

**TOWN COUNCIL MEETING
KIAWAH ISLAND MUNICIPAL CENTER
COUNCIL CHAMBERS
February 1, 2011; 2:00PM**

Minutes

- I. Call to Order: Mayor Orban called the meeting to order at 2:00 P.M.**
- 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:** **Dennis Rhoad, Town Attorney**
 Tumiko Rucker, Town Administrator
 Ken Gunnells, Town Treasurer
 Lakesha Shannon, Town Clerk
- V. Approval of Minutes:**
A. Town Council Meeting Minutes for January 4, 2011
- Mr. Burnaford made a motion to approve the minutes of January 4, 2011. Mr. VanDerwerker seconded the motion. Following a correction by Mr. VanDerwerker, the minutes of the January 4, 2011 Town Council Meeting were unanimously approved as amended.**
- VI. Citizens' Presentations or Comments:**
None
- VII. Old Business:**
None
- VIII. New Business:**
A. Special Recognition: Leo and Carol Fishman
Mayor Orban commented that it is pleasurable for the Mayor to recognize people who have served the community very well over the years. Mayor Orban presented plaques to Leo and Carol Fishman for their many years of dedicated service to the Town, the Community Association, and the entire Kiawah community. The Fishman's will be leaving Kiawah and moving to Charleston.

Mayor Orban noted that Mr. Fishman has served in numerous capacities on the Island over the past eleven years including: the Planning Commission, Town Council and Mayor Pro Tempore, Chair and Founder of the Arts Council and the Election Commission. Mr. Fishman also chaired the KICA Government Planning Commission and the Our World Sandcastle Education Program Committee.

Mr. Orban noted that Ms. Carol Fishman has also served the Island well having served as member and chair of the Town's Board of Zoning & Appeals Committee, Chair of the KICA Covenant Compliance Committee and the KICA Safety and Security Committee. Mayor Orban added that the Fishman's have also been great contributors to the many worthy causes in the Greater Charleston area.

B. FY2012 Budget Calendar

Mr. Lipuma stated that the FY 2012 Budget Calendar, which will start July 1, 2011, was discussed and unanimously approved for recommendation at the Ways and Means Committee Meeting.

Mr. Lipuma made a motion to adopt the FY 2012 Budget Calendar. The motion was seconded by Mr. Vanderwerker. The motion passed unanimously.

C. Night Heron Park Franchise Agreement

Mrs. Rucker stated that the Ways and Means Committee reviewed a request from the Kiawah Island Golf Resort to renew their existing Beach Franchise Agreement for an additional one year term as allowed under the current agreement which expires on February 28, 2011. Mrs. Rucker added that the Ways and Means Committee recommended the extension of this agreement for one additional year.

Mayor Orban motioned to extend the Night Heron Park Franchise Agreement to February 29, 2012. The motion was seconded by Mr. Lipuma. The motion passed unanimously.

D. Charleston Symphony Orchestra (CSO) \$50,000 Funding Request

Mayor Orban stated that \$50,000 was included in the annual budget last year as a contribution to the Charleston Symphony Orchestra. Mayor Orban commented that the Town has generously supported the CSO over the years as they are a wonderful attribute to the community and the City of Charleston. Mayor Orban stated that the funding was withheld because the CSO was in flux at that time due to labor and funding issues. The Town has received a letter from the CSO indicating that these issues had been resolved and they are planning to have a symphony with a minimum of 24 pieces. The Ways and Means Committee recommended that the Town pay the \$50,000 to the Symphony. **Mayor Orban made a motion to disburse the \$50,000 previously budgeted for the CSO. The motion was seconded by Mr. VanDerwerker.**

Mr. VanDerwerker stated that he promised to explain his votes at the time he ran for office. He noted that this request was a carryover and the CSO has met the Town's

requirements; therefore his vote in favor of this request is on the basis that this funding was already pre-approved and not up for discussion again. **The motion passed unanimously.**

E. Charitable Contributions Requests

Mayor Orban stated that each year the Town budgets money for outside contributions to organizations in the Johns Island Community. . Mayor Orban stated that the Town budgeted \$121,000 in this year's budget for Charitable Contributions of which most had been disbursed. He stated that funding requests are taken twice a year, in January and July, and this year's requests exceeded the amount budgeted. Mayor Orban stated that numerous requests were received from organizations that do great work in the community. The Ways and Means Committee recommended adding an additional \$50,000 for this year's budget which ends June 30, 2011 to fulfill some of the requests. Mayor Orban stated that the Council will review the requests for funding and narrow the applications down at next month's Ways and Means Committee. The total amount requested was \$121,000. The Ways and Means Committee will recommend the requests to Town Council so that funding may be disbursed prior to the end of the fiscal year. Mayor Orban noted that the Town brought in more money than originally budgeted; therefore, he felt like the budget surplus should be shared with the community.

F. Contribution to KICA for Road Consultant Agreement

Mayor Orban commented that the Ways and Means Committee had a very lengthy discussion on this item during their meeting today. He stated that the Town has been working with KICA, Seabrook Island and Mr. Darby to gain approval for a roadway across Johns Island. Mayor Orban stated that this has been one of his goals as well as past and current council members to get a safer, better road across Johns Islands. He stated that Dr. Paul Roberts has been working on the current study called the Greenway for numerous years. The developer has decided that a consultant is needed to help get this project approved by County Council. He stated that the first step is to receive a positive vote from County Council so that it may be passed to the Council of Governments for funding. Mayor Orban stated that after a thorough discussion by the Ways and Means Committee, they recommended to contribute \$25,000 to KICA Contract to hire Maurice Washington as Road Consultant to help get this project passed by County Council. Mayor Orban commented that this is the best effort to help get things moving forward with the Greenway Project.

Mr. Burnaford commented that studies have been done as early as 1995 and the Greenway will be the 5th study. The objective of the Greenway is to take the projected traffic off of Bohicket and Main Road, including Maybank and River Road, so that no widening is required. Mr. Burnaford commented on a recent article which stated that the majority of the people who spoke about this issue in public hearings spoke against it; however, the only secret ballot vote at the public hearing showed a 60-40 split in favor on Johns Island. Mr. Burnaford stated that the constituents on Kiawah come out very heavily in favor of the Greenway as a means to have safer travel. He added that the people on Johns Island and those who travel to work on Kiawah have been the

ones suffering, because the residents of Kiawah and Seabrook only represent about 5-7% of the total traffic.

Mr. Burnaford moved that the Town of Kiawah Island contribute a maximum of \$25,000 (\$5,000 per month for 5 months starting February 1st, 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. Lipuma.

Mr. VanDerwerker stated that he has not been provided a copy of the contract so that he may know what he is contributing to, and he has not met the consultant. Mr. VanDerwerker commented that since he has not seen a contract or been involved in any of the discussion, he needs to be sure of where the money is going.

Mr. VanDerwerker stated that he has visited the SC State Ethics Commission website for clarification, and as he read Section 27-17-5 which referenced lobbyist. Mr. VanDerwerker stated that he assumes that this is a lobbyist position, and Mr. Washington is not listed as a registered lobbyist. Mr. VanDerwerker also referenced Section 2-17-110(d) which states that a lobbyist may not serve on a State board or commission; however, Mr. Washington is a Trustee of South Carolina State University, which makes him ineligible to serve as a lobbyist. Mr. VanDerwerker commented that he has a lot of problems with this issue and he questions whether people are using public office for private gain. Mr. VanDerwerker stated that due to lack of information and understanding he will have to vote no.

Mrs. Wermuth stated that she also has concerns regarding this agreement. She stated that when this agreement was brought to the Town's attention in the first part of January, the draft agreement stated that it was made on December 6th between the contracting company and Mr. Washington. This agreement indicated that it was effective September 1, 2010; however, the current agreement from KICA indicates an effective date of February 1st to June 2011.

Mrs. Wermuth stated that she will also have to vote no because of the process used on this issue. Mrs. Wermuth commented that the Town is voting to contribute to a KICA contract which has not been signed. She stated that this contract is to hire a lobbyist/consultant to try to affect the outcome of a project which has been debated for over a decade. Mrs. Wermuth noted that this is a sole source contract for \$100,000 which was negotiated by a party who will not be contributing to the funding of the contract.

Mrs. Wermuth requested to know the mechanism by which the Town transfers money to KICA, a private entity. She noted that KICA is a 501 (c) (4) entity. Mrs. Wermuth

also questioned how this action will affect the Town's year end audit, and the competitive bid process.

Mrs. Wermuth motioned that this matter be postponed until such time as the Town can obtain a formal opinion from the Attorney General of the State of SC indicating that this process will not violate procurement laws, and until the Town can obtain a formal opinion from the Town's Auditors regarding the affect the Town's transfer of funds to KICA will have on the Town's annual audit.

Mr. Lipuma commented that this motion sounds like a stand-alone item and not an amendment.

Mr. Rhoad clarified that there is a motion already on the floor, and suggested that Mrs. Wermuth amend that motion to request tabling the discussion. She may then make her motion.

Mrs. Wermuth made a motion to set aside Councilman Burnaford's motion until such time that Council is able to consider the motion to postpone. The motion was seconded by Mr. VanDerwerker.

Mr. Rhoad stated that per Robert's Rules of Order, it is not in order to table a motion when another has the floor.

Mrs. Wermuth made a motion to amend the motion on the table until such time that this matter can be reviewed by the Attorney General of SC that this process will not violate the procurement laws, date to be determined; and to amend the motion on the table until such time as the Town has a reading from the Town's Auditors regarding the effect the Town's transfer of funds to KICA will have on the Town's annual audit. Mr. VanDerwerker seconded the motion. Mrs. Wermuth and Mr. VanDerwerker voted in favor of the motion. Mayor Orban, Mr. Burnaford, and Mr. Lipuma voted no.

Mayor Orban added that the Town has been working on this project with KICA, Seabrook and the developer, and he feels it is important that the Town be a part of this agreement to show its support. He noted that the entire agreement cost is \$100,000, with \$50,000 going forward. The Town is splitting the cost with KICA by contributing \$25,000. Mayor Orban also added that Town will not be paying for any previous work.

Mr. Lipuma commented that after a long, stimulating discussion, the Ways and Means Committee voted 3-2 to recommend the payment of this expenditure to Town Council.

Mr. VanDerwerker commented that he is not comfortable funding this project with public money with the little information he has regarding this item, and it is on that basis that he has to vote no.

Mrs. Wermuth requested that the early draft contract be submitted into the minutes for public record.

Returning to the original motion by Mr. Burnaford, **Mayor Orban, Mr. Burnaford and Mr. Lipuma voted in favor of contributing a maximum of \$25,000 to the fund the payment to KICA in consideration of their agreement with Maurice Washington as a Road Consultant for the Greenway Project. Mr. VanDerwerker and Mrs. Wermuth voted no. The motion passed by a 3-2 vote.**

G. KICA 2010 Christmas Decorations Expense

Mrs. Rucker stated that Staff recommends the approval of an expenditure not to exceed \$7,734.50 for the expenses associated with the 2010 Holiday decorations. Mrs. Rucker stated that the Town contracted with the Community Association to provide Christmas decorations. She stated that there was some difference of understanding on the original invoice; however, a revised invoice has been received which totals the \$7,734.50. Mrs. Rucker stated that this recommendation was approved by the Ways and Means Committee.

Mr. Lipuma made a motion to approve payment of the \$7,734.50 for Christmas Decorations. The motion was seconded by Mr. VanDerwerker. Mr. Lipuma noted that the Ways and Means Committee approved this expenditure unanimously. **The motion passed unanimously.**

H. Community Emergency Response Team Funding Request

Mayor Orban stated that this item was discussed by the Ways and Means Committee and it was decided that issue needs to be studied further; therefore, no action can be taken at this time. Mr. Lipuma added that this item was discussed at some length by the Ways and Means Committee and there were concerns that this group was not fully developed. Mayor Orban stated that one issue is that any organization requested charitable contributions from the Town must be a 501(c) (3) organization, and the present CERT group has not yet filed for that status.

Mrs. Wermuth added that Seabrook Island's CERT is no longer 501(c) (3) organization because they found it to be expensive and not very beneficial. Mrs. Wermuth stated that she does not anticipate that the Kiawah CERT will be a 501 (c) (3) organization.

I. Comcast Franchise Agreement Memorandum of Understanding

Mrs. Rucker commented on a letter received from Comcast requesting to submit their franchise fee payments to the Town on a quarterly basis instead of annually. Mrs. Rucker stated that the Town amended its franchise fee with Comcast effective November 1, 2010 to 3% of gross revenue. Mrs. Rucker stated that the Ways and Means Committee voted in favor of accepting the franchise payments from Comcast on a quarterly basis. **Mr. Lipuma motioned to accept the Comcast franchise fees on a quarterly basis. The motion was seconded by Mr. VanDerwerker. The motion passed unanimously.**

J. FY 2011 Budget Amendment

Mrs. Rucker requested to defer first reading of the draft Budget Amendment Ordinance until the March Town Council Meeting. Mrs. Rucker also requested to schedule a public hearing for the March Town Council Meeting which would be held prior to the first reading. This will allow both Council and the public adequate time to review the proposed budget amendments.

K. Communications Committee Discussion

Mrs. Wermuth commented that she was assigned with responsibility for Communications Oversight. Mrs. Wermuth suggested that the Town establish a Communications Committee and presented a committee charter for approval by Council.

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.

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

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

The Committee will meet once a month or subject to the call of the Committee chair.

The motion was seconded by Mr. Lipuma. Council voted to unanimously approve the Communications Committee Charter as amended by the Ways and Means Committee.

Mrs. Wermuth made a motion to approve the appointment of Ms. Frances Boyd and Mr. Kathryn Parks to the Communications Committee. The motion was seconded by Mr. VanDerwerker. The motion passed unanimously.

IX. Committee Reports:

Environmental Committee

Mr. VanDerwerker stated that Environmental Committee will meet on February 7th. Mr. VanDerwerker reported that he has been very busy on behalf of the Public Works Committee. He visited the recycling center and the Bees Ferry Landfill. Mr. VanDerwerker stated that as KPOG liaison, he attended the KPOG Committee meeting, and the Committee expressed their appreciation to the Town for posting the meeting materials online. He stated that the Committee also emphasized safety issues on the Island. KPOG will host their Annual Meeting on February 26th at 9:00 A.M with Dr. Miles Hayes serving as the speaker.

Arts Council

Mr. Lipuma reported that the Arts Council featured two successful art films in January, Twin Spirits and Georgia O'Keefe. Mr. Lipuma commented that there was also a sellout crowd in attendance at the Church of Our Saviour for the Copland House Chamber Music Event. Mr. Lipuma announced that the upcoming events include: Planet D Nonet Big Band Event on February 4th and the Charleston Ballet in March. He noted that both events will be held at the Seabrook Island Clubhouse. Mr. Lipuma stated that other February events include another art film, a visual arts lecture and an Opera Cameo event which will be held at a private residence.

Public Safety

Mrs. Wermuth reported that the Public Safety Committee held its first meeting on January 18th which was well attended. The Committee discussed the issue of a light post which blocked a stop sign on the Parkway. The issue was whether the stop sign or the light post should be moved. The final decision was to move the light post, because moving the stop sign would cause unexpected stops and possible accidents. Mrs. Wermuth noted that the Town Administrator and Mr. Lameo worked with Berkley Electric, and the light post has been moved at no cost to the Town.

Mrs. Wermuth reported that an investigation is pending regarding the recent burglaries on the Island. See Town Notes section for addition details.

Mrs. Wermuth stated that as the liaison to the Conservancy, she met with leaders of the organization and received a general over view of their work.

Johns Island Roads

Mr. Burnaford reported that Dr. Paul Roberts will present an update on the Johns Island Road Project. He stated that at the December Town Council Meeting, Council voted in favor of a resolution to support the Greenway Project. Mr. Burnaford emphasized the importance of working together and maintaining relationships with the other entities who are also working on this project. He commented that the Town is

now able to move forward in providing KICA with the funding for a Road Consultant for this project.

X. Town Administrator's Report:

Mrs. Rucker thanked Mr. Mark Gaddy of Berkeley Electric Cooperative for his quick response and assistance in the relocation of the light post, and for working with the utility crews that are actively pulling wires on the Kiawah Island Parkway to ensure that they are not blocking the bike path.

Mrs. Rucker noted that the Town has made several updates to the website. She stated that changes have been made to the homepage to include an updated slideshow and an "In the News" and "Calendar Section" with scroll bars for ease of accessing information. The Quick Links Section has been updated to link easily to the newly designed Meeting Notifications and Meeting Minutes pages which now include electronic copies of the meeting materials for the various Town meetings.

Mrs. Rucker announced that the Town has been selected to compete in the 2011 Municipal Association's Achievement Award Program in the Communications category. The Town's Wildlife Website was submitted as the project this year, and Mrs. Rucker and Mr. Jim Jordan will travel to Columbia on February 8th to present this project to a panel of judges.

Mrs. Rucker reported that Kiawah Island Utilities has notified the Town that some areas will have a scheduled interruption of service on Thursday, February 3rd from 9:00 a.m. to 3:00 p.m. She advised residents to contact the utility company if they experience any problems.

Mrs. Rucker announced that one of the Town's longtime residents, Mr. Robert Congill, passed away last week. She noted that he was the founder of the Town's Turtle Patrol and a longtime wildlife enthusiast. Mrs. Rucker asked that everyone keep the Congill family in their prayers.

XI. Mayor's Report:

Mayor Orban stated that he has asked Mr. Lipuma and Mrs. Wermuth to work with Mrs. Rucker to review and update the Employee Handbook.

Mayor Orban stated that on January 9th he attended a commemorative Martin Luther King Jr. Day Service with Mrs. Rucker at the Ferryfield Baptist Church on Johns Island. He stated that he and Mrs. Rucker gave greetings from Kiawah and talked about the outreach efforts to the Johns Island community. Both were presented with plaques by the event organizer for their participation.

Mayor Orban stated that a Town Council Retreat was held on January 10th at which time Council had a chance to interact with each other, discuss Town ordinances and budgeting.

Mayor Orban stated that he attended the Regime Meeting on January 23rd. He stated that he would like to see more regimes participating in the recycling efforts. Mayor Orban noted that he worked with Kelly Bragg on the instant news flash email notification to give an update on the recent burglaries.

XII. Correspondence

A. Letter of Support for OCRM Permit # 10-117-E

Mayor Orban stated that a letter of support was sent from the Town to Mr. Roger Warren of the Resort in regards to their OCRM Permit Request for temporary roads that would be used during the PGA tournament

Mr. VanDerwerker asked if a performance bond is needed to ensure that everything will be restored to its original condition once the PGA is over. Mayor Orban commented that the OCRM Permits always have the restoration requirements included. Mr. Rhoad responded that a Letter of Agreement between the Town and the Resort would be sufficient.

XIII. Citizen Comments

Mrs. Kathryn Parks, 499 Old Duck Road

Mrs. Park questioned the \$50,000 donated to the CSO. She asked if this same donation is given yearly to the CSO and whether the Town should reexamine this amount as they look at the various charity requests by other organizations due to budget cuts.

Mrs. Parks also questioned if the Town has ever held a public information meeting regarding the Johns Island Road Project. She requested to know if the Town is speaking as though everyone is in favor of the Greenway since there are plans to hire someone to solicit the County Council for votes. She commented that the language of this contract was bothersome. She again asked why the Town has not held a public meeting or surveyed residents for comments. Mrs. Parks added that she is also concerned with the fact that the Town and KICA may be using someone who may have a conflict of interest as a lobbyist.

Mayor Orban responded that there have been surveys taken at St. Johns Island High School to determine people who are for or against the Greenway project. He stated that some of the survey results show that the preponderance of people on Kiawah favor the Greenway.

Mrs. Parks stated that she questions the use of public money for the Greenway. Mrs. Parks also stated that she does not want to see this issue stamped by Town Council as if everyone on Kiawah supports the Greenway.

Mr. Burnaford clarified that he never used the word “everyone” when discussing the Greenway. He stated the secret ballots in public meetings show that a preponderance of people on the Island supports the Greenway. Mr. Burnaford stated that Mr. Washington will be hired as a consultant not a lobbyist, and there is a difference.

Mr. Lipuma commented that it is Council's intention to have more open discussion on all issues.

XIV. Council Member Comments:

Mr. Lipuma:

Mr. Lipuma commented that a historic event will be held by the Town on February 10th. This will be a jury trial involving a violation of the Town's dog ordinance. Mr. Rhoad added that he will serve as the Town's District Attorney.

Mr. VanDerwerker

Mr. VanDerwerker commented that he will be attending the upcoming Municipal Association's Elected Officials Training and Legislative Action Day in Columbia.

XV. Adjournment:

Mr. Lipuma made a motion to adjourn the meeting. The motion was seconded by Mr. VanDerwerker, and carried unanimously.

The meeting adjourned at 3:29 P.M.

Submitted by,

Lakesha Shannon, Town Clerk

Approved by,

G. Steven Orban, Mayor

Date
