

MINUTES
Town of Lexington
Executive Session and
Council Work Session

August 16, 2021

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Town Council held an Executive Session at 5:15 p.m. followed by the Council Work Session at 6:00 in the Conference Center which was followed by the August Regular Council meeting at 6:30 p.m. (separate minutes) in the Council Chambers on August 16, 2021 at 111 Maiden Lane, Lexington, South Carolina (*Summer Schedule*). The meetings were attended by: Mayor Steve MacDougall, Mayor Pro-Tem Hazel Livingston, Councilmembers Kathy Maness, Todd Carnes, Ron Williams and Todd Lyle. Councilmember Steve Baker was absent.

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, Economic Development Johnny Jeffcoat, Transportation Director Randy Edwards, Utilities and Engineering Director Allen Lutz, Finance Director Kathy Pharr, Parks and Sanitation Director Dan Walker, Parks and Sanitation Assistant Director Johnny Dillard, Assistant to the Town Administrator Wesley Crosby, Communications Manager Laurin Barnes, I.T. Manager Bea Daniels, Digital Media Coordinator Darrell Pritchard, Assistant Municipal Clerk Karen Hanner and Municipal Clerk Becky Hildebrand.

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

OPENING STATEMENT and CALL TO ORDER

Mayor MacDougall welcomed everyone to the Council Work Session and called the meeting to order at 6:26 p.m. 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.”*

EXECUTIVE SESSION REPORT

Mayor MacDougall reported that the *Executive Session* was called to order at 5:15 p.m. after a motion was made by Councilmember Williams and seconded by Councilmember Maness to go into *Executive Session*. The motion was unanimously carried by all those present. Council adjourned from *Executive Session* at 6:20 p.m. after a motion was made by Councilmember Maness and seconded by Councilmember Williams. The motion was unanimously carried by all those present. 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 advice regarding agenda items and one personnel issue. No vote was taken. A motion was made by Councilmember Lyle and seconded by Councilmember Maness to ratify the Mayor's report. The motion was unanimously carried by all those present.

DELETIONS ON AGENDA: None.

PRESENTATIONS

1. **Ms. Latasha Taste, Midlands Regional Director of Development for Communities In Schools of South Carolina:** Ms. Taste stated that she was also a 2020 Alum from Leadership Lexington. She added that CIS helps students face today's new challenges and to keep them in school by assisting them in combating social emotional factors such as anxiety and depression. CIS also provides a "clothes closet" for the at-risk students. They have operated across the state for more than 30 years. In Lexington County they have three school sites: Herbert A. Wood Elementary, Pine Ridge Middle and Airport High. In order to solidify their program, Ms. Taste asked the Town to consider an investment of \$108,220.03 from The American Rescue Plan Allocation which would provide case management support for 1,366 students. Per student the cost is \$722 annually. (Copies attached.)

Mayor MacDougall stated it was good to see Ms. Taste again and thanked her for the presentation. He offered for her to stay to answer any questions.

Councilmember Maness thanked Ms. Taste for attending the Council meeting. She added that she is an educator so she knows how important all the services are for at-risk students. Councilmember Maness wished to make several recommendations for Ms. Taste. She told her that some of the money from The American Rescue Plan Allocation can go to non-profits, therefore Councilmember Maness suggested that Ms. Taste go to the municipalities of Cayce, West Columbia and Springdale to also ask them for funding since the three Lexington schools are in Lexington District 2. She further recommended that Ms. Taste contact the State's Director of Administration, Marsh Adams, because some of the State's funding can also go to non-profits. Councilmember Maness also suggested that she contact Lexington County Council.

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Ms. Taste stated that they had started some conversations with many other entities primarily to get the word out as to who they are and what they do. She thanked Councilmember Maness for the information and she would reach out to the other community leaders.

APPROVAL OF MINUTES: A motion was made by Councilmember Williams and seconded by Councilmember Maness to approve the minutes as submitted from Council’s Work Session and Council’s Regular Meeting both held on July 12, 2021. The motion was unanimously carried by all those present.

BUSINESS ITEMS: (For discussion and recommendation for Council’s September 7, 2021 Regular Council Meeting.)

1. **Proposed Amendment to the Landscape and Tree Ordinance – Parks and Sanitation Director Dan Walker:** At Council’s June Work Session and July Council Meeting a discussion was held regarding the proposed Amendment to the Landscape and Tree Ordinance to include: *“At no time shall mulch ground cover become bare to the extent that more than 10% of the intended beds are without mulch cover.”* Mr. Walker referred to General Requirements, Section 156.10.02 – Nonconforming Property from the Ordinance which would be updated as follows:

(E) Maintenance

(1) The property owner shall be responsible for regular grounds maintenance (mowing, weeding, pruning, irrigating, **mulching**) and other maintenance of screening structures required to comply with this chapter. Any required plant shown on the approved landscape or tree preservation plan that dies much be replaced with an approved living plant complying with this chapter within forty-five (45) days after notification by the Administrator. This replanting deadline can be extended at the discretion of the Administrator due to environmental factors (i.e., extreme heat, drought or other weather conditions not conducive for planting). **At no time shall mulch ground cover become bare to the extent that more than 10% of the intended beds are without mulch cover.** All proposed watering methods, irrigation or otherwise, must be adequate to maintain plant material in a healthy growing condition at all times.

Mr. Walker stated that he did research and looked at other city ordinances around the state, but none had a landscape maintenance or mulch policy. He added that Greenville had the strongest one which states that *“you should mulch and maintain the property as it was planned in the beginning”*. Mr. Walker stated that he was trying to give the Town’s ordinance a definitive number so if he had to go to court. He added that after Council decided not to use that number he started looking at ordinances across the nation and still could not find anything. He stated

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that when he did the proposal he addressed two things: (1) adding a word in the maintenance section of the ordinance where it now states “*mowing, weeding, pruning and irrigating*” and add “mulching” and (2) he gave a definitive answer in the maintenance section. Mr. Walker stated that they could go back to maintaining the mulching which makes it cloudy, but it gives it freedom to enforce it in a different way. He added that San Antonio, Texas has a section that states “*other maintenance of all plantings as needed*” and it talks about watering, pruning, fertilizing and all that, but they do not specifically name mulching. Mr. Walker stated that Houston, Texas has a section that states: “*3 to 4 inches of mulch cover for a minimum period of one year after it is installed*” and after that they do not have a requirement. He added that Aiken, South Carolina has a section that states: “*maintain the good condition so as to present a neat and orderly appearance*”. Mr. Walker stated that you could argue that mulching is part of the neat and orderly appearance and thinking of mulching in a beautification way and not just protecting the plants and things like that. He added, going back to Greenville, they basically want you to do ANSI 300 standard. Mr. Walker stated that they looked at ANSI and different arborist certification guides and things like that and they all tell you how you should mulch, which methods and materials you should use, but it does not tell you how often or a percentage of coverage or anything like that. He added that during Council’s earlier discussion they thought 10% was too strict, so he did not know if that number was too offensive or they could make it a grey area where businesses are just told that they need to mulch because their mulch is thinning.

Mayor Pro-Tem Livingston asked could it not be worded a different way. She added when Frank’s Car Wash was doing some work in the northeast he chose to use rock because he was told the ground had to be covered as far as maintenance and he thought in the long run that would be cheaper. She asked if the Town was missing something by specifically saying “mulch”. Mayor Pro-Tem Livingston also asked if the Town was missing something by not telling the business up front that it has to be maintained and kept like it was in the beginning.

Mr. Walker responded that technically there are two types of mulch, organic and non-organic. He stated that organic would be rocks or even telitized rubber. He added that Greenville tells the business up front that if you start it that way, you have to maintain it that way.

Mayor Pro-Tem Livingston stated that by stating it up front like Greenville should cover the Town because it would be like trees that you have to replant. Mr. Walker responded that is more restrictive than what he proposed. Mayor Pro-Tem Livingston stated that the Town is not going to go attack someone if a little bit of mulch washes away, but who would be attacked is someone like Dollar General where the weeds have taken over

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the beds to the point you cannot tell there was a bed there. She encouraged everyone to go by and look at Dollar General because it is ridiculous.

Mayor MacDougall stated that he agreed with Mayor Pro-Tem Livingston in that it is better to know the rule up front and know that you have to live by the rule than to hit them with a fine because they lost 10% of their mulch during a heavy rain storm. He asked Mr. Walker if that made sense because now the Town has people not keeping up with their beds and it is a problem. Mr. Walker responded it did make sense and there are places that do not put a lot into their landscape implementation or maintenance. He added that they read the ordinance but they don't put a lot into it and are not as creative as other places. Mr. Walker stated that some places in Town do an excellent job. He added that he did not mind being grey about it and being able to go and tell them that their landscape doesn't look good or that they need to mulch or fertilize, etc., if that's what Council wants him to do. Mayor MacDougall stated that his point was so Mr. Walker did not have to go and do that so they know the rules up front and they know it when they send in their design plan and they know from the very beginning that that have to maintain it. He added then it would make the job easy and Mr. Walker would not have to chase it so much. Mr. Walker stated that the Town has ordinances now that says you have to mow your grass and certain ones they have to go by and hammer them.

Councilmember Carnes confirmed that they were talking about existing stuff, but his question was about taking a small step forward. He recommended that the Town add "mulching" to the existing ordinance as a specific requirement. He added then Mr. Walker could run with that for a while to the Dollar General and places like that and be able to say that Council amended the ordinance which states that they have to mulch. He recommended leaving the percentage out and just tell them they have to mulch and if they don't, write and ticket and see if they come to court to fight it. Councilmember Carnes stated that if this small step does not work then we could consider something a bigger step. Mr. Walker responded that he was asked to bring a recommendation and one is to take out the percentage and just add mulching. Mayor Pro-Tem Livingston and Councilmembers Lyle and Maness agreed. Mayor MacDougall stated that it sounded like Mr. Walker had his marching orders. Councilmember Williams confirmed that the item would have to go to a Council meeting for a vote in order to amend an ordinance. Mayor MacDougall called for a motion.

A motion was made by Councilmember Williams and seconded by Councilmember Carnes to place the item on Council's September 7, 2021 agenda for consideration. The motion was unanimously carried by all those present.

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2. **Mutual Aid Agreement, Multiple Jurisdictions – Police Chief Terrence Green:** The Lexington Police Department requested the Town of Lexington, as its governing body, to approve the multi-jurisdictional agreement pursuant to S.C. Code of Laws 23-2-40. The multi-jurisdictional agreements that are subject of the approval contained herein include:

Aiken County Sheriff’s Dept.	Aiken Dept. of Public Safety
Batesburg-Leesville Police Dept.	Camden Police Dept.
Cayce Dept. of Public Safety	Chapin Police Dept.
Columbia Police Dept.	Columbia Metro Airport Police Dept.
Drug Enforcement Administration	Federal Bureau of Alcohol, Tobacco & Firearms
Federal Bureau of Investigation	Forest Acres Police Dept.
Gaston Police Dept.	Homeland Security
Irmo Police Dept.	Kershaw County Sheriff’s Dept.
Lexington Medical Dept. of Public Safety	Lexington County Sheriff’s Dept.
Myrtle Beach Police Dept.	Newberry Sheriff’s Dept.
Newberry Police Dept.	North Myrtle Beach Dept. of Public Safety
Pelion Police Dept.	Pine Ridge Police Dept.
Richland County Sheriff’s Dept.	South Congaree Police Dept.
Springdale Police Dept.	Swansea Police Dept.
U.S. Marshall Service	U.S. Secret Service
USC Division of Law Enforcement & Safety	West Columbia Police Dept.

Chief Green stated that he was requesting this method of approval for multi-jurisdictional agreements instead of coming back and forth continually to Council for approval on each individual agreement.

A motion was made by Councilmember Williams and seconded by Councilmember Lyle to place the item on Council’s September 7, 2021 agenda for consideration of First Reading. The motion was unanimously carried by all those present.

COUNCIL/STAFF COMMENTS: None.

PUBLIC COMMENTS: None.

NEW MEDIA COMMENTS: None.

ADJOURNMENT: There being no objection from Council, Mayor MacDougall adjourned the Council Work Session at 6:46 p.m. and announced that Council would move right into the Regular August Council meeting in the Council Chambers.

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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.