Regular Council Meeting
August 18, 1997
7:30 p.m.

The regular meeting of the Elkton Town Council was held on August 18, 1997 at 7:30 p.m. in the council chambers with Mayor Charles E. Dean presiding. The roll call was as follows:

PRESENT

F. A. Bennett
R. C. Davis
M. L. Dearing
A. D. Dixon
W. E. Printz
R. L. Snow

Gerald Monger, Town Manager, Dale Davenport, Attorney, Warren Pence, Chief of Police, Kenny Flick, Director of Public Works, Theodore Pence, Director of Parks and Recreation and Nancy Sours Treasurer/Clerk were also present.

CITIZENS COMMENTS

Bob Hammer

Mr. Hammer presented council with a letter from Elkton Area United Services (EAUS). He stated that the EAUS Board of Directors is requesting that the utility bill due date be changed. He stated that the letter lists the reasons for changing the due date. Mr. Hammer stated that EAUS has paid more than $3,800.00 to the town for delinquent bills. He feels changing the due date will help decrease the number of delinquent accounts. Mr. Hammer pointed out that the senior citizens of the community are being penalized unnecessarily. He asked that council reply to EAUS with their final decision.

Wayne Weaver and Donna King

Mr. Weaver and Ms. King offered to answer questions concerning the proposal to expand Victorian Haven.

Larry Kite

Mr. Kite of 108 North Stuart Avenue, stated opposition to the Victorian Haven expansion. He feels that Stuart Avenue is not a suitable area for this type of facility. Mr. Kite stated that the elderly people currently at Victorian Haven cannot properly care for themselves. He stated that an elderly resident of Victorian Haven wondered into his backyard and urinated in the presence of his daughter. He stated that the alley is being used for business traffic. Mr. Kite feels that the expansion will decrease adjoining owners property value. He asked that council members put their self in his position and that they refuse this request.

Councilman Snow asked that Mr. Weaver explain his new proposal to the audience and the council members.

Mr. Weaver stated that the original proposal has been revised to only a thirty-two bed increase. He stated that the house on the north side of Victorian Haven will be used as a residential home to act as a buffer to the neighborhood. He said that the two adjoining properties south of Victorian Haven will be used in the expansion. Mr. Weaver stated that he would pave the remaining alley.

Councilman Dearing stated that the revised proposal should be referred to the Planning Commission for their review. Mr. Weaver stated that the only changes would be reducing the bed capacity to thirty-two and using Darlene Weaver's house as a residential dwelling.

Councilman Davis asked how potential residents qualify and the selection process. He also asked what controls are placed on the residents of Victorian Haven. Ms. Donna King responded that the Virginia Department of Social Services governs Victorian Haven operation. She stated that she reviews each candidate to ensure he meet the guidelines imposed on the home by the Commonwealth of Virginia.

Councilman Dixon asked for a copy of the State guidelines. Ms. King stated that she did not have a copy present. She stated that the primary restrictions were that the residents could not be bedfast or have any type of tube feeders.

Cathy Murphy

Ms. Murphy of 110 North Stuart Avenue stated opposition to the proposed Victorian Haven expansion. She stated that Stuart Avenue should remain zoned as all residential. She feels that approving the lot line vacation is business infiltration of a residential neighborhood. Ms. Murphy stated that this expansion will affect twelve homes in the neighborhood. She stated that public safety is also an issue with this expansion. She said that the Elkton Rescue Squad and police department make frequent visits to the home. Ms. Murphy feels that monetary gain is the motivation for this expansion, not a genuine concern for the senior citizens. She stated that Stuart Avenue residents have been experiencing low water pressure and sewer problems. She asked that council refuse this special exception request.

Darlene Weaver

Ms. Weaver of 106 North Stuart Avenue feels that Victorian Haven is not a problem within the neighborhood. She stated that the heavy traffic on North Stuart Avenue and other factors are the reasons she is selling her home, not being adjacent to Victorian Haven. Ms. Weaver feels that the expansion would not create a problem.

Dan Dichirco

Mr. Dichirco of Stuart Avenue stated that his property has been on the market for the past two years. He stated that he has experienced difficulty selling it due to the location of the convenience store. He stated that Mr. Weaver has been the only potential buyer.

Charlie Herring

Mr. Herring of Sweetgum Street spoke regarding the Recreation Commission decision to turn over girls' softball program to Little League. He pointed out that the proper grievance procedure should be followed concerning the recreation director. Mr. Herring feels that problems should be worked out before turning over the program to the Little League.

Councilman Snow asked Mr. Kite how often the incident of an elderly gentleman roaming in their yards occurred. Mr. Kite responded that this happened several times a week. Mr. Kite and Ms. Murphy stated that they experience low water pressure.

Councilman Dearing asked if Mr. Kite and Ms. Murphy would change their opinion with the downsizing of the original proposal. Both stated that they would still be opposed. Councilman Dearing asked Councilman Dixon if he received any Planning Commission members' opinions regarding the revised proposal. Councilman Dixon stated that some Planning Commission members would like to readdress this issue.

Councilman Printz asked why the Planning Commission recommended denial of this request. Councilman Dixon stated that Mr. Weaver built on and added more residents than what was originally expected when the special use permit was issued. He stated that other concerns were zoning Stuart Avenue residential or business.

Councilman Dearing stated that if Mr. Weaver is not within compliance of the special use permit, it is council's authority to withdraw the permit.

Councilman Dixon read the definition of the special exception permit. It states a permit issued by the Town Council for a special exception or use, pursuant to Article 8, in a designated district after evaluation of the impact and compatibility of such use; restrictions and conditions, to insure the use being compatible with the neighborhood in which it is located.

Mayor Dean asked for council's opinion on whether to hold another public hearing or to act on this request.

Councilman Bennett asked whether council should consider or accept the Planning Commission's recommendation. Mr. Davenport stated that council should act on the revised request. He stated that no action is necessary from the Planning Commission. Mr. Davenport pointed out that council must act on this request within sixty days or it will automatically be approved.

MINUTES

Councilman R. L. Snow moved, seconded by Councilman M. L. Dearing and carried to approve the minutes of the Regular Council Meeting, July 21, 1997 as presented.

YEAS: F. A. Bennett, R. C. Davis, M. L. Dearing, A. D. Dixon, W. E. Printz, R. L. Snow

DEPARTMENT HEAD REPORTS

Chief of Police

Chief Pence stated that he revisited the property at the intersection on Hillside and North Street and feels that it is no longer a traffic hazard. Councilman Dearing asked Chief Pence if he ever authorized his officers to use any kinds of drugs while conducting a surveillance. Chief Pence responded no he has not.

Officer Monte Dean reported on the Neighborhood Watch Program. He stated that at the last meeting it was discussed to establish a program for the youth. He said that the tentative location was the activity building over the fire station.

Councilman Printz asked Chief Pence if he has received any response on placing stop signs on Rockingham Street. Chief Pence stated that he has received complaints but feels it has improved the safety issue.

Parks & Recreation

Mr. Pence presented his written report and offered to answer questions. Mr. Pence stated that inmates completed the new shelter that the Lions Club donated. Mr. Pence expressed his concern over complaint letters being read in open meetings. He pointed out that there is a grievance policy and it should be followed.

Director of Public Works

Mr. Flick asked for council's direction regarding the particulars of the warrant issued to the Crawford property on Spotswood Avenue.

Councilman Printz expressed his appreciation for the promptness of installing the stop signs on Rockingham Street.

Treasurer

Councilman R. L. Snow moved, seconded by Councilman W. E. Printz and carried to approve the June 1997 and July 1997 Finance reports as presented.

YEAS: F. A. Bennett, R. C. Davis, M. L. Dearing, A. D. Dixon, W. E. Printz, R. L. Snow

Town Manager

Mr. Monger stated that the Citizens Advisory Committee recommended the council meeting be held in a larger facility to accommodate the larger crowds.

COMMITTEE REPORTS

Personnel

Councilman Dearing stated that he held an open session to hear employee concerns. He suggested that pre-employment drug testing be implemented within the employees' handbook. Councilman Dearing stated that the revisions to the recreation bylaws are still in process.

Councilman Dearing asked that the proposed cemetery director job description be approved so that the position can be filled immediately. He pointed out that this is a newly created full time position.

Councilman Snow suggested that the requirement of "completed a typing course" be changed to "proficient on a keyboard."

OLD BUSINESS

Water Filtration - Second Reading

Councilman A. D. Dixon moved, seconded by Councilman W. E. Printz and carried to approve the second reading on the appropriation for the water filtration system.

YEAS: R. C. Davis, A. D. Dixon, M. L. Dearing, W. E. Printz

NAYS: F. A. Bennett, R. L. Snow

Section 9-3-42(d) - Minors Curfew Violation Fine- Second Reading

Mr. Davenport reported that the amended ordinance will increase the maximum fine to $100.00. He stated under the current ordinance the fine is $5.00.

Councilman M. L. Dearing moved, seconded by Councilman F. A. Bennett and carried to amend section 9-3-42(d) to increase the minor curfew violation fine to a maximum of $100.00. (A copy of the ordinance is attached to the minutes.)

YEAS: **F. A. Bennett, R. C. Davis, M. L. Dearing, A. D. Dixon, R. L. Snow**

NAYS: **W. E. Printz**

NEW BUSINESS

Family Fun Center - Shen Elk Plaza - Special Exception Request

Councilman A. D. Dixon moved, seconded by Councilman R. L. Snow and carried to approve the special exception request submitted by Mr. Robert Conway for a Family Fun Center in Shen-Elk Plaza.

YEAS: **F. A. Bennett, R. C. Davis, M. L. Dearing, A. D. Dixon, R. L. Snow**

ABSTAINED: **W. E. Printz**

R. E. Grimsley - Water Connection Request

Councilman Bennett pointed out that an adequate water line is across the street from this property. He stated that Mr. Grimsley is responsible for the cost to run the water line to his property.

Councilman F. A. Bennett moved, seconded by Councilman W. E. Printz and carried to grant the request from Mr. Ronald Grimsley for an out of town water connection for the property on Washington Street.

YEAS: **F. A. Bennett, R. C. Davis, M. L. Dearing, A. D. Dixon, W. E. Printz, R. L. Snow**

Cemetery Director - Job Description

Councilman M. L. Dearing moved, seconded by Councilman A. D. Dixon and carried to approve the job description for the cemetery director as presented with recommended change of replacing the wording of "a required typing course" with "must be proficient on a keyboard."

YEAS: **F. A. Bennett, R. C. Davis, M. L. Dearing, A. D. Dixon, R. L. Snow**

NAYS: **W. E. Printz**

Councilman Dearing stated that the cemetery director will oversee all the cemetery operations. He stated that the Cemetery Commission has recommended that this position be created.

Councilman Davis mentioned that there needs to be someone devoted to the cemetery department.

Neighborhood Watch Program - Request for 2-Way Radios

Councilman Dearing stated that he received a request from the Neighborhood Watch Program to purchase 2-way radios for the block captains at a cost of $290.00. Councilman Dearing pointed out that the Neighborhood Watch Program received a $500.00 donation to start a coffee house.

Councilman M. L. Dearing moved, seconded by Councilman F. A. Bennett and carried to purchase 2-way radio for the Neighborhood Watch Program at an approximate cost of $290.00.

YEAS: F. A. Bennett, R. C. Davis, M. L. Dearing, A. D. Dixon, W. E. Printz, R. L. Snow

Councilman Bennett asked that the EAUS request be sent to committee and a letter explaining the decision be sent.

Mayor Dean welcomed Councilman Richard Davis to the council. Mayor Dean asked that Councilman Dixon and Councilman Davis co-chair the Electric Committee. Mayor Dean asked that the Electric Committee respond to the EAUS request to change the utility date.

Councilman Snow stated that changing the due date will not solve this problem. Mr. Bob Hammer stated that EAUS is running out of money and cannot continue to pay the citizens' utility bills.

Councilman Dearing asked that Mr. Davenport prepare a draft to set up an employee drug screening procedure for the next meeting.

Councilman Printz asked about the water pressure problem in Elkwood and Stuart Avenue. Mr. Flick responded that repairs to the water line caused a decrease in water pressure on Stuart Avenue. Mr. Monger stated that smaller water lines going into the house could be part of the problem. Councilman Printz asked what are the plans to correct the water pressure problem in Elkwood. Mr. Flick responded that a private local engineer is preparing a booster pump design.

Councilman Dixon asked about the sewer problem on Stuart Avenue mentioned at the public hearing. Mr. Monger stated that this is probably due to old sewer pipes.

Councilman Dearing pointed out the importance of creating a ten to fifteen year comprehensive plan to correct the infrastructure.

Victorian Haven - Special Exception Request

Mayor Dean asked for council's opinion on this request. It was the consensus of the council to discuss the Victorian Haven Special Exception Request with the revisions.

Councilman Dearing stated that Victorian Haven offers custodial care to its residents. He stated that after reviewing Mr. Weaver's specifications is it legal. Councilman Dearing stated that once a lot line vacation is approved, anything can be built within 5 feet of his neighbors.

Councilman Snow expressed the importance of a written agreement on the limitations. He stated that any event not approved should be reported to town officials.

Councilman Printz pointed out that the two properties between the convenience store and Victorian Haven will be difficult to sell. He stated the importance of providing a facility of this type. Councilman Printz asked that all state requirements be met.

Councilman Bennett stated that he tries not to be judgmental. He feels that the zoning ordinance must be followed. Councilman Bennett expressed concern on granting lot line vacations and alleys. He pointed out that once granted these decisions cannot be reversed.

Councilman Davis asked Chief Pence the type and frequency of public safety respondes to the home. Chief Pence stated that officers assist the rescue squad and have helped to locate residents who have strayed.

Councilman Davis asked Mr. Davenport if the special exception request is granted and the current owners sold the property, what would be the stipulations on the new owners. Mr. Davenport responded that this is a land use permit, it is not issued to an individual. Therefore, the special exception would remain with the sale of the property. Councilman Davis stated that prior council decided that the area is a business district, not residential.

Councilman Dixon stated that zoning for a single residential neighborhood is to protect against the encroachment of commercial and industrial uses. Councilman Dixon stated that approving this request would affect the surrounding area. He stated that there would be an increase in traffic.

Councilman Bennett stated that the zoning ordinance is non-conforming. He stated that if a mistake was made, it should be corrected objectively.

Mr. Monger recommended approving the expansion with the following stipulations that were imposed November 20, 1995:

1. Special exception is granted to Wayne Weaver for a Home for Adults as defined and described in Section 302.115 of the Zoning Ordinance to the Town of Elkton.
2. The owner/operator be in compliance with all local, state, and federal rules, regulations, ordinances, and laws.
3. Residential occupancy by non-clients shall be limited to the owner/operator and one full-time staff person.
4. No deliveries before 7:00 a.m. or after 5:00 p.m. are to occur.
5. Obtain a lot line vacation.
6. Pave and maintain to state specifications the alley from its intersection with Spotswood Avenue to the entrance of the parking lot of the Home for Adults for a distance of 270 feet.

Mr. Monger recommended the following additional stipulations:

1. Pave to town specifications the alley from "C" Street, south to the existing pavement in same alley.
2. No additional expansion be allowed on the existing property, other than the proposed expansion as allowed by vote of council at the meeting on which time the action is taken.

Mr. Flick recommended requiring placing a dumpster at the back of the facility or in the alley area.

Councilman Dearing asked when council approved the initial request, if they realized the overall expansion. He stated that specifications should be placed in order to have control.

Councilman Dixon stated that the Planning Commission was under the assumption it would only be one expansion.

Councilman Dixon asked Mr. Weaver if he could take precautions to relieve his neighbors' concerns. Mr. Weaver stated that all doors are monitored with alarms.

Councilman Davis asked Mr. Davenport how the restrictions would be enforced and monitored. Mr. Davenport stated that town officials can inspect any property periodically. He stated that violation of these limitations could result in criminal charges. Mr. Davenport stated that there are only certain stipulations that can be placed under the constitution.

Councilman Bennett pointed out that approving the lot line vacation creates a large establishment.

Councilman Dixon and Councilman Davis asked that this be tabled and sent back to the Planning Commission for consideration. Councilman Dixon stated that the Planning Commission expressed concern over the type of residents residing at the home and the impact on water and sewer lines.

Ms. Cathy Murphy commented that any new stipulations would not be enforced. She feels that Stuart Avenue is a residential area and should remain as such.

Councilman W. E. Printz moved, seconded by Councilman R. L. Snow and carried to approve Mr. Wayne Weaver's application for a special exception permit for a Home for Adults as defined and described in Section 302.115 of the Elkton Zoning Ordinance with the following conditions and requirements:

1. **The owner/operator shall be in compliance with all local, state, and federal rules, regulations, ordinances, and laws.**
2. **Residential occupancy by non-clients shall be limited to the owner/operator and one full-time staff person.**
3. **No deliveries before 7:00 a.m. or after 5:00 p.m. are to occur.**
4. **A lot line vacation must be obtained before the permit is effective.**
5. **Pave within 180 days from the permit issuance date and maintain to town specifications the alley from its intersection with Spotswood Avenue to the entrance of the parking lot of the Home for Adults for a distance of 270 feet.**
6. **Pave 180 days from the permit issuance date to town specifications the remainder of the alley from existing pavement to "C" Street.**
7. **No additional expansion of this use shall be allowed on the subject property, other than the proposed expansion as allowed by vote of council at the meeting on which time the action is taken.**
8. **Locate and maintain a large commercial trash and garbage container on the south-east corner of the property adjacent to the alley intersections.**
9. **Any water and sewer upgrades at Mr. Wayne Weaver's expense by reasonable determination by town council.**
10. **Limit occupancy to a maximum total of 63 residents.**
11. **Council's approval (prior to any construction) on blueprints and draft with no material modifications.**
12. **Place a security fence along the property perimeter, having a design approved by the Zoning Administrator, at Mr. Weaver's expense.**

A vote was taken on the motion:

YEAS: R. C. Davis, W. E. Printz, R. L. Snow

NAYS: F. A. Bennett, M. L. Dearing, A. D. Dixon

Mayor Dean voted yea to break the tie.

Planning Commission Appointment - Mr. Phillip Workman

Councilman A. D. Dixon moved, seconded by Councilman W. E. Printz and carried to appoint Mr. Phillip Workman to fill a vacancy on the Planning Commission.

YEAS: F. A. Bennett, R. C. Davis, M. L. Dearing,

A. D. Dixon, W. E. Printz, R. L. Snow

Recreation

Councilman Dearing stated that the Recreation Commission decided that the Little League take over the girls' softball program. He stated that it appears some commission members are trying to undermine the Director of Parks and Recreation. Councilman Dearing stated the current bylaws should be reviewed. He stated that perhaps only town residents be appointed to the recreation commission.

Councilman Printz expressed concern turning over these programs to the Little League and the county.

Councilman Snow recommended contacting each commission member instead of discussing this monthly at the council meeting. He stated that when Mr. Pence was hired the title was recreation coordinator, then it was changed to recreation director.

Mr. Pence stated that approximately 45 girls participated in the girls' softball program last year, clearing a total amount of $403.00. Mr. Pence stated that he prepares the fields and mows the park. He feels the girls softball should not be taken away from the recreation department.

Councilman Bennett stated that one person cannot handle all the recreational activities, therefore the commission and director should try to work together.

Mr. Charles Herring stated that the proper grievance procedure should be followed if there is a compliant about the recreation director. Mayor Dean asked Mr. Herring if it appeared the motion to move the girls softball to Little League was done to undermine the director or in the best interest of the program. Mr. Lee Hammer stated that he has been coaching girls softball for the past nine years. Mr. Hammer stated that the program is operating better now than several years ago. He stated that in the past the preparation of the fields depended on the volunteers.

Councilman Snow stated his opposition to turning over the program. He stated that the town's program allows girls between 7 and 12 years old, thus eliminating excessive travel.

Councilman Davis asked the ratio of out-of-town participates to in-town participates. Mayor Dean responded it is approximately 70 percent out-of-town and 30 percent in-town.

As there was no further business, the meeting adjourned.

MAYOR: _____
Charles E. Dean, Mayor

RECORDER: _____
Nancy A. Sours, Clerk