



Mayor

Craig E. Weaver

Council Members

Jack Koach

Diana L. Mezzanotte

Chris Widuch

John R. Wilson

Town Administrator

Stephanie Monroe Tillerson

4475 Betsy Kerrison Parkway | Kiawah Island, SC 29455 | (843) 768-9166 | Fax (843) 768-4764 | www.kiawahisland.org

TOWN COUNCIL MEETING

Kiawah Island Municipal Center

Council Chambers

December 4, 2018; 2:00 PM

AGENDA

- I. **Call to Order:**
- II. **Pledge of Allegiance**
- III. **Approval of Minutes:**
 - A. Minutes of the Town Council Meeting of November 13, 2018 [Tab 1]
- IV. **Mayor's Update:**
- V. **Citizens' Comments (Agenda Items Only)**
- VI. **New Business:**
 - A. To Consider Recommendation to Town Council to Approve Deputy Coverage Contract with Charleston County Sheriff's Office [Tab 2]
 - B. To Consider Recommendation to Town Council to Approve of the Town Attorney's Contract [Tab 3]
 - C. To Consider Recommendation to Town Council to Approve the Proposal from Sanders Brothers for Cleaning & Inspection of Parkway Storm Drainage [Tab 4]
- VII. **Other Business:**

None
- VIII. **Town Administrator's Report:**
- IX. **Council Member:**
 - a. Committee Updates
 - b. General Comments
- X. **Citizens' Comments:**
- XI. **Executive Session:**
- XII. **Adjournment:**

TOWN COUNCIL MEETING

Kiawah Island Municipal Center

Council Chambers

November 13, 2018; 2:00 PM

Minutes

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

II. **Pledge of Allegiance**

Present at the meeting: Craig Weaver, Mayor
John R. Wilson
Diana Mezzanotte
Chris Widuch

Absent: Jack Koach

Also Present: Stephanie Monroe Tillerson, Town Administrator
Dorota Szubert, Town Treasurer
Dwayne Green, Town Attorney
Petra Reynolds, Town Clerk

III. **Approval of Minutes:**

A. Minutes of the Town Council Meeting of October 2, 2018

Mr. Widuch made a motion to approve the minutes of the October 2, 2018, Town Council Meeting. The motion was seconded by Mr. Wilson and the minutes were unanimously approved.

IV. **Mayor's Update:**

Mayor Weaver reminded everyone of the Town election on the December 4th, at the Municipal Center from 7 am to 7 pm. He introduced the Council Candidates that were in attendance at the meeting.

Mayor Weaver stated he had received questions and concerns on the status of a potential new plat for Duneside Road. The plat was brought forward this past spring in which Duneside Road would be extended into the new area of Parcel 13 and was eventually pulled down. He indicated that about a month ago Kiawah Partners proposed a new plat extending Duneside Road into the area now Southern Pines Road which included restrictions regarding what parcels on Parcel 13 would have access to Duneside Road.

Mayor Weaver stated that at the moment there is no application for an extension or combinations of extensions from Duneside into Parcel 13. The application that was submitted a month ago was rescinded by Kiawah Partners. He stated he was aware of conversations between the Community Association and Kiawah Partners around the issue. He indicated the Town had not been a party to, has no knowledge of the content of those conversations and does not know if the plat will come before the Planning Commission in the future. He stated that should an application be submitted; the Town will reach out to residents making them aware of the submittal and process.

Mayor Weaver gave an update on the status of the pending contract with the Charleston County Sheriff's Office for supplementary law-enforcement support on the Island. He stated the change would be a positive approach and that negotiations are still ongoing with the County with a number of contractual issues which have to be resolved. He indicated it is his hope that the contract will be presented in December if there is a Town Council meeting.

V. Citizens' Comments (Agenda Items Only)

Wendy Kulick – 38 Marsh Edge Lane

Mrs. Kulick thanked the Mayor's update on the KICA/Partners and added that even though the Town has no actual responsibility and no role to play in the process, but the Town did have a responsibility for public safety and asked that Council stay informed on the discussions going on an interject if necessary.

Mrs. Kulick indicated that KIU/Southwest Water Company had acknowledged the request to hold a public hearing with the Public Service Commission (PSC) on Kiawah about the 9.69% rate increase they are seeking just two years after they received a substantive rate increase when the cost of leaving has risen only approximately 2%. She stated she hoped the Town would request the hearing and intervene as it has done previously to obtain all the information that will be available on the rate increase application.

Mrs. Kulick stated the agenda shows that the Council is considering dismissing the lawsuits against the former Town Administrator and former Town Treasurer. She noted that sentencing there was no jail time for either party and called attention members to the substantial time contributed by members of Council in the absence of an Administrator and Treasurer. She stated the punishment they received was more like a slap on the wrist considering the severity of their actions.

Mrs. Kulick in the minutes of the last meeting there was a discussion of the trash situation in Greenlake and Low-Speed Vehicles and if there were any updates.

Mrs. Kulick asked if Mrs. Szubert, in her report, could address an amount of \$119,810.00 which appeared on the Balance Sheet as unavailable revenue.

Mayor Weaver indicated that during the Town Administrators report Ms. Tillerson would speak to the current status Greenslake issue and Mr. Widuch indicated he would speak to the Low-Speed Vehicles.

VI. Presentations:

A. KIU/Southwest Water Company Proposed Rate Adjustment Application Presentation

Mr. Sorensen, with Southwest Water Company, along with Ms. Dennis, with Kiawah Island Utility, gave a PowerPoint presentation on the rate adjustment application submitted to the Public Service Commission. Mr. Sorenson and Ms. Dennis answered questions asked by Council members on the information presented.

Utility Update

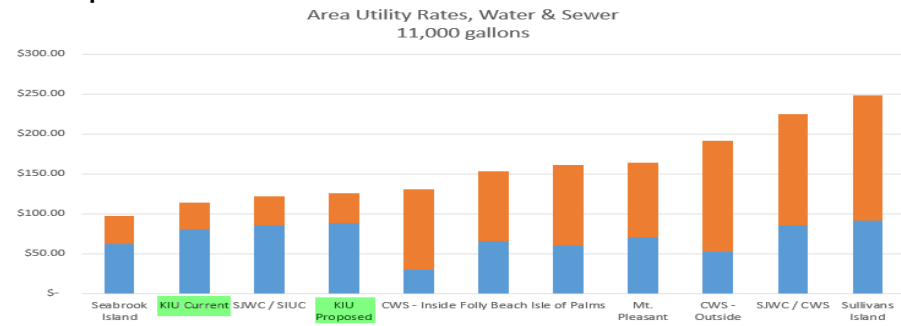
- KIU filed an application for rate relief October 25
 - Two years since last adjustment
 - Based on 2017 Historical Test Year
- Seeking a 9.69% increase due to increased costs from 2015. These include (with rough percentage):
 - Direct Labor costs (4.5%)
 - Purchased Water (2.8%, offset by prior pass-through adjs.)
 - Pipeline debt refinance from short-term to long-term (1.6%)
 - Depreciation expense (0.8%)
 - All Other expenses (1.5%)
 - Tank Painting, sludge removal, overhead, operating margin
 - Tax savings benefit reflected (-1.7%)

Rate Application Approximate Timeline

- Filed October 25
- SC Office of Regulatory Staff auditing, likely through January
 - New Consumer Advocate seated
- Public Hearing on Kiawah Island (not confirmed or set yet)

- Likely January or February
- Testimonies Submitted in March
- PSC Ruling in late April

Area Rate Comparison



VII. Old Business: None

VIII. New Business:

A. Approval of the 2019 Town Meeting Schedule

Mayor Weaver stated that by ordinance the new year schedule has to be approved by the end of the year. However, with the election of a new Council in December there is the possibility that if there is a conflict with any of the dates and times changes may have to be made and suggested that the schedule be used as a placeholder.

Mr. Widuch made a motion to approve the 2019 Town of Kiawah meeting schedule. The motion was seconded by Mrs. Mezzanotte and was unanimously passed.

B. Approval of the 2019 Town Contribution to the Employee Health Insurance Premium

Ms. Tillerson stated that annually, Town Council considers at what level the Town will contribute to the employee health insurance premium cost. Historically, the Town's philosophy has been to cover the total premium cost for employee only at the maximum cost determined by the State Public Employee Benefit Authority (PEBA), which determines that rates that are paid by the employee and the employer. She indicated that this year the employee portion had remained the same with the employer portion increasing.

Ms. Tillerson stated that the presented table illustrates the monthly premium changes dating back to 2010. Employees are responsible for the full cost of any dependent or family coverage.

2019 EMPLOYEE ONLY RATES

	Jan. 2010	Jan. 2011	Jan. 2012	Jan. 2013	Jan. 2014	Jan. 2015	Jan. 2016	Jan. 2017	Jan. 2018	Jan. 2019
Standard Plan	\$94.86	\$94.68	\$97.68	\$102.18	\$97.68	\$97.68	\$97.68	\$97.68	\$97.68	\$97.68
Vision Plan	\$7.76	\$7.76	\$7.76	\$7.76	\$7.94	\$7.00	\$7.00	\$7.00	\$8.00	\$8.00
Dental Plus						\$24.58	\$25.96	\$25.96	\$27.12	\$27.12
Total						\$129.26	\$130.64	\$130.64	\$132.80	\$132.80

Ms. Tillerson stated that staff is recommending that Council approve of continuing covering the employee only portion of the Health, Dental and Vision insurance coverage at a monthly cost of \$132.80 to become effective January 1, 2019

Ms. Tillerson stated that the previous year's approval resulted in a discussion of the possibility of having employees contribute to their health insurance benefit. She stated that a good portion of the employees that

have dependant coverage already pay a portion of their coverage, but there are some that currently do not contribute to their health insurance coverage because they fall under the employee only coverage. She presented several cost-sharing scenarios which include rate structures with the current practice, with 20/80 cost sharing and with a nominal employee contribution of \$10.00.

Council Members engaged in an in-depth discussion of the presented rate structures approaches taken by other Island entities and moving toward a greater cost sharing in nominal increments giving the Town some control over its health care costs.

Mr. Wilson made a motion to approve the Town covering the employee only portion of the Health, Dental and Vision insurance coverage become effective January 1, 2019, to a monthly cost of \$132.80. The motion was seconded by Mrs. Mezzanotte.

Mr. Widuch stated that he did not support the motion. He indicated that he loved the staff but was philosophical opposed to individuals not sharing in the cost of their health insurance coverage. He recommended that the Town moves to an 80/20 split with increased that would close the gap to a 20% contribution in two years.

Mr. Wilson, along with Mrs. Mezzanotte were both in favor of having employees contribute to their health insurance benefit and recommended that staff work on an increase of ten dollars for the single individual health care coverage.

Mr. Wilson amended his motion to decrease the staff recommendation by \$10.00 to \$122.80 and to incorporate the same contribution as a supplement to all other categories as shown in the presented rate structures scenarios. The motion was seconded by Mrs. Mezzanotte. The motion was passed by a 3 to 1 vote with Mr. Widuch voting No.

C. Approval to the Amend the Arts and Cultural Events Charter

Mrs. Mezzanotte stated that in May of 2018, the Arts Sustainability Committee was formed to consider the idea of a 501(c)(3) or an alternate structure and way of sustaining the Arts Council. She stated that the Committee decided that the formation of a 501(c)(3) was not suitable at the time and concentrated on the role of the Council member in the Arts Council. The Committee decided that having the Town Council member serve as a liaison between the Town Council and the Arts Council would be a more sustainable model than the current arrangement. The alternative structure proposal would reallocate to staff and two members of the Arts Council, would serve as Chair and Vice-Chair, the work was previously done by the Town Council member who served as chairperson.

Mrs. Mezzanotte stated that also, the Arts Sustainability Committee would be changed to the **Arts Council Board**. The Board would meet quarterly and would be comprised of one member of Town Council that will act as the Town Council liaison, the Chair, and Vice-Chair of the Arts Council, the Communications Manager, and the Town Administrator. The Board would quarterly or bi-annually report to Town Council on Arts Council regarding budgeting and programming.

Mrs. Mezzanotte made a motion to accept the new the Arts and Cultural Events Charter. The motion was seconded by Mr. Widuch.

Mr. Wilson discussed the previous research work done by the Town Attorney on an establishment of a 501(c)(3) and expressed what he considered would be advantages to the Arts Council and the Town. He indicated that he understood that the Arts Sustainability Committee found it unsuitable but felt the Town should move in that direction and consider it in the future.

Following further discussion, the motion was unanimously passed.

D. To Discuss the Town Administrator Salary Adjustment

Mayor Weaver stated that under Ms. Tillerson 's current contract it states: "The Town agrees that Tillerson's salary will be reviewed annually at the same time as similar salary reviews are given other employees generally, and the Town, in its discretion, from time to time may increase the base salary and/or other benefits to Tillerson in such amounts and to such extent that the Mayor and Town Council may determine to do so."

Mayor Weaver stated he had spent the last few weeks, as he did last year, getting views from Council and the Town's external entities around her performance and looked at comparisons to salaries of Town Administrators throughout the State. He indicated the feedback from all signified strong performance.

Mayor Weaver made a motion that effective November 1, 2018, Ms. Tillerson receive a salary increase of \$4,500.00 to \$125,000.00 annually, an increase of approximately 3.9%. Mr. Wilson seconded the motion and was unanimously passed.

E. To Adopt Action's in Response to the Flood Mitigation and Sea Level Rise Adaptation Report

Mrs. Mezzanotte stated that a few months ago the Flooding Mitigation and Sea Level Rise team presented their report to Town Council. Since then, the Mayor organized a joint meeting between the Town, the Architectural Review Board (ARB) and Kiawah Island Community Association (KICA) and she indicated that the KICA Board had discussed the results in at least one of their meetings. She stated that although the responsibility for this report will be with future Town Councils, Mayor Weaver, Ms. Tillerson and I believe the current Town Council should take some initial action since the study was completed during our tenure.

Mrs. Mezzanotte to introduce the following for discussion and then a formal motion for approval:

The Town Council has reviewed and discussed the report of the Subcommittee on Flood Mitigation and Sea Level Rise and agreed that the findings and recommendations contained in the Report provide an important blueprint for future public policy and actions by the Town.

We further agreed that, as a matter of Town policy, flood mitigation in sea level rise is a concern which, if not addressed, could have a long-term detrimental public safety, environmental, and livability effects on our community. This report asserts that this is a long-term issue and recommends an "adaptive management pathways approach" for evaluating acting. In line with this approach, and as an initial step, we instruct the Town Administrator to take the following actions:

- a) Prepare for Planning Commission approval, amendments to the environmental, land-use and party investment elements of the comprehensive plan to address the implications of sea level rise.
- b) Adopt the subcommittee's recommendation that a range of 1 1/2 to 2 1/2 feet of sea level rise over 30 to 50 year time horizon be considered most likely based upon current scientific research and use for planning purposes - with the further direction that this assumption be reconsidered by Town Council at least every five years.
- c) Recommend to Town Council during 2019, an action plan to address the goals adopted by the planning commission in the Comprehensive Plan.
- d) Encourage other community energies to adopt consistent policies and actions.

Mrs. Mezzanotte made a motion to adopt A through D. The motion was seconded by Mr. Wilson and the motion and was unanimously passed.

F. Approval to Dismiss without Prejudice the Civil Suits against the Former Town Administrator, Tumiko Rucker, and Former Town Treasurer, Ken Gunnells

Mr. Green stated that the Town filed a Civil Suit in the Charleston Court of Common Pleas to protect the Town's interests in the event that the Federal Court did not find any criminal liability against Ms. Rucker and Mr. Gunnells or restitution was not received. He stated that part of the Federal side of the criminal prosecution process was the determination of the defendants' ability to pay restitution to the Town. The amounts were different for each defendant with Ms. Rucker paying her amount in full and Mr. Gunnells paying his on an installment basis. The criminal suit was a safety net in the event that the defendants did not pay and now that the Town had the order from the Judge and there can be no additional gain with the Federal court overruling any State court. The request, if approved, is that the civil suits against Ms. Rucker and Mr. Gunnell, be dismissed without prejudice and allow the Federal process to go forward.

Council Members discussed if any action taken in the civil suit would have any effect on the suit pending against the auditors. Mr. Green stated that the Town could not double recover and since they are two separate causes of action the suits could operate in parallel. He did note that there was a time limit in which the civil suit had to be served.

Council Members discussed the suit against the former auditors, and it was presumed that a settlement would likely not be the full sum but an amount in between leaving a balance still owed to the Town. Mr. Wilson indicated that he felt as the ringleader of the embezzlement which caused a great deal of harm to the Town over and above the Federal criminal penalties Ms. Rucker should be responsible for any addition unrecovered funds. He noted that Mr. Gunnells had no additional assets but did feel Ms. Rucker did, therefore, the suit against her should move forward and dismiss the suit against Mr. Gunnells.

Council Members discussed if dismissing the suit against Mr. Gunnells would have any effect on a suit against Ms. Gunnells, to which Mr. Green responded that it would not. Mayor Weaver pointed out that it should be explored if the legal costs would outweigh any gain.

Council members agreed to dismiss the civil suit against Mr. Gunnells and take no action with regard to the suit against Ms. Rucker with a decision to be made within the next thirty days.

Mayor Weaver made a motion to dismiss the civil suit against Mr. Gunnells but at this time take no further action with regard to the lawsuit against Ms. Rucker. The motion was seconded by Mr. Widuch and unanimously passed.

G. Review of Financial Statements for First Quarter FY 2018/2019

Mrs. Szubert presented the Town's Balance Sheet as of September 30, 2018, and Budget to Actual Report for the first quarter of Fiscal Year 2018/2019. The Budget to Actual Report is compiled on the cash basis, and all the funds are consolidated.

Mrs. Szubert reported of September 30, 2018, the Town's governmental funds combined have ending fund balance of approximately \$18.5 million, an increase of approximately \$70,000.00 from June 30, 2018. Of this amount, approximately 43% or \$8 million is available for spending at the Town's discretion or an unassigned fund balance.

Mrs. Szubert addressed Mrs. Kulick's earlier question about the unavailable revenue by stating that it was an item on the balance sheet which represented revenues that have not been received yet and will be on the income statement in the next quarter.

Mrs. Szubert reported that overall, for the first three months the Town's revenues appear reasonable for this time of the year and in line with the expectations. Consolidated revenues of \$1.8 million were approximately \$190,000.00 or 10% lower than budgeted. This variance is attributable to the timing of the monthly collection of the Local Option, Accommodation and Hospitality Taxes.

Mr. Wilson asked Mrs. Szubert what the current rate was on the investment fund. She responded that it was almost 2%.

With 25% of the year lapsed at the end of September, expenditures to date are approximately \$1.7 million, or 22% of total budgeted expenditures and are in line with the budgeted spending. Capital expenditures are in line with the budget as well.

IX. Other Business:
None

X. Town Administrator's Report:

Ms. Tillerson reported that Council received a copy of Charleston's Hazzard Mitigation Plan. It required no action on the part of Council and was for information only. To meet CRS (Community Rating System) requirements, Charleston County is required to notify all municipalities of any proposed changes to their Hazzard Mitigation Plan for 2018-2019.

Mr. Tillerson reported that Council also received a copy of the CVB (Charleston Visitors Bureau) budget approved at their last meeting. This also required no action on the part of Council and was for information only.

Ms. Tillerson gave an update on the issue at Greenslake Cottages. She stated she was happy to say in working with the ARB, Poston & Company, along with a final push with Carolina Waste the suggestion was made to look at placing anti-slip strips on the steps. She stated she has talked to Poston and the Cottage Owners Association to make sure they approved, has received ARB approval she believes that a resolution has been reached. Cottage owners would be contacted by the end of the week that may leave the receptacles on the porch, or the ARB has given approval for pre-fab enclosures for those who would like to have the option to bring their receptacles to ground level and eliminate the waste removal costs, provided they are not rentals.

Ms. Tillerson stated that Town staff would be installing those strips by the end of the year.

XI. Council Member:

- a. Committee Updates
- b. General Comments

Mrs. Mezzanotte reported that since the start of this fiscal year, there had been six major *Arts and Cultural Events Council* events and three piano bars. At the first event, the Arts Council charged a \$10 admission, grossing over \$4,100. All four East Beach events have been sellouts with the largest crowd (estimated at 500) at the November 3rd Charleston Symphony performance.

Mrs. Mezzanotte reported that the *Arts and Cultural Events Council* should end the year at \$263,000.00 which is 13% under the \$300,000.00 budgeted allocation, with expenditures of about \$26,000.00. Estimated total ticket sales will exceed \$15,000.00; it is anticipated ending the year under budget.

Mrs. Mezzanotte reviewed the three upcoming *Arts and Cultural Events Council* events:

- Andy Offutt Irwin - Humorist - Wednesday, 11/14 at Seabrook Island House
- Quiana Parler & Friends - Dance Band - Friday, November 30 at East Beach
- The Western Wind: The Holiday Light - Christmas and Hanukkah - Tuesday, 12/4 at Holy Spirit Catholic Church

As part of her *Turtle Patrol* report, Mrs. Mezzanotte shared some of its year's successes and recognition from the *Turtle Patrol* dinner she attended:

- This season, Kiawah had the most number of turtle volunteers in the state with a total of 273.

- Kiawah had 223 nests with almost 24,000 eggs.
- Volunteers moved 65% or 145 of those nests, almost 16,000 eggs.
- Moving the nests helped us improve the emergence rate which was 76%.
- The state average is 58%.
- Kiawah was ranked #4 out of 51 nesting beaches.
- About 18,000 babies emerge from the 24,000 eggs, but it is estimated that only 18 of these hatchlings will survive to adulthood. The entire state of SC estimates that about 176 of this year's hatchlings will make it to adulthood. Kiawah contributes 10% (18) of those turtles.
- Since 2008, Kiawah has been contributing to a genetic research study run by the SCDNR. One finding is that since 2008, 690 female loggerhead turtles have laid eggs on Kiawah.
- Kiawah had two grown loggerheads stranded on the beach this summer, and both are still recuperating at the SC Aquarium.

Mayor Weaver commented the ability of the Turtle Patrol to sustain itself and grow every year was amazing and that the Town of Kiawah owes Lynne Sager, and her 273 volunteers, a huge thank you for the work they do to save our turtle population.

Mr. Wilson reported that the consultant Kimley Horn is actively working on the redesign of Beachwalker Drive. He indicated that it looks like the redesign will result in three lanes that will be narrower than standard but with the slower speeds on Beachwalker, should not present a problem. He stated the Partners have indicated that they have no problem providing the strip of land on the left side of Beachwalker necessary to complete the project. He indicated that the project is in the preliminary stages of the process, but barring unforeseen difficulties with permitting, should be complete by Memorial Day.

Mr. Wilson stated the Public Work Committee would be evaluating the project for the Parkway drainage and repaving.

Mr. Wilson reported that he and Ms. Mezzanotte attended the Grand Opening of The Timbers last week. He indicated it was a very impressive event along with being an impressive place. He noted that the penthouse had the most spectacular view of Kiawah Beach.

Mr. Widuch gave another update on delayed completion of Station 6 near Flyway. He stated that the previous completion date was December 15th and the completion date has now slipped to January 28th.

Mr. Widuch reminded any interested Kiawah residents that is an opening on the St. Johns Fire Department Commission. If any resident is interested in learning more about the positions, he suggested they contact him so that he can provide some background information. The deadline for applications is November 26th.

Mr. Widuch addressed Mrs. Kulick's earlier comment on Low-Speed Vehicles (LSV) by reporting that the issue of Low-Speed Vehicles is on the agenda for the upcoming Public Safety Committee Meeting. The owner of Lighting Bug (LSV Rental Company) has been invited to attend the meeting, along with Mr. Elder, with the Community Association, to ensure close communications.

Mr. Widuch reported that "Town Notes" was published last week and copies were available in the lobby. He congratulated Mrs. Edgerton on her work on the issue.

Mayor Weaver stated that in the past Council have voted on the recommendation of the Fire Commissioner candidate to County Council. He indicated this year there is a timing issue with Council meetings, so would out objections from any member of Town Council the Public Safety Committee reviewing and making the recommendation.

Mrs. Edgerton introduced her new employee Keely Laughlin the Town's new Communications Specialist working primarily with the Arts Council.

XII. Citizens' Comments:

Maryanne Connelly – 4927 Green Dolphin Way

Mrs. Connelly asked Mr. Wilson why there was opposition to the 501(c)(3).

Mr. Wilson stated that he felt there was concern that it would reduce the funding even though it only takes three Council Member to reduce or increase funding. Mrs. Mezzanotte added that the Arts Council voted not to establish a 501(c)(3) at this time with the new structuring, but it may be considered in the future.

Mrs. Connelly asked if during the Parkway project next year if any consideration will be given to the recommendations of the Sea Level Rise Report.

Mr. Wilson stated that the Public Works Committee is specifically charged with considering the recommendations of the Sea Level Rise Report during the redesign of the Parkway. Mr. Widuch corrected that the project is scheduled for 2020.

Marilyn Larach – 1082 Terrapin Court

Ms. Larach thanked the Town of Kiawah for coming to an unexpected resolution on the Greenslake trash issue and added she did not believe that the Kiawah Island Cottage Owners Association (KICOA) would approve the proposed ground-level trash enclosures and when investigated by property would not actually work.

Ms. Larch stated as a resident of the Town and member of KICA there are huge safety issues involved with opening Duneside Road with all the construction that is planned for Parcel 13 that will not go away with whatever mediation may be planned. Since the Town has taken the stance that at this point there is no proposal to consider, she is sure one will be presented after the holidays.

Mayor Weaver stated that he has not seen a representation but is sure that any scenario is intended for Parcel 13 construction.

Ms. Larach clarified that she did not mean construction truck but the eventual building of all the units which will each have multiple vehicles.

Wendy Kulick – 38 Marsh Edge Lane

Mrs. Kulick commended Council on their decision to start having employees make some contribution to the health benefits and were the responsible thing to do from a management standpoint.

Mrs. Kulick pointed out an article in the Post and Courier where Charleston City Council is considering a ban on plastic bags, and since the Town is such an environmentally sensitive and concerned entity, she would hope that Council would look into the issue of plastic bags because of their negative effects on the environment.

On the earlier discussion of dropping the civil suit against Mr. Gunnells and maintaining the suit against Ms. Rucker, she indicated it was her hope that the Town was not opening the door to a discrimination lawsuit since the Town would be dropping its case against a white male and pursuing charges against a black female. She stated she supported Council's decision, but it is a very sensitive issue.

Mr. Wilson added that the role of Ms. Rucker was quite different than the role of Mr. Gunnells.

Cherry Love – 43 Greensward

Ms. Love stated that she has lived on the Island for many years and having a Human Resources background, expressed her concern with the fact that you have a person that you stated has made restitution, with another person paying on a payment plan in which there has been no discussion on charging interest on the delayed payment and Council wants to drop the civil suit against that person. She questioned that Council wants to punitive be against the person who had oversight and not punitive on the Council which had oversight over the Town Administrator and allowed that to happen.

Mayor Weaver responded by stating that if Ms. Love was talking about the broader issue or action of if Town Council or past Town Councils having a role in the responsibility is a very valid concern. He did note that at the time the conduct took place none of the current member or Council were in place.

Ms. Love stated that she understood and was aware of who was on Council at that time but in terms of oversight and punitive nature she felt that Ms. Rucker was being targeted for punitive nature and be more lenient because the other person did not have the ability and was a lesser employee but cooperated or participated in the fraud against the Town. She stated that in her opinion both are guilty as well as the Council for not overseeing it and stopping it from happening.

Mr. Green reported that there was a hearing coming up on 122 Turnberry which has become the subject of legal action since it has fallen into disrepair, an eyesore, and health hazard. The hearing is scheduled for Friday, November 30th at 12:00 noon, in front of Judge Scarborough in courtroom 3B at the 100 Broad Street court complex. He added that nothing had been heard from either defendant to oppose the action even though they have been notified by publication, direct service and by telephone.

**XIII. Executive Session:
None**

XIV. Adjournment:

Mr. Wilson motioned to adjourn the meeting at 3:38 pm. The motion was seconded by Mr. Widuch and carried unanimously.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Craig E. Weaver, Mayor

Date

WORK IN PROGRESS

The documents for this tab are nearly completed but still a work in progress. They will be sent to you electronically when I completed.

I apologize and thank you very much for your patience.

Petra

**CONTRACT SERVICES AGREEMENT FOR
TOWN ATTORNEY SERVICES
TOWN OF KIAWAH ISLAND**

This **CONTRACT SERVICES AGREEMENT FOR TOWN ATTORNEY SERVICES** (the "Agreement") is effective as of the **1st day of January 2019** for a period of one (1) year, by and between the law firm of **Hampton Green LLC, d/b/a Green Law Offices** (herein after the "Green Law Offices"), and the **Town of Kiawah Island, South Carolina** (herein after the "Town"). The term "Town" shall also include all boards, commissions, and other bodies of the Town.

RECITALS

- A. Chapter 2, Section 203(5) of the Municipal Code places upon the Mayor and Council the responsibility of appointing a Town Attorney, and;
- B. The Town's custom and practice has been to appoint or re-appoint the Town Attorney during the regularly scheduled January Council meeting, and;
- C. The Ways and Means Committee has recommended to the Mayor and Council that a Contract Agreement for Municipal Legal Services be prepared for review by the Mayor and Council at the December 4, 2018 and possibly a Motion be made authorizing the execution of the Contract for Municipal Legal services.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN THE PARTIES HERETO AGREE AS FOLLOWS:

1. APPOINTMENT

Town Council hereby appoints Dwayne M. Green (hereinafter "Green") as the Town Attorney, and hires the Green Law Offices, to render such legal services as are customarily rendered by such attorneys and as further specified herein, including attending meetings of the Town Council, Board of Zoning and Appeals (BZA), and other boards and bodies of Town, and its affiliated agencies, as directed by the Town.

Green Law Offices shall not replace the designated Town Attorney (or any successor to such person) without the Town Council's prior approval, except from time to time necessary due to illness or vacation scheduling. Approval of any such temporary substitute shall be obtained from the Mayor or Town Administrator.

2. SCOPE OF WORK AND DUTIES

- A. Green shall perform any and all work necessary for the provision of Town Attorney services to the Town, including, without limitation, the following:
 - 1. Attend all regularly scheduled and special Town Council meetings and Town Council work sessions.
 - 2. Provide legal services on-site during office hours at Town Hall as mutually agreed. These hours of on-site service will be at regularly scheduled times make known to all members of Town Council and to all department heads so as to facilitate informal, direct access to legal counsel as necessary.
 - 3. Attend other meetings at Town Hall as required by the Mayor or the Town Administrator.
 - 4. Advise the Town Council; appointed Commissions, Committees, and Boards; Town staff; and other Town officials on all legal matters pertaining to Town business.
 - 5. Prepare, review, and approve as to form, contracts, agreements, resolutions, ordinances, and all other standard Town documents.
 - 6. Prepare such written and oral legal opinions as shall, from time to time, be requested by the Town.
 - 7. Perform such other routine legal services as are required, from time to time, by the Town Council or the Town Administrator.

8. Represent the Town and the Town's officials, officers, and employees in litigation and administrative proceedings as directed by the Mayor.
9. Make recommendations concerning the selection of outside legal counsel, when necessary, on appropriate matters and supervise such outside legal counsel handling transactional or litigation matters on behalf of the Town.

3. COMPENSATION

Compensation is Eighty-Five Thousand Dollars (\$85,000.00) per year. This amount is based on a "fixed price" Contract Agreement regardless of the amount of time necessary for the Town Attorney to familiarize himself with his responsibilities and become proficient in completing the scope of legal services anticipated herein. Payments to Green will be made through Hampton Green LLC, the legal entity of which Green is the principal. In the event that Green handles any lawsuits brought against the Town which require the expenditure of extraordinary resources, Green and the Town may negotiate an appropriate fee arrangement which fairly compensates Green for such additional services.

4. MONTHLY STATEMENTS

Green shall provide the Town with a monthly itemized statement of the services provided and the time spent in providing those services; provided, however, the payment for legal services shall not exceed the amount set forth in Paragraph 3 herein, unless an additional fee for any lawsuits brought against the Town and defended by Green has been explicitly negotiated and agreed to by both parties.

5. PROHIBITION AGAINST SUBCONTRACTING, DELEGATING OR ASSIGNMENT

Green shall not contract with or delegate to any individual or other entity to perform on the Town's behalf, in whole or in part, any of the services required under this Agreement without the prior express approval of the Town. In addition, neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior express approval of the Town.

6. CONFLICT OF INTEREST

Green shall at all times avoid conflicts of interest in the performance of this Agreement. In the event that a conflict arises, Green shall immediately notify the Town following discovery of the conflict. Green shall also file a conflict of interest disclosure statement setting forth any information related to potential conflicts of interest to the extent such disclosure is required by law.

7. INDEPENDENT CONTRACTOR

Green shall perform all services required under this Agreement as an independent contractor of the Town, and shall remain at all times as to the Town a wholly

independent contractor with only such obligations as are consistent with that role. Neither Green nor any employees of the Green Law Offices shall at any time or in any manner represent that it or any of its employees or agents are employees of the Town.

8. INSURANCE AND INDEMNIFICATION

A. INSURANCE

Green agrees to carry and keep in full force and effect during the term of this contract Errors and Omissions coverage in the amount of One Million Dollars (\$1,000,000.00) per occurrence and shall provide the Town with proof of such coverage in the form of a Certificate of Insurance on an Annual Basis.

B. INDEMNIFICATION

Green, by and through the Green Law Offices, shall defend, indemnify, and hold harmless the Town, and its officers and employees, from and against any and all actions, suits, proceedings, claims, demands, losses, costs and expenses, including legal costs and attorneys' fees, for injury to person(s) or damages to property (including property owned by the Town), and for errors and omissions committed by the Green Law Offices, its officers, employees, and agents, arising out of or relating to Green's performance under this Agreement, except to the extent that such injury, damages, error(s) or omission(s) may be caused by Town's own negligence or that of its officers or employees.

9. NON-DISCRIMINATION

Green pledges there shall be no discrimination against or segregation of any person or group on account of race, color, creed, religion, sex, marital status, sexual orientation, national origin, or ancestry in the performance of services under this Agreement.

10. AMENDMENT

This Agreement cannot be amended unless such amendment is contained in writing signed by both the Town and Green Law Offices.

11. SEVERABILITY

If any clause or provision herein shall be adjudged invalid or enforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision which shall remain in full force and effect.

12. THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement shall be construed so as to confer upon any third party the rights of a third party beneficiary.

13. NON-WAIVER

Failure of either party to this Agreement to insist upon strict compliance by the other party with any of the terms or conditions of this Agreement shall not be deemed a waiver of such term or condition or any other terms and conditions of this Agreement.

14. GOVERNING LAW

This Agreement shall be governed by and construed in accord with the laws of the State of South Carolina.

15. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Town and Green Law Offices with regards to all rights, obligations, terms and conditions related to the Town's contract with Green Law Offices. This Agreement supersedes any other prior or contemporaneous negotiations or agreements, whether oral or in writing.

IN WITNESS WHEREOF, the parties hereto have executed, or caused their authorized representatives to execute, this Agreement the 4th day of December, 2018.

TOWN OF KIAWAH ISLAND

By: _____
Craig Weaver, Mayor

ATTEST:

Petra S. Reynolds, Town Clerk

GREEN LAW OFFICES

By: _____
Dwayne M. Green, Esquire



Request for tow Council Action

TO: Mayor and Council Members

FROM: Rusty Lameo, Public Works

SUBJECT: Parkway Storm Drains, Cleaning & Inspection

DATE: December 4, 2018

BACKGROUND:

In several areas of the Kiawah Island Parkway there are approximately 2500 LF of storm drainage. During the construction of the bike path in 2008 the pipes located in the circle were cleaned and inspected. It is unknown as to the last time the pipes on the Parkway have been inspected or cleaned. At the present time, there is no scheduled maintenance for any of these pipes or swales.

ANALYSIS:

Presently the Public Works Committee is formulating a project for road repairs and construction to the Kiawah Island Parkway which could include drainage improvements, replacement of some subbase, resurfacing, temporary turning lanes for the PGA, and the raising of certain sections of the roadway that had flooding issues. Before any major construction the committee wants to inspect all storm drainage along the roadway. Sanders Brothers Construction recently completed scoping and cleaning of a 150LF section of the drainage located near the entrance to the parking field on the Parkway to remove debris that created a flooding issue earlier this year.

ACTION REQUESTED:

The Ways and Means Committee recommended approval of Sanders Brothers Construction at an amount not to exceed \$18,847 to Town Council. Staff supports the recommendation and approval from Town Council.

BUDGET & FINANCIAL DATA:

We budgeted \$50,000 for miscellaneous engineering in the Bridge & Roads Department. The proposal cost from Sanders Brothers Construction for this project is \$18,847.



Together We Build Success

1990 Harley Street, North Charleston, SC 29406
P.O. Box 60969, North Charleston, SC 29419
Office: (843) 744-4261, Toll Free: (800) 922-4261
Fax: (843) 554-2095

To:	Town Of Kiawah Island	Contact:	
Address:	21 Beachwalker Drive Kiawah Island, SC 29455	Phone:	843-768-9166
		Fax:	843-768-4764
Project Name:	Kiawah Island Parkway - Storm Drain Cleaning - Fall 2018	Bid Number:	
Project Location:		Bid Date:	

Item #	Item Description	Estimated Quantity	Unit
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A. Freshfields

101	At FF - Clean Storm Drain (Qty Approx)	300.00	LF
102	At FF - Video Storm Drain (Qty Approx)	300.00	LF
103	At FF - Incidental Dewatering	1.00	LS
104	At FF - Traffic Control	1.00	LS

Total Price for above A. Freshfields Items: \$6,200.00

B. Old Cedar Lane

201	At Old Cedar Ln - Clean Storm Drain (Qty Approx)	250.00	LF
202	At Old Cedar Ln - Video Storm Drain (Qty Approx)	250.00	LF
203	At Old Cedar Ln - Incidental Dewatering	1.00	LS
204	At Old Cedar Ln - Traffic Control	1.00	LS

Total Price for above B. Old Cedar Lane Items: \$5,250.00

C. Sta 3825

301	At Sta 3825 - Clean Storm Drain (Qty Approx)	200.00	LF
302	At Sta 3825 - Video Storm Drain (Qty Approx)	300.00	LF
304	At Sta 3825 - Plugging And Pumping	1.00	LS
305	At Sta 3825 - Traffic Control	1.00	LS

Total Price for above C. Sta 3825 Items: \$7,250.00

D. Sta 8400

401	At Sta 8400 - Clean Storm Drain (Qty Approx)	750.00	LF
402	At Sta 8400 - Video Storm Drain (Qty Approx)	750.00	LF
403	At Sta 8400 - Support And Dewatering	2.00	DY
404	At Sta 8400 - Traffic Control	2.00	DY

Total Price for above D. Sta 8400 Items: \$15,402.50

E. Traffic Circle

501	At Traffic Circle - Clean Storm Drain (Qty Approx)	700.00	LF
502	At Traffic Circle - Video Storm Drain (Qty Approx)	700.00	LF
503	At Traffic Circle - Support And Dewatering	3.00	DY
504	At Traffic Circle - Traffic Control	3.00	DY

Notes:

- As used herein, the terms SBCC shall refer to Sanders Brothers Construction Company, Inc. and the terms GC shall refer to the general contractor or Owner of the site or the primary contractor or the other party with whom this agreement is being made.
- It is understood that no overtime is included in this proposal.
- Unless specifically stated herein, the price quoted does not include: engineering, testing and staking or layout, mucking, or fill due to mucking or other subsurface preparation. Unless specifically stated herein, SBCC shall dispose of all excess material on site.
- SBCC will not be liable for delays resulting from weather, strikes, or any conditions beyond the control of SBCC.
- SBCC agrees to comply with all labor law requirements in effect at the time this agreement is entered into, and the proposal herein is based on compliance with such provisions.
- SBCC agrees to carry Workmen's Compensation and General Liability Insurance coverage in an amount not to exceed \$1,000,000.00. Additional liability or other insurance required by GC shall be an expense to GC.
- The proposal does not include the cost of any bond required and the cost of same shall be charged as an extra. Bond cost is to be billed at cost, directly to GC and not added to contract amount. Should bond cost be included in contract, the bond plus 10% is to be added.
- It is the responsibility of the GC to notify SBCC of any special billing requirements such as statements, certifications, and dates invoices are to be received by the GC. The GC's failure to properly notify SBCC shall not be grounds for withholding payment.
- Invoices representing monthly estimates are to be honored as submitted within ten (10) days and are not subject to alteration by GC or owner without notice to and consent of SBCC. Should any payment request be altered without the opportunity of SBCC to produce evidence justifying the amount invoiced, such reductions will be handled as provided in paragraph 9 and be a basis for stopping further work.
- Notwithstanding any other provision in this contract or law pertaining to the same, title to the materials furnished under the provisions of this quotation shall not pass to the owner and shall not become fixtures upon the land until same shall have been paid for in full. SBCC shall have the right to enter the project and to take up and remove the installed materials in the event that payment therefor is not made in accordance with the contract provisions.
- This quotation is good for 45 days from the date submitted and is specifically based upon the conditions set forth here and on the face hereof which will become an exhibit to the contract. Any subsequent agreement shall be on AIA Document A401 Subcontract or AIA Document A101 Owner/Contractor form (2017 Edition) as appropriate.
- Unless specifically stated herein, the price quoted is based on one mobilization. Any additional mobilizations required will be at an additional cost.
- ***** SPECIAL PROJECT CONDITIONS *****
- If the Monthly Asphalt Binder Adjustment Index increases or decreases more than five percent (5%) over or under the listed price at the time of the work, Sanders Brothers Construction Company, Inc. shall provide appropriate documentation so that adjusted compensation can be made. The bid items in this proposal shall remain the same, but the contract unit bid prices for all items containing liquid asphalt cement will be adjusted to compensate for increases or decreases in the Liquid Asphalt Cement Index. This will be in accordance with the South Carolina Department of Transportation Supplemental Specification dated March 3, 2009. The monthly index can be found on the SCDOT website at www.dot.state.sc.us/doing/monthlyindexes.asp. The index date applicable to this project is September 1, 2018. The index price is \$566.30 per ton. The percent of liquid asphalt in the surface mix is 5.5%, the percent of liquid asphalt in the AACB or Binder mix is 5.0%.
- All required permits, inspection, tap, and impact fees to be furnished and/or paid by the Owner or Engineer.
- SWPPP inspections and reports are not included in this proposal.
- This proposal is based on plans received from the Town of Kiawah Island. Proposal only assumes highlighted areas of storm drain to be cleaned and videoed. Should storm drain outside of highlighted areas require cleaning and video, additional charges will apply.
- Pipe is assumed to be no greater than 25% full of sediment. Greater levels of sediment may result in additional charges. Disposal is assumed to be at client provided dump site within 2 mile radius from job.
- Proposal is based on work being completed during daytime hours M-F.

Payment Terms:

Final payment, including all retention withheld, becomes due 30 days following the date of the final invoice for all completed work of SBCC. Failure to comply with the terms of payment set forth below shall be grounds for SBCC to stop work. SBCC does not agree under any circumstances that the right of SBCC to receive payment from GC is contingent upon GC receiving payment from Owner.

Payment Terms:

- A. That the seller shall invoice the buyer for the value of the work performed and the materials furnished. A billing cycle shall run from the 26th of each month to the 25th of the month following. All amounts invoiced in a billing cycle shall be due and payable in full on the 30th of the month following the end of a billing cycle.
- B. That the seller reserves the right to apply all payments received on account first to the payment of unpaid service charges and then to the payment of unpaid principal charges, the oldest such charges to be paid first in any event. That the buyer agrees that any amounts remaining unpaid from and after the 30th day of the month following the end of a billing cycle shall bear interest at the rate of one and one-half percent (1.5%) per month, eighteen percent (18%) per annum and buyer also agrees to pay all costs of collection including, but not limited to reasonable attorney's fees in the event that seller refers the within account to an attorney for collection.
- C. Account will be closed if any balance becomes 60 days past due.

ACCEPTED:

The above prices, specifications and conditions are satisfactory and are hereby accepted.

Buyer: _____**Signature:** _____**Date of Acceptance:** _____**CONFIRMED:****Sanders Bros. Construction Co., Inc.****Authorized Signature:** _____**Estimator:** _____