

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

February 18, 2020

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Town Council held an Executive Session followed by a Saxe Gotha Public Facilities Corporation meeting (see separate minutes) and a Council Work Session on February 18, 2020 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, and 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, Police Chief Terrence Green, Planning, Building and Technology Director John Hanson, Utilities and Engineering Director Allen Lutz, Utilities Superintendent David Patton, Finance Director Kathy Pharr, Parks and Sanitation Director Dan Walker, Special Projects Manager Wesley Crosby, Downtown Venue Promoter Walker Brewer, Events and Media Coordinator Laurin Barnes, Assistant Municipal Clerk Karen Hanner and Municipal Clerk Becky Hildebrand.

There were approximately twenty (20) citizens present and one member of the news media was present.

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**OPENING STATEMENT and 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 taped for use by the Municipal Clerk only and Minutes are taken and posted on the Town’s web page following approval of Council.”*

**INVOCATION, PLEDGE AND CALL TO ORDER**

Councilmember Carnes gave the invocation. Councilmember Lyle led in the Pledge of Allegiance. Mayor MacDougall called the Council Work Session to

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order at 6:11 p.m. (Immediately following the Saxe Gotha Public Facilities Corporation meeting.)

**EXECUTIVE SESSION REPORT**

Mayor MacDougall reported that the *Executive Session* was called to order at 5:32 p.m. after a motion was made by Councilmember Carnes and seconded by Councilmember Maness to go into *Executive Session*. The motion was unanimously carried by all those present. (Councilmember Baker was not present for the vote.) Council adjourned from *Executive Session* at 6:05 p.m. after a motion was made by Councilmember Baker and seconded by Mayor Pro-Tem Livingston. 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: two legal issues regarding pending litigation and agenda items; three contractual items regarding a downtown economic development issue, a planning contract and an item related to the Snowball Festival; and two personnel items regarding a routine personnel review and Board and Commission Liaison appointments. No vote was taken. A motion was made by Councilmember Lyle and seconded by Councilmember Williams to ratify the Mayor's report. The motion was unanimously carried.

**DELETIONS ON AGENDA:** None.

**APPROVAL OF MINUTES:** A motion was made by Councilmember Williams and seconded by Councilmember Baker to approve the minutes from Council's January 21, 2020 Work Session and the February 3, 2020 regular Council meeting as submitted. The motion was unanimously carried.

**PRESENTATION**

1. **Joe Nathan Foundation – Ms. Rondie Cheatham:** Ms. Cheatham thanked the Mayor and Council for allowing her to speak regarding the Joe Nathan Foundation, formed in 2011 as a non-profit to provide a free-of-charge summer camp for kids who may otherwise not be able to afford it. She stated that the foundation was formed by three individuals following the tragic death Johnathan Nathan while he was a junior at South Carolina State. The foundation offers education, experiences and exposure to camps that fit a particular need. Ms. Cheatham stated that she has been a member of the foundation for five years and she believes in their passion, their Mission Statement and what they are trying to do in the communities. She added that the foundation started in Edgefield, but is now also in Lexington. Ms. Cheatham stated that in 2012 they started their "Be the Change" four day leadership camp that they host at Camp Long in Aiken. She added that even though the camp is in Aiken, they represent kids everywhere and all they have to do is apply. A Board reviews all applications and their leadership camp can hold 70 kids and cost \$400 per child. Ms. Cheatham stated that they have hosted 240 kids

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for various camps over the past four years. The foundation holds a golf fundraiser in the spring and hosts a clay shooting tournament in June. Ms. Cheatham stated that they have been in touch with Police Chief Green to help them get involved in community outreach; they have attended Lexington's Kid Day for two years; attended Lexington's Fall Festival; and attended several Neighborhood Watch meetings in order to let people know who they are and what they offer.

Councilmember Carnes asked what ages could attend their camp. Ms. Cheatham stated that the Leadership Camp is for ages 12 to 16.

Councilmember Baker asked what type of leadership experiences were provided at the camp. Ms. Chatham stated that the students make a Vision Board at the camp with a need they know of in their community. The student is encouraged to go back and implement their plan in their community. They also learn the value of volunteering in their community.

Mayor MacDougall thanked Ms. Cheatham for her presentation.

2. **Cooperative Health – Mr. Lee Tant, Public Affairs Manager:** Mr. Tant gave a brief background of Cooperative Health which was founded in 1981 by Dr. Stuart Hamilton to address the pediatric primary health care needs in the Eau Claire community of Columbia. They expanded in 1993 to include adult primary care services. They are now in four counties with 28 sites serving 61,000 individuals in the Midlands.

Ms. Tonya Whaley, Outreach Program Coordinator, explained that Cooperative Health serves Richland, Lexington, Newberry and Fairfield counties. She stated that they have 7 locations in Lexington County and they will not turn anyone away. She added that they use the Good Samaritan Sliding Fee Scale which is based on the household income. Ms. Whaley stated that Cooperative Health is the largest Federal qualified health center in South Carolina. She added that they also have four pharmacies. Locations can be found at [www.cooperativehealth.org](http://www.cooperativehealth.org).

Councilmember Carnes stated that he had toured their facility in West Columbia right after it was built and it was very well done. He asked if they had on-site labs and how were they handled for people who could not pay. Mr. Tant stated that they have a partnership with Lab Corp. with test results in 24 to 48 hours. He added that lab costs can be paid for through their Good Samaritan program.

3. **2019 Audit – Mr. Randy M. Cooper, CPA, CFE, The Brittingham Group, LLC:** Mr. Cooper thanked the Mayor and Council for allowing him to give a summary of the Town's June 30, 2019 Audit Results. He thanked the Finance Department Staff for their cooperation and assistance during the audit and for receiving the GFOA's "Certificate of Excellence

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in Financial Reporting award for 21 consecutive years. This year's CAFR will also be submitted for the award. Mr. Cooper stated that the Town received an unmodified or "clean" opinion for the 2019 Audit, which is the highest level of reporting assurance an organization can receive from its independent auditors. It also included an unlimited scope opinion which means that The Brittingham Group had full and complete access to the books and records of the Town. Mr. Cooper stated that the Town ended with a total net position of \$121 million and the 2018 restated net position was \$112 million. The Town's net position increased by \$9,069,409 over June 30, 2018. This increase was mainly due to an increase in water and sewer revenue, the continued implementation of the Hospitality Tax, operating grants, capital grants, and additional contributions of infrastructure by developers. General revenues totaled \$13,731,553 which includes property taxes, business license taxes, Hospitality Taxes, unrestricted state aid, investment earnings and other miscellaneous revenues. No internal control findings were noted in the audit. (Copy of full report attached.)

Councilmember Carnes asked for a breakdown of the items included in the \$9,069,409 net increase. Finance Director Pharr responded that \$5 million of it is Enterprise Fund/water and sewer; \$5.9 million is the General Fund portion; and Hospitality Tax is \$2.9 million. She added that \$4 million is Capital Contributions and \$2.3 million is Developer Capital which is not cash, but assets or pipes in the ground. Councilmember Carnes confirmed that \$4 million of the amount is weighted to capital cost and not revenues from water and sewer bills.

**BUSINESS ITEMS:** (For discussion and recommendation for Council's March 2, 2020 Regular Council Meeting.)

1. **Market at Icehouse Policy Update – Downtown Venue Promoter Walker Brewer:** Mr. Brewer presented an updated policy for the Market at Icehouse. (Copy attached.)

Councilmember Maness asked what changed in the policy. Mr. Brewer stated that he cleaned up some of the registration requirements, cleaned up some of the wording, and added a vendor deposit to help bring vendors. Currently they do not have a fee or deposit and at times cancel at the last minute. Town Administrator Poole added that since we do not charge a fee it can be seen as no value to the vendor.

Councilmember Baker asked how many vendors were no-shows. Mr. Brewer stated that he averaged four no-shows and the last week he had 8 to 9 no-shows. He added that if he has advertised the market to have 36 vendors, he wants 36 vendors there. Mr. Brewer stated that no-shows also cause problems with the set up when he and staff have to take down tents and equipment as people are showing up to the market.

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Councilmember Carnes asked about advertising in a booth where the policy states that it is exempt from the Town's Sign Ordinance, but advertising outside the booth is considered non-exempt. He asked how that signage would look. Mr. Brewer stated that is primarily to keep the number of signs down and to help it look consistent. He added if someone hung a banner at their booth, they would need a permit for it.

A motion was made by Councilmember Williams and seconded by Councilmember Lyle to place the Market at Icehouse Policy on Council's March 2, 2020 agenda for approval.

2. **Proposed Donation of Property on Old Cherokee Road – Municipal Attorney Brad Cunningham:** Mr. Mike Harmon owns approximately four (4) acres of land at 1420 Old Cherokee Road. He is interested in donating it to the Town upon his death. Town Staff sent him a list of proposed conditions upon which the Town may consider such a donation. Several Staff members also visited the property. The parties are apart on the following issues:

- (1) The Town requires an immediate conveyance of the property with Mr. Harmon retaining a Life Estate. Mr. Harmon only wishes to leave the property to the Town in his Will and does not wish an immediate conveyance.
- (2) The Town wishes to have immediate unencumbered occupancy upon Mr. Harmon's death, but he wishes for his heirs to have access to the property for a minimum of 180 days following his death to remove "any property before the remainder becomes the property of the Town".
- (3) Mr. Harmon wishes to have the house named the Hendrix/Harmon House and the farm named the Corley-Harmon Farm. The Town has not discussed this issue.
- (4) The Town would not get fee simple title to the property under his proposal and would relinquish ownership to the heirs if the Town decided it no longer needed the property. The Town would like to own it outright.

Mr. Harmon's stated goal is "to preserve the house and buildings in an original condition and remain a visible sign of our country's agrarian heritage". If the Town ever failed to continue that purpose, the Town would lose title to the property. Budget and Finance: The Town would have maintenance and upkeep for the four acres plus the home and out-buildings. The property is not in Town.

Municipal Attorney Cunningham stated that there are some legal problems with the way Mr. Harmon wants to convey the property. He recommended if Council wished to pursue the donation that it be done similar to the

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Boozer property donation which was deeded to the Town and Mr. Boozer, through a Life Estate, could live there until his death. Mr. Harmon does not wish to do it that way because he wants to donate the property to the Town through his Will. Mr. Cunningham stated that a Will is a promise which is not binding and a Will can be changed. He added that Mr. Harmon states that he has no heirs yet he wants his heirs to have six months access to the property at his death so they can get what they want. Mr. Cunningham stated that may not be legally possible because for six months no one would own the property. He added that with a Will you own it immediately upon death. Mr. Cunningham stated that another problem was the Town would not get an unencumbered property which means the Town could not sell it and would lose title to the property if they no longer wanted it after investing a lot of work on the property. He stated that these are some of the legal issues with the property and Mr. Poole may have additional practical or finance issues.

Town Administrator Poole added that it is a neat property, in fact, the upstairs has been left unfinished for over 100 years and is currently used for storage. He added that Mr. Harmon is between a hoarder and a collector, but he has a lot of interesting things on the property. Mr. Poole stated that what Mr. Harmon is trying to do is very noble, but it may even be misplaced in the Town. He added that it may be a better fit for a non-profit historic organization to take it on because it is so far out of the Town's scope. Mr. Poole stated that Mr. Harmon would like for the property to be an interactive farm, and even though Staff could do that if it was the desire of Council, but Staff was not an expert in that field.

Municipal Attorney Cunningham wished to add that there is no validity to the story about the Native American Trail of Tears going through that property in fact it did not even start in South Carolina. He added that Mr. Harmon clarified the story as soon as Staff arrived stating that it was "b.s." and no truth to it. Mayor MacDougall stated that was interesting because it came from what he thought was a very reliable source.

Mr. Wesley Crosby, Special Projects Manager and Staff Liaison to the Town's Historic Review Board, stated that Mr. Chuck Corley, Chairman Historic Review Board, had hoped to be here tonight to speak on this topic, but he was not present. He added that the Board is in favor of the Town acquiring the property, but Mr. Corley had talked to the owner several times and Mr. Corley admitted that Mr. Harmon's terms and what the Town can do would be hard to work out.

Mayor MacDougall stated that it sounds like we are very far apart. He added that it would be better for them to go to Lexington County Museum. Mr. Poole stated that the museum had been approached regarding the property and talked to the museum Director who indicated that they already

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have a house of that era on the museum property and they have limited spacing and funds.

Councilmember Lyle wished to piggy back on what the Municipal Attorney stated in that he understands the law, and add that it would be a poor use of funds even though he appreciated what Mr. Harmon wanted to do. He stated that a promise in a Will is a revocable act.

Councilmember Carnes stated that his concern was it would be like a time share and there would be no way out of it since the Town could stand to lose the property. Mr. Poole added that Mr. Harmon has family members, but does not have any children. Mr. Cunningham stated that Mr. Harmon's family members were not interested in keeping it the way it is now. Mr. Harmon stated to Mr. Poole that he could sell the land tomorrow to a developer, but he was not interested.

Mayor MacDougall stated that a portion of the land had already been sold. Mr. Poole stated that the large tract to the left of Mr. Harmon's was sold and he guessed that a neighborhood would be built there at some point.

3. **“It’s All About Herbs Festival” Sponsor Request – Municipal Clerk Becky Hildebrand:** Ms. Beverly Kleckley, Cofounder of the Herb Bunch, a non-profit club affiliated with the Clemson Extension Service, contacted the Town regarding their ninth annual “It’s All About Herbs Festival”. The festival will be held on Saturday, April 4, 2020 on the grounds of the Lexington County Museum. They are also hosting a Spring Gardening Symposium on March 23, 2020 featuring Augustus Jenks Farmer as the guest speaker. Their fundraising efforts will support a scholarship for a qualified Lexington County student to study in the field of Horticulture, Agriculture or Nutrition Science. Sponsors can participate at the following levels: Gold \$350; Silver \$250; or Bronze \$150. Council was asked to place this request on their March Council meeting for consideration.

A motion was made by Councilmember Baker to place the item on Council’s March 2, 2020 agenda for consideration with the amount to be determined. Councilmember Maness confirmed that the Town did not participate last year, but did the two prior years in the amount of \$150. Mayor MacDougall called for a second to the motion. There being no second, the motion failed.

4. **Boards and Commissions Council Liaison Appointments – Municipal Clerk Becky Hildebrand:** Last year Council voted to approve the following Boards and Commissions Council Liaisons for a one year term, which expired in January 2020:

Accommodations Tax Committee Liaison  
Advisory Committee Liaison  
Board of Appearance Liaison

**Carnes**, no alternate  
**Lyle**, no alternate  
**Lyle**, no alternate

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Board of Zoning Appeals Liaison  
Building Codes Board of Appeals Liaison  
Historic Preservation Review Board Liaison  
Planning Commission Liaison

Traffic Committee Liaison

**Baker**, no alternate  
**Maness**, no alternate  
**Baker**, no alternate  
**Maness**  
Alternate **Williams**  
**Livingston**  
Alternate **Williams**

During Council's January 2020 Work Session, Council agreed to contact the Town Administrator to let him know which Board or Committee they would like to serve on as Council Liaison. Staff was asked to formulate a plan for Liaison appointments for Council's review for implementation next year, thereby leaving the current Council Liaisons in place for the next 10 months. Following are three options/policies for Council's consideration:

- (1) Discontinue the practice of assigning Council Liaisons since all meetings are open to the public and can be attended by any or all Councilmembers. Continue Staff Liaisons to 8 Boards.
- (2) Put Council Names in a hat and draw by seniority for 8 Council Liaison assignments for a one year term. Draw again for alternates or eliminate alternates. (This does not include Central Midlands COG or the Joint Municipal Water & Sewer.)
- (3) Assign Council Liaisons based on seniority by letting the most senior Councilmember choose first, etc. for a one year term. Council Liaison would let another Councilmember know if they could not attend a meeting.

Council was asked to review the item for any Liaison or Policy changes and to place the item on Council's March 2, 2020 for consideration.

Town Administrator Poole wished to point out that it was his understanding that Council was in agreement to not include appointments to the COG Board or the Joint Water and Sewer Commission Board in that it was very important to have the same person serve on those Boards. He added that currently, as in the past, the Mayor serves on both Boards.

Councilmember Carnes asked if they were going to leave it status quo for the next ten months, why would they have to make a decision in March. Mr. Poole responded that the item was on the January Work Session agenda because Liaison terms ended in January, but everyone was not present so it was bumped to February with the vote to be at the March meeting. He added that he had talked to several Councilmembers about it and there is no requirement to have Council Liaisons. He added that it is whatever Council as a body chooses to do is acceptable. Mr. Poole stated that Staff brought three options for them to review, but they may have other

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ideas also. He added that Staff has no strong opinion one way or the other, he just wanted to supply the history of how it had been done. Mr. Poole stated that there is no pressure to do it now or even in the future if that is what Council decides.

Mayor Pro-Tem Livingston did not recall Council having Liaisons until a former Mayor and a former Councilmember got into an argument about an appointment. She stated at that time these Liaisons were added to give everyone something to do if they wanted to. Mayor Pro-Tem Livingston added that it is more important to serve as a Councilmember and coming up with creative ideas. She agreed that they all have more interest in some Boards than others at times, but they all should attend the meetings if they feel there is something on the agenda and they should go. She thought they could eliminate alternates and in her opinion, her most important role is to know what is going on even if a Councilmember was not there. Mayor Pro-Tem Livingston stated that Councilmembers usually don't have a vote or a voice when they attend.

Councilmember Maness stated that since the four newer Councilmembers wanted to change it, she would like to hear how they want to change it.

Mayor MacDougall stated that there are a couple of Boards that it is important to have a Council Liaison in attendance. He named one as the Accommodations Tax Committee which needs Council representation there at the meeting, not after they have made a decision, to make sure the committee knows Council's desires for appropriation of what has become a lot of money. Mayor MacDougall stated that some of the Boards have Council Liaisons appointed who are not very excited about going or being a part of and he gets it because some of them do not do a whole lot, but it is important to have them in the community. He did not think Council should tell the new guy he has to serve on a committee because no one else wants to. He thought they could eliminate Council Liaisons on some of the Boards and Committees, because we do have Staff at every one of these meetings who can report back to Council. Mayor Pro-Tem Livingston added that they had three Councilmembers at the last Planning Commission meeting.

Councilmember Carnes stated that he concurred with Mayor Pro-Tem Livingston that Council Liaisons had run its course and had become very divisive for Council for whatever reason, but it is certainly not the most important thing we do. He added that he has served on the Accommodations Tax Board for the past two years and it is run by Wesley Crosby. He stated that he gets a little bit of voice, but certainly not a vote, but it is a half day once a year. Councilmember Carnes stated that for those important things it might even be good to have more than one Councilmember there. He added that in light of all those things, he would make a motion.

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A motion and an amended motion was made by Councilmember Carnes and seconded by Councilmember Baker to place on Council's March 2, 2020 agenda Option (1) to Discontinue the practice of assigning Council Liaisons since all meetings are open to the public and can be attended by any or all Councilmembers and continue Staff Liaisons to eight Boards with the exception of Central Midlands COG and the Joint Municipal Water and Sewer Commission and to include the directive that each Councilmember will be supplied with an email summary of each meeting so they can all relate to the Boards. Later Councilmember Carnes clarified that if his motion was passed at the Council meeting it was intended to take effect at the vote.

Town Administrator Poole stated for clarity that many of the Board meetings have minutes and would that suffice as the summary mentioned in the motion. He added that some Boards do not have minutes, such as Advisory, and in that case Councilmembers could receive a summary. Councilmember Maness stated that we need minutes for the Advisory Committee now since they are working on the Census.

Council concurred that for Boards or Commissions that currently have minutes, that would suffice for the summary to Council and if the Board or Commission did not have minutes, the Staff Liaison would send each Councilmember an email summary, in bullet point format, to let them know the topics or action items from the meeting.

Councilmember Maness asked if they were going to eliminate Council Liaisons, why the item would have to be on the agenda. Mr. Poole responded that if they were eliminating a practice it would go to a Council meeting. He added that if you assigned Liaisons by vote as a policy each year, you need to vote to discontinue the practice. Municipal Attorney Cunningham agreed that you would do away with it in the same manner in which you created it.

Councilmember Carnes stated that in the spirit of what four Councilmembers put forward was in the spirit to have broader access and broader communication so hopefully this will facilitate that.

Councilmember Williams asked if they could include for all Councilmembers to receive the agendas from each Board prior to the meeting. Mr. Poole responded that for the Boards that have formal agendas, Council should already be receiving those agendas.

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Councilmember Lyle wished to be clear for the record that that he is completely content with the Board he has and it was in the spirit of following the U. S. Army wherein Staff Officers get some time in each section to get good exposure to a lot of things. He added that since that was his background, he thought it would be a great idea to do something like that here and at no point was this an opportunity to buck the status quo. Councilmember Lyle stated that he was elected to make decisions that he thought was best for those that elected him and to do something by seniority because we've always done it that way was not what he was elected to do.

Councilmember Baker stated that he had seconded the amended motion and called for the question. Mayor MacDougall asked for a show of hands for all those in favor of the motion (*to place on Council's March 2, 2020 agenda Option (1) to Discontinue the practice of assigning Council Liaisons since all meetings are open to the public and can be attended by any or all Councilmembers and continue Staff Liaisons to eight Boards with the exception of Central Midlands COG and the Joint Municipal Water and Sewer Commission and to include the directive that each Councilmember will be supplied with an email summary of each meeting so they can all relate to the Boards*). The motion was unanimously carried.

**FOR YOUR INFORMATION**

1. **Façade Improvement Grant Award – Director of Planning, Building and Technology John Hanson:** The Town of Lexington's Board of Architecture and Appearance met on January 29<sup>th</sup> and voted to award one Façade Improvement Grant as follows:

To Ann Clark \$10,000 to complete façade improvements to a building located at 514 East Main Street. The property is currently being redeveloped into an office building.

Council was asked to accept this as information and direct the summary be recorded in the minutes of this Work Session. (Copies attached.)

Mayor MacDougall stated that was great to hear and did she state her intended use of the property. Mr. Hanson responded that it would be for office use but she did not have a tenant yet.

**COUNCIL/STAFF COMMENTS:** None.

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**PUBLIC COMMENTS:** None.

**NEW MEDIA COMMENTS:** None.

**ADJOURNMENT:** There being no objection from Council, Mayor MacDougall adjourned the Council Work Session at 7:05 p.m.

Respectfully submitted by:

Becky P. Hildebrand, CMC

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.*