

MINUTES
Town of Lexington
Executive Session,
STATE of the TOWN ADDRESS, and
REGULAR COUNCIL MEETING
March 1, 2021

Town Council held an Executive Session at 5:30 p.m. followed by the *State of the Town Address* and Regular Council meeting at 6:30 p.m. in the Council Chambers on March 1, 2021. The meetings were attended by: Mayor Steve MacDougall, Mayor Pro-Tem Hazel Livingston, Councilmembers Kathy Maness, Todd Carnes, Ron Williams, Steve Baker and Todd Lyle.

Staff members present were: Town Administrator Britt Poole, Assistant Town Administrator Stuart Ford, Municipal Attorney Brad Cunningham, Transportation Director Randy Edwards, Police Chief Terrence Green, Planning, Building and Technology Director John Hanson, Community and Economic Development Johnny Jeffcoat, Utilities and Engineering Director Allen Lutz, Utilities Superintendent David Patton, Finance Director Kathy Pharr, Parks and Sanitation Director Dan Walker, Assistant Parks and Sanitation Director Johnny Dillard, Marketing Assistant Kaylee Cuthbertson, Digital Media Coordinator Darrell Pritchard, Assistant Municipal Clerk Karen Hanner and Municipal Clerk Becky Hildebrand.

There were approximately fifteen (15) citizens present for the Council meeting and no members of the news media were present.

INVOCATION, PLEDGE OF ALLEGIANCE AND CALL TO ORDER: Mayor MacDougall welcomed everyone to the meeting and called on Councilmember Maness to give the invocation. Mayor MacDougall led in the Pledge of Allegiance and then called the meeting to order at 6:33 p.m.

STATE OF THE TOWN ADDRESS

Mayor MacDougall delivered his eighth *State of the Town Address*. (Complete copy of transcript attached.) He announced that the *State of the Town Address* would be a video for the fourth year which highlighted the Town's accomplishments in 2020 and on-going projects. He added that the video would also be played on the Town's Spectrum Community Access Channel 1301 and be replayed on the Town's web page. Mayor MacDougall thanked the Town's Digital Media Coordinator Darrell Pritchard and Communications Manager Laurin Barnes for their time and talent in producing the *State of the Town* video.

(Video approximately 7 minutes.)

- 2020 Summary:
1. COVID-19 Response
 2. Icehouse Amphitheater Pavilion Completion

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3. Gibson Pond Park Dam Project
4. Old Mill Dam Restoration and Walking Trail
5. Virginia Hylton Park Expansion
6. Traffic Improvements – MASC Award
7. Excellence in Law Enforcement 2020 Agency of the Year
8. GFOA Finance Award and GFOA Distinguished Budget Presentation Award
9. Watergate Town Improvements for Water Quality

Following the video, Mayor MacDougall stated that he hoped everyone enjoyed watching the video as much as he did making it. He added that all the projects and progress are a result of the Town's Vision Plan. Mayor MacDougall stated that he was honored to be the Mayor of this great Town and he looked forward to serving the citizens in the year ahead.

Mayor MacDougall introduced his fellow Councilmembers on the video which included: Mayor Pro-Tem Livingston and Councilmembers Kathy Maness, Todd Carnes, Ron Williams, Steve Baker and Todd Lyle. He thanked them and Staff for their dedication to the Town.

EXECUTIVE SESSION REPORT

Mayor MacDougall reported that the *Executive Session* was called to order at 5:30 p.m. after a motion was made Mayor Pro-Tem Livingston and seconded by Councilmember Williams to go into *Executive Session*. The motion was unanimously carried by all those present. (Councilmembers Maness and Baker were not present for the vote.) Council adjourned from *Executive Session* at 6:17 p.m. after a motion was made by Councilmember Baker 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 Session* to discuss: Three legal issues regarding a discussion of pending litigation, legal advice regarding agenda items and advice related to a Town Ordinance; and two contractual items related to a downtown development issue and a rate study contract. 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.

DELETIONS ON AGENDA: None.

PRESENTATIONS

1. **Letter of Commendation Presentation to Eagle Scout Christian Gonzalez – Councilmember Todd Carnes:** Councilmember Carnes read a letter of commendation for Eagle Scout Gonzalez commending him on receiving the rank of Eagle Scout, especially at such a young age. (Copy attached.) Councilmember Carnes congratulated Eagle Scout Gonzalez on his project to distribute "Teacher Help Kits" to 60 teachers at Rocky Creek Elementary School. He added that it

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was very admirable, especially during a time when teachers are balancing new methods of teaching between in-school and virtual learning. Councilmember Carnes presented Eagle Scout Gonzalez with a gold lapel pin with the Town's seal as a token of the Town's appreciation for his hard work. He added that the Gonzalez family lives in his neighborhood and they are all very active in the community and are great citizens. Councilmember Carnes stated that Christian's older brother was here a few months ago and he had also earned his Eagle Scout ranking.

Eagle Scout Gonzalez thanked Councilmember Carnes and added that hard work pays off.

Mayor MacDougall called on Mr. Gonzalez to say a few words and commending him on raising two fine boys.

Scout Leader Gonzalez (and Dad) thanked the Mayor and Council for recognizing his boys. He stated that they have lived in Lexington for fourteen years and when they decided to do something adventurous, they decided to join Boy Scouts. He boys loved Scouts and then he became a Scout Leader and he was honored to have Council go through this journey with them.

2. **D. Murray Price 100th Birthday Proclamation – Councilmember Todd Lyle:** Councilmember Lyle stated that last week Mayor MacDougall attended the 100th Birthday celebration for Mr. D. Murray Price and read a proclamation in honor of his birthday and presented him with a Key to the Town. Councilmember Lyle added that Mr. Price is from Lexington and a highly decorated World War II Veteran who flew a B-24 bomber in 40 missions over enemy territory in the Pacific theatre and succeeded in bringing his entire crew home. In order to become part of the Town records, Councilmember Lyle stated it was his honor to read the proclamation in its entirety as follows: (Copy attached.)

***A PROCLAMATION OF THE MAYOR AND COUNCIL
FOR THE TOWN OF LEXINGTON
IN HONOR OF THE 100TH BIRTHDAY OF
D. MURRAY PRICE***

WHEREAS, on February 24, 1921, D. Murray Price was born in Lexington County, where he would begin his 100 year journey of dedication to God, his family, his country and his community; AND

WHEREAS, the headlines in February 1921 also included "Work Progressing on Lexington Roads" and "New Dam at George's Pond", both of which are also still in the news, 100 years later; AND

WHEREAS, D. Murray Price went on to marry his sweetheart and dance partner, Francis Addy; raised four wonderful children; fought for this country's freedom as a pilot during World War II;

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became the CEO of a national company; still serves his beloved church, St. Stephen's Lutheran Church; and continues to find time for a community that honors his lifetime of commitments; AND

***WHEREAS**, we need more men today like D. Murray Price, as he received many awards and accolades during his life, but his main concern was a simple prayer, the safety of his men, doing what was right, and returning home to his wife and family where he could teach others about sacrifice, integrity and rebuilding a better world; AND*

***WHEREAS**, the only way we can honor D. Murray Price today is to express our commitment to him to preserve his story of love and grace for future generations so they too may learn that hard work and dedication are still the characteristics of great men and women; AND*

***WHEREAS**, the entire Lexington community is a better place to live, worship and raise a family because of a man who was born 100 years ago today and who continues to show us real life principles.*

***NOW, THEREFORE, BE IT PROCLAIMED BY THE MAYOR AND COUNCIL OF THE TOWN OF LEXINGTON, SOUTH CAROLINA**, that today, February 24, 2021, be proclaimed **D. MURRAY PRICE DAY** in the Town of Lexington and Town Council joins family and friends, in wishing D. Murray Price a very Happy 100th Birthday and wish to thank him for showing all of us how to live each day as an adventure!*

Councilmember Lyle added, "Amen"!

Mayor MacDougall thanked Councilmember Lyle for re-reading the Proclamation for the record even though it was long. He added that Mr. Price is a very special man. He stated that Parks Director Dan Walker is Mr. Price's neighbor and Dan fired 100 bottle rockets for the occasion. Mayor MacDougall stated that it was also funny to see seven Lexington Police cars roll into the neighborhood with lights flashing and sirens blaring!

PUBLIC HEARINGS

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

1. **Final Reading** of an Ordinance Annexing Lexington County Tax Map #3500-03-025 located at 4878 Sunset Boulevard.
2. **Final Reading** of an Ordinance Entering into a Mutual Aid Agreement with the City of Myrtle Beach Police Department.
3. **Final Reading** of an Ordinance for a Budget Adjustment, Police.

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

OLD BUSINESS

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1. A motion was made by Councilmember Maness and seconded by Councilmember Williams to approve **Final Reading of an Ordinance Annexing Lexington County Tax Map #3500-03-025 located at 4878 Sunset Boulevard**. The motion was unanimously carried. (Copy attached.)
2. A motion was made by Councilmember Carnes and seconded by Councilmember Baker to approve **Final Reading of an Ordinance Entering into a Mutual Aid Agreement with the City of Myrtle Beach Police Department**. Councilmember Maness stated that she would be at the beach that weekend and she was happy that our Police Officers would be there to help. The motion was unanimously carried. (Copy attached.)
3. A motion was made by Councilmember Williams and seconded by Councilmember Maness to approve **Final Reading of an Ordinance for a Budget Adjustment, Police**. The motion was unanimously carried.

NEW BUSINESS

1. **First Reading of an Ordinance Rezoning a Portion of Lexington County Tax Map #4320-09-003 located on Addy Lane:** VVW Development submitted a request to rezone a portion of a parcel located on Addy Lane from General Commercial (GC) to Protected Residential 2. The request is being made to facilitate the development of a few single family homes on the property. Properties adjacent to this one are zoned General Commercial (GC) and Protected Residential (PR). (Copy attached.) The Planning Commission reviewed this rezoning during their February meeting and recommended approving the request.

A motion was made by Councilmember Baker and seconded by Councilmember Lyle to approve First Reading of an Ordinance rezoning a portion of Lexington County Tax Map #4320-09-003 located on Addy Lane as stated. The motion was unanimously carried.

2. **Accommodations Tax:** The Accommodations Tax Advisory Committee met on February 10, 2021 to review Accommodations Tax Projects requesting funds from the 65% A-Tax Fund Allocation. A spreadsheet listing the requests, the A-Tax Committee award recommendations and Council's recommendations from the February 16, 2021 Work Session was provided to Council for their review and approval which is summarized below. Award recommendations total \$162,500 of the available \$226,669 in 65% funding. The available 65% funds are a combination of FY 2019 and FY 2020 A-Tax funds. Additionally, a budget from the Lexington Chamber and Visitor Center was provided regarding the designation of FY 2021 30% Advertising and Promotion Special Fund. The FY 2021 Chamber designated 30% amount is \$48,170.22. (Copies attached.)

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	<u>Requested</u>	<u>Committee</u>	<u>Council</u>
		<u>Recommendations</u>	
Capital City Lake Murray Country Columbia Metro Convention & Visitors Bureau	\$ 10,000	\$ 5,000.00	\$ 5,000
Columbia Museum of Art	\$ 40,000	\$20,000.00	\$40,000
Columbia Regional Sports Council	\$ 10,000	\$ 5,000.00	\$ 5,000
Crossover Athletics/Run Hard	\$ 5,000	\$ 5,000.00	\$ 5,000
CEAF 19 th Chick-fil-A Basketball	\$ 20,000	\$ 8,000.00	\$ 8,000
Lexington Chamber Image Awareness	\$ 21,000	\$21,000.00	\$21,000
Lexington County Museum	\$ 30,000	\$30,000.00	\$30,000
Bass Federation of SC	\$ 6,000	\$ 6,000.00	\$ 6,000
Town of Lexington/Amphitheater	\$ 10,000	\$ 2,500.00	\$ 2,500
	<u>\$ 60,000</u>	<u>\$40,000.00</u>	<u>\$40,000</u>
	\$212,000	\$142,500.00	\$162,500
	Funds Available	\$226,669.00	\$226,669
	Funds Unallocated	\$ 84,169.00	\$ 64,169

A motion was made by Councilmember Lyle and seconded by Councilmember Williams to approve A-Tax allocations as recommended by Council as stated. The motion was unanimously carried.

3. **Lexington Police Department Worker’s Compensation Coverage:** Currently officers with the Lexington Police Department do not have Worker’s Compensation Coverage when working off-duty assignments. The Lexington Police Department is requesting an increase of the hourly rate from \$38.50 to \$40.46 to protect officers who are not protected under the color of law and liability insurance coverage.

A motion was made by Mayor Pro-Tem Livingston and seconded by Councilmember Baker to approve the LPD Worker’s Compensation Coverage increase as stated. Councilmember Lyle wished to clarify that the hourly increase is what they are reading into this, but it is in fact adding the coverage. Town Administrator Poole responded, that is correct, and the hourly increase is for the people who are hiring the officers to work off duty and it is not a fee that the Town pays. The motion was unanimously carried.

4. **Appointment of Municipal Court Judge:** Judge Brian Jeffcoat was initially appointed full-time Municipal Judge in April 2015. In 2017 he was appointed to a four-year term by Town Council as allowed by South Carolina statute. His appointment expires April 2021. Council was asked to consider reappointing Judge Jeffcoat to a four-year term to start April 3, 2021.

A motion was made by Councilmember Maness and seconded by Mayor Pro-Tem Livingston to approve the reappointment of Judge Jeffcoat to a new four-year term as stated. Mayor MacDougall stated that the fast

response was also the sentiment of the entire Council. The motion was unanimously carried. Mayor MacDougall congratulated Judge Jeffcoat and asked him to step forward to be sworn in. He added that Judge Jeffcoat has done an outstanding job by reducing the number of cases and unfortunately COVID-19 has put us back in a deficit, but it will be caught up soon. Mayor MacDougall thanked Judge Jeffcoat for everything he has done for the Town.

Oath of Office for Judge Brian Jeffcoat

Mayor MacDougall asked Judge Jeffcoat to raise his right hand and place his left hand on the Bible. Mayor MacDougall added that the Bible had belonged to Judge Jeffcoat's Mother, Ms. Pat Jeffcoat, so she is always with us. Judge Jeffcoat's Father, Mr. Johnny Jeffcoat held the Bible for the Oath of Office. Mayor MacDougall read the Oath of Office which was repeated by Judge Jeffcoat followed by signing the Oath. (Copy attached.)

Councilmember Maness stated that for those who have not been in Judge Jeffcoat's Court Room, they need to take some time and go because he is absolutely wonderful. She added that he can fine people or send them to jail and they think he is their best friend. Councilmember Maness commended Judge Jeffcoat for representing the Town so well and so professionally.

5. **Proposed Revocation of Business License for Smoke O's 2 Tobacco & Vape – Town Administrator Britt Poole:** Mr. Poole presented the item and stated that Town Staff was asking Town Council to consider revoking the Business License issued to Smoke O's 2 Tobacco & Vape located at 5570 Sunset Boulevard, Suite C. The request was pursuant to §111.15(E) of the Town of Lexington Code of Ordinances which indicates the License Official may suspend a license when the License Official determines that "a licensee has engaged in an unlawful activity or nuisance related to the business".

Town Administrator Poole stated that the request is also pursuant to §111.15(B) which indicates that a license may be revoked if "a Licensee has breached any condition upon which his license was issued or has failed to comply with the provisions of this chapter; and §111.15(C) which indicates a license may be revoked if "a Licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application".

Town Administrator Poole added that it is rare for Town Council to have this type of hearing and he wished to read a statement in order for there to be a general understanding of the process. *This item is a hearing to consider revoking the business license of the licensee indicated previously. Town Prosecutor Cliff*

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Koon will present the item on behalf of Town Staff who are requesting that the license be revoked. During this hearing all parties have the right to be represented by counsel to present testimony, evidence and to cross examine witnesses. The Staff case will be presented first and the licensee shall be allowed to respond after Staff. These proceedings are being recorded and may be transcribed at the expense of the party who is so requesting. These proceedings are subject to the Rules of Evidence and Procedure as shall be prescribed by Town Council, which he reviewed with them earlier to essentially explain that Staff will go first and then followed up by the licensee. Town Council, shall by majority vote of members present, render a written decision based on findings in fact and application of the standards in the Business License Ordinance. A written decision may be issued tonight, but it may not be issued later than the next Council meeting or within thirty (30) days. The written decision must be served on all parties or their representatives and shall be the final decision of the Town.

Town Administrator Poole stated that he would now turn the hearing over to Town Prosecutor Koon to present the Town's case.

Town Prosecutor Koon verified with Mayor MacDougall that he could remove his mask and he would need to speak at the podium in order to be properly recorded. Mr. Koon wished to call his first witness, **Ms. Tori Bassett** of the Planning, Building and Technology Department.

Prosecutor Koon asked Ms. Bassett where she was employed and what her duties were at work. *Witness Bassett* responded that she works for the Town of Lexington in the Planning, Building and Technology Department. She stated that her duties are issuing permits and assisting with business licensing. *Prosecutor Koon* asked Ms. Bassett if she was one of the first people that a potential licensee would meet and deal with in the department. *Witness Bassett*: responded, yes. *Prosecutor Koon* asked Ms. Bassett, in that regard, if she talked to Mr. Abdulrahman Alsaadi about his business license application. Koon apologized to the gentleman if he mispronounced his name. *Witness Bassett* responded that she talked to the gentleman that owns the Smoke O's Vape when he came in to apply for a business license. *Prosecutor Koon* asked Ms. Bassett if she had a series of emails to and from Mr. Alsaadi. *Witness Bassett* responded, yes. *Prosecutor Koon* asked Ms. Bassett if she brought a copy of the emails with her today. *Witness Bassett* responded, yes. *Prosecutor Koon* handed Ms. Bassett the documents and asked her if she could identify it as the chain of emails she received from Mr. Alsaadi. *Witness Bassett* responded, yes, these are the emails.

Prosecutor Koon offered the emails to Town Council as the Town's first exhibit, hereafter referred to as *State's Exhibit #1*, four pages. (Copy attached.)

Defense Attorney Ben Stitely directed a question to Mayor MacDougall and stated that he guessed he did not know how they were going to this, but if

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Prosecutor Koon is going to offer exhibits to Town Council, he would like the opportunity to see them and object. Mayor MacDougall responded that he was not sure if Mr. Stitely was paying attention when the Town Administrator spoke when he explained that the rules are what Town Council says the rules are. He added that this is not a criminal proceeding, it is a civil proceeding and they are going to let the Prosecutor present and then Mr. Stitely will have his opportunity. Mr. Stitely stated that the Town Administrator had said the Rules of Evidence would apply to identify and show Council before it is offered as evidence. He added that he did not have a problem with them going first but even under the civil rules he has a right to look at a piece of evidence before it is offered. Prosecutor Koon stated that he sent a copy of the exhibit to Attorney Stitely this afternoon. Mayor MacDougall advised Attorney Stitely that had received a copy this afternoon. Attorney Stitely stated that he did not know what Prosecutor Koon was presenting because he had not seen it and it is not fair to offer it without letting the opposing side take a look at the document. Mayor MacDougall asked Prosecutor Koon if he would be going straight down the list that he gave to Attorney Stitely today. Prosecutor Koon responded, yes. Attorney Stitely stated that it was not included on the document so he could not pick up from the email. Prosecutor Koon advised Attorney Stitely that he had not checked his emails if that was his position. Attorney Stitely addressed Mayor MacDougall and stated that he had received emails from Prosecutor Koon, but that is not the documents that he provided in the list, so once again, he just wanted to see what was being offered so he could know what they were talking about. Mayor MacDougall asked Prosecutor Koon if he had a problem with Attorney Stitely's request. Prosecutor Koon stated that he would be glad to let Attorney Stitely look at the documents and presented the document to Attorney Stitely. Attorney Stitely took a minute to review the documents and returned them to the clerk. Mayor MacDougall warned Attorney Stitely that is not how this proceeding is going to continue. He added that Prosecutor Koon is going to present his case and Attorney Stitely would have an opportunity to present his as well and if he had any questions at that time, he would be welcomed to ask them at the time. Attorney Stitely apologized and added that Mr. Poole just said the Rules of Evidence would apply and the Rules of Evidence say that Counsel may look at documents before they are offered and that is why he stood up because he said the Rules of Evidence apply. Mayor MacDougall thanked Attorney Stitely.

Municipal Attorney Cunningham requested to make a statement. He added that the statement was made that this is a hearing that is civil in nature, it is not subject to the South Carolina Rules of Civil Procedure because this is an in-house decision by the Town Council whether to affirm a decision made by their staff. Municipal Attorney Cunningham stated that this is not a court hearing and he wanted to make it clear that the Town Council by ordinance determines the rules and procedures. Mayor MacDougall asked Attorney Stitely if he heard the statement made by Municipal Attorney Cunningham. Attorney Stitely responded, yes, and that he only responded because of the rule and the rule does

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not apply. Mayor MacDougall stated that this is a decision that Town Council is going to make as to whether their staff acted correctly or not, simply that's the facts.

Town Administrator Poole requested to re-read his statement because he thought it was misheard. He restated that "*these proceedings are subject to the Rules of Evidence and Procedure as shall be prescribed by Town Council*", not the State Rules of Evidence.

Mayor MacDougall thanked Town Administrator Poole and called on **Town Prosecutor Koon** to continue.

Prosecutor Koon asked Ms. Bassett to take a look at copies of emails, presented as *State's Exhibit #1*, and confirm they are the emails she had back and forth with Mr. Alsaadi. *Witness Bassett* responded, yes. *Prosecutor Koon* asked Ms. Bassett to tell the Town Council what the substance was of her conversations by email with Mr. Alsaadi. He added that she did not have to read the emails word for word because Town Council would review the exhibit. *Witness Bassett* responded that once Mr. Alsaadi emailed her the initial application for location review of business he indicated that he was doing a tobacco sales along with vape sales. She added that previous submittals the department received, tobacco shops are discouraged in the ordinance, so she let Mr. Alsaadi know that based on the way that he had presented his location review it could be potentially denied based on the type of business that he wanted to do in the Town. *Witness Bassett* had recommended to Mr. Alsaadi that he reevaluate his application, potentially resubmit it and Mr. Alsaadi wanted her to continue. She let Mr. Alsaadi know that she would talk to the Zoning Director and they would go further after that once they had discussed and fully gone through the ordinance to see what he could fully do and not do. *Witness Bassett* stated that she had indicated that in the emails to Mr. Alsaadi to let him know that she talked directly with the Zoning Director, John Hanson, and they had looked over the ordinance and as long as he was not selling any paraphernalia like pipes or other related smoking apparatuses that are not specifically made for vaping, he would be able to sell cigarettes, tobacco bags and that sort of deal that just strictly involves tobacco. *Witness Bassett* stated that she had also included a copy of the ordinance and a link to the ordinance on the website and emailed that to Mr. Alsaadi as well.

Prosecutor Koon asked Ms. Bassett if Mr. Alsaadi had responded to her as to what his position was about the things you told him he could not sell. *Witness Bassett* responded, yes, and that Mr. Alsaadi did say, verbatim, "whatever you think is best as far as tobacco related products, we will carry cigarettes, cigars, tobacco bags, premium cigars, etc. and there will be no pipes".

Prosecutor Koon asked if the Town ever discovered that Mr. Alsaadi was not abiding by the agreement that was in the email. *Witness Bassett* responded that

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there was a complaint that was brought to the attention of the Business License Coordinator who received a phone call that indicated that they were doing such things that they told them that they could not do. *Prosecutor Koon* asked Ms. Bassett what if anything did she do about that. Witness Bassett responded that it was turned over to Zoning Director John Hanson. *Prosecutor Koon* advised Ms. Bassett that he would now let the **Defense Attorney Stitely** ask any questions he may have.

Defense Attorney Stitely introduced himself and stated that his office, Williams, Stitely & Brink, is right next door to Town Hall (200 East Main Street, Lexington, SC). He asked Ms. Bassett if she had a copy of the actual copy of Mr. Alsaadi's permit. *Witness Bassett* asked if he was referring to the permit she released or the initial application that Mr. Alsaadi submitted. *Defense Attorney Stitely* clarified, the business license. *Business License Coordinator Sonya Lee* responded that business licenses are mailed to the applicant. *Defense Attorney Stitely* asked the name of the company that was given on the application. *Witness Bassett* responded that the name on the application was Smokers Tobacco and Vape. *Defense Attorney Stitely* asked what was the designation on the business license and what were they licensed for. He added that if Ms. Bassett was not the person to answer the question, he would ask someone else. *Witness Bassett* stated that she did not remember how they classified the business.

Prosecutor Koon called his second witness, **Ms. Sonya Lee**. He asked Ms. Lee where she was employed and what her duties were at work. *Witness Lee* responded that she works in the Planning, Building and Technology Department and she handles business licensing. *Prosecutor Koon* asked Ms. Lee what she did in regard to business licensing. *Witness Lee* responded that she reviews the business license applications once the location review has gone through the process and been signed off on. She added that then the customer signs the final documents, pays for their business license fee and then she prints the license and sends it to Finance Director Kathy Pharr for her to sign off on. *Prosecutor Koon* asked Ms. Lee if that was done in this case. *Witness Lee* responded, yes, it was done in this case and the normal procedure was followed. *Prosecutor Koon* asked Ms. Lee if in her capacity had she ever received any complaints from citizens about businesses that are not abiding by their licenses. *Witness Lee* responded yes, she receives citizen complaints on a regular basis. *Prosecutor Koon* asked Ms. Lee if she had ever received a complaint in this case. *Witness Lee* responded yes, she had received a phone call complaint. *Prosecutor Koon* asked Ms. Lee if that caller had identified themselves. *Witness Lee* responded no, they did not. *Prosecutor Koon* asked what was the substance of the complaint. *Witness Lee* responded that the caller asked her if the Town's Zoning Ordinances had changed in reference to vape shops. She told him that the ordinances had not changed. She stated that he went on to name a few things that he knew were not allowed under our ordinance and were being sold at the location. She immediately notified her Director, John Hanson, that she had

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received a phone call, a verbal complaint, and she asked what she needed to do at that point. *Prosecutor Koon* asked what happened after that. *Witness Lee* responded that she turned it over to Mr. Hanson and she was not 100% sure of the rest of it, but she believed the Police Chief was contacted and that was all she knew. *Prosecutor Koon* advised Ms. Lee that he would now let the **Defense Attorney Stitley** ask any questions he may have.

Defense Attorney Stitley asked Ms. Lee if she could help with exactly how the license was listed. *Witness Lee* responded that it was a “retail store”, but she would have to look up the specific NAICS code (North American Industry Classification System), pronounced NAKES, in order to give the exact verbiage. *Defense Attorney Stitley* asked Ms. Lee if the NAICS code included the items allowed to be sold as listed in the retail sales agreement. *Witness Lee* responded that it would not list them, but it is based on what is listed in the NAICS code which follows along with the Town’s Business License Ordinance and Zoning Ordinance. She added that there would not be any exclusions listed on the license because the Town does not do that for any business. *Defense Attorney Stitley* stated that would be his next questions, there are no prohibited items listed on the license. *Witness Lee* responded no sir, not listed on the business license. *Defense Attorney Stitley* asked if it were the same kind of retail licensing a gas station would receive. *Witness Lee* responded no, it is not the same NAICS code. *Defense Attorney Stitley* asked Ms. Lee to explain the difference. *Witness Lee* explained that the NAICS code is the North American Industry Classification System and every industry is assigned a six digit code. She added that you have to look at what type of business it is and retail usually begins with a four four or a four five and specifically breaks it into a more distinct code by carrying it out to the sixth digit. *Defense Attorney Stitley* restated that if Ms. Lee was not the person to ask, he could ask someone else, but if he had a gas station and he sold tobacco products, pipes and whatever else you could consider in this case, would the gas station have a different NAICS code or be granted a different permit. *Witness Lee* responded, yes, the gas station would have a different NAICS code. *Defense Attorney Stitley* asked how would he know specifically what prohibited items exist if he didn’t know what was included in his NAICS code or his retail designation. *Witness Lee* stated that the first thing they do when they receive a location review is to determine if they see anything that is not going to be allowed under the Town’s Zoning Ordinance. She added at that time they let the person who submitted the application know. *Defense Attorney Stitley* asked what item is specifically not allowed under the Zoning Ordinance. *Witness Lee* responded that the Zoning Ordinance is something totally different than the NAICS code, so you have to abide by the Zoning Ordinance as well as the Business License Ordinance. *Defense Attorney Stitley* stated that the Zoning Ordinance would be where the real estate is located and the level of establishment, but what is in the actual documents provided to this company would have said what items are not allowed versus the gas station right next door. *Witness Lee* responded that the Town does not provide a specific list. *Defense Attorney Stitley* stated that so it is a “we gotcha” type thing because you

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didn't know. *Witness Lee* responded, no, they notified the gentleman of things that were not allowed. *Defense Attorney Stitley* asked Ms. Lee who was the gentleman that they notified. *Witness Lee* responded that it was in the emails that Ms. Bassett had presented. *Defense Attorney Stitley* asked Ms. Lee if they ever met with the applicant and go through the items and tell him that this one item is allowed, this one is not allowed. *Witness Lee* stated that Director Hanson denied the applicant's original request. *Defense Attorney Stitley* asked again if someone go and say you can sell this kind of smoking device but you cannot sell this kind of smoking device. He restated if Ms. Lee did not know he would direct his question to someone else. *Witness Lee* responded that she was trying to answer Mr. Stitley's questions, but they are a department that works all together and Ms. Bassett deals with the Zoning Ordinance side and then she looks at the Business License side and she did not license them as a convenience store. *Defense Attorney Stitley* wished to confirm that they were listed as a retail establishment. *Witness Lee* stated that there are many retail establishments. She asked Mr. Stitley if he wanted her to look up the exact code. *Defense Attorney Stitley* agreed by shaking his head. *Witness Lee* stated that it would take her a few minutes. Mayor MacDougall responded that was fine and added that if anyone is testifying to please speak into the microphone because the Town has people at home trying to listen in and cannot hear what is being said. *Witness Lee* stated that based on the NAICS code it is "other miscellaneous store retailer". *Defense Attorney Stitley* stated that again it does not specifically list items that would be outside and would be excluded from being able to sell and operate within, correct? *Witness Lee* stated that they do not list anything that is excluded. *Defense Attorney Stitley* stated that both witnesses mentioned an ordinance and what item is specifically an ordinance violation and that we are concerned with here because he wanted to make sure that as he goes down the line, he records the items which are an ordinance violation. *Witness Lee* responded that question would be better answered by Director Hanson. Mayor MacDougall agreed and added that it would be abundantly clear in just a minute.

Prosecutor Koon called his third witness, **Mr. John Hanson**. Mayor MacDougall reminded Mr. Hanson that since he was outside waiting, to please speak up so the people at home could hear him. *Prosecutor Koon* asked Mr. Hanson what was his position with the Town. *Witness Hanson* responded that he is the Director of Planning, Building and Technology and the Zoning Administrator. *Prosecutor Koon* asked Mr. Hanson if he was Ms. Bassett's and Ms. Lee's Supervisor. *Witness Hanson* responded, yes. *Prosecutor Koon* asked Mr. Hanson if he was brought into the case that they were here for tonight. *Witness Hanson* responded, yes. *Prosecutor Koon* asked Mr. Hanson what was his involvement. *Witness Hanson* responded that when Ms. Bassett had her initial discussions with Mr. Alsaadi, as she already mentioned, she had her email conversations back and forth and then she brought it to his attention. He added that they looked into the ordinance that Mr. Stitley referred to as the Ordinance #2014-13 which sets up a zoning designation for this type of establishment. *Witness Hanson* stated that he did a little initial research when he received the

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application and looked at one of the other stores that Mr. Alsaadi has in Conway, South Carolina and sent him some pictures from that store that he had taken off their Facebook page. *Witness Hanson* stated that he initially denied the application and sent Mr. Alsaadi an email and said he was going to deny the application because the type of products that he was selling in Conway were not consistent with the Zoning Classification where this particular location is. *Witness Hanson* told Town Council that the ordinance they passed in 2014 requires smoke and tobacco shops to be located in industrial zones which this particular area is not. He added that he initially denied the application and sent Mr. Alsaadi an email and he came back with a response that he understood that and that those items were legal to sell in Conway and he would not be selling that in Lexington. Prosecutor Koon asked Mr. Hanson if anyone in his department ever conveyed to Mr. Alsaadi that he would not be able to sell the pipes and other items that were not permitted to be sold. *Witness Hanson* responded that Ms. Bassett had sent Mr. Alsaadi a copy of the ordinance and he had sent him photographs of the types of material of which he initially denied the application. He added that based on Mr. Alsaadi's assurances that he understood that and he knew he was not able to sell those items, they had moved forward and allowed him to open his business. *Prosecutor Koon* asked Mr. Hanson if it ever came to his attention that Mr. Alsaadi was not abiding by that agreement. *Witness Hanson* responded that when Ms. Lee received the complaint she came to him about it and they turned it over to the Police Department for further investigation. *Prosecutor Koon* asked Mr. Hanson what happened after the Police Department's investigation. *Witness Hanson* responded that the investigation identified the activities that were going on at the location and they conferred with the Town Administrator, Town Attorney and the Business License Official and moved to suspend the license. *Prosecutor Koon* asked Mr. Hanson to answer any questions from **Defense Attorney Stitely**.

Defense Attorney Stitely stated that Mr. Hanson had previously stated that "smoke shops under the 2014 Ordinance", and he asked Mr. Hanson to define "smoke shops" under the Town's Ordinances. *Witness Hanson* responded and read from the ordinance "a drug and tobacco establishment means any premises where drug and tobacco paraphernalia is displayed for sale, offered for sale or sold and which devotes more than a two foot by four foot, two feet in depth, section of shelf space for drug and tobacco paraphernalia. Items included in this definition are listed in the Town's Drug Paraphernalia Ordinance". *Defense Attorney Stitely* added that it specifically says they have to be displayed for sale, correct? *Witness Hanson* responded, yes. *Defense Attorney Stitely* added that if you open the store front you have to actually see the items available for sale, correct? *Witness Hanson* responded, yes. *Defense Attorney Stitely* offered a hypothetical situation, if a customer had to specifically asked for an item that was not on display and it was behind a closed door which was not outside your cabinet requirements displayed for sale, would that be a violation of that specific ordinance. *Witness Hanson* responded that they were not discussing hypotheticals, they were discussing this particular case. *Defense Attorney Stitely*

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responded, okay. He proceeded and asked, in a situation where you cannot see an item for sale open on display. *Witness Hanson* stated that if they received an application where it indicated that these items were being sold, they would deny the application and the applicant would have the right to go to the Board of Zoning Appeals. *Defense Attorney Stitely* stated, not playing with semantics, the ordinance says “display” and you did pass their license, correct? *Witness Hanson* responded that he passed their license based on assurances from the applicant that they understood what could and could not be sold and what they were going to sell at that store. *Defense Attorney Stitely* thanked Mr. Hanson.

Prosecutor Koon called his fourth witness, **Mr. Luis Diaz** and asked him if he was employed with the Town of Lexington’s Police Department. *Witness Diaz* responded, yes. *Prosecutor Koon* asked Mr. Diaz what his duties were at the Police Department. *Witness Diaz* responded that he is currently assigned to the SOD Division and he is the Resource Officer for River Bluff High School. *Prosecutor Koon* asked Mr. Diaz if he ever had contact with a River Bluff High School student William Scott Rogers. *Witness Diaz* responded, yes. *Prosecutor Koon* asked *Witness Diaz* to explain that encounter to Town Council. *Witness Diaz* explained that he and another Officer, School Resource Officer Hare, noticed a couple days before they made contact with Mr. Rogers that his vehicle was driving erratically on campus. He added that the parking attendant for the school was actually able to locate the vehicle. *Witness Diaz* stated that upon locating the vehicle to get the tag so they could find out who the owner was, the parking attendant discovered a knife in plain view in the vehicle at which time he notified Administrator Jacob Smith. He added that Mr. Smith then contacted the student who was Mr. Rogers. *Witness Diaz* stated that once Mr. Smith contacted Mr. Rogers he wanted to go to his vehicle and at that time Mr. Smith contacted *Witness Smith* and Officer Hare to escort Mr. Rogers to his vehicle for his safety in case anything happened. *Witness Diaz* stated that when they reached the vehicle which was parked in the student parking lot, there was a knife in plain view. He added that at that time they asked Mr. Rogers about the knife and Mr. Rogers had responded yeah it was his and that he forgot he had left it in the vehicle. *Witness Diaz* stated that at that time Mr. Rogers went into the vehicle and retrieved the knife. He added that at that time they had probable cause to search the vehicle because no one is allowed to have a weapon anywhere on campus. *Witness Diaz* stated that upon opening the driver’s door there was a heavy odor of marijuana coming from the vehicle along with fragrance. He added that his first comment to Mr. Rogers was “where is it and how much do you have”. *Witness Diaz* stated that Mr. Rogers had responded to him, “it is in the trunk”. *Witness Diaz* then searched the trunk and found a container holding the green leafy substance believed to be marijuana. He described it as in a bag which was clear on one side of the bag and had a design and name, Blue Dream, on the other side of the bag. He also found a two foot long glass bong in the trunk of the vehicle. *Witness Diaz* stated that at that time Mr. Rogers was escorted back into the school and was given citations for simple possession of marijuana and drug paraphernalia. *Prosecutor Koon* asked Mr. Diaz if he had

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ever asked Mr. Rogers where he got the marijuana. *Witness Diaz* responded that once they brought Mr. Rogers back into the school office, and the administrators had finished talking with him, he was given his Miranda Warnings and then he asked Mr. Rogers where he obtained the Blue Dream. He stated that Mr. Rogers had responded that he got it from a vape place in the Walmart Shopping Center on Sunset Boulevard. Prosecutor Koon asked Mr. Diaz if he had sent the green leafy substance anywhere to have it tested. *Witness Diaz* responded that it was submitted into evidence and he believed it was sent to SLED (South Carolina Law Enforcement Division) to be examined. *Prosecutor Koon* asked Mr. Diaz to answer any questions from **Defense Attorney Stitely**.

Defense Attorney Stitely asked Mr. Diaz how the item was packaged. *Witness Diaz* responded that it was in a bag that one side was clear so you could see right into the bag and the other side had a design and he thought it was blue and black and it said Blue Dream on it. *Defense Attorney Stitely* asked Mr. Diaz if the item was packaged in commercial packaging. *Witness Diaz* responded, yes. *Defense Attorney Stitely* confirmed with Mr. Diaz that the packaging was not handmade like someone just threw it in a bag. *Witness Diaz* responded, no. *Defense Attorney Stitely* had no further questions.

Prosecutor Koon called his fifth witness, **Mr. William Scott Rogers**. He stated that he would like to make a statement to Town Council while they were waiting on Mr. Rogers to come forward. *Prosecutor Koon* stated that this witness is the young man that Officer Diaz mentioned in his testimony. He added that Mr. Rogers is here to testify as to where he bought the marijuana and he is here with his parents and his attorney. *Prosecutor Koon* also stated for the record that he has made no contact with Mr. Rogers until 6:30 p.m. this afternoon and his entire contact with him has been with his attorney. *Prosecutor Koon* asked Mr. Rogers if he was the William Scott Rogers that Officer Diaz mentioned in his testimony. *Witness Rogers* responded, yes sir. *Prosecutor Koon* asked Mr. Rogers if he had marijuana in his car that day. *Witness Rogers* responded, yes sir. *Prosecutor Koon* asked Mr. Rogers where he bought the marijuana. *Witness Rogers* responded, at the vape shop in the Walmart Shopping Center like was mentioned. *Prosecutor Koon* asked Mr. Rogers to answer any questions from **Defense Attorney Stitely**.

Defense Attorney Stitely asked Mr. Rogers if he knew it was marijuana or did he believe it to be Delta-8 products which are technically legal in the State of South Carolina. *Witness Rogers* stated that he was aware it was Delta-8 and he did believe that it was legal. *Defense Attorney Stitely* stated so it was sold to Mr. Rogers as a manufactured product in a packaging, correct? *Witness Rogers* responded, yes sir. *Defense Attorney Stitely* stated so it wasn't like something out of a dude's pocket or socks. *Witness Rogers* responded, no sir. *Defense Attorney Stitely* asked if it was represented as a Delta-8 product with a manufacturer's label including all the documentation. *Witness Rogers* responded, yes sir. *Defense Attorney Stitely* asked Mr. Rogers if it was his

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understanding that it was a legal substance in South Carolina. *Witness Rogers* responded, yes sir. *Defense Attorney Stitely* stated that Delta technically is a legal substance in South Carolina.

Prosecutor Koon addressed Mayor MacDougall to object to the line of questioning and stated that we are not here to try Mr. Rogers for any crime, we are only here to determine where he got the substance that Officer Diaz found. Mayor MacDougall stated very good and thank you.

Defense Attorney Stitely stated that the heart of the matter is what was being sold and as Mr. Koon pointed out multiple times, this isn't an actual criminal hearing and he didn't think the same Rules of Evidence apply. *Prosecutor Koon* stated that he has a SLED Agent present to testify as to what it was. Mayor MacDougall responded, please move on.

Defense Attorney Stitely asked Mr. Rogers what he thought it was. *Witness Rogers* started to respond, he thought it was Delta-8 and was stopped by *Prosecutor Koon* who stated that it doesn't matter what he thought it was, what matters is what it was. Mayor MacDougall thanked *Prosecutor Koon* and asked if there was anything further. *Defense Attorney Stitely* asked what was it represented as. Mayor MacDougall addressed *Defense Attorney Stitely* and stated that you can go around it and frame it fourteen different ways, but you need to move on. *Defense Attorney Stitely* asked Mr. Rogers when he purchased it did he pay sales tax for it. *Witness Rogers* responded, yes. *Defense Attorney Stitely* asked, was it sales tax collected by the Town of Lexington. *Witness Rogers* responded, he believed so. *Defense Attorney Stitely* stated that he had nothing further.

Prosecutor Koon requested permission to excuse Mr. Rogers and his family from the hearing. Mayor MacDougall granted permission for them to leave and he wanted to thank the young man for being brave enough to testify because it took some will to do it. He commended his parents for doing a good job with him.

Prosecutor Koon called his sixth witness, **Detective Jonathan Taylor**. He asked *Detective Taylor* where he was employed. *Witness Taylor* responded that he works for the Lexington Police Department. *Prosecutor Koon* asked *Detective Taylor* if he was involved in the investigation being discussed tonight. *Witness Taylor* responded yes, and they conducted several controlled purchases of paraphernalia as well as hemp from the store, Smokers Tobacco and Vape located at 5570 Sunset Boulevard. *Prosecutor Koon* asked if *Detective Taylor* heard young Mr. Rogers' testimony when he described a vape shop in the Walmart Shopping Center and is that the same shop where they made the controlled purchases. *Witness Taylor* responded, yes. *Prosecutor Koon* asked *Detective Taylor* how he got involved in investigating that shop. *Witness Taylor* responded that he was notified by his Chief of Police about a possible issue with paraphernalia being sold openly in the store. *Prosecutor Koon* asked, armed

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with that information, what if anything did Detective Taylor do. *Witness Taylor* responded that on January 21, 2021 they went to 5570 Sunset Boulevard, Suite C, which is Smokers Tobacco and Vape and upon entry he made contact with Mr. Alsaadi who introduced himself as Abe. *Witness Taylor* stated that he located numerous smoking products commonly used to smoke marijuana that were displayed by the register. *Witness Taylor* stated that Mr. Alsaadi also said that they had hemp flower and he saw where that was openly sold behind the shelf so he made a purchase of hemp flower as well as a glass smoking device from his business. *Prosecutor Koon* asked Detective Taylor if he had the evidence tested. *Witness Taylor* responded, yes, it was placed in a SLED BEST (Evidence) Kit and into evidence. *Prosecutor Koon* asked Detective Taylor if he had received a report back from SLED. *Witness Taylor* responded, he did. *Prosecutor Koon* asked Detective Taylor what was in the report. *Witness Taylor* responded that the report stated that the substance that was being sold as hemp tested positive for marijuana. *Prosecutor Koon* asked Detective Taylor if he had any other involvement. *Witness Taylor* responded, that's correct, they made another purchase of a product that was labeled Blue Dream and another purchase of Apple Jack Hemp Flower both on January 27, 2021 and both purchased from Mr. Alsaadi. *Prosecutor Koon* asked Detective Taylor what they did with that evidence. *Witness Taylor* responded that it was also placed in evidence. He added that the Blue Dream was located during the execution of a search warrant at that business. *Prosecutor Koon* asked if any of that material was sent into evidence. *Witness Taylor* responded, yes sir, and the search warrant they did at the business was on February 1, 2021 and they collected numerous Blue Dream packages which were also sent to SLED in a BEST Kit and they tested positive for marijuana.

Prosecutor Koon requested that Sergeant Hobbs, who was in charge of the evidence, bring it into the court room. (The Lexington Police Department Officers held the evidence in the Council's Executive Session room during the hearing.) *Prosecutor Koon* requested to interrupt the testimony of Detective Taylor in order to identify the evidence and to talk about the chain of custody. *Defense Attorney Stitely* verified with *Prosecutor Koon* that the boxes being brought into the court room were items seized during the search. Officer Hobbs, assisted by a second officer, brought two carts into the court room. The first cart had approximately four boxes of evidence approximately two feet tall and the second cart had approximately six large boxes of evidence approximately six feet tall.

Prosecutor Koon called on Lexington Police Sergeant Bill Hobbs. He asked Sergeant Hobbs where he worked. *Sergeant Hobbs* responded that he works for the Town of Lexington Police Department. *Prosecutor Koon* asked what was his involvement in this case. *Sergeant Hobbs* responded that when they conducted the search warrant he oversaw the collection of the evidence and the items that they took. *Prosecutor Koon* stated that they just rolled two carts of material into the court room and he asked Sergeant Hobbs if he could identify it for Town

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Council. *Sergeant Hobbs* responded, yes sir, and stated that it is ten (10) boxes labeled and identified with the evidence labels and they contain various pipes, glass pipes, smoking masks and small glass pipes. *Prosecutor Koon* asked if there was anything else in the boxes. *Sergeant Hobbs* responded, no sir. *Prosecutor Koon* asked where did the boxes come from. *Sergeant Hobbs* responded that the boxes came from their evidence room and originally they came from Smokers Vape Shop. *Prosecutor Koon* asked if the boxes had been in evidence since Detective Taylor put them into evidence. *Sergeant Hobbs* responded, yes that is correct. *Prosecutor Koon* asked *Sergeant Hobbs* if he was one of the evidence custodians for the Town of Lexington. *Sergeant Hobbs* responded, yes sir that was correct. *Prosecutor Koon* asked *Sergeant Hobbs* if he had asked him to examine the evidence and make sure it was the same evidence that was put into evidence by Detective Taylor, Officer Diaz and Detective Heath. *Sergeant Hobbs* responded, yes sir. *Prosecutor Koon* asked *Sergeant Hobbs* if he had determined if any of these items had been tampered with, changed, substituted, add to or deducted from the evidence that was put into the general evidence. *Sergeant Hobbs* responded, none of them have, sir. *Prosecutor Koon* asked *Sergeant Hobbs* if he had checked the evidence out today personally. *Sergeant Hobbs* responded, that is correct. *Prosecutor Koon* asked *Sergeant Hobbs* where the evidence has been since he checked it out. *Sergeant Hobbs* responded that it had been driven here and he unloaded it into the vestibule right here (pointed to the Executive Session room inside the court room). *Prosecutor Koon* asked *Sergeant Hobbs* if he had been with the evidence ever since he put it in that room. *Sergeant Hobbs* responded, that is correct. *Prosecutor Koon* asked *Sergeant Hobbs* if anybody had gone in that room and tampered with it. *Sergeant Hobbs* responded, no sir. *Prosecutor Koon* asked *Sergeant Hobbs* if anyone had gone in that room, he would have seen them? *Sergeant Hobbs* responded, yes sir.

Prosecutor Koon requested to offer this (the boxes of evidence) as evidence with the stipulation that it can be returned to evidence after the hearing because it may be used in any future criminal action that might be proper. Mayor MacDougall responded, yes sir. *Prosecutor Koon* offered the (boxes) of evidence, along with the stipulation, as *State's Exhibit #2*. *Prosecutor Koon* labeled the top box in the stack of boxes as *State's Exhibit #2*. He stated that the box has 4 0 2 3 on it and he would like for the entire stack to be Exhibit 2. Mayor MacDougall asked *Prosecutor Koon* if he planned on leaving the boxes in the court room. *Prosecutor Koon* responded that if the boxes were in the way, they could put it back into the evidence room. Mayor MacDougall responded that he did not want the two Town Councilmembers on the end to be blocked because he would like for them to see, so they could just lower the boxes at least, maybe one box down. *Prosecutor Koon* and *Sergeant Hobbs* discussed the removal of the evidence boxes from the court room through the hallway to the right of the court room. Mayor MacDougall asked the assisting Officers to hold the door because *Sergeant Hobbs* was coming to oversee the removal of the evidence.

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Prosecutor Koon stated that was all he had and called on Defense Attorney Stitely if he had any questions. *Defense Attorney Stitely* asked Sergeant Hobbs before he left, for clarification, if he was the one who oversaw the evidence, but did not collect the evidence. *Sergeant Hobbs* responded that he was there for the collection and he oversaw the evidence. *Prosecutor Koon* asked if Sergeant Hobbs could be excused in order to escort the evidence back to the Police Department. Mayor MacDougall responded, yes sir.

Prosecutor Koon called **Detective Jonathan Taylor** (sixth witness) back to continue with questions. *Prosecutor Koon* stated that he understood that there have been no criminal charges against Mr. Alsaadi who owns the store, is that right? *Witness Taylor* responded, he has two pending distribution charges. *Prosecutor Koon* asked, what about the manager. *Witness Taylor* stated that Mr. Abdulrahman Alsaadi has two pending distribution charges. *Prosecutor Koon* stated that was all he had.

Defense Attorney Stitely asked Detective Taylor that he said when he first came up that he “bought a bunch of hemp flowers” and he wanted to know if there was more stuff than the two reports he sent to SLED. *Witness Taylor* responded that the first time making entry into the store he purchased one package of hemp flower labeled Apple Jack. *Defense Attorney Stitely* asked if that one was tested. *Witness Taylor* responded, yes that is correct and it tested positive for marijuana. *Defense Attorney Stitely* asked if anything else was tested outside of the Apple Jack kind. *Witness Taylor* responded, no, all they purchased was Apple Jack. *Defense Attorney Stitely* asked Detective Taylor if he was there when they collected the items that they just saw. *Witness Taylor* responded, that is correct. *Defense Attorney Stitely* asked where were they located. *Witness Taylor* responded that they were all throughout the store and the glass smoking devices, better known as bowls, were located right there on the front display. *Defense Attorney Stitely* asked how large was the cabinet. *Witness Taylor* responded that he did not know the dimensions of it, but it was a pretty large counter. *Defense Attorney Stitely* asked if the other items were clearly displayed as Detective Taylor walked in the store. *Witness Taylor* responded that there were several items that were in a back room in the store. *Defense Attorney Stitely* asked if the items were on display as you walked in. *Witness Taylor* responded that there were some items that were on display, which were the bowls. *Defense Attorney Stitely* asked Detective Taylor if he had a picture of the Apple Jack that he purchased. *Witness Taylor* responded that it was in Exhibit 2 and they could go pull some if Defense Attorney Stitely wanted them to. *Defense Attorney Stitely* asked if he could see the actual packaging. Mayor MacDougall responded that would be fine. *Detective Taylor* asked Defense Attorney Stitely if he also wanted to see the Blue Dream. *Defense Attorney Stitely* stated that just the Apple Jack would be fine. *Prosecutor Koon* stated that if they were going to pull the Apple Jack they might as well pull the Blue Dream too. *Defense Attorney Stitely* responded, great, but he did not want to mess with the BEST Kit. Officers pulled several packages from the evidence and gave them to Detective Taylor.

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Detective Taylor responded that they were not going to mess with the BEST Kit and it would be fine. He then showed Defense Attorney Stitely one package through the clear plastic package and stated that it was the Apple Jack that was purchased and tested by SLED. *Defense Attorney Stitely* confirmed that it was part of the evidence that the Town Council would be able to look at. *Detective Taylor* stated that they have another view of it if Defense Attorney Stitely wanted to see it. *Defense Attorney Stitely* responded, yes. *Detective Taylor* handed Defense Attorney Stitely an individual package. *Defense Attorney Stitely* stated that he had a printout from Premium Delta-8 Infused Hemp Flower Apple Jack manufacturer and he asked Detective Taylor if the individual package he had just handed him looked like the package described on the printout from the manufacturer's website. *Witness Taylor* responded that he could not affirmatively say, but it did look very similar. *Defense Attorney Stitely* stated that it has the exact same logos, has the QRC code or coding thing and it's definitely a manufactured product and not something someone put together in their basement. *Witness Taylor* responded that it appeared to be manufactured. *Defense Attorney Stitely* added that on the back it actually has a label where it was manufactured, what company sold it and what company mass produced it, correct? *Witness Taylor* looked at the individual package and stated that the label was on the front and the company name looked like Concentrated Concepts he believed. *Defense Attorney Stitely* requested that Town Council take a look at it and it is clearly something that was made for retail sales. He asked Detective Taylor if he would agree. *Witness Taylor* responded, it's made for retail. *Defense Attorney Stitely* asked if in fact it advertised it as Delta-8 Hemp Flower. *Witness Taylor* responded, that is correct, it says Delta-8 Hemp Flower. *Defense Attorney Stitely* stated it does not say marijuana, correct? *Witness Taylor* responded, no it does not. *Defense Attorney Stitely* stated that he had nothing further. *Prosecutor Koon* confirmed with Mayor MacDougall that Detective Taylor was placing the packages back into evidence.

Prosecutor Koon called his seventh witness, **Detective Kenneth Heath**. *Prosecutor Koon* asked Detective Heath if he was employed by the Town of Lexington's Police Department. *Witness Heath* responded, yes sir. *Prosecutor Koon* asked what was his profession. *Witness Heath* responded that he was Detective. *Prosecutor Koon* asked Detective Heath if he was involved in the case they were discussing. *Witness Heath* responded, yes sir. *Prosecutor Koon* asked what was his role. *Witness Heath* responded that he did an undercover buy and he was also there for the execution of the search warrant. *Prosecutor Koon* asked when was the undercover buy. *Witness Heath* responded, it was on January 21st of this year. *Prosecutor Koon* asked Detective Heath what if anything did he buy on January 21st. *Witness Heath* responded that he went in in an undercover capacity and he ended up purchasing a hemp flower with Apple Jacks and he also went into the closed room and bought a smoking apparatus or a smoking mask. *Prosecutor Koon* asked him to tell Town Council what a smoking mask is. *Witness Heath* responded that it is a mask and it has a plastic like tube connected to a smaller bong so you can put the Apple Jack inside of it

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and smoke it with your mask on. He added that it was by recommendation from Mr. Al (Alsaadi). *Prosecutor Koon* asked if they had it tested. *Witness Heath* responded, no sir, because they tested the first buy and he believed they tested the third buy so they did not see the point in testing that one. *Prosecutor Koon* asked about the third buy. *Witness Heath* responded, Detective Taylor made that buy. *Prosecutor Koon* confirmed that Detective Taylor had already testified. *Prosecutor Koon* stated that he had no further questions and called on Defense Attorney Stitely.

Defense Attorney Stitely stated that Detective Heath testified about smoking masks like these you can buy on Amazon (he pointed to a printed page and advised Town Council that he would provide his entire package when it was his turn) and they look alike, correct? *Witness Heath* responded, yes sir. *Defense Attorney Stitely* asked, once again Detective Heath saw the Apple Jack and they looked very similar to the ones the manufacturer advertises on their website as being Delta-8 Apple Jacks. *Witness Heath* responded, yes it looked similar. *Defense Attorney Stitely* stated actually the other one as he noticed is by the same manufacturer and is called Blue Dream, correct? *Witness Heath* responded, yes sir. *Defense Attorney Stitely* stated it (Blue Dream) has the same idea, same kind of packaging and made for commercial retail, correct, or as far as Detective Heath could tell. *Witness Heath* responded, yes sir, as far as he could tell. *Defense Attorney Stitely* has no further questions.

Prosecutor Koon called his eighth witness, **Mr. Douglas Robinson**, a Chemist from SLED. *Prosecutor Koon* asked Mr. Robinson to tell Town Council where he works and what he does. *Witness Robinson* responded that he has worked for South Carolina Law Enforcement Division, commonly referred to as SLED, for the past thirteen years in the Drug Analysis Department and is currently the Team Leader of the Marijuana THC Quantitation Team. *Prosecutor Koon* asked Mr. Robinson to give a brief background of his training. *Witness Robinson* responded that he has a Bachelor of Science in Chemistry from the University of South Carolina; spent approximately three years doing environment chemistry work right after graduation; and after coming to SLED he received Law and Legal Training from the South Carolina Criminal Justice Academy as well as in-house training on the Analysis of Controlled Substances through the department. *Prosecutor Koon* asked Mr. Robinson if he had been present throughout the testimony tonight. *Witness Robinson* responded, that is correct. *Prosecutor Koon* asked Mr. Robinson if he was familiar with the materials collected by Detectives Taylor and Heath which was sent to his agency. *Witness Robinson* responded that he reviewed the two reports which he issued in reference to this case. *Prosecutor Koon* asked Mr. Robinson if he had copies of his reports with him. *Witness Robinson* responded, I do, and gave *Prosecutor Koon* a copy of each report. *Prosecutor Koon* asked Mr. Robinson if when items like these are sent to SLED do they have an in-house chain of custody. *Witness Robinson* responded that they generate an in-house chain of custody electronically and it starts when the evidence comes in when a case is created and it follows the

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movement of the evidence throughout the analysis. *Prosecutor Koon* asked Mr. Robinson if he had a copy of the chain of custody with him. *Witness Robinson* responded, no, he did not have a copy of the chain of custody with him. *Prosecutor Koon* addressed Mayor MacDougall and advised him that he had a copy of it on his phone if they would like to see it. *Defense Attorney Stitely* stated that he was good with that. *Prosecutor Koon* confirmed that Town Council heard Mr. Stitely. Mayor MacDougall responded, yes. *Prosecutor Koon* stated that he did not have any more questions about the chain of custody and he offered copies of Mr. Robinson's reports as *State's Exhibit 3 and 4* (Copies attached – 5 pages). *Prosecutor Koon* and the Clerk labeled the reports as *State's Exhibit 3 and 4* then he returned them to Mr. Robinson and asked him to tell Town Council what his analysis uncovered with this material. *Witness Robinson* responded that as mentioned earlier, they had two different submissions on this case. He added that the first submission had a single packet containing plant material and the results were marijuana (C-I) found in the sample tested with net weight of 7.53 grams and 0.2658 ounces, total Delta-9 Tetrahydrocannabinol (THC) present, percent dry weight of 0.78 plus or minus 0.22 percent. He stated that was the first packet. *Prosecutor Koon* asked what does that mean chemically. *Witness Robinson* responded that in terms of marijuana analysis, marijuana and hemp are essentially the same plant. He added that the Industrial Hemp Bill that South Carolina Legislature put forward a few years ago defines Industrial Hemp as the cannabis plant with a Delta-9 THC concentration up to 0.3 percent. *Witness Robinson* stated legally speaking, if cannabis tests at or below 0.3 percent for Delta-9 THC it is Industrial Hemp and anything above the 0.3 percentage is legally classified as marijuana. *Prosecutor Koon* stated just to be clear, what was the percentages that Mr. Robinson found in these two samples. *Witness Robinson* responded that for this particular sample for this submission, this value was 0.78 percent plus or minus 0.22 percent just for the first submission. He confirmed that it was legally classified as marijuana. *Witness Robinson* stated that the second submission, which is marked at *State's Exhibit #3*, so he was looking at them in reverse order. *Witness Robinson* stated that Item 1.1 was a heat sealed pouch marked item 2 containing a zip lock bag containing plant material and analysis was not performed on this item. He added that Item 1.2 was a heat sealed pouch marked item 3 containing a zip lock bag containing plant material and the result was marijuana (C-I) found in the sample tested, net weight 24.35 grams, 0.8595 ounces, and total Delta-9 Tetrahydrocannabinol (THC) percent dry weight greater than 1.00 percent, which is a common cut off they use in testing. *Witness Robinson* reported that Item 1.3 was a plastic pouch labeled "*Blue Dream Premium Cannabis D8 Flower THC-D8 23.80%*" containing plant material and the result was marijuana (C-I) found in the sample tested; one tested, net weight 7.31 grams, 0.2580 ounces and total Delta-9 Tetrahydrocannabinol (THC) percent dry weight greater than 1 percent. *Prosecutor Koon* asked if that indicated marijuana. *Witness Robinson* responded, yes, both of these are classified as marijuana. *Prosecutor Koon* stated that was all he had for Mr. Robinson and asked him to answer any questions from Defense Attorney Stitely.

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Defense Attorney Stitely addressed Mr. Robinson and stated that this was kind of a hot topic because they changed all this with that 2014 Bill and then in 2018 when they went back and threw out a low board into a driveway to create a whole other marijuana testing staff, right? *Witness Robinson* responded that 2017 and 2018 were really the changeover and prior to that date anything that was cannabis was legally marijuana. He added that they carved out a section of cannabis to label as Industrial Hemp. *Defense Attorney Stitely* stated that and then what they did at SLED was make you guys kind of change the testing protocol to go back to the dry weight to make the determination. *Witness Robinson* stated that prior to this there was no concentration for THC being performed, it was simply a question of is this cannabis or is this not and methodology was created to identify a concentration of THC. *Defense Attorney Stitely* asked what is Delta-8 because he knows that Mr. Robinson deals with this a lot. *Witness Robinson* responded that THC is the psychoactive compound primarily in marijuana, but there are different structural positional isomers of THC. He stated that if you were to take THC and move it you would have a different structural isomer (as demonstrated using the four positions of his fingers) because you would be moving around a functional group on a centerpiece of a molecular compound. *Witness Robinson* stated that Delta-9 is in one position and Delta-8 is in another position. *Defense Attorney Stitely* asked as far as South Carolina law goes, we make a distinction between Delta-8 and Delta-9 when you are allowed to call it marijuana versus hemp, cannabis or whatever. *Witness Robinson* responded that the testing criteria that they use looks solely at Delta-9 THC. *Defense Attorney Stitely* asked if Delta-8 is illegal in South Carolina and do you have any product that you test that comes back as Delta-8, is that illegal in South Carolina. *Witness Robinson* responded that THC generically is listed as a C-I controlled substance in South Carolina with no positional isomers included, so he would leave that to the lawyers to argue the point, but in South Carolina law it specifically only says Tetrahydrocannabinol, not Delta-8, not Delta-9, just Tetrahydrocannabinol. He added that Delta-9 has been specifically removed at 0.3 and below and Delta-8 is scheduled Federally as a C-I, but not specifically in South Carolina by name D-8. *Defense Attorney Stitely* asked if Mr. Robinson was getting a lot of testing cases with these vape shop products, he guessed would be the best way to call them. *Witness Robinson* responded, obviously we are seeing quite a few from them. *Defense Attorney Stitely* stated that the items tested, there is actually a distinction because Mr. Robinson tested some good old-fashioned marijuana with Item 1.2. *Witness Robinson* responded that Item 1.2 came back with a significantly higher concentration than 1.3, however for reporting purposes as he alluded to, they have a cutoff of 1 percent that they report. *Defense Attorney Stitely* stated that not specific to this, but there was allegedly some old-fashioned marijuana taken off of the individual who was arrested that was not the product sold in the store, but it was included in the BEST Kit and you can tell the difference because of the ones that Mr. Robinson tested appeared to be from the shop and came in packaging indicating what it was alleged to be. *Witness Robinson* responded,

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that is correct. *Defense Attorney Stitely* stated that aside from what was purchased in the shop, those would be the ones he had as what. *Witness Robinson* responded that when they do it in the lab and they do not have to differentiate packaging for clarity purposes and they do not get real specific. He added that if they heard the second report, it was very specific to the packaging labeling and the first one was not, and that was because they only had a single packet. *Witness Robinson* stated that if they want to get into the details, the control number on it is how they would track it. He added that he would dare say that would be the Apple Jack that they are referring to. *Defense Attorney Stitely* stated that was the one that was .78 with a .22 margin, correct? *Witness Robinson* looked at the report and responded, yes, 0.78 plus or minus 0.22 and that is the uncertainty they have on that one. *Defense Attorney Stitely* asked Mr. Robinson if that was his bell curve margin of error that one. *Witness Robinson* responded that it is based on the instruments they use as well as all the processes to generate an in-house measurement of uncertainty. *Defense Attorney Stitely* asked Mr. Robinson if he tested these items for Delta-8 at all. *Witness Robinson* responded that they can see Delta-8, they do not quantitate Delta-8 because it is not listed in the law with regards to hemp versus marijuana and Delta-8 is not referenced, only Delta-9. *Defense Attorney Stitely* thanked Mr. Robinson.

Prosecutor Koon asked Mr. Robinson if he heard the young man earlier testify where he purchased the old-fashioned marijuana and that he purchased it from the Mr. Alsaadi's shop. *Witness Robinson* responded, he was not clear, but again he did not want to comment on someone else's testimony. *Prosecutor Koon* stated that was all he had. He asked if Mr. Robinson could be excused. Mayor MacDougal responded, yes.

Prosecutor Koon called his ninth witness, **Ms. Kathy Pharr** and asked if she was employed with the Town of Lexington and in what capacity. *Witness Pharr* responded, yes, and she is the Finance Director and the technical Business License Official. *Prosecutor Koon* asked Ms. Pharr if, in her capacity of Business License Official, she was asked to do anything in regards to the investigation that is being discussed tonight. *Witness Pharr* responded that she was asked to sign the letter to revoke the license. *Prosecutor Koon* asked if he handed her a document could she identify it. *Witness Pharr* responded that it was the letter she signed that revoked the license. *Prosecutor Koon* asked Ms. Pharr after she signed the letter what did she do with it. *Witness Pharr* responded that she handed it to John Hanson and he gave a copy to Walt (Blackmer) to hand deliver it and then sent a certified mailing of a copy of it. *Prosecutor Koon* stated that it was sent to Mr. Alsaadi by Certified Mail and he asked Ms. Pharr to identify the date on the letter. *Witness Pharr* responded, February 2, 2021. *Prosecutor Koon* asked if Mr. Walt Blackmer hand delivered a copy of the same letter. *Witness Pharr* responded, correct. *Prosecutor Koon* asked Ms. Pharr is she knew the date that Mr. Blackmer hand delivered the same letter. *Witness Pharr* responded, no, she did not. *Prosecutor Koon* offered a copy of the revocation letter as *State's Exhibit #5* (Copy attached). He asked Ms.

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Pharr if she would answer any questions from Defense Attorney Stitely. *Witness Pharr* responded, sure.

Defense Attorney Stitely stated to Ms. Pharr that she handled finance stuff for the Town, right? *Witness Pharr* responded, right. *Defense Attorney Stitely* asked if the Town collects tax money from the sale of these manufactured products from this establishment. *Witness Pharr* responded, no. *Defense Attorney Stitely* asked didn't they pay sales tax. *Witness Pharr* responded that sales tax does not come to the Town. *Defense Attorney Stitely* asked how the Town collects the additional tax collected on every item sold in the state. *Witness Pharr* responded that the County collects it, the Town does not. *Defense Attorney Stitely* had no further questions.

Prosecutor Koon called his tenth witness, **Mr. Walt Blackmer**. *Prosecutor Koon* asked Mr. Blackmer if he worked for the Town of Lexington and in what capacity. *Witness Blackmer* responded, yes, and he works in Business Licensing for Mr. John Hanson. *Prosecutor Koon* requested to retrieve the last Exhibit. Mayor MacDougall stated it would be Exhibit #5. *Prosecutor Koon* handed Exhibit #5 to Mr. Blackmer and asked him what if anything he did with the original letter. *Witness Blackmer* responded that he did not know if this was the exact letter because the letter he delivered was sealed in a Town envelope, but he delivered a letter to Mr. Alsaadi who was the only person in the store on February 2nd of this year at approximately 3:15 p.m. *Prosecutor Koon* had no further questions. *Defense Attorney Stitely* had no questions.

Prosecutor Koon advised Mayor MacDougall that the Town rest.

Mayor MacDougall thanked Prosecutor Koon and stated at this point, for clarification purposes, he asked Municipal Attorney Cunningham to read Section 99.04 specifically from the Town Ordinance. Municipal Attorney Cunningham quoted Section 99.04 (Copy attached.) as “*Unless the context shall clearly indicate some other meaning, the terms defined in this section shall, for all purposes of this article and other documents herein referenced, have the meanings herein specified. Definitions shall be equally applicable to both the singular and plural forms of any of the terms herein defined. ‘Synthetic marijuana’ means THC, HU-2 10 Cannabicyclohexanol, JVH-073 and refers to all chemical compounds intended to replicate, mimic or cause a similar reaction to the effects of marijuana or cannabis. Such compounds are known as or marketed under many names, including, but not limited to, such names as THC, HU-2 10 Cannabicyclohexanol, JWH-073, Potpourri, Spice, K-2, Blaze, herbal incense, herbal smoking blends, and other names*”. Municipal Attorney Cunningham stated, that is your definition and the ordinance that Mayor MacDougall asked him about says “*The advertisement, sale, distribution, possession, and/or usage of synthetic marijuana are hereby prohibited within the Town of Lexington*”. Mayor MacDougall thanked Municipal Attorney Cunningham. He then acknowledged Defense Attorney Stitely.

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Defense Attorney Stitely stated just slightly to clarify, he guessed kind of on that point and the investigator from SLED kind of said it, it is not synthetic, this is an actually naturally occurring hemp substance that utilizes a different base. He added that he had printed out a couple items and he wanted to offer them and then make a brief statement about his client. *Defense Attorney Stitely* stated that he did not think they were refuting what items that were sold there. He distributed copies of the print outs and stated that before his client went to do these products, and he would tell Town Council for their edification, they have like almost 20 stores across the southeast. *Defense Attorney Stitely* stated that they have every product tested before they sell it at an independent lab that says, with a certification, this...*Prosecutor Koon* objected that Counsel is testifying. *Defense Attorney Stitely* responded that he was told he could present his case and *Prosecutor Koon* did not tell him he had to do it by way of a witness, you simply said I could offer it as an exhibit, the Rules of Evidence do not apply and he wanted to hand the documents up and Town Council could put whatever value they choose. *Prosecutor Koon* stated that *Defense Attorney Stitely* was testifying. Mayor MacDougall advised *Defense Attorney Stitely* to summarize. *Defense Attorney Stitely* responded, sure, and stated that he was going to hand up a packet and every item they get they have tested at this company and it says this is what you are buying. He added that he was including a copy of what is from the manufacturer of the item going through all of their legal disclaimers. (Copy attached, *Defense Exhibit #1*.) *Defense Attorney Stitely* stated that it actually covers both the products that were uncovered and once again, the refute is not that these items are being sold, it is akin to the argument that if you are selling packets of Sweet 'n Low but they are really saccharine and saccharine is against the law, but you bought them from a manufacturer, you paid taxes on them and you did everything you were supposed to do as far as what they indicate the product is, including having it independently tested, you are doing what you want. He added that his client is willing to stop selling any of the hemp products if Town Council wants him to, he will strictly stick to tobacco, which he had high end tobacco in the store, he had high end cigars, he had all the vape products that are sold at the place two doors down from him, he is okay to stop selling. *Defense Attorney Stitely* stated that his point is, and he included it on the back page, is the mask they kept referencing and you could check it yourself, if you go to Amazon you can buy it and have it at your door in 12 hours. He added that there was nothing in his printed copy specifically and they are the exact ones that were taken. He printed out his package so Town Council could take a look at them. He did not know if they wanted multiple packages. Mayor MacDougall asked the Clerk to receive the copies. *Defense Attorney Stitely* addressed Mayor MacDougall and he guessed that is just their point that his client invested \$120,000 in the store front and they (the Town) knew what was going in and they could have come out the first day and taken a look at the shop and said this is a go, this is a no go. He added that there wasn't a situation where they (store owner) were hiding and swapping packets saying no, no, this is the stuff you really want. *Defense Attorney Stitely* stated that what was advertised was what

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was sold and what was purchased. He added that he included at least the documentation so they could see it. *Defense Attorney Stitely* stated that the last thing he would point out, and he knows we are here in Lexington, but the biggest CBD shop in the state has a giant shop in Harden Street that sells the exact same stuff on their website. He added that it is not unique to Mr. Alsaadi's business and literally all those stores you are seeing as you drive down Highway 378 are selling the exact same product. *Defense Attorney Stitely* stated that it is not synthetic marijuana, it's Federally allowable and South Carolina at this point has not made the Delta-9, which is actual cannabis, illegal. He added that they might do that in the future and he thought there might be a Bill up there now about it, but it hasn't been done yet and it's what every single store is selling. *Defense Attorney Stitely* stated that there wasn't a misrepresentation about what was being sold, there may be a misunderstanding on an interpretation of what was in it, but they bought it from a licensed manufacturer in retail packaging and it wasn't on a side of road like here's some stuff out of my sock, they were selling retail goods. *Defense Attorney Stitely* stated that his client is willing to not sell them, he will go strictly to flat tobacco, vape products and cigars. He restated that his client had invested a lot of money in the Town and he was not hiding what he was doing, they were in plain sight, this wasn't a shady backdoor establishment, there were in the Walmart parking lot, and they weren't trying to hide from anyone. *Defense Attorney Stitely* added if there was an error in some of the stuff that was sold, he had at least presented the documentation from the manufacturer that says this is what is was. He thanked the Town Council.

Prosecutor Koon responded that *Defense Attorney Stitely* wants you to let him (his client) off and he'll agree not to do it again, but the very first witness that he produced testified that he had agreed with her in the very beginning that he wouldn't do that so how do you trust him now.

Mayor MacDougall asked *Prosecutor Koon* if that was it for him. *Prosecutor Koon* responded, yes sir, thank you. Mayor MacDougall asked *Defense Attorney Stitely* if that was it for him. *Defense Attorney Stitely* responded, yes sir, thank you.

Councilmember Carnes made a motion to convene into Executive Session to discuss legal advice regarding the item. (8:17 p.m.) Councilmember Williams seconded the motion. The motion was unanimously carried. Municipal Attorney Cunningham asked, for the record, if Mayor MacDougall was asking him to accompany Town Council in Executive Session. Mayor MacDougall responded, yes, for legal advice.

Town Council returned from Executive Session (8:35 p.m.) following a motion to come out of Executive Session by Councilmember Williams and seconded by Councilmember Maness. The motion was unanimously carried.

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Mayor MacDougall stated that Council had one item to report out of Executive Session and at this time he would make a motion that the Town of Lexington revoke the Business License issued to Smokers Tobacco and Vape, DBA Smoke O's 2 Tobacco and Vape, located at 5570 Sunset Boulevard, Suite C, based upon the following findings:

- (1) There is sufficient evidence to conclude by the preponderance of the evidence that illegal activity has occurred at the business location, and that this activity was directly related to the business operations;

AND

- (2) There is sufficient evident to show that by the preponderance of the evidence, the applicant has breached a condition upon which the Business License was granted, and that this activity occurred on the business premises and was directly related to the business operations.

The motion was seconded by Mayor Pro-Tem Livingston. The motion carried with a majority vote following a unanimous show of hands at the Regular Town Council Meeting dated March 1, 2021. A written motion was signed by Mayor MacDougall and attested by Municipal Clerk Hildebrand. (Original motion attached and second original given to Municipal Attorney Cunningham.)

Municipal Attorney Cunningham asked, for the record, if there was a vote taken in the Executive Session. Mayor MacDougall responded there was no vote taken in Executive Session.

ANNOUNCEMENTS

Mayor Pro-Tem Livingston made the following announcements: (1) On behalf of the Mayor and Councilmembers, she wished Councilmember Williams a very Happy Birthday this Saturday, March 6th. (2) She had another special announcement for Councilmember Williams and his wife, Catherine Williams, who welcomed a brand new granddaughter, *Brooklyn Alaina Pickett*, who was born February 20, 2021 and she weighed 9 pounds and 5 ounces. She congratulated the Williams for coming into the greatest club in the world of grandparents.

Councilmember Williams thanked the Council for all the good wishes. He had additional announcements but wished to excuse any Staff members and Police Officers who needed to leave since they were kept so long tonight. Mayor MacDougall thanked everyone for their time. (1) Councilmember Williams thanked Mayor MacDougall for delivering the State of the Town tonight. The video gives citizens a great overview of

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all the projects going on in Lexington. If anyone has questions about specific projects, please contact Council or Staff and we will be glad to answer any questions. (2) He thanked everyone for coming out to the 2021 Lexington County Chili Cookoff on February 21st. And a big thank you to our co-hosts – Old Mill Brew Pub and Lexington Blowfish Baseball. It was a great first event at the Icehouse Pavilion. (3) He knew everyone would be excited to hear that MORE events are coming back to the Icehouse Amphitheater! Some of these great events include:

- The Town of Lexington and the Lexington County Recreation and Aging Commission will host a FREE movie “Frozen II” at the Icehouse Amphitheater on Friday night, March 12th starting at 6:00. The movie is rated PG.
- On Saturday March 13th come out and enjoy the St. Patrick’s Day Parade at 2:00 on Main Street. The parade is hosted by Lexington County Blowfish Baseball.
- After the parade, the Town will host a FREE St. Pat’s Shamrockin’ Concert at the Icehouse Amphitheater at 3:30. The concert will feature the Celtic Folk Rock band SYR.
- On March 19th the Town of Lexington and the Lexington County Recreation and Aging Commission will host another FREE movie, “Playing with Fire” at the Icehouse Amphitheater starting at 8:00 p.m. This will be a perfect kick off to the event the next day.....
- Saturday, March 20th, the Lexington Firefighters Spring Festival will be held at the Icehouse Amphitheater and Pavilion from 2:00 to 7:00 featuring Tokyo Joe! The event is free, but donations will be accepted, plus food, beer and wine will be available for purchase, with all proceeds benefiting the Jeff Chavis House.
- The Town was very happy to announce the return of the Lexington Live (Free) Concerts on Thursdays at 6:30 at the Icehouse Amphitheater, starting on April 8th with Finesse Band; April 15th with Band of Oz; and April 22nd with The Reggie Sullivan Band.
- Go ahead and mark your calendars for the 2021 Town of Lexington Wine Walk. It’s back, on May 8th at the Icehouse Amphitheater and Pavilion starting at 6:00 p.m. This is a 21 years old and up event and you will need to show ID. Tickets are \$25 in advance or \$35 the week of and can be

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purchased starting April 1st on the Town's Icehouse Amphitheater web page.

- The Town can't wait to hold this year's Market at Icehouse which will be held at the new Icehouse Pavilion. The Market will be every Saturday starting May 22nd and runs through September 25th (with the exception of July 3rd). If you are interested in being a vendor at The Market, please go to icehouseamphitheater.com to sign up.

Please stay posted on all of these events and more on the Icehouse Amphitheater Facebook page.

(4) Councilmember Williams returned to more business - Council will meet again on March 15th at 6:00 p.m. for Council's Work Session. (5) The Planning Commission will meet on March 17th at 8:00 a.m. in the Council Chambers. (6) Town Hall will be closed for a holiday on April 2nd in observance of Good Friday. (7) And last but not least, this week (March 1st through 7th) is NATIONAL INVEST IN VETERANS WEEK. This special week was founded in 2019 with the objective to empower the public to invest in the Veteran population through Veteran owned businesses, educational development and mental health empowerment. Based on reports from the Small Business Administration, Veterans only represent 9.1 percent of all US businesses, yet they employ 5.8 million people, have an annual payroll of \$195 billion and receipts of \$1.14 trillion. They truly make an economic impact. The SC General Assembly presented a Resolution to the Lexington Chamber for their support in promoting Invest In Veterans Week. The Chamber will highlight Veteran owned businesses this week on social media, plus you can nominate a Veteran owned business to be highlighted by visiting their webpage at lexingtonsc.org. The Town encouraged citizens in Lexington to support our Veterans and thank them for their community involvement and for their service to our country. Councilmember Williams wished to start Invest in Veterans Week by thanking Councilmember Todd Lyle for his service to our country and for the impact he makes in our community. On behalf of the Mayor and his fellow Councilmembers, Councilmember Williams thanked everyone for watching their Council in action tonight.

Councilmember Carnes wished to announce that the hottest tickets in Town are for tomorrow night's game between River Bluff High School's Gators Basketball team taking on Dutch Fork for the Lower State Finals which will be played at Lexington High School. Go Gators!

NEWS MEDIA QUESTIONS: None.

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PUBLIC COMMENTS: None.

ADJOURNMENT

Mayor MacDougall thanked the Council members and citizens for attending the Council meeting. He thanked those at home for viewing the Council meeting on Channel 1301 and it will also be replayed several times during the week and the video will be available on the Town's website at lexsc.com.

Mayor MacDougall stated that without objection from Council, he would declare the meeting adjourned. The Regular Council meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Becky P. Hildebrand, CMC
Municipal Clerk

APPROVED:

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.