Regular
Council Meeting
August 15, 2005

The regular meeting of the Elkton Town Council was held on August 15, 2005 in Council Chambers 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, Treasurer Clairen Sipe, Chief of Police Richard Pullen, Director of Economic Development Emily Burner, and Clerk of Council Richard Carey were also present.

Council member Dean offered the Invocation.

The Pledge of Allegiance was recited.

CITIZEN COMMENTS

Lee Dearing, 124 North Street, had several comments and observations:

1. What is the Master Plan for the development of the Angler property?
2. The Town Manager recommended borrowing 10 million dollars for electrical infrastructure for the Angler property. How can 10 million be repaid in three years when the Town will take 30 years to repay a 1.4 million dollar loan?
3. Last month there were deposits of $720,000.00. Where did the money come from?
4. Last month expenditures were $840,000.00. Where did the money come from?
5. Bond payment of $164,000.00 due in July. It was not budgeted. Where did the money come from? It was not appropriated, reappropriated, and there were no First and Second Readings.
6. Hiram Kite payment of $15,000.00. Same questions and comments listed in No. 5 above.
7. "There can only be one CEO and that is the Mayor," stated Mr. Dearing when referring to who sets the agenda for Council meetings.
8. Town Managers fail when they get involved in politics.
9. Voluntary contributions from Angler for the Elkwood project: "All this negotiation happened in closed session. The public has not been exposed to it. I would hope that you have a public hearing if you are using taxpayer money to fund this venture."
10. The Cemetery Commission has been waiting for three months for a response from Miller & Earle.
11. Commended Council for the Rachel Good Resolution but he considered it "too little too late."

Hazel Crider, 114 Hillside, also had several issues:

1. The will of the people as shown by the presentation of the petition to keep Town elections in May should have been respected. She stated there were more important issues before Council for this issue to resurface.
2. She hope another trip to Richmond would not be necessary to defeat flawed Charter revisions.
3. She encouraged continued opposition to the spreading of sludge in the Elkton area.

4. Thanked Chief Pullen and Town staff for helping to make National Night Out a success.
5. Neighborhood Watch picnic will be September 20 at 5:30 P.M., in Memorial Park at the Monger Shelter.

Mildred Shifflett, 112 West Spotswood Avenue, remarked that the Town Manager and Council were disregarding the wishes of the people by recycling the election date and Charter revisions.

Cathy Murphy, 110 North Stuart Avenue, was present and reminded Council of the 300 plus signatures on the petition presented to Council to keep Town elections in May. She agreed the Charter should be updated but hoped "history would not repeat itself" by a document "that nobody understands or wants being rushed through to make a deadline." Ms. Murphy was very uncomfortable with a ten million dollar loan for electrical infrastructure and wondered if the Town would even qualify for that amount, considering the current debt. She stated several reasons why the application of liquid sludge would adversely affect Elkton's development and desirability.

Mayor Printz announced that Angler officially notified the Town of their intent to proceed with the development of the Kite property.

CONSENT AGENDA

Consent Agenda
August 15, 2005

MINUTES
•Committee Meetings, July 12, 2005
•Public Hearing, Purchase Taylor Property, July 18, 2005
•Regular Council Meeting, July 18, 2005
•Public Hearing, Borrow 1.4 Million Dollars, July 25, 2005
•Special Council Meeting, Adopt Resolution to Borrow 1.4 Million Dollars, July 27, 2005

REPORTS
•Chief of Police
•Public Works

Council member Dean moved, second by Council member Sigafoose, 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 $431,546.28 for General Government for the month of July 2005. Total designated money was $345,547.11, which left total available cash of $85,999.17.

Vice Mayor Snow moved, second by Council member Workman, 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

Mr. Donachy corrected the misinformation regarding a 10 million dollar loan. He then stated neither he, nor staff, would enter into debate with Town residents during the comment period. He will take any comments under advisement and formulate a response. Anyone can contact him or staff by phone, or in person, during any work day with any questions or concerns.

Alley Closure and/or Sale

No action at this time.

Rachel Good Resolution

Resolution No. 08-15-05-1

WHEREAS, Rachel Good was last seen on October 18, 2003 in the Town of Elkton, and

WHEREAS, there has been no definitive information regarding her whereabouts, and

WHEREAS, Rachel is now considered to be a victim of foul play, and

WHEREAS, Rachel is a beloved mother, daughter, granddaughter, and friend, and

WHEREAS, we vow to speak her name until she is located,

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Elkton Town Council, on behalf of the citizens of the Elkton community, let it be know that we share the family's daily agony and will continue to offer unconditional assistance to all investigative agencies involved in locating Rachel Nicole Good.

PASSED, ADOPTED, AND APPROVED this _____day of _____, 2005

By:_____

Mayor

ATTEST:_____
Clerk of Council

Mayor Printz read the above resolution.

Council member Dean moved, second by Council member McDaniel, and carried to approve the resolution.

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

Motion carried (6 – 0 roll call)

Alcoholics Anonymous Meetings

Vice Mayor Snow moved, second by Council member Workman, and carried to permit Alcoholics Anonymous to hold their weekly Sunday evening meetings at the Kite house.

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

Motion carried (6 – 0 roll call)

During the discussion, Mr. Donachy assured Council the group would be covered under the Town's insurance policies. The group will meet every Sunday evening and remit $30.00 per month. The group has been, or will be, made aware that the house may not be available in the near future due to renovations.

Replacement of Section 158-1 – Second Reading

AN ORDINANCE TO AMEND CHAPTER 158 (VEHICLES AND TRAFFIC), ARTICLE I (GENERAL PROVISIONS), SECTION 158-1 (ADOPTION OF STATE LAW) TO ADD LANGUAGE TO INCLUDE FUTURE AMENDMENTS TO THE STATE STATUTES

Second Reading
August 15, 2005

WHEREAS, because of the adoption of new state statutes this section has had to be updated annually: and

WHEREAS, the State has provided language that incorporates any new state statutes and allows towns and counties to adopt this section just once;

BE IT ORDAINED, by the Town Council of Elkton, Virginia, that Chapter 158 (Vehicles and Traffic), Article I (General Provisions), Section 156-1 (Adoption of state law) of the Code of the Town of Elkton, is hereby amended as follows:

1. **§ 158-1.** Adoption of state law. [Amended 6-27-1995; 9-17-2001]
Pursuant to the authority of § 46.2-1313 of the Code of Virginia, as amended, all of the provisions and requirements of the laws of the state contained in Title 46.2 and Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia, as amended from time to time, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which by their very nature can have no application to or within the town, are hereby adopted and incorporated in this chapter by reference and made applicable within the town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to streets, highways, and other public ways within the town. Such provisions and requirements are hereby adopted, mutatis mutandis, and made a part of this chapter as folly as though set forth at length herein, and it. shall be unlawful for any person, within the town, to violate or fail, neglect or refuse to comply with any provision of Title 46.2 or of Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia which is adopted by this section, provided that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under Title 46.2 or under Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia, as amended. To the extent that any provisions of this chapter of the Elkton Town Code may be inconsistent with the provisions and requirements of Title 46.2 or of Article 2 of Chapter 7 of Title 18.2 of the Code of Virginia hereby adopted, the provisions of this chapter are superseded. *It is intended that this ordinance includes all future amendments to the state statutes referenced herein and becomes effective upon the effective date of such statutes as state law.*

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

Vice Mayor Snow moved, second by Council member Pence, and carried to approve Replacement of Section 158-1 (Vehicles and Traffic) Article 1 (General Provisions).

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

Motion carried (6 – 0 voice vote)

Voluntary Contribution Plan

The following is an outline of a conceptual voluntary contribution plan that Elkton Angler Broadlands, LLC (Angler) is considering in relation to the proposed expansion of the Elkwood subdivision.

In order to assist the Town in the implementation of upgraded and expanded sewer utility infrastructure, Angler is considering the possibility of a voluntary monetary and water facility contribution to the Town of Elkton. The monetary contribution would total $3,000.00 per approved new building lot in the Elkwood subdivision. The $3,000.00 would be paid to the Town as follows: $1,000.00 per approved building lot forty-five (45) days after final site plan approval and $2,000.00 per approved building lot at time of issuance of building permit. This structuring of the per lot payment is intended to allow the Town to realize a near-term monetary contribution to assist in the expeditious implementation of planned sewer plant upgrades as well as an ongoing long-term contribution through the build-out term of Elkwood.

The water facility contribution is in addition to the monetary contribution and would be comprised of a water storage tank located on the Elkwood property. The water tank, to be built at Angler's expense, would provide water pressure assistance for the Town's water distribution system.

Based on this concept Angler would ask the Town to commit to a reasonable timeline for the commencement and completion of the sewer facility upgrade as well as a commitment to serving the Elkwood project with water and sewer service as early as calendar year 2006.

Vice Mayor Snow moved, second by Council member Pence, and carried to accept the Angler Broadlands, LLC contribution plan for Elkwood.

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

Motion carried (6 – 0 roll call)

Water and Sewer Rate Increases

Council concurred that eventually the rates would increase but the need for an immediate increase was not urgent.

Council member Dean moved, second by Council member Pence, and carried to reject the rate increase as presented.

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

Motion carried (6 – 0 roll call)

Ordinance to Move Elections From May to November

Council member Dean moved, second by Council member McDaniel, and carried to resolve this issue by referendum.

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

NAYS: P. Workman

Motion carried (5 – 1 roll call)

Mr. Dearing asked Attorney Miller to explain the difference between the election referendum and the referendum Council member Lucky Sigafoose wanted for a Town golf course. At that time Council was advised the Town Charter did not allow for referendum, but the Town is currently guided by the same Charter.

Attorney Miller replied, "State Code has a specific provision, or different ways to move elections and one of them is to allow a referendum. It's specific. It's a very narrow section of the Code. What Mr. Sigafoose wanted to do was just a general referendum on a matter that was not defined and the difficulty there was the definition of what you would be voting on. Here, it's one item – when you will have the election. That's the distinction."

Charter Revisions

Council will schedule a meeting to review proposed revisions.

Appoint Donna Gooden as Deputy Treasurer

Council member Workman moved, second by Vice Mayor Snow, and carried to appoint Donna Gooden as Deputy Treasurer with no salary increase required.

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

Motion carried (6 – 0 voice vote)

Forgive Cemetery Debt

Council member Dean moved, second by Vice Mayor Snow, and carried to approve the recommendation of the Town's auditors to forgive a remaining Cemetery debt to the Town of $126,213.33.

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

Motion carried (6 – 0 roll call)

Mopeds

Mr. Donachy introduced the following as a First Reading:

Amendments to the Code of the Town of Elkton, Virginia
Chapter 158-28
Requirement of Safety Equipment for Mopeds

FIRST READING, AUGUST 15, 2005

Requirement of Safety Equipment for Mopeds

(a) Any person who operates a moped on a public street shall wear a face shield, safety glasses, or goggles of a type approved by the superintendent of the Virginia State Police, or have the moped equipped with safety glass or a windshield at all times while operating such moped, and operators and passengers thereon, if any, shall wear a protective helmet of a type approved by the superintendent of the Virginia State Police.

(b) Any person who knowingly violates this section shall be guilty of a traffic infraction and be subject to a fine of not more than fifty dollars ($50.00).

(c) A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or by the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a moped, nor shall anything in this section change any existing law, rule or procedure pertaining to any civil action.

Taylor Agreement

Vice Mayor Snow moved, second by Council member McDaniel, and carried to approve the Taylor Agreement as written by Attorney Miller.

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

Motion carried (6 – 0 roll call)

Committee to Meet with Angler

Council member Dean moved, second by Council member Workman, and carried to appoint Mayor Printz, Vice Mayor Snow, and Council member McDaniel to meet with Angler to discuss additional acreage.

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

Motion carried (6 – 0 roll call)

Bicycle Helmets

Mr. Donachy presented the following as a First Reading:

Amendments to the Code of the Town of Elkton, Virginia
Chapter 158-29
Requirement of Bicycle Helmets

FIRST READING, AUGUST 15, 2005

Bicycle Helmets. Every person fourteen (14) years of age or younger shall wear a protective helmet that meets the standards promulgated by the American National Standards Institute or the Snell Memorial Foundation whenever riding or being carried on a bicycle on any highway, sidewalk or public bicycle path.

Violations of this section shall be punishable by a fine of $25.00. However, such fine shall be suspended (i) for first-time violators and (ii) for violators who, subsequent to the violation but prior to imposition of the fine, purchase helmets of the type required by the ordinance.

General Information

Mr. Donachy answered questions and updated Council on Pentecostal Hill and project progress.

COMMITTEE REPORTS

Electric

No report.

Finance

No report.

Personnel

Council member Workman introduced Emily Burner, the Town's recently hired Director of Economic Development.

Public Health, Public Safety, and Ordinances

Mayor Printz editorialized regarding illegal immigrants and the negative impact they can have on public safety.

Streets and Sidewalks

ISTEA will hopefully go out for bids next week.

Water and Sewer

Mr. Donachy offered some explanations to Council member Pence regarding his complaint of muddy water.

Recreation

Council member Workman moved, second by Vice Mayor Snow, and carried to appoint Tracey Smith to the Recreation Commission to serve the unexpired term of Karl Waizecker. The term will be from August 15, 2005 through December 31, 2005, at which time she will be eligible for reappointment.

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

Motion carried (6 – 0 roll call)

Council requested details for the Riverside Park bathrooms.

Planning Commission

Two vacancies exist on the Commission.

Cemetery Commission

No report.

Charter Revisions Committee

The Mayor's powers and the election date were identified as "divisive and sensitive" issues. Portions of the Charter, as a whole, are "archaic" and should be deleted. Council believed they could "isolate" the divisive segments and revise the "common ground" portions.

Park Authority

Vice Mayor Snow stated he needs a time line from Angler in order for the Park Authority to continue what they were doing.

Economic and Community Development Committee

The Elkton Festival is scheduled for August 27, starting at 5:00 P.M., in Memorial Park.

Elkton Area Community Center Committee

The drawings have been reviewed. Bids will be requested soon.

Town Attorney

Attorney Miller reported that all issues in the Conley litigation were dismissed. A procedural hearing regarding the Cemetery burial sites litigation will be held on Wednesday.

Meetings

September 13 – Committee Meetings – 6:00 P.M.
September 19 – Regular Council Meeting – 7:00 P.M.
August 29 and August 30 (if needed) – Special Committee Meetings at 6:00 P.M., to review proposed Charter revisions.

As there was no further business, the meeting was adjourned at 8:41 P.M.

Mayor: _____
Wayne E. Printz, Mayor

Recorder _____
Richard D. Carey, Clerk