

**TOWN COUNCIL**  
**Municipal Center Council Chambers**  
**October 3, 2023; 1:00 pm**

**Minutes**

- I. **Call to Order:** *Mayor Labriola called the meeting to order at 1:10 pm.*
- II. **Pledge of Allegiance**
- III. **Roll Call:**

**Present at the Meeting:** John D. Labriola, *Mayor*  
John Moffitt, *Mayor Pro Tem*  
Brad Belt, *Council Member*  
Russell Berner, *Council Member*

**Present Via Zoom:** Michael Heidingsfelder, *Council Member*

**Also Present:** Stephanie Tillerson, *Town Administrator*  
Joe Wilson, *Town Attorney*  
John Taylor, Jr., *Planning Manager*  
Brian Gottshalk, *Public Works Manager*

*Council Member Berner motioned to come out of the Executive Session. Mayor Pro Tem Moffitt seconded the motion, and it was unanimously approved.*

- IV. **Approval of Minutes:**
  - A. Minutes of the Town Council Meeting of August 9, 2023

*Council Member Bener made a motion to approve the minutes of the Town Council Meeting of August 9, 2023. Mayor Pro Tem Moffitt seconded the motion, and it was unanimously approved.*

- B. Minutes of the Special Call Town Council Hearing of September 5, 2023

*Mayor Pro Tem Moffitt made a motion to approve the minutes of the Special Call Town Council Hearing of September 5, 2023. Councilmember Berner seconded the motion, and it was unanimously approved.*

- C. Minutes of the Town Council Meeting of September 5, 2023

The minutes of the Town Council Meeting of September 5, 2023, were deferred to the next meeting.

- V. **Public Hearing:**
  - A. **Ordinance 2023-17** – An Ordinance to Amend the Town of Kiawah Island Comprehensive Plan – Land Use Element – Future Land Use Categories and Comprehensive Plan Map IX.2, Future Land Use; to Change the Future Land Use Designation for the Subject Properties (TMS# 207-00-00-040; 265-16-00-159; 265-16-00-160) from “Medium Density Residential” to “Active Recreation and Open Space.”- **Public Hearing and First Reading**
  - B. **Ordinance 2023-18** – An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning, Article II. - Zoning, Division 2. - Zoning Map/Districts, Section 12-62. – Zoning Map by Rezoning the Properties (TMS# 207-00-00-040;265-16-00-159;265-16-00-160) from “R-2 Residential” to “Parks and Recreation - **Public Hearing and First Reading**

Mr. Taylor stated that the two amendments presented for the Public Hearing and First Reading are regarding the rezoning of parcels located in Ocean Park. Three specific parcels have been presented,

two of which are open spaces located in the center area and one 2-acre parcel located adjacent to the entrance towards the Ocean Course. These parcels have been conveyed either to KICA (Kiawah Island Community Association) or the Ocean Park Homeowners Association.

- TMS# 207-00-00-040 (4.99 acres) – Ocean Park Homeowners Association
- TMS# 265-16-00-159 (11.17 acres) – Ocean Park Homeowners Association
- TMS# 265-16-00-160 (2.0 acres) – Kiawah Island Community Association

The parcels are currently zoned R2 residential, and the proposal request is for them to go to the PR Zoning District. In the Comprehensive Plan, the current future land use designation is medium residential density, and that has been requested to go to the Active Recreation and Open Space classification.

Mr. Taylor presented aerial and ground photographs of the parcels, describing each.

Mr. Taylor stated that the staff recommendation was heard by the Planning Commission at their September meeting and voted to recommend approval of the requests to Town Council. After the Public Hearing, Town Council has the ability to make a decision on first reading: to approve, approve with conditions, or deny.

Mr. Taylor stated that the Planning Staff has outlined the criteria and believes that these requests meet those criteria.

Mayor Labriola opened the Public Hearing for Ordinance 2023-17.

There were no comments from the public.

***Council Member motioned to approve the first reading of Ordinance 2023-17 to Amend the Town of Kiawah Island Comprehensive Plan – Land Use Element – Future Land Use Categories and Comprehensive Plan Map IX.2, Future Land Use; to Change the Future Land Use Designation for the Subject Properties (TMS# 207-00-00-040; 265-16-00-159; 265-16-00-160) from “Medium Density Residential” to “Active Recreation and Open Space.” Mayor Pro Tem seconded the motion, and it was unanimously approved.***

***Council Member Heidingsfelder motioned to open the Public Hearing. Mayor Pro Tem Moffitt seconded the motion, and it was unanimously approved.***

If there are any citizens here to speak in favor or against both applications, please come forward.

**Peter Marks – 304 Victory Lane, Ocean Park**

Mr. Marks stated that he was pleased that the R2 zoning was being changed into a Park zoning. When he and the other homeowners bought their properties, they were under the impression that the open areas were park areas and that the current zoning change was a good move. He also asked what the zoning was on the other significant open space areas, and if they are zoned R2, why it was not necessary to change their zoning as well.

Mr. Taylor stated that the Kiawah Island Golf Resort retains one open space area, but the remaining open space areas would be coming for rezoning to Park and Open Space at a future date. Right now, those are currently Zone R2, but those would go to the same PR designation, Parks and Recreation, as recommended for the current parcels.

***Mayor Pro Tem Moffitt motioned to close the public hearing. Council Member Heidingsfelder seconded the motion, and it was unanimously approved.***

***Council Member Berner motioned to approve the first reading of Ordinance 2023-17 and Ordinance 2023-18. Council Member Belt seconded the motion, and it was unanimously approved.***

## VI. Updates:

## Mayor

Mayor Labriola stated that the second Planning Commission Workshop will be tomorrow morning, followed by a Special Call Planning Commission meeting to render a recommendation for the zoning of the nineteen parcels in total and eight specific parcels that are of interest. He encouraged everybody to attend and listen to what the Planning Commission would be hearing on some very complicated issues.

Mayor Labriola commented on the criticism Mr. Taylor received last week relative to the recommendations he made. The Mayor stated the fault was not Mr. Taylor's; he did what he was supposed to do. The Planning Director is supposed to make recommendations on suggested zoning changes, and the work on the proposed changes is something that has been going on for almost a year since the Town Council approved that the Development Agreement would terminate in December of 2023. When the agreement concludes, the zoning has to be in place for these 19 Parcels. Mayor Labriola stated that he had reviewed Mr. Taylor's document, and it is not Mr. Taylor's prerogative, nor should it be, and he wouldn't agree with it if Mr. Taylor would recommend any downzoning. There are consequences and implications associated with down-zoning.

Mr. Taylor's recommendations were heard by the Planning Commission last week, and tomorrow, the recommendations will be heard again. There is a new document that has been posted on the website relating to some of the changes the Planning Commission will hear. Then, the Planning Commission will make the recommendation to Town Council, which will be heard in November.

Mayor Labriola stated that probably one of the most significant decisions that a Town Council, or any municipal government, can make is relative to zoning because it puts in place the future of the community. Town Council will take the Planning Commission's recommendation very seriously. It will render a decision, and if the majority of this Town Council recommends upzoning, downzoning, or consistent zoning, that is its prerogative because it is the fiduciary responsibility of the Council.

Mayor Labriola stated that Mr. Taylor's work, the Planning Commission's work, and any individual's work are all work in process. In November, Council will be making a decision on the first reading and then a subsequent reading in December, relative to the designation for those 19 sites and specifically those eight sites.

Mayor Labriola spoke to the eight sites, three of which get a high level of visibility, two on Beachwalker and Captain Sam's. The Beachwalker future designation of zoning now in place is a preliminary plat that was approved for the Beachwalker properties and has nothing to do with what was just discussed. The site plan review, which is under the purview of the Planning Director, will look at the application from the developer, and at some point, the Planning Director will deem his review complete. *(The application submitted by the developer can be reviewed on the Town's website and is under existing standards and conditions, all found within the Development Agreement).* Mr. Taylor is somewhere in that process and may be getting close to completion.

Mayor Labriola stated that a number of requests have been received to have a third party, a consultant engineer, basically look at the work that Mr. Taylor is doing and has done. That review has pros and cons; it would be an extra set of eyes that may catch something or maybe not, and that maybe agrees with Mr. Taylor, or maybe not. The concern and one of the cons is that because this has not been done before, what happens if there's a disagreement? What happens if this engineer says that things are not done correctly, and Mr. Taylor takes the position that they are? Who adjudicates that, and who determines that? Mayor Labriola stated that the founding fathers took that into account. Under Section 12-24 - Board of Zoning Appeals (BZA), which is part of our ordinances, it spells explicitly out an administrative review process so that if an affected party, which in this case could be the neighborhoods on Beachwalker, feels as though the site plan review the Planning Director has deemed complete and approved is improper, it can be challenged. That challenge goes to the BZA.

Mayor Labriola stated that he was delighted to read yesterday that the affected neighborhoods have contacted the Counsel, and all that was asked was that they be promptly informed of any administrative action taken with regard to any of these matters. Mayor Labriola stated that he would contact them when that site plan was approved. If then challenged, it goes to the BZA, who would do an independent review of the work Mr. Taylor has done and a review of the issues from the neighborhoods, after which the BZA will then render a decision. There are subsequent reviews and appeals after their decision.

Mayor Labriola stated that he knows everybody is concerned relative to Beachwalker and the wish that it could be the way it was five years ago, ten years ago, and 20 years ago. Still, there are rights that the developer has that go back decades, and now they are being exercised. The Town is going to make sure that everything is done as correctly and as appropriately as it can, relative to ordinances that we have in place. There is far too much being written, said publicly and verbally, that has not helped this matter at all. We as a Council don't know what we're going to do in November, but whatever we do, the Council will bear the burden of that, not the Planning Director and not the Planning Commission.

Mayor Labriola stated that with the zoning-related issues and other issues pending, he encouraged everyone to attend the meetings, come to the Planning Commission meeting tomorrow, and come to the Council meetings in November and December and listen to what determinations are made. The Town will keep the community apprised on the website relative to what is being approved or changed or approved on the site plan. That is where the Town is at right now; there is going to be a lot of activity going on these next couple of months to get both of these things done.

#### A. Council Members

Council Member Heidingsfelder stated that many emails were received over the last couple of days. A lot of people have asked, requested, or demanded that the Council halt the Beachwalker Development by voting against it and to make a decision today never to allow anything to be built on these properties. This is not how it works, and what needs to be understood, as the Mayor said, is that there are vested rights, and those vested rights go back all the way to the Kuwaitis, Buddy Darby, and beyond.

What we have to do is deal with these entitlements, process them properly, especially as they relate to Upper Beachwalker, and take the opportunity to sit down with the developer and discuss finding a compromise on how we can hopefully reach an agreement over lower density, lower building heights, fewer floors in the building, less dwelling units in the building, larger setbacks, and other topics that we have raised and explained before, but we can only do this within the boundaries of these vested rights and an agreement that we can reach with the developer. I really want to make sure the community understands this, remains engaged, and voices their opinion, but please, in a way that really helps us to find a solution. Halting these developments and voting against them is certainly the desire of many, but it is not what we can do.

Council Member Heidingsfelder wanted to speak about a topic the Mayor also referred to briefly: the proposal from the Planning Director on the zoning changes to some of the undeveloped or recently developed properties along Beachwalker Drive. As the Mayor stated, downzoning them has a lot of consequences and legal risks, but questioning if it could be considered as a solution to upzoning was where he had a lot of questions and concerns. Council Member Heidingsfelder hoped that going through a proper process with the Planning Commission, which continues tomorrow in the workshop and the Planning Commission meeting, those things would be openly and transparently discussed and debated, and a solution could be found to commonize certain zonings as it might be beneficial but without upzoning of certain properties as an advantage for the Developer.

Council Member Heidingsfelder wanted to talk about the other big topic, traffic. We are all concerned about this and have all seen how this has become much worse over the years. While reading the August 1<sup>st</sup> Town Council meeting minutes, Mr. Fernandez, a KICA board member, gave two very

important data points. One was that there was a 12% increase in traffic through the first gate in the second quarter of this year, and the second was that there was a 30% increase in traffic over the 4th of July holiday, both in comparison to 2022. Further development of the island, construction, and renovations are creating a lot of traffic, and when the building projects are finished, some homeowners will also be adding to that traffic. I think we are at a point, and that was my proposal that I made in the July Town Council meeting, that we really must start a more focused discussion about traffic instead of just complaining about it. He made two proposals that he wanted to discuss in the upcoming Council Retreat, and as a Town Council, to start debating how to mitigate traffic. The two proposals have their pros and cons, and there is no agreement yet, but the purpose is to look for solutions. Even solving the traffic backup situation at the first gate is not going to solve the issues of traffic across the entire Island, so we need to have a discussion in the community to find solutions on how to deal with the traffic and how to mitigate it. He would encourage the community to start talking about those and other solutions.

Council Member Heidingsfelder also discussed the backup at the first gate being caused by a lot of vehicles that either have no pass, lining up in the wrong lane, and then having to be turned around. He noted that there had been discussion on whether the Town should put more signage on the street pavement. So far, this has been denied by the ARB (Architectural Review Board), but there has been further discussion with the ARB, and more will be forthcoming on it as a solution to better guide traffic before they approach the gate.

Council Member Berner stated that he was working towards preparing an infrastructure construction plan for when the development commences along Beachwalker Drive. This plan would include setting time periods for when deliveries can and cannot be made, along with the requirement for the developer to monitor, control, and then fix any traffic issues that come up during the construction phase. There certainly is time before that project starts, but we already heard from Council Member Heidingsfelder that traffic is already a problem for those people who live in that area and know it is going to get worse when Beachwalker projects get going, so he is going to be working towards a plan to try to minimize the impact as much as possible.

Council Member Berner stated with respect to the development of Beachwalker, we are all on the same page and wish that there would be single-family homes on Beachwalker, but the Development Agreement says what it says, and that is what we are stuck with at this point in time.

Council Member Belt commented on the infrastructure agreement raised by Council Member Berner, stating that he felt it would be an extraordinarily good idea, questioning if the agreement had to be in place as part of the site plan approval or if the site plan is approved without that agreement being in place do we have any ability to require it at a later date. Ms. Tillerson stated that she would have to confirm with Mr. Wilson in terms of requiring by a later date. She indicated there was discussion on whether Mr. Taylor approved the site plan, making it part of the conditions that those items have to be met, but it would have to be known what those items are and have Council approval.

Council Member Belt stated this is a critically important issue. If there is an agreement, it should include the same types of terms imposed as the Town of Seabrook for encroachment or access off Seabrook Island Road for Seafields and MUSC. He also questioned when that agreement needed to be in place or if similar conditions could be imposed. Ms. Tillerson stated that she was looking into it and had spoken to Mr. Taylor about how and when the conditions could be added. Still, ultimately, it would be something similar to a construction schedule that would have to be brought before the Council.

Council Member Belt wanted to pick up on some of the comments made by the Mayor and Council Member Heidingsfelder and respond to the many emails received over the last two to three days. Council Member Belt felt there was some misinformation and confusion in the community, and he would try his best to address some of those. Following what the Mayor had talked about, there are really three different things going on: two are actually going on, one at the periphery.

Path number one is the by-right development of the Upper and Lower Beachwalker Parcels, which is a function of the developers owning property and being entitled to develop that property according to the terms of the Development Agreement. That is what is before the Town Planning Director, the site plan approval process. Council Member Heidingsfelder said that the developers have all these vested rights to build, and that is not quite correct. The developers have rights to build, and they have certain entitlements; what those rights are has yet to be fully resolved, and when and if those rights vest is a separate issue, but they certainly have rights to build. He and I do want to disabuse a lot of those who had said; please don't allow any development on upper and lower Beachwalker Drive. He also wished that it would stay a pristine Maritime Forrest, but that's not where we are, and that's not where we are going to be. The developer does have rights, and there is going to be some development.

Path number two is a Plan Development District (PDD) that would combine all of the Upper Beachwalker parcels, which has been talked about but has not yet been proposed. It has been discussed at Council meetings, and the developer has provided concepts to the Council Members, but there is nothing on the table. If there is an application filed with regard to consolidation, it would go through the ordinary process, which is reviewed first by the Planning Commission and then ultimately coming to the Council in the context of a PDD. In a PDD, virtually anything is on the table; it is a negotiated outcome, so there's a lot to be addressed with that.

Council Member Belt expressed concerns about some of the statements that have been made. In one particular communication that went out from the town the other day, that said something to the effect that we believe that if these eight things occur, that would be a good thing. He was not sure who the "we" was, and in any event, the process had to go through the Planning Commission. It is not the prerogative of the Council to bypass the Planning Commission in order to approve a potential Plan Development District.

The third is the rezoning of the Upper and Lower Beachwalker parcels, indeed all parcels, once the Development Agreement goes away, and what the mayor says is absolutely right; this is all very complicated stuff. He said that we don't want to do any downzoning because that has consequences, but what about upzoning? Part of the challenge right now is that we don't know whether, in fact, what is being proposed actually constitutes up-zoning or downzoning on some of these parcels.

Council Member Belt encouraged everybody at the meeting and anybody else to please come to the Planning Commission Workshop and Planning Commission meetings because it's critically important that the community continues to stay engaged and aware of what's transpiring.

Council Member Belt went through a series of slides pointing out some of the kinds of issues that he felt the community was concerned about.

- Parking table for buildings in the Church parcel
- Is there a need for a proposal for what is going to take place on Parcel 9
- Applicable zoning on Parcel 10 and Parcel 9 when the Development Agreement expires
- Number of dwelling units on Parcel 11 and the Church parcel
- Stormwater management plans – no stormwater retention pond on Parcel 11
- In addition to two points of Ingress and egress, taking down a 30 ft width of 40 ft trees going back from the road
- Community concern about the lack of transparency in the site review process
- concern is there are going to be decisions made by the Planning Director that potentially negatively impact the community that there could be a discussion about
- Concerns that there are not the required number of parking spaces being constructed on The Cape
- Concerns about insufficient parking to be able to respond to the very foreseeable needs

Council Member Belt felt that along with the issues he pointed out, the concern has been that there should be a collective conversation to address the things that are easily identifiable and address them

before there is site plan approval. He noted that challenge and litigation do not solve anyone's interest and that the best basis for a challenge would be on technical requirements.

Council Member Belt stated that there has been so much interest in this because there is a perception in the community that everything is pre-baked, that regardless of all the concerns, it is going to be approved just like it is on the page now, all the questions and concerns are not going to be addressed, and it will be up to the community to pursue legal challenges rather than solving all of this in advance.

#### **B. Administrator**

Ms. Tillerson reported that it looked like the Seafields project was moving along with their electrical or mechanical contractors at the site.

Ms. Tillerson stated that the Town had met with the MUSC development construction team, which included representatives from various agencies that gave feedback on things that may be required. She noted that the building of hospitals is under state control, so it appears that the State Engineering Agency would be doing all of the review of the plans and performing the inspections of the MUSC project. The Town is not getting building permit fees, and the building team will get the opportunity to look at the plans but may not have very much to do.

Ms. Tillerson stated that on October 10<sup>th</sup> from 1:00 pm to 3:00 pm, the project of the Wellness Center Medical Facility will be hosting an open house in Council Chambers for the community.

### **VII. Citizens' Comments (Agenda Items Only):**

#### **Maura McIlvain – 146 Blue Heron Pond Road**

Ms. McIlvain stated that Mr. Belt was correct that there is a perception in the community that it is pre-baked. She pointed out that one of the reasons is that in his opening comments, the Mayor said, "When it is approved by Mr. Taylor." On the Mayor's comment that "there is not much being said publicly," it was her opinion there was not enough being said publicly, and to the comments that the Mayor "wanted to ensure it is done as correctly as he can," she suggested that he hire a third-party engineer. She also noted that if a site plan is approved, the five days allowed to file an appeal at the BZA was not enough time to protect the community's rights.

Ms. McIlvain stated that at the Ways and Means Committee meeting, there was a discussion of a new contract for the Town Administrator. She asked why, in the middle of the term of her contract, it was being re-negotiated and also questioned the salary adjustment, comparing it to salaries in other municipalities.

#### **John Fly - 102 Belmeade Hall**

Mr. Fly stated the Mayor was correct when he said that all of this was complicated and discussed the definition of complicated and confusing issues, noting that in certain decision-making processes, there seem to be people who want to clarify complicated things, those who seem to want to confuse inherently simple things. Those who wish to make things confusing rather than merely complicated have underlying motives for getting bad decisions made.

Mr. Fly stated that there might be a few people in the community who wish the Town Council would do something to have nothing built, but he did not think that any informed member of the community would think it was realistic. Everyone is concerned about what gets built, not whether something gets built, so he urged the Council and Town staff not merely to take these comments as annoying noises but as expressions of genuine and sincere concern to see what is done in the community is what is best for the community.

Mr. Fly stated that regarding the matter of an engineering consultant, he had not had a lot of interaction with Mr. Taylor or witnessed a lot of his work, but from his brief observations, he had a very strong and good opinion of his capability and his Integrity. Mr. Taylor is an excellent generalist

and is exactly what you want in that job. He stated that despite his strong impression of Mr. Taylor's capabilities, he absolutely urged the Town to spend the money to bring in a third-party engineering firm to look at stormwater and other engineering issues that need to be resolved. If you don't get that right at the inception, you're going to have problems for a long time.

Mr. Fly stated there was a comment made about problems with downzoning at the expiration of the existing development agreements, but upzoning for no good reason other than to make another property right grant to the developer is at least as problematic. Whether we like it or not, there is an expiration date on the existing development agreement; there will have to be a transition from operating under a development agreement to some other system, and at some point, a need to wind up with something that makes sense for the developer and sense for the community. I do encourage everyone to bear with this process. It will be complicated, but if it is felt in this community that these decisions have been pre-baked, there's going to be an awful lot of frustration.

#### **Paul Kerr – 302 Victory Bay Lane**

Mr. Kerr went back to the comments that were made earlier about the Ocean Park zoning and the follow-up comments. The question that was raised was on two parcels in Ocean Park and what they would be zoned. He stated that he looked at the workshop materials for tomorrow, and for two parcels, 41 Osprey Beach and 43 Ocean Park, there was no detailed information included in the materials. In terms of public transparency and giving the public the appropriate due time to look at and study the proposal, it would be important that those specific parcels be included.

Mr. Kur stated that secondly, to follow up on the summary sheet that was represented earlier; the 43 Ocean Park parcel would be designated as PR; however, looking at the recommendation, it is actually going to be recommended to be zoned R2 and PR, and with the lack of transparency was not sure what that means in terms of the actual zoning of that parcel. He encouraged the commission and the zoning commission to provide the appropriate time and public disclosure of information so that the affected residents or the whole town could digest the information.

#### **John Connelly – 1020 Scalp Court**

Mr. Connelly stated that he lived in Sparrow Pond, one of the neighborhoods affected by all the development in West Beach, and that he wanted to add to some of Council Member Belt's comments. Mr. Connelly stated that it is very unnerving for residents of a community to find out that things have been approved that will impact them down the road, and it turns out that things were not really well thought out.

He discussed the fight five years ago to keep Duneside closed to the Timbers and The Cape area and engaged in an in-depth discussion of the memorandum of understanding that was signed by the developer indicating there would be additional parking spaces in a parking lot not tied into any portion of the club facilities. That access to and from the Club facilities would be via Beachwalker Drive and Cape Point Road. He noted that in the plats, there is no such access and that the developer had ignored this memorandum of understanding that it signed with KICA was a real concern.

Mr. Connelly stated that getting out onto Kiawah Island Parkway was the most difficult he has encountered in 22 years, and that's without the cape and the Timbers and without whatever the Resort building is going to build there. It is wonderful to talk about all this stuff, but the planning people need to understand what the ultimate ramifications are. Imagine that The Cape could be built and nobody thought about parking for their employees. The same thing has happened to the Timbers since the Timbers opened. All their employees have parked across the street in the dirt lot, which is parcel 13B, and that is going to be developed, so where are they going to park? I'm looking at something very basic and don't see an answer to it and see lots of problems if it's not addressed.

#### **Emma Berry – Communities and Transportation Project Manager, Coastal Conservation League - 131 Spring Street, Charleston**



Ms. Berry voiced the Conservation League's support of the proposed Resolution 2023-5 on today's agenda that recognizes the importance of the urban growth boundary. As we've seen earlier in this conversation today, as the growth pressures continue to increase on all of the Sea Islands, there is a need to strike a balance between urban and rural areas and our natural resources to preserve the beauty and quality of life in this special place. It is our position that the urban growth boundary is an important growth management tool that allows for responsible growth while also maintaining our rural character and our community. We appreciate the Town of Kiawah Island's dedication to respecting the urban growth boundary, and we hope that this resolution advances a formal four-way agreement between the Town of Kiawah Island, the Town of Seabrook Island, the County of Charleston, and the City of Charleston to strengthen the ug beyond the sea Islands the conservation League believes that the resolution before you today is the first step towards achieving this goal.

#### **John Grierson - 109 Bobcat Lane**

Mr. Grierson stated that he was one of the three communities that retain counsel to ensure that the process is followed properly. We should have the confidence that the process followed, but we lack that right now, and it has a lot to do with transparency. He felt bad for Mr. Taylor because he had to put something together that got a lot of criticism or questions from the community. A simple, non-confusing explanation would help us all understand the reason for this rezoning and explain why these actions are taken.

Mr. Grierson stated then there were rumblings about the corner real estate building and that negotiations were going on with a few of the council members. I did not know if it was true or not, but it did not build confidence with the transparency of what was happening here.

Mr. Grierson shared his experiences as a developer and discussed current issues with safety, that stormwater management was a critical issue on the island, and the 5-year plan created by KICA to manage stormwater.

Mr. Grierson stated that going back to transparency, keeping things simple, we're all basic people here we like to hear from the township, why not, what are we doing, how does it make sense, and not be told a few days ahead of time here are some changes, it is on the agenda, and hope you guys make it.

#### **Dave DeStefano – 31 Burroughs Hall**

Mr. DeStefano stated that with respect to the Lower Beachwalker parcel, KICA does have some interest there, and Mr. Connelly was right there was an agreement made. One of the agreements made was that only 40 of the units were going to exit through Duneside. The developer came back to KICA and wanted to reconfigure that parcel and were asked questions about how many units, how many bedrooms, and how much parking. The developer requested that KICA submit a formal written request for information to them, which KICA did, and the developer never responded. The developer withdrew their request to reconfigure because, as Council Member Belt said, there is nowhere near enough parking in that parcel.

### **VIII. Old Business:**

#### **A. To Consider Approval of Ordinance 2023-15 - An Ordinance to Amend the Town of Kiawah Island Municipal Code Article 14 - General Regulations, Chapter 1 - Flood Damage Prevention, Chapter 5 - Rental Applications and Regulations, Section 14-503 – Permit and Operating Requirements - Second and Final Reading**

*Mayor Pro Tem Moffitt motioned to approve the second and final reading of Ordinance 2023-15 to amend the Town of Kiawah Island Municipal Code Article 14 - General Regulations, Chapter 1 - Flood Damage Prevention, Chapter 5 - Rental Applications and Regulations, Section 14-503 – Permit and Operating Requirements. Council Member Belt seconded the motion, and it was unanimously approved.*

- B. To Consider Approval of **Ordinance 2023-16** - An Ordinance to Amend the Town of Kiawah Island Article 2 – General Government and Administration, Chapter 5 – Offices and Departments, Section 2-505 - Town Treasurer – **Second and Final Reading**

*Mayor Pro Tem Moffitt motioned to approve the second and final reading of Ordinance 2023-16 to amend the Town of Kiawah Island Municipal Code Article 2 – General Government and Administration, Chapter 5 – Offices and Departments, Section 2-505 - Town Treasurer. Council Member Berner seconded the motion, and it was unanimously approved.*

IX. **Consent:**

- A. To Consider Approval of the Creation of a Wildlife Technician Position within the Wildlife and Environmental Department

*Council Member Berner motioned to approve the Creation of a Wildlife Technician Position within the Wildlife and Environmental Department. Council Member Heidingsfelder seconded the motion, and it was unanimously approved.*

- B. To Consider Approval of the Purchase of Recycling and Solid Waste Educational Cart Stickers

*Council Member Heidingsfelder motioned to approve the Purchase of Recycling and Solid Waste Educational Cart Stickers. Council Member Berner seconded the motion.*

Council Member Berner expressed his concern with whether the stickers are going to work. He was surprised that the Town has to go through these steps to make sure people don't co-mingle trash with recyclables, but it was a recommendation from the Go Green Initiative.

Mayor Pro Tem Moffitt felt that to buy 8,000 stickers for \$21,000.00 to stick on cans, most of which will never be read, doesn't seem to be a prudent use of money. He supported the effort of trying not to co-mingle the stuff and do a better job of recycling, but it did not seem to be a prudent use of funds.

Council Member Berner stated at the Ways and Means Committee meeting he explained that in his experience, stickers did not work, but what did work was a selected ten homes that were inspected for comingling on trash day. The word went out through the community about the fear of being fined. He was concerned that it was a waste of money and would rather see a sporadic inspection being done.

Council Member Belt stated that he was fully supportive of the concept of getting the word out to educate the community better and appreciated the work of the Go Greener Workgroup. He would support putting stickers on newly issued garbage cans but had a concern about the implementation of getting stickers on cans and the costs.

Council Members discussed and agreed to purchase a smaller amount of stickers to be applied in a neighborhood as a pilot, selecting an area to try Council Member's recommendation, but with a fine, along with checking with Carolina Waste to see if they see an improvement with the community separating their waste.

X. **New Business:**

- A. To Consider Approval of **Ordinance 2023-19** - An Ordinance to Amend the Town of Kiawah Island Article 2, General Government and Administration, Chapter 2 – Municipal Council, Section 2-205 - Mayor Pro Tempore – **First Reading**

Mayor Pro Tem Moffitt stated that the current ordinance states that the position of Mayor Pro Tem is a two-year position following that Council's term was for two years. When the Council's terms were changed to four- years, the current ordinance was not changed. The options are to renominate a

Mayor Pro Tem every two years and start the process again or change to a four-year term running coincidentally with the election of the Mayor.

**Mayor Pro Tem Moffitt motioned to approve the first reading of Ordinance 2023-19 to amend the Town of Kiawah Island Article 2, General Government and Administration, Chapter 2 – Municipal Council, Section 2-205 – Mayor Pro Tempore. Council Member Berner seconded the motion, and it was unanimously approved.**

**B. To Consider Approval of Resolution 2023-05 - A Resolution in Support of the Urban Growth Boundary**

Mr. Taylor stated that the presented resolution is to consider supporting the Urban Growth Boundary. At the Town Council Retreat, the concern was the Town being more attentive to what was happening beyond the front gate, including areas adjacent to Freshfield, and this is one of several efforts being recommended by staff.

Mr. Taylor stated that after many conversations between the Planning staff of the Town and Charleston County, this first recommendation is to formally acknowledge to the County that the Town is in support of the Urban Growth Boundary and would be followed by the Town taking steps to initiate an intergovernmental agreement with the County.

Mr. Taylor stated that the Planning Commission had reviewed supporting the Urban Growth Boundary and recommended it for Council consideration. Following approval, staff would initiate the Town adopting the urban growth boundary within its code.

**Council Member Berner motioned to approve Resolution 2023-05 in support of the Urban Growth Boundary. Council Member Heidingsfelder seconded the motion.**

Council Member Berner stated that he was a member of the John's Island Task Force, and the Urban Growth Boundary was a very, very important item that prevents urban development out into the farmlands. Council Member Heidingsfelder agreed, and Council Member Belt added that this was consistent with the position that the Town took in terms of its communication with the Town of Seabrook Island regarding the Bohicket Marina expansion.

**Following the discussion, the motion was unanimously approved.**

**C. To Consider Approval of the Kimley-Horn Proposal for the Removal of the Westbound Right-Turn Lane**

Mr. Gottschalk stated that at the beginning of this year, Town staff entered into an agreement with Kimley-Horn to develop designs for the improvement of the intersection of Beachwalker Drive and the Kiawah Island Parkway. The initial design included a right-turn lane on the Parkway designated for inbound traffic to turn onto Beachwalker Drive. After further investigation, it was decided that the addition of this right-turn lane was not the right approach to take because the impact is not significant to alleviate inbound traffic, and it would almost double the cost of the entire project due to the relocation of utilities where the right-turn lane would be constructed. Because of this, staff and the consultant have discussed that the right turn lane should be removed from the design because, in the Kimley-Horn assessment, the right turn lane will not add a significant benefit.

The current design will need to be updated to remove the initially proposed right-turn lane and update the drainage calculations based on the new design. The proposed cost for this work is \$7,000.00.

Council Member Berner questioned if the balance of the improvement would include the expedited exit left lane at the front gate. Mr. Gottschalk stated that it would and described the proposed improvement, along with a representative with Kimley-Horn, providing clarification on design questions. In response to Council Member Belt's question, Mr. Gottshalk stated the cost for the improvements, minus the right turn lane, would be anticipated to be about \$250,000.00.

**Mayor Pro Tem Moffitt motioned to approve the proposal from Kimley-Horn for the removal of the westbound right-turn lane. Council Member Berner seconded the motion.**

Council Member Heidingsfelder asked if, with the approval, the project would go out for bid and then be approved again. Mr. Gottshalk clarified that the approval was for the redesign to have the document put out for construction bid, and then it would go back through Ways and Means and Council approval of the bid.

Also discussed was the agreement with KICA for the elimination of the bike path at that point. Mr. DeStefano confirmed that the bike path would be eliminated and is on the schedule to be completed by December 31<sup>st</sup>.

**Following the discussion, the motion was unanimously approved.**

#### **D. 2023 Kiawah Island Parkway Traffic Counts Summary**

Mr. Taylor stated that annually, the Town does traffic counts for the Kiawah Island Parkway, as well as Beachwalker Drive, Flyway Drive, Governors Drive, Ocean Course Drive, and Kiawah Beach Drive. From 2022 to 2023, there were three additional sites added to where those counts were conducted.

Mr. Taylor stated the standards and criteria are based on exhibit 10.1 of the development agreement, and the traffic threshold requirements that would require mitigation of the developer have not been met. All of the data that has been collected has been posted online, so if anyone wants to review the specific data associated with the accounts, those are available online.

Mayor Labriola questioned if there was an equation in the text of the Development Agreement that determined the trigger point of 1330. Mr. Taylor stated that there was not an exact formula, but he believed that, at the time, it was based on the Development Agreement's outset of how many units would be predictable for the future.

Council Member Belt confirmed that minute-by-minute or one-minute interval data had been collected.

Council Member Heidingsfelder stated that in the summary, there was no comparison to prior years, and if comparing the current count to last year or the last two or three years, how had traffic overall developed? Mr. Taylor stated that in the overall summary, there are a few examples of comparison to previous years, but very minimal. The two focus areas are the bridge counter and the counter location just before the bridge, and those have seen an increase of less than 100 more vehicles, so not a significant increase overall. Also discussed was if the increase could be provided in percentages and a comparison of the percentage increase on the Parkway to the percentage increase going through the gate.

#### **Paul Hennessey - 12 Blue Heron Pond Road**

Mr. Hennessey stated that the Comprehensive Plan had not been completed yet but asked if it would include the estimated traffic counts at key points on the island. Mr. Taylor stated the traffic count data had been provided to the consultants and will be folded into the Comprehensive Plan in the Transportation Element or Transportation Mobility, and the Parkway assessment of future development that had been completed has already been incorporated.

#### **E. To Consider Approval of Resolution 2023-04 - A Resolution Approving Settlement of David J. Branson v. The Town of Kiawah Island and Payment of \$25,000 Retention to Insurer Western World**

Mr. Wilson stated that approval involves the payment of a deductible on a case that has been settled and covered by insurance. This was a case brought a couple of years ago against the Town and the

Town's Building Official, Bruce Spicher, claiming that the defendants interfered with the landowner's efforts to develop a house in the Town. Mr. Wilson explained the Western World Insurance company accepted the defense of the case and was paying their attorney. Once the case settles, or the fees reach \$25,000.00, the insurance company asks for the retention fee.

Mr. Wilson stated that on August 12th, a settlement was reached with Mr. Branson. The sum of \$115,000 in exchange for the full release of the Town and Mr. Spicher, contingent on approval by the Town Council. He asked for the approval of the payment of the \$25,000.00 retention and for approval for the Mayor to sign any settlement agreements that may be required.

Council Members discussed if the resolution of the case in mediation was reasonable and if any potential issues would suggest that steps should be taken on the part of the Town to ensure that similar types of claims are not brought again.

***Council Member Berner motioned to approve Resolution 2023-04 approving the Settlement of David J. Branson v. The Town of Kiawah Island and payment of \$25,000 retention to Insurer Western World and authorizing the Mayor to sign any settlement agreements that may be required. Council Member Belt seconded the motion, and it was unanimously approved.***

F. Possible Executive Session to Receive Legal Advice Regarding Settlement Pursuant to South Carolina Code Section 30-4-70(a)(2) - If Necessary

G. To Consider Approval of the Amendment to the Town Attorney Contract Services Agreement with Joseph Wilson

Approval of the Amendment to the Town Attorney Contract Services Agreement with Joseph Wilson was tabled by the Ways and Means Committee.

H. To Consider Approval of the Amendment to the Employment Agreement with Stephanie Tillerson

***Council Member Berner motioned to approve the Amendment to the Employment Agreement with Stephanie Tillerson. Mayor Pro Tem seconded the motion.***

Council Member Belt stated that the employment agreement was discussed at the Ways and Means Committee meeting and that his comments were not on the clear professional qualifications of the Town Administrator. The issue is that when reviewing market-related compensation for similar positions in similar types of communities around South Carolina, he concluded that the Town Administrator's current compensation is more than fair right now, and the data does not support the requested increase nor the approved increase. It was his view to keep the compensation at the current level and, when the Town Administrator's agreement expires in another year, reassess that at that time.

Council Members discussed the comments made by Council Member Belt, commenting on the accuracy of the data used as a source for the comments made. Also discussed was relying on the advice that was received from the Human Resources consultant; the advice received two years ago on the range of payment clearly indicates that the Town is not trying to overpay the Town Administrator; the job of the Town Administrator is highly complex, and the necessity to review comps and if not appropriate, the need to be brought into an average marker picture.

***Following the discussion, the motion was approved by a 4 to 1 vote, with Council Member Belt voting "No."***

XI. Council Member Comments:  
None

**XII. Citizens' Comments:**

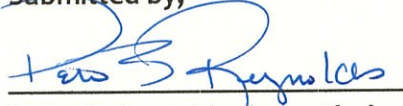
**John Fly - 102 Belmeade Hall**

Mr. Fly stated that it seemed to him that the Town was behind the ball with traffic and should have a 10-year traffic study to know what the traffic load is going to be in 10 years and plan how to deal with it. Mayor Labriola stated that the traffic study that goes to 2035 is on the website.

**XIII. Adjournment:**

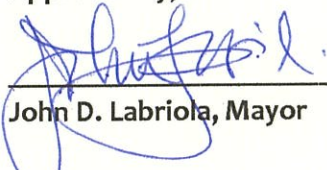
*Councilmember Berner made a motion to adjourn the meeting at 3:305 pm. The motion was seconded, and it was unanimously approved.*

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



John D. Labriola, Mayor

11.28.2023

Date