

1
2 **Minutes of the New Market**
3 **Town Council Meeting**
4 **Monday, September 19, 2011**
5

6 The New Market Town Council met in the Council Chambers of the Arthur L.
7 Hildreth, Jr. Municipal Building on Monday, September 19, 2011 with the following
8 members present: Larry Smith, Mayor, John Blosser, Vice-Mayor, Douglas Bradley,
9 Troy Fadeley, Gary Comer, Harry Durrett and Eddie Litten.

10
11 Town Attorney – Jason Ham
12 Town Manager – Evan Vass
13 Town Clerk – Jeanne K. Rinker
14 Visitors and Press – See attached sheet
15

16 Mayor Smith called the meeting to order and established a quorum. The Pledge
17 of Allegiance was recited in unison.
18

19 **Approval of the Agenda**
20

21 **Mr. Comer made a motion to approve the agenda. Mr. Fadeley seconded the**
22 **motion which carried unanimously on a voice vote.**
23

24 **Consent Agenda**
25

26 Mayor Smith presented the Consent Agenda which included minutes of the
27 August 15, 2011 council meeting and the Financial Statements for August 2011. **Mr.**
28 **Comer made a motion to approve the consent agenda. Mr. Fadeley seconded the**
29 **motion which carried unanimously on a voice vote.**
30

31 **Public Hearing**
32

33 Mayor Smith opened the public hearing which was to consider adopting an
34 ordinance addressing drought response(s). Mr. Vass stated that this is a subsection of the
35 regional water supply plan which was considered and approved at the August council
36 meeting one month ago. The Commonwealth, in response to a severe drought that
37 occurred in 2002 and 2003, mandated the passage of a regional water supply plan. As
38 part of that, each locality was instructed to adopt an ordinance addressing drought
39 conditions. Mr. Vass gave a Power Point presentation which summarized the proposed
40 ordinance. A copy of that presentation is attached. Mr. Vass also mentioned several other
41 key points as follows:
42

- 43 • Four of our six wells are considered under the influence of surface water.
- 44 • Historically Our wells have not been adversely influenced by drought conditions,
45 however that possibility does exist depending upon the severity of the drought.

- 46
- A Watch and a Warning may occur with some frequency, depending upon total rainfall in our area. An Emergency is likely very rare, however, it is good to be prepared for it.
- 47
- The Ordinance specifies that during a drought Emergency, Town Council may implement a special “water conservation fee”. It does not mandate the rate
- 48
- increase in the water portion of the utility bill.
- 49
- If the Commonwealth’s governor declared a drought emergency in our region the
- 50
- Town would also declare an Emergency. Again the council may implement the
- 51
- “conservation fee”.
- 52

53

54

55

56 Following Mr. Vass’s presentation Mr. Ham stated that he wanted to clarify that

57 New Market is not raising its water rates, and in the event of a drought Emergency the

58 Town still might not implement the water conservation fee. But having this ordinance in

59 place would save some steps later if an Emergency did occur and the Town needed to

60 implement a fee for above average consumption.

61

62 Mayor Smith then asked for public comments on the ordinance. (The following

63 Resolution was presented out of order, but permitted.) Mr. Sonny Mongold read, on

64 behalf of the Republican Party of Shenandoah County, a Resolution of Respect and

65 Appreciation honoring the legacy and life of former council member, Mary Alice Burch

66 whose untimely death occurred on January 30, 2011. Mr. Mongold then presented a

67 framed copy of the resolution to Mr. Vass for display.

68

69 Mayor Smith directed the meeting back to the public hearing and the following

70 comments were heard:

71

72 Mr. Fadeley had a question regarding the calculation of the 15% increase. Mr.

73 Vass and Mr. Ham explained that the 15% increase is applied only to the amount of

74 usage above 3500 gallons per billing cycle.

75

76 Mr. Gordy Farrey had some questions regarding the 3500 gallons designated as

77 average usage. He wanted to know if the average was derived from usage for the entire

78 year and also if it was based only on residential usage. Mr. Vass replied “yes” to both

79 questions. Mr. Farrey stated that he thought the average figure would be more accurate if

80 based only on usage from October through April.

81

82 Mr. Farrey then asked if businesses were exempt from the penalties for above

83 average usage. Mr. Vass said that no businesses are exempt. Mr. Farrey expressed some

84 concern regarding the effect this might have on businesses that have very large usage.

85 Speaking as the owner of a Bed and Breakfast, Mayor Smith stated that there is really no

86 way to control water usage, but management just tries to be as conservative as possible

87 all the time.

88

89 Mr. Vass commented that the State has mandated the regional water supply plan

90 and a drought ordinance is part of that. But town council has always had the right to

91 adopt a drought ordinance. Having an ordinance in place will make it much easier if a

92 drought Emergency is declared. Council would not have to go through the public notice
93 and public hearing process in order to raise the rates or implement the prohibited uses
94 during a declared Emergency.

95
96 Mr. Farrey asked if the public hearing had been announced. Mr. Vass confirmed
97 that it was published in the Northern Virginia Daily on the 3rd and 10th of September as
98 well as the Council Meeting Agenda on the Town's website 5 days in advance.

99
100 Councilman Doug Bradley expressed his disagreement with imposing fees for
101 above average usage and especially fining those who utilize nonessential water during a
102 declared drought Emergency. He stated that, in a drought situation, if citizens were asked
103 to cut back their usage, most would comply. He stated that imposing these fees would
104 place a hardship on utility customers.

105
106 Mr. Farrey asked if the 3,500 gallon average would be ongoing or would it be
107 periodically checked. Mr. Vass answered that it could be checked and the ordinance
108 could be modified at any time.

109
110 Mr. Roy Muller asked if watering meters could be terminated or turned off in a
111 drought Emergency. Mr. Vass stated that it probably wouldn't be necessary because
112 outdoor watering would be considered prohibited. However, the Town could proactively
113 turn the watering meters off.

114
115 Mr. Farrey asked if any consideration was given to individual average
116 consumption versus blanket.

117
118 Mr. Ritchie commented that doing that for 1000 accounts could be time
119 consuming and/or costly given the limitations of the current utility billing computer
120 software.

121
122 Mr. Farrey stated that there is software available to do that. Mr. Vass added that
123 with technology increasing rapidly, that might very well be done in the future for even a
124 town the size of New Market.

125
126 There were no further public comments so Mayor Smith closed the public hearing
127 at 7:01 pm.

128
129 **Citizen Comments and Petitions**

130
131 Mr. Gordy Farrey came to the podium and expressed his concerns that Council
132 has not provided periodic updates on the investigation of funds allegedly embezzled from
133 the New Market Volunteer Fire Department. He added that the last update only indicated
134 that the investigation is still ongoing. He said that the public wants closure and a form of
135 judgment. He asked if any town official has sought information about the investigation.
136 Mr. Blosser replied that he has, but was denied information. Mr. Blosser also said that
137 any action on the case is the responsibility of the Commonwealth's Attorney who has

138 neglected to do anything. Mr. Farrey asked that the council give an update monthly on
139 the status of the investigation. Since the Commonwealth's Attorney is not seeking re-
140 election, Mr. Blosser stated that the 3 candidates seeking that office have all said that
141 they would conclude the investigation if elected. Mr. Blosser said that, in the future, he
142 would give a monthly update even if there was nothing to report.

143

144 **Committee Reports**

145

146 **Finance & Personnel:** Mr. Fadeley reported that the Finance & Personnel Committee
147 met on September 6, 2011 with all members present. The Committee held a closed
148 session to discuss the acquisition of real property as well as probable litigation.
149 Following the closed session the meeting was adjourned.

150

151 **Public Works:** Mr. Blosser reported that the Public Works Committee met on
152 September 6, 2011 with all members present. The first agenda item was discussion and
153 consideration of a drought ordinance. After much discussion it was agreed to wait until
154 the public hearing before taking any action. Mr. Vass gave an update on the Shady Lane
155 project. There was no other business so the meeting was adjourned.

156

157 **Public Safety:** Mr. Comer reported that the Public Safety met on September 6, 2011
158 with all members present. There was no new business on the agenda. However (2)
159 residents from Century Village subdivision were in attendance because of concerns in
160 that development of inadequate street lighting. Mr. Vass explained that the procedure is
161 for the Committee to make a recommendation to the town manager to contact Dominion
162 Virginia Power and ask them to provide additional street lights at that location. The
163 Town then assumes responsibility for the monthly cost. Mr. Blosser moved and Mr.
164 Durrett seconded a motion to recommend that Mr. Vass make this request to Dominion
165 Virginia Power. Following this action the meeting was adjourned.

166

167 **Tourism, Economic Development and Historic Preservation:** Mr. Durrett reported
168 that the Tourism, Economic Development and Historic Preservation Committee met on
169 September 6, 2011 with all members present. The first agenda item was an update on
170 streetscape phase I construction. Mr. Vass reported that progress was good but some
171 issues remain with the road grade and drainage at the Congress Street and Old Cross
172 Road intersection. Mr. Vass stated that the tree removal and trimming for the phase II
173 streetscape zone will continue and that VDOT will require that phase II construction go
174 out for bids giving all contractors an opportunity to bid the project. Because of this bid
175 process construction will likely not begin until spring 2012.

176

177 The next item on the agenda was status update of the Shenandoah County
178 Tourism Council provided by Chad Neese, Town Representative. Mr. Neese stated that
179 the Council has been working to make their website more user friendly and provide
180 information on co-ops and grant opportunities and will continue to work for the various
181 chambers throughout the county. Mr. Neese also stated that the tourism council has also
182 been able to obtain grant money for use in creating five 90 second videos that will focus
183 on key tourism aspects of the County. Also, the Director of Shenandoah County Tourism

184 and Marketing is considering a You-Tube channel to enhance the Council's on-line
185 presence. Following Mr. Neese's update, the meeting was adjourned.

186

187 **Action Items**

188

189 The first and only action item was discussion and consideration of drought
190 Ordinance #77. **Mr. Litten made a motion to adopt drought ordinance #77. The**
191 **motion was seconded by Mr. Blosser and carried on the following roll call vote: Mr.**
192 **Bradley, nay, Mr. Fadeley, aye, Mr. Comer, aye, Mr. Blosser, aye, Mr. Durrett, aye,**
193 **Mr. Litten, aye.**

194

195 **Mayor's Comments**

196

197 Mayor Smith commented that while he was out running several mornings ago a
198 man, whom he didn't know, came up to him and said, "Isn't New Market looking
199 beautiful!" This reflection on our streetscape project speaks well of the way the project is
200 enhancing the town.

201

202 Having just come thru the many reflections on 9-11 at the 10th year anniversary
203 reminds us that our policemen, fire and rescue personnel and first responders get up every
204 day and put their life on the line. I think we owe them a debt of gratitude which we can
205 show by actually going up and thanking them.

206

207 Don't forget that Heritage Days is coming up the 22nd and 23rd of October and the
208 streetscape improvements will present a wonderful picture for this celebration.

209

210 **Staff Comments**

211

212 Mr. Vass reminded everyone that Committee meetings in October will be held on
213 Wednesday, October 5, 2011 at the regular time. The mayor, vice-mayor and he will be
214 attending the VML conference on the regularly scheduled date, Monday, October 3rd.

215

216 The streetscape phase I continues to progress. Mr. Vass stated that it was his
217 understanding that the general contractor would be demolishing the existing concrete V
218 ditch, the transition drainage ditch, in between the Gingham Cottage and BB&T Bank.
219 VDOT has approved the Town's general contractor to repave that area. It was originally
220 planned to put that concrete ditch back, so that will be eliminated. Ideally that should
221 do away with the rough transition between route 211 and route 11.

222

223 Regarding streetscape phase II, Mr. Vass announced that official word was
224 recently received that the Town will have to rebid the project. This merely confirms what
225 was believed would occur. VDOT also plans to repave Congress Street from Fairway
226 Drive north to beyond the incorporated limits. This does present a conflict with
227 streetscape. Mr. Vass stated that he had asked several different levels of VDOT to delay
228 paving but was told that there was no way that the paving could be delayed. One
229 alternative we had considered was allowing Linco to do a change order to do installation

230 of curb and gutter in the phase II zone, but it appears that that price is going to be well
231 above what VDOT would approve as a change order to the Phase I streetscape contract
232 with Linco. This means that a New Market contractor is going to do a 2 foot overcut on 2
233 blocks of freshly paved VDOT roadway.

234
235 Mr. Vass related that he met with Dominion Virginia Power as instructed by the
236 Public Safety Committee. They will be giving the Town several different alternatives
237 regarding street lighting on the south end of town.

238
239 Mr. Ham gave a brief update on the voluntary settlement agreement. The next
240 step is a court process and it will probably take some time for the 3 judge panel to
241 convene.

242
243 **Closed Session**

244
245 Mr. Vass asked for a motion to go into closed session to consult with legal
246 counsel and be briefed by staff members or consultants, about actual or probable
247 litigation, where such consultation or briefing in open meeting would adversely affect the
248 local government's negotiating or litigating posture, as authorized by section 2.2-
249 3711(A)(7) of the state code. **The Council convened in a closed meeting following a**
250 **motion by Mr. Litten and a second by Mr. Bradley which carried on the following**
251 **roll call vote:**

252
253 **Mr Litten aye Mr. Comer aye**
254 **Mr. Durrett aye Mr. Fadeley aye**
255 **Mr. Blosser aye Mr. Bradley aye**

256
257 The closed meeting commenced at 8:19 pm and Council reconvened at 8:33 pm.
258 Mr. Vass read the certification resolution as follows: "With respect to the just concluded
259 closed session, and to the best of each member's knowledge, (i) only public business
260 matters lawfully exempted from open meeting requirements under The Virginia Freedom
261 of Information Act and (ii) only such public business matters as were identified in the
262 motion by which the closed meeting was convened were heard, discussed, or considered
263 in the meeting by the Town Council." **Mr. Comer moved to accept the certification**
264 **resolution as read. Mr. Fadeley seconded the motion which carried on the following**
265 **roll call vote:**

266
267 **Mr. Bradley aye Mr. Blosser aye**
268 **Mr. Fadeley aye Mr. Durrett aye**
269 **Mr. Comer aye Mr. Litten aye**
270 **Mayor Smith aye**

271
272 **Adjournment**

273
274 Following a motion by Mr. Comer which was seconded by Mr. Fadeley, Mayor
275 Smith adjourned the meeting at 8:34 pm.

276
277
278
279
280
281
282
283
284
285
286
287

Larry Smith, Mayor

Jeanne K. Rinker, Town Clerk

288
289
290
291
292
293
294
295
296
297

Drought Ordinance

September 19, 2011

Drought Ordinance

- Proposes (3) levels of drought severity
 - Watch
 - Warning
 - Emergency (most severe)
- All three levels are discretionary declarations made by the Town Council using the following criteria...

Drought Ordinance

- Watch & Warning
 - Town officials will utilize VDEQ regional drought monitoring to consider severity for purposes of a Town Council declaration for a watch and warning.
 - VDEQ uses groundwater monitoring wells, river gauging stations, reservoir levels and precipitation totals to monitor the Commonwealth by region (including the northwest region of the Valley).

Drought Ordinance

- Emergency Declaration
 - Town officials will utilize a combination of static levels of groundwater readings from our six wells as well as river gauging stations on the N. Fork at Broadway and Mt. Jackson.
 - Static underground water levels at or below the 5th percentile of historic record may induce an emergency declaration.

Drought Ordinance

- All (3) levels will rely on multi media public information campaigns to alert public
 - Website/e-mail/other electronic means
 - Newspapers
 - Radio/TV
 - Special mailings etc
 - Public info meetings/HOA's
 - Targeted communication (specific consumers)

*Such as
power plant*

Drought Ordinance

- During a drought Emergency
 - The Town Council may implement a special "water conservation fee" which is an immediate increase in the water only portion of the utility rates:
 - 15% for consumers using over 3,500 gallons per cycle
 - 30% for consumers using over 10,000 gallons per cycle

Drought Ordinance

- Consumption @ 4,200 gallons without "water conservation fee"
 - Assessed Water Rate: \$17.20
 - Consumption @ 4,200 gallons with "water conservation fee"
 - Assessed Water Rate: \$17.57
- Net increase \$0.37

Drought Ordinance

- Consumption @ 22,000 gallons without "water conservation fee"
 - Assessed Water Rate: \$81.45
 - Consumption @ 22,000 gallons with "water conservation fee"
 - Assessed Water Rate: \$94.41
- Net increase \$12.96

Drought Ordinance

- During a drought Emergency
 - The Town Council may also implement specific prohibitions for the use of water including:
 - Outdoor watering of plants
 - Washing driveways, cars, siding
 - Use of water for construction purposes
 - Filling swimming pools
- Punishable by a class 4 misdemeanor