

MINUTES
Town of Lexington

COUNCIL WORK SESSION
November 19, 2007

Town Council held a Special Meeting (see separate minutes) followed by a Council Work Session. Attending the Council Work Session were Mayor Pro-Tem Hazel Leggett-Tyndall, Council Members Richard Thompson, Kathy Maness, Ted Stambolitis, Danny Frazier and Todd Shevchik. Mayor Randy Halfacre was attending a Council of Governments conference out of town. Also present for the meetings were Assistant Town Administrator Britt Poole, Municipal Attorney Brad Cunningham, Chief of Police Terrence Green, Director of Utilities Allen Lutz, Parks, Streets and Sanitation Director Dan Walker, Finance Director Kathy Roberts, Events and Media Coordinator Laura McMickens, Community and Corporate Coordinator Julie Washburn and Zoning Administrator Leah Davis.

Approximately 25 citizens were present and two (2) reporters from the news media.

CALL TO ORDER: Mayor Pro-Tem Tyndall called the Work Session to order at 7:00 p.m.

ADDITIONS/DELETIONS: None.

APPROVAL OF MINUTES: A motion was made by Councilmember Maness and seconded by Councilmember Frazier to approve the minutes. The motion was unanimously carried by all those present.

PRESENTATIONS

1. **Ms. Doretha Crew—Angel Gates Youth Foundation:** Ms. Crew gave a presentation about the Angel Gates Youth Foundation (Information attached). The Foundation, inspired by the memory of Angel Gates, was established to provide wholesome activities and recreational opportunities for the youth of the area as well as programs that help the youth develop the skills necessary to succeed in their pre-college performance and ultimately their higher education pursuits. Councilmember Stambolitis asked how the Town of Lexington can help the organization. Ms. Crew responded that the organization needs funding for programs and funding for a building (it currently meets at the Recreation Center and at the end of December they will be charged). Councilmember Maness asked the age range of the children served by the organization, and how the organization differs from the Town of Lexington's KEYS program. Ms. Crew stated that the Foundation serves children age 5 through high school, which is less age-restricted than the KEYS program. Mayor Pro-Tem Tyndall asked the hours of the program and how long the program had been in existence. Ms. Crew indicated that it is a full-time program, with some parental support, and it runs from 2 to 5 p.m. on Sundays with special events held at

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other times and the organization was created some years ago. They did take a break for awhile, but Sheriff Metts asked for its reorganization because the young people of the community needed the program. Councilmember Maness asked if the Foundation is a 501(c)(3) organization, and Ms. Crews answered yes. Councilmember Stambolitis suggested that the Town explore the possibility of helping this program, perhaps by offering Town Hall as a meeting place. Mayor Pro-Tem Tyndall noted that Mayor Halfacre had asked Council to look into helping the program and asked Assistant Town Administrator Poole to look into how the Town can help the Foundation. Councilmember Thompson commented that he had the privilege of knowing Angel and he would offer his support to the Foundation.

BUSINESS ITEMS: (For Discussion and Recommendation for Council Meeting on December 3, 2007.)

1. **Conservation Easement Donation:** In December of 2004, Mr. Reggie Porter donated a conservation easement to the Town, consisting of 6.94 acres located behind the Mariner's Creek subdivision. There is a second 6.23-acre parcel adjacent to the original parcel, which is now available for a similar donation. A conservation easement would allow the Town access to the land for maintenance and related purposes, but limits the use of the property to passive parks and limited activities designed so as not to interrupt or disturb the natural conditions on the property.

Councilmember Maness asked Municipal Attorney Brad Cunningham how this easement would benefit the Town of Lexington. Mr. Cunningham answered that if it fits into a grand scheme for parks or green space, it would be beneficial to the Town, but otherwise, the Town would be extremely limited in what it could do with the property because the easement is designed to keep it in its natural state. Councilmember Maness asked if the parcel was near the Town's boundaries. Mr. Cunningham answered that it is not near the Town's boundaries. Councilmember Stambolitis asked Parks, Streets, and Sanitation Director Walker whether he wanted the easement. Mr. Walker said yes, but that the limitations on its use were a concern. Councilmember Frazier asked if the Town could use the parcel for wetlands mediation. Assistant Town Administrator Poole answered that the Town would not own the property, and that only if the owner transferred ownership of the parcel to the Town could the Town use the property for wetlands mediation. He also said that the easement would mean that the Town was taking on a liability without receiving a benefit in return. Mr. Walker said that one limited benefit the property would provide is green space. Mayor Pro-Tem Tyndall asked whether the property is able to be annexed. Mr. Poole answered yes, in the distant future, the parcel would be able to be annexed. Councilmember Frazier said that he could only support the Town's involvement with the parcel if it were turned over to the Town. Municipal Attorney Cunningham said that the owner of the parcel had not offered to turn the parcel over to the Town. Councilmember Stambolitis asked the owner of the parcel, Reggie Porter, who was in attendance at the meeting, whether he would like to speak to this issue. Mr. Porter said that he would have to look into whether

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he could turn the parcel over to the Town. Assistant Town Administrator Poole asked if staff could look into that possibility with Mr. Porter and bring the item back to the next Council Work Session. Mr. Porter said that he wanted to do something with the property by the end of the year. Mayor Pro-Tem Tyndall asked if there was support for putting the item on the agenda with the stipulation that Council would need to know whether Mr. Porter would be willing to turn the parcel over to the Town.

Councilmember Stambolitis made a motion to put the item on Council's December 3, 2007 agenda. Councilmember Frazier seconded the motion. The motion failed due to lack of a majority, with Council Members Maness, Shevchik, and Thompson against putting the item on the agenda.

2. **Ownership of Wildlife (Barr) Pond.** At the October Work Session, it was suggested that the Town consider relinquishing ownership of Wildlife (Barr) Pond since the Town no longer is dependent upon the lake as a water source. Since that time, several groups or individuals have expressed an interest in obtaining the pond. These include SCE&G and the Lexington Chapter of the Wildlife Federation, as well as a number of individuals who own property near the pond. Current guidelines probably require that the land continue to be used for a public purpose. Also, Council should consider what, if any, effects a proposed future use for the pond would have on Gibson Pond, which is downstream from Wildlife (Barr) Pond. Finally, issues with the current dam would need to be addressed by any prospective new owner.

Mayor Pro-Tem Tyndall asked Municipal Attorney Cunningham what he would recommend. Mr. Cunningham answered that he is not sure that it is realistic to give the pond to anyone for private use. Mayor Pro-Tem Tyndall asked whether there was any reason to give the pond to SCE&G instead of the Wildlife Federation. Mr. Cunningham answered that there is not a reason to give the pond to SCE&G instead of the Wildlife Federation, except that SCE&G was the one who gave the pond to the Town; however, the Wildlife Federation appears to want to leave the pond in as natural a state as possible, which is for the public good. Mayor Pro-Tem Tyndall asked whether the Wildlife Federation understands that the dam needs work. Mr. Cunningham confirmed that the Wildlife Federation understood.

Councilmember Stambolitis asked whether the Town could place this item on the December 3rd Council agenda, amended to allow the Wildlife Federation to have actual ownership of the pond. Mr. Cunningham said yes, and Councilmember Stambolitis made a motion to place the item on the December 3, 2007 Council agenda, amended to allow the Wildlife Federation to have actual ownership of the pond. The motion was seconded by Councilman Frazier. Council then heard from an officer of the Wildlife Federation, Sidney Jackson. Mr. Jackson said that if the Town gave the Wildlife Federation ownership of the pond, it would be able to apply for grants. He also said that the Wildlife Federation planned to build a coalition with the South Carolina Waterfowl Coalition and the Lexington Soil and Water Conservation District

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to protect the property. Mr. Cunningham pointed out that the Wildlife Federation has access to the water because it occupies the property on the other side of the lake. Councilmember Stambolitis asked Mr. Jackson whether the Wildlife Federation understood that they would have to work on the dam. Mr. Jackson confirmed the group's understanding of the repairs. He added that the group was looking to give back to the community through women's and children's outdoor programs, and that the best way to do that is to keep the pond pristine. The motion to place this item on the December 3, 2007 Council agenda, amended to allow the Wildlife Federation to have actual ownership of the pond, was unanimously carried by all those present.

- 3. Restrictions on Residency and Loitering for Persons Required to Register as Sex Offenders:** In 2006, the State of Georgia passed a law placing restrictions on the residency and loitering of persons required to register as sex offenders. As a result of that law, it is reported that Aiken County received an increased number of these individuals moving into the county to avoid the tougher restrictions to those passed in Georgia, and some municipalities in South Carolina are considering following suit. For example, Cayce is looking at an ordinance that prohibits anymore required to register as a sex offender from residing or loitering within 2,500 feet of any school, child care facility, church, playground, park, designed school bus stop, public pool, youth athletic facility, playing fields or courts or rinks, and any neighborhood or youth center.

Councilmember Stambolitis asked if Cayce has passed this ordinance yet. Municipal Attorney Cunningham said that the Cayce Council had given it one vote. Mayor Pro-Tem Tyndall asked why the hold-up to pass the ordinance. Mr. Cunningham answered that a constitutional problem exists if the restrictions are so severe that they do not allow any sex offender to live within the Town. He noted that he had found several cases in Georgia involving restrictions of this nature that were all upheld. Councilmember Maness asked how many sex offenders live in Lexington. Councilmember Frazier answered that six sex offenders live in the Town limits, and Police Chief Green added that 12 sex offenders live in and around the Town. Councilmember Stambolitis asked what happens to the sex offenders who currently live in Town. Mr. Cunningham answered that the Town could not require them to move. Councilmember Stambolitis asked how many other municipalities in South Carolina have passed a similar ordinance. Mr. Cunningham said that Cayce is close to passing and that Aiken County and others are considering it. Mayor Pro-Tem Tyndall said that Lexington should lead by example because children as so important. Mr. Cunningham said that the longer the distance restriction, the more open the ordinance is to successful challenge—that if sex offenders could not live in the Town at all, that could be a constitutional problem. Mayor Pro-Tem Tyndall asked whether the cases involving similar ordinances that were upheld had shorter distances than 2,500 feet, and Mr. Cunningham answered yes. Councilmember Thompson asked what the likelihood is of getting into legal trouble with this ordinance, and Mr. Cunningham answered that he could not say because of the speculative nature of lawsuits; however, with a distance restriction of 2,500 feet,

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there is no place in Town sex offenders could live (other than those currently living here). Councilmember Shevchik asked what kind of liability the Town could face if successfully challenged about this ordinance. Mr. Cunningham said that the Town would face a relatively extreme liability because constitutional rights are valued so highly; however, when looking at issues involving constitutional rights, the courts look at whether the ordinance is infringing on the rights of a protected class of people, and so far no court has found sex offenders to be a protected class.

Councilmember Frazier made a motion to place the item on Council's December 3, 2007 agenda. Mayor Pro-Tem Tyndall seconded the motion which was unanimously carried by all those present.

4. **Request for Proposals for a Lexington Arts Center Feasibility Study:** The bids that were submitted in response to the Town's recent Request for Proposals for a fundraising feasibility study for the Lexington Arts Center project are being reviewed. As a result, a recommendation should be available to present to Council during its December 3, 2007 meeting.

Councilmember Maness asked whether a wide range had been submitted, and Community and Corporate Coordinator Washburn said yes.

Councilmember Stambolitis made a motion to place the item on Council's December 3, 2007 agenda. Councilmember Shevchik seconded the motion which was unanimously carried by all those present.

5. **Fiscal Year 2007 Accommodations Tax Allocations:** The Accommodations Tax Revenues (\$47,370.92) from Fiscal Year 2007 have been balanced in order to determine the amount of the 65% tourism-related funds that would need to be expended. Last year, \$14,000 was awarded to applicants. The reason for the high amount available is due to an increased amount of Accommodations Tax Revenue received for FY 2007 as well as the remaining 65% of funds from previous years.

Councilmember Maness asked whether the Angel Gates Youth Foundation or the Lexington County Museum could apply for this money, and Community and Corporate Coordinator Washburn said that the Town follows strict mandates of the state in allocating the money and that it can only be spent on tourism-related projects and programs. Councilmember Maness asked why we have so much money left from previous years, and Assistant Town Administrator Poole said that in 2004, the Town had money left over because it did not have a grants administrator at the time and also, the Town awarded some money to an organization for an event that was not held, and thus the money was not used. He also noted that the Town has more money in this fund than last year because more hotels are in the Town now, which is a trend that will continue to increase. Councilmember Stambolitis said that the Downtown Revitalization Committee would be interested in using some of this money for beautification projects. Community and Corporate Coordinator Washburn said that the beautification projects may not qualify for the funding

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because of the state's mandate that Accommodations Tax Revenues be spent on tourism-related projects. Councilmember Stambolitis asked if this money would finish the Roof House project, and Assistant Town Administrator Poole said that it brings that project to where it needs to be. Councilmember Maness asked if the Town's Art Center Committee could apply for any of the funding, and Community and Corporate Coordinator Washburn said that because the committee has no programs going on right now, it probably would be premature for them to apply for this funding.

Mayor Pro-Tem Tyndall made a motion to place the item on Council's December 3, 2007 agenda and Councilmember Frazier seconded it. The motion was unanimously carried.

6. **Commercial Corridor Overlay District:** Creation of a Commercial Corridor Overlay District would allow the implementation of the Architectural and Appearance Standards to the specific areas indicated on an attached map.

Assistant Town Administrator Poole said that this district would only apply to areas within the Town's boundaries. Councilmember Stambolitis asked if any progress had been made toward having an overlay district with the County for areas that are not in the Town's boundaries but that are nearby. Mayor Pro-Tem Tyndall said that she has been discussing this with County Council members, who appear to be open-minded about creating a small overlay district in the County. She said that she would let everyone know more about this in the spring.

Councilmember Stambolitis made a motion to place the item on the December 3, 2007 agenda. Councilmember Shevchik seconded the motion. The motion unanimously carried.

7. **Architectural and Appearance Standards and Manual:** An ordinance is proposed that would implement an Architectural and Appearance Design Manual, allow authority for enforcement of those standards, and grant the Planning Commission the authority to act as the Board of Appearance. The Architectural and Appearance Design Manual would be a policy document that outlines the standards that projects would have to meet if located either in the Downtown Overlay District or the larger Commercial Corridors Overlay District.

Assistant Town Administrator Poole noted that the standards have positives and negatives: the positives being an increase in property values over time and an improved appearance of commercial properties in Town, and the negatives being the creation of an extra step in the development process and an increased cost of development to developers.

Councilmember Maness noted that the Flight Deck property owned by Councilmember Stambolitis was included in the manual in several places as positive examples of architecture and appearance. Councilmember Stambolitis

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applauded Assistant Town Administrator Poole, Zoning Administrator Davis, and Municipal Attorney Cunningham, and all others for their work in creating the new standards. He said that the standards will go a long way in controlling the look of the Town, and as a result, the owners of properties should see an increase in their property values.

Councilmember Stambolitis made a motion to place the item on Council's December 3, 2007 agenda, which Councilmember Frazier seconded. The motion was unanimously carried by all those present.

8. **Contribution to the Friends of the Lexington Museum Fundraiser:** Mayor Halfacre had requested that Council consider a contribution to the Friends of the Lexington Museum for its annual fundraiser. This year's event will be themed "Remembering the Lexington Jaycee's Snowball Dance."

Mayor Pro-Tem Tyndall asked Friends of the Lexington Museum representative Kelley Mintz what is a snowball dance. Ms. Mintz answered that the dance was a way for the museum to raise money and have a good time in the 1950s. She also introduced J.R. Fennell as the museum's new curator.

Mayor Pro-Tem Tyndall made a motion to place the item on Council's December 3, 2007 agenda to donate \$500 to the Friends of the Lexington Museum for its fundraiser. Councilmember Maness seconded the motion. The motion was unanimously carried by all those present.

STAFF/COUNCIL COMMENTS:

Councilmember Danny Frazier said thanks to Chief Charles McNair of Cayce for bringing the sex offender ordinance to the Town's attention.

Councilmember Kathy Maness reported that she had recently attended a conference in New Orleans, where they discussed possible funding of traffic improvements. She asked Assistant Town Administrator Poole to look into development impact fees, tax increment financing, and municipal improvement districts for the January Work Session.

Mayor Pro-Tem Hazel Leggett-Tyndall reported that the Town had held a very successful and informative traffic summit recently.

Councilmember Ted Stambolitis asked when the flag would be at half staff in memory of former South Carolina Governor Robert McNair. Assistant Town Administrator Poole answered that the flag would be at half staff tomorrow.

Assistant Town Administrator Poole said thank you to Municipal Attorney Brad Cunningham, Events and Media Coordinator Laura McMickens, and Zoning

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Administrator Leah Davis for helping out today by filling in for Municipal Clerk Becky Hildebrand, who was absent due to a death in her family.

Parks, Streets, and Sanitation Director Dan Walker reminded everyone that December 2nd is the Town's holiday parade.

QUESTIONS FROM THE MEDIA: None.

PUBLIC COMMENTS

Randy Pearson said thank you to Council for listening to Ms. Crew's presentation about the Angel Gates Memorial Foundation.

ADJOURNMENT: There being no other business, a motion was made by Councilmember Maness and seconded by Councilmember Frazier to adjourn Council's Work Session. The motion was unanimously carried by all those present.

The Council Work Session was adjourned at 8:00 p.m.

Respectfully submitted,

Leah Davis, Zoning Administrator
and Becky P. Hildebrand,
Municipal Clerk

APPROVED:

T. Randall Halfacre
Mayor