

Subcommittee LRP-1
Executive Summary

One of the issues identified by the Long Range Committee was the issue of real and or potential redundancy and overlap between operations of the Town of Kiawah Island and the Kiawah Island Community Association [KICA]. Subcommittee LRP-1 (Ralph Magnotti, Tom McAndrews, David Warner and Ann Welsh) was formed to study this issue and to provide recommendations for resolution. The subcommittee finds that although some redundancy has occurred in the past, the potential for overlap remains given the structure of the authority documents. A solution that defines the relevant interfaces between the Town and KICA and minimizes the impact of executive personnel changes upon agreed-to understandings is proposed,

For the purposes of the study, the issue was framed as follows:

How do we establish and maintain the most effective combination of Town advice governance responsibilities? How can we identify and eliminate unnecessary overlap and redundancy?

From discussions with members of other focus groups and a review of their written comments, our subcommittee came to the conclusion that there is widespread misunderstanding of the purposes and scope of authority of the KICA and the Town, Further, the subcommittee concluded that overlap and redundancy is not necessarily undesirable per se. It is when a divergence of interests occurs between the overlapping or redundant parties that difficulties arise. Thus, a proposed solution to this issue should define a process that takes advantage of converging interests, as well as resolving divergent interests.

The subcommittee conducted interviews with Town and KICA professionals and reviewed the pertinent charters, covenants and laws that form the basis for the authority of the Town and the KICA. They also reviewed the chronology and the interaction of the two entities from their establishment to the present time. Based on these efforts, a picture of the relationship between the two organizations emerged.

The KICA was established in 1975. Charleston County, the only local government at that time, allowed the conditional

inclusion of functions normally performed by a municipality in the KICA covenants. Thus, when the Town of Kiawah Island was established [1988], the KICA had been providing some municipal functions for nearly 13 years without objection. As the town matured and became more capable, disagreements regarding the responsibility for these functions arose. The Town and the KICA had little or no difficulty separating roles in the majority of cases. Some disagreements were magnified, however, because of two factors: [1] high issue visibility (e.g. security and law enforcement) and [2] continuing change in town and association elected officials that tended to make agreements transitory.

In 1994, a major milestone was achieved with the signing of a development agreement between the Town and the island developer, Kiawah Resort Associates (KRA). This agreement impacted the KICA by establishing a specific timetable for transition of control of the KICA from the developer to the property owners. The agreement also has proven to be an effective method for delineating roles, authorities and responsibilities as evidenced by the fact that the Town and KRA have not had a major dispute since the inception of the agreement.

In the spirit of such agreements, this subcommittee recommends the establishment of a task group to address current and potential areas of overlap and redundancy between the Town and the KICA. Further, we define the composition, objectives and methodology for the task force to use in resolving differences between the Town and the Community Association. It is our belief that such a flexible mechanism will enable dispute resolution in a timely, cost effective and satisfactory manner. It will also provide a constructive standard for conflict management that can serve as a model for other Island entities. (See Appendix 7)

Appendix 7

Proposed Plan for the Formation of a Study/Conflict Resolution Team And a Resolution Sequence Model

The Study Team:

The ideal team would blend experience, expertise, historical perspective, and technical knowledge with fresh and innovative approaches to issue resolution. It is important to have experienced knowledgeable team members. It is equally important to have some team members who have not been part of the past who would bring new perspectives. A proposed team structure would be:

Voting Members (6 total):

- • One property owner to be selected each by the KICA Board and the Town. These two members could be members of Town Council and the KICA Board if desired, or whomever these bodies would deem appropriate.
- • Two property owners to be selected by KICA and two property owners to be selected by the Town. These selections would be made by utilizing a lottery system as follows:

- 1) 1) Lottery one would be composed of five volunteer property owners submitted by KICA and five by the Town. KICA and the Town would each pick randomly from their lottery for a representative.
- 2) 2) Lottery two would emulate lottery one except that the volunteers would-be chosen from among property owners who have less than two years residence on the Island or who are non-residents (in case of KICA).

Non-voting members:

- • The KICA Administrator and the Town Administrator
- • One facilitator whose credentials and experience are acceptable to both the KICA Board and the Town Council. All provisions should be made to allow the facilitator access to the Institute of Government and the Community Association Institute.

The Resolution Sequence:

1. As an initial action the team will try to identify all actual or potential redundancy/overlap issues inherent in the wording of the KICA Covenants and the South Carolina Home Rule legislation [Title 5, SC Code of Laws].

2. A potential [or real] issue emerges. This could result from the Study Team's review of the KICA Covenants and SC Code of Laws, or by request of the KICA Board or Town Council.

3 .The KICA and Town team members will proceed to identify, in writing, their interests relative to the issue. This will require candor - sharing what is desired as well as what is feared. These lists should be exchanged as a means of defining interests and sharing information. Through this process it will be possible to identify both convergent and divergent issues. Recognition of converging interests will help to provide a constructive foundation for the consideration of the divergent concerns. Identifying interests in advance clarifies the domain of the resolution needed.

4, Each party will identify their resources, distinctive competencies and legal responsibilities with respect to the issue. At this stage a process for resolution may appear.

5. If it turns out that the issue is, as a matter of law, the sole purview of one party or the other, it is imperative to share this information with all property owners expeditiously. It will still be necessary to deal with converging interests [to achieve them] as well as seek a resolution to the problem that contributes to the satisfaction of both parties.

6. If divergent issues exist which are not matters of law, then it will be necessary to move toward the preparation of a memorandum of understanding [MOU]describing how the dispute will be resolved and assigning responsibilities for implementation of the solution. If necessary, a dispute resolution professional may be required to assist. If the issue is not resolved, the study team will prescribe the appropriate follow-on action, i.e., resolutions, referenda, etc.

7. All actions will require the endorsement and approval of the KICA Board and the Town Council. If either party fails to endorse and approve the problem resolution identified by the study team, then the study team will share their prescription [and attendant rationale] with property owners. This will promote the broadest possible consideration of the issues involved and provide a factual foundation for discussion in Island publications as well as in upcoming elections for KICA Board or Town Council members.