

**MINUTES**  
**Town of Lexington**  
**Executive Session and**  
**Council Work Session**

September 17, 2018

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Town Council held an Executive Session followed by a Work Session on September 17, 2018 at 5:30 p.m. in the Eli Mack Sr. Room located at 111 Maiden Lane, Lexington, South Carolina. The meetings were attended by: Mayor Steve MacDougall, Mayor Pro-Tem Hazel Livingston, Councilmembers 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, Planning, Building and Technology Director John Hanson, Assistant Zoning Administrator Jessica Lybrand, Economic Development Johnny Jeffcoat, Parks and Sanitation Director Dan Walker, Events and Media Coordinator Jennifer Dowden, Assistant Municipal Clerk Karen Hanner, and Municipal Clerk Becky Hildebrand.

There were four (4) citizens present and no members of the news media were present.

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**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.”*

**INVOCATION, PLEDGE AND CALL TO ORDER**

Councilmember Baker gave the invocation. Councilmember Lyle led in the Pledge of Allegiance. Mayor MacDougall thanked Councilmember Lyle for his service to our country and called the Council Work Session to order at 7:16 p.m. Mayor MacDougall welcomed two students to the meeting.

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**EXECUTIVE SESSION REPORT #1**

Mayor MacDougall reported that the *Executive Session* was called to order at 5:30 p.m. after a motion was made by Councilmember Maness and seconded by Councilmember Baker to go into *Executive Session*. The motion was unanimously carried. Council adjourned from *Executive Session* at 7:15 p.m. after a motion was made by Councilmember Baker and seconded by Councilmember Carnes. 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 legal issues regarding pending litigation and advice on an existing ordinance; four contractual items regarding three economic development issues and issues regarding utility providers; and one personnel item regarding a routine personnel review. No vote was taken. A motion was made by Councilmember Carnes and seconded by Mayor Pro-Tem Livingston to ratify the Mayor's report and to reconvene the Executive Session following the Work Session to continue the discussion of one item. The motion was unanimously carried.

**DELETIONS ON AGENDA:** There being no objection from Council, Mayor MacDougall recommended removing item #6 (Recycling Cost).

**APPROVAL OF MINUTES:** A motion was made by Councilmember Maness and seconded by Councilmember Carnes to approve the minutes for Council's regular meeting held on September 4, 2018 as submitted. The motion was unanimously carried.

**PRESENTATIONS:** None.

**BUSINESS ITEMS:** (For Discussion and Recommendation for Council's October 1, 2018 Regular Council Meeting.)

1. **Electric Service Areas for SCE&G and MCEC – Municipal Attorney Brad Cunningham:** In an effort to prevent service disputes, SCE&G and MCEC tentatively agreed to a new map delineating their service areas. Each of the respective entities serves customers in the corporate limits of the Town of Lexington and acquiescence to the agreement is requested from the Town of Lexington. (Copy attached.)

**Mr. Troy Simpson**, Vice President of Member Services for Mid-Carolina Electric Cooperative, stated that this is something they are already doing because the map indicates Mid-Carolina or SCANA. He added that it just cleans up the map and sets it up for the Franchise Fee Agreement.

**Ms. Morgan Harrell**, Government Relations for SCANA, was also present and agreed with Mr. Simpson's statement.

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A motion was made by Councilmember Baker and seconded by Councilmember Maness to place the item on Council's October 1, 2018 agenda for consideration. The motion was unanimously carried.

2. **Amendment of §34.38 of the Town of Lexington Code of Ordinances Regarding Filing by Candidates for Mayor and Council – Municipal Attorney Brad Cunningham:** Town Council is being asked to consider changing its method of qualifying candidates for the Municipal Election Ballot. Currently State Law allows either the Petition method, which the Town currently uses, or the filing of a Statement of Candidacy and payment of a filing fee. There is currently little guidance on the allowed amount of the filing fee for non-partisan municipal elections. There is some concern that a fee which is too high may be seen as inequitable. Attached is a list of filing fees for other jurisdictions in South Carolina. Although the Town uses the non-partisan method, the partisan method does provide some guidance in that the fee is set as 1% multiplied by the annual salary for the office multiplied by the number of years in the term of the office. Also attached is a draft of the proposed ordinance, as well as a sample Statement of Candidacy. (Copies of application attached.)

A motion was made by Councilmember Carnes to place the item Council's October 1, 2018 agenda for consideration of changing the method of voting to a filing fee in the amount of 1% of the total salary for a four year term. There being no second, the motion failed. A motion was made by Councilmember Lyle and seconded by Mayor Pro-Tem Livingston to place the item on Council's October 1, 2018 agenda for consideration of changing the method of voting to a filing fee in the amount of 1 ½% of the total salary for a four year term. The motion was unanimously carried.

3. **Lexington District One Educational Foundation Celebration of Excellence in Education – Town Administrator Britt Poole:** Town Council budgeted \$1,000 for the Lexington District One Educational Foundation Celebration of Excellence in Education event each year since 2013. Ms. Julie Washburn, Executive Director, asked if Council would consider increasing the Town's sponsorship level to a Diamond Sponsor level of \$2,500.

Mr. Poole added that Ms. Washburn was present and would like to address Council for five minutes.

**Ms. Julie Washburn**, Executive Director, Lexington District One Educational Foundation stated that the Foundation appreciates the Town and their sponsorship over the past years. She added that the cost to host the Celebration of Excellence event has increased in cost and has grown in the number of participants. They honor the top 10% of students at the area high schools and allow them and their parents to attend free plus grants and

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scholarships that they provide. She stated that sponsorships are very important. Ms. Washburn added that they have been very fortunate to have sponsors like the Town.

Councilmember Carnes asked what the total budget was for the event. Ms. Washburn responded that it has cost just under \$30,000 and that is with her and her staff being very frugal with expenses. She added that the venue and catering is the highest expense but the District does not have a place large enough to seat 700 people.

A motion was made by Councilmember Maness and seconded by Councilmember Lyle to place the request on Council's October 1, 2018 agenda for consideration. The motion was unanimously carried.

4. **Discussion of the Chamber of Commerce's Proposed Changes to the Sign Ordinance – Director of Planning, Building and Technology John Hanson:** The Town recently received a list of requested amendments to the Sign Ordinance that the Chamber of Commerce would like to see adopted. A copy of the proposed amendments was provided for Council's review. (Copies attached.)

Mayor Pro-Tem Livingston stated that she was at the Chamber during the Sign Ordinance discussion. She added that some of the items requested could be done, but other items cannot. A motion was made by Mayor Pro-Tem Livingston and seconded by Councilmember Baker to give the requests to Staff to research the feasibility of each request and return it to Council with legal guidance and recommendations. Mayor Pro-Tem Livingston further stated that she had let the Chamber know that she was going to make this suggestion before Council makes any decisions. The motion was unanimously carried.

5. **Set Off Debt Collection Program – Finance Director Kathy Pharr:** The Town currently participates in the Setoff Debt Collection Program offered by the SC Department of Revenue through the Municipal Association of SC. The program withholds income tax refunds from individuals to pay past due water and sewer fees when the individual has left the Town without paying their final bill. Over the last three years, the Town has collected an average of approximately \$10,000 in bad debts using this program. To continue participation in this program, the Town must adopt the attached Ordinance and sign the attached Agreement with the Municipal Association of SC. (Copies attached.)

A motion was made by Councilmember Maness and seconded by Mayor Pro-Tem Livingston to place the item on Council's October 1, 2018 agenda for consideration. The motion was unanimously carried.

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6. (Deleted) **Recycling Cost – Director of Parks and Sanitation Dan Walker.**
  
7. **Lexington Sertoma Club Sponsorship Request – Municipal Clerk Becky Hildebrand:** The Lexington Sertoma Club will hold their annual Big Thursday event in the Town’s Conference Center on October 18, 2018. Mr. Butch Ballington contacted Mayor MacDougall and requested a \$500 Field Goal Sponsorship which would reserve a table for eight at the event. Council’s Contribution Budget for 2018/19 has a remaining balance of \$6,350. (Copies attached.)

A motion was made by Councilmember Carnes and seconded by Councilmember Maness to place the request on Council’s October 1, 2018 agenda for consideration. Councilmember Carnes added that Big Thursday is a great event. Mayor MacDougall stated that the Lexington Sertoma Club recently gave the Town a check for \$15,000 for two structures and signs at the Lexington Paw Park. He added that there would be an unveiling soon. The motion was unanimously carried.

8. **Discussion of Amendment to the Lane Closure Ordinance – Transportation Director Randy Edwards:** Council requested to have a discussion regarding an amendment to the “Restrictions for Daytime Lane Closures Due to Construction on US 1, US 378 and SC 6 Ordinance”. A copy of the current Ordinance #2018-11, dated March 5, 2018 was provided for Council’s review. (Copy attached.) Mr. Edwards stated that the current ordinance limits the closure to two hours and is inclusive from start to finish in the Town limits. He added that there are cases where a lane could be closed for the best part of a day to install a decel lane. He gave the example of Mungo Homes building the Madison Park subdivision on Highway 378. He stated that they could do their work between 9:00 and 3:00 and not be forced to do the work at night. Mr. Edwards stated that he would like to modify the existing ordinance and he would bring back some language to Council which would give Staff the authority to work with the contractors on specifics and to require a Lane Closure Permit which was recently developed. Council was provided a copy for review. (Copy attached.) Mr. Edwards added that the current language simply forbids work during the day.

Town Administrator Poole stated that regardless if the contractor has the Lane Closure Permit and has obtained approval, if at any time the lane closure creates a safety issue, the Police Department has the authority to cut it off at any time.

Mayor Pro-Tem Livingston asked if the form included a step to notify Council prior to all lane closures so they could answer questions when citizens call. Mr. Poole stated that it was not on the form.

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Councilmember Lyle stated that he understood that after the July incident, that Council wanted the opportunity to discuss any material changes. He gave the example if a lane is closed for 30 minutes, Council would not be called, but if it was a Friday morning during peak rush hour and the entire traffic flow was shut down, Council would want to know about it. Mr. Poole clarified that is why the item is on the agenda because Council requested to discuss it and to include any recommendations from Mr. Edwards.

Councilmember Carnes clarified that this request is for a contractor who is seeking to do private work on a DOT road and has obtained Encroachment Permit from DOT. However, if DOT decides to do their own work, the Town has no authority. Mr. Poole agreed. Councilmember Carnes asked if the Lane Closure Permit included the discretion that Staff is requesting. He added that he liked discretion because hard rules can make you do stupid things sometimes. Mr. Edwards explained that the permit is open to Staff's interpretation as to what work is being described by the contractor. He added that the permit also gives Staff the ability to understand their plan and Staff can agree or disagree based on the window of time available. He stated that the permit would also allow work do be done on certain roads during the day as opposed to a hard rule of 9:00 to 3:00. He added that DOT will not allow a rush hour closure. Mr. Edwards stated that is one thing they have had difficulty policing because Mr. Hanson's Staff informs the contractor that they can only close for two hours and he gets a call to see if he knows about it and the answer is no. He added that the language in the Building Permit will state that you must obtain a Lane Closure Permit from the Town then a Police Officer would ask to see the permit and if it was obtained and approved the officer could move on. Mr. Edwards stated that now no one knows when they started so it can be policed as to when to stop. Councilmember Carnes asked if DOT has a Lane Closure Permit when someone obtains their Encroachment Permit. Mr. Edwards responded yes, but it is not as restrictive which has been part of the challenge because they may issue a permit for 9:00 to 4:00 Monday through Friday. Mr. Poole stated that none of that language is in the permit now because it is just now being discussed. He added that following the discussion, Staff will work on the language and bring an item back to Council to include the recommended language.

Councilmember Lyle stated that he appreciated the effort but he did not want the Town to become so burdensome administratively that we make people fill out a form when there might be only a slight deviation from their DOT permit and the Town complete a bottom section or copy the DOT permit indicating any deviation. He added that no one wants to fill out a lot of paperwork. Mr. Poole stated that the Lane Closure Permit was internally generated with whatever questions that would be necessary to make decisions. He responded yes, the Town could use the DOT permit or make a copy of it because it is not necessarily the contractor that has to complete it. He added that either way would be acceptable. Councilmember Lyle stated

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that he trusted Staff to do what they need to do and he thought Staff understood the intent, but for the record he wished to state that he would appreciate it if the spirit of this issue would follow down the road that the desire is to not fill out a lot of reductant forms, but to become more efficient in the process. He further did not want the contractors to be annoyed that they had to fill out more forms with the Town. Mr. Poole stated that the Town has done a lot over the past few years to get to that point, especially in the Business Center and he thought the request was reasonable to copy any of the duplicate information from the DOT form and if the request is allowed the Town's permit could be attached to the DOT permit. Mr. Poole stated that he and Mr. Edwards, Mr. Hanson and Chief Green had met to talk about the issues they were running into such as people doing work that was not approved. He added that a new process would take some getting used to but they wanted to make it as easy as possible. Mr. Poole stated that Chief Green told him in order to make it easy for the officers when they pull up on a project, they can readily identify that they have permission. He added that where the permit idea came from in order for the contractor to have a document in hand to show the Police Officer that they are within the approved time frame for the work they are doing. Mr. Poole stated that the information on the form is more important internally than for the officer. Chief Green asked if the contractor provided the DOT permit, how would the officers know the start and stop time. Mr. Poole responded that the Town's permit would show the times and that is what the officer would request.

Councilmember Carnes stated that he agreed with Councilmember Lyle because the company he works for is doing a job and they just got a Land Disturbance Permit from the County and then they had to also get one from the Town and that is aggravating to a developer. He added that one cost \$2,300 and one cost \$700. Mr. Poole stated Councilmember Carnes must have obtained a Grading Permit. Mr. Hanson stated that they would not have been required to get a Grading Permit if they had not wanted to start the job before they obtained a Building Permit. Councilmember Carnes asked Mr. Edwards if he was requesting for discretion to have more leniency than the DOT permit with their parameters to allow anything from 9:00 to 4:00. Mr. Edwards responded that in February or March, Council passed an ordinance to allow a two hour lane closure and nothing more which is restrictive in a lot of areas. He added at that time they didn't think about how they may need to flex from being inside where there is almost no permit allowed, in spite of what DOT says, because we really don't want anyone working on North Lake outside of Lexington Elementary School all the way to Madison Park or the new hotel near I-20, depending on the time of day. Mr. Edwards stated that to answer the question, yes, some more flexibility but inside the window and allow Staff to give some and restrict some. He gave the example of Coldwell Banker and stated if there had been a permit for that specific job, they would not have allowed any work during the day because of where it is located. He added that DOT blanket permission for a US Highway 9:00 to 4:00. Mr. Edwards stated that no matter the time of day or the time of year,

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closing a lane creates a problem. He added that the current ordinance allowed Coldwell Banker to do it and they were there from 9:00 to 11:00. Mr. Poole clarified that Mr. Edwards is not asking to be more lenient than DOT, that would be the maximum, and the Town would restrict it from there based on the circumstances. Councilmember Carnes asked how laborious would it be for Staff to review each project and set all the restrictions within the DOT parameters. Mr. Edwards responded that compared to what happens now, he receives a call from the officer and he has no idea about the project, then he has to run out to the project, meet with the contractors, figure it out, which was the case with Lidl and it was a disaster. He added that a little effort on the front end would save them from those situations and the Town permits could be handled by Ms. Lybrand's level to obtain all the information for him to review it, followed by being signed off on by himself and Mr. Poole.

Mayor MacDougall asked if the contractors are already coming in to fill out paperwork. Mr. Edwards responded that it would probably be considered an extra trip. Mr. Poole stated that they start with a Building Permit and the Lane Closure Permit would be given to them at that time and would not cost an additional fee, but it would help to schedule the work. Mayor MacDougall asked if the information could transfer to the permit automatically so the contractor would not have to fill it out again. Mr. Poole stated that he would have to check on that process. Mr. Hanson stated that he did not see this being part of the Building software package, but whatever information Mr. Edwards and Mr. Poole needed to make a decision, that's all the information they would need to obtain.

Mayor Pro-Tem Livingston stated that the Town needs this permit. Mr. Poole stated that he did not disagree that this is an extra effort and he agreed that the paperwork should be reduced, but if Council wanted to control when people are working on the roads in Town, then the contractors will have to come in and get some type of permit because without doing it does not work. Mayor Pro-Tem Livingston stated that it would be an improvement to know what was going on. Mayor MacDougall agreed and added that he also needs the flexibility in order to move the projects forwards. Mayor Pro-Tem Livingston asked that Council be advised of what is going on with lane closures. Mr. Poole asked what level Council would want to be notified. Mayor Pro-Tem Livingston stated that she had faith in his judgement, and if it is near Hobby Lobby, they need to know about it. Councilmember Maness stated that if the lane is only closed for an hour, Council does not need to be notified, but it's as simple as sending an email. Mr. Poole responded that he would be glad to send an email, but he wanted to make sure he knew which level Council would want to be notified, because an hour closure may not be important to Councilmember Maness, but it might be important to Councilmember Williams. Mayor Pro-Tem Livingston directed Mr. Poole to use his best judgement and if it became a problem they would let him know. Councilmember Maness agreed and added that she would rather hear from

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Mr. Poole about a lane closure than to have one of her neighbors call her about it.

A motion was made Councilmember Carnes and seconded by Councilmember Maness to give Mr. Edwards and Staff the discretion to modify the ordinance in such a way that would give them real discretion and at the same time do a minimalist application in light of DOT's permanent ordinance being in place and to place the item on Council's October agenda for consideration. Councilmember Carnes further requested that once Staff has the wording for the ordinance and for the permit to go ahead and email it to Council prior to the meeting. The motion was unanimously carried.

**PUBLIC COMMENTS:** None.

**COUNCIL/STAFF COMMENTS**

**Mayor MacDougall** requested to see Town Administrator Poole and Chief Green for five minutes following the meeting.

**ADJOURNMENT:** There being no objection from Council, Mayor MacDougall adjourned the Council Work Session at 7:55 p.m. and called to reconvene the Executive Session to continue the discussion of one item.

**EXECUTIVE SESSION REPORT #2 (continued from 7:15 p.m.)**

Mayor MacDougall reported that the continued *Executive Session* was called to order at 8:00 p.m. to continue the discussion of one item. Council adjourned from *Executive Session* at 8:35 p.m. after a motion was made by Councilmember Maness and seconded by Councilmember Carnes. The motion was unanimously carried. Mayor MacDougall reported that pursuant to SC Code §30-4-70(a) (1)(2) Council met in *Executive Session* to continue the discussion of one item. No vote was taken. A motion was made by Councilmember Maness and seconded by Councilmember Baker to ratify the Mayor's report. The motion was unanimously carried.

Respectfully submitted by:

Becky P. Hildebrand, CMC

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APPROVED BY:

Steve MacDougall  
Mayor

*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.*