

MINUTES
Town of Lexington
Executive Sessions and
Council Work Session

August 20, 2018

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Town Council held the Council Work Session in the Eli Mack Room preceded by an Executive Session and followed by the Regular Council Meeting in the Council Chambers (*summer schedule*) on August 20, 2018 starting at 6:00 p.m. at Town Hall, 111 Maiden Lane, Lexington, South Carolina. The meetings were attended by: Mayor Steve MacDougall, Mayor Pro-Tem Hazel Livingston, Council Members Kathy Maness, Todd Carnes, Ron Williams, Steve Baker and Todd Lyle.

Staff members present were: Town Administrator Britt Poole, Assistant Town Administrator Stuart Ford, Municipal Attorney Brad Cunningham, Transportation Director Randy Edwards, Police Chief Terrence Green, , Utilities and Engineering Director Allen Lutz, Assistant Finance Director Laraine Wieder, Parks and Sanitation Director Dan Walker, Assistant Parks and Sanitation Director Johnny Dillard, Events and Media Coordinator Jennifer Dowden, Digital Media Coordinator Darrell Pritchard, Assistant Municipal Clerk Karen Hanner, and Municipal Clerk Becky Hildebrand.

There were approximately five (5) citizens present for the Council Work Session and no members of the news media were present.

OPENING STATEMENT

Mayor MacDougall welcomed everyone to the Council Work Session. He read an opening statement to explain the procedures of a Council Work Session which stated: *“Work Sessions are less formal business meetings that enable Council to obtain and discuss information regarding Town issues from Staff members and/or consultants. Like Regular Council Meetings, citizens are encouraged to attend and observe Work Sessions; however, they do not include Public Hearings, but do allow for public comment at the end of the Work Session unless otherwise called on by Council. Council does not take an action vote on items during a Work Session other than to vote to place an item on Council’s next Regular Council Meeting agenda for consideration and an official vote. Council Work Sessions are not tape recorded, but Minutes are taken and posted on the Town’s web page following approval of Council.”*

CALL TO ORDER: The invocation and Pledge of Allegiance were held during Council’s Regular meeting. Mayor MacDougall called the Council Work Session to order at 6:35 p.m.

EXECUTIVE SESSION REPORT

Mayor MacDougall reported that the *Executive Session* was called to order at 5:30 p.m. after a motion was made by Councilmember Lyle and seconded by Councilmember Baker to go into *Executive Session*. The motion was unanimously carried. Council adjourned from *Executive Session* at 6:30 p.m. after a motion was made by Councilmember Baker and seconded by Councilmember Carnes to reconvene the Executive Session following the Regular Council meeting. The motion was unanimously carried. Mayor MacDougall reported that pursuant to SC Code §30-4-70(a) (1) and (2), Council met in *Executive Session* to discuss: three personnel matters regarding two routine personnel reviews and one discussion of a potential position; four legal items regarding the Town's Election Ordinance, two issues regarding pending litigation and a potential source of fundraising for parks and trails; and four contractual items regarding a pending construction contract, two economic development issues and one pending SCDOT contract. No vote was taken. Five items were deferred to a continued Executive Session following the Regular Council Meeting. A motion was made by Councilmember Maness and seconded by Councilmember Baker to ratify the Mayor's report. The motion was unanimously carried.

DELETIONS: None.

APPROVAL OF MINUTES: Councilmember Williams stated that page 8 of the July 16, 2018 Council Meeting Minutes did not include their discussion regarding the Lexington Chamber during the Executive Session and he was not sure if the category was "legal" or "contractual". Mayor MacDougall stated that Council reported out from the second Executive Session, but the information was not given to the Clerk's office. Town Administrator Poole recommended that approval for the Minutes from the Regular Council Meeting and Council Work Session, both held on July 16, 2018, be delayed until the accurate wording could be determined and added as requested.

BUSINESS ITEMS: (For Discussion and Recommendation for Council's September 4, 2018 Regular Council Meeting.)

1. **First Reading of an Ordinance for the Authorization of Water and Sewer Revenue Bonds and Bond Anticipation Notes – Assistant Town Administrator Stuart Ford:** The Town's Water and Sewer system Capital Improvement Plan for Fiscal Year 2019 totals approximately \$14.4 Million. Additionally, the cost of the I-20 System may be finalized in the next several months and may require interim financing. The overall financing plan includes a mix of capital contribution fee income, retained earnings, bond issuances and State Revolving Fund ("SRF") loans. Accordingly, the financing plan requires a Supplemental Bond Ordinance to authorize Water and Sewer Revenue Bonds and BANs. The Supplemental Ordinance will

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authorize various series of Bonds and BANS which in total will not exceed \$19.5 Million. BANS are expected to be issued to provide interim financing for capital projects including the Cromer Road Pump Station and Upgrades to Water Pumping Capacity at the Lake Murray Water Treatment Facility in addition to the resolution of the I-20 System acquisition. Permanent (long-term) Bond financing is anticipated in Fiscal Year 2021 upon completion of the projects. State law allows for BANS to be issued with maturities of up to one year. The use of low interest short-term BANS is designed to minimize overall financing costs and maintain financial flexibility during the construction phase.

A motion was made by Councilmember Maness and seconded by Councilmember Carnes to place the item on Council's September 4, 2018 agenda for First Reading. The motion was unanimously carried.

2. **Meals on Wheels Program – Municipal Clerk Becky Hildebrand:** The Lexington County Recreation and Aging Commission's Council on Aging Program requested support from the Town of Lexington to heighten awareness of the circumstances that face many of Lexington County's aging individuals and to support the Meals on Wheels program. Council donated \$500 to Meals on Wheels each year from 2015 to 2017. (Copy attached.)

A motion was made by Councilmember Carnes and seconded by Mayor Pro-Tem Livingston to place the item on Council's September 4, 2018 agenda for consideration. The motion was unanimously carried.

3. **Distribution of Handbills – Municipal Attorney Brad Cunningham:** In response to some resident's complaints, Town Council requested a Work Session discussion regarding the distribution of handbills. Complaints have been received that the items are causing litter in neighborhoods and that some of the distributors are continuing to deliver the items despite being requested to stop by the property owners. The issue was discussed several times in Municipal Law circles, and a ban on this type of distribution would almost certainly land the Town in Federal Court. In that light, some towns have looked at ways to regulate the distribution such as requiring the items to be delivered in certain places such as a porch, paper box container or within five feet of a mailbox. However, monitoring regulations such as these can prove challenging. The Attorney General's office previously issued an opinion that this type of delivery does not constitute "litter" under the definition contained in the State Code.

Councilmember Williams asked if the handbills landed in the road, the right of way, or pavement was it considered litter. Municipal Attorney Cunningham stated that it was still thrown somewhere whether it was litter or not. Town Administrator Poole stated that the most recent Attorney General's opinion that Mr. Cunningham mentioned was that question exactly. He added

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that the Sheriff requested the opinion because someone complaining about the handbills landing in the road. Councilmember Williams confirmed that the Town would have to pass an ordinance requiring that the handbills be placed in a paper box or on the front porch. Municipal Attorney Cunningham stated that it is a monitoring issue and Council could consider an ordinance if they felt it was necessary. He added that the “opt out” option should work but there are cases where the company kept delivering the flyers. He thought in those cases you have a better basis for a complaint because you have asked the company to not do something to your property yet they continued.

Councilmember Carnes stated that there does not appear to be an obvious remedy, but he suggested that Staff call the companies that are delivering the flyers and tell them that Council is contemplating a restrictive ordinance to impose on them which will carry a significant fine if they do not leave the flyers on porches and they need to abide by their “opt out” list. Municipal Attorney Cunningham stated that he did not know if anyone had called the companies and it would be a novel approach and the companies could also be told that they must have an “opt out” procedure which must be honored.

Mayor MacDougall recommended that a letter be sent to the companies signed by all the Councilmembers advising them that the Town respectfully request that they honor their “opt out” policy. Municipal Attorney Cunningham stated that there are citizens that want the flyers because of coupons that may be included. He added that the largest complaint comes from citizens that do not want the flyers and have requested to “opt out”.

Councilmember Lyle stated that it is not only about the “opt out”, it is also about the pink plastics bags that are left on the street which show who might be out of town for a week or two. He stated that it was not unreasonable to institute something similar to the 6th Circuit Court case in Kentucky that required the company to place the handbills in a certain place. Councilmember Lyle added that he agreed with sending a letter and it should also state that if it is determined that they are not honoring their “opt out” agreements, then perhaps the Town would institute an ordinance similar to the one upheld in the 6th Circuit Court in Kentucky.

Mayor MacDougall directed the Town Administrator to draft a letter and have each Councilmember sign it. He confirmed that all the Councilmembers agreed to send a letter. Town Administrator Poole confirmed that the pink plastic bags came from The State newspaper.

FOR YOUR INFORMATION

1. **Façade Improvement Grant Award – Director of Planning, Building and Technology John Hanson:** The Town of Lexington Board of Architecture and Appearance met on Wednesday, August 2, 2018 and voted to award one Façade Improvement Grant. The Clark Group of SC received a \$10,000

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award to complete façade improvements to the office building located at 220 East Main Street. The property is being renovated to accommodate a Colonial Life Insurance office and an Appraisal office. Council was requested to accept this as information and direct the summary be recorded in the minutes of this Work Session.

COUNCIL/STAFF COMMENTS: None.

PUBLIC COMMENTS

Mr. Todd Shevchik, 124 Deerglade Run, stated that in reference to the letter to The State newspaper, they should also have a Town Business License for selling product within the Town which should help with some leverage. He also wished to update the Councilmembers on a meeting held by the Mallard Lakes Homeowners Association regarding their ponds. He added that Mayor Pro-Tem Livingston and Councilmember Williams attended the meeting and he wanted to make sure everyone was on the same page because there would be another meeting tomorrow. Mr. Shevchik stated that because of all the floods the ponds in Mallard Lakes have a lot of trees growing in them. He added that due to DHEC and their awesomeness, they made legislation that requires the trees in the ponds to be removed in a certain time frame by the HOA. Mr. Shevchik explained that some of the land in Mallard Lakes, where the trees are located, is co-owned as right of ways by the Town of Lexington. He indicated that the second problem was that their HOA was never legally formed because it was done “old school”. He asked Council’s permission to meet with the Municipal Attorney to some advice how to set guidelines in that there may have to be some liens placed on people’s property if they do not pay dues in order to pay for the tree removal. He also requested that Mallard Lakes could work with the Town’s Transportation Director Edwards who is coordinating engineering for the Town’s part of the right of way. Mr. Shevchik stated that based on the discussion at their meeting, whoever does the project for the Town’s portion should do Mallard Lakes’ portion at the same time for economic reasons. He added that they want to make sure that Mallard Lakes contributes their fair share to the Town.

Mayor Pro-Tem Livingston stated that the Municipal Attorney already has the Council’s permission to assist any subdivision with forming an HOA if they are located in the Town. She added that David and Kim Campbell are already working closely with Mr. Edwards to get everything done. Mayor Pro-Tem Livingston stated that it is a big project. Mr. Shevchik agreed that it is a big project, especially with the engineering, so they hoped to share that cost so they would not have to separately hire an engineer.

Mayor MacDougall thanked Mr. Shevchik for bringing the information to Council. He directed the Town Administrator to update the Council on any issues following the meeting tomorrow.

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Mr. Shevchik also requested that five (5) officers be added to the Lexington Police Department due to growth and crime in Lexington. He added that Parks and Sanitation Director Walker could also use additional staff. Mr. Walker added that they did pick up a lot of trees at the dam in Mallard Lakes today.

NEWS MEDIA COMMENTS: None.

ADJOURNMENT: A motion was made by Councilmember Maness and seconded by Councilmember Baker adjourn the Council Work Session. The motion was unanimously carried. The Council Work Session adjourned at 6:55 p.m.

Respectfully submitted by:

Becky P. Hildebrand, CMC

APPROVED BY:

Steve MacDougall
Mayor

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FOIA COMPLIANCE – Public notification of this meeting was published, posted and mailed in compliance with the Freedom of Information Act and the Town of Lexington requirements.