Regular
Council Meeting
January 16, 2006

The regular meeting of the Elkton Town Council was held in Council Chambers on Monday, January 16, 2006 with Mayor Wayne E. Printz presiding. The following Council members were present:

PRESENT
C. McDaniel
T. Pence
S. Sigafoose
R. Snow
P. Workman

ABSENT
J. Dean (due to illness)

Town Attorney Nathan Miller, Town Manager Dennis R. Donachy, Director of Public Works Marty Shifflett, Economic Development Director Emily Burner, Chief of Police Richard Pullen, and Clerk of Council Richard Carey were also present. Town Treasurer Clairen Sipe arrived later.

Mayor Printz offered the Invocation.

The Pledge of Allegiance was recited.

CITIZEN COMMENTS

Jonathan Kibler, Elkton Volunteer Fire Department Chief, read the following statement:

January 16, 2006

Town of Elkton
173 W. Spotswood Ave.
Elkton, VA 22827

Dear Council:

The Elkton Volunteer Fire Company has recently appointed a committee to investigate the construction of a new fire station. While the current facility has served us well, we no longer have the space to meet the needs of our organization or community. The current station is unable (to) meet the space requirements of our growing apparatus fleet forcing us to house some equipment outside. In addition, the current facility provides no room for training, recreational or fitness activities. Current guidelines for equipment storage, cleaning and disinfection can not be accommodated in the existing facility.

The station committee has been tasked with providing concept phase drawings and estimates by early summer. The committee is headed by Roger Baugher. Current activities include the upgrade of our existing site plan, securing utilities and preliminary concepts. Our next step will be to hire an architect to develop concept phase documents. At the conclusion of the concept phase, we will begin securing funding for the new facility and determine our path forward.

The goal of the Elkton Volunteer Fire Company is to build a modern facility that will meet the needs of the community for the next 50 years. The facility will improve the health and safety of our members and improve our ability to meet the needs of our community. We hope to construct a facility that will be a symbol of pride for the citizens of Elkton.

Sincerely,

Jonathan Kibler
Chief, Elkton Vol. Fire Co.

Seth McGuffin, Executive Director of the Elkton Downtown Revitalization Corporation (EDRC), was present and introduced himself. EDRC hopes to have Elkton designated as a Main Street community in three year's time. Elkton is currently recognized as an Affiliate Member.

Greg Mowbray will soon open a diner downtown and viewed Elkton as a "ghost town." He spoke of his friendship and support of Mayor Printz, the youth, difficulties of starting a business, the relationship between the Mayor and Council, and the negative attitude of some Town employees towards Mayor Printz.

Sonny Derrer spoke for more activities for the Town's youth and opposed pets in Elk Run Cemetery.

Cathy Murphy, 110 North Stuart Avenue, although she subscribed to the philosophy of majority rule, supported the right of the minority to have an opinion and to voice that opinion. Missing from the Charter revisions were a public comment allowance and referendum provisions. She was steadfast that the Mayor should be elected by the voters and presented that issue as an example of a need for referendum in the Charter. She believed voters elected Council members based on different criteria than they use to elect a Mayor. She stated discord between Mayor and Council was a political inevitability but, the actions of the elected body, as well as staff, are controlled and contained in the Charter.

Vic Corbo, 248 Windsong Hills, stated that much of the discussion regarding the Charter could have been minimized if the "new" Charter had been presented with the State Code that replaced sections of the "old" Charter.

Lee Dearing, 124 North Street, stated, "The Charter is the only instrument that we, as the people, have to allow you as a governing body to govern." Mr. Dearing stated he compared the current version of the Charter to the one that was sent to Richmond last year. He discovered that just a single paragraph had been added. Missing from the current version were spending limits, public comments, important and necessary Mayor powers (other than ceremonial), and current boundaries of the Town. He commented that recommendations for a citizen/Council committee to write a new Charter had never materialized. Mr. Dearing now possesses an opposition petition with 729 signatures which will be presented to Delegate Steve Landes in Richmond. He commented that interested persons to serve on the Industrial Development Authority had not been given sufficient response time from the date of publication of the advertisement. Even more unacceptable to him was that five of the seven prospective members did not live in Town. One nominee, in particular, drew his ire because the gentleman vehemently fought annexation.

Hazel Crider, Elkwood, supported Mr. Dearing's statements 100%. Mrs. Crider stated the citizens were confused about the Charter changes because they had not been given an opportunity to ask questions. The accelerated pace of the charter issue perplexed her. "I think the right thing to do is to slow this Charter down and step back and take a look at what you've revised because, from what I have read, what I have heard, it certainly is not the Charter that is representing our Town of Elkton," she declared.

Mildred Shifflett, 112 West Spotswood Avenue, had misgivings regarding the Charter and Council. She believed Council was trying to strip the citizens of their rights and claimed that history would remember this Council for taking Elkton into bankruptcy.

CONSENT AGENDA

Consent Agenda
January 16, 2006

MINUTES
•Committee Meetings – December 13, 2005
•Regular Council Meeting – December 19, 2005

REPORTS
•Chief of Police
•Public Works

Vice Mayor Snow moved, second by Council member McDaniel, and carried to approve the Consent Agenda.

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (5 – 0 voice vote)

TREASURER'S REPORT

As Treasurer Sipe had not arrived, Mr. Donachy presented the Treasurer's report for the month of December 2005. General Government had an ending ledger balance of $822,362.56. Total designated money was $517,788.85, which left a balance of $304,573.71.

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

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (5 – 0 voice vote)

TOWN MANAGER'S REPORT

Ordinance to Adopt the Virginia Procurement Act for Purchasing – First Reading

AN ORDINANCE TO AMEND CHAPTER 31 (PURCHASING) OF THE CODE OF THE TOWN OF ELKTON BY ADDING SECTIONS TO SET PROCEDURES FOR THE EXPENDITURE OF TOWN FUNDS

WHEREAS, the current Charter outlines procedures for appropriation of funds by Council; and

WHEREAS, it is the intention of Town Council to update the Charter; and

WHEREAS, the current expenditure levels are outdated and too restrictive for today's required purchases; and

WHEREAS, the Town population will soon be at a level where it will be required to adopt the Virginia Procurement Act standards;

BE IT ORDAINED, by the Town Council of Elkton, Virginia, that Chapter 31 (Purchasing) of the Code of the Town of Elkton, is hereby amended as follows:

1. Add Section 31-3 as follows:

   § 31-3. Virginia Procurement Act(§2.2-4300 thru §2.2-4377)

   The Town of Elkton hereby adopts the policies and procedures, mutatis mutandis, of the Virginia Procurement Act.

2. Section 31-1 is hereby amended by changing the following wording:

   §31-1. Signed purchasing order required.

   No purchases for or on behalf of the town shall be made unless an order is drawn upon a purchasing form, in duplicate, with one copy given to the Town Treasurer. The Treasurer shall not pay any bill unless he or she has one of the copies of the purchasing order properly signed by the *Department Head and approved for final payment by the Town Manager or his/her designated representative* ~~Chair of the council committee in question, or other person who may have the authority to sign it.~~

3. Add Section 31-4 as follows:

   §31-4. Spending Limits/Procedures.

   Department Heads may authorize expenditures within the Department's budget: provided such expenditures do not exceed $5,000. The Council must approve expenditures over $5,000 unless there is an emergency associated with the Ton's services to its residents. In the event of such an emergency, the Chair of the appropriate council committee may approve such expenditures and the Council shall be notified of such emergency at its next scheduled meeting. The Council must approve any further needed expenditures associated with the emergency.

4. This ordinance shall be effective immediately upon its adoption.

Adopted by the Town Council of the Town of Elkton this ____ day of _____, 2006

_____
Mayor

_____
Clerk of Council

Approved this _____ day of _____, 2006

_____
Mayor

Once a Town achieves a population of 3,500 it is required, by law, to adhere to the Virginia Procurement Act. Elkton's Department Heads are permitted to spend budgeted funds within his/her department. Refer to § 31-4 above.

<u>Ordinance to Regulate Adult Businesses – Second Reading</u>

AN ORDINANCE TO AMEND CHAPTER 110 (LAND DEVELOPMENT), BY ADDING SECTION 110-303 (SUPPLEMENTAL DEFINITIONS – ADULT BUSINESS), (18) ADULT BUSINESS TO SECTION 110-611 (GENERAL BUSINESS DISTRICT B-2) C. SPECIAL EXCEPTIONS, (10) ADULT BUSINESS TO SECTION 110-613 (LIGHT INDUSTRIAL M-1) AND (e) THRU (i) TO SECTION 110-802 (ZONING AND BUILDING PERMIT PROCEDURES) C. APPLICATION PROCEDURE FOR SPECIAL EXCEPTIONS (5) OF THE CODE OF THE TOWN OF ELKTON TO ESTABLISH STANDARDS FOR ADULT BUSINESSES

WHEREAS, the Planning Commission and Town Council wishes to preserve the family friendly atmosphere of the Town; and

WHEREAS, there are currently no standards for Adult Businesses in the Code of the Town of Elkton;

BE IT ORDAINED, by the Town Council of Elkton, Virginia, that Chapter 110 (Land Development) be amended by the addition of the following:

1. ***§110-303. Supplemental Definitions – Adult Businesses.***

Notwithstanding any contrary provisions in this title, Adult Businesses are distinct from and mutually exclusive of all other uses defined or referenced in this code. Accordingly, if a use falls within the definition of an Adult Business, it cannot qualify as a "retail store", "restaurant," or other use.

For the purpose of this Title, the following definitions apply:

Adult Business — *An Adult Business is (i) an Adult Theatre, (ii) Adult Store, (iii) any business providing Adult Entertainment, or (iv) any other establishment that regularly emphasizes materials or demonstrations relating to Specified Sexual Activities or Specified Anatomical Areas or is intended for the sexual stimulation or titillation of patrons.*

Adult Theatre — *An Adult Theatre is an establishment which presents for the viewing or listening of patrons materials characterized by (i) their emphasis on Specified Sexual Activities or Specified Anatomical Areas or (ii) the intent to provide sexual stimulation or titillation of patrons.*

Adult Store — *An Adult Store is an establishment which sells or rents*

a. Materials (whether printed or in electronic, optical, magnetic, or other media) characterized by

i. Their emphasis on Specified Sexual Activity or Specified Anatomical Areas or

ii. Their predominant purpose being to provide sexual stimulation or titillation of patrons, or

b. Toys, novelties, instruments, devices or paraphernalia which represent human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

Nevertheless, if the aforementioned items constitute only an insubstantial portion of an establishment's stock-in-trade, the establishment shall not be considered an Adult Store.

Adult Entertainment — *Adult Entertainment is dancing, modeling, or other live performances in which the performance (i) is*

characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas, or (ii) is intended for the sexual stimulation or titillation of patrons. Adult Entertainment also includes the presentation of materials or images (irrespective of the media) characterized by their emphasis on Specified Sexual Activities or Specified Anatomical Areas or the intent to provide sexual stimulation or titillation of patrons.

Specified Anatomical Areas — *Specified Anatomical Areas are as follows:*

a *If less than completely and opaquely covered: human genitals, pubic region, buttock; and the female breast below a point immediately above the top of the areola, and*

b *Irrespective of coverage: human genitals in a discernibly turgid state.*

Specified Sexual Activities — *Specified Sexual Activities are as follows:*

a *The display of-or the reference to- human genitals in a state of sexual stimulation or arousal:*

b *Acts of human masturbation, sadomasochistic abuse, sexual penetration with an inanimate object, sexual intercourse or sodomy, or*

c *Fondling or other erotic touching of human genitals, public region, buttock or female breast.*

2. §110-611, General Business District B-2.

C. Special Exceptions.

(18) *Adult Businesses*

3. §110-613. Light Industrial M-1.

D. Special Exceptions.

(10) *Adult Businesses*

4. §110-802. Zoning and building permit procedures.

C. Application procedure for special exceptions.

(5)

(e) *The proximity of dwellings, churches, schools, parks, or other places of public gathering.*

(f) *The probable effect of the proposed use on the peace and enjoyment of people in their homes.*

(g) *The preservation of cultural and historical landmarks and trees.*

(h) *The probable effect of noise and glare upon the uses of surrounding properties.*

(i) *The contribution, if any, such proposed use would make toward the deterioration of the area and neighborhoods.*

5. This ordinance shall be effective immediately upon its adoption.

Adopted by the Town Council of the Town of Elkton this ____ day of _____, 2005

_____
Mayor

_____
Clerk of Council

Approved this _____ day of _____, 2005

_____
Mayor

Mr. Donachy stated the Ordinance would define where and how adult businesses would be permitted to operate.

Vice Mayor Snow moved, second by Council member McDaniel, and carried to adopt the ordinance as presented

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow and P. Workman

Motion carried (5 – 0 roll call)

Preliminary Engineering Report for Sewer Plant

Mr. Donachy presented the Scope of Services from Anderson & Associates for the PER for the sewer plant upgrade and requested Council approval to begin the work. The cost is $68,000.00. The payment will be made from REPO and reimbursed from Angler proffers.

Vice Mayor Snow moved, second by Council member Workman to approve. When it was determined that a Second Reading would be required, the motion and the second were withdrawn. A Special Meeting will be scheduled for a Second Reading.

LaTouche Variance Request

The Planning Commission denied Dr. LaTouche's request and recommended the Council respond likewise.

Vice Mayor Snow moved, second by Council member Sigafoose, and carried to follow the Planning Commission's recommendation to deny a variance for Dr. LaTouche's fence.

YEAS: C. McDaniel, S. Sigafoose, R. Snow, and P. Workman

NAYS: T. Pence

Motion carried (4 – 1 roll call)

Appoint Members to the Industrial Development Authority (IDA)

In response to Mr. Dearing's public comments remarks, Mr. Donachy stated the IDA was created in the Year 2001 and the Code stated that directors "shall reside in the Town of Elkton or an adjoining locality."

A list of seven names was presented, of which two were identified as "possible."

Council member Sigafoose moved, second by Council member McDaniel, and carried to remove the "possible" candidates and replace one with Clyde McDaniel, as the Council appointee, and the other with Lee Dearing.

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (5 – 0 roll call)

The members of the IDA are Barry Ecroyd, Tom Galvin, Jeff Lam, Lee Dearing, Louise Monger, Clyde McDaniel, and Barry Ream.

Settlement Request for Pamela Kite

Considering the cost of future legal fees and possible disinterment, Mr. Donachy believed it would be financially prudent to pay Mrs. Kite $6,800.00 to cover her legal fees.

Council member Sigafoose moved, second by Vice Mayor Snow, and carried to pay Pamela Kite $6,800.00, pending court approval.

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (5 – 0 roll call)

Subdivision of ShenElk Property

The Planning Commission recommended approval of the ShenElk Enterprises request for subdivision of the ShenElk Shopping Center, specifically, the section that once housed the Mick or Mack grocery store.

Vice Mayor Snow moved, second by Council member Pence, and carried to approve the subdivisions of the property.

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

ABSTAIN: C. McDaniel

Motion carried (4 yeas, 1 abstention – roll call)

Charter Revisions

Mr. Donachy requested Council action on the Charter revisions.

Council member Sigafoose: **"I'd like to make a motion. It might settle it. I say we table this thing until the citizens know exactly what they are going to get."**

Council member Pence seconded the motion.

Council member Workman: "What constitutes the public knowing?" He believed the information was made available and not being informed rested with those who did not read/study the revisions.

Mayor Printz: "I need a ruling from the Attorney on the public hearing because I don't fully understand it. You are going to have to give us some guidance on this thing because it is my understanding under the State Code that we have to have another hearing anyhow."

Attorney Miller: "We've already had the public hearing (inaudible).

Mayor Printz: "That's what I'm saying. After the change, it is my understanding that we have to have another public hearing, but I'm not the attorney, you are."

Attorney Miller: "I'm not going to make a ruling on it here right tonight (then inaudible). If you want to have a Special Council meeting I will have that answer for you tomorrow."

Much of what Attorney Miller spoke was inaudible but he did advise Council they could approve the Charter subject to a public hearing.

Mayor Printz asked if the issue should be sent to the Special Meeting.

Council member Pence: "Do we have to have another public hearing?"

Attorney Miller: "That is what I will answer for you at your Special Meeting."

Vice Mayor Snow stated that many topics that people wanted included in the Charter "already exist in the State Code and we don't need to have it in both." Vice Mayor Snow favored passing the Charter "contingent on a public hearing" if one was required.

It was repeated that the motion was to table the Charter and Mayor Printz proceeded with the roll call vote:

YEAS: C. McDaniel, T. Pence, and S. Sigafoose

NAYS: R. Snow and P. Workman

Motion carried (3 – 2)

NOTE: THE ABOVE SECTION WAS OFFERED AS EXTRACTED UNAPPROVED MINUTES AT A SPECIAL MEETING OF COUNCIL ON JANUARY 30, 2006. THE FOLLOWING ACTION TAKEN AT THE JANUARY 30 MEETING APPROVED AND AMENDED THE IMCOMPLETE EXTRACTED MINUTES:

Vice Mayor Snow moved, second by Council member McDaniel, and carried to approve the minutes, as amended, that Attorney Miller was authorized to determine if a public hearing was to be held or not, and to schedule such.

YEAS: T. Pence, C. McDaniel, R. Snow, and P. Workman

NAYS: S. Sigafoose

ABSTAIN: J. Dean (absent from the meeting when this conversation occurred)

MOTION CARRIED (4 – 1 – 1 ABSTENTION ON A ROLL CALL VOTE)

Mr. Donachy's Memorandum

Mr. Donachy read the following statement:

MEMORANDUM

DATE: January 16, 2006

TO: Mayor and Town Council

FROM: Dennis R. Donachy, Town Manager/Zoning Administrator

SUBJECT: Public Allegations by the Mayor of Misconduct and Other Illegal Actions

Over the past 6-8 months the Mayor has made public allegations of misappropriation of funds, conspiracy, lying, cronyism, "irrational spending and misguided allegiances formed with an attempt to defend less than forthright behavior", put together "....the few inept negotiation sessions that were hastily and unprofessionally organized.", "using deceptive tactics, holding private meetings, alienating duly-elected officials, and forming allegiances with clients for our own selfish gain.", "...you can see what a town manager will do for debt, cronyism, higher taxes and utilities and most disappointing, the alienation of our citizens." and "Our town is currently under siege with uncontrolled development, fiscal irresponsibility, deceptive business practices, cronyism, and conflict of interests." against me as Town Manager.

Because the above mentioned allegations were made in public (letters to the editor, prepared statements read at Council meetings and statements made for newspaper articles) residents of Elkton and the surrounding areas have formed opinions about my job performance, professionalism and integrity without having all the information required to form an informed opinion.

I request that Council hire an audit firm to conduct an investigation into the allegations concerned with the finances of the Town. I also request Council have an attorney or other legal organization investigate the allegations that deal with possible illegal activities. Both these actions, if taken, will clear up any false impressions of misconduct and/or illegal activity and allow the Council to move away from dealing with personal feelings and be able to concentrate on the major issues facing the Town of Elkton and its residents.

This memorandum is also to serve notice that any future public allegations of misconduct, whether I am mentioned by name, title or implied to, will be considered as slander and/or defamation of character and will be dealt with appropriately.

DIRECTOR OF PUBLIC WORKS

Mr. Shifflett made it know that there has been a problem for a couple of months with reading meters on time. He explained it was a personnel issue and he has met with the affected persons. He further explained how disputed readings were resolved.

At his monthly VMEA meeting, Mr. Shifflett learned that the Town of Elkton will receive a 2.5% rate increase by Virginia Power. A fuel factor charge adjustment is scheduled for April. Mr. Shifflett requested Council action regarding the increase.

Council member Pence moved, second by Vice Mayor Snow, and carried to pass along the 2.5% increase to the Town's electric customers.

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (5 – 0 roll call)

Mayor Printz asked Mr. Shifflett, Council member Dean, and Mr. Donachy to investigate a recurring sewer backup problem at the Donnie Mowbray residence on Prospect Avenue.

Tomorrow the new 12" line will be tied into the Reservoir. Mr. Shifflett stated "80 to 85% of the water and sewer lines are in" on the Pentecostal Hill project. Mr. Shifflett believed the project would be completed by February 4, 2006.

COMMITTEE REPORTS

Electric

No report.

Finance

No report.

Personnel

No report.

Public Health, Public Safety, and Ordinances

The Mutual Aid Contract has been renewed.

Streets and Sidewalks

No report.

Water and Sewer

No report.

Recreation

Council member Workman moved, second by Vice Mayor Snow, and carried to reappoint George McDaniel and Tracey Smith to the Elkton Recreation Commission for terms beginning January 16, 2006 and ending January 31, 2008.

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow, and P. Workman

Motion carried (5 – 0 voice vote)

Council member Pence took issue with some Recreation policies. Mayor Printz stated his concerns would be addressed at the next Committee meetings.

Planning Commission

No report.

Cemetery Commission

Council member Sigafoose recommended a "No Pets Allowed" policy for the Cemetery. Mr. Donachy stated until the Commission met and made a recommendation to change the bylaws, the Town had no recourse regarding pets.

Charter Revisions Committee

No report.

Park Authority

No report.

Economic and Community Development Committee

East Rockingham Business Council will hold its monthly meeting on Thursday at the Kite house from 5:30 P.M., to 7:00 P.M.

Elkton Area Community Center Committee

The Committee met with Stephanie Byrd, Executive Director of the Rockingham Community Foundation.

Vice Mayor Snow moved, second by Council member McDaniel, and carried to participate with the Community Foundation, which would serve as the vehicle to channel donations/contributions for the Town of Elkton under a 501 C (3).

YEAS: C. McDaniel, T. Pence, S. Sigafoose, R. Snow and P. Workman

Motion carried (5 – 0 roll call)

Attorney Miller recommended the formation of a limited liability company "just for our purposes for that Committee" that will "create their own marketing material so they can go out and prospect for contributions for the Town."

Meetings

Committee meetings – February 13 at 6:00 P.M.
Council meeting – February 20 at 7:00 P.M.

Special Meeting

January 30 at 6:00 P.M., for Second Reading of $68,000.00 payment to Anderson & Associates and the Charter.

As there was no further business, the meeting adjourned at 8:50 P.M.

Mayor: _____
Wayne E. Printz, Mayor

Recorder: _____
Richard D. Carey, Clerk