

1 **New Market Council Meeting Minutes**
2 **Monday, January 21, 2008**
3 **7:30 pm**
4

5 The New Market Town Council met in the Council Chambers of the Arthur L.
6 Hildreth, Jr. Municipal Building with the following members present: Tom Constable, Jr.,
7 Mayor, John Blosser, Vice Mayor; Ripley Click; Mary Alice Burch, Eddie Litten; and
8 Troy Fadeley. Gary Comer was absent.
9

10 Town Attorney – Jason Ham
11 Town Manager – Evan Vass
12 Town Clerk – Jeanne Rinker
13 Visitors and Press – See attached Sheet
14

15 **I. Call to Order and Establishment of a Quorum**
16

17 Mayor Constable called the January 2008 meeting of the New Market Town
18 Council into session at 7:30 pm and established that a quorum was present.
19

20 **II. Pledge of Allegiance**
21

22 The Pledge of Allegiance was recited in unison.
23

24 **III. Recognition of Visitors**
25

26 Mayor Constable welcomed all visitors to the meeting.
27

28 **IV. Amendments to Agenda**
29

30 Troy Fadeley moved to amend the agenda by adding a 4th item under item IX,
31 discussion and consideration of the salary of Town Treasurer, Teresa Green.
32 John Blosser seconded the motion. The motion passed on a vote of 4 ayes and 0 nays.
33

34 **V. Consent Agenda**
35

36 Mayor Constable presented the Consent Agenda which included the minutes from
37 the Council meeting held on December 17, 2007 and the Financial Statements for
38 December 2007. Mr. Blosser moved to approve the Consent Agenda as presented. Mr.
39 Fadeley seconded the motion. It passed on the following vote: ayes (5) Nays (0).
40

41 Before the meeting proceeded any further, Mr. Ham stated that Mr. Click had
42 entered the meeting several minutes late and was not included in the vote for amending
43 the agenda. He asked Mr. Fadeley to restate the motion and have Mr. Click cast his vote,
44 since a unanimous vote is required for any amendments to the agenda. Mr. Fadeley
45 restated the motion and Mr. Click voted “aye”.
46

47 **VI. Public Hearings**

48

49 There were no public hearings.

50

51 **VII. Citizens Comments and Petitions**

52

53 Mr. John Chroniger had a question regarding the rezoning requested by Virginia
54 Lutheran Homes and the discussion that took place at the meeting of the Planning
55 Commission on January 7th. He stated that someone had asked one of the gentlemen
56 representing Virginia Lutheran Homes why the donation of the 1.3 acres to Valley Health
57 was contingent upon the rezoning of the remaining 31.7 acres owned by Virginia
58 Lutheran Homes. He did not hear or did not understand the answer that was given and
59 would like to hear the answer stated again. Mayor Constable responded that the entire
60 issue would be considered later in the meeting and his question would be answered at that
61 time.

62

63 **VIII. Announcements**

64

65 There were no announcements.

66

67 **IX. Town Manager's Report**

68

69 Mr. Vass stated that there were four items on the agenda eligible for
70 Council action:

71 (1) Discussion and consideration of adopting a request for rezoning of 31.7 acres
72 by Virginia Lutheran Homes. This request was first made in October 2007 through a
73 joint public hearing. Proffers have been negotiated specifying land use, density, timing,
74 and monetary proffers to Shenandoah County. Another joint public hearing was held
75 January 7th, 2008 to reflect changes in the initial proffers made in the fall. The Planning
76 Commission has unanimously recommended approval of this request.

77

78 (2) Discussion and consideration of adopting the Capital Improvement Program
79 (CIP) Fiscal years 2009 – 2014 capital improvement schedule. The CIP is a five year
80 capital improvement budget/schedule for large capital improvements and purchases. A
81 copy of the CIP was enclosed in the Council packet. The Finance and Personnel
82 Committee met on January 10th, 2008 and recommended approval, after suggesting some
83 changes and alterations.

84

85 (3) Discussion and consideration of amending the employment contract of the
86 Town Manager.

87

88 (4) See **IV, Amendments to Agenda**

89

90 Regarding other issues, Mr. Vass gave updates on the the TEA-21 Grant
91 Administration, Street Signs and STOP signs, and regionalization of wastewater
92 treatment. He provided a list of Pros and Cons for regionalization which were discussed

93 by engineers from Stearns and Wheler at the January 7th, 2008 meeting of the Public
94 Works Committee.

95
96 Mayor Constable proceeded to the first item eligible for Council action,
97 discussion and consideration of rezoning of 31.7 acres requested by Virginia Lutheran
98 Homes. Mr. Click made the motion to approve the rezoning application, since the
99 Planning Commission had unanimously voted to recommend approval. Vice Mayor
100 Blosser seconded. Mayor Constable led an informative discussion, beginning with his
101 own comments. He stated that the sole purpose of Virginia Lutheran Homes' desire to
102 rezone the property from R-2 to R-3 was to make it more desirable for a developer to
103 purchase. He clarified that the property could be left zoned R-2 and the developer who
104 purchases it could apply for a conditional use permit in order to put townhouses on it.
105 However, if rezoned R-3, townhouses could be built "by right". According to what they
106 have proffered, there is no difference between R-3 zoning with proffers and R-2 zoning
107 with a conditional use permit. Mayor Constable further stated that the approval of this
108 rezoning request would be setting a precedent for years to come. He also told the
109 Council that, if they voted in favor of the rezoning, they should make it clear if they were
110 voting in order to have the medical center at that location or if they were voting strictly to
111 rezone the property itself, with no link whatsoever to the medical center. He then asked
112 Mr. Chroniger if that answered the questions he had referred to earlier in the meeting.

113
114 Mr. Chroniger replied that what he didn't understand was why Virginia Lutheran
115 Homes could not donate the 1.3 acres to the hospital the way it is currently zoned, R-2.
116 Mayor Constable asked Mr. George Zubrod representing the organization for an
117 explanation. He replied that it is illegal for one non-profit organization to donate to
118 another non-profit without receiving something in return. Rezoning the property is
119 giving Virginia Lutheran Homes something of value so they can donate the 1.3 acres to
120 the hospital.

121
122 Councilman Litten expressed his view by stating that as long as the proffers
123 involved stay with the deed, his vote, if in favor of the rezoning, will state that it has
124 nothing to do with the hospital. He also added that he did not see this action as setting a
125 precedent for future zonings.

126
127 Mr. Fadeley commented that he could picture a large developer coming in with
128 his attorney and making the proffers null and void. Mr. Litten added that he wanted to be
129 assured that such action would never occur. Mr. Ham said he did not foresee a problem
130 with this.

131
132 Mr. Vass commented that it would not be up to a future court to decide this, but
133 rather it would be up to a future Council to allow that to happen. Mr. Ham added that
134 this would be as enforceable as any zoning ordinance.

135
136 Mr. Chroniger commented that he did not feel that the Town should change the
137 zoning of a property just to put a dollar in somebody's pocket.

138

139 Councilman Fadeley expressed his views on the matter with the following
140 comments: “While I respect the vote of the Planning Commission, I have reservations
141 about the Commission and the Council being used as pawns by a religious organization to
142 obtain this rezoning. Most people mistakenly believe that if this request is turned down,
143 the medical facility will not be coming to New Market. This does not appear to be the
144 case. Newspapers have reported that the hospital is wanting to have a facility here in
145 New Market, not necessarily on this property. It was reported on December 5th by the
146 Northern Virginia Daily that the hospital was originally unaware of the stipulation by
147 Virginia Lutheran Homes, that without this rezoning they were not going to give
148 approximately one acre for this facility. I feel that the Commission and the Council have
149 been put in a very unfair position in order for these folks to obtain a greater price for this
150 property when it’s sold for development, and I am opposed to it.”

151
152 Councilwoman Mary Alice Burch also expressed her opinion as follows:
153 “In my opinion, the request for rezoning 31.7 acres is really two issues, not one. At the
154 Planning Commission meeting, January 7th, you all were talking about the acreage.
155 And Jim Weissenborn came to the podium and said ‘Folks, New Market needs a
156 hospital.’ So it’s like dangling the hospital to get a vote. Shenandoah Memorial Hospital
157 was, according to the newspaper, not aware of the resolving contingency on this land. So
158 I am against this.”

159
160 Councilman Ripley Click stated his views as follows: “I was never aware that the
161 whole thing was tied together. It was sort of tied together, but really the only thing Jim
162 said was the Virginia Lutheran Homes wants to rezone this property to R-3 from R-2. I
163 don’t remember anything being said about because it will sell easier or this, that or the
164 other. And the Planning Commission balked because they didn’t want it zoned R-3. So
165 they proffered this thing back to the R-2 equivalent, so I don’t understand why the two
166 have to be tied together. That would be like – that land east of them, if it becomes part of
167 the Town, is farmland. Do you mean to tell me we can’t rezone that land to R-1 or R-2,
168 Business, or whatever? And in doing so, it would be more valuable. Are you saying that
169 we are not going to rezone any of the land that we’re talking about, in the comprehensive
170 plan change, that’s out of the Town limits, into something that’s marketable? It doesn’t
171 make any sense to me.”

172
173 Mayor Constable answered his question as follows: “I don’t think the Town
174 Council or the Planning Board has on their job objectives to rezone property to make it
175 more valuable. For the individual, number one they’re going to have to pay more taxes
176 on it and I don’t think they would ask that. Generally this comes when a developer comes
177 and he wants to do something with the property. And whether that goes to a higher or
178 lower use or becomes more valuable, that is what they’re working with. They’re working
179 with a set of plans; we have a set of plans, but they’re not real plans. They are plans that
180 we would like to see how this is developed. I don’t think, if you sell that land, that
181 developer has any obligation to follow your footprint, but it is a good footprint. So I don’t
182 see us going out and just arbitrarily rezoning property to make it more valuable. I don’t
183 think we’ve ever done that. To answer your other question, you say these are not tied
184 together. You vote this down tonight, and that hospital is not coming there. And you

185 can't deny that." At this point, Mr. Litten reiterated that the hospital is not coming there
186 (inferring that it is still coming to New Market, but not on that property).
187

188 The Mayor continued, "I just think that we need, as a Council, to be specific why
189 you're voting tonight, because this is going to come up later on and we need records on
190 what was said tonight, what was discussed tonight, and why we're going to do what
191 we're going to do."
192

193 Mr. Litten commented "I have a question. If we don't rezone that, that land is not
194 going to sell. We're not going to get any tax base off of it. That land's going to sit there.
195 I tell you, when you take that thing materialized all the way out, that's a lot of tax base
196 for the Town coming in. That's a lot of water and sewer fees coming in."
197

198 Mr. Fadeley interjected, "But Eddie, the only thing we're doing is changing it
199 from R-2 to R-3, but the proffers bring it back to R-2, so it just doesn't seem right to
200 rezone it when you're going to proffer it back to the R-2 regulations."
201

202 Mr. Blosser added "with the exception of the townhouses".
203

204 Mr. Fadeley added "with the exception of the townhouses and (inaudible) give
205 one acre of this land to the hospital."
206

207 Mr. Litten added, "I personally wouldn't want to see 200 town homes on that
208 property."
209

210 Mayor Constable said, "With R-2 there wouldn't be; with R-2 it would have to be
211 by conditional use permit." He then reiterated the important fact that there is no buyer
212 for the property at this time.
213

214 The mayor then asked Mr. Bill Stevenson, Chairman of the Planning Board, "In
215 your discussion of our 40 year growth plan, which is contiguous with this property, was
216 that discussed as to the impact this would have on that?" Mr. Stevenson replied that it
217 was discussed and that it was compatible with the growth plan that was sent up to the
218 county.
219

220 A local citizen, Mr. Peter Mulligan, then directed several questions to Mr. Zubrod
221 of Virginia Lutheran Homes. One was regarding the claim that there was not a buyer or
222 someone interested in purchasing the property at this time. He also questioned again the
223 reason why one nonprofit organization can not donate to another nonprofit organization.
224 Mr. Zubrod confirmed that there indeed was not an interested buyer at this time. He also
225 said that he was told by superiors that his organization could not donate to another
226 nonprofit.
227

228 Mayor Constable then asked for a roll call vote on the motion. The motion
229 passed with the following votes: Mr. Click, aye; Mr. Fadeley, nay; Mr. Blosser, aye; Ms.

230 Burch, nay; Mr. Litten, aye. Mr. Litten added that his vote of yes was not contingent
231 upon any hospital coming to this town. Mr. Comer was absent.

232

233 The next item eligible for Council action was the discussion and consideration of
234 adopting the Capital Improvement Program fiscal years 2009-2014 capital improvement
235 schedule. Mr. Litten moved to adopt the schedule as presented in the Council packet. It
236 was seconded by Mr. Click and passed on the following roll call vote: ayes (5) nays (0).

237

238 Mr. Constable then presented the next item eligible for Council action, that of
239 amending the employment contract of the town manager. Mr. Fadeley, acting on the
240 recommendation of the Finance and Personnel Committee, made the motion to extend
241 Mr. Vass's contract (which expires November 2008) for another five years concluding
242 November 3rd, 2013 to express appreciation and to recognize the good job he has done for
243 the Town of New Market. He also moved to increase the Town Manager's salary by
244 \$2500 per year. Mr. Click seconded the motion which passed on the following roll call
245 vote: ayes (5) nays (0).

246

247 The next item up for consideration was the subject of the Town Treasurer's
248 salary. Mr. Fadeley informed Council that when Teresa Green was hired as treasurer
249 several months previous, part of the employment agreement was that, if her work was
250 satisfactory, she would be given a \$5000 increase in her annual pay. He added that she
251 has done an excellent job, picking up on everything very quickly. With that in mind Mr.
252 Fadeley moved to increase Mrs. Green's annual pay by \$5000. Mr. Litten seconded the
253 motion which passed on the following roll call vote: ayes (5) nays (0).

254

255 **X. Committee Reports**

256

257 **Finance and Personnel:** Mr. Fadeley reported that the committee met on
258 January 7, 2008 with all members present. After calling for a special meeting on January
259 10th the meeting was adjourned. On January 10th the special meeting was held with all
260 members present. The Capital Improvement Plan was discussed. After deleting a few
261 items, it was voted to recommend to Council the revised program for their approval. A
262 closed meeting was then held to discuss personnel matters, followed by adjournment.

263

264 **Public Works:** Mr. Blosser reported that the Public Works Committee met on
265 January 7th, 2008 with all members present. The committee received an update PER
266 sewer force main to North Fork Regional Treatment Plant concept presented by engineers
267 from Stearns and Wheler, LLC. Following the update the meeting was adjourned.

268

269 **Public Safety:** With Mr. Comer being absent, Mr. Blosser reported that the
270 Public Safety Committee met on January 7th, 2008 with all members present. There were
271 no business matters to discuss so the meeting was adjourned.

272

273 **Tourism, Economic Development, and Historic Preservation Committee:**
274 Ms. Mary Alice Burch reported that the committee met on January 7th, 2008 with all
275 members present. There was no new business. However the committee was reminded

276 that July 4th is approaching and there is work to be done to insure that we have a
277 successful event. She stated that at this time there is no chairman in place.

278
279 She also announced that the New Market Area Chamber of Commerce is having
280 their annual banquet on March 13th, 2008 at the Quality Inn from 6:00 pm until 9:00 pm.
281 They will be having a silent auction at the banquet.

282
283 The dates of the 2008 Heritage Days Festival has been changed from the end of
284 October to August 23rd and 24th due to frequent inclement weather in past years.

285
286 **Planning Commission:** Chairman John Blosser reported that the Planning
287 Commission met on January 7th, 2008 with all members present. A joint public hearing
288 with the Town Council was held on the rezoning of 31.7 acres by Virginia Lutheran
289 Homes. The Commission voted to recommend approval of this rezoning from R-2 to R-
290 3.

291
292 The election of officers for 2008 was held with Bill Stevenson named Chairman,
293 Tom Linski, Jr., Vice-Chairman, and Chad Neese , Secretary.

294
295 The Commission reviewed Bylaws for 2008 and turned over one request to the
296 town attorney for review.

297 298 **XI. Council's Comments**

299
300 Vice-Mayor John Blosser thanked everyone for the cards, calls, and visits he
301 received while in the hospital at the end of December. He reported that he is now back to
302 normal.

303 304 **XII. Mayor's Comments**

305
306 Mayor Constable sadly reported that long time employee and Water Plant
307 Superintendent, Ronnie Skeens, passed away the previous Saturday. He will be greatly
308 missed.

309 310 **XIII. Closed Meeting**

311
312 John Blosser made a motion to recess into a closed meeting in order to discuss the
313 performance and employment of specific local government personnel as authorized by
314 section 2.2-3711(A)(1) of the state code. It was seconded by Mr. Fadeley and passed on
315 the following roll call vote: ayes (5) nays (0). The closed meeting began at 8:22 pm.

316
317 The Council reconvened at 8:27 pm. The mayor read the certification resolution
318 which says " With respect to the just-concluded closed session, and to the best of each
319 member's knowledge, (i) only public business matters lawfully exempted from open
320 meeting requirements under The Virginia Freedom of Information Act and (ii) only such

321 public business matters as were identified in the motion by which the closed meeting
322 was convened were heard, discussed or considered in the meeting by the Town Council.”

323 Mr. Blosser moved to accept the certification resolution. It was seconded by Mr.
324 Fadeley and passed on the following roll call vote: ayes (6) nays (0) including the
325 mayor’s vote.

326

327 The meeting was adjourned at 8:32 pm.

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Thomas Constable, Jr., Mayor

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343

344 Jeanne K. Rinker, Town Clerk