

KIAWAH ISLAND
COMMUNITY
ASSOCIATION

BOARD OF DIRECTORS

Meeting Minutes

January 10, 2022 at 1 p.m.

Virtual Meeting

Board Members Present:

Dave Morley, Chair

Jerry McGee, Vice Chair

Alex Fernandez, Treasurer

Amanda Mole, Developer Director

Brad McIlvain, Director

David DeStefano, Director

Beth Zampino, Director

Staff Members Present:

Shannon White - COO

Ellen Festa, Executive Assistant

Emily Jenkins – Communications Specialist

Tony Elder – Director of Operations

Member Attendees: 41

Recording of Meeting: <https://youtu.be/yb8OhN94DQg>

Alex Fernandez and Jerry McGee were not present initially due to technical issues.

1. Member Comments – Agenda Topics

- Comment about the Board size vote. Topic has been discussed quite a bit and feels it's inappropriate to have the current board vote on the size of the board given the current election that opened today. Member believes the new Board should make that decision after sufficient community input.
 - Dave M. clarified that today's vote is to keep the board at 7 members and to let the future board decide how to move forward.
- Comment to clarify today's board size vote is to go back to 7.
 - Dave M. confirmed that the vote is for 7 members. A future board may decide on board size.



- Dave D. commented that there are 2 legal issues that were not resolved in the litigation. First, was the March meeting a real meeting? Second, Diana M. was an appointed board member. Since the judge says we can't appoint members, was it a valid vote?

2. Call to Order

Chair Dave Morley called the meeting of the Kiawah Island Community Association Board of Directors to order.

3. Chair Comments

Dave Morley read a prepared statement:

This morning we had discussion about community interest and greater transparency regarding the extraordinary expenditures previously disclosed which were \$400K regarding Jimmy Bailey's grievance and departure and the subsequent partial internal investigation of certain documented facts and claims. One pathway would have been to say we will continue to fully shield the situation and only look forward without any further information as to the circumstances of related board expansion decisions intended primarily to protect and preserve staff. The other alternative would be to transparently provide information to the membership so that they can be better informed as the challenges and circumstances that the island has grappled with and now faces, particularly as they consider important votes they are soon to cast for new directors of the board. This morning, we voted for transparency as the preferred option. It was a divided vote of 4-3. However, the majority of the board decided that providing more information would be the best path to move forward. I have full confidence, that given as much information as possible, the community will make good decisions going forward. Therefore, after the allotted 4 days to prepare dissents, we will publish Jimmy Bailey's grievance letter. We will include dissenting opinions of board members who want to attach, as defined by our governing documents. We won't provide the supporting emails, which are more than 150 pages, because we promised the staff that we would do our best to protect their confidentiality. The complaint will be un-redacted with the exception of taking isolated employee names out. The community will be informed and better able to cast votes on new directors and have greater understanding and clarity.



As you are aware, my term ends in eight weeks and I am not running for anything. I had said when the board expansion was announced, that I would resign if the process in place was followed and the community voted to overturn the board decision. Remember, the process in place was a petition and subsequent vote. That didn't happen. Therefore, I do not intend to resign. It's been a challenging term but an honor to be chair. I wish everyone on the island peace and prosperity with the hope that the new leadership can restore civility and harmony to the board and that calm will prevail as the island faces ever new challenges.

- Brad M. asked Dave M. to clarify if we are releasing Jimmy's reviews. His understanding was this morning's vote did not exclude the emails and they should be included to make sure we have all the information. Dave M. stated the emails would not be released to protect the confidentiality of the employees.
- David D. stated that the letter from Jimmy was sent after his severance agreement was made and does not constitute a grievance, but an after the fact letter. He feels the letter is being released to target him and Brad and to affect the election. Timing is inappropriate.
- Brad requested we release Jimmy's reviews from the past 4 years. Dave M disagrees and feels HR information is confidential.
- Discussion about whether Jimmy's letter is part of the report that the attorney said we cannot release. Further discussion about particulars of the report and what statements were supported.

4. Administrative

a. Approval of 12-6-2021 Minutes **(Vote)**

Vote Passed: (5) In favor – D. Morley, B. McIlvain,
A. Mole, D. DeStefano, B. Zampino

Not present: (2) A. Fernandez, J. McGee

b. Ratification of e-Vote - Reform It Now

Our practice is to validate any e-vote in public session and clarified that we did this via e-Vote in the interest of time. Dave M. stated that our intent was not an endorsement of the specific issues raised, but that it was our memberships view that the Town review the issues fully. Motion to approve by Dave D. - seconded by B. Zampino.



Vote Passed: (5) In favor – D. Morley, B. McIlvain,
A. Mole, D. DeStefano, B. Zampino
Not present: (2) A. Fernandez, J. McGee

5. Reports

a. COO Report – Shannon White

2022 Election

- Election opens today and members should be receiving their voting information to the email address we have on file. Voting is scheduled to close on February 9. For members that do not have email, the voting materials will be sent to the mailing address we have on file for them. Thank you to the Board Outreach and Education Committee for their assistance as we moved through this voting process: Brad McIlvain, Paul Nelson, Kelly Bragg, Frances Boyd, Gaye Stathis and Cynthea Reisenberg.

COVID

- We're still experiencing staff issues with Covid. We've had a number of employees test positive in recent weeks, despite being vaccinated and boosted. We continue to follow CDC guidelines for our employees and we have had no known direct member contacts. Masks remain in effect for our employees as they move through our facilities, and we strongly encourage masks for those coming to events or meetings.

Supply Chain

- We are experiencing some supply chain issues with our contractors which has impacted several projects:
 - Emergency repair on Otter Island Road - waiting on concrete piping to be delivered.
 - Beachwalker automatic gate – waiting on gate components.
- We are working with our contractors on scheduling completion of these projects and will keep you updated.
- Later this week, we will be doing some miscellaneous paving on some roads to include: Tree Duck Lane, Shell Creek Landing, Whimbrel Road, Piping Plover,



Hooded Merganser and Dungannon. We are beginning preparation and scheduling with Banks Construction on our major roads project and will keep you updated.

*** Jerry McGee joined the meeting at this time*

b. Treasurer's Report - Alex Fernandez

CTR

- Shannon did a readout on CTR as Alex F. was experiencing internet issues.
- We have not closed the year for 2021, but our CTR real estate transfer fees are currently at \$4.5M - far above our \$1.5M budget and above our projections from October of \$3.3M. This money is going into our Reserve funds.

*** Alex Fernandez joined the meeting during this time*

Emergency Storm Policy

- This policy was reviewed by the Finance Committee following a request by Board of Directors increasing policy to \$1M and cleaning up some language that clarifies usage and replenishment of the fund. This morning the Board looked at the policy again and made an additional change, that states in the event a storm occurs, prior to the emergency storm fund being replenished, the Board will make a decision on how to fund expenses up to and including a special assessment of the membership. FC requested the policy be sent to the board for vote. Dave M. called for motion to approve, Jerry M. so motioned, seconded by David D.

Vote Passed: (7) In favor – D. Morley, B. McIlvain, A. Fernandez, A. Mole,
J. McGee, D. DeStefano, B. Zampino

Audit

- Alex F. gave an update on Audit. The Auditors will be on-site Jan 19-21. They plan to provide report to Finance Committee on March 2.
- Alex reiterated the CTR funding level that Shannon read out earlier. He added that we've budgeted \$2M for next year based on the review of real estate reports,



but it's difficult to predict. The money goes into our Reserves so we are in a healthy position.

- Alex reported on our staffing activities. We've successfully hired 15 new employees in the last 45 days. This is a direct result of all the recruitment and retention initiatives that were recommended by management and approved by the board. Brad stated that at the holiday party, there was a video created by the employees expressing their thanks, which was presented to the Board and they were all moved by it.

6. New Business

Board Secretary

- Dave M. asked for a motion to have Brad McIlvain appointed as Secretary to replace Sandy Devine. Appointment is until the new board takes over in March. Motion to approve made by Alex F. – seconded by David D.

Vote Passed: (7) In favor – D. Morley, B. McIlvain, A. Fernandez, A. Mole, J. McGee, D. DeStefano, B. Zampino

Board Size

- It was decided to return the board size back to 7 and let the new board decide on what the size of the board should be going forward. David D. so moved, seconded by Brad M., with the comment that any change in board size would be decided by next board.

Vote Passed: (7) In favor – D. Morley, B. McIlvain, A. Fernandez, A. Mole, J. McGee, D. DeStefano, B. Zampino

By-law Change – Board Officers – Brad M.

- Proposed change to the By-Laws, Article VII, Section 1 to state that all Board Officers, ex: Chair, Vice Chair, Treasurer and Secretary have to be members of the board. Brad M moved to make these changes to the By-Laws, Article VII, Section 1, seconded by Alex. F.



Vote Passed: (7) In favor – D. Morley, B. McIlvain, A. Fernandez, A. Mole,
J. McGee, D. DeStefano, B. Zampino

Governance Committee - Brad M.

- This subject was raised at the Meet the Candidates event. Brad acknowledged that the audio was poor and we were working to try and improve it. There was discussion about the need for a Governance Committee to look at our Covenants and By-Laws. The Governance strategic objective was originally 2 people, with Brad and Sandy Devine. The original focus was to understand what our covenants actually say, which is challenging. There is a lot of information to be reviewed and revised. Covenant changes require a vote of the members with a high quorum threshold. Another issue relates to the misperceptions about what happens through developer transition. Also needing review are the development agreements between the Developer, the Town and the Resort. KICA is not a party to them, but we are impacted.
- On December 16, 2021, a court decided that the appointment to expand positions was invalid. KICA has Covenants and By-laws. By-laws state if there's a conflict, the Covenants take precedent. The language around appointment(s) was only in By-laws – Covenants state that board members shall be elected. Decision also addressed the question of emails being released by KICA for petition purposes. The board is currently waiting on the judge's written order and a hearing transcript prior to taking any further action.
- Need to engage skilled legal counsel who can assist us and we will also be reaching out to the community for volunteers for the Governance Committee. This is an important endeavor and we need to look at our documents. They were drafted a long time ago in different circumstances and need to be brought up to date.
- Alex clarified if it was decided to remove the Partners' seat from the Board, we would have to change our covenants. Short discussion about quorum requirements to change covenants.

Task Force Updates

- **Security Task Force**



- Looking to establish another meeting soon. Working on implementing previously approved initiatives such as speed limits etc. Tony has received most of the equipment including trailer.
- **Amenities Task Force**
 - Have been looking at non-Sandcastle related amenities. Stantec is working on an engineering review of bike paths similar to what was done for roads.
 - Rhetts Bluff - looking at handicapped access, picnic facilities
 - Additional Kayak Storage at Eagle Point
 - Shannon did some initial cost estimates to assist with determining what can and cannot be done. For bike paths, we do have a cost per mile and based on pending Stantec report and per mileage cost, we can determine how much we can do. Totals \$4.2M but \$3.2M is for the roads, so currently reviewing approx. \$1M in potential projects.
 - Alex stated funding for new initiatives would not be from existing reserves. Dave M. clarified they would work closely with the Finance Committee as they move forward.
- **Sandcastle User Group**
 - Continue to look at issues such as fees, private rentals etc. Also looking at programming, what kinds of things they'd like to see. They will meet and continue their discussions at end of the month.

7. Board Member Comments

- Alex F. read a statement requesting that Dave M. resign from the board given the court decision. He stated he would not make a motion to remove him, but requests that he do this voluntarily.
- Brad M. read a statement about how differing opinions on the board are not tolerated. He stated that the board needs to change. Leadership should be about what you do for those you serve. We serve our members by listening and treating all members with respect. We need to treat each other on the board with respect. We don't bully. We don't withhold information from board members. We don't make false statements. We understand a well-functioning board has diversity of opinion and its' strength is based on that diversity. Better decisions are made when issues are fully vetted and different views



expressed. We act consistent with the law and our governing documents. When we seek legal advice we should be asking what is the best way for us to accomplish a result. Good news is we're financially strong. We're in a good staffing position. We have strong interest in the board with 8 candidates. Going into 2022, we need to be leaders and our efforts focused on what we do for those we serve. I hope all my current and future board colleagues join me in that pledge.

- David D. commented about the grievance, the timing of the grievance and voting process that occurred. The court decision was definitive and ruled from the bench. Releasing Jimmy's letter is not in the best interest of the community.
- Brad commented it is also not fair to the staff. We've made great progress. We should not be focusing on Jimmy Bailey and we should move on.
- Jerry M. commented that when there is a division on the board, there's a judgement that those in the minority feel they are completely right and the majority are completely wrong. Directors should be able to dissent and disagree and there should be civility and willingness to be collegial – we need to agree and disagree in a civil way.
- Discussion and comments between Alex, Brad, David and Jerry on various decisions, positions and events that occurred.

8. Member Comments

- Member stated that he was in the courtroom that day. When a judge rules from the bench, the judge is making his decision. What gets written down is just parroting that decision and I agree with the interpretations that have been given on that.
- Member asked how much will it cost and when will the signage be changed for the speed limits? Dave D. responded that actual cost is not significant. Equipment is in and we'll be meeting soon to determine how to notify and communicate to the community. Shannon indicated we're targeting mid-February. Member commented that there is still no sign of any speed limit enforcement being done. Doesn't feel line of sight has been addressed and is not correct.
- Where are we on a crosswalk at Flyway / Bufflehead intersection? Shannon stated it is still an option to implement by the Security & Task Force if needed.



- Can we create a QR Code map of all the bike trails and give to the rental companies so people can use those instead of using GPS on their phones? Shannon said that KICA could review this idea.

Report Disclosure

- Member comment about the Jimmy Bailey report and that the members have the right to see it. I understand there was a vote this morning to release it and urge this be done forthwith. We can't intelligently vote if we don't know about the past conduct or misconduct of any board members who are running for re-election.
 - David D. commented that he's not aware of any employee complaints and has no problem with anything in the report. The board made a commitment to all interviewed that their confidentiality would be protected. Brad M. commented about the normal legal process that would be followed in this type of situation. Jerry M. stated that we should not be adjudicating the report in this meeting, we should let people read the report and form their own opinions. Dave M. stated there is a 4-day period for dissent by the board members which they must follow per our By-Laws. Discussion about clarification of whether the letter or full report will be released.

Development

- There is a continuing list of development in and around Kiawah and the impact is not well understood. Can we consider creating a task force or form a committee of qualified individuals to examine pending development in and around the Island and form an opinion to be shared with the Board. The Board should share with the community the intended or unintended impacts of such development in and around Kiawah.

Report Disclosure

- Member commented about the release of the Jimmy Bailey report and that any shareholder in a public or non-profit is entitled to this information in this kind of complaint. The community doesn't know whether any of the assertions made today by anyone is true or not. The board's dysfunction is fully on display all day and feels the



- voters truly need to help the island by electing people who can get along, work together and improve things.
- Member requested clarification – referenced Disclosure Statement from the board dated September 17, 2021 that stated that the report found no evidence of a legally actionable ‘hostile work environment’. Report concluded that some KICA employees were affected by factors leading up to Jimmy Bailey’s resignation that put them at potential risk of attrition. There is a difference of opinion between board members. We should know what was done about it. Was it investigated? Was it understood? What was done to try and resolve any conflicts that were there? As you prepare your communication to the community, I think it’s important for us to understand this better.
 - Member commented about past Board behaviors. Discussion today is painting a misleading picture regarding the petition. The petition raised about 1,000 signatures and was not enough to force a referendum to reverse the board expansion. That means there was a silent majority of almost 3,000. The 1,000 signatures were not dismissed at all. You cannot say that the other 3,000 members did not matter and you cannot say the 1,000 represented the majority of the community. Dave M. stated he would resign if the petition garnered enough signatures to force a referendum, which it did not. Disappointed to see that we are publicly calling for someone’s resignation.
 - Member commented that releasing the report seems to benefit only those who want to interfere with the upcoming elections and asked why Dave M. is against releasing the full report.
 - Dave M. clarified that he wants to protect employee confidentiality, but that he fully supports disclosure.
 - Member thanked Alex for taking the stance to ask Dave M. to resign.

With no further business, motion to adjourn made by Dave M. – motion approved by Jerry M. and seconded by Amanda M. Meeting was adjourned at 3:02 pm.

Respectfully submitted,
Ellen Festa, Executive Assistant

