

## TOWN OF WINDERMERE

### Town Council Meeting Minutes

October 10, 2023

#### CALL TO ORDER:

Present were Mayor Jim O'Brien, Town Council Members Tom Stroup, Andy Williams, Tony Davit, and Molly Rose. Town Manager Robert Smith, Attorney Heather Ramos, Public Works Director Tonya Elliott-Moore, Police Chief Dave Ogden, and Town Clerk Dorothy Burkhalter. Council Member Mandy David 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. Mr. Tony Clark of 108 Forest Street spoke in opposition to variance request Z23-09. Ms. Nora Brophy of 426 Magnolia Street introduced herself. She then commented on the upcoming Run Among the Lakes. Ms. Brophy then commented on the need to purchase new park equipment that needs the Town Council's approval.

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

##### a. Proclamation – 2023 Week of the Family

Mayor O'Brien read and proclaimed November 4th – 11th as Week of the Family in the Town of Windermere. He then presented the Proclamation to the representatives from the Week of the Family.

#### 3. TIMED ITEMS AND PUBLIC HEARING

##### ORDINANCE NO. 2023-04

**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA, PERTAINING TO THE OPERATION OF GOLF CARTS ON PUBLIC ROADS OR STREETS IN THE TOWN; PROVIDING FINDINGS; AMENDING ARTICLE III IN CHAPTER 20 OF THE TOWN'S CODE OF ORDINANCES ENTITLED "GOLF CARTS" BY REQUIRING THAT A PERSON OPERATING A GOLF CART ON DESIGNATED TOWN ROADS OR STREETS POSSESS A VALID LEARNER'S DRIVER LICENSE OR VALID DRIVER LICENSE; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

Mayor O'Brien introduced Ordinance No 2023-04. He then read the title of proposed Ordinance 2023-04 for the record. Mayor O'Brien closed the Town Council meeting at 6:12pm and opened the Public Hearing regarding proposed Ordinance 2023-04. Manager Smith commented on valid driver's licenses/IDs, parking in rights of ways, and other changes that will be brought back to amend the original Ordinance. Member Stroup commented on the sidewalk width. There being no comments from the public, Mayor O'Brien closed the Public Hearing at 6:15pm and reconvened the Town Council meeting. Member Stroup commented that he is for the Ordinance, but has concerns with the bridge/road. Member Davit was concerned with "at discretion" and enforcement for the Police Department. Chief Ogden stated that he would work with the Town Manager and the Town Attorney regarding enforcement. Discussion followed regarding the multi-modal pathway, designation of pathways, and governance with HOAs. Manager Smith stated that those items can be addressed at a later date with a Resolution. Member Davit made a motion to approve Ordinance 2023-04 as presented with a caveat that the discussed items will be addressed at a later date. Member Rose seconded the motion. Roll call vote was as follows: Stroup – aye, Williams – aye, Davit – aye, and Rose – aye. Motion carried 4-0.

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4. OLD BUSINESS:

5. NEW BUSINESS:

a. Minutes

- i. August 22, 2023 – Town Council Workshop Minutes: Town Hall Renovations & Events
- ii. September 6, 2023 – Tentative Budget Hearing Minutes
- iii. September 11, 2023 – Tentative Budget Hearing Rescheduled Minutes
- iv. September 12, 2023 – Town Council Minutes
- v. September 18, 2023 – Final Budget Hearing Minutes

Member Davit made a motion to approve all minutes as submitted. Member Williams seconded the motion. Roll call vote was as follows: Rose – aye, Davit – aye, Williams – aye, and Stroup – aye. Motion carried 4-0.

b. Consent Items

i. 2024 SOE Election Contract

Mayor O'Brien introduced this item. Member Rose made a motion to approve the election contract. Member Williams seconded the motion. Roll call vote was as follows: Stroup – aye, Williams – aye, Davit – aye, and Rose – aye. Motion carried 4-0.

ii. Z23-09 – Ryka, LLC – Eric Powell – 212 W 1<sup>st</sup> Avenue – Variance to allow Expansion of a Non-conforming Side Setback

Mayor O'Brien introduced this item. He then turned the floor over to Mr. Brad Cornelius. Mr. Cornelius reviewed the proposed variance request. He explained that the variance request is to allow the expansion of an existing non-conforming side setback on the east side by adding a second floor. Mr. Cornelius stated that all other setbacks and requirements will be met. He further stated that notices were mailed out, receiving four in favor and five in disapproval. Mr. Cornelius reported on the easement access for 212 W 1<sup>st</sup> Avenue, and with this approval, 212 W 1<sup>st</sup> would have its own driveway. Mr. Cornelius stated that the DRB has recommended approval with two conditions. One, that the easement be eliminated, and two, an enhanced septic system be installed. Mr. Cornelius explained that the septic condition is a requirement within the Town of Windermere. Mayor O'Brien questioned if the wall would increase or decrease. Mr. Cornelius stated that it would remain the same. He explained that the proposed top floor would align with the existing bottom floor. Some discussion followed regarding setbacks, alignments of walls, second story addition, the existing non-conforming lot, the vertical wall, and the access easement. Mr. Eric Powell, owner of 212 W 1<sup>st</sup> Avenue introduced himself. He then described the hardship of the land easement and access to their property and with emergencies. Discussion followed regarding the proposed non-conforming addition, and it was questioned if this was a primary residence. Member Rose made a motion to deny the variance request. Member Davit seconded the motion. Roll call vote was as follows: Stroup – aye, Williams – aye, Davit – aye, and Rose – aye. Motion carried 4-0.

~~c. Ordinances/Resolutions for Approval/First Reading~~

d. Financial

i. Rostan Solutions, LLC – Hurricane Ian FEMA Reimbursement

Mayor O'Brien introduced this item. Public Works Director Elliott-Moore explained that the additional request was to get through the final processes of Hurricane Ian. She then stated that their work is reimbursable. Member Rose made a motion to approve the contract with Rostan for an additional

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\$40,000.00. Member Davit seconded the motion. Roll call vote was as follows: Rose – aye, Davit – aye, Williams – aye, and Stroup – aye. Motion carried 4-0.

**ii. IPO #134 Kimley-Horn – Windermere Ward Trail Mandated Cultural Assessment**

Mayor O'Brien introduced this item. He then turned the floor over to Director Elliott-Moore. Director Elliott-Moore stated that she and Mr. Mike Woodward from Kimley-Horn have requested to have the mandated Cultural Assessment waived. She then turned the floor over to Mr. Woodward. Mr. Woodward explained that a Historical Architect will make digs in the area to ensure there are no historical artifacts in the ground/area. Mayor O'Brien questioned the timing. Mr. Woodward commented a couple of months. After some discussion was made, Member Rose made a motion to approve IPO #134 as presented. Member Williams seconded the motion. Roll call vote was as follows: Stroup – aye, Williams – aye, Davit – aye, and Rose – aye.

**e. Appointments**

**f. Contracts**

**i. Palmer Park Playground Equipment – Game Time**

Mayor O'Brien introduced this item. He then stated that Ms. Brophy with the Parks and Recreation Committee had previously discussed this item. Member Davit made a motion to approve the park equipment. Member Rose seconded the motion. Director Elliott-Moore stated that this item was placed on Demand Star and no responses were received. Roll call vote was as follows: Rose – aye, Davit – aye, Williams – aye, and Stroup – aye. Motion carried 4-0.

**g. Other Items for Consideration**

**i. FDEM Grant 4337-297-A – W 2<sup>nd</sup> Avenue**

Mayor O'Brien introduced this item. He then turned the floor over to Mr. Mike Galura. Mr. Galura commented on the grant from FEMA regarding Hurricane Irma in 2017. He explained that during that hurricane, deficiencies arose. Mr. Galura stated that approval to execute the contract is needed. Mayor O'Brien questioned if this project would tie into the others that have been done. Mr. Galura stated "yes." Member Rose questioned the cost. Mr. Galura explained that the project is \$2.5 million with a cost share of Federal 75% and the Town at 25%. Some discussion followed. Member Davit made a motion to approve the FDEM Grant 433-297-A. Member Rose seconded the motion. Roll call vote was as follows: Stroup – aye, Williams – aye, Davit – aye, and Rose – aye.

**ii. Old Main Street Realignment - 9<sup>th</sup> & 10<sup>th</sup> Avenue Drainage Improvements – 45% Plans**

Mayor O'Brien introduced this item. He then turned the floor over to Mr. John Fitzgibbon. Mr. Fitzgibbon stated that this was an update for the 45% plans with an approval to move to the 90%. Member Davit questioned if any significant changes had been made. Mr. Fitzgibbon stated "no." Minimal discussion was made. Member Davit made a motion to approve the 45% plans and to move forward to the 90% plans. Member Williams seconded the motion. Roll call vote was as follows: Rose – aye, Davit – aye, Williams – aye, and Stroup – aye. Motion carried 4-0.

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

Mayor O'Brien thanked everyone who assisted with the Robbie German Memorial Event – Windermere Fall Festival. He stated it was well attended. He then opened the floor to the Council Members. Member Rose thanked everyone for their service to the Town. She then stated that she would be resigning, effective at the end of this meeting. Member Williams reported on the upcoming Elder Luncheon and the Olympia High School Homecoming Parade. Member Stroup stated that Mr. Gregg Anderson was voted as the Chair for the Long-Range Planning Committee. Member Davit reported on the Historic Preservation Board. He stated that American flags have been purchased for the historic buildings in town, and that the flags have the number of stars for the year it was built.

**7. STAFF REPORTS:**

**a. TOWN MANAGER ROBERT SMITH** – Manager Smith thanked all for their assistance with the WPD Foundation event. He then reported on past and upcoming events and meetings.

**b. TOWN ATTORNEY HEATHER RAMOS** – Attorney Ramos reported on the boathouse litigation regarding upcoming depositions of the Mayor and Town Council.

**c. CHIEF DAVE OGDEN** – Chief Ogden reported on transitioning in positions, hiring process, photo retakes, and additional training events.


**d. PUBLIC WORKS DIRECTOR TONYA ELLIOTT-MOORE** – Director Elliott-Moore reported on wash out repairs, a water line break, stop sign replacements, road work/repairs, line of sight clean-ups, the re-key of tennis courts, and a draft Stormwater Master Plan workshop on November 6<sup>th</sup>.

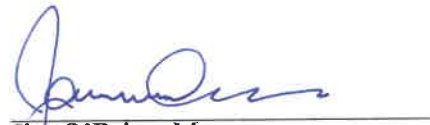
**e. TOWN CLERK DOROTHY BURKHALTER** – Clerk Burkhalter reported on the March 19, 2024 Elections.

Mr. Cornelius gave an update on the 500 Block project.

**8. ADJOURN:**

Mayor O'Brien adjourned the meeting at 7:30pm.

  
Dorothy Burkhalter, MMC, FCRM  
Town Clerk

  
Jim O'Brien, Mayor