REGULAR
COUNCIL MEETING
October 24, 1994

The regular meeting of the Elkton Town Council was held Monday, October 24, 1994 at 7:00 p.m. in the council chambers with the Mayor Charles E. Dean presiding. The following council members were present:

PRESENT

F. A. Bennett
D. H. Dail
M. B. Fuller
W. E. Printz
R. L. Snow
T. R. Whitfield III

Ted Costin, Town Manager, Dale Davenport, Attorney, Norma Leap, Clerk, Gerald Monger, Superintendent and Warren Pence, Chief of Police were also present.

VISITORS

Karen Lam and Mensel Dean of McGladrey & Pullen were present to review the town's audit report, answer questions and make recommendations based on the audit. The report shows that the revenues for 1993-94 exceeded the expenses by a little over $85,000.00.

Marsha Deavers, EDRC Main Street Project Manager, presented their quarterly report. She reported that EDRC has received 501(c)3 tax exempt status from the IRS. They have been pursuing this for two years. Some of their goals for 1994-95 are to continue the landscaping project at the intersection of Route 33 and 340; develop and print an Elkton Business Directory; acquire a tourism survey with respect to visitors to the Shenandoah National Park and Massanutten Resort; plan, organize and direct the "Summer Evenings in Elkton" concert series; plan and direct two or possibly three retail sales promotions. Ms. Deavers thanked the Police Department and Maintenance Department for their help with the summer concert program and the Town Council for allowing them to use the front lawn at the Municipal Building.

Councilman Snow asked Ms. Deavers if they have ever considered doing a community calendar and she stated they will take a look at this suggestion.

Susan Workman, 429 Wirt Avenue, was present concerning the traffic, noise and speeding on Wirt Avenue. She pointed out that she is not opposed to cruisers but feels there is a time and place for everything. She is opposed to the speeding as there are small children on that street and she feels 2:00 a.m. in the morning is not the time for loud noises and commotion. She stated she feels people in the community and those involved in the noise, etc. need to be made aware that Mr. Menking is not the only person opposed to the problems in that area as there have been rumored threats against him. She questioned what the town council plans to do to protect Mr. Menking against possible retaliation. Ms. Workman felt there needs to be another meeting on this problem as some of them did not receive their notification until 24 hours before the meeting.

MINUTES

Councilman R. L. Snow moved, seconded by Councilman F. A. Bennett and carried to approve the minutes of the Regular Meeting September 19, 1994 as presented.

DEPARTMENT HEAD REPORTS

Chief of Police

Chief Pence presented the police report for the month of September.

Chief Pence reported that council should have in their possession a summary of the weekend activities of the police department regarding the meeting with Mr. Printz and some of the citizens trying to resolve the problems on Wirt Avenue.

Chief Pence presented council members with a copy of sections of the state code and asked that they refer to Section 15.1-133. He requested council entertain a motion, which is authorized by Section 15.1-33, allowing the police department to donate to a charitable organization unclaimed bicycles which they have had in their possession, some for years. The code also authorizes a public sale but Chief Pence does not feel the town would benefit enough monetarily to make it worthwhile. He feels the community would benefit more by providing a needy child with a bike.

Town Superintendent

Mr. Monger presented his written monthly report.

Mayor Dean asked Mr. Monger if he has the total on the substation costs. Mr. Monger reported he does not have the totals at this time as they just received another bill last week but he will get this information together to present to council.

Mr. Monger reported that he has scheduled a Joint Public Hearing by the Town of Elkton and the Planning Commission on Monday, November 7, 1994 at 7:00 p.m. to consider a special exception permit for Mr. Wood to build another storage building on Shenandoah Avenue.

Mr. Monger reported that the second section of the storm sewer project on upper Spotswood Avenue is approximately 98% complete. They are waiting on some manholes to be delivered.

Mr. Costin referred to the correspondence in Mr. Monger's report regarding the zoning on Lots 1-2-3, Blk. 2½, Sec. 3 owned by the Flory's. Mr. Flory feels there was an error made when the map was done. Mr. Costin reported that he, along with Mr. Monger, listened to old tapes of the meetings and work sessions when the zoning ordinances and map were being worked on and it appears there was a drafting error on the map. At the time the map was presented at the Public Hearing, the section in question was shown as R-5. The Flory's appeared at the hearing to request that all their property be zoned light industrial. It was the consensus at that time to change the Flory property as requested. The map was not changed, as agreed, and when action was taken by council a portion of the Flory property remained R-5 on the map rather than M-1 as requested. Mr. Flory is now asking that the town correct this error.

Mr. Costin recommended that Mr. Flory be advised that the town would consider his application to rezone his property at his expense. Mr. Costin stated he could not recommend that the town instigate the application as it sets a bad precedent.

Councilman Bennett asked if the town could waive the application fee as it was the town's error and Mr. Davenport did not feel this could be done.

Councilman W. E. Printz moved, seconded by Councilman T. R. Whitfield III to accept Mr. Costin's recommendation to leave it up to Mr. Flory to apply through the application procedures to have his property rezoned at the old Flory Lumber Company as the town will not initiate the application.

Councilman Whitfield questioned if we see any other areas that this may occur in the future. Mr. Monger reported that they have been listening to the tapes and at this time do not see and haven't heard about any other areas.

Mayor Dean stated that another option would be for Mr. Flory to go through the Planning Commission and they file for an application at no cost. Mr. Whitfield asked Mr. Costin if he would support this as an option.

Mr. Costin stated this is an option Mr. Flory has, and he certainly supports him getting all the options available to him, but he does not support this option being received.

The vote was taken on the motion and recorded as follows:

YEAS: D. H. Dail, M. B. Fuller, W. E. Printz, R. L. Snow and T. R. Whitfield III

NAYS: F. A. Bennett

Treasurer

Councilman R. L. Snow moved, seconded by Councilwoman M. B. Fuller and carried to approve the Finance Report for the month of September.

TOWN MANAGER'S REPORT

Mr. Costin reported that he has finished meeting with all the town employees. He rode with the police officers on two occasions, had a tour of the town utilities with Mr. Monger, met with the Planning District Commission staff, reviewed the recreational facilities and attended the VML Conference and RML meeting. He feels that these and the activities which occurred prior to the last meeting have afforded him a good understanding of the town and its workings. He is now anxious to start undertaking some positive changes for the town. Two programs Mr. Costing included in the council's packet involve credit union membership and retirement benefits. Mr. Costin stated he is willing to discuss this now but recommends these programs be sent to the Personnel Committee for review and their recommendation.

Mayor Dean asked Mr. Costin to give a brief outline of the programs. Mr. Costin briefly outlined the credit union program and its benefits. There is no cost for the town to participate in this program. The retirement program provides the local governments the opportunity to increase their retirees benefits by 3% retroactive to the first day of October, 1994 if a resolution is passed by the local governing body and received by the Retirement System by January 1, 1995. If passed and received after that date, the benefit increase will be effective with the next available retirement payroll processed following receipt of the resolution, or the effective date specified in the resolution, whichever is later. The cost to the town would be 0.86% of the covered payroll, the cost to be reflected in the employer's contribution rate effective July 1, 1996. Mr. Costin stated he has more information on these programs if anyone is interested.

COMMITTEE REPORTS

Finance Committee

Councilman R. L. Snow moved, seconded by Councilwoman M. B. Fuller and carried to approve the audit report.

Councilman Whitfield suggested council very seriously consider the suggestions presented by the auditors on Page 46 and 47 of the report.

Personnel Committee

Councilwoman Fuller stated she will take the program suggestions to the Personnel Committee for consideration.

Mayor Dean reported that there will be a council work session next Tuesday, November 1, 1994 at 6:00 p.m.

Streets & Sidewalks Committee

Councilman Printz asked Mr. Monger where we stand on getting crosswalks back where they were in the downtown area. Mr. Monger stated the last he heard they will not let us put them back where they were. Mr. Monger and Mr. Costin were asked to explore what other options we might have.

Councilman Printz reported on the meeting regarding cruising, noise, etc. He stated that the problem of not enough notice time was probably his fault as he was in Pennsylvania on a family matter. He would be willing to hold another meeting and make sure everyone has enough notice. He feels some positive things came out of the first meeting.

Mayor Dean stated that the next meeting, following another council member's recommendation, should be with the Public Health, Public Safety and Ordinances Committee as some new ordinances or changes are going to be involved in order to address this issue.

Mr. Menking questioned what this is going to do to him regarding the Halloween threats and what the town is willing to do. Mayor Dean stated all he could say is that all five police officers will be on duty all night long that night and Chief Pence is aware of the situation.

UNFINISHED BUSINESS

Councilman Whitfield suggested that on the Cemetery Commission Directory List that rather than have No Term after his name it be Per Council.

Mr. Costin pointed out that the new directory sheets were prepared assuming council would act on the commission representatives as previously indicated. The "No Term" after Mr. Whitfield's name on the Cemetery Commission will be changed to "Per Council".

Councilman D. H. Dail moved, seconded by Councilman T. R. Whitfield III to accept the following committee assignments as follows:

Electric Power Committee

Daniel H. Dail, Chair
Wayne E. Printz
Randell L. Snow

Finance Committee

Randell L. Snow, Chair
Charles E. Dean
Marsha B. Fuller

Personnel Committee

Marsha B. Fuller, Chair
Charles E. Dean
Thomas R. Whitfield, III

Public Health, Public Safety and Ordinances Committee

Charles E. Dean, Chair
Fred A. Bennett
Thomas R. Whitfield, III

Streets and Sidewalks Committee

Wayne E. Printz, Chair
Fred A. Bennett
Thomas R. Whitfield, III

Water and Sewer Committee

Fred A. Bennett, Chair
Daniel H. Dail
Marsha B. Fuller

Councilman Whitfield stated he seconded the motion in order to say that he is fully committed to working in any capacity, being on a committee with other council members, with town residents and will give 100% to that but he feels council can work more effectively without the committee system and he will be voting against the motion.

Councilman Printz stated he has noticed that Councilman Whitfield does not chair any committee. He feels that as the Mayor is a member of all committees, Mr. Whitfield should be given the Chair of the Public Health, Public Safety and Ordinances Committee. Councilman Printz stated he feels there are changes needed there and we need someone who will review more in depth some situations in that area.

Mayor Dean pointed out that council was following Mr. Davenport's recommendation that the Mayor is responsible for Public Safety and that's why he is the Chairperson.

Councilman Bennett stated he strongly supports the committee system. He feels this is the only true balance in which the town residents elect council members and they should be held responsible for their actions.

Councilwoman Fuller stated she has some second thoughts about this. She agrees council members need to be accountable but she does not feel it has been clearly delineated how the council committee system, which she does not feel worked before, is going to work now and how they as a council can hold each other responsible for completing their duties on the various committees. Her concern is whether council is now complicating the situation they have just taken some steps to correct.

Councilman Snow stated he feels the people in this town do not necessarily care whether a committee holds two, three, or four meetings a month. What they are concerned about is if they have a problem and something doesn't get corrected they know who to come to.

Councilman Whitfield stated that although he has never believed that the committee system is the most effective way to respond to citizens needs, he does think the way they arrived at placement on the committees was better than years past. In the work session, each council had input as to what area they are best suited and what their interest are.

The vote was recorded as follows:

YEAS: F. A. Bennett, D. H. Dail and R. L. Snow

NAYS: M. B. FUller, W. E. Printz and T. R. Whitfield III

Mayor Dean voted **YEA** to break the tie.

Councilman Whitfield reported that on the Recreation Commission, with the exception of one or two, all those terms expired in February of this year.

Mr. Costin reported that a copy of this has been given to the Recreation Coordinator and they are meeting tonight. They will have a recommendation and report at the next council meeting.

NEW BUSINESS

Councilwoman M. B. Fuller moved, seconded by Councilman F. A. Bennett and carried to appoint Councilman Snow to the Recreation Commission, Councilman Dail to the Planning Commission and Councilman Whitfield to the Cemetery Commission as the town council's representatives.

Mayor Dean noted that the Valley Banner had stated that Mr. Whitfield would replace Richard Davis on the Cemetery Commission and that is not the intent. Council wants Mr. Davis to continue as Chairperson.

Councilman T. R. Whitfield III moved, seconded by Councilman W. E. Printz and carried to adopt the resolution in its entirety authorizing the Town Treasurer, Norma R. Leap, and the Town Manager, Ted Costin, be granted check signing authority. A copy of the resolution is attached to the minutes.

Councilman Whitfield recognized the Junior Order and EPIC on the great autumn festivals which were attended by approximately 8,000 people.

Councilman Printz suggested council consider that when another meeting is set for the noise, traffic, etc. problem on Wirt Avenue an advertisement be placed in the paper notifying the interested residents. Most of council agreed that this would be a good idea if the meeting is scheduled far enough in advance. Councilman Bennett stated he is not opposed to this but it is not a perfect solution as some people will not see it in the paper. He feels direct notices are better for those specifically involved.

A tentative date of November 10, 1994 at 7:00 p.m. was set for a Public Health, Public Safety and Ordinances Committee meeting to discuss the Wirt Avenue problem.

A Personnel Committee meeting was set for November 7, 1994 following the Public Hearing.

The Town Christmas Party was discussed. Council was in agreement to have it at the Fire Company activities building or in town if possible. They did feel we should make sure we are given an adequate allowance of time wherever we go.

As there was no further business, the meeting adjourned.

Councilman T. R. Whitfield III moved, seconded by Councilman W. E. Printz and carried to go back into Regular Session.

Councilwoman M. B. Fuller moved, seconded by Councilman W. E. Printz and carried to go from Regular Session into Executive Session to discuss actual and probable litigation.

Councilwoman M. B. Fuller moved that council go back into Regular Session and that each member to the best of his knowledge, certify that only public business matters lawfully exempted from open meeting requirements under Chapter 21 of Title 2.1 of the Code of Virginia were discussed or considered. The vote was recorded as follows:

YEAS: F. A. Bennett, D. H. Dail, M. B. Fuller, W. E. Printz, R. L. Snow and T. R. Whitfield III

Councilman D. H. Dail moved, seconded by Councilwoman M. B. Fuller and carried that the town vigorously defend against the bill of complaint filed against the town by the Christian Observer and Shen Valley Dry Wall.

As there was no further business, the meeting adjourned.

MAYOR: Charles E. Dean
Charles E. Dean, Mayor

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