Regular
Council Meeting
October 17, 2005

The regular meeting of the Elkton Town Council was held in Council Chambers on Monday, October 17, 2005, with Mayor Wayne E. Printz presiding. The following Council members were present:

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

Town Attorney Nathan Miller, Town Manager Dennis R. Donachy, Director of Public Works Marty Shifflett, Economic Development Director Emily Burner, Sergeant James Morris, and Clerk of Council Richard Carey were also present.

Council member Dean offered the Invocation.

The Pledge of Allegiance was recited.

Mary K. Hutton, 515 Chestnut, was present and presented the chronology of her fire-destroyed property on Jackson Avenue.

CITIZEN COMMENTS

Vic Corbo, Windsong Hills, has had sever incidents of muddy water.

Mildred Shifflett, 112 West Spotswood Avenue, suggested that Council leave the Charter alone. She was disappointed that no Council members attended the sludge meeting.

Lee Dearing, 124 North Street, addressed blight areas in Town. He was curious about the qualifications of Rob Hall to serve as a police investigator. A remembrance for Rachel Good will be held tomorrow night at 6:00 P.M.

Bertha Williams, 219 West Spotswood Avenue, requested that her neighbor's fence be turned around so that the finished side would face her property, as dictated by Town Code.

Gene Kite, West Spring Avenue, spoke on behalf of EPIC and withdrew the request to construct a wall at the top of the hill in Stonewall Memorial Park. The letter stated this action was due to "inability to come to a mutually agreed upon location."

Diane Johnson, 903 – 6th Street, was concerned about speeding.

Larry Baugher, 116 Hill Avenue, thanked Marty Shifflett and the maintenance department and the Elkton Police Department for their assistance with Autumn Days.

Hazel Crider, 114 Hillside, agreed with Cathy Murphy's remarks regarding the Charter revisions. She also hoped that Council and EPIC could come to an agreement on the wall for Stonewall Park.

CONSENT AGENDA

Consent Agenda
October 17, 2005

MINUTES

•Committee Meetings, September 13, 2005
•Regular Council Meeting, September 19, 2005
•Special Council Meeting – Election Referendum – September 26, 2005
•Special Council Meeting – Budget Amendment – September 26, 2005
•Special Council Meeting – Closed, Personnel Issues – October 4, 2005

REPORTS
•Chief of Police
•Public Works

Vice Mayor Snow moved, second by Council member Dean, and carried to approve the Consent Agenda.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 voice vote)

TREASURER'S REPORT

Treasurer Sipe reported an ending ledger balance of $532,182.14 for General Government for the month of September 2005. Designated money was $309,379.54, which left available cash of $222,802.60.

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

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 voice vote)

TOWN MANAGER'S REPORT

Ordinance to Regulate Adult Businesses – First Reading

AN ORDINANCE TO AMEND CHAPTER 110 (LAND DEVELOPMENT), BY ADDING SECTION 110-303 (SUPPLEMENTAL DEFINITIONS – ADULT BUSINESS), (18) ADULT BUSINESS TO SECTION 110-611 (GENERAL BUSINESS DISTRICT B-2) C. SPECIAL EXCEPTIONS, (10) ADULT BUSINESS TO SECTION 110-613 (LIGHT INDUSTRIAL M-1) AND (e) THRU (i) TO SECTION 110-802 (ZONING AND BUILDING PERMIT PROCEDURES) C. APPLICATION PROCEDURE FOR SPECIAL EXCEPTIONS (5) OF THE CODE OF THE TOWN OF ELKTON TO ESTABLISH STANDARDS FOR ADULT BUSINESSES

WHEREAS, the Planning Commission and Town Council wishes to preserve the family friendly atmosphere of the Town; and

WHEREAS, there are currently no standards for Adult Businesses in the Code of the Town of Elkton;

BE IT ORDAINED, by the Town Council of Elkton, Virginia, that Chapter 110 (Land Development) be amended by the addition of the following:

1. ***§110-303. Supplemental Definitions – Adult Businesses.***

Notwithstanding any contrary provisions in this title, Adult Businesses are distinct from and mutually exclusive of all other uses defined or referenced in this code. Accordingly, if a use falls within the definition of an Adult Business, it cannot qualify as a "retail store", "restaurant," or other use.

For the purpose of this Title, the following definitions apply:

Adult Business — *An Adult Business is (i) an Adult Theatre, (ii) Adult Store, (iii) any business providing Adult Entertainment, or (iv) any other establishment that regularly emphasizes materials or demonstrations relating to Specified Sexual Activities or Specified Anatomical Areas or is intended for the sexual stimulation or titillation of patrons.*

Adult Theatre — *An Adult Theatre is an establishment which presents for the viewing or listening of patrons materials characterized by (i) their emphasis on Specified Sexual Activities or Specified Anatomical Areas or (ii) the intent to provide sexual stimulation or titillation of patrons.*

Adult Store — *An Adult Store is an establishment which sells or rents*

a. *Materials (whether printed or in electronic, optical, magnetic, or other media) characterized by*

i. *Their emphasis on Specified Sexual Activity or Specified Anatomical Areas or*

ii. *Their predominant purpose being to provide sexual stimulation or titillation of patrons, or*

b. *Toys, novelties, instruments, devices or paraphernalia which represent human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.*

Nevertheless, if the aforementioned items constitute only an insubstantial portion of an establishment's stock-in-trade, the establishment shall not be considered an Adult Store.

Adult Entertainment — *Adult Entertainment is dancing, modeling, or other live performances in which the performance (i) is characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas, or (ii) is intended for the sexual stimulation or titillation of patrons. Adult Entertainment also includes the presentation of materials or images (irrespective of the media) characterized by their emphasis on Specified Sexual Activities or Specified Anatomical Areas or the intent to provide sexual stimulation or titillation of patrons.*

Specified Anatomical Areas — *Specified Anatomical Areas are as follows:*

a *If less than completely and opaquely covered: human genitals, pubic region, buttock; and the female breast below a point immediately above the top of the areola, and*

b *Irrespective of coverage: human genitals in a discernibly turgid state.*

Specified Sexual Activities — *Specified Sexual Activities are as follows:*

a *The display of-or the reference to- human genitals in a state of sexual stimulation or arousal:*

b *Acts of human masturbation, sadomasochistic abuse, sexual penetration with an inanimate object, sexual intercourse or sodomy, or*

c *Fondling or other erotic touching of human genitals, public region, buttock or female breast.*

2. §110-611, General Business District B-2.

C. Special Exceptions.

(18) *Adult Businesses*

3. §110-613. Light Industrial M-1.

D. Special Exceptions.

(10) *Adult Businesses*

4. §110-802. Zoning and building permit procedures.

C. Application procedure for special exceptions.

(5)

(e) *The proximity of dwellings, churches, schools, parks, or other places of public gathering.*

(f) *The probable effect of the proposed use on the peace and enjoyment of people in their homes.*

(g) *The preservation of cultural and historical landmarks and trees.*

(h) *The probable effect of noise and glare upon the uses of surrounding properties.*

(i) *The contribution, if any, such proposed use would make toward the deterioration of the area and neighborhoods.*

5. This ordinance shall be effective immediately upon its adoption.

Adopted by the Town Council of the Town of Elkton this ____ day of _____, 2005

_____
Mayor

_____
Clerk of Council

Approved this _____ day of _____, 2005

_____
Mayor

Mr. Donachy stated the Ordinance would define where and how adult businesses would be permitted to operate.

Golf Cart Ordinance

A draft was included in the packets, but it was not finalized as a First Reading. Mr. Donachy asked Council to review the document and offer suggestions.

Ordinance to Clarify R-8 Zoning – Second Reading

AN ORDINANCE TO AMEND CHAPTER 110 (LAND DEVELOPMENT), SECTION 110-609 (PLANNED UNIT DEVELOPMENT DISTRICT R-8), SUBSECTION B BY ADDING LOT REGULATIONS

WHEREAS, current Code does not address lot regulations in the R-8 district; and

WHEREAS, the Planning Commission and Town Council want to ensure the integrity of residential areas in the R-8 district;

BE IT ORDAINED, by the Town Council of Elkton, Virginia, that Chapter 110 (Land Development) of the Code of the Town of Elkton, is hereby amended as follows:

Addition of the following to §110-609,B:

1. B. Permitted uses. Within the Planned Unit Development District R-8 the following uses are permitted:

    (1) Single-family detached dwellings *with lot regulations and accessory uses consistent with R-3district standards*

    (2) Two-family dwellings *with lot regulations and accessory uses consistent with R-5 district standards.*

    (3) Multifamily dwellings, apartments, townhouses (as regulated in §110-709 of this chapter) and condominiums *with lot regulations and accessory uses consistent with R-5 district standards.*

2. This ordinance shall be effective immediately upon its adoption.

Adopted by the Town Council of the Town of Elkton this ____ day of _____, 2005

_____
Mayor

_____
Clerk of Council

Approved this _____ day of _____, 2005

_____
Mayor

The Ordinance adds setback requirements for accessory uses in R-8.

Vice Mayor Snow moved, second by Council member McDaniel, and carried to approve the Ordinance.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 roll call)

Angler Water and Sewer Upgrade

Attorney Miller and Angler's attorney reviewed the revised agreement. When asked by Council member Dean, Director of Public Works Marty Shifflett did not believe the processing of 1,000,000 gpd of effluent would be sufficient for "all the proposed development." Council member Dean favored engineering for 2,000,000 gpd. Vice Mayor Snow asked was that relevant to this document "as it doesn't make any difference to Angler what we are going to do. All they are worried about is that we have adequate capacity to service the subdivisions." However, it appeared Council was receptive to the engineering of 2,000,000 gpd.

Vice Mayor Snow emphasized a section of the Agreement that stated "The Town agrees to deposit such fees (See Section 5, Fees) into an interest-bearing escrow account to be held by the Town and to be used exclusively for the upgrade of the sewer plant to a capacity of 1,000,000 gpd."

Vice Mayor Snow moved, second by Council member Workman, and carried to approve the Agreement.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 roll call)

Master Plan for Elkwood

Mr. Donachy presented the recommendation of the Planning Commission, which approved the Master Plan with Option B, where Persimmon would serve as the second entrance and would be a through street serving the development.

A lengthy discussion followed and included a gated entrance and sidewalks on Sweetgum. Council member Dean assured Mayor Printz that easements would never be obtained for sidewalks. Mayor Printz asked for a 30 day discussion period, but Council member Workman stated Elkwood development had been "tabled and tabled until it went away." He was steadfast that it not happen again and encouraged an up or down vote.

Council member Dean moved, second by Council member Pence, and carried to approve the Elkwood Master Plan with Persimmon north dead-ending and Persimmon south gated, or sidewalks constructed on Sweetgum.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 roll call)

Community Center

Mr. Donachy asked Council to approve, or recommend approval of, the creation of a 501C3 organization, which would accept donations or contributions for the Community Center. The organization would be run by a Board of Directors and the administrative duties would be handled by Town staff. The Community Center Committee will make recommendations for Board members to Council.

Council member McDaniel moved, second by Council member Dean, and carried to direct Town Attorney Nathan Miller to establish the 501C3.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 roll call)

Bids for Community Center

Mr. Donachy asked Council to accept the low bid from the "5 or 6 bids received" for renovations to the Community Center. The bid will be good for the next week and a half. Financing will be in the form a line of credit.

Council member Dean moved, second by Council member Workman, and carried to accept the bid.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 roll call)

Reappropriation of Police Radio Money – First Reading

The radios will not be available for purchase until next year, or longer. There was $58,000.00 budgeted for the radios. Mr. Donachy asked that $24,475.12 be reappropriated to lease two Chevrolet Impalas and one Tahoe. That would be $24,475.12 each year for the next three years, at which time the vehicles could be purchased for $1.00 (one dollar) each.

Police Motorcycles

One equipped police motorcycle would cost $24,050.00. The discussion was sent to committee.

Elkton Elementary School

The possible closing of "C" Street was discussed. It was the consensus of Council that Mr. Donachy and Mr. Shifflett discuss with VDOT the feasibility of closing "C" Street.

Mary K. Hutton

Mr. Donachy discussed safety issues as well as DEQ concerns. It was agreed that Mr. Donachy would try to find a contractor for Mrs. Hutton and the Town would be reimbursed from Mrs. Hutton for Town resources spent on this issue.

DIRECTOR OF PUBLIC WORKS

Kenny Kite on Shenandoah Avenue requested a water connection. Mr. Kite agreed to pay all incurred costs. Council member Dean was adamant that his approval did not include anything illegal, namely bribery, if Mr. Kite decided not to allow the spreading of liquid sludge on his property. One had nothing to do with the other was his point.

Council member Dean moved, second by Council member Sigafoose, and carried to approve the connection.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 roll call)

COMMITTEE REPORTS

Electric

No report.

Finance

Deferred to end of meeting.

Personnel

Council needs to complete the Town Manager's evaluations and return them to Council member Workman.

Public Health, Public Safety, and Ordinances

Golf Cart Ordinance sent back to committee.

Streets and Sidewalks

No report.

Water and Sewer

No report.

Recreation

Seniors made apple butter; a trip planned to Shenandoah National Park next month; Riverside Park bathroom awaiting parts to be completed; and the bathrooms in Stonewall Memorial Park will get an upgrade.

Planning Commission

No report.

Cemetery

Drainage project complete.

Charter Revisions Committee

Will be reviewed at committee meetings.

Park Authority

Vice Mayor Snow moved, second by Council member Workman, and carried to reappoint Pete Bonavita, David Dean, and Joseph flick to the Park Authority retroactive to May 16, 2005 through May 31, 2009.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 voice vote)

Economic and Community Development

Council member Workman moved, second by Vice Mayor Snow, and carried that Elkton sponsor an East Rockingham Business Council meeting, coordinated by Emily Burner.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 voice vote)

Community Center Committee

The May 2006 Council meeting may be held in the community room of the Community Center.

Finance

Vice Mayor Snow distributed a letter from Attorney Miller by way of the Town's auditors. Attorney Miller addressed the content: "There are really two issues. One is, do you want to authorize the auditors to go any further because they are limited by their contract on what they audit and this letter asks for them to do things that are not included within their purvey of the audit. So they didn't know what to do there. So, I, you know, I just gave it to the chairman of the Finance Committee. I noticed in there some of those issues are pretty pointed and you will have to be careful about allegations against individuals here as far as their honesty and integrity because you are getting close to the margin on what you are saying about individuals."

Council member Dean moved, second by Council member Workman, and carried to send this issue to committee for discussion.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 roll call)

Meetings

Committee Meetings – November 15 at 6:00 P.M.
Council Meeting – November 21 at 7:00 P.M. – Public Hearing for Community Center Financing at 6:30 P.M.

Council member Sigafoose moved, second by Council member Dean, and carried to adjourn at 10:00 P.M.

YEAS: J. Dean, C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (6 – 0 voice vote)

Mayor: _____
Wayne E. Printz, Mayor

Recorder: _____
Richard D. Carey, Clerk