules, five-year (5) review, and Class II violation for alcohol.

- ii. Ordinance 2021-04: Jumping/Diving Prohibitions

**ORDINANCE NO. 2021-04**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO PUBLIC SAFETY; AMENDING CHAPTER 36 OF THE TOWN’S CODE OF ORDINANCES TITLED “WATERWAYS AND MARINE ACTIVITIES” TO PROHIBIT JUMPING OR DIVING AND OTHER ACTIVITIES ON A TOWN PIER, BRIDGE, SEAWALL OR DOCK; REMOVING THE MINIMUM AND MAXIMUM FINE FOR THE UNLAWFUL PARKING OF BOAT TRAILERS; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

Mayor O’Brien read the title of proposed Ordinance No 2021-04 for the record. He then stated that the second reading/public hearing will be held at the November Town Council meeting. Member Davit questioned if there are any official swim areas. Manager Smith stated no. Discussion followed

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regarding jumping/diving from a structure with a height of four-feet (4) or higher, clarifying language, and civil infractions.

#### c. CONTRACTS & AGREEMENTS

Manager Smith requested that in the interest of time, item c iii be moved forward. All agreed.

##### iii. RFP #2021-04 IT Support and Consulting Services iVenture

Mayor O'Brien introduced this item. Member Davit made a motion to approve RFP 2021-04 and iVenture for IT Support and Consulting Services. Member Martini seconded the motion. Roll call vote was as follows: Martini – aye, Sapp- aye, Williams – aye, David – aye, and Davit – aye. Motion carried 5-0.

##### i. Town of Windermere Boathouse Lease Agreements 1. Fair Market Rent Presentation:

Mayor O'Brien introduced this item. Manager Smith stated that Mr. Richard Dreggors, person who conducted the Fair Market Rent research, was present and available to review his findings. Mayor O'Brien requested comments from Mr. George Poelker first. Mr. George Poelker of 405 W 3<sup>rd</sup> Avenue introduced himself. Mr. Poelker commented on his displeasure with the proposed lease being on the agenda as he thought more work was needed. He then commented on the proposed rental rates and the remuneration to the current boathouse occupants. Mr. Poelker stated that once the numbers are figured and that the current occupants paid, the Town will be the sole owners of the boathouses moving forward. Member Martini commented the boathouses will become property of the Town "after this." He further commented on the number of boathouses, boat slips, shared units, a hard reset after the payments are made, and availability to other residents. Mr. Poelker commented on paragraph 4(a) and having a set increase percentage, paragraph 14b having a set Town Administrative fee or reasonable (10%), paragraph 16 lessees would like to take with them what they put in, and Paragraph 15-Approval of any improvements/repairs approval by the town and add the Historic Preservation Board. Discussion regarding, approval for repairs/maintenance, Section 24, limit the extension of boats from the boathouses/slips, and language for return (vacating) conditions of boathouses was made, yearly increase 4% or CPI, and return conditions of the boathouses. Member Martini thanked Mr. Poelker for all his input. Mr. Richard Dreggors of Calhoun, Dreggors, & Associates, Inc. introduced himself. He then gave a brief report of the Fair Market Rent Analysis for the boathouses. Member Martini stated he would have liked Bayhill in the appraisal comps. Member Williams questioned if the \$180.00 quoted for the two slips within one boat house was per each slip. Mr. Dreggors stated no. The \$180.00 is divided by two. Discussion followed regarding boat lengths and rent amounts. Member Martini suggested \$150.00 per month for the boathouse and \$125.00 on the shared boathouses per slip. Discussion followed regarding maintenance/up keep and annual inspections. Mr. Fay stated he would like to see a list of other residents that have boathouses who pay rent to cross the right of way to access their boathouses they own. He further stated that they own their boathouses. Mayor O'Brien questioned Mr. Fay if his boathouse is need of significant repairs. Mr. Fay stated yes. Member Martini questioned Mr. Fay if recollects stating that his understanding was at the end of the current lease the structures would revert ownership back to the Town. Mr. Fay stated "correct." Member Martini stated that it was voted that there would not be any compensation for the boathouses. Discussion followed regarding compensation/no compensation, being fair and equitable, terms/lengths, boathouse standards, relinquishment of rights, a lottery system, insurances, taxes, and tenant responsibilities. Attorney Ramos reviewed a few of the changes as; increases based on CPI, Sec 14(b) would have a 10% Administration Fee cap, 16(a) include "not limited to personal property," adding language that a boat cannot extend out more than 3' from the slip/boathouse, clean-up of any inconsistencies, and addition of language regarding insurance and major repairs. She then stated that she will bring the draft back to the Town Council for the next meeting. Some discussion followed

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regarding compensation and review of the new lease. Member Martini made a motion to approve the proposed lease as presented with the changes discussed. Boathouse rates for 1, 2 and 3 as \$150.00 per month per slip, and \$125.00 per month per slip for the remaining two. Taxes assessed, over the 12-month period, and the double boathouse slips split the taxes per month. Member Sapp seconded the motion. Member Davit requested clarification if this motion if for the approval of the lease or issuing the lease to the current tenants. Member Martini stated that he proposed lease is for a 20-year period. Manger Smith explained that the past motion at the last meeting was to negotiate a new lease with the current tenants. This motion would enter into a new lease with the current tenants for a 20-year term. There being no further discussion, roll call vote was as follows: Davit – nay, David – nay, Williams – nay, Sapp – aye and Martini – aye. Motion failed 3-2.

ii. ITB 2021-01 Forest Street Outfall Improvements \$169,384 Cathcart Construction

Mayor O'Brien introduced this item. He then turned the floor over to Public Works Director Elliott-Moore. Director Elliott-Moore reviewed the proposed project and the Invitation to Bid. She then stated that the funding is in the budget. Member Davit made a motion to approve ITB 2021-01, Cathcart Construction and the amount of \$169,384.00. Member Williams seconded the motion. Roll call vote was as follows: David – aye, Davit – aye, Martini – aye, Sapp – aye, and Williams – aye. Motion carried 5-0.

iv. RFP #2021-06 Swale and Maintenance and Related Service \$25,000

Mayor O'Brien introduced this item. He then turned the floor over to Public Works Director Elliott-Moore. Director Elliott-Moore commented on the need for the swale and drainage maintenance that led up to RFP #2021-06. She stated that two submittals were received. Director Elliot-Moore further stated that the committee has selected AIT Site Development and request approval from the Town Council. Member Williams made a motion to approve AIT Site Development with a not to exceed \$25,000.00. Member Martini seconded the motion. Some discussion followed. Roll call vote was as follows: Williams – aye, Sapp aye, Martini – aye, Davit – aye, and David – aye. Motion carried 5-0.

d. FINANCIAL

i. Windermere Recreation Center New Playground Equipment \$28,399.47

Mayor O'Brien introduced this item. He commented on the proposed fencing. Manager Smith stated that the fencing will be added separately. Ms. Nora Brophy, Parks and Recreation Chair, commented on a possible border alongside the existing fence. She then commented that per the playground specialist, they felt the hedge was far enough away and a fence was not needed. Some discussion followed regarding fencing, types of fencing, and landscaping. Mayor O'Brien stated that the playground equipment could be voted on to move forward, and that the Parks and Recreation Committee could be back to discuss fence suggestions at a later time. Member Martini questioned a possible crosswalk. Member Sapp stated that the Long-Range Planning Committee can discuss the crosswalk. After some discussion was made, Member Williams made a motion to approve the playground equipment in the amount of \$28,399.47. Member David seconded the motion. Roll call vote was as follows: Martini – aye, Sapp – aye, Williams – aye, David – aye, and Davit – aye. Motion carried 5-0.

e. OTHER ITEMS FOR CONSIDERATION

i. Lake Street Park: Parking Moratorium

Mayor O'Brien introduced this item regarding parking issues at the parks. Manager Smith stated that since there are Ordinances in process for jumping off docks, parking, and alcohol, a moratorium could be put in place until the Ordinances are passed. Discussion followed regarding parking issues at the parks,

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especially Lake Street Park, as well as commercial activities. Member Martini made a motion to enact a parking moratorium upon installation of signage until the parking Ordinance is resolved. Member Williams seconded the motion. Chief Ogden questioned loading/unloading situations. Member Martini amended his motion to include "With the exception of loading/unloading." Member Williams was friendly to the amendment. Roll call vote was as follows: Davit – aye, David – aye, Williams – aye, Sapp – aye, and Martini – aye. Motion carried 5-0.

6. **MAYOR & COUNCIL LIAISON REPORTS:**

Mayor O'Brien reported on upcoming Bird Island workshop, Run Among the Lakes, and Light-Up Windermere. Member Williams reported on the upcoming Elder Luncheon.

7. **STAFF REPORTS:**

a. **TOWN MANAGER ROBERT SMITH** – Manager Smith reminded everyone of the October 25<sup>th</sup> Workshop regarding the Boathouses and the Rotary RFP/RFQ. Everyone agreed to the meeting/workshop on October 25<sup>th</sup>.

b. **TOWN ATTORNEY HEATHER RAMOS** – Attorney Ramos reminded everyone that the boathouse leases are currently on a month to month with a thirty-day notice.

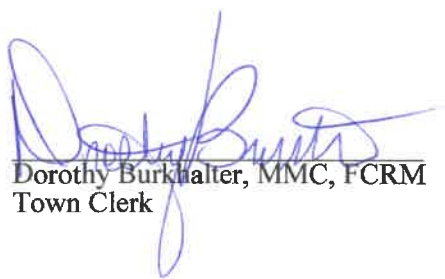
c. **POILCE CHIEF DAVE OGDEN** – Chief Ogden reported on Officers trip to Washington DC, hiring of a new officer, accreditation, and upcoming Cops and Bobbers event.

d. **PUBLIC WORKS DIRECTOR TONYA ELLIOTT-MOORE** – Director Elliott-Moore reported the lakes consultants, signage, line of sight, wasp spraying, Town Hall repairs, 5<sup>th</sup> and Lake Street, new tennis court doors, irrigation work, sidewalk repairs, meeting with Duke Energy regarding the parks, and the speed trailer. She then stated that the team is doing a great job.

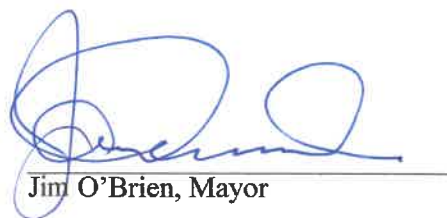
e. **TOWN CLERK DOROTHY BURKHALTER** – No report.

8. **ADJOURN:**

Mayor O'Brien adjourned the meeting at 7:58pm.



Dorothy Burkhalter, MMC, FCRM  
Town Clerk



Jim O'Brien, Mayor