REGULAR
COUNCIL MEETING
April 15, 1980

The regular meeting of the Elkton Town Council was held April 15, 1980 at 8:00 P.M. with the Mayor Charles E. Dean presiding. The following council members were present: S. P. H. Flick, H. D. Flory, B. B. Holt, L. C. Life and C. A. Schumacher. Councilman R. R. Dean was absent due to illness. Charles Lawhorne, Chief of Police, Norma Leap, Clerk, Gerald Monger, Superintendent and Bruce Wiles, Attorney were also present.

The meeting was opened with the pledge of allegience to the flag.

Councilwoman L. C. Life moved, seconded by Councilman H. D. Flory and carried to approve the minutes of the regular meeting March 10, 1980 and the special meeting April 9, 1980 as corrected.

Councilman Holt reported that he has provided Councilman Schumacher with the material from the Virginia Municipal League on street lights as he had promised at the last meeting. There are some possible ways of saving money; he is not sure they will work out, but he feels sure the Electric Department will be able to find out.

Councilman Holt read a letter to Mayor Dean from H. D. Chapman, Sheriff of Greene County expressing their appreciation for the assistance by Chief Lawhorne and King, Wednesday, March 16th., which resulted in the apprehension and arrest of two suspects in an attempted armed robbery in Greene County. Councilman Holt stated he felt some people will wonder what we are doing helping people in other counties with our dog. The feeling among law enforcement people is you help each other when you need help; the objective is to enforce the law. It is not entirely done in the spirit of altruism because those chickens do come home to roost and we are getting excellent cooperation from other police officials and police departments throughout the county and adjoining counties because of the spirit of cooperation and the assistance extended.

Councilman Holt reported on the letter the council members had received from the County Planners. At the last meeting it was indicated that the hearing on the Elkton Comprehensive Plan was scheduled for Monday, April 14th. Yesterday morning, Councilman Holt called the County Planner to find out what time the meeting was to be held and the County Planner was out ot town. He then contacted Bill O'Brien and he stated that the meeting had definitely been cancelled and apologized that the town had not been notified. The letter is the result of Mr. O'Brien's action on this. The meeting has been rescheduled for May 12, 1980 at 7:30 P.M.

Due to this meeting on the Elkton Comprehensive Plan, the regular May council meeting and the joint Public Hearing which was originally scheduled for Monday May 12th. were changed to Tuesday, May 13th. at the same times.

Councilman Flory asked Mr. Wiles what he had found out on the resolution on the bonds. Mr. Wiles reported that the resolution needs to be passed forty-five days prior to closing. Mr. Ashton of Hunton & Williams has not received a copy of approval from FmHA but assumes approval was granted as FmHA wrote the letter to the local bank. Mr. Ashton plans to continue to pursue this and get a copy of the approval. Mr. Wiles felt it would not be appropriate to take any action now but probably wait until two or three months before the project is completed.

Councilman Flory reported on a letter from Gary Nickerson of Arthur Beard Engineers reminding the town of the balance of $2620.00 due on the Step II portion of the wastewater treatment plant. This is the final payment on the Step II portion. This money is due now as we have received the EPA portion on this part of the project. Mrs. Leap reported that we only have $520.33 in the Elkton Sanitary Sewer Project Account. Councilwoman Life and Councilman Holt suggested this be referred to the Finance Committee as there is not enough money in this account to pay the bill at this time. Mayor Dean asked Councilman Flory to see that the Finance Committee meets on this.

Councilman Schumacher reported that for two months now bills have been sent out at the new electric rates and it is beginning to make the department look like it is going to be solvent again. Councilman Schumacher was not sure if we are going to be able to recover what was lost but will have to watch it a few more months to see.

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Councilman Flick reported that the alley at Mr. Baugher's has not been graveled as was agreed on at the last meeting due to the fact that we are short a truck and also short of people. The paving of Spotswood Avenue, as required by the State, will be done in the very near future. The Street Committee has three bids and they are within 25¢ a ton on material. They cannot get an exact figure as they don't know exactly what it is going to take but it will be in the neighborhood of $17,000.00. The Street Department also hopes to get some patching done.

Councilwoman Life reported that the Public Health, Ordinance and Recreation Committee has had three committee meetings, March 20th., April 2nd. and April 9th., mainly to go over the first draft from P.R.M.

Councilwoman L. C. Life moved, seconded by Councilman B. B. Holt to approve on Second Reading the following ordinance to amend Chapter 7 of the town code:

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF PERMITS TO CONSTRUCT AND MAINTAIN AWNINGS, FIRE ESCAPES, SHUTTERS, SIGNS, CORNICES, GUTTERS, DOWNSPOUTS, BAY WINDOWS, AND OTHER APPENDAGES TO BUILDINGS OVER STREETS AND ALLEYS

WHEREAS, Section 15.1-376 of the Code of Virginia, 1950, as amended, provides that any city or town may adopt ordinances authorizing owners or occupants of property abutting upon any streets or alleys therein, within such limitations as they may prescribe, to construct and maintain in, upon, and over such streets and alleys, awnings, fire escapes, shutters, signs, cornices, gutters, downspouts, bay windows and other appendages to buildings; and

WHEREAS, the Town Council of the Town of Elkton, Virginia, desires to establish a procedure for the issuance of permits to allow the construction and maintenance of such appendages to buildings where the safety and convenience of vehicular and pedestrian traffic is not adversely affected;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA, THAT THE CODE OF THE TOWN OF ELKTON, VIRGINIA, BE, AND IT HEREBY IS, AMENDED TO ADD THE FOLLOWING SECTION TO CHAPTER 7 OF SAID CODE:

Sec. 7- . Permits required for the construction and maintenance of certain appendages to buildings in, upon, and over streets and alleys.

The owners or occupants of property abutting upon any streets or alleys in the town desiring to construct and maintain in, upon, and over such streets or alleys, awnings, fire escapes, shutters, signs, cornices, gutters, downspouts, bay windows, or other appendages to buildings, must apply to the town council for a permit therefor. Such permit will be issued only if it is determined that any such encroachment will not adversely affect the safety and convenience of vehicular or pedestrian traffic, and any such authority or permission so granted shall be held and deemed to be a license merely and shall be revocable at the pleasure of the council.

A flat fee of $20.00 shall be charged for each permit issued hereunder.

The vote was recorded as follows:

S. Flick	- yea	L. Life	- yea
D. Flory	- yea	C. Schumacher	- yea
B. Holt	- yea		

Mayor Dean asked Mr. Monger if he has an application from Valley Heritage yet or does he need to get one. Mr. Monger stated that he signed a permit a couple of weeks back but without the windows on it. They have already started inside and were going to put in straight windows if council did not approve the required ordinance. Mr. Monger felt the next step to take would be to collect the $20.00 fee and issue him an addition to his permit.

Councilwoman L. C. Life moved, seconded by Councilman H. D. Flory to grant the Valley Heritage a permit to add on their bay windows for a fee of $20.00. The vote was recorded as follows:

S. Flick	- yea	L. Life	- yea
D. Flory	- yea	C. Schumacher	- yea
B. Holt	- yea		

Councilwoman Life presented a proposed amendment to the bank franchise tax ordinance.

Councilwoman L. C. Life moved, seconded by Councilman B. B. Holt to approve the following ordinance on First Reading due to an emergency existing which requires the immediate adoption of this ordinance:

AN ORDINANCE IMPOSING A BANK FRANCHISE TAX

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA:

1. That the Code of the Town of Elkton, Virginia, be and it hereby is amended by adding in Chapter 15, a new Article III, "Bank Franchise Tax," to include the following section:

Sec. 15- . Bank Franchise Tax.

(a) Definitions.

For the purposes of this ordinance, the following words shall have the meanings ascribed to them by this section:

A. "Bank" shall be defined as in Section 58-485.01 of the Code of Virginia.

B. "Net Capital" shall mean a bank's net capital computed pursuant to Section 58-485.07 of the Code of Virginia.

(b) Imposition of Town Bank Franchise Tax.

A. Pursuant to the provisions of Chapter 10.01 of Title 58 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this town a tax on net capital equalling eighty (80) percentum of the state rate of franchise tax set forth in Section 58-485.06 of the Code of Virginia.

B. In the event that any bank located within the boundaries of this town is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by Section 58-485.012 of the Code of Virginia.

(c) Filing of Return and Payment of Tax.

A. On or after the first day of January of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this town shall prepare and file with the Commissioner of the Revenue of Rockingham County a return as provided by Section 58-485.013 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to Chapter 10.01 of Title 58 of the Code of Virginia. The Commissioner of the Revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.

B. In the event that the principal office of a bank is located outside the corporate boundaries of this town and such bank has branch offices located within this town, in addition to the filing requirements

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set forth in subsection (A) hereof, any bank conducting such branch business shall file with the Commissioner of the Revenue of Rockingham County a copy of the real estate deduction schedule, apportionment and other items which are required by Sections 58-485.012, 58-485.013 and 58-485.014 of the Code of Virginia.

C. Each bank, on or before the first day of June of each year, shall pay into the treasurer's office of this town all taxes imposed pursuant to this ordinance.

(d) Effective Date of Ordinance

The provisions of this ordinance shall be effective for the year beginning January 1, 1980.

(e) Penalty upon Bank for Failure to Comply with Ordinance.

Any bank which shall fail or neglect to comply with any provision of this ordinance shall be fined not less than one hundred nor more than five hundred dollars, which fine shall be recovered upon motion, after five days' notice in the circuit court of this locality. The motion shall be in the name of the Commonwealth and shall be presented by the attorney for the Commonwealth of this locality.

2. That Section 28-5 of the Code of the Town of Elkton, Virginia, is hereby repealed; provided, however, that in the event the provisions of Chapter 10.01 of Title 58 of the Code of Virginia, 1950, as amended, are held unconstitutional for tax year nineteen hundred eighty, then the repeal of said Section 28-5 shall not be effective until on and after January one, nineteen hundred eighty-one.

3. That an emergency exists which requires the immediate adoption of this ordinance, and the same is adopted upon its introduction and first reading.

Reference to state law: Code of Virginia, 1950, as amended, Sections 58-485.01 through 58-485.018.

Councilman Holt stated he has no problem on this particular procedure as he knew this was something that had to be done as they had discussed it in an earlier meeting, the preparation, although they did not go over the format. What he did want to talk about was procedure in general on this sort of ordinance. Councilman Holt stated he felt it is entirely proper for the ordinance committee to do as they have done in the past, work on format and procedures and present the ordinances, but council creates other committees which supposedly have special areas of responsibility and special areas of expertise, and had council not been going into an emergency situation tonight, to his way of thinking, it would have been proper, or almost mandatory, either for the ordinance to originate with the Finance Committee or between first and second readings go to the Finance Committee, since this is a matter of revenue and tax and should be considered by the Finance Committee. Properly, if council had time, it should have gone to the Finance Committee and they report back at the next meeting before council went to second reading. He felt this to be the normal way to go.

Councilman Flory and Holt were concerned about how this would affect the banks. Mr. Wiles did not have these figures available but he pointed out that the law does provide that the tax will not be less. The formula is different but if it should come out with a lower tax it would be boosted to the previous tax. Mr. Wiles stated that the state has passed this tax and is permitting the localities to pass ordinances and take up to 80%. Whatever action the town takes is not going to affect what tax the banks will pay.

The vote was taken on the franchise ordinance and recorded as follows:

S. Flick	- yea	L. Life	- yea
D. Flory	- yea	C. Schumacher	- yea
B. Holt	- yea		

Councilwoman Life stated that she would like to preface the next ordinance with something she had written up. The ordinance is going to be an ordinance imposing a tax on unlicensed automobiles. Councilwoman Life stated that ever since she has been on council she has been talking with Mr. Wiles trying to see if there wasn't something they could do about cleaning up our town. She stated that "we are not after the antique or collectable vehicles but are after the "junk" in our town. I for one feel that a person who chooses to live in town owes a debt to his neighbors and his town to take pride in it's appearance. Hopefully this ordinance will help. It was discussed and decided that should there be some conceivable way to protect the true antique or collectable, this ordinance could be amended; but it was also felt that if it were valuable it should be licensed and insured or in a building or have a special antique license or be worth $50.00 a year from the owner to the town and to it's owner."

Councilwoman Life presented the First Reading on the following ordinance:

AN ORDINANCE IMPOSING A TAX ON UNLICENSED AUTOMOBILES

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA, THAT CHAPTER 15 OF THE CODE OF THE TOWN OF ELKTON BE, AND THE SAME IS HEREBY AMENDED BY ADDING THE FOLLOWING SECTION:

Sec. 15- . Tax on unlicensed automobiles.

(a) The owner of any automobile which does not display current license plates and which is not exempted from the requirements of displaying such license plates under the provisions of Sections 46.1-42 through 46.1-49 and 46.1-119 and 46.1-120 of the Code of Virginia, is not in a public dump, in an "automobile graveyard" as defined in Sec. 33-279.3 of the Code of Virginia, or in the possession of a licensed junk dealer or licensed automobile dealer, shall obtain a license from the town for such automobile, and shall pay to the town treasurer a license tax of fifty dollars ($50) therefor; provided, however, that vehicles which are stored on private property for a period not in excess of sixty days for the purpose of removing parts for the repair of another vehicle shall be exempt from the license requirement of this section.

(b) Nothing in this section shall be applicable to any vehicle being held or stored by or at the direction of any governmental authority, to any vehicle owned by a member of the armed forces on active duty, or to any vehicle regularly stored within a structure.

Mr. Wiles pointed out that the State has a provision for issuing an antique license, a special license, for a fee of $5.00 which is good for as long as the owner owns the automobile. The test for an antique is if the automobile is twenty-five years old, according to DMV. You do have to have insurance on the automobile in order to get an antique license. To some extent, this should take care of the legitimate antique. An antique car does not have to pass inspection unless you put it out on the road. Mr. Wiles further stated that the town still does have on the books an ordinance in respect to inoperable motor vehicles which provides that once it has been established that it is economically unfeasible to bring it into operating condition, then the town has the power to require that the vehicle be removed or the town can remove it and charge the owner for doing this.

Councilwoman Life pointed out that we have only one licensed auto dealer in town yet we still have almost two automobile graveyards and it certainly does not go by Section 9-3-31 which states it shall be unlawful for any person to maintain or operate an automobile graveyard in the town unless such automobile graveyard shall be entirely enclosed by a plank board fence not less than ten feet in height which fence shall be kept painted.

Councilman Flory stated that an ordinance such as this is going to generate a lot of complaints from lots of people and he feels rather than have neighbors angry with neighbors the town ought to consider that one of the bodies, either the Police Department or the Town Superintendent's Department, should make a survey of the community of those in violation and a letter sent to those people informing them that the town is going to enforce the ordinance and that they have a specified amount of time to comply with the ordinance.

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Councilwoman Life asked each council member to visit the community hall which is suppose to be maintained and is owned by the town. The building is in bad need of repairs. The roof leaks, there are windows that cannot be closed and it needs painting. She feels it needs a lot of work which the young people would pitch in and help do, but when it comes to repairing the roof which has been leaking for six months, it might perhaps be a good idea for the Finance Committee or the next council to take into consideration doing some repairs to this building. The building is used extensively by all age groups. Mr. Monger reported that the roof had been repaired about a year ago and he did not know it was leaking again until recently.

Councilwoman Life reported that Clean Up Week will be May 12th. through May 16th.

Councilwoman Life reported that she has been receiving complaints about mini bikes due to the warm weather. Chief Lawhorne stated he has been receiving complaints also.

Councilman Flory requested Mrs. Leap report to council how we had handled the $300,000.00 interim financing. Mrs. Leap explained that after talking with Mayor Dean, Councilman Flory and Mr. Fitzwater she put $185,000.00 on a ninety day certificate at 15.50% interest annually and $115,000.00 was put in the business savings account at 5¼% daily interest.

The Finance Report for March was approved as presented.

Councilwoman Life reported that in going over the first draft of the code revisions from PRM there are going to be some changes in our licenses regarding businesses in the town. She was not prepared to present the changes at this time but will have them by the May meeting. The new rates would not be effective until 1981.

Councilwoman Life reported she has been working on trying to get more services in the town. An announcement was made on the radio today that more food stamps are used by the people of Elkton and the surrounding community than in any area of the county and they will be establishing, this summer, to dispense food stamps from the Elkton area. She also commented that evidently the people who are against Coors don't realize the problem we have down here.

Mr. Wiles reported that he had met with Jim Burgess of PRM last night and had the editorial conference on the code revisions. They went over every page of it and had a very satisfactory meeting. They worked out most of the details on this and Mr. Burgess has indicated that he would be agreeable to take any ordinances that council passes tonight, or if he can handle them, whatever we do at the next meeting. Mr. Burgess feels that once he has all the materials it would take him thirty days to return to the town the finished typeset draft. It would not necessarily be the printed version with the binders, as this might take a little longer, but the town could act on the printer's draft and adopt it. It appears the town should have this toward the end of May or the middle of June.

Mrs. Leap reported that PRM needs to know what color binders the town wants. Council suggested Royal Blue and Old Gold as they are the town colors.

Mayor Dean reported that John Hostetler's term on the Board of Zoning Appeals expired March 1, 1980 and he is willing to serve another term.

Councilman Flory moved, seconded by Councilwoman L. C. Life and carried to recommend the reappointment of John Hostetler to the Board of Zoning Appeals.

Mayor Dean reported that he had received a letter from Welby C. Showalter, Attorney for Ludwig and Lucille Davis in which he enclosed two copies of a Notice of Intent of Application for Vacation of the alley beside Mr. Davis, which the clerk has posted, and a Petition for Vacation of Alley. Mr. Showalter requested that viewers be appointed at this council meeting.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life and carried to appoint the following five members of the Elkton Planning Commission as the viewers:

G. W. Berry
B. W. Gooden
G. K. Monger
Barry Ream
Calvin Shaffer

Mr. Wiles expalined that the State statues state that the governing body may allow such viewer not exceeding $50.00 each for their services. Council felt they did not want to do this.

Mayor Dean reported that we have received a bill from PRM in the amount of $1200.00 which will be their second payment. We have already paid them $1400.00. This payment is due after the editorial conference. As there was no objections, the Treasurer was instructed to make the payment.

The Mayor presented an application from Darrell Elwood Shifflett for a taxi license in the town. Chief Lawhorne has run a complete check and recommended the council grant this permit as we do not have any taxi service in town at this time.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life to grant a taxi license, on the basis of Chief Lawhorne's recommendation, to Darrell Elwood Shifflett. The vote was recorded as follows:

S. Flick	- yea	L. Life	- yea
D. Flory	- yea	C. Schumacher	- yea
B. Holt	- yea		

Mrs. Leap reported that we have received $745.24 in payment of the franchise fee for the period January 1, 1979 through December 31, 1979 from Commonwealth Cablevision Corporation.

As there was no further business, Councilman Flory moved to adjourn.

MAYOR: Charles E. Dean
Charles E. Dean, Mayor

RECORDER: Norma R. Leap
Norma R. Leap, Clerk

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