

## Kiawah Island Talk – March 2007

### Mixed Reactions

KICA's February 15 Town Hall meeting on the proposed covenant change to allow the Board "flexibility" in its use of the Reserve Fund and to contribute from that Fund to a non-profit group dedicated to preserving land on Kiawah found residents and non-resident property owners speaking reasonably yet passionately about their views. Approximately 40 people were present with 15 questioning what or who would determine if or how much the Kiawah Island Natural Habitat Conservancy (KINHC), implied though unnamed in the proposal, would receive were it to pass.

Glen Shipway, a non-resident property owner, asked Property Owner Director Avril Fenwick what kind of properties the Board would fund. "Where are they, what kind of lot, what can we buy for \$10 million?" She referred him to KINHC, saying they had done an in-depth study on various critical habitat areas.

Resident Ben Farabee asked about the 10-year budget projections, noting through year eight, the contribution to reserve fee remained virtually the same. "If we purchase property, must we forego other normal expenses?" Property Owner Director John Wilson suggested the operations fund balance could be used, or KICA could dip into the minimum reserve amount, or members assessed or profits deferred. He also said they would probably look at money from the operating surplus for tax reasons.

Board President Dick Sula as well as other Directors cited the budgetary process as the defining factor of whether or not KINHC would receive funds. Perhaps they would receive a donation one year and not the next.

Non-resident John Moore said although the idea of supporting the Conservancy was a good one, he questioned why the amendment had two parts, opening up all KICA funds. Fenwick said the Board wanted to include both because amending the covenants was "such a big deal. The Board is hamstrung now on how money can be used."

Resident Will Lehder worried there would not be enough money for the conservation of land. "How will we know if there is enough or if we need a transfer tax to do better? What is the criterion for success? Will we be able to come to the conclusion that we are not fulfilling our expectations?" Sula indicated that a transfer tax was the "first going in position. It was a flag that was not going to be saluted at this time."

Resident Art Morgenstern stated he did not feel the committee had sought enough property owner input before crafting the resolution and was concerned about how the Board reached its decision to request more flexibility in determining how reserve funds were spent and to donate a portion of the funds to KINHC. Sula felt it would not be appropriate to make any other comments about the decision. He said by donating to KINHC the Community Association was helping to prevent further loss of habitat on Kiawah "which was disappearing as we speak." This seemed to contradict his earlier statement that there could be years in which KINHC received no donations.

In response to a question from Wendy Kulick whether the Major Repair and Replacement Committee (MR&R) had endorsed the proposal, Wilson said, "we're asking for the right to do something should the numbers line up. At the time, we choose to do something we will ask members of those committees (MR&R and Finance). We didn't feel the committees would add much to a governance and financial issue."

Sula reiterated that the proposal wasn't endorsed by any committee. "It is the Board's fiduciary role to govern. It (information) was presented at one time to all members for comment."

Jim Piet noted the Board will change on a regular basis, thus opinions how the monies should be spent will also change. He questioned why after identifying how much money was available and the justifications for spending, a referendum could not be held so property owners could vote on how they wanted to spend the funds. Director Russ Crane indicated that "if every time we write a check we had to have a referendum, we would not operate very efficiently."

Warren said that this Board was planning for the long-term, into perpetuity, until the Board changes the operation. He said this Board thought it was wise "because we have had good Boards." He also indicated Piet had gotten to the heart of the issue—"we must extrapolate to what future boards will be like."

Part-time resident Bob Feldman (a member of the MR&R Committee) questioned the lack of spending guidelines attached to the covenant change. He commented that KICA had said they would respond to the results of the latest property owner survey. Feldman pointed out the survey was no substitute for allowing property owners to have a say in specific instances. "You're saying trust me and trust all future Boards. Some guidelines, some caps would be helpful in making these decisions."

Sula responded that the only guidelines the Board has had in the past is 80/20 guideline that "has served us well." (*Ed. note: 80% of the reserve fund for major repair and replacements and 20% for capital improvements*) "We are dealing with areas that require allocating funds where we have not before. The purpose of the guidelines we have are a minimum/maximum. That is a control."

Wilson pointed out the ultimate guideline is not to spend money you don't have. "Realistically, this Board and previous Boards have lived within their means." He also asked rhetorically, "Is there a situation where we would have to dip into that minimum? Could be a hurricane or other extraordinary event. This would give the Board latitude."

Resident Ron Tedesco (a MR&R Committee member) expressed concern about the level of KICA reserves. The value of the Association's assets is growing. What would happen to the \$32 million in assets the Community Association has if a major hurricane were to occur. He said that if a storm like 1989's Hurricane Hugo struck Kiawah, there would be extensive damage to the infra-structure. "Wouldn't we be better off and more fiscally responsible if we take care of community emergencies and then take care of the Conservancy?" He also questioned the amount to be set aside for the Conservancy. "Dick said tonight \$350 thousand. I have heard millions."

Sula then delineated the amount of insurance KICA has to cover potential disasters. He said "If we get the big one, forget it. You can't plan for the worst. I can say the Board is comfortable with it."

Warren added that other things "will come before (donating to) the Conservancy, and they are aware of it."

Wendy Kulick questioned if the Board weren't putting the cart before the horse since they don't know what KICA's plans will be. "Why don't you wait until after the long-range plan is in place?" Director Avril Fenwick said "right now the long-range plan is spinning its wheels." Bob Feldman queried if KICA were going to respond to all the questions and comments presented in KPOG's analysis of the proposal. *(Ed. note: KPOG e-mailed an analysis to all property owners February 12. This analysis starts in the right column of p. 1)* Sula said "yes, to all of them."

Wendy Kulick asked "other than Buddy (Darby), were there any other property owner directors opposed to the idea of increasing the contribution to the reserve fees, and since no amendments to the covenants can come before the membership before 2018 without approval of KRA as a result of the Development Agreement with the Town and KRA, would KRA have approved a change to the covenants which included being able to donate only part of the contribution to reserves fee to the Conservancy?"

Sula responded he didn't know about Buddy, but he was (initially) "very hesitant about getting into this."

During the comment period following questions/answers, Glen Shipway said he had come to the meeting with a relatively closed mind but had concluded he was in favor of giving the Board flexibility to spend the reserve funds, but was against using the money for KINHC.

Resident Norman Llewellyn said that despite the fact he was in favor of the Conservancy, he was "against this proposal. I think it's wrong to be passing monies out of our jurisdiction." As an engineer, he said one of his greatest fears was what would happen to the infra-structure on Kiawah were there to be another storm. "The \$7-9 million now in reserve would be just a drop in the bucket if we have a Category 5 storm. If it's burning a hole in our pockets, let's reduce some of the assessments or fees."

Resident Greg VanDerwerker said, "Spend all you want. . . I trust you. If you do stray, I know there are those who are watching."

Jim Piet said he "definitely did not support this referendum. "It is a mistake to make something so broad, so nebulous and not define how much money is going to be donated and to whom. I think this Board is writing a blank check for future Boards. If this Board or any Board has a definite proposal, then let the property owners authorize the money to be spent."

Art Morgenstern said that he is very much in favor of the Conservancy, but has mixed feelings about the proposed resolution. "I think the Board needs to recognize it is not the concern of the people here to get green space. It is the specific proposal the Board is making. I think it's important you bring back the views of the people." He felt that everyone was supportive of the Conservancy, but what can the property owners as a community do, if you (the Board) are not in a position to make a proposal this community supports."

His wife, Lynn, commended the Board for “respecting the concerns of all of us.” While she would rather see a definite amount set aside or a specific fee for this purpose, because of the sense of urgency, she supports the covenant change.

Joe Zambito (Chairman of the MR&R Committee) expressed his concern and proposed a solution: “What I hear and what I have heard in the past is a concern over control. Is there adequate control over how the money will be spent. I have a suggestion, a guideline—no more than 25% of any excess can be spent on the Conservancy or anything else. It might allay a lot of fears. I don’t think the Board should have a blank check.”

“I don’t know where I stand on this proposal,” said Council Member Don McIver. He said he had a couple of concerns and used the classic economics analogy of “guns and butter.” He felt that the Board would be placed in a position of deciding whether to buy guns or butter—amenities versus green space. His other concern was about Paul Roberts, former Chairman of the Board of KINH, now a candidate for the Board of KICA, who would be put “in a very tough position.”

McIver continued, “If this passes, I have a couple of suggestions—you need to greatly improve the process for greater public input into the budget process. so there can be some serious vetting. The current process ain’t working. If this passes there needs to be serious vetting of any contribution to the Conservancy. I don’t think it should be they are given \$200,000 and they decide what and how they want to use it. The Conservancy needs to come to the point about what they want to do and then the membership of the KICA Board can decide.” He recommended the Board should consider the proposition and then set the maximum amount that could be contributed in any one year—perhaps up to 10% of the current income in the Reserve Fund.

“The thing that bothers me most,” said resident Louise Andriadis, “is voting on two proposals as one. It is generally not admissable.” She was surprised that there was no opportunity for input before the Board made its decision.

Current KINH Board Chairman Joan Avioli expressed her gratitude to the KICA Board. She said the Conservancy is asking for a grant such as the Town agreed to do three years ago. The Town Council agreed to give the Conservancy \$100,000 each year for five years, three of which have passed. She agreed that this might not be the “perfect solution,” but rather an “the first door opened to us in 10 years” which would give the Conservancy a chance.

Resident Diane Lehder said, “this is the most meaningful dialogue I’ve heard in the five years I’ve lived here.” She hopes it will continue.

Wendy Kulick commented she could not support the proposal the way it had been presented. She said others had voiced her concerns about combining flexibility to the Board to spend monies in the Reserve Fund with that of donating money to KINH.” She commented that Board doesn’t know what it will take to repair the bridges or dredge the ponds. “Committing monies without addressing these other issues “is a problem.” She suggested in the future two proposals not be combined in one referendum. “Let the people know before you make a decision. Do it all beforehand so that when you come before the membership as a whole, you have a number of people who have bought into your proposal.”

Board President Sula said the two issues were put together in one proposal because if the first part (flexibility in spending) passed then it wouldn't matter if the second one (donating to a non-profit preservation group) did. This would give the Board the right to give funds to the preservation group providing the other issues were addressed. "I can't imagine bridges or dredging costing more than we have planned." He said the Board was asking to provide monies when the Conservancy comes forward and we know what they are requesting

At the end of the meeting, Sula clarified the voting process. He indicated any vote cast on a proxy card was cast and could not be revoked. Similarly an abstention could not be revoked. If a property owner assigns a proxy, however, he/she can retrieve that proxy at the Annual Meeting and vote at that time. This process differs from past procedures but was clearly stated on the ballot sent to all property owners.

Of the 15 property owners who commented or asked questions, in the final analysis, seven spoke against the proposal, three had mixed feelings, three spoke for the proposal and two did not know.