

**WAYS AND MEANS COMMITTEE MEETING
KIAWAH ISLAND MUNICIPAL CENTER
COUNCIL CHAMBERS
MAY 31, 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

Charles R. Lipuma, Chairman
Alan L. Burnaford
Greg A. VanDerwerker
Fran Wermuth

Absent

G. Steven Orban, Mayor
Tumiko Rucker, Administrator

Also Present

Kenneth Gunnells, Treasurer
Lakesha Shannon, Town Clerk

- IV. Approval of Minutes**
- A. Budget Workshop Minutes of April 19, 2011**
Mr. Burnaford motioned to approve the minutes of the April 19, 2011 Budget Workshop. The motion was seconded by Dr. VanDerwerker. The minutes of April 19, 2011 were approved unanimously as amended.
- B. Ways and Means Committee Meeting Minutes of April 26, 2011**
Mr. Burnaford motioned to approve the minutes of the Ways and Means meeting of April 26, 2011. The motion was seconded by Dr. VanDerwerker. The minutes of April 26, 2011 were approved unanimously as amended.
- V. Old Business**
None

VI. New Business:

A. Charitable Contributions Policy

Mr. Lipuma stated that the Community Outreach Policy and the Charitable Contribution Application were both updated for better understanding to the applicant. Dr. VanDerwerker added that many of the questions on the previous application were not pertinent to charitable contribution requests.

Mr. Lipuma motioned to recommend to Council the approval of the updated wording in the draft Community Outreach Policy and the updated Charitable Contributions Application. The motion was seconded by Mr. Burnaford. The motion passed unanimously.

B. Directors and Officers Insurance

Mr. Lipuma explained that quotes for Executive Liability Insurance were received through Wells Fargo from Chartis Insurance, Hiscox and Ironshore. He noted that Ironshore was the only company to quote \$5 million in coverage; however, they have the highest policy premium. Mr. Gunnells stated a quote for \$5 million in coverage is also expected from Chartis Insurance. He added that the Committee can approve an amount up to the \$24,600 premium for Ironshore, and adjustments can be made if Chartis provides a better quote. Mr. Greg Jones, from Wells Fargo Bank, explained the coverage limits for the Directors and Officers Insurance. He stated that typically a limit of insurance is purchased which includes damages plus defense, and the limit of insurance erodes as defense costs are incurred. Mr. Jones stated that one of the advantages of both Chartis and Hiscox is that if a \$3 million limit of liability is purchased, a \$3 million limit of defense is included. He noted that over the past 10 years, South Carolina has seen the biggest exposure in lawsuits dealing with federal and administrative law rather than sovereign immunity. Mr. Jones commented that all three companies are A-rated, and Chartis is the largest writer of public Directors and Officers Insurance.

Mrs. Wermuth requested to know if other brokers carried different insurance companies. Mr. Gunnells explained that the broker is hired to shop the market, and insurance companies will refuse to offer quotes to multiple brokers. Mrs. Wermuth also asked why the Town does not go directly to the insurance company individually instead of going through a broker. Mr. Gunnells responded that the Town does not have standing to go directly to the insurance company. Mr. Jones explained that he functions as a broker through Wells Fargo Bank and has the ability to approach insurance carriers in the marketplace regarding this type of coverage. He noted that Wells Fargo is the fourth largest broker in the US and the fifth largest in the world. Mr. Gunnells stated that the Town requested a quote from the Municipal Association, but was denied because of the Kiawah Bridge. He also stated that the Directors and Officers Insurance picks up over the base coverage under the general tort liability policy.

Mr. Jones stated that the biggest exposure that towns have today are employment practice claims. He stated that South Carolina is unique because some allegations are covered under tort liability through the Insurance Reserve Fund. Commercial insurance excludes any employment related claims. Mr. Jones noted that it would be important that the Town's employment practice attorney be hired by the Insurance Reserve Fund along with the insurance carrier that is chosen. He explained that there could be circumstances in which the Insurance Reserve Fund would handle the claim, and the Directors and Officers Insurance would be excess. There could also be cases of third party claims in which the Reserve Fund would not respond at all.

Dr. VanDerwerker requested to know from Mr. Jones if he felt that a town the size of Kiawah needed \$5 million in coverage. Mr. Jones stated that the major thing to consider is the defense cost. He also noted that more coverage is fairly affordable.

Mr. Lipuma motioned to recommend to Council the purchase of Directors and Officers Insurance with a coverage limit of up to \$5 million, subject to the review of the anticipated quote from Chartis Insurance. The motion was seconded by Mr. Burnaford.

Mrs. Wermuth commented that people are more likely to sue when the ability to reap more is higher. Mr. Jones responded that this is normally the case for tort claims but is least likely the case when dealing with Executive Liability Insurance. This type of insurance is used mostly to cover defense costs against allegations. Mrs. Wermuth commented that the Town has never had this insurance before, and requested to know why such a high coverage limit is recommended at this time. Mrs. Wermuth stated that she does not disagree with having the coverage; however she does disagree with having such a high limit and she felt two other brokers should offer proposals.

During the meeting, Mr. Jones received a quote of \$15,073 for \$5 million in coverage from Chartis Insurance.

Mr. Lipuma withdrew his previous motion. He then motioned to recommend to Town Council the approval of Chartis Insurance for \$5 million in coverage with a premium of \$15,073. The motion was seconded by Mr. Burnaford. The motion passed 3-1, with Mrs. Wermuth voting no.

Mrs. Wermuth explained that she is voting no because the Committee has just received the quote and she would like some time to reflect on the information. She also added that the Committee should consider starting with a smaller coverage limit.

Mr. Gunnells commented that since this insurance will be initiated during the current fiscal year, he suggests that Council approve funding from Contingency so that the policy can be put in place as soon as possible. Mrs. Wermuth stated that the insurance is not needed for the current fiscal year and should be funded during FY 2011-2012 since the new fiscal year is so close.

Mr. Lipuma motioned to recommend to Council the approval of funding from Contingency for the policy premium, and to make the policy effective as soon as it is written. The motion was seconded by Mr. Burnaford. The motion passed unanimously.

C. Janitorial Contract Renewal Request

Mr. Burnaford motioned to recommend approval of the Janitorial Contract Renewal. The motion was seconded by Dr. VanDerwerker.

The Committee discussed the 3.9% rate increase request from Perkins Cleaning Services which is based on the 2011 Consumer Price Index projection. Mrs. Wermuth requested to know the historical figures for this contract. Mr. Gunnells stated that the CPI was negative last year. Mrs. Wermuth requested to know if competitive bids were received for the Janitorial Services. Mr. Gunnells responded that yes competitive bids were received.

The Committee discussed the option of offering to renew the Janitorial Services contract with Perkins Cleaning Services at the current contract rate or seeking competitive bids.

Following discussion, Mr. Burnaford withdrew his previous motion. He then motioned to bid out the Janitorial Services Contract.

The Committee agreed to inform Mrs. Perkins of the decision and to hold her letter of request, subject to obtaining competitive bids. Perkins Cleaning Services will be allowed to continue providing services on a month-to-month basis until the bid process is complete. **The motion was seconded by Mrs. Wermuth, and carried unanimously.**

D. Addendum to the Land Lease Agreement for Orange Hill Plantation

Mr. Lipuma explained that the addendum will allow the Community Association to have access to the Orange Hill Plantation site for a pro rata share of the cost.

Mr. Burnaford motioned to recommend approval of the addendum. The motion was seconded by Dr. VanDerwerker, and carried unanimously.

VII. Chairman's Report

Mr. Lipuma commented on several items that need to be addressed at future Ways and Means Committee meetings to include: A plan for the Capital Fund Budget; and the methodology of the Charleston Visitor's Bureau for using a numerical rating system to allocate SATAX Funds.

VIII. Treasurer's Report

Mr. Gunnells stated that three quotes have been received for the Kiawah Bridge inspection and they are being reviewed by Mayor Orban. Mr. Gunnells provided an overview of the Town's 9-month quarterly financial report which compared the current fiscal year budget to the prior year. Mr. Burnaford commented on the business license revenue and stated that it is less than it was this time last year. Mr. Gunnells explained that the business license revenue that is being received this year is based on the company's sales from last year. He stated that the business license revenue is expected to increase significantly over the next 2-3 months when the revenue collected by the Municipal Association is received.

Mrs. Wermuth requested to know what the liabilities were for the General Fund. Mr. Gunnells stated that payments were made on all liability.

Mr. Burnaford requested to know if any information was received from the Tourism Expenditure Review Committee regarding the percentage of SATAX Funds the Town will receive. Mr. Gunnells stated that an official notification has not been received.

Mr. Gunnells noted that there was a significant increase in the amount of County Accommodations Tax received this year due to the County having surplus funds. He commented that the Local Accommodations Tax revenue is better than last year, and is a good indicator of how business is going. Mr. Gunnells reported that a check for \$24,000 was received for the Beverage Fund. There will be \$5,700 provided to the County from the Victim's Assistance Fund at the end of the fiscal year.

Mr. Gunnells stated that the Town is in the process of renewing the property liability insurance with the state. The limits include \$1.8 million for the Municipal Center; \$209,000 for the building contents; \$80,000 for the garage contents and \$1 million for the Kiawah Bridge. Mr. Burnaford asked Mr. Gunnells to verify whether flood insurance is included in the policy.

IX. Citizen Comments

Wendy Kulick, 38 Marsh Edge Lane

Mrs. Kulick stated that she supports the Committee's decision to obtain \$5 million in coverage for the Directors and Officers Insurance, and commented on the legal costs associated employment liability lawsuits. Mrs. Kulick referenced Mr. Jones' comment that most lawsuits come under federal law

and are EEOC related which would not be covered under the State Reserve Fund.

X. Committee Member Comment:

Mr. Burnaford

Mr. Burnaford commented on the feedback he received regarding the recent SATAX Committee meeting. He stated that some attendees felt that staff provided more input than should be allowed under the Committee's charter. Mr. Gunnells stated that staff provided input to clarify any misconceptions the Committee had.

Mrs. Wermuth

Mrs. Wermuth commented on last month's discussion of the Municipal Code codification and requested to know the status of the quotes. Mr. Gunnells stated that the discussion was to approve funding for the next budget year and no action can be taken on this item until after July 1st. He stated that Council will have to approve the expenditure of the funds. Mrs. Wermuth stated that the Committee should be informed of the progress so that they can make sure that the necessary bids are received. She further stated that the Town Administrator indicated that she would verify if Municipal Code Corporation was on State contract, and if not, two additional bids would be needed. Mrs. Wermuth requested that further information regarding this item be presented at the June 7th Town Council meeting.

Dr. VanDerwerker

Dr. VanDerwerker commented on the Municipal Center's ADA review. He stated that there have been two meetings with the architect, and a pricing package will be provided to both KICA and the Town for consideration. He stated that the major change proposed is to have a first floor conference room for KICA in the front of the building. A new door would be installed in the back of the building for entrance to the Pass Office. The wheelchair ramp will be extended and the handicap parking will be relocated near the ramp. Mr. Burnaford requested to know if there is any reason why the Town has not offered to share use of the Council Chambers with KICA. Mr. Lipuma stated that this option can be reviewed after the pricing is received. The Committee also discussed the ADA notification requirements for requesting a meeting location change.

XI. Adjournment:

Mr. Burnaford motioned to adjourn the meeting at 10:17 am. The motion was seconded by Dr. VanDerwerker and passed unanimously.

Submitted by,

Lakesha Y. Shannon, Town Clerk

Approved by,

Charles R. Lipuma, Chair

Date