**Special Council Meeting**
**September 27, 2001**

A Special meeting of the Elkton Town Council was held September 27, 2001, at 6:00 p.m. in the Council Chambers, with the Mayor Millard L. Dearing presiding. The roll call was as follows:

**PRESENT**

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

Attorneys Tom Miller, Lauri Sigler and Faye H. Vickers, Clerk were also present.

Councilman O'Neill offered the Invocation.

Mayor Dearing stated the only thing on the agenda is to discuss Victorian Haven's Special Use Permit.

**Councilwoman C. Murphy moved, second by Councilman T. Dean and carried to approve the Resolution to reinstate the Special Exception Permit for Waterfront Properties as presented. Copy attached.**

Councilman Pence stated he would like for the minutes to reflect that he did not support this issue. He questioned how Council could issue a permit to a business that has not gone before the Planning Commission. He stated anyone wishing to purchase the property would have to go to the Planning Commission and Waterfront should have to go through the same procedures. Council should not be voting on this issue until Waterfront has gone before the Planning Commission.

Mayor Dearing stated the Special Use Permit is still in existence for Wayne Weaver until December 13, 2001. The Court will decide if the action of the Council was legal. Waterfront Properties will have a Public Hearing, meet with the Planning Commission and apply for a Special Use Permit to operate the home according to procedure. Council is allowing them to operate under the existing Special Use Permit.

Councilman Pence stated he would not vote for Waterfront Properties to operate under this permit as long as Wayne Weaver is suing the Town for revoking the permit.

Councilman O'Neill stated if the Court rules against the Town at the hearing on December 13th, Wayne Weaver could still operate under the existing Special Use Permit in any manner he chose.
He stated if he understood the Resolution, Waterfront is relinquishing all rights to the existing Special Use Permit and will have to follow all procedures to obtain a new Special Use Permit. Waterfront will meet with the Planning Commission, a Public Hearing will be held, and will request from Council approval for a Special Use Permit with conditions Waterfront will have to adhere to.

Mayor Dearing stated if Mr. Weaver wins in Court, the Special Use Permit would remain as it is. The Council cannot change the stipulations of that Special Use Permit. Should Waterfront buy this property, they will go through the same procedures as a new property owner. The Town of Elkton Codebook states a Special Use Permit can only be issued to the property owner. Waterfront will go through the application procedure, just as Mr. Weaver did.

Mayor Dearing stated in 1997 the question was, if Mr. Weaver ceased to own the property did the Special Use Permit go with Mr. Weaver or stay with the property. Mayor Dearing asked Mr. T. Miller if he felt the permit went with the property.

Mr. T. Miller stated although he was not familiar with the Elkton Town Codebook, in most cases the Special Use Permit would stay with the property.

Mayor Dearing stated each Council member did not want to rezone the property to Commercial because any business could be opened there. It was then decided if anyone purchased the property it would be under a Special Use Permit. When the Special Use Permit was written, no one thought that Mr. Weaver would not run a reputable home. All Council members are in agreement, if a Special Use Permit is issued, it will have exact stipulations for that facility. Waterfront was willing to accept those terms.

Councilman O'Neill stated should another purchaser choose not to relinquish the Special Use Permit, they would be able to operate under the existing permit as it is, and Council would never be able to kill this permit.

Councilman Pence stated he did not oppose the rezoning of the property or doing away with the permit.

Councilman O'Neill stated he thought Council had discussed rezoning the property to R6, and redefining an allowable use for the property.

Mayor Dearing stated the Council needed to stay focused on the issue at hand. There were 60 residents at Victorian Haven and now there are 28, whom we know are not receiving proper care. The Council decided, since the Court had given Mr. Weaver six months and maybe more and the State Licensing Board has given him up to two years before they close the facility, to take action and revoke the Special Use Permit. Council now needs to decide what is best for the people left in that facility.

Councilwoman Murphy asked if the Special Use Permit was issued to Mr. Weaver or the property? If the permit stays with Mr. Weaver and Mr. Weaver sells the property does the permit go away?

Lauri Sigler stated the permit stays with the property.

Councilwoman Murphy stated that was not what the past Council told the citizens. Past Council said the permit went with Mr. Weaver not the property.

Mayor Dearing stated that several Special Use Permits were issued to the property, such as the Bed and Breakfast the Dean's owned. In the dialog of the minutes it stated the permit went with Mr. Weaver, but we know that is not true, it goes with the property.

Mr. T. Miller stated there are Special Use Permits that are not transferable. The Town would have to make an ordinance or state it specifically in the permit.

After considerable discussion, Lauri Sigler determined from the minutes in August 18, 1997, the Special Use Permit stays with the property. It was not a stipulation in the permit that the Special Use Permit went with Mr. Weaver. Ms. Sigler stated zoning has always revolved around the use of the land, not the owner.

Mr. T. Miller suggested the Town Council may want redefine the zoning categories. Under a specific zone it should state what uses are allowed and then state what uses would be allowed in this zone, with a Special Use Permit. A business or individual would know by the zone listings what could be done with the property.

Mayor Dearing stated Waterfront Properties is willing to apply for a new Special Use Permit and will follow any stipulations the Town imposes.

Councilman Pence asked why Kip Jenkins had to go before the Planning Commission and Waterfront has not?

Mayor Dearing stated that Mr. Jenkins did not apply for a Special Use Permit. Mr. Jenkins wanted the property rezoned. He also did not want to be micromanaged by the Town through a Special Use Permit. Mr. Jenkins was at the Planning Commission meeting gathering information. He did not have an application for a permit nor did he have a contract on the property.

Mr. T. Miller stated that Waterfront Properties will complete the purchase of Victorian Haven on September 28, 2001. If the Council reinstates the Special Use Permit, Waterfront Property will be able to operate for a short time under the old Special Use Permit while they work on getting a new Special Use Permit.

Lauri Sigler stated Waterfront Property has conditionally rescinded the current operating permit. The conditions that have to be met by Waterfront are to apply for a new permit through regular channels, as any other applicant under Special Use.

Councilman Printz asked what would happen if the Council and Waterfront Properties could not reach an agreement on the conditions of the new Special Use Permit?

**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 M. O'Neill duly seconded the motion.**

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

**Motion carried (6-0)**

**Councilman T. Pence moved, second by Councilwoman C. Murphy to approve reappointment of David Dean to the Recreation Commission.**

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

**Motion carried (6-0)**

**Councilman T. Pence moved, second by Councilman W. Printz to approve reappointment of Joseph Gooden to the Recreation Commission.**

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

**Motion carried (6-0)**

**Councilman T. Pence moved, second by Councilwoman C. Murphy to accept the resignation of Tammy Lucas from the Recreation Commission.**

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

**Motion carried (6-0)**

**Councilwoman C. Murphy moved, second by Councilman W. Printz to approve reappointment of Bobbi Ray Monger to the Recreation Commission.**

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

**Motion carried (4-1)**
**Abstain (1)**

Committee meetings for Personnel, Finance and Water and Sewer is scheduled October 9, 2001 at 6:00 p.m. Committee meetings for Public Safety, Streets and Sidewalks and Electric is scheduled October 11, 2001 at 6:00 p.m.

Mayor Dearing informed the Council that if the Town Administrator needed assistance, he should contact the Chairperson on that Committee. Mayor Dearing also stated should a Council member have an issue, the Town Administrator should be called and give him the opportunity to work on that issue.

Council decided the meeting with the prospective buyers concerning Victorian Haven could not be in closed session. Everyone discussed their concerns for the citizens at Victorian Haven and how to handle the request for a special use permit.

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**