Public Hearing
November 15, 2004

A Public Hearing to receive comments on the proposed amendments to the Charter of the Town of Elkton was held in Council Chambers on November 15, 2004 with Mayor Wayne E. Printz presiding. The following Council members were present:

PRESENT
J. Dean
T. Pence
R. Snow
S. Sigafoose
P. Workman

Town Manager Dennis R. Donachy, Police Sergeant James Morris, and Clerk of Council Richard Carey were also present.

Mayor Printz believed the public had not received sufficient information to hold a proper Public Hearing. Council agreed to postpone this meeting, but Vice Mayor Snow was willing to take any comments under advisement.

Lee Dearing, 124 North Street, asked if a burial place for the dead would be eliminated from the Charter. Attorney Miller stated, "It is out. It is not in the current draft." Mr. Dearing then questioned removing powers from the Mayor and empowering the Town Manager, who serves at the will of Council. Mr. Dearing opposed weakening the power and authority of the Mayor.

Regarding mayoral powers as they related to the police department, Council member Sigafoose did not believe the Mayor was not the head of the police department and "always will be," and the "last decision will be the Mayor's, not the Town Manager." Council member Sigafoose stated that power "should never change."

Vice Mayor Snow did not agree with the Mayor "running the police department." "The Charter wording created the confusion," as expressed by Vice Mayor Snow. He continued, "The Charter says the Mayor shall oversee the police department. There's a lot of difference between the Mayor overseeing the police department and running the police department. The Charter says that but, then, it doesn't clarify what his duties are. In my mind, oversight is he keeps his eye on the police department and makes sure they are doing what they are supposed to be doing. The day-to-day operations, he has no control whatsoever over the police department and I don't think he should have." The day-to-day operations of the Town, including the police department, fall under the authority of the Town Manager, according to Vice Mayor Snow.

Lee Dearing argued that some "responsibility should never be delegated down," citing signature authority as an example. "The safety of this Town should not be delegated down," added Mr. Dearing.

Vice Mayor Snow disagreed, saying, "The Mayor does not have any more responsibility for anything in this Town than the rest of us sitting here."

Hazel Crider, 114 Hillside, asked what was the hurry to change the Charter, especially the powers of the Mayor, who would "become a sitting duck" if many of his current powers were delegated to a Town Manager. "Serious thought should be given to where this Town is going. I don't know where you're getting your advice, or why you are doing this, but things better slow down. When you start fooling around with our Charter, that has governed our Town for years and years, I don't agree with that," stated Mrs. Crider.

Cathy Murphy, 110 North Stuart, read the following prepared statement:

Our current Charter is a document that our founding Fathers and subsequent councils have written and adopted. It is a document of history and its purpose is to provide the structure

of local government and governing officials. Charters are written to provide guidelines, rules and regulations, definitions, protection for citizens, as well as checks and balances. Charters are intended to be solid in content and not easily amended. A Charter demands respect from us all.

Currently our Charter encompasses eighty sections. No one can argue that many sections are outdated and language is not always clearcut in meaning. What has been presented as a first reading by the council and to the public is a replacement document with only six sections. The term "streamlining" has been used to describe the revamping of our Charter. When the Charter goes from 80 to 6 sections, I suppose the term streamlining is appropriate. There is very little content on which the public can comment tonight. We are left with a shell document with missing pieces of the puzzle and are to imagine what is to come when important sections are moved from the Charter to Administrative Code. This is my biggest concern with this process.

Moving numerous sections to Code allows for political maneuvers for many years to come. Code can be easily changed with two readings and a vote of council. The Charter can only be changed by submission to and approval by the General Assembly. Imagine what chaos may occur in future years with the changing of mayors and council members. One group may like the wording and the following group may not. In moving the primary structure to Code undoubtedly allows for great flexibility, but also allows changes to be made too readily, and perhaps for the wrong reasons. We have no document in front of us tonight that outlines what the Code will state to replace sections of the Charter. The public is, in fact, being asked to trust the process. I, as a citizen, do not wish to do so. It is my firm belief that when the Charter is amended, the public, along with each of you, deserves the opportunity to see the amended Code at the same time. It is only then that a fair assessment can be made and a logical and conscientious vote can be cast. Otherwise, gentlemen, we are buying a pig in a poke. I do not see a document in front of us that provides the structure needed or the checks and balances required. I do not see a document with responsibilities clearly stated, both for governing officials or employees. I do not see a document that provides protection of the public, as well as the Town overall.

With that being said, I do wish to make the following points:

1. I do favor elections being moved to November.
2. The Mayor is cited as the Chief Administrative Office for the Town. However, the Mayor has no authority, except what is granted by the council. In fact, the council body is the CEO of the Town and the Mayor is only an instrument to carry out council directives. It cannot be both ways. Either the Mayor must have some authority or the wording needs to be changed to reflect the true picture.
3. Spending caps must be addressed. Council and Mayor's salaries are also an issue.
4. If the Cemetery issue is moved to Code, and one future day a council decides by a vote to change the Code to eliminate the responsibility of a Town operated cemetery, what can the people who have and will pay for perpetual care and possess a deed issued for a lot from the Town of Elkton expect? Will this then become a useless piece of paper? What would be the recourse of such actions for the citizens?
5. I would recommend limiting a mayor to serving a maximum of three consecutive terms (or six year). I believe fresh leadership is needed and desirable at intervals. The Presidency and Governorship of Virginia have such limits. I see no reason why the Town should not have the same.
6. The two-thirds majority needs to be explained thoroughly. The current Charter states a quorum is met with the Mayor and four council members, or in the absence of the Mayor, then four council members alone will suffice. However, is the current two-thirds majority that is required on some votes including the mayor or the council alone?

These are just a few points for consideration. I would strongly caution the Council not to

rush into amending the Charter, but give it the time and respect it deserves. Clearly, this draft document needs to be returned to the drawing board for much needed work and clarification.

Mary K. Hutton, 515 Chestnut, asked if another Public Hearing would be scheduled due to no information being made available to the public to prepare for this hearing.

Mayor Printz agreed the public did not receive the proposed Charter amendments for review. When the Town Attorney does make the information available and it has been distributed to the public, an additional Public Hearing will be scheduled.

Without formally closing the Charter Revisions Public Hearing, Mayor Printz introduced what was to be Public Hearing No. 3, the proposed occupation of the second floor of the Kite house by the Town Manager. He stated, "the occupation of" was bad terminology in that Council considered the safety of Mr. Donachy, as well as a time commitment, to drive to and from Bowling Green. With so many meetings scheduled in succession, Council found fairness in allowing the Town Manager to sleep in the house on occasion until he could find a permanent residence.

According to Mayor Printz, the issue had been resolved as Mr. Donachy had a contract to purchase a local home.

Mayor Printz again recognized Lee Dearing who stood and stated the objection was not that Mr. Donachy was living in a house purchased with bond money. The objection was that Council did not heed the Town Attorney's advise by holding a Public Hearing before allowing Mr. Donachy to move into the Kite house. Mr. Dearing accused Council again of "putting the horse before the cart."

Mayor Printz stated Council did not agree to allow Mr. Donachy to live in the house, considering the accepted meaning of the word "living." Mr. Donachy, with Council's blessing, was permitted to "stay" at the Kite house under certain conditions.

Mildred Shifflett stated the prices to rent the Kite house and the Community Center for an event were too high. "It is not a Community Center for the people. It is a Community Center for the people who can afford to rent it," she added.

As there were no additional comments, Mayor Printz closed the Public Hearing.

Mayor: _____
Wayne E. Printz, Mayor

Recorder: _____
Richard D. Carey, Clerk