

TOWN COUNCIL MEETING
Municipal Center Council Chambers
November 1, 2022; 2:00 PM

Minutes

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

II. **Pledge of Allegiance**

III. **Roll Call:**

Present at Meeting: John D. Labriola, *Mayor*
Dan Prickett, *Mayor Pro Tem*
John Moffitt, *Councilmember*

Also Present: Stephanie Tillerson, *Town Administrator*
Joe Wilson, *Town Attorney*
John Taylor, Jr. *Planning Manager*
David Irwin, *Mauldin and Jenkins*

Approval of Minutes:

A. Minutes of the Town Council Meeting of October 4, 2022

Mayor Pro Tem Prickett made a motion to approve the Town Council meeting minutes of September 6, 2022. Councilmember Moffitt seconded the motion, and it was unanimously approved.

IV. **Mayor's Update:**

Mayor Labriola congratulated the Kiawah Conservancy on their 25th Anniversary, stating that the work done by the organization's staff, the board, and volunteers over the years was very appreciated.

Mayor Labriola stated in the upcoming election that new members of the Council would be elected. He reviewed some of the changes taking place over the next five years:

- changing and ending of longstanding relationships,
- the possibility of new projects presented to the Council and the Community,
- existing projects will be well underway,
- the continuing expansion of housing on Johns Island, County resources and services will be under serious pressure impacting Kiawah and neighboring communities
- the improvements to Main Road would be well underway, but until completed, would exacerbate traffic issues

Mayor Labriola stated that Town Council must continue to welcome the Island's visitors and new homeowners, ensure residents have accurate information on all issues that impact them, be vigilant in controlling financial resources and planning for future events, and protect the island's environment.

Mayor Labriola stated that the Community Association would hold an event on November 17th when questions can be posed to the candidates to hear their thoughts and perspectives on the future and how they see themselves impacting the Town Council. He encouraged everyone to vote in the election on December 6.

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

Maura McIlvain – 146 Blue Heron Pond Road

Ms. McIlvain reviewed the objection to the phrasing of the proposed contract for legal services with Mr. Wilson that she raised at the Ways and Means Committee meeting. The proposed one-year term with an auto-renewal did not allow termination on any notice. She noted that following the meeting, Mayor Labriola indicated that the language would change to include an “out-clause.”

Ms. McIlvain expressed her concerns with the 4th Amendment to the 2013 Amended and Restated Development Agreement being considered for approval. She felt that the information communicated on the amendment was not sufficient and timely.

Lin O’Leary – 28 Grey Widgeon Lane

Ms. O’Leary also expressed her concern that the information communicated was insufficient and is seen as a lack of transparency which causes community tension, discord, and lack of trust. She asked that complete information be released to the Community on the agenda items.

Larry Wolahan – 406 Snowy Egret

Mr. Wolahan indicated that he did not understand the catalyst for the amendment being considered, and, in his opinion, it was not planned.

Alex Fernandez – 418 Snowy Egret

Mr. Fernandez stated that in the past two years, the contract for legal services with Mr. Wilson was considered in December. He felt that the approval of counsel should be left to the newly elected majority Council and asked that approval be deferred.

Michael Heidingsfelder – 2 Shell Creek Landing

Mr. Heidingsfelder indicated that he was speaking as a 20-year resident and citizen of the island, not a member of the Town’s Planning Commission. He asked that the Council reconsider two agenda items: 4th Amendment to the Development Agreement and the Town Counsel service contract. He felt that the new council members should be provided with additional information and involved in deciding the two items; therefore, he asked that they be removed from the agenda until a full Council is seated.

Larry Wachowski – 232 Sparrow Hawk

Mr. Wachowski agreed with the previous comments and Mayor Labriola’s assessment of the upcoming election. He expressed his concern about considering an amendment to the Development Agreement prior to a full Council being seated. He questioned the purpose, indicating that insufficient time and resources were provided.

VI. Presentation:

A. Fiscal Year 2021/2022 Audit Presentation – Mauldin Jenkins

Mr. David Irwin, a managing partner with the audit firm of Mauldin Jenkins, gave a presentation on the Town’s financial audit for the fiscal year ending June 30, 2022. He stated the purpose was to discuss some general information on Mauldin and Jenkins, provide an overview of the independent auditor’s report, highlight the financial statements, review the results of the compliance report issued in conjunction with the audit, provide the required auditing standards information, discuss information auditing standards require to be communicated and to answer

any questions.

Mr. Irwin reviewed the following discussion points:

- **Audit Opinion**
The financial statements are the responsibility of the Town's management and members of the Town Council. Mauldin Jenkins, as external auditor, is to express opinions on these financial statements based on our audit. Mauldin Jenkins conducted the audit in accordance with governmental auditing standards and generally accepted auditing standards (GAAP).
- **Opinions**
Mauldin Jenkins has issued a clean or unmodified opinion on this year's audit report, which is the highest level of assurance that can be provided. The respective financial statements are fairly presented in all material respects in accordance with GAAP.
- **Compliance Report**
The Compliance Report or Yellow Book Report reports the Town's internal controls and compliance with various state laws and regulations. Mauldin Jenkins has no audit findings to report or found no deficiencies or material weakness in the internal control during the audit.

Mr. Irwin commended the Town staff on their work in preparing for the audit and accommodating the audit staff. He also commended the Audit Committee's engagement in thoroughly reviewing the financial documents.

- **Financial Statements - ACFR**
An Annual Comprehensive Financial Report (ACFR) goes beyond the standard financial reporting required by accounting principles. As a result, the Town's ACFR was submitted to the Government Finance Officers Association (GFOA) and was stringently reviewed and deemed to merit the GFOA's Certificate of Achievement for Excellence in Financial Reporting award for the 18th year in a row.
- **Financial Statements – MD&A**
The purpose of the Management's Discussion and Analysis (MD&A) is to make it easier to understand the financial statements by providing a narrative explanation or summary from the management's perspective of the activities that occurred throughout the year.
- **Financial Statements**
The presented financial statements included three components
 - 1) government-wide financial statements
 - 2) fund financial statements
 - 3) notes to the financial statements.

During the discussion of the components of the financial statements, Mr. Irwin reviewed the assets, liabilities, revenues, expenses, and net position. He stated that the Town has a very healthy General Fund balance pointing out that Kiawah Island does not impose a property tax and identified business licenses, building permits, and franchise fees as significant revenue sources.

Mr. Irwin stated that the footnotes, which disclose the Town's accounting methods and provide an expanded explanation of the financial activities throughout the year, showed no significant changes this year. He also reviewed the required communications:

- Clean Opinion and No Audit Findings
- We Received Full Cooperation from Management and Staff
- No Disagreements with Management

- No Significant Issues Discussed with Management
- No Uncorrected Misstatements
- We are Independent of the Town as required by Government Auditing Standards

Councilmember questions included the percentage of funds for capital expenditures and a comparison to other municipalities, the process and methods used in testing, and satisfaction that there were no areas of concern.

B. Kiawah Island Parkway Traffic Update – John Taylor, Jr.

Mr. Taylor presented the traffic counts conducted during the peak season of 2022 along the Kiawah Island Parkway including Beachwalker Drive, Governors Drive, Flyway Drive and Ocean Course Drive. The presentation included the following:

- Introduction
- Development Agreement: Traffic Mitigation (Exhibit 10.1)
 - Traffic counting periods
 - Traffic counter locations
 - Evaluating traffic – Near Capacity Traffic Volume
 - Traffic mitigation measures and traffic management strategies
- Collected Traffic Data Summary
 - Date from June, July, and August
 - Evaluating traffic
- Recent Traffic Mitigation & Safety Improvements
- Kiawah Island Parkway Intersection Corridor Study

Mr. Taylor stated that based on the traffic counts, we have seen elevated traffic volumes but the Near Capacity Traffic Volume to require traffic mitigation has not been reached. Councilmembers discussed the 2022 data traffic counts provided, a comparison of the data used in the assessments provided in the Kimley Horn Study, and the improvement of capacity through the main gate.

VII. Old Business:

- A. To Consider Approval of *Ordinance 2022-06* - An Ordinance To Amend the Town Of Kiawah Island Municipal Code Chapter 12. – Land Use Planning And Zoning, Article II. – Zoning, Division 2. - Zoning Map/Districts, Section 12-64. – Setbacks. – *Second and Final Reading***

Mr. Taylor stated that there were no changes to Ordinance 2022-06 from the first reading.

Mayor Pro Tem Prickett made a motion to approve Ordinance 2022-06 - To Amend the Town Of Kiawah Island Municipal Code Chapter 12. – Land Use Planning And Zoning, Article II. – Zoning, Division 2. - Zoning Map/Districts, Section 12-64. – Setbacks. Councilmember Moffitt seconded the motion, and it was unanimously approved.

- B. To Consider Approval of *Ordinance 2022-07* - An Ordinance To Amend the Town Of Kiawah Island Municipal Code to amend Chapter 8. – Noise Prohibited, Section 15-804. - Decibel Level Prohibitions– *Second and Final Reading***

Mr. Taylor stated that following the first reading of Ordinance 2022-07, staff was directed to review the ordinance and amend it with the additional language in Section -804(2) to provide a distinction between portable and home/standby generators:

- g. Properly installed and operating whole house generators.
- h. Portable generators associated with emergency situations.

1. Portable generators not associated with emergency situations must adhere to maximum decibel limitations.

Councilmember Moffitt made a motion to approve amended Ordinance 2022-07 - To Amend the Town of Kiawah Island Municipal Code to amend Chapter 8. – Noise Prohibited, Section 15-804. - Decibel Level Prohibitions. Mayor Pro Tem Prickett seconded the motion, and it was unanimously approved.

VIII. Consent:

A. To Consider Approval of the Contract Agreement for Municipal Legal Services

Ms. Tillerson stated that at the Ways and Means Committee meeting, the concern was raised that there was no explicit clause in the proposed contract that would allow Council to terminate the agreement. She noted that the clause had been inadvertently left out and included in the agreement presented in reviewing the previous agreement.

Ms. Tillerson stated that the 2019 contract agreement for legal services was approved in November 2019. The current Council approved the following contract agreement in December 2021. With the Council's term expiring on the same day as the election, it is the normal schedule for the sitting Council to consider and approve contracts until the end of their term.

Mayor Pro Tem Prickett made a motion to approve the amended Contract Agreement for Municipal Legal Services with Joseph Wilson. Councilmember Moffitt seconded the motion, and it was unanimously approved.

B. To Consider for Approval of Contract with Placer

Ms. Tillerson stated that the Ways and Means Committee recommended approving the contract with Placer with a 2-to-1 vote. Placer is an economic development software tool that tracks cell phone service apps to monitor and create reports on the locations and movements of individuals.

Mayor Pro Tem Prickett made a motion to approve the contract with Placer. Councilmember Moffitt seconded the motion. The motion was approved by a 2 to 1 vote, with Councilmember Moffitt voting "No."

IX. New Business:

A. To Consider Approval of the Fourth Amendment to the 2013 Amended and Restated Development Agreement To Amend the Term of the Agreement

Mayor Labriola provided background on the proposal from the Partners for the development of Upper Beachwalker that was presented to the Council and the Community earlier in the year. In the presentation were proposed changes to the Development Agreement, but the Developer chose not to move forward with the proposal and to take another course of action which was presented to the Planning Commission. This prompted Mr. Wilson and additional counsel, Mr. Appel, to review the current Development Agreement.

Mr. Wilson stated that 2013 Amended and Restated Development Agreement between the Town and the Developer was an amendment and restatement of the 2005 Development Agreement. He presented and engaged in an in-depth discussion of the items he and Mr. Appel felt needed to be addressed.

Discussion of the “Term of the Agreement” included references to ambiguity with the South Carolina Local Government Development Agreement Act. In discussion with the Developer, both agreed it would be beneficial to enter into an agreement to address the issue.

Mr. Wilson reviewed the language of the Fourth Amendment to the 2013 Amended and Restated Development Agreement To Amend the Term of the Agreement being proposed for approval.

Councilmembers discussed the proposed amendment, the benefit of providing clarity and compliance with state law, and the ability of future Councils to make further changes.

Further discussion included public comments from:

Brad McIlvain - 146 Blue Heron Pond Road

David DeStefano – 31 Burrows Hall

Larry Wachowski – 232 Sparrow Hawk

Mayor Pro Tem Prickett made a motion to approve the Fourth Amendment to the 2013 Amended and Restated Development Agreement To Amend the Term of the Agreement. Councilmember Moffitt seconded the motion, and it was unanimously approved.

- B. To Consider Approval of the Recommendation to the Charleston County Council to Re-Appoint Robert Wright as a St. Johns Fire District Fire Commissioner

Councilmember Moffitt made a motion to approve the recommendation to the Charleston County Council to re-appoint Robert Wright as a St. Johns Fire District Fire Commissioner. Mayor Pro Tem Prickett seconded the motion, and it was unanimously approved.

- C. To Consider Approval of the Employee Medical Insurance Premium Structure

Ms. Szubert stated the request was presented to the Council at the last meeting, where they directed staff to have a workgroup look at the request.

The workgroup, led by Councilmember Moffitt, looked at details of the request along with the implementation of the 20/80 payment structure that requires the employee to pay 20% of the total premium, and the Town pays 80%. With the higher total premiums, the current structure of 20/80 will cause employees with single coverage to pay higher contributions than the maximum required by PEBA.

The Town Staff is asking Town Council to consider approving the same structure; 20% of the full premium paid by the employee and 80% of the full premium paid by the Town with the exception when the employee portion is more than 20%; the employees rate will be reduced to the maximum rate required by PEBA.

Councilmember Moffitt made a motion to approve the Employee Medical Insurance Premium Structure as presented. Mayor Pro Tem Prickett seconded the motion, and it was unanimously approved.

- X. **Town Administrator’s Report:**
No report

- XI. **Council Member:**
 - a. Committee Updates
 - b. General Comments

Mayor Pro Tem Prickett stated that on October 19, Ms. Honeycutt, Kiawah's representative on County Council, provided an update on roads relative to Segment C. He indicated there was no consensus on the alternatives, which delays progress. Therefore, the project engineers will be asked about their best alternative option, and their proposed selection will be presented for public comment.

Councilmember Moffitt commented on the amazing work done by the Arts and Cultural Events Council in place to entertain the residents of Kiawah.

XII. Citizens' Comments:

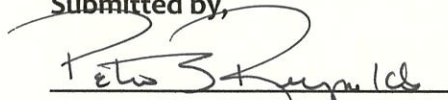
Michael Heidingsfelder – 2 Shell Creek Landing

Mr. Heidingsfelder suggested that materials for the meeting are provided well in advance of the meeting.

XIII. Adjournment:


Mayor Pro Tem Prickett made a motion to adjourn the meeting at 3:52 pm. Councilmember Moffitt seconded the motion, and it was unanimously passed.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



John D. Labriola, Mayor
1-20-2023
Date