

TOWN COUNCIL MEETING

Municipal Center Council Chambers

February 7, 2023; 2:00 pm

Minutes

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

II. **Pledge of Allegiance**

III. **Roll Call:**

Present at Meeting: John D. Labriola, *Mayor*
John Moffitt, *Councilmember*
Russell Berner, *Councilmember*
Brad Belt, *Councilmember*
Michael Heidingsfelder, *Councilmember*

Also Present: Stephanie Tillerson, *Town Administrator*
Joe Wilson, *Town Attorney*
Craig Harris, *Director of Public Safety*
Michael Sosnowski, *Barrier Island Ocean Rescue*
Rob Edgerton, *Barrier Island Ocean Rescue*

IV. **Approval of Minutes:**

A. Minutes of the Special Call Town Council Meeting of December 21, 2022

Councilmember Berner made a motion to approve the minutes of the Special Call Town Council Meeting of December 21, 2022. Mayor Pro Tem Moffitt seconded the motion.

Councilmember Belt stated he appreciated the accurate and very extensive minutes. He stated that grammatical errors were noted in both sets of minutes and would be given to the Town Clerk following the meeting.

After the discussion, the motion was unanimously approved.

B. Minutes of the Town Council Meeting of January 10, 2023

Councilmember Berner made a motion to approve the minutes of the Town Council Meeting of January 10, 2023. Councilmember Belt seconded the motion, and it was unanimously approved.

V. **Updates:**

A. Mayor

Mayor Labriola stated that Council held a Planning Retreat on February 2nd, 3rd and prior to this Town Council meeting. He thanked Council Members for their time and engagement, noting that the sessions were constructive and productive. To consider the Retreat successful, the agreement was made to identify all relevant issues and to establish assignments, responsibilities, timelines, and expectations, both of which he felt had been accomplished.

Mayor Labriola stated that over a dozen major topics were identified, discussed, and assigned to members of Council, Ms. Tillerson, and Town Staff, with the expectation that a work plan or next steps would be brought back to Council. The minutes of the meetings will take longer due to the amount of discussion during the Retreat.

B. Council Members

Mayor Pro Tem Moffitt stated that the initial list of fifteen items identified at the Retreat had been combined into eleven and categorized into two groups. The group that is operational in nature is the responsibility of the staff. Of the group of more strategic items, one was assigned to each Council Member and may be longer view items. He noted that reports would be given on the progress of each of the items.

Mayor Pro Tem Moffitt pointed out the outstanding front-page story in the Post & Courier about Aaron Givens, Town Biologist, and his bird banding project.

Councilmember Belt commended the other members on what he found to be extraordinarily constructive meetings characterized as a strategic planning retreat and commended the few residents and homeowners who attended the meetings. He felt the opportunity to engage with community members and residents was helpful and constructive.

Councilmember Belt commented on an issue raised following the Board of Zoning Appeals meeting. He noted that many community members were interested in a “No Wake Zone” in the Kiawah River and pointed out a letter sent by the Town to the Department of Natural Resources (DNR) supporting the Low Country Marine Mammals Network’s efforts to make Captain Sam’s Inlet a “No Wake Zone.” At the Retreat, there was a discussion of identifying opportunities to engage the community more to build networks of relationships more broadly. He felt this might be an opportunity for the Town to work with the Town of Seabrook, the most affected HOAs, and the Low Country Marine Mammals Network collectively to reach out to legislators and the DNR oversight committee chairs for their support in potentially pursuing the issue in the future.

Councilmember Heidingsfelder indicated that he was also pleased with the focused and forward-looking discussions at the Retreat. He noted the long list of tasks that need to be tackled and the commitment to report on the items in every Town Council meeting.

Councilmember Berner, liaison to the BZA (Board of Zoning Appeals), reported that at the last meeting, the Board rejected the zoning variance for moving the existing dock at Mingo Point further into the Kiawah River.

Councilmember Berner, liaison to the Public Safety Committee, stated that a project he would be supporting is to have an emergency call station installed at each of the public boardwalks.

Councilmember Berner, liaison to the Johns Island Task Force, reviewed some of the ongoing projects on Johns Island.

- Installation of a flyover at Savannah Highway and Main Road.
- Trident Medical Center is looking at building a new facility on Maybank Highway.
- MUSC Medical Center project on Seabrook is stalled until an additional access point is secured.
- The Putt-Putt project is looking into purchasing land on Maybank Highway.
- Future Development
 - Owners of property behind the CVS at the intersection of Maybank Highway and River Road are looking at joining seven individual parcels to build another living community.
 - Development of property behind the Food Lion at the intersection of Maybank Highway and River Road in addition to current construction along Maybank Highway.

C. Administrator

Ms. Tillerson stated that the Town had been receiving many more requests for fireworks at weddings, with two requests pending. Town ordinance currently states that approval is left up to the discretion of the Town on a case-by-case basis. Fireworks displays have been allowed in the past for various entities, but the community has raised concerns about the number of fireworks displays outside the ones on the Fourth of July and New Year's. The Public Safety Committee will discuss the policy at their next meeting and recommend if an amendment to the ordinance is required.

Further discussion included clarification that residential fireworks are not allowed within the Town of Kiawah, approval criteria include that experienced professionals conduct the display along with written approval from the Town and the St. Johns Fire District, no fireworks are allowed on the beach during turtle season and the suggested option of creating a policy outlining criteria rather than rewriting the ordinance.

Ms. Tillerson, responding to the many complaints on the Town's website, stated that the Town is aware that the website is not functioning properly. Despite several delays, work continues on the new website to ensure it functions properly and contains the correct information. Roll out of the new website is expected in April. A message will be placed on the current website stating that a new website is forthcoming. Any questions or difficulties finding information can be sent to the Town, and the information will be sent out directly.

Ms. Tillerson reminded everyone that the Council Retreat held last week can be viewed on the Town's YouTube channel and encouraged those not signed up for the Town's eBlast to do so.

Ms. Tillerson reported on the updates received in the Senior staff meeting.

- Building Department - the Town received the building drawings for the Seafield project in December, but the review process has not begun because payment has not been received for the permit.
- Wildlife Department – Town Biologists will be culling deer again this year and have received 80 tags. Bobcat numbers are increasing, and the deer population is decreasing.

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

Maura McIlvain – 146 Bly Heron Pond Road

Ms. McIlvain, attending parts of both days of the Retreat, indicated it was an impressive and encouraging opportunity compared to last year's Retreat, which was shorter and directed at fewer issues. She encouraged those who could not participate to watch it.

Roger Warren – President of the Kiawah Island Gold Resort

Mr. Warren spoke to the discussion of fireworks. Council amending its policy to limit fireworks to New Year's and the Fourth of July would allow Resort staff to deny a request for fireworks at weddings because the community does not allow them.

VII. **Old Business:**

A. To Consider Approval of *Ordinance 2023 – 01* An Ordinance of The Town Council of the Town of Kiawah Island – Marsh Management Plan – *Second and Final Reading*

Mr. Taylor stated that the Town's Comprehensive Marsh Management Plan was reviewed by the Planning Commission in December 2022 and recommended for approval. At the January Town

Council meeting, the first reading was approved with the understanding that staff revisits the structure of the proposed Kiawah Island Inter-Entity Executive Committee to clarify the function and operation of the proposed Committee.

Mr. Taylor stated that the recommendation presented is that a workgroup is formalized as part of the adoption process to allow the implementation phase to get started with the workgroup putting together a work plan. The Marsh Management Plan Workgroup would consist of representatives from the entities already part of the plan with goals and priorities focused on implementation. The workgroup may be able to bring in any partner that they see value in adding towards implementation.

Mr. Taylor stated that the workgroup would not have any final decision-making authority. Recommendations from the workgroup would be reviewed and follow the approval process to Town Council or other organizational Boards.

Mayor Pro Tem Moffitt clarified if the new language addresses the concerns raised by Mr. Capelli. Mr. Taylor stated that the Town could lead by formalizing the workgroup, identifying the players, and scheduling the meetings.

Council Members engaged in an in-depth discussion of Mr. Taylor's recommendation of establishing a workgroup and the structure of the workgroup membership.

Councilmember Berner made a motion to approve the second and final reading of Ordinance 2023 – 01 - An Ordinance of The Town Council of the Town of Kiawah Island – Marsh Management Plan. Councilmember Belt seconded the motion, and it was unanimously approved.

VIII. New Business:

A. To Consider Approval of the Off-Duty Deputy Contract with the Charleston County Sheriff's Office

Ms. Tillerson stated that the Off-Duty Deputy Contract with the Charleston County Sheriff's Office (CCSO) was recommended for approval by the Ways and Means Committee. The Committee was concerned about deputies coming to the island and working simultaneously for the Town and the Community Association. Working with the Town Attorney, additional language was added to Paragraph 6 in the contract.

Council Members discussed the issue of the Town not receiving crime statics from CCSO, the language in the contract that requires the statics are provided on a monthly basis, the amount budgeted for the coverage, and the suggestion that the word Kiawah be deleted in the language added in Paragraph 6.

Councilmember Heidingsfelder made a motion to approve the 2023 Off-Duty Deputy Contract with the Charleston County Sheriff's Office. Councilmember Berner seconded the motion, and it was unanimously approved.

B. To Consider Approval of the Code Enforcement Proposal from Barrier Island Ocean Rescue

Mr. Harris stated that the Barrier Island Ocean Rescue (BIOR) proposal for Code Enforcement services was presented at the Ways and Means Committee meeting. The Committee selected Option 1 of the proposal and requested that BIOR provide the Council with a more detailed explanation of the cost increase.

Mr. Sosnowski stated that the Ways and Means Committee requested an accounting of the cost increase in whole dollars rather than just in percentage, pointing out there had not been an increase in price since the inception of the current contract in 2020, and the intent was not changing the cost prior to the end of the term of the proposed contract.

Mr. Sosnowski reviewed the six largest increases:

- \$41,229.00 increase in payroll expenses
- \$24,000.00 increase in vehicle costs, which includes fuel
- \$15,000.00 increase in training costs
- \$13,000.00 expense for retention, advertisement, and promotion to hire staff
- \$12,000.00 increase in insurance costs
- \$10,000.00 increase in technology and supply costs

Mr. Sosnowski noted that the approximately \$115,000.00 in increases since 2020 are more than the proposed increase.

Council Members discussed the cost increases and benchmarks used for wages. They were also given an overview of the services provided by BIOR as Beach Patrol and Code Enforcement, the extensive training undertaken by the employees, and contact information for BIOR.

Mayor Pro Tem Moffitt made a motion to approve the Code Enforcement Proposal from Barrier Island Ocean Rescue. Councilmember Berner seconded the motion, and it was unanimously approved.

C. 2023 Committee Appointments

Councilmember Belt indicated that when posing the question of whether the Town has a conflict-of-interest policy concerning service on any Town commission or committee, the response was that there was no policy.

Ms. Tillerson clarified that there was no conflict-of-interest policy for the council-appointed officials, and as a municipality, they would fall under the South Carolina ethics. Councilmember Belt asked for clarity as to whether all appointments are subject to this state ethics law requirements and whether it would make sense to have an explicit conflict of interest policy for Council as well as Commission Members. Ms. Tillerson offered to research the question with Mr. Wilson and bring back the results to Council for discussion.

Council Members discussed a conflict-of-interest policy, including the lack of a conflict-of-interest question on the appointment application form, a member disclosing a conflict of interest then recusing themselves, and a conflict of interest precluding appointment to a quasi-judicial commission or Board. There was also an in-depth discussion of the process by which the candidates recommended for appointment were selected, the suggestion that a more formal criteria and selection process be implemented, and the option of imposing term limits.

- Board of Zoning Appeals

Councilmember Berner made a motion to re-appoint Frank Cassidy to the Board of Zoning Appeals. Mayor Pro Tem Moffitt seconded the motion. Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	abstained
Councilmember Berner	yes
Councilmember Heidingsfelder	yes

Mayor Pro Tem Moffitt made a motion to appoint Phillip Adams to the Board of Zoning Appeals. Councilmember Heidingsfelder seconded the motion.

Councilmember Berner stated that after a conversation with Mr. Adams, a potential conflict of interest was discovered but not independently verified. He would support Mr. Adam's appointment, but as the liaison to the BZA, he would make sure that Mr. Adams recuses or abstains from any votes that may be a conflict. Ms. Tillerson advised that the decision would fall to Mr. Adams.

Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	abstained
Councilmember Berner	yes
Councilmember Heidingsfelder	no

Councilmember Berner made a motion to re-appoint Lin O'Leary to the Board of Zoning Appeals. Mayor Pro Tem Moffitt seconded the motion. Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	yes
Councilmember Berner	yes
Councilmember Heidingsfelder	yes

- Construction Board of Appeals

Councilmember Heidingsfelder made a motion to appoint Andrew Lingle, Maurice Managan, Stephen Sager, Marshall Beverly, Kevin Haddigan, and Noel Kade to the 2023 Construction Board of Appeals. Councilmember Berner seconded the motion. Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	yes
Councilmember Berner	yes
Councilmember Heidingsfelder	yes

- Environmental Committee

Councilmember Heidingsfelder made a motion to re-appoint Jim Jordan, Jim Chitwood, Lynne Sager, Jane Ellis, Pam Wilson, John Kotz, Lee Bundrick, Matt Hill, Tommy Manuel, Liz King, and Aaron Given to the 2023 Environmental Committee. Councilmember Belt seconded the motion.

Mayor Pro Tem Moffitt stated that Mr. Kotz was a resident of Bishop Gadsden and asked if that disqualified him from serving on the Environmental Committee. Councilmember Heidingsfelder indicated that it does not. The Environmental Committee Charter states that non-residents can be appointed if they have a certain qualification.

Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	yes
Councilmember Berner	yes
Councilmember Heidingsfelder	yes

- Planning Commission

Councilmember Berner made a motion to appoint Ronald Curran to the Planning Commission. Councilmember Heidingsfelder seconded the motion. Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	abstained
Councilmember Berner	yes
Councilmember Heidingsfelder	no

Councilmember Berner made a motion to appoint Luke Farrell to the Planning Commission. Mayor Pro Tem Moffitt seconded the motion.

Councilmember Berner disclosed that Mr. Farrell is his brother-in-law, so he investigated whether he should recuse or abstain from voting. Investigating Roberts Rules of Order, Mr. Wilson and South Carolina Ethics Commission stated that he would have to abstain if it was an economic interest to him, and there is none.

Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	yes
Councilmember Berner	yes
Councilmember Heidingsfelder	yes

Councilmember Heidingsfelder made a motion to re-appoint Madeleine Kaye to the Planning Commission. Councilmember Berner seconded the motion. Mayor Labriola requested a roll call vote:

Mayor Labriola	yes
Mayor Pro Tem Moffitt	yes
Councilmember Belt	yes
Councilmember Berner	yes
Councilmember Heidingsfelder	yes

IX. Council Member Comments:

Councilmember Belt stated that as the liaison to the Charleston Visitors Bureau (CVB), he attended their Strategic Planning Retreat. He noted that the Town is a substantial funder of the CVB in the amount of \$706,825.00, their third largest contributor after the City of Charleston and the Isle of Palms. The money comes from SATAX revenues the Town received and must be spent on tourism-related expenditures within two years. One of the conversations with CVB included questions about what the residents of Kiawah get for that funding. In addition to promoting Kiawah, the Resort, and greater Charleston, he suggested doing communications to inform residents of the visitor-related opportunities and promotions that would directly benefit the residents of Kiawah.

X. Citizens' Comments:

Alex Fernandez – 418 Snowy Egret

Mr. Fernandez commented on the discussion of conflict of interest. He stated that the Kiawah Island Community Association (KICA) falls under more flexible ethical requirements than the Council and the reason KICA decided to implement a more stringent conflict-of-interest policy. The

policy requires any member of a board, committee, or task force to declare a conflict of interest in a form in advance so that other members are aware of the conflict. If a vote or a situation comes up when this conflict may arise, the conflict would be discussed, and the decision made on if the member is eligible to vote or should abstain.

Brad McIlvain – 146 Blue Heron Pond Road

Mr. McIlvain indicated that state law establishes a floor about what conflicts are, and it is the financial interest in the context of a homeowner's association, but he didn't know whether it was the same with a municipality. In the newly revised draft of the KICA bylaws, that has been expanded to where if a conflict impacts a member's ability to exercise their fiduciary duty or where there's something that would make it appear that a member may not be able to exercise their fiduciary duty without influence, then they must recuse themselves. He encouraged the Town to research the statutes to see if there's a similar opportunity for the Town.

Andy Capelli – 160 Governors Drive

Mr. Capelli stated that the Planning Commission has very important principles regarding not only conflicts of interest but standards of integrity. He reviewed the preamble of the Planning Commission's Rules of Procedure:

- Remember that your role is, first and foremost, to serve the community;
- Be at all times truthful with my colleagues, the public, and others;
- Avoid any actions that would cause the public to question whether my decisions are based on personal interests instead of the public's interest;
- Do not accept any gifts or other special considerations because of my public position;
- Do not knowingly use false, inaccurate, or biased information in support of my position;
- Do not use your public positions for personal gain;
- Carefully consider any promises made and keep them; and
- Always be prepared for meetings by having read and studied all the meeting materials provided.

Mr. Capelli stated that these standards would need to be adhered to by every commissioner at every meeting. If in violation, the Chairman has the right and a duty to remove that commissioner from service.

Lee Bundrick, Senior Ecological Conservation Coordinator for the Kiawah Conservancy

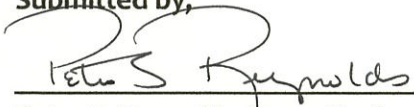
Mr. Bundrick commented on the Marsh Management Plan. He stated that over the past four years, the Conservancy has been looking into how it could help the Town put a plan into place after the Flood Mitigation and Sea Level Rise report by putting efforts into providing information to the Town and looking at some potential solutions. The Conservancy was happy to see that it has passed and approved the Marsh Management Plan and that it involves many of these organizations on the island that are also concerned about one of Kiawah's wonderful natural resources. The Conservancy is willing to collaborate with the Town in any way to help implement the Plan and hopes to continue the collaboration.

Mayor Labriola suggested that one of the Town's publications publish the Code of Ethics so that the community understands what members sign off on to the State, both in terms of the Code of Ethics and Economic Interests.

XI. Adjournment:

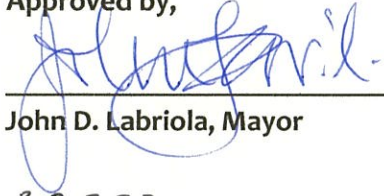
Councilmember Berner made a motion to adjourn the meeting at 3:54 pm. Councilmember Belt seconded the motion, and it was unanimously approved.

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



John D. Labriola, Mayor

3.8.2023

Date