

BLUFFTON TOWN COUNCIL MEETING MINUTES

ELECTRONIC MEETING

October 13, 2020

Mayor Sulka called the meeting to order at 6:00 P.M. Council members present were Mayor Pro Tempore Fred Hamilton, Larry Toomer, Bridgette Frazier, and Dan Wood. Town Manager Marc Orlando, Deputy Town Manager Scott Marshall, Interim Chief of Police Scott Chandler, Director of Engineering Bryan McIlwee, Director of Finance and Administration Chris Forster Director of Growth Management Heather Colin, and Town Clerk Kimberly Chapman, and Town Attorney Terry Finger were also present.

Pledge of Allegiance and Invocation were given by Councilmember Wood.

Adoption of the Agenda:

Frazier made a motion to approve the agenda as presented. Wood seconded. Roll call was taken, and the motion carried unanimously.

Adoption of Minutes:

Town Council Emergency Meeting Minutes of August 26, 2020

Wood made a motion to approve the Town Council Emergency Meeting Minutes of August 26, 2020. Toomer seconded. The motion carried unanimously.

Town Council Regular Meeting Minutes of September 8, 2020

Toomer made a motion to approve the Town Council Regular Meeting Minutes of September 8, 2020. Frazier seconded. The motion carried unanimously.

Presentations, Celebrations and Recognitions:

Mayor Sulka acknowledged the Proclamation Recognizing National Planning Month.

Destination Marketing Organization Annual Marketing Plan, Report of Progress and Actions- Ariana Pernice, Vice President of Visitor and Convention Bureau, Hilton Head Island – Bluffton Chamber of Commerce

Communication from Mayor and Council:

Public Comments:

Dawn Niebuhr, 15 South Forest Beach, HHI - We are property owners on Hilton Head Island, we are in our 60's & 70's, we are immune compromised and we DO NOT believe masks work or are warranted knowing what we know now about the Chinese virus. 99.987% NOT effected. They are basically ineffective outside and not known for inside. End the mask mandate and authoritative power grab.

Bonnie Turner, 4921 Bluffton Parkway, Bluffton - Please, it is time to make wearing masks voluntary and not mandatory!

Iva Lands, 28 Sugaree Drive, Bluffton - Please vote to do away with masks, it is time that as a community we get back to a normal routine. It is next to impossible to continue to wear a mask day in and day out. We need to build up our immune system to this or we will never beat it.

Donna Farrell, 40 Folly Field Road, HHI - While I may live in Hilton Head, I frequently do business in Bluffton, and have Many friends who live in town. I am writing to you today to urge you to truly look at the LACK OF EVIDENCE supporting the value of mask wearing in preventing viral infections. That substantive evidence simply is not there. Stop swallowing the rhetoric that has been fed to us since day 1 about how deadly this virus is—the survival rate with FULL Recovery is well over 90%. The damage to emotional wellbeing, mental health, and physical health by wearing masks is much greater and much more concerning. Covering one's face with a mask dehumanizes people. The connection between people is lost. There is a rift in our community with mask wearers on one side and non-mask wearers on the other side. Do you know who and what caused that rift? YOU won forced this unconstitutional mask mandate on us are to blame for the dissension we see in our community. Find your backbones, stop blindly swallowing the narrative, and do what is right to make Bluffton and our community the tight knit, supportive community it once was. Do the right thing by allowing INDIVIDUAL CHOICE in whether or not a person wears a mask. VOTE NO to the mask mandate.

Jodi Lester, 11 Grove Way, Bluffton - Ditch the masks.

Jill Warga, 4 Indigo Run Drive, HHI - Please vote to end the mask mandate. We need to open up our Island. The mask mandate is hurting businesses and employees who have suffered enough. Masks don't work and virus numbers are blown up. Please, let's get back to normal. I miss all the things that made HHI special - all the activities, fairs, etc. I miss seeing smiles and hugging. This has turned our home into a civil war. Most of us know the real agenda behind the mask. Promote freedom - this is the United States. Jill Warga, The Preserve, HHI

Iris Shedlock, 21 Creekstone Drive, HHI - I am still unclear as to what our goal is for keeping a mask mandate. It is completely unrealistic to believe you can eliminate SARSCOV2. As with all other viruses, it will always continue to exist. Using the PCR to diagnose is just plain stupid and irresponsible. We are using a non-diagnostic tool to diagnose.

What is your fear? The hospitals are not packed. Deaths are mostly happening in the expected age groups. Almost 100% of the infected recover. How do you improve on that? About 50% are not even reporting symptoms. If we must get tested to figure out if we are infected, how is that a dangerous virus?

COVID19 has no distinguishing symptoms and may instead be from air pollution, allergies, sinus infection, and prescription drug side effects. How easy to overlook and ignore these causes and point the finger at SARSCOV2 especially when the bogus PCR test gives you a false positive. Mask wearing can cause some of these symptoms too! We end up mistreating. And you know from what else these symptoms arise? The COVID19 vaccine! Let's get the vaccine so we can develop the same symptoms we wanted to avoid from a virus with nearly a 100% recovery rate without the vaccine. Huh? And, these reported vaccine symptoms are in study participants who are super healthy. What happens when those with 2.6 comorbidities get vaccinated? Is this what you are all waiting for to save you?

Dietary supplement makers are forbidden to make health claims but it is okay to force people to wear masks as a medical device with no required health exam and make false claims that studies prove mask effectiveness. Viral particles are too small to be blocked by a mask.

If masks work, then why did Asian countries have outbreaks where masks are customary or why does history

show disease outbreaks in hospitals where they wear surgical and N95 masks or why are the Governors of CA and NY still freaking out despite wearing masks longer than us?

You are being manipulated and weaponized by our public health agencies and drug companies. They want our silence as evidenced by the masks. Don't let the cure be worse than the disease.

Vote no to extending. End the tyranny.

Camala LaRocck, 126 Shell Hall Way, Bluffton - It is unhealthy and is proven to make you sick. I have been in Healthcare for 30 years and the only way to stop virus transmission is by boosting immune function, cleanliness and wearing a complete enclosed zip suit. If people chose to wear that is their choice but mandating is against our constitutional Rights

Toni Glick, 11 Doral Court, HHI - Please, please remove the mask mandate. Give everyone a choice so the healthy people can breathe freely. We need to be able to work out at gyms WITHOUT a mask!

Whitley Deputy, 64C Cassandra Lane - The CDC has released information confirming that the overwhelming majority of people who contract Covid are full time mask wearers. According to the CDC you are 18-23 times more likely to contract Covid when wearing masks. Not only do masks do absolutely nothing to prevent the spread of Covid, they are absolutely detrimental to health. Masks are causing skin conditions (rashes and acne). They are a petri dish for bacteria. They are causing severe respiratory infections resulting in hospitalizations. They lower oxygen intake while increasing the intake of poisonous CO2. People are breathing in mold as a mask becomes a moldy environment in as little as a half an hour. They cause stress and anxiety which have been scientifically proven to lower your immune system making you even more vulnerable to disease. People with medical conditions that can't wear masks are being harassed. The list of cons of mask wearing is a mile long. If you care about the citizens of this town at all, please listen to the science and end the mask mandate.

Dan Gause, 35 Lakeside Drive, Bluffton - Good evening. As you are well aware Beaufort County's mask ordinance has been defeated 7 to 4. It is now time for you to do the same. We have sat by over the past 6 to 7 months while you made decisions based solely off of probabilities while disregarding the facts that have been presented to you. We have watched our children and other loved ones sacrifice not only their freedom do choose but sacrificed their mental and physical health. They sacrificed these things based off of information, or lack thereof, from our councilman. We have been called selfish but yet we sacrificed those things for a very small number of people. You have made decisions for your people based off of emotions and not facts. We need more people like Mike Covert Brian Flewing Stewart Rodman and Chris Hervochon in local government. These men listened to the facts and spoke for the people. No matter what your decision is here today the silent majority will not comply. This ordinance has caused far more harm than good, and you have given us no proof at all that it has helped. I have personally seen mothers cry for their children and business owners at a loss for words when asked how they will stay open (by the way Mayor Sulka did stay true to your word and go out and speak with business owners)? For those of you who vote to keep this ridiculous ordinance in play please know you have woken a sleeping giant that will not rest until freedom prevails. I would say thank you for your time, but you have wasted months of ours with this madness. Let the people choose.

Vallee Buback, 470 Lake Bluff Drive, Bluffton - A new CDC study shows that masks do nothing to stop the spread of Covid-19. 70% of those with symptoms who tested positive for Covid-19 said they wore a mask all

the time, compared with 3.9% who said they never wore one.

https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6936a5-H.pdf?fbclid=IwAR1FFuBJLFYLXW44xvO_o_fZD5mmY2RnMANzf0LkghziZvK5CcLcmFW2rKI

Here's also a link to a post by a data analyst who has provided analysis to his county that led to doing away with mandates and shutdowns.

<https://www.facebook.com/781762997/posts/10157836117797998/?extid=0&d=n>

In that post a doctor discusses how people with masks are experiencing adverse health issues. The data analyst also discusses all the ways a mask further spreads the virus.

The Town of Bluffton is setting itself up for lawsuits due to ignoring the science that says masks are ineffective and cause bacterial infections of the face, mouth and lungs. They are merely a cultural tool used to instill caution in the minds of citizens and to give the at-risk group a false sense of security. Given the physical and emotional damage they cause, it is irresponsible to mandate masks on citizens.

Do any of you have medical degrees? Do you have a physician or epidemiologist on staff? If not, then you should not be dictating health practices that can be easily challenged.

Alexander Zarra, 12 Old South Ct., Bluffton - It is time you end your local government overreach of a mask mandate. As we learn more about this virus it is becoming apparent its case fatality rate is in line with the H1N1 swine flu. We did not take any of these draconian and unconstitutional measures during that and it's time we stopped them with Covid. I personally know people who have developed respiratory issues due to the masks. Continuing the mask mandate will set the town up for future legal expenses due to the harmful nature of masks. It is not only the correct thing to do but a financially sound decision to protect the town from future lawsuits. That is not even getting into how the masks are a First Amendment issue because it is against many of our religions and how harmful they are to various individuals with anxiety and sensory issues. We are lucky that there has been no mask related violence in our area and should thank our blessings for that but quit while we are head and end the mandate. Please have the courage to stand with myself, many more individuals, and Beaufort County Council with saying enough is enough and no more masks! Thank you and God bless.

Tiffany Reeder, 4 Woodland Sky Ct, HHI - You mention frequently that you're listening to the local hospital executive and SCDHEC (who has been found to make faulty statements with regard to case counts after the mask mandates were implemented, and publishing completely fraudulent case positivity rates) to make your decisions regarding the EO and the mask mandate. However, you have not provided any other expert opinions in your pronouncements - namely, experts that differ from your current approach. I encourage you to read the Great Barrington Declaration: <https://gbdeclaration.org/>.

There are now over 30,000 doctors and scientists from around the world condemning the draconian measures being used by local (and federal) governments to deal with the coronavirus. They completely oppose the locking down of communities and schools and instead recommend at risk populations be kept safe at home or understand the risk if venturing out into an unmasked community. They recommend the not at-risk population resume a normal lifestyle immediately, including children - just observing traditional hygiene practices of hand washing and staying home if you're sick. All with the goal of reaching herd immunity.

You state regularly that you support the masks to slow the spread and reduce death rates and hospitalizations. We have minimal deaths and only 2 in the hospitals as of 10/8. Why not lift the mandate? Or have you now moved the goal posts and decided that we should have no spread? You realize this is not rational, right?

Several of you have used the reasoning of “the masks will go away when we have a vaccine”. With the latest poll out, <https://www.google.com/amp/s/www.axios.com/axios-ipsos-poll-coronavirus-index-vaccine-doubts-e9205f29-8c18-4980-b920-a25b81eebd84.html> , showing over 60% of Americans will not take the vaccine when it’s released, you can see that approach is EXTREMELY flawed.

As we now know, there is no correlation between cases and deaths, in fact, the WHO now estimates the world infection rate is 10%, <https://www.google.com/amp/s/www.usnews.com/news/health-news/articles/2020-10-05/who-estimates-coronavirus-has-infected-10-of-global-population%3fcontext=amp>. That drops the infection fatality rate for COVID to .1%. For reference, the seasonal flu is .1-.2%.

You must take steps to relax the mandate now and begin the process of allowing the community to accept the reality that the masks aren’t protecting us and we can’t be afraid of this virus. Every day that goes by, this community becomes more broken.

Skip Hoagland, 61 Sparwheel Lane, HHI - Ms. Sulka, it seems you continue to mislead citizens about your activities. For example, several years back you did an illegal membership drive using Town employees, on Town time, to help profit the criminally operated Hilton Head Bluffton Chamber. This harmed your own respected, official Greater Bluffton Chamber. How was this possible without you scheming with their CEO, Bill Miles, as well Bluffton Town Manager Marc Orlando? And after you got caught, you said you would do the same membership drive for the Greater Bluffton Chamber. When exactly are you planning to do that? In fact, I received an email from Bluffton Chamber lawyer Roberts Vaux, who said, quote “... a tragic mistake, Hilton Head Chamber is not Bluffton’s chamber and Town’s employees asking taxpayers support one chamber over the other is not right. Public is in an uproar and should be”. And, to add insult to injury, we found out you and Orlando used tax dollars to join the Hilton Head-Bluffton Chamber, not your Town’s own Greater Bluffton Chamber! It was only after you got caught that you both belatedly purchased memberships.

The way I see it, the math works out to 511 new members, or \$190K in damages owed to the honestly run Greater Bluffton Chamber. Ms. Sulka, you clearly misused town resources and need to make this right, as follows:

1. Publicly announce the Greater Bluffton Chamber as the Town’s official chamber. Sell 511 memberships or pay \$190k in damages.
2. Ask the fraudulently operated Hilton Head Chamber to leave Bluffton, as having two competitive chambers in Bluffton causes confusion for local businesses. No other city in South Carolina has two official chambers.
3. Remove the Hilton Head Chamber as the Town’s recently hired DMO, which the Town favored over their Greater Bluffton Chamber, without a contract and accounting transparency.

This could not be any more corrupt than not offering this opportunity to your own Chamber versus the corruptly run Hilton Head Bluffton Chamber.

I just read you were quoted in the Island Packet as saying, when it comes to comments about executive session, that you didn't want residents "thinking we're out here making backdoor deals. ... If it's in executive session, it's a contractual matter, and I promise you that."

That's an interesting statement, given I consider your entire mayoral tenure to be one long, ongoing "back door deal". However, you can at least make things right with the Greater Bluffton Chamber of Commerce, then head back to selling real estate full time, instead of being a part-time game playing mayor, with multiple horses in every Town race.

Adam Ham, 10 Kirk Ct - Why I say no to masks- All we hear from government and medical is SLOW the spread. Not STOP the spread. I learned a long time ago that verbiage is everything. Seems they know there is nothing that can be done to stop a virus. Take New Zealand for example. They actually did stop the virus from spreading. As soon as they opened again, they had cases pop back up.

Slow the spread means keeping control for an extended period of time. The longer we keep the mask mandate the more likely it is another business will close their doors forever. I am like a lot of other people. I refuse to wear a mask. Therefore, I refuse to give my money to a business that requires me to wear a mask. I would love to go shopping and go out to eat to support the local economy.

What I'm confused about is mask in restaurants.

You have a mask on and you care about people and protecting others. When you sit down and take your mask off you are somehow in a magical bubble where a virus cannot spread. Now when you stand again there a danger. I just cannot for the life of me figure out how sitting saves everyone from virus transmission. Not to mention that unincorporated Beaufort county just set the bar for you guys to follow.

Meg Bakey, 22 Beaumont Court- As a resident of Bluffton I ask that you do not renew the mask mandate today. The number of covid cases in our area does not warrant this level of government overreach. This decision should remain up to each adult and their personal health and situation. No one is taking masks away so those that still choose to wear a mask certainly can and businesses that choose to still require them can as well.

Please keep in mind that masks do not come with zero downsides or risks. More doctors are coming out each day to share the negative effects they are seeing on a daily basis. From impetigo, staph infections, asthma, migraines, strep throat, "mask mouth", tooth and gum health deteriorating, starving off and permanent killing of brain cells, pleurisy and other lung infections. I've personally experienced two of those detrimental side effects myself. And this is without touching upon the emotional, psychological, and developmental effects they continue to have on our population. Where there is risk there must be choice!!

In all of these emergency orders and mandates you need to hear and see how children and families are being forgotten about. Children and parents are suffering! My kids and I (who are younger than the age of the mask requirement in our town) have been verbally attacked and confronted in stores on several occasions. The DMV forced me to leave my kids in the car because they would not allow them into the building even with an appointment, endangering them for a policy they didn't even make me aware of prior to arriving. However, they did allow us to stand in line outside while breathing in cigarette smoke, yet my healthy kids were the health threat.

Some employees and citizens have turned into a vicious mask mob, emboldened by these mandates and choosing to verbally or physically attack others who they determine are not following orders as they see fit. Due to this I rarely take my children out to the store with me. However, with parks closed for months (thank

you for hearing us on that issue), schools closed, and many children's activities closed this has caused a great deal of isolation, anxiety, and depression. We've had to change our lives entirely to find childcare every time we need to run an errand or have an appointment. I refuse to allow my children to be in situations where they are treated like a walking disease. The isolation and hateful situations they have experienced from the mask mandates continues to negatively affect them.

My family and I take our health very seriously. We spend more time and money nourishing and supporting our body's and health every day, paying out of pocket for preventative care that is not covered by insurance. Wearing a mask does nothing but make us sick. Bluffton is forcing a mandate upon my family and I and is hurting our health, in turn causing us to become a health threat to those around us. We already use proper distancing, hand washing, and stay home when ill. These are common sense measures that we've all been reminded of for months now, and they work. What does not work is isolating and sanitizing people and things to death and damaging our immune systems through mask wearing. These things will never achieve health. We are killing the terrain of every person, which is only creating more illness.

Please leave health up to us as free citizens, responsible for our own health and body, in conjunction with the healthcare providers we choose. Government has no place in this.

Tanya Maguire, 1 Fording Court, Bluffton - Please rescind the ridiculous mask mandate! In my opinion you are hurting the local economy; I know myself along with many others are shopping online rather than locally because I refuse mask up just to visit a store. People deserve a choice if they wish to wear a mask then by all means, wear one but this "mandate" is pushing us one step closer to socialism and that is not what this country is about. The south is known for hospitality and looking at people with creepy masks on is not "hospitable". Make it a CHOICE

Johnnie Garrett, 16 Lakeside Drive - I'm writing to ask that the mask mandate be lifted. I feel that wearing a mask should be a choice. I feel that it is unconstitutional to be forced to wear one especially with the fact that there is no end game in sight. What numbers do we have to have to have this listed? If the number is zero that will never happen. You have offered no clearly defined plan and I feel that masks aren't necessary.

Courtney Taylor, 57 Starshine Circle, Bluffton - Please stop the mask mandate.

Heidi Hinnenkamp, 123 9th Avenue, Bluffton - Please end this madness. Lift the forced mask wearing oppression over our town. We once had a lovely sweet town but now these masks have put a dark depressing cloud over our town. It's wearying and families are worn out. Wear a mask to protect the elderly but destroy children's developing brains in the meantime. We need to start thinking about how this effecting the children and how it's draining our town. Enough is enough. The only thing to fear is fear itself. Stand up against this and see the truth that it's not a life-threatening virus and case numbers will always fluctuate. Case numbers mean nothing. Focus on what's important and that's lifting the forced mask wearing.

Steve Young, 8 Ventura Ln, HHI - Although I am not a resident of Bluffton I shop and do business in Bluffton on a daily basis. I appreciate your time in reviewing the information below

A new CDC study shows that masks do nothing to stop the spread of Covid-19. 70% of those with symptoms who tested positive for Covid-19 said they wore a mask all the time, compared with 3.9% who said they never wore one.

https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6936a5-H.pdf?fbclid=IwAR1FFuBJLYLXW44xvO_o_fZD5mmY2RnMAnzf0LkghziZvK5CcLcmFW2rKI

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In that post a doctor discusses how people with masks are experiencing adverse health issues. The data analyst also discusses all the ways a mask further spreads the virus.

The Town of Bluffton is setting itself up for lawsuits due to ignoring the science that says masks are ineffective and cause bacterial infections of the face, mouth and lungs. They are merely a cultural tool used to instill caution in the minds of citizens and to give the at-risk group a false sense of security. Given the physical and emotional damage they cause, it is irresponsible to mandate masks on citizens.

Do any of you have medical degrees? Do you have a physician or epidemiologist on staff? If not, then you should not be dictating health practices that can be easily challenged.

Please consider removing the mandate based on this information.

Jessica Kelly, 45 Folly Field Rd, HHI- It's time to move on and allow people to shop and dine and visit places indoors with NO mask. The virus has never overwhelmed our healthcare system and it has over 99% recovery rate. Give the people back their freedoms.

Hannah Hicks, 5 Nob Hill Ct - I vote NO to extending the mask mandate.

Tara Morin, 115 Rudder Run, Bluffton - I'm tired of being discriminated against. I cannot wear a mask due to numerous medical conditions. Private businesses discriminate and don't allow long standing customers to shop. If the mask ordinance (not a law) is lifted I will have a better chance at being able to shop for myself and my family. There are certain services and material necessities that are not attainable unless entering the physical store. No more masks. It is our legal right to not only breath but to choose to wear what we want. We need our freedom back, it's long overdue. Make masks an independent choice.

Sarah Colian, 109 Rudder Run, Bluffton - Do not extend the mandatory mask ordinance. Masks should be optional for those who want to wear them.

Scott Colian, 109 Rudder Run, Bluffton - Please consider voting no for the mask mandate extension. While I do believe that masks are beneficial in some cases, I also believe that there are too many double standards and loose ends with it. I think it should be optional to wear a mask. Also, I feel that you shouldn't be chastised or discriminated against for not wearing one.

Amy Mobley, 14 Lakeland Ct. - I ask that you repeal the mask mandate for Bluffton. There is no consistent science to support that it is cutting down on infections. In fact, the CDC has shown that from July 1-29, of those who had tested positive for Covid, 70% said they wore a mask all the time. Out of those who also tested positive, 3.9% said they never wore a mask. Also, the WHO just came out and said that COVID is no more dangerous than the seasonal flu. That story is at 21stcenturywire.com

Where and how does this mandate, that should never have been put in place, end?

I believe you are committing fraud against the town of Bluffton. We've significantly reduced our spending bin Bluffton and have taken it to Jasper county.

Please be aware that there are many lawsuits happening around the country regarding the illegal taking of people's freedoms and the medical tyranny is happening.

Please wake up and let Americans decide for themselves what is best for them and their families.

Lisa Laking, 7 Slack Tide - Please end the mask mandate and all Covid19 restrictions. A state of emerging declaration applies to emerging, uncertain, acute crises and as such grant's unusual amounts of authority to our government. We are now 8 months and scientists and the public know a great deal about coronavirus and we are not in imminent danger as Covid19 is more than 99% survivable! Continuing these restrictions under a baseless emergency declaration is abuse of power and fraud. Please restore freedoms and power back to the people where it belongs. Many people and business owners will still choose to wear masks and that is perfectly ok! Freedom to choose is all we the people are asking! Please do the right thing!

Sharon Brown - 1. A good portion of streetlights on Buck Island and Simmonsville road bulbs have been out since March 2020 in which I have reported it then and in July to Pat a town staffer and they are still out as of October 13, 2020. I would like an updated report on when will these lights be fixed in our neighborhood? 2. The Bluffton Eagles Community Action Committee has a MOA with the Town which entails maintaining the grounds (cutting the grass and ditch) correct? Why isn't the maintenance crew cutting the weed and grass inside the infield? That too is a part of the Eagles field. 2a. Who is supposed to cut the ingrown grass in the ditch? 3. The free bike taxi service being provided for the residents and tourists in the historic district: Who is paying for this service? How many taxi bikes are in service from 5pm and 9pm? Lastly in March the Buck Island/ Simmonsville community had a well-attended meeting with some of the Town Growth and Development department addressing concern on property utilization and other issues. Then Covid 19 pandemic plagued the country and our town in which there was no follow up because our issues at hand were low on the priority list to address. I would like to know where are we on the priority list now for a follow up meeting?

Christy Hale, 226 Stoney Crossing - Please end the mask mandate and unmask Bluffton! The science doesn't back this mandate, and they are doing more harm than good physically, mentally, and emotionally. A friend's teen daughter got a horrible infection from a rash on her face from wearing the masks. Respiratory infections, pleurisy, and other illnesses are also a result of masks. Please end the mask mandate as it is being ended for unincorporated Beaufort County! People should be able to make this choice for themselves.

Workshop Agenda Items:

Discussion and Direction on Amendments to the Town of Bluffton Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 3 – Application Process, Article 5 – Design Standards, Section 5.10 Stormwater Management, and Article 9 – Definitions and Interpretations Related to Adopting the Southern Lowcountry Post Construction Stormwater Ordinance and Stormwater Design Manual – Bryan McIlwee, Director of Engineering

McIlwee stated that Staff is providing information on the development of the Southern Lowcountry Post Construction Stormwater Ordinance (SoLoCo Stormwater Ordinance) and *Southern Lowcountry Stormwater Design Manual (Design Manual)* in preparation for a formal recommendation from Planning Commission on 10/28/20 regarding proposed amendments to the Unified Development Ordinance (UDO).

Elected officials from City of Hardeeville, Towns of Bluffton, Ridgeland, and Hilton Head Island, Beaufort County, and Jasper County re-established the Southern Lowcountry Regional Board (SoLoCo) on 8/29/17. The Mission of SoLoCo is “to create a regional think tank that will identify the problems and opportunities

that face the entire southern Lowcountry, as defined by the members and regardless of municipal or county boundaries; to discuss the zoning, housing, employment, quality of life and social issues; and to propose action plans to the appropriate legislative bodies.”

SoLoCo prioritized the need for a uniform set of stormwater standards and design guidelines to meet the goal of protecting the region’s sensitive environment, residents’ quality of life, and future economic development opportunities. On 8/29/17, SoLoCo requested each jurisdiction assign a staff member to a subcommittee to investigate current stormwater standards and bring forth a recommendation for standardization. Understanding the importance of the regional approach, SoLoCo-represented staff members invited staff from other jurisdictions not part of the SoLoCo, namely the City of Beaufort and Town of Port Royal, to also participate in the evaluation.

The subcommittee delivered a report on 12/5/17 that compared the eight (8) different stormwater ordinance standards. Recognizing that existing standards may not be current with State of the Knowledge for stormwater management, the subcommittee recommended procuring a consultant team to more efficiently and expeditiously write a regional, unified stormwater ordinance and manual to meet SoLoCo’s goal. The scope of work for procurement included the following:

- Benchmark the region among similar communities in South Carolina and the southeast coast.
- Define stormwater design standards that are consistent with the goal of protecting quality of life, environment, and economic development.
- Engage stakeholders before, during, and after the standards are developed.

Following the recommendation of the subcommittee, SoLoCo voted on 3/27/18 to recommend that each SoLoCo member, as well as the City of Beaufort and Town of Port Royal, hire a consultant and cost-share in funding the project as part of their FY19 budgets. During that meeting, the Towns of Ridgeland and Hilton Head Island stated they would not be participating in the project. The Town of Bluffton’s consolidated FY19 budget included this project and prioritized it in the Strategic Plan Fiscal Years (FY) 2019 – 2020 under Focus Area “May River & Surrounding Rivers and Watersheds” with the May River Watershed Action Plan (Action Plan) Update. A component of the Action Plan Update consists of updating “Article 5.10 Stormwater” of the Unified Development Ordinance (UDO), last amended in 2011, to align stormwater design requirements with current State of the Knowledge practices.

SoLoCo recommended on 6/26/18 that Center for Watershed Protection, with support from McCormick Taylor, be awarded the contract in the amount of \$179,554 to be cost-shared based upon population. Town Council unanimously adopted a Resolution on 9/11/18 to enter into a Memorandum of Agreement with Beaufort County regarding the financing and production of the regional stormwater ordinance and design manual. Jasper County, Town of Port Royal, City of Beaufort, and City of Hardeeville each entered into their own Memorandums of Agreement with Beaufort County to participate in and fund the project.

The consultant team and project partners received local stakeholder input from the project’s outset and garnered feedback from the professional design community during statewide, regional, and national presentations. The resulting SoLoCo Stormwater Ordinance and *Design Manual* are unique in that they accomplish the following:

- Regional collaboration for consistent, effective management of stormwater at the watershed scale.

- The SoLoCo Stormwater Ordinance and *Design Manual* unify the current diversity of municipal requirements due to MS4 permits, need, and community dynamics:
 - Allows for “Special Watershed Protection Area” designations and requirements
 - Establishes post-construction criteria for volume control (quantity and quality) and design standards
 - Provides enforcement for current design through life of the development
- *Design Manual* uses a watershed-based approach, not a jurisdiction-based approach
 - Incorporates green infrastructure/low impact development
 - Protects existing natural areas & incorporates open space in new development.

Provides water quality and quantity credit for thirteen (13) Best Management Practices.

UNIFIED DEVELOPMENT ORDINANCE SECTIONS AFFECTED

Staff anticipates the following sections of the UDO to be edited as part of the SoLoCo Stormwater Ordinance and *Design Manual* adoption process which will be discussed further during the 10/28/20 Planning Commission meeting:

- UDO Article 3 – Application Process
Changes proposed relate to the stormwater permit and process,
 - Section 3.10 – Development Plan
 - Section 3.13 – Development Surety, and
- UDO Article 5 – Design Standards
 - Section 5.10 – Stormwater
For clarity and consistency with partner jurisdictions, the proposed SoLoCo Stormwater Ordinance elements have been incorporated into existing UDO Article 5.10 Stormwater with reference to the regional *Design Manual* as Appendix A.
- UDO Article 9 – Definitions and Interpretation

PROJECT TIMELINE

- 12/2018 – Project initiated by Center for Watershed Protection seeking design community input on existing stormwater ordinances.
- 1/2019 – 12/2019 – Subcommittee and consultant team technical meetings.
- 11/7/2019 – Key elements of draft SoLoCo Stormwater Ordinance and *Design Manual* presented at SC Association of Stormwater Managers quarterly meeting.
- 1/6/2020 – 2/27/2020 – Draft SoLoCo Stormwater Ordinance and *Design Manual* available online for Public Comment.
- 1/23/2020 – Jasper County and City of Hardeeville Public Meeting.
- 1/28/2020 – Beaufort County, City of Beaufort, and Town of Port Royal Public Meeting.
- 1/30/2020 – Town of Bluffton Public Meeting.
- 3/6/2020 – Staff and Consultant review of Public Comments.
- 3/20/2020 – 2nd meeting for Staff and Consultant review of Public Comments.
- 3/31/2020 – Final documents provided to all partners.

- 4/14/2020 – Key elements of draft SoLoCo Stormwater Ordinance and *Design Manual* presented at National Watershed and Stormwater Conference.
- 4/24/2020 – Key elements of draft SoLoCo Stormwater Ordinance and *Design Manual* presented at Southeast Stormwater Association Regional Spring Meeting.
- 6/25/2020 – Internal review and legal review of documents.
- 7/28/2020 – Staff update provided to SoLoCo for adoption schedules.
- 8/26/2020 – Planning Commission Workshop
- 8/27/2020 – May River Watershed Action Plan recommendation to Planning Commission

NEXT STEPS:

- 10/28/2020 – Planning Commission Public Hearing and recommendation to Town Council
- 11/7/2020 – Town Council First Reading
- 12/8/2020 – Public Hearing and Town Council Second and Final Reading
- 1/1/2021 – Implementation of SoLoCo Stormwater Ordinance and *Design Manual*

Councilman Toomer commended Staff for all their hard work and vision. McIlwee will give Town Council an update of where Beaufort County is in the process when bringing back for First Reading.

Discussion and Review of Town of Bluffton Municipal Bonds and Potential Future Municipal Bonding Options – Chris Forster, Director of Finance and Administration

Forster introduced Frannie Heizer from Burr Forman McNair and Brian Nurick from Compass Municipal Advisors, LLC, who provided information to Council.

Heizer stated that continued growth has put added demands on infrastructure and publicly available assets that support the increase in population and contribute to the quality of life for Bluffton residents. Increasing capital needs to support and promote economic growth as well as manage its impact has put added demands on funding for the Town's Capital Improvement Program (CIP). The town currently has \$3.7M in outstanding General Obligation (GO) debt with annual principal and interest payments between \$376,371 and \$381,600 over the life of the payments. Revenues for these payments are supported by a GO Debt Service Millage of 1.7. There is \$5.1M in outstanding Tax Increment Financing (TIF) debt with annual principal and interest payments of \$931,681. Revenues for these payments are derived from property taxes collected within the tax increment district at 50% of the increased assessed value from the base year established. The other 50% support revenues in the general fund.

The GO bonds were originally issued in 2010 for \$6.5M to build the Law Enforcement Center and were refunded in 2020 and are set to expire in March of 2034. The TIF bonds were issued in December 2005 and January 2006 for \$10M and \$4M respectively. These were for redevelopment project costs supporting numerous infrastructure projects within the TIF district including but not limited to; Bluffton Parkway improvements, Hampton Parkway improvements, May River Streetscape, Buck Island and Old Town sewer projects. These bonds have been refinanced twice and the last payment is due December 2025.

New Stormwater Utility Fund revenue and new sewer projects were approved in the FY 2021 budget and CIP. An increase in the Stormwater Utility Fee from \$98 per SFU to \$115 per SFU as well as a new National

Pollutant Discharge Elimination System (NPDES) plan review fee was approved and will generate an additional \$255,000 and \$365,000 respectively. This added revenue can support a new GO bond of \$5M to accelerate the completion of critical Sewer infrastructure that affects our May River and surrounding rivers watersheds and still support ongoing capital maintenance needs into the future.

The TIF bonds are set to expire in 2026. The revenue from this has contributed significantly to CIP improvements within the TIF that has helped promote continued economic growth. Community growth within the TIF continues and there are associated outstanding quality of life needs which support continued responsible growth. After discussions with Bond Counsel and our bond financial advisor an option to consider is to extend the TIF an additional 15 years to allow the town to continue to meet capital needs within the TIF as economic growth continues.

The Town can currently refinance the outstanding TIF debt and take advantage of interest rates around 1% and achieve an NPV savings of around \$146,000. In addition to refunding existing debt an additional \$10M in new dollars could be issued as tax exempt bank qualified debt. This could support additional projects and land acquisition within the TIF.

There is a tax requirement to issue bank qualified debt that states a jurisdiction reasonably expects to issue less than \$10M in debt within a calendar year. A bank qualified issuance can reduce issuance costs by a few hundred thousand dollars. To take advantage of this our timeline to issue the GO Stormwater Bonds will require us to go to market and put our bonds out for competitive bid prior to the end of calendar year 2020. The TIF refunding and potential \$10M issuance could be issued in two separate series early in calendar year 2021.

Wood asked that he would like to look at projections before final reading of when jobs will be completed.

Staff will report Beaufort County and Beaufort Jasper Waters position on utilization of Stormwater utility fee dollars; after several joint meetings, it is known that there is a strong desire to find dollars in next fiscal year's budget and that this is a priority project.

Formal Agenda Items:

Consideration of an Emergency Ordinance of the Town of Bluffton Continuing the Suspension of the Normal Operating Procedures of the Town of Bluffton Town Council Meetings and Other Town of Bluffton Public Meetings; and Modifying the Authority of the Town Manager to Develop and Enact Such Plans and Policies Needed to Ensure Continuity in the Delivery of Government Services in Light of the COVID-19 Outbreak; and Severability – Scott Marshall, Deputy Town Manager

Marshall gave an overview and stated that On March 16, 2020, Mayor Lisa Sulka declared that a State of Emergency existed in the Town of Bluffton because of the COVID-19 pandemic. On March 17, 2020 Town Council unanimously passed Emergency Ordinance 2020-03, a copy of which is found at Attachment 2. This Ordinance expired on May 17, 2020 and accomplished the following:

1. Section 1 provides standards for electronic meetings.
2. Section 2 provides authorization to the Town Manager, pursuant to the Town of Bluffton Code of Ordinances, Section 2-116, to develop and enact all such plans and policies intended to ensure the

continuity of delivery of government services In light of the COVID-19 outbreak and to take necessary action to protect the health, safety, and welfare of town residents, visitors, and employees and staff.

3. Section 3 suspends certain municipal deadlines.
4. Section 4, in accordance with Governor McMasters Executive Order 2020-10, extends certain municipal tax deadlines.

Sections 3 and 4 of Emergency Ordinance 2020-3 were extended and modified on April 14, 2020 by Emergency Ordinance 2020-4, extending deadlines for certain municipal taxes and business license fees.

Sections 1 and 2 of Emergency Ordinance 2020-03 were effectively extended with the adoption of the following Emergency Ordinances:

- Emergency Ordinance 2020-05 on May 12, 2020;
- Emergency Ordinance 2020-13 on July 14, 2020 ; and
- Emergency Ordinance 2020-20 on September 8, 2020.

Emergency Ordinance 2020-20, unless otherwise modified, amended, extended, or rescinded by subsequent Emergency Ordinance, will expire November 17, 2020.

As a reminder, under the authority granted under Sections 1 and 2 of Emergency Ordinance 2020-03, the following actions have been taken so far:

1. All public meetings to conduct Town business have been conducted electronically. (Section 1)
2. Under “Authorization of Town Manager:” (Section 2)
 - a. Public access to Town facilities has been restricted.
 - b. Physical staffing of Town facilities has been reduced to the minimum required to conduct Town business.
 - c. Telecommuting policies have been implemented for employees able to work remotely.
 - d. The following decisions regarding access to public facilities were made:
 - 1) Access to all Town of Bluffton docks and boat ramps was closed on April 1, 2020, consistent with Governor McMaster’s Executive Orders to close public access to beaches, public piers and parking lots associated with those activities.
 - 2) Consistent with the Governor’s subsequent Executive Order to re-open boat ramps, the Oyster Factor Boat Ramp was re-opened on April 17, 2020.
 - 3) Restrictions to Town Public Docks remained in place after the Governor’s Executive Order that such restrictions could be lifted on April 21, 2020.
 - 4) Access to parks and playgrounds was closed on April 1 to be consistent with the Governor’s Executive Order to close public playgrounds and activities that involve the use of shared sporting apparatus and equipment.
 - 5) Access to Town parks and docks was opened on June 1, 2020 simultaneous with expiration of previous Executive Order issued by the Governor; however, access to playgrounds remains closed until October 3, 2020 when they were reopened by the Town Manager.

Councilwoman Frazier stated that she would like for the Town to have protocols put in place so that when residents request to have public events, they are not completely restricted and can still have events safely.

Councilman Hamilton inquired about the numbers being used and stated that he would like to see Bluffton numbers rather than Beaufort County numbers. Marshall stated that the numbers may not be broken down in that manner, however that the 29910 zip code gives a good idea of what the numbers are in Bluffton.

Wood made a motion to approve an Emergency Ordinance Continuing the Suspension of the Normal Operating Procedures of the Town of Bluffton Town Council Meetings and Other Town of Bluffton Public Meetings; and Modifying the Authority of the Town Manager to Develop and Enact Such Plans and Policies Needed to Ensure Continuity in the Delivery of Government Services in Light of the COVID-19 Outbreak. Toomer seconded. Roll call was taken, and the motion passed unanimously.

Consideration of an Emergency Ordinance of the Town of Bluffton, South Carolina, Extending the Requiring of Individuals to Wear Face Coverings in Light of the COVID-19 Pandemic; and Matters Related Thereto; and Severability – Scott Marshall, Deputy Town Manager

Marshall stated that on June 30, 2020, in response to an increasing number of positive COVID-19 tests reported by the South Carolina Department of Health and Environmental Control (SCDHEC) and as part of a regional effort to slow the spread of the disease, Town Council enacted Emergency Ordinance 2020-10. Emergency Ordinance 2020-10 requires the wearing of face coverings in certain social situations and by employees of certain establishments who come into contact with the public in the performance of their jobs.

This Emergency Ordinance was first adopted on June 1 (EO 2020-10) and was subsequently renewed on August 26, 2020 by Emergency Ordinance 2020-18. Emergency Ordinance 2020-18 will expire on November 1, 2020 unless otherwise renewed, amended, or rescinded by Town Council.

The Town of Bluffton Emergency Ordinance presented for consideration replicates the requirements specified in Emergency Ordinance 2020-10 and contains the following features:

Section 1. Definitions.

- a. "Face Covering" is defined as a uniform piece of cloth, fabric, or other material that securely covers a person's nose and mouth and remains affixed in place without the use of one's hands. Face Coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, and gaiters, provided that they are worn such that they securely cover the person's nose and mouth.
- b. "Person" as used in the context of Section 3.b. is defined as any individual associated with the business who has the control or authority and ability to enforce the requirements of the Ordinance within the business, such as an owner, manager or supervisor. "Person" may also include an employee or other designee that is present at the business but does not have the title of manager, supervisor, etc., but has the authority and ability to ensure that the requirements of this Ordinance are met while the business is open to the public.

Section 2. Requirements for Face Coverings.

- a. All persons entering any building open to the public in the Town must wear a face covering while inside the building.
- b. All restaurants, retail establishments of every description, salons, grocery stores, and pharmacies in the limits of the Town shall require their employees to wear a

Face Covering at all times that the employees are in any area where the general public is allowed. This requirement also applies to all persons providing or utilizing over-the-road public or commercial transportation, including tours; and all businesses or employees while interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls. All such businesses must provide face coverings or materials for the making of such face coverings for their employees. Such coverings or materials may be made available staff-wide or individually upon employee request so long as the result is the organization-wide use of face coverings. Nothing shall prevent an employee from fashioning his or her own cloth face mask. If a worker or customer refuses to wear a cloth face covering for other than medical reasons, a business may decline entry or service to that individual.

- c. The following individuals are exempt from this Ordinance: any person under the age of eight, or who is unable to safely wear a Face Covering due to age or an underlying health condition, or who is unable to remove the Face Covering without the assistance of others; and any person traveling in a personal vehicle, or when a person is alone or is in the presence of only household members in an enclosed space, and people who are actively drinking or eating. This Ordinance does not relieve business establishments and restaurants from other social distancing requirements imposed by the Governor's Executive Orders.

Section 3. Penalties.

- a. Failure to comply is a civil infraction, punishable by a fine of not more than \$50.00.
- b. Each day of non-conformance is a separate and distinct offense. Repeated offenses may result in suspension or revocation of occupancy permits and/or business license, where applicable. Repeated violations may also be declared a public nuisance. **However, every effort shall be made to bring the person or business into compliance before issuing a citation.**

Section 4. Severability. If any part of the Ordinance is deemed invalid, the remaining portion(s) of the Emergency Ordinance shall remain valid.

Section 5. Effective Date; Expiration.

- a. Must be passed by a super majority of at least 2/3 of Town Council on a single reading. This means the ordinance must receive a favorable vote of no less than four out of five members of the Town Council of the Town of Bluffton.
- b. Emergency Ordinance shall be effective on October 13, 2020.
- c. Emergency Ordinance is terminated when rescinded by a subsequent ordinance, or on the 61st day of enactment, whichever is sooner. This means the Emergency Ordinance, in absence of further Town Council action, would expire on December 13, 2020.

Hamilton made a motion to approve an Emergency Ordinance Extending the Requiring of Individuals to Wear Face Coverings in Light of COVID-19 Pandemic; and Matters Related Thereto; and Severability. Wood

seconded. Roll call was taken, and the motion passed unanimously.

Consideration of an Ordinance Amending the Town of Bluffton FY 2020 Budget to Provide for the Expenditures of Certain Funds; and to Allocate Sources of Revenue of Said Funds; and to Carry Forward Unspent Expenditures and Encumbrances from the FY 2020 Budget to the FY 2021 Budget – Second and Final Reading – Chris Forster, Director of Finance and Administration

Forster stated that annually, we make adjustments to the budget required by project and contractual commitments for ongoing Capital Improvement Program fund projects for unspent amounts in the prior year, as well as transferring unspent Affordable Housing budget to the CIP Housing project. This is a housekeeping matter which rolls forward committed amounts of active contracts, purchase orders, and other related funding sources to the current fiscal year.

Upon approval, the proposed ordinance will amend the FY 2021 budget by \$3,327,311 by increasing the General Fund budget by \$101,461 to reappropriate prior year unspent transfers to Capital Improvements Program Fund (CIP), increasing the Stormwater Utility Fund budget by \$402,014 to reappropriate prior year unspent transfers to CIP, increasing the CIP budget by \$2,433,754 to reappropriate prior year unspent encumbrances and expenditures, by increasing the Debt Service Fund budget by \$390,083 to reappropriate prior year unspent transfers to CIP.

Forster stated that there have been no changes since First Reading was passed at the September 8th meeting.

Toomer made a motion to approve on second and final reading an Ordinance Amending the Town of Bluffton FY 2020 Budget to Provide for the Expenditures of Certain Funds; and to Allocate Sources of Revenue of Said Funds; and to Carry Forward Unspent Expenditures and Encumbrances from the FY 2020 Budget to the FY 2021 Budget. Wood seconded. Roll call was taken and the motion passed unanimously.

Consideration of an Ordinance Authorizing the Issuance and Sale of a Not to Exceed \$5,250,000 General Obligation Bond, 2020 or Such Other Appropriate Series Designation, for the Purpose of Funding the Town of Bluffton Stormwater Utility Fund Capital Improvements Program Projects – First Reading, Chris Forster, Director of Finance and Administration

Forster stated that the proposed Ordinance delegates to the Town Manager the authority to determine the par amount of the Bonds maturing on such dates, the maturity dates of the Bonds, the interest payment dates of the Bonds, redemption provisions, and the date and time of sale of the Bonds; and

Receive bids on behalf of the Council and to award the sale of the Bonds to the lowest bidder therefor in accordance with the terms of the Official Notice of Sale for the Bonds; and

Sell the Bonds through a bank placement if it is determined to be in the best interest of the Town upon recommendation from the Town's bond counsel and financial advisor.

Continuously improving the water quality and economic viability of the May River and surrounding rivers and watersheds is a strategic goal of the Town of Bluffton Strategic Plan. The FY 2021 budget and capital improvement plan include several sewer projects to help protect the Town's rivers and watersheds. These projects were approved contingent upon a potential general obligation bond offering. The FY 2021 budget ordinance also included an increase in Stormwater Utility fees to support the payment of the Bond's principal and interest.

Currently budgeted sewer projects include:

- Buckwalter Place Multi- County Commerce Park
- Buck Island – Simmonsville Sewer
- Historic District Sewer Extension Phase 1
- Historic District Sewer Extension Phase 2
- Historic District Sewer Extension Phase 3
- Historic District Sewer Extension Phase 4
- Historic District Sewer Extension Phase 5
- Historic District Sewer Extension Phase 6
- Bridge Street Streetscape

Additional sewer projects planned for future approval and coordination with partnering jurisdictions:

- Historic District Drainage Master Plan
- Stoney Crest Campground / Old Palmetto Bluff Rd.
- Old Town Gravity Sewer

The projected true interest cost is currently calculated at 1.66% on the planned 20-year Bond. The estimated sources and uses are as follows:

Source of Funds:

Par Amount of Bonds	\$5,080,000.00
Reoffering Premium	<u>595,874.45</u>
Total Sources	\$5,675,874.45

Uses of Funds:

Total Underwriter's Discount (0.750%)	\$ 38,100.00
Cost of Issuance	75,000.00
Deposit Net Bid Premium to DS Fund	557,774.45
Deposit to Project Fund	5,000,000.00
Rounding	<u>5,000.00</u>
Total Uses	\$5,675,874.45

Our Bond Counsel, Frannie Heizer, Esquire with Burr Forman McNair and our Financial Advisor, Brian Nurick, Senior Managing Director with Compass Municipal Advisors, LLC, are recommending that the Bond be issued before the end of 2020 to take advantage of favorable interest rates.

Toomer made a motion to approve on first reading, an Ordinance Authorizing the Issuance and Sale of a Not to Exceed \$5,250,000 General Obligation Bond, 2020 or Such Other Appropriate Series Designation, for the Purpose of Funding the Town of Bluffton Stormwater Utility Fund Capital Improvements Program Projects. Frazier seconded. Roll call was taken and the motion passed unanimously.

Consideration of a Resolution to Adopt Standard Operating Procedures to Support Periodic Rights of Way Maintenance and Tree Trimming by Public Utility Companies Including but not Limited to Dominion Energy – Scott Marshall, Deputy Town Manager

Marshall stated that on a five-year cycle, Dominion Energy (formerly SCE&G) performs rights-of-way (ROW) maintenance, including pruning and removing trees. The purpose of this maintenance is to trim or remove trees and tree limbs that come into contact with electrical lines, which are the leading cause of power outages, especially during storms. Palmetto Electric Cooperative performs ROW maintenance on a four-year cycle.

Dominion Energy is next scheduled to perform ROW maintenance as early as December 2020 and Palmetto Electric Cooperative is expected to perform ROW maintenance in 2021. Staff have been in contact with representatives from each utility company and will remain engaged with them until ROW maintenance is performed.

Formalizing a program to provide oversight for this process was identified by Town Council through the strategic planning process as a priority in the Fiscal Years 2019-20 Strategic Plan. It was carried over into the Fiscal Years 2021-22 Strategic Plan as an initiative to support the Community Quality of Life Strategic Focus Area.

On August 11, 2020 Staff conducted a workshop to seek Town Council's input toward establishing a program to fulfill this strategic plan action item. Items suggested and discussed have been included in the Standard Operating Procedure (SOP) which is being presented for Town Council's consideration.

Among the areas of concern from previous ROW maintenance as noted by Town Council and staff included:

- Seemingly unnecessarily exaggerated and unaesthetically appealing cuts to trees.
- Lack of communication with the Town and its residents regarding ROW maintenance.
- ROW maintenance being performed outside of normal business hours, i.e., disruption of otherwise normal quiet periods.
- Parking and/or staging of equipment on private property without property owner permission.

The purpose of The SOP presented as Exhibit A to the Resolution for Town Council's consideration is to establish expectations and guidelines to be followed by the Town of Bluffton Town Council and Town Staff for the support of periodic ROW maintenance by public utility companies. The objective of the SOP is to prescribe a protocol and activities that will mitigate negative public reaction and maximize opportunity for aesthetically appealing results when utility companies perform periodic, preventive pruning of trees and other foliage.

Elements of the SOP include the following:

- Town Council appointment of citizens to augment the Town's Beautification Committee for the purpose of overseeing ROW maintenance activities.
- Contracting with a local arborist for additional consultation and oversight assistance.
- Staff engagement with utility company performing ROW maintenance.
- Public information and education campaign.

Timeline of Action in the SOP:

- No later than 6 months prior to expected or known periodic ROW Maintenance activities:
 - Town staff will establish initial contact with utility company to establish a dialogue and express the expectation that the Town be kept informed of all ROW maintenance activity and schedules.

- No later than 2 months prior to scheduled ROW Maintenance activities:
 - Town Council will appoint an ad-hoc committee to oversee utility ROW maintenance. Committee will be comprised of the five members of Town's standing Beautification Committee, the local arborist contracted by the Town, Town staff, plus additional members of the ROW maintenance-affected communities, as deemed necessary and proper by Town Council.

 - Town Manager and/or Deputy Town Manager will meet with utility company to communicate Town areas of concern and expectations.

- No later than one month prior to scheduled ROW maintenance activities:
 - Town will contract with a local arborist.
 - Town staff will introduce an aggressive public awareness and education campaign that will address areas of operation, maintenance schedule, what to expect regarding pruning and how to contact the Town concerning ROW maintenance activity, if needed.
 - Town staff will meet with ad-hoc ROW Maintenance Committee appointed by Town Council.

Wood made a motion to approve a Resolution to Adopt Standard Operating Procedures to Support Periodic Rights of Way Maintenance and Tree Trimming by Public Utility Companies Including but not Limited to Dominion Energy. Toomer seconded. Roll call was taken, and the motion carried unanimously.

Consideration of an Ordinance to Approve the Enmark Stations, Inc. 100% Annexation Petition for Certain Property Consisting of Approximately 1.076 Acres of Land Located at 464 Buckwalter Parkway and Identified as a Portion of Beaufort County Tax Map No. R600 029 000 0014 0000 into the Town of Bluffton Municipal Boundary as Part of the Buckwalter Planned Unit Development– First Reading – Kevin Icard, Planning and Community Development Manager

Icard stated that on February 24, 2020 in accordance with Section 5-3-150 of the Code of Laws of South Carolina and the *Town of Bluffton Annexation Policy and Procedure Manual* ("Annexation Manual"), Walter J. Nester, III, of Burr, Forman, McNair, on behalf of Enmark Stations, Inc. and the property owner Grande Oaks II, LLC, submitted a 100% Annexation Petition Application for a 1.076 acre portion of the property located at 464 Buckwalter Parkway ("Property") into the Town of Bluffton's municipal boundary.

Pursuant to the Annexation Manual, the Applicant also submitted a concurrent Zoning Map Amendment application requesting the Property's incorporation into the Buckwalter Planned Unit Development ("Buckwalter PUD"), Concept Plan and Development Agreement as part of the Buckwalter Commons Land Use Tract, the most permissive land use designation which allows a broad mix of uses.

Per the Annexation Manual, the initial step in the public review process is an initial briefing, or "intent to annex", to Town Council for general discussion of the request and its associated applications such as the appropriate zoning classification and possible negotiation items. At the conclusion of the discussion, Town Council votes on the approval of First Reading of the Annexation Ordinance.

Town Council considered First Reading of the Ordinance for the proposed annexation at the July 14, 2020 and

voted to table the item until the August 11, 2020 meeting to allow for:

1. Posting of the property through the placement of signage on Buckwalter Parkway as a physical notification to interested citizens about the pending annexation.
2. Notify regional municipal and county governments of the pending annexation request and its concurrent applications as well as request comments pursuant to the Resolution for Joint Review of Regionally Significant Projects.

Next, the Applicant requested removal of the item from the August 11, 2020 Town Council meeting pending a request for determination from Beaufort County pertaining to the applicability of transitional areas within the Grande Oaks PUD which would allow commercial uses on the Property.

The Property contains approximately 1.076 acres located within Unincorporated Beaufort County as shown on the Aerial Location Map. The Property is currently vacant.

The Property is zoned as Grande Oaks Planned Unit Development, as shown on the Zoning Map, and designated as part of the Community Residential C-2 Land Use Tract as shown on the Grande Oaks Master Plan which allows limited uses including attached and detached single family, multi-family, community recreation, and sales center. However, the applicant requested a determination from the Beaufort County Community Development Department as to the utilization of transitioning uses which would permit commercial uses associated with the Village Commercial (VC) classification identified within the Grade Oaks PUD, copies of the correspondence are provided as Attachment 6. Following is an excerpt of the County's response:

"The narrative (excerpt below) for the Grande Oaks PUD states that land uses are to be integrated into the development with the understanding that the specific land uses identified in each category are to be transitioned from one to the other in a gradation that is appropriate to the proposed use and the adjacent use. Accordingly, and as noted in the PUD, the Village Center commercial uses may be associated with the higher density multifamily uses - which is the C-2 classification.

"The Grande Oaks PUD will provide the land uses as declared in the CLUP Plan (See Exhibit A), Community Residential (C), Business/Professional Park (BP) and Village Center (VC). These uses and the subset of uses will be integrated with the understanding that the specific land uses identified in each of the categories will be transitioned from one to the other in a gradation that is appropriate to the proposed use and the adjacent use. For example, the Village Center commercial uses may be associated with the higher density multi-family use (12 DU/AC). The multi-family then to attached single family (8 DU/AC) to the detached single family use. A similar scenario could be the transition that occurs between the Business Park to Single Family use."

As a result of this language and given the uncertainty of future uses of these properties during the initial master planning and PUD consideration, I believe enough flexibility exists with the narrative language to determine this area to have future use of either high density residential or Village Center which permits commercial uses."

Therefore, pursuant to the determination provided by Beaufort County, a gas station would be permitted.

The immediately adjacent properties vary as to jurisdiction and zoning as follows:

Direction	Jurisdiction	Zoning District	Current Use
North	Town of Bluffton	Buckwalter Planned Unit Development	Drayton-Parker Companies, LLC - 469 Buckwalter Parkway - Parker's Gast Station
	Town of Bluffton	Buckwalter Planned Unit Development	Beaufort County - Buckwalter Parkway - Road Right-of-Way
	Town of Bluffton	Buckwalter Planned Unit Development	Wappoo, LLC - 145 Carolina Bluff Drive - Vacant
	Town of Bluffton	Buckwalter Planned Unit Development	Wappoo, LLC - No Address - Carolina Bluff Drive - Road Right-of-Way
South	Beaufort County	Grande Oaks Planned Unit Development	Grande Oaks II, LLC - 454 Buckwalter Parkway - Vacant
	Beaufort County	Grande Oaks Planned Unit Development	Sandy Pointe Property Owners Association, Inc. - No Address - Sandy Pointe Open Space
East	Town of Bluffton	Buckwalter Planned Unit Development	Grande Oaks, LLC - No Address - Vacant
West	Beaufort County	Grande Oaks Planned Unit Development	Grande Oaks II, LLC - No Address - Vacant
	Beaufort County	Grande Oaks Planned Unit Development	Beaufort County - Lake Point Drive - Road Right-of-Way

The Applicant intends to utilize the Property, in conjunction with the adjacent 9.18-acre Robertson Tract consisting of 2.663 upland acres and 6.516 wetland acres which is currently within the Buckwalter PUD and Buckwalter Commons Land Use Tract, as a gas station. A preliminary draft conceptual site plan for the combined properties shows a 5,900 square foot convenience store, fuel facility with 20 vehicle fueling positions, and a 1,200 square foot car wash which are conditional uses permitted within the requested Buckwalter Commons Land Use Tract as shown in the Comparison of Current Beaufort County and Proposed Town of Bluffton Zoning District Land Uses.

The necessity for the proposed annexation to further the proposed development is due to their inability to obtain a new full access point from the Property directly to the Buckwalter Parkway since it would not meet the spacing standards of the Buckwalter Parkway Access Management Plan's standards. Once annexed, the Property will allow for an access point onto Lake Point Drive to its signalized intersection with Bluffton Parkway. However, it should be noted that Beaufort County will reassess the existing signalized intersection at Lake Point Drive and Buckwalter Parkway upon the construction of Bluffton Parkway Phase 5B which may result in its removal.

Further, the presence and configuration of significant wetlands on the 9.18 acre Robertson Tract limit its useable area thereby requiring the additional 1.076 acres proposed for annexation to accommodate the anticipated uses.

Lastly, all future development of the Property would be required to be reviewed through the applicable Town of Bluffton planning processes.

ANALYSIS

A. ANNEXATION APPLICATION

The *Town of Bluffton Annexation Policy and Procedure Manual* (Annexation Manual) provides the review criteria for annexation requests and an analysis of each is as follows:

1. The application meets the principals, policies and procedures set forth in the Annexation Manual.

Finding: Staff finds the annexation request, in conjunction with approval of the concurrent Comprehensive Plan Amendment Application, meets the principals, policies and procedures to achieve orderly growth and develop a more cohesive and less fragmented Town Boundary as set forth in the Annexation Manual.

2. The Annexation of the property is in the best interest of the Town and its citizens.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits and estimated tax revenue for the Property including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing.

3. The Property has contiguity to the Town of Bluffton Municipal Boundary.

Finding: The Property is contiguous to the Town of Bluffton's Municipal Boundary. Contiguity with the Town of Bluffton's municipal boundary is established through the adjacent parcel to the south known as the Robertson Tract and the Buckwalter Parkway to the east which are within the Buckwalter Planned Unit Development. The adjacent parcel was annexed into the Town of Bluffton's municipal boundaries upon approval of the Buckwalter Annexation by Town Council Ordinance 2000-02 on April 19, 2000.

4. The Annexation avoids creating new enclaves (or donut holes) in the Town of Bluffton Municipal Boundary.

Finding: The proposed annexation will not create new enclaves in the Town of Bluffton Municipal Boundary.

5. The Annexation is consistent with the recommendations of the Town of Bluffton Comprehensive Plan including the Future Annexation Map.

Finding: The annexation of the Property is consistent with the recommendations of the Comprehensive Plan and falls within the boundary of the Future Annexation Map (Attachment 10).

The Town of Bluffton Comprehensive Plan Map 8.3 - Future Land Use currently identifies the Properties as Medium Density Residential (Attachment 11). Though the anticipated future use is not residential, it will provide a neighborhood service to surrounding residents and aligns with the uses permitted within the requested Buckwalter Commons Land Use Tract of the Buckwalter Planned Unit Development.

Further, the Property is within the Town Center Place Type of the Town of Bluffton Growth Framework Map (Attachment 12) which are identified as the most intensely developed areas or those areas to be intensely developed consisting of compact, complete, and highly connected neighborhoods that support a larger, most intense mixed-use development condition as defined Section 6.1.2 of the Unified Development Ordinance.

6. The requested zoning district(s), land use regulations, development standards and environmental regulations is appropriate.

Finding: The criteria for the requested Buckwalter Planned Unit Development Zoning District will be discussed in detail in the analysis of the zoning map amendment in future staff reports.

7. Consideration has been given to the costs, benefits and estimated revenues for a proposed annexation before action is taken on the petition.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits and estimated tax revenue for the Property including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing. It's anticipated that there will be little to no fiscal impact for the annexation as a gas station, convenience store, and car wash are conditionally permitted uses on the Robertson Tract that the proposed annexation is supplementing.

8. The Annexation will not create a tax burden or measurably reduce the level of service(s) provided to existing citizens and property owners.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Property including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing. It's anticipated that there will be little to no fiscal impact for the annexation as a gas station, convenience store, and car wash are conditionally permitted uses on the Robertson Tract that the proposed annexation is supplementing.

9. The Fiscal impact of providing municipal services has been considered.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Property including its first year of annexation as well as at build-out prior to

Planning Commission's Public Hearing. It's anticipated that there will be little to no fiscal impact for the annexation as a gas station, convenience store, and car wash are conditionally permitted uses on the Robertson Tract that the proposed annexation is supplementing.

10. Consideration of the annexation area's existing condition of utilities, transportation, infrastructure and future needs for expansion improvements has been taken.

Finding: The Property will be served by public water & sewer, electrical, telecommunications, and natural gas services are accessible, adjacent to, or are in close proximity for tie-in at time of development. Improvements, if necessary, to infrastructure and transportation systems will be considered as part of the development review process.

11. The full impact that annexation will have on law enforcement has been considered.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Properties including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing. It's anticipated that there will be little to no fiscal impact for the annexation as a gas station, convenience store, and car wash are conditionally permitted uses on the Robertson Tract that the proposed annexation is supplementing.

12. The application demonstrates potential for the diversification of the economic base and job opportunities.

Finding: The proposed annexation demonstrates a potential to further economic development, create new job opportunities, as well as diversify the Town's economic base.

13. Petitioners understanding of all potential costs/benefits associated with annexation.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Properties including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing. It's anticipated that there will be little to no fiscal impact for the annexation as a gas station, convenience store, and car wash are conditionally permitted uses on the Robertson Tract that the proposed annexation is supplementing.

14. Input has been provided by the public and affected agencies during the review process.

Finding: There are several opportunities for the public and affected agencies to provide comment on the proposed annexation via public meetings or by contacting Staff or the Applicant directly. Notification of the Annexation and Zoning Map Amendment applications and their applicable meetings was accomplished by various methods as required by the South Carolina Freedom of Information Act, the Unified Development Ordinance, Annexation Manual, and Applications Manual as well as the Town Council Resolution for Joint Review of Regionally Significant Projects.

As of the drafting of this staff report, staff has not received any comments from the public. Comments from regional municipal and county governments received to-date are as follows:

1. Beaufort County - Responded with the following comments:
 - a. The PUD and Development Agreement amendment need to incorporate any future revisions to impact fees for roads, parks, libraries, fire, EMS, and schools.
 - b. Any development on the site should conform to the Buckwalter Parkway Access Management Plan.
 - c. There should be a vegetated buffer along Lake Point Drive to minimize the visual impact of any development at this location from the residential portions of Grande Oaks.
 - d. A traffic impact analysis should be required for any development producing more than 50 peak hour trips.
2. Town of Hilton Head Island - Responded they have no comments to submit.
3. City of Beaufort - No response to-date.
4. Town of Port Royal - No response to-date.
5. Jasper County - Responded they have no comments to submit.
6. Town of Ridgeland - No response to-date.
7. City of Hardeeville - No response to-date.

There was a consensus from Town Council that they would like to know what Beaufort County's position on the annexation is.

Wood made a motion to Approve the Enmark Stations, Inc. 100% Annexation Petition for Certain Property Consisting of Approximately 1.076 Acres of Land Located at 464 Buckwalter Parkway and Identified as a Portion of Beaufort County Tax Map No. R600 029 000 0014 0000 into the Town of Bluffton Municipal Boundary as Part of the Buckwalter Planned Unit Development. There was no second. The motion died for lack of a motion.

Consideration of an Ordinance Approving the Grande Oakes II, LLC 100% Annexation Petition for Certain Property Consisting of Approximately 13.933 Acres Located at the Southwest Corner of the Buckwalter Parkway and Lake Point Drive Intersection and Identified as Beaufort County Tax Map Nos. R600 029 000 2409 0000 and R600 029 000 2410 0000 into the Town of Bluffton Municipal Boundary – First Reading – Kevin Icard, Planning and Community Development Manager

Icard stated that On July 14, 2020, in accordance with Section 5-3-150 of the Code of Laws of South Carolina and the *Town of Bluffton Annexation Policy and Procedure Manual* ("Annexation Manual"), the property

owner, Grande Oaks II, LLC, submitted a 100% Annexation Petition Application for two parcels totaling 13.933 acres located at southwest corner of the Buckwalter Parkway and Lake Point Drive Intersection (“Property”) into the Town of Bluffton’s municipal boundary.

Pursuant to the Annexation Manual, the Applicant also submitted a concurrent Zoning Map Amendment application requesting the Property’s incorporation into the Buckwalter Planned Unit Development (“Buckwalter PUD”), Concept Plan and Development Agreement as part of the Buckwalter Commons Land Use Tract, the most permissive land use designation which allows a broad mix of uses.

Per the Annexation Manual, the initial step in the public review process is an initial briefing, or “intent to annex”, to Town Council for general discussion of the request and its associated applications such as the appropriate zoning classification and possible negotiation items. At the conclusion of the discussion, Town Council votes on the approval of First Reading of the Annexation Ordinance.

The Property contains approximately 13.933 acres located within Unincorporated Beaufort County as shown on the Aerial Location Map (Attachment 3). The Property is currently vacant.

The Property is zoned as Grande Oaks Planned Unit Development, as shown on the Zoning Map, and designated as part of the Village Commercial V-1 Land Use Tract as shown on the Grande Oaks Master Plan which allows a mix of residential and commercial uses such as:

1. Single Family Residential
2. Multi-Family Residential
3. Neighborhood Commercial
4. Bed and Breakfast
5. Commercial Lodging - Hotels, Motels, etc.
6. Hospitals
7. Conference Center
8. Drive Through Restaurants
9. Gasoline Service Stations
10. Office Use
11. Restaurants
12. Civic
13. Church
14. Storage

The immediately adjacent properties vary as to jurisdiction and zoning as follows:

Direction	Jurisdiction	Zoning District	Current Use
North	Town of Bluffton	Buckwalter Planned Unit Development	University Investments, LLC - Parcel 12 - Buckwalter Parkway - Vacant
South	Beaufort County	Grande Oaks Planned Unit Development	Grande Oaks II, LLC - 454 Buckwalter Parkway - Vacant
	Beaufort County	Grande Oaks Planned Unit Development	Beaufort County - Lake Point Drive - Road Right-of-Way
	Beaufort County	Grande Oaks Planned Unit Development	Sandy Pointe Property Owners Association, Inc. - No Address - Sandy Pointe Open Space
	Beaufort County	Grande Oaks Planned Unit Development	Arborwood/ Willows Homes Owners Association - Lake Point Drive - Open Space
	Beaufort County	Grande Oaks Planned Unit Development	Dustin Brandon Payne - 8 Sunny Glen Drive - Residential Single Family Home
	Beaufort County	Grande Oaks Planned Unit Development	Kyle D Potter - 14 Sunny Glen Drive - Residential Single Family Home
	Beaufort County	Grande Oaks Planned Unit Development	Julio A Martinez - 20 Sunny Glen Drive - Residential Single Family Home
	Beaufort County	Grande Oaks Planned Unit Development	Hui Lin - 10 Sunny Glen Drive - Residential Single Family Home
	Beaufort County	Grande Oaks Planned Unit Development	Shirley Lee Mcnally - 6 Sunny Glen Drive - Residential Single Family Home
	Beaufort County	Grande Oaks Planned Unit Development	Jeffrey D Bird & Karen L Bird JTROS - 18 Sunny Glen Drive - Residential Single Family Home
	Beaufort County	Grande Oaks Planned Unit Development	American Homes 4 Rent Properties Ten, LLC - 4 Sunny Glen Drive - Residential Single Family Home
Beaufort County	Grande Oaks Planned Unit Development	Laura Michelle Ward - 12 Sunny Glen Drive - Residential Single Family Home	
East	Town of Bluffton	Buckwalter Planned Unit Development	Grande Oaks, LLC - No Address - Vacant
	Town of Bluffton	Buckwalter Planned Unit Development	Beaufort County - Buckwalter Parkway - Road Right-of-Way
	Town of Bluffton	Buckwalter Planned Unit Development	Wappoo, LLC - 145 Carolina Bluff Drive - Vacant

	Town of Bluffton	Buckwalter Planned Unit Development	Wappoo, LLC - No Address - Carolina Bluff Drive - Road Right-of-Way
West	Beaufort County	Grande Oaks Planned Unit Development	Grande Oaks II, LLC - No Address - Vacant

The Applicant does not have a specific plan for the Property but notes that current preliminary planning for this expanded area contemplates a mixed use, village style, development, perhaps built with residential above commercial, and including extensive medical services and commercial establishments.

A Comparison of Current Beaufort County and Proposed Town of Bluffton Zoning District Land Uses provided as Attachment 7.

The Applicant is requesting 13.933 acres of general commercial development rights, 15 residential dwelling units and an additional 120 residential dwelling units (conditionally – see below) under the Buckwalter PUD Concept Plan and Development Agreement for the Property.

University Investments, LLC has a contract with the Applicant to acquire the Property upon the approval of this proposed annexation and its associated concurrent applications. As the contract purchaser of this property, University Investments, LLC asks, as a part of this Application, that an additional 120 residential dwelling units be added to the total allowed development rights for the Buckwalter PUD Concept Plan and Development Agreement, for the benefit of University Investments, LLC and its assigns. This would give University Investments, LLC the ability and flexibility to develop a true mixed-use village type of plan. This additional 120 units will only be allowed if University Investments, LLC purchases the property from Grande Oaks II.

In summary, the Applicant’s concurrent Buckwalter PUD Concept Plan and Development Agreement Amendment applications, request the following allocation of additional development rights:

1. 13.933 acres of general commercial;
2. 15 residential dwelling units; and
3. Conditional addition of 120 residential dwelling units in the event University Investments, LLC acquires the Property.

Once annexed, the Property will allow for an access point onto Lake Point Drive to its signalized intersection with Bluffton Parkway. However, it should be noted that Beaufort County will reassess the existing signalized intersection at Lake Point Drive and Buckwalter Parkway upon the construction of Bluffton Parkway Phase 5B which may result in the signal’s removal.

Further, the applicant notes that this annexation and zoning will allow an additional access point, off Lake Point Drive, for existing residents of Grande Oaks PUD to reach the planned commercial area of the existing Buckwalter Commons Area owned by University Investments. This important new access will

traverse through the northernly adjacent University Investments Area and lead to signalized and unsignalized access points identified and approved as part of the Bluffton Parkway Phase 4 Access Management Plan, as amended.

Lastly, all future development of the Property would be required to be reviewed through the applicable Town of Bluffton planning processes including an Initial Master Plan, Development Plan review and Building Permits.

ANALYSIS

B. ANNEXATION APPLICATION

The *Town of Bluffton Annexation Policy and Procedure Manual* (Annexation Manual) provides the review criteria for annexation requests and an analysis of each is as follows:

15. The application meets the principals, policies and procedures set forth in the Annexation Manual.

Finding: Staff finds the annexation request, in conjunction with approval of the concurrent Comprehensive Plan Amendment Application, meets the principals, policies and procedures to achieve orderly growth and develop a more cohesive and less fragmented Town Boundary as set forth in the Annexation Manual.

16. The Annexation of the property is in the best interest of the Town and its citizens.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits and estimated tax revenue for the Property including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing.

17. The Property has contiguity to the Town of Bluffton Municipal Boundary.

Finding: The Property is contiguous to the Town of Bluffton's Municipal Boundary. Contiguity with the Town of Bluffton's municipal boundary is established through the adjacent parcel to the north known as Parcel 12, which is owned by University Investments, LLC and the Buckwalter Parkway to the east both of which are within the Buckwalter Planned Unit Development, Concept Plan, and Development Agreement. The adjacent parcels creating contiguity were annexed into the Town of Bluffton's municipal boundaries upon approval of the Buckwalter Annexation by Town Council Ordinance 2000-02 on April 19, 2000.

18. The Annexation avoids creating new enclaves (or donut holes) in the Town of Bluffton Municipal Boundary.

Finding: The proposed annexation will not create new enclaves in the Town of Bluffton Municipal Boundary.

19. The Annexation is consistent with the recommendations of the Town of Bluffton Comprehensive Plan including the Future Annexation Map.

Finding: The annexation of the Property is consistent with the recommendations of the Comprehensive Plan and falls within the boundary of the Future Annexation Map (Attachment 8).

The Town of Bluffton Comprehensive Plan Map 8.3 - Future Land Use currently identifies the Properties as Medium Density Residential (Attachment 9). This category consists of single family homes, with accessory multiple family units and densities can range from one to three units per acre. However, densities within Old Town may vary based on the Old Town District Code. Multi-family uses could be allowed as long as overall density is not exceeded.

The proposed request of 15 residential dwelling units aligns with the intent of Medium Density Residential and the 13.933 acres of general commercial will provide neighborhood services to surrounding residents and aligns with the uses permitted within the requested Buckwalter Commons Land Use Tract of the Buckwalter Planned Unit Development. The addition of the optional 120 residential dwelling units, if utilized on the Property, would equate to 9.69 dwelling units per acre which exceed the one to three dwelling units per acre identified in the Comprehensive Plan for Medium Density Residential.

However, the Town of Bluffton Comprehensive Plan Map 8.5 - Growth Framework Map (Attachment 10) identifies the Property as part of the Town Center Place Type. Section 6.1.2 of the Unified Development Ordinance defines the Town Center Place Type as the most intensely developed areas or those areas to be intensely developed consisting of compact, complete, and highly connected neighborhoods that support a larger, most intense mixed-use development condition.

20. The requested zoning district(s), land use regulations, development standards and environmental regulations is appropriate.

Finding: The criteria for the requested Buckwalter Planned Unit Development Zoning District will be discussed in detail in the analysis of the zoning map amendment in future staff reports.

21. Consideration has been given to the costs, benefits and estimated revenues for a proposed annexation before action is taken on the petition.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits and estimated tax revenue for the Property including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing.

22. The Annexation will not create a tax burden or measurably reduce the level of service(s) provided to existing citizens and property owners.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Property including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing.

23. The Fiscal impact of providing municipal services has been considered.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Property including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing.

24. Consideration of the annexation area's existing condition of utilities, transportation, infrastructure and future needs for expansion improvements has been taken.

Finding: The Property will be served by public water & sewer, electrical, telecommunications, and natural gas services are accessible, adjacent to, or are in close proximity for tie-in at time of development. Improvements, if necessary, to infrastructure and transportation systems will be considered as part of the development review process.

25. The full impact that annexation will have on law enforcement has been considered.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Properties including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing.

26. The application demonstrates potential for the diversification of the economic base and job opportunities.

Finding: The proposed annexation demonstrates a potential to further economic development, create new job opportunities, as well as diversify the Town's economic base.

27. Petitioners understanding of all potential costs/benefits associated with annexation.

Finding: In accordance with the Annexation Manual, Staff will prepare a Cost/Benefit Analysis for the proposed annexation to evaluate the costs, benefits, estimated tax revenue and impact on Law Enforcement for the Properties including its first year of annexation as well as at build-out prior to Planning Commission's Public Hearing. It's anticipated that there will be little to no fiscal impact for the annexation as a gas station, convenience store, and car wash

are conditionally permitted uses on the Robertson Tract that the proposed annexation is supplementing.

28. Input has been provided by the public and affected agencies during the review process.

Finding: There are several opportunities for the public and affected agencies to provide comment on the proposed annexation via public meetings or by contacting Staff or the Applicant directly. Notification of the Annexation and Zoning Map Amendment applications and their applicable meetings was accomplished by various methods as required by the South Carolina Freedom of Information Act, the Unified Development Ordinance, Annexation Manual, and Applications Manual as well as the Town Council Resolution for Joint Review of Regionally Significant Projects.

As of the drafting of this staff report, staff has not received any comments from the public. Comments from regional municipal and county governments received to-date are as follows:

8. Beaufort County - Responded with the following comments:
 - a. The PUD master plan needs to take into consideration the potential adverse impacts of intense commercial or multi-family residential on the existing Sandy Pointe subdivision. The area along Lake Point Drive west of Sandy Pointe Drive should have the least intense and most compatible uses to the adjoining single-family residential areas.
 - b. The PUD and Development Agreement amendment need to incorporate any future revisions to impact fees for roads, parks, libraries, fire, EMS, and schools.
 - c. Any development on the site should conform to the Buckwalter Parkway and Bluffton Parkway Access Management Plans.
9. Town of Hilton Head Island - Responded they have no comments to submit.
10. City of Beaufort - No response to-date.
11. Town of Port Royal - No response to-date.
12. Jasper County - Responded they have no comments to submit.
13. Town of Ridgeland - No response to-date.
14. City of Hardeeville - No response to-date.

There was no motion made; therefore the agenda item died for lack of a motion.

Consideration of Amendments to the Town of Bluffton Code of Ordinances, Chapter 23 – Unified Development Ordinance, Article 4 – Zoning Districts, Article 9 – Definitions and Interpretations to Add Short-Term Rental Units and Homestay Rentals and to Establish a Permitting Process for Short-Term Rental Units – First Reading – Heather Colin, Director of Growth Management

Colin stated that presently, Short-term Rental Units are regulated as a Home Occupation use, whether the rental is a bedroom within an occupied home or the rental of an entire dwelling unit with the property owner residing elsewhere. A Home Occupation is defined as “[a]ny use of principal or accessory buildings clearly incidental and secondary to their uses for residential purposes and which does not change the character thereof, within a residential area subject to the conditions of this Ordinance.” This classification is more suited for a bedroom rental rather than a whole-house rental. However, as both uses are lodging accommodations, they should be specifically and individually identified in the UDO.

A workshop was held with Town Council on March 12, 2019 to provide an overview of Short-term Rental Units, including impacts, best practices from other communities and possible approaches the Town may want to consider if it chooses not to continue to regulate Short-term Rental Units as a home occupation use.

As the result of the workshop, a Focus Group was created with a diverse group of individuals, including residents, realtors, business owners and representatives of a Planned Unit Development that allows Short-term Rental Units. A public workshop was also held on June 6, 2019. Feedback from the Focus Group and the public, as well as best practices from other communities and State law informed the development of the proposed process and the suggested amendments.

PROPOSED AMENDMENTS: In addition to establishing the Short-term Rental Unit use, additional and related amendments are proposed below with an explanation of the purpose. Text that is shown in red and underlined is proposed text; text shown in strikethrough is proposed to be eliminated.

1. A definition for “transient guest” is proposed to provide consistent terminology in the UDO; presently, “guests” and “transients” are referenced, but neither is defined. The Transient Guest definition would also establish the maximum period of the lodging stay at no more than 29 consecutive days. Thirty (30) or fewer consecutive days is commonly used in other South Carolina communities: Beaufort, Beaufort County, Port Royal and Charleston allow 29 days; Folly Beach and Greenville allow 30 days.

The proposed definition is:

- Transient Guest: A person who provides remuneration for lodging at a place other than his/her principal place of residence for a period of less than 30 consecutive days.**
2. For the various types of lodging uses in Sec. 9.4.4 (Description of Land Uses and Buildings, Lodging), amendments are proposed for the following reasons:
 - a. To establish the Short-term Rental Unit use and definition;
 - b. To establish the Homestay Rental use and definition;

- c. To move the Lodging definition from 9.4.4.E. to the introductory paragraph for consistency with other use classifications in Sec. 9.4.4;
- d. To re-order the various lodging uses by intensity of the type of lodging (i.e., the number of rooms permitted);
- e. To indicate when ancillary facilities and services are limited to transient guests;
- f. To not require that Bed and Breakfast establishments be required to provide breakfast;
- g. To change “rooms” to “bedrooms” (the UDO parking requirement is based on bedrooms);
- h. To require that a Bed and Breakfast operate from a principal dwelling; and, To reduce the maximum number of bedrooms within a Bed and Breakfast from 6 to 5 for consistency with the State Accommodations Tax (i.e., the tax is not required for 5 or fewer rooms).

The proposed amendments to are:

Sec. 9.4.4. Lodging

The Lodging Use category provides for a variety of overnight sleeping accommodations for Transient Guests. When ancillary facilities associated with a lodging use are accessible to the general public, including those providing food and/or beverage, parking for such facilities shall be calculated separately from the lodging use.

- A. **Bed & Breakfast:** ~~A dwelling, where the proprietor resides on site, may be involved in the rental of six (6) rooms or less to overnight guests and offering breakfast meals only to said guests, provided a parking place be provided for each room offered for rent.~~ A principal dwelling in which two (2) to five (5) bedrooms are rented to Transient Guests from the proprietor who resides on the property. If provided, ancillary facilities and services, including food and beverage, are available only to Transient Guests.
- B. **Homestay Rental:** A principal dwelling in which no more than one (1) bedroom is rented to Transient Guests from the proprietor who also resides within the dwelling. Meals, if provided, are available only to Transient Guests.
- C. **Inn:** ~~A structure where the rental of seven (7) to twelve (12) rooms may be offered for overnight occupation provided a parking place be provided on site for each room for rent.~~ A building in which six (6) to 12 bedrooms are rented to Transient Guests. If provided, ancillary facilities and services, including food and beverage, are available only to Transient Guests.
- D. **Hotel:** ~~A building or portion thereof, or a group of buildings, which provides sleeping accommodations, with or without meal service, for transients on a daily or weekly basis, whether such establishment is designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court, or tourist home.~~ A building or group of buildings in which 13 or more bedrooms are rented to Transient Guests. Ancillary services, including food and beverage, may be provided to the general public.
- E. **Short-term Rental Unit:** A dwelling unit, principal or accessory, that is rented in its entirety to Transient Guests for less than 30 consecutive days. ~~Lodging: Facility or structure used for the rental of sleeping quarters for overnight guests. Available for daily and weekly renting of bedrooms. The area allocated for food service shall be calculated and provided with parking according to retail use.~~

3. The table indicating where and how certain land uses are permitted, UDO Table 4.3, must be updated for the following reasons:
 - a. To establish the proposed lodging uses “Short-term Rental Unit” and “Homestay Rental,” including how they are to be permitted (either as a Conditional Use, which is show by the letter “C,” or as a Permitted Use designated by the letter “P”);
 - b. To adjust the number of bedrooms permitted within the various lodging uses because of the addition of Homestay Rental; and,
 - c. To change the “Inn” use from a Permitted Use rather than a Conditional Use within the Neighborhood Conservation Historic District (NCV-HD) because other sections of the UDO already (or will) address some of the use conditions, such as number of bedrooms. Additionally, removal of the maximum number of days for a lodging stay will be consistent with other lodging uses that do not have a cap. Changes to use conditions appear below in #4.

Table 4.3 Uses by District												
	Preserve (PR)	Agricultural (AG)	Rural Mixed Use (RMU)	Residential General (RG)	Neighborhood Core (NC)	General Mixed Use (GM)	Light Industrial (LI)	Riverfront Edge Historic District (RV-HD)	Neighborhood Conservation Historic District (NCV-HD)	Neighborhood General Historic District (NG-HD)	Neighborhood Center Historic District (NCHD)	Neighborhood Core Historic District (NCHD)
Lodging												
<u>Short-term Rental Unit</u>	-	C	C	C	C	C	-	C	C	C	C	C
<u>Homestay Rental (1 bedroom)</u>	-	P	P	P	P	P	-	P	P	P	P	P
<u>Bed and Breakfast - maximum of (2-5 bedrooms)</u>	-	P	P	P	P	P	-	P	P	P	P	P
<u>Inns - maximum of 12 guest rooms (6-12 bedrooms)</u>	-	-	P	-	P	P	-	-	C	P	P	P
<u>Hotel (no room limit) (13 or more bedrooms)</u>	-	-	-	-	-	P	P	-	-	-	-	P

4. As mentioned in #3 above, the use conditions for the “Inn” use are proposed to be eliminated as a change from a Conditional Use to a Permitted Use is proposed in the Neighborhood Conservation-HD District.

The “Short-term Rental Unit” is proposed to be a Conditional Use with several conditions, including limiting rental units to only one per lot except within the Neighborhood Core-HD District, which is primarily commercial and the most intensive of all zoning districts within Old Town

Bluffton. The Promenade, for example, is zoned Neighborhood Core-HD. As the rental unit is residential in nature, another condition is that its exterior appearance must remain non-commercial in appearance. This last condition informs the reader that a permit specific to the use will be required and provides a cross-reference to the General Code section for more information.

4.4.3 Lodging

~~A. Inn~~

- ~~1. The principal building shall be the primary and permanent legal residence of the inn operator. Meals or other services provided on the premises shall only be available to residents, employees, and overnight guests of the establishment.~~
- ~~2. Guest shall be restricted to overnight and weekly stays, not exceeding seven consecutive nights, and may stay no longer than 60 days in any one calendar year.~~
- ~~3. Off-street parking areas shall be provided for guests outside of any required front yard. Stacking of more than two vehicles in a driveway is prohibited.~~
- ~~4. Screening shall be provided between adjacent residences and parking area or any outdoor eating area.~~
- ~~5. The use of exterior stairways to provide primary access to the upper floor shall be prohibited.~~

A. Short-term Rental Unit

1. A maximum of one (1) Short-term Rental Unit is permitted per lot in the following zoning districts: Agricultural (AG), Rural Mixed-Use (RMU), Residential General (RG), Neighborhood Core (NC), General Mixed-Use (GM), Riverfront Edge Historic District (RV-HD), Neighborhood Conservation Historic District (NCV-HD), Neighborhood General Historic District (NG-HD), and Neighborhood Center Historic District (NCE-HD) after [date the amendment is adopted]. This limitation shall not apply to lots within the Neighborhood Core-Historic District.
2. There shall be no visible exterior evidence that a Short-term Rental Unit use is being conducted inclusive of signage or other features of a commercial nature.
3. The Short-term Rental Unit requires a Short-term Rental Unit permit. See Chapter 6, Article V of the General Code of Ordinances of the Town of Bluffton, South Carolina.
5. A permit process specific to Short-term Rental Units is proposed and is intended to mitigate potential impacts in residential areas, require a signed life-safety affidavit, place the owner on notice that accommodation and hospitality taxes are required, and require signed authorization should the owner chose to use an agent to manager the rental unit. The permit process is discussed in more detail in a separate report also on the October 13, 2020 Town Council agenda (Agenda Item X.7.).

REVIEW CRITERIA & ANALYSIS: When assessing an application for a UDO Text Amendment, the Planning

Commission and Town Council are required to consider the criteria set forth in UDO Section 3.5.3, Application Review Criteria. These criteria are provided below, followed by Staff Finding.

1. **Section 3.5.3.A.** Consistency with the Comprehensive Plan or, if conditions have changed since the Comprehensive Plan was adopted, the consistency with the overall intent of the Plan, recent development trends and the general character of the area.

Finding. The proposed amendments are consistent with the needs, goals and implementation strategies of the Comprehensive Plan. The Comprehensive Plan, as adopted on September 4, 2007, balances “long-term visioning and goals” with “short-term actions.” The Action Agenda Initiatives found in the 2019-20 Strategic Plan capture non-capital improvement projects of significance, many of which emanate from the Comprehensive Plan. The proposed Text Amendments are a direct result of these Initiatives.

2. **Section 3.5.3.B.** Consistency with demographic changes, prevailing economic trends, and/or newly recognized best planning practices.

Finding. The proposed amendments are consistent with best planning practices in response to the Town’s economic trends.

3. **Section 3.5.3.C.** Enhancement of the health, safety, and welfare of the Town of Bluffton.

Finding. The proposed changes, together with a permitting process, are in line with best practices and will allow Town Staff to better regulate Short-term Rental Units without creating an onerous process for current and future owners, or for Town staff.

4. **Section 3.5.3.D.** Impact of the proposed amendment on the provision of public services.

Finding. The amendments will have no impact on providing public services.

5. **Section 3.5.3.E.** The application must comply with applicable requirements in the Applications Manual.

Finding. The application complies with all applicable requirements of the Applications Manual.

Wood made a motion to approve First Reading of Amendments to Chapter 23, Unified Development Ordinance Article 4 – Zoning Districts and Article 9 – Definitions Relating to Certain Lodging Uses, Including Establishing Short-term Rental Units and Homestay Rentals. Toomer seconded. Roll call was taken, and the motion carried unanimously.

Consideration of Amendments to the Town of Bluffton Code of Ordinances, Chapter 6 – Businesses and Business Regulations, Article V. Short Term Rental Units to Establish a Permitting Process for Short Term Rental Units – First Reading – Heather Colin, Director of Growth Management

Colin stated that The Strategic Plan for Fiscal Year 2019-20 (“Strategic Plan”) specifically identifies the need for a short-term rental policy, an initiative that falls under the Strategic Plan’s Economic Growth Focus Area. To support this effort, amendments to the Unified Development Ordinance (UDO) and General Code of Ordinances to regulate this use are proposed. The UDO will address zoning for the use, including zoning districts where Short-term Rental Units would be allowed, as well as use conditions. The General Code would create a permit process. Presently, this type of accommodation is allowed with a Home Occupation Permit, which does not adequately address the use.

The permit process is intended for, but is not limited to, the following:

- Mitigation of potential impacts that may arise when a dwelling unit is rented as a lodging accommodation without on-site management (e.g., a Short-term Rental Unit agent would be required and must be available to be contacted at any time by the Town and reside within a one hour drive of the property).
- Requiring a signed checklist acknowledging that certain life-safety measures will be in place such as smoke alarms, fire extinguishers and windows in each bedroom. An independent inspection of the dwelling will be required as Town staff will not conduct a home inspection.
- Requiring the permit number to be included in digital and print advertisements of the rental unit. This alerts potential renters that the advertised rental unit is legal, and it also allows the Town to distinguish rental units that may not be legally permitted.
- Informing the owner that accommodation and hospitality taxes are required to be remitted.

To initiate the process for obtaining a Short-term Rental Unit Permit, the owner or agent must submit a Short-term Rental Application. Town Staff would evaluate the application to review whether all required items have been provided and comply with the ordinance. If approved, the owner must also obtain a Town of Bluffton business license. Likewise, if the owner chooses to use an agent to manage the rental unit, the agent must also have a Town of Bluffton business license.

The application includes a “responsibilities and acknowledgements” affidavit, an inspections checklist, and a Short-term Rental Agent authorization form if the property owner will not manage the rental unit. The draft application is provided as Attachment 2. The “responsibilities and acknowledgments” affidavit is a checklist of items that the applicant must sign to acknowledge awareness and compliance with specific requirements.

Because a Short-term Rental Unit is considered to be residential construction, Town of Bluffton staff does not propose to conduct an initial inspection of the property. Instead, the owner or agent must provide a completed Life-Safety affidavit to indicate whether certain safety measures are in place, such as smoke detectors and fire extinguishers. While some communities require inspections (City of Beaufort), other do not (City of Savannah).

The Short-term Rental Unit Permit will require annual renewal. It is anticipated that renewals will occur within a specified date rather than a year from the date of the initial application. The implementation of a Short-term Rental Permit is proposed to be developed and monitored using a specific software program which will be demonstrated to Town Council at Second and Final Reading.

Violations of the permit are subject to penalties as specified in Section 6-38 of the Town of Bluffton Code of Ordinances.

PROPOSED AMENDMENTS: The proposed changes are in line with best practices and will allow Town Staff to better regulate Short-term Rental Units without creating an onerous process for current and future owners, or for Town staff.

If the First Reading is approved by Town Council on October 13th, 2020, followed by a Public Hearing and Final Reading on November 10th, 2020, it is proposed that the effective date of the ordinance be January 1, 2021. This will provide time to notify all existing Short-term Rental Unit operators that a new permitting process will be in place and that, at the time of renewal of the Home Occupation permit, a Short-term Rental Unit permit will be required instead and to come into compliance with the Ordinance. This provides time to implement the necessary software that will effectively monitor and track the permits.

Toomer made a motion to approve on First Reading, the Amendments to the Town of Bluffton Code of Ordinances, Chapter 6 – Businesses and Business Regulations, Article V. Short Term Rental Units to Establish a Permitting for Short Term Rental Units. Hamilton seconded. Roll call was taken, and the motion carried unanimously.

Consideration of an Ordinance Amending the Town of Bluffton FY 2021 Budget to Reflect the Addition of Short-Term Rental Revenue per the Master Fee Schedule – First Reading- Chris Forster, Director of Finance and Administration

Forster stated that the Town of Bluffton anticipates additional FY 2021 revenue of \$55,250 from the annual Short-Term rental fee. A portion of this revenue will be used for the estimated \$28,000 annual fee for compliance service to track and monitor short term rentals within Bluffton and manage registration and fee payments. The additional \$27,250 of revenue will replace the previously budgeted use of fund balance.

Toomer made a motion to approve on First Reading, an Ordinance Amending the Town of Bluffton FY 2021 Budget to Reflect the Addition of Short-Term Rental Revenue per the Master Fee Schedule. Frazier seconded. Roll call was taken, and the motion carried unanimously.

Consent Agenda Items:

1. Monthly Department Reports: Police, Finance & Administration, Municipal Court, Engineering, Don Ryan Center for Innovation, and Growth Management
2. Town Manager's Monthly Report
3. Consideration of a Resolution Authorizing the Acceptance of a Donation and Conveyance of Approximately 1.47 Acres of Real Property in Bluffton, South Carolina, Commonly Known as a Portion of New Riverside Road Located at 200 New Riverside Road, a Portion of TMS No. R610 036 000 1319 0000 from New Riverside, LLC to the Town of Bluffton, South Carolina; and Authorizing the Execution and Recordation of Certain Documents in Connection Therewith – Heather Colin, Director of Growth Management

Wood made a motion to approve the Consent Agenda as presented. Toomer seconded. The motion carried unanimously.

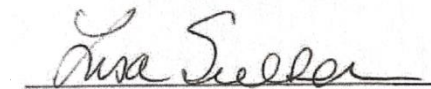
Executive Session


4. Receipt of Legal Advice Relating to the Development Approvals in the Bluffton Historic District (Pursuant to SC Freedom of Information Act 30-4-70[a][2])
5. Receipt of Legal Advice Pertaining to the Acquisition of Real Property and Other Terms Associated with the Development Agreement for the Village at Verdier (Pursuant to SC Freedom of Information Act 30-4-70 [a][2])

Hamilton made a motion to move into Executive Session at 10:18 PM to discuss the aforementioned items. Toomer seconded. The motion was unanimous.

Town Council exited Executive Session at 10:35 PM. No motions were made, and no votes were taken during Executive Session.

Frazier made a motion to adjourn at 10:38 PM. Wood seconded. The motion carried unanimously.


Lisa Sulka, Mayor


Kimberly Chapman, Town Clerk