**Regular Council Meeting**
**June 18, 2001**
**7:00 p.m.**

The regular meeting of the Elkton Town Council was held June 18, 2001 at 7:00 p.m. in the council chambers with the Mayor Millard L. Dearing presiding. The roll call was as follows:

PRESENT

Theodore Pence
Cathy Murphy
Wayne Printz
Bobbi Horne
Mike O'Neill
Lucky Sigafoose

Burns Earle, Attorney, Richard Pullen, Chief of Police, and Faye Vickers, Treasurer/Clerk were also present.

Councilwoman Horne offered the Invocation.

The Pledge of Allegiance was recited.

Mayor Dearing welcomed everyone to the Elkton Town Council meeting. Mayor Dearing stated there are twenty-two people signed up to speak, each speaker will be limited to three minutes, and he would give one minute warning.

## CITIZENS COMMENTS

**William Johnson,** an LPN and member of the Elkton Rescue Squad, spoke in support of the high quality of care given to the residents of Victorian Haven. As a trainer of Victorian Haven personnel, he is confident of the care given each resident of the home. He asked Council to delay any action in closing Victorian Haven, pending the appeal before the State of Virginia.

**Betty Cubbage**, an employee of Page Memorial Hospital, spoke in support of Victorian Haven and the services it offers to its residents.

**Stella Smith**, whose mother received care at Victorian Haven for three years, received excellent care, stated that Council action against Victorian Haven was unjust.

**Joyce Shank** spoke in support of Victorian Haven giving examples of special care given to residents, such as good, hot meals. Her mother, Rosalee Kephart, is a current resident of Victorian Haven.

**Stephanie Cubage,** informed Council that Victorian Haven ranks 19th in the State among adult homes.

**Joe Sowinski** spoke in opposition to the East Rockingham Street Project. He suggested that Council make a motion to table the Rockingham Street Project until a determination was made regarding the $60,000.00 and moving the project to Spotswood Avenue.

**Annette Potts** owner of Lady Rockingham questioned the historical loss to East Rockingham Street if this project moved forward. She felt the residents were not fully informed of the potential loss of property associated with this plan. She felt the facts were confusing and asked for details clarification of the project.

**Frank Meleski**, 604 North Stuart Avenue, stated that making East Rockingham Street a thoroughfare would eliminate the integrity of the street by destroying yards and trees. He informed the audience and Council that if the State takes any land, even one foot of property under the Right of Imminent Domain, that the landowner would receive what the State valued the property. He encouraged Council to start listening to the people on East Rockingham Street and shelve this project.

Mayor Dearing informed the audience that not one member on the current Council wants the East Rockingham Street Project to move forward. The Town attorneys, Miller & Earle, have sent a letter to the State requesting the $60,000.00 be forgiven so the $60,0000 can be moved to other projects. Sixty thousand dollars to this Council is very important and they want to be assured that this money can be

moved to other projects.

**Andrew Franke,** 340 East Rockingham Street, moved from Northern Virginia due to traffic and similar situations with Fairfax County. He has lived in the property for 11 months and was not made aware of the plan when he purchased his home. Mr. Dearing informed him that this is a six- year plan and has been active for four years. It was not the Town's responsibility to inform every new resident of pending action. Council Printz added that the $60,000.00 is not Elkton's money to be lost or regained, as it is State money issued from an improvement fund. The loss would be if the State refused to move the proposed project to Spotswood Avenue.

**Elaine Smith,** 418 East Rockingham Street, stated she was opposed to widening East Rockingham Street.

**Liz O'Neill,** 425 East Rockingham Street, stated that in 1997 when the surveyors were in the area that she was not satisfied with their answers. She added that Mayor Dearing campaigned to move this project to Spotswood Avenue. She felt the residents were being given a false sense of security, as 50 feet will take some yards and some trees. Ms. O'Neill stated we do not want the Rockingham Street project to go through, either move it to Spotswood or kill it.

**Brad Nicholson,** 307 East Rockingham Street, presented a petition in opposition to the East Rockingham Street Project. A copy of this petition follows.

**Steve Lilly**, 324 East Rockingham Street, does not want trucks in his front yard.

**Mildred Shifflett,** 112 West Spotswood Avenue, stated that she was sorry to know that Bobbie Horne would vacate her Council seat but was very pleased that Madeline Dixon was being considered for that seat. She felt Ms. Dixon had the knowledge and experience to be of value to this Council. Ms. Shifflett addressed Chief Pullen, again complained about police inattention to the conditions that exist at the Farm Bureau parking lot. She requested that more attention be given this area because the noise forbids her from getting proper rest.

**Lucky Sigafoose** invited Mayor Dearing to be present at 10 AM on July 4th to present a flag, which was flown over the Capitol, to the VFW who will raise the flag in dedication.

**Mike O'Neill** read from a prepared statement. See attached.

**W. T. Robey III,** representing Mary K. Hutton, spoke to Council regarding a two million dollar voted upon referendum or issue; I would submit that you ask legal council of its legality. Mr. Robey asked for the release of the series readings of the ordinances regarding issues that you voted upon. Mr. Robey further stated that the referendum or issue is anticipated be repaid back by funds, then I would submit to you and the Council to consider the possible source of those funds, if they come from though IDA funds, they are not guaranteed. Mr. Robey suggested that you have constitutional amendments on your ability to issue general obligation bonds that you may be cutting into your limits for other needs without a guaranteed income from a golf course or whatever. Mr. Robey did not agree with Mrs. Hutton that the purchase of the Mary Elizabeth Kite property was neither good nor bad. He was just concerned that the whole process be legal and reasonable.

**Bill Wiley,** 220 East Rockingham Street, spoke of the historic and architectural significance of East Rockingham Street.

**Bill Karp** stated he did not receive a letter informing him of a proposed East Rockingham Street Project. Mr. Karp wanted to know if there was a possibility that the project could go through.

Councilman O'Neill replied yes, if the Council does not vote the current status.

Councilman Printz replied that he had tried to bring it to vote last month, there was discussion and Council decided the attorney to send a legal correspondence to the state. Mr. Printz has met many time with the people in charge of the project, they gave us an insinuation that we can work this out, but Council was not satisfied with an insinuation. The Council has the attorney involved in getting it on paper so we can make the proposal. Councilman Printz further stated that no one on Council wants this project to go through and are willing to move it to the Spotswood area.

Mr. Karp asked if it was dependent on the $60,000.

Mayor Dearing replied that several months ago Councilman Sigafoose, O'Neill, and Printz met with the

VDOT officials at the Country Inn. Prior to that meeting Mayor Dearing stated to Councilman Printz the only issue on this project is the $60,000. He further stated he did not trust the state officials to forgive, he wants it in writing that the $60,000 would be moved to the Spotswood funding and the project would be killed

**Caroline Brill** stated that some comments from the Councilman should have been left to closed business. Mayor Dearing replied the Council operates under open government, and that he respects their opinions. **Steven M. Blatt,** representing Victorian Haven, referring to Mayor Dearing's letter of June 6, 2001, which stated the Town's position on the Special Use Permit issued to Victorian Haven, advised Council that any action at this time was premature. "There is no legal basis for the Town to take any action tonight" was Mr. Blatt's statement when he admonished the Council to wait until after the appeals process has concluded.

**Wayne Weaver,** owner of Victorian Haven, again requested a sidewalk for the safety of his residents. Mr. Weaver stated he would pay for the sidewalk.

Mayor Dearing replied the state owns that road and the sidewalks. The state has not given permission to the Town to put a sidewalk on that side of the road.

Mayor Dearing closed the public session.

Mayor Dearing stated at this time that Councilwoman Horne would withdraw her intent to resign. He further stated that that Councilman Horne had not submitted a resignation in writing, the Council had not voted on the resignation. Mayor Dearing stated Councilwoman Horne would stay to complete her term in Council.

**Minutes**

**Councilwoman C. Murphy moved, seconded by Councilwoman B. Horne and carried to approve the minutes of the Public Hearing held May 21, 2001.**

**YEAS: B. Horne, C. Murphy, M. O'Neill, T. Pence, W. Printz and L. Sigafoose.**
**The motion was carried (6-0)**

**Councilwoman B. Horne moved, seconded by Councilwoman C. Murphy and carried to approve the minutes of the Public Hearing Meeting held May 21, 2001.**

**YEAS: B. Horne, C. Murphy, M. O'Neill, T. Pence, W. Printz and L. Sigafoose.**
**The motion was carried (6-0)**

**Councilwoman C. Murphy moved, seconded by Councilman W. Printz and carried to approve the minutes of the Regular Council Meeting held May 21, 2001.**

**YEAS: B. Horne, C. Murphy, M. O'Neill, T. Pence, W. Printz and L. Sigafoose.**
**The motion was carried (6-0)**

**Councilwoman B. Horne moved, seconded by Councilwoman C. Murphy and carried to approve the minutes of the Special Council Meeting held June 12, 2001.**

**YEAS: B. Horne, C. Murphy, M. O'Neill, T. Pence, W. Printz and L. Sigafoose.**
**The motion was carried (6-0)**

**DEPARTMENT HEAD REPORTS**

**Chief of Police**

Chief Pullen was questioned by Councilman Printz regarding rules of persons over eighteen on the streets. Chief Pullen reported there is an eleven o'clock curfew for anyone under the age of eighteen to be off the streets, however anyone over eighteen not causing a problem cannot be cited.

**Director of Public Works**

Mr. McCoy foreman for Public Works was not present. Councilwoman Murphy stated that Mr. McCoy has been with the Town only five weeks, but is doing an excellent job.

## Treasurer

**Councilwoman B. Horne moved, seconded by Councilman W. Printz and carried to approve June 2001, Finance Report as presented.**

**YEAS: B. Horne, C. Murphy, M. O'Neill, T. Pence, W. Printz and L. Sigafoose.**
**The motion was carried (6-0)**

## COMMITTEE REPORTS

### Electric

Councilman Sigafoose stated the vapor lights being used by town citizen should be increased a $10.00 monthly fee. Mayor Dearing asked Councilman Sigafoose to research the present current connection fee of $5.00 for electricity. He further stated the last new installation of electricity required a pole, transformer, 100 foot of underground service, a meter base and a meter.

### Finance

Councilwoman Horne stated and she had worked with Faye on the transfers and reallocations. She also reported the auditors had visited and were pleased with the system that had been implemented. Councilwoman Horne further stated that several businesses still have not purchased a business license.

### Personnel

Councilwoman Murphy stated an interview for Town Administrator was conducted on June 12, 2001. She further stated at the last committee meeting it was decided to go back to three members on each committee.

### Public Health & Safety

Mayor Dearing stated that the abandon cars have been moved on to private property, however the $100 tax, per town code 108-4, will be charged on any vehicle not registered. Mayor Dearing further stated that no junkyard according to state code 33-1-348 shall be within 500 feet of a state road.

### Streets and Sidewalks

Councilman Printz stated a lot of hard work, by the Town employees, has gone into improving the sidewalks. He further stated he was glad to see the employees are performing the work instead of contracting it out.

### Water and Sewer

Councilman O'Neill stated that there was nothing at this time.

### Cemetery

Mayor Dearing stated that the Cemetery roads have been paved at a fee of $26,000. He further stated additional land is being looked at for purchase.

### Recreation

Councilman Pence stated that there was nothing at this time.

### Planning Commission

Mayor Dearing report the Planning Commission committee had not met for three months. The Commission has been working for seven years to revise the Comp plan. The Planning Commission will be advised if they cannot get this done then Council will revise the plan.

## OLD BUSINESS

Mr. Earl stated there could be an opportunity to tax the cell phone tower in the middle of town, according to Virginia Code 56-468, right of way user fee.

Mayor Dearing stated there are places outside of the Town limits that we furnish electricity, in order to receive the utility tax, which was imposed by the state, effective on January 1, 2001, we have to pass this utility tax which will effect those individuals, this does not effect in town users, we have already imposed that tax.

**Second Reading of Utility Ordinance**

**Councilwoman B. Horne moved, seconded by M. O'Neill, to approve the Town of Elkton ordinance to advise the content of utility parts to accept the changes required for deregulation Section 148-10 in addition to taxes effective with the first bill for electric energy rendered from the meter readings on or after January l, 2001 the rate of tax on the electric energy delivered to the user within and outside the town limits shall be as follows: Residential user would be .011354 per kw hour with a minimum tax of $1.05 per month and maximum tax of $1.50 per month. I here by certify that the foregoing ordinance was adopted by unanimous vote.**

**YEAS: B. Horne, C. Murphy, M. O'Neill, T. Pence, W. Printz and L. Sigafoose.**
**The motion was carried (6-0)**

**Second Reading of Appropriations**

**Councilwoman B. Horne moved, seconded by Councilwoman C. Murphy and carried in the first reading, to appropriate $38,620 from General Government Reimbursement revenues to be used for General Government infrastructure improvements and if not able to be used in this current year it will carry over to the next budget year.**

**YEAS: B. Horne, C. Murphy, and T. Pence**

**NEAS: W. Printz, M. O'Neill, and L. Sigafoose**

**Mayor Dearing votes yes to break the tie. Motion carried.**

**Second Reading of the Budget**

**Councilwoman B. Horne moved, seconded by Councilwoman C. Murphy and carried the second reading; to adopt the 2001-2002 proposed fiscal budget as was presented.**

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

**Motion carried (6-0)**

**Second Reading of Reallocations**

**Councilwoman B. Horne moved, seconded by Councilwoman C. Murphy and carried the second reading, to approve the proposed re-appropriations and transfers for the 2000-2001 budget as was presented at the Special Council meeting on June 12, 2001.**

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

**Motion carried (6-0)**

**First Reading of Public Rights-of-Way**

**Councilwoman B. Horne moved, seconded by Councilwoman M. O'Neill and carried to approve an ordinance to enact section 148-16 of the Town of Elkton Code in order to establish a public rights-of-way fee for certain providers of telephone services as authorized by Virginia Code section 56-468.1** Ordinance attached.

**YEAS: B. Horne, C. Murphy, M. O'Neill, T. Pence, W. Printz and L. Sigafoose.**
**The motion carried (6-0)**

Mayor Dearing stated the Town is in the process of annexation of major portions of the out skirts of this Town. He further stated the ordinance should be changed to make sure we are in compliance for any future annexations. Should there be any questions, contact Mr. Miller or Mr. Earle.

**First Reading of Annexed Territory**

**Councilwoman B. Horne moved, seconded by C. Murphy and carried to amend section 110-406, Annexed Territory of the code of the Town of Elkton, stating "Any territory hereafter annexed to the Town of Elkton shall continue to be subject to the county zoning classifications and regulations as such territory was subject at the time of annexation until otherwise changed by rezoning.**

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

**Motion carried (6-0)**

Mayor Dearing stated he needed help with projects. He requested volunteers from Council to take three day to show Blackwell Engineering all the sewer and water lines, underground meters and give them the size of the lines. Mayor Dearing further stated he would no longer do this job it is a Water and Sewer job. Mayor Dearing asked that a Councilperson meet with Mr. Miller on the annexation, someone to go to Richmond to meet with the Virginia Electric Association, a one-day session in Richmond to talk about electricity. Mayor Dearing also requested a Council person come in to help Faye with the water and electric readings, he also needs someone to meet with VDOT to finish up with this fiscal year highway repairs that need to be done by June 30th. There is a project on North St. a ditch that needs repair, a project on Spotswood that need to be finished. Mayor Dearing stated he no longer has the time to complete these projects.

Councilman Sigafoose volunteered to go to Richmond to the electric meeting.
Councilwoman Horne volunteered to assist with the meter readings.

Mayor Dearing stated the next thing on the agenda is the Victorian Haven special use permit.

Councilman Printz addressed the citizens concerning the Rockingham Street project. He stated there was a split Council regarding the Rockingham St. project four years ago. Once the state becomes involve it is impossible to know what they are going to do and when they are going to do it and how it can be stopped once it was started. There was a vote to proceed with the project, contingent upon getting prints or information to know what exactly is going on. It is very difficult to make decision when you do not know the facts. The surveyors came to Rockingham Street and people became upset, because it looks like some people will be walking about two foot off their porch on to the street. The decision was made to make Rockingham St more accessible. The sidewalks are below the road, Mr. Monger made the suggestion to use it as the main thoroughfare to connect to the cemetery and it would cost the Town no money. Councilman Printz further stated after looking at the project it was decided that Spotswood would be the street to choose for the project. The $60,000 is an issue, regardless there will be a point in time when Council will have to make that decision, at this time Councilman Printz stated he had to agree with the Council to make sure legal domains are in proper order. Once the Council has received the documentation then it will come to a vote.

Councilman Sigafoose stated that Spotswood Ave. was the main thoroughfare.

Mayor Dearing replied that Spotswood Ave. has always been the main thoroughfare. Mayor Dearing stated the $60,000 was supposed to have been used on Spotswood, someone moved that money to Rockingham St. He further stated if Councilman Printz does the necessary research and paper work the $60,000 can be moved from Rockingham to Spotswood, the Town wants that in writing.

Mayor Dearing stated the next issue is the special use permit for Victorian Haven.

**Councilman M. O'Neill moved, seconded by Councilwoman C. Murphy and carried the special use permit previously granted to Victorian Haven be revoke, effective immediately, for numerous failures to comply with the first provision of the permit, which requires compliance with all local, state and federal regulations.**

At this time Mr. Earle stated that Miller & Earle has not represented the Town on this issue.
Mayor Dearing stated that the Town has not consulted Mr. Earle.

**YEAS: B. Horne, C. Murphy, and M. O'Neill**

**NEAS: W. Printz, T. Pence, L. Sigafoose**

**Mayor Dearing votes yes to break the tie. Motion carried.**

Mayor Dearing stated at this time the special use permit has been denied. The Council will give Mr. Weaver sixty to ninety days to have his residents moved. This will give him time to seek the legal council he needs.

**Closed Session**

**Councilwoman C. Murphy moved, seconded by Councilwoman B. Horne and carried that the Elkton Town Council be in closed session for Virginia State Code 221-344 to discuss the real estate acquisition of the Mary Elizabeth Kite property and the Town Administrator position.**

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

**Motion carried (6-0)**

**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. Councilwoman B. Horne duly seconded the motion.**

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

**Motion carried (6-0)**

Councilwoman C. Murphy stated the Council discussed the real estate acquisition and the Council has chosen not to take action, depended on further information.

**Attorney**

Mr. Earle had several issues to be updated.

1. On May 16th a letter, to the Council members, was sent regarding the nuisance statute, on proposed changes to the statue from the FCC to limit taxation on cellular towers. Mr. Earle wanted to know is he should prepared this for a first reading.

Mayor Dearing instructed Mr. Earle to prepare it for the first reading.

2. Another issue was the town cemetery and how the funds are to be dealt with, again on May 16th, a letter was sent to each Council member. Should anyone have questions please call Miller & Earle.

3. On May 16th Council also sent a reply on their recommendations pertaining to the facility use application and parade activities permit application.

4. On May 17th there was a question of non-conforming structures, again the reply was sent to Council.

5. On May 21st sent a letter with recommendation for change, concerning the issue on the taxation of manufacturing on a business license. If Council want Miller & Earle to take action to change the code, so direct.
   Mr. Earle was instructed to proceed in changing the ordinance.

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**