SPECIAL
COUNCIL MEETING
March 22, 1976

A special meeting of the Elkton Town Council was held Monday, March 22, 1976 at 7:30 P.M. with the Mayor, H. Ditman Flory presiding. The following council members were present: Mr. C. E. Dean, Mr. R. R. Dean, Mr. H. A. Leet, Mr. R. J. Lough, Mr. W. H. McGahey, and Mr. W. P. Suiter. Mr. Charles Hammer, Chief of Police, Mrs. Norma Leap, Clerk, Mr. Gerald Monger, Town Superintendent, and Mr. R. Bruce Wiles, Town Attorney were also present.

Mr. C. E. Dean opened the meeting with prayer.

Mr. Wiles read the purposed ordinance to assess abutting property owners for construction, replacement or enlargement of storm water sewers.

Mr. R. J. Lough moved, seconded by Mr. C. E. Dean to approve the First Reading of the following ordinance:

AN ORDINANCE TO IMPOSE TAXES OR ASSESSMENTS UPON ABUTTING PROPERTY OWNERS FOR THE CONSTRUCTION, REPLACEMENT, OR ENLARGEMENT OF STORM WATER SEWERS

WHEREAS, by act of the General Assembly of Virginia as provided in Title 15.1, Chapter 7, Article 2, Section 15.1-239 et seq. of the Code of Virginia, 1950, as amended, the governing body of any county, city, or town may impose taxes or assessments upon the abutting property owner or property owners for the construction, replacement, enlargement, or use of storm water sewers including retaining walls, curbs and gutters;

THEREFORE, be it ordained and enacted by the Town Council of the Town of Elkton, Virginia, that the following procedures for the imposition of taxes or assessments upon abutting property owners for the construction, replacement, or enlargement of storm water sewers including retaining walls, curbs and gutters, are hereby adopted:

Whenever it is desired to construct, replace, or enlarge any storm water sewer including retaining walls, curbs and gutters, the same shall be done and the cost thereof shall be borne in accordance with the provisions of this ordinance and the same shall be ordered done only as hereinafter set out:

(a) Such work may be ordered done in pursuance of any agreement entered into between the Town and the abutting property owner or property owners, whereby such abutting property owners shall agree to bear the expense, or a portion of the expense, of such construction or improvement to be apportioned among them.

(b) In the absence of such agreement, such improvement may be ordered if the council shall have received a petition from not less than three-fourths of the property owners to be affected thereby.

(c) In the absence of such agreement or such petition, no such improvements will be ordered.

(d) When the assessment or apportionment is not fixed by agreement, notice thereof, and of the amount so assessed or apportioned, shall be given each of the then abutting owners and he shall be cited thereby to appear before the council not less than ten days thereafter, at a time and place to be designated in said notice, to show cause, if any he can, against such assessment or apportionment.

(e) The notice required by the preceding section (d) may be given by personal service on all persons entitled to such notice, except that notice to an infant or insane person may be served on his guardian or committee and notice to a nonresident may be mailed to him at his place of residence or served on any agent of his having the property in charge, or on the tenant of the freehold, or in any case when the owner is a nonresident, or when the owner's residence is not known, such notice may be given by publication in some newspaper published or having general circulation in the town once a week for four successive weeks. Or, in any case, in lieu of such personal notice on the parties or their agents and of such publication, the notice to all parties may be given by publishing the same in some newspaper published or having general circulation in the Town of Elkton once a week for two successive weeks, the last publication to be made at least ten days before the parties are cited to appear. Any property owner wishing to make objections to an assessment may appear in person or by counsel and state his objections.

(f) If the objections of any property owner to the assessment or apportionment are overruled, and if he shall not within thirty days thereafter take an appeal to the circuit court upon the action of council, the council may direct that the work be proceeded with. If an appeal is taken, the clerk of the council shall immediately deliver to the clerk of the court the original notice relating to the assessment, with the judgment of the council endorsed thereon.

(g) The cost of any work done under the provisions of this ordinance, when the same shall have been ascertained, shall be assessed or apportioned by the council between the town and abutting property owners in accordance with the terms of any agreement between the town and such abutting property owners, or, in the absence of such agreement, in accordance with such terms as are fixed by council; provided, however, such taxes or assessments shall not be in excess of the peculiar benefits resulting from the improvements to such abutting property owner or owners; and no assessment for retaining walls shall be imposed upon any property owner who does not agree to such assessment.

(h) The amount assessed against the abutting property owner or property owners under the provisions of this ordinance shall not exceed one half of the total cost of such improvement.

(i) The amount assessed against each abutting property owner or for which he is liable by agreement shall be reported as soon as practicable to the town treasurer, who shall enter the same as provided for other taxes.

The vote was recorded as follows:

C. Dean	- yea	R. Lough	- yea
R. Dean	- yea	W. McGahey	- yea
H. Leet	- yea	W. Suiter	- yea

Mrs. Linda Life was interested in knowing if the ordinance allowed for the town making improvements in areas where they have created the problem, without assessing the abutting property owners. Mayor Flory explained to Mrs. Life that only in cases where the natural flow of water was altered would the town be obligated in any way.

Mrs. Life asked why the council assumed full responsibility for the Jackson Avenue Project if the State Code allowed them to assess the property owner. Mayor Flory explained that this problem had existed for a long period of time, previous councils had promised a solution and so the present council had felt a moral obligation to take care of this matter.

Mr. R. J. Lough moved, seconded by Mr. W. P. Suiter to approve the Second Reading to appropriate $1,300.00 to purchase and install a new short engine block for the Case 580 Backhoe to be split among the four departments as when purchased. The vote was recorded as follows:

C. Dean	- yea	R. Lough	- yea
R. Dean	- yea	W. McGahey	- yea
H. Leet	- yea	W. Suiter	- yea

Mr. R. J. Lough moved, seconded by Mr. W. P. Suiter to approve the Second Reading to appropriate in accordance with the new budget requests as presented. The vote was recorded as follows:

C. Dean	- yea	R. Lough	- yea
R. Dean	- yea	W. McGahey	- yea
H. Leet	- yea	W. Suiter	- yea

Mr. W. P. Suiter moved, seconded by Mr. C. E. Dean and carried unanimously to waive notice thereof to introduce new business regarding the Rockingham County School Board.

Mr. Suiter reported that he had talked with Mr. Carl Yowell who requested that the Rockingham County School Board be allowed to place three nonmobile classrooms on the parking lot behind the elementary school. These units will be placed on footings and anchored. No water or sewer will be needed. They will need electric service as they will be totally electric. These units will meet all the requirements in the building code. The School Board will furnish electricity from the present building or if the town prefers, 100 amp services can be run to each unit. These units are needed to eliminate the overcrowed school situation.

Mr. R. J. Lough moved, seconded by Mr. W. P. Suiter to grant permission to the Rockingham County School Board to locate three nonmobile units at the Elkton Elementary School as stipulated by Mr. Carl Yowell.

Mr. Monger asked if there had been any reference made to the mobile unit next to the Shop Building at the Elementary School. This was to be a temporary situation. Mr. Monger was asked to check into this.

Mr. Leet stated he did not want to prevent the placing of the mobile units at the school but he did feel this was not a good direction and should be frowned upon as a permanent solution to the problem. He suggested a undefined time limit and that the units be kept as close to the existing building as safe and practical.

Mr. R. J. Lough moved, seconded by Mr. W. P. Suiter to amend the motion to include on a temporary basis, not a permanent situation. The motion, as amended, was unanamiously approved.

Mr. Leet reported that 32-27 of the town code states that the town will run all sewer service lines to the applicants property line for a distance not to exceed one hundred feet. If the distance exceeds one hundred feet the applicant shall pay all costs in excess of one hundred feet. The Water and Sewer Committee has been approached by a person considering purchasing several lots in town for building homes to sell and although the lots are in well developed areas the sewer will run beyond 100 feet. It is the committee's opinion that the town should amend the ordinance so that if a person buys within a well developed area they should be able to expect sewer run to their property line at no expense.

Mr. Suiter felt the town should encourage people to build in town and this change in the ordinance would help. Mr. Lough felt it would be a mistake to change the ordinance but that the council could consider each individual case.

After much discussion, the matter was tabled for further study until the next meeting.

Mr. Bill Holleran came before council and explained the merit personnel program he had prepared for the town.

Mr. W. H. McGahey moved, seconded by Mr. R. R. Dean and carried unanimously to go into Executive Session to discuss the personnel policy program.

Mr. W. H. McGahey moved, seconded by Mr. W. P. Suiter and carried to go out of Executive Session back into Regular Session.

Mr. W. H. McGahey moved, seconded by Mr. W. P. Suiter and carried to adjourn.

MAYOR: H. Ditman Flory Mayor
H. Ditman Flory, Mayor

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