

TOWN COUNCIL MEETING
Municipal Center Council Chambers
January 10, 2023; 2:00 pm

AGENDA

- 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*
John Moffitt, *Councilmember*
Russell Berner, *Councilmember*
Michael Heidingsfelder, *Councilmember*

Present Via Zoom: Brad Belt, *Councilmember*

Also Present: Stephanie Tillerson, *Town Administrator*
Joe Wilson, *Town Attorney*
John Taylor, Jr., *Planning Director*
Craig Harris, *Public Safety Director*
Steve Jones, *Federal Bureau of Investigation*

- IV. **Approval of Minutes:**
 - A. Minutes of the Town Council Meeting of November 1, 2022

Councilmember Moffitt made a motion to approve the Town Council meeting minutes of November 1, 2022. Councilmember Heidingsfelder seconded the motion, and the motion was approved, with Councilmember Belt abstaining.

- V. **Updates:**
 - A. Mayor

Mayor Labriola read a letter from Mr. Corrada, Riverstone Properties, providing an update on the Andell West project. (letter attached as part of the minutes) Mr. Corrada is scheduled to come to Kiawah at the end of January or the first part of February, providing an opportunity to review the project plans.

Mayor Labriola reviewed the assignment for the new Council:

- Councilmember Heidingsfelder –
 - Audit Committee Chairman
 - Liaison to the Planning Commission
 - Liaison to the Environmental Committee
 - Liaison to the Kiawah Conservancy Liaison
- Councilmember Berner
 - Liaison to the Public Safety Liaison
 - Liaison to the Board of Zoning Appeals Liaison
 - Liaison to the Johns Island Task Force Liaison
- Councilmember Belt
 - Liaison to the Arts and Cultural Events Council
 - Liaison to the Arts Council Board

- Liaison to the Charleston Areas Convention Bureau
- Liaison to the Johns Island Task Force
- Councilmember Moffitt
 - Ways and Means Committee Chairman
 - State Accommodations Tax Advisory Committee Chairman
 - Liaison to the BCD Council of Governments

B. Council Members

As a new council member, Councilmember Belt expressed his intent to engage with community members and stakeholders and planned to hold regular Town Hall meetings to obtain the community's views. He asked that any questions, comments, or concerns be sent to his Town email address.

Councilmember Belt reviewed issues he felt required attention in the coming year; Development on the island and increasingly off the island, the relationship with the Community Association and Charleston County, and the Town taking a leadership role on local and regional issues and engaging with other stakeholder interests.

Councilmember Belt commented on the Andell West project. He felt the plan for the project was in a good place and commended the Riverstone Properties team, the Cassique HOA, and Preserve Kiawah for their roles in community engagement.

Councilmember Belt reviewed pending development and governance issues of;

- Pending final development proposals for island development
- Continuing concerns with issues in the Development Agreement with Kiawah Partners
- Continuing concerns with the ARB (Architectural Review Board)

Councilmember Berner reported that at the next Board of Zoning Appeals meeting at the end of the month, the Board members would be considering a variance request for the significant expansion of the dock at Mingo Point. He noted that the expansion would extend into the river and encouraged residents to get involved in reviewing the facts of the request.

Councilmember Berner stated that he would be working with the Public Safety Committee on a blind spot he noted at the roundabout at Freshfields that needs to be addressed. The Committee would also be working on the design of the exit from the island at the Main Gate, which included addressing his concerns about construction worker safety.

Councilmember Heidingsfelder added an additional comment to the Andell West project by stating that he was pleased that the Town or the Mayor was involved in a discussion with Riverstone Properties. He indicated that he had also communicated with Riverstone and called on Edens, owner of Freshfields, to find a resolution to the final topic of the connection points between the two properties. He also noted that the MUSC center project is in a similar position with an adjacent property owner and hoped this could be quickly resolved too.

Councilmember Heidingsfelder indicated that after studying the commentaries on the community concerns with the ARB, he felt the Town, in collaboration with the Community Association, should take a more comprehensive look at the concerns in the coming weeks.

Councilmember Heidingsfelder commented on what he felt were inappropriate communications and asked that the community engage in more constructive and productive exchanges with Councilmembers.

C. Administrator

Ms. Tillerson provided updates from:

- Wildlife Department:
 - The annual deer spotlight survey will take place later in the month. The results of the survey would determine if further action is needed.
- Public Works Department:
 - The compactor for the recently renovated Kestral Court facility is scheduled to be delivered later in the week, completing the project
 - On the Beachwalker-Parkway intersection project, the utility company has been mapping utility locations; once completed, the information will be submitted to Kimley-Horn to overlay with construction drawings for review by the workgroup.
- Website
 - The migration of information from the old website to the new one should be completed by the end of the month. The goal is to have the new website live by the next Council meeting in February.
- Planning Department:
 - KiawahNext – community engagement opportunity for the Town’s Comprehensive Plan Update process. A survey is to be released on January 16th on the KiawahNext website.

VI. Citizens’ Comments (Agenda Items Only):

Larry Rutowski – 232 Sparrow Hawk

Mr. Rakowski commented on the approval of the Marsh Management Plan (MMP), stating it was his understanding that at the termination of the Development Agreement, the developer is mandated to convey substantial marsh acreage to the Community Association. He noted a perceived reservation to take the land if granted at the Community Association’s Board meeting. In reviewing the MMP, there was a discussion of the acquisition of marshland, and he wondered if the Town had considered the issue.

Alex Fernandez – 418 Snowy Egret

Mr. Fernandez stated that he attends Council meetings to learn the function of the Town Government and Council’s decision-making process, sometimes making constructive comments on the process. He expressed his frustration that some comments were not interpreted as intended and hoped that the new Council would interpret his comments as constructive rather than disruptive.

Paul Hennessy – 12 Blue Heron Pond Road

Mr. Hennessy commented on the Council assignments by stating that the Town Council has done very well in liaising with various governmental entities regarding the Betsy Kerrison/Main Road Corridor project. He questioned where that fell under the new Council assignments.

Ms. Tillerson indicated that the project falls under the assignment of Councilmembers Belt, Berner, and Moffitt to the Johns Island Task Force and BCD Council of Governments.

VII. Recognition

- B. The Federal Bureau of Investigation to Recognize the Town’s Public Safety Department, Barrier Island Ocean Rescue, and the Kiawah Island Golf Resort Safety & Security Division.

Mr. Jones provided a short presentation on the Hostage Rescue Training (HRT) exercises conducted on Kiawah in early August. The training was conducted in conjunction with local law enforcement, fire, and other public safety entities. Mr. Jones noted the local resources used during the training were found to be some of the best. Mr. Edgerton, Mr. Sosnowski, and others with Barrier Island Rescue were very professional and extremely competent in their skills, which added value to the training. He thanked Mr. Harris, the Town of Kiawah, and the Resort for allowing HRT to use its resources to conduct its training on Kiawah.

Mr. Jones provided HRT certificates of recognition to Mr. Harris and Mr. Sosnowski, Mr. Edgerton, Mr. Cheves, Mr. Doyle, and Mr. Butler with Barrier Island Ocean Rescue. He also noted the contributions made by Ms. Johnstone with the Resort.

VIII. Old Business:

None

IX. New Business:

- A. To Consider Approval of **Ordinance 2023 – 01** An Ordinance of The Town Council of the Town of Kiawah Island – Marsh Management Plan – **Public Hearing and First Reading**

Mr. Taylor stated that the Marsh Management Plan (MMP) was presented to Council for consideration and approval. Planning Commission reviewed the draft of the MMP and voted to recommend approval at the December meeting.

Mr. Taylor provided a presentation following the process of resiliency planning that began with the 2017-2018 Flood Mitigation Sea Level Rise (FMSLR) Adaption Report developed by the Sea Level Rise subcommittee of the Environmental Committee. The report recommendations provided the Town and island entities with direction on what should be done regarding adaptive management.

The recommendations from the FMSLR Report included completing an Implementation of a Strategy Plan, Comprehensive Plan Amendments, and the development and adoption of a Marsh Management Plan. *The purpose of the Marsh Management Plan is to explore various methods of protection for the Island's marsh including management strategies for managing the interface between highlands and critical areas that are vital to a healthy salt marsh. It is critical that the community is prepared for potential risks to a significant natural resource.*

Biohabitats, along with Elko Coastal Consulting, was selected as the consultant team to work on the development of the Plan. In April 2022, they kicked off engagement with a charrette at Town Hall and a Marsh Tour. A survey was created to gauge concerns, and an interactive story map was created to pinpoint erosion hot spots. The survey identified the major concern about threats to Kiawah marshes from residents, property owners, and the community as *Property loss/marsh bank erosion*. Concerns were prioritized as follows:

- Property loss/marsh bank erosion
- Ability to sustain fisheries /wildlife/ecosystem
- Bulkheads impact on adjacent properties
- Marsh migration pathways, sea level rise
- Stormwater runoff/drainage (pollution)
- Unregulated public accesses

Mr. Taylor presented an overview of the *Salt Marsh Management Plan for Kiawah Island*, discussing and giving examples for each of the goals developed around the identified concerns:

- Engage - Educate the public, property owners, and decision-makers about undesirable marsh changes

- Monitor - Detect changes in wetland vegetation species composition and structure within the salt marsh over time
- Protect - Prevent or correct trajectories leading to impairments to the marsh by adopting marsh management regulations.
- Restore - Manage vulnerable areas and mitigate against future issues and undesirable changes
- Adapt - Revisit implementation strategy annually; revise Plan every five years

Mr. Taylor reviewed the criteria for approval of the adoption of the Marsh Management Plan and the IEEC (Inter Entity Executive Committee) comprised of island stakeholders charged with implementing the recommendations.

Mr. Taylor addressed the earlier comment stating that the MMP identified the Conservancy in the role of marsh acquisition due to the nature of their work and concerns over the Town's position as a property owner.

Councilmembers engaged in a discussion of the MMP, with Councilmember Belt commenting on the importance of the inclusion of the Low Country Land Trust and Coastal Carolina League as stakeholders on the IEEC and Councilmember Heidingsfelder commenting on the exceptional job done by the team in the development of a comprehensive and well-structured plan providing a framework to work on protecting the marsh.

Councilmember Moffitt made a motion to open the Public Hearing. Councilmember Berner seconded the motion, and it was unanimously approved.

Andy Capelli – 160 Governor's Drive

Mr. Capelli, a member of the Planning Commission, stated that he did not vote for the recommendation of the MMP. He agrees with what is included in the MMP and the recommendations, having worked on the plan since the beginning. The only objection in the draft of the MMP relates to the recommendation to form the IEEC. He felt if the IEEC did not function properly and effectively, the plan would not work.

Mr. Capelli recommended that prior to the second reading, the plan be amended to specifically address the recommendation in the context that the Town, under its auspices, would form and manage the committee to coordinate and implement the plan as it is developed.

Councilmember Moffitt made a motion to close the Public Hearing. Councilmember Berner seconded the motion, and it was unanimously approved.

Councilmember Heidingsfelder made a motion to approve the first reading of Ordinance 2023 – 01, An Ordinance of The Town Council of the Town of Kiawah Island – Marsh Management Plan. Councilmember Belt seconded the motion.

Councilmembers engage in an in-depth discussion of Mr. Capelli's recommendation, the intent of the IEEC, and the inclusion of additional language in the current draft of the MMP. It was agreed that staff would draft the additional language prior to the second reading.

Councilmember Heidingsfelder amended his motion to approve the first reading of Ordinance 2023 – 01 with the condition that the additional language would be added for the second reading. Councilmember Berner seconded the motion, and it was unanimously approved.

B. To Consider Approval of the 2023 Meeting Schedule

Councilmember Heidingsfelder made a motion to approve the 2023 Meeting Schedule. Councilmember Berner seconded the motion, and it was unanimously approved.

C. Appointment of Mayor Tempore

Mayor Labriola made a motion to appoint Councilmember Moffitt as Mayor Pro Tempore. Councilmember Heidingsfelder seconded the motion, and it was unanimously approved.

D. Re-Appointment of Town Finance Director

Mayor Pro Tem Moffitt made a motion to re-appoint Ms. Szubert as Town Finance Director. Councilmember Belt seconded the motion, and it was unanimously approved.

E. Re-Appointment of Town Clerk

Councilmember Berner made a motion to re-appoint Ms. Reynolds as Town Clerk. Councilmember Heidingsfelder seconded the motion, and it was unanimously approved.

F. 2023 Committee Appointments

- Arts & Cultural Events Council
- Audit Committee – New member Mr. Mark Reynolds
- Public Safety Committee
- SATAX Committee

Councilmember Berner made a motion to re-appoint the members of the Arts and Cultural Events Council, appoint Mr. Reynolds and re-appoint the members of the Audit Committee, re-appoint the members of the Public Safety Committee, and re-appoint the member of the SATAX Committee. Mayor Pro Tem Moffitt seconded the motion, and it was unanimously approved.

Councilmember Berner made a motion to move into Executive Session Pursuant to Section 30-4-70 (a)(1) of the South Carolina Code to Conduct An Annual Review of the Town Attorney. Mayor Pro Tem Moffitt seconded the motion.

Councilmember Belt did not object to the annual review of the Town Attorney but expressed concern that discussion is inappropriate or premature, given outstanding issues related to the validity of the contract entered into by the previous Council citing Ordinance 2-504, which empowers the duly elected Council to appoint the Town Attorney and issues related to the termination provision that was raised at the November 2022 Town Council.

Councilmember Belt also expressed concerns with the review process undertaken to draft the agreement. One concern was that labor counsel had not previously reviewed the agreement negotiated between staff and the current Town Attorney until the day of consideration by the Town on November 1st when approved. He also expressed concerns about the absence of standard provisions in consulting agreements and questions regarding several aspects of the agreement approved.

Councilmember Belt stated that the issues are unresolved and questioned if it was timely and appropriate to go into Executive Session now to discuss the performance review unless and until the issues are resolved.

Councilmember Heidingsfelder questioned if the agreement issue would be discussed in the Executive Session, after the Executive Session, or how members will proceed. The labor attorney

made recommendations after he reviewed the agreement and input from Councilmembers regarding the process, language, and absence of conditions that should have been part of the agreement.

Ms. Tillerson clarified that the Executive Session discussion would be just a discussion of performance, not the agreement. The labor attorney provided three opinions, including the option that the Council could re-appoint Mr. Wilson and renegotiate the agreement immediately or at the end of the year.

Councilmember Belt stated that the letter from the labor attorney was not an opinion of counsel but rather recommendations and did not address the issues posed. He also noted the letter that was characterized as governed by attorney/client privilege, and having conveyed the recommendation, does it not open up public discussion of all the issues Councilmembers have raised and have commented on? Ms. Tillerson responded that the decision was up to Council.

Following further discussion, the motion to move into Executive Session was unanimously approved.

X. Executive Session

A. Executive Session Pursuant to Section 30-4-70 (a)(1) of the South Carolina Code to Conduct An Annual Review of the Town Attorney.

Mayor Pro Tem Moffitt made a motion to return to the Regular Session. Councilmember Berner seconded the motion, and it was unanimously approved.

Mayor Labriola stated there was a long discussion relative to the issues. In the Executive Session, no decisions were made, and no action was taken.

XI. A. Re-Appointment of Town Attorney

Mayor Pro Tem Moffitt made a motion to re-appoint Mr. Wilson as Town Attorney. Councilmember Berner seconded the motion, and it was approved by a majority vote. Councilmember Belt abstained.

XII. Council Member:

Councilmember Heidingsfelder thanked Ms. Reynolds for providing the materials for the meeting early.

XIII. Citizens' Comments:

Larry Rutowski – 232 Sparrow Hawk

Mr. Rakowski, a member of PreserveKiawah, wanted to reiterate the earlier comments by Councilmember Belt. The comment on the concerns from citizens and homeowners on Kiawah with regard to the ARB, he asked that the Town, in its leadership role, sponsor a public hearing on those issues.

Mr. Rakowski congratulated the new Councilmember on the election and hoped there would be a renewed commitment to transparency. He also congratulated Mr. Wilson on his re-appointment.

Mr. Rakowski asked about the status of the Lot 1 project and asked to hear more from the Town. He noted a fair degree of confusion in the community regarding where the project stands.

Mr. Rakowski spoke on the potential of a Performing Arts Facility on Kiawah. He was of the opinion, along with others, that the facility was not necessarily something the Town would be able to afford.

In his experience as a member of the Board of Directors and treasurer of a regional performing arts center. Functions are difficult to fund, even in a very culture rich area that can attract more people. Without governmental and private support, performing arts centers will struggle. In his opinion, this is not the right market for it, and cannot attract the right talent at prices that constituents are willing to pay.

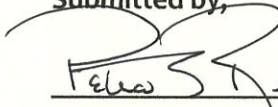
Mayor Labriola clarified last year that the Council felt it was time to hire a consultant to conduct a feasibility study for a performing arts center, nothing more, and no prejudgment. He noted that the study conclusion may be as Mr. Rakowski described. Councilmember Belt felt the process of evaluating a facility should be thoughtful and deliberate. In his new role as the liaison to the Arts Council, has had the opportunity to obtain insight into the challenges faced by the Arts Council and have also looked at some models in which there has been success and failure in similar size communities. Councilmember Heidingsfelder added the request that Mr. Rakowski get involved with the study noting his expertise would be of value to the discussion.

Mayor Labriola pointed out the two venues for continued discussion and community engagement: the upcoming Council Planning Retreat and the activities relative to Comprehensive Plan Update.

XIV. Adjournment:

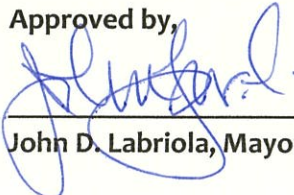
Councilmember Berner made a motion to adjourn the meeting at 4:40 pm. Councilmember Heidingsfelder seconded the motion, and it was unanimously passed.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



John D. Labriola, Mayor

2.10.2023

Date

RIVERSTONE PROPERTIES, LLC

800 East Canal Street • Suite 1900 • Richmond, VA 23219

Office: (804) 643-4200

December 28, 2022

John D. Labriola
Mayor
Town of Kiawah Island
4475 Betsy Kerrison Parkway
Kiawah Island, South Carolina 29455

Dear Mayor Labriola,

I wanted to give you an update on our progress with the Andell West development that you can share with the other members of council and the citizens of the Town of Kiawah Island. We are committed to seeing this process to conclusion and providing an expansion of Freshfields and new Harris Teeter store that addresses the needs of the community and is something that we all can be proud of for generations to come.

We are still working diligently to address the remaining community concerns which fortunately have been whittled down to a few. To do this we have requested and have been granted another 60 day deferral to the March 16th County Council meeting. We have revised the list of permitted uses to eliminate the ones that the community found objectionable. We have agreed to limit the size of the fuel center to seven pumps, buffer it from all roads and not permit tractor trailer fueling. We have agreed to match the 100-foot Freshfields buffer along Kiawah Island Parkway and have added language stating the project will be architecturally consistent with Freshfields and feel like a single unified property. We have also agreed to the Town's plan for a roundabout at the entrance.

The final issue is insuring proper internal connectivity with Freshfields. We are working with Edens to define those points now which is why we needed to defer for 60 more days. As soon as we have additional information we will be sure to let you know. Thank you as always for your cooperation.

Sincerely,



Chris Corrada
Principal

CC: Kiawah Town Council
Stephanie Tillerson