REGULAR **NO. 091**
COUNCIL MEETING
July 17, 1995

The regular meeting of the Elkton Town Council was held July 17, 1995 at 7:30 p.m. in the council chambers with the Mayor Charles E. Dean presiding. The roll call is recorded as follows:

PRESENT
F. A. Bennett
D. H. Dail
M. B. Fuller
W. E. Printz
T. R. Whitfield III

ABSENT
R. L. Snow

Ted Costin, Manager, Dale Davenport, Attorney, Norma Leap, Clerk, Gerald Monger, Superintendent, Theodore Pence, Director of Parks & Recreation, Warren Pence, Chief of Police and Joseph Shifflett, Director of Public Works were also present.

VISITORS

Marsha Deavers

Marsha Deavers, EDRC Main Street Program Manager, presented the Elkton Main Street and the Elkton Downtown Revitalization Corporation Annual Report to council. She reported on the progress and plans in the areas of Design, Economic Restructuring, Promotion and Organization.

Millard Dearing

Millard Dearing congratulated council on the appearance of the cemetery. He stated he feels someone on council should have the moral courage to explain to the public why the cleaning was necessary and why things happened as they did.

Mr. Dearing pointed out that there are three council members that are board members of EDRC. He asked Mr. Davenport if this was a conflict of interest as council votes to provide funding to EDRC each year.

Mr. Dearing stated it is his understanding that council plans to discuss tonight the elimination of committees. He feels it would really hurt the town if they do this. The only way the people of Elkton have a chance to express their opinions is by coming to committees.

Mr. Dearing pointed out that we were reluctant several years ago to hire a Town Manager. There was quite a bit of discussion on whether we could afford one or not; however, we have since hired a manager. Within months Mr. Joe Shifflett was elevated and given a $5,000.00 raise so he could assist Mr. Monger, Mr. Monger moved up so he could assist the Town Manager. Now the council has decided we need to hire an assistant to the Town Manager. The town cannot afford an additional police officer at $15,000.00 because we need to hire this assistant. Mr. Dearing stated that by eliminating committees we will need to keep adding assistants and will be locked into a Town Manager. He questioned where all this money was coming from and if the town can afford to keep growing in the administrative area when they can't afford to repair the necessary things.

Lou Kirkendall

Lou Kirkendall thanked council for the support given to the library and stated that the new library looks wonderful. She

commented on an assistant for the Town Manager and noted, that as far as the Planning Commission is concerned, it would be an invaluable asset to them as they need someone there to do the clerical types of things.

Mrs. Kirkendall reminded council that last month she and several other citizens came before council with their concerns about congestion, vandalism, littering, loitering, etc. in downtown Elkton. Due to some scheduling conflicts, the Public Safety Committee was not able to meet in June to look at this issue. She stated that they would rather not have another month go by without something being done. She suggested council consider forming a Citizen's Task Force made up of citizens of the Town of Elkton representing both sides of the issue. She suggested the moderator be someone impartial, who does not live in town. This task force should be charged with the responsibility of coming back to council with some concrete suggestions for solving these problems.

MINUTES

Councilman F. A. Bennett moved, seconded by Councilman W. E. Printz and carried to approve the minutes of the Regular Meeting June 19, 1995 and the Special Meeting June 27, 1995 as presented.

DEPARTMENT HEAD REPORTS

Chief of Police

Chief Pence presented a written report to council. He informed Mrs. Kirkendall that he had already approached the Town Manager about plans to try having a Citizen's Advisory Committee to make recommendations and that her name was on the suggested list of participants.

Chief Pence reported on the apprehension of a fugitive who was hiding in our storm sewer. They determined this person was using twenty-five alias and had a very long criminal record. Chief Pence pointed out that this is just one example of what the police department does.

Chief Pence stated he anticipates that Mr. Costin will be asking council to hire a police officer under the grant program later in the meeting.

Director of Parks and Recreation

Mr. Theodore Pence stated he had nothing other than his written report.

Director of Public Works

Mr. Joe Shifflett presented a written report. He added that the Maintenance Department is severely short staffed at this time due to one employee having medical problems and the absence of a Maintenance foreman. They hope to be able to keep ahead but just wanted to make everyone aware of the situation.

Superintendent

Mr. Monger stated he had nothing other than his written report.

Treasurer

Mrs. Leap reported there would be no Finance Report due to the audit. The auditors will be back to do their final work the week of August 24th.

TOWN MANAGER

Mr. Costin stated that the only item he had, other than his written report, was that Mr. Monger had received a call this afternoon from Don Krueger of Rockingham County informing him that Bear Litha Spring was closed again.

COMMITTEE REPORTS

Personnel Committee

Councilwoman Fuller reported that the only thing the Personnel Committee has is the job description changes which are included in the council packets. These will be presented for adoption later in the meeting.

Public Health, Public Safety, and Ordinances Committee

Mayor Dean reported that the committee had met and discussed the contract with Waste Management.

Streets and Sidewalks Committee

Councilman Printz reported he has received some requests which he will need to take to committee.

Water and Sewer Committee

Councilman Bennett asked Mr. Monger or Mr. Shifflett if they knew anything about K & K Machining requesting sewer down on Shenandoah Avenue and if the time table would permit taking this to committee before presented it for council action. Mr. Monger replied that they had mentioned it but felt there was time to take it to committee for discussion.

OLD BUSINESS

Reservoir

Councilman Printz asked what the status is on the reservoir?

Mr. Costin reported he has copies for council of the suggestions from both engineers. There are various options and they run price wise from $6,000.00 on one end to $60,000.00 on the other depending on what option council decides to go with. He feels there are a lot of things to consider before making any decisions and that there are no recommendations from staff at this time.

NEW BUSINESS

Amend Section 7-1-10

Councilman T. R. Whitfield III presented a proposed amendment to Section 7-1-10 Vendors selling door-to-door and moved to consider this as the First Reading to adopt Section 7-1-10 as amended.

Cline Energy Rezoning Request

Councilman Dale reported that the Planning Commission met and voted to recommend to the Board of Supervisors that they grant the request by Cline Energy Inc. to rezone .2 acre from A2 (General Agriculture) to B1 (General Business) located in the County southeast of the intersection of Stuart Avenue and Blue and Gold Drive.

Councilman D. H. Dail moved, seconded by Councilman W. E. Printz that the Town of Elkton recommend that the Board of Supervisors approve this request.

Councilwoman Fuller questioned how the sales tax and other revenues will be affected as about 4/5 of this property is in town and the rest out of town? She also asked if there is any precedent in situations like this for towns to acquire the property out of town by annexing or property line adjustments.

Mr. Costin stated that this came up in the Planning Commission meeting and also when they met in the field with the county and highway department. There was a preliminary plan and it appears the entrance to Route 340 will be closed and shifted 50 feet to the east. They may end up with one large entrance as opposed to two small ones. How you get into the site will affect where things go on the site. There may be a shifting and moving of gas pumps, etc. locating them either completely in town or completely out of town, depending on the entrances. Until the final plans are complete, there is no way of knowing where things will be located and who will receive the tax revenue.

The vote was taken on the motion to recommend the rezoning request and the motion was approved.

Job Descriptions

Councilwoman M. B. Fuller moved, seconded by Councilman T. R. Whitfield III and carried to approve the changes to the Job Descriptions for Foreman-Maintenance; Foreman-Water/Waste Water; Foreman-Electric; Equipment Operator; Custodian; Town Treasurer/Clerk of Council; Junior Clerk; and Senior Clerk.

VRS Resolution

Mr. Costin reported that in this years budget there were no raises given to the employees, however, the town picked up the employee's contribution of 5% of their salaries into the Virginia Retirement System. This was approved by the Finance Committee and Council. The retirement system needs a formal resolution specifying the town's intentions. A suggested resolution was included in the council packet.

Councilwoman M. B. Fuller moved, seconded by Councilman W. E. Printz and carried to adopt the following resolution which was presented by the Town Manager for presentation to the VRS.

Resolution

WHEREAS, the Town Council of Elkton passed the Fiscal Year Budget for 1995-1996 on May 30, 1995, and

WHEREAS, said budget provided that the employee contribution to the Virginia Retirement System be paid by the Town of Elkton,

BE IT RESOLVED, by the Town Council of Elkton that the Virginia Retirement System is hereby requested to note and respond in accordance with this action.

Tax Rate Resolution

Norma Leap reported that the budget does not include any real estate or personal property tax increased, however according to the Town Code council needs to annually fix the tax rate. A suggested resolution is included in the council packet.

Councilwoman M. B. Fuller moved, seconded by Councilman D. H.

Dail and carried to approve the following tax resolution as presented:

Resolution

WHEREAS, the Town of Elkton's 1995-96 Budget does not include any tax rate increases, and

WHEREAS, Section 2-3-11 of the Elkton Town Code declares that council shall annually fix the tax rates on all real and personal property, household property excluded, properly subject to taxation within and by the town,

NOW THEREFORE BE IT RESOLVED, that the Elkton Town Council sets the tax rates for the year 1995 at $0.10 per $100.00 of assessed value for Real Estate and $0.46 per $100.00 of assessed value for Personal Property.

Request for Services

Mr. Costin reported that Mr. Welty Hensley at last month's meeting had requested services to prepare the Jr. Order property to host the Horse Show sponsored by the Historical Society. The proceeds of the Horse Show are used to support renovation efforts of the Miller-Kite House which is owned by the town.

Councilman F. A. Bennett moved, seconded by Councilwoman M. B. Fuller and carried to approve the request by Mr. Hensley.

Mayor Dean pointed out that Mr. Hensley had also requested a donation of money to sponsor bands for the Jr. Order parade. As there is no money allocated in the budget council took no action on this request.

Committees

Councilman T. R. Whitfield III moved, seconded by Councilwoman M. B. Fuller to set the regular meeting time of the Elkton Town Council for 7:30 p.m. on the third Monday of each month as well as to appeal Section 2-1-3 Standing Committees and to amend Section 2-1-4 Other Committees.

Councilman Whitfield stated that in the three years he has been on council, it became clear after six months, that although he feels the committee system can work effectively, it depends on the individuals on the committees and their commitment. Council agreed last July to continue the system for another year and to then review this again. He feels the system has not worked. He is not in favor of totally turning over the running of the town to the Town Manger, however he is in favor of individuals that are elected taking responsibility for their election and to attend work sessions. He feels these have been much more effective in the past. He also pointed out that Section 2-1-4 would allow the Mayor to appoint Special Committees if there is a need for something specific and he supports that.

Councilman Printz asked if this has to be voted on tonight and Mayor Dean stated this would be a First Reading and would not be voted on tonight.

Councilman Printz stated he originally felt that eradicating the committees would be a good idea. He had not heard much opposition in the past, but recently he has heard some good comments and reasons in regards to retaining the committees. He now feels that he would getting further apart from his constituency. He would be turning over more power to maybe one person or one entity and he could not represent his people as well.

He felt he would be losing touch with the citizens and would be would be opposed to this at this point and time. He does support a working session of committees as proposed by Councilman Whitfield. He also suggested changing Section 2-1-4 to say "Council shall appoint such committees". He noted this was nothing personal against Mayor Dean but that he felt this should be done by the full council.

Councilwoman Fuller questioned if part of Councilman Whitfield's motion was to substitute the committee system with a defined work session by council once a month?

Councilman Whitfield stated it was not included in the motion but he would be glad to put that in the motion.

Councilwoman Fuller stated she has always advocated that council have a work session once a month. She also agreed with Councilman Printz regarding amending Section 2-1-4 to read the "Town Council shall appoint committees". Councilwoman Fuller noted that she does not feel on this particular issue that there is a right or a wrong. Council is trying to be responsible and make the town operations run efficiently. There are two very good sides to this issue and she agrees with the Mayor that the committee system now is functioning better than it was when she first came on council.

Councilman Dail stated that so often when people talk about committees they talk only in terms of committees or a Town Manager and you have to make this choice. He doesn't think it has to be this way nor does he feel, in many ways, it is that way now. He feels the committees are working better now than they have in the past and it is because we have a Town Manager. The Town Manager brings that continuity and focus that he has on a day to day basis to the committee meetings and that has a positive effect on the committees. Councilman Dail noted he does not feel there is a need to get rid of the committees as they are serving a purpose.

Councilman Bennett read a letter to council from Mrs. Hazel Crider. Mrs. Crider was unable to attend this meeting but expressed her concern regarding abandonment of the committee system. She feels this system does work. People running for public office should realize it is time consuming and if they only have limited time then they should not run. She noted that the citizens did not want their town government controlled by one or two people. As tax payers, when they have a problem, they want the opportunity to contact individual committee members rather than waiting for a regular monthly meeting.

Councilman Bennett stated that the committee system does work. He has seen it work in the past. He agrees with Councilman Printz that this is the people's outlet to council members as government. He is not in favor of a work session each month as this is the same as having a council meeting before the regular council meeting in which it would be predetermined what council was going to do at the council meeting.

Councilman Bennett reported that Councilman Snow is out of town but had asked him to report to council that he is in favor of keeping the committee system.

Mayor Dean stated this is the First Reading. He noted that it appears the motion is going to fail and in the meantime council will continue on with the present committees unless there is some objections. No objections were expressed.

Mr. Costin pointed out that after discussing why the committee system wasn't working with several council members. He had included

in his report that the standing committee system be abandoned. The lowest rated reasons on his list for this was the additional work and expense due to scheduling, noticing, canceling, rescheduling and re-noticing. He felt that if council would like to have a combination of committee meeting/work session it would be fine. He suggested setting a regular date each month for these sessions.

Mayor Dean set a Public Safety Committee meeting for August 1, 1995 at 7:30 p.m.

Councilwoman M. B. Fuller moved, seconded by Councilman W. E. Printz to establish a work session once a month on a trial basis.

Councilman Bennett stated he still feels these meetings are going to be extremely long due to all committees discussing their issues and that this will circumvent the standing committee system by having a monthly work session.

Councilwoman Fuller and Councilman Printz both felt the work session was worth a try and noted all meetings are open to the public.

Mr. Costin requested that Councilman Bennett set up a Water and Sewer Committee meeting to consider the suggestions by the engineers regarding the reservoir.

Councilwoman M. B. Fuller moved, seconded by Councilman W. E. Printz to amend the motion to set the work session on the first Wednesday of each month at 7:30 p.m.

Councilman Dail stated he is opposed to the concept of a work session. He feels if a work session is necessary, then there is a need for two council meetings per month. There is some problems in terms of public accountability just in terms of calling it a work session versus a council meeting.

Councilman Whitfield stated he would support a work session. He noted that it is interesting that the people who have given the biggest part of their time to the town, Councilwoman Fuller, Mayor Dean and Town Manager Costin, have publicly said that the system is not as effective as desired.

A vote was taken on the motion to establish a monthly work session on the first Wednesday of each month at 7:30 p. m. and the motion was approved.

The first work session was set for August 2nd.

Mr. Davenport responded to the question by Mr. Millard Dearing regarding it being a conflict of interest for the council members serving on the EDRC Board. He stated that the State Code that applies to this states that a council member cannot vote if it would affect the council member more than the general public. This would not come close to someone that is a member of a charitable organization and therefore there is nothing illegal about council members serving on the EDRC Board.

Councilman Bennett questioned if Mr. Costin had sent a letter to the county stating that council had opposed a rezoning issue which council had not taken action on?

Mr. Costin responded that he had sent a letter stating what he thought had been the rule from the Chair. He had reviewed the tape before sending the letter. According to the tape there was a motion from the floor to favorably recommend this rezoning. There was no second to the motion and essentially the motion died. Council then went on to another matter. Later Councilman Printz

asked if council shouldn't say something directly regarding the rezoning issue. Mr. Costin thought from listening to the tape that the Chair ruled that this is what council had done and this is what he put in the correspondence. In reviewing the tape with Mrs. Leap during the minute preparations, the Chair was not the voice he heard, but a member of the audience. Mr. Costin stated he would give Councilman Bennett a copy of the letter.

Councilman Bennett stated he feels we need to be careful in the way we represent action taken or not taken.

Councilwoman Fuller stated this was clearly what council so desired and she has talked to the Mayor about this. That was council's intention. By not seconding the motion, council was recommending denial.

Councilman Bennett stated he does not agree with this. No action was taken and we should not assume that was council's intent.

Councilwoman M. B. Fuller moved, seconded by Councilman W. E. Printz and carried to go into Executive Session to discuss hiring a police officer and possible property acquisition.

Councilwoman M. B. Fuller moved to go from Executive Session back into Regular Session and that each council member to the best of his knowledge, certify that only public business matters lawfully exempted from open meeting requirements under Chapter 21 of Title 2.1 of the Code of Virginia were heard, discussed or considered. The following council members so certified:

YEAS: F. A. Bennett, D. H. Dail, M. B. Fuller, W. E. Printz, and T. R. Whitfield III

Mr. Costin reported that for several months council has been presented with a series of offers, counter offers, etc. to purchase two pieces of property lying adjacent to the ShenElk Plaza and adjacent to the town park and the Jr. Order Park. One piece of property would be expanded and rearranged to form a larger piece than originally anticipated. There is approximately 7 1/2 acres in the two pieces of property at a total cost of $75,000.00.

Councilman M. B. Fuller moved, seconded by Councilman W. E. Printz that council accept the offer presented by the Town Manager, conditional upon such other customary terms as may be approved by the Town Attorney, and authorizing the Mayor to sign any contracts in regards to the purchase of the property. The vote was taken on the motion and recorded as follows:

YEAS: D. H. Dail, M. B. Fuller and W. E. Printz

NAYS: F. A. Bennett and T. R. Whitfield III

Councilwoman M. B. Fuller moved, seconded by Councilman W. E. Printz and carried that the Town of Elkton appoint Rodney Lee Morris to the position of patrolman created by the COPS FAST grant.

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