

TOWN OF WINDERMERE

Town Council Meeting Minutes

October 11, 2022

CALL TO ORDER:

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

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.

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

Mayor O'Brien stated that all public comments will be heard in this open forum. He then opened the floor to the public. Mr. Peter Fleck of 10820 Bayshore Drive introduced himself. He reviewed his variance request and then requested that the Town Council approve his variance that had been recommended for denial by the Development Review Board. Mr. Joseph Ata of 5 Pine Street introduced himself. He explained the hardship for his variance request is trees. Mr. Ata further explained that the request is for a 9-foot front setback variance which will result in a 16-foot front setback. He also requested that the Town Council approve his variance request which the Development Review Board recommended to deny. Ms. Nora Brophy of 426 Magnolia Street introduced herself. She then commented on upcoming Parks and Recreation events: Run Among the Lake and the Halloween Costume Parade. Mayor O'Brien thanked her and her committee members for all their hard work. Ms. Ashely Walker of 11 Main Street introduced herself. She then commented on the proposed pool setback Ordinance and the very minimal impact the Town of Windemere has on the chain of lakes. Ms. Walker further commented on the existing issue with sewage seeping from septic tanks into to Lake Down from Hurricane Ian. Mr. Stephen Withers of 712 Main Street introduced himself. He stated that he is a Development Review Board member and the Board voted to deny the proposed Ordinance change. Mr. Withers commented that the lakes are the Town's greatest asset and needed to be protected. He then commented on the Fleck item that was heard by the DRB, which he stated is questionable, but a 35' setback is not. Mr. Richard Childs, owner of 625 Bessie Street, introduced himself and his contractor, Mr. Allen Hand. He then explained his variance request and requested approval. Ms. Brandi Haines of 835 Oakdale Street introduced herself. She then stated that as a degreed marine biologist, she agrees with Mr. Withers' comments regarding not changing the setback. Ms. Haines then commented on a few concerns with the diverters on 9th Avenue and Oakdale Street. Mr. Rick Haines of 835 Oakdale Street introduced himself. He then commented on traffic counts during peak and off-peak times. Mr. David Sharpe of 1027 Oakdale Street introduced himself. He stated that the diverters are awesome and are working. Mr. Sharpe requested that the Town Council authorize staff to move forward with a permanent plan. Ms. Mary Oaks of 33 Oakdale Street introduced herself and requested that the Town Council approve the variance for 11 Main Street. Ms. Dale Walker of 212 E 1st Avenue introduced herself. She then requested that the Town Council approve the variance request for 11 Main Street as there are many other issues causing issues to the lakes other than pools. Clerk Burkhalter read into the record comments from Ms. Nancy Bardoe and Mr. and Mrs. Gary Tucker (attached). R. Fred Carpenter of 1036 Oakdale Street introduced himself. He then commented in favor of the diverters. Mr. Ben Mace of 43 Main Street introduced himself. He then spoke in favor of the variance request for 11 Main Street. Mr. Frank Chase of 935 Oakdale Street introduced himself and thanked all for the diverters on 9th Avenue and Oakdale Street. He then commented on golf carts and a possible registration. Phu Nguyen of 19 Main Street introduced himself. He then thanked all for their efforts with Hurricane Ian cleanup. Mr. Nguyen commented on the proposed pool setback Ordinance and stated that he did not see or hear of any pools overflowing and/or causing issues for the lakes. Public comments concluded at 6:40pm.

2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS

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- a. **Proclamation of the Town of Windermere Declaring November 5th – November 12th, 2022, as week of the family.**

Mayor O'Brien read and proclaimed November 5-12, 2022, as Week of Family in the Town of Windermere.

- b. **Oakdale Street and 9th Avenue Diverters**

Mayor O'Brien introduced this item. He then turned the floor over to Manager Smith. Manager Smith explained that there is a thirty-day and sixty-day review requirement, in which this is the thirty-day review. Manager Smith explained that if the Town Council desires to close the roads, then an Ordinance will be needed after the sixty-days. Member Rose questioned why there are more problems heading north than opposed to heading south with the diverters. Mr. Fitzgibbon explained the current position of the diverters and the north/south paths with the diverters. He then explained that temporary detour signs have been placed. Member Martini questioned if, once permanent, electronic apps and et cetera will be notified of the diverters. He stated that currently the diverters do not show in roadway apps. Mr. Fitzgibbon stated that once the Ordinance is passed, the apps would gradually update. Ms. Haines commented on the turnaround issues, detour signs, barricades, advanced warnings, apps, and driver issues. Member Rose commented that signs need to be utilized for proper direction. Mayor O'Brien stated that this item will be brought back before the Town Council at a future date.

3. **TIMED ITEMS AND PUBLIC HEARING**

4. **OLD BUSINESS:**

- a. **CONSENT ITEMS:**

- b. **OTHER ITEMS FOR CONSIDERATION**

5. **NEW BUSINESS**

Mayor O'Brien introduced this item. He explained that all can be passed in a single motion and vote or items can be pulled for discussion. Mr. Fleck requested approval for his request. Mayor O'Brien requested that the record reflect that Mr. Fleck has requested approval for his variance request. All agreed to hear each item.

- a. **CONSENT ITEMS:**

- i. **Z22-09 – 5 Pine Street – Joseph & Jill Ata – Variance to allow a new garage with a front setback of 16 feet**

Mayor O'Brien introduced this item. He then turned the floor over to Mr. Cornelius. Mr. Cornelius reviewed the variance request and required standards. He stated that notices were sent out with seven returned in support. Mr. Cornelius stated that the Development Review Board recommended denial due to no hardship. Mayor O'Brien questioned the location of the trees on the lot. Mr. Cornelius stated that the trees are on private property, not in the right of way. Member Rose questioned if the existing garage is compliant. Mr. Cornelius stated yes. Member Davit stated that if the structure were reconfigured for an additional five feet in its current location, and the door moved, a variance wouldn't be needed. Mr. Ata, owner, explained that the garage door would be moved too close to the house door and thus wouldn't be aesthetically pleasing. He then commented on the economic hardship it would impose to change, ingress/egress, septic issues, tree roots, irrigation lines, displaced pavers from tree roots, tree removal –

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which he does not want to do. Discussion followed regarding moving the septic tank, garage expansion, arborist review, Development Review Board discussion, right of way extension, nine-foot variance request instead of sixteen feet, scope and scale of homes previously approved at the point, and pervious/impervious surface of pavers. Member Rose made a motion to deny the variance request. Motion died for lack of a second. Member Martini questioned if this item could be sent back to DRB without further cost to the applicant. Mr. Cornelius stated that the Town Council could send this item back to DRB. Member Davit stated that he would “like the applicant to readdress the setback quantity to make it more aligned with the rest of the houses.” He further stated that he would like to see something less obtrusive. Mr. Ata commented on the setbacks of the other homes around his. He then stated that he does not want to remove the trees and there are safety issues with the brick pavers. Discussion was made regarding root barriers and protection. After some discussion was made, Member Davit made a motion to send this item back to the DRB to find a resolution that’s more acceptable to the DRB. Member Williams seconded the motion. Roll call vote was as follows: Rose – no, Davit – aye, David – no, Williams – aye, and Martini – aye. Motion carried 3-2.

ii. Z22-11 – 606 Forest Street – Stefan & Veronika Kollros – Variance to allow an addition of more than 10% for an existing non-conforming home

Mayor O’Brien introduced this item and turned the floor over to Mr. Cornelius. Mr. Cornelius reviewed the variance request to allow an addition of more than 10% for an existing non-conforming home. He then stated that the addition will meet the current requirements. Mr. Cornelius commented that notices were mailed out with seventeen in favor received. He also stated that the DRB has recommended approval. Member Williams made a motion to approve the variance request. Member Martini seconded the motion. Roll call vote was as follows: Martini – aye, Williams – aye, David – aye, Davit – aye, and Rose -aye.

iii. Z22-13 – 10820 Wonder Lane – Peter & Kari Fleck – Variance to allow a replacement gazebo for a property with a gross floor area more than 38% of the lot

Mayor O’Brien introduced this item and turned the floor over to Mr. Cornelius. Mr. Cornelius reviewed the variance request to replace an open trellis roof with a hard cover. He stated that the current home, which was built in the county and was later annexed by the Town, currently is at 48% gross floor area coverage. Mr. Cornelius explained that with the cover, floor area would be 51.3%. He further explained that it does meet the fifty-foot setback and will cover an existing slab. Mr. Cornelius commented that notices were mailed out with one in objection and one in favor received. He also further commented that the DRB has recommended denial of the request and no hardship was present. Member Davit questioned if this was permitted previously when it was built in the county. Mr. Cornelius stated yes. Discussion followed regarding pergola size, pervious/impervious, roof material, enclosure, and hardship. Mr. Peter Fleck, owner of 10820 Wonder Lane, introduced himself. He explained that in cleaning up the structure from vines, he found rotten wood in need of replacement. Mr. Fleck further explained that when it was originally built, Orange County’s code was what was used prior to being annexed into Windermere. Discussion followed regarding the life span of a pergola, and hardship. Member Rose made a motion to deny the variance request. Member Davit seconded the motion. Roll call vote was as follows: Martini – aye, Williams – aye, David -aye, Davit – aye, and Rose – aye. Motion carried 5-0.

iv. Z22-14 – 625 Bessie Street – Richard & Victoria Childs – Variance to allow an addition of more than 10% for an existing non-conforming home

Mayor O’Brien introduced this item and turned the floor over to Mr. Cornelius. Mr. Cornelius reviewed the variance request to allow an addition which would cause more than the 10% as this is an older home. Member Rose questioned the septic system. Mr. Hand, contractor, commented on the strict requirements from the Health Department. Member Davit made a motion to approve the variance request.

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Member David seconded the motion. Roll call vote was as follows: Rose – aye, Davit – aye, David – aye, Williams – aye, and Martini – aye. Motion carried 5-0.

v. Z22-15 – 219 W 2nd Avenue. Jeffrey & Rachelle Szukalski – Variance to allow an addition of more than 10% for an existing non-conforming home.

Mayor O'Brien introduced this item and turned the floor over to Mr. Cornelius. Mr. Cornelius reviewed the variance request which is like the two previous requests. He stated that notices were mailed out, seventeen were received in support and zero in opposition. Mr. Cornelius commented that the DRB has recommended approval for this request. After minimal discussion was made, Member Rose made a motion to approve the variance request. Member Martini seconded the motion. Roll call vote was as follows: Martini – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

b. RESOLUTION - ORDINANCE FOR FIRST READING

i. Resolution 2022-12 of the Town Council of the Town of Windermere, Florida rescheduling the November 8, 2022, 6:00pm Regular Town Council Meeting to Monday November 14, 2022, at 6:00pm

Mayor O'Brien read proposed Resolution 2022-12 for the record. Member Davit made a motion to approve Resolution 2022-12. Member David seconded the motion. Roll call vote was as follows: Rose – aye, Davit – aye, David – aye, Williams – aye, and Martini – aye. Motion carried 5-0.

ii. Resolution 2022-13 of the Town Council for the Town of Windermere, Florida adopting the amended golf Cart District Map

Mayor O'Brien read proposed Resolution 2022-13 for the record. Discussion followed regarding golf cart access areas and golf cart registrations. Member Rose made a motion to approve Resolution 2022-13. Member Williams seconded the motion. Roll call vote was as follows: Martini – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

iii. Ordinance No. 2022-09 – Pool Setbacks for Canal Front Lots Reduction from 50 feet to 35 feet.

Mayor O'Brien stated that this is the first reading of proposed Ordinance 2022-09. He stated the second reading/public hearing will be held at the November Town Council meeting. Manager Smith stated that the DRB recommended denial of moving forward with amending the Ordinance. Mr. Cornelius reviewed the past DRB discussion, discussions with other outside agencies, and the past Town Council's direction with the City of Winter Park's Ordinance. He then commented on industry standards, proposed thirty-five-foot setback, seawall requirements, swales on the backsides of seawalls, meeting previous ratios, on-site retention, existing trees remaining, prohibit wetlands and hundred-year flood encroachments, maintaining that pool enclosures be treated as structures which will still need to maintain the fifty-foot setback, execution of a hold harmless agreement with the Town of Windermere, and protection on environmental impacts. Mr. Cornelius then commented that this was presented to the Development Review Board, in which their recommendation was to not change the Ordinance. As DRB liaison, Member Martini commented on their past discussion and past votes which were 5-2 and 7-0, Orange County setbacks, homes not within the Town limits that have thirty-five feet setbacks, inclusion of seawalls, and swales. Member Rose questioned the County's setbacks for lakefront homes on the chain. Mr. Cornelius stated that Zoning designates the County setback. Member Rose commented that the Town wants what's best for the lakes even though the Town has very minimal impact. Member Davit stated that the DRB needs additional consultation from others. He questioned if the lakes were better with a fifty-foot set back or thirty-five-foot setback with contingencies in place. Discussion followed regarding setbacks, seawalls, and setting precedence. Manager Smith questioned if this Ordinance would move forward to a Second Reading/Public Hearing. Mayor O'Brien stated yes. Member Martini commented that he is not in favor of this Ordinance. Mayor O'Brien read the title of proposed Ordinance 2022-09 for the record. He then stated that the second reading/public hearing will be held at the November meeting.

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c. MINUTES

- i. **Public Information Workshop: Light the World with Love Christmas Concert Minutes September 6, 2022**
- ii. **Town Council Tentative Budget Hearing Minutes September 7, 2022**
- iii. **Town Council Special Meeting Minutes September 7, 2022**
- iv. **Town Council Workshop Minutes September 7, 2022**
- v. **Town Council Meeting Minutes September 13, 2022**
- vi. **Town Council Final Budget Hearing Minutes September 19, 2022**

Mayor O'Brien introduced this item. Member Rose made a motion to approve the minutes as submitted. Member David seconded the motion. Roll call vote was as follows: Martini – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

d. APPOINTMENTS

i. **Parks & Recreation – Sue Anne Reichard**

Mayor O'Brien introduced this item. Member Davit made a motion to approve Sue Anne Reichard to the Parks and Recreation Committee. Member Williams seconded the motion. Roll call vote was as follows: Rose – aye, Davit – aye, David – aye, Williams – aye, and Martini – aye. Motion carried 5-0.

ii. **Parks & Recreation – Francisco “Pacho” Sierra**

Mayor O'Brien introduced this item. Member David made a motion to approve Francisco “Pacho” Sierra to the Parks and Recreation Committee. Member Martini seconded the motion. Roll call vote was as follows: Martini – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

iii. **Parks & Recreation – Jill Ata**

Mayor O'Brien introduced this item. Member David made a motion to approve Jill Ata to the Parks and Recreation Committee. Member Davit seconded the motion. Roll call vote was as follows: Martini – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

e. CONTRACTS & AGREEMENTS

i. **Approve Rostan Solutions, LLC Emergency Debris Monitoring – Hurricane Ian: Not to exceed \$50,000.00**

Mayor O'Brien introduced this item. Member Williams made a motion to approve Rostan Solutions, LLC emergency debris removal not to exceed \$50,000.00. Member Rose seconded the motion. Member Rose questioned the other companies. Manager Smith commented that Raynor Shine, Dobson's, Enviro Tree, and Horizon Land Management are under a continuing contract. Roll call vote was as follows: Rose – aye, Davit – aye, David – aye, Williams – aye, and Martini – aye. Motion carried 5-0.

6. MAYOR & COUNCIL LIAISON REPORTS:

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Mayor O'Brien opened the floor for liaison reports. He stated that he is glad that everyone made it through the storm safely, and he appreciates everyone's hard work. Mayor O'Brien commented on the Sleep in Heavenly Sleep event. Member Williams reported on the upcoming Elder Luncheon. Member Davit commented on the meetings with the owners of 212 1st Avenue. Member Rose questioned if electric would ever be placed underground. Manager Smith stated that the cost doesn't outweigh the benefit and that Duke Energy was not in favor. Member Martini thanked all staff for their efforts through the hurricane. Member Rose reminded everyone of the upcoming Music Among the Lakes on November 5th. Member David reminded everybody of the upcoming Run Among the Lakes and Halloween event. She also commented on the ASL classes that are underway.

7. STAFF REPORTS:

a. **TOWN MANAGER ROBERT SMITH** – Manager Smith thanked all staff for their efforts and responses with Hurricane Ian. He stated that the continued communication between all was effective. Manager Smith reported on the hurricane, follow ups for reimbursements, and the HMPG grants.

b. **TOWN ATTORNEY HEATHER RAMOS** – Attorney Ramos reported on the Motion to Dismiss and the others that are scheduled. She commented that each case has a separate Judge.

c. **POLICE CHIEF DAVE OGDEN** - Chief Ogden reported on the Mock Assessment, Full Assessment December 17th, Safety Watch, Patriot Breakfast, after-storm assessments, new hires/staffing, Bike to School Day, and Breast Cancer Awareness Month.

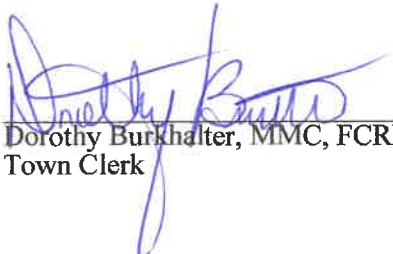
d. **PUBLIC WORKS REPRESENTATIVE JOHN FITZGIBBON** - Mr. Fitzgibbon reported on Duke Energy repairs, storm repairs, upcoming meeting with Rostan, inspection of town parks and docks, and the demo of the Community Room.

e. **TOWN CLERK DOROTHY BURKHALTER** – Clerk Burkhalter reported that she will be working on the qualifying packets for the upcoming elections in March of 2023.

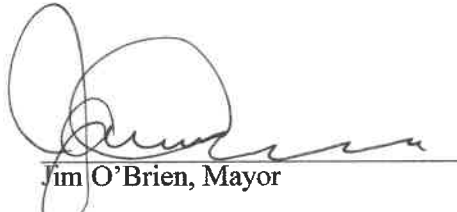
Some general discussion followed. Manager Smith reported on debris pick up with Waste Pro.

8. **ADJOURN:**

Mayor O'Brien adjourned the meeting at 8:28pm.



Dorothy Burkhalter, MMC, FCRM
Town Clerk



Jim O'Brien, Mayor

Dear Town Council Members,

My family and I have lived in Windermere for over 23 years and currently for the past 20 years at 4 Pine Street. We have loved every minute living on the "Bumby Point" peninsula, the friendliness of the Town folk and spirit of caring for each other, the lakes and the Town.

I have served on the Downtown Business Development Board and was on the first committee to bring our Art Show to the Town of Windermere. I know how hard the Board Members and Council work toward the goal of making this a friendly, progressive and terrific place to live.

Recently we submitted a variance for a pool setback from 50' to 36' (14'). Our hardship is simply that the 50' setback is too restrictive for the smaller lakefront lots which lay in the Town of Windermere on the Chain of Lakes. Many of these lots were platted in the early 1900's. When the new requirement of a 1 acre parcel for lakefront lots occurred, the 50' setback requirement for pools makes sense, but not for the smaller lots such as the Canal Front and others like our own. We pulled our variance request because our only hardship was the 50' setback and the Small lot we live on.....which doesn't seem to qualify for a hardship. So our thought is to change the requirement to a lesser setback for the smaller lot lakefront Owners, even if we have to meet more requirements (such as the sea wall).

Our lot is 144' on the shortest side, to the high water mark x 100 feet wide, the remainder of our lot is out into the lake. Very similar size to the "Canal Front" lots you are presently discussing changing the setback for.

There are many small lakefront lots on our chain of lakes that have received a variance for pools with a 25' setback (Orange County). We haven't heard or read anywhere that those pools have been a detriment to the lake. Which of course is a concern for all of us!

We are requesting that the Council take a look at lowering the setback for all of the smaller lots in Town and not just the Canal Front.

Thank you for your time.

Valery and Gary Tucker
4 Pine Street
407-832-5381

Dorothy Burkhalter

From: Nancy Bardoe <bardoen@aol.com>
Sent: Monday, October 10, 2022 2:07 PM
To: Jim O'Brien; Andy Williams; Bill Martini; Tony Davit; Mandy David; Molly Rose; Robert Smith; Tonya Elliott-Moore; Dorothy Burkhalter
Subject: October 11 Town Council- Public Record Submission
Attachments: IMG_3028.MOV; IMG_3029.JPG; IMG_3026.JPG; IMG_3027.JPG; IMG_3024.JPG

To Whom It May Concern:

I would like the following comments to be read and entered into the public record please as my husband and I are unable to attend the meeting in person or utilize Zoom tomorrow night.

9th and Oakdale Diverter

The diverter system was installed with the majority of the requests coming from Oakdale residents. The Glance, Haines, Bardoe and Scroggins' 9th Avenue residents on the east side of the diverter have seen a decrease in traffic with initial confusion and turnarounds decreasing as well. My husband, Bill, and I are in favor of making the diverter permanent. It is, however, difficult to change a 45+ year habit of turning left on 9th and remember to turn on 8th Avenue.

Golf Cart Crossing

I support a golf cart crossing at 11th.

Nancy Bardoe

***The following does not need to be read into public record unless the Town Council members think it should be read. I would like the issue addressed at the meeting.

Pedestrian Blinking Crosswalk Sign between 9th and 10th

I spoke to Tonya Elliott-Moore, Travis Mathias and John Fitzgibbon in **early June** in the town office about this sign. I asked to have a new sign such as the ones on north Main with blinking lights lower on the mount to replace the 9th-10th sign as the blinking lights are up high and are dangerously obstructed by vegetation and tree limbs. I have witnessed a fender bender at this crosswalk a while ago and I am enclosing **pictures taken today** which clearly show the blockage and the north bound Main Street drivers disregarding the blinking lights. The west side of the signage is NOT working at all and the east side has issues as well. I was told in June that to replace the blinking pedestrian sign would be a low priority on the list due to locations already identified in the Master Plan. Maybe the Master Plan should be amended? I was also told that parts are no longer available for the current sign and that the parts were being ordered on eBay at that time. To date, nearly 5 months later, I still see no action.

I suggest that a new pedestrian sign be placed at 10th and Main Street. This area has no vegetation to obstruct the signage and solar is plentiful. It makes no sense to have the crosswalk in its current location(between 9th and 10th) if the sign is not visible to drivers and pedestrians and is not in working order.

Thank you,
Nancy and Bill Bardoe
225 E. 9th Avenue

