

**TOWN COUNCIL MEETING
KIAWAH ISLAND MUNICIPAL CENTER
COUNCIL CHAMBERS
AUGUST 2, 2011; 2:00PM**

Minutes

- I. Call to Order: Mayor Orban called the meeting to order at 2:03pm.**
- II. Pledge of Allegiance:**
- III. FOIA:** Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.
- IV. Roll Call:**
- Present:** G. Steven Orban, Mayor
Alan L. Burnaford
Charles R. Lipuma
Greg A. VanDerwerker
Fran Wermuth
- Also Present:** Tumiko Rucker, Town Administrator
Dennis Rhoad, Town Attorney
Kenneth Gunnells, Town Treasurer
Lakesha Shannon, Town Clerk
- V. Approval of Minutes:**
A. July 12, 2011 Town Council Meeting
Mr. Burnaford motioned to approved the minutes of the July 12, 2011 Town Council meeting. The motion was seconded by Dr. VanDerwerker. The minutes of the July 12, 2011 Town Council meeting were approved unanimously as amended.
- VI. Citizens' Presentations or Comments:**
None
- VII. Old Business**
None
- VIII. New Business:**
A. Viewing of MASC Video
Mrs. Rucker presented the Town's 2011 MASC Achievement Award video for the Town's Wildlife Website.

B. Municipal Code Codification

Mrs. Rucker explained the proposal from Municipal Code Corporation in regards to providing a legal review and codification of the Town's Municipal Code and Article 12 Zoning Ordinance. She noted that Municipal Code Corporation is under State Contract and is utilized by several municipalities and counties in South Carolina. The base cost for the Municipal Code codification is \$13,000 and \$5,900 for the Zoning Code.

Dr. VanDerwerker motioned to approve \$18,000 for the Municipal Code codification. The motion was seconded by Mr. Lipuma.

Mrs. Rucker stated that all Municipal Code books will be updated, and a searchable version will be available online with real-time publication updates.

Dr. VanDerwerker asked Mr. Rhoad if the service should be funded by the Town. Mr. Rhoad responded yes and commented that the Town has not updated its Municipal Code in over 10 years. Dr. VanDerwerker also expressed concern with the legal review being performed by attorneys from the state of Florida. Mr. Rhoad responded that he has no concerns and stated that he will be available as a resource if any questions should arise.

Mr. Rhoad stated that the Town should ensure that Municipal Code Corporation archives all original ordinances during the process. Mrs. Rucker commented that the Town will continue to archive the original ordinances.

Following discussion, Council voted unanimously to approve the Municipal Code codification.

C. Planning Commission Recommendation

Mr. Burnaford stated that the Planning Commission was directed by Town Council to review R-2 zoned neighborhoods in the West Beach area and determine if the current zoning standards for redevelopment are pertinent to those areas. The Planning Commission Subcommittee met several times from April to June to review the issue and receive public comments. He stated that there were very few comments from residents who actually live in that area, and no negative comments were received. The Planning Commission recommends the approval of an R-2-O Residential Overlay Zone in the West Beach area. Mr. Burnaford stated that Council will have a public hearing on September 6th to receive comments on the first reading of an ordinance to approve the Planning Commission's recommendation. The 2nd Reading will take place during the October Council meeting. Mr. Lipuma provided a visual example of the Planning Commission's study as he explained drawings that were posted in the Council Chambers. These drawings compared homes in the existing R-2 zoned neighborhood to new homes that are built under the new zoning standards.

Mr. Burnaford motioned that Council direct the Town Attorney to draft the Planning Commission recommendation into an ordinance for first reading at the September Council meeting. The motion was seconded by Dr. VanDerwerker.

Mayor Orban thanked the Planning Commission and the County Planning Staff for doing a great job in reviewing the future redevelopment of Kiawah.

Council voted unanimously to approve the motion.

Mayor Orban directed Mrs. Rucker to schedule a public hearing for September 6th.

D. Email Policy Adoption

Mayor Orban stated that Council has discussed the idea of an Email Retention Policy as a way to help file Town related emails and make them readily available. Mrs. Rucker stated that staff has worked with the Town's IT company to address the storage of emails that are sent from personal computers and the email address archive@kiawahisland.org has been established to retain Town related emails. Mrs. Rucker explained that other things such as legal risks and best practices are addressed in the email policy.

Mr. Lipuma motioned to adopt the Town's Email Policy. The motion was seconded by Dr. VanDerwerker.

Dr. VanDerwerker commented on his concerns with the proposed policy and stated that he feels some sections of the policy are unnecessary. He does not agree with the section which states that it is okay to utilize the email system for personal reasons. Dr. VanDerwerker provided a revision to the draft provided by Mr. Lipuma.

Following discussion, Mayor Orban suggested that the Email Policy be furthered reviewed with the Town Attorney and redrafted for next month's meeting. **He requested that no action be taken on this item at this time.**

E. FY 2012 Budget Amendment

Mr. Gunnells explained the FY 2012 Budget Amendment. He stated that \$200,000 will be transferred from the General Fund to the Capital Budget to fund investigation and evaluation of Kiawah Island Utility. Mr. Gunnells also stated that \$100,000 will be transferred from the Reserved Contingency in the County Accommodations Tax Fund to the Capital Budget for the same purpose. A total of \$300,000 was budgeted in the Capital Budget with \$200,000 budgeted for professional consulting and legal services for the Kiawah Utility evaluation.

Mr. Lipuma motioned to approve the FY 2012 Budget Amendment. The motion was seconded by Mr. Burnaford, and passed unanimously.

F. Kiawah Island Habitat Conservancy Funding Request

Mrs. Rucker stated that the FY 2012 Budget includes a \$75,000 contribution to the Kiawah Island Habitat Conservancy. The Town has received a letter from the KINHC requesting the funding for the purpose of reducing the debt on the property located at 66 Blue Heron Pond.

Mr. Burnaford motioned to approve the Kiawah Island Conservancy Funding Request. The motion was seconded by Mr. Lipuma.

Dr. VanDerwerker noted that during the Budget Workshop he recused himself from voting on items related to the KINHC due to his wife's employment with the organization. He stated that she is no longer employed by the organization and he has no further financial conflicts that prevent him from voting on this item.

Council voted unanimously to approve the funding request.

G. Final Wording for the Second Amendment to the Kiawah Development Partners Development Agreement

Mayor Orban stated that the Second Amendment to the Kiawah Development Partners Development Agreement was approved at the last Council meeting subject to language changes in paragraph 3 of the amendment.

Mr. Burnaford motioned to approve the final wording for the Second Amendment to the Kiawah Island Development Partners Development Agreement. The motion was seconded by Mr. Lipuma, and carried unanimously.

H. Third Amendment to the Development Agreement with Kiawah Development Partner's Relating to Captain Sam's Issues and Ordinances to Amend Article 12 Section 12A-219 Dock Key Locations

Mr. Burnaford explained that this amendment addresses the additional acreage created as a result of accretion at Captain Sams Spit. The area previously consisted of 118.3 acres of high land with 31.4 acres located between the critical line. The area was resurveyed and OCRM confirmed that there is currently 155.341 acres of high land with 38.226 above the critical line.

Mr. Burnaford motioned to approve the Third Amendment to the Development Agreement with Kiawah Development Partners. The motion was seconded by Mr. Lipuma.

Mrs. Wermuth requested to know why this particular process is necessary if the only action is to increase the acreage. Mr. Rhoad stated that the Development Agreement specifically addresses the possibility of highland

acreage increasing due to accretion and according to the agreement the acreage must be adjusted. He clarified that this does not pertain to the acreage set aside for development.

Following discussion, Council voted unanimously to approve the Third Amendment to the Development Agreement.

Mr. Burnaford explained the purpose of Ordinance 2011-05 which is an amendment to Article 12, Section 12-219 Key Locations. This ordinance pertains to the construction of up to two community docks at Captain Sams Spit. He stated that that the Planning Commission will review the ordinance and make a recommendation to Council regarding its approval. Mr. Burnaford also requested revisions to Table 2M in the Key Locations Ordinance for better clarification.

Council discussed whether the community docks should be separate from the docks owned by KICA and the Resort. They also discussed the issue of the 8 required parking spaces as outlined in the Development Agreement.

Following discussion, Mayor Orban requested that Ordinance 2011-05 be forwarded to the Planning Commission for their review.

I. September Town Council Meeting Date

Mayor Orban stated that he will not be available to attend the scheduled September 6th Town Council meeting. After discussing Council member schedules, it was agreed that Council will meet on the scheduled date of September 6th.

IX. Committee Reports:

Mr. Burnaford

Mr. Burnaford reported that everything is going as scheduled with the Johns Island Roads Committee.

Mr. Lipuma:

Mr. Lipuma stated that he will provide the Arts Council season report at the September Town Council meeting.

Dr. VanDerwerker:

Dr. VanDerwerker stated that the Environmental Committee is awaiting the final proposal from Dr. Joel Gramling to proceed with the Invasive Plant Study. The Town's Wildlife Staff has prepared a wildlife booklet which will replace the multiple wildlife pamphlets. Dr. VanDerwerker stated that work is continuing on the Native Plant Demonstration area in the Town Hall parking lot. The recycling and garbage dumpster areas are being consolidated at Kestrel Court and the additional cement pad has been installed. The Town's

contract with Liollo Engineering for ADA improvements has been signed and work will begin around October.

X. Town Administrator's Report:

Mrs. Rucker and Mayor Orban met with a representative from McSweeney Engineers to review the second draft of drawings for the Greenbelt Project. Mrs. Rucker explained the project and bid schedule. The Town's Employee Handbook is being reviewed by the Labor Attorney for a second draft. An inspection of the Kiawah Island Bridge was completed on July 18th and the preliminary findings revealed no structural damage or problems. The final written report will be provided by Collins Engineering. The Town received 3 quotes for the Janitorial Services contract and references are currently being verified. The findings will be discussed by the Ways and Means Committee. The Town received Charitable Contributions applications in July. The applications will be reviewed by the Ways and Means Committee. The Town is in the process of soliciting bids for 2 new Toyota vehicles. The Town has submitted a letter to AT&T regarding recent service outages throughout the Island. AT&T has advised the Town that outdated equipment will be replaced by the end of August. The Town received plaques for its Comprehensive Annual Financial Report, Popular Report and the 2011 MASC Achievement Award. A letter was received from the National League of Cities commending the Town for its recent awards. Lakesha Shannon, Town Clerk, was commended on her recent graduation from the MASC Business License Association.

Dr. VanDerwerker commented on the Charleston County Sheriff's Department contract, and requested an update on deputy coverage on the Island. Mrs. Rucker will provide an update of deputy coverage in her monthly report.

XI. Mayor's Report:

Mayor Orban commented on the Kiawah Island Bridge Inspection and stated that both superstructure and substructure inspections were done. He stated that no underwater problems were detected and the joints will be repaired after Labor Day. Mayor Orban has appointed a Mayor's Advisory Committee to help manage the evaluation process of the Kiawah Utility Purchase. The committee is chaired by Mr. Lipuma and other members are Jim Williams, Charles Larsen, Ronald Tedesco, Tumiko Rucker and Ken Gunnells.

XII. Correspondences:

A. Letter to AT&T

The Town has submitted a letter to AT&T regarding recent service outages throughout the Island. AT&T has advised the Town that outdated equipment will be replaced by the end of August

XIII. Citizen Comments:

Wendy Kulick, 38 Marsh Edge Drive

Mrs. Kulick commented on the Town's draft Email Retention Policy and suggested separating the Policy section from the Procedures and Implementation section to prevent unnecessary revisions when changes are made to either. Mrs. Kulick commented on the section of the Development Agreement which states that KRA would study the possibility of creating an access area where property owners can launch kayaks and canoes at Captain Sams Spit upon development. She commented that it would be helpful if the Town ensured that KRA fulfills its responsibilities under the Development Agreement.

Marilyn Larach, 1082 Terrapin Ct.

Mrs. Larach requested to know the Town's plans for addressing the issue of overflow parking on Beachwalker Drive during the Labor Day holiday.

Mayor Orban stated that there will be a "no parking" zone just past the bikepath, and parking will be allowed in the Town Hall parking lot. There will also be some diagonal parking will be allowed from the gate to the bikepath. A Code Enforcement Officer will be available to monitor the area during the holiday weekend. He stated that the County Park staff has been asked to place signs on Maybank Highway or near Kiawah Parkway informing visitors that that the park is full and no parking is available.

Lynn Morgenstern, 164 Marsh Island Drive

Mrs. Morgenstern requested that the Town provide information and notice for public comments regarding the KIU Purchase. She suggested that the Town also consider email retention for committee members and volunteers as the Email Policy is drafted.

Mayor Orban stated that a public referendum and public information sessions will be held if the Town pursues the KIU purchase.

XIV. Council Member Comments:

In regards to I-526 and the greenway, Mr. Burnaford requested to know the results from a recent roads survey done by Mrs. Wermuth on the KICA listserv. Mrs. Wermuth stated that she received about 24 responses which were more in favor of the roads. She also commented on the Post and Courier article regarding the roads and noted that their survey results were not scientific and only expressed opinions. She commented on the KICA survey and stated that 1,600 responses out of 8,000 cannot be considered an overwhelming response. Mrs. Wermuth commented on article by Dr. Paul Roberts which referenced several relatively small, inexpensive projects around the Islands that can provide smoother traffic flow and increase safety. She hopes that the community would support the smaller projects and address concerns that can be met short-term.

Mr. Lipuma requested to know if any bridge maintenance will be required based on the bridge inspection report. Mayor Orban responded that cables may need to be tightened and the joints repaired. He stated that these areas have been addressed periodically over the years.

XV. Executive Session: Discuss Legal Issues Relating to Kiawah Island Utility Purchase

Mr. Lipuma motioned to go into executive session to discuss legal issues relating to the Kiawah Island Utility purchase. The motion was seconded by Dr. VanDerwerker, and carried unanimously.

Returning from executive session Mayor Orban stated that no decisions were made and no votes were taken during executive session.

Mr. Lipuma motioned to return to open session. The motion was seconded by Mr. Burnaford and carried unanimously.

Mayor Orban stated that the Town has prepared a negotiation and acquisition schedule for presentation to Kiawah Development Partners to help decide the value of the offer for the utility purchase.

Mr. Lipuma motioned to direct the Town Attorney to discuss the Town's proposed negotiation and acquisition schedule with Kiawah Development Partners to adequately evaluate the purchase of the utility. The schedule runs 180 days from the proposed start date of July 12, 2011 and a formal written notice will be received from KDP August 11, 2011. The Town's deadline to exercise right of first offer would be November 9, 2011 and the deadline for the Town's proposal to KDP would be January 6, 2012. The motion was seconded by Mr. Burnaford. Council unanimously approved the Town of Kiawah Island's proposed schedule.

Mr. Lipuma motioned to approve the Town's detailed preliminary schedule which includes dates for Requests for Qualifications from engineering firms and attorneys, a public referendum as required by state statute, a second referendum for bonding, public information sessions, etc. The proposed schedule includes various steps over a period of 180 days, ending January 6, 2012. Mr. Lipuma further moved that the schedule be approved subject to change as more information is received and subject to review by the Town Attorney. The motion was seconded by Mr. Burnaford. Council voted unanimously to approve the Kiawah Island Water Sewer Utility Project Timeline.

XVI. Adjournment:
Mr. Burnaford motioned to adjourn the meeting at 5:23 pm. The motion was seconded by Mrs. Wermuth, and carried unanimously.

Submitted by,

Lakesha Shannon, Town Clerk

Approved by,

G. Steven Orban, Mayor

Date