

MINUTES
Town of Lexington
Executive Sessions and
Council Work Session

September 18, 2023

Town Council held an Executive Session at 5:00 p.m. followed by a Special Council meeting followed by a Council Work Session on September 18, 2023 in the Conference Center 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, Todd Lyle and Gavin Smith.

Staff members present were: Interim Town Administrator Stuart Ford, Municipal Attorney Brad Cunningham, Assistant to the Town Administrator Wesley Crosby, Transportation Director Randy Edwards, Transportation Department Coordinator Laura Hinson, Police Chief Terrence Green, Planning, Building and Technology Director John Hanson, Utilities Supervisor Billy Gunter, Finance Director Kathy Pharr, Economic Developer Jack Stuart, Parks and Sanitation Director Dan Walker, Communications Manager Laurin Barnes, Digital Media Coordinator Michael Tolbert, Assistant Municipal Clerk Karen Hanner and Municipal Clerk Becky Hildebrand.

There were approximately twelve (12) citizens present and two (2) members from the news media.

OPENING STATEMENT

Mayor MacDougall welcomed everyone to the Council Work Session and introduced the Councilmembers. 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 comments 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.”*

CALL TO ORDER

Mayor MacDougall called the Council Work Session to order at 6:14 p.m.

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DELETIONS ON AGENDA: None.

APPROVAL OF MINUTES: A motion was made by Councilmember Williams and seconded by Councilmember Carnes to approve the Minutes as submitted for the May 30, 2023 Council Work Session. The motion was unanimously carried.

PRESENTATIONS

Mr. Brian Cox, business address 7709 St. Andrews Road, Irmo, SC, an out-of-town BBQ mobile food vendor, requested to change the criteria of mobile food vendors for the Town. He stated that he does business a lot at the Icehouse at various events but his current set up does not fall in the current guidelines for the Town's ordinance for food trucks. He presented several photographs of his set up for the Town's Beer Festival for Council's review. (Copies attached.) He understood that a lot of the issues surrounding the ordinance is trying to maintain a specific aesthetic inside the Town of Lexington. He would like to work with the Council to amend the ordinance to allow other styles of mobile food vendors instead of just using a special permit.

Councilmember Maness commended Mr. Cox on his delicious BBQ. Mr. Cox thanked her for her support. He stated that they are not fully self-contained, but he is fully DHEC permitted, follow all of their guidelines and do their best to make everything presentable. His specific set up allows him to be more flexible and work in smaller areas. He is working with Hazelwood Brewery to help them with their food program along with the other food trucks.

Councilmember Carnes stated that Council had previously discussed this issue, but he requested an update on their discussion. He specifically wanted the line of demarcation and the set-up with Mr. Cox. Economic Developer Stuart stated that the current ordinance requires all mobile food vendors to be self-contained in accordance with DHEC guidelines. He had asked DHEC for clarification and their rules stated that it must be completely enclosed with four walls with solid material. He added that Mr. Cox's set-up is more open, not behind four walls with an open kitchen concept which applies to mobile food vendor unit per DHEC.

Mayor Pro-Tem Livingston asked how was Mr. Cox's set-up was able to get approved by DHEC. Mr. Stuart responded that he was approved as a sidewalk vendor. Mr. Cox explained that DHEC has two classifications which one is a food truck and he falls under food cart. He stated that you do not do the cooking on site with a food cart and they use a large warming table and the food is plated and served under a sneeze guard.

Councilmember Maness confirmed that Mr. Cox would be at The Market at Icehouse this Saturday, September 23rd and September 30th. She challenged all the Council members to go to The Market one of the next two Saturdays and see the set-up and get some really good BBQ. She requested that this item be put

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back on Council next Work Session to continue the discussion now that Mr. Cox has had a chance to talk.

Mayor MacDougall stated that Council did discuss this a few weeks ago and the big thing is not Mr. Cox, but it's the others, because if Council opens it up for him then others want to do similar. He challenged Mr. Cox to talk to Mr. Stuart about it and figure out if you want Council to do something, how to they make sure that the guy with a diesel truck doesn't pull in and start setting up.

Councilmember Lyle stated that it is a safety issue. Mr. Cox responded that he understands and the first thing that comes to mind for him is to have everyone licensed and permitted through DHEC. He added that he would be happy to work with Mr. Stuart and Council.

Mayor MacDougall thanked Mr. Cox for being a vendor.

BUSINESS ITEMS (For discussion and recommendation for Council's October 2, 2023 Meeting.)

1. **Mission Lexington Sponsorship Request – Municipal Clerk Becky Hildebrand:** Mission Lexington will hold an Oyster Roast Fundraising event in the Town of Lexington's Icehouse Pavilion on November 17, 2023. Robin Bowers requested support through a sponsorship and the use of four oyster tables, 15 long tables and chairs to be used for this event. (Sponsorship form attached.)

Councilmember Williams recused himself from the discussion and vote on Item #1 as he serves as the Operations Director at Mission Lexington. (Recusal form attached.)

Councilmember Lyle stated he was all for helping Mission Lexington because they help so many in the community and our Police Department. Mayor Pro-Tem Livingston added that they also help a lot of elderly citizens. Councilmember Carnes asked if they were charged a fee for use of the Icehouse Pavilion. Ms. Bowers stated that they were charged the non-profit rate. Finance Director Pharr confirmed that the non-profit rate is \$481. Councilmember Lyle stated that he would not want to make a habit of this, but based on all their help with the community and the Police Department, he would like to waive the fee. He was fine with either waive the fee or do a sponsorship.

A motion was made by Councilmember Carnes to make a \$500 donation/sponsorship to Mission Lexington for this event and put it on Council's October 2, 2023 agenda for consideration. Mayor Pro-Tem Livingston seconded the motion and wished to add the request for the tables as stated.

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Councilmember Smith stated that he appreciates everything that Mission Lexington does in the community, but it was just a couple weeks ago that he brought up an issue similar to this about the Lexington County Animal Shelter who provides a great deal of service to our community and the Council did not want to waive the fee because if we did it for one group, we would have to do it for everyone. Councilmember Lyle stated that we are not doing it that way, we are doing a sponsorship. Councilmember Smith stated that he is not against supporting a non-profit, but just a few weeks ago Council did not want to waive a \$75 fee which concerned him a little bit. Councilmember Carnes stated that he was curious about the fees which he did not want to waive because it is a very specific non-profit fee and he did not want to get into picking and choosing. He added in his opinion they should leave that alone, but he did not have a problem using some of Council's discretionary funds to make a \$500 sponsorship to Mission Lexington.

Mayor MacDougall called for the vote. The motion to place this item on Council's October 2, 2023 agenda recommending a \$500 sponsorship, plus the loan of tables as stated, to Mission Lexington was carried with a vote of six (6) in favor and one (1) recused (Williams).

2. **Lexington Sertoma Club Sponsorship Request – Municipal Clerk Becky Hildebrand:** The Lexington Sertoma Club will hold their annual Big Thursday event in the Town's Icehouse Pavilion on October 19, 2023 and requested a sponsorship from the Town. Past sponsorships are as follows: 2018 - \$500, 2020 - \$500, 2022 - \$600. (Sponsorship flyer attached.)

A motion was made by Councilmember Smith and seconded by Councilmember Lyle to place this item on Council's October 2, 2023 agenda for consideration. The motion was unanimously carried.

3. **Vision Plan Advisory Committee – Councilmember Gavin Smith:** At the August 21, 2023 Council Work Session, Council discussed forming a Vision Plan Advisory Committee. The committee would be charged with reviewing, reassessing and updating the Town's Vision Plan to ensure it aligns with the wants and needs of our community and would report to Council.

A motion was made by Councilmember Smith to place this item on Council's October 2, 2023 agenda for approval. Councilmember Maness seconded the motion and confirmed that Council had

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received two additional applications, plus the four they received in their package, of current Advisory Committee members who wished to now serve on the new Vision Plan Advisory Committee. Municipal Clerk Hildebrand confirmed that Staff had not yet reached out to anyone except the current Advisory Committee members and they all seem very eager to get started. Councilmember Maness stated that more members would be needed and possibly Matthew Smith would submit an application. Mayor Pro-Tem Livingston stated that they had also discussed that they did not want this committee to get started too heavy until new Councilmembers are elected in case they had any recommendations. Councilmember Smith thought the discussion was left with if the two committees were going to be merged or if the Vision Plan was going to be a standalone committee. He did not remember if Council had made that decision. Mayor MacDougall thought it was going to make a transition. Municipal Clerk Hildebrand confirmed that Staff was instructed to ask the current Advisory Committee first if they would like to serve on the new committee so it could be merged. Mayor MacDougall stated that it sounded like they were excited about it too. He called for the vote. The motion was unanimously carried.

4. **Mast Arm Street Signs – Transportation Director Randy Edwards:** Citizens and Council members inquired about the feasibility of installing street name blades on all the Town maintained mast arms. The Transportation Department Staff completed a review of this request to purchase 124 name blade signs and mounting brackets. Installation would be completed in-house. The costs for all materials, as shown in the attached example, is approximately \$73,000. (Copy attached.) Funds would be made available from the Roads and Infrastructure budget.

Councilmember Lyle stated that the Town's new wayfinding signs are a nice brown and grey colors, but the example of the mast arm street sign is plain green. He asked if the new street signs could be matched in some way. Mr. Edwards responded, yes, but they would cost more and would have to go to SCDOT reflective review and with the beige on the wayfinding signs you would have to do retro reflectivity so when your headlights hit the sign it would be visible. He added that the green and white sign is called guidance signage and it is uniform. Councilmember Lyle stated that he would be interested in seeing the different styles and the cost. Mayor Pro-Tem Livingston confirmed that it would take Mr. Edwards at least a month to get a new estimate so she recommended the item go to Council's October Work Session. Councilmember Smith stated that he would like to see a more ornate design like the City of Aiken, because if we are going to spend this much money he would prefer they look nicer. Mr. Edwards stated that he was not opposed to that, but you can get into a lot of options. Councilmember Smith responded that options are good to consider. Councilmember Lyle stated that ornate might work

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downtown or at the historic district, but not all the way out to I-20 or near the hospital. Mr. Edwards commented that even the next phase of the wayfinding signs would move into a guidance sign.

It was the consensus of Council to direct Mr. Edwards to bring this item back to the October or November Work Session.

5. **West Sparrowood Run in Mallard Lakes Subdivision – Transportation Director Randy Edwards:** West Sparrowood Run is a local road located off Highway 378/Sunset Boulevard and is maintained by the Town of Lexington. Property owners at 128, 137 and 133 experience intermittent flooding, most notably making their driveways “impassable” during heavy events. Study of the drainage shed reveals that there are several contributors to this overtopping ditch and developer installed drainage system. They are Saxe Gotha Presbyterian Church, Town of Lexington and others. (See attached Exhibit.) There appears to be evidence of a failed stormwater control structure that had been constructed on the church property and the developer installed driveway pipe system does not meet standards.

Transportation Director Edwards commented that this is being brought to Council because this is a repetitive issue that the Town has some causibility in that our drainage from the drainage shed in the green zone shown on the map into the red zone as shown on the map then past 128 West Sparrowood Run. He stated that we need to engage the church to get a cooperation effort. Staff believes that the original stormwater shed was to be maintained and it clearly is not being maintained and there is no history because DHEC erases their files every so often. Mr. Edwards stated that the solution is to restore the pond but he believes it will take a cooperative effort.

Interim Town Administrator Ford stated that Staff would like to provide a solution to these folks. The fact that it includes multiple parties is important, but the fact is if Staff goes and talks to the parties, they need some assurance that the Town is willing to be part of the solution. Mr. Ford added that they were seeking direction from Council and would like to find all the answers and the exact solution that would be needed. He added that Staff could gather the information, engage the others parties and bring it back to Council, but this is not an insignificant situation.

Mayor MacDougall stated that the Town has been talking about this for a long time and it is time to move it in the right direction especially for the people who have been suffering from the runoff.

Councilmember Maness asked, when the developer installed that type of system was it inspected by anyone. Mr. Edwards responded that it is on private property and the pipe follows the entire cul-de-sac which does not

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meet any standards and there are clear disjoints and grossly undersized for the amount of water that is trying to get through it. He added that the lots were developed in stages with the last house was built in 2007 and is marked with a star on the map. Mr. Edwards stated that any inspections would have been pre-DHEC rules.

Councilmember Carnes confirmed that the pond is located in a portion of the red zone on the map. Mr. Edwards stated that the earthen dam had breached and had evidence of an old stormwater structure. He confirmed that the starred lot continues around the cul-de-sac and is tied to the Town's system as shown in the attached photograph. Councilmember Carnes confirmed that Saxe Gotha Presbyterian Church owns the land shown in red on the map. Mr. Edwards pointed out on the map that everything outlined in yellow ends up at the star and the commercial property facing Sunset Blvd. may not have any control at all. Councilmember Carnes asked wouldn't this have been a problem in 2007 when the last house was built, including all the smaller units to the southwest. Mr. Edwards responded yes, including the green zone on the map owned by the Town. Councilmember Carnes stated that if a developer built a house in 2007 on a property that was already flooding, he did not know where the Town's responsibility would be in that scenario. Mr. Edwards responded that the Town was causing that flooding in 2007 and now. He added that the Stormwater Act states that you cannot be impacted downstream or upstream by making a change. Mr. Edwards stated that someone purchased the house, thought everything was fine and this is the property owner that is constantly contacting the Town during every rain event. Councilmember Carnes responded that their first recourse would be with the developer. Mr. Edwards stated, but it was with an approved plan so their recourse is to sue the people upstream who are flooding you and they will win. Councilmember Carnes responded that you sue them if you can prove there is more runoff than before, but there are no calculations. He added that initially it was a private issue where someone built a house and now they have a flood problem, the first recourse should be whoever sold them the house, not the parties who have been discharging into that area for 50 years. Mr. Edwards stated that the building permit was approved and a builder did what he is going to do when there was no requirement for stormwater. He added that the Town usually tells people that this would be a private property issue. In this case, we are one of the adjacent property owners along with Saxe Gotha, who we anticipate to be an amenable partner because they own the dirt necessary to restore the area.

Interim Town Administrator Ford stated that this is not a typical issue because the rules around 2007 required no impact upstream or downstream. He added that the Town has lots of neighborhoods that have flooding issues upstream because the developer did everything they were required to do, but it was not sufficient. Mr. Ford stated that those rules are not the same today and that is why we are trying to deal with this issue because our

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roads are dumping into the system and there is a failure that is impacting the property owners. Staff would like to come back with a constructive plan to mediate those damages.

Mayor MacDougall stated that it does not hurt to get some conversation going to where we land and then we will take it from there.

A motion was made by Councilmember Maness and seconded by Councilmember Smith to direct Staff to have a conversation with Saxe Gotha Presbyterian Church and then bring the item back to Council. The motion was unanimously carried.

6. **Paving in Town, County Dirt Roads – Transportation Director Randy Edwards:** Mr. Edwards stated that he recently had a conversation with Councilmember Maness to revisit a request that the Town received from Lexington County in 2020 regarding the paving of several dirt roads in Town. He gave the background as: On September 21, 2020 the Transportation Staff presented a proposal from Lexington County that would achieve paving four (4) roads in the Town including Bellewood Drive, Barrett Drive, Michael Street and Laurel Drive. (Copy of 2020 Minutes and map of roads attached.) It was Mr. Edwards understanding that someone on Bellewood Drive brought this item back up as a concern. The funds for the proposal would be made available from the Roads and Infrastructure budget.

A motion was made by Councilmember Maness to place the item on Council's October 2, 2023 agenda for consideration. She added that she read back over the Minutes from Council's 2020 Work Session as mentioned, but they had also talked about paving Darby Ambrose. She did not know if anyone else remembered that conversation, but it is time to pave these roads for citizens in the Town limits. Mayor Pro-Tem Livingston stated that the Minutes also read that we planned to do it, so why didn't we? Mr. Edwards responded that no motion was ever made to actually make it happen. He added that at the time the proposal from Lexington County was for the Town to pay for the materials because the County now has a full blown paving crew to go out and prep and pave dirt roads. Mr. Edwards stated that at that time the County was willing to partner with the Town, provided that the Town pay for the materials. Councilmember Lyle confirmed that these are County roads. Mr. Edwards responded, yes, they are County roads located in the Town and some of them are on the County's C-Funds Paving List but they are lightyears down the list. He added that the Town would be paying to move the roads to the top of the list. Councilmember Lyle confirmed that the 2020 cost for the four roads was \$200,000 and they would still be maintained by the County. Councilmember Maness stated that two years ago

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someone came out and staked the roads and told the citizens on Bellewood that they were close to paving them, then nothing happened. She added that it looked like the Town dropped the ball back in 2020 so she would like to put this on the agenda. Councilmember Smith wished to confirm how C-Funds are received. He stated that he understood that the County receives C-Funds and the Town can apply for a certain amount from the County. He asked if the Town had applied for that funding and if so, how much was applied for and how much did the Town receive. Mr. Edwards clarified that the CTC (County Transportation Committee) is County Council in Lexington County whereas in most cases the Legislative Delegation of that County appoints the committee's membership. He added that they are two different bodies, but one in the same for Lexington County and they control all the County C-Funds. Mr. Edwards stated that the County has received significant increases in C-Funds in the ten years he has been with the Town. He added that the amount they allot for applications was \$100,000 in 2014 and is now \$150,000 while their pot has grown much more than that. Mr. Edwards stated that the Town can petition, or apply, for C-Funds every March or April and this year the Town received \$30,000 to be married with the \$30,000 we got last year so we can address a couple of sidewalks. He added that historically, \$100,000 is all that is allotted for all municipalities in Lexington. Councilmember Smith stated the Mr. Brent Hyatt at the County (Director of Public Works) told him that this year the County will receive additional C-Funding from the Legislature, so why did we not get more and have we talked to them about it. Mr. Edwards responded that he has not talked to the County about it and the funds probably went to the County's pot to keep paving dirt roads in Lexington County. Interim Town Administrator Ford stated that the County has a program and they have to follow certain basic rules about how C-Funds are expended, and as Mr. Edwards explained, they have a list and it will be a while before we get it even if we applied, we could not get any significant amount toward this project. He added that the other thing to consider is these estimates were based on the Town paying for materials and being a part of their larger contract. Mr. Ford stated that if the Town took on this project today ourselves, he guessed it would be substantially higher than the numbers before. He could not give Council a number, but if the Town does it as a standalone project, it would be a lot more. Mr. Edwards stated that a year ago when the Town paved our portion of Coventry, Council approved the funds because we were piggybacking on the County's contract. He added if it has just been for the Town it would have been twice as much. Mayor Pro-Tem Livingston asked if the Town could ask the County to piggyback on their contract again now. Mr. Edwards stated that

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the County originally asked the Town about these roads because they will do short roads with their in-house crew because you get more bang for your buck with a smaller crew. Mr. Edwards stated that the roads that the County bids out are a mile long. Mr. Ford stated that Staff can start to explore what possibilities exist and come back to Council with information and a number for the project, but we need to realize that it may be more of a commitment than \$200,000. Councilmember Carnes asked why these particular four roads and are they the only dirt roads in Town. Mr. Edwards responded that is where the discussion went last time, but these roads are close to heavily populated areas of Town. He added that other dirt roads include Darby Ambrose which is part of the commercial development with the Gateway Project at Corley Mill. Mr. Edwards stated that we also have Dahlia off Swartz Road which is the lion's share of the Town's dirt roads. He confirmed that the first four dirt roads probably have 40 residents involved. Mayor MacDougall stated that the push was to pave these roads so the motor grader would not have to ride from Red Bank all the way to Town to scrape two roads and wearing the tires out. He added it was pave the roads so they could be maintained easier and cut down on expenses. Councilmember Smith asked how many miles totaled the Town's dirt roads. Mr. Edwards responded it was probably a couple miles. He agreed with Councilmember Maness that it was time for these roads to be paved because we are an urban environment and that is why he supported it in 2020. Mayor Pro-Tem Livingston stated that she is for doing this, but she would like to know the different options and costs. Mr. Edwards stated that we would need to reengage the County and ask where they are on their road projects. Mayor MacDougall stated that there was an appetite for it then, so there will be an appetite now, plus there is a cost savings to them to do it. Councilmember Lyle stated to ask the County for a price and seconded the motion to place the item on Council's October 2, 2023 agenda. Several Councilmembers asked if two weeks was enough time to get the information. Mr. Edwards responded that he could certainly get a refreshed update on the \$200,000 price from 2020. Councilmember Williams asked if that was enough time to also get the County agreement. Mr. Edwards responded yes. The motion was unanimously carried.

7. **Rate Class Update – Interim Town Administrator Stuart Ford:** As approved by the General Assembly several years ago, the state-wide business license standardization act requires municipalities to adopt the updated standard rate classes in every odd year for implementation in the next even year business license cycle. Mr. Ford added that this means everyone across the state will have the same rate class schedule. Every two years they will use data from IRS to update which class businesses should

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fall into. Under State Law, the Town is required to adopt the new rate class schedule before the end of 2023 and to be effective the next business license year. Mr. Ford stated that in this process there will be winners and losers and the net effect for the Town will be the loss of \$11,000 of revenue which is partially a result of restaurants going from a Class 1 to a Class 2. He added that there is no significant impact on any particular business based on MASC's analysis, meaning no business in Town has an impact of over 10% or \$100. Overall, most businesses come out to the good. Mr. Ford stated that there is no requirement to do an equalization, but we do have to update this every two years.

A motion was made by Councilmember Lyle and seconded by Councilmember Williams to follow State Law and adopt the Updated Standard Business License Rate Class Schedule, by NAICS Code, as First Reading on Council's October 2, 2023 agenda. Councilmember Williams directed Mr. Ford to also notify the Lexington Chamber. Mr. Ford responded that he would announce it next Wednesday at their Board meeting. The motion was unanimously carried.

COUNCIL/STAFF COMMENTS: None.

PUBLIC COMMENTS

1. **Ms. Kathy Beatty**, 120 Bellewood Drive, stated that she is one of the residents asking to have her road paved for the past 30 years. She added that they had waited patiently and got their hopes up when crews showed up to mark the water lines, sewer lines and electric. She stated that then the engineer showed up and it never got paved. She appreciated Town Council considering the request because she along with 40 neighbors would love to have paved roads.
2. **Ms. Joyce Mize**, 121 Maguire Drive, thanked the Council for appointing her to the Historic Preservation Review Board and she was looking forward to hearing from somebody to tell her when they are supposed to meet. Councilmember Maness responded that Assistant to the Town Administrator Crosby would get in touch with her. Ms. Mize stated that she wished Council would speak up because there was not one person that she understood, so please speak up in the future.

NEWS MEDIA COMMENTS: None.

ADJOURNMENT: Mayor MacDougall thanked everyone for attending the meeting tonight. There being no objection from Council, Mayor MacDougall adjourned the Council Work Session at 7:10 p.m. and reconvene into Council's Executive Session.

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EXECUTIVE SESSION (Part 2) AND RATIFICATION

Mayor MacDougall reported the *Executive Session* Part 2 was called to order at 7:15 p.m. after a motion was made by Councilmember Maness and seconded by Councilmember Carnes to reconvene into *Executive Session*. The motion was unanimously carried. Council adjourned from *Executive Session* at 9:05 p.m. after a motion was made by Councilmember Carnes and seconded by Councilmember Williams. The motion was unanimously carried. Mayor MacDougall reported that pursuant to SC Code §30-4-70(a) (1) and (2), Council met in *Executive Sessions* to discussion two routine personnel matters; two legal issues regarding stormwater control and advice regarding agenda items and one contractual item regarding Corley Mill/Sunset Blvd. engineering. No vote was taken. A motion was made by Councilmember Maness and seconded by Mayor Pro-Tem Livingston to ratify the Mayor's report. The motion was unanimously carried.

Respectfully submitted by:

Becky P. Hildebrand, CMC
Municipal Clerk

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.