

MINUTES
Town of Lexington
Executive Session and
COUNCIL WORK SESSION

July 11, 2016

Town Council held a Council Work Session preceded by an Executive Session on July 11, 2016 at 5:30 p.m. in the Eli Mack Sr. Room, followed by Council's Regular Meeting held at 6:30 p.m. in the Council Chambers located 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, Ted Stambolitis, Todd Shevchik, Todd Carnes and Ron Williams.

Staff members present were: Town Administrator Britt Poole, Assistant Town Administrator Stuart Ford, Municipal Attorney Brad Cunningham, Town Prosecutor Cliff Koon, Police Chief Terrence Green, Planning, Building and Technology Director John Hanson, Economic Development Catalyst Johnny Jeffcoat, Utilities and Engineering Director Allen Lutz, Finance Director Kathy Roberts, Parks and Sanitation Director Dan Walker, Parks and Sanitation Assistant Director Johnny Dillard, Events and Media Coordinator Jennifer Dowden, Downtown Venue Promoter Walker Brewer, Jr. Network Administrator Darrell Pritchard, Assistant Municipal Clerk Karen Hanner, and Municipal Clerk Becky Hildebrand.

There were approximately twenty-five (25) present and no members of the news media were present.

CALL TO ORDER: 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.”*

Mayor MacDougall called the Council Work Session to order at 6:04 p.m.

EXECUTIVE SESSION REPORT

Mayor MacDougall reported that the *Executive Session* was called to order at 5:00 p.m. after a motion was made by Councilmember Stambolitis and seconded by Councilmember Maness to go into *Executive Session*. The motion was unanimously carried by all those present (5). (Councilmembers Shevchik and Williams were not present for the vote.) Council adjourned from *Executive Session* at 6:00 p.m. after a motion was made by Councilmember Maness and seconded by Mayor Pro-Tem

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Livingston. The motion was unanimously carried. Mayor MacDougall reported that Council met in *Executive Session* to discuss: two legal issues related to pending litigation and the sign ordinance; five contractual matters regarding a potential purchase of property, multi-media contract, emergency purchase contract, Title VI requirements pursuant to SCDOT contracts, operation of the Farmers Market; and two personnel matters regarding a routine department head review and Boards and Commissions qualifications and appointments. (*All pursuant to SC Code 30-4-70(a)(1) or (2). Council may take action on matters discussed in Executive Session.* No vote was taken. A motion was made by Councilmember Maness and seconded by Mayor Pro-Tem Livingston to ratify Mayor MacDougall's *Executive Session* report. The motion was unanimously carried.

DELETIONS TO AGENDA: None.

APPROVAL OF MINUTES: A motion was made by Councilmember Maness and seconded by Councilmember Carnes to approve the Minutes from Council's Work Session held on June 6, 2016 and Council's Regular Meeting held on June 6, 2016. The motion was unanimously carried.

PRESENTATIONS: None.

BUSINESS ITEMS: (Discussion and Recommendation for the August 15, 2016 Council meeting.)

1. **Noise Related to Construction Activities – Director of Planning, Building and Technology John Hanson:** Mr. Hanson was asked by Councilmember Maness to place an item on Council's Work Session agenda to discuss the Noise Ordinance as it relates to construction activities. The Noise Ordinance prohibits construction from occurring between the hours of 10:00 p.m. and 6:00 a.m. if the construction is within 500 feet of a residence. Recently the Town received complaints about construction noise at the Wellmore Assisted Living site.

Councilmember Maness added that she had received complaints regarding the noise at the commercial construction site close to Hope Ferry Plantation. She thought 10:00 p.m. was too late because there are small children in the neighborhood.

Mr. Hanson stated that he received a complaint for 8:45 p.m. The construction companies had asked to pour concrete at 2:00 or 3:00 in the morning, but those requests were denied. He added that they recently had a problem removing some rock and had used jack hammers. Mr. Poole stated that there were a few complaints about the workers coming to the work site early and the trucks made a lot of noise. He added that Mr. Hanson had addressed that issue with the company.

A motion was made by Councilmember Maness and seconded by Councilmember Stambolitis to place an item on Council's next Regular

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meeting agenda (August 15, 2016) to move the stop time back to 9:00 p.m. The motion was unanimously carried.

2. **Adjustment to the Re-Inspection Fee – Director of Planning, Building and Technology John Hanson:** Currently the re-inspection fee for a building project is \$25. This fee is only assessed after a project has failed the same inspection two separate times. This happens regularly with new neighborhood construction as the building superintendents working under heavy production deadlines will request inspections on work that has not been completed. In the process, the Inspectors are required to revisit a site several times before the work can be determined to meet the minimum standard required by the Building Code. Town Staff requested Council’s consideration to change the re-inspection fee to \$50 with an increase of \$25 for each successive failed inspection on building projects where a licensed contractor is utilized. On small projects being completed by individuals, the current re-inspection fee will remain the same.

Mr. Hanson added that Inspector Brent Hawkins, who is President of the CVIA, did a lot of the research for this item and checked with numerous towns around the state and the request is consistent with other cities.

A motion was made by Councilmember Shevchik and seconded by Councilmember Stambolitis to place the item on Council’s August agenda for consideration to increase the fee as requested. Councilmember Maness confirmed that this fee is imposed at the third failed inspection. Mr. Hanson stated that was correct and it is imposed if they go out for an inspection and it fails, they return for a second inspection and it fails, then if the third inspection fails they would be assessed the \$50 fee and if it failed a fourth time it would go to \$75, etc. Councilmember Stambolitis asked if this would slow down some of the re-inspections and should we charge more. Mr. Hanson stated that he did not know if it would slow down re-inspections, but it would help the department cover their cost for having to return to the same site. Mayor MacDougall stated that it sounded like builders were using Town Staff to make their corrections and to know what is next and \$25 is a cheap way to do it. Mr. Hanson confirmed that the builders are using the Town as a checklist. Councilmember Carnes stated that he was recently on the other side of this and was told something had to be moved ½ inch and a second inspector told him different. He added that it was not in Lexington, but it has potential to double the penal side. Mr. Hanson gave a summary of what they were dealing with because just last Friday they had one Inspector on duty and he had 13 inspections for licensed contractors. Out of 13 inspections 5 received multiple disciplines, 4 passed, 9 failed of which 4 were not ready and 2 were re-inspections. Councilmember Williams confirmed that inspections may be for the

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home, electric or plumbing. The motion carried with a vote of six (6) in favor and one (1) opposed (Carnes).

3. **Qualifications to be a Member of the Appearance Board – Director of Planning, Building and Technology John Hanson:** The Board of Appearance was established by Town Council in 2008. Membership on the Board is currently limited to registered architects or others in the building profession as well as citizens who are not employed in the building profession. To increase the pool of applicants for this Board, Staff recommended an amendment that will allow individuals that have a Town of Lexington Business License to serve on the Board.

A motion was made by Councilmember Carnes and seconded by Councilmember Stambolitis to place the item on Council’s August agenda for consideration. The motion was unanimously carried.

4. **Talent Bank Application – Municipal Clerk Becky Hildebrand:** Mr. Robert Britts submitted a Talent Bank application to serve on a Town Board or Commission. He currently serves on the Historic Preservation Review Board and has indicated an interest in moving to the Traffic or Advisory Committee. Mr. Britts is a Town resident. (Copy of Talent Bank application attached.)

Mr. Poole requested to contact Mr. Britts before the next Council meeting to see if he would be interested in serving on the Town’s Board of Appearance Review Board.

A motion was made by Councilmember Shevchik and seconded by Councilmember Maness to place the item on Council’s August agenda and to add the recommended committee at that time. The motion was unanimously carried.

5. **Boards and Commissions Council and Staff Liaison Appointments – Municipal Clerk Becky Hildebrand:** Council Liaison and Board member appointments are made for two year terms. Following is a list of Council liaisons appointed in 2014. Council was requested to appoint or re-appoint liaisons for a two year term.

Central Midlands COG Board	Mayor MacDougall
	Alternate Mayor Pro-Tem Livingston
Lex Joint Water & Sewer Board	Mayor MacDougall
	Alternate Councilmember Shevchik
Lexington Chamber Board	Councilmember Carnes
Accommodations Committee	Councilmember Shevchik
Advisory Committee	Councilmember Maness
Board of Appearance Review	Councilmember Stambolitis
Board of Zoning Appeals	Councilmember Shevchik
Building Codes Board of Appeals	Councilmember Maness
Historic Preservation Review	Councilmember Maness

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Planning Commission

Councilmember Maness

Alternate Councilmember Shevchik

Traffic Committee

Mayor Pro-Tem Livingston

A motion was made by Councilmember Shevchik and seconded by Councilmember Maness to place the item on Council's next Executive Session for discussion and on the August 15, 2016 agenda for consideration of appointments. Mayor MacDougall stated that he had received word from the Lexington Chamber that their Board Ex-Officio members will be dissolved, therefore Councilmember Carnes would be available for another spot. Councilmember Maness recommended him for her Advisory Committee and she would keep the remaining three. She added that she is on Historic Preservation and would prefer that someone else take it because her husband serves on that Board. Mayor MacDougall recommended Councilmember Carnes for the Board of Appearance. Councilmember Carnes stated that this was the first he heard of it and he would prefer to not make a decision in the next 15 seconds. He asked if there was another venue to discuss this issue if they were going to mix the pot and figure out who fits where. The motion was unanimously carried.

Councilmember Maness encouraged all the citizens who were attending the meeting to consider serving on a Town Board.

6. **Cost Participation Policy – Assistant Town Administrator Stuart Ford:** The Town's Cost Participation on Off-Site Water and Sewer Lines Policy has been in place since April 5, 1999. The policy provides that Council may participate in off-site line construction costs up to a maximum of 25% of project Capital Contribution Fees (CCFs) limited to actual off-site costs. Since the inception of the policy, it has primarily been used for extension of sewer lines for new subdivisions outside of Town.

Mr. Ford stated that the item was delayed at Council's April Work Session until all Councilmembers could be present to discuss the issue. (Copy of the proposed revised policy is attached.) He stated that a review of the Sanitary Sewer Service Agreement Schedule indicates that 21 Agreements for a total of 1,011 CCFs have included cost participation of about \$656,000. Approximately 220 Agreements (for subdivisions and individual phases) with approximately 11,300 CCFs have been executed since the inception of the policy. Cost participation equaled 9% of total CCFs and 2.5% of the \$25,500,000 in total revenue from subdivision Sanitary Sewer Agreements since inception of the policy.

Council was asked to help decide on a quantifying method to decide which requests would come to Council going forward if they agreed to continue Cost Participation. Mr. Ford understood that Council would want to minimize the projects that come before them and those that have substantial benefit for the Town. He added that Staff developed a three part test in that if Test 1 is passed (determines the location of the project), the request would go to Test 2

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(determines potential future use). If Test 1 and 2 are passed and has the potential to create some return to the Town, Test 3 would be applied and if (a) the project is outside of Town, but inside the Comprehensive Planning area and meets all neighborhood standards or (b) the project is located inside the Town and meets the standards of a neighborhood in a PR1 District then the project could receive an incentive. Mr. Ford stated that these tests were developed to look at specific things that could be quantified. He added that Council could decide to make it tougher, but this is a framework to start. He added that if a developer wants to extend a line and there is a chance of substantial growth on that line, then Staff would come to Council.

Councilmember Maness stated that this is a very complicated issue and Council needed to start their Regular Council meeting in three minutes. She added that in 1999 they needed to help bring people to Lexington to help it grow, but we don't need to help them now and especially not by 30%. She requested to bring it back to Council in September because she was not convinced that we still need the ordinance.

Councilmember Stambolitis stated that he has a different opinion and he thought the developer should answer yes to all the questions and pass all the tests. He would like to eliminate 30% participation and if Council approves 25%, Town requirements would have to be met.

A motion was made by Councilmember Maness and seconded by Mayor Pro-Tem Livingston to place the Cost Participation Policy on Council's September Work Session for discussion. The motion was unanimously carried.

7. **Facility Rental Fee Review – Events and Media Coordinator Jennifer Dowden:** Staff was requested to present price comparisons regarding rental fee rates to the Conference Center and Palmetto Collegiate Institute. Following is a comparison of venues in the Midlands area.

Town of Lexington	Conference Center \$600 (in town) \$1,000 (out of town)	PCI \$500 (in town) \$1,000 (in town)
Seibels House and Garden		\$2,600 – Full Day
Lace House		\$3,700; wedding garden \$650
Hampton-Preston Mansion		\$2,600 – Full Day
Convention Center	\$1,200 – Richland Room	
The Manor at Doko Meadows	\$2,750 – Blythewood Commons	
Columbia Conference Center	\$1,299 – Salon A&B	
701 Whaley	\$2,500 – Market Space	

Ms. Dowden added that each venue has different requirements regarding caterers, etc. Councilmember Stambolitis asked about comparisons in Lexington. Ms. Dowden stated that others in Lexington, such as Wintergreens, are not comparable to what the Town offers. She added that the Mitchell House

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requires that everything, down to the cake, come from them and the Town is more of a barebones facility. Mayor Pro-Tem Livingston asked if a Lexington comparison could be brought back to the next Work Session to compare what the Town offers versus what other facilities offer in Lexington.

Councilmember Carnes asked Ms. Dowden what she thought about how the Town compares in pricing since she had gathered the information. Ms. Dowden explained that the Town is not a full time rental facility, like some others, and we do not have full time maintenance during the weekends to re-set the facilities. She stated that except for the tables and chairs everything else has to be brought in by the renter. She added that our goal is not as much about revenue as to provide reasonably priced facilities to citizens. She stated that the Town averages \$55,000 a year in rentals, but there is also the cost of upkeep and remodeling. Councilmember Carnes asked Ms. Dowden if she felt like what we offered was at a good price based on the market. She stated that it was at the discretion of Council and she did not compare it to the market because of our facilities being different.

Mayor Pro-Tem Livingston agreed that the Town is a different type facility and we want our citizens to be able to afford to use the facilities and not price it so far out that it is not a taxpayer's advantage. She added that in-town businesses should also have it as an advantage. Mayor MacDougall stated that the Town facilities are a great amenity for the Town's taxpayers.

Councilmember Williams asked if the next update could include a list of how many in-town citizens rent the facilities versus out-of-town and businesses because a lot of the rooms are rented during the week. Town Administrator Poole agreed many businesses use the facilities during the week for business meetings, but on weekends it is almost exclusively rented for weddings and private events. Councilmember Stambolitis asked if we shouldn't be charging for labor. Mr. Poole stated that Council requested that Staff review the cost and in the beginning Staff was asked to price it with citizens in mind.

A motion was made by Councilmember Shevchik and seconded by Councilmember Williams to put this item back on Council's August Work Session and include local Lexington facilities, such as Corley Mill House, and include the number of in-town and out-of-town rentals for the last year. The motion was unanimously carried.

8. **Mutual Aid Agreement – Police Chief Terrence Green:** The Lexington Police Department is entering into a Mutual Aid Agreement with the Multi-Agency Narcotics Enforcement Team (NET). The proposed agreement was provide to Council. (Copy attached.) Council was asked to place this on tonight's Regular Council meeting agenda for approval.

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A motion was made by Councilmember Maness and seconded by Councilmember Shevchik to place the Mutual Aid Agreement request on Council's July 11, 2016 agenda for consideration. The motion was unanimously carried.

9. **Settlers Point Subdivision Update – Town Administrator Britt Poole:** Mr. Poole explained that Director of Transportation Randy Edwards was on vacation and he would read an update to Council and to the citizens who were present and try to answer any questions. Mr. Poole stated that Town Staff is working with a local contractor to provide costs to repair various type sidewalks, concrete curbs, yard drainage and a final work plan was provided to the contractor on June 21, 2016. Costs have not yet been provided to the Town. Mr. Poole stated that KB Homes had originally asked the Town to get some prices from local contractors for them since they are no longer in the market. All contractors that returned a price stated that they would do all the paving work, but they would not do the sidewalks or drainage, therefore Mr. Edwards had to go through another round of pricing. The asphalt paving has been finalized and a cost provided. The costs are being provided to KB Homes to assist them in completing the work and finalizing the subdivision. Once KB concurs with the cost work can begin 60 to 90 days afterward. Mr. Poole cautioned, as he has with other Town projects, this is a \$200,000 project and paving contractors don't roll out of bed for \$200,000. He stated the contractor would use this as fill-in work, and he felt comfortable with it, but it might take up to six months before they actually come out and do the work when it works for their schedule. He read that if KB does not concur with the work plan, the Town could consider exercising the Bond associated with the subdivision. Mr. Poole stated that they have been hesitant to exercise the \$300,000 Bond because it would be certain to go to Court to get the money which would further delay the completion of the project by one year or more. Mr. Poole stated that the project has already taken too long. He added that some people think you just call them and you get a check but it does not work that way. He stated that even though KB does not work in South Carolina, they are still a very large company. He stated that ultimately the work will have to be submitted to the Planning Commission for final approval.

Councilmember Stambolitis asked what would keep KB from just saying they do not want to do the work. Mr. Poole responded that they could and they previously did say that about a year ago and when the Town said they would call the Bond they agreed to do the work and have been very responsive even though it is not their fault that the paving companies will not do sidewalks. He stated that the paving companies are very busy with SCDOT projects partially due to the floods. He added that the Bond has value and it is very negative for a company to have a Bond called and it can affect their rating. Councilmember Stambolitis asked if the contractors agree with the Town's plan, could they also be put on a timeline. Mr. Poole stated that the contractors would be working for KB and if you tried to put a timeframe on a \$175,000 paving contract, the contractor would say it is not worth his time.

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Mayor MacDougall wanted to confirm that the Town is advocating for the subdivision and relying on KB Homes to do what they say they will do. He added that the Town has come to the end of their rope and if everything breaks down with KB Homes it will be time to put the pressure on them to get the roads fixed even if we have to do it and call the Bond to get the money later because the residents have lived with the roads too long.

Councilmember Stambolitis stated that KB Homes was notorious for dragging their feet. He asked if the Town had KB under a contract and a timeline. Mr. Poole stated that currently they have been responsive. He added that they have an agreed upon time to get the prices to them even though it has been modified because of the paving issue. He stated that is where the 60 to 90 days after the contract comes from so the work can get started. Mr. Poole stated that there are a couple points coming up such as if they do not accept the prices then his advice would be to call the Bond. He added that if we get to 60 or 90 days later after getting the prices and they have not made a decision then it may be time to call the Bond. He confirmed that once we get the prices to KB, it is 60 to 90 days after that the project contracts need to have been awarded.

Councilmember Williams stated that Mr. Edwards had told him that once he comes back from vacation he felt confident that the contractor would have the final bids. He added that Mr. Edwards also told him that he thought that KB would have everything they need by the end of July to make a decision unless the contracts were delayed. Mr. Poole confirmed that they have the prices, but they have not yet awarded it. Mayor Pro-Tem Livingston stated that 60 to 90 days seemed like a long time for the prices to hold. Mr. Poole stated that the quickest we could do it would be 45 days.

Councilmember Stambolitis stated that we should give KB a timeline. Mr. Poole stated that it would not be unreasonable to set September 1st as the timeframe if they have not let the contracts.

Councilmember Carnes stated we should say 60 days past the time that we submit the numbers and on the 61st day we call the Bond. He added that for the people that live there, we could say it will be in by the end of July and by October 1st it will be finished either by KB or by the Town. Mr. Poole confirmed that he would get Mr. Edwards to send a notification once he submits the prices to KB which would set the 60 day mark to sign the contracts and authorize the work to be done and if not, the Town will call the Bond. Councilmember Carnes confirmed that KB would fight it if the Town calls the Bond, but if we have to do that, the Town would not wait the year in court to do the work. Councilmember Williams confirmed that the Town would have to take possession of the property before doing the work. Mr. Poole stated that KB would give the Town the property.

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It was the consensus of Council for Mr. Poole to move forward with Settlers Point as stated and for him to keep Council informed.

FOR YOUR INFORMATION

1. **Town Hall Chiller Replacement Purchase – Director of Planning, Building and Technology John Hanson:** The Town recently solicited RFPs to purchase a new 70 ton Trane chiller for the air conditioning unit in the old Town Hall side of the building. Proposals were received from the following companies:

Hoyt's Heating and Air Conditioning	\$62,200
McCarter Mechanical, Inc.	\$67,932
Total Comfort Solutions	\$82,148

A Staff Committee reviewed the proposals and awarded the project to McCarter Mechanical, Inc. as the lowest responsive bidder. Council was asked to accept this as information and direct the summary be recorded in the minutes of this Work Session.

2. **Prescott Glenn Pump Station Upgrade, Barr Road Force Main and Gravity Sewer – Director of Utilities Allen Lutz:** On April 14, 2016 bids were opened for the Prescott Glenn pump station upgrade, the Barr Road force main and gravity sewer line. Five bids as follows were submitted and opened:

Ladd Corporation	\$3,661,923.25
McClam and Associates	\$4,062,814.00
Morehead Construction	\$4,338,703.00
Legacy Water Group	\$4,338,703.00
Babcock Construction	\$5,281,794.50

The engineer recommended the low bidder and Ladd Corporation of West Columbia was awarded the bid. Construction is planned to start on July 18, 2016. Council was asked to accept this as information and direct the summary be recorded in the minutes of this Work Session.

3. **Woodmill and Berkshire Sewer Line, Sidewalks, Street and Driveway Repairs – Director of Utilities and Engineering Allen Lutz:** On May 31, 2016 bids were opened for the above repairs. Only two bidders submitted bids for the work as follows:

AAA Septic Tank Installation and Repair	\$210,000.00
G.H. Construction	\$248,000.00

The engineer recommended the low bidder and AAA Septic Tank Installation and Repair was awarded the bid. Work is to begin July 5, 2016. Council was asked to accept this as information and direct the summary be recorded in the minutes of this Work Session.

COUNCIL/STAFF COMMENTS

Mayor MacDougall thanked the Settlers Point residents for attending and for their patience. He added that the Town has been working very hard on their issue with KB for approximately two years and we are very close to improving the sidewalks and roads. He stated that the Town has been trying to twist KB's arm without breaking it to get them to do the work.

PUBLIC COMMENTS

Mr. Earl McLeod, Executive Director of Building Industry Association of Central South Carolina, requested that prior to Council taking action on the re-inspection fee that a little education for the building industry would be worthwhile to make sure they know the procedures. He thought that would be more effective than just doubling the fee. He asked to work with Staff.

Mayor MacDougall stated that there was some time before the issue comes back up on the agenda.

Mayor Pro-Tem Livingston congratulated Mr. McLeod on his new grandchild.

Mr. Alan Goff, 209 Settlers Trail, Settlers Point, thanked the Town for providing 10 times more information during the past few months. He expressed his worry about a couple issues including if the date slips you could have weather delays and other issues and paving prices will not be locked for that long. He hoped that Council would stick with the timeframes and he and his neighbors hope it works.

Mayor MacDougall guaranteed that the Town will stick with the timeframe.

QUESTIONS FROM THE NEWS MEDIA: None.

ADJOURNMENT: There being no further comments or questions, a motion was made by Councilmember Williams and seconded by Councilmember Shevchik to adjourn the Council's Work Session at 6:50 p.m. The motion was unanimously carried.

Respectfully submitted,

Becky P. Hildebrand, CMC
Municipal Clerk

APPROVED:

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.