Regular
Council Meeting
August 18, 2003

The regular meeting of the Elkton Town Council was held on Monday, August 18, 2003 in Council Chambers with Mayor Wayne E. Printz presiding. The following Council members were present:

PRESENT	ABSENT
C. H. Murphy	J. T. Dean
T. Pence	
L. Sigafoose	
R. L. Snow	
P. Workman	

Attorney Nathan Miller, Faye Vickers, Treasurer, Richard Pullen, Chief of Police, Todd McCoy, Director of Public Works/Zoning Administrator, and Richard Carey, Clerk of Council, were also present.

Mayor Printz offered the Invocation.

The Pledge of Allegiance was recited.

CITIZEN COMMENTS

Margaretta Dean, 434 Wirt Avenue, complained of cars speeding on Wirt Avenue.

Hazel Crider, 114 Hillside, expressed the need for curb and gutter in the new Elkwood development area. She has noticed a marked increase in traffic, especially motorcycles. To her, this was evidence of the need for a separate entrance to the new development.

Mike O'Neill, 425 East Rockingham Street, commented on a letter sent by Mayor Printz to Lee Dearing in response to Mr. Dearing's Letter to the Editor in *The Valley Banner*. Mr. Dearing requested citizens to write the Clerk of Council to voice an opinion, pro or con, for the construction of a golf course. Mayor Printz believed that request was inappropriate because the direction to the Clerk of Council did not come from Council. Mayor Printz interpreted Mr. Dearing's action as setting a precedent for a citizen to mandate the job duties of Town staff.

Ron Englemeyer, 162 Sweetgum, presented a newspaper article which stated various hazards to Elkwood if the traffic issue and curb and gutter were not addressed and solutions found.

Lee Dearing, 124 North Street, asked who should be held accountable for $500.00 worth of paving by RanMar on Persimmon Street when, after Council had rejected a request three times, a portion of Persimmon was paved. Mayor Printz stated that RanMar had remaining paving material from another location. Robin Dean contacted Mayor Printz and asked if the Town had a project where the surplus material could be used. As the cost was within the range that Mayor Printz could authorize ($500.00), he instructed Mr. Dean to spread it on Persimmon.

MINUTES

Council member Snow moved, second by Council member Pence, and carried to approve the Committee meetings minutes of July 15, 2003.

YEAS: C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (5 - 0 voice vote)

Council member Snow moved, second by Council member Workman, and carried to approve the minutes of the Regular Council meeting of July 21, 2003.

YEAS: C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (5 - 0 voice vote)

DEPARTMENT HEAD REPORTS

Chief of Police

Chief Pullen presented his report. The K-9 Unit was demonstrated for those who attended the Rockingham Municipal League dinner at the Kite house and also for the Boy Scouts. Loiterers were removed from sidewalks and from the parking lot at OD & Co. A grant was awarded to the Elkton Police Department for computer software for criminal and accident investigations. "Rainy" was also instrumental in a drug arrest at ShenElk Plaza.

Director of Public Works/Zoning Administrator

Mr. McCoy presented his report. Shenandoah Avenue was paved from Spotswood Trail to the end of the corporate limits. VDOT has approved Council member Workman's request for flower bed locations.

Treasurer

Mrs. Vickers reported an ending ledger balance for General Government for the month of July 2003 of $307,510.02 with available cash of $232,232.50.

The ending ledger balance for the Bond Account for the same period was $54,988.84.

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

YEAS: C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (5 - 0 voice vote)

Electric

No report.

Finance

No report.

Personnel

Interviews for Clerk II will be scheduled for next week. Vice Mayor Murphy will take personnel issues in closed session.

Public Health, Public Safety, and Ordinances

Amendments to the Code of the Town of Elkton regarding Nuisances and Vehicles and Traffic will have a First Reading under New Business.

Streets and Sidewalks

Some recommendations to alleviate a perceived traffic hazard in the alley behind the Family Dollar were discussed. Mayor Printz sent the issue back to committee.

Water and Sewer

Land acquisition will be discussed in closed session.

Recreation

No report.

Planning Commission

Deferred to New Business. Dan Talbot will serve as the new Chair of the Planning Commission, with Troy Lester serving as Vice Chair.

Cemetery

No report.

Park Authority

No report.

OLD BUSINESS

Amend Elkton Code to Delete Curb and Gutter

Tabled until next month.

NEW BUSINESS

Alley Closure - Kirdendall

Closed session.

Proposed Amendments to the Code of Elkton, Virginia, Chapter 120, Nuisances, Sections 120-4J, 120-4K, and 120-9 - First Reading

Proposed Amendments to the Code of the Town of Elkton, Virginia
Chapter 120, Nuisances
Sections 120-4J, 120-4K, and 120-9
August 13, 2003

Section 120-4J shall be amended to read as follows:

"J. Deposit, keep or leave permit to be deposited, kept or left in any place accessible to children, or in any place viewable from a public street or alley, any abandoned, ~~unused~~, nonrunning, ~~or~~ discarded ~~automobile, truck or other vehicle~~, or inoperable motor vehicle, trailer or semi-trailer, or any vehicle hulk or nay part thereof, or other articles of personal property. For the purposes of this subsection "abandoned, ~~unused~~, nonrunning and inoperative: refers to a vehicle ~~which is not movable under its own power and which has been in a stationary position for more than 60 days~~ as defined in Section 158-17B.

Section 120-4K shall be amended to read as follows:

"K. Vegetation exceeding ~~12~~_____(_____) inches in height (exclusive of plants and flowers within a flower bed. Shrubbery and trees) located in any front yard, side yard, rear or vacant lot, not deemed agricultural, conversation, government or within 200 feet of any residential lot."

The following section is hereby added to read as follows

"Section 120-9. Abatement by the town.

If thirty (30) days elapse after written notice from a town officer to the owner, occupant, or person in charge of the premises upon which a nuisance exists without such condition being abated or removed, and after a hearing pursuant to 120-6, and/or after the expiration of any right to appeal pursuant to Section 120-5, the town may abate such nuisance or remove it, charging the costs thereof to such owner or occupant and collecting such costs in the and manner as the local real estate tax."

Council member Snow moved on a First Reading, second by Council member Workman, and carried to accept the document as presented.

YEAS: C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (5 - 0 voice vote)

Proposed Amendments to the Code of the Town of Elkton, Virginia. Proposed amendments to Chapter 158, Vehicles and Traffic - First Reading

Proposed Amendments to the Code of the Town of Elkton, Virginia
Proposed amendments to
Chapter 158, Vehicles and Traffic
August 13, 2003

The following sections shall hereby amend and replace the existing corresponding section of the Code:

Section 158-17. Storage of inoperative vehicles.

A. It shall be unlawful for any person, firm or corporation to keep on any property zoned for residential, commercial or agricultural purposes, any motor vehicle, trailer or sem-trailer, as such are defined in Section 46.2-100 of the Code of Virginia, 1950, as amended, which is inoperative, unless such motor vehicle, trailer or semi-trailer is kept within a fully enclosed building or structure, or is otherwise shielded or screened from view.

B. As used in this section, "inoperative motor vehicle" shall mean any motor vehicle:
   (1) Not in operating condition; or
   (2) Partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle, for a period of sixty (60) days or longer; or
   (3) Not displaying valid license plates; or
   (4) Not displaying a valid inspection decal.

C. This section shall not apply to licensed business which on July 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

D. Violations of this section shall be subject to a penalty, not to exceed $50.00 for the first violation, or violations arising from the same set of operative facts. The penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violations shall not exceed $200.00. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of $3,000.00 in a 12-month period.

Section 158-18. Disposition of inoperative, abandoned vehicles.

Notwithstanding any other provisions of this chapter, or the provisions of section 46.2-617 of the Code of Virginia, as amended, any motor vehicles, trailer or semi-trailer or part thereof found within the corporate limits of the town which is inoperable and by virtue of this condition is an "inoperable motor vehicle: as defined in section 158-18 of this Code, may be disposed of in the following manner:

(1) A town officer or official shall notify the owners of property zoned for residential or commercial or agricultural purposes, on which there is located an inoperable motor vehicle, trailer, sem-trailer, and the owner of the motor vehicle, trailer or semi-trailer, to remove the same therefrom within fifteen (15) days after being given notice in writing to remove the same.

(2) If the vehicle has not been moved after fifteen (15) days, a town officer or official police may remove any such inoperative vehicle when the owner of the premises or motor vehicle, trailer or semi-trailer has failed to do so.

(3) In the event that a town officer or official removes any such motor vehicle, trailer or sem-trailer after having been given such notice, a town officer or official may dispose of such motor vehicle after having given additional reasonable notice to the owner of the vehicle.

(4) A town officer or official shall inform the owner of the motor vehicle, trailer and the owner of the premises, that the cost of any such removal or disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the town as taxes and levies are collected.

(5) Every cost authorized by this section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs have been made to the town.

Section 158-19. Removal and disposition of certain unattended vehicles.

A. Whenever any motor vehicles, trailer or semi-trailer is found on the public streets or public grounds unattended by the owner or operator and constitutes a hazard to traffic, or is parked in such manner as to be in violation of the law, or whenever any motor vehicle, trailer or semi-trailer is left unattended for more than ten (10) days upon any public property or privately owned property other than the property of the owner of such motor vehicle, trailer or semi-trailer with the town, or is abandoned upon such public property or privately owned property, without the permission of the owner, lessee or occupant thereof, or whenever any motor vehicle, trailer or semi-trailer is stalled or rendered immobile as the result of adverse weather conditions or other emergency situations on any public roadway, any such motor vehicle, trailer or sem-trailer may be removed for safekeeping by vehicle shall be so removed from privately owned premises without the written request of the owner, lessee or occupant thereof. The person at whose request such motor vehicle, trailer or semi-trailer is removed from privately owned property shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof. It shall be presumed that such motor vehicle, trailer or semi-trailer or part thereof is abandoned if:

(1) It lacks:

a. A current license plate; or
b. A current won sticker or decal; or
c. A valid state inspection certificate or sticker; and

(2) It has been in a specific location for four (4) days without being moved.

Each removal shall be reported immediately to the chief of police, who shall give notice thereof to the owner of the motor vehicle, trailer or semi-trailer as promptly as possible.

B. The owner of such vehicle, or trailer or semi-trailer, shall pay to the town all reasonable cost incidental to the removal, storage and locating of the owner of the motor vehicle, trailer or semi-trailer before obtaining possession of such vehicle. Should such owner fail or refuse to pay the cost or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record in the office of the state department of motor vehicles against the motor vehicle trailer or semi-trailer, the chief of police may, after holding the motor vehicle, trailer or semi-trailer thirty (30) days and after due notice of sale, dispose of the same at public sale, and the proceeds from the sale shall be forwarded by the chief of police to the town treasurer; provided, that is the value of such motor vehicle, trailer or semi-trailer is determined by three (3) disinterested dealers or garagemen to be less than one hundred fifty dollars ($150.00), it may disposed of by private sale or junked. The town treasurer shall pay from the proceeds of sale the cost of removal, storage, investigation as to ownership and liens and notice of sale, and the balance of such funds shall be held by him/her for the owner and paid to the owner upon satisfactory proof of ownership.

C. If no claim has been made by the owner for the proceeds of such sale, the remaining funds may be deposited to the general fund or any special fund of the town. Any such owner shall be entitled to apply to the town withing three (3) years from the date of such sale, and if timely application is made therefore, the town shall pay the same to the owner without interest or other charges. No claim shall be made nor shall any suit, action or proceeding be instituted for the recovery of such funds after three (3) years from the date of such sale.

D. Subsections A–C shall not operate to deprive any person of other remedies available under law to obtain payment from the owner of unattended, abandoned or immobile vehicles for towing, storage or other services rendered.

E. It shall be unlawful for any person to leave any motor vehicle, trailer, semi-trailer or part thereof on the private property of any other person without his consent. Upon complaint of the owner of the property on which such motor vehicle, trailer, semi-trailer, or part thereof, has been left for more than seventy-two (72) hours, such motor vehicle, trailer, semi-trailer or part thereof may be removed by or under the direction of a police officer to a storage garage or area. The owners of private property which is normally open to the public for parking shall post or cause to be posed signs warning that vehicles left on the property for more than seventy-two (72) hours will be towed or removed at the expense of the vehicle owner. The person at whose request the vehicle, trailer, semi-trailer, or part thereof, is so removed shall indemnify the town against any loss or expense incurred by reason of removal, storage or sale thereof.

F. In the case of the removal of a motor vehicle, trailer, semi-trailer or part thereof from private property, when the same cannot be readily sold, such motor vehicle, trailer, semi-trailer or part thereof may be disposed of in such manner as the town council may provide.

G. In all other respects, the provisions of subsection A–D of this section shall apply to such removals; provided, that disposal of a motor vehicles, trailer or semi-trailer may, at the option of the town council, be carried out under either the provisions of subsection A of this section or under the provisions of this subsection after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the state or motor vehicles against such motor vehicle, trailer or semi-trailer, and after the motor vehicle, trailer, or semi-trailer has been held at least sixty (60) days.

H. The state department of motor vehicles shall be notified of the disposition of any motor vehicle, trailer or semi-trailer under this section.

Council member Snow moved on a First Reading, second by Council member Workman, and carried to accept the document as presented.

YEAS: C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (5 - 0 voice vote)

The two proposed Amendments to the Town Code were introduced on First Readings and were sent back to committee for fine-tuning before being passed on Second Readings.

Water Connection - Newtown Road

Council member Snow moved, second by Council member Pence, and carried to approve a water connection request at 1033 Newtown Road.

YEAS: T. Pence, L. Sigafoose, R. Snow, and P. Workman

NAYS: C. Murphy

Motion carried (4 - 1 roll call)

Charter Revisions Committee

Vice Mayor Murphy was tentatively named Chair of the Committee, whose membership will be discussed at the next committee meetings.

Mayor Printz set Wednesday, September 10 for the committees to meet.

Vice Mayor Murphy moved, second by Council member Snow, and carried to go into closed session under Virginia Code 2.2-3711 to discuss personnel, land acquisition, and consultation with legal council.

YEAS: C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (5 - 0 roll call)

Vice Mayor Murphy moved to go from closed session back into regular session and that each member, to the best of his or her knowledge, certified that only public business matters lawfully exempted from an open meeting requirement under Chapter 21 of Title 2.1 of the Code of Virginia were heard, discussed, or considered. Council member Workman duly seconded the motion.

YEAS: C. Murphy, T. Pence, L. Sigafoose, R. Snow, and P. Workman

Motion carried (5 - 0 roll call)

As there was no further business, the meeting adjourned.

Mayor: _____
Wayne E. Printz, Mayor

Recorder: _____
Richard D. Carey, Clerk