Regular
Council Meeting
November 17, 2008

The regular meeting of the Elkton Town Council was held on November 17, 2008, in the Council Chambers at the Elkton Area Community Center with Mayor Wayne E. Printz presiding. The following Council members were present:

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

Town Attorney Lauri A. N. Sigler, Chief of Police James A. Morris, Treasurer Clairen Sipe, EACC Administrator Allison Morris, Recreation Director Diane Johnson and Clerk of Council Denise R. Monger were also present.

Mayor Printz called the meeting to order and the Clerk was asked to call the roll.

Council member Isom gave the invocation.

All present were asked to join in the Pledge of Allegiance.

.**CITIZEN COMMENTS**

Hazel Crider, Elkwood, thanked Council and the Town employees for their support and assistance with the Veteran's Day celebration. She noted that the Neighborhood Watch presented a short program at Journey's Crossing for veterans at that facility who were unable to participate in the program at the park.

Mayor Printz thanked the Neighborhood Watch, Town employees and Vice Mayor Dearing for their efforts and assistance with the event.

Dan Talbot, Chair of the Planning Commission, spoke briefly regarding the proposed code amendments for R-6 zoning. He stated the importance of moving forward with the amendments despite the current situation with the Koogler project. He noted that the amendments would establish the concept of senior housing within the Town and give the Town some guidance on how to treat those types of requests. He noted that additional restrictions would be added to the R-6 zoning which would strengthen that part of the code and allow the Town to have more control in that area.

Mayor Printz recognized Mayor-Elect Dr. Larry Bompiani who was in attendance. He congratulated him and the newly elected Council members. He offered his assistance with all for a smooth transition.

MINUTES

Motion to Approve October 14, 2008 Public Hearing Minutes

Council member Kite moved, seconded by Vice Mayor Dearing, and carried to approve the minutes for the Public Hearing held on October 14, 2008 as presented.

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

Motion to Approve October 14, 2008 Special Council Meeting Minutes

Vice Mayor Dearing moved, seconded by Council member Kite, and carried to approve the minutes for the Special Council Meeting held on October 14, 2008.

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

Motion to Approve October 14, 2008 Committee Meetings Minutes

Vice Mayor Dearing moved, seconded by Council member Pence, and carried to approve the minutes for the Committee Meetings held on October 14, 2008.

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

Motion to Approve October 20, 2008 Regular Council Meeting Minutes

Vice Mayor Dearing moved, seconded by Council member Pence, and carried to approve the minutes for the Regular Council Meeting held on October 20, 2008.

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

TREASURER'S REPORT

Treasurer Sipe reported an ending ledger balance of $691,889.62 for General Government for the month of October 2008. Total designated money was $557,032.24, leaving total available cash of $134,857.38.

Vice Mayor Dearing moved, seconded by Council member Pence, and carried to accept the Treasurer's report as presented.

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

Vice Mayor Dearing spoke briefly regarding the Town's financial situation. He noted that the REPO funds were available for emergencies, designated funds were strictly to be used for their specified purpose, $50,000.00 in the HEC account and the Perpetual Care Fund.

Council member O'Neill stated $400,000.00 for the generator had been added as a designated item. He noted appropriated expenses would be deducted from that designated account and tracked.

COMMUNITY CENTER ADMINISTRATOR'S REPORT

EACC Administrator Allison Morris spoke briefly of the upcoming Christmas Bazaar on December 6, 2008 from 9:00 a.m. to 5:00 p.m. at the center. She briefly discussed the sign and flagpole and success of the Election Day Dinner.

CHIEF OF POLICE REPORT

Chief Morris briefly discussed the expansion of the police department. He noted that Coors had donated $5,000.00 towards the canine officer.

NEW BUSINESS

Reallocation of Funds for DEQ Find – Second Reading

Council member O'Neill moved, seconded by Vice Mayor Dearing, and carried to reallocate $16,170.00 from the HEC fund to cover the DEQ fine for the wastewater treatment plant.

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

NAYS: None

VOTE: (6 – 0 roll call) Motion carried

Council member O'Neill noted that the fine was due on or before November 20, 2008 and would need to be paid immediately.

Amendments to R-6 and Off-Street Parking Requirement – Second Reading

Town Attorney Sigler briefly discussed the amendments. Council member O'Neill requested that under the proposed amendment in Chapter 110-607 (H)(2) that the language state, "for dwellings of eighteen (18) units per acre up to twenty (20) units per acre."

Council member O'Neill moved, seconded by Vice Mayor Dearing, and carried that Council adopt the following changes to the Town Code: Chapter 110-607 Article VI High Density District R-6 with the changes as presented and the amendment just made; Chapter 110 Article III Terms Defined; in addition Chapter 110 Article VII Use Regulations; Finally, Chapter 110 Article VII Section 110-713 Special Use Regulations.

Amendments to the Elkton Town Code
As approved by the Elkton Planning Commission on
November 17, 2008
Amending Section 110-607

Chapter 110
LAND DEVELOPMENT
Article VI
Use Districts

Section 110-607. **High-Density Residential District R-6.**

B. Permitted uses. Within the High-Density Residential District R-6 the following uses are permitted:

(1) Multiple-family dwellings, apartments and single-family dwellings, provided that no more than twelve dwelling units shall be permitted in each multiple-family dwelling

or single-family attached dwelling, and provided that, with respect to townhouses, the use is in compliance with the provisions of § 110-709 of this chapter.

C. [Amended 3-25-1991] Special exceptions. When after review of an application and hearing thereon, in accordance with Article VIII herein, the following uses may be permitted by special exception permit:

(12) Multiple-family dwellings of more than twelve (12) units per acre or more than 12 units per building under conditions set forth in subsection H and such other conditions deemed necessary by council.

E. Lot regulations.

(1) (a) [3] Maximum density is twelve (12) units per acre.

H. Other regulations.

(1) When after review of an application and hearing thereon in accordance with Section 110-802(c) herein, multiple-family development special use permits may be approved for dwellings of more than twelve (12) units per acre up to seventeen (17) units per acre or more than 12 units per building if the following conditions as determined by council are met:

(a) Consideration of existing or approved multiple-family development, or land planned for multiple-family development according to the Comprehensive Plan and its location to the proposed multiple-family development.

(b) The applicant has demonstrated that adequate vehicular, pedestrian and bicycle facilities:
• Currently serve the site; or
• Are planned to serve the site according to a town or state plan with reasonable expectation of construction within the timeframe of the need created by the development; or
• Will be provided by the applicant at the time of development; or
• Are not needed because of the circumstances of the proposal.

(c) The applicant has demonstrated that the proposed multiple-family development's design is compatible with adjacent existing and planned single family, duplex and townhouse development. Compatibility may be achieved through architectural design (e.g.. multi-dimensional façade or other attributes that make the development appear more residential in character), site planning, landscaping and/or other measures that ensure that views from adjacent single family, duplex and townhouse development and public streets are not dominated by large buildings, mechanical/electrical and utility equipment, service/refuse functions and parking lots or garages.

(d) The applicant has shown that the site is environmentally suitable for multiple-family development. There shall be adequate area within the site, or the development shall be designed, to accommodate buildings, roads and parking areas with minimal impact on steep slopes and floodplains.

(2) When after review of an application and hearing thereon in accordance with Section 110-802(c) herein, multiple-family development special use permits may be approved for dwellings of eighteen (18) or more units per acre up to twenty (20) units per acre if the following conditions as determined by council are met:

(a) The applicant has met all the conditions in subsection H(1) above;

and;

(b) The applicant has demonstrated that the proposed multiple-family development will be a "multiple-family senior dwelling" as defined in this Chapter.

Amendments to the Elkton Town Code
As approved by the Elkton Planning Commission on
November 17, 2008
Adding new definable terms to Section 110-302

Chapter 110
LAND DEVELOPMENT
Article III
Terms Defined

DWELLING, MULTIPLE-FAMILY SENIOR – A building containing three or more independent living units where the proposed multiple-family development is "housing for older persons" as defined by Section 36-96.7 of the Code of Virginia (1950), as amended, and is for adults only.

PARKING UNIT, PRIVATE - A self-contained and privately maintained area accessed by a public street but allowing no through traffic routes and providing such off-street parking as may be required under this chapter for the building served. Said parking unit shall be entered by from the public street; and offer adequate ingress and egress for emergency vehicles and shall be developed according to standards found in Section 110-703B, herein.

Amendments to the Elkton Town Code
As approved by the Elkton Planning Commission on
November 17, 2008
Adding a new use category to Section 110-703

Chapter 110
LAND DEVELOPMENT
Article VII
Use Regulations

B. Site requirements.

(1) All such parking spaces, except those serving one- and two-family dwellings shall be hard surfaces with concrete or plant bituminous material and shall be maintained in dustproof condition.

(a) The minimum pavement section for privately owned and maintained parking areas (including drives within parking areas) shall consist of a 6 inch aggregate base course (VDOT 21-A) and a 2 inch bituminous surface course (VDOT 5-5) based on a California Bearing Ratio (CBR) value of 10, or equivalent standard for concrete.

(b) Where the average CBR value is less than 10, an additional 1" of subbase shall be required for each point, or part thereof, less than 10.

(6) When after review of an application and hearing thereon in accordance with Section 110-802(c) herein, a special use permit may be approved for a multi-family senior dwelling so that the parking surface for no more than 0.5 spaces per unit may be of an alternative surface than required in Subsection (1) herein if the conditions as determined by council are met. Access to and from the building from the public street, including turn around areas cannot be impeded by the alternative surface parking area.

C. Parking space requirements for all districts except B-l Business. In all districts, there shall be provided adequate off-street motor vehicle parking spaces with vehicular access to a street or alley, and shall be equal in area to at least the minimum requirement for the specific land use set forth, including but not limited to the following: **[Amended 12-18-2000]**

Land Use	**Parking Requirements (spaces)**
Dwellings;	
One and two families	2 for each dwelling unit
Multifamily, senior	1.5 spaces for each dwelling unit
Multifamily, townhouses	2 per dwelling unit

Amendments to the Elkton Town Code
As approved by the Elkton Planning Commission on
November 1, 2008
Adding new Section 110-713

Chapter 110
LAND DEVELOPMENT
Article VII
Use Regulations

Section 110-713. Special regulations for multiple family dwellings.

A. The primary entrances of each principle multi-family dwelling shall face a dedicated public street or the limits of a private parking unit (as defined) and shall also contain curbs sidewalks, and gutters as required that service all living quarters and amenities within the complex.

B. Adequate lighting as determined by the zoning administrator and chief of police will be provided for each building.

C. All open areas, including parking, shall be maintained by the owner.

D. When a new public street is required the street shall be built in accordance with section 110-904 I, herein.

BE IT FURTHER ORDAINED that this ordinance is enacted and shall be effective from the 17th day of November, 2008.

ADOPTED AND APPROVED this 17th day of November, 2008.

_____
Wayne E. Printz
Mayor, Town of Elkton

Attest:

_____
Denise R. Monger
Clerk of the Council

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

NAYS: None

VOTE: (6 – 0 roll call) Motion carried

Adoption of Virginia Procurement Act – First Reading

Town Attorney Sigler stated that the Town would need to adhere to the requirements in the Virginia Procurement Act since funding for the wastewater treatment plant would be received through a Department of Environmental Quality revolving loan fund. She noted that certain exceptions were allowed under the Act. She noted that under Sections 31-3 (d) & (e) that for a single term contract not to exceed $30,000.00 special procedures could be enacted at another time. She noted her office would prepare documentation for Council to review in December. She noted that if the Town received four bids for purchases in the amount of $30,000 - $50,000 a newspaper advertisement

would not be necessary. She briefly spoke regarding emergency, sole source and small purchases.

Council member O'Neill sponsored a First Reading of the following:
First Reading of amendment to

CHAPTER 31
PURCHASING
ARTICLE 3
VIRGINIA PROCUREMENT ACT

November 17, 2008

WHEREAS, the Town Council would like to adopt Sections 2.2-4300 thru 2.2-4377 of the Virginia Code known as the Virginia Public Procurement Act

BE IT RESOLVED that the Town of Elkton hereby enacts the following ordinances:

§ 31-3. Virginia Procurement Act.

The Town of Elkton hereby adopts the policies and procedures, mutatis mutandis, of the Virginia Procurement Act, § 2.2-4300 through §2.2-4377 of the Code of Virginia (1950), and amendments thereto.

§ 31-5. Exceptions to requirement for competitive procurement.

(a) The town may enter into contracts without competition for the purchase of goods or services which are performed or produced by *bona fide* nonprofit organizations.

(b) The town may enter into contracts for legal services, expert witnesses, and other services associated with litigation or regulatory proceedings without competitive sealed bidding or competitive negotiation.

(c) The town may enter into contracts for special police work without competitive sealed bidding or competitive negotiation.

(d) The town may award single or term contracts not expected to exceed $30,000.00 without competitive sealed bidding or competitive negotiation under alternate written procedures.

(e) The Town may award single or term contracts expected to exceed $30,000 but not $50,000 without competitive sealed bidding or competitive negotiation under alternate written procedures. Before invoking this paragraph, the Town shall solicit written proposals from four offerors. This paragraph does not apply to professional services. (See Virginia Code § 2.2-4303(G).

(f) The town may enter into contracts for purchases of library books and legal publications without competitive sealed bidding or competitive negotiation.

(g) In case of an emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination shall be included in the contract file. An emergency shall be deemed to exist when a breakdown in machinery or equipment and/or a threatened termination of essential services or a dangerous condition develops or when an unforeseen circumstances arise causing curtailment or diminution of an essential service or where materials or services are needed to prevent losses of life or property.

§ 31-6 Sole source procurement.

Upon a written determination that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination.

b. Small Purchases.
Under § 18-12(d) of the Town Code, certain small contracts expected to total less than $30,000 can be let without formal procurement procedures. Both § 18-12(d) and § 2.2-4303(G), however, require that there be a written procedure providing some competition where practicable. That procedure is as follows: Whenever reasonably possible, you must identify at least three potential suppliers of the goods or services. You must then seek informal proposals from each. (Verbal proposals are fine, so long as you keep a record.) You should procure the goods or services from the entity offering the lowest price, unless you have a valid reason to do otherwise. Similarly, under § 18-12(d1), the Town can avoid bidding or competitive negotiation for contracts between $30,000 and $50,000, unless the contract is for professional services. Before invoking this provision, however, the Town needs to obtain price quotes from at lease four offerors.

BE IT ORDAINED BY THE TOWN COUNCIL OF ELKTON, AS FOLLOWS:

There having been a first and second reading of Section 31, Article 3, of the Code of the Town of Elkton, said section is hereby repealed and of no effect.

BE IT FURTHER ORDAINED that this ordinance be, and the same hereby is, made effective this date.

Sole Source Declaration

Town Attorney Sigler stated that sole source declarations would be needed for each item to qualify as a sole source.

Appoint Debra P. Breeden to Recreation Commission

Council member Kite moved, seconded by Vice Mayor Dearing, and carried to appoint Debra Pence Breeden to the Recreation Commission for a two year term.

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

A brief discussion took place regarding a background check.

Mayor Printz stated that due to an emergency issue, Council would suspend the remaining business of the meeting. Therefore, **Council member Kite moved, seconded by Council member Isom, and carried to suspend the meeting and go into closed session.**

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

NAYS: None

VOTE: (6 – 0 roll call) Motion carried

Closed Session

Council member O'Neill moved, seconded by Vice Mayor Dearing, and carried to go into closed session under Virginia Code 2.2-3711-A.11 to discuss personnel matters and 2.2-3711-A.7 to consult with the attorney.

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

NAYS: None

VOTE: (6 – 0 roll call) Motion carried

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

As there was no additional business, **Council member Kite moved, seconded by Vice Mayor Dearing and carried to adjourn the meeting.**

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

NAYS: None

VOTE: (6 – 0 voice vote) Motion carried

Mayor: _____
Wayne E. Printz

Recorder: Denise R. Monger
Denise R. Monger, Clerk

APPENDIX A

AGENDA
ELKTON TOWN COUNCIL
November 17, 2008

- ❑ **ROLL CALL**
- ❑ **INVOCATION**
- ❑ **PLEDGE OF ALLEGIANCE**
- ❑ **CITIZEN COMMENTS, QUESTIONS, REQUESTS, AND PRESENTATIONS WHICH DO NOT VIOLATE STATUTORY PUBLIC HEARING REQUIREMENTS.** (Council may establish or alter rules governing this or other public comment periods.)
- ❑ **MINUTES**
  - Public Hearing – October 14, 2008
  - Special Council Meeting – October 14, 2008
  - Committee Meetings – October 14, 2008
  - Regular Council Meeting – October 20, 2008
- ❑ **TREASURER'S REPORT**
  - Questions/Comments from Council
- ❑ **COMMUNITY CENTER ADMINISTRATOR'S REPORT**
  - Questions/Comments from Council
- ❑ **CHIEF OF POLICE'S REPORT**
  - Questions/Comments from Council
- ❑ **NEW BUSINESS**
  1. Reallocation of Funds for DEQ Fine – Second Reading
  2. Amendments to R-6 and Off-Street Parking Requirements – Second Reading
  3. Adoption of Virginia Procurement Act – First Reading
  4. Sole Source Declaration
  5. Appoint Debra P. Breeden to Recreation Commission
- ❑ **COMMITTEE REPORTS**
  - Electric
  - Finance
  - Personnel
  - Public Health, Public Safety, Ordinances
  - Streets and Sidewalks
  - Water and Sewer
  - Recreation
  - Planning Commission
  - Cemetery
  - Advisory
- ❑ **UNFINISHED BUSINESS**
- ❑ **TOWN ATTORNEYS/REPORT/ACTION NEEDED**
- ❑ **MAYOR'S BUSINESS**
- ❑ **CLOSED SESSION**
- ❑ **ADJOURNMENT**