Regular
Council Meeting
September 18, 2006

The regular meeting of the Elkton Town Council was held in Council Chambers on September 18, 2006 with Mayor Wayne E. Printz presiding. The following Council members were present:

PRESENT
M. Dean
M. Isom
D. Kite
M. O'Neill
T. Pence
S. Sigafoose

Town Attorney Tom Miller, Treasurer Clairen Sipe, Director of Public Works Marty Shifflett, Chief of Police James Morris, and Clerk of Council Richard Carey were also present:

Rev. Gerald Meeks, formerly of the Blue Ridge Independent Church, offered the Invocation.

The Pledge of Allegiance was recited.

CITIZEN COMMENTS

Frances Dovel, 103 Virginia Avenue, held up printed pages from the "Elkton blog" and lamented that the entries "denigrated" everything about the Town from the Mayor to Neighborhood Watch. She was also unhappy about Jenny Jones' selectivity of news articles regarding Vic Corbo and his "Clean-Up Elkton" campaign. She stated other people and organizations do just as much as Mr. Corbo but they do not receive *Daily News-Record* recognition.

Vic Corbo, Windsong Hills, challenged Mrs. Dovel's statement that people were called names in the blog. He then presented the following document for inclusion in the official minutes:

> I would like to comment on a couple of things that were said recently both here in Council Chambers and in the Newspaper.
>
> A couple of meetings ago Mr. Printz at this very podium accused Jenny Jones and me of attacking his family and his business. I have spent considerable time going back over everything I have ever written both in the newspaper, here in chambers, and on the internet blogs. I challenge Mr. Printz to present any document he may have indicating that this is so. I do not know any of his family and know nothing about his businesses and have no cause to comment on either.
>
> In the newspaper article, which appeared in the DNR about my filing the Injunction of Mandamus, Mr. Printz is quoted as saying, "He did not get the information to Corbo in five days because he did not understand the law". I show you a memo, dated June 7, 2005, sent to all town employees, all of the council, the former town attorney, and Mr. Printz. This memo outlines the procedures to be followed by everyone concerning FOIA requests. Item 3 specifically states, If the request cannot be honored within 5 days the requester should be given an estimated time the documents will be available. Attached to the memo was a form to be used for the POIA requests. Each person was also given a copy of the VML manual outlining the FOIA process.
>
> In my case, I submitted the request on Aug 28th. When I heard nothing back by the 31st I called Marty and asked the disposition of my request. I was informed

that Mr. Printz had issued an edict that all requests had to go through him and my request was on the desk of Mr. Printz. When I did not receive any further contact by the 6th of Sept. I sent a letter to Mr. Printz, with copies to each of the council and Mr. Miller asking about my request, outlining the sections of the FOIA code stipulating the 5 day requirement and the possible penalties for failure to comply. It was not until the 11th of Sept that I filed the Injunction. On the 12th of Sept Mr. Printz was served the subpoena to appear. The same afternoon I finally received a call to come to the town hall and make a copy of the document. Mr. Printz's usual I did not know defense once again does not hold water.

In the DNR article Mr. Printz is also quoted as saying, "I didn't have time to do it [and] I didn't really understand" that I had to acknowledge the request in five days. If Mr. Printz does not understand the law and does not have time to fulfill the duties of the position of acting town manager, maybe he should step down and this council finally do something about getting a full time administrator who has the time to do the job and understands the law. Or at least have the time (to) review the law if he knows not what he is doing.

I have not abused the FOIA privilege. Since July 1, I have only submitted 3 requests for information. In the future if I am again met with the same kind of delaying tactic I will once again file for action. I will also have a lawyer by my side and hopefully get a judge who is interested in upholding the intent of the law. What is the value of a law if one can flaunt it's intent and not face the consequences as spelled out in the law?

Mildred Shifflett, 112 West Spotswood Avenue, expressed her concern about her ever-increasing electric bill. She scolded Mr. Corbo for the perception that he was disruptive to Elkton's atmosphere of love and harmony. She warned him of a "lonely life" in Elkton if "he did not give it up."

MINUTES

Council member O'Neill moved, second by Vice Mayor Dearing, and carried to approve the minutes of the Special Council Meeting held on August 8, 2006.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 voice vote)

Council member Kite moved, second by Vice Mayor Dearing, and carried to approve the minutes of the Committee Meetings held on August 8, 2006.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 voice vote)

Vice Mayor Dearing moved, second by Council member Sigafoose, and carried to approve the minutes of the Regular Council Meeting held on August 21, 2006.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 voice vote)

TREASURER'S REPORT

Treasurer Sipe had been on vacation. Her report will be available Friday.

DIRECTOR OF PUBLIC WORKS

Mr. Shifflett identified the following Capital Projects: the sewer line on Prospect Avenue; three homes on Monger Hill to be connected to Town water; and the West Washington storm drain and sewer.

Mr. Shifflett will meet with Pam Liston concerning the T21 Project and report to Council at the next Committee meetings. Also at the next Committee meetings, Mr. Shifflett will have three quotes for a generator for peak electric generation.

There was discussion regarding the purchase of a new backhoe(s) and derrick digger. Vice Mayor Dearing would not deny any department needed and necessary equipment, but he wanted to make sure that current equipment and machinery could not be repaired for a reasonable cost. Council member O'Neill stated he was prepared to present motions to address other equipment issues.

CHIEF OF POLICE

The radio system is now scheduled for June 2007.

Vice Mayor Dearing stated that a Town decal allows a vehicle to be parked in Town. He did not agree that a vehicle had to be in motion to be ticketed for a decal violation. He has witnessed kids on mopeds sans a helmet and wanted the ordinance enforced. He has also noticed vehicles cutting through the Family Dollar lot between 7:00 A.M., to 8:00 A.M., to avoid the stop light. "That is a state violation," he said.

Council member Pence made Chief Morris aware of a speeding school bus in Elkwood. Vice Mayor Dearing believed it was too difficult to contact a Town police officer after 5:00 P.M. He asked for officers' schedules and a listing of their cell phone numbers.

NEW BUSINESS

Blue Opal Internet Connection

Council member Kite moved, second by Council member Isom, to reimburse Blue Opal $750.00 for the installment of Adelphia Cable junction at the corner of 5th and Gibbons.

Because Mr. Yates' business is an Internet business, he paid for the high speed connection. Council member Kite's point being because of Mr. Yates' action, "anyone can now connect to high speed Internet."

Vice Mayor Dearing recognized others had paid for services and they had not been reimbursed. He was prepared to agree to a partial reimbursement of $750.00. Council member O'Neill stated he believed Adelphia failed to provide services as stated in the contract but, it was in no way related to Town neglect. Both believed previous intervention by the Town resulted in the initial charge of $4,000.00 being lowered to $750.00.

YEAS: M. Isom, D. Kite, and S. Sigafoose
NAYS: M. Dearing, M. O'Neill, and T. Pence

Mayor Printz voted "No" to the full amount of $750.00 but would support payment of an unspecified partial reimbursement.

Motion failed (4 -3 roll call)

Council member Kite then informed Council that Mr. Yates agreed that the reimbursement would be donated to the Kids Castle.

Elkton Evangelical Methodist Church

Council member Kite moved, second by Council member O'Neill, and carried to reimburse the church $135.00 for clean-out for the church parsonage.

Vice Mayor Dearing stated the initial request was denied due to incomplete information.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 roll call)

The $135.00 will be taken from Capital Projects: Sewer.

Hire Four Maintenance Employees

Vice Mayor Dearing stated these positions were being filled under the advertisement published on August 2, 2006.

Vice Mayor Dearing moved, second by Council member O'Neill, and carried to hire Timmy Turner, heavy equipment chief, at $31,200.00, Laborer II; Josh Turner, Laborer II, $27,040.00; Jeffrey Breeden, Laborer II, $27, 040.00; Dustin Chapman, Laborer II, $28,800.00.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, and T. Pence
NAYS: S. Sigafoose

Motion carried (5 - 1 roll call)

Vice Mayor Dearing moved, second by Council member O'Neill, and carried to transfer Craig Lam from the Maintenance Department to the Water Treatment Facility, and to adjust his pay from $10.22 per hour to $10.50 per hour, making his new salary $23,337.60, retroactive to when he moved to the treatment plant.

As Mr. Lam advances through the "six" steps in the sewer treatment program, "his salary will be advanced until he gets to the top level."

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 voice vote)

Vice Mayor Dearing moved, second by Council member O'Neill, and carried to advance Jamie Mowbray from $10.27 per hour to $11.27 per hour retroactive to July 1, 2006, making his new salary $23,441.60.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 roll call)

Freedom of Information Act (FOIA) Request Procedure

Vice Mayor Dearing displayed a copy of the FOIA book and emphasized the law states that they "shall" read the book.

Vice Mayor Dearing made the following in the form of a motion: Due to the large volume of FOIA requests, we have implemented the following:

1. FOIA forms will be completed by the person requesting the information. The forms will be available in the Clerk of Council's office.
2. The request will be presented to the Clerk of Council.
3. The acting Town Manager at the time will review the request and give it to the appropriate employee to fill the request within 5 days.
4. If the request cannot be filled within 5 days, a letter will be sent to the person requesting the information, giving us an additional 7 days. That is working days.
5. If that request cannot be filled in those 7 days, another letter will be sent to the individual stating why you cannot fulfill that requirement.
6. We are setting a fee of .50 cents per copy, and an additional charge of ¼ hour according to the employee doing the research per request. If Rick Carey would do the research, it would be .50 cents per copy and $3.96 per quarter hour, with a minimum of ¼ hour. If Debbie Curtis is doing the project, it will be $2.80. If Dorenda Flick is doing the job it will be $2.96; Lynn Meadows, $2.91; Donna Gooden, $2.62; Clairen Sipe, $4.67; Charlotte Shifflett, $2.70; Marty Shifflett, $4.60; and the Chief of Police, $4.69.

Council member O'Neill seconded the motion.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 voice vote)

Purchase Digger Derrick Truck - $30,000.00 – First Reading

Council member O'Neill moved on a First Reading to reallocate $30,000.00 from the HEC designated funds for the purchase of a replacement derrick truck for the electrical department.

Council member O'Neill moved, second by Council member Isom, and carried to approve the expenditure of up to $15,000.00 of allocated funds from Street Maintenance: Capital Equipment for the purchase of a used service truck for use by the Water, Sewer, and Streets Departments, with the stipulation that Vice Mayor Dearing approve the specific truck being purchased.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 roll call)

Council member O'Neill moved, second by Vice Mayor Dearing, and carried to approve the expenditure of up to $14,000.00 of allocated funds from Water: Capital Equipment for the purchase of the following:

Line Finder - $5,000.00
Tamper - $3,000.00
Laser Level - $3,000.00
Leak Detector - $3,000.00

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 roll call)

Reallocation of $50,000.00 for Purchase of a Backhoe – First Reading

Council member O'Neill moved that the following funds, totaling $50,000.00 be reallocated from the following accounts for the purchase of a replacement backhoe, with the stipulation that Vice Mayor Dearing approve the specific equipment purchase:

HEC designated funds - $13,000.00
Street Maintenance: Capital Equipment - $5,000.00
Water: Capital Projects - $26,000.00
Water: Capital Equipment - $6,000.00

Discussion of Peak Hours Electric Generator

Council member Isom summarized Alan Todd's presentation to Council at the Committee meetings. The condensed version was Virginia Power will remit to the locality (Elkton) approximately $161,000.00 per year to operate the generator during a designated peak usage time.

Authorization for Gerald Monger to Review Electric Customer Billing

Vice Mayor Dearing consulted with Council member Isom to bring in Gerald Monger to review electric billing of Elkton's customers. Vice Mayor Dearing stated Elkton is charging two cents more per kwh than Dominion and Virginia Power, who make profit from charging less than Elkton. He hoped Mr. Monger and Mrs. Sipe could ascertain that the billing formulas were accurate.

Vice Mayor Dearing moved, second by Council member Pence, and carried to authorize Mr. Monger as a sub-contractor, at $20.00 an hour, to review electric customer rates.

Council member Kite asked how long it would take and Vice Mayor Dearing responded, "Two or three days."

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 roll call)

Mr. Monger will be paid from Electric: Contract Labor.

Job Description for Community Center Executive Secretary

Vice Mayor Dearing was not prepared to take action, stating, "This Council has not made a decision as to how that Center will be run. We have basically sort of blessed what we are going to do. I think our key thing is to set a director over there before we set a secretary." The job description did not "make sense" to Vice Mayor Dearing and the issue was sent back to Committee.

COMMITTEE REPORTS

Electric

Council member Isom will follow up on "electric billing averaging."

Finance

No report.

Personnel

Vice Mayor Dearing moved, second by Council member Pence, and carried to accept the resignation of Officer Jeffrey Gooden, effective September 6, 2006.

YEAS: M. Dearing, M. Isom, M. O'Neill, and T. Pence
NAYS: D. Kite

Motion carried (4 – 1 roll call)
***Council member Sigafoose was not present for the vote.**

Public Health, Public Safety, and Ordinances

No report.

Streets and Sidewalks

In an effort to increase downtown parking spaces, Council member Kite suggested angled parking. Marty Shifflett stated "VDOT denied such a request as a safety factor with cars backing out into a traffic lane. Angled parking is not approved for stated roadways."

Water and Sewer

No report.

Recreation

Council member Kite reported that the Recreation Commission recommended moving Lynn Meadows to the Community Center, but they did not want the County to control the programs. More equipment for the Kids Castle is due. Chips, not mulch, will be used.

Planning Commission

Vice Mayor Dearing suggested to Council member Pence that the Planning Commission members visit locations in Town and make a written recommendation to Council as to Code violations.

Cemetery Commission

No report.

Economic and Community Development

A meeting will be held at the Junior Order building on Thursday at 7:00 P.M., to review the Elkton Town Festival.

Vice Mayor Dearing considered incentives to bring businesses to the downtown area.

Elkton Area Community Center Committee

No additional report.

Closed Session

Council member O'Neill moved, second by Vice Mayor Dearing, and carried to go into closed session under Virginia Code 2.2-3711, paragraph 7, for consultation with legal council, and briefing by staff members or consultants pertaining to actual or probable litigation.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 roll call)

Council member O'Neill 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 2.2 of the Code of Virginia were heard, discussed, or considered. Vice Mayor Dearing duly seconded the motion.

YEAS: M. Dearing, M. Isom, D. Kite, M. O'Neill, T. Pence, and S. Sigafoose.

Motion carried (6 – 0 roll call)

As there was no further business, the meeting adjourned at 10.37 P.M.

Mayor: _____
Wayne E. Printz

Recorder: _____
Richard D. Carey, Clerk