

KIAWAH ISLAND
COMMUNITY
ASSOCIATION

BOARD OF DIRECTORS

Meeting Minutes

March 13, 2023 at 1 p.m.

Virtual and In-Person Meeting

Board Members Present:

Jerry McGee, Chair
Beth Zampino, Vice Chair
David DeStefano, Director
Lisa Mascolo, Treasurer

Brad McIlvain, Secretary
Alex Fernandez, Director
Amanda Mole, Developer Director

Staff Members Present:

Shannon White, COO
Ellen Festa, Executive Assistant
Sarah Bond, Director of HR

Tony Elder, Director of Operations
Dale Schoon, Director of Finance
Amy Cook, Director of Recreation

Member Attendees: (11 In Person / 33 Virtual)

Recording of Meeting: <https://www.youtube.com/watch?v=vmGmgMxgc80>

1. Member Comments – Agenda Topics

- Member Sandy Devine: Aghast and disappointed at Feb 6 Board meeting and the highly accusatory tone and context directed to Shannon which included process points on signatory authority and elements of compensation. My strong viewpoint is if there are issues with actions of KICA staff including the COO, that they do not belong in a public forum, there are Exec Session or other governance vehicles you have for such topics. Whenever I enter the island and see a smiling face behind the gate, I think of Shannon and the work that she and her team does – a level of professionalism that doesn't happen by accident and people need to think of the impact on team and morale. Second point is Governance update. I feel a second opinion is appropriate and required. It's clear the Board has dissention among the ranks and different viewpoints.



- Jerry M. commented that we're going to set ground rules, listen to comments and move on – we're not going to debate them, stick to agenda topics and we're going to stop at 3 pm today no matter what.
- Member Erin Slater: Will the Chair be providing an update on the issues raised at the February meeting? Jerry stated it's not on the agenda and update will not be provided today.
- Member Paul Hennessy: Minutes haven't been posted yet – request they be posted in a timely manner.
- Member Philip Mancusi-Ungaro: Would like to hear Board explanation on why second opinion needed. We're still working on documents, so not sure what they reviewed.
 Logistic question - why do member comments come before the meeting is called to order – are they on the record?
 - Jerry and Shannon confirmed Member comments are part of the minutes - we will follow that format going forward.

2. Call to Order

Chair Jerry McGee called the meeting of the Kiawah Island Community Association Board of Directors to order @ 1:12p.m.

Jerry remarks: Board has received an enormous amount of emails with comments and suggestions about Sandcastle – info about solutions has been posted on social media platforms. It's a controversial topic. There will never be a universal solution that pleases everyone. Folks that worked on it were extremely diligent. They worked hard and looked at community input, but we've always said we're not etching these things in stone, it's a fluid situation. We will be looking at comments and making adjustments where possible. We have gone through an exhaustive process and we've learned our Communications need to improve. Need to figure out how to reach all members. New Board will be working on a comprehensive Communications policy.

Related to the By-laws, the Board and Governance Task Force had a good exchange on Friday, Task Force has some additional work to do. We will be moving this along, not delaying, but need to do as good a job as possible. Impacts are not just short term, but long



term, and we need to ensure we get it right. E-bikes are also a hot topic, many pros and cons. David D. and Jerry M. will be taking a look at this with the Security Task Force. ARB is another topic of great concern to people. To be clear, the Partners are under no obligation to give up ARB, despite what people think. Find a way to do this with conversation and understanding.

4. Administrative

a. Approval of Minutes (VOTE)

- Approve January 9, 2023 Minutes with change to term ‘quit claims deed’ in Alex’s motion.

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

- Approve February 6, 2023 Minutes with change to Page 18 adding the statement by Sarah Bond, Director of HR that we do not have any current nepotism situations.

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

b. Ratification of e-Vote – retain legal counsel for By-law comparison

- Lisa offered an explanation as to why she thought it was important to seek additional legal counsel for comparison document.
 1. Reasonable request for documents that was not responded to.
 2. Inherent conflict was introduced in 2 new terms. Did lawyers miss this and if so, did they miss anything else?
 3. Long range implications of changes. Need to understand consequences. Nothing against the Task Force, have great respect for the Task Force. Not impugning the credibility of the Task Force and apologize for that. We have to do what’s right for the membership. Given the concerns about changes and implications, she felt the request was reasonable.
 - Brad stated Lisa claimed he introduced bias to the process which impugned the character of Brad, the lawyers and the Task Force.
 - Lisa said a response to her request would have been appropriate. Brad stated she received all the documents requested, Lisa stated she has not.



- Jerry stopped the discussion and stated we would not have this type of discourse.
- Motion: Lisa made a motion to ratify the e-vote to have an independent review of the By-laws. Seconded by Beth Z.
- Discussion:
 - David D. asked what is the new law firm doing? Scope of Work? What is it going to cost? We should know these things before we ratify the vote.
 - Brad stated new law firm should have attended the By-law Workshop – would have been a good opportunity for them to see what’s been done.
 - Discussion about scope of work – understanding downstream implications of changes from Majority to Super Majority to 2/3, etc.
 - Beth Z commented that we requested a comparison of the old and the new versions. What are the changes and what are implications? Reasonable request. Cost estimate is approximately \$10 - \$15K.
 - Jerry doesn’t understand the pushback on getting a second opinion, which helps accomplish what we’re trying to do. Other issues are Job Descriptions for Board positions. Worthy of discussion.
 - David D. questioned the necessity of needing lawyers for the comparison, it wasn’t that hard to read both documents and compare.
 - Beth Z stated it’s not a legal opinion but a comparison, which was something that many members requested - a clear comparison.
 - Discussion about participation in Task Force meetings. Lisa M. commented that Chair role of a Task Force is to report back to the Board. All Board members don’t need to attend every Task Force meeting.
- Jerry asked for a vote to ratify the e-vote to have an independent review of the By-laws.

Vote Passed: (4) In favor – J. McGee, B. Zampino, L. Mascolo, A. Mole
(3) Against - B. McIlvain, Fernandez, D. DeStefano

5. Reports

a. COO Report – Shannon White

Replacement HVAC



1. I have approved the replacement of an HVAC unit in the Sunset Room of the Sandcastle as per the Financial Controls Manual.
 - HVAC unit is 7 years old - on our depreciation list, but is not fully depreciated
 - Project was bid out and we selected Limric Plumbing, Heating & Air.
 - Cost of installation is \$26,070.
 - HVAC unit is on order & will be installed in the first week of April

Board Tracker

- Staff has created a tracking record, related to member comments & questions posed during Board meetings.
- Some of the items resolved include:
 - Communicating emergency medical protocols with the membership
 - Questions related to the construction of a driveway across a leisure trail
 - Rotation of messaging on electronic message boards
 - Changing BOD minutes to reflect member names on comments, starting Feb 6
 - Leisure trail approach to BW-32 is included in the project to widen Allee of Oaks
- Items which are underway:
 - Review of e-bikes.
 - Received 481 comments from members on this topic.
 - Comments will be shared with the Security TF, which will be reviewing this issue later this month.
 - Publishing a year-end KICA liquidity statement.
 - Reviewed by the Finance Committee in Jan & Mar 2023.
 - Liquidity statement is tied to audited financials. To be published this month.
 - ARB related questions with legal
 - 2023 member survey development
 - Unrelated to the ARB, initial review of items being impacted by ending of KP development agreement.
 - To be reviewed for KICA:
 - Reviewing if all conveyances have been completed related to trails & roadways



- Conveyance related to the marshland. Conservation easements will be set up ahead of a conveyance.
 - Already completed items include:
 - Leisure trail conveyance in Ocean Park
 - Conveyance of 2.0 acres of park in Ocean Park, with 8 parking spaces
 - Beach parking at Ocean Course
- Bobcat AV improvements – replaced computer & hardwired internet. We are continuing to monitor.
- Review of temporary signage for bike paths underway.
- Beth Z. asked for input from members on how they want to see the Tracker.
 - Member suggestions: see status of questions/issues raised by members in a meeting, include a link in the weekly e-blast to tracker, have a way to reference the issue and also show the reasoning behind a decision.
- Jerry suggested an open discussion channel between members and Board – Brad stated rationale for decisions is important. Lisa suggested an FAQ.

Spring at Sandcastle

- On March 15, we will begin heating the pools. We will also move back to regular hours. New hours will be 7 a.m. – 8 p.m. daily.
- Recently assisted with the POPS Progressive Dinner on March 5. We received some lovely compliments on our staff from organizers of this event.
- Coming member events include:
 - Wed, 3/22 - TOKI Piano Bar - Chris Dodson 5-7pm
 - Thurs, 3/23 - Trivia Night 6-8pm
 - Sat, 4/01 – POPs Spring Fling party 6-9 pm
 - Sat, 4/29 – Celebrate Kiawah 1-4 pm

b. Treasurer’s Report – Lisa Mascolo / Dale Schoon

- Lisa M. provided an update on several meetings the FC held – 1) with Cook St., our Investment Advisor and 2) review of our 2022 Audit with Keefe-McCullough.
- Dale reviewed the Liquidity statement.
 - Member Maura McIlvain asked about listing Ocean Park as a Restricted Fund.



- Dale responded that it has a zero balance so it's not being shown in this statement.
- Alex commented on excess/surplus – he feels this excess should be used to lower assessments, should be in members' hands. Lisa stated it's something the Finance Committee needs to look at from a philosophical perspective as it relates to MR&R funding levels.
- Alex asked what our CTR funding levels are.
 - Dale said we're at \$383K for first 2 months – pro-rated \$2.25M annually – which is what was budgeted. Does not include \$800K expected for The Cape.

Acceptance of 2022 Audited Financials (VOTE)

- Dale provided an overview of the Audit as conducted by Keefe McCullough.
- Discussion:
 - Brad had a question on the Audit related to Internal Controls. Brad stated he tried to ask them at the last Finance Committee if they reviewed the Feb 6th meeting and he doesn't feel they were aware of the issues.
 - Lisa indicated that Dale did make Keefe McCullough aware of the issues. The management letter does indicate they were aware and doesn't have anything to do with the audited financials.
 - Beth Z asked for explanation about limitations mentioned.
 - Dale said it's related to aging reports and our capability to produce that report on a historical basis. It is a limitation between Salesforce and Financial Edge – we're addressing this.
 - Alex commented on ARB payments over the last 15 years. Are there any other payments that KICA is making of this size without a contract, agreement or Board vote authorizing such payments?
 - Shannon responded that we're reviewing all of our Accounts Receivables (250 pages) with totals.
 - Jerry also clarified that we're not making this payment going forward.
- Lisa asked for a motion to accept the Audited Financials. So moved by Beth Z. and seconded by Amanda M.
 - Brad stated he will be voting against because he doesn't feel Keefe-McCullough was made aware of the issues raised at the Feb 6 meeting.



- Lisa stated they were made aware of the details of the Feb 6 meeting – they did not review the video, but were very aware.
- Alex stated he will not be voting to accept the audit until the issue of any additional payments being made without contract or Board approval is addressed.

Vote Passed: (4) In favor – J. McGee, B. Zampino, L. Mascolo, A. Mole
(3) Against - B. McIlvain, A. Fernandez, D. DeStefano

To Do: Alex asked for a comparison of late fees between 2021 vs. 2022 due to the drop between the years. Dale will provide to the Board.

6. **Old Business – N/A**

7. **New Business – N/A**

8. **Board Member Comments**

- Alex F. commented on ARB payment issue. Total cost of approx. \$750K. Payments were made for the purpose of preparing KICA for transition of ARB. Amanda M. stated at Feb 6 meeting that partners were not interested in transitioning ARB to KICA. Alex doesn't feel Partners have any intention of doing this. Payments have been under false pretense that we're preparing KICA to take over ARB. Alex made a motion to refer this to our legal counsel, Rosen Hagood, and ask that they take all necessary legal steps to demand a refund of the funds paid over the last 15 years. Seconded by Brad M.
- Discussion:
 - Lisa stated how can you do that if a transition does take place next week or next year?
 - Amanda clarified that these conversations began over 15 yrs. ago. Over the years, the shared employee and the Livability team has gained information and has had good value and knowledge from the ARB. Over the years, there were points in time where Partners wanted KICA to take on more, and KICA, at the time, would not accept it. Process continued over time and KP felt that maybe we shouldn't transition at this point in time. We are going to begin conversations about the status. Should we wait for those conversations before going to legal counsel?



- Alex F. stated he's tired of talking – doesn't feel progress is being made. Amanda clarified that there was intention to transition and the payments were made while there was intention.
- Brad commented that we need to understand what our rights are, though it may not lead to litigation.
- David D. doesn't think this is initiating a lawsuit, but to get an opinion on what our strengths and weaknesses are. David suggests getting an opinion on what our legal position is so when the time comes to negotiate or get a little tougher, we know what our rights are.
- Alex said he would amend his motion to ask our lawyers to study all the legal steps and report back to KICA to demand refund of ARB payments made over the past 15 years.
- Jerry commented about the history of this issue. 15 years ago this program was put in place and it became business as usual. Boards going way back never established a system for reporting – it became something that evolved into our Livability area with Ed Monahan being on the Board and interacting with the ARB. It should have been looked at long ago, but it wasn't.
- Motion restated: Refer this to our legal counsel Rosen Hagood and ask that they study all the legal steps to request refund of the funds paid over the last 15 years.
 - Beth commented that Alex's motion doesn't state that we're looking at what our rights are – there are 2 different issues. David D. clarified that we ask Rosen Hagood for an opinion on what our rights are Vis a Vis the ARB payments.
 - Rosen Hagood has looked at rights of the ARB and if KICA can remove ARB. Board hasn't acted on that opinion. Beth would like to review the document created by Rosen Hagood to refresh our memory. Brad stated the opinion was about ARB rights, not about the money.
- Final Motion wording: Ask Rosen Hagood to provide us with advice with respect to our rights and remedies, if any, regarding the payments from KICA to the ARB.

Vote Passed: (6) In favor – J. McGee, B. Zampino, B. McIlvain,

A. Fernandez, D. DeStefano, L. Mascolo

(1) Abstain – A. Mole



- David D. made a statement about Brad McIlvain, as this was Brad’s final Board meeting. “When Brad volunteered to work on a task force or committee, he made sure the task at hand was done. His leadership and work ethic on the Outreach Committee and Governance Task Force are just a couple of examples of Brad’s service. He was also instrumental in getting the family pool heated and bike path improvements completed. Brad has been very committed to his tenure on the Board notwithstanding being unfairly maligned by a few Board members and a few in the community. In his three years, the Board has accomplished more than any Board in recent years, owing significantly to Brad’s work and leadership. Thank you Brad. I hope you will stay engaged and continue to serve on task forces and committees as a member of the community.”
- Brad shared his thoughts on a 2018 Amendment granting KICA enforcement powers that was never recorded. In addition to questions about the exact language on what was voted on, the 2018 HOA act requires any governance document (Covenant, By-laws etc.) to be recorded. Referenced a specific clause that once the HOA Act was in effect, all documents must be recorded by Jan 10, 2019 to remain enforceable. As Secretary, he chose not to sign this Covenant change to be recorded. He believes there’s an issue on exactly what was voted on, what was in the ballot and whether the Covenant change is enforceable.
- David D. also commented on the 2018 amendment. It must be recorded to be valid. Felt if we record it now, it may cause confusion and may not be enforceable. Right way to do it would be to start again.
- Amanda provided an update on signage project related to Regimes.
- Brad provided a short update on Governance Task Force meeting with the Community.

9. Member Comments

- Member Todd Boney asked if letter to the Board from auditors will be published on website. Lisa responded that it will. Todd also commented that A/V is much improved. Todd also commented on Marshland transfer, helpful to understand what it is and what’s coming over. Also why is it set forth as a range instead of specific number? Board needs to discuss what role other organizations can play in supporting transfer or management of marshland, is there an opportunity to partner with others. How many lawyers represent KICA? Appears KICA is missing a law firm that has deep history and



a good sound business partner that can represent us in our complex eco-system of Kiawah, TOKI, Partners, etc. Establish a relationship with a law firm.

- Member Rob Glass commented on Sandcastle issues. Strongly disagrees with requirement to have accompanied access. Suggests we look at software that provides management of facility capacity.
 - Jerry asked members to continue to share their ideas with the Board if anyone has additional thoughts about the Sandcastle. We have made a decision, and we're going to move forward.
- Member David O'Leary – question on Kiawah River Estates who are Governors Club members and have access to the Island – supposed to be just for Resort facilities. Why aren't we charging Governors Club members of Kiawah Rivers Estates a KICA access fee – similar to Cassique? Second question is about issue related to previous Treasurer being removed and the current Treasurer and their use of term 'haters'. Why is that behavior being accepted as an appointed officer of KICA.
 - Jerry stated that the issue mentioned is under legal review and he's not allowed to comment on it. Cautions everyone that we've lost a tone of civility. With the new Board, opportunity to do things differently. Hopeful that this can happen. Feels that if we keep in this mode, we'll come to a grinding halt and things won't get done. As the Chair, I'm pleading for civility. Our staff deserves our support – it's the Board's responsibility.
- Member Erin Slater thanked Brad for his service. Was KICA legally entitled to make payments to the ARB by the Covenants?
 - Brad stated it would be reviewed by Legal.
- Member Paul Hennessy asked if KICA board is plugged into the current TOKI comprehensive planning process.
 - Shannon stated we are engaged with John Taylor to get that process in place.
- Member Debbie Perelmuter – comment on e-Bikes. Consider registration for riders with disabilities and encourage looking at exceptions for those that may need pedal assistance. Also commented on getting more boardwalks ADA compliant. Thanked Brad for his service even though she feels there should have been 2 new Board members.
 - Jerry stated that the Security Task Force will be looking at the e-bike issue.
- Member Maura McIlvain offered an explanation of the “haters” stickers worn by some members in the room.



- Member Chris Dahlstrom stated that we owe a thanks to the people that worked on Governance Task Force. Some of the changes resolved many of the issues experienced over the years. Feels that we don't need a 2nd opinion – feels our money is being wasted.

Jerry asked for motion to adjourn. So moved by Beth z and seconded by David D. Meeting was adjourned at 3:24 p.m.

Respectfully submitted,

Ellen Festa, Executive Assistant

