

TOWN OF WINDERMERE

Town Council Meeting Minutes

November 14, 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, Police Chief Dave Ogden, Public Works Director Tonya Elliott-Moore, Public Works Representative John Fitzgibbon, and Town Clerk Dorothy Burkhalter were also present. Attorney Heather Ramos 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 opened the floor to the public. First to speak was Mr. Phu Nguyen of 19 Main Street. He spoke in favor of the proposed Ordinance 2022-09. Ms. Lori Bradford of 5331 West Lake Butler Blvd spoke in opposition of passing Ordinance 2022-09. Ms. Brandi Haines of 835 Oakdale spoke in opposition of Ordinance 2022-09. She then commented on the proposed paving of 5th Avenue to Forest Street project. Ms. Haines stated that there are many residents concerned with the paving of any roads in town. Ms. Ashley Walker of 11 Main Street spoke in favor of Ordinance 2022-09. She stated that she spoke with many residents and received eighty signatures in support of the Ordinance. Mr. Mark Ausley, of 3025 E South Street, Environmental Consultant, Bio Tech Consultant, and Chair of the Orange County Environmental Protection Commission introduced himself. He then stated that in his review/opinion of the proposed Ordinance, this Ordinance is better than the existing one which has "very tight language for limited number of lots." Mr. Ausley commented on the benefit of the required seawall/swale. He then stated he is in support of the proposed Ordinance. This ended public comment.

2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS

Mayor O'Brien stated that this item will be deferred to the December Town Council meeting.

- a. Ceremonial Swearing and introduction of WPD Officers**
 - i. Officer Sarah Hoffmann**
 - ii. Officer Enmanuel Rodriguez**

3. TIMED ITEMS AND PUBLIC HEARING

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

Mayor O'Brien introduced this item. He then read the title of proposed Ordinance 2022-09 for the record. Mayor O'Brien closed the Town Council meeting at 6:18pm and opened the Public Hearing regarding proposed Ordinance 2022-09. Mr. Cornelius introduced himself. He then commented on the proposed Ordinance change for a 35' setback with conditions for certain properties along the canal other than the 50' that is currently required. Mayor O'Brien opened the floor for further public comments. First to speak was Mr. Stephen Withers, 712 Main Street. He commented that pools weren't the main concerns. Mr. Withers stated that the 50' is to catch oils and residues that come off the streets and filter through the grass prior to going into the lakes. He also stated that a seawall is a good condition, but that removing the 50' requirement will eliminate a 40% barrier. Mr. Withers commented that the Ordinance needs to remain as-is. Mr. Phu Nguyen of 19 Main Street introduced himself. He then commented on the number of homes and how many currently have pools. Mr. Nguyen then commented that the homes were built in the 1950s prior to codes being in place. Member Martini questioned how many pools are currently along the canal. Mr. Nguyen stated approximately 3. Mr. Ben Mace of 43 Main Street introduced himself. He then stated that he supports his neighbor. Ms. Dale Walker of 212 E 1st Avenue introduced herself. She then

TOWN OF WINDERMERE

Town Council Meeting Minutes

November 14, 2022

stated that she is in favor of the Ordinance. Ms. Walker also stated that she spoke with eighty residents who are in favor of the Ordinance. Ms. Mary Oakes of 33 Oakdale Street introduced herself. She also spoke in favor of the passing of the Ordinance. There being no further comments, Mayor O'Brien closed the Public Hearing at 6:27pm and reconvened the Town Council meeting. He then turned the floor over to the Town Council members. Member Davit stated that if this Ordinance is enacted, any modifications to existing pools would fall under the new Ordinance. Mr. Cornelius stated yes. Member Davit stated that with the modifications, he would support this Ordinance. Member Rose questioned if the County's setback is specific to canals. Mr. Cornelius stated no and explained that the County's regulations are by their zoning. Discussion followed regarding older homes built on lots prior to codes being established. Member David questioned if there were any issues with pools leaking, etc. with Hurricane Ian and Hurricane Nicole. Mr. Cornelius stated that he has not heard of any issues. Discussion followed regarding seawalls, recent rain totals, and effects. Member Martini stated he is opposed to this Ordinance due to the advice of the recommendations from the Development Review Board, Lakes Consultant, and other professionals. Member Davit commented for point of clarification that he is unsure of Orange County EPD's comments to this item. Mr. Cornelius stated that Mr. David Hanson has provided his position to not change the Ordinance. Member Davit stated that Mr. Ausley with Orange County had spoken in favor. Mr. Ausley stated that he is the Chairman for the Orange County Environmental Protection Commission. After some discussion was made, Member Davit made a motion to approve the Ordinance as written. Member Rose seconded the motion. Roll call vote was as follows: Martini – nay – Williams – nay, David – nay, Davit – aye, and Rose – aye. Motion failed 3-2.

4. OLD BUSINESS:

5. NEW BUSINESS

a. CONSENT ITEMS:

i. **Z22-08 – 525 Lake Street – Ross & Kara Barker – Variance to allow a screen enclosure with a 5-foot side setback to cover a proposed new swimming pool and deck**

Mayor O'Brien introduced this item. Member Rose questioned the current location of the house. Mr. Cornelius explained the configuration of the three-front yard lot and the pool, decking and proposed screen. Some discussion followed. Member Martini made a motion to approve the variance request. 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.

b. RESOLUTION - ORDINANCE FOR FIRST READING

i. **Resolution 2022-14 A Resolution of the Town of Windermere, Florida, Pertaining to the Town's Personnel Policies and Procedures; Revising and clarifying Section 7.4 – The Longevity Administrative Leave Policy; Providing an Effective Date.**

Mayor O'Brien read proposed Resolution 2022-12 for the record. Manager Smith commented on the revision that is needed. Member Martini questioned if this will be retroactive. Manager Smith stated, "once you meet those milestones, then yes." Member Rose made a motion to approve Resolution 2022-

TOWN OF WINDERMERE

Town Council Meeting Minutes

November 14, 2022

14. 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.

ii. Ordinance No. 2022-10 – Revisions to the Town’s golf cart Ordinance to align with current law

Mayor O’Brien stated that this is the first reading of proposed Ordinance 2022-10. He stated the second reading/public hearing will be held at the December Town Council meeting. Member Rose questioned if this amendment is being done to meet the State code. Director Elliott-Moore stated “yes.” Member Rose commented on the primary age of the driver which has changed to fourteen years of age. She then stated that Keene’s Point is more restrictive by the age and license requirement. Some discussion followed. Member Rose questioned if a 14-year-old driver is crossing the street in a designated cart zone and an accident occurs, what would happen? Manager Smith stated it would be a civil infraction on the golf cart driver if it was determined they were at fault. Member Martini questioned if the Town Attorney will be present at the next meeting to review the changes. Manager Smith stated yes, and due to a family emergency, she could not make this meeting. Mayor O’Brien explained the first reading process. Some discussion followed regarding the allowable age. Mr. Tom Stroup questioned if there is a difference between an ATV and a golf cart. Mayor O’Brien stated that there is a difference which can be addressed at the next meeting.

c. MINUTES

- i. Town Council Meeting Minutes – October 11, 2022**
- ii. Town Council Workshop Minutes – October 25, 2022**

Mayor O’Brien introduced this item. Member Davit made a motion to approve the minutes as submitted. 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.

d. CONTRACTS & AGREEMENTS

i. Pavement Management Plan: QES \$41,157

Mayor O’Brien introduced this item. Director Elliott-Moore stated that a pavement assessment should be done while a pavement management plan is being done. She then stated that an update of the plan with a company that has been previously utilized is more cost effective. Mayor O’Brien commented on the benefit of having the update. Member David questioned if this is to pave new roads or existing roads. Director Elliott-Moore stated that this will address the existing paved roads. Some discussion followed regarding the benefit of having a CIP for the roads, owning our own data, and daily traffic comparisons. Member Rose made a motion to approve the pavement management plan by QES not to exceed \$41,157.00. Member Davit 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. Horizon Land Management Emergency Debris Hauling – not to exceed \$40,000.00

Mayor O’Brien introduced this item. Director Elliott-Moore stated a correction in the executive summary was needed. She stated that instead of \$15.00 per hour, should read per square yard. Member Rose questioned if this work had been done. Director Elliott-Moore stated yes and the \$40,000.00 is what has been invoiced. Member Rose made a motion to approve the not-to-exceed \$40,000.00 for emergency debris hauling. 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.

TOWN OF WINDERMERE

Town Council Meeting Minutes

November 14, 2022

iii. Repair of Pavement Damaged by Waste Pro – Middlesex up to \$66,000.00

Mayor O'Brien introduced this item and turned the floor over to Director Elliott-Moore. Director Elliott-Moore explained the incident with a Waste Pro truck that caused damage to the roads. She stated that Waste Pro will be reimbursing the Town for the expenses. Member Roe made a motion to approve the up to \$66,000.00 for repairs. Member Davit seconded the motion. Member Martini questioned if the Town was notified regarding running over the sign. Manager Smith stated yes, everything that has been damaged will be corrected. Mayor O'Brien questioned if the cost could be escrowed. Manager Smith explained that per the contract, Waste Pro is responsible for negligence. Roll call vote was as follows: Rose – aye, Davit – aye, David – aye, Williams – aye, and Martini – aye. Motion carried 5-0.

iv. Paving of West 5th Avenue from Main Street to Forest Street – Middlesex up to \$60,000.00

Mayor O'Brien introduced this item. He stated that he has spoken with Manager Smith regarding the proposed project. Mayor O'Brien turned the floor over to Manager Smith. Manager Smith commented that this item has been discussed in previous meetings. He stated that with the current use of the road, grading and shoring up is needed so that the future needs could be met (pavilion). Manager Smith stated that the proposed paving would begin at the end of the current brick pavers and extend to the intersection of Forest Street. Member David questioned the approximate cost for brick pavers instead of asphalt. Manager Smith stated he was unsure as pavers were not researched. Some discussion followed regarding installation/maintenance of bricks, more public input, timing and price of project, use of stamped concrete and stamped asphalt. Mayor O'Brien stated that public discussion is needed. Member David commented on ADA compliance. Mr. Fitzgibbon stated that the requirement can be researched. Member Rose stated that residents need to participate in this proposed project. Mayor O'Brien stated that common consent is to table this item until after public input has been made.

v. Engineering Consultants for Stormwater Master Plan: Michael Galura Engineering: Total not to exceed \$150,000.00 (Town responsible for \$75,000.00)

Mayor O'Brien introduced this item and turned the floor over to Director Elliott-Moore. Director Elliott-Moore commented on the critical component of the stormwater master plan from an outside source. She stated that the Butler Chain of Lakes will pay half of the proposed project. Director Elliott-Moore stated that the Town Manager has budgeted the Town's portion in this year's budget. Mayor O'Brien commented on the need for this. Some discussion followed. Member Rose made a motion to approve the not to exceed \$150,000.00 with the Town's responsibility of \$75,000.00 project. 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.

vi. Rostan FEMA Reimbursement Services: Not to exceed \$25,000.00

Mayor O'Brien introduced this item as a retroactive approval. He then turned this item over to Director Elliott-Moore. Director Elliott-Moore explained that this is an after-the-fact approval for Rostan to handle the FEMA reimbursements. She also stated that Rostan is also the Town's debris monitor/hauler company. Manager Smith explained that the cost is reimbursable through FEMA as well. Mayor O'Brien commented on his concern with the company being the monitor and the reimbursement requestor. Manager Smith explained that they are two separate departments. Some discussion followed. Member Martini made a motion to approve Rostan for the FEMA reimbursement services. 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.

TOWN OF WINDERMERE

Town Council Meeting Minutes

November 14, 2022

e. FINANCIAL

i. **Purchase of Public Works Administrative Vehicle – Not to exceed \$34,453**

Mayor O'Brien introduced this item. Member Rose stated that the Director is currently driving a pickup truck and this vehicle will be more economical. Member Rose made a motion to approve the vehicle purchase. Ember 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.

ii. **Amended Budget for FY 2021-2022**

Mayor O'Brien introduced this item. He then turned the floor over to Manager Smith. Manager Smith explained the \$1.6 million over budget for fiscal year 2021/2022. He explained that the revenues do not show the loan that was taken out for the facilities. Manager Smith commented that the expenses show going out, but the loan does not show as revenues. He then stated that \$60,000.00 maybe be the amount that is over and not reimbursable. Discussion followed. Manager Smith stated that the Town has \$1.9 million in reserves which will assist with the grants. Member Davit made a motion to approve the amended budget. Member Davit seconded the motion. 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:

Mayor O'Brien opened the floor for liaison reports. Member David reported on the upcoming Light Up Windermere event. Member Williams reported on the upcoming Holiday Hoopla event. Member Rose reported on the Music Among the Lakes event.

7. STAFF REPORTS:

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

b. **TOWN ATTORNEY HEATHER RAMOS** – Attorney Ramos was absent.

c. **POLICE CHIEF DAVE OGDEN** - Chief Ogden reported on the Mock Assessment, December 13-15 Accreditation, 100% staffing, Sleep in Heavenly Peace Bunk Bed Build/Run Among the Lakes/ Parade events, training day, and thanked all for the support with accreditation.

d. **PUBLIC WORKS DIRECTOR TONYA ELLIOTT-MOORE** – Ms. Elliott-Moore stated that Mr. and Mrs. Fitzgibbon will be supplying lunch and have invited the Mayor and Town Council as well. She then thanked Mr. Fitzgibbon and the Police Department for working with Public Works during the past Hurricanes.

Member Rose commented on the excellent communication to the residents through the storms. Member Martini stated, "great job all."

Mr. Fitzgibbon gave an invite to the Mayor and Town Council for a "Thank-You" luncheon. He stated that he and Mrs. Fitzgibbon appreciated all the assistance with the recent passing of their son Evan. Mr. Fitzgibbon commented that this is an appreciation lunch from him and Mrs. Fitzgibbon.

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

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

8. **ADJOURN:**

TOWN OF WINDERMERE

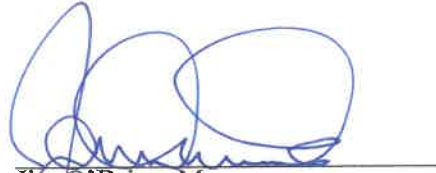
Town Council Meeting Minutes

November 14, 2022

Mayor O'Brien adjourned the meeting at 7:57pm.



Dorothy Burkhalter, MMC, FCRM
Town Clerk



Jim O'Brien, Mayor

Dorothy Burkhalter

From: Susan N.Carter <sncarter@me.com>
Sent: Monday, November 14, 2022 4:46 PM
To: Tony Davit; William Martini; Andy Williams; Mandy David; Molly Rose
Cc: Dorothy Burkhalter; Jim O'Brien
Subject: Opposition to setback changing

Dear Town Council,

I writing to say that I am concerned about the precedent that could be set and the environmental impact to our lakes if you approve the setback for a pool to 35 feet. Please consider keeping it at the 50 foot setback.

Thank you,

Susan Carter