

**TOWN COUNCIL MEETING
KIAWAH ISLAND MUNICIPAL CENTER
COUNCIL CHAMBERS
JULY 12, 2011; 2:00PM**

Minutes

- I. Call to Order: Mayor Orban called the meeting to order at 2:00pm.**
- 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
- Absent:** Fran Wermuth
- Also Present:** Tumiko Rucker, Town Administrator
Dennis Rhoad, Town Attorney
Lakesha Shannon, Town Clerk
- V. Approval of Minutes:**
A. June 7, 2011 Town Council Meeting
Mr. Burnaford motioned to approved the minutes of the June 7, 2011 Town Council meeting. The motion was seconded by Dr. VanDerwerker. The minutes of the June 7, 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 stated that MASC video is unavailable due to technical difficulties; however it is available online at www.kiawahisland.org.

B. Resolution 2011-04: Project Impact Action Plan

Mrs. Rucker stated that the Town of Kiawah has been a participant in the Charleston County Regional Hazard Mitigation Program since 1999. This program, which is managed by FEMA, provides Town residents with additional flood insurance coverage with reduced premiums. Resolution 2011-04 outlines the Town's Action Plan for the upcoming year. Dr. VanDerwerker asked if there was anything the Town could do to improve its rating. Mrs. Rucker stated that there was an opportunity in 2009 during the 5 year renewal to gain extra points. The Town gained extra points but have since lost points due to changes in FEMA guidelines. Mr. Lipuma commented on the language in the Action Plan's introduction and suggested that the wording "depends on" be changed to "utilized". Mrs. Rucker agreed to make the requested changes.

Mr. Burnaford motioned to approve Resolution 2011-04. The motion was seconded by Dr. VanDerwerker and passed unanimously.

C. Project Impact Status Report

Mrs. Rucker stated that the Project Impact Status Report coincides with the Regional Mitigation Plan and provides an update to Charleston County of the actions taken by the Town through June 2011. She stated that this report is a matter of information and no action is needed. Mrs. Rucker stated that she will incorporate the same language changes into the introduction as in the Project Impact Action Plan. Mrs. Rucker stated that the Town will also participate in the County's regional meetings. The next meeting will be held on July 21st. She noted that FEMA monitors the attendee list and minutes of the regional meetings. They like to see that all member jurisdictions are actively participating on an ongoing basis.

D. Invasive Plant Study Vendor Selection

Dr. VanDerwerker stated that the Environmental Committee felt that it was important to conduct an Invasive Plant Study to maintain the ecology of the Island and determine what problems exist with invasive plants, especially tallow trees. A proposal for the study was advertised on the Town's website and in the Post and Courier for 30 days. There was one proposal submitted by Dr. Joel Gramling with the Citadel. Dr. VanDerwerker stated that he is pleased with the proposal as submitted. The study will take place over a period of 1 to 1 ½ years due to the seasonal schedule of the various plants. Dr. Gramling will submit a management plan along with the study results that will be useful to KICA in monitoring and controlling invasive plants. Dr. VanDerwerker will provide periodic progress reports to Council from the Environmental Committee. Dr. Gramling is also willing to inspect properties owned by KICA, KDP and the Resort. Dr. VanDerwerker stated that KICA is very interested in having tallow trees removed from their properties, and has considered that significant funding will be required to properly attack the problem. The ARB is also active in the process due to landscape guidelines. Dr. VanDerwerker stated that he is a member of KICA's Invasive Species

Committee which will be working with Dr. Gramling to create a list of invasive plants. Dr. VanDerwerker commented that the invasive plant study is a major initiative and part of long range strategic plan for the Town.

Mayor Orban motioned to approve up to \$25,000 for the Invasive Plant Study. The motion was seconded by Mr. Burnaford and passed unanimously.

E. Charleston County Sheriff's Deputy Contract

Mrs. Rucker explained the Town contracts with the Charleston County Sheriff's Department for police protection. She stated that 75% of the funding comes from SATAX and the remaining 25% from the Town's General Fund. The Town is required to sign a new contract with Charleston County annually. The Town is contracting with the County for 24 hour 7 day coverage, or 8 deputies per day with two deputies working 4 shifts. The deputies are paid \$25 per hour with a minimum of \$100 per shift. The Town has budgeted for 6 hours per shift with an additional \$10 fee per deputy per shift. Mayor Orban commented that the Town has a good relationship with Charleston County Sheriff's Department and satisfactory service is being provided.

Mr. Burnaford motioned to extend the Charleston County Sheriff's Department contract for an additional year. The motion was seconded by Mr. Lipuma and carried unanimously.

F. Lease Agreement for Recycling and Dumpster Site

Dr. VanDerwerker stated that he received a complaint several months ago regarding people using dumpsters that are located on private property. He stated that Rusty Lameo, Town Code Enforcement Officer, suggested that the recycling container behind the Sora Rail Road Fire Station be relocated to the garbage collection site at Kestrel Court so that there is a central location for both. Funding is in the budget to place a concrete pad next to the current one at Kestrel Court to accommodate the adjustment. The lease is with Kiawah Island Utility who owns the property and supports the effort. Mayor Orban commented that the lease is \$1 per year.

Mayor Orban motioned to approve the lease agreement for the recycling and dumpster site as presented. The motioned was seconded by Mr. Lipuma and passed unanimously.

G. Approval of the 2011-2012 CARTA Budget

Mayor Orban explained that as a member of the Charleston Area Regional Transportation Authority (CARTA), the Town of Kiawah Island is required to review and vote its annual budget. Mayor Orban noted that Mrs. Rucker has headed the CARTA Financial Committee.

Mr. Burnaford motioned to approve the 2011-2012 CARTA Budget. The motion was seconded by Mr. Lipuma and carried unanimously.

Mayor Orban commented that staff has reviewed the CARTA Budget and found it to be well presented.

H. Beach Vehicle Driving Policy

Mayor Orban stated that Town occasionally receives complaints regarding how authorized vehicles drive on the beach. He stated that staff researched the issue and located a manual that references the dos and don'ts of beach driving. He suggested that Code Enforcement review the handbook with all entities that drive on the beach and administer the beach driving test.

Mayor Orban motioned to approve the Beach Vehicle Driving Policy. The motion was seconded by Mr. Burnaford and passed unanimously.

I. Second Amendment to the Development Agreement By and Between Kiawah Resort Associates, L.P., Et al and the Town of Kiawah Island

Mr. Lipuma explained that the Town's Zoning Ordinance, Article 12, permits accessory buildings in residential districts on lots of 15,000 square feet or greater in the rear yard. There is an exception for residences that have rear yards facing the beach, a golf course, lagoon or marsh. These properties require a special exception use and must be reviewed and approved by the BZA. The original Development Agreement with KRA allows for accessory buildings in residential districts with permitted use which requires no special exception or review by the BZA. Several cases have come forward; however, County staff has advised that the Town's Zoning Ordinance applies since the Development Agreement is silent on these standards. There is some confusion between what is intended in the Development Agreement and the Zoning Ordinance. An amendment to the Development Agreement has been proposed to clarify the inconsistencies.

Mr. Rhoad stated that this issue was brought to his attention months ago by Mr. Dan Pennick, County Planning Director. Mr. Rhoad stated that since the Development Agreement was silent regarding where accessory structures could be placed, they could typically be placed anywhere. He stated that there have been three formerly owned KRA properties that have come before the BZA for a special exception, and each was approved. Mr. Rhoad commented that a vote of Council would be the only action required to make the proposed amendment to the Development Agreement, which is a contract.

Mr. Lipuma motioned that the Second Amendment to the Development Agreement By and Between Kiawah Resort Associates, L.P., Et al and the Town of Kiawah Island be approved as presented. The motion was seconded by Mr. Burnaford.

Mayor Orban stated that he and Mr. Lipuma reviewed the Town's Article 12 and the proposed amendment with Mr. Pennick. Mayor Orban suggested that the issue be addressed by a vote of Council since only a small change is being made.

Dr. VanDerwerker questioned the deletion of Subparagraph 3 of Exhibit 13.1 in the Development Agreement, and stated that he is concerned that this will interfere with the special exception process.

Mr. Rhoad suggested that he be authorized to revise the amendment along with Attorney Trenholm Walker.

Mr. Lipuma restated his motion to approve the amendment with the stipulation that the definition in Subparagraph 3 of Exhibit 13.1 be adjusted such that the definition of special exception is retained and that the proposed wording be incorporated. The motion was seconded by Mr. Burnaford.

Mayor Orban stated that before he signs the amendment, Council will review the document for satisfactory revisions by attorneys Rhoad and Walker.

Following discussion, the motion passed unanimously.

J. Beachwalker Parking Recommendations

Mayor Orban commented on the current parking issue on Beachwalker Drive and suggested recommendations subject to meeting with Mrs. Wermuth. He recommended that diagonal parking be allowed along certain areas of the road to accommodate overflow crowds during holidays, and that signs be placed advising that no parking is allowed beyond that point except in the Town Hall parking lot. Mayor Orban also suggested that a Code Enforcement Officer be stationed in those areas during the holidays to assist with parking. Mr. Lipuma suggested that something be done to help facilitate people to the beach on holidays when there is usually overflow crowds, while maintaining a safety corridor for emergency vehicles. Mayor Orban stated that he, Mrs. Rucker and Mrs. Wermuth will meet with the Beachwalker County Park staff to discuss further options for managing overflow parking.

Update on Liollo Engineering Project

Mayor Orban motioned to amend the agenda to include an update on the Liollo Engineering Project. The motion was seconded by Mr. Lipuma and passed unanimously. Dr. VanDerwerker explained that Liollo Architecture has completed the preliminary evaluation of the ADA changes to the Municipal Center and is ready to move forward with the project. Dr. VanDerwerker motioned to approve an amount up to \$15,000 to pursue the ADA improvement project with Liollo Architecture. The motion was seconded by Mr. Burnaford and passed unanimously. Mayor Orban

commented that the Town has done several projects over the years with Liollo Architecture and they have been very good to work with.

K. Appointment to Public Safety Committee: Mr. Art Morgenstern

Mayor Orban stated that Mrs. Wermuth has requested the appointment of Art Morgenstern to the Public Safety Committee to replace Douglas Dodge who has resigned. Dr. VanDerwerker motioned to appoint Art Morgenstern to the Public Safety Committee. The motion was seconded by Mr. Burnaford, and carried unanimously.

IX. Committee Reports:

Dr. VanDerwerker

Dr. VanDerwerker reported that the July Environmental Committee meeting was cancelled. He stated that the Invasive Plant Study and the Liollo Engineering Project are both moving forward.

Mr. Lipuma:

Mr. Lipuma reported that the final Arts Council event of the season, Harper at Sundown Festival was held on June 29th at Night Heron Park. The 2011-2012 Arts Council Season Planner is now available. The Committee is working on the final report of the 2010-2011 season.

Mr. Burnaford:

Mr. Burnaford reported that the Planning Commission will present their recommendation to Town Council at the August meeting regarding the review of redevelopment in older R-2 zoned neighborhoods. Mr. Burnaford commented on the surveys done by the Post and Courier, Seabrook and KICA regarding I-526 and the Greenway. He stated that the Post and Courier survey showed a positive outcome of the “silent majority”. He commended KICA for putting out a very good survey and keeping people informed. The survey results of both Kiawah and Seabrook showed a majority of the residents support I-526 and the Greenway. He further stated that since Council is elected at-large, they should reevaluate the issue and not go against the vast majority of the constituents who are in favor of these roads.

X. Town Administrator’s Report:

Mrs. Rucker recognized Mrs. Christine Wilkinson as the acting Executive Director of CARTA. Mrs. Wilkinson thanked Council and noted that Mrs. Rucker has been very instrumental in assisting the CARTA Board with policies and plans during tough economic times. Mrs. Rucker stated that the work has been completed on the beach accesses as a directive to staff at last month’s meeting. The Employee Handbook continues to be reviewed by the Committee and has been submitted to the Town’s Labor Attorney for a second review. The Kiawah Island Bridge inspection will take place on July 18th and the Town is working with the Resort for access to Mingo Point so that Collins Engineering may utilize the area to bring in equipment for the inspection.

Phase I of the environmental inspection for the Greenbelt project is complete as required by the County and the report should be available within the next week. Mrs. Rucker stated that she will meet with McSweeney Engineering to establish a schedule for completing the remainder of the project. Mrs. Rucker has requested that all Committee Chairs submit an update of their Comprehensive Plan Report Card. Mrs. Rucker stated that staff will be attending a number of meetings this month to include: the SC City/County Managers Association Meeting and the National Association of Public Treasurers Annual Meeting. Mrs. Rucker noted that Mr. Gunnells received recognition by the Governmental Financial Officers Association for excellence in financial reporting on both the Town's Comprehensive Annual Financial Report and Popular Reports.

XI. Mayor's Report:

Mayor Orban thanked KICA for the Kiawah property owners' survey on I-526 and the Greenway project. He noted that there were 1,600 responses. The results showed a 4-1 majority with 78.9% in favor of and 21% not in favor of I-526 and 79.8% in favor of and 20.2% not in favor of the Greenway. Mayor Orban commented that a strong message of support for the completion of I-526 and the Greenway is being sent to County representatives from Kiawah and Seabrook Islands. The Town is preparing a draft Email Retention Policy which will be discussed at the next Ways and Means meeting. Mayor Orban suggested having a designated Town email drop box that Council can forward Town related emails to from their personal computers. Mayor Orban requested that Mrs. Rucker make the necessary adjustments to the draft Email Retention Policy.

XII. Correspondences:

A. Letter from Coastal Crisis Chaplaincy

Mayor Orban stated that a thank you letter was received from Coastal Crisis Chaplaincy for the Town's charitable donation.

B. Letter from AT&T

Council received a letter from AT & T announcing the availability of their video U-Verse services for Kiawah Island Residents as of July 7, 2011. The Town amended its franchise agreement with AT&T in May 2010 to acquire this service. Dr. VanDerwerker suggested that this information be posted on the Town's website.

C. Letter from Barrier Island Free Medical Clinic

Mayor Orban stated that a thank you letter was received from Barrier Island Free Medical Clinic for the Town's charitable donation.

D. Letter from Kiawah Island Utility

Mayor Orban stated that the Town received notification from Kiawah Island Utility that they have applied to the Public Service Commission for a water

and sewer rate increase. He stated that there are two parts to the request for increase. The first is an increase based on operating expenses that have increased over the past 10 years. The second part of the increase is due to a \$5.5 million cost to install a new supply line on Kiawah.

E. Letter from Comcast Cable

The Town also received a letter from Comcast Cable informing residents that effective August 1st their analog converters will no longer operate and that residents would need to purchase additional digital adapters.

XIII. Citizen Comments:

Marilyn Larach, 1082 Terrapin Ct.

Mrs. Larach commented on the overflow parking issue on Beachwalker Drive. She stated that the homeowners at Sparrow Pond and Inlet Cove will be affected if overflow parking is allowed on Beachwalker Drive, and requested that Council give due consideration to the rights of the property owners before allowing overflow parking on Beachwalker Drive.

Mayor Orban commented that the overflow parking recommendation for Beachwalker Drive was his suggestion to help resolve the issue. Parking would be allowed from the Beachwalker Park check-in gate to the temporary no parking signs just before the bike path.

Wendy Kulick, 38 Marsh Edge Drive

Mrs. Kulick commented on the KICA survey of I-526 and the Greenway and stated that she has never taken a survey that contained material trying to persuade votes a particular way. She commented that the KICA survey of the West Beach area was not set up that way. Mrs. Kulick disagreed with the statement made by Mr. Burnaford that the majority of Kiawah residents are in favor of the Greenway and I-526. Mrs. Kulick felt that Mr. Burnaford was inaccurate in stating that a majority of the people on Kiawah are in favor of the roads. She stated that this represents about 20% of all property owners and feels that it is unfair to state that the majority of Kiawah residents are in favor of the roads.

Mark Permar, 81 Dungannon Hall

Mr. Permar thanked Council for their effort to clarify the language of the Development Agreement. He reminded Council of the Beachwalker Park lease agreement which has a 150 parking space limit. Mr. Permar commented on his current preplanning efforts for the land use of Captain Sams Spit, which includes Beachwalker Park, and noted the increase of people visiting that area of the park. In regards to the comments by Mrs. Larach, Mr. Permar stated that there is no anticipation of expanding the parking lot at Beachwalker Park in the area of Sparrow Pond and Inlet Cove. He commented on previous efforts to manage public access to Beachwalker Park.

XIV. Council Member Comments:

None

XV. Executive Session: Receive Legal Advice Relating to Contractual Obligations Contained in the Development Agreement with Kiawah Development Partners
Mr. Burnaford motioned to go into executive session to receive legal advice. The motion was seconded by Mr. Lipuma.

Returning from executive session Mayor Orban stated that no action or votes were taken during executive session.

Mayor Orban announced that Kiawah Development Partners is interested in selling Kiawah Island Utility and the Town has the right of first offer in accordance with the Development Agreement.

Mr. Lipuma motioned that the Town appropriate an amount up to \$100,000 for a feasibility study and other related costs; and to direct the Town Administrator to amend the budget to provide the funds. Further, the Town's Attorney is to negotiate with Kiawah Development Partners an amendment to paragraph 14B (2) of the Development Agreement to allow the Town 180 days from written notification by KDP to determine if the right of first offer will be exercised. The motion was seconded by Mr. Burnaford, and passed unanimously.

Mayor Orban stated that Council received a letter from Attorney Rhoad and Pratt- Thomas Walker regarding the Development Agreement between KRA and the Town relative to the land accretion on Captain Sam's Spit.

Mr. Lipuma motioned that the Town amend the Key Locations Ordinance, as required, to provide for two community docks to be located on the Kiawah River; and to draft an amendment adjusting the acreage in accordance with the referenced survey in the Pratt-Thomas Walker letter provided that that the Town verify the accuracy of the survey. The motion was seconded by Mr. Burnaford, and passed unanimously.

Mayor Orban instructed Mr. Rhoad to obtain a copy of the survey from Pratt-Thomas Walker and provide a copy to Mr. Burnaford to review for accuracy and consistency with the Development Agreement. Mr. Rhoad suggested that the letters be attached to the minutes as part of the record (See attached).

XVI. Adjournment:

Mr. Lipuma motioned to adjourn the meeting at 4:39 pm. The motion was seconded by Mr. Burnaford, and carried unanimously.

Submitted by,

Lakesha Shannon, Town Clerk

Approved by,

G. Steven Orban, Mayor

Date