

## TOWN OF WINDERMERE

### Town Council Meeting Minutes

June 9, 2009

#### A. CALL TO ORDER:

Present were Mayor Gary Bruhn, Council Members Burns Hovey, Norma Sutton, Molly Rose and Cecil Robinson. Manager Cecilia Bernier, Clerk Dorothy Burkhalter, Assistant to the Town Manager Amy Wallenhurst, Attorney Tom Wilkes, and Police Chief Dan Saylor were also present. Member Richard Irwin and Public Works Director Craig McNeal were absent.

Mayor Bruhn called the meeting to order at 7:00 p.m. and noted that a quorum was present.

#### B. OPEN FORUM FOR RESIDENTS:

Mary Hayes of 7 1<sup>st</sup> Court, thanked the Town Council for their support of the tennis program. Mrs. Hayes stated that 24 children registered for the program. She then reminded everyone that school is out and reminded everyone of pedestrian safety. Mrs. Hayes requested that everyone become vigilant with the helmet safety program. Dale Laughner of 411 W First Avenue voiced his concern with criminal activity on First Avenue and Pine Street. He stated that speeding is also an issue in the area. Chief Saylor stated that his department has been working in the area. He stated that he would increase patrols in the area. Member Hovey suggested that the Police Department contact the neighbors in that area and inform them of contact information if the residents in that area should need them. Mayor Bruhn stated that community awareness in the area would be a great idea. Jim Basque of 106 Butler Street stated that speeding near his home is a problem. He suggested placing a three way stop at Butler Street and First Avenue, and at First Avenue and Pine Street. Streets and Roads liaison Cecil Robinson stated that the installation of the stop signs needed to be reviewed. Mayor Bruhn suggested to have this item placed on the next Council agenda. Member Robinson stated that the Town Manager and the Chief could handle the issue. Manager Bernier stated that stop signs affect all the traffic and they need to be reviewed. She stated that the signs can go up quickly but the Council needs to be informed of the review and the final direction coming from the Council. Thellie Roper, 610 W 2<sup>nd</sup> Avenue, suggested placing the police calls reports in the newsletter. She then questioned the work being done at Johnson Park. Mayor Bruhn explained the water retention project for Johnson Park. Ms. Roper questioned why the agenda was not on the web-site. Manager Bernier stated that the office was hit by a lightning strike on Thursday afternoon which destroyed office computers, telephones, etc., and that is why it was not on the web-site. She stated she will report on this item later in the meeting. Ms. Roper stated that citizens needed to know Council contact information. She requested that the information be placed on the web-site and in the newsletter. Manager Bernier stated that the contact info is on the web-site and will be added to the newsletter. Ms. Roper commented on keeping the invocation prior to the meetings. She then commented on the lighting at the proposed roundabouts. Ms. Roper stated that the lighting needed to stay uniform with the lighting the town currently has. Mayor Bruhn stated that the police reports and code enforcement reports are listed on his web-site. Angela Withers on 712 Main Street, questioned the drainage on 7<sup>th</sup> Avenue near the lake. She stated that the drains are higher than the road in which water would not flow into them. Manager Bernier stated that the specific projects have not been closed out. Mrs. Withers stated that she agrees with the installation of the stop signs. She stated that issuing tickets and costing someone money might slow them down. Mrs. Withers commented that she disagrees with Thellie Roper regarding the invocation prior to the meeting. She stated that it did not need to be done. There being no further speakers, Mayor Bruhn concluded the open forum.

#### C. MINUTES APPROVAL:

Member Sutton made a motion to approve the May 12, 2009, Town Council meeting minutes as presented. Member Hovey seconded the motion. Roll call vote was as follows: Rose - yes, Sutton - yes, Hovey - yes, and Robinson - yes. Motion carried 4-0.

**D. CONSENT AGENDA:**

NON E

**E. PROCLAMATION:**

NONE

**F. FIRST READING:**

NONE

**G. SECOND READING/ADOPTION/PUBLIC HEARING:**

**ORDINANCE NO. 2009-03**

**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO BUILDING CONSTRUCTION; ADOPTING THE FLORIDA BUILDING CODE; REVISING CHAPTER 2 OF THE TOWN OF WINDERMERE'S CODE OF ORDINANCES AND MAKING CONFORMING CHANGES TO NUMEROUS SECTIONS OF THE TOWN'S LAND DEVELOPMENT CODE (CHAPTER 11 OF THE CODE OF ORDINANCES) TO PROVIDE THAT THE TOWN, NOT ORANGE COUNTY, WILL ADMINISTER AND ENFORCE THE TOWN'S BUILDING REGULATIONS; AMENDING CHAPTER 4 OF THE TOWN'S CODE OF ORDINANCES REGARDING APPLICATION REQUIREMENTS FOR BUSINESS-TAX RECEIPTS FOR GENERAL CONTRACTORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Bruhn closed the Council meeting at 7:28 p.m. and opened the Public Hearing regarding Ordinance 2009-03. He then read the title for the record. There being no public comments, he closed the Public Hearing at 7:29 p.m. and reconvened the Council meeting. Member Sutton made a motion to approve Ordinance 2009-03. Member Rose seconded the motion. Member Rose questioned the cost. Manager Bernier stated that the town has the right to negotiate the fees prior to the contract being signed. After some discussion, the roll call vote was as follows: Robinson - yes, Hovey - yes, Sutton - yes, and Rose - yes. Motion carried 4-0.

**ORDINANCE NO. 2009-04**

**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO PUBLIC HEALTH AND SAFETY; AMENDING SECTION 8-8 OF THE CODE OF ORDINANCES TO PROVIDE CLARIFICATION REGARDING THE INTENT OF THE TOWN TO REQUIRE THE CLEAN-UP OF HAZARDOUS TREES; PROVIDING A DEFINITION OF "HAZARDOUS TREES"; DECLARING THAT HAZARDOUS TREES ARE A NUISANCE AND A MENACE TO PUBLIC HEALTH AND SAFETY; REQUIRING PROPERTY OWNERS, CUSTODIANS, LESSEES, AND OCCUPANTS TO CONTROL TREES ON THEIR PROPERTY; PROVIDING THAT HAZARDOUS TREES CAN BE REMEDIATED BY THE TOWN WITHOUT NOTICE TO THE PROPERTY OWNER AND AT THE PROPERTY OWNER'S COST; PROVIDING TRANSITION PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

Mayor Bruhn closed the Council meeting at 7:36 p.m. and opened the Public Hearing regarding Ordinance 2009-04. He then read the title for the record. There being no public comments, Mayor Bruhn closed the Public Hearing at 7:38 p.m. and reconvened the Council meeting. Member Robinson made a motion to approve Ordinance 2009-04. Member Rose seconded the motion. Member Hovey questioned who would make the determination of a laden defect of a tree. Mayor Bruhn stated a certified Arborist would make the determination. Some discussion followed. Roll call vote was as follows: Rose - yes, Sutton - yes, Hovey - yes, and Robinson - yes. Motion carried 4-0.

**H. RESOLUTION:**

NONE

**I. PRESENTATIONS/AWARDS:**

Manager Bernier presented Zoning Clerk/Code Enforcement Officer Sherry Music with a ten year service appreciation plaque.

**OLD BUSINESS:**

**1. Park Avenue and Maguire Road Lighting - Mr. Tom Kelley**

Mr. Kelley reviewed a sketch that indicates the locations of the four proposed light poles. He then stated that the existing cobra light could be evaluated with the four lights in place. Mr. Kelley stated that once the four lights have been installed, a request to the power company could be made regarding the temporary shutting off of the cobra light to see if it is needed. He then stated that the cost for the two cobra lights would be \$750.00 installation with \$15.00/\$20.00 per month for rental and electric charges. Mr. Kelley then explained that the four decorative lighting would be \$1,500.00 for installation with \$20.00/\$25.00 per month for rental and electric charges. Member Hovey questioned if the lighting is for pedestrian safety, aesthetics or both. He stated his concern with four lights and the brightness. Mr. Kelley stated that some of the OARS participant do leave the area around dusk. He then stated that the Town expressed the interest of maintaining the look of the current lighting that is downtown. Member Hovey questioned Chief Saylor as to the number of pedestrian hit in that area. Chief Saylor stated that there have been incidents in years past. Mayor Bruhn stated that he requested a light in that area approximately four years ago. He explained that teenagers were trying to cross one evening in the winter and it was very hard to see them. Mayor Bruhn also stated that there was minimal controversy when the light went up. Member Rose questioned if the lights could use a lower wattage bulb. Mayor Bruhn explained past discussions that have been made regarding the wattage. He stated that the standards of lighting were discussed along with the liability and safety measures. Mayor Bruhn explained that the minimum of wattage allowed, is what the town has. Manager Bernier stated that the current wattage is less than required by Code. She also stated that she could contact Progress Energy to research if any new technology for lighting has become available. Member Hovey stated his concern with placing all the lights in that area. He suggested wiring for all four, only add two lights and then add the others if needed. Member Sutton stated that she is in favor of the four decorated lights. Mr. Kelley stated that wiring for all four could not be done unless all four were going to be used. He stated that the conduit could be put in place but not the wiring. Member Sutton requested to table this item until Member Irwin is present as this was an item he was interested in. Mayor Bruhn stated that this item will be deferred until next month's meeting.

**2. Town Dock Permit - Manager Bernier**

Manager Bernier gave an update regarding the dock/fishing pier that is to be located at the end of 4<sup>th</sup> Avenue, and awaiting permit approval from Orange County Environmental. She explained that after the last meeting, Commissioner Scott Boyd has since hand delivered the permit. Manager Bernier also stated that Commissioner Boyd informed her that Orange County is also going to amend their ordinance to remove Orange County Environmental from the dock permitting process in the Town of Windermere. Mayor Bruhn stated for the record that he appreciates the work that Commissioner Scott Boyd has done to get the permit for the Town.

**3. STAG Update - Mr. Mike Galura**

Mr. Galura reported that the first project (8<sup>th</sup> Avenue and Forest Street) has been substantially completed. He explained that a punch list has been given to the contractor, which will be addressed prior to the final completion being issued to the Town. Mr. Galura then reviewed the second project, 7<sup>th</sup> Avenue and Johnson Park. He stated that the drainage infrastructure should begin this week. Mayor Bruhn questioned when the 6<sup>th</sup> Avenue road closure is scheduled. Mr. Galura stated he was unaware but the Contractor would handle the road closure with the Chief of Police. Member Rose questioned if an inspection regarding the water flow had been done on the 8<sup>th</sup> Avenue project. Mr. Galura stated that design standards have to be met for the construction. He also stated that it will also assist Public Works with a vertical reference for grading the road. After some discussion was made, Mr. Galura stated that a water quality study, conducted by Dr. Harper, will begin next week.

**NEW BUSINESS:**

**1. HMPG Project 1539-132-E(019) and 1539-131-R(017) Bid Results RFP 2009-02 - Mr. Mike Galura**

Mr. Galura stated that nine bids were received for RFP 2009-02. He stated that the lowest bidder was Barracuda Building Corp. at \$234,900.00, second lowest was Parthenon Construction Company at \$235,660.60, and the third was Central Florida Environmental at \$239,032.50. Mr. Galura explained that each of the top three bids were reviewed in detail. He then stated that he is recommending approval of the bid submitted by Barracuda Building Corp. in the amount of \$234,900.00. Member Hovey made a motion to accept the bid from Barracuda Building Corp. in the amount of \$234,900.00. Member Rose seconded the motion. Roll call vote was as follows: Robinson - yes, Hovey - yes, Sutton - yes, and Rose - yes. Motion carried 4-0.

**2. Parks and Recreation Committee - Chair Tracy Mitchell**

**a. Asphalt Path Bid Results RFP 2009-03**

Tracy Mitchell, Chair of the Parks and Recreation Committee, stated that three bids for RFP 2009-03 - Central Park Asphalt Path had been received. She explained that the lowest bidder was Allstate Paving in the amount of \$19,964.10. Chair Mitchell stated that the Committee is recommending approval of Allstate Paving in the amount of \$19,964.10. Member Hovey stated that there were not specs for the project. Amy Wallenhurst, Assistant to the Town Manager, explained that the project was described as a “design build”. She also stated that John Fitzgibbon reviewed the submittals and also agrees with Allstate Paving. Discussion followed. Member Hovey stated that Allstate Paving noted in the details of the bid that they would be stripping 6" of soil, which would probably hit tree roots. Assistant to the Town Manager Wallenhurst stated that in the RFP it states that everything is to relate to approximate square footage. Mayor Bruhn stated that with the number of trees in the park, the contractor is going to need some kind of a lead way to be able to work around the trees in the park. Member Hovey stated for the record that his company has submitted a bid and he will be abstaining for voting on this issue. Member Sutton stated she would

like more time to review the bids. Mayor Bruhn advised everyone that the summer months are ahead, children will be out of school and unable to use the path if the project is delayed for another month. Member Sutton agreed. Member Rose questioned the warranty. Assistant to the Town Manager Wallenhurst stated that the warranty is for one year. Member Sutton made a motion to approve the bid from Allstate Paving in the amount of \$19,964.10. Member Rose seconded the motion. Roll call vote was as follows: Rose - yes, Sutton - yes, Hovey - abstain, and Robinson - yes. Motion carried 3-0.

#### **b. Kids Summer Craft Camp**

Chair Mitchell then requested approval to hold a Children's Summer camp July 27 - July 31, in the Community Meeting Room. She explained that pending the responses, there could be one or two sessions that would last approximately 2 ½ hours per day. Chair Mitchell stated that Ms. Rebecca Hutchinson would be the art/craft teacher, and she is also her Aunt. She then stated that the fee would be \$125.00 for the session. Chair Mitchell explained that any profits would go to the Parks and Recreation. Manager Bernier expressed her enthusiasm with the camp. She stated that in years past there had been a summer camp, in conjunction with the YMCA, in town hall and it went over very well. Member Hovey made a motion to approve the Summer Craft Camp. Member Sutton seconded the motion. Roll call vote was as follows: Robinson - yes, Hovey - yes, Sutton - yes, and Rose - yes. Motion carried 4-0.

#### **c. Banners**

Chair Mitchell explained that the Committee is requesting approval to purchase 18 new red, white, and blue banners along with 10 replacements of the existing blue banners and hardware. She explained that the funds would be used from the 5K Run profits. Chair Mitchell stated that the red and blue banners would be intermingled - every other one during the summer months. Mayor Bruhn questioned if approved, would the new banners be in Town for the pancake breakfast. Chair Mitchell stated that they would be. Member Robinson made a motion to approve the banner request. Member Sutton seconded the motion. Roll call vote was as follows: Rose - yes, Sutton - yes, Hovey - yes, and Robinson - yes. Motion carried 4-0.

### **3. Town Council Meeting Prayer/Invocation - Council Member Molly Rose**

Member Rose stated that she has attended several meetings where the invocation was not done. She stated that she feels it is in conflict with the Constitution regarding separation of Church and State. Member Rose stated that she would like to not have the invocation done prior to the meeting but a moment of silence would be acceptable. Member Rose stated that prior to Mayor Bruhn prayer was not done. Manager Bernier stated that Mayor Osborne did not have an invocation prior to his meetings. She then stated that past Mayor Karen Ruenheck started invocation towards the end of her term. Mayor Bruhn read an excerpt from the Freedom from Religion Foundation regarding prayer before a meeting. Attorney Wilkes explained a two part ruling regarding prayer. He stated that the devotion needed to be nondenominational and not advocate a particular religion. Member Rose stated that she is not implying that the Mayor deviated from the requirement. She then stated that there is more than just Christians in town. Members Sutton, Robinson, and Hovey had no negative comments. There being no action taken, Mayor Bruhn moved to the next item.

### **4. First Baptist Church of Windermere Music Events - Mr. Mike Thomas**

Mr. Mike Thomas, music director at First Baptist Windermere, introduced himself. He explained that he is requesting approval to use the Town Square to host two music events. Mr. Thomas stated that the first event would be Gospel Night on Wednesday, July 22, 2009, for

approximately 1 - 1 ½ hour, and then a Java and Jazz event on Friday, September 11, 2009, for approximately 2 hours. Mayor Bruhn suggested that Mr. Thomas meet with the Downtown Business District Committee. Member Sutton stated that the Committee meets on the third Monday of the month at 8:30 am in the Community Meeting Room. Member Hovey stated that Mr. Thomas should talk with the Chief of Police regarding the road closure. Member Hovey made a motion to approve the Gospel Night and Java and Jazz events request. Member Rose seconded the motion. Roll call vote was as follows: Rose - yes, Sutton - yes, Hovey - yes, and Robinson - yes. Motion carried 4-0.

## **5. Approval of a Local Business Tax Receipt Use - Mr. Ira Levitt**

Mayor Bruhn explained that this request is being brought before the Council due to the current Code not addressing a car detailing shop. Mr. Ira Levitt, owner of Rite Now Mobile Detailing, Inc., stated that he would like to open his auto detail business at 517 Main Street. He explained that everything is done by hand. Mr. Levitt stated that containment mats will be used for the water so there will not be any standing water. He explained that vehicles will pull up onto the mats so all the water is self contained, cleaned and reused. Member Rose questioned how many cars could be done daily. Mr. Levitt stated that he was unsure but it would be by appointment only. Member Hovey questioned where it would be set up. Mr. Levitt stated in the back of the building. He then stated that he would like to gravel the road so the clean cars don't drive on the dirt road behind the building. Member Hovey questioned if approval was needed due to no classification currently on the books. Manager Bernier stated that Mr. Levitt is present this evening seeking approval for his detail shop. Member Hovey made a motion to approve the detail shop. Member Rose seconded the motion. Member Robinson stated his concern with the water containment. Mayor Bruhn questioned how much of the water is contained. Mr. Levitt stated all of the water will be contained. Manager Bernier stated that in discussion with the Town Attorney, if this item is tabled until next month, she and Attorney Wilkes will have time to work through the conditions, in detail. She stated some of the conditions would be no large trucks, by appointment only, and containment of water. Member Hovey withdrew his motion. Member Rose withdrew her second. Member Hovey made a motion to proceed, provide details and clarification of what he wants in the rear/side yard and to be brought back to the Council next month. Member Rose seconded the motion. Member Robinson requested the number of gallons of water to be used. Mr. Levitt stated that 2 gallons can be used to clean a car. Member Sutton questioned if this needed to come back to the Council. Mr. Levitt stated he needed some direction so he can advise the landlord. Attorney Wilkes stated that he and Manager Bernier could meet in the next couple of weeks to discuss the particulars. He then stated grand-fathered rights needed to be considered. Attorney Wilkes stated that the discussion regarding containment of water, no drive-thru, by appointment only, no noise from gas engines - electric only, etc, needed to be addressed. Mayor Bruhn questioned the Council if they would be in agreement to allow the Town Manager and Town Attorney to work out the particulars and the particulars will be agreed upon by the Council. Member Hovey modified his motion to state that the Town Attorney and Town Manager will work together with Mr. Levitt to determine the conditions and the Town Council will be agreeable to those conditions. Member Rose was friendly to the modification. Roll call vote was as follows: Robinson - yes, Hovey - yes, Sutton - yes, and Rose - yes. Motion carried 4-0. Mr. Levitt stated he has a web-site as well, it is [www.ritenowmobiledetailing.com](http://www.ritenowmobiledetailing.com).

## **COUNCIL LIAISON REPORTS:**

**Member Molly Rose:** Mrs. Rose stated that the Development Review Board will be meeting and begin the Sign Ordinance review. She then stated that she will be meeting with Manager Bernier and her staff to discuss the Budget.

**Member Richard Irwin:** No report, absent.

**Member Norma Sutton:** Mrs. Sutton stated that the Downtown Business Committee has met and has been discussing the Sign Ordinance as well.

**Member Burns Hovey:** Mr. Hovey reported that the Tree Board had met. He stated that they are working on fund-raiser ideas.

**Member Cecil Robinson:** Mr. Robinson reported that the Long Range Planning Committee did not meet. He then reported that the Town has received an abundant amount of rain in the past weeks which is causing a lot of extra work for the Public Works Department.

**Mayor Gary Bruhn:** Mayor Bruhn reported that he attended the Metro Plan meeting. He then stated that he attended the Central Florida League of Women Voters meeting and General Jay Gardner spoke. Mayor Bruhn stated that he attended the West Orange Chamber Best Fest, Tri-County Luncheon, How Shall we Grow meeting, and ribbon cutting for Sweet Sweets. He then stated that he has become a member of the Metro Plan Dedicated Funding Task Force for transportation. Mayor Bruhn stated he also attended Mayor Crotty's State of the County address. He then stated that he attended the Butler Chain Conservation Association meeting. Member Rose questioned enforcement of Bird Island. Chief Saylor stated that he will be meeting with other agencies to discuss the issue. He stated that the Island is owned by a Trust. Chief Saylor explained that once a survey has been done to determine the high water mark, signs can be installed. Mayor Bruhn advised everyone that the Kids Fun Run will be held this Saturday. He then reminded everyone of budget meetings and the Florida League of Cities conference will be held in Orlando this year. Mayor Bruhn stated that the Central Florida Commuter Rail Task Force and Metro Plan are seeking support of the commuter rail again. He stated that before he moved forward with another Resolution, he would like to know the position of the Council. Agreement was made by the Council to move forward with another Resolution supporting the Commuter Rail System.

#### **STAFF REPORTS:**

**Town Manager Cecilia Bernier:** Mrs. Bernier advised everyone that the Town office and Police Department were hit by a significant lightening strike on Thursday June 4<sup>th</sup>. She reported on some of the damages at each location.

**Assistant to the Town Manager Amy Wallenhurst:** No report.

**Town Attorney Tom Wilkes:** Mr. Wilkes stated he had no report. Mayor Bruhn questioned Mr. Wilkes as to what could be done about the homes that are under lengthy construction. Mr. Wilkes explained that he, Manager Bernier and Zoning Clerk Music had an inspection earlier of a few homes that this pertains to. He stated he will do some research on the item and bring his findings back to the Town Council at a later date.

**Police Chief Dan Saylor:** Chief Saylor stated that the Committee 100 has given his department a check for \$12,000.00. He stated that the funds will go towards communications. Chief Saylor also stated that with the \$26,000.00 from Orange County, we will have approximately \$38,000.00 which will be spent for lap tops in the police cars. Member Rose questioned what will happen with the old lap tops. Manager Bernier explained that the Town Council will receive them so the lap tops can be used in place of their Council books. Some discussion followed.

**Public Works Director Craig McNeal:** No report, absent.

#### **General Discussion:**

Member Sutton requested if the Library parking lot could be closed due to the painting of the porch in the morning. Manager Bernier stated that the Chief has handled the closure. Member Hovey questioned if the material around the columns had been changed out. Member Sutton stated she did not know but would find out.

Mayor Bruhn adjourned the meeting at 9:25 p.m.

---

Dorothy Burkhalter, Town Clerk

---

Gary Bruhn, Mayor