Regular
Council Meeting
April 19, 2004

The regular meeting of the Elkton Town Council was held on Monday, April 19, 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. L. Snow
P. Workman

Town Attorney J. Burns Earle, III, Richard Pullen, Chief of Police, and Richard Carey, Clerk of Council were also present.

Council member Dean offered the Invocation.

The Pledge of Allegiance was recited.

CITIZEN COMMENTS

Lee Dearing, 124 North Street, noted that all the current Council members, with the exception of Mayor Printz, were named in the David Conley lawsuit. He believed a "gag order" should be placed on all members, including the Mayor, to not discuss this case.

A recent newspaper article was "very damaging" to Vice Mayor Murphy. It led to many people asking, "What did she do with the money?" Mr. Dearing discovered that a profit was being made from fossil fuel charges, which he believed was illegal. A profit could be made from kilowatt usage but not from fossil fuel. Were the consumers not being overcharged and entitled to refunds once the billing error was discovered? Council supported the formula change in two consecutive meetings. Why had this become an issue a year after the fact?

Mr. Dearing questioned the delay on the Elkwood project, the Pentecostal Hill sewer line, and the budget. He believed it would be unwise for Council to approve taking over the drainage area in Quail Run. If Council agreed to take over the maintenance of the retention pond then they would obligate this Council and future Councils to do the same in other subdivisions.

Mayor Printz responded that money was not the main issue with Vice Mayor Murphy taking action. It was the fact that she authorized to take action without bringing it to Council. The budget is proceeding and the Elkwood project is in the hands of the developers.

Hazel Crider, 114 Hillside, again lobbied Council to arrange for trash to be picked up on Friday. She was aware that some Council members considered moving citizen comments to the end of the agenda, which would be a major inconvenience to those who wished to speak. Was this an attempt to discourage citizen comments?

Judith Sonafrank, Wirt Avenue, considered cruising not only an inconvenience but a danger to the residents' safety. Currently, Wirt Avenue is not designated as a "No Cruising" area.

Stephen Sigafoose, O Street, was dissatisfied with the lack of police visibility in Town.

Vice Mayor Cathy Murphy read the following prepared statement:

Because Mr. Printz has publicly made two serious allegations against me in the 4/16/04 edition of The Valley Banner, I wish to address one of these issues in the presence of Council and the public. This issue involves an allegation that I lost over $12,000 for the Town in

electrical billing that occurred over a year ago. It was obvious to me a year ago when this incident first happened that Mr. Printz did not understand the issue and I seriously doubt if he could explain it any better today.

To make a long story short, Ms. Vickers contacted me because the Mayor could not be reached. Mike York, with the Harrisonburg Electric commission, had notified her the Town could expect a substantial jump in the fossil fuel rates beginning on the next billing cycle. Using the formula that had been in place for quite some time, she ran the numbers to see what impact this increase would have on the consumer's bill. The formula at that time was very complex and confusing, but basically figured the Town's profit margin on the fossil fuel cost to the Town, rather than on the kilowatt per hour charge. Because the profit margin was built into the fossil fuel charge, it gave a false appearance that our kilowatt per hour charge was lower than normal. When the fossil fuel charges increased, consumers were paying more to maintain the profit margin. When the fossil fuel charges dropped, logic would be that the Town probably lost money as well. I advised Ms. Vickers to contact Mr. York again and question whether it was appropriate for profit to be made on fossil fuel charges, as normally fossil fuel charges are billed to the consumer as actual costs. She did so and stated Mr. York concurred the HEC did not make a profit on fossil fuel charges.

My question to Ms. Vickers at that time was, if a customer called and asked you to explain a bill and the rate schedule, could you do it. Her reply was it would be very difficult. Rather than gouge the customer and risk an inability to thoroughly explain the bills if questioned, I suggested we follow Mr. York's advice and not bill the profit on the fossil fuel charges. I also advised her to contact Councilman Snow, Finance Chair, to get his advice. Mr. Snow, along with Mr. Monger, met with Ms. Vickers and all discussed the issue with staff from HEC. I believe Mr. Snow agreed at that time the formula being used was very confusing.

At the next Council meeting, a motion was offered to revamp the billing rate schedule to remove the profit from fossil fuel charges and place it on the kilowatt per hour charge. Council passed this on two readings.

If there was nothing amiss with the billing structure, why did council vote to change it the following month? And why is this an issue appearing now when it was resolved over a year ago? If the alleged loss to the Town was so important, why didn't Mr. Printz or Mr. Snow ask for a rebilling to occur? I only gave Ms. Vickers my advice and, in my opinion, she acted appropriately. Perhaps Mr. Printz has no problem with questionable billing practices, but I do. And apparently when council voted to change the billing structure, I assume they were of the same opinion. If the Town lost money, then the consumer received the benefit for that particular month. The profit to the Town at that time was $3100.

Mr. Printz's standard excuse these days is, "I was not consulted or I knew nothing about it." It is an excuse that is getting very old and tiresome. In regard to Mr. Printz's accusation that I acted without authority, I, too, can name many instances where the Mayor's actions were without council authority or council's directives were totally ignored. All of which far exceed the alleged $12,000 I supposedly lost for the Town. These are the real facts.

End of statement.

Council members Pence and Sigafoose stated that they were independent candidates for re-election.

MINUTES

Council member Snow moved, second by Council member Dean, and carried to approve the minutes of the Committee Meetings of March 9, 2004, the Regular Council Meeting of March 15, 2004, and the Emergency Council Meeting of April 7, 2004.

YEAS: J. Dean, C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (6 - 0 voice vote)

DEPARTMENT HEAD REPORTS

Chief of Police

Chief Pullen presented his report and the K-9 activity.

Director of Public Works/Zoning Administrator

Mayor Printz reported the following:

•The water leak at OD & Co.
•Sewer line to Terrace Avenue and will start pumping hopefully tomorrow.
•No Parking sign installed at Community Center where people were parking on the grass.
•Water line on Stuart Avenue has been repaired.
•The street sweeper has been repaired.
•Water preparation and installation at the Conley residence on Pentecostal Hill.
•National Waste is studying the request to change trash pick-up day.

Divertees

Supervision of the divertees was sent back to the Personnel Committee.

Treasurer

Mrs. Vickers was on vacation. Council member Snow reported an ending ledger balance for General Government for the month of March 2004 of $453,118.95 with a total cash available of $300,065.56.

The Bond Account for the same period had an ending balance of $19,033.16.

Council member Snow moved, second by Council member Dean, and carried to approve the Treasurer's report.

YEAS: J. Dean, C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (6 - 0 voice vote)

COMMITTEES

Electric

Council member Sigafoose discussed the light at the Post Office. Vice Mayor Murphy stated that a new line was added to the electric bills which reflects taxes.

Finance

No report.

Personnel

The three advertisements for Town Manager, Director of Public Works/Zoning Administrator, and Laborer II are currently active.

Public Health, Public Safety, and Ordinances

The Blight Ordinance was sent back to Committee pending recommendations from the attorneys.

Streets and Sidewalks

Council member Workman wants a priority list for repairs. ISTEA bids ended today at 4:00 P.M., with two interested bidders. The project will take approximately 120 days.

Water and Sewer

No report.

Recreation

Council member Pence moved that the Special Departments Coordinator post the shelters with the name(s) of the person(s) who has paid to reserve a shelter for a specified date and time.

Council member Snow raised a Point of Order by stating that no business would be brought to Council without first being discussed in Committee.

Council member Pence withdrew his motion and the discussion will be pursued in Committee.

Planning Commission

The McDaniel Brothers have proposed a townhouses development on North Street. Council was invited to the next Planning Commission meeting to hear/make comments concerning the project.

Council member Workman asked Mayor Printz to take "organized parking" to the Planning Commission.

Cemetery Commission

No report.

Charter Revisions Committee

No report.

Park Authority

No report.

Economic and Community Development Committee

Council member Workman is looking for a chairperson for Jamestown 400.

We should receive a hard copy of the JMU Elkton survey soon.

Council member Workman is also looking for someone to chair the September 11 memorial program.

Businesses, civic organizations, or individuals who wish to sponsor a flower bed should

contact Council member Workman.

UNFINISHED BUSINESS

Electric Rate Increase - Second Reading

Council member Snow moved, second by Council member Sigafoose, and carried to increase the current electrical rates per kilowatt hour by a 1.0209 factor.

YEAS: J. Dean, T. Pence, L. Sigafoose, R. Snow, and P. Workman

NAYS: C. Murphy

Motion carried (5 - 1 voice vote)

Benny King - Quail Run

Council member Dean requested that the area be marked off and asked what would happen if the retention pond collapsed. Council must learn what Mr. King was mandated to do by the state and was uncomfortable about setting a precedent. This was sent back to Committee to allow our attorneys to study liability and other areas of concern.

Trash Pick-up on Unpaved Roads in Annexed Areas

Mayor Printz stated that those customers known and identified who were not receiving the service will now receive the service. There is one street the trash truck cannot access due to trees. The property owner will be contacted to cut the trees to accommodate the truck.

Asbestos Update

Vice Mayor Murphy requested an asbestos update. Mayor Printz responded that Waco marked, labeled, and patched the areas in the Community Center and removed the tiles at the Kite house.

NEW BUSINESS

CD Renewal

Council member Snow favored holding action until more information was made available to Council.

Abate Utility Balances Under $10.00

Council member Snow moved, second by Council member Workman, and carried to abate utility balances totaling $63.14.

YEAS: J. Dean, C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (6 - 0 voice vote)

Attorney Earle stated the Treasurer has many tools available to her under state law. She can place liens on utility accounts, those of which have deposits associated with them. This can be done without court action or any action by Council.

Proclamations

Mayor Printz read Proclamations for White Cane Days and the National Day of Prayer.

Council member Snow moved, second by Council member Dean, and carried to approve the Proclamations.

YEAS: J. Dean, C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (6 - 0 voice vote)

Mayor Printz read the Advisory Committee recommendations.

National Day of Prayer

Council member Snow moved, second by Council member Pence, and carried to approve the front porch of the Municipal Building be made available for the National Day of Prayer program.

YEAS: J. Dean, C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (6 - 0 voice vote)

Mayor Printz set the following meetings:

Committee meetings at 6:00 P.M., on May 11;
Planning Commission invitation to Council on May 12 at 7:00 P.M.;
Budget meeting on May 5 at 7:00 P.M.;
Budget meeting at 6:00 P.M., on April 27;
Council meeting at 7:00 P.M., on May 17.

Vice Mayor Murphy moved, second by Council member Snow, and carried to go into closed session under Virginia Code 2.2-3711 to discuss pending litigation and real estate sale.

YEAS: J. Dean, C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (6 - 0 roll call)

Vice Mayor Murphy moved to go from closed session back into regular session and that each member, to the best of his or her knowledge, certified 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. Council member Dean duly seconded the motion.

YEAS: J. Dean, C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (6 - 0 voice vote)

As there was no further business, the meeting was adjourned at 9:12 P.M.

Mayor: _____
Wayne E. Printz, Mayor

Recorder: _____
Richard D. Carey, Clerk