

**TOWN COUNCIL MEETING  
KIAWAH ISLAND MUNICIPAL CENTER  
COUNCIL CHAMBERS  
July 7, 2009, 2:00 PM  
Minutes**

- I. Call to Order:** Mayor Wert called the meeting to order at 2:05pm.
- 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:** William G. Wert, Mayor  
Alan L. Burnaford, Mayor Pro Tem  
Charles R. Lipuma  
G. Steven Orban  
Harry M. McHugh
- Also Present:** Dennis Rhoad, Town Attorney  
Catherine Wilson, Town Clerk
- Absent:** Tumiko Rucker, Town Administrator
- V. Approval of Minutes:**
- A. Town Council Minutes for June 2, 2009**  
Mr. Burnaford motioned to approve the minutes of June 2, 2009. Mr. Orban seconded the motion. The motion carried unanimously.
- VI. Old Business:**
- None

## **VII. New Business:**

### **A. Bulkhead Review Procedures**

Mayor Wert stated that currently, bulkhead applications must be submitted to OCRM and there have been a number of instances where the Town did not receive notice of the bulkhead applications until after the public comment period was closed. The intent is to create a policy, or Town Ordinance, that requires the homeowner to notify the Town when they are requesting a permit from OCRM.

Mr. Burnaford stated that there have been a number of times where the Town has received notice after the bulkheads have been approved and constructed. Mr. Burnaford stated that he believes the notice requirement is appropriate to allow time for comment.

Mr. Orban asked if the Town rejects an application and OCRM approves it, will the applicant be able to construct the bulkhead. Mayor Wert responded that the applicant would be able to construct the bulkhead because OCRM has regulatory authority over the Town's authority.

Mr. Lipuma also stated that the Town has, at times, found out after the fact about these issues and that allowed no chance for review. He stated that this makes the Town appear uneducated on the matter and he thinks it is appropriate that the Town be notified in advance. He stated that there may be an issue with control but at this point the Town simply wants submission of information to allow comment to OCRM.

Mr. Orban asked if the Town should be requiring ARB preliminary approval as stated in the memo.

Mayor Wert stated that he feels the site plans and a written request are enough to ask for. He also stated that the Town could be out of their jurisdiction to ask for engineered drawings for the proposed wall. He stated that he would strike the requirements for engineered drawings and preliminary approval of ARB from the policy. Mayor Wert explained that the ARB is not the Town's jurisdiction. Mr. Orban agreed and stated that he does not think the Town should have a policy requiring ARB approval.

Mr. Burnaford suggested that the landscape plan requirements be removed also.

Mr. Lipuma stated that the landscaping plan would be useful to make sure that any scoring and scarfing of the earth would be back-planted sufficiently.

Mr. Orban agreed with Mr. Lipuma and stated that way the Town can make comments to OCRM about the landscaping.

Mayor Wert proposed that the entire OCRM application be copied and simultaneously submitted to the Town. This would allow time for adequate review and comment to OCRM.

Mr. Evans stated that the County currently receives a copy of all applications.

Mayor Wert asked if it was satisfactory that the Town ask for the simultaneous application. Mr. Rhoad also added that the Town can request any supplemental information also.

Mr. Joel Evans, Charleston County Planning, stated that he and Mrs. Rucker worked together on the memo as requested by the Planning Commission. They attempted to create a formal procedure to educate the applicant on the process. Mr. Evans stated that they attempted to combine, as accurately as possible, the requirements of the ARB with those of the Town's. Planning staff have also been working with DHEC for dock and bulkhead standards. Mr. Evans stated that on April 4, a response from DHEC was received that he called "good news" to citizens wanting regulations. He explained that the letter from DHEC stated, "A county or municipality may establish standards that are more strict than the OCRM or state standards."

Mr. Rhoad stated that for the record he does not know who wrote the letter at DHEC but that he completely disagrees with the opinions stated in the letter. He said that Town does not have authority to trump state regulations.

Mayor Wert authorized Mr. Rhoad to work with Mrs. Rucker to amend Article 17 to meet the simultaneous submission requirement.

No vote was taken.

#### **B. Recycling Container Purchase**

Mayor Wert stated that the Ways and Means Committee recommended the approval of an expenditure of \$22,500 from contingency funds for the purchase of 35 gallon roll-out recycling carts. These carts will be incorporated in the new solid waste collection program.

**Mr. Lipuma motioned to approve the expenditure of \$22,500 for roll out recycling carts. Mr. Orban seconded the motion. The motion carried unanimously.**

#### **C. Amendment to the Solid Waste Collection Agreement**

Mayor Wert stated that this amendment will incorporate Exhibit "A" Proposed Pricing for Solid Waste and Recycle Services into the original agreement for Collection of Solid Waste between the Town and Fennell Container/ Suburban Disposal. The agreement period will be extended through June 30, 2011.

**Mr. Burnaford motioned to approve the amendment of agreement for collection of residential solid waste as presented. Mr. Orban seconded the motion. Mr. Burnaford stated that this agreement was recommended for approval by the Ways and Means Committee. The motion carried unanimously.**

**D. Amendments to the Article 16 Relating to the Control of Pets – Ordinance 2009-06- First Reading**

Mayor Wert stated that this ordinance will amend Article 16, Chapter 5, Sections 16-501, 16-502, 16-503, and 16-504 relating to the control of pets. He stated that this item has been discussed in the past and these amendments seek to balance the desire to allow pets to roam free with the desire to be safe from free roaming pets. This ordinance will change wording on voice command and where pets can be off leash on the beach.

Mayor Wert stated that once a pet is off of private property, it will remain on a leash unless you are east of the Beach Club or west of the Old Inn. These limits will be imposed year round.

**Mr. Burnaford motioned to approve the first reading of Ordinance 2009-06. Mr. Orban seconded the motion. The ordinance carried unanimously.**

Mayor Wert announced that the Public Hearing for Ordinance 2009-06 will be held August 4 at 1:00pm. This is to allow public comment.

**E. Amendments to Article 8 Health and Sanitation: Sections 105 and 107 – Ordinance 2009-07- First Reading**

Mayor Wert stated that the background of this ordinance goes back to when Kiawah first incorporated. At that time, there was no single provider for solid waste pickup and each homeowner had to contract on their own. In the 1990's, the Town tried to put an umbrella package out for solid waste service. However, that package did not include regimes. At that time, the Town's solid waste contractor did not have capability for dumpsters and most regimes used dumpsters and required individual contracting. Today, the Town has Suburban/Fennell and both have the ability to pickup dumpsters. He stated that he announced last meeting that participation in the Town's recycling service would not be mandatory but thirty days have passed and he is convinced that the Town needs to require participation and offer everyone the same option that current single family homes have. He stated that Ordinance 2009-07 attempts to offer the same services to everyone, equally. This ordinance requires mandatory participation in the Town's solid waste service for all property owners and will be effective January 1, 2010. Mayor Wert stated that everyone has from now to January 1, 2010 to be prepared to participate. The Town will have containers available. Mayor Wert stated that new participants will have a number of choices for their service options. He stated that Mr. McHugh will explain this to the regimes two days from now at the KICA Regime meeting.

**Mr. Burnaford motioned to approve the first reading of Ordinance 2009-07. Mr. McHugh seconded the motion.**

Mr. McHugh asked if they are envisioning any sort of enforcement if someone does not recycle.

Mayor Wert stated that he does not envision a “recycling police” and that the criteria will be the same that it is currently; there will be a fee for use, and those that do not pay, will be fined.

Mr. Burnaford stated that he thinks it is appropriate because everyone today talks about recycling in homes and in some states it is already mandatory. He thinks it is time that the Town starts the process. The final product is going to be tough and the regimes and the Town need time to think about it. He stated that by making it mandatory by January 1 gives them time to do it.

Mr. Lipuma stated that he just got back form New Jersey and they have had mandatory recycling for years. People that come to Kiawah seem to be into recycling and many visitors ask why they are not provided recycling service in certain regimes. He stated that it is good practice for the Town.

Mr. McHugh stated that it is important that people realize the financial commitment the Town is making. He explained that the Town will take on a cost of almost \$300,000. He stated that this cost does not include the purchase of additional bins.

Mr. Orban stated that the Ways and Means Committee supported this ordinance. He stated that it is going to be a fairly substantial cost and the Town has nothing in 2009/2010 budget to cover it. He suggested not starting until next budget year to allow time to go through and find out what all the costs are. He stated that the Town is going to be going through a learning process and it will take time. He stated that it is not in the current budget but it could possibly come from the contingency.

Mr. Burnaford stated that the subsidy that will be extended to new service participants is the same that the Town offers to current participants. He stated that the Town has taken that cost on and the subsidy will be given to all.

Mayor Wert stated that the 2009/2010 budget has reserve funds and the Town can cover the costs for six months.

Mr. Orban stated that the Town is currently subsidizing \$255 dollars per single family home owner.

Mayor Wert stated that the Town will review next year’s budget, FY 2010/2011, to see if the subsidy is appropriate and at that time, it may change.

Mayor Wert stated the Public Hearing on this ordinance will be August 4<sup>th</sup> at 1:30pm.

**After discussion, the Mayor called for a vote and the motion carried unanimously.**

## **VIII. Committee Reports**

### **Arts Council**

Mr. Lipuma stated that the Arts Council held the season ending event, Beach Music, at the Sandcastle around the pool. He jokingly commented that it ended with a bang stating that, "Literally, lightening, thunder and rain ended the show." The performers got through about 2/3's of the evening and around 70 attendees took shag lessons.

### **Parkway Project**

Mr. Orban stated that the Corp of Engineers permit has been approved and construction can begin. This was the final permit needed to begin work. Also, a minor permit amendment for work on the pathway has been submitted to OCRM.

### **Environmental**

Mr. McHugh stated that some may have noticed substantial construction at Surfsong. He explained that there was a concern that the drainage system was collapsed and it was found that the problem can be corrected and wrapped up with little disruption. OCRM, as of July 1, is requiring fishing licenses for people fishing from land. He stated that it is a big change and people should be aware of that. The Resort tried to register to be a purveyor of licenses but they were turned down because they do not sell fishing equipment. The easiest way for Kiawah residents and visitors to obtain a license is at the sports store at Freshfields or online. The Island has had unusual fish kills in the ponds due to the heat and associated oxygen levels. The beach renourishment project area has become a bird nesting sanctuary and nesting birds have been spotted that have previously not been seen on the Island.

### **Johns Island Roads**

Mr. Burnaford stated that Town Notes for August 1 will feature a small article regarding driver's license expirations and renewals. He stated that SC does not send notices when licenses are due to expire. The Johns Island roads issue has been quiet for a few weeks and County council will not meet until July 16. Joe Croughwell, KICA, has put together an accident report which compiles accident data from 2007-2008 on Johns Island Roads. The report will be submitted to County Council. Mr. Burnaford and Mr. Roberts have met with Colleen Condon, County Council, to update her on the roads. Mr. Burnaford stated that she has agreed with it but he does not know if she will vote for it. They are also in regular meetings with Seabrook POA to make sure they are distributing the same information.

## **IX. Town Administrator's Report**

No report.

## **X. Mayor's Report**

Mayor Wert stated that the new law for fishing licenses went into effect the first of July and OCRM had officers on the beach July 6 handing out citations. Mayor Wert stated that OCRM is patrolling and people need to be aware of the new license requirements. He commended KDP and KIGR for the fireworks that took place on July 3 and 4. He stated

that people came from all parts of Charleston for the events. The Town is considering a September polo exhibition on the beach. This will be a small group and open to the public. Members of the polo group have already inspected parts of the beach around the Beach Club and the beach is in good condition for the match. He stated that there used to be horse races on the beach in the mid 1970's and this is an extension of that. He explained that KICA is a sponsor of the polo event and the Town will support the event in any way they can. He asked Mr. McHugh and the Environmental Committee to review the event. He commended Councilman Orban and Mrs. Rucker for obtaining the permit from the Army Corp. The permit was the last one required for construction to begin on the Parkway project. He thanked them for their work and for the progress the Town is making on the road.

#### **XI. Citizens' Comments**

None

#### **XII. Council Members Comments**

##### **Charles R. Lipuma**

Mr. Lipuma stated that senior citizens can get a lifetime fishing and hunting license. He also suggested posting a notice that outlines the license requirements on the beach. He asked the Environmental Committee to review signage or notices for fishing from the shore.

Mayor Wert stated that the Town can request that KICA hand out new license requirements at the gate and that rental companies also pass the requirements along to all guests.

Mr. Lipuma stated that he went out to east end of the Island with Jim Jordan and noticed a lot of changes. He explained that the original cut has shifted significantly and it is quite likely that when the shoal moves in to attach, that the internal lagoon may be sealed off and become a freshwater or brackish water lagoon in the future.

Mr. McHugh stated that two meetings back he and Mr. Orban were assigned the job of redesigning the entrance gate sign. They completed the task and had the sign installed. After fourteen minutes, it was hit by a vehicle and destroyed. A new sign is on the way.

Mayor Wert stated that Beach Patrol was very active over the 4th of July. The "no fireworks" sign was stolen and later found in the back of a pickup truck. Beach patrol reported the following incidents for the July 4<sup>th</sup> weekend: six dogs off the leash, five foot injuries, two stingray injuries, one jellyfish injury, several incidents of glass containers on the beach, warnings for underage drinking, and one citation for possession of an illegal substance.

#### **XIII. Adjournment**

**Mr. Lipuma motioned to adjourn the meeting at 2:45pm. Mr. Orban seconded the motion. The meeting was adjourned at 2:46pm.**

**Submitted by,**

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**Catherine C. Wilson, Town Clerk**

**Approved by,**

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**William G. Wert, Mayor**

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**Date**