

**TOWN OF WINDERMERE**

**Town Council Meeting Minutes**

**May 9, 2023**

**CALL TO ORDER:**

Present were Mayor Jim O'Brien, Council Members Tom Stroup, Andy Williams, Mandy David, Tony Davit, and Molly Rose. Town Manager Robert Smith, Public Works Director Tonya Elliott-Moore, Attorney Heather Ramos, Deputy Chief Jayson Bonk, Zoning/Town Planner Brad Cornelius, 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.

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

Mayor O'Brien opened the floor to the public. The first to speak was Ms. Dena O'Malley. Ms. O'Malley spoke on behalf of the Parks and Recreation Committee regarding the proposed height increase of 18" for the 4<sup>th</sup> Avenue dock, of which the current height is 12". She stated that the Committee does not want the dock increased to 30", and that they have ADA concerns. Mr. Bob McKinley of 536 Magnolia Street introduced himself. He also commented on the history of the dock and stated that the dock needs to remain at its current height. Mr. McKinley then commented on ADA compliance and functionality of the dock. He further stated that if there are future proposed changes, that they need to be brought before the Parks and Recreation Committee before the item gets to the Town Council. Mr. Frank Waters of 536 Ridgewood Drive introduced himself. He stated that he currently has a contract for a house on 4<sup>th</sup> Avenue near the park. Mr. Waters commented on concerns with activities at the Lake Down parks and the future safety and peace. He then stated that he and other neighbors are willing to help however possible. Mayor O'Brien thanked Mr. Waters. Mrs. Brandi Haines of 835 Oakdale Street introduced herself. She then commented on her support for the variance request at 804 Oakdale Street. Mrs. Haines then questioned the schedule for the permanent diverters on Oakdale Street. Manager Smith explained that there have been scheduling issues, and that another Town Council workshop would be scheduled.

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

NONE

**3. TIMED ITEMS AND PUBLIC HEARING**

NONE

**4. NEW BUSINESS:**

**a. MINUTES**

- i. Oakdale Street and 9<sup>th</sup> Avenue Permanent Traffic Diverters Public Workshop: April 6, 2023**
- ii. Town Council Meeting: April 11, 2023**
- iii. Rotary/Healthy West Orange Pavilion Public Workshop: April 17, 2023**

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

**b. CONSENT AGENDA ITEMS**

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- i. **Z23-06: 4414 Down Point Lane – Kevin and Megan Butler/Shelia Cichra – Variance to allow the reconstruction of a previous unpermitted boat dock at 10 feet from the side property line extended.**

Mayor O'Brien introduced this item. He then turned the floor over to Mr. Brad Cornelius. Mr. Cornelius explained that this dock was built before 1984, and that in 2005 an alteration was made without a permit. He stated that this request is to reconstruct the dock in its existing location at 10' side setback. Mr. Cornelius further stated that the reconstruction is due to storm damage. He commented that notices were mailed out, with all responses in support. Ms. Shelia Cichra, representative with Streamline Permitting, introduced herself. She stated that all the pilings will remain, and that only boards will be replaced. Member Williams made a motion to approve the variance request. Member Rose seconded the motion. Roll call vote was as follows: Rose – aye, Davit -aye, David – aye, Williams – aye, and Stroup – aye. Motion carried 5-0.

- ii. **Z23-07: 804 Oakdale Street – Lacy Adams – Variance to allow 39.6% gross floor area, new front porch with front setback of 23.6 feet, and 100% increase of gross floor area of existing nonconforming detached accessory garage with a height greater than 18 feet.**

Mayor O'Brien introduced this item. He then turned the floor over to Mr. Cornelius. Mr. Cornelius explained the request. He then stated that a lot of public comments were received regarding the proposed request. Mr. Cornelius commented that the DRB did make a recommendation to only allow a front porch that will match the existing house, and the entire property will need to be brought up to current stormwater compliance. He then stated that the applicant had revised the plans for only the front porch. He further stated that the stormwater will be addressed when permitting for the porch is done. Ms. Lacy Adams, owner of 804 Oakdale Street, introduced herself. She then stated that she removed the garage request and agrees with the recommendation from the DRB. Member Williams made a motion to approve. Member Davit seconded the motion. Roll call vote was as follows: Stroup – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

- iii. **Z23-08: 65 Pine Street – Nick and Susan Capone/Kevin Ball – Variance to allow a sport court in front of the principal structure.**

Mayor O'Brien introduced this item. He then turned the floor over to Mr. Cornelius. Mr. Cornelius commented on the unusual lot that had been previously split. He stated that there is access from Pine Street to the house. Mr. Cornelius explained that the proposed sport court would be in front of the house. He stated that the lot is not wide enough for placement in the side yard. Mr. Cornelius further stated that if the court were placed in the back, then the house would be moved closer to the access road, ultimately putting the house closer to neighbors. Mr. Cornelius commented that lights are not being proposed. He stated that notices were mailed out with six returned in favor and five returned in opposition. Mr. Cornelius reported that the DRB had much discussion on this item as there is not a hardship. Mayor O'Brien questioned the fencing height. Mr. Cornelius stated that, per code, due to being a sports court, the fence can be higher. Member Williams stated that the applicants/owners are present, which they were not for the DRB meeting, and that the DRB had many questions. Member Rose questioned the determination of the front yard. Mr. Cornelius explained that due to this particular property not actually on a street/road, but an access is where the concerns is. Member Davit questioned clarification of the location. Mr. Cornelius explained that, per code, a court is allowed in the front yard, but not in front of the house/structure. Discussion followed. Mr. Kevin Ball, builder for the owner, introduced himself. He then commented that placing the court in the rear would be louder than placement in the front. Mr. Ball explained that if the house were pushed to the front, it would then impede on the neighbors as the proposed house would look down on the neighbors. He then explained that the court in the front would have walls/fence and be set down in the earth. Mrs. Susan Capone, owner, commented on shifting the house

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forward if the court is not allowed in front. Member Stroup commented on lighting. He stated in talking with the neighbors, the neighbors' concerns are more with the noise than lighting. Discussion followed regarding lighting, court location, and the recommendation from the DRB. Member Rose made a motion to approve as-is. Member Williams seconded the motion. Member David commented on the hardship concern. Mr. Cornelius explained the unusual lot. Roll call vote was as follows: Stroup – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

#### c. ORDINANCES/RESOLUTIONS FOR APPROVAL/FIRST READING

##### i. First Reading Ordinance 2023-01 – Proposed LDC Change to 10% Limitation for Additions to Nonconforming Structures

Mayor O'Brien introduced this item. He stated that this is a first reading only. The second reading/public hearing will take place at the June Town Council meeting. Mayor O'Brien read the title of proposed Ordinance 2023-01 for the record. He then turned the floor over to Mr. Cornelius. Mr. Cornelius commented on the number of variances regarding nonconforming structures. He then explained that when several variances are being approved, the code needs to be reviewed. Mr. Cornelius reviewed the proposed Ordinance changes/amendments. He further commented that should a significant event occur, the proposed change/amendment would allow the structure to be replaced how it existed prior to that event. Mr. Cornelius stated that the event could be a fire or a declared emergency. He then stated that any other change or renovation would need to conform to the existing code. Mr. Cornelius commented on the compliance for a 100-year flood and docks. He then stated that the DRB had reviewed the proposed changes/amendments and they recommend approval, including the stipulation that the Town Manager will be allowed to designate a weather event. Mayor O'Brien questioned if a home had damage from trees falling on it, how would that be handled. Mr. Cornelius explained that if it were caused by a weather event, then that would be declared by the Town Manager, and that the home could be rebuilt to the existing footprint before the event. He further explained that if it was not a declared event, the rebuild would need to meet current codes. Member Rose stated her concerns that if a house were burned down, it should be rebuilt to the current code. Mayor O'Brien agreed. Much discussion followed. Mayor O'Brien questioned if the changes from the discussion that had been made would be substantial enough to have another first reading. Attorney Ramos stated that nothing in the title had changed, therefore, a second first-reading would not be needed. Member Davit had concerns with not knowing a future Town Manager having the authority. Manager Smith stated it could remain as currently stated. Some discussion followed. This item will be heard at the next Town Council meeting in June.

#### d. FINANCIAL

Mayor O'Brien questioned if all would be amenable to hearing item ii. prior to item i. All agreed.

##### ii. Lake Street and Lake Down Parks Dock Repairs – Hurricane Ian (Q Ice Builders)

Mayor O'Brien introduced this item. He then turned the floor over to Director Elliott-Moore. Director Elliott-Moore explained that due to Hurricane Ian damage to Lake Street and Lake Down parks, as well as FEMA requirements, repair proposals were needed. She explained that due to current and past damage to the docks during storms, she has asked that the best-case repair scenario be submitted. Director Elliott-Moore stated that the contractor suggested raising the dock at 4<sup>th</sup> Avenue by 18" for more sustainability. She then explained that she was unaware that the Parks and Recreation Committee lowered the dock in 2019. Director Elliott-Moore explained that the contractor stated he could keep the current height while keeping the dock sustainable. She then stated that she will need approval to move forward. Member Rose gave a personal comment regarding her 30" dock and how it has sustained the past storms. Mayor O'Brien stated that the Council needed to give direction. Member Davit made a motion to approve

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the dock repair at its current height. Member Rose seconded the motion. Member Stroup stated that he trusts Mr. Peter Fleck and his work. Roll call vote was as follows: Rose – aye, Davit – aye, David – aye, Williams – aye, and Stroup – aye. Motion carried 5-0.

#### **i. Rostan Solutions, LLC FEMA Reimbursement – Hurricane Ian**

Mayor O'Brien introduced this item. He then turned the floor over to Director Elliott-Moore. Director Elliott-Moore explained that she had been working with Rostan regarding FEMA reimbursements. She then commented on Category A Debris Removal and \$25,000.00. Director Elliott-Moore stated that the permanent phase is beginning. She explained what the phase will entail: mitigation of 6<sup>th</sup> Avenue, Lake Street/Lake Down boat ramp, and the 406 Funds from the State. Director Elliott-Moore explained that due to this phase, Rostan is seeking another \$25,000.00. Member Davit questioned if \$50,000.00 is being requested or \$25,000.00. Director Elliott-Moore explained that Rostan has been paid \$25,000.00 and this would be a second payment of \$25,000.00 for a total of \$50,000.00 so far. Ms. Dina Groves and Mr. Carlos Arredondo, representatives from Rostan, introduced themselves. Mayor O'Brien stated that the funds for the consultants would come from Cat Z funds. Mr. Arredondo explained that FEMA allows up to 5% reimbursement of the total claim. Mayor O'Brien questioned the cost share. Mr. Arredondo stated 75. Mayor O'Brien questioned if mitigation funds are going to be used for the 6<sup>th</sup> Avenue Park and Lake Street Park project. Mr. Arredondo stated that FEMA allows for Federal funds to be used for projects in kind. He then commented on two separate programs that will come through the State funding. Mr. Arredondo further commented on the cost analysis. Member Rose requested clarification of where the Town is with this. Director Elliott-Moore explained that she had Galura Engineering review the sites because she and Mr. Fitzgibbon felt that if like in kind were replaced, it wouldn't be the best solution. She then reported on the steps that are needed and need to be taken. Discussion followed regarding funding, projects, completed projects, waiting for obligated funds, future FEMA submittals, and mitigation fees/funds. Member Rose made a motion to approve the not-to-exceed \$25,000.00. Member Williams seconded the motion. Roll call vote was as follows: Stroup – aye, Williams – aye, David – aye, Davit – aye, and Rose – aye. Motion carried 5-0.

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

Mayor O'Brien opened the floor for any reports. Member Rose questioned the direction for the Butler Chain of Lakes Advisory Committee. Mayor O'Brien stated that Member Rose can attend when she is available as there haven't been any others interested. Member Davit reported that the Historic Preservation Board had met (not meeting until September), and Town Hall Renovation updates. Member David reported on the Run Among the Lakes scheduled for October 14, 2023, issues at the tennis courts, swings and teeter totters installed at Palmer Park, and possible soccer goals. Member Williams reported on the Hoopla Committee meeting. The Holiday Hoopla is scheduled for December 1, 2023, with a traditional Christmas theme. Member Stroup commented on concerns with the times at Fernwood Park.

#### **7. STAFF REPORTS:**

**a. TOWN MANAGER ROBERT SMITH** – Manager Smith reported on the Appropriation requests, Water Phases, Project Meetings, upcoming workshops, Hurricane Prep meeting, and Chaine du Lac annexation.

**b. TOWN ATTORNEY HEATHER RAMOS** – Attorney Ramos reported that the Legislative Session had ended. She then reported on some changes that have passed and are awaiting the Governor's signature.

**c. DEPUTY CHIEF JAYSON BONK** – Deputy Chief Bonk reported that the Chief was out, upcoming memorials, and the hiring of a new Cross Walking Guard.

**d. PUBLIC WORKS DIRECTOR TONYA ELLIOTT-MOORE** – Director Elliott-

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Moore reported on vegetation removal, road complaints, rip-rap quotes, street sweeping, and drain clean-outs.

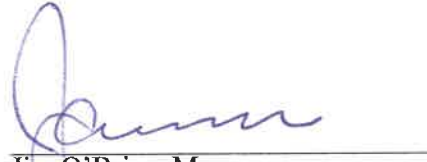
e. **TOWN CLERK DOROTHY BURKHALTER** – Clerk Burkhalter reported on the 2024 Presidential Preference Primary and acceptance of Board member for the local ARMA Chapter.

**8. ADJOURN:**

Mayor O'Brien adjourned the meeting at 7:52pm.



Dorothy Burkhalter, MMC, FCRM  
Town Clerk



Jim O'Brien, Mayor

## Dorothy Burkhalter

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**From:** Nora Brophy  
**Sent:** Monday, May 8, 2023 4:01 PM  
**To:** Dorothy Burkhalter  
**Subject:** Lake Down Dock

Dorothy -

I am unable to be at the meeting tomorrow; can you please read this to the council?

Thanks,

Nora

On Friday, I saw the proposal to raise the Lake Down (3rd Street) dock by 18 inches. (Initially it said 18 feet, but I believe this has since been corrected.)

Parks & Rec has not seen this proposal, so I cannot speak on behalf of the current committee, but I can tell you what was done historically.

In 2019, the committee spent \$29,650 to have this dock rebuilt and lowered by 2 1/2 feet. The dock had been so high above the water it was unusable. No one could swim, fish, boat or kayak from the dock. Kids jumped and dove from the pier, making it a hazard. It was also not ADA compliant. Parks & Rec also spent another \$7-\$10k clearing out the lakefront, removing invasive trees, planting a grove of cypress, creating the current small parking area and adding fencing. The dock has been a well-used feature for our residents since then.

The dock is currently 12" above the high water line, which I understand is the standard. I fear making it 30" above the high water line will again render it unusable for recreational activities, and be a real waste of money. I don't see any recommendation to raise the height of the Lake Street dock at 5th Avenue, which was also damaged by the hurricane - as were many of the private docks on Lake Down. While raising the dock 18" may help in the next hurricane, it will not be good for the residents who use this dock regularly. I also fear it will no longer be ADA compliant, as raising it by 18" will require the ramp to be significantly longer and again go over the park.

I would ask the Town Council to please reconsider this dock elevation with the best wishes of the residents in mind.

Thank you,

Nora Brophy  
426 Magnolia St