

TOWN COUNCIL MEETING

Kiawah Island Municipal Center
Council Chambers

February 9, 2016; 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 Pro-Tempore
Mary Q. Johnson
John Wilson
Craig Weaver

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

V. **Approval of Minutes:**

A. Minutes of the Town Council Meeting of January 5, 2016

Mr. Wilson motioned to approve the minutes of the January 5, 2016 Town Council Meeting as amended. The motion was seconded by Mr. Labriola and the minutes were unanimously passed.

B. Minutes of the Town Council Public Hearing of January 15, 2016

Mr. Labriola motioned to approve the minutes of the January 15, 2016 Town Council Public Hearing. The motion was seconded by Mr. Weaver and the minutes were unanimously passed.

C. Minutes of the Special Town Council Meeting of January 15, 2016

Mr. Weaver motioned to approve the minutes of the January 15, 2016 Special Town Council Meeting as amended. The motion was seconded by Mr. Wilson and the minutes were unanimously passed.

D. Minutes of the Town Council Retreat of January 20, 2016

The minutes of the January 20th Town Council Retreat were deferred to the March 1st meeting.

VI. **Citizens' Presentations or Comments:**

Marilyn Larach – 1082 Terrapin Court

Mr. Mayor and Town Council Members,

My name is Marilyn Green Larach and I live at 1082 Terrapin Court on Kiawah Island. As all of you are, I am both a citizen of the Town of Kiawah Island (Town) and a member of the Kiawah Island Community Association (KICA).

On February 20, 1997, the Town of Kiawah Island Mayor Ralph Magnotti and the KICA President Townsend Clarkson signed a 20-year legal agreement governing the terms under which KICA would share this municipal building with the Town. The agreement also gave KICA the right to two additional 15-year renewals upon receipt by the Town of written notice from KICA. Notice of KICA's intent to exercise this option for two additional 15-year renewals was delivered to the Town in 2014. It should be noted that Mr. Rhoad was also the Town's Attorney at the time this agreement was executed in 1997.

For 19 years, the Town has abided by the terms of this legal agreement. KICA will have paid more than \$1,000,000 to the Town by the time the initial 20-year term expires next year. Now as the Town explores ways to finance a new municipal building on its recently annexed Betsy Kerrison property, Mayor Lipuma has notified the KICA board that the Town intends to initiate a lawsuit to invalidate the original 1997 agreement.

Since KICA has not yet been served, I urge the Town Council to reconsider this unwise decision. The Town needs to abide by the terms of its current legal agreement with KICA. If the Town wishes to sell the current municipal building, then it should enter into good faith negotiations with KICA. Good faith negotiations do not include threats of lawsuits that will be expensive for both parties and generate a great deal of adverse publicity.

Even if the Town were to prevail in this lawsuit, a Town victory would result in massive KICA assessments that you and all of your neighbors will have to pay. Do you really think your fellow Kiawah property owners will thank you for imposing this financial burden on them?

Thank you very much.

Wendy Kulick – 38 Marsh Edge Lane

Mrs. Kulick also made several comments regarding the lease the Town has with KICA. She commented on the announcement made at the KICA “Meet the Candidates” of a suit the Town is pursuing to have the lease with KICA invalidated. She questioned why Council refused to have a public meeting with the KICA board to discuss the potential sale of the current Town Hall and when it took a public vote to pursue legal action to sue KICA.

Mayor Lipuma clarified that no votes were taken by the Ways and Means Committee or Council and not suit has been filed against KICA.

Dennis McGill – 100 Pleasant Valley Drive

Mr. McGill pointed out an error in the comments he made during the January 5th Town Council meeting and asked that the mistake of “on” instead of “one” not influence the proposed changes to the Town’s FOIA policy. He also noted the Mayor’s comment on Mr. Rhoad’s overpayment calculation and asked to see the figures.

Mayor Lipuma indicated the calculation is process of being completed and the information would be made public.

David DeStefano – 31 Burroughs Hall

Mr. DeStefano recounted the events of the “Meet the Candidates” meeting. He stated as a candidate for the KICA board he was informed by Mr. Bailey that a call came from a member of the Town stating if the offer to purchase Town Hall was not accepted the Town was going to take a legal action to void the lease with KICA. He indicated he would like to clarify if the ultimatum was made and who from the Town made it.

Mayor Lipuma stated he did not call Mr. Bailey and had no knowledge of any other member Council making a call.

VII. Old Business:

A. None

VIII. New Business:

A. Charitable Contributions

Mr. Labriola reported that the Town had received a total of twenty application requests totaling \$355,230.00. He stated each of the applications received this year were individually considered and the recommended funding was voted on by the Ways and Means Committee.

Mr. Labriola made a motion to accept the Ways and Means Committee recommendation for funding the 17 applicants for a total of \$200,000.00 as follows:

2016 Charitable Contributions Applications		
Applicants	Requested Amount	Ways and Means Funding Recommendations
Kiawah Women's Foundation	\$ 7,000.00	\$ 7,000.00
Sweetgrass Garden Co-op. Inc.	\$ 2,500.00	\$ 1,000.00
Backpack Buddies Seabrook Island	\$ 1,500.00	\$ 1,500.00
Lowcountry Food Bank	\$ 10,635.00	\$ 5,000.00
Barrier Islands Free Medical Clinic, Inc.	\$ 25,000.00	\$ 20,000.00
Teacher's Supply Closet	\$ 10,000.00	\$ 10,000.00
Charleston Symphony Orchestra	\$ 35,000.00	\$ 30,000.00
Full Faith Ministries	\$ 25,000.00	\$ 7,500.00
Our Lady of Mercy Community Outreach Services, Inc.	\$ 25,000.00	\$ 20,000.00
Engaging Creative Minds	\$ 39,000.00	\$ 10,000.00
Sea Island Habitat for Humanity	\$ 15,000.00	\$ 12,000.00
Sea Islands Hunger Awareness Foundation	\$ 10,000.00	\$ 1,000.00
South Carolina Aquarium	\$ 20,000.00	\$ 5,000.00
Catesby Commemorative Trust, Inc.	\$ 10,000.00	\$ 2,500.00
Respite Care Charleston	\$ 2,450.00	\$ 2,500.00
Gibbes Museum of Art	\$ 25,000.00	\$ 20,000.00
Kiawah Island Conservancy	\$ 65,000.00	\$ 45,000.00
TOTAL		\$ 200,000.00

The motion was seconded by Mr. Weaver.

Before approving the funding for the Kiawah Island Conservancy, Mrs. Johnson wanted to make members aware following the Ways and Means Committee Meeting the Conservancy had also made funding requests to the Cultural Events Council and to the Environmental Committee with an aggregated total of \$90,000. Members agreed each request should ride on its own merit.

Mayor Lipuma called the question and the motion to accept the Ways and Means Committee recommendation for funding the 17 applicants for a total of \$200,000.00 was unanimously passed.

B. Organizational Chart

Mayor Lipuma indicated the approval of the presented Organization Chart would be tabled until the revisions for the restructuring of the Communications Committee can be completed.

Ms. Tillerson requested Council consider approving the portion of the Chart which restructures the Communications Committee from a Council Committee to a Council Liaison Committee as discussed at the Council Retreat.

Mayor Lipuma felt there were items on the presented organizational chart which should be removed before approval. Mrs. Johnson agreed a revised chart and presentation of how the restructured Communications Committee would work is needed.

Mr. Weaver suggested tabling the approval of the organizational chart to the next meeting to better clarify the requested changes.

C. 2016 Committee Appointments and Charters

- Arts and Cultural Events Council

Mrs. Johnson indicated there were not changes in the membership for the 2016 Arts and Cultural Events Council and requested the existing members be approved for an additional year.

Mary Johnson (Chairman), Bill Blizard, Arie DeZanger, Becky Hilstad, Judy Chitwood, Robert Hill, Jodi Rush, Joan Collar and Stephanie Braswell-Edgerton serving as the Administrative Assistant.

Mrs. Johnson motioned to reappoint the existing members to the 2016 Arts and Cultural Events Council. The motion was seconded by Mayor Lipuma and was unanimously approved.

- Audit Committee

Mr. Wilson indicated there were not changes to the membership of the 2016 Audit Committee; all the existing members have agreed to volunteer for another term.

John Wilson (Chairman), Andrew Capelli, Jim Williams, Ron Hoffman

Mr. Wilson motioned to reappoint Mr. Capelli, Mr. Williams, and Mr. Hoffman to the 2016 Audit Committee. The motion was seconded by Mr. Weaver, and passed unanimously.

- Board of Zoning Appeals

Mayor Lipuma stated that Ben Farabee, Michael Clawson and Randy Gilmore's terms expire in 2015 and motioned to reappoint the members to another three year term.

Charlie Larson, Ron Hacker, Jack Braden, Ben Farabee, Michael Clawson, Randy Gilmore and Dr. Scott Parker.

Mr. Wilson motioned to appoint Mr. Hacker for additional three year term to the Board of Zoning Appeals. The motion was seconded by Mr. Weaver and passed unanimously.

- Construction Board of Appeals

Mayor Lipuma indicated that the members of the Construction of Board of Appeals serve three year terms appointed in 2014.

Brooks Fullerton (Chairman), Tom Walkley, Andrew Lingle, Kevin Haddigan, Steve Sager, Marshall Beverly and Battalion Chief James Ghi

Mr. Wilson motioned to reappoint the existing member to the 2016 Construction Board of Appeals. The motion was seconded by Mr. Weaver and was unanimously approved.

- Environmental Committee

Mrs. Johnson requested the appointment of Lynne Segar to the Environmental Committee as new head of the Turtle Patrol along with the reappointment of existing citizen members and representatives of the Conservancy, the Community Association, the Resort, the ARB, and the Town.

Mary Johnson (Chairman), David Elliott, Jim Chitwood, Marilyn Olson, Lynne Sager, Robert Simmons, Jim Sullivan, Jane Ellis, Lynette Schroeder, Sandra Williams, John Leffler, Liz King, Amanda Mole, Matt Hill, Dave Achey, John Kotz, Justin Core, Jim Jordan, and Aaron Given

Mr. Labriola made a motion to appoint Mrs. Segar and reappoint the existing members to the 2016 Environmental Committee. The motion was seconded by Mayor Lipuma.

Following the discussion, members voted unanimously to pass the motion.

- Planning Commission

Mr. Wilson stated that Mr. Prickett and Mrs. Dowdy's terms are expiring this year and have expressed their desire to be reappointed for another four year term.

Fred Peterson, Larry Iwan, Andy Capelli, Bill Dowdy, Gale Messerman, Jack Koach and Daniel Prickett. The Committee will appoint a Chairman and Vice-Chairman at their upcoming meeting.

Mr. Wilson motioned to appoint Mr. Prickett and Mr. Dowdy for an additional four year term on the Planning Commission. The motion was seconded by Mr. Weaver.

Following the discussion, members voted unanimously to pass the motion.

- Public Safety Committee

Mr. Weaver stated the existing members of Public Safety Committee have expressed their desired to serve for another term.

Craig Weaver (Chairman), Joe Pezzullo, Jack Regan, Yvonne Johnstone, Bill Thomae and Julie Beier

Mr. Weaver motioned to reappoint Mr. Regan, Ms. Johnstone, Mr. Thomae and Ms. Beier 2016 Public Safety Commission. The motion was seconded by Mr. Wilson and was unanimously passed.

- SATAX Committee

Mr. Labriola stated Mr. Dan Hubbard would be the new Chairman of the Committee. He recommended the appointment of Mr. Pittman, Manager of the Andell Inn, as part of hospitality requirement and the reappointment of the existing committee members having expressed their desire to continue on the committee.

Dan Hubbard (Chairman), Bill Blizard, Roger Warren, Pam Harrington, Judy Chitwood, Robbie Crawford, William Pittman

Mr. Labriola motioned to appoint Mr. Pittman and reappoint the existing members to the 2016 SATAX Committee. The motion was seconded by Mrs. Johnson.

Mr. Wilson made the suggestion that the appointment of a representative of the ownership and marketing overview of Freshfields would be a good addition to the Committee. Mr. Labriola stated that the SATAX Committee membership is dictated by statutory requirements but the addition could be a consideration in the future.

Following the discussion, members voted unanimously to pass the motion.

D. Freedom of Information Act Request Rate Structure

Ms. Tillerson submitted a request for a reasonable rate structure and process for responding to the Town's FOIA (Freedom of Information Act) requests. She presented a snapshot of the Folly Beach website which include the request procedure, link to Town Code and a request form fillable on-line or printable for submission.

Ms. Tillerson request the approval of a rate structure that included a cost of \$0.25 per photocopy made or copy that has to be redacted. A staff time cost for the hourly rate used to do research information or other task to complete the request. The estimated cost of the request can be calculated in advance and communicated to the individual making the request. She noted posting as much information as possible to the website that can be downloaded minimizes the number of FOIA requests.

Members discussed the FOIA statute and the proposed rate structure and process. Mr. Labriola suggested the proposed rate structure and process be part of a greater plan that delineates what and when information will be placed online. Mr. Wilson suggested a quarterly report of FOIA requests made and their status.

Mayor Lipuma requested there be written documentation of the steps of the FOIA process, request form and rate structure that can be placed online and used as a reference.

Mr. Labriola made a motion to approve the FOIA rate structure of \$0.25 per photocopy made or redacted copy and staff time cost for the hourly rate used to do research information or other task to complete the request. The motion was seconded by Mr. Wilson and unanimously passed.

IX. Committee Reports:

Mr. Wilson reported he attended the February 1st Charleston Area Transportation Study (CHATS) meeting. Topics of discussion included;

- I-26 Fixed Guideway Alternatives Analysis Project – to reduce traffic between Summerville to Charleston using the recommendation of a bus rapid transit approach.
- Status of the completion of I526

Mr. Wilson also attended the Berkeley-Charleston-Dorchester Council of Governments (BCDCOG) meeting.

Mr. Labriola gave an update on the new Municipal Center project by reporting on;

- Pre-bid meeting on February 3rd attended by the prequalified General Contractors (GCs) to ask questions on the construction drawings. Questions not answered immediately would be documented and answered in addendum distributed to the GCs,

- Final questions to be submitted by February 9th,
- GC bids - aggregate bids submitted by 2pm, schedule of values submitted by 5pm,
- Municipal Center Committee meeting on February 18th at 1pm – bid review
- Ways and Means Committee February 23rd - discussion of pricing, financing and project management,
- Town Council meeting on March 1st – final determinations of pricing, financing and project management and a vote on the project.

Mr. Labriola noted two elements in the Construction Drawings and agreed on by the GCs; Notice to Proceed could be issued by March 15th and the project completed in 400 days or mid-2017.

Mrs. Johnson reported on Environmental/Wildlife;

- Bobcat trapping began in January with 3 collars being deployed,
- Sea Island Christmas bird survey completed January 4th with 55 participants and 158 species documented,
- Marsh Sparrow study is ongoing and in the banding phase,
- Winter Deer spotlight survey scheduled for February 11th and 12th,

Mrs. Johnson reported on Arts Council events;

- Oversight that interview with Quentin Baxter did note events were funded by the Kiawah Island Arts Council and Cultural Events Council,
- John Pizzarelli Quartet performance review,
- Upcoming Quentin Baxter- John Chin Trio, Art Film and Judy Carmichael events.

Mr. Weaver stated there would be a Public Safety Committee meeting on February 10th at 2pm. He reported with the County's addition of a Quick Response Vehicle (QRV) to the Island has resulted in a significant improvement of non-transit response times. Medicare, helicopter transportation, is to present a subscription service proposal for resident and non-residents to Committee.

X. Town Administrator's Report:

Ms. Tillerson recommended a proposed policy change to Town Council meetings in which the first of the two Citizens Comments periods are limited to agenda items only leaving the second comment period for any topic of discussion for the allotted time.

Council discussed the need for two comment periods and agreed to support the policy recommendation.

XI. Mayor's Report:

Mayor Lipuma reported at a meeting with the Community Association an agreement was made for a process to determine the value or range of values of the current municipal center building. He stated the purpose is to find common ground and agreement on the pricing for sale for approval by both Council and the KICA Board. He stressed it is not and never has been the intention of the Town to evict KICA, but to sell the building to the most logical buyer... KICA. He also addressed the rumored lawsuit by stating with the KICA lease having an impact on the value of the building, a legal review of the lease would determine its validity. He stated the Town and the Association are working together toward the same objective.

Mr. Labriola offered a clarification of the lease; stated the lease document is ambiguous and there are two opinions relative to on the document itself. Values in appraisals done by the KICA and the Town differ with the interpretation of the lease. He indicated that meetings with the

principals will review the analytics; try to come to a common ground in a value of the building. If no agreement can be reached then a legal review and determination will have to be sought.

Mayor Lipuma addressed the recent article in the Post and Courier describing a Kiawah Island advocacy group. The article took what was meant to be positive into a negative. He commented that the Town is always open to good initiatives for Town consideration; although the group was not town initiative, it is listening, neither the Town nor any funds have been committed and no votes taken.

Mayor Lipuma reported the Burden Creek Bridge replacement had been put on hold.

XII. Correspondence:

No

XIII. Citizen Comments:

Marilyn Larach – 1082 Terrapin Court

Mrs. Larach commented on the proposal to restrict the first citizens' comments to agenda items only. She stated since agendas are not detailed and citizens are not provided background materials, comments could not be made on unknown items prior to Council voting.

Virginia Abbott – 4304 Sea Forrest

Mrs. Abbott also expressed her concern with the restriction of citizens' comments stating she felt citizens should be allowed the opportunity to bring before Council any comments and/or concerns.

Wendy Kulick – 38 Marsh Edge Lane

Mrs. Kulick requested that the changes to the FOIA policy not be put in place and delay instituting charges until the process and form discussed earlier can be posted to the Town's website. She questioned the need for the addition of staff time in calculating charges in a response to a FOIA request presuming the staff member would be performing the duties as part of their job description and during Town hours.

Mrs. Kulick inquired as to when the 2011/2012 Audit report would be made available to the public and renewed her suggestion to also forward all the information to the Solicitor's Office for investigation.

Dennis McGill – 100 Pleasant Valley Drive

Mr. McGill made quotes from the "Public officials guide to compliance with South Carolina Freedom of Information Act" and suggested that the Administrator and Council review the document while making changes to the Town's FOIA policy and fees.

David DeStefano –

Mr. DeStefano clarified his earlier comment stating that Mr. Bailey received an e-mail from the Mayor addressed to him and the Community Association Board. He called attention to the

Executive Session item regarding the KICA lease and stated that he hoped the discussion would be on the vagueness of lease and the value in the appraisals as described earlier.

Mary Ann Connolly – 4927 Green Dolphin

Mr. Connolly, as a new resident of Kiawah, asked several questions on the reasons for the construction of a New Town Hall. She also noted as a former Mayor, restricting the citizens Comments worked well.

Greg Bragg – Marsh Island

Mr. Bragg requested the Town change the level of security of PDFs that are posted to the website to allow the option to “copy” items from the documents.

XIV. Council Member Comments:

Mr. Weaver – no additional comment

Mrs. Johnson – no additional comment

Mr. Labriola – no additional comment

John Wilson reported he attended a meeting of a group of Johns Island citizens looking into Johns Island roads. He stated Mr. Paul Roberts was involved with the group and feels the only way to improve the roads was with the grassroots support of the residents on the Island. He noted he has a copy of the presentation Mr. Roberts made to the group.

Mayor Lipuma – no additional comment

Mr. Labriola made a motion to move into Executive Session to receive an update and Receive Legal Advice on the 2011-2012 Forensic Audit Report, to receive update from counsel on US Attorney and SLED investigation for former Administrator and Treasurer, to receive a status report and legal advice on the claims process regarding loss of public monies as set forth in the Forensic Accounting Report and to discuss a contractual matter related to the KICA Municipal Center lease and to receive legal advice on the same. The motion was seconded by Mr. Wilson and unanimously passed.

XV. Executive Session:

- A. To receive an update and Receive Legal Advice on the 2011-2012 Forensic Audit Report
- B. To receive update from counsel on US Attorney and SLED investigation for former Administrator and Treasurer
- C. To receive a status report and legal advice on the claims process regarding loss of public monies as set forth in the Forensic Accounting Report
- D. To discuss a contractual matter related to the KICA Municipal Center lease and to receive legal advice on the same.

Mr. Wilson made a motion to come out of Executive Session. The motion was seconded by Mr. Labriola and unanimously passed.

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

Mr. Lipuma stated the audit reports were received during the Executive Session which Council need to review. He stated there would be a public meeting on February 16th at 1:00 pm where a public statement would be made and the reports be made available to the public.


Mr. Rhoad stated the 2013/2014 forensic report included allegations of false W2 forms being filed. The US Attorney's Office, Mr. Brett DeHart, was contacted and sent the forensic report. The case was then forwarded to an FBI investigator, Mr. Rob Durr, who has joined forces with a SLED Investigator and are working on the prosecution.

Mayor Lipuma again stated Mr. Wilson and Mr. Labriola will be engaging in meeting the Community Association to work through the analytics of the appraisal of the current Municipal Center. Mayor Lipuma once again stated regarding the lease, no suit has been filed and no action has been taken by the Town's Attorney nor will any be taken without a public discussion and vote.

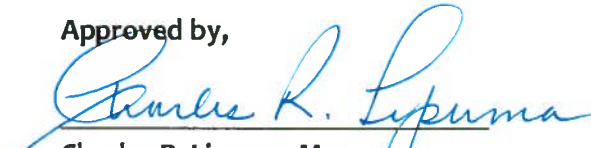
XVI. Adjournment:

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

Respectfully submitted by,


Petra S. Reynolds, Town Clerk

Approved by,


Charles R. Lipuma, Mayor

03/03/16
Date