Regular
Council Meeting
August 18, 2008

The regular meeting of the Elkton Town Council was held on August 18, 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. O'Neill
D. Kite
T. Pence

ABSENT
M. Isom
S. Sigafoose

Town Attorney Lauri A. N. Sigler, Chief of Police James A. Morris, Treasurer Clairen Sipe, EACC Administrator Allison Morris, EACC Secretary Diane Johnson and Deputy Clerk of Council Richard Carey were also present.

Clerk of Council Denise R. Monger was on vacation.

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

Council member Kite gave the invocation.

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

CITIZEN COMMENTS

Richard McGregor, 264 Windsong Hills, Elkton, stated sufficient time was available to move the polling location to the community center before the upcoming election in November. He had spoken with the Board of Elections who had also confirmed enough time was available to move the location. He noted a letter had been prepared by the Board which stated the following:

"*In regards to the issue of whether to move Elkton's polling place to the Community Center, this Electoral Board supports the move because the current polling place has insufficient space for acceptable voter traffic flow and parking as well as inadequate handicapped accessibility.*

In regards to the issue of whether to move before November's election, it is our opinion that the best time to move the polling place is prior to November's election for several reasons. First, all signs indicate that this November's election will have a higher than average turnout which would lead to overcrowding of the current facility. Second, a higher than normal turnout would result in higher than normal handicapped voters making it difficult for Election Officers to serve their needs in the current facility. And third, in preparation for the upcoming redistricting, Virginia's General Assembly has put a freeze on moving voting precincts as of February 1, 2009.

Be aware that changes to precincts must be done sixty days prior to an election so everything must be completed by Friday, September 5. If Elkton approves the change, time must be allowed for the Board of Supervisors to propose and advertise the ordinance before taking final action to make it official.

It is our job to serve the needs of the voters of Elkton and we feel that the Community Center would be a substantial improvement to conduct elections over the current facility. Sincerely, Lowell Hertzler, Vice Chairman"

(A copy of the correspondence is appended to these minutes and marked as "Appendix A".)

Mr. McGregor briefly discussed the improvements made to the current polling location, the facility's inadequacies and lack of space for an election. He encouraged Council to consider the best option for the Town.

Mildred Shifflett, 112 West Spotswood Avenue, praised the Town for their storm clean-up efforts. She noted the citizens were grateful.

Hazel Crider, Elkwood, thanked Council for their hard work regarding the storm clean up. She asked Council to consider using the alarm system in Town for purposes such as a tornado. She thanked the maintenance and police departments for their efforts during the storm clean up. She thanked everyone for their assistance at the Neighborhood Watch National Night Out.

Mayor Printz noted he was at work when the storm descended upon the Town. He received many telephone calls regarding the state of the Town and was updated continuously regarding the damage. He was able to leave work to assess the situation. He noted the Town had worked through the situation together and he was very proud of everyone for their hard work, communication and efforts.

Council member Pence noted the alarm system was being reviewed.

Vice Mayor Dearing noted the phases of clean up were as follows: 1) restore power and clear lines, 2) clear streets, and 3) clean up the Town. He noted the Town was still working under phase 1 and that VDOT came in to clean up Route 33. He noted the Town was working in sections to clean up the Town and asked everyone to remain patient during the process.

PLAQUE PRESENTATION

Mayor Printz presented Vivian Hitt with a plaque in recognition of her work with the Elkton Area United Services. He read the inscription as follows:

2008

We Offer Our Sincere
Thanks and Appreciation To
VIVIAN HITT
For Her
Generosity and Contributions
To the Elkton Area United Services

Mayor, Elkton Town Council
and Elkton Citizens

Mrs. Hitt thanked Mayor Printz and the Elkton Town Council for the honor.

MINUTES

Motion to Approve July 8, 2008 Special Council Meeting Minutes

Council member Kite moved, seconded by Vice Mayor Dearing, and carried to approve the minutes for the Special Council Meeting held on July 8, 2008 as presented.

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

NAYS: None

VOTE: (4 – 0 voice vote) Motion carried

Motion to Approve July 21, 2008 Regular Council Meeting Minutes

Vice Mayor Dearing moved, seconded by Council member Kite, and carried to approve the minutes for the Regular Council Meeting held on July 21, 2008.

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

NAYS: None

VOTE: (4 – 0 voice vote) Motion carried

Motion to Approve July 31, 2008 Public Hearing Minutes (Sale of Real Estate)

Vice Mayor Dearing moved, seconded by Council member O'Neill, and carried to approve the minutes for the Public Hearing held on July 31, 2008.

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

NAYS: None

VOTE: (4 – 0 voice vote) Motion carried

Motion to Approve July 31, 2008 Special Council Meeting Minutes

Vice Mayor Dearing moved, seconded by Council member O'Neill, and carried to approve the minutes for the Special Council Meeting held on July 31, 2008.

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

NAYS: None

VOTE: (4 – 0 voice vote) Motion carried

Mayor Printz stated George Hensley was in attendance regarding his request for a street closure. He noted an appraisal was needed which assist the Town in determining a sale price for the property.

Mr. Hensley thanked Council for their efforts regarding naming the new high school. He stated he had not received notification of the street closing. Therefore, the property could not be appraised and sold. He briefly discussed another resident's concerns and requirements for a public hearing.

Town Attorney Sigler noted that pursuant to the Town code, the Planning Commission had approved the closure. She noted that before the public hearing and official closure of the street, an appraisal would be needed to determine a sale price. She noted the Town would like to have that information before the closure in case Mr. Hensley would differ with the price. She noted the closure, by ordinance, would be the last step taken by Council.

A brief discussion continued regarding the process to close a street, price and appraisals.

Mr. Hensley offered copies of an appraisal of four lots he had prepared in 2006. Council would review the documents.

Council member O'Neill noted that costs would be associated with the sale of the property. It was determined a survey would be needed.

TREASURER'S REPORT

Treasurer Sipe reported an ending ledger balance of $267,860.09 for General Government for the month of July 2008. Total designated money was $253,649.54, leaving total available cash of $14,210.55.

Council member O'Neill requested Treasurer Sipe acknowledge several large July payouts. Treasurer Sipe noted the following:

Pentecostal Hill loan: approx. $55,000.00
F & M Bank & United Bank payments: $64,250.00
VEMA payment: $131,000.00

Vice Mayor Dearing noted a claim had been submitted to the Virginia Municipal League for expenses during the recent tornado.

Council member O'Neill moved, seconded by Council member Kite, and carried to accept the Treasurer's report as presented.

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

Brief discussion took place regarding the Town's money market accounts.

Motion to Authorize Reinvestment of Bonds

Council member O'Neill moved, seconded by Vice Mayor Dearing, and carried for Council to authorize the reinvestment of bonds on the ninety day recommended by Dean Roucher.

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

COMMUNITY CENTER ADMINISTRATOR'S REPORT

EACC Administrator Allison Morris stated the permits had been approved for the building of the new Community Center sign.

Vice Mayor Dearing requested dimensions for the new sign be submitted.

September 20, 2008 fundraiser event with Glicks and Phillips scheduled.

CHIEF OF POLICE REPORT

Chief Morris briefly spoke regarding the tracking history for code violations and fines. Chief Morris noted his recommendations for fines would be presented at the next committee meeting.

Chief Morris requested that Council revisit the take-home policy for police vehicles. He noted the positive response time after the tornado was due to his officers already having the cruisers on stand-by. He noted the officers would have to use their personal vehicles for court appearances which would cost the department more money. He noted some data regarding the fuel expense for the department was incorrect.

Council member O'Neill stated that since no raises were in place, Council should consider continuing to allow the police officers to use the vehicles as a benefit to off-set the raise situation. Vice Mayor Dearing noted his understanding of the situation, but was concerned since other employees of the Town were not provided vehicles or gas. He requested impact documents be submitted to Council on the matter.

Sergeant Harris noted his support for the officers' take-home vehicle policy. He noted that job motivation would decrease in light of the new policy.

Council member Pence stated he did not support the officers taking their police cruisers home.

Council member O'Neill supported the take-home policy and noted limits should be applied. He noted response time should be a service provided to the citizens.

The alarm system was briefly discussed. Council member Pence and Vice Mayor Dearing would review the matter.

Council member Kite recounted events on the day of the tornado. He encouraged Council to revisit the alarm system matter in order to better inform citizens of impending emergencies.

Mayor Printz noted the matter regarding police vehicles would be sent back to committee.

NEW BUSINESS

Accept Resignation of Planning Commission Member

Vice Mayor Dearing moved, seconded by Council member Kite, and carried to accept Jeremy Ream's resignation from the Planning Commission based on family demands.

Vice Mayor Dearing commended Mr. Ream for his work with the Planning Commission. He requested a letter of appreciation be sent to him from the Council.

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

Recommendations for Appointment to Planning Commission

Recommendations to be discussed in closed session.

Reappointment of Chair to Planning Commission

Council member O'Neill moved, seconded by Vice Mayor Dearing, and carried to reappoint Dan Talbot as Chair of the Planning Commission.

Council member Kite noted his appreciation for Mr. Talbot's efforts and dedication. He noted the difficult responsibility of enforcing the Town's codes.

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

Virginia Retirement Systems Resolution

Council member O'Neill moved, seconded by Vice Mayor Dearing, and carried for Council to approve Resolution of Affirmation of Authorization to Pick-up the Employee's Contribution to VRS for Town of Elkton, 55346 Under Section 414(h) of the Internal Revenue Code with a modification in the first blank specifying today's date of August 18, 2008 and specifying Town of Elkton shall pick up contributions.

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

(A copy of the Resolution is appended to these minutes and marked as "Appendix B".)

Change Regular Council Meeting Time – First Reading

A brief discussion took place to change the meeting time from 6:00 p.m. to 7:00 p.m.

Council member O'Neill moved on a First Reading to amend the ordinance to move the Council meeting to 6:00 p.m. on the third Monday of each month. The change would not take place until after the September meeting.

Authorize $4,200.00 Purchase of Uneven Bars for Gymnastics Program

It was determined fundraisers could be used to purchase the items.

Bobbie Rae Monger spoke regarding the funding situation for the gymnastics program. She noted this was her first request to Council to purchase equipment.

Further discussion took place regarding rental fees, electricity, additional expenses to execute the program and the basketball program.

Upon the need for further discussion, Mayor Printz sent the matter back to committee.

Reimbursement for Cemetery Expenses

Vice Mayor Dearing stated that in 2004 a motion was approved to off-set the debt for the Cemetery department in the amount of $140,000.00. He noted the Town currently had a debt in 2005 of $41,723.00; 2006 / $52,860.00, and that the '07 debt was off-set by half. In '08 the debt was approximately $30,000.00. His recommendation was to forgive the debts in '05 and '06 and collect half of the debt outstanding for 2008. Therefore, the following motion was presented:

Vice Mayor Dearing moved, seconded by Council member O'Neill and carried for Council to forgive the $41,000.00 for '05; $52,000.00 for '06; (we forgave half of '07) and collect half of '08 which is $15,287.00.

Council member O'Neill queried the amount of debt previously forgiven. He suggested that Council forgive all previous debt of the Cemetery up to the year 2006. He noted that 50% percent of the debt for 2007 had been abated and 50% collected. He would like that same process followed again for 2008.

After further discussion, **Vice Mayor Dearing withdrew his motion and Council member O'Neill withdrew his second.** The following motion was presented.

Council member O'Neill moved, seconded by Vice Mayor Dearing and carried for Council to abate all monies owed by the Cemetery for fiscal year '06 and back and that we abate fifty percent (50%) of the fiscal year '08 balance for the Cemetery fund and collect the remaining fifty percent (50%).

Council member O'Neill noted that action should bring the Cemetery fund back into balance with zero outstanding and leave $70,000.00 - $80,000.00 in the perpetual care fund.

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

Representatives for Local and Regional Water Supply Planning

Vice Mayor Dearing moved, seconded by Council member O'Neill, and carried to reappoint Theodore Pence and Steve Sigafoose as the Local Regional Water Supply Planners.

YEAS: M. Dearing, M. O'Neill, and D. Kite (T. Pence)

NAYS: None

ABSTAIN: T. Pence (Council member Pence abstained on his nomination and voted YEA on the nomination of Council member Sigafoose.)

VOTE: (3 – 0 – 1 roll call) Motion carried

COMMITTEES

Planning Commission

A discussion took place regarding Kitty Shifflett's property in the Pentecostal Hill area.

Town Attorney Sigler inquired as to the location of the property's drainfield. It was noted that the drainfield was located on one parcel.

Vice Mayor Dearing noted concerns if the property were sold in the future. Mayor Printz stated that the drainfield would be located on the property they could sell. He noted certain requirements of square footage and road frontage. He noted the septic system and the well would remain with the trailer and if sold would remain with that parcel.

Mrs. Shifflett reviewed the documentation with Town Attorney Sigler who noted that the well was on the parcel with the existing structure, but the drainfield would be on

the other parcel. Council member O'Neill stated that under those circumstances, a connection would be required because a drainfield could not be subdivided.

Charlotte Shifflett read the following from a Planning Commission meeting:

"*Motion for a subdivide lot and existing trailer and for any structure on adjacent lot hook up to town water and sewer on both lots. Due to existing septic field being on the other lot. She noted that was the motion upon which a vote was taken.*

Town Attorney Sigler noted that an easement was not needed if Mrs. Shifflett continued to own both parcels. Vice Mayor Dearing noted concerns if Council did not address the future possibility of the property being sold and requested a document be created to resolve the matter.

A brief discussion took place regarding a change in the lot lines of Mrs. Shifflett's property. However, according to the Town's code, a recommendation and review of the plat by the Planning Commission would be required. Vice Mayor Dearing agreed that Council should have documentation to view when considering real estate matters. Town Attorney Sigler cautioned Council on approving a plat they did not have in their possession to review.

Mrs. Shifflett noted her time constraints due to financial commitments and the beginning of the new school year.

Vice Mayor Dearing suggested connections for both parcels upon the subdivision to address some of the outstanding issues. Council member O'Neill agreed with that suggestion and noted the matter could be returned to the Planning Commission for a lot line adjustment that would include the septic field. He noted that action would eliminate the requirement for connections to water and sewer for the trailer.

Mrs. Shifflett asked if she would receive approval on the subdivision if the plat were redrawn to show the mobile home and septic on the same parcel. Council member O'Neill affirmed that action would bring the matter into compliance with the code.

Mayor Printz stated he had issues with requiring that action since the Town could not legally ask for those requirements. Council member O'Neill responded that Council could not allow a subdivision to take place that puts the existing septic system on another parcel that may be sold to someone else.

Council member Kite queried as to the date on the application and if the subdivision process had begun on August 1, 2008 as the application indicated. Vice Mayor Dearing noted that staff had begun researching the matter before a fee had been paid. Mrs. Shifflett stated she had been advised by former Town Superintendent, Marty Shifflett on the matter. Mayor Printz noted he had inherited the matter and had asked Council to advise him on how to proceed.

Council member O'Neill asked Town Attorney Sigler if Council could vote to approve the subdivision as approved by the Planning Commission. Then, pass a resolution endorsing the subdivision of land to include the drainfield that would waive requirement for Mrs. Shifflett to connect the trailer to the Town's sewer as long as the square footage, required setbacks and drainfield remain with the trailer upon the subdivision. Town Attorney Sigler responded that the resolution would not be necessary except for directional purposes. Again, she reiterated caution to Council regarding the approval of a plat not in their position for review. She noted the re-drawn plat may need to be reviewed by the Planning Commission.

Brief discussion took place regarding sewer connections without water connections and metering.

Council member O'Neill moved, seconded by Vice Mayor Dearing, to approve the subdivision of property with the provision that sewer connection be made to both structures, the old trailer and the new parcel, that water only be required for the new parcel and that the well be allowed to be used on the old parcel.

Council member Kite felt that not enough time had been given to the Shifflett issue to make a determination. He requested that more time be given to review and resolve such matters in the future.

Further discussion took place regarding the connection fee to be paid.

Council member O'Neill amended his motion to include that the subdivision be approved with the requirement that water and sewer be hooked up to the new parcel and that the sewer be hooked up to the trailer parcel - before the trailer could be occupied it would be connected.

Further discussion took place regarding endorsement of the plat and compliance issues.

Vice Mayor Dearing called for the question. However, a member did not second the motion. Mayor Printz called for the vote.

YEAS: M. O'Neill

NAYS: M. Dearing, D. Kite and T. Pence

VOTE: (1 – 3 roll call) Motion was not carried

After a brief discussion regarding both properties connecting to water and sewer, the following motion was presented:

Council member O'Neill moved, seconded by Council member Pence, and carried to approve the subdivision with the requirement for water and sewer connection for the old property and the new property.

YEAS: M. O'Neill and T. Pence

NAYS: M. Dearing and D. Kite

VOTE: (2 – 2 roll call) Mayor Printz broke the tie with a YEA vote.

Motion carried

Electric

No report at this time.

Finance

No report at this time.

Personnel

No report at this time. A request for a closed session was made by Vice Mayor Dearing.

Public Health, Safety, Ordinances

No report at this time.

Streets and Sidewalks

No report at this time.

Water and Sewer

Vice Mayor Dearing stated that under the Consent Order with DEQ that the Town had to inspect all grease traps for food preparation businesses. He noted that a new ordinance would be presented to Council for approval. He briefly discussed the details from the inspections and what future measures would be taken to ensure compliance with DEQ.

Recreation

Council member Kite noted some issues needed to be discussed in closed session.

He briefly spoke regarding the conditions of the park after the tornado. He noted the next Recreation Commission meeting would take place at the park on September 2, 2008.

Cemetery

No report at this time.

Advisory

Mayor Printz thanked the Advisory Committee members, Madelyn Dixon, George Grunwald, Bob Hammer and Haze Crider, Chair for the committee.

The Advisory Committee submits the following recommendation, suggestions and comments of consideration by the Town Council.

1. Recently the Town experienced a tornado. There was a warning issued on television and radio just prior to it hitting our community. The only persons who knew of that warning were people who were watching TV or listening to their radio at 3:00 p.m. in the afternoon. The rest of us had not idea what was about to happen. We have suggested previously the Town use the "fire siren" as a warning system. The citizens will not know specifically what is happening, but at lease they will know something is happening or about to happen they can make an attempt to determine what they should do.

2. Speaking of the tornado, we would like to commend the Town employees for the great job they have accomplished in cleaning up the mess left by the tornado.

3. It is the result of the tornado, but there are some alleys that are partially block by trash. We recommend all alleys be cleaned and opened.

4. The south west side of Old Route 33 past McDaniels needs cleaning up and mowing.

Council member Kite inquired as to when chair member term expired regarding the Advisory Committee. Mrs. Crider responded in 2009. He expressed interest in change and the committees' movement in another direction.

Resolution to Reduce Real Estate Taxes

Council member O'Neill moved that the Town adopt a resolution requesting that a letter be sent to Mr. Breeden requesting that real estate taxes be reduced twenty-thirty percent to reflect current conditions and that letter be sent from the Mayor and the Elkton Town Council.

Vice Mayor Dearing stated that request was too late due to the County already having prepared and approved their budget.

Mayor Printz noted he had received a request to review the real estate matter. He noted that citizens believed no increase should take place on their taxes from the upcoming appraisals since the market had decreased. He noted their tax bills should be lowered.

The above resolution failed with **no second** and **no vote**.

A brief discussion took place regarding the process of collecting meals tax and criminal penalties.

Amendments to the Town of Elkton Code

Council member O'Neill moved, seconded by Vice Mayor Dearing, and carried that Council adopt the following Resolution.

Elkton Town Council hereby directs the Elkton Planning Commission to prepare certain amendments to the Elkton zoning code as follows:

1. Amend Section 110-607. High Density Residential District R-6, as is necessary to allow for an increase in density to 20 units per acre by special exception permit.

2. Amend Section 110-302. Terms defined, as is necessary to include a new definition under Dwelling, Multi-Family, for senior or fifty-five and older apartment building.

3. Amend Section 110-703C. Off-street Parking, as is necessary to include the new category for the senior or fifty-five and older multi-family dwelling requiring 1.5 spaces per dwelling unit, with 1 space per dwelling unit to be maintained in a dust-proof condition with the additional 0.5 spaces per unit that could be maintained in an alternative surface.

4. To explore defining a new high density planning and development zoning classification that will meet the contractual obligations for Phase II and Phase III of the Mark-Dana Agreement.

Furthermore, the Elkton Town Council requests that the Planning Commission act expeditiously in setting the public hearing and submitting it recommendation to Council.

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

UNFINISHED BUSINESS

No unfinished business at that time.

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 and under 2.2-3711.A.7 to discuss confer with the attorney.

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

NAYS: None

VOTE: (4 – 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. O'Neill, D. Kite, and T. Pence

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

TOWN ATTORNEY

No additional business.

MAYOR'S BUSINESS

No additional business was presented by Mayor Printz.

As there was no additional business, **Council member O'Neill moved, seconded by Council member Kite and carried to adjourn the meeting.**

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

NAYS: None

VOTE: (4 – 0 roll call) Motion carried

Mayor:_____
Wayne E. Printz

Recorder:_____
Denise R. Monger, Clerk

APPENDIX A

Registrar

Doug Geib
540-564-3055

Electoral Board Members

Lowell Hertzler
Ramona Crowe
Michael Ritchie

County of Rockingham
20 E Gay St.
PO Box 1252
Harrisonburg, VA 22803

July 15, 2008

Dear Elkton Town Council,

In regards to the issue of whether to move Elkton's polling place to the Community Center, this Electoral Board supports the move because the current polling place has insufficient space for acceptable voter traffic flow and parking as well as inadequate handicapped accessibility.

In regards to the issue of whether to move before November's election, it is our opinion that the best time to move the polling place is prior to November's election for several reasons. First, all signs indicate that this November's election will have a higher than average turnout which would lead to overcrowding of the current facility. Second, a higher than normal turnout would result in higher than normal handicapped voters making it difficult for Election Officers to serve their needs in the current facility. And third, in preparation for the upcoming redistricting, Virginia's General Assembly has put a freeze on moving voting precincts as of February 1, 2009.

Be aware that changes to precincts must be done sixty days prior to an election so everything must be completed by Friday, September 5. If Elkton approves the change, time must be allowed for the Board of Supervisors to propose and advertise the ordinance before taking final action to make it official.

It is our job to serve the needs of the voters of Elkton and we feel that the Community Center would be a substantial improvement to conduct elections over the current facility.

Sincerely,

Lowell Hertzler, Vice Chairman

APPENDIX B

RESOLUTION

Affirmation of Authorization to Pick-up the Employee's Contribution to
VRS for TOWN OF ELKTON, 55346
Under § 414(h) of the Internal Revenue Code

WHEREAS, the TOWN OF ELKTON provides its employees with tax deferral pursuant to § 414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System (referred to as VRS) by picking up member contributions to VRS; and

WHEREAS, VRS keeps track of such picked up member contributions, and treats such contributions as employee contributions for all purposes of VRS;

WHEREAS, the Internal Revenue Service in Notice 2006-43 has provided transition relief for existing pick up arrangements provided that an authorized person takes formal action to evidence the establishment of the pick-up arrangement no later than January 1, 2009.

WHEREAS, in order to avail itself of the protection given under Notice 2006-43, the TOWN OF ELKTON desires to affirm its intention to establish and maintain a pick-up arrangement through formal action by its governing body.

NOW, THEREFORE, IT IS HEREBY RESOLVED that the existing member contribution pick-up arrangement is hereby affirmed as it relates to salary reduction elections in effect prior to the date of this Resolution, and it is further

RESOLVED that effective the first pay day on or after _____, the _____shall pick up member contributions of its employees to VRS, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and it is further

RESOLVED that such contributions, although designated as member contributions, are to be made by the TOWN OF ELKTON in lieu of member contributions; and it is further

RESOLVED that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and it is further

RESOLVED that member contributions made by the TOWN OF ELKTON under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and it is further

RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the TOWN OF ELKTON directly instead of having them paid to VRS; and it is further

RESOLVED that notwithstanding any contractual or other provisions, the contributions of each member of VRS who is an employee of the TOWN OF ELKTON shall be picked up either through a reduction in the current salary of such employee or as an offset against future salary increases of such employee or as a combination of both at the option of the employer by the TOWN OF ELKTON on behalf of such employee pursuant to the foregoing resolutions.

Adopted in ELKTON, Virginia this_____ day of _____, _____.

_____

Name & Title Printed

_____

Authorized Signature- Title