

TOWN COUNCIL
Municipal Center Council Chambers
September 5, 2023, 1:00 pm

Minutes

I. **Call to Order:** Mayor Labriola called the meeting to order at 1:00 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*

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

Also Present: Stephanie Tillerson, *Town Administrator*
Dorota Szubert, *Finance Director*
Joe Wilson, *Town Attorney*
John Taylor, Jr., *Planning Manager*
Bruce Spicher, *Building Inspector*
Jim Jordan, *Wildlife Biologist*
Erin Pomrenke, *Communications Manager*
David Wahl, *Arts and Cultural Events Council*
Duncan Webb, *Webb Management*

IV. **Approval of Minutes:**

A. Minutes of the Town Council Meeting of August 9, 2023

Approval of the August 9th minutes was deferred to the next meeting.

V. **Updates:**

A. Mayor

Mayor Labriola thanked Town and Community Association staff for the work done in preparing and informing the community of the clean-up following the hurricane.

B. Council Members

Council Member Berner stated that he walked the beach from boardwalks 31 to 38 following the storm, noting a pattern. Breaches in the first dunes occurred at locations where private boardwalks came down and where residents walked over the dunes to access the beach. He stated that the dunes protect the entire island and discussion of further measures to protect them should be part of the discussion at the upcoming fall Council Retreat.

Council Member Belt presented a slide from the work being done on the update of the Comprehensive Plan, posing questions on the survey conducted and the language of the results included in the *Economic Development* and *Diversity of Housing* elements. Mr. Taylor responded by stating that much of the information was pulled from plans and studies in the past, including the 2019 Housing Study conducted by the Town. He also noted that the Planning Commission will delve into the survey topics and the results surrounding housing in their workshop on the following day.

Council Member Heidingsfelder felt that there was a need to be more differentiated in how information on the topics is included in the Comprehensive Plan and the tasks and objectives that result from it for the Town.

Council Member Belt commented on the Conflict-of-Interest policy agenda item, thanking Council Member Heidingsfelder and Ms. Tillerson for their work in the development of the policy. He indicated he was supportive of the draft of the policy but had concerns that would be detailed during the discussion.

Council Member Belt also commented on the Town Attorney's contract agenda item, stating that the Ways and Means Committee recommended approval of the compensation structure of the contract. His concern was a substantive change that was made by staff to the contract in addition to the compensation structure presented for approval.

C. Administrator

Ms. Tillerson stated that the Fall Council Retreat is scheduled for Monday, September 11th, from 8:30 to 12:00 pm and is open to the public.

VI. Citizens' Comments (Agenda Items Only):

Maura McIlvain – 146 Blue Heron Pond Road

Ms. McIlvain commented on the Town Attorney's contract agenda item. She indicated that in addition to the observation made by Council Member Belt, she reviewed her concerns with the language in provision 2(a)(7) and the language indicating there would be a bonus in addition to the hourly rate.

Brad McIlvain – 146 Blue Heron Pond Road

Mr. McIlvain commented on the Conflict-of-Interest policy agenda item, stating that the policy is important and necessary to provide the public with the understanding that there are no conflicts of interest and is long overdue. He agreed with Council Member Belt that the draft does not include procedures for how conflicts are resolved and reviewed his concern with the disclosure of conflicts being kept confidential.

VII. Old Business:

- A. To Consider Approval of Ordinance 2023-12 – An Ordinance to Amend the Town of Kiawah Island Municipal Code Article 2. – General Government and Administration, Chapter 3. – Meetings of Council and Rules of Procedure; Ordinances and Resolutions, Section 2-308. – Appearance of Citizens – Second and Final Reading.

Mayor Pro Tem Moffitt motion to approve the second and final reading of Ordinance 2023-12. Council Member Belt seconded the motion, and it was unanimously approved.

- B. To Consider Approval of Ordinance 2023-13 – An Ordinance to Amend the Town of Kiawah Island Municipal Code Article 4 – Finance and Taxation, Chapter 4. – Purchasing, Sections 4-412. – Sole source Procurement and 4-415. – Professional Services – Second and Final Reading.

Council Member Heidingsfelder motion to approve the second and final reading of Ordinance 2023-13. Council Member Belt seconded the motion.

Council Member Belt pointed out that 4-412(a), the \$20,000.00 figure is bracketed, and the brackets should be removed.

Following the discussion, the motion was unanimously approved.

VIII. New Business:

A. Webb Management Performing Arts Feasibility Study Presentation and Discussion

Mr. Wahl briefly described his background with the Arts and Cultural Events Council (ACEC), now serving as its Vice-Chair, and his experience as the Dean of the College of Visual Arts at Winthrop University.

Mr. Wahl provided an overview of the ACEC membership, the Town's funding of sponsored Arts events, and that Arts have been provided over the past 20 years. The Town Council has been provided with the current annual report that summarizes the 22-23 season.

Mr. Wahl described the increasing difficulty and expense of scheduling events in the past several years and the idea by residents to initiate a feasibility study for a Performing Arts Center. The study's first phase was delivered at the April Town Council meeting, and Webb Management will be providing a summary of the second phase today.

Mr. Wahl stated he was appreciative that Kiawah residents and visitors support the Arts, the recognition that the Arts add to the quality of life on the island, and the commitment of the Town's Council and Mayor.

Mr. Webb provided the final presentation of the Kiawah Performing Arts and Cultural Center. The presentation included highlights of the Phase One Needs Assessment and a summary of the conclusions and recommendations.

The Phase Two scope of services was divided into Physical Planning and Business Planning.

Physical Planning - included a space program, preliminary cost projection by square footage, and diagrams of single and two-story building options. With the identification of four possible sites, site selection criteria were developed, and a preliminary evaluation of the sites was completed, which should be refined for future selection.

Business Planning - included proposed operating goals and information obtained from a user workshop with participants representing local facilities, arts organizations, and schools reviewing physical and operating needs in new facilities and providing simulated first-year scheduling. Also included in the presentation were governance options and recommendations, aspects of facility operations and human resource requirements, a pro forma operating budget summary, and economic impacts.

Project Funding - included an approach to funding the project, possible case statement elements, a critical path plan, and possible next steps.

Council Member Berner commented on the presentation, indicating it was a great starting point, pointing out that the mathematics for calculating the size of the facility indicates there will be 350 seats. He highlighted that one acre would provide 100 parking spots, so an additional acre would be required above what was seen in the presentation. The operating budget did not include line items of the costs for financing the building or the land and taxes.

Mr. Wahl provided the additional recommendations to empower the expansion of the steering committee to look at other members to continue the discussions on the recommendations on the governance and operations, space and site options, and a capital campaign.

Mayor Pro Tem Moffitt stressed that right now, nothing is being asked for. Still, it was a good time to contemplate the work on the plans and recommend putting them into perspective so that when a request is presented to the Council, members can respond intelligently.

Council Members engaged in an in-depth discussion of the information presented with Council Member Belt reviewing comparisons to other resort communities that have more recently built or enhanced their Arts and Cultural facilities.

Council Member Heidingsfelder expressed the opinion that a facility can only be carried by the community and should not be carried by the municipality and that it is an independent, not Town-related, steering committee that pushes this idea forward.

Mayor Pro Tem Moffitt expressed the opinion that the information provided be taken under advisement, and it was premature to make any hard decisions before the ACEC had met and was allowed to discuss the information and formulate a plan.

Mayor Labriola stated that it would be a long journey and that the issues surrounding governance, control, and fiduciary responsibility would be worked out in time by an extremely talented and engaged Arts Council and steering committee.

B. Sea Turtle Research Donation

Ms. Pomrenke presented a request for the Town's support of the Turtle Research fundraising letter and for the Town to assist in sending out this information through the Town's e-news distribution.

The University of Georgia's Northern Recovery Unit Loggerhead DNA Project collects data on maternal DNA from turtle eggs to identify the individual female associated with each egg and develop a census of the nesting population. Typically, this project is funded through a federal grant but is now dependent on state grants and individual contributions.

The Kiawah Turtle Patrol is in support of the project, with Ms. Sager signing the letter. The Kiawah Island Community Association (KICA) is also on the letter, is supporting the project, and will be sending it out through their e-news as well.

Ms. Tillerson clarified that this was not a request for Town funding. The request is for Council approval to add the Town's name and logo to the letterhead.

Council members engaged in an in-depth discussion of the request. While supporting the effort, concerns were expressed about putting the letter on Town letterhead, associating it as soliciting donations, but that a letter from the fundraising organization could be published in the e-news distribution. Also discussed was that the Turtle Patrol was a volunteer organization under the Town.

Ms. Sager, permit holder for the Kiawah Turtle Patrol, explained the request was made to the Conservancy because of its previous help in raising funds for the project. The Conservancy was also looking to gain support from the Town along with KICA, and it was her understanding that the letter would be on the Conservancy's letterhead.

Council Members agreed to support a letter from the Conservancy that could be republished.

Council Member Belt motioned approval of a letter contingent upon it being signed by or from the Kiawah Island Conservancy and that the Town of Kiawah Island Turtle Patrol and Town of Kiawah Island mastheads would not be part of that letter. Mayor Pro Tem Moffitt seconded the motion.

Following further discussion, the motion was unanimously approved.

C. To Consider Approval of the Proposal for Municipal Banking Services

Mayor Pro Tem Moffitt stated that the Way and Means Committee requested Ms. Szubert investigate the options available for banking relationships. The Ways and Means Committee discussed her recommendation to remain with Wells Fargo and requested that she return to Wells

Fargo to see if some of the rates could be adjusted. Wells Fargo stated that as a small entity, the best rates were given, and with the costs involved with switching to a new bank, Ms. Szubert still requests to remain with Wells Fargo.

Ms. Schubert stated that every service provided at a new bank will bring some additional cost, including setting up a new lock box and new equipment for deposits. She noted that the rates being proposed would be going into effect on July 1st and provide additional savings.

Mayor Pro Tem Moffitt motioned to approve the proposal from Wells Fargo for municipal banking services and maintaining the current banking relationship with Wells Fargo. Council Member Belt seconded the motion.

Council Member Belt noted that the Ways and Means thoroughly discussed the financial elements along with the additional qualitative aspects that staff identified.

Following further discussion, the motion was unanimously approved.

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

Ms. Tillerson Stated that the Ways and Means Committee recommended that the current contract service agreement for Town Attorney remain in place, just changing the compensation rate from fixed to hourly.

After consulting with the labor attorney, he recommended a new, clean contract, but the decision was to deal just with the wages at this time. Being presented is the current contract with changes to the compensation along with amendments made to some of the language, modifying those things that are not appropriate, going from an hourly to a fixed rate. Reviewing some of the changes made, she noted that additional changes could be made at the request of Council.

Mayor Pro Tem Moffitt stated that the Ways and Means Committee agreed to recommend changing only the rate in the current contract to \$200.00 per hour, with no changes to the language, and suggested that any additional adjustments should be discussed at the Retreat taking place on Monday.

Council Member Belt motioned that Council approve the changed agreement that was recommended by the Ways and Means Committee, changing the fixed rate to an hourly rate. Mayor Pro Tem Moffitt seconded the motion.

There was an extensive discussion that edits would need to be made to the current contract in addition to changing the compensation. Mayor Labriola suggested taking an additional month to review a redline of the recommended changes. Mr. Wilson stated his request to Council was \$200.00 per hour, \$200.00 for expenses, and an increase in the litigation rate from 225.00 to \$250.00.

Council Members agreed only to change the rate of the compensation as recommended by the Ways and Means Committee, and any other changes to the current contract were not approved to be made. The redline document of the changes will be presented at the next Ways and Means Committee meeting.

Following the discussion, the motion was unanimously approved.

E. To Consider Approval of Resolution 2023-01 - A Resolution to Amend the Town of Kiawah Island Planning Department Fee Schedule

Mr. Taylor stated that the Ways and Means Committee recommended approval of the fee schedule with the understanding that staff would adjust the fees according to some comments that were made. The presented Planning Fee schedule showed the current planning fees schedule and a comparison that is highlighted in the two green columns: proposed A, which Ways and Means approved, and then proposed B, the proposed changes representing an approximately 20% increase on all the fees that are associated either with a public hearing process or a more extensive review from planning staff's perspective. The increase is comparable to other municipalities within the area.

Mayor Pro Tem Moffitt motion to approve Resolution 2023-01 to Amend the Town of Kiawah Island Planning Department Fee Schedule. Council Member Belt seconded the motion.

Council Member Heidingsfelder questioned the rate proposed for site plan review of a building greater than 5000 SF compared to the rate charged by the City of Charleston. Mr. Taylor stated that the City of Charleston fees encompassed review by their Board of Architectural Review as well as the additional three different technical committees included in their review process.

Following the discussion, the motion was unanimously approved.

F. To Consider Approval of Resolution 2023-03 - A Resolution to Adopt the Conflict-Of-Interest Policy

Council Member Heidingsfelder stated at the February Retreat, a small group was tasked with the development of a Conflict-of-Interest Policy. Despite being covered by South Carolina law, it was felt that more specificity was needed on how the policy should be handled.

Council Member Heidingsfelder stated that his first comprehensive draft was shared with Ms. Tillerson, HR Consultant, and Mr. Wilson. The current draft was revised and included items that were debated by the workgroup without a clear decision.

1. If the policy would apply to every volunteer involved with the Town (i.e., Turtle Patrol)
2. Agreement with the values stated in the policy, highlighting potential conflicts of interest that could arise.

Council Member Heidingsfelder motioned to approve Resolution 2023-03 to Adopt the Conflict-Of-Interest Policy. Council Member Berner seconded the motion.

Mayor Pro Tem Moffitt expressed concern with the language in the policy that states that "All Conflict-of-Interest disclosures are held in the strictest confidence possible and are shared only on a need-to-know basis." asking for clarification on the purpose of the statement. He pointed out that publicizing a potential conflict of interest, the examination, the determination made, and any resolution would remove any appearance of a conflict of interest.

Council Members engaged in an in-depth discussion of the concern with the language, who receives the annual conflict of interest disclosure forms and evaluates completeness and accuracy, who is involved with reviewing the disclosure forms, who determines if there is a conflict and what action should be taken based on what criteria, what process followed when the determination is made that a conflict was failed to be disclosed, and the need for further review and/or revisions.

Mayor Pro Tem Moffitt made a motion to table Resolution 2023-03 to Adopt the Conflict-Of-Interest Policy. Council Member Belt seconded the motion, and it was unanimously approved.

G. 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- First Reading

Mr. Spicher stated that the adoption of the 2021 series of codes included all the building codes and their various editions. It was recently discovered that there was a conflict between the International Residential Code (IRC), used for new home construction, and the Property Maintenance Code (PMC), used for rental inspections.

Mr. Spicher explained that the conflict stems from when a homeowner attempts to utilize a room with a sloped ceiling for a bedroom. The IRC requires that 50 percent of the measured area of a room has a seven-foot ceiling height. The PMC has the same verbiage; the only difference is that one-third of the measured area of a room has a seven-foot ceiling height. The problem stems from the fact that new homes are inspected using the 50 percent guideline, and when going back to inspect that same house for a rental, it is inspected using the one-third guideline.

Mr. Spicher recommended changing the Town's rental ordinance to reflect the 50 percent language to resolve the conflict and make inspections consistent from new construction through the rental program.

Mayor Pro Tem Moffitt motioned to approve the first reading of Ordinance 2023-15 to amend 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.

Council Members discussed the language in the ordinance stating that “all rental properties shall remain compliant with all currently adopted codes and ordinances,” questioning the impact of the ordinance change on older homes being inspected for a short-term rental license and if any changes would be retroactive.

The clarification was made that any short-term rental currently holding a license with a previously approved room will not be expected to comply with the ordinance change. Mr. Spicher stated that moving forward, the change would only affect a rental homeowner wishing to convert a room with a sloping ceiling to add an additional bedroom or habitable space; the room would have to comply with the 50 percent requirement.

Following the in-depth discussion, the motion was unanimously approved.

H. 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 – First Reading

Mayor Pro Tem Moffitt stated that in the phrase stating, “pay all bills owed by the Town when approved by Council,” the proposed change would remove “when approved by Council” because Council does not approve payment of electric and water bills.

Mayor Pro Tem Moffitt motioned to approve the first reading of Ordinance 2023-16 to amend Article 2 – General Government and Administration, Chapter 5 – Offices and Departments, Section 2-505 - Town Treasurer. Council Member Berner seconded the motion.

Council Member Belt asked when the Treasurer knows a bill/invoice is okay to be paid. Ms. Tillerson reviewed the process when a bill or invoice comes in, which includes attaching supporting documentation, approval by a department head, and then review and approval by the Town Administrator.

Council Member Belt pointed out that Council approval is required to appropriate funds, and when directed to pay a bill, how the Treasurer knows that Council has appropriated the funds. Ms. Tillerson stated that the budget appropriates funds, and if not budgeted, any invoice over \$ 5,000

goes through the process of getting approved by the Mayor or by the Mayor and Mayor Pro Tem, depending on the cost. Invoices over \$10,000 have to have Ways and Means and Council approval.

After the discussion, Council Member Belt stated the point was that Council does not approve each and every bill but suggested that the phrase should be modified to “pay all bills owed by the Town to the extent that funds have been appropriated.” Mayor Pro Tem suggested modifying the phrase to “pay all bills owed by the Town with proper approvals.”

Mayor Pro Tem Moffitt amended his motion to approve the first reading of Ordinance 2023-16 with the modification of the phrase to “pay all bills owed by the Town subject to proper approval.” Council Member Belt seconded the motion, and it was unanimously approved.

I. To Consider Approval to Complete the Marsh Restoration and Public Access Feasibility Proposal

Mr. Jordan stated that the feasibility proposal study had been discussed in the last two Ways and Means Committee meetings. At the last meeting, the contract was approved with a hard stop after the initial assessment phase, which has been completed along with the preliminary report from Elko Consulting.

Mr. Jordan stated that as part of the initial assessment phase, meetings were held with the Kiawah River Bridge Access Subcommittee and with the full Marsh Management Workgroup. In the meeting with the workgroup, which has representatives from all entities, there was a hundred percent support for the five main goals and objectives, as well as a hundred percent support for continuing with the feasibility study.

Mr. Jordan also stated there had been a lot of discussions about the legal ramifications of the conservation easement. Based on the consultations between the Town Attorney and two attorneys for the Partners, they agree that the easement in this area does not begin until a hundred feet from the platted property line. He provided a map showing the hundred-foot buffer on both sides of the road, noting the Conservancy does not have a conservation easement on the left side of the road but on the right side. While not an impediment to the project moving forward, it would be incredibly unlikely that any potential work would extend outside of the hundred-foot buffer.

Council Member Belt motioned to approve the completion of the Marsh Restoration and Public Access Feasibility Study proposal. Mayor Pro Tem Moffitt seconded the motion.

Mr. Jordan confirmed to Council Member Berner that the Conservancy, with representatives on both the subcommittee, the full committee, and the workgroup, were one hundred percent supportive of the five objectives and moving forward with the study. Council Member Belt also confirmed that the hundred-foot easement had been looked at and resolved.

Following the discussion, the motion was unanimously approved.

Mayor Pro Tem Moffitt motioned to go into the Executive Session Pursuant to Section 30-4-70(a)(2) – Contractual, Real Estate Building and Site located at 1 Kiawah Island Parkway. To Discuss the Negotiation of the Purchase and Site of the Kiawah Island Real Estate Office. Council Member Heidingsfelder seconded the motion.

A request was made to consider amending the agenda to allow for Citizens’ Comments before going into the Executive Session.

Mayor Pro Tem Moffitt rescinded his motion to go into the Executive Session.

Council Member Belt motioned to amend the agenda to allow Citizens’ Comments as agenda item IX. Mayor Pro Tem Moffitt seconded the motion, and it was unanimously approved.

IX. Citizens' Comments:

Dave DeStefano – 1 Boroughs Hall

Mr. DeStefano commented on the earlier informal mention of Workforce or low-income housing. He shared his involvement with a project in Rhode Island where low-income housing was built in an exclusive, high-end community. People did not move in because there was nothing for people of that socioeconomic background to do. He discussed his concerns with building low-income housing in the immediate area and his opinion that a more suitable geographic location would be halfway between Kiawah and Charleson.

Mr. DeStefano also commented on the discussion of a Performing Arts Center, comparing some of the numbers on rental days and income in the presentation to those of the Charleston Music Hall, noting that much more explanation would be needed. He also commented on the statistics provided in the first presentation on the target audience.

Maura McIlvain – 146 Blue Heron Pond Road

Ms. McIlvain commended Council Member Heidingsfelder for beginning the discussion of the conflict-of-interest policy and that she appreciated the work he and the staff working with him did. She noted that the document leads the community to believe we have protection, so the elements of the document, what is required, and the enforcement needs to meet that expectation as well. She asked that Council keep in mind that saying there is a conflict-of-interest policy and then putting it into a drawer makes the community think that something's being done about conflicts that really isn't.

Roger Warren – President of the Kiawah Island Golf Resort

Mr. Warren stated that he, too, was intrigued by the early discussion on Workforce housing. As the largest employer on the island, he stated it was a significant issue for all those who were looking to get employees. He stated that he didn't think the community should feel responsible for Workforce housing but does believe that if there were a positive way to do Workforce housing, support from the community would be appreciated.

Mr. Warren stated that many challenges come along with trying to plan where to build Workforce housing. The negative input received on any suggested locations, employees not wanting to live close to their jobs, providing daycare, and the current average cost of rent are problems that are in the best interest of a business to solve.

Mr. Warren indicated that building on land owned at Andell West, where the county is offering incentives to build Workforce housing, was an option, along with building on land owned between Kiawah and Maybank. The county would support it, but the Johns Island Community Association would not; they want it on Kiawah.

Mr. Warren stated that he would provide updates on what is being done, and, having a vested interest in the community, he would try to find a solution that works for everybody.

Mr. Warren also commented on the Performing Arts Center; he found it interesting that one of the proposals was to put it on Andell West, which he hadn't heard about, and that he would talk to Mr. Corrada. He stated it was an interesting concept and would be happy to be involved in any discussions.

Council Member Belt clarified there had been a couple of conversations with Mr. Corrada at the highest level about looking at potential spaces where a Performing Arts Center might be located. Mr. Corrada said that, conceptually, having something like that at Andell West would be worth considering. There was nothing ever specifically talked about that one particular parcel or anything else; it was just a concept.

Mayor Pro Tem Moffitt motioned to go into the Executive Session Pursuant to Section 30-4-70(a)(2) – Contractual, Real Estate Building and Site located at 1 Kiawah Island Parkway. To Discuss the Negotiation of the Purchase and Site of the Kiawah Island Real Estate Office. Council Member Belt seconded the motion.

X. Executive Session:

A. Executive Session Pursuant to Section 30-4-70(a)(2) – Contractual, Real Estate Building and Site located at 1 Kiawah Island Parkway. To Discuss the Negotiation of the Purchase and Site of the Kiawah Island Real Estate Office

Coming out of the Executive Session, no actions were taken, and no decisions were made. Council has previously authorized the Mayor to submit a non-binding letter of intent with regard to the subject property, and there has been no change in that status.

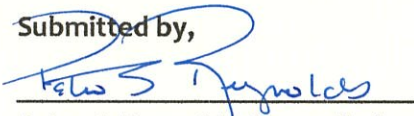
XI. Council Member Comments:

None

XII. Adjournment:


The meeting was adjourned at 3:46 pm.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



John D. Labriola, Mayor

11.28.2023

Date