

SPECIAL CALL TOWN COUNCIL

Municipal Center Council Chambers

March 27, 2024, 3:00 pm

Minutes

I. **Call to Order:** *Mayor Labriola called the meeting to order at 3:00 pm.*

II. **Roll Call:**

Present at the Meeting: John D. Labriola, *Mayor*
Michael Heidingsfelder, *Mayor Pro Tem*
Russell Berner, *Council Member*
Madeleine Kaye, *Council Member*

Present via Zoom: Brad Belt, *Council Member*

Also Present: Stephanie Tillerson, *Town Administrator*
Mac McQuillin, *Town Attorney*
Ross Appel, *Attorney*

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

Theresa Termine – 93 Goldeneye Drive

Ms. Termine encouraged the Council to enforce the terms of the ARDA and prevent the sale of Captain Sam's Spit to the State. The terms of the agreement are clear, and the property should revert to the Town and should be placed under conservation easement. Sale to the State poses an imminent threat to the Spit; while the state has no immediate plans for the property, the door does remain open for future development of boardwalks, leisure trails, and potential camping grounds, all of which would threaten this extremely important and environmentally fragile land. The only way to protect this area in perpetuity is to place it under a conservation easement, and I urged the Council to take that under consideration.

Larry Rokowski - 232 Sparrow Hawk Road – Board Member of PreserveKiawah

Mr. Rokowski spoke today with increasing confidence that the Town Council will do the right thing but wished to echo the prior remarks and say it is very, very important to all of us, certainly all of us at PreserveKiawah, that the ARDA be strictly enforced, and the time for compromise, as it were, is over.

Donna Wyndham, Executive Director - Kiawah Conservancy

Ms. Wyndham wanted to take the opportunity, on behalf of the Conservancy, to thank our Mayor. We greatly appreciate the service you provided to our community, the leadership, and the direction you have given not only this term but in past terms as a Council Member. You have served this community well, and we are greatly appreciative. As we move forward, we have been working with the Council, so we know where your heart is and where your mind is on the ARDA issue, but we do want to encourage you to complete the ARDA as it is directed and enforce it to its fullest degree.

Ty Cobb – 2 Ocean Course Drive - Board Member of the Kiawah Conservancy

Mr. Cobb stated that he had devoted substantial legal analysis to the ARDA and many provisions there that need to be addressed by what KICA is attempting to do. I think it's essential that the Town

restore the balance that they've co-opted. I'm very proud of the Council for taking this so seriously. The time is now, and delay is only going to invite further mischief. So, I would urge you to act, and I urge you to act with forcefulness.

Council Member Kaye made a motion to move into Executive Session to Discuss Section 16(f) of the ARDA (2013 Amended and Restated Development Agreement) and Captain Sam's Spit. Council Member Berner seconded the motion.

Council Member Belt commented on the first observation that was made by stating that many community members have reached out to the Council to encourage the Town to enforce the terms of the ARDA and wanted to make clear to everybody that even if the terms of the ARDA were to be strictly enforced, that would not in and of itself prohibit the sale to the State. The ARDA only prohibits the sale to a third party, which would include the state, of lands to be conveyed to KICA, not necessarily the highlands above that, although the ARDA requires those to be deed restricted and a conservation easement be granted in favor of the Conservancy. There is no prohibition under the terms of the ARDA, and if the Town were to strictly enforce that or have a court strictly enforce that to prohibit the sale to the state in and of itself.

Following the comments, the motion was unanimously approved.

IV. Executive Session:

- A.** Executive Session Pursuant to South Carolina Code Section 30-4-70(a)(2) to Discuss Section 16(f) of the ARDA (2013 Amended and Restated Development Agreement) and Captain Sam's Spit.

Mayor Pro Tem Heidingsfelder made a motion to come out of the Executive Session. Council Member Berner seconded the motion, and it was unanimously approved.

Mayor Labriola stated that the Council had, for the past couple of hours, discussed the ARDA, Captain Sams Split, and the pending contract between the Community Association and the Partners with our legal counsel. No decisions were made during this period.

V. New Business:

- A.** Town Council may Consider the Approval of an Action on the 2013 Amended and Restated Development Agreement and Captain Sam's Spit.

While the Council Members are concerned about the substance and wording of the proposed deed for the low-lying lands of Captain Sam's Spit, we believe that the contractual process stated was wrong. As the path set forward in the ARDA, the Partners should have provided the Town and the Community Association the benefit of discussing this in the sunseting of the ARDA, as it relates to Captain Sam Spit. Unfortunately, the Partners chose not to do this, and we consider this to be wrong. We would like to correct the process by strongly collaborating with the Town, the Community Association, and the Conservancy to sit in front of the Partners to discuss the proposed contract and deed so we can all agree on our agreement in moving forward. So, we have spent a great deal of time, there's been much discussion between a lot of people, and this is the path that we concluded.

VI. Council Member Comments:

Mayor Pro Tem Heidingsfelder stated that in addition to what the Mayor said, I think we all understand that we cannot tell the Community Association Board what to do, but we would strongly recommend reversing the process following the odd wording and trying to create a strong

collaboration between the Town, the Community Association and the Conservancy to discuss with KRA, how we are going to move forward with the land that is called Captain Sam Spit.

Council Member Berner stated that the attorneys are going to be talking on our behalf in the near future.

Council Member Belt agreed with both the Mayor's and Mayor Pro Tem Heidingsfelder's comments, noting that his hope and expectation would be that the collaboration pertains not only to the language of the date at issue that has been negotiated thus far between KICA and KDP but also with respect to the scope of the conservation easement to be granted to the Conservancy, as well as the deed restriction for the high lands to non-developable green space. That we are working in sync between the three entities in our discussions going forward with the Partners.

In his parting comments, Mayor Labriola stated that he had been involved with this for a long time and would contend that every person elected to this Council, every person elected to the Conservancy Board, and every person elected to the Community Association has enormous passion about this community, and has enormous passion about the environment where we live. There is not one that does not have that same level of passion and concern for everything. The tactics sometimes get to be confused and sometimes get to be challenged between one set of tactics, one set of thinking versus another set of thinking, but the goal is always the same. We have to have patience as a broad-based group of residents to let the people that you elect, whether it is to the Town Council, the Community Association, or the Conservancy. You have all new folks coming on the KICA Board right now, so soon, let them have faith and trust in their very expert counsel and just think through the tactics. I really, really believe in my heart that is what we're dealing with here. You hear the same things; they keep coming back to the passion.

VII. Citizens' Comments:

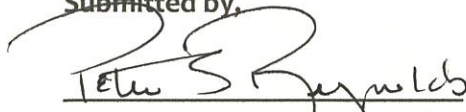
None

VIII. Adjournment:

Mayor Labriola adjourned the meeting at 5:37 pm.

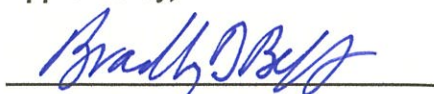
Mayor Pro Tem Heidingsfelder stated before leaving the meeting, "I think we all want to thank you, Mayor, for all the work that you have done over the seven years in total. As said earlier, I think we are all very proud of how you have managed this Town, the Staff, and your fellow Council Members through stormy times. Thank you. I appreciate everything you have done, and we will continue, in one way or the other, hopefully in the same fashion. Thank you very much."

Submitted by,



Petra S. Reynolds, Town Clerk

Approved by,



Bradley D. Belt, Mayor

05/22/24

Date