

# TOWN COUNCIL MEETING

Kiawah Island Municipal Center  
Council Chambers  
April 4, 2017; 2:00 PM

## MINUTES

I. **Call to Order:** *Mayor Weaver called the meeting to order at 2:00pm.*

II. **Pledge of Allegiance**

**Present at the meeting:** Craig Weaver, Mayor  
John R. Wilson, Mayor Pro-Tempore  
Jack Koach  
Diana Mezzanotte  
Chris Widuch

**Also Present:** Stephanie Monroe Tillerson, Town Administrator  
Dwayne Green, Town Attorney  
Petra Reynolds, Town Clerk

Mayor Weaver asked to amend the agenda to strike **New Business** item **G. Approval of Employer Health Insurance Supplement to State Minimum Contribution for 2017.**

***Mrs. Mezzanotte made a motion to strike New Business item G. The motion was seconded by Mr. Widuch and was unanimously passed.***

III. **Approval of Minutes:**

A. Minutes of the Town Council Workshop of January 26 & 27, 2017

***Mr. Wilson made a motion to approve the minutes of the January 26 & 27, 2017 Town Council Workshop Meeting. The motion was seconded by Mr. Koach and were unanimously approved.***

B. Minutes of the Town Council Meeting of March 7, 2017

***Mr. Widuch made a motion to approve the minutes of the March 7, 2017 Town Council Meeting. The motion was seconded by Mr. Koach and the minutes were unanimously approved.***

IV. **Mayor's Update:**

Mayor Weaver stated that Mr. Wilson has been appointed as Council Liaison to the Public Works Committee.

Mayor Weaver gave an update on the Utility's 25% rate increase request submitted to the Public Service Commission (PSC). He stated the Town, Community Association, Kiawah Island Utility (KIU), and ORS (Office of Regulatory Staff) had reached a tentative agreement on a negotiated water and sewer rate increase of 14.6% increase which is expected to be approved

by the PSC. Mayor Weaver thanked the Community Association for their support as interveners in the case.

Mayor Weaver gave an update on dune renourishment. He stated the Partners have submitted for consideration by OCRM (Ocean and Coastal Resource Management) a request for General Permit to perform dune reconstruction, sand fencing, and revegetation work on their property. Due to the number of requests, OCRM has scheduled a Public Hearing on Tuesday, April 18<sup>th</sup> at 6:00pm in Town Hall Council Chambers. If approved by OCRM no work can begin before November 1, 2017.

**V. Citizens' Comments (Agenda Items Only):**

**Wendy Kulick – 38 Marsh Edge**

1. *Ordinances 2017-05 and 2017-06 under "New Business" relate to the Municipal Code and/or ordinances concerning residential sprinkler systems.*
  - a. *What was the impetus for these two ordinances?*
  - b. *What input was the St. John's Fire District asked to provide?*
2. *The minutes from the March 2017 Council meeting, as well as those from January and February Council meetings this year reflect comments I made/questions I asked regarding when those of us who ask questions would receive responses. Chapter 3, Section 2-308(a)(2)(d) of the Town's Municipal Code states "The town will make a good faith effort to respond to such question(s) at the meeting when the question(s) is presented if the question(s) can be accurately and readily answered. If not, the town will make a good faith effort to respond to such question(s) in writing within two weeks of the public presentation of the question(s)." To date, no responses have been provided to the majority of the questions I have asked since January. Will these questions be answered? If so, when? If not, does the Town intend to change the Municipal Code to eliminate the time period during which Council will provide answers to citizens?*
3. *And I again ask when was the forensic accountant's report turned over to the Ninth Circuit Solicitor's office?*

**Mayor Weaver indicated that all Mrs. Kulick's questions will be answered at today's meeting.**

**Dennis McGill – 100 Pleasant Valley Drive**

Mr. McGill thanked Mrs. Kulick and Mrs. Lehder on their work in compelling OCRM to hold the Public Hearing announced earlier in the meeting.

Mr. McGill called attention to the March Council meeting in which two items were discussed during Executive Session, one being the settlement with KIU which was made public after the meeting. He questioned why the other item relating to an update from the Town Attorney on the status of the criminal complaints against the former Town Treasure and Administrator was discussed in the Executive Session and why there had not been a public update.

Mr. McGill also stated that with the quick resolution of the KIU rate increase he assumed the “not to exceed” amount for legal representation had not been reached and asked what Mr. Ellerbe’s bill amount was.

**Mayor Weaver indicated that not all the final billing has been received.**

**VI. Proclamation recognizing Earth Day 2017**

Mayor Weaver read the proclamation declaring the Kiawah Island Conservancy as the Earth Day Partners of the Town of Kiawah Island.

**VII. Old Business**

**A. Ordinance 2017-01** – To Amend the Municipal Code of the Town of Kiawah Island to Change the Nomination from Ordinance Violation Penalty to Fine for Violating Provisions of Ordinance – **Second Reading**

**B. Ordinance 2017-02** - To Amend the Municipal Code of the Town of Kiawah Island to Change Language Penalizing Intent to Language Penalizing Activities Evidencing an Intent to Engage In Prohibited Businesses – **Second Reading**

**C. Ordinance 2017-03** - To Amend the Municipal Code of The Town of Kiawah Island to Change Nomination of Violations to Building Code from Ordinance Violation Penalty to Fine – **Second Reading**

**D. Ordinance 2017-04** - To Amend the Municipal Code of the Town of Kiawah Island to Change Building Code Violation Penalties to Be Nominated As Fines – **Second Reading**

***Mrs. Mezzanotte made a motion to approve the second reading of Ordinance 2017-01, 2017-02, 2017-03, and 2017-04. The motion was seconded by Mr. Koach and was unanimously approved.***

**VIII. New Business:**

**A. Ordinance 2017-05** - To Amend the Municipal Code of the Town of Kiawah Island to Provide For Residential Sprinkler Designs – **First Reading**

Mr. Spicher, Town Building Official, stated Ordinance 2017-05 amendment to Ordinance originally written. Guidelines for the design of sprinkler systems required a Level 3 or 4 professional for commercial applications. What was overlooked was the design of systems in single-family homes. The use of a Level 3 or 4 professional would cause an unnecessary expense for the single-family homeowner. The amendment would allow a Level 2 professional to design a sprinkler system in a single-family home which would provide a cost savings and the possibility of more competitive pricing.

**Mr. Spicher addressed Mrs. Kulick’s earlier question by stating the fire department did not provide input to the Amendment. He noted that the fire department does not regulate the Guidelines for the design of sprinkler systems.**

***Mr. Wilson made a motion to approve the first reading of Ordinance 2017-05. The motion was seconded by Mrs. Mezzanotte and was unanimously approved.***

**B. Ordinance 2017-06 - To Amend the Municipal Code of the Town of Kiawah Island to Eliminate Garage Space Restrictions – First Reading**

Mr. Spicher stated the Ordinance would provide for the elimination of the 800 square foot limitation of garages under homes. He explained the limitation was originally written with the intention of receiving credit through FEMA's (Federal Emergency Management Agency) National Flood Insurance Program's (NFIP) Community Rating System (CRS) which lowers flood insurance rates for Island homeowners. NFIP did not issue a credit for the Ordinance and the determination that a dehumidification issue was created with the limitation prompted the amendment.

***Mr. Widuch made a motion to approve the first reading of Ordinance 2017-06. The motion was seconded by Mrs. Mezzanotte and was unanimously approved.***

**C. Ordinance 2017-07 – An Ordinance to set qualification requirements for the Design of Fire Alarm Systems within the Town of Kiawah Island – First Reading**

Mr. Spicher stated there is a state statute that allows a licensed electrical contractor to design a fire alarm system. The design of multi-family and commercial systems is very complex; therefore, the Ordinance would set requirements for fire alarm design professionals and licensing of electrical contractor professionals installing fire alarms systems.

***Mr. Widuch made a motion to approve the first reading of Ordinance 2017-07. The motion was seconded by Mrs. Mezzanotte and was unanimously approved.***

**D. Approval to Enter into a Contract with The Mercer Group to Conduct an Operations Review Of the Business License/Permit, Support Services/Code Enforcement, and Building Services Departments Public Works Committee Appointments**

Mayor Weaver stated the recommendation from the Ways and Means Committee to enter into a contract with the Mercer Group in an amount not to exceed \$12,950.00 for an Organizational Review of the Town's Business License, Building Permit, and Code Compliance processes. The focus of the review would be to examine how to make the processes more "user-friendly" for residents and businesses, more efficient for employees and a better flow of inter-relationships with other entities.

***Mr. Widuch made a motion to authorize the Town Administrator to enter into an agreement with the Mercer Group for Organizational Review Services in an amount not to exceed \$12,950. The motion was seconded by Mr. Wilson and unanimously passed.***

**E. Approval to Enter into a Contract with The Mercer Group to Complete a Classification and Compensation Study**

Mayor Weaver stated the recommendation from the Ways and Means Committee to enter into a contract with the Mercer Group in an amount not to exceed \$8,950.00 for a Classification and Compensation Study. He indicated the objective of the Classification and Compensation

Study is to develop a sustainable salary administration process to be put in place and institutionalized for the future.

***Mr. Widuch made a motion to authorize the Town Administrator to enter into an agreement with the Mercer Group for a Classification and Compensation Study in an amount not to exceed \$8,950.00. The motion was seconded by Mr. Koach and unanimously passed.***

F. Approval of the Extension of AirMedCare Contract for an Additional Year.

Mr. McAden, with AirMedCare, gave an update on additional resources being added to the service. Mr. Widuch stated the Municipal Site Plan (MSP) Membership covers transportation for any full-time resident on the Island at a cost of \$8,163.00 annually which would be funded by the Town. Residents would not incur any additional costs over what is paid by medical insurance for transport to any area medical facilities. He indicated the contract will renew at the same rate and terms.

***Mr. Widuch made a motion to recommend to Council the approval of the renewal of the contract with AirMedCare in the amount of \$8,163.00. The motion was seconded by Mrs. Mezzanotte and unanimously passed.***

G. Approval of Employer Health Insurance Supplement to State Minimum Contribution for 2017

H. Approval to Increase Employee 401K Benefit for FY 2017 - 2018

Ms. Tillerson indicated the Town does a 50% match to employee contribution to a State 401K. In the prior year, the match was increased to \$2,000.00 and in February, the Ways and Means Committee recommended the approval of an increase to \$3,000.00.

***Mayor Weaver made a motion to increase the State 401K employee match amount from \$2,000.00 to \$3,000.00 effective July 1, 2017. The motion was seconded by Mrs. Mezzanotte and unanimously passed.***

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

Ms. Tillerson stated a Post and Courier article designated the new development "The Timbers" as a vacation time-share. Town ordinance does not allow for time-share properties but does allow for a multiple vacation ownership property. She indicated "The Timbers" has filed with the South Carolina Real Estate Commission as a multiple vacation ownership project and a copy of the registration was received by the Town. She stated the State allowed for a maximum of thirteen owners but Town ordinance only allows for nine.

Ms. Tillerson stated that Staff follow-up with the South Carolina Real Estate Commission revealed "The Timbers" as the only multiple vacation ownership property registered on Kiawah. This has prompted a review to see how many homes on Kiawah may fall under the definition of a multiple vacation ownership property. Staff, along with the Town Attorney, will

prepare a process of education and notification of those property owners of the State and Town requirements.

Ms. Tillerson gave a follow-up report on the question if other Municipalities subsidize their employee health insurance. She indicated that a majority of those responding offer a supplement for the employee only portion, and only a few offer a supplement for the dependent portion.

**X. Council Member:**

- a. Committee Updates
- b. General Comments

Mr. Koach had no update or comment.

Mr. Widuch reported the Municipal Center construction continues. The project is on schedule with an anticipated certificate of occupancy date of July 10<sup>th</sup> and is under budget. The Public Safety has established a subcommittee to study the feasibility of a helipad and will include representation from the Fire District, the Community Association, the Town, and Charleston County EMS.

Mr. Wilson reported he attended a Charleston Area Transportation Study (CHATS) Committee meeting and reviewed items of interest discussed. The Committee passed a resolution to be presented to the Governor and Legislature suggesting a ten-cent increase in the state gasoline tax with 80% going to the County and 20% to the State.

Mr. Wilson reported a member of the Department of Transportation (DOT) staff presented a study on permitting of a short section of a parkway in Summerville. The permitting process up to now have taken eight to nine years through the state levels, now the federal approval process is expected to take an additional two to three years.

Mr. Wilson reported the new Public Works Committee will meet on April 10<sup>th</sup>.

Mrs. Mezzanotte reported the Arts Council presented six major events and two piano bars since the last Town Council meeting. She reviewed the upcoming events with the last event being "Piccolo comes to Kiawah" which will be held at Mingo Point.

She reported the Environmental Committee has established a subcommittee to study "Low Impact Communities" and the Sea Level Rise Subcommittee is in the process of arranging meeting with other Municipalities to conduct crossover studies.

**XI. Citizens' Comments:**

**Wendy Kulick – 38 Marsh Edge Lane**

1. *I appreciate Bruce's response to my earlier question, but it doesn't really answer my question. The STJFD has expertise which might have picked up working or issues which should be revisited. This might be especially helpful since Bruce acknowledged there were revisions to*

*ordinances approved today because of information the Town didn't have or didn't realize was pertinent and again suggest the involvement of the STJFD.*

- 2. Y'all are used to hearing me talk about process. I do so again now. In the latest edition of Town Notes, part of the Mayor's column is devoted to expressing the Town's support for the KP application to OCRM re: sand fencing and nourishment next to the Timbers project.*

**Mayor Weaver stated that Mrs. Kulick must have misread the article because his comments did not state any position in support of, or against Kiawah Partners proposed dune reconstruction application.**

Mrs. Kulick suggested that at some point Council should publically discuss the developer's application and consider if it will support it. She indicated there is a question if this is really minor work to be done.

Mrs. Kulick suggested contacting the Community Association with regard to obtaining information on fractional memberships on the Island.

**Ms. Tillerson indicated the Community Association has already been contacted.**

**Dennis McGill – 100 Pleasant Valley Drive**

Mr. McGill stated in reference to the Mercer Group on the issue of salaries and salary ranges, he attended the HR (Human Resource) workgroup and spoke to the information from the different municipalities that was used as guide for their work on salary ranges. He expressed his concern with using very large municipalities as a guide for the very small Kiawah Municipality.

**Mayor Weaver clarified the information used by the HR Committee was not used to get the Town's salary levels, but to look at job structure and questions on things like; how wide were the salary ranges for different job bands, or the spread in the step from on grade to another.**

**Wendy Kulick – 38 Marsh Edge Lane**

*You said earlier, Craig, that all my questions would be answered today. They have not. When was the forensic accountant's report turned over to the Ninth Circuit Solicitor's office?*

*To date, no responses have been provided to the majority of the questions I have asked since January. Will these questions be answered? If so, when?*

**Mayor Weaver responded to Mrs. Kulick's request for responses to the questions she has asked but believes have not been answered. He noted there had been numerous conversations with Ms. Kulick and he indicated a commitment to review what questions had been answered and what questions had not been answered. He stated that in the pursuit of better transparency, the Town will follow the ordinance and processes in place.**

**Mayor Weaver indicated he reviewed all the comments and questions asked by residents over the last year in an attempt to gain an understanding of what questions, if any, remained**

unanswered. He noted that a majority of the questions were answered at the time they were asked or soon after. He found thirty-six questions were asked by Mrs. Kulick during the year; of those, he considered that twenty-seven had been answered in a timely manner.

Mayor Weaver indicated he requested Mrs. Kulick give him an outline of the questions she felt were not answered. There were four question which were unanswered and he would address.

- When did the Town know about the sale of the Kiawah Island Utility and why did the Town not formally protest the sale to the Public Service Commission?

Mayor Weaver indicated he was able to locate a response by former Mayor Lipuma made at a public meeting. In essence, former Mayor Lipuma stated that since the entire Town Council made the decision not to pursue the purchase of the utility and notified Kiawah Partners of the decision in writing, they were free to pursue another purchaser. The Town saw no purpose on intervening with the PSC at the time of the sale. Mayor Weaver and the Town Attorney could find no basis that the Town would have had reason to intervene in the matter.

- When is the former Town Administrator and Treasurer going to be criminally charged, why has this not happened, and what is the Town doing about it.

Mayor Weaver stated he responded to this question at the January or February Town Council meeting and there has been relatively little change since that time. He stated that on the advice of legal counsel all materials related to the allegations against the former Town Treasurer and Administrator were, and have been conveyed to federal law enforcement authorities and federal prosecutor and through them, the state authorities are aware of and have access to that information. The Town, through the Town Attorney, follow-ups on a periodic basis. The Town has been assured in each follow-up that an active investigation has been and continues to be underway and the FBI has played an active role in that investigation. This is the only information that has been received. The forensic information has not been given directly to the State because the Town is following the recommendations and protocol recommended by of the law enforcement authorities that are involved. The federal authorities have chosen to take the leading role in reviewing the case and if they give the Town any indication that they are not going to move forward with any legal action, the Town will move forward with the next steps.

Mrs. Kulick asked if “the State” included the Ninth Circuit Solicitor’s Office.

Mr. Green stated it was his understand that the investigation is done by SLED or the FBI, then given to the prosecutor who will make the decision on what charges are going to be pursued. Information gathered in the investigation will not be forwarded until the conclusion of the investigation and the federal prosecutor has made its decision. The Solicitor’s Office does not have the information at this point.



Mayor Weaver emphasized that the Town is not going to let the case drop and will continue doing those things to let law enforcement know that this is important to the Town.

Mr. Green reminded that without a clear admission of guilt the investigation takes time and the Town does not have the option to choose the end date. He reminded that some of the delay may have been the two high profile federal cases being prosecuted in Charleston in recent months.

- When would Mrs. Kulick be getting a response to her questions asked in 2016, and to her suggestion that the Town consider different actions of answering questions ranging from; the responses to questions not answered at the meeting being read into the minutes of the next meeting or having the questions and answers be published to the town's website.

He explained that he is committed, on behalf of the Town and Town Council, to act in accordance to its Ordinance regarding questions by citizens which obligates the Town to make a good faith effort to provide written response not answered in public session within fourteen days. He apologized if for some reason it was not done in the past but going forward it is the intent to do that. He stated there is not always an answer to every question and he wants to balance the maximum openness and transparency with the recognition that Town Council meetings are business meetings and not a question and answer period. The intent and preference will always be to answer questions accurately and efficiently at the meeting. Not all questions can or will be answered, and if a question is not answered, a response will be provided directly to the individual as soon as feasible following the meeting.

Mayor Weaver stated he gave a good deal of consideration to the suggestion that responses be read into the minutes of the next meeting, or the questions and answers would be published to the Town's website, and concluded it was not feasible. He stated that after the move to the New Municipal Center meetings will be taped for viewing and help with answers to questions.

Mayor Weaver noted the policy for multiple citizen comment opportunities and a requirement for a written response exceeds that of most communities. He also asked that it would be a great help that if someone feels that his or her question is not adequately answered at a meeting to please write down the question and give it to the Town Clerk.

#### **Virginia Abbott – Sea Forrest Drive**

Mrs. Abbott stated she appreciated that a majority of the time her questions have been answered at the time she asked and thanked the Mayor for his informative report and thanked Mrs. Kulick for keeping residents informed.

Mrs. Abbott asked if there was a statute of limitations in the fraud charges.

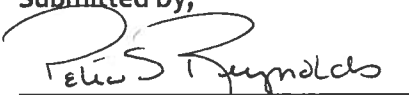
Mr. Green, along with Mayor Weaver, indicated there was a three-year limitation on a civil case from the time of discovery and that time was not close to expiring.

XII. Executive Session:  
None

XIII. Adjournment:

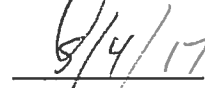
*Mr. Widuch motioned to adjourn the meeting at 5:05 pm. The motion was seconded by Mr. Wilson and carried unanimously.*

Submitted by,

  
\_\_\_\_\_  
Petra S. Reynolds, Town Clerk

Approved by,

  
\_\_\_\_\_  
Craig E. Weaver, Mayor

  
\_\_\_\_\_  
Date