

TOWN COUNCIL MEETING

Kiawah Island Municipal Center

Council Chambers

January 5, 2016; 2:00 PM

AGENDA

I. Call to Order

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

Absent:

Dennis Rhoad, Town Attorney

Also Present:

Stephanie Monroe Tillerson, Town Administrator

Petra Reynolds, Town Clerk

V. Approval of Minutes:

A. Minutes of the Special Town Council Meeting of October 30, 2015

Mr. Weaverr motioned to approve the minutes of the October 30, 2015 Special Town Council Meeting. The motion was seconded by Mr. Wilson and the minutes were unanimously passed.

B. Minutes of the Town Council Public Hearing of November 24, 2015

Mr. Weaverr motioned to approve the minutes of the November 24, 2015 Town Council Public Hearing. The motion was seconded by Mr. Wilson and the minutes were unanimously passed.

C. Minutes of the Town Council Meeting of December 1, 2015

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

D. Minutes of the Special Town Council Meeting of December 8, 2015

Mr. Labriola motioned to approve the minutes of the December 8, 2015 Special Town Council Meeting. The motion was seconded by Mr. Wilson and the minutes were unanimously passed.

VI. Citizens' Presentations or Comments:

Marilyn Larach – 1082 Terrapin Court

Marilyn Larach Citizen Comments for January 5, 2016 Town Council Meeting

I regret that other obligations prevent me from attending today's meeting and I have asked Wendy Kulick to read these comments for me.

While the October storms are beginning to recede from our immediate memories, the storms' impact on Kiawah's most important asset, it's beach, persists. Therefore, I have several questions for the Town Council and the Town Administrator.

1. *What is the Town's schedule for completing the repair and replacement of the damaged and unsightly wooden trashcan holders and dog waste bag holders?*
2. *When does the Town plan on removing dangerous plywood and other debris from the overwash area by the new Kiawah River channel?*
3. *When will the Town replace the sign near Captain Sam's channel that demarcates the critical habitat zone and informs individuals that dogs are not permitted?*
4. *Will the Town oversee the repair or removal of the damaged Kiawah Island Club boardwalk located near Beachwalker County Park? Due to dune erosion, this dangerous structure is located in an area of Town responsibility. Visitors to the beach are climbing on this unstable structure so that it constitutes a public safety hazard.*
- 5.

Thank you and Happy New Year to you all.

Wendy Kulick – 38 Marsh Edge Lane

Wendy K. Kulick – Comments and Questions for the January 5, 2016 Town Council meeting

1. **Re: the investigation into the alleged illegal activities of the former Town Administrator and former Town Treasurer:**
 - **There was an article in the Post & Courier recently referencing the arrest of a Charleston County Magistrate's clerk who allegedly stole \$4,500. Given how much greater the amount of money the Town Administrator and Town Treasurer are alleged to have misappropriated, why have they not been arrested?**
 - **Since not all of the allegations against these two former employees are federal violations, why not simultaneously turn over the forensic accountant's reports to BOTH the US Attorney and the 9th Circuit Solicitor?**
 - **What is the legal justification for the Audit Committee and the Town Council to discuss the forensic accountant's report regarding 2012 in Executive Session? Why not make the report public, with any redactions such as those in the original forensic accountant's report, and then discuss any personnel issues relating to the report in Executive Session?**
2. **Re: Annual Town Retreat**
 - **Will the Town be holding a retreat this year, as it has done in past years? If so, when and where?**
3. **Re: Policy on Drones**
 - **Given the potential proliferation of drones on the Island ... Seabrook already has one ... and the Town's responsibility for public safety, has the Town initiated any action to begin developing an ordinance relating to drones? If not, are there any plans to draft an ordinance relating to the ownership and operation of drones on Kiawah?**
4. **Re: Openings on Town Committees and Boards**
 - **Why is the Town so opposed to posting all openings on Town Committees and Boards before making appointments? Why does it not follow the practice of Charleston County Council to seek qualified candidates for these positions?**
5. **Re: transparency and communication between the Town Council and its citizens**
 - **I had hoped with the unusually open process used by the Municipal Center Committee, it might become a model for the rest of the Town operations. Unfortunately, this has proven not to be the case.**
 - **No Town Committee and Board openings have been advertised. Witness the appointment to the BZA at today's meeting.**

Committee appointments continue to be limited to individuals personally known by Town Council members. Mr. Parker's qualifications to serve on the BZA are not the question; the PROCESS and PROCEDURE leading to his selection are. This is just another example of the Town limiting its appointments to a select inner circle.

- **The Environmental Committee has not met since May 2015 despite the importance of ongoing environmental issues which include beach renourishment at the eastern end of the island, significant beach erosion after October's 1,000-year rain and flooding event, and the threat posed by potential off-shore drilling.**
- **The Public Safety Committee has not met since October despite significant flooding both on and off the Island that directly threatened the safety and welfare of property owners and island visitors. I've been told the Town's Emergency Operations Committee was never intended to address these issues. If not the Public Safety Committee, then what Town committee or board has such responsibility? Why has the Committee not yet provided the community with a summary of lessons learned?**
- **The Communications Committee has not met since October 2015. How does this comport with continual statements from members of this Town Council about how open and transparent its actions are?**
- **While I have not yet collected the data, this Town Council and the last Council have probably conducted more discussions in Executive Session than any other municipal organization in the Charleston area. It appears that this Council is afraid to discuss issues in public. Limiting all discussions about the results of the forensic audits to Executive Session isn't going to make the problems go away.**

Dennis McGill – 100 Pleasant Valley Drive

Mr. McGill began by wishing everyone a Happy New Year and requested that during the next year Council be more open, candid and transparent in government. He asked for discussion in Executive Session to be limited to contract, lawsuit and investigations followed by a full public disclosure once discussions were completed.

Mr. McGill asked that all final new employee candidate's redacted resumes, compensation and start dates be publicly released one week prior to their final hiring so that they can be reviewed by the public.

Mr. McGill requested that the Town comply with the procurement code by including all competitive bids be included in the contract file along with the successful bidder. Siting that all contracts should be reviewed by the Ways and Means Committee and approved publicly by Council.

Mr. McGill then went on to discuss in-depth the 2013 contract with the former Town Administrator pointing out compensation and benefits he believe were in excess of the contract.

David DeStefano – 21 Burroughs Hall

Mr. DeStefano stated he attended the public information meeting held on the new Municipal Center. He indicated that as part of the project funding discussion of the disposition of the current building and asked if there had been any discussion with the Community Association on the purchase, will there be future meeting and have any appraisals been done?

Mayor Lipuma responded both the Town and the Community Association have had appraisals done. He indicated the Community Association has expressed interest in purchasing the building, and negotiations are a work in progress.

Mr. Weaver responded to the earlier comment made about the Public Safety Committee stating the membership of the committee was advertised when the committee was formed. He also clarified that though the committee did not meet in October, November or December the meeting were intended and agenda developed. Meeting did not take place for a lack of a quorum.

Mrs. Kulick requested a copy of where and how the membership for the Public Safety Committee was publicly posted.

Mrs. Johnson responded that even though the Environmental Committee did not meet frequently in the past year, the Committee did a number of E-Blasts and added pages to Town Notes to keep the Community informed. She noted she has made several requests for new members which received no response.

Mayor Lipuma added requests have been made for membership on a Construction Committee for the New Municipal Center with very little response.

VII. Old Business:

A. None

VIII. New Business:

A. **Ordinance 2015-09 - An Ordinance to Amend Section 12.73 PD, Planned Development District**
• **First Reading – TITLE ONLY**

Mayor Lipuma state the purpose of the proposed ordinance is to amend and update the zoning is to allow more flexibility in a planned development district to be used in connection with the new Municipal Center and uses of the portion of the site.

Mr. Weaver questioned who asked for the ordinance. Ms. Tillerson responded at the October Municipal Center meeting is was discovered the current zoning restricted the flexibility required for the project in terms of parking and curb cuts. The decision was made for the Town to submit an application for planned development rather that request variances and special exceptions to the current zoning.

Ms. Tillerson added the amendment of the language was recommended by the Planning Commission and rezoning request for will be presented to the Planning Commission for consideration.

Mr. Rhoad added the change in the language of this ordinance would allow the Town to have a single use Planned Development District and was prompted by a legal challenge to the language of Charleston County Planned Development Regulations. Following several court rulings, a determination was made that some of the language was unlawful. Another ordinance presented to the Planning Commission will spell out the details of the developed district.

Mr. Labriola made a motion to approve the first reading of pending Ordinance 2015-09 - An Ordinance to Amend Section 12.73 PD, Planned Development District. The motion was seconded by Mr. Weaver and unanimously passed.

Mayor Lipuma indicated the reappointment of the Town Attorney and Town Clerk would be conducted after the Executive Session following the discussion the previous year's performance. He indicated the Municipal Court Judge's term is coming to an end in the near future and discussion will include his continuation in that position.

B. Appointment of Town Treasurer

Mayor Lipuma made a motion to appoint Mrs. Szubert as the Town Treasurer for Kiawah Island. The motion was seconded by Mr. Weaver and unanimously passed.

C. Appointment of Board of Zoning Appeals Member

Mr. Wilson stated the Board Chair, Mr. Larson, is requesting the appointment of Dr. Parker to the Board to replace Mr. Burke who is leaving the Island.

Mayor Lipuma made a motion to approve Dr. Parker to a three year appointment to the Board of Zoning Appeals. The motion was seconded by Mr. Weaver and unanimously passed.

IX. Committee Reports:

Mr. Wilson reported the Planning Commission meeting was canceled due to lack of agenda items. The Audit Committee met previously with the audit firm of Greene, Finney and Horton to conduct a preliminary review of the annual audit. He noted a Special Town Council meeting on January 15th for the formal presentation of the audited financial statement and findings to Council.

Mr. Labriola reported in November the four final general contractors were selected to provide bids for the Municipal Center project;

- HITT Contracting
- NBM Construction Co., Inc.
- Thomas Construction Group, LLC
- Vannoy Construction

He stated that on January 12th LS3P will provide construction drawings to the general contractors with final bids due to the Town on February 16th. Mayor Lipuma added the final four contractors they were thoroughly vetted.

Mrs. Johnson reported on the events presented by the Arts Council. She reported the Environmental Committee would be meeting on January 12th at 1:30 with a full agenda.

Mr. Weaver reported Public Safety would be meeting on January 13th. He reported a discussion with the new Town Administrator included the management of the Town's communications and

the roll of the Communications Committee. He indicated a joint recommendation will be brought to Council to consider the roll of the Communications Committee.

X. Town Administrator's Report:

Ms. Tillerson reported that the Council Retreat will be held on January 20th at the River Course (the meeting was held at the Ocean Course) beginning at 8:30. More information will be available and the agenda as the date get closer.

Ms. Tillerson reported on the progress of the Intragovernmental agreement between Council and County Planning to allow the shared cost of additional member of County staff who would also work on Kiawah. The anticipated compensation is under the budgeted amount and completion of the agreement is pending. She noted that the position will be published by the County and Town staff will be included in the selection process.

Ms. Tillerson indicated that since the high tides and flooding events in October there have been a number of questions and concerns. Mr. Jim Jordan addressed the dune breach reading from the Coastal Science and Engineering. It has been determined that the dunes would naturally repair themselves.

Mr. Jordan addressed the dune breach caused by the recent flooding event. He noted a letter send to the Town by Coastal Science and Engineering (CSE) giving an opinion on the breach and their recommendations. He read the last paragraph of the letter that stated; "CSE believes the area is already recovering and should be allowed to recover naturally. Recovery will be intermittent due to varying physical forces such as storm events and spring/neap tide cycles, but will continue due to the accretion nature of the beach. Walkovers showing dunnage should be repaired with pilings sufficiently long to account for any changes in topography. Issues such as this are common along the coast following storms, and Kiawah is fortunate to have one of the healthiest beaches in South Carolina. The healthy beach allows walkovers to withstand most minor and moderate storm events unlike many coastal areas where walkovers are regularly damaged and repaired during even minor storms."

Mr. Lameo addressed the numerous boardwalks that are in disrepair along the beach. He presented members will pictures of the boardwalks and letters sent to eighteen homeowners whose boardwalks have been deemed a safety hazard. He noted there had not been any response to the letters and no repairs have been made. Mr. Weaverr, along with members of Council and Mr. Rhoad, engaged in an in-depth discussion of the enforceability of a demand to remove boardwalks that are deemed as a safety hazard, previous ordinances and the suggestion of a reevaluation of the current ordinance.

Mr. Lameo addressed concerns over the trash boxes along the beach. He noted the Town was in the process of moving and repairing many of the 43 boxes located on the beach. He stated the current structure of the boxes that hold trash cans have been used by the Town over approximately thirty years. Discussions have taken place with the ARB and Community Association on location and construction of new boxes. The ARB suggestion of using lpe wood as the construction material would increase the weight by 100 pounds and cost of each by \$500.00.

He stated that the boxes are replaced approximately every two years and moved by Town staff with the help of Beach Patrol as required by movement of the beach. Mr. Lameo indicated there have been discussions of having a third party contractor to be responsible for repair and maintenance of the boxes and debris on the beach.

Mr. Weaver encouraged continuing with the agreement to discuss the development of a new design of the boxes and location acceptable with the Town, ARB and the Community Association.

Mr. Lameo reported on the boat washed ashore on Captain Sam's spit and the legal options available to allow for the removal of the vessel. Mayor Lipuma requested feedback on the removal of any fuel or other toxic materials on the boat.

Mr. Jimmy Bailey, Kiawah Island Community Association

Mr. Bailey asked to address some of the comment made in the previous reports. He stated KICA (Kiawah Island Community Association) was in the process of rebuilding four damaged boardwalks damaged by the storm. He indicated KICA has participated in multiple meetings on the trash and concession boxes due to the fact that those are on Association property. He stated since the KICA Board considers the beach is such an important asset they feel the boxes should reflect construction materials allowed for use on the Island. He indicated he has offered the use of Association equipment to help with the job of moving and maintaining the boxes.

Mr. Bailey addressed the dune breach discussed by Mr. Jordan earlier by stating that he cannot dispute the statement made by Coastal Science that the breach will heal itself but the KICA Board believes the breach is an eyesore. He stated the property owners are complaining, there is difficulty with the constant debris clean up brought in as a result of the high tides and owners that are now repairing boardwalks that will likely be buried as the breach heals.

Mr. Bailey stated that the Association's engineers are making inquiries and working with a consultant to gather the information required to submit an application to DHEC for a dune restoration permit. Mayor Lipuma added at KICA's request the Town inquired if an Emergency Scraping Order could be obtained, but the request was denied because nothing was in danger.

XI. Mayors Report:

Mayor Lipuma stated all of the items on his list had been discussed with the exception of wishing everyone a happy and fruitful New Year.

XII. Correspondence:

None

XIII. Citizen Comments:

Marilyn Olson – 4985 Green Dolphin Way

Mrs. Olson called attention to the boardwalks that extend over the allowed 10' limitation. She indicated there several that protrude so far out onto the beach that individuals much less emergency vehicles have difficulty circumventing the protruding board walks. She hopes these are part of the 18 boardwalks that have been identified, if not they should be.

Virginia Abbott – 43 Sea Forrest

Mrs. Abbott questioned if the amendment to the Planned Development would effect any of the property on the Island.

Mayor Lipuma and Ms. Tillerson clarified the proposed amendment would not automatically make any zoning changes to any property on the Island. Any change in zoning would have to go through the request and approval process.

Wendy Kulick – 38 Marsh Edge Lane

Mrs. Kulick suggested since the proposed ordinance is being presented in 2016 should it not be numbered 2016-01.

Mayor and Council agreed to change the ordinance number to 2016-01.

Mrs. Kulick questioned when the forensic audit of 2012 be available to the public. She also requested the advertisement for committee openings referred to by Mrs. Johnson.

Mr. Weaver presented to Mrs. Kulick a copy of the 1st Quarter of Town Notes with designated a portion of the page to “A Call for Community Volunteers” which provides description of all the Town Committees and contact information. Mrs. Kulick countered it was a general list that did not detail which committees had openings to be filled.

Dennis McGill – 100 Pleasant Valley Drive

Mr. McGill stated his earlier discussion of the Ms. Rucker’s 2013 contract was to bring attention to the breach of her contract and the possibility to add additional items to the lawsuit for recovery by the Town.

Mr. McGill stated in advance of the discussion and evaluation of the Town Attorney in Executive Session, he began a discussion of the current contract and pointed out what he felt was an overpayment to the Attorney and felt it should be made public. He feels that the Town is overpaying for legal counsel.

Mr. Rhoad responded Mr. McGill did point out to him that the Town was overpaying him. He explained PEBA made the discovery that the Town attorney could not be provided or reimburse the Town for health insurance unless he was classified as an employee of the Town. Mr. Rhoad discussed with Town staff and Council that he wanted to continue as an employee to receive the health insurance benefits but did not want to receive compensation greater than the retainer he had been receiving for the past several years. He informed Town staff along with PEBA

calculated a figure to which was agreed too. Mr. Rhoad stated when a possible error was brought to his attention by Mr. McGill he immediately informed the Mayor to have the possible error verified, corrected and restitution could be made to the Town with interest.

Mayor Lipuma added calculations are in the process of being made by the new Town Treasurer.

David DeStefano – 21 Burroughs Hall

Mr. DeStefano stated the trend now is to hire a law firm for a better diversity in expertise. He indicated he felt that house counsel was a bad idea and should be a contracted independent lawyer and be subject to periodic public bidding.

XIV. Council Member Comments:

None

Mayor Lipuma made a motion to move into Executive Session to receive legal advice on the status of the ongoing forensic accounting and receive update from counsel on US Attorney and SLED investigation for former Administrator and Treasurer, to discuss evaluation and appointment of the Municipal Court Judge, Town Clerk, and to receive legal advice on the same, to discuss evaluation and appointment of the Town Attorney. The motion was seconded by Mr. Wilson and was unanimously passed.

XV. Executive Session:

- A. Receive legal advice on the status of the ongoing forensic accounting and receive update from counsel on US Attorney and SLED investigation for former Administrator and Treasurer.
- B. To discuss evaluation and appointment of the Municipal Court Judge, Town Clerk, and to receive legal advice on the same.
- C. To discuss evaluation and appointment of the Town Attorney.

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 that no votes were taken, and no decisions were made or actions taken that would bind the town to a particular course of action.

Mayor Lipuma stated the Town Attorney and Town Clerk were appointed when the new Council was sworn in and by Town Ordinance do not have to be reappointed.

Mayor Lipuma stated Judge Strauch was informed Council was very pleased with his work as Municipal Court Judge and Council would very much like him to continue at that position. Judge Strauch indicated he would give it careful consideration but if he needed to resign he would help with the transition to the next Municipal Judge.

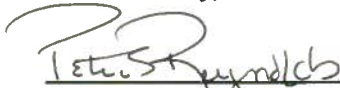
Mr. Rhoad stated he had been in communication with the investigators who are awaiting a copy of the 2012 forensic audit report. He indicated the investigation would continue until a decision is made on when and whether to indict and on which level the indictment is made.

Mr. Rhoad predicted the 2011-2012 Forensic Audit report would be finalized and released to the public shortly before the January 15th Town Council meeting with the presentation of the 2015 Audit Report.

XVI. Adjournment:

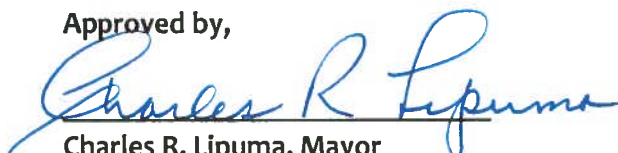
Mrs. Johnson motioned to adjourn the meeting at 5:26 pm. The motion was seconded by Mr. Weaver and carried unanimously.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



Charles R. Lipuma, Mayor

02/10/16
Date