

Town of Kiawah Island
TOWN COUNCIL MEETING
Live Streamed
April 7, 2020; 2:00 PM

Minutes

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

II. Pledge of Allegiance

Present at the meeting: Craig Weaver, Mayor
Chris Widuch, Mayor Pro Tem
Maryanne Connelly, Councilmember
Dan Prickett, Councilmember
Klaus Said, Councilmember

Also Present: Stephanie Tillerson, Town Administrator
Joe Wilson, Town Attorney
Stephanie Braswell Edgerton, Town Communications Manager
Dorota Szubert, Town Treasurer
Petra Reynolds, Town Clerk

Notice of the meeting was posted with the Media 24 hours in advance, according to the Freedom of Information Act. All Town Council meetings are recorded for a complete transcript.

III. Approval of Minutes:

A. Minutes of the Town Council Meeting of March 3, 2020

Councilmember Connelly made a motion to approve the minutes of the March 3, 2020, Town Council Meeting. The motion was seconded by Mayor Pro Tem Widuch, and the minutes were unanimously approved.

B. Minutes of the Special Call Town Council Meeting of March 25, 2020

Councilmember Prickett made a motion to approve the minutes of the March 25, 2020, Special Call Town Council Meeting. The motion was seconded by Councilmember Connelly, and the minutes were unanimously approved.

C. Minutes of the Special Call Town Council Meeting of March 30, 2020

Councilmember Said made a motion to approve the minutes of the March 30, 2020, Town Council Meeting. The motion was seconded by Councilmember Prickett, and the minutes were unanimously approved.

IV. Mayor's Update:

Mayor Weaver indicated there would be a change in the agenda with the removal of New Business – Item B – the first reading of Ordinance 2020-03. He indicated he received a communication from Clemson University, who is working on behalf of the State, notifying him that it was the position of the State that local municipalities do not have the authority to regulate the use of pesticides. Mayor Weaver stated that while not being able to discuss the item at this time, it is important and strongly supported by both Council and residents. He indicated the largest number citizens' comments

received prior to the meeting expressed their support of the agenda item. Mayor Weaver requested that over the next month that Mr. Wilson review the communication and advise Council on his opinion.

Mayor Weaver commented on the Governor's latest *Stay Home or Work* order. He indicated that while the substance of the actions taken by the State has been within the guidelines, the order is meant to address concerns that the State had not taken the necessary action to limit activities.

Mayor Weaver stated that having had a short time to review the order, it was evident that the order established regulations that specifically limited the occupancy in stores. Stores will have to establish a maximum occupancy based on specific criteria and the responsibility to monitor the occupancy in the store.

Mayor Weaver stated that in a conversation with the management of the Freshfields grocery store, they have indicated the occupancy limit has been determined and the intention to include special markings in the store to encourage social distancing. He added that the store believes the Town's support in limiting the number in groups will be helpful while managing entrance into the store and will be considered later in the discussion under new business items.

Mayor Weaver stated the Governor's *Stay Home or Work* order conveys an important message in terms of the behavior of residents by asking them to limit their movements outside their home except for work and essential activities. He noted that the order did not imply confinement to home and encouraged engagement in basic activities such as exercise and recreation while making no changes in the businesses allowed to remain open.

Mayor Weaver reviewed the two actions taken by Council last week to limit Short-Term Rentals (STR). The first restricting the advertising of rental occupancy during the period through May 15th and the second by barring the check-in of new rentals. He stated that it had been revealed that compliance with the actions is troublesome and, in some cases, there is a struggle with enforcement. He clarified that while the greater majority of rental owners are acting responsibly, those individuals renting on Airbnb and VRBO are failing to comply with the Ordinance. He indicated code compliance officers have been issuing citations for actively advertising, actively renting, or found to be operating without a current business license, all in direct violation of the emergency ordinance and STR policies. Mayor Weaver stated that violators are being pursued because; first, the emergency ordinances were put in place to address public safety concerns and to limit the Town's potential exposure for the virus being brought onto the island. Second, it is unfair to the majority of rental owners, who have complied with the Ordinance and are now frustrated that some are taking advantage. He noted that in response to those issues, the consideration of possible amendments would be discussed during the new business items.

V. Citizens' Comments (Agenda Items Only):

Mayor Weaver addressed emails received prior to the meeting.

VI. Old Business:

None

VII. New Business:

A. Discussion of the Town's Deer and Rodent Management

Mr. Jordan reviewed the report on the current Kiawah deer population, which shows a 58% increase in the last two years. In 2019, there is an estimated population of 900 deer or 111 deer per square mile, and the highest numbers to date. The increase has been attributed to a record fawn survival

rate over the past four years, caused by a decline in the bobcat population. He noted that without predators, the deer population is likely to increase for the foreseeable future.

Mr. Jordan explained the two main strategies used by communities to address reducing and managing deer populations.

- **Fertility Control;** Very Expensive, was conducted by the Town in previous years with limited success, and not a viable long-term population management technique in free-ranging deer.
- **Lethal Removal;** Hunting is not viable on the island. Sharpshooting, State permit and tags required are valid September 15th to March 1st, Specialized equipment needed to hunt at night and not make a lot of noise, under the permit all meat must be donated to a charitable organization.

Mr. Jordan reviewed the recommendation for a proposed deer management program. The program would reduce and maintain Kiawah's deer population at or below 80 deer per square mile. The removal of a recommended 100 deer would utilize sharpshooting with the work to be conducted at night under a state permit with suppressed weapons at pre-scouted locations only. He then reviewed the cost of the program, the first year, which would include the cost of the required equipment, at \$200.00 per deer (\$20,000.00), and additional years at \$100.00 per year.

Discussion included the solicitation of services by a bid from other vendors, the removal of 100 deer decreasing the population to the targeted 80 deer per square mile, dissemination of the pre-scouted locations, safety issues during the removal, public concern over the rising deer population.

Mr. Jordan addressed each of the discussion points, indicating that Seabrook has utilized the same program, with the same protocol being recommended, for many years to maintain their deer population. When questioned on the selection of the vendor, Mr. Jordan indicated that with 26-years of experience, he felt he was qualified to be running the program.

Mayor Weaver asked when communicating the benefit and importance of the proposed program in his evaluation of how the ecological drivers and impact were weight against the public health impact. Mr. Jordan stated that a deer resident survey performed in October 2019 showed the primary concern of residents as public safety - deer-vehicle collisions. Secondary concerns included Lyme diseases and landscape shrubbery damage. He stated that justification for the proposed program is 100% public safety and public health.

Mayor Weaver questioned if Council is to consider the recommendation as onetime culling of the island the deer population or as a long-term program to establish a target population limit, and as monitoring continued, would prompt another evaluation and consideration if the limit is reached. Mr. Jordan indicated that his recommendation would be for a long-term program with the hope that the current issue is temporary, and over time the island can recover its natural predation system.

Councilmember Prickett made a motion for the Town to adopt a population of 80 deer per square mile and take appropriate action to keep deer numbers in that vicinity long-term while continuing to monitor the population, including a specific program in the fall of this year to cull approximately 100 deer. Councilmember Said seconded the motion.

Councilmember Prickett expressed his confidence in the experience of Mr. Jordan to conduct such a program, noting his long history on the island and understanding that nature is not in balance now. Having Mr. Jordan lead, conduct and manage the program, in his opinion, would be a very smart move. Councilmember Said and Mayor Pro Tem Widuch both agreed with Councilmember Prickett. Councilmember Connelly stated that the discussion would give residents a chance to express their thought on the program. She expressed her displeasure with the idea of shooting deer, despite the deer population being a problem, she wished there was another solution.

Following further discussion, the motion on the deer management program was passed by a 4 to 1 vote with Councilmember Connelly voting “no.”

B. To Consider Approval of Ordinance 2020-04 - An Ordinance to Amend the Municipal Code of the Town of Kiawah Island, South Carolina, Article 15 - General Offenses, CHAPTER 3 – Offenses Against Public Safety, Sec. 15-306. - Prohibited Noise – First Reading

Mayor Weaver stated the Town currently has a long-standing noise ordinance in place similar to the one the Community Association has in place. The Ordinance prescribes certain occasions when you cannot disturb the peace, along with prohibitions loud speaker, barking dogs, yelling, and shouting. He indicated that over the past year an issue has arisen calling into question the language in the current Ordinance which states, “*In addition, sound that is audible beyond the real property boundaries of the dwelling unit where sound emanates is prohibited between the hours of 11:00 p.m. and 7:00 a.m. daily*” but does not describe the kind of sound, or how long the sound can take place, just referred to any sound.

Mayor Weaver indicated that a current situation involved a facility that had equipment related to the business that constantly ran at night, disturbing the neighbors in the adjoining properties. The establishment worked at length to try to alleviate the sound levels. Despite the improvements, the zero levels could not be achieved and not satisfactory to residents in the adjoining properties. From the standpoint of the residents, the Town’s Ordinance indicates that no sound can be audible, the noise continues to be a violation, and the Town is not enforcing its Ordinance. He explained there is not a rational way for the Town to take the position that any sound that emanated across property lines is a violation, making the current Ordinance virtually unenforceable.

Mayor Weaver stated that reviewing other communities’ ordinances the recommendation was made to include in the language a specific decibel limit that related only to nighttime noise. Mayor Weaver stated that there are several alternatives for decibel levels, so the Town Attorney, along with the building services group, was charged with researching and make a recommendation to Council on the change in the policy and the decibel level to be included.

The recommended change in the language would state, “*In addition, any sound that registers more than 60 dB(A) at the nearest complainant’s property line is prohibited between the hours of 10:00 p.m. and 11:00 a.m. daily. Decibels are measured on the “A” weighted network scale.*” Mr. Wilson stated that from a legal standpoint it was better to have an objective measurement of a decibel level with the 60 dB(A) a placeholder that can be adjusted by Council. He referenced a chart which indicated the most common night limit at 50, with the majority between 45 and 60. He also noted he used the nearest complainant’s property line for measurement but could be changed if Council requested to do so.

Councilmember Connelly made a motion to approve the first reading of Ordinance 2020-04 - An Ordinance to Amend the Municipal Code of the Town of Kiawah Island, South Carolina, Article 15 - General Offenses, CHAPTER 3 – Offenses Against Public Safety, Sec. 15-306. - Prohibited Noise. The motion was seconded by Councilmember Prickett.

Councilmember discussion included the importance of having a noise ordinance that is enforceable. Readings taken on the island average into the 30s and 40s, with only a few above 50. Councilmembers agreed on the language change and to set the decibel level at 60.

Following the discussion, the motion to approve the first reading of Ordinance 2020-04 was unanimously passed.

C. To Consider Amending Emergency Ordinance 2020-02, Section 6, Related to Penalties for Violation of the Emergency Ordinance

Mayor Weaver indicated the agenda item was for discussion purposes and did not include any proposals to vote on. The purpose was to discuss issues that have come across since the COVID-19 actions were taken by the Town and if there are any additions required. If it is determined that changes to the Emergency Ordinance are in order, a Special Call Town Council meeting can be scheduled to vote on any amendments.

Mayor Weaver stated the first discussion was regarding the grocery store. He explained earlier that the Governor's latest order would require the store to monitor and keep the occupancy level at what is believed to be 78 people. The intent is to have one entrance and one exit. When the occupancy level is reached, additional shoppers will be lined up outside the store and allow to enter and others exit. It has already been requested that families, groups, or multiples only have one person enter the store to avoid overcrowding. As part of the Town's Emergency order, the store would be in a better position to enforce the requirement and could also make use of a code compliance officer or other support.

Mr. Wilson indicated that the Town has the ability and is within its police powers and would require another amendment to the current 2020-02 Emergency Ordinance. Councilmembers agreed with supporting the store by giving them the ability to enforce the requirement of one shopper per group by amending the Emergency Ordinance. It was also suggested that a deputy is in the vicinity for assistance if needed.

Mayor Weaver stated the second issue was regarding Short-Term Rentals (STR). He stated that since the Town further extended the prohibition on booking and advertising of rentals along with suspending new check-ins on the island to May 15th, great efforts have been made by the Community Association in modifications and changes in the pass system to ensure there more controlled access to the island. He indicated that it was found that there are still large numbers of property owners who are not only advertising their rentals but have found to have a complete willingness to rent. With most of the violators on VRBO and Airbnb, the ability to identify those individuals is troublesome because the property owner and address are not listed.

Mayor Weaver stated that additionally Council action addressed STR, being 28 days or less, but did not look at long-term rentals, which are now happening more frequently. These rentals booking occupancy between now and May 15th can not be stopped with the current Emergency Ordinance. The sudden increase in long-term rentals not covered in previous Council actions is contrary to what was trying to be accomplished when stopping the influx of short-term rentals to restrict access to the island. The discussion included very strong views on the individuals still booking rentals, the use of long-term rentals as a means to circumvent the short-term moratorium, violations that have been issued along with their possible penalties, the acknowledgment that there are legitimate long-term rentals, and verification of long-term rentals. Following further discussion, Councilmembers agreed to support an amendment to the Emergency Ordinance to include rentals 90 days or less in duration with an occupancy before May 15th.

Mayor Weaver explained that an additional issue that has come up is an existing rental that wants to extend their stay but would have to move to a different availability. He noted this was originally accepted, but with the requests having grown substantially, he is now asking for Council input. Councilmembers agreed that an existing rental contract may be extended, provided it is for the same location.

D. To Discuss the Emergency Ordinance 2020-02, Regarding Short-Term Rentals and Social Distancing

Mayor Weaver stated that Town has been aggressively issuing tickets for clear violations of Town Ordinances and asked for a clarification of the fines and penalties for those violations.

Mr. Wilson began by stating that there will be a revision of Section 6 of the Ordinance to clarify that the only violations that will be charged by the Town will be limited to civil fines and not include criminal actions except under the state code. As currently, the structure allows for assessment of the typical monetary fine and imprisonment. The word imprisonment will be removed under Kiawah's code, making the fine as civil infractions and adding language that people are still subject to civil and criminal penalties under state law and under the Governor's orders. He noted that before and after the changes, the Town will still have the ability to suspend or revoke a business license. Mr. Wilson indicated that that language could be added to the emergency order that would make the suspension of revocation immediate.

Mayor Weaver proposed that during the period, all net fines collected by the Town are earmarked and at the end of the crisis are donated to a legitimate non-profit established charity that will be chosen. It was agreed to add language to the emergency ordinance.

E. Review of the Fiscal Year 2020-2021 Draft Budget (Expenses Only)

Before reviewing the draft budget expenses, Ms. Szubert reviewed an updated of the revenue predictions for the current year. She also reviewed and explained the larger variances:

1. \$162K in the contract with CCSO related to the timing of billing from CCSO. We had a positive variance in FY19 budget in that line item.
2. \$289K in STR Code Enforcement cost. The contract for after-hours code enforcement on the island was signed after the budget was adopted. This cost is offset with the STR license application fees.
3. \$261K in consulting line item. This variance is mostly attributable to the following: engineering contract for KI Parkway resurfacing was approximately \$60K higher than budgeted, contract with Dennis Corporation in the amount of \$28K, and the contract with HR&A for \$154K were signed after budget approval.
4. \$1.9M in Capital Outlay (infrastructure) line item. This variance is attributable to the KI Parkway repaving project being complete in this fiscal year. This project is funded partially from the capital reserves.

Ms. Szubert presented and reviewed each of the expenditures in the Draft FY 2020-2021 Budget.

During the discussion of the salaries expense, Ms. Szubert review proposed changes to personnel cost:

1. **Optional Deferred Compensation Match Program -401(k) or 457(b)**
 - Currently, the Town contributes 50% of eligible (after one year of employment) employee's contribution to 401(k) plan up to \$3,000.
 - The current cost to the Town is \$20,554
 - Employee Benefits Workgroup is proposing the following changes:
 - o Add an option of 457(b) plan as offered by PEBA
 - o Increase the Town contribution from 50% to 100% and increase contribution amount from \$3,000 to \$5,000.
 - o The change would result in an approximately \$19K increase in the Town's cost, with the assumption employees will double their participation.
2. **Health Insurance**
 - Currently, the Town participates in the health plan offered by the State and follows the premium rates recommended by PEBA. Additionally, the Town funds part of the employees' portion of the premium.
 - The current cost to the Town, including an increase in premiums of 6.73% effective 1/1/21, is \$137,629 for the Employer premium and \$26,233 for the subsidy.
 - The staff is proposing a change to funding amount to have 20/80 employee/employer participation in full health insurance premium. This change will result in the health insurance cost decrease for the Town in the amount of \$20,409.
 - To help offset the increase in the premiums for employees, the staff is proposing a onetime salary adjustment

for single, employee and spouse and employee and child subscribers in the amount of the difference resulted from this change. The cost of the adjustment for the Town will be approximately \$28K (\$1,330 per employee).

3. Christmas Bonus

- The Employee Benefits workgroup is proposing a set amount for a Christmas gift of \$300 (net). The total cost for the Town would be \$5,700.

4. Employee Assistance Program

- AEP provides access to counseling services for the Town employees and their family members. The annual cost of the program is \$2,625.

5. Maternity/Paternity Leave

- New policy: The Town will offer paid parental leave for up to 8 weeks to enable employees to care for and bond with a newborn or newly adopted child.

Following the DFT FY20-21 Budget presentation and discussion, Mayor Weaver expressed his concern that in the current economic environment, the revenues will not make to the projections, and that the additional expenditures budgeted for next year will require more adjustment. Ms. Szubert indicated that she would prepare the financial statements for the next meeting, and better projections may give a better feel for what can be budgeted.

Mayor Weaver indicated that with the current uncertainties in the revenues, he would like to suggest to Ms. Tillerson and Mayor Pro Tem Widuch, Chairman of the Ways and Means Committee, to operate on a little bit tighter and delayed timeframe for approving of the budget. Aiming for the Ways & Means Committee review and approval of the budget at the May meeting, the first reading at the normally scheduled June Town Council meeting with the second reading scheduled for 15 days later. He also requested that Ms. Szubert and Mayor Pro Tem Widuch conduct a careful review be done on the draft budget revenues and expenses to produce a recommended budget along with a worst-case budget for presentation to the Ways and Means Committee meeting in May.

VIII. Town Administrator's Report:

No Report

IX. Council Member:

- Committee Updates
- General Comments

Councilmember Connelly stated at a previous meeting there was a question about the AirMedCare Network, and where it served. She stated the network has 320 locations throughout the United States in 38 states, and those can be found on their website.

Mayor Weaver indicated that in his comment on the rentals he wanted to be absolutely clear that in the time spent talking about those individuals that are violating Town Ordinances, he does not want to sound like out of perspective relative to the 1300 to 1400 hundred rentals that there is every reason to believe that the majority of short-term rental property owners have been excellent through the process, they understand the rationale for the decisions the Town made, they have participated readily. He noted that the major property managers have been very cooperative and very helpful.

Mayor Weaver stated there was a question asking if there was anything in the Governor's latest order that would impact the use or access of people to the Kiawah Beach. He indicated that the answer was "no." He clarified that unlike other communities that have public beaches, Kiawah has a private beach except for Beachwalker County Park. As a consequence, all of the beach accesses are also private. The Governor's earlier action that closed public accesses impacted communities with public beaches.

X. Citizens' Comments:

None

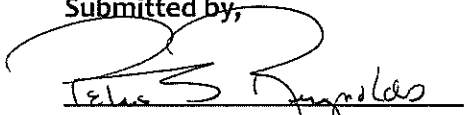
XI. Executive Session:

None

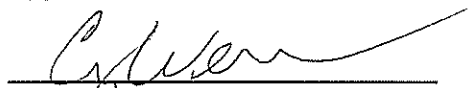
XII. Adjournment:

Councilmember Said motioned to adjourn the meeting at 5:22 p.m. The motion was seconded by Councilmember Connelly and carried unanimously.

Submitted by,


Petra S. Reynolds, Town Clerk

Approved by,


Craig E. Weaver, Mayor

5/6/2020

Date