

**WAYS AND MEANS COMMITTEE MEETING  
KIAWAH ISLAND MUNICIPAL CENTER  
UPSTAIRS CONFERENCE ROOM  
FEBRUARY 1, 2011 AT 9:00 AM**

**Minutes**

- I. Call to Order:** Mr. Lipuma called the meeting to order at 9:00 am.
- II. 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.

**III. Roll Call:**

**Present**

Charlie Lipuma, Chairman  
G. Steven Orban, Mayor  
Alan L. Burnaford  
Greg VanDerwerker  
Fran Wermuth

**Also Present**

Tumiko Rucker, Administrator  
Kenneth Gunnells, Treasurer  
Lakesha Shannon, Town Clerk

- IV. Approval of Minutes**  
**Mr. Burnaford motioned to approve the minutes of November 30, 2010; the motion was seconded by Mr. Orban.** After minor edits, the minutes were approved unanimously.

- V. Old Business**  
None

**VI. New Business:**

**A. FY 2012 Budget Calendar**

Mrs. Wermuth noted that several Sunday dates were listed on the budget calendar, and asked if these dates should be business days. Mr. Gunnells responded that the notice for the public hearing is normally posted in the Sunday newspaper for better circulation.

Mrs. Wermuth asked if budget documents would be available to the public prior to the May 3<sup>rd</sup> public hearing. Mr. Gunnells responded that in the past, the public hearing was held prior to the second reading, but he has changed

the date so that the public hearing is held prior to the first reading. He noted that budget documents will be available on the website prior to first reading so that citizens may have time to digest the information and make comments.

**Mr. VanDerwerker motioned to approve the FY 2012 Budget Calendar. The motion was seconded by Mr. Burnaford. The motion passed unanimously to approve the FY 2012 Budget Calendar as presented.**

**B. Night Heron Park Franchise Agreement**

Mrs. Rucker stated that a letter was received from the Resort indicating that they would like to renew their current Beach Franchise Agreement for an additional year. She noted that there is an allowance in the current agreement, which expires on February 28, 2011, for a one year extension.

**Mayor Orban motioned to recommend the extension of the Night Heron Park Franchise Agreement for one year to expire on February 28, 2012. The motion was seconded by Mr. Burnaford.**

Mr. VanDerwerker asked if the Beach Club has a franchise agreement. Mrs. Rucker responded that there is not a franchise agreement with KDP for the Beach Club area. Mr. VanDerwerker asked if they should have a franchise agreement since the rest of the beach does. Mayor Orban stated that the Beach Club does not charge any fees. Mr. Lipuma asked if there is anything in the Development Agreement that excludes them from paying a franchise fee. Mrs. Rucker stated that there is no franchise fee because there is no exchange of money on the beach. The Sanctuary area is included to preserve this section of the beach so that it cannot be bid on by other contractors. Mrs. Rucker stated that the Resort noted in the letter that there is no revenue being received for the area in front of the Sanctuary. Mr. VanDerwerker stated that the issue is that the entire beach is treated equally so the Town should charge them a franchise fee. Mr. Lipuma asked that this matter be researched to determine if there is a reason why there is no franchise fee for this area.

**The motion passed unanimously to recommend renewal of the Night Heron Park Franchise Agreement for one year.**

**C. CSO \$50,000 Funding Request**

Mr. Lipuma commented on the letter received from the CSO requesting \$50,000 funding. He commented that the Town has strongly supported and endorsed the orchestra. Mayor Orban stated the \$50,000 has been pre-approved in the budget; however, the funds were withheld pending the survival of the CSO. The symphony has made the necessary efforts to become a viable orchestra.

**Mr. Burnaford motioned to recommend the approval of the CSO \$50,000 Funding Request. The motion was seconded by Mr. VanDerwerker.**

Mr. VanDerwerker commented that he is voting in favor of this recommendation because the funding was pre-approved and the CSO has met the conditions to receive the funding.

**The motion passed unanimously to recommend the approval of the CSO \$50,000 Funding Request.**

**D. Charitable Contributions Requests**

Mr. Lipuma stated that \$121,000 worth of charitable contribution requests were received. Mr. Gunnells stated that \$121,000 was previously approved in July 2010 and an additional \$121,000 has been requested. Mr. Gunnells stated that there is currently \$2,000 remaining in the current budget following the \$50,000 CSO funding expenditure. Mr. Gunnells stated that a budget amendment would be required for the approval of any other requests.

Mr. Lipuma suggested that the committee table the charitable contributions request until next meeting to allow time to review the information.

Mayor Orban suggested approving an additional \$50,000 this fiscal year to share with the community for charitable giving since there is a budget surplus.

Mr. VanDerwerker stated that he has been involved with Fields to Families and asked that the organizations Executive Director, Ms. Nikki Seibert, speak to the committee about the organizations work.

Ms. Seibert stated that the mission of Fields to Families is to provide low-income families with vegetables. She stated that they obtain vegetables from local farmers and farmers markets. Ms. Seibert stated that this program assists many of Kiawah's workers. She noted that they received the SC Angel Award this year for being fiscally responsible with funds, having 98.6% of all funds spent directly towards their mission. This organization is made up of mainly volunteers with herself being the only paid staff. Ms. Seibert also noted that Fields to Families distributed 60,000 pounds of produce last year.

Mrs. Rucker stated that the Charitable Contributions Requests Applications were made available on January 1<sup>st</sup> and the deadline for submission was January 31<sup>st</sup>. She commented that smaller organizations such as Fields to Families worked very hard to submit their applications prior to the deadline. Mrs. Rucker recommended that each applicant be contacted regarding any delay in the processing of the applications. Mrs. Rucker stated that the budget amendment was placed on the agenda to allow for the approval of the charitable contributions.

Mrs. Wermuth recommended that more information be provided to the committee for each charitable contribution request application received.

Mr. Lipuma requested that copies of each application be distributed to each committee member.

**Mayor Orban motioned to add \$50,000 to the Charitable Giving budget line item to be paid out by June 30, 2011. The motion was seconded by Mr. VanDerwerker. The motion passed unanimously.**

Mayor Orban stated that the funding distribution will be discussed at the next meeting.

**E. Contribution to KICA for Road Consultants Agreement**

Mr. Lipuma stated the Town has been made aware of KICA's intent to enter into an agreement with Mr. Maurice Washington for consulting services for Johns Island roads. He stated that the goal of the agreement is to gain the support of Charleston County Council for the Greenway Road Project. Mr. Lipuma stated that KICA is planning to initiate a \$100,000 contract and has asked the Town and others to share that cost. The Town of Seabrook has already approved up to \$10,000 which \$2,000 will be paid monthly over the next 5 months. The Town of Kiawah has been asked to commit up to \$50,000. Mr. Lipuma commented that it is the belief of Mr. Buddy Darby that Mr. Washington's efforts will result in moving the Greenway Project to a high priority level on the long range transportation plan.

**Mr. Burnaford moved that the Town of Kiawah Island contribute a maximum of \$40,000 (\$8,000 per month for 5 months starting February 1<sup>st</sup>, 2011 subject to the contingency stated below) in response to a funding request by Kiawah Island Community Association (KICA) to support its attempt to obtain favorable action, through a consultant, on the Johns Island Road project known as the Sea Island Greenway, a project the Town has a history of supporting and which the Town believes will promote the health, safety and general welfare of the citizens of the Town. Contributions to KICA by the Town shall be made monthly and shall be contingent upon KICA reporting monthly to the Town that the consultant's milestones have been achieved. The motion was seconded by Mr. VanDerwerker.**

Mayor Orban commented that one of the Town's priorities is to have better, safer road across Johns Island. He stated that the Town has contributed to studies done by County Council and the Greenway seems to be the best alternative. Mayor Orban commented that a better, safer road has been the goal of Council and he would like to see the Town serve as a partner in this very desirable venture.

Mr. Burnaford stated that there have been 5 ½ studies done since 1995 to improve Johns Island Roads, and the Greenway appears to be the number one

way to relieve the most traffic on these roads. He stated that there continues to be safety issues on these roads for the many people who drive to Kiawah to work and as tourist.

Mr. Burnaford stated that more people speak against the Greenway Project in public hearings; however, secret votes show a 60-40 vote in favor of the Greenway. He stated that there is a strong favorable vote by the constituents on Kiawah.

Mrs. Wermuth stated that she has concerns about this process. She does not agree that this will be the last chance for this project if Kiawah does not contribute the funding. She commented that this debate has been ongoing for over a decade and will likely continue until such a roadway is built. Mrs. Wermuth commented that if this is the right thing to do, it should start with a process that is not questionable or cloudy in the beginning. The request for contribution has been based on an agreement between unnamed parties which began in September 2010. She added this is a sole source contract negotiated by parties with one party contributing no funding to the contract.

Mrs. Wermuth stated that she does not understand the mechanism by which the Town transfers funds to KICA. She questioned how this process would affect the Town's Audit. Mrs. Wermuth commented that to her knowledge KICA, which is a 501c4 organization, cannot accept contributions from the Town. Mrs. Wermuth referenced Section 5-7-30 of the SC Code of Laws. Mrs. Wermuth stated that the Town is obtaining a service through this contract and she feels this is contradicts the rules of the law.

Mr. VanDerwerker commented that he has concerns with the Town contributing funds to lobby for issues that are outside its jurisdiction. He stated that he checked the SC Ethics Commission website and could not find Mr. Washington listed as a registered lobbyist. Mr. VanDerwerker also stated that the Town is looking to contribute a large amount of money towards a contract it has not seen. Mr. VanDerwerker referenced Sections 2-17-15 and 2-17-110 of the SC Code of Laws which discuss lobbying. Mr. VanDerwerker questions whether Mr. Washington can legally serve in this capacity. He also commented that Mr. Paul Roberts is not listed as a lobbyist with the State Ethics Commission. Mr. VanDerwerker stated that he is very troubled by this issue and he feels that there are several matters that need to be investigated. Mr. VanDerwerker stated that he intends to vote no until these reservations are cleared up because he took an oath to uphold the law.

Mr. Burnaford commented that there is a significant difference between a lobbyist and a consultant and Mr. Washington is a consultant.

Mayor Orban commented that competitive bidding is very difficult when you are hiring for a position of this nature.

Mr. Lipuma commented that he has not been pleased with the process up to this point, but he is a very strong supporter of the Greenway. Mr. Lipuma asked if the Town has a seat at the discussion table monthly when this project is discussed. Mr. Burnaford responded that he and Mr. Paul Roberts are at the table during these discussions.

Mr. VanDerwerker again commented that he needs more clarification on this matter before he can vote in favor.

Mrs. Wermuth stated that the Town is attempting to help fund a contract that has been in place since September 2010 and that is not something a municipality has the legal right to do. Mrs. Wermuth asked Mr. Gunnells which budget item this funding would fall under and how the auditors would view this transaction.

Mr. Craig Weaver, KICA Board of Directors, responded that no contract has been executed. There is a draft contract which lists a February 1<sup>st</sup> start date and no services have been provided by Mr. Washington for KICA at this point. There will be no payments made on the proposed contract until after February 1<sup>st</sup>, and there will be continual oversight of the consulting services. Mr. Washington will receive a total of \$100,000 of which \$50,000 will be paid up front as an engagement fee and the additional \$50,000 will be paid over 5 months, \$10,000 per month.

Mayor Orban stated that the Town's funding would help going forward beginning February 1<sup>st</sup> to the end of the contract and not with the engagement fee, because the Town had nothing to do with that.

Mrs. Wermuth submitted, for the record, a copy of the draft contract which was brought to Council's attention in January. She stated that there is mention of work beginning in September 2010.

**Mayor Orban amended Mr. Burnaford's motion to state that the Town will contribute a maximum of \$25,000 which will be 50% of the cost going forward as of February 1<sup>st</sup>. This will be paid out in \$5,000 increments per month for five months over the period of February 1<sup>st</sup> to May 31<sup>st</sup>. Mr. VanDerwerker seconded the motion.**

Mr. VanDerwerker commented that Mayor Orban's motion is an improvement from the previous motion.

**Mayor Orban, Mr. Burnaford and Mr. Lipuma voted in favor of the amended motion to contribute a maximum amount not to exceed \$25,000. Mr. VanDerwerker and Mrs. Wermuth voted no. The motion passed 3-2.**

**Council voted 3-2 in favor of recommending the approval of the amended motion to Town Council. Mayor Orban, Mr. Burnaford and Mr. Lipuma voted in favor. Mr. VanDerwerker and Mrs. Wermuth voted no.**

Mrs. Wermuth requested to have the following questions answered at this afternoons Town Council meeting: What mechanism is funding transferred to KICA and how it would affect the Towns audit?

Mrs. Rucker responded that the Town Auditor would need to be contacted to answer those questions and there may not be sufficient time before today's Town Council meeting to provide a complete response.

Mrs. Wermuth then suggested that this matter be tabled until sufficient information is received.

**F. KICA 2010 Christmas Decorations Expense**

Mrs. Rucker recommended that the Committee approve the expenditure of \$7,734.50 for the expenses associated with the Town's holiday decorations for 2010. She stated that the invoice received listed an expenditure higher than anticipated. The invoice included installation charges from Rowson Services and labor charges from the Community Association totaling \$1800. Mrs. Rucker stated that she met with the Community Association and asked that they remove the charges for labor. She stated that the Town received a revised invoice from KICA for the complete project.

**Mayor Orban motioned to recommend the approval of \$7,734.50 for payment to KICA for Holiday Decorations. The motion was seconded by Mr. VanDerwerker, and was approved unanimously.**

**G. Community Emergency Response Team Funding Request  
Mr. Burnaford motioned to approve the CERT Funding Request. The motion was seconded by Mr. VanDerwerker.**

Mayor Orban commented that the CERT Team is not a 501c3 organization and suggests that they request funding once this status is received.

Mr. VanDerwerker requested more information as to how the CERT Team will function.

Mrs. Wermuth stated that she is a member of the CERT Team and she agrees that more information is needed. She clarified that Seabrook's CERT Team is no longer a 501c3 organization because they found it to be very costly and not very beneficial. She stated that the Kiawah CERT Team was certified in December 2010; however, further training and exposure is needed. Mrs. Wermuth suggested that the Town ensure that this will be a viable

organization before funding is providing. Mrs. Wermuth also suggested that the CERT Team receive recommendation from the Public Safety Committee.

**All Committee members voted in opposition of the CERT Funding Request.**

**Mrs. Wermuth motioned that matter be presented to the Public Safety Committee for further research. The motion was seconded by Mr. VanDerwerker.**

Mrs. Rucker suggested that the CERT Team members first finalize their organization structure and clarify how they will function before presenting information to the Public Safety Committee. She noted that this group needs to be completely formed before making any requests.

**Mrs. Wermuth withdrew her previous motion and Mr. VanDerwerker withdrew his second.**

Mrs. Wermuth agreed to work with the CERT Team to help get things organized. They would then present the organizations functions to the Public Safety Committee for recommendation.

#### **H. Comcast Franchise Agreement Memorandum of Understanding**

Mr. Lipuma stated that Comcast has requested to submit their franchise fees quarterly instead of annually.

Mr. VanDerwerker questioned why Comcast charges a franchise fee for cable and not internet services.

Mrs. Rucker stated that each franchise would be considered separately. She stated that the Town only has a Cable Franchise Agreement with Comcast which will expire next year. She noted that any additional franchise will have to follow franchising procedures as published on the Secretary of State's website.

**Mayor Orban motioned to approve the request from Comcast to pay quarterly franchise fees. The motion was seconded by Mr. Burnaford. The motion passed unanimously.**

#### **I. FY2011 Budget Amendment**

**Mr. Lipuma motioned to recommend to Town Council a \$50,000 increase in the FY2011 budget for charitable giving. The motion was seconded by Mrs. Wermuth. The motion passed unanimously.**

**Mr. Burnaford motioned to recommend the approval of \$25,000 for a Road Consultant. The motion was seconded by Mr. Lipuma. Mayor**

**Orban, Mr. Burnaford and Mr. Lipuma voted in favor. Mr. VanDerwerker and Mrs. Wermuth voted no. The motion passed 3-2 in favor.**

**Mr. Burnaford motioned to recommend approval of a \$75,000 increase in franchise revenue for the Town. The motion was seconded by Mr. VanDerwerker. The motion passed unanimously.**

**J. Communications Committee Discussion**

Mrs. Wermuth stated that she was given oversight of Communications and was asked by Council to bring a written proposal for a Communications Committee to this meeting. Mrs. Wermuth recommended a committee to review Town documents before they were made public. She recommended the appointment of Mrs. Kathryn Parks and Mrs. Frances Boyd to the Communications Committee.

**Mrs. Wermuth motioned that the Town establish a Communications Committee consisting of not less than three members and not more than seven members who are citizens of Kiawah Island, appointed by the Mayor and approved by the Council, whose terms expire annually on January 31.**

**Primary Objectives:**

- **Assist in the review of all publically-releasable Town communications—both written and electronic—to include without limitation the official Town website, Town Notes, the Comprehensive Annual Financial Report, the Popular Annual Financial Reports, and the Annual Budget.**
- **Review and analyze Town Notes Survey Responses (survey conducted in September 2010). Make recommendations based on analysis.**
- **Recommend topics of interest for Town Notes. Research and draft articles as needed.**
- **Make recommendations for enhancing the Town’s website (e.g. search capability, uplinks, ensure up-to-date information).**

**The motion was seconded by Mr. VanDerwerker.**

**Mayor Orban motioned to add the following language:**

**Mission: Work with Town Staff to help maintain and improve the quality of Town publications and communications.**

**Mayor Orban also added the following language:**

- **As this is an advisory committee, final editorial authority shall rest with the Mayor or his designee.**

**Mr. VanDerwerker seconded the motion. The motion carried unanimously to approve the amended language.**

**Mr. VanDerwerker motioned to appoint Mrs. Parks and Mrs. Boyd to the Communications Committee. The motion was seconded by Mayor Orban, and passed unanimously.**

**VII. Chairman's Report**

No report

**VIII. Treasurer's Report**

Mr. Gunnells reported that the Town has received the 2<sup>nd</sup> ATAX check in the amount of \$25,000. The total received this year has been \$160,000. Mr. Gunnells stated that there was improvement shown this year.

**IX. Citizen Comments**

**Mr. Buzz Waltman**

Mr. Waltman commented that it would not be a good thing for Comcast to impose additional taxes on the citizens for services.

**X. Committee Member Comment:**

Mr. VanDerwerker responded to Mr. Waltman's concern regarding additional franchise fees being charged by Comcast. He commented that he is very sensitive about being equitable across the board.

**XI. Adjournment:**

**Mr. VanDerwerker motioned to adjourn the meeting. The motion was seconded by Mr. Burnaford, and carried unanimously.**

Submitted by,

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Lakesha Shannon, Town Clerk

Approved by,

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Charles Lipuma, Chair

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Date