

TOWN COUNCIL
Municipal Center Council Chambers
February 6, 2024, 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*
Michael Heidingsfelder, *Mayor Pro Tem*
Russell Berner, *Council Member*
Brad Belt, *Council Member*
Madeleine Kaye, *Council Member*

Also Present: Stephanie Tillerson, *Town Administrator*
Dorota Szubert, *Finance Director*
Joe Wilson, *Town Attorney*
Ross Appel, *Attorney*
John Taylor, Jr., *Planning Director*
Jim Jordan, *Wildlife Biologist*
Brian Gottshalk, *Public Works Manager*
Craig Harris, *Public Safety Director*
Erin Pomrenke, *Communications Manager*

- IV. **Approval of Minutes:**
 - A. Minutes of the Town Council Meeting of December 5, 2023
 - B. Minutes of the Special Call Town Council Meeting of January 3, 2024
 - C. Minutes of the Town Council Meeting of January 10, 2024

The minutes for the December 5th, January 3rd, and January 10th Town Council meetings were deferred to the next meeting.

- V. **Updates:**

- A. Mayor

Though not in attendance, Mayor Labriola thanked Mr. Fernandez for his commitment and interest in continuing to volunteer and being so active in the community. So, thank you to him for all of his efforts.

Mayor Labriola welcomed Ms. Kaye, the newest Town Council member, congratulations.

Mayor Labriola stated that the third thank you, and he's not here either, was to Mr. Jerry McGee; that was a wonderful accomplishment that took place last week. Mr. McGee is a remarkable leader and has done a wonderful job in terms of setting the tenor, the tone of constructive dialogue, and Captain Sam's Spit, which means a great deal to him.

- B. Council Members

Mayor Pro Tem Heidingsfelder stated that he was very happy to be sitting beside Council Member Kaye.

Council Member Kaye thanked the community for the support and friendship and said she would try to do her best and not let the community down.

Council Member Berner stated that due to a previous engagement, he would have to leave the meeting at 4:30 today. He also welcomed Council Member Kaye. "I'm so happy that you're here."

Council Member Belt provided his updates as follows:

The first and most important one is to join in welcoming the newest Council Member to the dais.

Council Member Belt stated that he wanted to update two matters briefly. One is with regard to the proposed development, which is just a quarter mile up the road, the Island Park Place development. There was a Charleston County Council meeting last week that was extraordinarily well attended, with a packed room and a rather extraordinary evening. I had a chance to speak very briefly. Still, the ones that really made a difference in their remarks were members of the Johns Island community and neighbors, and the Conservancy was very strongly represented there. Extraordinary testimonials were offered to the County Council by Elizabeth Coaxum, particularly representing a strong contingent of the African American community and heirs' property owners on Johns Island who spoke up passionately about the project and in opposition to the project as well as Sidi Limehouse and as well again the Conservancy.

It's very interesting. At one point, there was a request for everybody to stand up or raise their hands who opposed the project; probably 50 people or so, maybe more, stood up. Then one of the County Council Members who was thought to be supportive of the project said, "Well, I'd like to see everybody who's supportive of the project stand up," not one, which was rather remarkable.

Did you see the Post and Courier article a couple of days ago? It's quite a good article. The issue right now is it appears that it's coming down to a four to three vote, one way or the other. In two days, on Thursday, there will be a meeting of the County Council's Public Works Committee, which will be the first vote on this particular project. It would be rather remarkable if the council were to override the recommendations of the Planning Commission staff, the Planning Commission itself on the 7-0 vote, and the overwhelming objection of the most impacted community members, but that may be where we're at right now, so stay tuned to that process.

I want to pick up briefly on the mayor's comments regarding the announcement, KICA's announcement regarding Captain Sam Spit. I've received a lot of inquiries, calls, and questions about it. There seems to be a fair amount of confusion about actually what has transpired, and I want to make a couple of brief points. One, it's unequivocally a good thing that at least a portion of this... there's an agreement to convey at least a portion of Sam Spit to KICA, but I want to emphasize that the agreement between Kiawah Partners and KICA only pertains to a portion of Sam Spit, not all of Sam Spit. There is also, in that agreement, perhaps a lack of clarity or certainty at this point as to exactly what will be conveyed, and that needs to be further clarified.

There also needs to be a process involving the Town because there's a waiver request. That process has started to get a waiver from the subdivision regulations in order to allow that portion of the conveyance to go forward. Most importantly, though, the town is the direct beneficiary, the direct party to the agreement. So, the Town has a broader set of interests than KICA, and the Town has advanced, and fellow council members have advanced a strong desire to protect all of the Spit, and it's been our commitment to try to do so. And I would lastly note that the Conservancy also has a third-party beneficiary interest in what happens on the Spit. So we need to hear their view on all of this as well. They've previously sent us a letter saying they support the town's position. So, the bottom line is that it is a good first step, but much more work needs to be done to protect the Spit completely.

C. Administrator

Ms. Tillerson provided her updates as follows:

The annual bobcat trapping is going to start and will include coyotes this year, and I believe Mr. Jordan and his team are starting that process today or tomorrow. We've also,

In the past couple of years, we have done deer harvesting, and it looks like we may be doing that again this year, but the amount of tags may be about 40. In the last couple of years, at one point, we started with maybe 100, then went up to 150 or 200. But because our bobcat population seems to be stabilizing and or increasing, that, of course, has brought down the number of tags that we need in terms of deer harvesting, and that's approximately about 40.

In regard to the intersection on Kiawah Parkway and Beachwalker, we have the project out for bid and are due back tomorrow. Hopefully we'll pull together a team to review the bid with the hope and goal that it will come to the Ways and Means Committee and Town Council for consideration of approval next month. But again, that comes in on Wednesday, so hopefully, we get a number of bids, and hopefully, it's competitive enough in terms of the cost.

The Planning Department team is still working on the Comprehensive Plan. A workshop is scheduled for February 20th at 10:00 a.m.

For the Ocean Pines and the West End Project, those plans have come in. The Building Department is doing a cursory preliminary review to look at what would be required. They have sent their preliminary comments to the design team and are waiting to hear back from them.

For the Seafields project, I was told by the Building Department that it looks like they will be going vertical relatively soon.

The new employee who was approved started with Mr. Jordan's department. The new person's name is Michael Gamble, and he started yesterday.

Mayor Pro Tem Heidingsfelder asked if we had heard anything or seen anything or if anything has been submitted related to the plan development on Upper Beachwalker, as I think the Partners promised in December. Ms. Tillerson indicated that no application had been received yet, with no indication of a date for delivery.

Council Member Belt, following up on the Building Department's review of the actual structures for Upper and Lower Beachwalker West End and Ocean Pines, asked if they were undertaking that process even though the site plans have not been approved, Even though they have not been submitted revised plans thus far, that respond to the review comments that the Planning Director, Mr. Taylor has issued or to the comments that we'll hear from Weston and Sampson (W&S)? Ms. Tillerson stated that he was correct. As she previously stated, it is a preliminary review of what was submitted to see if anything is missing as part of the application. They're just looking at the buildings themselves, So it's really just a cursory review.

Mayor Pro Tem Heidingsfelder asked if she or Mr. Taylor could please update the Council on the status of the site plan reviews and the exact status of where we are with all of these.

Ms. Tillerson stated that for West End, which is Upper Beachwalker, the Town has submitted the comments to Thomas and Hutton. They have not submitted any revisions, and all staff comments can be found on the Town's website.

Regarding Ocean Pines, we have submitted a number of comments, including the additional comments that were updated on the website yesterday. Those comments reflected Weston and Sampson's comments that they submitted working with Mr. Taylor. Of course, they just received those, so we are waiting for those to come back as well. Mr. Taylor can comment on the variance requirements for Cape Point and/or Ocean Pines.

Mr. Taylor stated that all of the projects that have been submitted, Upper Beachwalker, which would include the West End, Lower Beachwalker, Ocean Pines, and the Cape Point Emergency Access site plan, have been issued for three projects. So, it is in that site plan review process where we are waiting for comments to be responded to.

Mayor Pro Tem Heidingsfelder wanted to clarify that Mr. Taylor had not found enough reason to deny those three applications. Mr. Taylor indicated that the process is to wait for the applicant to respond to the comments issued. If those comments aren't responded to at a certain point, staff can execute a denial of a particular project.

Council Member Belt stated that, at least with regard to the Upper Beachwalker, the last comments that are on the website were dated September 15th and asked if there had been new comments.

Mr. Taylor stated that the staff issued independent comments that were posted. The comments that were received from the third-party peer review were posted in addition to the comments that were listed already for the proposed developments.

Ms. Tillerson noted that for West End, the last comment was a W&S memo dated January 5, 2024. On Ocean Pines, the W&S review memo dated February 1, 2024, was posted on the website and forwarded to the applicant.

Council Member Belt confirmed that all of the recommendations or issues raised by Weston and Sampson in their Upper Beachwalker and Lower Beachwalker memos are now part of the official comments that have gone to the applicant.

Council Members and Mr. Taylor engaged in an in-depth discussion on the following:

- there are comments going back to the original submitted comments back in September and then November that appear to have not yet been addressed,
- there have been responses to some of the comments submitted but not comprehensively to all the comments,
- there was no timeframe or absolute deadline attached to the responses to comments as long as the applicant was diligently pursuing the project,

- at this time, the applicants have not submitted requests for the approval of type variances to the Board of Zoning Appeals
- adherence to restrictive covenants that apply to all properties on Kiawah

Mayor Pro Tem Heidingsfelder stated that there had been various conversations, also with the developer, about the certificate of occupancy for the Cape Club, but I did not think they had been officially notified that there is a potential risk that the certificate would not be issued as long as the parking problem has not been resolved and approved. Ms. Tillerson stated that the Cape Club/East West Partners had not been officially notified but are still working with the Town Attorney through that process. At this time, we are not looking at full outright denial but issuing a TCO (Temporary Certificate of Occupancy.)

Council Member Belt stated that despite a previous statement that the site plan review process is solely an administrative function administered by the Planning Director, site plans are part of a subdivision process in which it states, "the Planning Commission shall act to approve-disapprove-approve conditions, all preliminary plans and final plans and review concept for site plans." There is a preliminary subdivision approval but not yet final plat approval; he asked when it was anticipated that the Planning Commission would review the site plans along with the Planning Director's review. Ms. Tillerson stated that she would review that and get back to him.

VI. Citizens' Comments (Agenda Items Only):

Mora McIlvain – 146 Blue Heron Pond Road

Ms. McIlvain stated that in new business B, which is the tree ordinance, she understood that it does not apply to single-family homes, at least not right now, and that it wouldn't apply to any of the Upper or Lower Beachwalker properties because they're under permitting review right now. This is an ordinance that has been talked about for more than three years and just years, and just serendipitously, things went into permitting before it got proposed, so it can't apply to the largest swath of land that I think most of the people in this room are worried about.

Mayor Pro Tem Heidingsfelder noted that with the revisions that council members made, they have put in an additional provision for single-family homes. When grant trees (24" in diameter) are involved, they have to go through the tree ordinance process as well. Council Member Belt added that there is no site plan pending for Beachwalker parcels eight, nine, and ten parcels, so the ordinance would apply to any activity with respect to those parcels and any property not yet developed and does not have a site plan pending.

Denise Klizek – 86 Belmeade Hall – Inlet Cove HOA Board Member

Ms. Klizek stated that on January 18th, Andrew Gower, legal counsel for Rivers View, Inlet Cove Cottage Owners Community Associations, submitted a letter to John Labriola, Michael Heidingsfelder Bradley Belt, Russell Berner, Joe Wilson, Stephanie Tillerson, and John Taylor. I want to read part of that correspondence and would really like the whole letter in its entirety submitted for the record, but I think some of these highlights are important.

I do represent Rivers View and The Cove and Cottage Owners Community Associations at this time, and our communities were inundated by stormwater after the most recent storm in December. We are very concerned with the runoff from these developments down to our neighborhoods. We have potentially already had severe consequences and with this more hardscape, we seem to think there's going to be more.

We would reiterate our previously expressed concerns that the site plans, even as revised, fail to comply completely with the applicable zoning applications. I also remind the Town of my previous communication noting under South Carolina law that these parcels are subject to various restrictive covenants contrary to the affidavits submitted by the applicants. We are pleased that these have been acknowledged by the parking deficiencies of the Cape and Ocean Pines, as well as Timbers parcels that were raised by our community members more than three months ago. However, while the revised site plan for Ocean Pines appears to add 36 additional parking spaces for users of the Cape Club, that is far short of the number that Mr. Taylor indicated was required in the November 29th comment letter. We would also note that the site plan itself indicates that those parking spaces are not limited to parking for club users only. We trust that the developer will be required to meet all the parking requirements specified as a condition of any site plan approval. There are no guest or visitor parking spaces for any of the residential buildings on the Church parcel and just eight for 56 dwelling units on Parcel 11.

As we have previously indicated, representatives from each of our regimes met with Mr. Phillips and Mr. Mark Premar to discuss their plan for developing those parcels to include a new club facility, which is not permitted under the current zoning. We indicated at that time that what they were proposing could not be supported by

our members without substantial changes, which we outlined. We did not receive any response from the developer.

We hope and expect that the Council will not act upon any proposed plan developments which are not supported by the most immediately impacted communities.

Mayor Pro Tem Heidingsfelder responded by stating that not responding to the letter was a miscommunication for which he would take the blame. He and Ms. Tillerson thought the other would respond, but neither responded. Having reread the letter, I noticed that there was not a lot in the letter that we would need to respond to. It's a lot of statements and explanations of what your opinions are, but there was no question, and there was no demand for response or action, except what we are doing. So even if we had done the right thing to respond, it would've probably just been acknowledged.

Ms. Klizek also stated that the affected communities are not being consulted and don't see where anyone is asking our communities to be a part of this process because the site plans aren't complying with zoning, they are not conforming with South Carolina law, and there is inadequate parking. The community's associations should be involved at all levels of this process, and there should be no conditional approvals, which is strongly felt by a lot of our communities here.

Mayor Pro Tem Heidingsfelder responded by stating that he and the Mayor required the developers to sit down with the affected HOAs. Council Member Belt has met with the HOAs, and Mayor Pro Tem Heidingsfelder and Council Member Berner have also met with some of them, so there is involvement. He would agree that we can do better and that the developer could do better in this critical phase of evolving plans, but he did not want it to leave the impression that the Council or others have not been reaching out to the HOAs because we have.

Mayor Labriola stated that he was at fault for not responding; the council did not have to bear that responsibility. He said he would talk to Mr. Gower and apologize.

Joan Horgrele – 77 Pepper Vine, Inlet Cove

Ms. Horgrele indicated that she would like to spend a few minutes of your time looking over the memorandum dated January 5th, 2024, from Lucas Hernandez Weston and Sampson Engineers Incorporated to John Taylor, Planning Manager, Town of Kiawah Island, South Carolina.

As I read through these eight pages, I became baffled by one sentence, and it's on page three, the last sentence that states, "We recommend that the engineer address these items as noted, and after each item noted on page four, it states no recommended changes." I'm confused. I know I'm not an engineer, and I would like someone to explain the contradiction. My other comments relate to the West End at Beach Walker Development, pages six to eight, and I want to clarify that I now know that another memorandum came out on February 1st, so I'm only replying to the January one. So with all of those items, usually the last one or two sentences talk about what the recommendations are, and the recommendations will say... Just that, the recommendations, I don't want to read each of those recommendations, but one of them has to do with stormwater drainage and the storm drainpipes.

With our last heavy rainstorm that we had on December 17th, Inlet Cove was inundated with water that could not drain fast enough. On Sunlet Bend, Belmeade Hall, Evening Bend, and Pepper Vine. Right now, the discussion is to have the water drained in Pond One, which is between Sunlit Ben and Pepper Vine. We were also told by KICA that they would put Enviro-Loc on both sides and we still don't have that Enviro-Loc on both sides, so we are still experiencing erosion on those sides.

Then, in another section, there's a discussion about erosion prevention, and it says... I have a question about exactly where is the third ingress-egress to the construction site located. I'm looking at the map that was on that and I have no idea where it is. So, with all of the recommendations that are listed in this document, are they required of the developer? Will they actually implement all these recommendations? Will the Public Works Manager, Brian Gottshalk, make these recommendations, actual requirements? What steps are being taken to involve the associations of Riverview, Inlet Cove, and Cottage owners in this process?

Communication with the associations and our legal representative has been minimal at best. Where's the transparency in this matter? I'm going to clarify that I am not saying that the Town isn't doing a good job of interacting with us, but definitely the developer. I believe more time is needed before any approval of the site plans is given with any type of conditions. These plans need to be submitted with all concerns corrected before any approval is given.

Council Member Belt received confirmation from Ms. Tillerson that all the recommendations from Weston and Samson had been forwarded as essential requirements, have now been incorporated, and are also being embraced by the Planning staff.

Lisa Snowden, Inlet Cove

This afternoon, I am speaking not only for myself but also for neighbors who couldn't attend in person but are on virtually. I very much look forward to hearing today's Beachwalker project update from Weston and Samson, and I am delighted that the impacted HOA's request for such a study was heard and produced these peer reviews.

As I reviewed Weston and Sampson's January 5th and February 1st memos, I was particularly concerned by two sections. First, on page three of the January 5th memo, it states, "Additionally, we investigated the proposed drainage at the site to determine how it will impact the existing drainage system. According to the most recent set of plans, stormwater will not be directly connected to the existing pipe network along Beach Walker Drive. The proposed outfall for the development will be routed upon one behind the Kiawah Island Community Association's commercial pass office before entering the Tidal Creek located between Sunlet Bend and Pepper Vine Street". I did not see anything further from Weston and Sampson about the Inlet's ability to handle the additional runoff from this proposed development. As has already been noted during our last storm, this Inlet, which happens to be behind my house, was already at capacity. I have concerns about its ability to handle additional volume. Second, as stated in Section 3.3 of the January 5th memo, 3.3 Hydrologic Computational Methods 3.3.1 inputs, "Design storm precipitation data from the South Carolina State Climatology office is provided for use on projects in Charleston County. However, the applicant has used precipitation data obtained from the South Carolina DHEC Stormwater Management BNP handbook in the supplied stormwater calculations, which utilize lower rainfall amounts during the more frequent two-year and 10-year storm events. It's recommended that the applicant provide updated stormwater calculations utilizing the precipitation data provided by the State Climatology Office for Charleston County to demonstrate how the stormwater management system functions during these more frequently occurring storm events".

It appears the developer is using more conservative precipitation estimates that may have a material effect on stormwater management and other related issues. This, coupled with the first point, makes me very concerned about the impact of this product. The report makes other valid concerns regarding parking and other compliance issues. Unfortunately, the report does not include the potential impacts on surrounding communities, including the neighboring HOAs and Captain Sam's Spit. Understanding these impacts was an important part of the impact that HOAs requested last fall. We do not believe the town should protect the developer's rights at the expense of either the homeowner's rights or the sustainability of this spec. I have not yet seen the comments from the Town indicating how they plan to respond to these recommendations, and I look forward to the Council's oversight to ensure Weston and Sampson's recommendations are followed.

Because today's agenda does not explicitly include the revised Ocean Pine site plan or plan development proposal for Upper Beachwalker, I will not comment on those other than to restate the expectation that Ocean Pines needs to comply with all applicable regulations and that the Council does not consider any plan development for the Upper Beachwalker parcels that doesn't meet the conditions that the HOAs have provided to the developer.

John Grierson, 109, Bobcat Lane, President of the HOA for Riverview.

Mr. Grierson stated that we echo all those comments. It is understood, I think, that Wesson and Sampson had gone out to Inlet Cove and met with them. I guess we would like that same courtesy to have a chance to meet with you guys as well for our community, as we have the same concerns as they do, and we do appreciate the work you're doing.

As for the Beachwalker plans, I guess one point of clarification is this issue of covenants that was brought up in the letter that our attorney sent. Has the staff and Mr. Taylor commented back that it does not comply with those restrictive covenants in the comments back to the Partners on those site plans? I don't know if that can be answered or if somebody could answer it. But the point is that our attorney brought it to the attention of the elected officials to find that out or to ask that question because if it is included, it makes it much more difficult to develop that parcel if you have to file those restricted covenants. But our expectation is that it wasn't an open-ended thing. It was, "Yes, it has been or hasn't been." And I think that would've been found out if somebody had looked at that letter and asked those questions, and maybe it has been, so I may be jumping that, but it seems like an issue of contention.

The last thing I'll say is, and it got brought up here, is Captain Sam's Spit. And I love everything that's happening, but since you guys did mention that it's on you, it would be great for the community to understand what actually your process is for the next steps and the timelines to get the rest of that piece preserved, as

it's understood it should be. So, if that's some point, you could give us a follow-up to what is actually the process now that the ball's in your court because KICA did what they did so that we would understand when we can expect that piece to be preserved indefinitely.

VII. Proclamations:

A. Proclamation for Former STJFD Assistant Fire Chief Jackie Stanley

Mayor Labriola read the proclamation honoring and thanking former Assistant Fire Chief Jackie Stanley for 43 years of dedicated service to the St. John's District and the Town of Kiawah Island, a dedicated representative to the Town's Public Safety Committee.

Mayor Labriola stated that he had the personal pleasure of working with the Chief, with his presence and his expertise, and wished him a great deal of happiness in retirement and a most successful future.

Be it resolved. Today is *"Deputy Chief Jackie Stanley Day."*

Council Members formally presented the proclamation to Chief Stanley along with presentations from Mr. Harris and the Public Safety Committee to both Chief Stanley and Ms. Stanley.

VIII. Presentations & Updates:

A. Kiawah Island Utility Update on Water Quality PFA – Becky Dennis

Ms. Dennis, director of operations with the Kiawah Utility Company, stated that she had been serving the community for 45 years and was proud to be a part of this beautiful community.

Ms. Tillerson asked Ms. Dennis to give a presentation on PFAS (Perfluoroalkyl and Polyfluoroalkyl Substances.) in response to a newspaper article that had been circulating around the community and some concerns about the levels of PFAS in the water.

Ms. Dennis asked Doug Kinard, the director of the Drinking Water Protection Division of DHEC, to come and give a presentation and help her answer some questions. As the expert, he was more in the loop about the current activities related to the regulation. Also present was the company's president, Craig Sorenson.

Mr. Kinard gave a detailed presentation on PFAS, referred to as "forever chemicals," answering questions posed by Council Members and community members on whether there are legitimate health concerns with the elevated levels of PFAS reported in Kiawah, at what level is this considered a health emergency, if the level is unsafe, their recommendations to the public, and the lack of communication.

The Kiawah Utility presentation can be found on the Town's website.

Council Members posed questions on concerns that included what level of PFAS is considered a health emergency, at what point does it become a concern for people to drink the water, the articles that appeared in USA Today and Post and Courier, an invitation to participate in a podcast to inform the community on the situation and the measures that individual homeowners could take, and an in-depth discussion of filtration systems.

Mayor Pro Tem Heidingsfelder recounted an experience when the filtration system was installed at his home, and after three weeks of operation, the filter was brown. Ms. Dennis responded that the filter was doing its job, collecting what was probably sediment. The Utility conducts tests daily, as well as Charleston and St. Johns Water conduct tests daily, but there is a long network of pipes that goes from the producer to St. Johns, to the Utility, to the ultimate consumer.

B. Coastal Science & Engineering Beach Update – Steven Traynum, Coastal Science Engineer

Mr. Traynum began his update on the beach by providing a brief background on Coastal Science and Engineering. He then provided an overview of Kiawah Beach, stating that it has been one of the most accretional and stable islands in the state. Kiawah Island, Sullivan's Isle of Palms, and a couple of places in the Grand Strand are the only beaches that are growing naturally.

Mr. Traynum's presentation explained shoal bypassing, including images of historical shoal bypassing cycles at the Stono Inlet, the 2006 large-scale beach restoration project, the 2015 beach restoration, and Seabrook's 2015 Captain Sams Inlet relocation projects, along with an explanation of the system used to measure the beach that includes 61 profiles and six reaches.

Mr. Traynum stated there had been a significant increase in the number of storms impacting the SC coast in the past decade, with DRN logging 30 named storms. He indicated that the increase might be attributed to

the acceleration of sea level rise along the southeast coast, reviewing graphs of the tidal predictions and actual tides that are consistently higher.

Mr. Traynum reviewed the key events from 2022 to 2023, including a large-scale shoal attachment at the east end, Hurricane Idalia, and the December 2023 Nor'easter, which recorded the 4th highest water level on record. Also included were images of shoal bypassing from 2019 to 2023, volume changes since 2007, beach profiles, and a volume change summary.

Mr. Traynum reviewed the beach update summary.

- Historic patterns still hold, but recent erosional trends could persist into the future
- Higher rates of erosion observed since 2015
- Eugenia Ave, Mariners Watch are most vulnerable
- Town should be prepared for storm recovery along vulnerable areas
- East End channel realignment permit

Council Members, along with Mr. Traynum, engaged in a discussion of the higher rate of erosion observed since 2015, the areas along the beach that are more vulnerable, and what actions the Town could take as preventive measures. There was also an in-depth discussion of whether the damaged dunes should be repaired or left to repair naturally, whether breached dunes, which are the first line of defense, should be repaired, private walkovers that end prior to the first row of dunes with people walking through the dunes, and whether walkovers that are too low should be raised.

C. Dunes and Walkovers Update and Discussion – Jim Jordan, Town Biologist, and Brian Gottshalk, Town Public Works Manager

Mr. Jordan began his Dune Walkover presentation by reviewing the Town's current beach walkover ordinance. This ordinance states that boardwalks must be constructed following the DHEC guidelines, along with additional restrictions that vary depending on whether they are private or community boardwalks.

A community boardwalk is anything that serves multifamily, regime, or the community and is highly used. A private boardwalk serves a single-family residence only. In both categories, the boardwalk cannot extend more than 10 feet onto the active beach and cannot exist in a state of disrepair on the active beach.

Private boardwalks, if they stop short of the beach, are technically "grandfathered," and travel through the dunes on a preexisting path to the beach is specifically allowed by town ordinance.

Community high-use boardwalks, if they terminate more than 20 feet from the active beach and cause destruction of dune vegetation, must be extended to the active beach.

The Town ordinance prohibits walking in the dunes, with three exceptions: official business, golf play, and areas in front of beach walkovers, which are specifically exempt from that ordinance. A private homeowner with a boardwalk that stops 200 feet from the beach is allowed to walk on a preexisting path to the beach.

An assessment of dune walkovers was completed at the end of January. There are a total of 189 walkovers on the beach, 47 community walkovers, and 142 private walkovers.

Of the community walkovers, 13 were noted to have issues.

- ▶ Three (3) extend beyond 10 feet but under redesign
- ▶ Two (2) extend beyond 10 feet
- ▶ One (1) in a state of disrepair
- ▶ Seven (7) stop more than 20 feet from the active beach but are technically still compliant because there is an existing path where there is no dune vegetation, where beachgoers are traveling

Of the Private walkovers, 14 were noted with issues.

- ▶ Eleven (11) in a state of disrepair
- ▶ Three (3) Under construction and do not meet 24" clearance

Council Member Berner felt it was wrong to allow walking with your feet over the first level of dunes and depressing them to a point where it puts the dune in danger of breaching, because not just that one house that was being put at risk, but the entire neighborhood.

Mayor Pro Tem Heidingsfelder stated that the data did not include how many of the total boardwalks would not meet the requirement or recommended 24 inches over the primary dune. Mr. Jordan indicated that there were very few.

Council Members discussed Council Member Berner's concerns, noting that currently, those walkovers are in compliance and may require changes to some of the ordinances, obtaining more data points better to understand the situation and magnitude of the problem. In preparation for a more in-depth discussion during the upcoming Council Retreat in May, there was a suggestion to have a consulting project on the current data

for guidance from the experts on options to address the safety of the dunes as well as safety for pedestrian traffic, and also include standards, expectations, and approval.

The differences in OCRM requirements, private covenant restrictions, and Designing with Nature specifications and their interaction with Town Ordinances were also discussed, along with an in-depth discussion of the current boardwalk review and approval process.

D. Beachwalker Projects Updates (West End & Ocean Pines and Oceans Pines Parking and Emergency Access) – Lucas Hernandez, Project Environmental Scientist, Weston and Sampson

Mr. Hernandez, a Project Scientist for Weston and Sampson, provided a presentation to discuss the peer review of the site development plans for the West End at Beachwalker and also Ocean Pines, along with briefly touching on the Cape Point parking and emergency beach access project, which is related to Ocean Pines.

Mr. Hernandez introduced the Weston and Sampson project team, stating that the presentation would go over the site plans, site visits, and Weston and Sampson's review from a planning and zoning standpoint, as well as from the stormwater standpoint. He stated that for the peer review process, Weston and Sampson looked at general bylaw compliance and site plan layouts and approached these projects from a general constructability standpoint and also from a stormwater review using the Charleston County's Stormwater Permitting Standards and Procedures Manual differing from Thompson Hutton and the applicant using information and standards from South Carolina DHEC.

Mr. Hernandez reviewed in detail the presentations for both projects, including the comments and recommendations made on Planning/Zoning and Stormwater, engaging in in-depth discussion of questions and comments from Council Members. (the complete discussion can be viewed on the live-streamed meeting video)

Following the presentation and discussion, he summarized by stating that the site plan review continues. Weston and Sampson's review is completed, and their comments and recommendations are presented today. Those comments and recommendations have been embedded into the comments back to the applicant, so the iterations continue, and the big issues that need to be worked out may take time.

IX. Old Business:

A. To Consider Approval of Ordinance 2024-02 - An Ordinance to Amend the Fiscal Year 2023-2024 Budget for the Town of Kiawah Island, South Carolina (7/1/23 through 6/30/24) – Public Hearing and Second and Final Reading

Council Member Kaye made a motion to open the Public Hearing for Ordinance 2024-02 to Amend the Fiscal Year 2023-2024 Budget for the Town. Mayor Pro Tem Heidingsfelder seconded the motion, and it was unanimously approved.

No public comments were made.

Mayor Pro Tem Heidingsfelder made a motion to close the Public Hearing for Ordinance 2024-02 to Amend the Fiscal Year 2023-2024 Budget for the Town. Council Member Kaye seconded the motion, and it was unanimously approved.

Council Member Belt made a motion to approve the second and final reading of Ordinance 2024-02 to Amend the Fiscal Year 2023-2024 Budget for the Town. Mayor Pro Tem Heidingsfelder seconded the motion, and it was unanimously approved.

B. To Consider Approval of Ordinance 2024-03 - An Ordinance to Article 8 - Health and Sanitation, Chapter 1 - General Provisions, Section 8-112 – Yard Debris – Second and Final Reading

Mayor Pro Tem Heidingsfelder made a motion to approve the second and final reading of Ordinance 2024-03 to amend Article 8 - Health and Sanitation, Chapter 1 - General Provisions, Section 8-112 – Yard Debris. Council Member Kaye seconded the motion, and it was unanimously approved.

C. To consider Approval of the 2024 Off-Duty Deputy Contract with the Charleston County Sheriff's Office

Mayor Pro Tem Heidingsfelder made a motion to approve the 2024 Off-Duty Deputy Contract with the Charleston County Sheriff's Office. Council Member Kaye seconded the motion.

Council Member Belt stated that the Off Duty contract was an issue that the Ways and Means Committee and the Council had previously spent a fair amount of time looking at to make sure that the Town has an adequate provision of off-duty officers covering Kiawah. One of the things being looked at, and will be done on an

ongoing basis, is whether there is a need to adjust compensation levels in order to make sure to attract a sufficient number of off-duty deputies.

Mayor Pro Tem Heidingsfelder stated that the Ways and Means Committee added that the Council will review do its review within the next three months and that the Public Safety Department will provide two sets of data points, one with the incidences broken down by different categories and response times, and the second, benchmarking the hourly costs that are paid by other local municipalities.

Mayor Labriola stated that the increase in the hourly rate from \$40.00 to \$55.00 matched the rate set by the Sheriff's Department.

Following the discussion, the motion was unanimously approved.

X. New Business:

A. Appointment of the Mayor Pro Tempore

Mayor Labriola made a motion to reappoint Michael Heidingsfelder as Mayor Pro Tempore. Council Member Kaye seconded the motion.

Council Member Belt questioned the need for reappointment, referencing that in the Municipal Code Section 2-205 states "after any general election for council," and there had not been a general election for council. Ms. Tillerson indicated that subsection (c) of the section states "after any election."

Council Members discussed considering the addition of "general" to Section 2-205(c), noting that the meaning of neither "general election" nor "next council election" is defined in the Town ordinance.

Following the discussion, the motion was unanimously approved.

B. To Consider Approval of Ordinance 2024-01 - An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance to Establish Tree Preservation and Landscaping Standards – Public Hearing and First Reading

Mayor Pro Tem Heidingsfelder made a motion to open the Public Hearing for Ordinance 2024-01 - An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance to Establish Tree Preservation and Landscaping Standards. Council Member Kaye seconded the motion, and it was unanimously approved.

Mr. Taylor stated that three comments were submitted via email and asked that they be part of the hearing. The emails had a substantive takeaway: they felt the current process works without amending or adding an additional layer of review and scrutiny for single-family projects.

Council Member Belt stated that those comment letters did not appear to reflect that this ordinance actually carved out single-family residences, other than the change to Grand Trees. Mr. Taylor clarified that the ordinance still reads that single-family residences are exempt. So, if it is the Council's intent that single-family residential would still need approval for removing any Grand tree, a sentence that clarifies that for the second reading would need to be added.

Further discussion included the Council's intent to make that change to the ordinance.

Council Member Kaye made a motion to close the Public Hearing for Ordinance 2024-01 - An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance to Establish Tree Preservation and Landscaping Standards. Mayor Pro Tem Heidingsfelder seconded the motion, and it was unanimously approved.

Mayor Pro Tem Heidingsfelder made a motion to approve the first reading of Ordinance 2024-01 - An Ordinance to Amend Chapter 12 - Land Use Planning and Zoning Ordinance to Establish Tree Preservation and Landscaping Standards incorporating the additional language. Council Member Belt seconded the motion, and it was unanimously approved.

Mayor Pro Tem Heidingsfelder pointed out that the language throughout the document contained some inconsistencies and/or contradictions, which needed to be corrected for the second reading.

C. To Consider Approval of the Barrier Island Ocean Rescue Contract Amendment for STR Code Enforcement Services

Mayor Labriola stated that during the discussion of the contract amendment at the Ways and Means Committee meeting, some questions were raised about cost and the statistics present in the previous year's contract discussion.

Mr. Sosnowski indicated he was unable to locate the specific date slide that was referenced, but note the rate of the contract amendment is the same as approved last year, with no change from 2023 to 2024. He briefly

reviewed some of the increased costs in payroll, vehicle, fuel, training, and recruitment that were part of last year's discussion and the intention not to raise the price of the contract year-over-year. He also noted that Barrier Island Ocean Rescue was now an advanced life support agency.

Mayor Pro Tem Heidingsfelder made a motion to approve the contract amendment for an additional month so that a breakdown of the cost elements discussed could be provided to the Council to provide the community with a bit more transparency. Council Member Belt seconded the motion, and it was unanimously approved.

D. To Consider Approval of the RFP for a Feasibility Study of the Town's Law Enforcement Services

Mayor Pro Tem Heidingsfelder made a motion to approve the RFP for a Feasibility Study of the Town's Law Enforcement Services. Council Member Kaye seconded the motion.

Mayor Pro Tem Heidingsfelder reviewed the areas of a new version of the RFP (Request for Proposals) that he felt needed to be improved, which included prioritizing the sequence of benefits, the addition of language in the Scope of Work, encouraging the consultant to talk to local experts, the deliverables need to reference data points and data and analysis of incidents, type of incidents time, etc., and in the statement of understanding should explicitly reference that the consultant explain how they are going to collect and analyze the data.

Council Member Belt indicated that he concurred with all the proposed changes that were suggested, reviewing that in the previous discussion of this issue was the need to do more background and data gathering, not make any prejudgments about what the outcomes are necessarily going to be with regard to the provision of additional law enforcement services, but assess where we are, the needs assessment with regard to all the public safety and security apparatus that exist on and off-island. Providing a traditional gap analysis in the provision of services, in coverage areas, in communication, coordination, etc., and then making recommendations.

Ms. Tillerson said she would make all the edits and send it back to the Council Members for final review before the RFP is released.

Council Member Belt made a motion to approve the RFP for a Feasibility Study of the Town's Law Enforcement Services as amended. Council Member Kaye seconded the motion, and it was unanimously approved.

E. To Consider Approval of the Employment of a Video Production Specialist within the Communications Department

Ms. Pomrenke stated the request is for a video production specialist as well as some basic equipment costs. The starting salary should not exceed \$55,000, with an additional \$6,000 for basic video equipment. This position would help with live-streaming, incorporating public comments for anyone off-island through Zoom, and also see if there are any better alternatives to Zoom. The person would also help with podcasting, to do videos that could be interview-style or informational, maybe like a welcome video for new property owners or other informational items that would be relayed quicker and easier to understand through video format.

Mayor Pro Tem Heidingsfelder made a motion to approve the employment of a Video Production Specialist within the Communications Department. Council Member Belt seconded the motion.

Council Member Kaye applauded Ms. Pomrenke for the data she included in her request that answered all her questions.

Mayor Pro Tem Heidingsfelder indicated that he was not sure that the title of Video Production Specialist would intrigue many young people to apply and that maybe something like a Visual Media Specialist might be better, considering that it is not just about video.

Following the discussion, the motion was unanimously approved.

F. To Consider Approval of the Employment of a Landscape Architect/Arborist within the Planning Department

Mr. Taylor stated that this was a request for an additional planner who would have a focus or credentials in landscape and arborist. He stated that as we continue to mature as a community and evolve, particularly with the addition of a landscape tree preservation ordinance, this particular staff member would have the skill set dedicated to that ordinance, ensuring an understanding of potential developments and impacts based on the new ordinance, along with working on what is being proposed in a Tree Preservation Board, being responsible for the preparation of presentations and staff reviews.

Mayor Pro Tem Heidingsfelder made a motion to approve the employment of a Landscape Architect/Arborist within the Planning Department. Council Member Kaye seconded the motion.

Mayor Pro Tem Heidingsfelder expressed his concerns with the request, stating that moving forward with the tree ordinance, he saw the need for a person, but until the Planning Commission moved forward with phase two of the landscaping standards, he did not see it as necessary. The main reason he was hesitant was that he worried about the time the onboarding process for this individual would take, in addition to the demands of Mr. Taylor's current projects.

Mr. Taylor stated that when the ordinance goes into effect, those standards still need to be administered and would fall on the Planning Department. The development projects requiring review scrutiny from the Tree Preservation Board are part of phase one. Additionally, this person would be able to help with the development of phase two.

Council Member Belt stated that he had the same types and concerns, and since landscaping is not part of the ordinance now, he asked if the person would have expertise that could help in designing what phase two would look like and the landscaping components of the ordinance. Mr. Taylor stated that it would be critical because they would be the ones enforcing the ordinance. So, bringing them on at this particular time would help be a natural transition.

Council Members engaged in an in-depth discussion of the experience and professional credentials required for the position and expectations based on the salary range. Mr. Taylor added that the position would be an additional planner who would be able to assist in normal day-to-day planning operations. However, in the long term, their focus would be primarily on landscaping and tree preservation.

Mayor Pro Tem Heidingsfelder asked to delay this at least until these critical, supercritical Beachwalker developments are settled because those are more important than this position. He saw the need for the position with the work created with the tree ordinance but wanted to be mindful of Mr. Taylor's workload and focus. Council Members further discussed the suggestion to wait, the request for approval, and the time it may take to hire someone. Ms. Tillerson noted that it took a year to fill the last planning position.

Following the discussion, the motion to approve the employment of a Landscape Architect/Arborist within the Planning Department was unanimously approved.

G. To Consider Approval of the Engagement of a Third-Party Inspector

Mr. Spicher stated that the request was for a third-party inspector. When comparing the inspections done in 2022 and for the calendar year along with 2023, there was an increase of twenty-four percent from roughly 5,000 to 6,000 plus. He reviewed the upcoming projects, which include the Cape, the Seafield's project, the West End Project, and Ocean Pines. The projection for finishing these reviews and having them ready for permit issuance is probably going to be in the late second quarter, and he stressed that a building permit is not issued until all zoning regulations and requirements have been met.

Mr. Spicher reviewed some of the pros and cons of a third-party inspector versus a new hire, stating that the biggest con for a third-party inspector for him was that they come to us for however many hours they leave, they go do another inspection, or they're doing inspections at some other jurisdiction before they get to us. So, in my mind, it's a rush-in, rush-out kind of scenario. The con of a new employee means we're looking at vehicle purchases, benefits, and those types of things. He reviewed the cost of a third-party inspector for six months, which is \$87,750.00, versus hiring a commercial inspector based on a midrange salary for months, a benefits package, and a vehicle purchase, which is \$94,495.86.

Council Members discussed the proposal as being the "worst-case scenario," the issue of having to let someone go because the work has dwindled, future retirement, and the fact that a third-party on-call would give the flexibility needed. Also discussed was that funds had been budgeted and that the Council's approval would authorize Mr. Spicher Bruce to seek out a third-party inspector to be activated if and when they're needed. The contract will come back to the Council for approval.

Mayor Pro Tem Heidingsfelder made a motion to approve the engagement of a Third-Party Inspector. Council Member Kaye seconded the motion, and it was unanimously approved.

H. 2024 Committee Appointments

- Environmental Committee

Mayor Pro Tem Heidingsfelder made a motion to approve the reappointment of the members of the 2024 Environmental Committee. Council Member Kaye seconded the motion, and it was unanimously approved.

- Public Safety Committee

Mayor Pro Tem Heidingsfelder made a motion to approve the reappointment of the members of the 2024 Public Safety Committee. Council Member Kaye seconded the motion, and it was unanimously approved.

- SATAX Committee

Mayor Pro Tem Heidingsfelder made a motion to approve the appointment of Ms. Kelly Sach and the reappointment of the current members of the 2024 SATAX Committee. Council Member Kaye seconded the motion.

Ms. Tillerson stated that Ms. Sach replaced John Wilson as the resident representative. When Mr. Wilson decided he did not want to be reappointed, notices were pushed out that the Town was taking applications for the Committee. The two applications received were independently reviewed by Mayor Pro Tem Heidingsfelder and Ms. Szubert, who recommended Ms. Sach.

Following the discussion, the motion was unanimously approved.

- Board of Zoning Appeals

Mayor Pro Tem Heidingsfelder made a motion to approve the appointment of Mr. Farabee, Mr. Hannon, and Mr. Lewis to an additional three-year term as members of the 2024 Board of Zoning Appeals. Council Member Kaye seconded the motion, and it was unanimously approved.

- Planning Commission

Mayor Pro Tem Heidingsfelder made a motion to approve the appointment of Dr. Curran and Ms. Hennessy to an additional four-year term as members of the 2024 Planning Commission. Council Member Kaye seconded the motion, and it was unanimously approved.

XI. Council Member Comments:

None

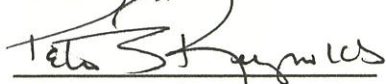
XII. Citizens' Comments:

None

XIII. Adjournment:

Mayor Labriola adjourned the meeting at 5:44 pm.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



Bradley D. Belt, Mayor

05/22/24

Date