

TOWN OF WINDERMERE

Town Council Meeting Minutes

May 14, 2024

CALL TO ORDER:

Present were Mayor Jim O'Brien, Town Council Members Tom Stroup, Andy Williams, Mandy David, Tony Davit, and Brandi Haines. Public Works Director Elliott-Moore, Attorney Heather Ramos, Deputy Chief Jayson Bonk, and Town Clerk Dorothy Burkhalter were also present. Town Manager Robert Smith and Police Chief Dave Ogden were absent.

Mayor O'Brien called the meeting to order at 6:01 pm 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 for comments. First to speak was Ms. Gloria Groome of 416 E 6th Avenue. Ms. Groome stated she was present to advocate for the sidewalk on E 6th Avenue and Lake Street. She commented on safety concerns for pedestrians. Ms. Groome stated that she is advocating to the Town Council to put the project back in motion. Mayor O'Brien thanked Ms. Groome for her concerns. He then requested that Public Works Director Elliott-Moore revisit this item. Ms. Thellie Roper of 610 West 2nd Avenue introduced herself. She then commented on ownership/leases of the boathouses located on Pine Street. Mayor O'Brien thanked Ms. Roper for her comments. Next to speak was Ms. Ann Douglas of 10003 Shortwood Lane. Ms. Douglas explained that she has been a teacher for twenty-five years and is currently running for the Orange County School Board District 4. She also commented on her concerns with teachers leaving the profession and would like to be a part of the solution, not the problem. Mayor O'Brien thanked Ms. Douglas for her comments and wished her well. Mrs. Pam Martini of 627 Ridgewood Drive introduced herself. She then commented on Military Appreciation month. Mrs. Martini also commented on the upcoming Armed Forces Celebration and invited all to attend. She then gave an update regarding the opportunity of receiving "Old Glory" the Patriotic Horse back from the Disney's. Mrs. Martini stated that the Disney family is having the horse restored so it will come back in pristine condition which will honor Evan Fitzgibbon. Mayor O'Brien questioned the location. Mrs. Martini stated it needed to be determined. Mayor O'Brien stated that a celebration will be held when the horse returns. Mr. David Sharpe deferred until the Condition Use item. Ms. Debra Neil of 525 Oakdale Street introduced herself. She then stated that she opposes the Conditional Use request. Ms. Sarah Lopez of 110 Forest Street introduced herself. She stated that she opposes the Conditional Use request. Mayor O'Brien thanked all for their input and comments.

2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS:

a. **Comprehensive Plan Evaluation and Appraisal Notification Letter to Department of Commerce**

Mayor O'Brien turned the floor over to Mr. Brad Cornelius. Mr. Cornelius explained the need for a letter to the Department of Commerce. He commented that letter will address the Towns Comprehensive Plan update to coincide with recent laws/changes, 10/20-year planning, population projections, 10-year water plan and others. He then stated that his item is for information only.

3. TIMED ITEMS & PUBLIC HEARING

NONE

4. OLD BUSINESS

a. **Minutes**

- i. **Town Council Meeting Minutes: March 12, 2024**
- ii. **Town Council Meeting Minutes: April 9, 2024**
- iii. **Town Council Workshop Projects Update Minutes: April 23, 2024**

Mayor O'Brien introduced this item. Member Davit made a motion to approve all minutes as

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

5. NEW BUSINESS

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

c. **Appointments**

d. **Contracts/Agreements**

i. **Approval to Negotiate Contract Rates with Kimley-Horn and Associates: RFQ#2024-01.**

Mayor O'Brien introduced this item. Director Elliott-Moore explained that this RFQ has been processed through the (CCNA) Consultants Competitive Act requirements. She stated that five responses were received and evaluated by a committee. Director Elliott-Moore stated that the committee is recommending Kimley-Horn to be selected with reserving the right review Firm #2 should the Town need additional engineering services. Member Davit stated that he applauded John Fitzgibbon and Director Elliott-Moore for going through the process. Member Davit made a motion to negotiate the contract rates with Kimley Horn. Member Williams seconded the motion. Roll call vote was as follows: Haines – aye, Davit – aye, David -aye, Williams – aye, and Stroup – aye. Motion carried 5-0.

ii. **2023 Memorandum of Agreement for Participating Orlando/Orange Urban Security Initiative Agencies: License Plate Readers**

Mayor O'Brien introduced this item. Deputy Chief Bonk explained that the Orlando/Orange Urban Security Initiative has been awarded \$3.6 million dollars for security. He further explained that with this award, the Town will receive a license plate reader valued at \$200,000.00. Deputy Chief Bonk stated that training and installation will be completed by the end of 2025. He further stated that this will be one device that will be mobile. Member Davit questioned if a tag is flagged, will it be dispatched to an officer. Deputy Chief Bonk stated that it can be set up to go through dispatch or the officer on duty will be able to log in and see notifications. After minimal discussion was made, Member Haines made a motion to approve the license plate reader. Member David seconded the motion. Roll call vote was as follows: Stroup – aye, Williams- aye, David – aye, Davit -aye, and Haines – aye. Motion carried 5-0.

e. **FINANCIAL**

i. **Approval to Purchase Two Patrol Cars: \$60,586**

Mayor O'Brien introduced this item. Deputy Chief Bonk explained that the two 2017 unmarked cars are in need of repairs. He stated that car #39 needs approximately \$9,000.00 in repairs and #40 needs approximately \$11,000.00 in repairs. Deputy Chief Bonk commented on the need for repairs, the age of the vehicles, and buying new compared to a lease. He stated that two new 2023 Dodge Chargers would be approximately \$60,000.00. Deputy Chief commented on the financing compared to a lease. Member David made a motion to approve the purchase of the two new Dodge Chargers. Member Davit seconded the motion. Roll call vote was as follows: Roll call vote was as follows: Haines – aye, Davit – aye, David – aye, Williams – aye, and Stroup - aye. Motion carried 5-0.

f. **OTHER ITEMS FOR CONSIDERATION**

i. **Z24-07 – 527 Main Street, Windermere Downtown Property, LLC/Sun Wine Inc./Arjun Kumar/Kara Ann Groves, Esq. – Conditional Use to Allow On-Site Consumption of Beer or Wine**

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Mayor O'Brien introduced this item. Attorney Ramos stated that this is a quasi-judicial public hearing. She explained that the decision must be based on the evidence that is produced this evening. Attorney Ramos stated that Clerk Burkhalter will swear in Mr. Brad Cornelius. She also stated that each Council member will need to disclose any conversations that have been made regarding this application outside of this public hearing. Clerk Burkhalter swore in Mr. Cornelius. Mayor O'Brien then closed the Town Council meeting and opened the public Hearing at 6:36pm. He then turned the floor over to Mr. Cornelius. Mr. Cornelius introduced himself and presented the Conditional Use request. He then explained that per the Town's Code of Ordinances, there is a one-thousand-foot separation requirement to serve alcohol for consumption on premises. Mr. Cornelius further explained that there is a process that an applicant can go through to waive the one-thousand-foot waiver through the conditional use process, which is what the applicant is doing. He stated that in the Land Development Code – Section 15, there are seven criteria that would need to be met prior to approval. Mr. Cornelius then reviewed the seven criteria. He also reviewed the Developers Agreement which states that businesses must be closed by 10:00pm. Mr. Cornelius commented on the conditions to revoke the license. He then reported on the past Development Review Board meeting regarding this item. Mr. Cornelius explained that three motions were made, which none were approved. He then commented on public notices that had been sent out and what has been received. Mayor O'Brien questioned if this Conditional Use is for consumption not the sale. Mr. Cornelius stated yes. Mayor O'Brien commented that there will not be outdoor seating. Mr. Cornelius agreed that there will not be. Mayor O'Brien and Members Stroup, Williams, David, Davit, and Haines all stated that they have had conversation with the Attorney, Town Manager, residents, emails, and text messages regarding the Conditional Use application. Attorney for the applicant Ms. Kara Ann Groves introduced herself. She then played a brief video from the owners and their proposed concept. Ms. Groves commented on the higher end, international flare wines that will be sold. She then stated that they are seeking approval for "wine by the glass offerings", consumption on premises. Ms. Groves commented that a denial, in their opinion, would be a type of market control. She then commented on sales price points, consumption on premises, consideration of other businesses, voluntarily involving the public, and safety and welfare for the public. Mayor O'Brien questioned what makes this "wine bar" different. Ms. Groves explained that its open to the public, an International educational experience, and there will not be any promotions/events/buy one get one. Member Davit questioned if Mr. Kumar is a Sommelier. Ms. Groves stated that she believed he was. Some discussion followed. Ms. Groves stated that there has been discussion that a Council member owns property within the 500' radius which may need to recuse themselves. Member Williams stated he is a land/building owner and will abstain. He also stated that he does not own a business in town. Member Strop commented on the contact that he has had with residents. He then stated that public safety/welfare is a priority for him. Ms. Groves responded that neither the Town Council nor anyone has implemented that there are any existing safety/welfare concerns with the five other like businesses. Member Stroup stated that "an ounce of protection is worth the effort". Mayor O'Brien questioned Attorney Ramos as to how one presents objective evidence for something that hasn't occurred yet. Attorney Ramos stated it hasn't occurred yet. She also stated that based on home rule powers, the Town Council must decide based on the criteria. Member Haines stated that the State Statutes exist for a reason. Ms. Groves commented that she believes that this business will attract different types of customers than what currently exists. She also stated that sampling will be allowed whether this is approved or not. Member David commented that the town is small and quaint. Adding more businesses will bring more people into town, which the Town is trying to minimize even with town events. Ms. Groves stated that they are not trying to attract tourists into town. After some discussion was made, Mayor O'Brien turned the floor over to the public. Clerk Burkhalter read comments from Mr. Bob McKinley for the record (attached). Mr. Brian Tomoka of 3420 South Lake Butler Blvd introduced himself. He then stated that Tim's Wine Market does offer a wide variety of wines at a wide range of pricing. Mr. Frank Krens of 727 Forest Street introduced himself. He then stated that with compliance and what the Town has already, it would be difficult to turn this request down. Mr. Trey Vick, V3 Capital Group introduced himself. He then stated that working with the applicant, they have

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proven their knowledge of wine and the business. Mr. Vick stated that the rules and process needed to be adhered to. Mayor O'Brien questioned Mr. Vick as to what else would be going in the 500-block building. Mr. Vick stated an Ace Boutique, jewelry store, real estate office, insurance office, restaurant, and an Italian/gelato take out. Member Haines questioned if the restaurant will be selling wine. Mr. Vick stated he did not know. Ms. CT Allen of 611 W 2nd Avenue introduced herself. She stated that this is not about hindering free enterprise. She then spoke about her displeasure of the condescending nature to the town residents which know the difference between a wine bar and wine store. Ms. Allen also stated that the five consumption businesses in town are enough for the 3,000 residents that live here. She stated that she would like to keep the evenings in the town for families. This concluded the public comments. Member David questioned if all seven criteria needed to be met. Mr. Cornelius stated yes. Member Davit questioned if all seven needed to be met to be considered for approval. Mr. Cornelius stated that all seven would need to apply for approval. Mayor O'Brien thanked all for their comments. Member Haines made a motion to deny the request due to not meeting all seven requirements. Member Stroup seconded the motion. Roll call vote was as follows: Haines – aye, Davit – aye, David – aye, Williams – abstain, and Stroup – aye. Motion carried 4-0-1. Attorney Ramos stated that clarification as to why this item was denied is needed. Member Haines stated that due to criteria number seven not being met. Mayor O'Brien closed the public hearing at 7:46pm and reconvened the Town Council meeting.

ii. 90% Plans Old Dirt Main/10th Avenue

Mayor O'Brien introduced this item. Mr. Fitzgibbon explained that this is for the Old Dirt Main Street and 10th Avenue project. He commented on the review of the 45% plans and comments which have led to the 90%. Mr. Fitzgibbon stated that approval of the 90% is needed. Member Davit made a motion to the 90% plans for dirt Main Street and 10th Avenue. Member Williams seconded the motion. Roll all vote was as follows: Stroup – aye, Williams – aye, David -aye, Davit – aye, and Haines – aye. Motion carried 5-0.

iii. Boathouse Litigation Discussion

Mayor O'Brien turned the floor over to Member Stroup. Member Stroup commented on concerns with the Boathouse litigation, costs, people involved, and possible litigation outcome. He then stated that he would like to make a motion for discussion that both parties involved in the boathouse drop the lawsuit and neither party seeks legal costs/restitution, previous lease agreements are terminated and Town of Windermere sells the boathouses to the previous lessee's, cost of boathouse sales will be determined by Town Council but will not exceed the current cost of legal fees already incurred by said lessee's. Boathouse maintenance and upkeep will fall under the same rules and regulations as all residential property in Windermere, to and (inaudible) independently by parties involved. He then commented on his concerns with the lawsuit, and gains/no gains. Discussion began. Town Attorney for the boathouse case Mr. Nick Dancaescu commented that an offer could be given to the other party. He then stated that he cannot report on past mediation. Mayor O'Brien stated that Member Stroup could speak with the Town Manager and Attorney Dancaescu to see if there could be a reasonable offer and then be brought back to the Town Council. Some discussion followed. Member Stroup thanked Attorney Dancaescu for all his assistance.

6. MAYOR & COUNCIL LIAISON REPORTS:

Mayor O'Brien opened the floor to the Council members. Member Haines commented that the Tree Board has completed their strategic planning. Member Davit reported on the Historical Preservation Board. He stated that they discussed the Town Hall renovations, estimates and the future strategic planning meeting. Member David reported on Parks and Recreation sunshine meeting and strategy planning. Mayor O'Brien reminded all about the upcoming Armed Forces Day event. He also reported that Chief

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Ogden and Manager Smith are in Washington DC for the memorial. Member Stroup reported on the Elders Luncheon.

7. STAFF REPORTS:

- a. TOWN MANAGER ROBERT SMITH** – Manager Smith was absent.
- b. TOWN ATTORNEY HEATHER RAMOS** – No report.
- c. DEPUTY CHIEF JAYSON BONK** – Deputy Chief Bonk reported on staff, and the golf cart grant. He then reported that he will be attending FBI National Academy this summer.
- d. PUBLIC WORKS DIRECTOR ELLIOTT-MOORE** – Director Elliott-Moore reported that Lake Street Park community meeting was held. The next step will be back to the Town Council.
- e. TOWN CLERK DOROTHY BURKHALTER** – No report.

8. ADJOURN:

Mayor O'Brien adjourned the meeting at 8:09pm.

Dorothy Burkhalter, MMC, FCRM
Town Clerk

Jim O'Brien, Mayor

Dorothy Burkhalter

From: Bob McKinley <bobmckinley536@yahoo.com>
Sent: Monday, May 13, 2024 8:26 AM
To: Dorothy Burkhalter
Subject: Correction - Agreement to Conditional Use for Z24-07 527 Main Street

[You don't often get email from bobmckinley536@yahoo.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

I corrected the Council meeting date below. I had entered 24 when it should have read 14. Please correct. Thanks, Bob

Good morning Dorothy,

Unfortunately, I will be unable to attend the Town Council meeting on May 14, 2024. I would like for this information to be read and inserted into the minutes for the meeting.

On page 123 of the agenda is a letter signed by me supporting this effort. At the time I signed the letter I was under the misconception that both the local wine shop and the brewery were in favor of this. I recently found this not to be true.

On page 117, paragraph (2) of the agenda, in the application, a portion of which is hereby quoted, "Applicant believes its Proposed Use further supports the Town of Windermere's focus on the community's cultural experience and its vibrant culinary scene, which includes several elite restaurants, alcohol manufacturers and wine retailers. Applicant will elevate this element of the community by attracting visitors . ."

This statement clearly shows applicant's lack of knowledge of our unique Town of Windermere. We do not have several "elite restaurants , alcohol manufacturers and wine retailers." Apparently they are confusing our Town with the greater West Orange area and the people outside our Town that like to believe they are a part of our unique community.

Finally, the statement by the applicants of "attracting visitors" goes against what most of us desire for our Town. Many conversations have been had to eliminate some of our current events due to the "visitors" creating parking problems and generally disrupting our daily activities.

I am hereby withdrawing my support for and registering my opposition to this conditional use.

Thank you,

Bob McKinley
536 Magnolia Street
Windermere, FL 34786
407-965-6759

Sent from my iPhone

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Williams Loren Robertson</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Town Council</i>
MAILING ADDRESS <i>903 Kossor Rd Orange</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <i>Windermere FL 34786</i>	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED <i>5-14-24</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTEE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Leona "Andy" Williams, hereby disclose that on _____, 20 ____ :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The Request for a Special Use Agreement to "Serve on Premises" Alcohol. Case # 224-07 Solvino, Sun Wine Inn.

I currently am landlord to 3 Commercial Properties with 500' of the location of the Request. None of my tenants currently sell Wine or Beer

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

5-14-24-

Date Filed

Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.