SPECIAL
COUNCIL MEETING
June 29, 1993

The Elkton Town Council held a special meeting June 29, 1993 at 8:00 p.m. in the council chambers with The Mayor Charles E. Dean presiding. The roll call is recorded as follows:

PRESENT

F. A. Bennett
R. C. Davis
M. B. Fuller
W. E. Printz
R. L. Snow

Councilman Whitfield came later in the meeting.

Dale Davenport, Attorney, Betty H. Engle, Asst. Clerk, Gerald Monger, Superintendent and Warren Pence, Chief of Police were also present.

Councilman Snow moved, seconded by Councilwoman Fuller to approve on Second Reading the 1993-94 Budget Appropriations. The vote was recorded as follows:

YEAS: F. A. Bennett, R. C. Davis, M. B. Fuller, W. E. Printz and R. L. Snow

NAYS: None

Councilman Snow moved, seconded by Councilwoman Fuller to approve on Second Reading the 1992-93 Budget Transfers and Additional Appropriations. The vote was recorded as follows:

YEAS: F. A. Bennett, R. C. Davis, M. B. Fuller, W. E. Printz and R. L. Snow

NAYS: None

Councilman Snow moved, seconded by Councilwoman Fuller to increase the garbage fee 4%. The vote was recorded as follows:

YEAS: F. A. Bennett, R. C. Davis, M. B. Fuller, W. E. Printz and R. L. Snow

NAYS: None

Councilman Bennett moved, seconded by Councilwoman Fuller to raise water and sewer rates. A flat rate on water of $5.00 with no usage and $1.35 for each thousand gallons of usage. The sewer a flat charge of $9.00 and $1.80 per thousand gallons based on water usage.

Councilman Printz strongly objected to the water and sewer increases, and felt since the town had the money that it should be used to correct water leaks and replace defective water meters before considering raising rates.

Councilman Whitfield agreed with Councilman Printz, and also felt it ludicrous to give a discount on a product that you are retailing and you are already losing money on, and they should think about this next summer.

Town resident Hazel Crider also spoke in opposition to the water and sewer increase, and felt the town should use money they have in surplus to correct problem areas. She stated this increase would be a strain on some residents. Mrs. Crider stated she was told at the April 13, 1993 special meeting that hiring a Town Manager would not increase utilities.

Councilman Snow compared in value the water that town residents are getting for their money with people that are having to pay haulers.

Councilwoman Fuller responded to Mrs. Crider's question on the Town Manager, and was told that the increase in water and sewer was not due to hiring a Town Manager but due to the fact that the water and sewer department is losing money.

Councilman Bennett had passed out some literature from VML on rates from other towns. This was based on a 1992 rate schedule sent out on twenty-five towns with a 60% respond rate. The Town of Elkton has not had a rate study on water and sewer since 1987.

There was also a discussion on water meters and their replacements and it was suggested that probably 100 were bought and installed a year. Mr. Monger stated that the town could spend $120,000.00 and still not find the problem and also there is the man-power involved.

The vote to increase the water and sewer rates effective July 1, 1993 was recorded as follows:

YEAS: F. A. Bennett, R. C. Davis, M. B. Fuller, R. L. Snow and T. R. Whitfield III

NAYS: W. E. Printz

Councilman Davis seconded the franchise between the Town of Elkton and GTE that was presented by Attorney Davenport. The vote was recorded as follows:

YEAS: F. A. Bennett, R. C. Davis and M. B. Fuller

NAYS: W. E. Printz, R. L. Snow and T. R. Whitfield III

Mayor Dean voted YEA to break the tie vote.

Councilwoman Fuller stated that the job description upgrades were not ready but would be prior to the next meeting.

The following Resolution was presented to council for consideration:

A RESOLUTION OF THE TOWN COUNCIL
OF ELKTON, VIRGINIA

BE IT RESOLVED that the Town of Elkton, Virginia, a political subdivision currently participating in the Virginia Retirement System under the provisions of Title 51.1, Chapter 1, Article 5 of the Code of Virginia, 1950, as amended, acting by and through its Council, does hereby elect to have such of the employees of the Town who are employed in positions as full time salaried Law Enforcement Officers and whose tenure is not restricted as to temporary or provisional appointment, to become eligible, effective July 1, 1993, for benefits in the Virginia Retirement System equivalent to those provided for State police officers of the Department of State Police, as provided in Section 51.1-138 of the Code of Virginia, as such provisions have been or may be amended from time to time, in lieu of the benefits that would otherwise be provided and the Town shall pay its cost for the participation of such employees becoming covered hereunder.

BE IT FURTHER RESOLVED that Charles E. Dean, Mayor and Norma Leap, treasurer, be and they are hereby authorized and directed in the name of the Town to execute any required contract in order that the above described employees may become entitled to retirement benefits equivalent to those provided for State police officers of the Department of State Police. In execution of any contract which may be required, the seal of the Town shall be affixed and attested by the Treasurer, and said officers of the Town are hereby authorized and directed to do any other

thing, or things, incident and necessary in the lawful conclusion of this matter. The Treasurer of the Town be and she is hereby authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by the Town and its employees for this purpose.

The vote was recorded as follows:

YEAS: F. A. Bennett, R. C. Davis, M. B. Fuller, W. E. Printz, R. L. Snow and T. R. Whitfield III

NAYS: None

Chief Pence expressed his appreciation to council.

As there was no further business, the meeting adjourned.

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

RECORDER: Betty H. Engle
Betty H. Engle, Asst. Clerk

AN ORDINANCE GRANTING A FRANCHISE
FOR TELEPHONE SERVICES WITHIN THE TOWN OF ELKTON, VIRGINIA

An Ordinance to grant to a person or persons, or a corporation, its successors and assigns, hereafter to be ascertained in the manner prescribed by law, the right for the term and upon the conditions herein stated, to use the streets, alleys, and public places of the Town of Elkton, Virginia, and to acquire, erect, maintain and use, and if now constructed to maintain and use, poles, towers, wires and facilities over and along, and to acquire, construct, maintain and use, and if now constructed to maintain and use, necessary manholes, and to run cables and wires in, under and along the streets, alleys and public places of said Town and to use the property of other persons, corporations and organizations and permit such other persons, corporations and organizations to use its property upon such arrangements as shall be agreed upon subject to the conditions herein set forth, for the purpose of providing all types of telephone services within the corporate limits of the Town, as the same now exist or may hereafter be extended or altered.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ELKTON, VIRGINIA

Section 1. The right is hereby granted unto Contel of VA Inc. doing business as GTE VA, hereinafter referred to as the "Grantee", its successors and assigns, for the term and subject to the conditions and limitations hereinafter stated, to use the streets, alleys and public places of the Town of Elkton, Virginia, hereinafter referred to as the "Town", and to acquire, erect, maintain and use, and if now constructed maintain and use, poles, towers, wires, conduits and equipment over and along, and to acquire, construct, maintain and use, and if now constructed to maintain and use, conduits, pipes, mains and other facilities, including necessary manholes, and to run cables and wires in, under and along the streets, alleys and public places of the Town, and to use the property of other persons, corporations and organizations, including that of the Town, and permit such other persons, corporations and organizations, including the Town, to use its property upon such arrangements as shall be agreed upon subject to the conditions herein set forth, for the purpose of providing all types of telephone services as may be permitted by law within the corporate limits of the Town, as the same now exist or may hereafter be extended or altered.

Section 2. From and after the date on which this ordinance shall become effective, the poles and other facilities in, under and along the streets, alleys and public places of the Town, authorized by this ordinance to be located and constructed, shall be located at reasonable, suitable and convenient points. The location of all such facilities shall be promptly disclosed to the Town upon request, occasionally and on a case by case basis.

Section 3. In the location and erection of the poles, conduits and other facilities and fixtures and in stringing the wires as herein authorized, the Grantee shall have the right to trim, cut and keep clear of its wires and fixtures the trees in and along the streets, alleys and public places of the Town, but shall not cut or otherwise injure said trees to any greater extent than is reasonably necessary in the construction, maintenance and operation of the said poles, wires, fixtures and other structures of the Grantee as herein authorized and provided.

Section 4. In the event the Grantee shall, in the exercise of the rights or obligations granted by this ordinance, injure any pavement, sidewalk, water or other pipe, or any other property belonging to the Town, it shall promptly repair the same at its own cost and expense.

Section 5. The Grantee shall, when so requested by the Council of the Town of Elkton, permit its poles, towers and other structures to be used without compensation by the Town for the purpose of placing thereon any traffic lighting, fire or police alarm, telegraph or telephone wires which may be necessary for the exclusive use of the police or fire department of the Town, provided that such use by the Town shall not interfere with the proper use of said poles, facilities and fixtures by the Grantee, and that the location and character of said wires and fixtures of the Town shall be subject to the approval of the Grantee herein, and provided further that the Town shall, and it hereby agrees to, indemnify and save harmless the Grantee from any and all loss, damage, cost or expense to, or which may be incurred by the Grantee, or to which it may be subjected by reason of or as a result of the use of said poles and structures by the Town as in this section provided. Notwithstanding the above, nothing herein contained shall be construed to render the Town liable for the negligence or willful misconduct of the Grantee, its agents or employees, or of any person or corporation other than the Town, its agents and employees.

Section 6. The Grantee agrees and binds itself, by the acceptance of this ordinance, to indemnify, keep and hold the Town free and harmless from liability on account of injury or damage to persons or property arising out of Grantee's construction, improvement, maintenance, repair and operation of its lines or works, and in the event that suit shall be brought against the Town, either independently or jointly with Grantee on account thereof, and relating to any such injury or damage, the Grantee, upon notice to it by the Town, will defend the Town in any such suit at the cost of the Grantee, and, in the event of a final judgment being obtained against the Town, either independently or jointly with Grantee, the Grantee will pay such judgment, with all costs, and hold the Town harmless therefrom; but nothing herein contained shall be construed to render Grantee liable for the negligence or willful misconduct of the Town, its agents or employees or of any person or corporation other than the Grantee, its agents and employees. Any settlement of litigation made on behalf of the Town shall be subject to the prior approval of the Town.

Section 7. All the rights and privileges hereby granted to Grantee may be exercised by any successor or successors, assignee or assignees of the Grantee, but the successor or successors, assignee or assignees shall be subject to all the provisions, obligations and stipulations and penalties herein prescribed.

Section 8. The rights and privileges hereby granted shall continue for the period of fifteen (15) years from and after the day on which this ordinance becomes effective as provided in Section 9 below, unless the same be sooner voluntarily surrendered by the Grantee, with the consent of the Council of the Town, or unless the same be sooner forfeited as provided by law. Upon the expiration of the term of this grant and upon the termination of the rights hereby granted, by surrender, forfeiture or otherwise, all of the poles, wires, conduits, lines and other property of the Grantee in the streets, alleys or public places of the Town may be removed from the streets, alleys and public places of the Town at the expense of the Grantee within a reasonable time after the expiration or termination of such rights and privileges, or sold by the Grantee to a successor franchisee, at Grantee's option. Any property not so removed by the Grantee shall become the property of the Town without further consideration.

Section 9. This ordinance and the rights and privileges hereby granted and conferred shall become effective when the Grantee has filed with the Town its written acceptance thereof, and has entered into a bond in the sum of Ten Thousand Dollars ($10,000), with surety satisfactory to the Mayor, conditioned to the effect that the Grantee will construct and maintain, or if constructed, will maintain, the poles, wires, conduits, lines and other facilities provided for herein and reasonably necessary for the exercise of the rights and privileges granted in and by this ordinance, in good order throughout the term of this grant, and will comply with the terms, provisions and conditions of this ordinance in all respects.

Section 10. When the Town shall determine from time to time that it is necessary that facilities Grantee originally installed in, over, on and under any public rights-of-way of any street, alley, or public place of the Town should be relocated or removed in connection with the relocation or improvement of said street, alley, or public place, then Grantee shall, within a reasonable time after being requested in writing to do so, remove or relocate same, using like construction, at such place as shall be mutually agreeable with the Town and Grantee. Grantee shall bear all costs of removal and relocation provided the Town will obtain or cause to be obtained, without charge to the Grantee, suitable permits as may be required by the Grantee for its relocated facilities. If Grantee does not commence and complete removal or relocation within a reasonable time, then Town may, after giving at least ninety (90) days written notice to Grantee, take such actions at Grantee's expense as are necessary to effect such removal and relocation. This Section is intended to apply to incidental relocation activity due to land use changes and shall not apply to a broad project undertaken for the purpose of placing underground, overhead facilities within the Town or any section thereof. In such event, the Grantee shall be permitted to pass through to its jurisdictional consumers such cost

of relocation consistent with its terms and conditions of service established by the Virginia State Corporation Commission.

Section 11. The Grantee shall be subject at all times to the ordinances and resolutions of the Town now in existence or which may hereinafter be enacted with respect to land use and any other matters.

Section 12. The right of the Town to impose any lawful license or property tax upon the said Grantee is reserved, and is not to be deemed as in any manner waived or abridged by this ordinance.

Section 13. This ordinance is not intended and nothing herein contained shall be construed to grant an exclusive privilege, franchise or right to said Grantee but the Town reserves full right and power to grant the same or similar rights and privileges to other persons or corporations.

Section 14. The said Grantee shall maintain in good order an efficient telephone system and provide efficient public service at reasonable rates for the inhabitants of the Town of Elkton.

Section 15. If the said Grantee, its successors or assigns, fails to provide an efficient telephone service at reasonable rates for the inhabitants of the Town of Elkton or if it violates the provisions or makes default in the performance of the requirements of this ordinance in any other material respect or particular, then either event written notice of such violation or default may be given by the Town to the Grantee or its successors or assigns, and unless the Grantee shall, within thirty (30) days from receipt of such notice, cease such violation and comply with the terms of this franchise, then this franchise shall, at the option of the Council of the Town of Elkton, become null and void, and be forfeited, and said Grantee may so declare it, and thereupon all rights, privileges and franchises hereby granted shall cease.

ENACTED by the Town Council of Elkton, Virginia, on the ~~21st~~ 29th day of June, 1993.

Charles Dean

Charles Dean, Mayor

ATTEST:

Norma Leap, Treas.

Norma Leap, Treasurer