Special
Council Meeting
January 23, 2007

A special meeting of the Elkton Town Council was held in the Community Room of the Elkton Area Community Center on January 23, 2007, with Mayor Wayne E. Printz presiding. The following Council members were present:

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

Town Attorney Tom Miller, Town Superintendent Marty Shifflett, Treasurer Clairen Sipe, and Clerk of Council Richard Carey were also present.

Mayor Printz read the agenda:

1. Willow Oaks Sub-division
2. Smoke Test
3. 1.83% Virginia Power Increase for VEMA – Second Reading
4. In-Town Lighting
5. Fourth of July Celebration

Nathan Miller, Esq., was present and spoke on behalf of the Willow Oaks Sub-division. Mr. George McDaniel requested Mr. Miller's attendance "to try to work out an arrangement on Willow Oaks." Mr. Miller reviewed the increases in sewer rates from the time Willow Oaks started on March 20, 2005 to the present. Mr. Miller sought to negotiate the needs of the Town and the developer of Willow Oaks in an effort to keep Willow Oaks viable as "affordable housing." Nathan Miller believed Mr. McDaniel had been caught in a "transition period." He stated that he and Town Attorney Tom Miller had spoken and the two believed a workable, agreeable conclusion could be reached.

Angler negotiated that each year as they purchased connections they would pay the rate that was in the agreement as negotiated or the prevailing rate, whichever was less. Vice Mayor Dearing recalled that Mr. McDaniel requested a six month extension in March 2006. Then, in September 2006, Mr. McDaniel asked to pay all connections up front, a request which did not comply with the Town ordinance. Vice Mayor Dearing also stated that at no time did Council decide the McDaniels brothers could not proceed.

Council member O'Neill saw "timing," as well as water and sewer capacity, as issues. He was not "totally opposed" to viewing a proposal from the attorneys and Mr. McDaniel. However, "significant discounting" would depend on additional sewer capacity in the future. There lies the "timing" issue. Council member O'Neill referred to contractual commitments and did not want to "compromise" those obligations. Due to supply and demand, Council member O'Neill was unsure if the Town could afford to "negotiate away discounted connections, although affordable housing was desirable."

At the prevailing rates, Mr. McDaniel estimated additional costs of $600,000.00 to $800,000.00 for the project and questioned how he could keep the development "affordable." As he addressed Council, Mr. McDaniel did not request a "discount." Mr. McDaniel had no problem repairing the water line on North Street, even though "it should have been repaired 10 years ago." He then stated Council had failed to respond to his request for water and sewer, during which time the rates increased twice. Angler was granted 100 connection at $6,000.00 per connection and that was not termed "discounted," but Mr. Daniel's request was being considered as "discounted." He could not comprehend why. Another of Mr. McDaniel's points was he already had $300,000.00 in a development for which he has not broken ground. He closed by asking for a "level playing field."

Vice Mayor Dearing saw the contract with Angler as the difference between Angler and Willow Oaks. He stated the previous Council approved Willow Oaks but, no agreement was entered into with Mr. McDaniel regarding connections. Mr. McDaniel responded that the proposal he submitted when the connection rates were $4,000.00 went unanswered.

Mr. Tom Miller stated that the Code that existed in October, November, and December 2006 permitted the purchase of 10 connections and had to be completed within six months. So, the actual figure would be 10 as opposed to 44 connections. Council member O'Neill stated the Code was modified to allow Council to negotiate with Angler, a condition that was not available to them in the previous Code. Council now has the option to negotiate a contract with Mr. McDaniel if they choose to do so.

Mr. McDaniel stated when he made his proposal he offered to pay his connection fees up front but the Code was not changed for his situation as it was for Angler. Mayor Printz stated the contract with Angler was a "package" that included a million dollar water system and an unencumbered 4.5 million dollars up front. Vice Mayor Dearing verified with Mr. McDaniel that his only issue was the rates when he applied as compared to the current rates. Mr. McDaniel replied that that was correct.

Council member Kite was agreeable to having the attorneys "talk" and see if a compromise could develop. Council member Sigafoose would like to hear a proposal from the attorneys. Council member Pence concurred. Council member Isom desired to listen to the attorneys' proposal. Mr. Shifflett could not prognosticate a question from Council member O'Neill about the current mains being able to accommodate 4, 5, or 6 units, as he considered that an engineering question.

Council member O'Neill's statement was: "I'm not really interested in bargaining on sewer capacity right now but, ultimately, once we have sewer capacity, I think there is significant benefit in having these lower cost units here. But, until we have capacity for them, I'm reluctant to support significant concessions. Also, as far as the revisions to the Code, the Council actually became aware of its limitations somewhat late in the process of our negotiations with Anger and realized in order to ratify that agreement we had to make changes to the Code. That also was our top priority. So, it is unfortunate that we were not able to give more attention to Mr. McDaniel's request. But, the reality was we could not have legally granted it if we had wanted to at the time. When we realized we had an issue with the Code, we addressed it."

Mr. McDaniel stated the capacity issue should have been addressed with Angler because it was not an issue with him until Council "signed a contract with Angler."

Vice Mayor Dearing turned the discussion from capacity back to the issue as he saw it, that being Mr. McDaniel's request in September 2006 to pay all 44 connections up front. There was no response because the old Code permitted just 10 pre-paids, with the other regulations. Then, in January 2006, the Code was amended to allow Council to negotiate the contract with Angler. Vice Mayor Dearing was uncertain just what the attorneys should discuss and bring back to Council. Should Council negotiate 44 units based on an old proposal?

Council member Kite believed "there could be circumstances that could be a point of interest." He did not elaborate.

Mr. McDaniel mentioned a letter from former Town Manager Donachy that the Willow Oaks sub-division had been approved. The letter included, "The only issue that had not been resolved was the line going up North Street." It was then that Mr.

McDaniel tried to lock in the water and sewer connections. There was no response from the Town.

In the interest of time, Mayor Printz noted it appeared that at least four Council members favored the two attorneys to meet and bring a proposal back to Council. Mayor Printz encouraged the Council members to submit any suggestions or questions to the attorneys in writing.

Smoke Test

Virginia Rural Water will assist with the test. Notification must be placed in the local paper and each house will receive a mailer that will explain what will happen, what the resident must do, and what will result from finding improper connections.

The Town is losing money by treating rain water at the treatment plant because gutters, floor drains, and sump pumps empty into the sanitary sewer system. After a homeowner and/or occupant is/are notified by letter of a violation, Mr. Shifflett asked Council to determine the amount of time the occupant/owner would have to correct the problem, and the penalty if the occupant/owner did not comply.

The Council members who spoke were willing to accept Mr. Shifflett's determination to his own questions.

1.83% Virginia Power Increase – Second Reading

Council member O'Neill moved, second by Vice Mayor Dearing, and carried to pass the 1.83% Virginia Power increase.

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

Motion carried (6 – 0 roll call)

In-Town Lighting

Council member Isom and Marty Shifflett agreed that the street lighting is adequate at Elkton Manor. The lack of lighting is from the building to the street.

EDRC would like the Town to study improving lighting throughout Town.

Fourth of July Celebration

Council member Isom envisions a full day of activities for the Fourth of July Celebration. Some activities mentioned were a car show, entertainment, karaoke, Mary-Liz dancers, cakewalk, dunking booth, and a cook-off. The event will be held on July 4, which in 2007 will be a Wednesday, in Memorial Park.

Due to the demand for fireworks displays on July 4, bookings and deposits are made well in advance of the event. It is also a costly undertaking. Council member Isom was fortunate to locate a professional fireworks operator who could provide a 15 minute program for $11,000.00. With the cost being much higher than an "off season" price, she contacted each Council member for support before she committed for the display. She said the support was 5 in favor and 1 not in favor. The deposit was $2,500.00.

Council member Isom moved, second by Council member Sigafoose, and carried that the Town of Elkton hold a Fourth of July Celebration and the deposit money be taken from the current budget and the balance be worked into the new budget.

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)

Council member O'Neill moved, second by Vice Mayor Dearing, to go into closed session under Virginia Code 2.2-3711.A.7 to discuss litigation.

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

Motion carried (6 – 0 roll call)

Council member Sigafoose was excused at 9:08 P.M.

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, and T. Pence

Motion carried (5 – 0 roll call)

As there was no further business, the meeting was adjourned at 9:20 P.M.

Mayor: _____
Wayne E. Printz

Recorder: Richard D. Carey, CMC
Richard D. Carey, Clerk

Council member Pence expressed second thoughts about supporting the event. Council member Kite admitted he was the lone non-supporter. Vice Mayor Dearing reluctantly supported it but, if it was to happen, "then do it right." He compared it to having a birthday party without the cake. Council member Isom wanted it to be clear that she was not taking money from other line items to stage this event. Two thousand dollars was already available to her when she went to Finance Chair Council member O'Neill to clear the balance for the fireworks. She stated Council member O'Neill told her he could make it work between the two budgets. Council member Sigafoose will vote to support what he promised. Council member O'Neill stated he was "uncomfortable" with the amount but he discussed that with Council member Isom. His decision was made on "what the people want." His goal was to bring the Town back to life by making Elkton a destination. He considered this a preliminary to Elkton's Centennial.

Council member Kite stated he was not opposed to a Town celebration, or Town activities. His objection was "blowing $11,000.00 up in smoke at the expense of the taxpayers." He added this could cost "$18,000 to $20,000.00" when advertising and the possibility of paying for entertainment were added in. He randomly asked 15 people if they approved of $11,000.00 for fireworks and he did not receive one positive response. He was firm on his campaign promise to "curtail wasteful spending." His position was a local organization should take this as a fundraiser activity, thereby enjoying a large profit in 5 years.

Council member Isom responded that a citizen offered to pay for some of the advertising; some members of the committee will use their personal computers to circulate information; and another committee member committed to securing a band or other musical entertainment.

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

NAYS: D. Kite

Motion carried (5 – 1 roll call)

EUB Parking

Council member Pence brought to the floor a request from the Evangelical United Methodist Church to use a triangular area located at Clark and North Street for additional parking when needed.

Council member Pence moved, second by Council member Sigafoose, and carried to permit the EUB congregation to use a triangular area on North Street for parking when needed, contingent on a safety clearance from Chief of Police Morris.

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

Motion carried (6 – 0 voice vote)

Agenda Change

Council agreed to an agenda change to allow for a closed session.

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.A.11 to discuss personnel issues.