

MINUTES
Town of Lexington
Executive Session and
REGULAR COUNCIL MEETING
May 4, 2009

Town Council met in a Regular Council Meeting on May 4, 2009 at 7:00 following an Executive Session attended by Mayor Randy Halfacre, Council Members Richard Thompson, Kathy Maness, Ted Stambolitis and Danny Frazier. Mayor Pro-Tem Hazel Tyndall was absent due to illness and Todd Shevchik was absent due to a family emergency. The Executive Session was also attended by Town Administrator Jim Duckett, Municipal Attorney Brad Cunningham, Assistant Town Administrators Britt Poole, Assistant Town Administrator Stuart Ford and Municipal Clerk Becky Hildebrand. Also attending the Regular Council meeting was: Police Chief Terrence Green, Director of Utilities and Engineering Allen Lutz, Finance Director Kathy Roberts, and Parks Streets and Sanitation Director Dan Walker.

Two members of the news media were present and approximately seventy-five (75) citizens and students.

EXECUTIVE SESSION REPORT

Mayor Halfacre reported that the *Executive Session* was called to order at 5:45 p.m. after a motion was made by Councilmember Thompson and seconded by Councilmember Frazier to go into *Executive Session*. The motion was unanimously carried by all those present. Council adjourned from *Executive Session* at 6:50 p.m. after a motion was made by Councilmember Stambolitis and seconded by Councilmember Thompson. The motion was unanimously carried by all those present. Mayor Halfacre reported that Council met in *Executive Session* to discuss: two contractual issues related to a downtown economic development opportunity and a sewer contract; and, five pending legal issues. No vote was taken. A motion was made by Councilmember Stambolitis and seconded by Councilmember Frazier to ratify the Mayor's *Executive Session* report. The motion was unanimously carried by all those present.

INVOCATION, PLEDGE OF ALLEGIANCE AND CALL TO ORDER: Mayor Halfacre introduced the Council Members and welcomed everyone to the Council meeting including many students from Lexington High School's government class. He called on Councilmember Maness for the invocation. Councilmember Thompson led in the Pledge of Allegiance. Mayor Halfacre called the meeting to order at 7:09 p.m.

ADDITIONS/DELETIONS: None.

APPROVAL OF MINUTES: Councilmember Maness made a motion to approve the minutes from the Special Council Meeting and Council Work Session on April 20, 2009. Councilmember Frazier seconded the motion. The motion was unanimously carried by all those present.

PRESENTATIONS

1. **Motorcycle Awareness Proclamation – Councilmember Danny Frazier:** Councilmember Frazier read a proclamation declaring May 2009 as Motorcycle Awareness Month. (Copy attached.)
2. **Bike to Work Day Proclamation – Councilmember Ted Stambolitis:** Councilmember Stambolitis read a proclamation declaring May 12, 2009 as Bike to Work Day. Mr. Chuck Creech, Community Cycling Advocate, The Hawley Company, was present to accept the proclamation. (Copy attached.)
3. **Letters of Commendation to Sgt. Pickle, Cpl. Hefner, Ptl. Meyers and Ptl. Beza - Chief of Police Terrence Green:** Chief Green, along with Mayor Halfacre, Battalion Chief John Hendrix, Major Jay Koon, Lieutenant Chad Snelgrove and family members, presented four Letters of Commendations to Sgt. Mike Pickle, Cpl. Aron Hefner, Ptl. Dennis Meyers and Ptl. Nic Beza for their heroic actions on April 9, 2009 when all units responded Code 3 due to the imminent loss of property and potential loss of life at Park North Apartments related to a fire. The four Town of Lexington Police Officers arrived on the scene prior to the fire service and began immediate evacuations after finding heavy smoke and fire in the middle apartment building. The officers physically removed victims from four to five apartments, at times carrying multiple children away from the fire. After evacuations were complete, the officers assisted Lexington County Fire Service personnel with their initial set, laying hoses, and handle crowd control. Fire Chief David Fulmer and Captain Tom Emasie expressed their gratitude for the assistance from the Lexington Police Officers and stated that the situation at the fire scene could have been much worse had it not been for the teamwork from all the agencies involved. Chief Fulmer stated that an unthinkable tragedy was certainly averted due to the actions of these fine officers. Battalion Chief Fulmer read a letter of appreciation from the Lexington Fire Service and presented each officer with a copy of the letter.

Mayor Halfacre thanked the officers for their service to the Town and their fellow man. He added that they always go above and beyond the call of duty and sometimes it is not recognized enough.

4. **Main Street Project – Ms. Edie Harmon, President, Historic Village Neighborhood:** Ms. Harmon, 220 Meetze Avenue, wished to oppose the proposed ordinance to create a Planned Development Special Overlay District at 101 West Main Street. She made comparisons to Atlanta, when developers wanted to tear down Margaret Mitchell’s house and the Fox Theatre; to San Antonio when developers wanted to tear down the Alamo; and, to San Francisco when developers wanted to rip up the trolley tracks along with the trolleys, yet citizens came together to save each historic site. She stated that she did not want to suggest that Lexington’s buildings were of the same caliber, but to show that city governments

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and developers do not always know what is best for a town. She gave a brief history of the building at 101 West Main Street: Built in 1915 by Mayor H. M. Kaminer and Simon Caughman whose daughter ran a dry goods store; the building escaped a fire in 1916 due to the 16 inch brick walls; then it was Lexington Supply followed by Shirey's on Main furniture store. The brick building next to it was built by the Corley Brothers and housed the E. M. Dupre Ford Company followed by Lorick Ford. She wished to address two comments made by Keith Frost, Chairman, Planning Commission, who asked "what is so special about the building" and he would rather tear it down. Ms. Harmon stated that the building is brick and bat style with brick soldiering over all the windows and doors. She added that the history of Lexington tell us that the settlers were hard working no frills people and it was reflected in the architecture. She stated that there were already two sidewalks leading to the Palmetto Collegiate Institute and the 44 apartment units would be government subsidized and if 100% occupancy is not obtained, the apartments can be rented to anyone under 55 years old. She added that in two years, Lexington will be 150 years old. She asked if any plans were being made to celebrate the occasion.

PUBLIC HEARINGS

Mayor Halfacre called the Public Hearing to order and requested that those wishing to speak limit their comments to five minutes.

1. An Ordinance Annexing 206 Industrial Drive.
2. An Ordinance Creating a Planned Development Special Overlay District on 101 West Main Street, 103 – 105 West Main Street and 111 South Church Street.

Mr. Chuck Corley, 121 Berley Street, wished to oppose the ordinance. He thanked the Mayor and Council for their work in saving a portion of the building but he felt the project was still too dense for the area with 44 units at 700 square feet each. He would like to see a more upscale project because he "hated to see old people crammed in a puppy mill". He knows the developer and is familiar with his projects. Mr. Corley stated that he is concerned about traffic issues and quality of life since his wife and another lady had already been injured while walking on Main Street.

There being no further comments, Mayor Halfacre declared the Public Hearings closed.

TRAFFIC UPDATE

Mayor Halfacre provided an update on the Town of Lexington's continuing efforts to improve traffic including: (1) The traffic counts that the Town contracted are complete. SCDOT has the data and is currently in the process of resynchronizing the 21 studied signals. The process is expected to be complete this month. (2) The County has taken possession of the guard rails for Black Avenue and expects to install them this month.

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(3) The COATS Board voted unanimously to fund Phase I of the traffic plan with \$8 million of Guide Share money freed up by stimulus money. The Town is currently working on finding matching monies for the previously awarded earmarks. When the matching money is found, Phase I of the traffic plan will be fully funded. The Town would like to extend a special thank you to Highway Commissioner Henry Taylor for his efforts. A total of \$14 million dollars will be available to the Town including the money that was previously earmarked. (4) The next Traffic Committee meeting will be May 19, 2009 at 8:00 a.m.

OLD BUSINESS

1. A motion was made by Councilmember Maness and seconded by Councilmember Frazier to **approve Final Reading of an Ordinance Approving the Cayce Sewer Contract**. Mayor Halfacre stated that this is also a huge project for the Town which allows the Town purchase of an additional 6 million gallons of capacity. The motion was unanimously approved by all those present.
2. A motion was made by Councilmember Thompson and seconded by Councilmember Stambolitis to **approve Final Reading of an Ordinance Annexing 206 Industrial Drive**. The motion was unanimously carried by all those present.
3. A motion was made by Councilmember Maness and seconded by Councilmember Stambolitis to **approve Final Reading of an Ordinance Creating a Planned Development Special Overlay District on 101 West Main Street, 103 – 105 West Main Street and 111 South Church Street**. Councilmember Maness wished to clarify some concerns that were addressed by Ms. Edie Harmon and from an email she received. Assistant Town Administrator Poole stated that the Historic Preservation Review Board was not consulted regarding the project because the property is not zoned “historic” and public notices were posted two weeks prior to the Public Hearing. The building is listed on the Inventory of Historic properties, which list properties over 50 years old, but the property is not zoned historic. There are several methods for a property to be zoned historic which would start with the Historic Preservation Review Board. He stated that the requirement placed by the Planning Commission enforces an age restriction of 55 years of age or older through the PUD and goes with the property, no matter what other rules and regardless of the percent of occupancy. Mr. Poole stated that parking was flexible and “significantly below 76”, as stated by the Planning Commission, may allow for added handicap parking. Mr. David Christmas, Connelly Development, stated that the owner of Palmetto Propane will occupy the portion of the old Shirey Furniture with his propane/grills retail sales. They do not have the remaining tenants, but the shells will be constructed. He stated that Shirey Furniture portion has approximately 6,000 square feet and the remaining portion will total 15,000 square feet.

Mayor Halfacre stated that the Planning Commission placed several restrictions on the property and include: (1) must meet architectural and appearance guidelines or the

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Town can require a change; (2) the age restriction of 55 years old or older are tied to the deed; (3) the sight be required to be landscaped in compliance with the Town's ordinance; (4) a public space such as a square, fountain or garden on Main Street; (5) the commercial component be limited to retail, office or restaurant or similar uses and not exceed 18,000 square feet; (6) the developer to repair the sidewalks adjacent to the property; (7) residential density not exceed 44 units; (8) parking spaces cannot drop significantly below 76; (9) that the signage and lighting meet the Town standards; (10) that any demolition not occur during the weekend if the Palmetto Collegiate Institute is rented; (11) that the commercial shell be built at the same time as the residential units; (12) that a trail be built connecting the property to the Palmetto Collegiate Institute to allow a view from Main Street; (13) sight plan approval is contingent upon the successful rezoning of the property to General Commercial Special Overlay District; (14) to restore a portion of the walls from Shirey Furniture; and (15) any significant deviation from the restrictions will require the plans to be resubmitted to the Planned Development approval process. Mayor Halfacre stated that the Planning Commission had done an excellent job with specific restrictions and he will vote for the item in that he is very comfortable with it. He added that the total investment is \$7 million and the recurring property taxes and business licenses will be approximately \$22,000 to \$25,000 a year.

Councilmember Frazier stated that is very confident that the project is headed in the right direction. He thanked Kevin Connelly and the Planning Commission. He stated that after he talked to Chuck Corley about his concerns to save the building, Mr. Connelly had been very cooperative to try and save a large portion of the building. Mr. added that Mr. Connelly is a resident of Lexington County and he wants something nice on Main Street.

Councilmember Stambolitis stated that he has known Mr. Connelly for a long time and he builds a quality product. He stated that the downtown area needs something to spur growth and that particular corner is one of the worst eye sores. He added that it will take an investment and special vision like this to turn it around. He agreed with the age requirement and to bringing residents to downtown.

Ms. Rose Meyer, 101 East Main Street, is the owner of an unoccupied business across the street. She stated that her building has some parking behind her building and she wanted to know if the 76 parking spaces would be all in one unit or section. Assistant Town Administrator Poole responded that the buildings will face Main Street and all the parking will be to the rear of the building. There will also continue to be public parking on the street. Mr. Christmas stated that they would not limit others from using their parking unless it became a problem for the residents.

Mayor Halfacre called for the vote regarding the motion to approve Final Reading of an Ordinance Creating a Planned Development Special Overlay District on 101 West Main Street, 103 – 105 West Main Street and 111 South Church Street. The motion was unanimously approved by all those present.

NEW BUSINESS

1. **First Reading of an Ordinance Amending the Nonconformities Section of the Zoning Ordinance:** An ordinance will be prepared to allow the replacement of area nonconformities* upon severe damage or destruction** without any time limitations. While the area nonconformity would not be allowed to increase and architectural standards may apply the structure or other area nonconformities would be allowed to be reconstructed. The Planning Commission reviewed the issue and recommended that the ordinance prohibit the replacement of area nonconformities upon severe damage or destruction. An ordinance will be prepared for final reading.

Definitions:

- (*) Area nonconformities exist where a use is allowed but does not meet certain zoning requirements, such as setbacks, buffers, number of parking spaces, etc.
- (**) Severe damage or destruction occurs where repair would cost more than 50% of the total replacement value of the structure immediately prior to the damage.

A motion was made by Councilmember Stambolitis and seconded by Councilmember Frazier, to approve First Reading. Councilmember Frazier asked if this provided the wording as requested during Council's work session. Assistant Town Administrator Poole stated that this would allow damaged buildings to rebuild if the use is allowed and if it does not meet the setbacks. The ordinance can provide wording to put a "line in the sand" regarding the date of the new ordinance restrictions. Councilmember Frazier wished to amend the motion to include wording to state that existing buildings will be grandfathered in and new buildings will have to comply with the new ordinance. Councilmember Maness referred to the minutes of April 20, 2009 and requested that the ordinance be worded the same. Councilmember Maness seconded the amended motion and the amended motion was unanimously approved by all those present.

2. **First Reading of an Ordinance to renew the Time Warner Cable Contract:** The Town of Lexington's Cable TV Contract with Time Warner is up for renewal in the fall of 2009. In 2006 a law was passed which placed new regulations on cable franchises, among which the cable company must get permission from the Secretary of State before it can renew the agreement with the Town. Also, as part of the new law, the Town can charge up to 5% instead of the former 3% Cable Franchise Fee.

At the March 2009 Work Session, Town Council directed staff to investigate renewal of the contract with Time Warner pursuant to the new law. Documents are attached from the Secretary of State's Office wherein Time Warner applied for the required permission. The Town must respond within 65 days of the request which was made April 15, 2009. The granting of the franchise will require the passage of an ordinance before the Mayor can sign it. This can be accomplished with a first

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reading in May and a second reading in June. In the renewal, the Town can increase the franchise fee from three percent (3%) up to five percent (5%). A complete ordinance will be available for second reading.

A motion was made by Councilmember Frazier and seconded by Councilmember Thompson for First Reading approval. Councilmember Stambolitis confirmed that the fees are estimated to be \$80,000 to \$100,000 a year. Town Administrator Duckett stated that the first year would be less in that the contract would not cover an entire year and it has been made a part of the new budget. The motion was unanimously approved by all those present.

3. **Regular Council Meeting Time:** At the April 20, 2009 Work Session, Council discussed changing the Regular Council meeting from 7:00 p.m. to 6:30 p.m. with the Executive Session beginning at 5:30 p.m.

A motion was made by Mayor Halfacre and seconded by Councilmember Stambolitis to approve changing the Regular Council Meeting time to 6:30 p.m. Mayor Halfacre stated that if the time becomes an issue, it can be changed back. He reminded everyone that the Council Work Sessions now start at 6:00 p.m. Councilmember Maness encouraged the students to advise their teachers of the change in the meeting time. The motion was unanimously approved by all those present.

COMMENTS

Mayor Randy Halfacre wished a Happy Birthday to all Town employees celebrating birthdays in May including Town Administrator Duckett's 60th birthday tomorrow, Mayor Pro-Tem Tyndall's birthday and Councilmember Frazier's birthday. He also wished his wife a Happy Birthday on the 26th. He expressed get well wishes to Councilmember Frazier's mother, to Constance Flemming and to George Jacobs. He wished a special get well message to Councilmember Shevchik's mother in Pennsylvania who has been suffering from a very serious illness. Mayor Halfacre reminded everyone that May 7th is National Prayer Day. He announced that NEAT Neighborhood will be in Mallard Lakes and Mallard Hills on May 21st from 2:30 to 5:30. He stated that Town Hall will be closed on May 25th in observance of Memorial Day and he encouraged everyone to observe a moment of remembrance for those that have lost their lives in the line of military duty. He sent best wishes to Mayor Pro-Tem Tyndall's daughter and future son-in-law who will be married on May 16th. He congratulated the White Knoll Virtual Enterprise Class for being in the top 10 of their competition in New York. He wished a Happy Mother's Day to all the moms. Mayor Halfacre later thanked Chief Green for doing "a heck of a job" and the Town is very proud of him and all the officers. He thanked Town Administrator Duckett for all his hard work on the sewer contract.

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Councilmember Richard Thompson wished a Happy Mother's Day to all the mothers. He encouraged people to not forget a special aunt or other friend that may have also played a special part in their life.

Councilmember Kathy Maness congratulated the Police Officers who were honored tonight for putting their lives on the line to save others and she stated that the Town is very lucky to have such great officers working in our community. She thanked the students for attending the meeting and she knows they are on a countdown to the end of the school year. She expressed best wishes to the newlyweds, Hope and Shawn, on their recent wedding. She was thankful to the previous Council members who voted to save the beautiful Palmetto Collegiate Institute. She wished a Happy Mother's Day to all the moms, especially her mother who moved to Lexington three years ago.

Councilmember Ted Stambolitis expressed his thoughts and prayers to Councilmember Shevchik's mother for a speedy recovery. He sent get well wishes to Mayor Pro-Tem Tyndall. He wished a Happy Birthday to Danny and Jim and added that he did not know what the Town would do without them and their mothers deserved a medal. He wished a Happy Mother's Day to all the moms including his wife and mother.

Councilmember Danny Frazier thanked Chief Green and the officers with the Lexington Police Department for a fine job at the recent apartment fire. He thanked Keith Frost and the Planning Commission for all the time and thought put into the project on Main Street. He added that it is just a start to what is to come on Main Street. He wished his youngest daughter and his better half a Happy Birthday in May. He stated that he was very proud of his oldest daughter and how beautiful she was at the prom. He thanked his mother for all she has done for him and wished her a Happy Mother's Day.

STAFF COMMENTS

Town Administrator Jim Duckett wished to remind Chief Green that it won't always be this nice in that he is still on his honeymoon period as Chief, even after three years. He stated that the Town has an excellent staff and he appreciates Council's confidence in the staff and for understanding their role to lead, guide and set policy.

QUESTIONS FROM THE MEDIA: None.

PUBLIC COMMENTS: None.

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ADJOURNMENT: Mayor Halfacre thanked the citizens and students for attending the meeting and for those at home for watching the Council meeting on Channel 2. He stated that Council had some tough decisions tonight and those decisions were a result of many discussions during work sessions and planning meetings in order to come to a successful conclusion for the good of the community.

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

The Regular Council meeting was adjourned at 8:27 p.m.

Respectfully submitted,

Becky P. Hildebrand, CMC
Municipal Clerk

APPROVED:

T. Randall Halfacre
Mayor