**Special Council Meeting**
**August 28, 2001**

Special meeting of the Elkton Town Council was held August 28, 2001, at 7:00 p.m. in the Council Chambers, with the Mayor Millard L. Dearing presiding. The roll call was as follows:

**PRESENT**

C. Murphy
L. Sigafoose
W. Printz
M. O'Neill
T. Pence

Faye H. Vickers, Clerk was also present.

Mayor Dearing stated first on the agenda is annexation. Mayor Dearing introduced Bill O'Brien, County Administrator and Mike Breeden, Board of Supervisors.

Mayor Dearing stated the Town had concerns with the proposed annexation. Mayor Dearing further stated he Nathan Miller, and Mr. Aldhizer, had met with O'Brien and Mike Breeden trying to reach an agreement everyone could be comfortable with.

Mike Breeden spoke to address the concerns from Town residents about fair treatment of residents on the eastern end of the county. Mr. Breeden stated there are several projects in the works for the eastern end of the county. One being, $l, 000,000 of VDOT money will be spent in District 5 this year. Second, two paid personnel for the fire and rescue squad was funded this year, at approximately $70,000 for this project. Third, Elkton Middle School will be added to. It's the first time since 1965 that renovations have been made to the school. Mr. Breeden feels the county is being very active in this end of the county.

Mr. Breeden stated the county was looking at sharing the initial cost for running the water and sewer to the 340-Washington Street, Chicken Hill area or Pentecostal Hill. Mr. Breeden further stated he had visited the residents in that area and saw the sewer running into their cisterns. He feels this is an important issue to look at for annexation. He states the Town could benefit from that revenue. Mr. Breeden also stated the Holtzman Co. could be another asset to the Town. Mr. Breeden stated he had met with Mayor Dearing to discuss the annexation, and Mr. Breeden feels the river is the boundary line for the annexation. Mr. Breeden stated at the public hearing held at the Elkton Middle School, there were 168 people to speak against annexation, and he further stated he has received approximately 1000 letters and petitions in regard to the annexation. Mr. Breeden stated it was important to him for the Town to prosper and to find a way to work with one another to come to a compromise. Mr. Breeden offered his expertise in the area of water and sewer line to assist with the Chicken Hill project. Mr. Breeden stated there had been 2 residents to speak in favor of annexation.

Mayor Dearing stated his concerns that Elkton has proposed an annexation and been working on this since 1985. Mayor Dearing ask that the same consideration be given to Elkton that has been given to Harrisonburg, Broadway has annexed twice, one friendly and one hostile. Mayor Dearing stated the Town has growing pains and needs the revenue. He further stated if he were a resident in that area and already had water and sewer, he would oppose the annexation also. The residents opposing the annexation already have water and sewer but the area the county wants the Town to take, Chicken Hill, does not. Mayor Dearing stated the Town does not want to take a deprived area when we do not have the revenue to undertake that area. Mayor Dearing stated that Food Lion and Quail Run would not be here if it were not for the Town supplying the water and sewer to those areas. He further stated the out of Town residents pay the same fees as the in Town residents without having to pay the taxes. This is not fair to our residents who have water pressure problems because of the drain the ten inch pipe running to the out of Town area causes. Mayor Dearing stated there was an issue with taking in the hospital. He stated that was not in Phase 1 but was in Phase 2 of the annexation. Phase 1 was to go to the Food Lion area. Mayor Dearing stated the County is opposing the annexation, and he asked what the County would be losing in this annexation. They would keep the taxes and nothing would go away. Mayor Dearing stated the Town could provide the services for this area. The electricity is there, and the Town would not try to take the electric. The Town already provides water and sewer and police protection.

Mr. Breeden responded the Sheriffs' Department answers calls to the Town also. Mr. Breeden stated Broadway, Grottoes, Dayton and Bridgewater have all had annexation and assured the Town that none of those annexations, with the exception of Grottoes, were annexed with their first proposal. He stated the annexation for Broadway and Timberville were both less than their original requests. Mr. Breeden stated the water and sewer rates were set in 1985 and he wasn't around then and if they are wrong he is sorry for that.

Bill O'Brien stated the rates were not an ill thought out process. Mr. O'Brien stated the rates were discussed over a three-year period before an agreement was reached on those utility rates. He further stated the county has the resources to put those utilities in and around the towns independent of having the towns work with us. Mr. O'Brien stated the county has taken the position that this would not be a good use for the taxpayers' money. He stated the county should not take the position to compete with its towns. After all, the towns are a part of the county and the people in the towns are county citizens.
Mr. O'Brien stated the county decided it should work with the towns. He further stated the Town of Elkton has benefited from those agreements tremendously, because the Town put in absolutely no money. Mr. O'Brien stated the way he views this situation, is that since the mid 80's, the Town of Elkton has had excess capacity in its water and sewer system and how Town was able to capitalize on this by having those lines extended at the County's and land owners cost, who put up the money to have it extended. Once those lines were constructed, they were given to the Town to receive the revenue from the water and sewer. Mr. O'Brien stated he felt the rates for the out of Town residents were just, due to the fact the Town did not put any money into the project. Mr. O'Brien stated it has caused concern with some members of the Board of Supervisors that the Mayor would publicly make a statement that there is a legally binding document or agreement that the Mayor recommend to the Council that the Town would no longer honor. Mr. O'Brien thinks that has thrown a tremendous shadow over the discussions between the Town and the County.

Mayor Dearing stated in the 1985 agreement the Town has to provide the same service to the out of Town residents and the in Town residents. The Town could close the valve half off and would be providing the same service to those residents and the Town residents. Mayor Dearing stated when the agreement in 1985 was entered into did anyone realize the build up would be around the Town? The County owns everything around us and there is no room for growth. The Town has grown by 40 people in ten years. The Town opposed the Holztman expansion because of creating another town on this side. Mayor Dearing further stated the County did put in the pipe, but what good is a pipe without the water. He stated that according to the agreement if the Town's system is overloaded, the County residents will not pay anything to upgrade the system but the Town residents will. Mayor Dearing stated the Council is at the point for the Town to shut off the valve and let the courts decide. He stated if the dialog was researched, the annexation was discussed in 1985. Mayor Dearing stated Food Lion, in an article in the newspaper, blessed the annexation because they got the police protection they wanted. A week later, Food Lion changed their mind and they opposed the annexation. What happened to make them change their mind? People talking with them is what changed their mind.

Mr. O'Brien stated he would like to clarify that no county taxpayers' money went into that line. When that line was put in there was a developer with a bond and the County put up $75,000 that came from the water and sewer/operating fund.

Councilman O'Neill stated with the resources the County has, why wasn't Pentecostal Hill given the same consideration? He further stated there was an agreement to complete an engineer study of what was needed to repair that area and when the County's payment for their portion of that study was received, there were strings attached stating the Town would agree to the same agreement as across the river. Mr. O'Neill stated he had problems with the County changing their mind after the agreement was made.

Mr. O'Brien stated a letter was sent to Mr. Stroemple laying out the stipulations for the Boards approval for paying the $5000. Mr. O'Brien acknowledged the check had been returned. The check and a copy of the letter were forwarded to Mr. Aldhizer, to consult with the Town attorney. Mr. O'Brien stated there were no rules changed.

Mayor Dearing stated the County did not lose any of the money put forward on this project as the connection fees were paid to the County. Mayor Dearing asked why Chicken Hill was not given the same consideration as the West end of the County? Mayor Dearing stated he had seen sewer running into the water on Chicken Hill and the Council had allowed some of the residents to connect to Town water, but this was putting a burden on the Town system. The Council had no choice but to stop out of Town connections.

Mr. O'Brien addressed Councilman O'Neill's question regarding Chicken Hill. He stated the reason the utilities went west was because that was the initiative of the developer. He stated there is a concern of the Board of Supervisors because of the size of this county and the number of people that do not have central water and sewer. What the Board does in one area they would have to be consistent in all areas. Mr. O'Brien stated the Board has been trying to find the funds to address these areas, but have not been successful. Mr. O'Brien said the severity of the problem on Chicken Hill was not as bad, when the West side was developed, as it is today. The utilities on the West side were placed there to provide for the commercial establishments.

Councilman O'Neill asked if the County had concerns for that area, why would the Board attach stipulations on the $5000 to pay for the engineering study? Those stipulations stated the Town was tied to the same agreement as was for the West side, when nothing had been decided as who would pay for what.

Mr. O'Brien stated the Board was protecting its interest in that money, if the Board were to make a decision to follow up on the study to provide utilities there.

Councilman O'Neill asked if the stipulation to lock in the rates was being fair to the Town. This is a big issue of contention and was it necessary?

Mr. O'Brien stated the Board had in place two agreements, believe to be amended ones, but there was no reason not to make it a stipulation, since the agreement has worked for sixteen years. Why not piggy back on to that? He further stated if the Council found the Boards' conditions not to be acceptable, the Board should have been told in April, not in August.

Councilman O'Neill reiterated the high revenue area has received one treatment and the less advantaged area, Pentecostal Hill, has received another.

Mr. O'Brien stated the low revenue area received consideration, but there were no revenues there then, those utilities were extended west so the shopping center could be developed.

Mayor Dearing stated if Pentecostal Hill were on the west end, the Board would give it to us. Pentecostal Hill will not generate any revenue for years because the Town would have to get a grant to fix it. Pentecostal Hill is a burden to the County and the Town could refuse it, but the Board of Health is going to make somebody fix it.

Mike Breeden stated the Town would see a profit on Pentecostal Hill in twenty years.

Mr. O'Neill stated that was the same with the lines going west, a financial burden was placed on the County then.

Councilman Sigafoose inquired as to what would happen when the Town sewer system reaches its capacity?

Mr. O'Brien said the Board addressed this with the Mayor. The answer to that is to structure the water and sewer rates to build a sinking fund to address expansion issues down the road. The residents' rates should be raised to accommodate renovations.

Councilman Sigafoose stated to upgrade the Town sewer plant it would cost approximately $12 million.

Mr. O'Brien stated there were assets out there that can be applied for by the Town. Mr. O'Brien serves on the Virginia Resources Authority Board of Directors that has a bonding cap of $9 hundred million for these types of project improvements, based on the localities ability to pay. Mr. O'Brien said a number of these loans are being made over a 20-year period at zero percent interest.

Councilman Sigafoose stated the Town residents pay double taxes and the out of town residents do not, so the money would have to come from in town residents for any improvements.

Mr. O'Brien response was that should not be the scenario. The taxpayers should not be paying for the up grade to the water and sewer system, but the users should be paying for that through their rates.

Mr. Breeden inquired if the Town of Elkton had anyone working on grants and resources for the Town. Mr. Breeden offered help from the county staff to assist in this area.

Councilman Printz stated when the Town applied for the ISTEA grant, it took six months of total dedication and hard work, and, as you know, there are so many strings attached it is very difficult to actually get the money.

Mayor Dearing stated the grants are something the Town can work on. The residents of the Town would have to be told the water and sewer rates will be increased to pay for an upgrade to the sewer treatment plant because the Town extended service to the County does not sit well with the Council. The 1985 agreement, no matter how good the intentions, has seven years left on the agreement. Lines could be run from Harrisonburg and the Town could not stop that.

Mr. O'Brien stated the Boards' record stands for itself. The Board and County have worked with the Town since those agreements were put in place in good faith. Mr. O'Brien stated he would expect the Town to do the same.

Mayor Dearing stated that a sewer line was put in across 340, which the Town opposed, that was run for one business owner. That line, costing $31,000, was not put in to accommodate the residents. The Town said they would never put sewer to that line because the Town did not want to create another line over there and the Town opposed it. Mayor Dearing said the agreement in 1985 was made to accommodate the big business moneymakers, not the homeowner.

Councilman Printz asked how much was still owed on the agreement with the County?

Mayor Dearing said the agreement buy out was $230,000 or seven years.

Councilman Printz stated he had read the agreement and since 1985 a lot of things have changed. The new laundromat that Massanutten is putting in will put a burden on our system. Councilman Printz stated the businesses that opened on the west side might have contributed to the closing of some businesses in Town. Prospective business owners, who are looking at the cost structure out of town and cost structure in town, will choose to be out of town due to the taxes. Councilman Printz stated maybe the County should take a look at the agreement to give the Town the opportunity to do something with the rates.

Mr. Breeden stated if the County would annex the west side of the river, the Town would have five years to provide services to every parcel that requested water and sewer. If Mr. Pence thinks he has water pressure problems now, add all the houses behind those businesses and you will be carrying the water in a bucket. Mr. Breeden stated the Town would have more expenses with the annexation.

Mayor Dearing stated if the Town did not annex and the County continues to extend the services the Town would not have any water or the revenue. If the car wash goes in, the laundromat is already in and other businesses go in along the corridor to the hospital, Elkton will dry up. Mayor Dearing stated when the Town said they were looking at cutting off the services to anything new, Mr. King started construction on five new houses in that same week. Mr. King knows that Quail Run would not be there if not for Town water and sewer.

Mayor Dearing stated that Phase I of the annexation was to the Burger King and Food Lion line. The Town wants the initial Phase I. The Town needs to be able to grow and move forward.

Councilman Printz asked for any consideration the County could give on this situation. Councilman Printz stated there was a subliminal thought that there was an agreement between the Town and the County that the annexation would come down the line. There was no formal verbal agreement and nothing in writing, but that is why the agreement went through, because the Town felt the annexation would go through.

Mr. O'Brien agreed that Councilman Printz was correct about the discussions of annexation. The County stands on its record in dealing with all towns. When the laws changed to allow these types of agreements, the County was on the cutting edge, being the first County in the Commonwealth to pursue those agreements under the new laws. He further stated those agreements were used by a lot of localities around the Commonwealth as models. The County fully expected some type of annexation to come from the Town of Elkton, but when the article appeared in the newspaper stating that Mr. Breeden had taken a ride with Mr. Monger and $60,000 was spent in surveying, there was agreement that the surveying should be done or that the annexation would take place.

Councilman Printz stated the bridge is not where the Town needs to be. The Council needs to meet with the Board to discuss annexation beyond the river. Councilman Printz asked for suggestions for proceeding with this project.

Mayor Dearing stated everybody's position changes with time. Mr. Huling blessed the annexation with the Town of Elkton; he took it to the annexation committee when he was in office. Mayor Dearing stated if the County thinks they will give Elkton the Chicken Hill area, and expect the Town to make money on it without giving Elkton the west end, it will not work.

Mr. O'Brien stated the County did not say they would give Elkton the Chicken Hill area with a grant. The County said they would work with the Town, but to what extent, would remain to be decided.

Mayor Dearing stated no discussion with the County on annexation has gone past the river. That would give Elkton the dump, a concrete plant and the sewer treatment plant that Elkton already owns.

The Council was in agreement that the Town of Elkton would fight the annexation with the County.

**Closed Session**

**Councilwoman C. Murphy moved, second by Councilman L. Sigafoose and carried that the Elkton Town Council be in closed session for Virginia State Code 2.1-344 to interview a candidate for Town Administrator position.**

**Yeas: C. Murphy, T. Pence, L. Sigafoose, M. O'Neill and W. Printz.**

**Motion carried (5-0)**

**Councilwoman C. Murphy moved to go from Closed Session back into Regular Session and that each member, to the best of his or her knowledge, certifies that only public business matters lawfully exempted from an open meeting requirement under Chapter 21 of Title 2.1 of the Code of Virginia were heard, discussed or considered. Councilman W. Printz duly seconds the motion.**

**Yeas: C. Murphy, M O'Neill, T. Pence, L. Sigafoose and W. Printz.**

**Motion carried (5-0)**

**Councilwoman C. Murphy moved, second by Councilman M. O'Neill to offer and appoint Ray Clary as Town Administrator effective Sept. 4, 2001. Mr. Clary shall be compensated at an annual salary of $41, 442 if the Town's insurance is declined or not mandated. If the Town is to pay an insurance premium for M. Clary, his annual salary shall be adjusted to $40,629.**

**Yeas: W. Printz, L. Sigafoose, and M. O'Neill**
**Nays: T. Pence**
**Abstain: C. Murphy**

As there was no further business the meeting was adjourned.

**MAYOR:** M Lee Dearing
**M. Lee Dearing, Mayor**

**RECORDER:** Faye H. Vickers
**Faye H. Vickers, Clerk**