Regular
Council Meeting
April 15, 2002

The regular meeting of the Elkton Town Council was held Monday, April 15, 2002 in the Council Chambers with Mayor M. Lee Dearing presiding. The following Council members were present:

PRESENT

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

Nathan Miller and Lauri Sigler, attorneys, Richard Pullen, Chief of Police, Faye Vickers, Treasurer, Todd McCoy, Director of Public Works/Zoning Administrator, and Richard Carey, Clerk of Council, were also present.

Councilman O'Neill offered the Invocation.

The Pledge of Allegiance was recited.

CITIZEN COMMENTS

Hazel Crider, 114 Hillside Avenue, announced that the membership of Neighborhood Watch has steadily increased and that the group will now meet at the Country Inn Restaurant on the third Tuesday of each month at 7:00 p.m. Both keys to the activities center have been returned to Lynn Meadows.

Mary K. Hutton, 515 Chestnut, questioned Council about the costs associated with expanding Elk Run Cemetery.

Mayor Dearing stated that no body that acts on behalf of the Town conducts business without a quorum. A quorum was present at the Cemetery Commission meeting in question. The Cemetery Commission has a balance of approximately $650,000.00, of which an estimated $165,000.00 has been proposed to purchase an additional two acres, to pave roads to a 12' width, and to install drainage.

Mrs. Hutton questioned if state purchasing and bidding guidelines had been followed. Mayor Dearing answered that Elkton, with a population of less than 3,500, was exempt from state procedure.

Rick Workman, 154 Sweetgum, congratulated the students at Elkton Middle School for their recognition of police, fire, and rescue personnel following the events of September 11, 2001.

Theodore Pence compared the teamwork of the Mayor and Council to a basketball team, where each member has a defined job and all individual elements come together to make a whole. Overall, he was satisfied with the communications from the various standing committees but, was less pleased with information from Streets and Sidewalks, of which he is a member.

Councilman Pence made no excuses or concessions regarding his Council votes by stating he would remain faithful to the voters who elected him to Council. He gave credit to Mayor Dearing for wearing the hat of the Mayor as well as the hat of Town Manager.

Councilman Pence pointed to the staff writers from The Valley Banner and The Daily News-Record and said they report the name calling so prevalent - he believes - occurring in this election campaign. He emphatically called for an end to this type of campaigning and, if name

calling was needed, to do it behind closed doors.

MINUTES

Councilwoman Murphy: "Everyone will notice that these minutes are a little bit different this month. They are lengthier and they were done verbatim. They were done verbatim for a reason, not that Rick particularly wanted to type every word. He did an excellent job on them and you will see if there are mistakes in there - grammatical mistakes, sentence structure - that is the way he got it from the tape. He did this for a reason because, after we approved a set of minutes a couple of months ago, he was asked to go back and transcribe again sections of the minutes verbatim. My feeling is that once the minutes are approved by this Council that they are the official minutes and I think it is unfair to go back and ask Rick to spend time to transcribe verbatim again. The tapes are available upstairs for anyone who wants to listen to them but, I think, that's a big waste of his time. He did them this way this month in order not to have to go back and do that again. As a Council, we need to direct Rick how we want these minutes done. Do you want them verbatim, or do you want the essence of the meetings with the motions and the votes verbatim? That's the way I prefer to go with it. He needs some direction from Council."

Councilman O'Neill: "My feeling is we had a couple of extenuating circumstances. Generally, I agree with your point that the briefer form is the way to go but, in this case, it was my understanding the video tape did not work during the last Council meeting for the majority. Is that true? So, we did not have a good audio copy to work from and trying to go back and find any particular thing that was said would be particularly difficult this particular time. Secondly, because of the nature of the fact that we are in an election season and there is a lot being said and so forth, I feel that this level of detail is appropriate. I believe we do need to be held accountable for what we say and I think that this was appropriate for this go around. Since the election will be over by next meeting, I would support going back to our more brief format but commend Rick for the way that he has handled the minutes so far."

Councilwoman Murphy: "So, do you want tonight's meeting verbatim?"

Councilman O'Neill: "Yes."

Councilwoman Murphy moved, second by Councilman Pence, and carried to approve the minutes of March 18, 2002.

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

Motion carried (6-0)

Mayor Dearing: "Motion to approve the minutes of the Special Council meeting on April 2, 2002?"

Councilman O'Neill: "I have a motion on that, Mr. Mayor."

Mayor Dearing: "Okay."

Councilman O'Neill: "I would like a roll call vote. **Whereas the Special Meeting of the Elkton Town Council called by Mayor Lee Dearing for 7:00 p.m., April 2, 2002, was not in compliance with the 72 hour prior notice required by the Freedom of Information Act, and, whereas the meeting was not called as an emergency meeting, which would have waived the 72 hour notice requirement, I move that the Council proceedings on April 22, 2002 be declared null and void and that the minutes of those proceedings be stricken from the public record."**

Councilman Printz: **"I second."**

Mayor Dearing: "Any discussion?"

Councilman Pence. "Yes."

Mayor Dearing: "Hold it. Excuse me a minute just to make sure you have the facts. Any two Council members can call a meeting with 12 hour notice. The Mayor can call a regular meeting with 72 hour written notice. Theodore Pence and Cathy Murphy wanted me to call that meeting. So there were 3 people who wanted to call the meeting. Theo."

Councilman Pence: "Lee opened that meeting up that night and soon as Lee opened the meeting up Wayne made a motion on the floor to adjourn and Jay seconded. Then Lee says discussion and I started to say something and as far as I'm concerned that was a knife in my back, Wayne, Lucky, and Jay because I was talking and y'all walked out. If you all think that is good Council, as far as I'm concerned - no."

Councilman O'Neill: "I'd like to direct a question to Clerk of Council. When you contacted me, my recollection was that it was a telephone call on Monday morning, I believe you contacted me about 10:00 or 11:00 a.m., and, correct me if I'm wrong, but I believe your words were, 'The Mayor has called a special meeting of the Town Council.'"

Clerk: "True, because he is the one who came to me."

Mayor Dearing: "Any further discussion?"

Councilman O'Neill: "I would be curious to know what other Council members were told as to who had called the meeting."

Councilman Printz: "The Clerk of Court spoke with me and made a request to have a meeting. In that request he stated we have some new information on annexation and we could discuss anything else we would like to discuss. I informed him at that time that we do not have special meetings just to discuss anything we want to discuss. There should be a specific thing and it should be in an agenda form and we should get a copy of that agenda - something to that regard - none of which had happened. Also I had gotten a phone call prior to the meeting stating that the Mayor was planning on trying to degrade me in this meeting and that was the real reason for the meeting. I didn't mean to cut Theo off, or anyone else, but I have to defend my honor also and that is exactly what was going on. We were accused of having an illegal meeting when, in fact, we did not have an illegal meeting and in fact the meeting that was called was illegal."

Mayor Dearing: "Mr. Printz, the last 4 years that I have sat here with you as the Mayor and in the last 6 years I have sat here with you as a Councilman, at no time, and I have had many a case where I could have degraded, at no time have I ever degraded anyone sitting on this Council. But, I would hope that you all pass this motion tonight because the thing that happened that night is a disgrace and those minutes need to go away. I would be embarrassed if I was to read this 20 years from now and say this is what happened. So, if you all have a motion, let's continue."

Councilman Pence: "What I'm saying is I think we was going to make a second reading on the insurance on the house."

Councilman O'Neill: "That wasn't on the agenda."

Councilman Pence: "It wasn't on the agenda, right..."

Mayor Dearing: "If anyone remembers, if you know procedure, and the reason it was said,

Theodore had said he was leavin' Town. I said are you gonna be here. Everyone stated they would be here. If I have a full Council it does not have to be on the agenda. We have done it hundreds of times. If you have a full Council you can discuss any item, not...we have done it, and done it, and done it. Right, Wayne?"

Councilman Printz: "Not at an illegal meeting. Not at a meeting that was called illegally."

Councilman O'Neill: "I'd like to address another question to the Clerk. When you informed me of the meeting, what was my response regarding my attendance?"

Clerk: "You said you would not be attending."

Councilman O'Neill: "And, Mr. Pence, didn't I also discuss that meeting with you?"

Councilman Pence: "You said you weren't commin'."

Councilman O'Neill: "Okay. Thank you."

Councilman Printz: "The other thing, Councilman Pence, is I thought you were against voting for the money for the Historical Society insurance. That is why I thought you wouldn't mind if I tried to defend my honor."

Councilman Pence: "Just like you, Wayne, when we voted on this land to buy the Kite property, until Mrs. Hutton here sued us, you were against it. Soon as we started over again you voted for it."

Councilman Printz: "No, no, no."

Councilman Pence: "You have the right to change your mind and what I'm saying is if we had stayed here in the meeting that night and voted to insure that place...what if it had burned down? What if it had burned down? We would have lost everything."

Mayor Dearing: "Theodore, Jay has called for the question."

YEAS: L. Sigafoose, M. O'Neill, J. Dean, W. Printz
NAYS: C. Murphy, T. Pence

Motion carried (4-2)

Mayor Dearing: "These minutes will be stricken, not approved. You have them. I will keep them in my archives. Something I like to read a hundred years from now. Movin' on."

DEPARTMENT HEAD REPORTS

Chief of Police

Councilman Printz complimented Chief Pullen for the manner in which he handled an incident involving a female resident of Our Shenandoah Home.

Councilman Dean complimented Chief Pullen on the plaque presentation to members of the New York City Police Department at Elkton Middle School.

Mayor Dearing stated two police officers approached him regarding continued employment following the election. It was Mayor Dearing's hope that no one was making overt or suggested threats against any staff members.

Department of Public Works/Zoning Administrator

Mayor Dearing: "Last month there was a question brought up about a ditch on North Street. Mr. Printz said that he would take some action and I'm still waiting to see what action would be taken because it was not brought up at committee. The Chief of Police did go down and put up some police tape but the ditch has still not been fixed. So, Wayne, is there a solution for that?"

Councilman Printz: "There is no solution at this time. I did take the Chief down and I talked to Todd about it. We have to go through the state to try to get them down here to look at the ditch. It's gonna be much more complex. It's gonna cost probably between $150,000.00 to $200,000.00. We discussed every option possible and it's just gonna take more time. Unless you have any comments on it, Chief. Todd?"

Mr. McCoy: "Wayne's right. There's a sewer line that runs right down the center of that ditch. So, it's not an easy fix. The sewer line will probably have to be relocated and so forth."

Mayor Dearing: "Todd, if we relocated the sewer line and put in a culvert, is the price close to $150,000.00?"

Mr. McCoy: "I wouldn't want to guess on that. I know it would be costly but I don't know exactly how much."

Councilman Printz: "If I may, Mayor, no matter what direction we go, and I discussed this at length with the Chief and Todd, if you dig down and relocate the underlying sewer then you also would have to purchase property off of Mr. Snow."

Randell Snow: "It's not for sale."

Councilman Printz: "That's what I thought. Not for 150? Okay, that's what I'm saying. It would cause significant issues no matter which way we go. We're probably gonna have to get the state together at our next meeting with the Chief and the Council so we can make some very serious decisions on allocating some money to try to fix that project but it is not an easy fix."

Councilwoman Murphy: "Why is this the Chief's problem?"

Councilman Printz: "It's public safety. It's not the Chief's problem. It's just like Theo said, it's trying to get good communications. I met with the Chief I think the next day and we walked up and down and spent probably 45 minutes there. I felt like he should be involved...first, I think Todd was in Richmond at the time so I wanted to get the Chief involved and Todd involved and before we go to the state and make some more recommendations."

Mayor Dearing: "Have you met with Todd?"

Councilman Printz: "Yeah, I talked to Todd on the phone."

Councilman Sigafoose: "Mr. Printz, why couldn't we put a heavy grating over that?"

Councilman Printz: "There are some state regulations on things you have to do and I would have to look into it closer. I don't think you can cover up an existing sewer line like that without the proper grout, I think they call it, just like in an electrical line and just from past experience I know there are some issues there."

Mayor Dearing: "Todd, how much money do we have remaining in our highway find?"

Mr. McCoy: "$62,639.28."

Mayor Dearing: "Is that the last payment?"

Mr. McCoy: "No, sir, there is one more quarterly payment coming in the neighborhood of $43,000.00 which is about 105."

Mayor Dearing: "I have directed Todd, to have available for the Streets and Sidewalks Committee, a list of projects to consume this $105,000.00 by the May committee meeting so we can have it contracted out by 1 June. Have it ready to be completed by 30 June because it has to be spent before the end of the calendar year, or the fiscal year. So, Wayne, your committee will be ready to approve those projects - $105,000.00 worth."

Treasurer's Report

Mrs. Vickers reported an ledger balance of $355,927.01. A separate report on the bond balance was given. Mrs. Vickers told Council they will also receive this report monthly.

Councilwoman Murphy moved, second by Councilman Dean, and carried to approve the Treasurer's report.

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

Motion carried (6-0)

COMMITTEE REPORTS

Electric

No report.

Finance

Councilman O'Neill: "I want to report that I have met with all the department heads and got their projections for next year. I plan on presenting a preliminary budget at committee when we meet in May."

Mayor Dearing: "What about capital projects?"

Councilman O'Neill: "I've asked Todd to put together a list of capital projects, along with estimated costs, his recommendations on priorities, safety issues, and so forth. I already have capital requests from other areas that will be included. So, really, I think Todd is the only one that I am aware of that would actually be submitting what I call capital project requests. We have some capital budget items such as, for instance, some police equipments and so forth that I do have covered."

Personnel

Councilwoman Murphy deferred to New Business.

Public Health, Public Safety, and Ordinances

Mayor Dearing stated that he and Chief Pullen meet daily. The police department has been handling some significant problems.

Streets and Sidewalk

Councilman Printz: "I want to thank our attorney and his wonderful helper there for helping me with preparing an ordinance. It's Article III, Obstruction of Streets and Sidewalks Ordinance, which is something requested of me by Council. If Council would like to take this back to committee, I would have no problem with that."

ORDINANCE NUMBER 02-001

Amendment to Chapter 3, Article III of the Code of the Town of Elkton, Virginia

First Reading, April 15, 2002

ARTICLE III, Obstruction of Streets and Sidewalks

§ 143-22. Permit required.

Except as otherwise provided, it shall be unlawful for any person to obstruct any street, sidewalk or parkway with ladders, scaffolds, ropes or any other manner without a permit, regardless of the purpose, character or extent of the obstruction.

§ 143-23. Fee for permit and term.

A. No permit under this article shall be issued for longer than seven consecutive days.
B. A flat fee of $25.00 shall be charged for a one day permit required under §143.22.
C. A flat fee of $125.00 shall be charged for a seven day permit required under §143.22.

§ 143-24. Permit procedure.

A. The procedure for obtaining a permit under this article shall be as provided in Article I of this chapter.
B. The Town Superintendent shall have the right to refuse to issue a permit pursuant to this article if he or she deems that the applicant is in violation of any other Town regulations or ordinances.

§ 143.25. Terms applicable to sidewalk permits only.

A. All sidewalks shall always retain a minimum of forty two inches (42") of passage space.
B. There shall be a minimum clearance of twelve feet (12") from any overhead obstructions.

§ 143-26. Inspections by Superintendent

All obstructed areas shall be under the supervision and control of the Town Superintendent or his or her designee, whose duty it shall be to inspect the obstructed areas from time to time to insure they are in compliance with the terms of this article and the issued permit.

§ 143-27. Violations and penalties.

It shall be an offense of any person to fail to abide by this article, and any person found guilty thereof shall be subject to a fine of $150.00. Each day any violation of this article shall continue shall constitute a separate offense.

There were some questions from Council and it was decided to send the ordinance back to committee for further review.

Attorney Miller, responding to a question from Councilwoman Murphy, stated that

eventually Council would have to look at the Code, as well as the Charter, and eliminate the growing list of titles such as Town Manager, Town Administrator, and Town Superintendent. All these titles are in existence and from time-to-time are used interchangeably.

Water and Sewer

No report.

Recreation

No report.

Planning Commission

Councilman Dean reported the Planning Commission did not meet.

Mayor Dearing asked Mr. McCoy if the Special Use Permit regarding cemetery expansion would be ready for May's Council meeting. He answered it would.

Attorney Miller stated due to the Town Manager vacancy, he needed a body for the actual closing of the purchase for the cemetery expansion. Councilman O'Neill asked if the Treasurer would be a good choice. The attorneys found the choice acceptable.

Councilman O'Neill moved by Resolution, second by Councilman Printz, and carried to appoint Faye Vickers as Interim Town Manager to act on behalf of the Elkton Cemetery Commission in all manners necessary to purchase the two acre tract from Dr. Garner Downey.

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

Motion carried (6-0)

RESOLUTION OF THE ELKTON TOWN COUNCIL
Appointment of an Interim Town Manager and

BE IT RESOLVED by the Council for the Town of Elkton, Virginia as follows:

1. That the position of Town Manager for the Town of Elkton is currently vacant.
2. That no individual has been appointed acting interim Town Manager.
3. That pursuant to Section 9 of the ByLaws for the Elkton Cemetery Commission the authority to operate and manage the cemetery, including the power of acquisition of real property for the operation or expansion of the cemetery, is delegated to the Town Manager of the Town of Elkton.
4. That the Elkton Cemetery Commission is now in negotiations with Dr. Garner H. Downey to purchase a two acre tract of land.
5. That the Council finds it is in the best interest of the Town to appoint an individual with all of the powers listed in Section 9 of the ByLaws for the limited purpose of acquiring the two acre tract from Dr. Garner H. Downey.
6. That the Council hereby appoints Faye Vickers and gives her the authority to act on behalf of the Elkton Cemetery Commission in all manners necessary to purchase the two acre tract from Dr. Garner H. Downey.

OLD BUSINESS

Elkton Historical Society

Mayor Dearing: "Initially, when the Historical Society donation came up, there was a discussion of it at Council which did not specify a dollar amount. So, therefore, we could not consider that a first reading. When it came to the Council a second time, Mike understood it to be a second reading and because there was a dollar amount specified at that time - $2,000.00 - I considered it a first reading. So, therefore, at that time, on a first reading, it had to pass. It did not have to pass by 2/3. Tonight, we are having the second reading. It has to pass by 2/3. We've had the five days in between. So, that's where we're at."

Councilman O'Neill: "This is a second reading."

Councilman O'Neill moved, second by Councilman Printz, and carried that Elkton provide insurance coverage to the Elkton Historical Society for the contents of the Miller-Kite House in the amount of $2,000.00.

Mayor Dearing: "Any discussion?"

Councilwoman Murphy: "Yes. I would like to know, just for my own clarification, if it does not pass by Charter, 2/3 majority, which it did not, it went 3-2-1, can it progress to a second reading?"

Attorney Miller: "I don't know the answer to that sitting here right now."

Councilwoman Murphy: "That's been my whole thing with this."

Attorney Miller: "The question is does it have to have a 2/3 majority on each reading?"

Councilwoman Murphy: "Under Section 22 it says if it's over $500.00 it must be passed by 2/3 majority. My question is how can it get to a second reading if it did not pass by Section 22 on a first reading?"

Mayor Dearing: "It says it must pass by 2/3 majority. It does not say in there that it must advance with 2/3."

Councilwoman Murphy: "I think it's important to clarify this because we run into this all the time with first and second readings. I would like to know how it gets from a first reading to a second reading without a 2/3 majority?"

Mayor Dearing: "If you think about this situation, and Theodore brought it up to Wayne, and said I have the right to change my mind. If you have a first reading to introduce it then all your first reading does is introduce it. It doesn't have to pass because you're not taking any action. All you do...you don't even have to have a vote. All you do is say I want to introduce it. Then, it can proceed. It comes from committee without a vote. It comes to Council with a first reading and there was a vote and it passed. That's why that night I said I need to vote because I was thinking the 2/3. But we got it through the first reading and then you have some discussion and now we are at the second reading level, which means it must pass by 2/3."

Councilman O'Neill: "The indication that two readings are required comes from the language that says no amount over $500.00 shall be passed at the same time it is introduced. It doesn't even specifically say two readings are required, it is implied. But, then, you are right. It definitely has to pass by 2/3."

Mayor Dearing: "It must pass by 2/3. It does not say it must advance by 2/3."

Councilman O'Neill: "Right, and what does the term ' introduction' mean?"

Councilwoman Murphy: "I think we need to know this because we have a lot of these over $500.00 that I just want to make sure we are doing what we need to do."

Attorney Miller: "You have to read two sections of the ordinance. The Ordinance Adoption Procedure 3721, which says first you read it. That's the first reading. The second reading, you vote on it. The adoption. Then when you go to Section 22, that qualifies the funding, you have to have a 2/3 vote the second time. So you can read it the first time, you need no vote. That gives you time to discuss it between the time it is introduced and the time you vote. There is also a provision that also says you cannot vote the same day on both issues. Even though you may have taken a vote the first time, it wasn't necessary to pass it to a second reading. But your vote this time on a second reading this time will have to be 2/3."

Councilman Printz: "Call for the question, Mayor."

YEAS: L. Sigafoose, M. O'Neill, J. Dean, W. Printz
NAYS: C. Murphy, T. Pence

Motion carried (4-2)

NEW BUSINESS

Park Authority

Councilwoman Murphy moved, second by Councilman Printz, to approve the April 2, 2002 draft of the Park Authority Bylaws either as presented, or to approve as presented with any necessary additions and/or deletions as approved by Council today.

Councilman O'Neill: "I have an addition. Under Section 2, no active member of the Town Council, I'd like to add the Mayor, comma, nor any current employee. I'd like to include that so it is not open to legal interpretation."

Councilman Pence decided that a Council member serving on the Park Authority would be good for Council as a whole.

Councilman Printz stated if the golf course failed he was concerned about the legal obligation to the Town with a member of Council serving on the Authority.

Councilman O'Neill agreed that it would increase the Town's liability exposure but, in addition, he felt the demands of elected office would preclude a sitting Council person from performing 100% in his elected position.

Councilwoman Murphy was asked to make a motion reflecting the amendments suggested by Council.

Councilwoman Murphy moved, second by Councilman Printz, and carried to approve the April 2 draft of the Park Authority Bylaws either as presented, or to approve as presented with any necessary additions and/or deletions as approved by Council today, with one change under Section 22, Members and Compensation, to include the term 'Mayor.'"

Mayor Dearing reminded Council that these Bylaws could be changed by a future Council.

YEAS: L. Sigafoose, J. Dean, M. O'Neill, W. Printz, C. Murphy
NAYS: T. Pence

Motion carried (5-1)

BYLAWS OF THE ELKTON PARK AUTHORITY

ADOPTED April 17, 2002

ARTICLE 1 - Officers

Section 1. Terms of Office. The officers of the Elkton Park Authority of the Town of Elkton, Virginia, shall be Chairman, Vice Chairman, Secretary, and Treasurer, who shall be elected by ballot of the Authority at a regular meeting in January of each year, or at such other time as there may be a vacancy. The offices of Secretary and Treasurer may be combined. The Chairman and Vice Chairman shall be Members of the Authority. All officers shall hold office until the next annual election.

Section 2. Members and Compensation. No active member of the Town Council, Mayor, nor any current employee of the Town of Elkton may serve on the Authority as a Member or Officer. Members shall not be compensated for serving, but may be reimbursed for out of pocket expenses.

Section 3. Duties of the Chairman. The Chairman shall be the executive officer of the Authority. The Chairman shall convey to the Director all policy decisions of the Authority and will cause these polices to be administered by the Director. The Chairman shall be the official representative of the Authority at all functions unless representation is specifically delegated to another Member. The Chairman shall preside at all meetings of the Authority and shall be an ex-officio member of all standing and special committees established by the Authority.

Section 4. Duties of the Vice Chairman. The Vice Chairman, in the absence of the Chairman, shall be vested with all the powers and perform all the duties of the Chairman.

Section 5. Duties of the Secretary and Treasurer. The Secretary shall be responsible for ensuring that due notices are given of all Authority meetings and that proper records are kept of all proceedings of the Authority. The Treasurer shall have custody of the corporate seal and shall attest and affix the seal to all instruments requiring such action when authorized by the Authority. If the officers of Secretary and Treasurer are combined, then the duties of such shall also be combined.

ARTICLE II - Administration

Section 1. Director. The Director shall be responsible to the Authority for the administration, acquisition, planning, development, maintenance and operation of all property under the jurisdiction of the Elkton Park Authority. The Director shall evaluate properties under consideration for acquisition by the Authority and make recommendations to the Authority concerning their disposition. The Director may delegate authority to responsible subordinates but shall be held ultimately responsible for these actions.

The Director shall formulate regulations and procedures as deemed necessary for proper administration of the organization and its holdings so long as these regulations and procedures are consistent with the policies established by the Authority. The Director shall represent the Authority at the executive level at meetings and as otherwise appropriate in relationship to other

official agencies, citizens' organizations, and individuals and establish close liaisons with other departments of the Town and the State.

The Director shall be responsible for all administrative activities of the Authority including, but not limited to, preparing agendas for meetings, ensuring adequate records are kept and preparation and submission of annual operating and capital improvement budgets for approval of the Authority that will conform with budgets as approved. The Director shall carry out capital improvement projects in accordance with the approved budgets of the Authority.

The Director shall serve at the pleasure of the members and perform such other duties as the Authority may require as approved by a majority vote of the Members.

Section 2. Other Employees. Other personnel may be employed in accordance with the approved annual operating budgets. Such employees shall be responsible to the Director or designated staff and shall perform duties and functions as may be assigned to them.

ARTICLE III - Committees

Section 1. Appointment. All standing and special committees shall be appointed by the members. The Chairman shall be an ex-officio member of all committees.

Section 2. Standing and Special Committees. Standing Committees shall be composed of not more than seven members of whom at least three shall be members of the Authority. Standing Committees shall be appointed for a term of one year at the first meeting following the election of officers in January. Special Committees shall be composed of such number of members as are deemed necessary to accomplish their purpose. The duties of all such committees shall be defined by the Authority and actions of such committees shall be reported to the Authority.

ARTICLE IV - Meetings

Section 1. Regular Meetings. Regular meetings of the Authority shall be held in the Town of Elkton on the first and third Tuesdays of each month and at such other times as may be necessary to conduct effectively the business of the Authority at a place and time to be determined by the Authority. The meeting schedule may be revised by vote of the Authority. All regular meetings shall be open to the public except if closed by proper action of the members.

Section 2. Special Meetings. Special meetings of the Authority shall be called by the Chairman, or by the Secretary, at the request in writing of any three members of the Authority. The Secretary shall provide notice of the meeting to the Authority members 48 hours prior to such meeting. All special meetings shall be open to the public except if closed by proper action of the members.

Section 3. Quorums. Four members of the Authority shall constitute a quorum for the transaction of business at all meetings. A majority of the appointed members present shall constitute a quorum at meetings of Standing and Special Committees.

Section 4. Voting. The yeas and nays shall be taken upon passing any resolution and upon any proposals that create any liability, or for the appropriation of expenditure of funds, and in all cases when requested by any member. Resolutions or other actions requiring a yea and nay vote shall be recorded in the written minutes. All members present shall be recorded as a yea, nay or abstention.

ARTICLE V - Fiscal Year

The year of the Authority shall coincide with that of the Town of Elkton's government.

ARTICLE VI - Parliamentary Authority

The rules contained in ***Robert's Rules of Order*** shall govern the Authority in all cases to which they are applicable and in which they are not inconsistent with the By-Laws or special rules of order of this Authority.

ARTICLE VII - Statutory Responsibilities

Section 1. Contracts with the Town Council. The Park Authority from time to time may operate under contracts with the Town Council. The provisions of any such contracts shall not be construed as limiting the Park Authority's statutory responsibility for the control of its trust funds and the discharge of its nondelegable duties.

Section 2. Power of Eminent Domain. The Park Authority shall not exercise the power of eminent domain pursuant to § 15.2-5704 (6) of the Code of Virginia, 1950, as amended, until and unless the Park Authority first obtains the approval of the Town Council to so exercise this power.

ARTICLE VIII - Record Keeping

Section 1. Accounting Principles. The Park Authority shall employ generally accepted accounting principles and techniques satisfactory to the State Auditor of Public Accounts and the Town's auditor (who shall be the Authority's auditor).

Section 2. Audit. The Park Authority shall submit to an annual audit performed by the Town's auditor.

Section 3. Access to Records. The Park Authority shall, upon the request of the Town Council, provide to the Town Council such information and reports as Council shall request from time to time within thirty (30) business days.

ARTICLE IX - Amendments of the By-Laws

Any article of the By-Laws may be amended or repealed, and any new article may be incorporated therein by vote of the majority of the Authority's members after all members of the Authority have been notified in writing of the proposed changes at least ten days before the meeting at which the changes are considered. No amendments to the By-Laws shall become final until approved by the Elkton Town Council.

Adopted and approved by the Elkton Park Authority this_____day of_____ 2002.

_____ ATTEST: _____
Chairman Secretary-Treasurer

Mayor Dearing: "You want to approve the members?"

Councilwoman Murphy: "I'd like to."

Councilman Printz: "I would suggest..."

Councilwoman Murphy: "I move to approve...I have the floor, please. **I move to approve the appointment of six voting members to the Park Authority from the following list of interested candidates. Appointments shall be voted separately and terms of appointment shall be established by Council following the appointment process. All persons not appointed as voting members shall be encouraged to serve the Park Authority in any non-voting capacity as needed or desired by the Authority, or by interest of the individual."**

Mayor Dearing: "Do I have a second?"

Councilman Pence: **"I second."**

Mayor Dearing: "Any discussion?"

Councilman Printz: "I think that we are at the end of a lame duck session and I think that it would only be respectful and proper to allow the next Council to appoint these positions that are of very deep significance. That's my opinion."

Councilwoman Murphy: "What's the point? We just passed the Park Authority Bylaws. Why are we doing that when we don't have any people sitting on the Authority?"

Councilman Pence: "The longer we wait the more money it's gonna cost us."

Councilman Printz: "It should go back to committee. It has not been discussed at length and..."

Councilwoman Murphy: "Call for the question, Mr. Mayor."

Mayor Dearing: "Lucky, how do you vote?"

Councilwoman Murphy: "No, it has to go by the motion, individually. To be appointed individually. Voted on individually."

Councilman Dean: "Who are we voting on?"

Councilwoman Murphy: "Randell Snow, Ishmal Baugher, Joe Flick, Gerald Monger, Rick Workman, Wake Gooden, Herbert Baugher, Caroline Brill, David Dean, Pete Bonavito, and Clyde McDaniel. The last three of out-of-town."

Councilman Pence: "I make a motion we put Randell Snow on."

Mayor Dearing: "We have to bring them up one-at-a-time. Cathy, can you bring up the first and we will vote on the first one?"

Councilwoman Murphy: "Randell Snow."

Councilman Printz: "Now wait a minute. I am not so sure as a point of order we are doing this right. You have a motion on the floor and you read that motion. You are gonna have to vote on the motion you have on the floor before you go individually down those motions. Am I correct?"

Mayor Dearing: "No."

Councilwoman Murphy: "Nathan?"

Mayor Dearing: "The motion says..."

Attorney Miller: "So your motion is you are gonna vote on the first appointment, Snow?"

Councilwoman Murphy: "The motion was to vote individually and to set terms after the members has been appointed."

Councilman Printz: "I don't think you can do that. I think you have a motion on the floor and you can re-read it if you like."

Councilman Dean asked that the motion be re-read.

Councilwoman Murphy: "**I move to approve the appointment of six voting members to the Park Authority from the following list of interested candidates. Appointments shall be voted separately and terms of appointment shall be established by Council following the appointment process. All persons not appointed as voting members shall be encouraged to serve the Park Authority in any non-voting capacity as needed or desired by the Authority, or by interest of the individual."**

Mayor Dearing: "So the motion is for the full slate individually. Go for the first slate. We had a motion, we had a second, we had discussion, and the question was called for. Go with the individual names."

Councilwoman Murphy: "Randell Snow."

Councilman Printz: "No. I still, point of order, I don't think that is correct. I think you have to vote on that motion and that motion is can we do it this way."

Councilman O'Neill: "I think he's right."

Councilman Printz: "See what I'm sayin'? The motion is do we want to do it this way. If that motion passes then we can go ahead and follow her motion requesting to do it a certain way."

Mayor Dearing: "My question for you, the Council, is you have gone out here and incurred a debt..."

Councilman Printz: "No, no, no."

Mayor Dearing: "We have incurred a debt, WE, as I am not a voting member, but a vote of 6-0 incurred a debt of two million dollars. As long as we sit here the clock is ticking. If you do not have...if you do not like this plan, what is your plan to pay the money back? These people need to know what is your plan?"

Councilman Printz: "Well, Mayor, I investigated that and unfortunately you did not pay enough attention to realize you cannot pay that money back ahead of time, that you have to pay it out, it's in the contract. So, unfortunately, we are in a position that something has to be done because of this situation."

Councilwoman Murphy: "We are in this position because six council members sat here and voted yes."

Councilman Printz: "Up to two million, not two million."

Councilwoman Murphy: "Up to two million. That's exactly right."

Councilman Printz: "That's not the issue that's on the floor, Ms. Murphy."

Mayor Dearing: "Let's say we borrowed $20.00. What is the plan to pay it back? What is the plan? Are we gonna sit here, I know we can't sell cedar trees, what is the plan to pay the money back?"

Councilman Printz: "I think you should have thought about that before you pushed all of this stuff through."

Councilwoman Murphy: "The Mayor did not vote. Six people sitting here voted."

Councilman Printz: "Six people...listen to me for a minute. Six people voted."

Councilman Pence: "And you were one of them."

Councilman Printz: "Six people voted...will you please listen to me for a minute? Six people voted to borrow up to two million dollars..."

Councilman Pence: "Exactly."

Councilman Printz: "...for land acquisition or a community center, not to borrow extra money to pay debt on the debt. We never approved that."

Mayor Dearing: "When did I sit you all down and push this through?"

Councilman Printz: "Just like you told us the money is in an account that is bearing 5% plus and we found out it's not. It's in a checking account."

Mayor Dearing: "No, it is in a regular account bearing whatever the rate will allow. I cannot make money on borrowed money."

Councilman Printz: "Bearing what? One per cent?"

Councilman O'Neill: "May I make a suggestion? Maybe restate the motion with the first name and then the second..."

Mayor Dearing: "Mike, can I ask a question? If I have so much authority to make you borrow two million dollars, why can't I make you vote on Randell Snow? If I have that much power to make you vote..."

Councilman Printz: "Let's move on."

Mayor Dearing: "...and make you borrow all this money, can I make you borrow the money? Can I make you vote on this tonight?"

Councilman Printz: "I totally support the purchase of the property. I never supported borrowing extra money to pay debt."

Mayor Dearing: "Okay, go ahead. Cathy, put the first name on the floor please."

Councilwoman Murphy: "Randell Snow."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (4-2)

Councilwoman Murphy: "Ishmal Baugher."

YEAS: C. Murphy
NAYS: T. Pence, W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (5-1)

Councilwoman Murphy: "Joe Flick."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (4-2)

Councilwoman Murphy: "Gerald Monger."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (4-2)

Councilwoman Murphy: "Rick Workman."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (4-2)

Councilwoman Murphy: "Wake Gooden."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (4-2)

Councilwoman Murphy: "Herbert Baugher."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (4-2)

Councilwoman Murphy: "Caroline Brill."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (4-2)

Councilwoman Murphy: "David Dean."

YEAS:
NAYS: T. Pence, C. Murphy, W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (6-0)

Councilwoman Murphy: "Pete Bonavito."

YEAS: C. Murphy
NAYS: T. Pence, W. Printz, J. Dean, M. O'Neill, L. Sigafoose

Motion failed (5-1)

Councilwoman Murphy: "Clyde McDaniel."

YEAS: T. Pence, C. Murphy
NAYS: W. Printz, M. O'Neill, L. Sigafoose
ABSTAIN: J. Dean

Motion failed (3-2-1)

Councilwoman Murphy: "Congratulations, guys. You now have a Park Authority with no members."

Councilman Pence: "I got one thing to say."

Councilman Dean: **"I'd like to make a motion to set members at next month's meeting."**

Councilman Printz: **"Second."**

Councilman Pence: "I got one thing to say before...I'm sayin' before we sat down here tonight, this vote was made up."

Caroline Brill: "Preplanned."

Councilman Printz: "Preplanned? It sounds to me that you guys did a whole lot more talkin' about it than we did. I knew nothing about this whatsoever."

Councilman Pence: "How did I know anything about it? I've been in Florida all week."

Councilwoman Murphy: "I did not talk to anybody on this Council about this motion."

Mayor Dearing: "The only thing I will tell you as a Council is go back and look at your committees. You all have tabled this three months in a row."

Councilman Pence: "I know it."

Mayor Dearing: "Table, table, table. And you all said it tonight - bring it to a vote."

Councilman Printz: "I have no problem with any of those people individually. I think we should have enough respect, as you said earlier, for each other, to take this back to committee, debate it out, and we will have something for the next committee - the next Council meeting."

Councilman Dean: "Mayor, you have a motion on the floor."

Mayor Dearing: "What's your motion?"

Councilman Dean: **"I move to appoint Authority members at the next Council meeting."**

Councilman Printz: **"I second."**

Councilwoman Murphy: "What was the motion?"

Mayor Dearing: "The motion was to appoint Council, committee, Authority members next month."

Councilwoman Murphy: "Isn't that convenient? That's after the election."

Councilman Dean: "Yes, ma'am."

Councilman Sigafoose: "How can we do anything if they want to build a golf course without a set of prints to show us the land?"

Mayor Dearing: "Whoa. Y'all just said you didn't want nothin' to do with it. There will be no plans to show you because all you're gonna do is allocate the land. So, therefore, you can't see a plan because you said you don't want anything in it. So, therefore, you'll have nothing in it except you will lease the land."

Councilman O'Neill: "No, we're not gonna allocate land until we see a plan that we think is gonna work."

Councilman Sigafoose: "We got to have a plan."

Mayor Dearing: " Then you get into your liability. If you're startin' to approve plans, then you're startin' to put yourself back into being liable."

Councilman Sigafoose: " Didn't you have a plane fly over and take all these pictures and everything?"

Mayor Dearing: "No, I didn't do that now. I said the Council approved the money to do the fly over."

Councilman Dean: "Call for the question, Mayor."

Mayor Dearing: "Lucky, how do you vote?"

YEAS: L. Sigafoose, J. Dean, W. Printz
NAYS: M. O'Neill, C. Murphy, T. Pence

Councilwoman Murphy: "Three, three."

Mayor Dearing: "My question to you is, I'm sitting here on this, if we don't pass it tonight and we don't pass it next month, when are we plannin' on doin' these people?"

Councilman Dean: "The motion tied at three/three. They Mayor breaks the tie."

Mayor Dearing: "I understand that. So, I break the tie. Yes, next month we will appoint."

Motion carried (4-3)

Councilman Dean: "That's all we need to know."

Councilman Pence: "We're gonna do what?"

Councilman Printz: "We will have them ready for next month."

Councilman Pence: "The longer we wait it's gonna cost us more money."

Councilman O'Neill: "I'd like to state for the record that I told this Council that I would not vote to put anyone on the Park Authority until after the election. That has been known for some time."

Councilman Pence: "I also brought this up not to put nobody on there but, like I said, my week down there thinkin' to myself knowing how y'all been actin' callin' names and everything, I say let 'em be on there."

Personnel Announcements

Councilwoman Murphy: "You have in your packet a letter regarding Rick Carey, who, in his pursuits to become a Certified Clerk of Council, has received the Norma Leap Memorial Scholarship to help defray his costs for some classes he will be going to. I just want to say congratulations and good luck."

Mayor Dearing: "Thank you. Congratulations, Rick. Does anyone else have any new business we have not covered? If not, Town Attorney."

Attorney Miller covered the following:

1. Pre-treatment of water and affluent going into the sewer system. He will have to get with Councilman Dean.
2. Elm Street paving. There are some legal issues that need to be discussed in committee.
3. Special dispensation for fire and rescue. The short answer was "yes" we could.
4. Requested a closed session regarding annexation.

Councilwoman Murphy moved, second by Councilman O'Neill, and carried to go into closed session under Virginia State Code 2.1-344 to discuss annexation.

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

Motion carried (6-0)

Councilwoman 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 O'Neill duly seconded the motion.

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

Motion carried (6-0)

Councilman Printz moved, second by Councilman Dean, and carried that the Town Attorney proceed with discussions of annexation with the County Attorney and County representatives.

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

Motion carried (6-0)

Mayor Dearing set the committee meetings as:

May 14, 2002 - Personnel, Finance, and Water and Sewer
May 16, 2002 - Streets and Sidewalks, Public Safety, and Electric

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

MAYOR: _____
M. Lee Dearing, Mayor

RECORDER: _____
Richard D. Carey, Clerk