Joint Session
Town Council/Cemetery Commission
February 9, 2004

A joint meeting of the Elkton Town Council and the Elk Run Cemetery Commission was held on February 9, 2004 in Council Chambers with Mayor Wayne E. Printz presiding. The following Council members were present:

PRESENT
J. T. Dean
C. H. Murphy
T. Pence
L. Sigafoose
R. Snow

The following Cemetery Commission members were present:

PRESENT
B. Whitfield
M. L. Dearing
B. McGahey
G. Monger

Former mayor M. Lee Dearing was recognized as the spokesperson for the Cemetery Commission. Reading from the Commission Bylaws which were adopted by Council in December 1997, Mr. Dearing stated that it was the duty of the Commission to oversee the Cemetery and to make recommendations pertaining to the operation of the Cemetery. He defined perpetual care as a trust established with money obtained through the sale of grave sites. In 1987, the Commission turned the Cemetery over to the Town. The deed contained the following:

The Town would manage Elk Run Cemetery as a community cemetery, management of which shall be under the control of the Commission appointed by the Town Council for that purpose. The funds coming into its hands shall be managed for the purpose of perpetual care and accounted for by the Town's annual audit as a separate account. The Town has the right to be compensated for the labor and material used by it in the maintenance and care of the Cemetery based on fair market value of said labor and materials.

In 1985, approximately $500,000.00 was turned over to the Town. Since that time, the Town has not invested one penny of its money into Elk Run Cemetery stated Mr. Dearing. In 1986, then Town Attorney Dale Davenport gave an opinion that the Town could be reimbursed with the interest from the Perpetual Care account. Mr. Dearing asked for another opinion in 2001 and Town Attorney Miller's opinion "paralleled" Mr. Davenport's.

Mr. Dearing recalled that during his two terms as mayor the Town was so financially strong that the expenses for Cemetery upkeep for the four years in question were forgiven. He believed it was "unfair" of this Council to want to go back now and collect for those years.

Attorney Miller considered how to manage the money for the welfare of the Town as "broader" and more "philosophical" an issue than a legal one. Mr. Miller stated the Town has the ultimate responsibility for operating the Cemetery. The Town can eliminate the Perpetual Care account but would have to provide for the perpetual care of the area. Mr. Miller commented, "How do you divide the money? Are you going to maintain a perpetual care fund like you've had, or are you going to maintain a land acquisition fund like you have?"

All agreed this issue need not be adversarial or divisive. Rolls and rules must be clearly defined to meet today's needs. After some Council members questioned their votes to transfer $140,000.00 from the Cemetery Perpetual Care Account, a future joint meeting was discussed to clarify roles and duties.

As there was no further business, the meeting adjourned.

Mayor: Wayne E. Printz
Wayne E. Printz, Mayor

Recorder: Richard D. Carey
Richard D. Carey, Clerk