A special meeting of the Elkton Town Council was held March 21, 1969 at 8:00 p.m. in the council chambers with the Mayor, Welty H. Hensley presiding. The following council members were present: Mr. I. L. Flory 111, Mr. E. F. Garber, Mr. R. G. Harman, Mr. E. O. Karow, and Mr. A. R. Thompson. Mr. H. A. Workman was absent. Mr. Marvin C. Hillsman, Jr., Town Attorney, was present.

Mr. E. F. Garber opened the meeting with prayer.

Mayor Hensley explained that the purpose of the meeting was to discuss the difference of opinion between the Highway Department and the town in regards to the two inch water line on Route 33 Project 6033-082-106, C-501. He explained that Mr. Connie Kurtz of the State Highway Department had asked to meet with the council to try to clear up any misunderstandings.

Mr. Kurtz thanked the council and Mayor Hensley for giving up their time to meet with him in order that there might be a better understanding between the Highway Department and the Town. He stated that the Highway Department had acted in good faith and had tried to do what was right on this project and he hoped that the situation might be improved by him presenting the facts as he knew them. He explained that what he would have to say would be based on facts and correspondence in regards to this particular project.

Mr. Kurtz stated that on March 21, 1969 a utility field inspection was held on this project with Mr. Higgs the consultant engineer and members of the town council present. The only facility owned by the town that was involved was the eight inch line and as this was to be disturbed by the new construction, the town chose to go to a 10 inch line for future improvements. It was understood the cost of the improvement would be at the town's expense. Mr. Higgs was instructed by Mr. Kurtz to locate the services which would be affected, and to formulate plans.

Mr. Higgs had considered three plans: the service could be replaced in kind with three crossovers, it could be replaced with one crossover and a two inch line parallel on the South side, similar to the plan as it is now except for the location of the crossing or else plan to run the line completely on the South side to connect with the ten inch main; but Mr. Higgs had only considered this briefly as it had not proved to be economical.

Mr. Kurtz stated that this replacement of services could have been handled as a right-of-way item or a utility item. On April 18 he wrote a letter to Mr. Johnson of the Highway Department saying this would be handled as a utility item.

On May 2, 1968 Mr. Kurtz received tenative plans from Higgs & Shumate and they were forwarded to the Richmond Office for approval. Approval on these plans was received on May 8, 1968 and Mr. Kurtz instructed Higgs & Shumate to proceed with formulating the final plans.

Mr. Kurtz stated that as early as June the plans were available and the only question was whether to locate on private property or state right-of-way. Mr. Kurtz stated that in a letter from Mayor Hensley on June 4, 1968 the two inch line and its location was mentioned, but nothing was said about extending the two inch line back to the ten or to give the state any idea that the town was under this impression.

The final plans were completed by October 28, 1968 and ready to be formulated in the Highway Department's plans.

Mr. Kurtz went on to explain that not until December 4, 1968 did he have any knowledge that the town was under the impression that the two inch line was to run back to the ten inch main and this was when Mayor Hensley called him and asked to meet with him. No further action was taken until February 26, 1969 when a meeting was held here in the council chambers with Mayor Hensley, Mr. Flory, Mr. Higgs and Mr. Liskey. Mr. Kurtz stated that he did not feel that the Highway Deparment had misled the town.

The Highway Department had never considered running this line back to the main, but the consultant had considered it briefly but it had not proved to be economical. He stated that he felt that the situation with Mr. Mose Hensley was beyond the Highway Department's authority. Mr. Valz had checked with Mr. Flory in regards to connecting Mr. Hensley, Mr. Flory had stated that the town would connect him if the two inch line went by Mr. Hensley's house, Mr. Valz had checked with Mr. Kurtz to see if there would be a two inch line in front of Mr. Hensley's house and had informed Mr. Hensley that there would be a line there.

Mr. Kurtz stated that he felt the town was benefiting to some degree by this plan with the two inch line parallel on the South side and with the opportunity to run this line back to the main in the future.

Mr. Karow asked what would happen to the existing crossing.

Mr. Kurtz stated that it would be abandoned.

Mr. Thompson asked if there would be just one crossing.

Mr. Kurtz stated that there would be one crossing which is a two inch steel line and this line would be encased.

Mayor Hensley stated that Mr. Kurtz had taken the time to come down and explain this on his own time and that he did not receive pay for this extra effort.

Mr. Garber stated that he felt the town was going to have as much as they had before, if not more.

Mr. Kurtz stated that they would have more pipe line but the same amount of water. The Department has not burdened the capacity; the burden came from adding a customer.

Mayor Hensley stated that he had sent the letter mentioned by Mr. Kurtz on June 4, 1968 but that Mr. Higgs had sent the letter and asked that he have it typed on town stationery and return to him immediately. Mayor Hensley stated that he had no idea where the staion's mentioned were located and that as the letters had to be back by June 5, he didn't have the time or the plans available to find out where these stations were located.

Mr. Kurtz stated that the knowledge was available, but probably not the understanding. He explained that he was not here to be critical but just wanted to create a better understanding between the town and the Highway Department.

Mr. Kurtz stated that if the services had been handled as right-of-way items the state would have only dealt with the town on the eight inch main.

Mr. Karow asked if the two inch line on the far end, which would be paralled by the two inch on the South side, would remain.

Mr. Kurtz stated that it would as it would still be used to feed several houses on that side.

Mr. Harman stated that he did not understand how five or six men could have all been misled.

Mr. Kurtz said that there had been five or six men too many, as he honestly felt with so many around and talking, going back to the main with the two inch line had been discussed among themselves, but had not been discussed with him.

Mayor Hensley read the summary of the Field Inspection which was held March 21, 1968, but which did not go into any details in regards to the water lines.

Mr. Kurtz said that the state knows that when working with a town the size of Elkton it is usually a one shot deal and it is a burden to the town. This is why they go beyond what is expected or necessary to settle problems as a preventative method.

Mr. Flory said he definitely felt it had been a misunderstanding on both sides.

Mr. Kurtz said he did not feel that the Highway Department had contributed to this misunderstanding.

Mr. Flory stated that maybe when Higgs & Shumate mentioned going back to the town's main the town should have been warned then that this was not practical on the part of the state.

Mr. Kurtz stated that he did not know Mr. Higgs had even briefly considered this plan until after he found out there was a misunderstanding and Mr. Higgs said he had briefly considered it, but could not justify it.

Mr. Schumacher of the Valley Banner asked Mr. Kurtx what was going to happen to the Clark's in regards to their lwo water pressure.

Mr. Kurtx said he did not know as this was a problem of the town, and the Highway Department would have no authority in regards to this situation.

Mr. Harman asked if this has not been a problem previously.

Mr. Flory stated that adding Mr. Hensley would increase the low pressure and compund the problem.

Mr. Cockran of the Daily News-Record asked if he understood it right when they stated that the plans were available as early as June but that the town did not see the plans until December 4, 1968 and had assumed that the two inch line would br run back to the town main.

Mr. Flory stated that Mr. Valz had come to see him in regards to the two inch line going by Mr. Hensley's house and that he had told Mr. Valz that if the two inch line went by Mr. Hensley's house, the town would be glad to give Mr. Hensley a water connection and that the next thing he knew Mr. Hensley was already hooked up to the town water.

Mr. Kurtz stated that Mr. Valz had told the truth, as he had checked with him and found that the two inch line would go in front of Mr. Hensley's house. He stated that he felt the problem was in the break down in communications between the town and the consultant. He also stated that he felt Mr. Higgs had done a good job in regards to the plans and that the town had access to the knowledge as early as May 2, 1968.

Mayor Hensley stated that the town did not know until December 4, 1968 that this line would not run back to our main and that he had contacted Mr. Kurtx immediately.

Mr. Kurtz said that the first knowledge he had that the town was under this assumption was when Mayor Hensley called.

Mr. Kurtz explained that unless the town signed the agreement the Highway Department would not have the authority to bill the town for the 3.1% improvement and would have no other choice but to recall the plans and put the eight inch line back in a 24" encasement rather than the ten inch line in a 32" encasement.

Mr. Kurtz explained that this improvemant had been recommended by the consultant for future use.

Mr. Schumacher asked if it would be cheaper to have one crossing or to replace service for service.

Mr. Kurtz explained that it would probably be cheaper, as the plans are drawn up with the one crossing and it will probably be done this way even if the town does not sign the agreement; but he felt that the town and Highway Department both would benefit if the agreement was signed.

Mr. Harman asked Mr. Flory what was going to be done about Mr. Clark.

Mr. Flory said he did not know what could be done at the present as there is no money in the budget for improvements at this time.

Mr. Hillsman asked Mr. Thompson what his understanding in regards to this two inch line had been at the Field Inspection.

Mr. Thompson stated that he had been under the impression that the two inch line would run back to the town's main but that he could have been mistaken.

Mr. Kurtz stated that when the field inspection was held that he had not made any decisions as to these lines but had left the door open for Mr. Higgs to explore methods of adjustments. He said he had some ideas in regards to the lines but had not dictated to Mr. Higgs not tried to establish any method of adjustment. This had been left solely to the consultant to come up with the best method.

Mayor Hensley stated that he remembered asking about the six inch line and the fire plug when they were at the Field Inspction.

Mr. Flory asked where Mr. Hensley is getting his water at present.

Mr. Rion stated that the state had given Mr. Hensley a temporary permit to make use of their right-of-way to make a temporary water connection with the town before construction. He showed Mr. Flory on the diagram where he had tied him in to town water.

Mr. Kurtz explained that the state did not have the authority to give Mr. Hensley permission to tie in to the town water line, but only permission to use the state right-of-way and that is all they did. The town granted the permission for the hookup.

Mr. Karow stated that he flet Mr. Higgs had not kept the council informed in regards to this project.

Mayor Hensley informed the council that Mr. Valz could not increase the payment for the dump property so it would now be handled between Mr. Hillsman and Judge Graves.

Mr. Karow stated that he felt this to be a real mess and that there had been a complete misunderstanding. He flet that Higgs & Shumate had not informed the town of what was taking place or maybe the town had given him complete authority but he did not feel this was true.

Mayor Hensley asked that if the town rejected this proposal would this whole thing become the state's responsibility.

Mr. Kurtz stated that he did not really know but was glad Mayor Hensley had brought this up and probably that if the state would be responsible for the additional line they would have to go back to replacing service for service.

Mr. Schumacher asked what would happen to Mr. Mose Hensley if the state replaced service for service.

Mr. Kurtz stated that the state would give him a permit to cross the road if he requested it and then it would be up to the town whether they wanted to connect him or not.

Mayor Hensley asked if the state could not give the line to the town at a later date.

Mr. Kurtz said the state would have to have a commitment by the town that they would accept the responsibility for the line.

Mayor Hensley explained that they would not be able to take any action in regards to rescinding the action by the council to reject the proposal by the state, as all council members that voted on the motion must be present in order to rescind it and Mr. Workman was absent. He stated that it would be necessary to have another meeting in order to settle the problem.

As there was no further business, Mr. I. L. Flory 111 moved, seconded by Mr. A. R. Thompson and carried to adjourn.

MAYOR: Welty H. Hensley
Welty H. Hensley

RECORDER: Norma R. Leap
Norma R. Leap, Clerk