

**Town Council Meeting  
Kiawah Island Municipal Center  
Council Chambers  
February 3, 2009; 2:00PM**

**MINUTES**

**I. Call to Order:**

Mayor Wert called the meeting to order at 2:00PM.

**II. Pledge of Allegiance:**

**III. FOIA:** Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

**IV. Roll Call**

**Present:** William G. Wert, Mayor  
Alan L. Burnaford, Mayor Pro Tem  
Charles R. Lipuma  
G. Steven Orban  
Harry M. McHugh

**Also Present:** Tumiko Rucker, Town Administrator  
Dennis Rhoad, Town Attorney  
Catherine Wilson, Town Clerk

**V. Proclamation:**

**William Earl Fowler, USN (RET.) Day**

Mayor Wert proclaimed Friday, February 06, 2009 as William Earl Fowler, USN (RET.) Day. Mayor Wert presented Mr. Fowler's sons with framed copies of the plaques and stated that Mr. Fowler was a hero to all who knew him. Mayor Wert also announced that Mr. Fowler had once asked that the flags of Kiawah be flown at half mast upon his passing. Mayor Wert stated that it was an honor to lower the flags for two days for Mr. Fowler.

**VI. Approval of Minutes:**

**A. Town Council Public Hearing for Ordinance 2009-1, Article 12C-204, January 6, 2009**

**Mayor Wert motioned to approve the minutes of the Article 12C-204 Public Hearing. Mr. Burnaford seconded the motion. The motion carried unanimously.**

**B. Town Council Minutes for January 6, 2009**

**Mr. Burnaford motioned to approve the Town Council minutes of January 6, 2009. Mr. Orban seconded the motion. The motion carried unanimously.**

**C. Town Council Retreat Minutes for January 13, 2009**

**Mr. Lipuma motioned to approve the minutes of the Town Council Retreat. Mr. Orban seconded the motion. The motion carried unanimously.**

**D. Town Council Public Hearing, Ordinance 2009-2, Zoning Map Update, January 22, 2009**

**Mr. Lipuma motioned to approve the minutes of the Ordinance 2009-2 Public Hearing. Mr. Orban seconded the motion. The motion carried unanimously.**

**VII. Executive Session**

**Mayor Wert motioned to enter into Executive Session at 2:03pm to be conducted in Municipal Center's Downstairs Conference Room. Mr. McHugh seconded the motion. The motion carried unanimously.**

**No votes or actions were taken.**

**VIII. Open Session**

**Mayor Wert called the regular meeting back to order at 2:09pm.**

**IX. Old Business**

**A. Second Reading-Ordinance 2009-1-Amendments to Article 12C-204**

**Mr. Lipuma motioned to approve the second reading of Ordinance 2009-1, Preliminary Plat Procedural requirements. Mr. Burnaford seconded the motion. The motion carried unanimously.**

**B. Second Reading-Ordinance 2009-2-Amendments to Article 12A, Section 12A-202, Zoning Map**

Mayor Wert thanked property owners for their contributions during the January 22, 2009 Public Hearing and explained that all comments were addressed by Charleston County Planning Staff, Town Staff, and Town Council Members and that where necessary, revisions were made and could be reviewed on the current Zoning Map. Mayor Wert stated that he respectfully disagreed with citizens that felt the Town's efforts to inform the public of the proposed changes were inaccurate.

**Mr. Burnaford motioned to approve the second reading of Ordinance 2009-2, Amendments to Article 12A, Section 12A-202, Zoning Map. Mr. Lipuma seconded the motion. The motion carried unanimously.**

**C. Second Reading-Ordinance 2009-3-Amendment to Article 4, Section 2-401**

**Mr. McHugh motioned to approve the second reading of Ordinance 2009-3, Amendment to Article 4, Section 2-401. Mr. Orban seconded the motion. The motion carried unanimously.**

**Mayor Wert appointed Mr. Lipuma and Mr. McHugh to the Ways and Means Committee. Mayor Wert re-appointed Mr. Orban as the Ways and Means Committee Chair.**

**VIII. New Business:**

**A. Fiscal Year 2010 Budget Calendar and Assumptions**

**Mr. Burnaford motioned to approve the FY 2009/2010 Budget Calendar. Mr. Orban seconded the motion. The motion carried unanimously.**

Mayor Wert explained that the Ways and Means Committee recommended to Council the directive to request staff to consider a reduction of 30% revenues. These assumptions will be reviewed at the April Council meeting along with first quarter financials.

**Mayor Wert motioned to direct Town Staff to consider a 30% reduction of revenues and to present the budget assumptions during the next Town Council meeting. Mr. Burnaford seconded the motion. The motion carried unanimously.**

**B. KI Parkway Management Contract**

Mr. Orban stated that during the last Town Council meeting, Council unanimously approved the authorization of Mayor Wert and Mr. Orban to negotiate a Construction Management Agreement with KDP remaining within certain financial parameters. The Town has reached an agreement with KDP and the two entities are close to completing a contract. KDP will use Thomas and Hutton Engineering to provide the parkway design and redesign of the bridge to suit KDP and the Town. KDP/Thomas and Hutton will complete the required permitting, revised design, and manage the construction of the roadway, bike path and mitigation. Their work will require a great deal of coordination with Berkeley Electric, as they will be working in the same right-of-way.

Mayor Wert noted that Town Municipal Code Section 4-412 authorizes the Mayor to authorize a sole source contract if in fact there were unique circumstances in place. Mayor Wert stated that in this situation, there are very unique circumstances and he has written a letter uniquely qualifying KDP and Thomas and Hutton Engineering to render the described circumstances under a sole source contract.

**C. Parkway Project Financing Options and Review**

Mayor Wert stated that the Council asked Town Staff to review several Parkway Project payment options and to submit their recommendation. Mayor Wert explained that staff suggested "Option 2" which is a cash payment for \$2Million and the financing of \$2.5Million, to the Ways and Means Committee. The Ways and Means Committee accepted staff's recommendation and forwarded the suggestion to Town Council. Mayor Wert stated that the current economy is rapidly changing and since the January 27, 2009 Ways and Means Committee Meeting, the government is calling in the Town's 5% notes and are replacing them with 1% notes. Mayor Wert asked staff to reconsider the financing/payment options in order to have the most satisfactory option in place at the time of payment.

#### **D. Night Heron Park Beach Franchise Amendment**

Mrs. Rucker explained that the proposed franchise amendment will change the terms and areas of operation in the current non-exclusive franchise agreement between the Town and Night Heron Park Company. The new contract, if accepted by Night Heron Park Company, will expire February 28, 2010. The revised areas of operation will be located immediately in front of the Sanctuary and Old Inn area. The annual franchise fee would be reduced to \$7,500. These amendments were proposed by Town staff and legal counsel.

**Mr. Burnaford motioned to accept the amendment to the Non-Exclusive Franchise Agreement between the Town and Night Heron Park Company. Mr. Orban seconded the motion. The motion carried unanimously.**

#### **E. SATAX Committee Appointments**

**Mr. Orban motioned to appoint the following persons to the SATAX Committee: Bill Daniel, Elisabeth King, Roger Warren, Pam Harrington, Bill Blizzard, Diana Permar, and Gail Vandall. Mr. Lipuma seconded the motion. The motion carried unanimously.**

#### **F. Kiawah Island Car Show Study**

Mayor Wert explained that the Ways and Means Committee recommended approval of an expenditure, not to exceed \$5,000, of Town funds for the purpose of conducting a feasibility study to determine the feasibility of having a car show on Kiawah Island. The study will be contracted through Kiawah Island Concours de Elegance, Inc. The Town will not be the contracting agent for this study and the funds will be matching funds. Mayor Wert stated that Council wants to ensure that the revenues created by the event will exceed the cost and that they have a meeting with a consultant scheduled for Friday, February 6, 2009 to discuss the details of the project. Mayor Wert explained that the Council does not want to create a blunder and have an expensive car show during these hard economic times. Mayor Wert stated this is already budgeted in the general fund.

**Mayor Wert motioned that if it was determined during Friday's meeting that this was a proper expenditure and that the matching contributions between the Resort and Developer are promised that the money be expended. Mr. Burnaford seconded the motion.**

Mr. Lipuma stated that he continues to be disturbed that the funding is coming from the Town's general fund and not out of ATAX monies. Mr. Lipuma stated that it was especially troublesome to understand during the current economic environment and when the Town is assuming reduced revenues for next year. Mr. Lipuma stated that he has objected to this in the past and he will continue to do so.

Mr. Orban asked who the sponsor will be. Mayor Wert stated that it is a small group of Kiawah Island residents that have incorporated to support the event. Mayor Wert stated

that prior Councilman Don McIver was also a proponent of the event. This event was designed as a positive, revenue producing event for Kiawah.

Mayor Wert also stated that he is more understanding of Mr. Lipuma's feelings during the current economic times. Mayor Wert stated that if after the meeting on Friday it still appears to be a wise event, then he feels Council should proceed with the expenditure.

Mr. Burnaford stated that his vote is contingent upon the information shared during the meeting with the consultant.

**Mayor Wert amended his original motion and moved to table the item until the March Town Council Meeting. Mr. Lipuma seconded the motion. The motion carried unanimously.**

## **IX. Committee Reports:**

### **Beach Parking**

Mr. Lipuma stated that the Town had received an offer for a revocable license agreement from KIGR for 30 parking spaces at the Ocean Course clubhouse. Mr. Lipuma stated that KIGR is currently utilizing only 50% of the available parking. KICA would have an exclusive annual parking agreement during daylight hours except during tournaments and special events. Mr. Lipuma stated that this is a positive aspect of the offer because the original agreement with KRA limited the KICA use for summer months only. Should KIGR revoke the parking at the Clubhouse, within their right to do so, additional parking areas would have to be made available in advance of the revocation. The remaining issue is with the emergency vehicle access. Pedestrian and emergency beach access details have to be worked out before the parking issue is finalized. Mr. Lipuma stated that negotiations are moving along positively.

### **Arts Council**

Mr. Lipuma stated that the Arts Council has had three standing room only events in a row. They were: Wanda Johnson at Turtle Point, Charleston Ballet at the East Beach Conference Center, and Ann Caldwell at the Sandcastle. The upcoming events are Charleston Ballet at East Beach, Yuriy Bekkar and Sharrie Williams at the Episcopal Church. Mr. Lipuma stated that the Big Band Event has been rescheduled to March 1 in order to avoid a scheduling conflict with the "POPS" group.

### **Public Safety**

Mr. Orban stated the Town had a Public Safety Meeting on January 20, 2009 at 3:00pm. No major crime or safety incidents were discussed. One issue that was discussed was improving the Marathon traffic incurred during peak check-in times. Mr. Orban stated that there was a huge back up during the Marathon and that over 4,000 vehicles checked in on Friday afternoon. Mr. Orban stated that KICA, Town, and Resort personnel plan on meeting in October in order to work out a strategic plan aimed at reducing the check-in traffic. One option will be emailing gate passes to participants prior to their arrival.

### **Financial**

Mr. Orban stated during the next Ways and Means Committee meeting they will discuss reduction of State ATAX funding. The Town can only distribute the funds that they collect and therefore reductions will be made. Mr. Orban stated that State receipts are currently short nearly \$80,000.

### **Captain Sam's Inlet Relocation**

Mr. Lipuma stated that on January 21 he and Mr. McHugh met with Mr. John Turner and Mr. Karl Voelker of Seabrook along with Dr. Tim Kana, Seabrook Consultant, in order to discuss their plan to relocate Captain Sam's Inlet. Seabrook representatives advised that KDP objected to their original application to OCRM and they withdrew the application. KDP has since hired consultants to review the proposed project and any harm it may cause. Seabrook's plan was to review their updated plans with all organizations involved. Mr. Lipuma stated that the Seabrook representatives would like to present to the Town Council during the March meeting. Mr. Lipuma stated that this project would involve cutting a channel so the flow would go out to the ocean rather than across Seabrook.

### **Environmental Committee**

Mr. McHugh stated that he attended a grant awards ceremony in Columbia where he received a \$4,000 Palmetto Pride grant award for the Town. Mr. McHugh stated that this award is a testimony to the good work of Town staff. Mr. McHugh announced KIGR's Earth Day festival and "Greenaval" on April 19, 2009.

With the cold weather 20 ponds on the island were iced over. There were no extraordinary fish kills associated with the cold weather. All bobcat collars are now in house and should be deployed by the end of February.

Mayor Wert thanked the Conservancy for their upfront and rush funding for the cost of the collars. Mayor Wert explained that the cost was just under \$5,000 and would have called for a special Town Council meeting for approval of the expenditure of the funds if the Conservancy had not of helped. The Town will provide the payment to the Conservancy.

### **Johns Island Roads**

Mr. Burnaford will attend a meeting on Thursday, February 5 regarding Maybank Highway. Mr. Burnaford stated that this meeting will take place at the Johns Island Library. The last Johns Island Meeting, Mr. Chris Cannon, chairman of the voluntary community group, started discussions with any interested party on the roads issues. Mr. Burnaford stated that nothing has changed on the roads issue and that many are for, many are against, and some are against everything concerning the roads. Mr. Burnaford feels it is up to the County and State to now make a decision on all the studies that have been done. Mr. Burnaford once again thanked Mr. Paul Roberts for his work and time on the project. Mr. Roberts looked at the Cross Island approach and discovered that 55 properties would be affected; 360 properties would be affected with the widening of both Bohicket and River. One building would have to be moved with the Cross Island

approach and 77 if you widen Bohicket and Maybank roads. The Cross Island approach is less intrusive. The discussions continue.

Mr. Burnaford stated that the Mayor's meeting that he attended in December has not met again and that it was decided that Mayor Riley was on board with a solution other than just the widening of Maybank. Mayor Riley supports a surface-level Cross Island approach.

Mr. Lipuma stated that Mayor Riley went to Washington D.C. and put the Cross Island on the list of infrastructure projects.

Mr. Orban asked if the County Council has to make the next move. Mr. Burnaford stated that Mr. Paul Thurmond has taken the lead on this issue and is supportive. Mr. Burnaford stated that DOT currently has the next move to make.

### **Planning Commission**

Mr. Burnaford stated that the Planning Commission met in December and discussed both the proposed zoning map changes and the preliminary plat procedural process. The 2009-1 and 2009-2 Ordinances both resulted from the work of the Planning Commission and Mr. Burnaford thanked them, along with County Staff for their work on both issues. The January meeting was cancelled due to lack of agenda items.

## **XII. Town Administrator's Report**

Mrs. Rucker stated that she has changed her approach to the Administrator's Report and will be providing a written report to the Council each month and place the reports on the Town's website. The goal is to increase communication and provide better updates on projects and initiatives of the Town. Mrs. Rucker highlighted the upcoming Recycling Event Thursday, February 5 at 1:00pm to discuss the island wide recycling initiatives and implementation strategies. Mrs. Rucker stated that the Town will attend grant workshops and plans on seeking additional Palmetto Pride and DHEC grants. The Town will install a recycling dumpster in the Town hall parking lot and renovate the existing recycling dumpster behind the Fire Station on Sora Rail. The Town has completed 2010 Boundary Annexation Surveys for the 2010 Census and along with updates to the Municipal Code incorporating all ordinances from 2006 to current. Mrs. Rucker stated that it is important to note that the 2010 Census data should be as accurate as possible because that information is used in determining Town eligibility for state and federally funded grants.

## **XIII. Mayor's Report**

Mayor Wert stated that the Arts Council was created to bring Arts to Kiawah and to reach out to Seabrook and Johns Islands. Mayor Wert stated that the Arts Council has a subcommittee that is focusing on better marketing our events to Johns and Seabrook Islands. Mayor Wert stated that the recent contribution to the Rural Mission was publicized in the latest Rural Mission newsletter and that the Town's Coastal Crisis Ministries donation was also recognized at a dinner hosted by the Coastal Crisis Ministries.

Mayor Wert stated that a question was asked during the last Town Council meeting about public notification of Special Town Council meetings. Mayor Wert stated that the Special meetings are rare, only two during 2008, are noticed in compliance with the SC Freedom of Information Act for Noticing Meetings.

**XIV. Citizen's Comments/Questions:**

**A. Marilyn Olson, 4985 Green Dolphin Way**

Mrs. Olson thanked the Council for the donation of \$3,950 for the St. John's High School Inauguration Trip. Mrs. Olson stated that this is a great opportunity to proactively contribute to a group of well deserving youths and the future of Johns Island.

**B. Art Morgenstern, 164 Marsh Island**

Mr. Morgenstern stated that he is very pleased with the progress of the Roadway and Bike Path Project. Mr. Morgenstern asked if the land was going to be contributed or paid for.

**XIV. Council Members Comments**

**Mr. Lipuma**

Mr. Lipuma received a letter from Dr. Tim Kana regarding the Beach Management Act which is being reviewed by the DHEC Shoreline Change Advisory Committee. Mr. Kana encourages citizens to visit to the SCAC webpage and provide comments. Mr. Lipuma stated that Mr. Kana's quotes are worth reading. Mr. Lipuma stated that the Town should provide comments endorsing Mr. Kana's comments.

Mayor Wert asked to post Dr. Kana's comments on the webpage.

**Mr. Burnaford**

No Comment

**Mr. McHugh**

No Comment.

**Mr. Orban**

Stated that all Council Members were invited to a breakfast at St. Johns High School where they will hear about the students' experiences at the Inauguration. Mr. Orban thanked St. Johns for the invitation.

**XV. Adjournment:**

**Mr. Burnaford motioned to adjourn the meeting at 2:58pm. Mr. Lipuma seconded the motion. The motion carried unanimously.**

**Submitted by,**

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**Catherine C. Wilson, Town Clerk**

**Approved by,**

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**William G. Wert, Mayor**

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**Date**