Regular
Council Meeting
April 21, 2003

The regular meeting of the Elkton Town Council was held on Monday, April 21, 2003 in Council Chambers with Mayor Wayne E. Printz presiding. The following Council members were present:

PRESENT

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

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

Council member Dean offered the Invocation.

The Pledge of Allegiance was recited.

CITIZEN COMMENTS

Lee Dearing, 124 North Street, read the following statement:

"I'm here tonight to present to the council the results of the five law suits that were filed against me and the Town of Elkton. The incident occurred on February 15, 1999 and the suits were filed on May 30, 2000. The reason that I want to address this in public is so that it becomes a part of the official minutes of the Town records. There was a law suit filed and settled in the 80s and to this day no one was told what the settlement was. But there are many rumors. I want to present the facts to insure that there are no rumors.

There were 5 people making a claim for the same occurrence. The Virginia Municipal League (VML) Insurance referred the defense of the Town to Schaffer & Cabell, and Harman, Clayton, Corrigan and Wells defended me as Mayor. Dave Corrigan was my attorney. Officer Donald Dean's claim went through all the courts to include the Virginia Supreme Court and at all levels the courts ruled in favor of the Town and myself. All cases and claims were closed on October 25, 2002 with none of the claimants receiving a penny. The VML did pay out $53,643.02 for legal expenses to defend the claim. I am pleased with the outcome and believe in the Judicial System.

There was one thing that I did learn from this whole ordeal. There are many people in Elkton willing to tell you what is wrong and encourage you to correct all the wrongs, but when the law suits are filed this world becomes a lonely place and very few can remember the truth or in most cases just don't want to get involved.

Remember that tonight many are here to speak on a subject that only you as a Council have all the facts. As elected officials, you must do what is right for Elkton."

Frank Meleski, 604 North Stuart Avenue, read the following statement:

"I have several questions that need to be addressed by the Mayor and/or Council or both.

First, I would like to know when the feasibility study on the golf course is going to be released. And if it isn't going to be released, why not? And last, is it going to be necessary to invoke the Freedom of Information Act to have access to information that the Town paid for with

our funds, which, in my view entitles the citizens of Elkton to this information as matter of right, not subject to your discretion. The only reason I can think of for not making the report public is that it doesn't show that it is feasible at this time, and you're trying to put a good spin on it. If you have been reading the papers, everyone knows that Harrisonburg is saddled with what looks to be a 500,000 dollar loss last year and with the excess of golf courses in the area, that isn't about to change next year and I'd bet it will take close to ten years to turn that around. If we continue with the golf course now, we will be in the same boat, and a small town like Elkton can't afford that kind of expense. I know that the recreation authority would like to sell the lots off on the site to finance the golf course, but I hope you won't let that happen or even discuss it. Instead of the town paying off the debt, you would be adding to the debt of siphoning off the money from the lots and sinking it into a money pit. I don't believe the residents of Elkton will allow that to happen. The golf course was supposed to be self-sustaining and get its capital from selling bonds, but in this market I can't see any body investing in this kind of venture now. It's time to put this plan on hold for the immediate future and if conditions change, you can reassess whether the golf course is a good business investment. Right now it is not.

Secondly, I would like to address the "coup" that was perpetrated in our town. I'm referring to the matter of the firing of Officer Conley. I don't know if there was good cause to fire him or not, but I do know that the method that was used to make it happen was at least bizarre and maybe illegal. Something is terribly wrong when the police chief and a member of the town council can conspire to keep the Mayor from knowing what they were planning until he came to a special meeting of the council, and then blind side him with the firing of Officer Conley, with the predetermined vote.

It's just not acceptable, when the Police Chief and a member of council do not observe the chain of command, that we must all abide by in our daily lives. And further the people of Elkton deserve a complete explanation of the matter and the Mayor should receive an apology from those who were a party to this affair. I hope we're not letting our Town slide back to where it was just a few short years ago.

It is my hope that you will all take these matters very seriously and deal with them in the open (not in closed session) and in a timely manner. Thank you."

Harry Allen, 115 Lewis Avenue, expressed his "disgust" with Council for firing Officer David Conley. He held up two packs of business night check cards. In his left hand were 110 night cards left at one business by Officer Conley over a two-year period. Mr. Allen stated that the pack of 106 night cards in his right hand represented the efforts of eight police officers at the same business during the same time period. Mr. Allen believed Officer Conley was denied the right to face his accusers and respond to their charges.

Mel Kirkendall, 816 - 4th Street, asked Council to consider lowering the utilities hook-up rates. Mayor Printz stated his request would be assigned to the appropriate committees.

Mildred Shifflett, 112 West Spotswood Avenue, presented Council a petition with signatures of 616 people who wanted Officer Conley reinstated. She praised Officer Conley's interaction with the younger and older citizens of Elkton.

Hazel Crider, 114 Hillside, presented the history of Neighborhood Watch's coordination with Chief Pullen to bring the K-9 to Elkton, as she remembered it. She was bewildered why Council and Officer Conley could not resolve alleged differences so that David Conley could have continued to serve as a police officer with the Town of Elkton.

Mr. John Bushey, attorney from the Town of Luray, objected to the proceedings as "being out of order" by violating the Town's Grievance Procedure.

Attorney Miller responded: "Mr. Bushey, this is a public forum, in a public comment period now. The public is entitled to make whatever comments they want. We are not in a

position to control what they say. The Mayor has tried to limit what they say. This is not a grievance hearing, it's not going to be.

Mr. Bushey stated he thought the comments would be "prejudicial."

Attorney Miller replied: "I don't think it will. One reason, Council will not be discussing any of these comments simply because any grievance this officer may file will be a private hearing and not in a public forum like this. I think the Mayor is trying to control comments and the Mayor has chastised some of these folks for the comments they have made. It is a public forum and we have done this every Council meeting we've had since I've been here. I understand your concern."

Mike O'Neill, 425 East Rockingham Street, stated the chain of command was violated during the process to terminate David Conley. He stated members of Council were solicited to terminate Mr. Conley, with the Mayor being left out of the loop. As a subordinate, Chief Pullen failed to follow the Charter regarding notification to the Mayor. Mr. O'Neill called for the resignation or termination of the Chief of Police.

Clarice Powell, 247 Fairfax Avenue, expressed her admiration of David Conley and asked that he be reinstated.

Juanita Allen, 115 Lewis Avenue, supported reinstating David Conley.

Liz O'Neill, 425 East Rockingham Street, stated she "smelled a set-up" in the termination of David Conley.

Herb and Dee Bernhard, 2957 Stoney Creek Drive, expressed disbelief with the firing of David Conley.

Caroline Brill, 148 Sweetgum Street, stated there were no appointees on the current Council and the citizens should appreciate how well they work together for the betterment of Elkton. Personnel issues are discussed and resolved in closed session.

Alan Thompson, 101 Morgan Avenue, was shocked at David Conley's termination. As a member of Neighborhood Watch, he expressed his pleasure that Mr. Conley could have been Elkton's first K-9 officer.

Donnie Mowbray, 301 Prospect, spoke on Mr. Conley's behalf by stating that Council had dismissed the best police officer that Elkton ever had.

Bill Aikers stated for the record that he supported former Mayor Lee Dearing during his tenure when he was followed by Town police as well as Rockingham County Sheriff's Deputies. Mayor Dearing's telephone lines were tapped, the surveillance so continuous, and the threats so severe that he offered himself to Mayor Dearing as personal security, according to Mr. Aikers. He continued that his experience with David Conley was not as pleasant as the comments he was hearing. He was, however, swayed by the support shown for Mr. Conley and he would keep an open mind, even though Mr. Conley's attitude towards him one Saturday night in Elkton was aggressive and hostile.

Mr. John Bushey spoke on the merits of Richard Pullen.

Jason McDaniel, 112 Walking Horse Lane, spoke of the accessibility of David Conley and his support for Mr. Conley.

Jay Zuspan III, P. O. Box 351, McGaheysville, spoke in support of David Conley.

Vice Mayor Murphy responded: "Thank you all for coming in tonight. We have heard

your comments. As anyone knows, particularly Mr. O'Neill, personnel matters are not allowed to be made public. They are confidential. You have six officials up here that you elected to do a job. We try to do a job. I'm not going to get into the reasons that Officer Conley was dismissed. I heard Mike discuss chain of command. I heard Mike and some of the others discuss a conspiracy. I know where that's coming from. You all did not say the name, but I'm the one that everyone is thinking conspired with the Chief of Police on this. I have been openly accused of this at the committee meetings. It is in the record, it is in the minutes, and I hope when the minutes come out that you will take the time to read that. Because each Council member here was polled as to whether I had any contact with any of them prior to that dismissal. The answer was "No" from five people here. None. Sometimes as the Personnel Chair you're the frontline person. You know this, Mike. Sometimes the employees come to the Personnel Chair before they do anyone else. I don't know whether Chief Pullen made contact before he made contact with me. I only know what my contact was, but to say that I solicited votes around this table is absolutely false. Six to zero was the vote. I wish I had that kind of influence that I could set up here and mandate all of these men to vote my way on every issue. I'd be a very happy woman. That's not the way it works. On chain of command, you are correct. Maybe the chain of command is a little shaky on this, but if I remember right, when you were over here, the same issue came up for another situation where an officer had violated the chain of command. You defended that officer. There are reasons and there are situations where the chain of command can be broken. I'm going to say I don't think the chain of command was broken. There were issues that we all knew about. The chief made a recommendation and this Council acted upon it. As far as procedure, I will go back to you again, Mike. You and I worked closely together on three other terminations. The same procedure was followed to the T. Same procedure. It was not illegal for the three that you and I worked on, so I don't know why it is different for this one. That's all I'm going to say. I did not conspire and I resent that from anybody in this room. Anybody who knows me knows that I do not solicit these Council people. They have minds of their own. They vote their conscience. They vote based on the information they have. I have nothing to do with that. I support the Chief on the recommendation. I did vote for David's dismissal, but so did five other here. That's all I want to say."

Council member Sigafoose stated that if he had not acted on the information presented to him by Chief Pullen he would not have fulfilled his duty as an elected official.

Council member Dean described his decision as "one of the hardest decisions of my life." He asked the Chief to put the K-9 on the fast track and stated his opinion that the K-9 should go to a settled, married officer.

Mayor Printz stated he was very disappointed in the way this situation occurred. He read the following statement: "Ladies and gentlemen of our great Town of Elkton, last week has been a very sad week for our great Town. When I first took over as Mayor over eleven months ago, I had a serious decision to make in promoting a current employee. That decision was simply this: trying to impose my will in promoting a current employee to Town Manager hoping an allegiance from that move would give me more influence and power. I could have forced the issue because I had the votes and the power to do so, or trust the new Council to stand on principle and hope that they would not hire someone that potentially would have been placed as a political operative with the sole intention of undermining my success as Mayor. I had calls and discussions with citizens and the new Council. The debate was clear and simple. Number one, use coercion, dirty politics, questionable ethics, unethical conduct to secure a more powerful political base or platform from which I would operate, only thinking of myself, and surely alienating some of the citizens and the Council's trust, or do the honorable thing, and trust the new Council to stand on principle. I will never regret making the right decision in going with the principle base trust. By making this right choice, the basis of my administration would he honesty, issue-based debate, trust, and hard work - a foundation which I felt ultimately would pull our Town employees, the citizens, and the Council together. Our citizens expect this type of conduct out of the Town employees and the Town representatives. Well, without question, in the last eleven months, the Town Council, the Town employees, and the Town people were working more closely. A sense of calm and professionalism was more prevalent in our day-to-day experiences while conducting business for

the Town. The debate was less personal and more on issues. Because we were trying to work so well together, the Town's people, from whatever side of the aisle, were responding with greater participation and positive comments. The outlying community, the County, the State governments, were all responding with a more positive attitude and a better working relationship. I have earned a great deal of respect for this Council for their relentless hard work with annexation, working towards a community center, looking to secure our water supply for future generations, saving the Town over $400,000.00 by refinancing our debt, something we were told we could not do. Our image was uplifted dramatically with a function on September 11 in Stonewall Memorial Park. Something which was just an emotional experience for all of us and something we should all be proud of. The accolades were coming from everywhere in the entire area. Council also cooperated with their positive attitude in working with me to help mold the Town to the best it could be. It could not have gone any better."

Mayor Printz added: "We are going to do better and we are going to work together. That's the right thing to do. This Town is ethical; this Town is proper. We are going to do the right thing. This Council will ultimately do the right thing. They may take a little time to think about it, but they will do the right thing before it's all over. I did not have the opportunity to participate in this debate. I had time to walk around this Town and talk to almost every person in this Town at election time. I talked to seniors, young people, rollerskaters, and every kind of person there is out there. It was the greatest experience of my life. I think that I had something to add to this debate (by) checking out the issues to see if the evidence was clear and concise and had credibility. I did not have that opportunity. I'm hoping that this Council will take a look at that and I believe before it is over we will have the right thing done. That's all I have to say about it."

MINUTES

Council member Snow moved, second by Council member Dean, and carried to approve the minutes of the Public Hearing of March 17, the Regular Council meeting of March 17, the Emergency Council meeting of April 2, the Special Council meeting of April 8, and the Emergency Council meeting of April 10, 2003.

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

Motion carried (6 - 0 voice vote)

DEPARTMENT HEAD REPORTS

Chief of Police

Chief Pullen presented his report.

Director of Public Works/Zoning Administrator

Mr. McCoy presented his report. In committee, Council will discuss having Town employees fill pot holes instead of paying RanMar to do the work.

Treasurer

Mrs. Vickers reported the ending ledger balance for General Government for the month of March 2003 as $438,230.08, of which, $342,400.48 was available for cash. The Bond account had an ending ledger balance of $48,555.89 for the same period.

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

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

Motion carried (6 - 0 voice vote)

Electric

Deferred to New Business.

Finance

Council member Snow will set a work session for budget.

Personnel

Vice Mayor Murphy will address personnel issues in closed session.

Public Health, Public Safety, and Ordinances

Blight properties are being discussed with the attorney.

Streets and Sidewalks

With the onset of good weather, sidewalk repairs will commence.

Water and Sewer

Council member Dean deferred to Old Business.

Planning Commission

Deferred to New Business.

Park Authority

Council member Snow stated that the Park Authority is working towards satisfying the feasibility study which supported the Authority's effort to acquire additional acreage. He hopes to have information to the public in the very near future.

OLD BUSINESS

Out-of-Town Water and Sewer Connection Fees - Second Reading

Council member Dean moved on a Second Reading, second by Council member Snow, and carried that out-of-town water and sewer connections be set at: water, $1,800.00 and sewer, $2,200.00. All costs to the Town of Elkton be paid by person, or persons, requesting these connections.

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

Motion carried (6 - 0 roll call)

Code Book Revision District R-5 - Second Reading

Council member Snow moved on a Second Reading, second by Council member Dean, and carried to approve the following:

AMENDMENT

to Residential Zoning District R-5

Section 110-606E (Lot Regulations)
of the Code of the Town of Elkton, Virginia
First Reading March 17, 2003
Second Reading April 21, 2003

1. Sections [1] and [2] in Paragraph (1)(d) of Section 110-606E, of the Code of the Town of Elkton, Virginia, regarding Main Building side yard setback are hereby amended to read as follows:
   "(d) Side yard:
   [1] One Side: 5 feet
   [2] Two Sides: 15 feet."

In all other respects not herein amended the Code of the Town of Elkton, Virginia shall remain unchanged and in full force and effect.

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

ABSTAIN: C. Murphy

Motion carried (5 with one abstention roll call)

Code Book Revision District R-6 - Second Reading

Council member Snow moved on a Second Reading, second by Council member Dean, and carried to approve the following:

AMENDMENT

to Residential Zoning District R-6
Section 110-607E (Lot Regulations)
of the Code of the Town of Elkton, Virginia
First Reading March 17, 2003
Second Reading April 21, 2003

I. Paragraph (1)(b) of Section 110-607E, of the Code of the Town of Elkton, Virginia, regarding Main Building setbacks is hereby amended to read as follows:
   "(b) Setback: 25 feet."

II Sections [1] and [2] in Paragraph (1)(d) of Section 110-607E, of the Code of the Town of Elkton, Virginia, regarding Main Building side yard setbacks are hereby amended to read as follows:
   "(d) Side yard:
   [1] One Side: 5 feet
   [2] Two Sides: 15 feet."

In all other respects not herein amended the Code of the Town of Elkton, Virginia shall remain unchanged and in full force and effect.

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

ABSTAIN: C. Murphy

Motion carried (5 with one abstention roll call)

NEW BUSINESS

Home Occupation Permit Application

Council member Dean moved, second by Council member Sigafoose, and carried to support the Planning Commission's recommendation to deny the Home Occupation Permit request of Ms. Julie Lambert to operate a tattooing and body piercing shop at 309 Prospect Avenue.

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

Motion carried (6 - 0 roll call)

Proclamation - Lions Club WHITE CANE DAYS

Council member Dean moved, second by Council member Pence, and carried to support the following:

PROCLAMATION

WHEREAS, Lions International with over 1, 400,000 members in the free world has been dedicated to serving sight for over forty years;

WHEREAS, the Elkton Lions Club has been outstanding in its community in helping the needy with sight problems through the use of its White Cane donations;

WHEREAS, the Elkton Lions Club has invited its neighbors to share in saving vision by donating to its White Cane event;

WHEREAS, the said Lions Club voluntarily provides manpower and leadership in sight conservation;

NOW, THEREFORE, do I, the Mayor of the Town of Elkton, Virginia, now proclaim Friday May 2 and Saturday, May 3, 2003 to be **LIONS CLUB WHITE CANE DAYS**.

_____

Wayne E. Printz, Mayor
April 21, 2003

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

Motion carried (6 - 0 voice vote)

Mayor Printz so proclaimed.

Commercial Multi-meter Electric Connection Rates - First Reading

Vice Mayor Murphy moved, second by Council member Snow, and carried to amend the current commercial electrical connection fees as follows: For commercial customers who are supplied electricity through a bank of meters, meaning more than one, and whereas the bank of electric meters are housed adjoining to each or contained within the same housing shall be assessed a connection fee of $2,000.00 for the first meter and $1,000.00 for each additional meter qualifying under this description. All single commercial meters, or others not fitting the description for a bank of meters, shall be assessed the current connection fee of $2,000.00 per meter.

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

Motion carried (6 - 0 roll call)

Electric Rate Adjustment - First Reading

Council member Snow moved, second by Council member Dean, to adjust the procedure in which we bill our electric charges to our customers.

First Reading - no vote

Change Business License Renewal Date to June 1 with Schedule C Required - First Reading

Council member Dean moved on a First Reading, second by Council member Snow, and carried to amend the Code to change the business license renewal date from March 1 to June 1 and require Schedule C, effective in the Year 2004.

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

Motion carried (6 - 0 roll call)

Encroachment Permit - Jim Barrett at 104 - 5th Street

Council member Snow moved, second by Council member Workman, and carried to issue an Encroachment permit of four (4) feet to Jim Barrett at 104 - 5th Street. At Council's discretion, the permit can be withdrawn.

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

Motion carried (6 - 0 roll call)

Council member Workman wants Council to remember next year to offer a free Town decal to volunteer firemen who live in Town but belong to the McGaheysville Volunteer Fire Department.

Attorney Miller will follow-up on the status of DeDe Hensley's boundary line adjustment.

Mayor Printz set May 13 for committees, May 19 as regular Council meeting, and a budget work session for April 29, 2003.

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 matters and land

acquisition.

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

Motion carried (6 - 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 Snow duly seconded the motion.

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

Motion carried (6 - 0 roll call)

As there was no further business, the meeting adjourned.

MAYOR: _____
Wayne E. Printz, Mayor

RECORDER: _____
Richard D. Carey, Clerk