

MINUTES
Town of Lexington
Executive Session and
REGULAR COUNCIL MEETING
April 1, 2013

Town Council held an Executive Session at 5:30 p.m. followed by a Regular Council Meeting at 6:30 p.m. on April 1, 2013 in the Eli Mack Sr. Room and Council Chambers. The meetings were attended by: Mayor Pro-Tem Hazel Livingston, Council Members Kathy Maness, Ted Stambolitis, and Steve MacDougall. Mayor Randy Halfacre, Councilmember Danny Frazier and Councilmember Todd Shevchik were absent (excused).

Staff members present were: Town Administrator Britt Poole, Assistant Town Administrator Stuart Ford, Municipal Attorney Brad Cunningham, Police Major Jay Koon, Director of Planning, Building and Technology John Hanson, Community and Economic Catalyst Johnny Jeffcoat, Utilities and Engineering Director Allen Lutz, Finance Director Kathy Roberts, Events and Media Coordinator Jennifer Dowden, Network Administrator Darrell Pritchard, Assistant Municipal Clerk Karen Hanner, and Municipal Clerk Becky Hildebrand.

There were approximately sixty (60) citizens present for the Council Meeting and two members of the news media.

EXECUTIVE SESSION REPORT

Mayor Pro-Tem Livingston 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 MacDougall to go into *Executive Session*. The motion was unanimously carried by all those present. Council adjourned from *Executive Session* at 6:37 p.m. after a motion was made by Councilmember Maness and seconded by Councilmember Stambolitis. The motion was unanimously carried by all those present. Mayor Pro-Tem Livingston reported that Council met in *Executive Session* to discuss: one routine personnel issue; three contractual issues related to “Project Icehouse”, proposed sale of Barr Pond and development at Mill Pond; and, one legal update on the status of condemnation litigation suit. No vote was taken. A motion was made by Councilmember Maness and seconded by Councilmember Stambolitis to ratify Mayor Pro-Tem Livingston’s *Executive Session* report. The motion was unanimously carried by all those present.

INVOCATION, PLEDGE OF ALLEGIANCE AND CALL TO ORDER: Mayor Pro-Tem Livingston welcomed everyone to the meeting and introduced the Council Members. She announced that Mayor Halfacre and Councilmembers Frazier and Shevchik were out of town. Pastor Robbie McAlister, Riverbend Community Church, gave the invocation. Councilmember MacDougall led in the Pledge of Allegiance. Mayor Pro-Tem Livingston called the meeting to order at 6:47 p.m.

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

APPROVAL OF MINUTES: A motion was made by Councilmember Maness and seconded by Councilmember MacDougall to approve the minutes from Council's Work Session held on March 18, 2013. The motion was unanimously carried by all those present.

PRESENTATIONS

1. **Proclamation for National Mayor's Day of Recognition for National Service – Councilmember Kathy Maness:** Councilmember Maness read a Proclamation declaring April 9, 2013 as National Mayor's Day of Recognition for National Service Day. She thanked Philadelphia Mayor Michael Nutter for bringing this first ever day to recognize those who serve and volunteer their talents for the betterment of the community. (Copy attached.)

TRAFFIC UPDATE

Mayor Pro-Tem Livingston provided an update on the Town of Lexington's continuing efforts to improve traffic. (1) The Phase I Traffic Plan is under construction and 20% complete. Most of the work on Butler Street is complete which includes complete resurfacing. The contractor will be doing storm water work along Columbia Avenue and retention at Riley's Drug old location during the next few weeks. (2) The Town will bid \$1.2 million in road resurfacing and repair projects in May. Mayor Pro-Tem Livingston asked if anyone has any traffic issues to please contact 359-1027. The next Traffic Committee meeting will be held on April 16, 2013 at 8:00 a.m. in the Eli Mack, Sr. Room.

PUBLIC HEARINGS

Mayor Pro-Tem Livingston called the Public Hearing to order and requested that those wishing to speak limit their comments to five minutes.

1. An Ordinance Annexing 108 Hope Ferry Road (TMS #4496-01-009).

There being no comments, Mayor Pro-Tem Livingston declared the Public Hearings closed.

OLD BUSINESS

1. A motion was made by Councilmember Stambolitis and seconded by Councilmember MacDougall to approve **Final Reading of an Ordinance Annexing 108 Hope Ferry Road, TMS #4496-01-009**. Councilmember Maness requested that the Planning Commission review any plans for this location because it is a very busy intersection near her neighborhood. Town Administrator Poole responded that the owner has three lots and the general rule

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

is if there is more than one lot or more than one building, the item would go to the Planning Commission for review or if there are extraordinary conditions. He confirmed that Walgreen's did go to the Planning Commission. Councilmember Stambolitis confirmed that there is not currently a potential buyer for the property. Mr. Hanson confirmed that plans had not been submitted at this time. The motion was unanimously carried by all those present.

NEW BUSINESS

1. **5th Annual Neighborhood Reunion Celebration Fee Waiver Request:** The Neighborhood Reunion Committee is hosting the 5th Annual Celebration and Block Party on Friday and Saturday, September 13 and 14, 2013. The organization asked for a Fee Waiver for Friday, September 13th for the Eli Mack, Sr. Room. The event would take place after business hours. Following is the value for the 5th Annual Neighborhood Reunion Celebration: Rental Fee \$150 (In-Town) or \$200 (Out-of-Town). A deposit of \$100 would still be required. (Request letter attached.)

A motion was made by Councilmember Maness and seconded by Councilmember Stambolitis to approve the fee waiver request as stated. The motion was unanimously carried by all those present.

2. **Rental Fee Waiver for the American Cancer:** Ms. Staci Little and Ms. Lisa Couture with the American Cancer Society – Relay for Life Lexington County requested a rental fee waiver for their annual Cancer Survivor Dinner on April 30, 2013. Following is the value for the American Cancer Society: Conference Center Rental Fee \$600 and Technology Fee \$75. A \$250 deposit would still be required. (Request letter attached.)

A motion was made Councilmember Stambolitis and seconded by Councilmember MacDougall to approve the fee waiver request as stated. The motion was unanimously carried by all those present.

3. **Town of Lexington Dog Park Guidelines/Contract/Name:** As part of the Vision Plan, the Town of Lexington will introduce new green space amenities to be enjoyed by the Town citizens. The newest park is for four-legged family members – the Town of Lexington Dog Park. The Advisory Committee spent the last five months researching neighboring parks and creating rules, regulations, annual fees, and a contract. A copy of the final rules, regulations, and contract were presented to Council. (Copies attached.) The Advisory Committee also selected the name *Lexington Paw Park*. Ms. Dowden thanked the Advisory Committee for working on the project.

A motion was made by Councilmember MacDougall and seconded by Councilmember Maness to approve the Town of Lexington Dog Park rules, regulations, contract, and name as submitted. Councilmember

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

Stambolitis recognized County Councilmembers Jeffcoat and Banning and thanked them and the County for partnering with the Town and offering the property for the dog park if the Town maintained it. He further asked if the Town would place a sign at the park indicating the collaboration between the Town and the County. Councilmember Stambolitis stated that many citizens have asked him the details about the park such as: will there be a fence and how tall; date of completion; and, will information be posted on the Town's web page. He added that it would be important to put the dog park information on the Town's web page so citizens could know the specificities of the park. Ms. Dowden responded that there would be an eight-foot fence at the dog park. Mr. Poole stated that the park would not be completed until late summer because half of the project is budgeted during the next fiscal year. He also requested that the motion be amended to First Reading because it would require two readings since it included the approval of fees. Councilmember MacDougall amended his motion for First Reading approval for the Town of Lexington's Dog Park rules, regulations, contract, and name as submitted. Councilmember Maness thanked Councilmember MacDougall, Jennifer Dowden, and the Advisory Committee for coming up with the rules for the dog park. She added that people in Lexington love their dogs, so she hopes they will enjoy the new dog park. Councilmember Stambolitis seconded the amended motion which was unanimously carried by all those present.

4. **Re-Appointment of Assistant Municipal Judge:** Judge Leigh Leventis has worked part-time for the Town of Lexington for two years after his initial appointment, which has now expired. State Law allows the Municipal Judge to be appointed to a term of not less than two years, but not more than four years.

A motion was made by Councilmember Maness and seconded by Councilmember Stambolitis to approve the re-appointment of Leigh Leventis to a new two-year term. Councilmember Stambolitis expressed his deep pride and enjoyment in watching Leigh fulfill his role as a Judge for the Town of Lexington. He added that Leigh brings a lot of pride to the community as well as the Greek community. Councilmember Stambolitis thanked Leigh and his whole family for attending the meeting. The motion was unanimously carried by all those present.

Mr. Nick Leventis, brother of Leigh Leventis, read the Oath of Office. (Copy attached.) Judge Leventis thanked the Council and the Town of Lexington. He added that it doesn't get any better than being a Municipal Judge for the Town of Lexington. Judge Leventis stated that the Town is very user friendly and he thanked Britt Poole, Stuart Ford, Brad Cunningham, and Cliff Koon for always being there. He added that he has been practicing law for 34 years and he tries to make the court user friendly knowing that people are nervous to be there. He looks forward to his re-appointment and he hopes to get two more years. Councilmember Maness

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

added that she visits the courtroom periodically and Judge Leventis is wonderful and makes everyone feel at ease by explaining the process.

5. **Sale of Property Interest at Barr Pond:** The Town received an offer of \$60,000 (less its share of customary seller's closing costs) for its interest at Barr Pond (a/k/a Wildlife Pond). The Town owns water rights there and a small parcel of land adjacent to the Pond. Prior to the Water Contract with the City of West Columbia, it appeared at one time that the Town may need the pond as a water source. However, that no longer appears to be the case and the Town may wish to dispose of its rights in the pond.

A motion was made by Councilmember Stambolitis and seconded by Councilmember MacDougall to approve First Reading of the sale of property at Barr Pond as stated. Mayor Pro-Tem Livingston wished to make a statement prior to calling for discussion from Council. She stated that this is the First Reading for the item and Public Hearing and Final Reading would be May 6, 2013. She encouraged anyone that had questions or concerns about the sale of Barr Pond to contact Town Administrator Poole at 951-1665 so he can clarify any questions before the Public Hearing. She added if there were still questions, citizens can come back to Council to speak at the Public Hearing. Mayor Pro-Tem Livingston stated that Council entered into the agreement only after they were assured that people who use the pond were protected and would continue their rights and abilities to use the pond, which was clearly stated in the agreement that Council put forth for selling the pond. Councilmember Stambolitis stated that many were in attendance tonight to discuss their rights on the pond. He added that Council was doing what they could to protect all the citizens and he knew how important it was for a natural resource. He stated that he had talked to several members of Wildlife Pond and their concerns have been addressed in the past and will be in the future. Councilmember Stambolitis confirmed that: (1) anyone that purchases the property will have to abide by any previous agreements; (2) the reason the property was not sold before was because it was stopped by SCE&G because at one time the Town considered donating the property to SCE&G to release the Town from liability; and (3) last week someone approached the Town to buy the property and the Town was interested due to liability. He added that this purchase was what got the issue stirred up because the Wildlife members felt they had not been given the opportunity to purchase the Town's interest in the pond. Councilmember Stambolitis stated that it was not the Town's intention to find a purchaser, but a purchaser approached the Town. He read from the Quit Claim Deed that the Town signed which states: *"Subject to the non-exclusive right of access and use of the surface waters of Barr's Pond for recreational activities, specifically non-internal combustion engine powered boating and fishing for the tenants,, successors or assigns in title to Parcel B of said tract hereby retained by the Grantor. The Grantor reserves the right to withdraw and use water-both*

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

consumptive and non-consumptive uses and the right to assign its right in whole or in part. The Grantor also reserves an exclusive perpetual option to use the waters of Barr's Pond for the generation of electricity with an obligation on the part of the Grantee to lease to the Grantor herein the specific area necessary for the generation of power including the reservation of a blanket easement for the construction, maintenance and operation of power lines, substations...." (Copy attached.) Councilmember Stambolitis concluded that basically whatever rights were promised by SCE&G will carry on and the Town will try to perpetuate those rights. He advised the concerned citizens that there was still time to talk about the item between now and the next Council meeting. He asked those wishing to speak to hold their comments until the Public Comment section at the end of this meeting. Mr. Poole stated that the Municipal Attorney and the Town's Economic Development Catalyst would be attending a Wildlife Pond meeting tomorrow to further address questions. In addition he offered to meet with anyone who may have further concerns. The motion was carried with a vote of three (3) in favor and one (1) opposed (Stambolitis).

6. **An Ordinance Annexing 169 Highway 378 West, Lexington County Tax Map #004218-02-006:** Ms. Linda M. Hoover owns a property located at 169 Highway 378 West and petitioned for annexation. The property currently has three buildings with a couple of different businesses located on the site. Properties in Town near this property are zoned General Commercial (GC) and Highway 378 West is classified as an Arterial Road. The Planning Commission will review this annexation during their April meeting.

A motion was made by Councilmember MacDougall and seconded by Councilmember Stambolitis to approve First Reading of an Ordinance annexing 169 Highway 378 West as stated. The motion was unanimously carried by all those present.

COMMENTS

Mayor Pro-Tem Livingston wished Happy Birthday to all employees celebrating birthdays in April including Councilmember Kathy Maness. She expressed her sympathy to the family of Buddy Pinckney who passed away last week. She added that Buddy was a State Constable and a volunteer officer for the Town's Police Department and he would certainly be missed by many people in Lexington. Mayor Pro-Tem Livingston stated that last Wednesday she spoke to the Columbia College Government class regarding Women in Leadership. She added that it was a wonderful group of young men and women and she hopes to see them in public office one day. Mayor Pro-Tem Livingston wished to thank United States Senator Lindsey Graham for visiting Lexington last week. He went on a walking tour to see some of the Town's plans for Main Street. She added that Senator Graham was instrumental in obtaining road funding for the Town's Traffic Plan and she appreciated his commitment to the community. She

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

read a quote from Senator Graham which was printed on Patch.com: *“I think Lexington is one of the best models of what can happen when there’s a strong partnership between the city, the county and the business community.* Mayor Pro-Tem Livingston announced that the Town would be holding citizen and business input meetings to obtain feedback and ideas for the Town’s newest project, Project Icehouse located at the corner of Main Street and Church Street. She added that the meetings would be held in the Town’s conference center on April 16th at 9:00 a.m. and 6:00 p.m. and on April 24th at 9:00 a.m., 12:00 p.m. and 6:00 p.m. Renderings of the proposed project can be seen in the front window of the old Shirey Furniture building. She encouraged the public to come to the meetings and help be a part of this wonderful new addition to the Town. Mayor Pro-Tem Livingston reminded everyone that the Lexington Wine Walk is on May 11th and they still have room for sponsors. Ticket sales will be cut off at 4,000 which they expect to hit since Edwin McCain will be performing. Mayor Pro-Tem Livingston reminded everyone that the Herbs Festival would be held on April 13th at the Lexington Museum from 9:00 to 4:00. She added that they would hold several seminars and also have herbs and cookbooks available for purchase.

Councilmember Kathy Maness reminded everyone of the 13th annual Kids Day on Saturday, April 27th. She added that the event is moving to Butler Street this year and Butler Street will be closed. She congratulated Judge Leventis on his reappointment and she would look forward to seeing him on the bench for another two year term. Councilmember Maness asked everyone to watch out for the children who would be on Spring Break this week. She wished everyone a Happy Spring.

Councilmember Ted Stambolitis stated that during this Easter season he would like to thank God for sending Jesus to be our savior. He added that the recent television show “Bible” was fascinating and he hoped many people had a chance to watch it. Councilmember Stambolitis announced that the road work going on around West Main Street would be posted on the Town’s web page so citizens could be aware of temporary traffic changes. He added that there are many improvements going on and he wanted to the public to know exactly what was happening. Councilmember Stambolitis asked Staff to list all the new road repairs on the Town’s web page and Channel 2. He added that the \$1.2 million in repairs would start soon and he requested that Staff contact all the affected neighborhoods ahead of time so they could be made aware of any blocked roads and/or repairs. He wished everyone a Happy Easter.

Councilmember Steve MacDougall announced that this Saturday, April 6th from 10:00 to 2:00, the Lexington Countywide Stormwater Consortium is sponsoring Green Is Clean Day at the Lexington Square. He added that citizens could learn about backyard conservation from local experts. He stated that rain barrels or compost bins could be pre-ordered for pick-up at the event. For more information citizens could go to Lexington County’s web page, www.lex-co.com. Councilmember MacDougall encouraged everyone to come to Town Hall on April 13th from 8:00 to 12:00 where the Town, along with Keep America Beautiful, will hold the 7th Annual Great Lexington Clean Up. He added that also on April 13th from 8:00 to 12:00 at the old Courthouse

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

parking lot, the Town, in partnership with Lexington County and DHEC, will hold another Green Is Clean event – the Lawnmower Exchange Program.

Town Administrator Britt Poole wished everyone a Happy Easter. He wished Councilmember Maness a Happy Birthday on the 5th.

NEWS MEDIA

Mr. Terry Ward, Lexington Chronicle, wished to confirm that the 3 to 1 vote on the Barr Pond issue was a majority vote. Mayor Pro-Tem Livingston responded that the item did pass.

PUBLIC COMMENT

Mr. Ben Knight, 151 Jamestowne Court and member of the Lexington Wildlife Chapter, stated the general purpose of what they do as: The Chapter has been meeting at the Wildlife/Barr Pond since 1955 and the impact of the sale extends to the value of what they bring to community through events they have held throughout the years for Nancy K. Perry Children’s Shelter, Epworth Children’s Home, Disabled Veterans from Dorn VA Hospital, DNR Family Fishing Clinics, Boy Scout and Girl Scout Events, 4-H Shooting Sports, Riverbanks Zoo, Lexington Stormwater Consortium, Adopt-A-Waterway and Adopt-A-Highway. Mr. Knight stated that they were more than just a supper club like those started years ago by SCE&G and Southern Bell. He added that they value the pond for what they can contribute to the community through use of the pond. He asked how is it that the pond could not be donated to the Wildlife Chapter in 2000 or 2008 because of an agreement of donation in 1997 which stated “obligations assumed by town, the town shall assume an affirmation obligation to inspect, maintain and repair the Barr Pond dam in perpetuity”. Mr. Knight added that the Town may transfer the liability to a new owner, but the SCE&G agreement stated that the Town would have to maintain the dam in perpetuity.

Town Administrator Poole stated that the questions would be addressed at the next Council meeting and/or throughout the month. He added that the Town tried to donate the property but were not allowed to by the entity that had originally transferred it to the Town.

Mr. Tom McCants, 309 Mooring Lane and a member of the Lexington Wildlife Chapter, stated that the land and pond were not for sale, but someone approached the Town; however they were concerned that there was no bidding process. He added that the reported sale is for \$60,000 and Lexington County’s assessed value is \$293,000 which gave them further concern. He later stated that SCE&G’s contract called for the Town to have the responsibility in perpetuity. Mr. McCants stated that he was not debating the legality of the bid process, but that Council had a responsibility to the public.

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

Town Administrator Poole responded that the Town has a huge liability on the property and the \$60,000 sale would transfer that liability much in excess of the assessed value. He added that the dam work alone is an extreme amount of money. He stated that he was assured that the liability can be transferred and perpetuity means that the Town is responsible to make sure that happens into the future, but it does not mean that the Town cannot transfer that responsibility. He stated that the Municipal Attorney could explain that in more detail at the Wildlife Chapter meeting tomorrow night. Town Administrator Poole stated that there is no requirement to have a public bid when the Town sells a property by State Law. He added that the property was not up for sale nor was it listed for sale. He stated that Council has to have two readings and a Public Hearing to pass an ordinance to sell property and there not a requirement for a bid process.

Councilmember Stambolitis stated that Mr. Johnny Jeffcoat had presented a secondary option in case this sale fell through and that was for the Wildlife Chapter to present a back-up contract and then they would be next in line to purchase it. He added that this issue caught them off guard and he was disappointed that the Town was not allowed to donate the property a few years ago. He stated that there is a lot of liability with the pond that the Town does not want to keep and the dam needs to be repaired. He added that SCE&G gave them the go-ahead to sell the Town's interest in the pond. He stated that communications could have been better but with three parties involved anything could happen.

Mr. Richard Morgan, Wildlife Road, stated that the Wildlife Chapter had been the main part in making some repairs to the dam at Barr Pond over the years. He added that he was concerned that when the pond is transferred to someone else, and the new owner dissolves, who would be responsible for the dam repairs and liability. He added that he does not live adjacent to the pond, but lives near it and it is used for many good purposes.

Councilmember Stambolitis responded that Mr. Morgan had a good question and the Town would do their due diligence to find the answer. He asked Municipal Attorney Cunningham to get an answer by tomorrow.

Mayor Pro-Tem Livingston asked if there were more than one Wildlife association or would the entire membership be at the meeting tomorrow. One of the members responded that the meeting tomorrow was just Board Members. He added that the general membership meets on the fourth Monday of each month.

Town Administrator Poole stated that everyone understands the questions and Staff would make themselves available to answer any questions and if questions still persist by the next Council meeting, they could be addressed at the time. He agreed to have Staff available for the general meeting. One of the Wildlife members stated that Council was also invited to the meeting and they would have Shealy's BBQ.

MINUTES
REGULAR COUNCIL MEETING
April 1, 2013

Councilmember MacDougall stated that he could not attend that meeting, but he assured the members Staff would answer questions for them at the Board meeting tomorrow and if they still had concerns, Staff would let Council know and they would be addressed.

Mr. Nick Stomski, NAI Avant, representing the group contracted to purchase the pond from the Town, stated that he understood the main concern as the dam. He expressed that they would go through the process of a feasibility study and they would maintain, repair, or hold reserves for anything required by Lexington County or the Town, and they would include that whether it was through a Bond with the development or with a reserve set aside.

ADJOURNMENT

Mayor Pro-Tem Livingston thanked the Council Members and citizens for attending the Council meeting. She thanked those at home for viewing the Council meeting on Channel 2 and it will also be replayed several times during the week.

A motion was made by Councilmember Stambolitis and seconded by Councilmember Maness to adjourn the Council Meeting. The motion was unanimously carried by all those present.

The Regular Council meeting was adjourned at 7:28 p.m.

Respectfully submitted,

Becky P. Hildebrand, CMC
Municipal Clerk

APPROVED:

Hazel Livingston
Mayor Pro-Tem

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.