REGULAR
COUNCIL MEETING
May 18, 1987

The regular meeting of the Elkton Town Council was held May 18, 1987 at 8:00 P.M. in the council chambers with the Mayor Charles E. Dean presiding. The following council members were present: R. E. Davis, B. B. Holt, H. W. Leap, H. A. Leet, L. C. Life and R. L. Snow. Norma Leap, Clerk, Gerald Monger, Superintendent, Warren Pence, Chief of Police, Wayne Weaver, Patrolman and Dale Davenport, Attorney were also present.

Mr. Michael O'Neil was present to oppose the proposed apartment house in the 500 block of Lee Avenue. He presented council with a list of points against the apartments and a list of questions. Mr. Joseph Early, Mrs. Barbara Dean and Mr. Lewis Herring also spoke against the apartments.

Mr. Bill Mosko and Mr. Kenneth Whittington of the Elkwood area were also present. They were concerned with the need for a street light at the intersection of Route 340 and Hillside Avenue, were opposed to the building of so many apartment houses and the poor television reception.

Councilwoman Life stated that the town has been in contact with the State Highway Department requesting a street light at this intersection and they have been trying to get something done about the television reception. She also reported she has been given a refund of $1.50 on her cablevision bill for the outage a short while back and that Commonwealth Cablevision is supposedly giving all their customers this refund. Mrs. Barbara Dean reported she also has received a letter regarding the refund.

Mr. Brooke Willson, Chairman of EPIC, presented the following requests:

1. EPIC would like council to authorize the closing of one of the town streets for the Autumn Days festival, Saturday, October 17, and Sunday, October 18, from 8:00 a.m. until 10:00 p.m. The street would be used to set up craft and food booths. First and second preferences were presented.

2. EPIC would like council to formally apply for a Community Development Block Grant through the Central Shenandoah Planning District Commission. The grant would be used to develop a program for revitalization of downtown Elkton. Members of EPIC offered themselves to help prepare the application for the grant. EPIC has already asked for the application forms, and CSPDC has agreed to help them in preparing the proposal. While only the Town Council can actually request and receive the funding, EPIC is ready to do the town's legwork in the matter.

Council discussed the possibility of a temporary moratorium on multifamily dwellings and other methods of possibly controlling the building of apartment houses.

Mr. Monger reported that the Elkton Volunteer Fire Company and Emergency Squad have asked permission to use the town mower to mow Blue Ridge Park in preparation for the circus that will be in Elkton May 22nd. They also would like the town to furnish the utilities for the circus and their annual carnival June 8th. through the 13th.

Councilwoman L. C. Life moved, seconded by Councilman B. B. Holt and carried that the town supply electricity as requested by the fire company and emergency squad and to mow the grass in Blue Ridge Park for the circus.

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Mr. Monger reported on a letter dated April 20th. from the N & W Railroad concerning the old freight station. They will donate the freight building to the town with the understanding that it must be removed from railroad property within six months after approval at the Town of Elkton's expense. They would like the town to acknowledge the letter by return mail if the town is agreeable with these terms. Mr. Monger stated he has been waiting on EPIC but the railroad has sent another letter wanting an answer. Mr. Monger stated he felt it would cost approximately $15,000.00 to move the old station to the park.

Councilwoman Life reported that EPIC has sent a letter to Atlanta and she is not sure if they received a reply.

Mr. Brooke Willson stated he hopes EPIC will receive a reply soon. They have asked that the building be allowed to remain where it is with some sort of lease arrangement. He suggested the town write a letter to Norfolk-Southern in support of the proposals made by EPIC.

Mr. Monger reported that the Rockingham Municipal League will meet Wednesday, May 20th., at Grand Caverns in Grottoes at 7:30 p.m. There will be a cookout. Mr. Monger needs to know how many plan to attend.

Mr. Monger reported that the Scout Hut burned. It is insured, but he does not know the amount as yet.

Mr. Monger reported that they are working on the dumpster problem behind the Valley Lunch and behind the old police station.

Mayor Dean gave council the opportunity to ask any questions they might have on the April monthly police report. He also reported that Vicki Buracker has resigned as a dispatcher to go with the Harrisonburg Police Department. We are advertising for a new dispatcher.

Councilman Snow reported that we would not have a Finance Report tonight.

Councilman Leap reported that he had talked with Mr. Davenport before the meeting about the possibility of a moratorium on multifamily dwellings or some other type of method to control this. Mr. Davenport had said he would look into this but since that time Mr. Davenport has looked over the code and thinks this might not be feasible. Councilman Leap feels council should asked Mr. Davenport to look into this as far as enacting part of the new proposed zoning ordinances pertaining to multifamily dwellings or density which Mr. Davenport said perhaps could be retroactive. Council agreed that Mr. Davenport should look into the possibility of some method of immediate control over multi-family dwellings and have this ready for council within about two weeks.

Councilman Leap reported that Mr. Monger has seen to replacing the front steps of the Municipal Building since the last meeting and they really look good.

Councilwoman Life reported that the library sign on the front of the building needs to have some work done on it or be taken down.

Councilwoman Life reported on the concrete work and drainage at the Elementary School. It really looks good. She also reported that some repair work has been done on Spotswood Avenue in front of The Movie House. Work has been done on Rockingham Street where we have a handicapped child. We have also paved another alley.

Mr. Monger reported that he stopped the paving today until about mid June. He needs to get bills in from the work at the school to see how much is left to spend on further paving.

Mr. Monger reported that the old agriculture building has not been cleaned out but he thinks some girl scout troops are using the building.

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Councilwoman Life asked council to consider some future concrete work which she is not sure will come to pass. She was asked to get a price on doing some concrete work in front of the Elkton Methodist Church on Warren Avenue. She told the church it would have to be a 50-50 deal. Our share on this project would be approximately $10,500. to $12,000.

Councilman Holt reported that the Elkton Planning Commission has met with Sharon Engles, Executive Director of the Central Shenandoah Planning District, about our new zoning ordinances. Mr. Monger had given her the Planning Commission's work to that point. She has given some suggestions for some changes and there needs to be some completion on this. The Elkton Planning Commission has asked Ms. Engles for an estimate of what it would cost for the Planning Commission District to go over the ordinances, make whatever suggestions or changes she feels are necessary and then submit it to the Elkton Planning Commission for their approval and on to council for their approval. Her price would be no more than $4,500. This would include a final draft, having it adopted by council and printing 50 final bound copies of the document during the 1987-88 fiscal year. This has been presented to all but two of the EPC members and they are in support of this proposal.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life to approve a contract with the CSPD to complete a draft of the new zoning ordinance and to print 50 final bound copies of the document during the 1987-88 fiscal year at a cost not to exceed $4,500. The final draft would be subject to approval by the EPC and the town council. The vote was recorded as follows:

Davis	-	yea	Leet	-	yea
Holt	-	yea	Life	-	yea
Leap	-	yea	Snow	-	yea

Councilman B. B. Holt reported that we need to reapprove our comprehensive plan. He does not anticipate any major changes. This will be run by the Elkton Planning Commission again and they will present their proposals to council within the next few months. There will have to be a Public Hearing before approval.

Councilman B. B. Holt moved, seconded by Councilman H. A. Leet to approve on Second Reading the amendments to Sections 5-2-5; 5-2-6; 5-3-7; 5-3-8; and 5-4-4 of the Elkton Town Code as printed in the minutes of April 20, 1987. The vote was recorded as follows:

Davis	-	yea	Leet	-	yea
Holt	-	yea	Life	-	yea
Leap	-	yea	Snow	-	yea

Councilman Leet reported that they have not heard any more regarding the running of water and sewer across the river. He stated that they have had a lot of trouble at the sewer plant as the results of the big rain. There was a marked improvement at the North Avenue Pumping Station. Mr. Monger still feels there is a big problem at the creek but has been so busy they haven't been able to work on this.

Councilman Leet reported that the fluoride is still in limbo. There are some problems and Mr. Monger needs to talk with a salesman regarding some solutions. He hopes to be able to finish this project with our men but he may have to contract the job. Councilman Leet stated he feels we need to give a little more of our town time to this before we consider contracting the job as it would probably run considerably higher if we contract it.

There was some discussion regarding which streets to close for the EPIC Autumn Days October 17th. and 18th. The streets

suggested were from the triangle on Spotswood Avenue up to the end of the basketball court, with parking on the lot across from the Municipal Building, or "B" Street which runs in front of the Elementary School. If they use "B" Street they would like permission to come down Heard and use "A" Street from Ashby Avenue to Warren Avenue. Parking would be on the Elementary School lot and the Elkton United Methodist Church's parking lots. All residents and both institutions touching "B" Street are in favor of this location but there has been some objection from businesses regarding the closing of Spotswood Avenue.

Councilwoman L. C. Life moved, seconded by Councilman B. B. Holt and carried to close off "B" Street from Ashby to Terrace, from "B" to Heard, from Ashby to "A" on to Warren for the EPIC Autumn Days October 17th. and 18th.

Councilwoman L. C. Life moved, seconded by Councilman B. B. Holt and carried that if EPIC does the leg work regarding applying for a grant to revitalize the downtown area, the council give their backing to this.

Mayor Dean asked Mr. Davenport to state the town's official position on the apartments. Mr. Davenport stated that Mr. Monger had contacted him on this when the question first arose. He told Mr. Monger after looking at it and going over the ordinances with a fair degree of thoroughness that in his view he did not see anything under the present ordinance that the town could do about it. Mr. Monger followed this advice. Some council members also asked him about this and he passed along his thoughts to them individually. Mr. Davenport said he would like to explain how you get to this point. He also would like to say that he is always willing to reconsider. If someone has an attorney who has a different view, he would be interested in hearing it. He does not feel it is a very close question. When you analyze something like this, as far as what a town can do to restrict what somebody wants to do, you start with the assumption that you have a free country and you can do what you want unless there is a law against it. That includes things that may not be good ideas in view of the majority, that may not be good ideas in view of anybody except the person who wants to do it. Someone said earlier tonight that it is just common sense that you don't face the structure the opposite direction of everybody elses structure on the street. It may be common sense to one person, or everybody else here, but you have to have a law to tell someone they can't do something. He does not feel we really want to have town councils, or any other forms of government, telling people what they can do without the law to go by. Also people need to recognize that towns are not states. Towns have limited power. All powers of towns are delegated by states. The states have not chosen to delegate to towns all the power that the state has, so unless you find a specific revision in your charter or in your code that allows the town to do something, you can't do it. This is what is called "Dillon's Rule". Fortunately, in this situation, or perhaps in the future, a town does have the authority, in his view, to say which way a building will face on a street. This is probably something the town will want to do in their new zoning ordinances. The Mayor touched on this and Mr. Davenport questions if this will solve this particular problem. It is probably worth doing, but you are still going to have the problem of somebody going in on the back of the alley. He doesn't think the town would want to restrict peoples access in the alley. If you do that, what is the purpose of having the alley. It may be beneficial to service vehicles but he hardly thinks everyone in town wants to always go out the streets and not the alley. Then you have the questions if it is reasonable to restrict only people who live in multifamily dwellings to not using the alley and the answer is obvious, of course not. You can't do that. That kind of law is unreasonable. Right now the zoning ordinance does not say that you have to face your structure on the front yard. You have a pretty good system of determining what your front yard is and what you side and rear yards are. But if you look at the zoning ordinance, you realize that the reason they go through that is to determine

what your setbacks are because they vary based on which yard you are looking at. There is nothing in there that he can find, or that anyone has shown him, that says which way your structure has to face. Mr. Davenport stated he would like to address three of the questions that have been brought forth. First, the definition of any alley is in the subdivision ordinance, Chapter 2, Title 6. The zoning ordinance is Chapter 3. If you look at the preamble to the definition section in Chapter 2 where you find alleys it says, in this chapter the following terms have the following meanings. So obviously the definition of alley, even if you imply that you have the street as your primary means of access, and even if there were some way to enforce this, does not apply to the zoning ordinance. It could if you want it to do that, but it doesn't now. Obviously there is some problem with passing a law that you have to use the street as your primary means of access. Secondly, he can not find anything that says that all buildings in a block must run in the same direction as existing buildings in that block. What it does say, is that on a corner lot you look at what the majority do on the street to determine which is your front yard and what is you side yard. So this is not applicable. Lastly, people have pointed to the provision that says you can regulate traffic for the purposes of safety on streets and alleys. In his view, this applies to speed, direction, turning; not to who can travel on the street. There is a big difference between saying how everybody can travel on a public way, alley or street, and saying you can't travel on this alley if you live in a multifamily housing or if you don't live on the street. When the plat of the town was dedicated years and years ago, all of these streets and alleys became public ways. So despite the obvious benefits of having all your structures front the same way, and not using narrow alleys, he cannot find anything in the zoning ordinance to prevent this.

Mr. Davenport answered the questions presented by council. There was some discussion regarding ways to help control this problem during the period before the new zoning ordinance can be adopted. Mr. Davenport will look into this.

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life to go into Executive Session to discuss personnel matters. The vote was recorded as follows:

Davis	- yea	Leet	- yea
Holt	- yea	Life	- yea
Leap	- yea	Snow	- yea

Councilman B. B. Holt moved, seconded by Councilwoman L. C. Life and carried to go from Executive Session back into Regular Session.

As there was no further business, the meeting adjourned.

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

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