SPECIAL
COUNCIL MEETING
June 15, 1981

A special meeting of the Elkton Town Council was held June 15, 1981 at 7:30 P.M. in the council chambers with the Mayor Maurice W. Lough presiding. The following council members were present: V. L. Cook Jr., R. E. Davis, S. P. H. Flick, T. G. Hulings, L. C. Life and R. L. Snow. Norma Leap, Clerk, Jim McIntyre, Chief of Police, Gerald Monger, Superintendent and Bruce Wiles, Attorney were also present.

Mayor Lough explained that special meetings are not normally open for public discussion unless council makes a motion to do so.

Councilman V. L. Cook Jr. moved, seconded by Councilwoman L. C. Life to allow public discussion as is done at regular meetings.

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Mayor Lough questioned Mrs. Life seconding the motion since her status was in doubt and the first item on the agenda was to act on her resignation which she submitted and was read at the regular meeting June 8th.

Mrs. Life asked if she would be allowed to vote on the motion and the Mayor said she would not. Mrs. Life asked Mr. Wiles to rule on this question.

Mr. Wiles stated that Mrs. Life was still a member, she has withdrawn her resignation, and has the right to vote on the motion.

The vote was taken on the motion and recorded as follows:

Cook	- yea	Hulings	- yea
Davis	- yea	Life	- yea
Flick	- yea	Snow	- yea

Mrs. Shirley O'Byrne stated that it is very difficult to get qualified members to run for council and when you have someone that works extremely hard for the interest of the town that person at least deserves the right to finish out their term of office. She felt Mrs. Life to be one of the most dedicated council members that this council has ever had and council members who have been appointed, not elected, are being asked to vote on whether or not Mrs. Life should be allowed to finish her term. She felt that in the interest of the town and all fairness to Mrs. Life, she should be allowed to finish out her term. She suggested council should take the advice of the town attorney.

Mr. Bill Holt stated he would like to address his comments to the new members particularly, but certainly did not want to exclude the older members. He felt it was important that the decisions they are going to make at this meeting be done for the right and proper reasons. He pointed out that he felt Mrs. Life has always done what she has felt was best for the town. She did her homework and was dedicated to the job and represents an appreciable portion of the population of the town. He felt it certainly is not a legal matter, the town attorney has made it quite clear, and Mrs. Life is entitled to remain as a member of the council. He asked that when the decision is made that council will be quite sure that they are not supporting a personal move, that is a move to consolidate power, and to eliminate all opposition on the council. He also stated he felt that economy is not the issue in regards to the consolidation issue. If economy were the issue, he felt we would not be proposing hiring a person to be a recreation director when the recreation commission is already paying for this person or proposing hiring a librarian when the Women's Club already does this for free. He felt if it were really economy we would know what the genuine cost is going to be and how these costs will be balanced by the expenses that go along with it, and what the savings will be. He asked that before voting on this matter that council be sure and know what the issues are and what the savings will be.

Mr. B. W. Gooden pointed out that he felt some of the things done on the budget and on consolidation are illegal. He stated that it has always been his experience that in years where there is a recession or a declining economy, usually the recreation department is the first group they go to to cut the budget. He was astonished that this council has approved a raise for the recreation commission. The point he was making is that with the conflict of interest law it states that no member can set on one governing body and

appropriate funds and then turn around and set on another governing body and spend those funds. He was referring to where we have a council member as the Chairman of the Recreation Commission. This same council member worked on the budget and served on the consolidation committee. Mr. Gooden felt these things need to be checked into, and if he is right, corrected.

Nita Edmondson stated she did not think anyone else had brought up the fact that Linda Life was elected as a write-in candidate and that takes a lot more effort by a lot more people than flipping a switch and this should be considered.

Councilman R. L. Snow moved, seconded by Councilman V. L. Cook Jr. to go into Executive Session to discuss the resignation of a council member. The vote was recorded as follows:

Cook	- yea	Hulings	- yea
Davis	- yea	Life	- yea
Flick	- yea	Snow	- yea

Councilman S. P. H. Flick moved and it carried to go from Executive Session back into Regular Session.

Mr. Wiles stated he would simply advise council that there is no matter properly before them for vote at this time. The resignation by a public officer is not complete until it is acted on and until it is accepted. Until that time it is inoperative, irrespective as to whether it says effective immediately or effective next year. It is simply inoperative until it is voted on. Until such time as it is acted on, and accepted, that resignation may be withdrawn. Once it is withdrawn there is no longer a resignation to be acted on. Therefore, that being the case today, there is really no matter before council to be acted on. The only appropriate procedure is simply to read into the minutes the letter withdrawing the resignation. Mr. Wiles said he stated his opinion unequivocally, he has fully researched the question, he feels it is free from doubt and that is the law of Virginia and has been the law for over one hundred years. He further stated that any motion to act on this thing is out of order.

Councilman Snow stated that due to the conflicting opinions in this matter he would like to see something resolved one way or another. There is Mr. Wiles opinion going one way, Grottoes town council had an opinion of an attorney going the other way.

Councilman R. L. Snow moved, seconded by Councilman S. P. H. Flick that council act to accept Mrs. Life's resignation.

Mrs. Life asked Mr. Wiles if she could vote on this motion. Mr. Wiles stated that he thinks the motion itself is out of order but Mrs. Life is still a member of council and would have a vote.

Councilman Hulings asked Mr. Wiles if by taking part in what Mr. Wiles considers an illegal vote, would this indicate condoning the vote itself, no matter how each individual voted on the motion. Mr. Wiles at first stated yes but then said that the procedure itself is illegal and therefore any vote taken would be ineffective but he would hesitate to say that anyone voting would be violating the law.

Councilman Snow stated that some of those present do not know the whole circumstances. Last week the council was threatened with resignation and then it was insisted that that resignation be read in the minutes. It was Councilman Snow's opinion that when you resign effective immediately, that's the way he would interpret it. That is the reason he brought the motion before council, nothing personal. As he has said before, Mrs. Life is probably the hardest working council person he has worked with, but it is the principle of the thing. Somewhere this resignation line must stop and if council needs to go to court to find out where it stops, then that is what he feels should be done.

Councilwoman Life asked Mr. Wiles if she voted for herself would this be recognizing this council as being correct for any future possible things that might come up. Mr. Wiles stated he does not feel it would. It is a matter before council to be voted on, even though he feels it should not be, and every member has an obligation to vote.

Councilman Davis made the following statement:

> "When agreeing to let my name be considered for appointment to a council vacancy, I did so with one prime reason in mind. That being, hopefully, to bring some stability to

the remaining twelve months of this present council's term. I sincerely felt that the many resignations the town had undergone had been an embarrassment to our community and certainly presented a posture unfavorable to the type of growth currently being considered for our area.

I have the highest regard for Mrs. Life, her dedication to her office, and the zeal with which she discharged her duties. I regret that she acted as she did, and wish she had not found it necessary to submit her resignation, but subsequent actions have been after the fact.

It is, therefore, after much soul-searching, weighing of all opinions expressed to me, and a diligent effort to weigh all the consequences that I have concluded that conscience will not permit my first official act to go against the very principle upon which I accepted this appointment. With these considerations, I feel I have been left no choice but to support a motion to accept Mrs. Life's resignation as originally presented."

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Councilman Flick made the following statement:

"This statement is in writing and with permission of Council will be made a part of the minutes of this meeting. It is in writing because when I "ad lib" I find I sometimes say more than I intended to say.

I have had a number of phone calls in re to Mrs. Life's resignation which is to be acted upon tonight. Some of them were her long time supporters and some of them were interested on the basis of events which have taken place lately. One of them detailed the bad things that would happen if Council accepted this resignation, the others were equally emphatic that it could be described as a tantrum. After her talk in which she stated that Committee Chairmen "were not functioning" I fail to see how the other Council members could work in harmony with one whose low opinion of them had been made a matter of public record and made public by means of newspapers and TV.

In conclusion I must say that the word "duress" has been rather loosely used in the statements made public. I must also say that I have never been aware that our Mayor was trying to coerce me in any way and for the life of me I cannot see the reasoning behind the persistent campaign of vilification he is having to endure. Thank you."

Councilwoman Life stated that, as she has said before and she understands it will not jeopardize a possible future case, it is a poor man who does not vote for himself and she would not withdraw, accept or vote for her resignation.

The vote on the motion was recorded as follows:

Cook	-	nay	Hulings	-	nay
Davis	-	yea	Life	-	nay
Flick	-	yea	Snow	-	yea

Mayor - yea

Mayor Lough stated that when he broke the tie vote on the house consolidation, it was his duty to do so and he broke the tie the way he sincerely felt and he has caught a lot of grief because of it. He further stated that he is willing to endure this because he knew it would be no bed of roses when he accepted this job. He did not relish having to break this tie. He said he has already made enemies and doesn't feel he will make any more who are not his enemies already, and even if he would, he still would have to vote the same way.

Mr. Wiles stated that it should be perfectly clear to council, although he intentionally avoided making any threats, that it is not possible for him to remain in view of his advice no longer being accepted and he offered his resignation effective immediately.

Mrs. Life and Mr. Wiles immediately left the meeting.

Councilman R. L. Snow moved, seconded by Councilman R. E. Davis to accept the resignation of the town attorney Mr. Wiles. The vote was recorded as follows:

Cook	- yea	Hulings	- nay
Davis	- yea	Snow	- yea
Flick	- yea		

Councilman S. P. H. Flick moved, seconded by Councilman R. L. Snow to approve on Second Reading the appropriations on the 1981-82 Budget as presented and listed in the June 8, 1981 regular meeting minutes. The vote was recorded as follows:

Cook	- yea	Hulings	- yea
Davis	- yea	Snow	- yea
Flick	- yea		

Councilman V. L. Cook Jr. moved, seconded by Councilman R. L. Snow to approve on Second Reading $1,000.00 for lights, siren, auto therm and miscellaneous supplies for the new police car. The vote was recorded as follows:

Cook	- yea	Hulings	- yea
Davis	- yea	Snow	- yea
Flick	- yea		

Councilman T. G. Hulings moved, seconded by Councilman R. L. Snow to delay action on a Second Reading on appropriations for consolidating offices and new position for the benefit of the new council members until the next regular meeting in July. The motion carried.

Mayor Lough presented the following recommendations on reorganizing the council committees:

Chairman of Public Safety	-	Roy Eugene Davis
Chairman of Electric	-	Timothy Giles Hulings
Council's Representative on Planning Commission (term to run to 7/1/82) replace Mr. Hulings	-	Timothy Giles Hulings Mrs. Rhea Tench will
President Pro Tempore	-	Roy Eugene Davis

Councilman S. P. H. Flick moved, seconded by Councilman V. L. Cook Jr. to accept the reorganization of council committees as presented. The vote was recorded as follows:

Cook	- yea	Hulings	- yea
Davis	- yea	Snow	- yea
Flick	- yea		

Mayor Lough asked permission to appoint a special committee not listed on the agenda and there were no objections.

Mayor Lough appointed the following special committee:

HOUSE COMMITTEE
Randell L. Snow, Chairman
3 Department Heads: Norma Leap
Jim McIntyre
Gerald Monger

The duties of this committee will be to approve any modifications or changes to any of the town properties.

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

MAYOR: Maurice W. Lough, Mayor

RECORDER: Norma R. Leap, Clerk