# REGULAR
# COUNCIL MEETING
# February 19, 1996

The regular meeting of the Elkton Town Council was held February 19, 1996 at 7:30 p.m. in the council chambers with the Mayor Charles E. Dean presiding. The roll call is as follows:

PRESENT

F. A. Bennett
D. H. Dail
M. B. Fuller
R. L. Snow
T. R. Whitfield III

ABSENT

W. E. Printz

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

## CITIZENS COMMENTS

Lee Dearing

Mr. Dearing noted that the Personnel Committee, chaired by Councilwoman Fuller, met on February 5th and 12th and went into closed session to negotiate the contract between the Town of Elkton and the Town Manager. Mr. Dearing pointed out that there will be three open seats on council in the May election and he feels in fairness to those elected, no final decision on this contract should be issued until the new council is seated and has the opportunity to express their opinions.

Wayne Weaver

Mr. Weaver reported that he had a letter from Mr. Joe Shifflett today stating that Mr. Weaver had placed a sign on the state easement. Mr. Weaver reported that he has already removed the sign and placed it on his property line. He took Mr. Shifflett up to look at the sign and Mr. Shifflett has indicated he feels it will be all right where it is located. Mr. Weaver also reported that they are in the process of getting their license. The alley has not been black topped due to the time of year but they hope to have it done as soon as the weather breaks. They hope to complete all of the work and have the final inspection completed by April 30, 1996.

## MINUTES

Councilman R. L. Snow moved, seconded by Councilman T. R. Whitfield III and carried to approve the minutes of the Public Hearing January 15, 1996 and the Regular Meeting January 15, 1996 as presented.

## DEPARTMENT HEAD REPORTS

Chief of Police

Chief Pence presented his written report. He also advised council that on February 7, 1996 he attended the meeting with the citizens group. They discussed several items; vandalism, traffic control and other items of concern. He feels progress was made and another meeting has been scheduled for March.

Councilwoman Fuller asked Chief Pence if there will be a recommendation from the citizen's

group sometime soon? Chief Pence stated he was there in ad advisory capacity only and Councilwoman Fuller would need to ask Mr. Costin about this.

Mr. Costin stated that the committee did discuss this and there will probably be something from the committee in May or June.

Director of Parks and Recreation

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

Director of Public Works

Mr. Shifflett stated he had nothing except his written report. He called attention to several items on the report. He had reported that the tree trimming project was approximately 75% complete, however the contractor has been working the past couple of days so the job is more than 75% completed. Mr. Shifflett reported that they have pulled off the reconstruction of the power lines on Fourth Street due to the weather. They will get back on this as soon as possible. He noted that Cline Energy is about to make a move on their building and the town is in the process of rerouting some power lines to accommodate this facility. Mr. Shifflett reported that in late January there was some flooding and utility problems due to the flooding. These problems were corrected within several days.

Mayor Dean noted he has seen quite a bit of work going on outside of town on Route 33 and he feels we should look at replacing that line. Mr. Shifflett stated that he and Mr. Monger have been discussing this and they plan to put together some figures and do a study on what should be done there within the next year or two.

Councilwoman Fuller asked that due to the article in the last Valley Banner which generated some interest, would Mr. Shifflett explain to the public and council how the town cut-off system works when a business is slated for disconnection. Mr. Shifflett explained the system to council and those present.

Superintendent

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

Councilman Whitfield questioned the portion of Mr. Monger's report where he stated that during the reservoir repair there is a possibility of bringing in a large water tank to help with some backup storage. Councilman Whitfield asked if the town has to purchase this or could it be rented? Mr. Monger stated the tank they are looking at is through the Federal Surplus. They do not know what the tank would cost, if anything, or the cost to have it delivered.

Mayor Dean asked if we have a dollar figure on repairing the damage to the boat landing. Mr. Monger stated that they do not have a cost as yet but he does not feel it is going to be that much.

Treasurer

Councilman R. L. Snow moved, seconded by Councilman T. R. Whitfield III and carried to approve the Finance Report for the month of January 1996.

**TOWN MANAGER**

Mr. Costin highlighted the status of the BPOL Tax. The latest word, as of Friday, was that the ordinance passed by council a couple of months ago would still pass muster. The General

Assembly has altered the enabling legislation somewhat to tie exemptions to threshold amount to population. Thresholds would not apply in jurisdictions of less than 25,000.

Mr. Costin reported he is working on the budget. He has met with all the Department Heads and feels there will be no problem with meeting the April 1st. deadline.

Councilman Whitfield asked a question regarding the closing of Ore Wash Road. Mr. Costin had reported in his written report that he had met with Virginia Power and they had agreed to present the request to its Richmond office. Councilman Whitfield questioned how long it will take to get an answer from Virginia Power? Mr. Costin stated he had no idea how long it will take. He also reported that the fire company has agreed to donate the land necessary from its side in an amount equal to that donated by Virginia Power.

## COMMITTEE REPORTS

Electric Committee

Councilman Dail reported he will have something to bring up later under Old and New Business.

Personnel Committee

Councilwoman Fuller reported that under New Business they will recommend the adoption of the changes to the Personnel Handbook. She also reported that under the Executive Session the Personnel Committee will asked to discuss the Town Manager's contract.

Public Health, Public Safety, and Ordinances

Councilman Whitfield stated that the Second Reading on the amendments of ordinances regarding utility billing appeals will be brought up under Old Business.

Streets and Sidewalks

Mr. Costin reported that the committee had met and had discussed several issues but had no recommendations for council at this time.

## OLD BUSINESS

**Amendments of Ordinances regarding Utility Billing Appeals (Second Reading)**

Councilman D. H. Dail moved, seconded by Councilman T. R. Whitfield III to approve on Second Reading the amendments to Section 4-4-27(C) and Section 5-4-9(C) of the Code of the Town of Elkton. A copy is attached to the official minutes.

Councilman Whitfield questioned the last sentence of Section 5-4-9 where it states "The decision of the town treasurer may be appealed within five (5) working days to the mayor, in writing, and the mayor is authorized to make a final determination of the customer's complaint." He wondered if this should be appealed to the Town Manager rather than the Mayor. There was no decision to change this at this time.

A vote was taken on the motion and it carried unanimously.

**Cline Energy Alley/Easement**

Councilman Dail reported that there was a Public Hearing held on February 12, 1996 regarding the vacation of an alley adjacent to lands owned by Cline Energy Corporation in exchange

for the establishment of a waste water line easement on property owned by the Cline Energy Corporation.

Councilman D. H. Dail moved, seconded by Councilwoman M. B. Fuller and carried to appoint the members of the Planning Commission as viewers for this matter.

Staff was asked to inform the Planning Commission that they have been charged with this duty.

**NEW BUSINESS**

**Lot Line Vacation - Weaver**

Councilman Dail reported that the Planning Commission recommends approval of the lot line vacation request by Kenneth Wayne Weaver between Lots 15 and 16 on the north side of Spring Avenue.

Councilman D. H. Dail moved, seconded by Councilman R. L. Snow and carried to grant the lot line vacation request by Kenneth Wayne Weaver between Lots 15 and 16, Block 28, Section 2, on the north side of Spring Avenue.

**Special Exception - Bernard A. Womack**

Councilman Dail reported that the Planning Commission recommends approval of the special exception permit on the Shen Elk Plaza property to allow all approved B-1 uses in the existing building for that property. The property will remain zoned B-3.

Councilman D. H. Dail moved, seconded by Councilman T. R. Whitfield III to approve the special exception permit as requested by Mr. Womack and recommended by the Planning Commission.

Councilman Bennett stated that after the Washington Avenue problem, he has some concern regarding the residents in this area.

Mayor Dean questioned why this land was zoned B-3. Mr. Monger stated that as he remembers, it was because this was a planned subdivision and the B-3 zoning was drawn up and intended to be for shopping centers.

Councilwoman Fuller asked if we have any data on what other jurisdictions zone shopping centers? She pointed out that she has always been troubled by the B-3 zoning. Mr. Monger stated there might be some information around but it would be old.

After some further discussion, Mr. Shifflett was asked to read what is permitted in B-1.

A vote was taken on the motion and carried 4-1.

**VMEA Director**

Councilman D. H. Dail moved, seconded by Councilwoman M. B. Fuller and carried to appoint Gerald Monger as the Town of Elkton's voting representative to the VMEA.

Councilman Whitfield suggested that the Chairman of the Electric Committee attend these meetings also.

**Personnel Handbook**

Councilwoman Fuller reported that council has been given a copy of the proposed personnel handbook changes and have had a chance to review them.

Councilwoman M. B. Fuller moved, seconded by Councilman T. R. Whitfield III to accept the proposed changes to the Town of Elkton employee's handbook.

Councilman Whitfield reported he had received a call from Councilman Printz who has been out of town. Councilman Printz is on his way home but was not sure he could make this meeting. He asked that council delay taking action on these changes as he has several questions.

Councilman Bennett stated that if there is no hurry in acting on these changes he would have no problem with a delay. It could prevent some real problems later.

Councilwoman Fuller withdrew her motion in deference to Mr. Printz's request.

Councilman Whitfield stated he has a separate copy of all changes made if anyone wishes to review them.

Councilman Snow stated he feels these changes should be discussed at a work session and the employees should be given a chance for some feedback.

Mayor Dean stated the work session will be Wednesday, March 6th. at 7:30 p.m. and these changes will be discussed at that time.

**Water Haulers**

Councilman Whitfield stated council had instructed staff that water hauling could resume March 1, 1996 and he questioned if this is still council's intent.

Councilman Bennett stated this would be dependent upon when and if they get the reservoir work done as reported in Mr. Monger's report. Councilman Bennett stated they will probably have to curtail this type of service while the work is being done. He stated he feels that since council voted to resume March 1st we would and allow them to continue until such time as repairs are started.

Mayor Dean asked if the water pressure has been better in Elkwood since the water haulers have not been getting water from the town. Mr. Pence and Mrs. Leap both stated that is has been.

Councilman Whitfield stated he feels staff has the right to know that yes, March 1st it will happen or no, it won't happen.

Councilwoman Fuller stated she is uncomfortable with this when it seems to be creating water pressure problems in Elkwood. She is also uncomfortable with having to cut the water haulers off shortly after allowing them to begin hauling again. She suggested council get the reservoir repaired and then reevaluate the water hauler situation. Councilman Dail stated he was in agreement with Councilwoman Fuller.

Councilwoman M. B. Fuller moved, seconded by Councilman D. H. Dail to continue the moratorium with the water haulers at this point until such time as the reservoir problem is fixed and council is able to reevaluate the water hauler situation.

Councilman Bennett stated he has no problem with this. He pointed out that the committee has discussed another location for providing the service for the water haulers and it would be up to council to approve this and appropriate the funds.

Councilman Snow questioned how sure we are that the reservoir is going to be fixed in the next month? Mr. Monger stated they hope to have it done by April 1st. Councilman Snow pointed out it could possibly be a lot later than that. He feels there are other things that could be done to minimize the impact of water haulers on the residents. One would be to make the water haulers take a longer time to fill their trucks and to use a smaller hose or nozzle. The second would be to restrict the hours that they could fill their trucks, possibly 10:00 a.m. to 3:00 p.m.

After some further discussion, a vote was taken on the motion and carried 3-2.

**Announcements**

Councilman Dail reported that the Planning Commission has recommended that we establish different rules for side yard setbacks. Councilman Dail suggested council take this recommendation into consideration and roll it into a package with a number of other issues regarding the zoning ordinances and look at them together.

Councilwoman Fuller announced that Dorenda Flick, Librarian at the Elkton Community Library, shared with her the fact that since the library has been moved their financial contributions have jumped dramatically, book donations have jumped dramatically and overall usage has jumped dramatically.

**EXECUTIVE SESSION**

Councilwoman M. B. Fuller moved, seconded by Councilman T. R. Whitfield III to go into Executive Session for the following three reasons. One, for a briefing by town staff on probably litigation; two, an appointment to the Board of Zoning Appeals; and three, to discuss negotiations on the Town Manager's contract. The vote was recorded as follows:

YEAS: F. A. Bennett, D. H. Dail, M. B. Fuller, R. L. Snow and
T. R. Whitfield III

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 the Virginia Freedom of Information Act were heard, discussed or considered. The following council members so certified:

YEAS: F. A. Bennett, D. H. Dail, M. B. Fuller, R. L. Snow and
T. R. Whitfield III

**Appointment to Board of Zoning Appeal**

Councilman M. B. Fuller moved, seconded by Councilman F. A. Bennett and carried that the Town of Elkton recommend to the Circuit Court the appointment of Kenneth Berry to the Board of Zoning Appeal.

**Negotiations on Town Manager's Contract**

Councilwoman M. B. Fuller moved, seconded by Councilman T. R. Whitfield III that the Town of Elkton notify Mr. Costin, the Town Manager, of their desire to enter negotiations regarding his continued employment. The motion carried 3-2.

**ADJOURNMENT**

As there was no further business, the Mayor declared the meeting adjourned.

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

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