

TOWN OF WINDERMERE

Town Council Meeting Minutes

September 8, 2015

CALL TO ORDER:

Present were Mayor Gary Bruhn, Council Members Jim O'Brien (arrived at 6:05), Molly Rose, Bob McKinley, and John Armstrong. Town Attorney Heather Ramos, Town Manager Robert Smith, Chief Dave Ogden, Public Works Director Dave Grimm and Town Clerk Dorothy Burkhalter were also present. Member Richard Gonzalez was absent.

Mayor Bruhn called the Council meeting to order at 6:00 pm and determined that a quorum was present.

1. OPEN FORUM/PUBLIC COMMENT:

Mayor Bruhn opened the floor to the public. Mr. Kristopher Brock, representative for The Joint, introduced himself. He then invited everyone to a grand opening that will be held Monday September 14th at 4750 Grove Drive. Mayor Bruhn clarified for the record that the item on the consent agenda regarding Windsong is strictly for a right of way use agreement. Mr. Roger Ambuter of 11318 Willow Gardens Drive introduced himself. He commented on a meeting that he and a few others had with a Town representative regarding Windsong. Mr. Ambuter stated that he has concerns regarding, clear cutting, trees, drainage into Lake Mitzi, the wildlife study and the use and maintenance of swales in the rear yards adjacent to Lake Rhea. Mayor Bruhn gave an update on the status of the Windsong project. Discussion followed. Mr. Pichon deferred. Mr. Raymond Kellett of 2122 Willow Lauren Lane introduced himself. He commented that there seems to be a communication problem between the Willows and the Town. Mr. Kellett stated another concern is the four (4) acres that is being referred to as commercial instead of residential. He then commented that their attorney has reached out to the Town but the attorney has not had any response from the Town. Mayor Bruhn questioned who the letter was sent to. A member of the audience stated the Mayor, Town Council members and the Town Manager. Manager Smith commented in the letter that was received from the attorney. Mayor Bruhn stated he takes offense to the innuendo of back door dealings. Discussion followed. Member Armstrong questioned where the document is that states that the four (4) acres are commercial. Manager Smith stated he would research the parcels in question. Mr. Joseph Whitaker of 9601 Chase Road introduced himself. He then commented on concerns regarding the building of the proposed boat dock at 13 Chase Road. Discussion followed regarding the size and location of the dock. Mr. Steve Walker of 636 Oakdale Street introduced himself. He then stated that in 23 years on the DRB, lot splits were always handled through the Infill section of the code. Mr. Walker commented that the Zeigler property should be addressed through the infill section. Mayor Bruhn briefly gave a brief history of lot splits and an Ordinance that needed to be modified and never was.

2. SPECIAL PRESENTATION/PROCLAMATION/AWARDS:

a. Proclamation Declaring October 2015 as Sandhoff Awareness Month

Mayor Bruhn introduced Chief Dave Ogden and Mrs. Shelly Ogden. Chief Ogden explained the need of awareness for Sandhoff disease. Mayor Bruhn then read the proclamation and proclaimed October 2015 as Sandhoff Awareness month. He then presented the proclamation to Chief and Mrs. Ogden.

b. September as Childhood Cancer Awareness Month

Mayor Bruhn read the proclamation.. He then proclaimed September 2015 as Childhood Cancer Awareness month.

3. TIMED ITEMS AND PUBLIC HEARINGS:

a. ORDINANCE NO. 2015-12

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA,

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PERTAINING TO PUBLIC SAFETY; REVISING THE FIRE PROTECTION ASSESSMENTS AND SERVICE CHARGES IN CHAPTER 11 OF THE TOWN'S CODE OF ORDINANCES TO REMOVE PROVISIONS PERTAINING TO A CERTIFICATE OF OCCUPANCY FOR PROPERTY TO BE ASSESSED; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

Mayor Bruhn introduced this item. He then closed the Town Council meeting at 6:32pm and opened the Public Hearing. Mayor Bruhn read the title of proposed Ordinance 2015-12 for the record. There being no public comments, Mayor Bruhn closed the Public Hearing at 6:32pm and reconvened the Town Council meeting. Member Rose made a motion to approve Ordinance 2015-11 as presented. Member McKinley seconded the motion. Member O'Brien questioned if a piece of land that could never be developed, will be taxed. Member Armstrong also questioned if this would include the railroad right of ways? Attorney Ramos stated yes. She further explained that any property listed on the tax rolls will be assessed. After some discussion was made, roll call vote was as follows: O'Brien – yes, Rose – yes, McKinley – yes and Armstrong – yes. Motion carried 4-0.

4. CONSENT AGENDA:

- a. Tabled from August 22, 2015: Z15-007 – 13 Chase Road variance Request**
- b. Town of Windermere Annual Home Business Tax Receipts Approval**
- c. Z-15-05 – Lot/Split/Re-Configuration: Applicant Tom & Marian Price – 133 Main ST**
- d. Z15-016 – Lot Split: Applicant Joan M. Zeigler Family Trust 728 Forest ST**
- e. Z15-019 (15-06-010): 729 Main ST – Christopher Freeman – Right-of-way Use Agreement for New Single Family Home**
- f. Zon14-01: Windsong Right-of-way Use Agreement**

Mayor Bruhn introduced the consent agenda items. Member Armstrong requested to pull items a and f. Mayor Bruhn clarified item f. Member Rose made a motion to approve items b, e and f of the consent agenda. Member O'Brien seconded the motion. Roll call vote was as follows: Armstrong – yes, McKinley- yes, Rose – yes, and O'Brien – yes. Motion carried 4-0. Discussion began regarding item a. Member Armstrong explained that this item needed to be cleaned up. He further stated that the dock needs to be on the owners' property. Mr. Brad Cornelius, representative for Wade Trim, introduced himself. He then stated that he understood the concerns being raised. Mr. Cornelius explained that Orange County is looking over the plans that were submitted last week. He then stated he would contact Orange County regarding an update on this permit. Member Rose stated that the applicant needs to keep the dock starting where it currently does and modifying the dock out of the neighbor's property. She then commented on additional waterfront clearing, and building a dock much longer than it needs to be. Member Armstrong commented that he understood the safety concern. He then voiced his displeasure of the vegetation removal. Member Armstrong stated he would approve the request if, the dock is moved onto the property owners' lot, and additional re-plantings of the wetlands above the requirement from Orange County are done. Discussion followed. Shelia Cichra of Streamline Permitting introduced herself. She then explained the process that the permit has been through. She explained that the footprint of the platform has not changed. Ms. Cichra

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stated that there will be a variation between the State and County due to the State including the overhang. She then explained that if the walkway is changed, it will impact more wetland. Ms. Cichra commented on the planting requirements. She then stated that primrose, willow and cattail plant have been removed per Orange County. Ms. Cichra further stated that per Orange County, many plants will be replanted. She then stated that the plants will need to be planted prior to the permit being closed out. Member Rose questioned why the replanting had not been completed from the first removal permit. Ms. Cichra explained that she is not involved with the Lake Shore Protection permit. Discussion regarding the amount of replanting was made. Mayor Bruhn questioned the County permit. Mr. Cornelius stated that the County did issue a permit. Manager Smith stated that the variance before the Council is to allow or not allow the boat dock in the front yard. Discussion was made regarding the county requirement for replanting, monitoring by the Town Manager and/or Town Attorney and cypress trees. Mrs. Angela Zimmerman, owner of 8 Chase Road, commented that they will plant whatever is needed. Member Armstrong made a motion to approve the variance request with the conditions to plant 12 Cypress trees, increase the plantings by 10% over Orange County's requirements, and the Town Manager will inspect the project when the replantings are complete. Motion died for lack of a second. Member Rose stated that a size of cypress tree needed to be established. Further discussion followed. Member Armstrong made a motion to approve the variance request with the conditions that the plantings are increased by 10% of Orange County's requirements, and 3" or bigger in diameter Bald cypress trees are planted every 10' along the shoreline. Member O'Brien seconded the motion. Roll call vote was as follows: Armstrong – yes, McKinley – yes, Rose – yes and O'Brien – yes. Motion carried 4-0.

Mayor Bruhn introduced consent agenda item c, Mr. and Mrs. Tom Price, 133 Main Street, lot split. Mr. Cornelius stated that Mr. Price could not make the meeting. He commented that if Mr. Price needed to be present, the item could be tabled until the October meeting. Manager Smith explained that the front lot will be reconfigured to face 2nd Avenue. He further explained that the immediate neighbor was present at the DRB meeting and has agreed to the conditions placed on the property. Some discussion followed. Member O'Brien made a motion to approve the application, subject to deed restricting this property to increase the minimum east side setback from the minimum 10' to 15, and prohibit the construction of second story windows facing eastward, and require the planting of a row of 6' Blanchard Magnolias within the 15' east side setback at 12' centers prior to the lot being placed on the market for sale. Member Rose seconded the motion. Member McKinley commented that there has been a house built across two lots, therefore it cannot be split. Mayor Bruhn reviewed a legal opinion from 2008 that does allow it. Roll call vote was as follows: O'Brien – yes, Rose – yes, McKinley – yes and Armstrong – yes. Motion carried 4-0.

Mayor Bruhn introduced consent agenda item d, applicant Joan M. Zeigler Family Trust 728 Forest Street. He explained that there are four lots with a structure built across two of the lots. The applicant would like to reconfigure the lots into three. Member Armstrong questioned the encroachment. Attorney Ramos stated that the concern can be addressed in the motion as a condition. Mr. Bill and Mrs. Terry Osborne of 220 W 7th Avenue introduced themselves. Mr. Osborne commented on Sec. 3.02.02(4) and 3.02.02(4)(v) of the code. Mrs. Osborne requested that the Town Council not allow any variances on this property. She recommended that when this ordinance is written, it be very clear and leave "no wiggle room." Discussion was made regarding three (3) lots compared to four (4), setbacks and variances. Member Armstrong commented on a concern regarding the encroachment and removal of the encroachment upon the

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sale. Attorney Ramos questioned if the owner would be agreeable to the condition. Mayor Bruhn questioned Mr. Krens if the owners would be agreeable to the conditions of, “no variance requests will be allowed for any of the parcels and the existing structure would need to be brought up to standards”? Mr. Frank Krens of 727 Forest and Realtor of record stated that the owner would not have any issues with the conditions. Mr. Walker commented on the accumulative land square footage and the square footage to meet the requirements. He stated that the split does not meet the minimums for a lot split. After some discussion was made, Member Rose made a motion to approve the lot split with the stipulation that no variances will be allowed on any of the parcels, and the existing structure will conform to storm water, etc., and no building permits will be issued until all encroachments have been removed. Roll call vote was as follows: Armstrong – yes, McKinley- yes, Rose – yes, and O’Brien – yes. Motion carried 4-0.

5. **OLD BUSINESS:** NONE

6. **NEW BUSINESS:**

a. **MINUTES:** Town Council Meeting Minutes

i. **Town Council/Charter Review Committee Workshop Minutes August 6, 2015**

ii. **Town Council Regular Meeting Minutes August 11, 2015**

Mayor Bruhn stated that approval is needed for the meeting minutes. Member Rose made a motion to approve the minutes as presented. Member McKinley seconded the motion. Roll call vote was as follows: O’Brien – yes, Rose – yes, McKinley – yes and Armstrong – yes. Motion carried 4-0.

b. **ORDINANCE FIRST READING ONLY:** NONE

c. **RESOLUTION FOR APPROVAL:** NONE

d. **APPOINTMENTS: COMMITTEES AND BOARDS:**

i. **Development Review Board – Appoint Shawn Diedrich**

ii. **Long Range Planning Committee**

Mayor Bruhn introduced this item. Member Rose made a motion to appoint Mr. Shawn Diedrich to the Development Review Board and Ms. Avani Desai to the Long Range Planning Committee. Member McKinley seconded the motion. Roll call vote was as follows: Armstrong – yes, McKinley- yes, Rose – yes, and O’Brien – yes. Motion carried 4-0.

e. **CONTRACT AND AGREEMENTS:** NONE

f. **FINANCIAL:** NONE

g. **GENERAL ITEMS FOR DISCUSSION**

i. **Lot Split Process**

Mayor Bruhn reviewed this item. He commented on the requirements that the Town Council will give the Town Manager authority to administratively approve certain lot splits until an Ordinance is completed, authorize the Town Attorney to draft an Ordinance that amends the lot split, minor replat, subdivision, etc. processes so that they are combined into one or two sections that are next to each other in the LDC, and authorize the Town Attorney, Town Planner and Town Manager to amend the LDC to incorporate guidelines as it relates to the Doctrine of Merger or Unity of Title. Member Rose made a motion to approve the three stipulations above. Member Armstrong seconded the motion. Mayor Bruhn opened the floor for discussion. Member Rose questioned if the code will be written to address the 1 acre on the water and ¾

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acre inland. Attorney Ramos explained that the lot split can be approved administratively providing the codes are met. Discussion followed regarding lot sizes, grandfathering and time for review. Member Armstrong suggested reviewing the proposed Ordinance at the Final Budget Hearing. Everyone agreed. Roll call vote was as follows: Armstrong – yes, McKinley – yes, Rose –yes, and O’Brien – yes. Motion carried 4-0.

7. MAYOR & COUNCIL LIAISON REPORTS

a. MAYOR GARY BRUHN – Mayor Bruhn reported on the Florida League of Cities Annual Conference, the first day of school and traffic, Orange County Legislation Delegation, Health Central topping off, the 911 Memorial, and the Officer Robbie German Roadway Dedication.

b. COUNCIL MEMBER JIM O’BRIEN – Mr. O’Brien reported that the Long Range Planning committee did meet, however he was absent. He then reported on the upcoming Wine and Dine event.

c. COUNCIL MEMBER MOLLY ROSE – Ms. Rose questioned if the Council would like the accessory structures code to be reviewed by the DRB. Mr. Stephen Wither of 712 Main Street and a member of the DRB introduced himself. He then gave a brief definition of an accessory structure and what has been used in the past. Mr. Withers commented on mechanical uses. Consensus of the Council was to have the DRB review the accessory structure code.

d. COUNCIL MEMBER ROBERT MCKINLEY – Mr. McKinley reported that the Parks and Recreation Committee has inventoried each Park. He stated that an itemized list has been given to the Town Manager. Mr. McKinley commented that he used a golf cart and Manager Smith received an e-mail regarding it.

e. COUNCIL MEMBER RICHARD GONZALEZ – Mr. Gonzalez was absent.

f. COUNCIL MEMBER JOHN ARMSTRONG – Mr. Armstrong reported on the interior repainting of the school house, renovating the privy, and the crate. He then commented that the Downtown Business Committee had met. They discussed the food trucks, beer fest and run, and holiday social and decorating.

8. STAFF REPORTS:

a. TOWN MANAGER ROBERT SMITH – Mr. Smith reported on the Long Range Planning Committee meeting, the Tree Board’s grove planting project, the December 11th dedication of the 1887 School House, the School House marker, the privy restoration, the holiday lights, The Holiday Social vendors, the Craft Beer Festival and Run October 24th, the MSBU’s, the Windermere Police Department Foundation and Wounded Officers event, MADD event, and March 6th for the softball tournament, Storm Erika, and the Charter Review Committee. Mayor Bruhn questioned the annexation report. Manager Smith stated the report is due this week. He then thanked Public Works for all their work from all the rains on the roads.

b. TOWN ATTORNEY HEATHER RAMOS – Mrs. Ramos stated she had no report.

c. POLICE CHIEF OGDEN – Chief Ogden reported on the return of Officer Harrison, the grant submission, school traffic complaints, the new school crossing guard, traffic on Chase Road, and dispatching services.

d. PUBLIC WORKS DIRECTOR DAVID GRIMM – Mr. Grimm commented that August had been the wettest month on record. He reported on road repairs, complaints, repairing of tractors, purchasing of shell and rock, new park signage and the 2nd Avenue and Pine Street project.

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After some discussion was made, Mayor Bruhn adjourned the meeting at 8:16pm.


Dorothy Burkhalter, Town Clerk


Gary Bruhn, Mayor