

TOWN COUNCIL MEETING

Kiawah Island Municipal Center

Council Chambers

November 3, 2015; 2:00 PM

Minutes

- I. **Call to Order:** Mayor Lipuma called the meeting to order at 2:00 pm
- 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: Charles R. Lipuma, Mayor
John D. Labriola, Mayor Tempore
Mary Q. Johnson
John Wilson
Craig Weaver

Also Present: Stephanie Tillerson, Town Administrator
Dennis Rhoad, Town Attorney
Petra Reynolds, Town Clerk

Mayor Lipuma made a motion to amend the agenda to add the appointment of a new Town Treasurer as item A. under New Business. The motion was seconded by Mr. Wilson and unanimously passed.

V. **Approval of Minutes:**

A. Town Council Special Meeting of August 20, 2015

Mr. Labriola motioned to approve the minutes of the August 20, 2015 Special Town Council Meeting. The motion was seconded by Mr. Wilson and the minutes were unanimously passed.

B. Town Council Meeting of September 1, 2015

Mr. Wilson motioned to approve the minutes of the September 1, 2015 Town Council Meeting. The motion was seconded by Mr. Labriola and the minutes were unanimously passed.

VI. **Citizens' Comments:**

Dennis McGill – 100 Pleasant Valley Drive

Mr. McGill stated he was surprised by the amendment of the agenda. He indicated he previously requested a copy of the resumes for the final treasurer's position candidates. He stated he was advised at that time a decision was not going to be made and questioned why he had not received the resume in advance of a decision. He also questioned why the report from the Forensic Accountant on 2012 was taking so long.

Wendy Kulick – 38 Marsh Edge Lane

Ms. Kulick complimented, Mr. Labriola as chairman of the Municipal Center Committee, on how the meetings are conducted. She remarked on the openness of the discussions and the allowance of public participation.

Mrs. Kulick asked if the recent flooding event was the first time the Emergency Operations Committee, recently put in place by the Town, was activated; did it work as planned and has the Committee had the opportunity to meet to discuss any lessons learned.

VII. Old Business:

None

VIII. New Business:

A. Town Treasurer Appointment

Mayor Lipuma stated the Town has made a decision for a new Town Treasurer, Mrs. Dorota Szubert. Before the appointment by Council, he gave a detailed review of the search and vetting process conducted by the Town for a new Treasurer.

Mayor Lipuma made a motion to appoint Mrs. Dorota Szubert as Town Treasurer effect November 16, 2015. The motion was seconded Mr. Labriola and was unanimously passed.

B. Turtle Patrol Proclamation/Presentation

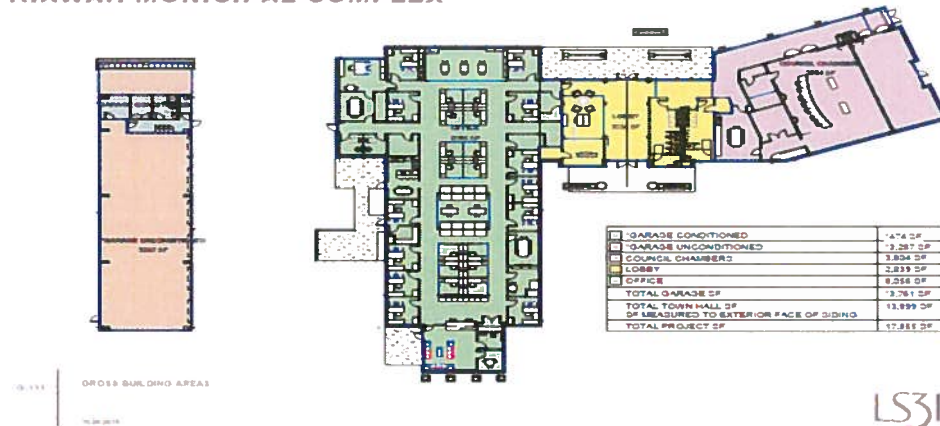
Mayor Lipuma read and presented to Mr. Joe Pezzullo a proclamation and plaque to honor his twenty years of service to the Town and to the Turtle Patrol.

C. Municipal Center Complex progress Report

Mr. Labriola presented the progress report from the Municipal Center Committee. He reviewed and discussed each item in the report;

- 1.) Functionality – The following are the specific functions, services and activities that will occur at the Municipal Center Complex and the needs that will be addressed:
 - a. Offices
 - b. Conferences Rooms
 - c. Council Chambers
 - d. Restrooms
- 2.) Square- footage – The size of the facility to be built, broken down by Council Chambers, Work Area, Lobby and Garage.

KIAWAH MUNICIPAL COMPLEX



- 3.) Design Considerations - The Design Considerations prepared and approved by Town Council in August 2015. It provided a detail on the materials that will be used for the building and have been incorporated into the Design Development estimate. Renderings are also available and have been presented to the Municipal Center Committee that details the interior and exterior finishes.
- 4.) The revised Design Development Estimate which was presented to the Municipal Center Committee.
Total Project Cost: \$9,622,000.00
- 5.) A preliminary Financing Plan that shows the anticipated impact the Municipal Center Complex will have on the Town's operating statements.
- 6.) A projected timeline through Project Approval. The General Contractor will provide a detailed construction schedule for Project Completion.
- 7.) A project management plan, which delineates the responsibilities of all entities – Council, Municipal Committee, Project Manager and Town Staff will be prepared. The plan will identify the responsibilities for approval of change orders, changes to project scope or plan, and periodic reporting to council. Discussions have been held regarding need and source for a Project Manager.

Mr. Labriola made a motion that Town Council approve the recommendation of the Municipal Center Committee to (1) direct LS3P to proceed with the completion of construction drawings based upon the work done through Design Development and to direct staff to (2) proceed with the pre-qualification process for General Contractor selection as outlined by the Municipal Center Committee. Mr. Wilson seconded the motion.

Following further discussion, Mayor Lipuma called the question on the motion as stated. Members voted unanimously to pass the motion.

IX. Committee Reports:

Mr. Wilson indicated he had been given the name of an individual interest in serving on the Audit Committee and will present him to Council as a recommendation for appointment after contacting him.

Mr. Wilson noted an article in the local newsprint commented the Town's audit was "dragging on". He clarified that the audit is and has been scheduled to start after Thanksgiving. He stated following the engagement of the audit firm, prior commitments prevented them from starting the Town's audit any sooner. Finance staff has been providing data requested by the auditors prior to the start of the onsite audit.

Mr. Wilson indicated he will bring to the Ways and Means Committee and Council the request for the audit firm to complete the Town's Comprehensive Annual Financial Report (CAFR).

Mr. Labriola thanked Mrs. Kulick for her comment and pointed out the contributions that Roger Warren, Dan Prickett, and Mark Permar have made were invaluable to the Committee, the project and to LS3P.

Mrs. Johnson asked that Mr. Jordan give an update on the beach and boardwalks;

Mr. Jordan reported the latest round of high tide damage was mainly to the East End again. He noted the good news was that most of the sand is located just off shore and hopefully will move back toward the beach. Mr. Jordan stated Coastal Science and Engineering was on the Island doing the annual beach survey which should confirm sand location.

Mr. Jordan reported most of the boardwalks damaged were located on the east end of the beach. Mr. Lameo stated there had been 38 inspections done along the beach, identifying 26 boardwalks that were damaged and needed repairs with the rest being passable. Homeowners would be notified if damage repairs were deemed to require the boardwalks be brought into compliance with DHEC/OCRM and Town Code.

Mrs. Johnson reviewed performances presented by the *Arts and Cultural Events Council* and upcoming events.

Mrs. Johnson stated the upcoming Charitable Contributions application and the Town's Charitable Giving Policy will be posted on the Town's website on November 30th. Application will be accepted until the deadline on January 15, 2016.

Mr. Weaver responded to Ms. Kulick's earlier question by stating traffic management had been an ongoing topic of discussion. KICA and the Town are going to co-sponsor an action study to develop a traffic management plan which that will include addressing public safety issues and impacts on residents and visitors. He addressed the question of the Emergency Management Plan by stating that the plan did not fit very well for this kind of event. He indicated that there will be future meetings to receive input and review the plan.

X. Town Administrator's Report:

Ms. Tillerson reported she was preparing a Landscaping Request for Proposals (RFP) to be released in November. The submission deadline is expected to be scheduled for the second week in December, followed by a public sealed bid opening. She noted that the contract with the Town's current provider will be expiring in January 2016.

XI. Mayors Report:

Mayor Lipuma reported on the accident on the Parkway near Cassique in which a truck rolled over spilling a load of fill dirt into the marsh. He stated the cost of any repairs will be billed to the trucking company. He also indicated that inspection of the marsh area indicated no real environmental damage.

Mayor Lipuma commented on the recent flooding by reviewing some of the events that occurred on the Island. He also reviewed some of the off Island issues like the closure of Bohicket Road due to a collapse and the closure of the intersection of Main Road and Hwy 17. He indicted after a few strategic calls, the County responded quickly to make repairs to both areas. He noted the need for a more coordinated effort by the Town and its entities to engage in more discussions to improve local roadways.

XII. Correspondence:

None

XIII. Citizen Comments:

Dennis McGill - Pleasant Valley Drive

Mr. McGill commented on his concerns with the "exempt" status of Town employees. He reviewed his calculations, based on information obtained from the Forensic Audit, alleging past and present overtime overpayments to exempt employees.

Mr. Wilson explained the overpayments had been documented and verified and stressed the overpayments had nothing to do with overtime. He added the Town's payroll system does not allow for the payment of over time to exempt employees.

Mr. Weaver again confirmed both the Town Administrator and Treasurer were both exempt positions.

XIV. **Council Member Comments:**

No additional comments

Mr. Wilson made a motion to move into Executive Session to discuss pending legal action related to docks located on Salthouse Lane and to receive legal advice on the same, to discuss pending legal action related to McGill Lawsuit and to receive legal advice on the same, to receive an update from the Forensic Accountant and receive legal advice on the same, and to discuss a personnel matter of employment, disposition of accrued employee benefits, appointment, compensation, promotion, demotion, discipline or release of an employee by a public body. The motion was seconded by Mr. Weaver and was unanimously passed.

XV. **Executive Session:**

- A. To discuss pending legal action related to docks located on Salthouse Lane and to receive legal advice on the same.
- B. To discuss pending legal action related to McGill Lawsuit and to receive legal advice on the same.
- C. To receive an update from the Forensic Accountant and receive legal advice on the same.
- D. To discuss a personnel matter of employment, disposition of accrued employee benefits, appointment, compensation, promotion, demotion, discipline or release of an employee by a public body.

Mayor Lipuma made a motion to move from Executive Session back to Regular Session. The Motion was seconded by Mr. Labriola and was unanimously passed.

Upon returning from Executive Session, Mayor Lipuma stated no votes were taken, no decisions were made or actions taken that would bind the town to a particular course of action.

Mayor Lipuma stated after receiving legal advice from the attorney the decision was made to settle the Salthouse Lane dock lawsuits.

Mayor Lipuma made a motion approve the settlement of the Salthouse lawsuits based on the agreements between the attorneys of the Town and the Beusmans and Dorrestains. Mr. Wilson seconded the motion was unanimously passed.

Mr. Rhoad read a Salthouse Lane Docks summary;

- In November of 2013, Dockmasters Construction, LLC ("Dockmasters"), completed docks on adjoining properties located at 91 (owned by Richard and Margaret Beusman) and 93 (owned by Ronald and Christine Dorrestain) Salthouse Lane.
- Each dock consists of a 4' x (approximately) 120' walkway, with handrails, leading to a 10' x 12' pierhead, also with handrails, with a 12' x 12', four-pile boatlift beside the pierhead.
- Prior to construction, both docks received permit approval from the Kiawah Resort Associates Architectural Review Board ("ARB") and the South Carolina Department of Health and Environmental Control Office of Ocean and Coastal Resource Management ("OCRM").

- Out of concern for compliance with independent requirements of the Town Code, however, the Town engaged the law firm Young Clement Rivers, LLC, and, on October 2, 2014, filed suit against the Beusmans and the Dorresteins in Charleston County challenging construction of the docks.
- The Beusmans and the Dorresteins contended that certain correspondence from the Town's Planning Department to OCRM (commenting on their respective permit applications to that agency) constituted the Town's authorization for the docks, and, in response to the Town's lawsuits against them, they disputed the Town's claims and, also, asserted a number of counterclaims against the Town.
- With the aid of its attorneys, the Town has diligently investigated and discovered the facts surrounding the construction of the docks.
- Now, with the benefit of its attorneys' legal analysis, and in view of the uncertainty of the outcome of, and resources that would have to be devoted to, continued litigation, the Town has determined it is prudent to resolve and dismiss the lawsuits, including all counterclaims asserted against the Town, by agreement with the defendants.
- Therefore, the Town has decided to settle the lawsuits on the following general terms:
- The lawsuits will be voluntarily dismissed, in their entirety, with prejudice, with all claims, of all parties, related to the subject matter being released.
- No money is owed by any party to any other party.
- The parties agree that their settlement involves particular and unique circumstances and no party admits any wrongdoing.
- NOTE: The signed Settlement Agreements corresponding to each lawsuit are public documents available for inspection.
- Under the circumstances, and with the benefit of legal counsel, the Town does not believe settling the lawsuits will have precedential value for future applicants wishing to construct docks, nor does the Town believe settling the lawsuits will expose it to third-party liability. In the latter regard, the Town notes the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10 to -220.


Going forward the Town plans to:

- Review and potentially revise the Key Location Ordinance.
- Evaluate and restructure coordination between the Town's Planning Department, OCRM, the ARB, the Town's Building Inspections Department, and dock applicants.

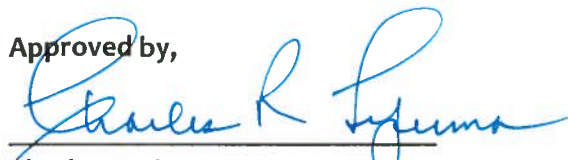
XVI. Adjournment:

Mrs. Johnson motioned to adjourn the meeting at 5:15 pm. The motion was seconded by Mr. Wilson and carried unanimously.

Submitted by,


 Petra S. Reynolds, Town Clerk

Approved by,


 Charles R. Lipuma, Mayor

12/04/15

Date