

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
October 11, 2016
7:30 p.m.

Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Donna Marie McDonald; Allen Kitselman; Erecka Gibson; David Tollett

Staff: Christy Dunkle, Assistant Town Manager/Planner; Desiree Moreland, Assistant Town Manager/Finance; Neal White, Chief of Police; Ann Phillips, Town Clerk

Press: Cathy Kuehner

Other: Robert Mitchell

1. Call to Order

Mayor Dickinson called the meeting to order at 7:30 p.m.

2. Pledge of Allegiance

3. Approval of Agenda

The agenda was approved as presented.

4. Public Hearings

- a. **Georganne Derick Giordano, owner/applicant, requests a Special Use Permit in order to operate a Professional Office at 208 North Buckmarsh Street, identified as Tax Map Parcel 14A2-((A)-33, zoned R-3 Residential. SUP 04-16**

The applicant, Georganne Derick Giordano, explained her background and the growing wellness community in Clarke County and Berryville. She said she specializes in working with medical doctors to assist patients. She said she has an herbal apothecary, and her wellness center will employ several other practitioners. Ms. Giordano said a church has requested to use the building two Sundays a month. She said her business will bring people in to Berryville benefiting the Town, and asked for the Council's support.

Public hearing speakers were as follows:

Brett Ann Hoag, North Buckmarsh Street, who spoke in support of the special use permit being granted. She left a copy of her remarks with the Clerk.

Bishop Malcolm Ames, of the Fellowship of Christ International in Gainesville, VA, who introduced Pastor Diane Frye. He said Ms. Frye is hoping to be the Pastor of the church that will be using 208 North Buckmarsh Street for church services with the owner's permission. He added that as a funeral director, he is offering assistance to the committee working to document and restore the cemetery on the grounds of 208 North Buckmarsh Street. He added that holistic medicine requires the spiritual component which his church will bring to the effort.

Sue Garis, 249 Silver Lake Lane, Winchester, who said she is a patient of the applicant and spoke in support of the special use permit.

Susi Bailey, Springsbury Road, who read a letter from Dr. Juliana Fehr, Professor Emeritus, co-founder and past Director of the Nurse Midwifery Program at Shenandoah University. The letter was in support of the special use permit for the Wellness Center.

Dorothy Davis, Josephine School Museum, who said 208 North Church Street was one of the earliest African American churches in Clarke County. She said that Ms. Giordano has granted her committee permission to research and clean up the cemetery on the property. She asked the Council to approve the Special Use Permit.

Turi Turkel said she is the owner of Turiya Yoga which will be locating in the wellness center at 208 North Buckmarsh Street. She said she has outgrown her current space and sees the wellness offerings in the community growing.

Dr. Monica Chapman, 1146 John Mosby Highway, who said she is a small animal veterinarian who has been mentored by Ms. Giordano and will be opening a veterinary herbal apothecary in the County. She spoke in favor of the special use permit.

Dr. Christine Aiello, who said she is a physician at 115 South Church Street, and is supportive of the wellness center and what it offers her patients.

Mary Jane Lee, 126 South Church Street, who said as a registered nurse she is in favor of the special use permit.

Nadira Al-Khalili, who said she has just opened an office at 20 East Main Street. She read a letter from Donna Aikens of Martinsburg, WV, who is a patient of Ms. Giordano's. The letter supported the special use permit.

Patricia White, who owns a pharmacy at 33 West Main Street. She said she welcomes the wellness center and is in support of the special use permit.

- b. **The Berryville Planning Commission initiates a text amendment to Article II, Section 204.2 of the Berryville Zoning Ordinance, establishing Veterinary Hospitals as a use permitted by Special Use Permit in the C General Commercial Zoning District. TA 07-16**

Public Hearing speaker was as follows:

Jerry Johnson of Senseny Road who owns the building where the Veterinary Hospital wishes to locate on Main Street. He said the building at 37 East Main is ideally suited for use by his client, House Paws Animal Hospital. He said he supports the special use permit being approved.

- c. **The Berryville Town Council initiates text amendments requested by A.C. Echols to Article VI, Section 614 OPR Older Person Residential of the Berryville Zoning Ordinance, establishing various housing types and supporting personal services as uses Permitted by Right. TA 04-16**

Mayor Dickinson asked Mr. Mitchell to address the Council on two topics. Recorder Arnold said it would be more appropriate to hear from Mr. Mitchell after the public hearing. Council member Kitselman agreed. Mr. Mitchell said he had planned that his remarks would come after the hearing. Mayor Dickinson asked if others had an opinion. No one objected to Mr. Mitchell speaking after the public hearing.

The applicant, Alton Echols, 400 Custer Court, spoke in favor of the text amendment eliminating the special use permit requirement saying that the Mary Hardesty House was built by right. He said the residents have requested a buffer area. He said there is no requirement that the zoning ordinance match the comprehensive plan.

Public hearing speakers were as follows:

Sharon Strickland, 312 Early Drive, said she has been a senior advocate since 2008. She said it is time for this senior housing development to be built.

Christina Kraybill, 317 First Street, said in regard to this request she is in favor of keeping the special use permit process. She said she is in favor of different housing types, but is concerned about them being permitted by right.

Dan Garrett, 303 Archer Court, gave a PowerPoint presentation in support of the text amendments on behalf of Clarke Affordable Senior Housing (CASH). He said a compromise on the cap may provide a way to move forward. He asked that the Council change the multi-family cap from 120 to 180 and eliminate the requirement for a special use permit.

- d. **The Berryville Town Council initiates a text amendment requested by A.C. Echols to Article VI, Section 614 OPR Older Person Residential of the Berryville Zoning Ordinance, in order to remove the maximum number of older person residential units, including a maximum number of multi-family units permitted within that cap. TA 05-16**

The applicant, Alton Echols, 400 Custer Court, referred to his handouts which were provided to Council members. He said tax revenues from his proposed development will fund EMS positions. He said the 300 unit multi-family cap was added in 1997 while another multi-family project was under construction. He said the highest and best use of the parcel is multi-family units. He requested that the Council remove the cap.

Christina Kraybill, 317 First Street, said boundaries are healthy. She said she supports upholding the cap and allowing a diversity of housing types.

Dan Garrett, 303 Archer Court, said he represented Clarke Affordable Senior Housing (CASH) and spoke in favor of both of Mr. Echols' amendments. He proposed a compromise whereby the multi-family unit cap be raised from 120 to 180 allowing Mr. Echols' project to be built.

Diane Harrison, 325 South Church Street, said she is for senior housing but not in favor of out of control development. She said putting no limits in an area will turn into the warehousing of seniors. She said the Town does not have the infrastructure to support more senior housing than we already have.

Nada Jill Butler, 123 Swan Avenue, said she moved here because of the good planning that was done by previous leaders. She said she is not in favor of removing any cap which is the first step in the "Loudoun-ization" of this community, and cautioned the Council about further development.

Robin Betz, 418 Cobbler Drive, said she moved here in 2008 and liked the elderly population here. She said there should be a justification for keeping the cap.

Randy Mullett, 301 Archer Court, said he had led the opposition to the medical warehouses in Battlefield Estates. He said two more Mary Hardesty Houses will not change the Town.

Carol Brophy, 300 Early Drive, said she supports raising the limit on senior housing. She asked the Council to disregard personality when considering the project. She said seniors make good neighbors.

The Public Hearing was closed.

The Council took a 5 minute recess because of the length of the meeting.

4. Approval of Minutes

Upon motion of Council member Tollett, seconded by Council Member Gibson, the minutes of the September 13, 2016 joint work session with the Clarke County Board of Supervisors were approved as follows:

Aye – Patricia Dickinson
Harry Lee Arnold, Jr.
Donna McDonald
Allen Kitselman
Erecka Gibson
David Tollett

Nay – None
Absent – None

Upon motion of Council member Tollett, seconded by Council Member Gibson, the minutes of the September 13, 2016 Town council meeting were approved as follows:

Aye – Patricia Dickinson
Harry Lee Arnold, Jr.
Donna McDonald
Allen Kitselman
Erecka Gibson
David Tollett

Nay – None
Absent – None

5. Citizens' Forum

The speaker was as follows:

Jay Hillerson, 2770 Kimble Road, said he owns property in downtown and asked about the status of the Tourism Zone Incentive program that addresses tap fees, BPOL taxes, and permit fees. He encouraged the Council to adopt the program saying it is a well done document and is just the type of program needed to promote business in the Town. He used his property as an example saying the tap fees would be between \$450,000 and \$600,000 which is more than the property is worth. He said such costs are passed on to new business owners. Mr. Hillerson said the Tourism Incentives which allows the fees to be paid over time does not cost the Town and helps the business with start-up costs. He encouraged the Council to adopt the program.

6. Report of Patricia Dickinson, Mayor

Mayor Dickinson said she wished to thank all those who helped in the rescue attempt at the recent construction site accident. She extended her sympathies to the family, friends and co-workers of the victim.

The Mayor said she continues to be concerned about the recent sale of the Food Lion grocery store. She said the next step is the sale by Super Valu to an independent franchisee which is supposed to happen within the next two months. She said she wants to make every effort to ask that the sale to the franchisee not go forward, and with time being short, action must be taken quickly.

Mayor Dickinson announced that the Veterans Day celebration will be held at the Government Center on November 11 in conjunction with the VFW and the American Legion.

The Mayor announced that the Council will hold a work session on October 31, and asked Council members to forward any agenda items to Mr. Dalton.

7. Report of Christy Dunkle, Asst. Town Manager for Community Development

Ms. Dunkle referred to the public hearings held earlier in the evening.

Council member Kitselman moved that the Council of the Town of Berryville approve Special Use Permit 04-16 in order to operate a Professional Office at the property located at 208 North Buckmarsh Street, identified as Tax Map Parcel number 14A2-((A))-33 zoned R-3 Residential with the following condition: Hours of operation 9:00am to 9:00pm seven days per week. Recorder Arnold seconded the motion which carried as follows:

Aye – Patricia Dickinson
Harry Lee Arnold, Jr.
Donna McDonald
Allen Kitselman
Erecka Gibson
David Tollett

Nay – None
Absent – None

Recorder Arnold moved that the Council of the Town of Berryville adopt the attached ordinance modifying Article II District Regulations, establishing Section 204.2(h) of the Berryville Zoning Ordinance in order to allow veterinary hospitals as a use by Special Permit in the C General Commercial Zoning District. Council member Kitselman seconded the motion which carried as follows:

Aye – Patricia Dickinson
Harry Lee Arnold, Jr.
Donna McDonald
Allen Kitselman
Erecka Gibson
David Tollett

Nay – None
Absent – None

Ms. Dunkle invited Mr. Mitchell to address the Council regarding text amendments requested by Mr. Echols.

Mr. Mitchell said that Mr. Dalton had asked him to give an overview of the legal issues related to special use permits, and the role of the comprehensive plan and zoning actions. He said the special use permit is a legislative zoning action in which the governing body has a certain level of discretion and carries a presumption of validity. He said a zoning district has designated permitted uses that have limited impacts on the district and special uses that have greater impacts. Mr. Mitchell listed some possible impacts of special uses as being traffic generation, density of use, hours of operation, EMS access, and public utility issues. He said the Code of Virginia provides the authority to localities to impose conditions on special permit uses to address potential impacts of the use. He listed possible conditions such as the location of structures on the sight, location of entrances, limits on the density, hours of operation, additional setbacks, landscaping requirements, and others.

Mr. Mitchell said the special use permit is an important tool that allows the locality to permit diversity of uses but be able to impose conditions to make diverse uses more compatible. He said the governing body needs to consider whether a special use has potential impacts that they feel need to be addressed by the body's retaining the ability to place conditions on that use. If so, he said, then the use is logically a special use, and if not, then the use can be designated as a permitted use.

Mr. Mitchell addressed the role of the comprehensive plan in actions addressed under the zoning ordinance. He provided background saying that under the Code of Virginia, all localities are required to adopt a comprehensive plan, and added that the statute provides for the scope and purpose of the comprehensive plan. He said the Berryville Area Plan is in effect the comprehensive plan for annexation area B and is unique since it evolved from the 1988 annexation agreement between the Town and County. He said it was developed jointly between the Town and County and is site specific for each sub-area.

Mr. Mitchell said a comprehensive plan does not control specific uses, is general in nature, and is a guideline for implementation by the zoning ordinance, the official map, and other land use tools including the subdivision ordinance. He said a comprehensive plan does not legally bind to a specifically proposed use. However, he said, decisions of the Supreme Court of Virginia indicate that a comprehensive plan is the single most important land use control tool available to local governments. He added that conforming to the comprehensive plan can provide the single most defensible basis for actions taken by the governing body and said that if a zoning action is consistent with the comprehensive plan, it will likely be upheld. Mr. Mitchell said that it has been the practice of Berryville to act in accord with the comprehensive plan, and if the desired use was not in the plan, then to amend

the plan. He said that if the governing body acts in a way that is not in accord with the plan, it does not necessarily mean that the action is invalid.

Mr. Mitchell concluded saying that if a governing body takes action that is in accordance with the plan, and it is challenged, it will likely be upheld. He said that if a body takes action that is not in accordance, and it is challenged, it may still be upheld, but it will not have the support of being in accordance with the comprehensive plan.

Council member Tollett moved that the Council of the Town of Berryville adopt the attached ordinance modifying Article VI Additional Districts, Section 614.2(c) and deleting Section 614.3(c) of the Berryville Zoning Ordinance in order to allow Housing for Older Persons Residential: Single Family Detached; Single Family Attached – Duplexes, Tri-plexes, Quad plexes, Townhouses, and Multi-family Apartments (including personal service uses of less than 500 square feet) as a use by right. Council member McDonald seconded the motion.

Recorder Arnold said that requiring a special use permit is not stopping this project. He said the Council has been elected to make tough decisions and that sometimes elected officials have to say no. He said just as other uses in Town are special uses, the Council does not have to give away the decision making, and cited the two permits voted on earlier in the meeting. He continued saying the text amendment issue had gone before the Planning Commission and two previous Town Councils, and questioned whether the current Council should go against all the previous decisions. Recorder Arnold said that the special use designation allows the citizens and neighbors to be protected and gives them the opportunity to speak at a public hearing. He said the Council owes that opportunity to the citizens for such a large project that will bring in a lot of people. He read from an email between Marlyn Development representative Francis Nance and Alton Echols. He quoted Mr. Nance as saying he had to fight the Town for approval on an earlier project and that Jay Arnold, in his role as Fire Chief, required a fire lane which forced the builder to have to buy additional land from Mr. Echols. Recorder Arnold cited this as an example of looking after the citizens by putting conditions on a project. He said without the special use permit designation, the Town would not have had the capability to require a fire lane on the proposed project. He reiterated that the Town truly needs special use permits.

Council member Kitselman said the proposed text amendment is a wrong move. He said the status of the special use does not change the ability of the project to be built, but passing the amendment does remove the ability of the Town to put conditions on the project, adding that the proposed project is a use that has additional fire, safety, and EMS needs. Council member Kitselman noted that the Planning Commission has studied the issue and has said it makes no sense to facilitate the developer and his wishes in this case. He said that he is not anti senior housing as has been suggested, but is pro good zoning practice. He said that removing the special use status makes no sense and has the appearance of a victory lap. Council member Kitselman said it is not reasonable to remove the ability to place conditions on the project. He said that when developers start writing the Town's zoning ordinance, the community will be in big trouble. He asked that the Council not support the amendment and reiterated that the status of special use does not affect the ability of the project to be built. He said the Council should not allow a developer to tell the Town what to do, saying that is not how planning is done, and is not how the Council takes care of its citizens. He concluded that neither of the applicant's proposed text amendments have to happen in order for him to proceed with senior housing.

Council member Tollett listed other developments that he said have moved forward without the special use designation. He said he did not think anyone had complained about Mary Hardesty House. He said that when the Marlyn project had been turned down last year, the fire chief wrote a letter saying that the company was satisfied with the situation.

Council member Kitselman noted that because it was a conditional use the developer had offered a \$150,000 contribution to the fire company, and questioned whether he should be trusted to give the donation if the use is no longer a special use.

Council member Tollett said he trusted the building code, the people who enforce it, and the police here.

Council member Kitselman noted that the fire and rescue company will not have to be paid and said by passing the text amendment, the Town would be giving away the leverage to make that contribution happen.

Council member Tollett said he is not sure the Town can require such a payment.

Council member Kitselman said if the number of housing units is being increased, there needs to be a give and take. He said the developer needs to understand the problem. He said removing the ability to put conditions on a use is foolhardy planning and is letting a developer run the Town.

Mayor Dickinson asked the Council not to focus on who submitted the application, but to look at the application on its merit.

Council member Kitselman responded that it was impossible for him to do so given the last 30 years and his personal knowledge of the issue.

Recorder Arnold said that he is not concerned with who the developer is, but is concerned about doing away with the special use permit. He said the Council should not give up the special use permit, because once it is gone, the Council will have no ability to control any conditions that it may see needing to be addressed. He referenced the earlier remarks wherein Mr. Garrett stated that he fails to see the purpose of the additional level of planning. Recorder Arnold said the Council is all about planning and doing what is best for Berryville. He said the application expense and development costs have been discussed all along in regard to why a special use permit would be required to build residences. He said this project is more than just a single family dwelling, with 60 to 120 units being proposed, and certainly deserves a special use permit. He noted the two special use permits granted for small projects earlier in the meeting, and said this large commercial building should not go through without a special use permit.

Council member Kitselman asked what purpose is served and what obstacle is removed by eliminating the special use designation.

Council member Tollett replied the obstacle is time and said the Council has been dragging this process on.

Council member Kitselman asked why time is a problem. He said that anyone wishing to build in our town should do it right, do it by the book, and follow the rules, which has been a problem in this case.

Recorder Arnold noted that the project has been approved twice before with Council providing a letter of support to enable the developer to seek financing. He said that when the developer needed an

updated letter of support, the Council provided it, and noted previous Town Councils and Planning Commissions have addressed the issue.

Mayor Dickinson said she understood from Mr. Mitchell's remarks that the comprehensive plan informs the zoning ordinance, and that the zoning ordinance is written to enable the plan to come to fruition. She said the Berryville Comprehensive Plan and the Berryville Area Plan each state the intention to provide housing for seniors. She said each of the plans references the need for a review of the housing situation in regard to the aging population. She said there are 100 apartments for seniors in Berryville and that she has been asked by County residents to get this project built so that they will have somewhere to go. She said she struggles with the comprehensive plans' intent and the zoning laws and regulations and building regulations and the approval process. She noted Council member Tollett's remarks about projects going through without the special use permit. She said she only sees the special use permit as driving up costs and making the units no longer affordable. She said she is concerned about the costs.

Council member Kitselman said the OPR zone allows for the highest density in Berryville allowing more senior housing than anywhere in town. He said the special use permit just allows conditions to be placed to make sure it is done right. He said the OPR designation is not a cap, it is the highest density the Town has. He said if the Town is creating that density of development, it makes perfect sense to have the special use permit process. He said that a developer would note the cost concerns as just stated by the Mayor.

Recorder Arnold referenced his 15 years on the County planning commission and said that planning commission members are not to be concerned with the developers' costs, but rather with whether a project is good for the community and follows the comprehensive plan. He said the special use permit requirement does not stop this particular project although it may have additional costs and fees. He said those are not passed on to the occupants of a housing project. He said the project's proposed rents mentioned earlier sound very high and not affordable to him.

Mayor Dickinson questioned whether Recorder Arnold said the additional fees would not be passed on to the occupants.

Council member Kitselman said they are minimal costs considering the project. He said to give up the Council's approval process is foolhardy, and as leaders of the Town it is bad practice, bad planning, and should not happen.

Recorder Arnold questioned whether the Council would want the citizens of the Town to subsidize permit fees and zoning fees.

Mayor Dickinson said she never said that.

Recorder Arnold said that is what the Council would be doing. The Town would be picking up the extra costs of the process.

Council member Kitselman said that is the cost of being a developer. He said if a developer wants to make money from our town, he should do the process and follow the rules, adding that the special use process is not onerous. He said in the big scheme of things in a multi-million dollar project, special use fees are incidental.

Recorder Arnold said that requiring a special use permit will not prevent a 60 or 120 unit apartment building from being built.

Mayor Dickinson said it has been moved and seconded that the Council of the Town of Berryville adopt the attached ordinance modifying Article VI Additional Districts, Section 614.2(c) and deleting Section 614.3(c) of the Berryville Zoning Ordinance in order to allow Housing for Older Persons Residential: Single Family Detached; Single Family Attached – Duplexes, Tri-plexes, Quad plexs, Townhouses, and Multi-family Apartments (including personal service uses of less than 500 square feet) as a use by right.

The motion carried on a roll call vote as follows:

David Tollett	Aye
Donna McDonald	Aye
Allen Kitselman	Nay
Harry Lee Arnold, Jr.	Nay
Erecka Gibson	Aye
Patricia Dickinson	Aye

AN ORDINANCE AMENDING
ARTICLE VI, SECTION 614 OF
THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Additional Districts, Section 614 Older Person Residential (OPR) Zoning District, of the Town of Berryville Zoning Ordinance shall be amended as follows:

ARTICLE VI – DISTRICT REGULATIONS

SECTION 614 Older Person Residential (OPR) Zoning District

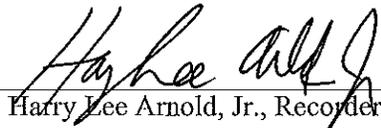
614.2 PERMITTED USES

- (a) Accessory structures less than one hundred fifty (150) square feet in size
- (b) Community buildings and association facilities, public and private, including recreation areas and other common area improvements associated with residential developments
- (c) Housing for Older Persons Residential: **Single Family Detached; Single Family Attached – Duplexes, Tri-plexes, Quad plexs, Townhouses, and Multi-family Apartments (including personal service uses of less than 500 square feet).**, ~~Low Density: Single Family Detached, Two-Family Detached (Duplex), Single-Family Attached (Triples and Quadplex – 3 to 4 attached residential units) (10/16)~~
- (d) Public utilities
- (e) Recreation facilities (indoor or outdoor), including parks, playgrounds, golf courses, swimming pools, tennis courts, etc.

614.3 SPECIAL PERMIT USES

- (a) Day care centers
- (b) Government and other public buildings (including police, fire, library, museum, and postal facilities)
- (c) ~~Housing for Older Persons, Medium Density: Single-Family Attached (Townhouses – 5 to 8 attached residential uses), Multi-family (including personal service uses of less than 500 square feet) Deleted (10/16)~~
- (d) (Deleted 2010)
- (e) Medical care facilities, licensed
- (f) Places of worship

(g) Schools, public and private, including nurseries, playgrounds, and related uses

ATTEST: 
Harry Lee Arnold, Jr., Recorder

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Council member McDonald moved that the Council of the Town of Berryville adopt the attached ordinance modifying Article VI Additional Districts, Section 614.5 of the Berryville Zoning Ordinance in order to remove the cap of 300 Older Person Residential units (including not more than 120 multifamily units) allowed in Annexation Area B as shown on approved subdivision plats or site plans. Council member Tollett seconded the motion.

Council member Tollett, noting comments he had heard this evening, moved to amend the previous motion to retain the cap of 300 units but raise the multi family unit limit from 120 to 180. Council member McDonald seconded the motion.

Mayor Dickinson restated the motion amended.

Recorder Arnold said he is opposed to the 180, with currently 60 allowed and 60 already built, 120 in that location is enough.

Council member Tollett said that in previous discussions the Council has been told it is not feasible to construct the 60 unit building.

Council member Kitselman said that assertion came from a developer, noting that a developer is making the Council's decisions.

Recorder Arnold reminded the Council that David Jester, the president of Marlyn Corp., attended a Town Council meeting and said that a 60 unit development is feasible to be built. He said when the 120 unit project was turned down, Mr. Echols came several weeks later and said when given lemons he would make lemonade. He said Mr. Echols proposed a 60 unit and 4 quad development, started through the approval process and then withdrew the application. Recorder Arnold said a 60 unit project can be built, that he is not worried about costs and said we don't have seniors on the street with no place to live.

Council member Tollett asked how it would hurt to keep the cap but raise the multi-family allowance.

Recorder Arnold said he is not in favor of more than 120 multi-family units.

Council member Kitselman said the amended motion is much more reasonable, but agreed with Recorder Arnold on the multi-family units saying the Town is not in control of its own destiny if we let developers come in and tell us what to do. He added that in reference to the text amendment passed earlier in the evening he would be interested to see if the developer will make delivery of the \$150,000 to Enders Fire and Rescue since the use is now by right.

Council member McDonald asked for someone to explain how a developer is going to come in and change things. She asked how that would happen. She asked how that is going to cause so much dissention and change in our town.

Council member Kitselman said that it had just happened.

Council member McDonald said she was not clear on how it would affect the town in such a negative way.

Council member Kitselman said the Council should never give up the power to control zoning which it had just done, adding it should never have happened. He said the Council is failing in its role as leaders if it lets developers come in and write the ordinances. He said that a precedent had been set and he was very unhappy about it.

Recorder Arnold asked what would happen if the developer goes through the process and comes back saying that now his numbers don't work and he must build 180 units to make the project viable.

Mayor Dickinson said the Council would be having another conversation.

Council member Kitselman said the conversation would be to facilitate a developer.

Mayor Dickinson said she did not see the issue as a personal issue or a victory lap. She asked that the Council separate who submitted the amendment from the merits of the amendment itself. She said she did not write the text amendment and it is not the one she wants. She said OPR as a concept is deplorable, insulting, and ethically and morally wrong. She said she would have preferred to wipe out the whole zoning issue. She said we desperately need senior housing and there is a severe shortage with the aging baby boomer generation that the country is dealing with.

Council member Kitselman asked why that is the problem of Berryville, Virginia.

Mayor Dickinson replied that the people who live here are the people the Council has been elected to serve.

Council member Kitselman asked if that meant opening the cap and allowing in as many as want to come in.

The Mayor reminded the Council of what the motion stated.

Recorder Arnold noted another challenge as being fire and rescue. He said it continues to be said that EMS staffing is a County problem and not a Town problem, but he reminded the Council that that the County is also the Town of Berryville. He highlighted the current staffing levels and said that if more seniors are brought in, more staff would be required. He said the cash cow, fee for service, really does not bring in a lot of money. Recorder Arnold said that the Town can push the problem across the border, but it will still affect the Town. He said if the County raises taxes to pay for these services, it also affects the Town residents who pay taxes to both governments.

Council member McDonald said that in a way, the Town is solving its problem by promoting itself as a wellness community.

Mayor Dickinson said the concerns about EMS are real and need to be taken seriously, but are not related to where people live. She said that the issue requires rethinking how EMS services are provided and funded.

There was discussion of the withholding of funding to the County for EMS, and the Mayor said the issue is under review. She said the Budget and Finance Committee will meet next week to discuss the issue.

There was discussion of the wording of the amended motion. Mayor Dickinson asked Mr. Mitchell to comment on the ability to amend the text amendment.

The amended motion was agreed to as follows:

I move that the Council of the Town of Berryville adopt the attached ordinance modifying Article VI Additional Districts, Section 614.5 of the Berryville Zoning Ordinance (including not more than 180 multifamily units) allowed in Annexation Area B as shown on approved subdivision plats or site plans.

Mayor Dickinson asked Ms. Dunkle to read the portion of the ordinance attached to the motion.

Recorder Arnold asked for a roll call vote on the amendment to the motion which carried as follows:

David Tollett	Aye
Donna McDonald	Aye
Allen Kitselman	Nay
Harry Lee Arnold, Jr.	Nay
Erecka Gibson	Aye
Patricia Dickinson	Aye

Mayor Dickinson restated the motion.

Recorder Arnold moved to amend the motion by changing the cap from 300 to 200. Council member Kitselman seconded the motion.

There was discussion of reducing the cap from 300 to 200 in the remaining OPR.

The motion to amend the stated motion by changing the cap from 300 to 200 carried as follows:

Aye – Patricia Dickinson
Harry Lee Arnold, Jr.
Donna McDonald
Allen Kitselman
Erecka Gibson
David Tollett

Nay – None
Absent – None

There was further discussion of the amended motion.

The amended motion was agreed to as follows:

I move that the Council of the Town of Berryville adopt the attached ordinance modifying Article VI Additional Districts, Section 614.5 of the Berryville Zoning Ordinance in order to change the cap of 300 to 200 Older Person Residential units (including not more than 180 multifamily units) allowed in Annexation Area B as shown on approved subdivision plats or site plans. The motion carried as follows:

Aye – Patricia Dickinson
Harry Lee Arnold, Jr.
Donna McDonald
Allen Kitselman
Erecka Gibson
David Tollett

Nay – None
Absent – None

AN ORDINANCE AMENDING
ARTICLE VI, SECTION 614 OF THE
TOWN OF BERRYVILLE ZONING ORDINANCE

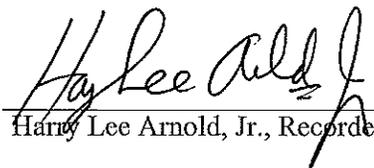
BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Additional Districts, Section 614 Older Person Residential (OPR) Zoning District, of the Town of Berryville Zoning Ordinance shall be amended as follows:

ARTICLE VI – DISTRICT REGULATIONS

SECTION 614 Older Person Residential (OPR) Zoning District

614.5 MAXIMUM DENSITY

A Master Plan shall be submitted with a request for OPR zoning showing a general arrangement of uses and density for the subject property and all adjacent areas intended for OPR uses. The Master Plan shall show that the public service needs are no greater for the OPR uses than the public service needs for the uses planned for that sub-area. The number of average daily vehicle trips generated, the amount of sewage generated, the amount of water used, and demand on emergency services will be no greater with the proposed number of older person residential units and service uses than that generated by the maximum density of uses allowed by a property's land use designation. However, not more than ~~three hundred (300)~~ **two hundred (200)** Older Person Residential units (including not more than ~~one hundred twenty (120)~~ **one hundred eighty (180)** multifamily units) shall be allowed in Annexation Area B as shown on approved subdivision plats or site plans. **(10/16)**

ATTEST: 
Harry Lee Arnold, Jr., Recorder

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Ms. Dunkle said there has been a request for a text amendment to the BC zone and she asked Council to set the public hearing for the November 8 meeting. Mayor Dickinson said she wished to hear from the Planning Commission before setting the public hearing. By consensus the Council agreed not to set the public hearing until receiving comment from the Planning Commission.

Recorder Arnold moved that the Council of the Town of Berryville adopt the attached ordinance amending Chapter 16, establishing Section 16-9 Tourism Zone Incentives and maps identifying the Downtown Business Tourism Zone (DBT); Entrance Corridor Tourism Zone (ECT), and Community Business Tourism (CBT) Zone in order to provide economic development incentives for tourism-related businesses as enabled by the Virginia General Assembly in § 58.1-3851. Creation of local tourism zones. Council member Gibson seconded the motion.

Council member Tollett said this sounds good, but he is not sure how it will be paid for. He moved that the previous motion be referred to the Budget and Finance Committee with the request that they report back to Council. Council member McDonald seconded the motion. The Council discussed sending the matter to the committee. Council member Gibson said the program is a tax break, but if it is not offered, the Town does not gain anything. She said it is an incentive program and the Town is more likely to get new businesses with the program than without it. She said she did not think the committee needed to study the issue. Council member Tollett withdrew the motion to refer the matter to committee.

Recorder Arnold's previous motion carried as follows:

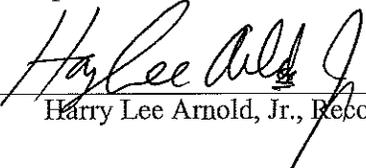
Aye – Patricia Dickinson
Harry Lee Arnold, Jr.
Donna McDonald
Allen Kitselman
Erecka Gibson
David Tollett

Nay – None
Absent – None

BERRYVILLE TOWN COUNCIL
AN ORDINANCE AMENDING CHAPTER 16 OF THE BERRYVILLE CODE

Be it ordained, by the Council of the Town of Berryville, that the attached Code Section 16-9 Tourism Zone Incentives and maps identifying the Downtown Business Tourism Zone (DBT); Entrance Corridor Tourism Zone (ECT), and Community Business Tourism (CBT) Zone be added to the Berryville Code establishing economic development incentives for tourism-related businesses as identified in the attached ordinance.

Attest:



Harry Lee Arnold, Jr., Recorder

Sec. 16-9 Tourism Zone Incentives

- (a) Purpose: The purpose for creating tourism zones is to encourage certain types of business growth in the Town that will attract visitors to the Town, increase tax revenue, and enhance the general welfare of Town residents. Virginia Code § 58.1-3851 grants towns the legal authority to establish one or more tourism zones and grant tax incentives and regulatory flexibility therein.
- (b) Establishment of Tourism Zones
- (1) Downtown Business Tourism (DBT) Zone Created. There is hereby established the "Downtown Business Tourism Zone," consisting of the areas zoned C General Commercial and designated on the map entitled "Town of Berryville Tourism Zones," dated October 11, 2016, attached hereto and incorporated herein. The intent of the Downtown Business Tourism Zone is to achieve the overall purpose of Sec. 16-9(a) by encouraging business growth that enhances the unique character and assets of the downtown area.
 - (2) Entrance Corridor Tourism (ECT) Zone Created. There is hereby established the "Entrance Corridor Tourism Zone," consisting of the areas designated as such on the map entitled "Town of Berryville Tourism Zones," dated October 11, 2016, attached hereto and incorporated herein. The intent of the Entrance Corridor Tourism Zone is to achieve the overall purpose of Sec. 16-9(a) by encouraging business growth that enhances the unique character and assets of the entrance corridor area.
 - (3) Community Business Tourism (CBT) Zone Created. There is hereby established the "Community Business Tourism Zone," consisting of the areas designated as such on the map entitled "Town of Berryville Tourism Zones," dated October 11, 2016, attached hereto and incorporated herein. The intent of the Community Business Tourism Zone is to achieve the overall purpose of Sec. 16-9(a) by encouraging general business growth in the Town of Berryville that supports tourism.
- (c) Eligibility Requirements
- (1) **ELIGIBLE USES BY TOURISM ZONE.** The following land uses, as categorized within each tourism zone, are eligible to receive the tourism zone incentives of Sec. 16-9(d), subject to compliance with all other code requirements of the Town of Berryville Code and Town of Berryville Zoning Ordinance.

TABLE 16-9(c)(1)

SPECIFIC TOURISM ZONE	ELIGIBLE TYPES OF
Downtown Business Tourism (DBT)	Retail Dining Lodging Entertainment* Culture & Arts Personal Services & Offices Recreation Second story apartments/condominiums
Entrance Corridor Tourism (ECT)	Retail Dining Lodging Entertainment* Culture & Arts Personal Services & Offices Agritourism Recreation
Community Business Tourism (CBT)	Retail Dining Lodging Entertainment* Culture & Arts Personal Services & Offices Recreation Loft Apartments/Condominiums Wholesale/Retail Food Hub Commercial Kitchens

*Including both outdoor and indoor uses, but excluding adult entertainment uses.

- (2) INVESTMENT CRITERIA. Eligible land uses, as specific under Sec. 16-9(c)(1), shown above, are eligible to receive the tourism zone incentives of Sec. 16-99(d) shown below, only if all of the following criteria is met:
- (a) A minimum new capital investment of \$25,000.
 - (b) A minimum creation of one (1) new job.
 - (c) Conformance with the Town's Comprehensive Plan.
 - (d) Conformance with the Town's Zoning Ordinance.

- (e) Conformance with the Berryville Area Plan.
- (e) Conformance with the Town Code.

(d) Incentives.

(1) BPOL Tax Incentive. BPOL Tax may be reduced for eligible land uses that meet the investment criteria as specified under 16-9(c)(2).

(a) Eligible land uses shall be categorized into one of the following three (3) tier groups, depending on the amount of capital investment and quantity of jobs created.

Table 16-9(d)(1)(a)

Tier Group	Capital Investment	Jobs Created
Tier 1	\$25,000 - \$99,999	1 – 3
Tier 2	\$100,000 - \$499,999	4 – 10

(b) The following table illustrates the duration that eligible land uses may receive BPOL tax reduction based on the qualifying tier group.

Table 16-9(d)(1)(b)

Year	1	2	3	4	5	6	7	8	9	10	11+
Tier 1	✓	✓	✓	✓	X	X	X	X	X	X	X
Tier 2	✓	✓	✓	✓	✓	✓	✓	X	X	X	X
Tier 3	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X

(c) Eligible land uses may receive up to 100% BPOL tax reduction for the number of specified years they qualify for under Table 16-9(d)(1)(b).

(d) BPOL tax reduction is based on the estimated increase in BPOL tax as calculated from estimated increased revenue after the proposed investment. BPOL tax reduction shall not apply to existing BPOL tax prior to the specific investment.

(2) Permit Fee Incentive. All eligible land uses may receive up to 100% reduction in permit fees with the Town of Berryville as identified in the Planning and Zoning Fee Schedule, as amended.

(3) Availability Fee Incentive. Eligible commercial land uses may be allowed to make payment of required availability fees over a period of time that does not exceed ten (10) years, without interest or fees, subject to a lien on the property, or other guarantee, for the specified time period.

(e) Administration & Interpretation.

- (1) The Town Manager, or designee, is authorized to administer tourism zones.
- (2) Interpretations of this section shall be determined by the Town Manager after consultation with the Town Attorney.
- (3) All eligible businesses must submit an application for tourism incentives to the Town Business Office.
- (4) The Town Manager, or designee, shall draft a performance agreement for applicants that qualify for incentives. The performance agreement shall be reviewed by the Town Attorney, Assistant Town Manager/Treasurer, Assistant Town Manager/Planner, and other departments, authorities, committees, commissions or agencies as determined appropriate by the Town Manager.
- (5) Performance agreements shall specify all incentives that are to be authorized and may include conditions of approval including but not limited to requirements that the applicant maintain certain hours of operation, site improvement requirements, or reduction of incentives from their maximum levels authorized by this section.
- (6) Incentives are not authorized until a performance agreement is approved by Town Council and nothing herein shall be interpreted to require or obligate the Town to approving any incentives until a performance agreement is approved by Town Council.
- (7) Town Council may revoke, reduce, or suspend incentives after approval of the performance agreement if the conditions, or other terms, of the performance agreement are not in compliance.

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Ms. Dunkle provided an update on the Safe Routes to School project at Johnson-Williams Middle School saying the bid has been rescheduled on the first phase which is the construction of the new sidewalk. She said the grant process has been started for the second phase, the demolition of the existing sidewalk.

8. Report of Keith Dalton, Town Manager

In Mr. Dalton's absence because of a family emergency, his report was presented by Chief Neal White. Chief White reminded the Council of the Homecoming Parade scheduled for October 13. In reference to the Top of Virginia Regional Chamber Valor Awards, Chief White said that three Town of Berryville Public Works Department employees had been nominated for their actions in 2015 assisting an elderly resident who had fallen on her property in inclement weather. He said the nominees, Ralph Elliott, Darrell Ferrebee, and Patrick Lickey, will receive an award from the Regional Chamber.

9. Report of H. Allen Kitselman, III – Berryville Area Development Authority Liaison

Council member Kitselman said the BADA will meet on October 19.

10. Report of Erecka Gibson - Chair, Budget and Finance Committee

Council member Gibson noted that the Committee will meet jointly with the County Finance Committee on October 13 at 10:00 a.m.

Council member Gibson announced that the Budget and Finance Committee will meet again on October 25 at 10:30 a.m. She said the Committee had reviewed having the current auditors do the mapping of internal controls, but had found that option not feasible because of the cost. She said the Committee has limited the scope of the project to mapping of accounts payable and purchasing and has asked staff to issue an RFP as time allows.

The minutes of the September 21, 2016, Budget and Finance Committee were unanimously approved.

Mayor Dickinson said with the first quarter complete, she had looked at variances and had some questions. Mrs. Moreland said total budget revenue for the quarter is at approximately 26%, and total expenses are at 21%. She said that 25% is what is expected for the first quarter.

11. Report of Donna McDonald - Chair, Community Improvements Committee

Council member McDonald said that a Town Hall meeting is planned for early December, and will include a facilitator.

Council member McDonald said she is requesting an additional \$1000 for lights for the Town Christmas tree. There was a general discussion of budgeting funds for tree decoration. Council member McDonald moved that the Council of the Town of Berryville increase the decorating budget from \$1600 to \$2600. Council member Gibson seconded the motion. The Council discussed the motion, and how the tree has been decorated in the past. Council member Gibson said it is not a matter of wanting to increase the decorating budget, but one of whether in can be afforded. Council member McDonald said the effort is to help in growing the Town. After discussion of referring the matter to the Budget and Finance Committee, Council member McDonald withdrew the motion.

The minutes of the Committee meeting of September 26, 2016, were approved unanimously.

12. Report of David Tollett – Planning Commission Liaison

Council member Tollett had nothing to report.

13. Report of David Tollett – Police and Security Committee

Council member Tollett said he would advise whether a meeting will be held after checking with Mr. Dalton.

14. Report of Patricia Dickinson – Chair, Streets and Utilities Committee

Mayor Dickinson noted the Committee will hold a meeting this month.

15. Report of Erecka Gibson – Chair, Personnel Committee

Council member Gibson said the Committee will meet on October 24 when they will discuss appointments to the Planning Commission and the BZA. She said she has asked Mr. Dalton and Recorder Arnold to identify areas to add to the “market basket” for comparison to the Town during a compensation study. She has asked Mr. Dalton to provide an update on job descriptions which are currently being updated.

16. Other

Council member Kitselman said that earlier in the meeting, the Mayor had mentioned her concern about the sale of the Food Lion to Super Valu. He said that contacting the business itself is a bad idea, and reminded the Council members that they are not to have such contact individually. He said interfering with a business sends the message that the Town is hard to get along with. He concluded by saying any contact with a business should be done through staff and have the consensus of the Council.

16. Adjourn

There being no other business, upon motion of Council member McDonald, seconded by Council member Kitselman, the meeting was adjourned at 10:59 p.m.


Harry Lee Arnold, Jr., Recorder


Ann W. Phillips, Town Clerk

MINUTES
BERRYVILLE TOWN COUNCIL BUDGET AND FINANCE COMMITTEE
&
CLARKE COUNTY BOARD OF SUPERVISORS FINANCE COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
October 13, 2016
10:00 a.m.

Town Budget & Finance Committee members: Present- Erecka Gibson, Chair; Patricia Dickinson
Town Staff: Desiree Moreland, Treasurer/Assistant Town Manager-Finance and Administration; Christy Dunkle, Planner/Assistant Town Manager-Operations; Ann Phillips, Town Clerk
Clarke County Finance Committee members: David Weiss, Chair; Terri Catlett
County Staff: David Ash, County Administrator; Tom Judge, CFO
Others: Harry Lee Arnold, Jr.; H. Allen Kitselman; Marilyn Pierce
Press: Cathy Kuehner

1. Call to Order

Chair Gibson called the Town Budget & Finance Committee to order at 10:00 a.m.
Chair Weiss called the County Finance Committee to order at 10:00 a.m.

2. Discussion – Town Contributions to County

Chair Gibson asked for clarification of the terms “CFS” and “no units” in the County-supplied documentation of EMS data. Mr. Ash said the terms respond to “calls for service” and calls where no units were dispatched because no help was needed.

Chair Weiss said he was surprised at the level of calls with 74% of all calls originating in Berryville.

Chair Weiss said in reference to financial decisions, the County agrees that the Town can change numbers, adding that elections have consequences. He said that at a minimum, the County Finance Committee is asking the Town Council to honor the decision made and appropriated by the previous Town Council.

Ms. Dickinson asked for background on how the EMS staff person hired by the County is paid for by the Town. Chair Weiss said he assumed that at the time the decision was made the Mayor and Chairman of the Board of Supervisors had talked with constituents about the community not meeting the EMS needs and the County not being able to afford to meet them. He said the Town pays for the lowest paid employee. Mr. Ash added that the Town pays for the second employee at Enders during day hours when volunteers are not available. He added that the County initially had one paid medic in place, but when more help was needed, it was agreed that the Town would help in order to reduce the time to get help out when calls came in.

Chair Weiss said the larger point is that this is what we do because we are one community, adding that in essence the Town and County are one governing body serving the needs of the residents. He added that as with all small towns, decisions were made to best serve the community.

Ms. Dickinson said the community is a rural area with EMS challenges similar to a lot of other areas. She said that EMS grew out of volunteers wanting to do more and are now services that people expect. She said that EMS is not treated as part of the infrastructure as are the sheriff's department or the public works department. She said she is struggling with the whole concept and that EMS needs the community's full support to function. Ms. Dickinson said that the population is changing with the baby boomers aging and EMS capacity is struggling.

Mr. Judge referenced the EMS budget saying EMS, with a budget of \$670,000, is treated like a department. He said the total fire and rescue budget is \$767,392 not including subsidies to volunteers or to Lord Fairfax EMS.

Mr. Judge said the professional operations expanded recently with fee for service starting and a full time director and billing assistant being hired. He said the number of part-time staff has expanded and full-time staff continues with five employees. He said paid staff has increased in order to meet the 24/7 coverage needed.

Chair Weiss said the reason for all of this is the Chief of Enders wrote to local officials of the staffing crisis. He reminded the members that 74% of all service calls are in Berryville.

Chair Gibson asked for the percentage of county residents residing in Berryville, and Mr. Ash responded that it was 30%.

Mr. Judge said that \$325,000 is estimated to come from fee for service. He said \$79,637 comes from the Town, and the County picks up the rest of the budget.

Ms. Dickinson asked if there are any other sources of funding. Chair Weiss said there were not. He added that through a thriving bingo operation, Boyce Volunteer Fire Company pays for their own full time staff.

Mr. Judge noted the County subsidies to each department are as follows: Blue Ridge, \$51,200; Boyce, \$51,900; and Enders, \$77,200. He added that with grants and liability insurance, the general contribution to all volunteers is \$140,485.

Chair Weiss said using the call numbers provided, the actual use by the Town amounts to \$252,986. He said the County is not asking for the Town's contribution to be that much, but said it is indicative of the costs. He said this meeting is an opportunity to look at the list of areas of cooperation between the Town and County.

Mr. Judge reviewed the list and provided the following highlights:

-EMT

He said the Town may have documentation about its contribution

-Communication center

He said 13% of calls are for the Town Police. Ms. Dickinson noted that the Town is not required to have a police department. Chair Weiss responded that the Town does have a police department and therefore communications have to be handled. Ms. Dickinson said she wanted the discussion to be in

the spirit of cooperation. Mr. Judge noted the mutual aid agreement between the Town and the Sheriffs' Department which the Sheriff thinks is very important.

-Central reception at the Government Center

He said staffing has varied.

-fiscal agency

Ms. Dickinson asked if there were an agreement regarding the fiscal agency. Mr. Ash said the agreement is contained in the overriding agreement on the building loan.

-library

He said the County consciously kept the library building in Town which benefits the Town.

-building official

Chair Weiss said he understands that the Town would provide its own building official once the Census reports a population over 3500, adding that when the 2020 census is done, that may be the case.

-economic development

He identified a number of items that benefit both the Town and County and noted the County pays for this department.

-swimming pool

Ms. Dickinson asked about the origin of the pool water agreement. Mr. Judge said that the Town may have records. Chair Weiss suggested talking with former Mayor Rick Sponseller. He said he understood the Town needed to bill for the water, but gave the County the money to pay for the water.

-tennis courts and bike path

He said the County assisted in locating the bike path to provide access to the tennis courts and pool.

-landfill and regional jail

He said the County continues to develop regional efforts lowering costs to all.

-Buckmarsh & Main

Mr. Ash explained there was a gas station at the current site of Mario's restaurant that was in disrepair and needed environmental remediation before it could be re-developed. He said the Town and County purchased the property, cleaned it up, and sold it to the current owner.

-Jack Enders Blvd. access to Business 7

Chair Weiss said the County is keeping the project in the 6-year plan with VDOT at the Town's request.

-Fire House Gallery

Mr. Judge said the County loaned the money to Berryville Main Street for this redevelopment effort.

-New High School

Chair Weiss stated that the County made a concerted effort to separate the construction of the new high school and the completion of Mosby Blvd. He said the projects involved relocating a Town water line and adding a booster building for fire flow, both funded by the County

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Ms. Catlett said she appreciated the topic coming up and that she has learned a lot. She added that because both jurisdictions are small, it is important to work together.

Chair Weiss stated that the County had presented information in the spirit of cooperation and that sharing the load is appropriate. He asked the Mayor what her vision is.

Ms. Dickinson said that this is the beginning of the conversation. She said it is not about dividing the jurisdictions and the list presented shows the effort of cooperating.

Chair Gibson thanked the County Board members for their time in researching and educating the Town Council Budget and Finance Committee. She referenced Chair Weiss' earlier statement that "at a minimum" he wanted the Town to maintain its budgeted allocation to the County for EMS. She said she wished to look at the issue further, and added that the Town residents are County residents, but the Town has a higher concentration of people. She said she keeps that in mind as she looks at the subject.

Ms. Dickinson said it is fascinating how things come about.

Ms. Catlett said the people on the Board of Supervisors and Town Councils before now had good ideas and vision which is why the Town and County are still unique and small.

Chair Weiss returned to the issue of EMS saying with respect to singling out the EMS payment, it goes down the path of 'you pay for this, I pay for that.' He said the County wishes to move the system forward, and that both fee for service as well as other revenues are necessary. He continued saying only one third of new fee for service money is available to improve service, and any loss of revenue will mean a tax increase since it is currently a lean ship. Chair Weiss concluded saying these are big numbers, but that he can't stress enough that fee for service is not the answer.

Ms. Catlett noted that with fee for service, the County never receives all the fees that are billed since some residents don't have insurance. She said receiving 50 to 60% is average, and Clarke County receives about 80%. Chair Weiss noted that fees can be received only if someone is transported.

Chair Gibson said that she had once been transported, and her insurance company was billed twice for the same event. Mr. Ash said the County uses a billing service, and that perhaps a mistake was made.

Ms. Dickinson referenced being paid only when transport occurs and asked about alternatives to fee for service. She said geriatric EMS is a new industry. She said if EMS can't be funded with fee for service, she is open to stepping back and looking at options. She questioned whether EMS must respond if called.

Chair Weiss said that Mr. Arnold could speak to that, and that EMS will respond, they have to respond, and they want to do it right. He said in reference to nursing homes and similar facilities, the level of non-emergency calls to EMS (such as helping someone who has fallen out of bed) costs time and money.

He said the jurisdictions and the developers of these types of housing need to be aware of the increased strain they are placing on EMS.

Ms. Dickinson said that staff in assisted living facilities are also strained by the level of service required.

Chair Weiss asked the Town Council members to forward any questions that may arise, and said the Board will need an indication of Council's intent for the current year's funding soon.

Chair Gibson said her Committee will meet again October 25 and will have recommendations for the Town Council at the November meeting.

Chair Weiss reiterated that while there may be changes in the future, it is appropriate for the current Town Council to honor the decisions made by the previous Council.

3. Adjourn

There being no further business, the meeting was adjourned at 11:12 a.m.

MINUTES
BERRYVILLE TOWN COUNCIL, BOYCE TOWN COUNCIL, & CLARKE COUNTY BOARD OF SUPERVISORS
Berryville-Clarke County Government Center
Joint Public Hearing
October 18, 2016
6:30 p.m.

Berryville Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Donna Marie MacDonald; Allen Kitselman; Erecka Gibson
Absent-David Tollett

Clarke County Board of Supervisors: Present-Terri Catlett; Barbara Byrd; Bev McKay; David Weiss, Chair; Mary Daniel

Town of Boyce: Franklin Roberts, Mayor; Carol Everly; Ruth Hayes

Other: Matthew C. Ames, Hubacher & Ames

Staff: Keith Dalton, Town Manager; Ann Phillips, Town Clerk; David Ash, County Administrator; Gordon Russell, IT Director; Lora Walburn, Deputy Clerk of the Board

Press: Cathy Kuehner, Winchester Star

1. Call to Order

Mayor Dickinson called the Berryville Town Council meeting to order at 6:30 p.m.
Chair Weiss called the County Board of Supervisors meeting to order at 6:30 p.m.
Mayor Roberts called the Boyce Town Council meeting to order at 6:30 p.m.

2. Public Hearing – Cable Television Franchise Agreement

At the request of Chair Weiss, Mr. Ames reviewed the terms of the agreement.

The only public hearing speaker was George Archibald of Main Street, Berryville. Mr. Archibald read from a prepared statement and requested that the proposed agreement not be adopted.

The public hearing was closed.

At the request of Supervisor McKay, Mr. Ames clarified that the agreement does not exclude any others offering to serve the locality.

Paul Coumes, Governmental Community Affairs for Comcast, noted the revised agreement has been in the works for about four years.

In answer to Supervisor Catlett's question about the 15 year lease agreement, Mr. Coumes said 15 years is the standard length of such agreements.

Supervisor Byrd asked IT Director Gordon Russell for his thoughts on the agreement. Mr. Russell said there are no negatives to the agreement.

Chair Weiss asked for input as to whether either of the town councils wished to vote on the agreement rather than voting at a later meeting.

Following discussion, the Councils and Board agreed to vote on the issue at the next regular meeting of each respective body.

3. Adjourn

Chair Weiss adjourned The Board of Supervisors meeting at 6:55 p.m.

Upon motion of Council member Kitselman, seconded by Council member McDonald, the Berryville Town Council meeting was adjourned at 6:55 p.m.

Mayor Roberts adjourned the Boyce Town Council meeting at 6:55 p.m.


Harry Lee Arnold, Jr., Recorder


Ann W. Phillips, Town Clerk

MINUTES
BERRYVILLE TOWN COUNCIL
PERSONNEL COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
October 24, 2016
9:00 a.m.

Committee members: Present- Erecka Gibson, Chair; Patricia Dickinson; Harry Lee Arnold, Jr.
Staff: Keith Dalton, Town Manager; Desiree Moreland, Asst. Town Manager/Treasurer; Neal White, Chief of Police
Press: Cathy Kuehner, Winchester Star

1. Call to Order

Chair Gibson called the meeting to order at 9:01 a.m.

2. Discussion - Planning Commission: Terms of two members expire 11/13/16

The Committee discussed the expiration of the terms of Planning Commission members Doug Shaffer and Dale Barton in November. Chair Gibson and Mr. Arnold agreed that both Planning Commission members Doug Shaffer and Dale Barton should be reappointed given their excellent service, education, and experience. Ms. Dickinson stated that the Committee needs to look at other people because there are others who want to serve and if they are not permitted to serve then interest in serving on boards will diminish. The Committee agreed to recommend to Town Council the reappointment of Doug Shaffer and Dale Barton.

3. Discussion - Berryville Area Development Authority: Term of member expires on 11/13/16

After a brief discussion, the Committee agreed to recommend to the Town Council the reappointment of Allen Kitselman to the BADA.

4. Discussion - Board of Zoning Appeals: Vacancy

After a brief discussion the committee agree to recommend to the Town Council that they recommend Wilson Kirby for appointment to the BZA.

5. Discussion - Development of recommendations for appointment to the Town EDAC

Ms. Dickinson presented the following slate of individuals for appointment to the Town of Berryville Economic Development Advisory Committee:

Elizabeth Mock (Berryville Main Street appointed member); Glen Poe; Ron Jones; Jerry Johnson; and Kara Rodriguez

Mr. Arnold asked why this committee was necessary given the Town's involvement in the Clarke County EDAC. Ms. Dickinson stated that the Town Committee was similar but different and would examine issues not addressed by the County Committee. She added that the Town Council had already decided to establish this committee therefore the discussion here was solely about the committee's membership. She said that because this was a newly established committee, the initial terms of the members would be staggered.

Mr. Arnold asked if a call for citizens interested in serving on the Town EDAC had been issued. Ms. Dickinson stated that it was known that the committee had been established by Town Council but that no further call had been made. She stated that she had no problem announcing that the Town Council was seeking citizens who were interested in serving in this capacity.

Mr. Arnold asked if the Committee intended to hold interviews for this board. Ms. Dickinson said that they could if they wanted to. Mr. Arnold stated that, if the Town is to have such a Committee, then it is very important to devote the time and energy necessary to appoint the membership. Chair Gibson agreed that talent should be sought and, if needed, interviews conducted prior to the committee issuing a recommendation to the Town Council.

The Committee agreed to meet next on November 22 at 9:00 a.m. The Committee directed the Town Manager to place a notice on the town's website regarding the Committee's call for citizens interested in serving on the Town EDAC. The Town Manager was also asked to provide the active talent bank forms to the Committee.

6. Discussion - Development of Market Basket for Salary Study

Chair Gibson recognized Mr. Dalton, the Town Manager. Mr. Dalton noted that staff had been requested to provide their thoughts on the "market basket" for a salary survey. He shared the list that he developed in concert with senior staff. He noted that such a survey will only go so far as job descriptions will vary significantly from jurisdiction to jurisdiction. Ms. Dickinson stated that the salaries and the specifics of the job description must be reviewed as a part of the analysis. Mr. Dalton stated that a consultant should be hired to perform this analysis along with the pay grade system sought by the committee. He noted that the time investment will be significant and that he foresees a situation where the results of such an analysis will be questioned because of staff's predisposition toward a particular conclusion. Mr. Arnold agreed, saying that this will be incredibly time consuming and should not be considered free because it is being performed by staff. Ms. Dickinson stated that she just wanted this analysis completed on senior staff, defined as the Town Manager, both Assistant Town Managers, the Chief of Police, the Director of Public Works, and the Director of Public Utilities. Mr. Dalton said that it was important to note that this push for salary information was good but if the political commitment was not made to fund the results then the process and the expense will be for naught. He stated that the resources should not be expended if Town Council was not committed to fund the results within a short period of time.

7. Discussion - Job Descriptions

Chair Gibson recognized the Town Manager who stated that this project has been delayed both by his workload and that of the Town Clerk. He noted that one job description was being re-written and was close to completion. Ms. Dickinson said that the salary survey portion their work can't be completed without updated job descriptions and that staff needed to focus on the senior staff descriptions.

8. Summary

Chair Gibson requested that staff keep focus on the updating of senior staff job descriptions. She also reiterated that the EDAC call needed to be placed on the website, and said the Committee recommends the appointment of Wilson Kirby to the BZA, the re-appointment of Allen Kitselman to the BADA, and the reappointment of Doug Shaffer and Dale Barton to the Planning Commission.

9. Adjourn

The meeting was adjourned at 9:58 a.m.

MINUTES
BERRYVILLE TOWN COUNCIL
BUDGET AND FINANCE COMMITTEE
Berryville-Clarke County Government Center
Regular Meeting
October 25, 2016
10:30 a.m.

Committee members: Present- Erecka Gibson, Chair; Patricia Dickinson

Staff: Keith Dalton, Town Manager; Desiree Moreland, Treasurer/Assistant Town Manager-Finance and Administration; Dave Tyrrell, Director of Utilities

Others: Allan McWilliams; Marilyn Pierce

Press: Cathy Kuehner, Winchester Star

1. Call to Order

Chair Gibson called the meeting to order at 10:30 a.m.

2. Discussion – Mapping of Internal Controls

Ms. Moreland stated that a draft RFP had been developed but had not been fully reviewed. Mr. Dalton stated that given the changes he wishes to make regarding the Police Administrative position, he would like to make sure that the job description had been changed prior to the mapping. He said that new Police Administrative Assistant job description would be ready within two weeks. He added that the draft RFP would also be ready within the same time frame of two weeks.

Mr. Dalton noted that the work load for the Town Clerk has increased significantly in the past few months. Additional and longer meetings have increased the time the Clerk spends on minutes and the number of FOIA requests have increased greatly. He noted that when he spoke to Ms. Dickinson about this that she stated that the Town might have to look at hiring a position to deal with FOIA matters. Ms. Gibson stated that she hoped things would calm soon and that no additional staff would be needed. Ms. Dickinson stated that we might need to look at temporary assistance to address the need. Mr. Dalton said that staff would examine whether contracting with someone to take minutes might be feasible.

Ms. Gibson stated that she wants to have a discussion with the entire Town Council regarding moving the RFP forward, including project funding. She noted that she would like to have this matter before the Town Council at its meeting on November 8. Ms. Dickinson added that the scope needs to be reviewed. Ms. Gibson stated that the funding source will likely be General Fund Contingencies. Ms. Moreland noted that, if approved, she would recommend that the payment in question be paid out of the Audit Services line item but that the funds would come from General Fund Contingencies.

3. Discussion – Tree Decorating Budget

Ms. Gibson explained that there is a request to increase the funds for tree decoration this holiday season. Ms. Dickinson explained some of Mrs. McDonald's reasons for wanting the increase. Ms. Moreland stated that the number of lights that the electrical system in place will support may be at its

limit. Mr. Dalton stated that he believed that this would not be an issue unless the increase was much larger than what he thought was being discussed because the Town was now using LED lights. Ms. Dickinson stated that she supports the improvement of the tree decoration because the park is the focal point of the Town's holiday celebration and that a good looking park helps business. Ms. Gibson stated that it may be a good idea but it is not budgeted. She stated that she would be much more comfortable if this discussion occurred during budget deliberations so all proposed expenses can be examined and prioritized. The committee agreed to not recommend the additional expense this year and examine the matter as a part of next year's budget.

4. Discussion – Town Contributions to Clarke County

M. Gibson asked Ms. Dickinson for her thoughts on this matter. Ms. Dickinson stated that the committee had a good meeting with the County. She stated that the Town has spent over \$1,000,000 on this matter since fiscal 1994. She stated that this is a County function and that the tax payers of the Town are paying more than their fair share. She said as such the current situation is not equitable and that she can find no justification for the Town's expenditure. Ms. Gibson stated that she agrees that this is a County responsibility. She also stated that the need for funding is real. She further stated that the County had passed their budget based on the expected Town contribution. Ms. Gibson concluded that the budgeted payment should be made and that this matter should be discussed as a part of next year's budget. Ms. Dickinson stated that the Town Council knew this was wrong but approved these expenditures because it was easy. She also stated that the County can address this reduction in funding.

Mr. Dalton stated that the Town Council funded the EMS position because units were not getting out to cover calls during the day. The Town Council partnered with the County to help provide coverage. He stated that he understood that the Town Council made the decision to make sure the residents of Town had EMS coverage during the day. He added that he did not think that the Town Council funded the position because it was easy but did so because they thought they needed to assist in this vital service. Mr. Dalton stated that the level of cooperation between the Town and the County has been great. He stated that when the Town and County cooperate, everyone wins but the Town taxpayers benefit the most. If the Town and County cease to work together at a high level, it is the Town taxpayers who will carry a heavier burden.

Ms. Dickinson agreed that cooperation was good but that this expenditure was not equitable. She noted that the Town taxpayers had spent \$1,000,000 on this line item since 1994.

Ms. Gibson stated that the need exists and must be paid for. She stated the Town should make the contribution as budgeted in the approved budget.

Ms. Dickinson stated she would support Ms. Gibson making the motion individually and not from the Committee.

5. Other

There was a discussion about the reports the Treasurer provides to the Town Council. Ms. Dickinson stated that she required additional information about variances in quarterly reports. She noted that there were several line items with significant variances and that there was no explanation provided by the Treasurer. She also noted that any item coded to Miscellaneous must contain an explanation. Ms. Gibson stated that she had spoken to the Treasurer and that any significant variance would be explained

by a note. Ms. Dickinson stated that any significant variance, as a percentage of the line item, needs to be explained. Ms. Gibson noted that certain expenditures occur all at one time and that can cause a significant variance. She also noted that small amounts of variance, even though significant as a percentage variance for that line item, need not be explained in every instance.

Ms. Gibson stated that the Budget and Finance Committee needs to develop guidance in this matter and forward a recommendation on the matter to the Town Council. The Committee agreed that Ms. Gibson would draft guidelines to be used in variance reporting.

6. Adjourn

The committee adjourned at 11:35 a.m.

Mr. Allan McWilliams asked if he could address the committee. Ms. Gibson stated that he could. Mr. McWilliams stated that the Council needed to use common sense when it came to variances in the budget because of the timing of both expenditures and expenses. Ms. Dickinson stated that the Town Council needs to know why the variances occur. Mr. McWilliams stated that the Town Council should know this information from review of the expenses.

Ms. Marilyn Pierce stated that she is a CPA and that footnotes are used when expenditures are significantly out of line and will cause a short fall in the budget but that noting every variance is not necessary.

Ms. Gibson noted that guidance that will be provided will call only for explanations for extraordinary expenditures that will push us out of budget.

Mrs. Pierce agreed with Ms. Gibson.

Ms. Dickinson stated that is what she wants.

The discussion ended at 11:41 a.m.

BERRYVILLE TOWN COUNCIL
Streets and Utilities Committee
Tuesday, October 25, 2016
Berryville-Clarke County Government Center
12:00 noon

MINUTES

Roll:

Town Council:

Present: Patricia Dickinson, Chair; David Tollett

Absent: Donna McDonald

Staff: Keith Dalton, Town Manager; Rick Boor, Director of Public Works; Christy Dunkle, Planner; Dave Tyrell, Director of Public Utilities

Press: Cathy Kuehner

1. Call to Order

Chair Dickinson called the meeting to order at 12:00 noon.

2. Discussion

The Committee and staff reviewed the status of the Battletown Drive water main project.

The Committee and staff reviewed the status of the Academy Court water main project.

Mr. Boor provided information regarding the newly completed water distribution system leak survey. He reported that the entire distribution system was surveyed and two small leaks were found. He reported that the two leaks have been repaired.

Mr. Tyrell reported on the planned installation of variable frequency drives on the water treatment plant's finished water motors. He stated that the reviewing engineer has recommended not installing the drives on the 30 year old pumps. Mr. Tyrell stated that he would review the matter further and would provide a recommendation regarding the expansion of the clear well or other measure.

Ms. Dickinson inquired about the status of the crosswalk at the intersection of Main Street and Hermitage Blvd. Mr. Dalton stated that he would have to speak with VDOT. Mr. Dalton asked Ms. Dickinson to confirm that she wanted the crosswalk west of the intersection with the crosswalk itself having an eastward slant, and the existing painted area serving as the refuge. Ms. Dickinson confirmed that was the desired configuration.

Ms. Dunkle inquired as to whether the School Board had approved the funding for a portion of the match for the crossing warning at the intersection of Buckmarsh Street and Swan Avenue. Ms. Dickinson said that she did not know and that she had expected School Board Chair Kochinsky to be in attendance at today's meeting.

Ms. Dunkle provided a briefing on the SRTS project and the additional funds being sought to complete the sidewalk demolition or what will be phase 2 of the project.

Ms. Dickinson stated that there is concern about the condition of the existing sidewalk.

Mr. Tyrrell provided an update on the membrane replacement proposal. The Committee agreed to have this matter placed on the next Budget and Finance Committee meeting agenda.

Ms. Dickinson stated that while she was in Europe she noted how much rainwater harvesting was being used. She said that this is the wave of the future and that we needed to move on this matter. Mr. Dalton stated that staff had this matter is under review.

Ms. Dickinson asked about the status of the Public Works building. Mr. Dalton stated that minor changes to the site plan needed to be approved by the County and that he hoped to be able to move forward on the project in the spring.

Mr. Tyrrell provided a briefing on work to wash and paint the elevated water storage tanks and to strip and paint the ground storage tank. He noted that mixing would also be addressed when the maintenance work is completed. Ms. Dickinson stated that she wants to review paint colors because we need to improve esthetics when we can.

The Committee discussed McNeil Drive. Mr. Dalton stated that he hoped that the street would be improved as a part of the development of a parcel served by the street. He noted that there were a lot of moving parts in this matter but he hoped that the street could be gotten to a point where it could be accepted into the secondary maintenance system.

3. Adjourn

There being no further business, the committee adjourned at 12:48 p.m.

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Work Session
October 31, 2016
3:00 p.m.

Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Donna Marie McDonald; Allen Kitselman; Erecka Gibson; David Tollett

Staff: Keith Dalton, Town Manager; Neal White, Chief of Police; Ann Phillips, Town Clerk

Press: Cathy Kuehner

Other: Robert Mitchell

1. Call to Order

Mayor Dickinson called the meeting to order at 3:05 p.m.

2. Discussion – Proffer Amendment

Mr. Mitchell provided an overview of the proffer process. He said that if approved, proffers become part of the zoning of a property. He distributed copies of the 2009 proffers which were the subject of the discussion, and said the property could not be developed as proposed because of the proffers that are in existence. He said the owner can apply for amendment of the proffers. He added that other property owners affected by the amendment must receive notice within 10 days of the amendment request. Mr. Mitchell concluded saying the Town Council must hold a public hearing on the proffer amendment and then act on the matter.

Mr. Dalton said that what he learned about the change in the law regarding proffers at a recent conference gave him concern about the amendment. He noted that the land owner says the proffers are illegal, and that does not bode well for the future.

Mr. Mitchell said the new law tightens how proffers are approved, but is not applicable in this case since the applicant is asking to amend the proffers which is clearly voluntary.

Mr. Kitselman asked Mr. Mitchell to speak to setting precedent as it related to the matter since the approval went outside the comprehensive plan. Mr. Mitchell said the text amendments apply to any property in OPR, and the state code authorizes amendments. He said there is no particular precedent set in regard to the proffers, although there may be in regard to the text amendments to the comprehensive plan passed earlier.

Recorder Arnold said it is odd that this matter is coming out now after the Council has voted on the text amendment. He asked when the proffer matter was learned of. The Mayor replied within the last week or two.

Mayor Dickinson said she understands the next step is the owner notifying the adjacent property owners by this Friday and give notice that he has done so. Mr. Dalton clarified that the property owners of the original parcel subject to the proffers are those who must be notified of the amendment application. Mr. Mitchell concurred.

Mr. Kitselman asked about the form of the verification of notification by the owner. Mr. Mitchell said it should be written and signed notification with names and addresses of recipients. He said the notice should be written notice of the application of amendment.

Mayor Dickinson asked whether Mr. Dalton and Mr. Echols were satisfied with the notification approach. She said she expected to receive the notification verification by the following Friday and planned to have the matter on the agenda at the November Town Council meeting.

Mr. Echols asked for a copy of what he is required to send out. There was discussion of the form letter used for such notification.

3. Discussion – Continuation of Berryville Area Development Authority

Mayor Dickinson said she had a discussion with David Weiss of the Board of Supervisors regarding the continuation of the BADA. She said the Berryville Area Plan has been updated and that 98% of the area has been built, the question is whether to scale back and eliminate the BADA. Recorder Arnold stated he wished to see the BADA continue as it is until the annexation area build out is complete. Council member Kitselman said eliminating the BADA leaves no eye on the future for growth and inquired whether the Town was finished annexing and growing. He said this is how the Town and the County work together and attempting to eliminate the BADA is another way of damaging relations with the County. He said without the BADA, there are two planning commissions instead of one completing the process.

Mayor Dickinson said there were several members of the Board of Supervisors that expressed an openness to examine how that agreement is structured. She asked if the agreement would need to be revised to include additional areas. Mr. Dalton said staff has discussed amending the agreement in order to include additional areas for annexation. Mr. Mitchell said the agreement is a unique arrangement because of the joint interest in planning the annexation area, and the BADA is an offshoot of the agreement. Mayor Dickinson inquired whether adding new land to the annexation area would lead to revising the agreement regarding the BADA. Mr. Mitchell said such a revision would include a minor part allowing the BADA to have authority over the new area.

Recorder Arnold said he preferred to keep things as is. Council member Kitselman said he preferred to keep the BADA to assist in future smart growth. Council member Tollett said he was not opposed to the idea of keeping the BADA.

Council member Gibson inquired about the advantage of not keeping the BADA. Mayor Dickinson said her idea is to simplify the close out.

4. Discussion – Appointment of a Town Attorney

Mayor Dickinson said she has spoken with other small town mayors and that many have Town Attorneys. She noted one town's RFP which defined the services they wanted from the Town Attorney including attending Council meetings, research, consult with staff, and preparation and review of contracts, ordinances, and policies. She said with so many things going on, it would be a good thing to have an attorney present to help the Council meetings.

Council member Gibson asked how much having a town attorney would cost. The Mayor said we already have money in the budget and instead of paying Mr. Mitchell to attend meetings, it would be covered in the service agreement cost.

Council member Kitselman questioned why having Mr. Mitchell was not adequate. The Mayor said she does not object to Mr. Mitchell, but she thinks having an attorney at every meeting would be invaluable. Council member Gibson asked whether the allotted budget would pay for the list of services read earlier by the Mayor, and the Mayor said she thought so. Mayor Dickinson said the Town already spends a lot on legal fees, and once quotations are in, she guesses the costs would be almost covered by the current budget amount.

Council member Kitselman said he recalled when the Town had a Town Attorney, and he was let go. Recorder Arnold said that there are many times when nothing requiring an attorney is on the agenda, and paying the attorney to sit through such meetings would cost money. He said he preferred to see the attorney on an as needed basis, and that it is not in the budget to have an attorney at every meeting.

Mayor Dickinson asked why the Town decided not to continue having the attorney. Mr. Dalton said the Council discussed the arrangement and determined it was better to end the arrangement. He said following that, the Town was working with Mr. Mitchell and decided to handle the need through his services when necessary. Mr. Dalton said the current situation sounds like the agreement the Mayor has discussed with the exception of having Mr. Mitchell attend all meetings. He said the Council had decided that was not necessary and was a cost saving measure.

Council member Tollett said the Town could not afford to have Mr. Mitchell at every meeting. There was further discussion of funding a Town Attorney.

Mr. Dalton said under the previous agreement with a Town Attorney, the Town was still billed at an hourly rate in addition to the contracted fee. He said his recommendation would be to explore locating supplemental legal services in the event that Mr. Mitchell is unavailable.

The Mayor said she hoped to put together a committee to discuss the idea. There was further discussion of contracting for legal services. Recorder Arnold said he is not interested in additional committees. Council member Tollett said it might be a good thing to have an attorney at the Planning Commission meetings, and suggested sending the matter to the Budget and Finance Committee.

The Mayor said she hoped to have the attorney attend all Town Council and Planning Commission meetings.

Council member Gibson said the thought of an attorney attending 12 Council meetings when only needed at a few of them is a waste. She inquired how often it was needed. The Mayor said it was also useful to have the attorney at meetings to make sure motions are handled correctly, and the process is legal and correct. Council member Kitselman said he thinks the Council can do those things for itself and does not need an attorney to run the meetings. He said the Council has an all-star on call now, and if the need is on the horizon, Mr. Mitchell will be in attendance. Council member Gibson suggested that when needed, most matters can wait while input from an attorney can be obtained rather than needing to be addressed immediately. Council member Kitselman agreed. The Mayor said having an attorney in attendance at meetings is important for good functioning of the town, and Council member Kitselman asked why she thinks so. The Mayor said there are instances when time matters. Council member Kitselman asked for examples. Mayor Dickinson said time limits are an example. There was a discussion of how often having the attorney in attendance and whether an opinion will be granted on a complex matter at a meeting. The Mayor said the RFP can be written so that the attorney will not attend each meeting. She said the feedback from all the little towns indicates having a town attorney is valuable.

Council member McDonald asked what is the urgency in hiring a Town Attorney. She asked how often this position will be utilized and whether it will pay for itself. The Mayor asked if the Council can explore the issue. Recorder Arnold said the Town does have an attorney and has never gone without legal representation.

There was discussion of exploring the option of an RFP for an attorney. Council member Gibson said she is not opposed, but feels the need to catch up on other projects. She said the issue is a question of timing and whether there is really a need for the service. Council member McDonald said the Council seems to be on a fast wheel that may not be taking it anywhere. She said one more project is overtaxing the office staff, and suggested tabling the issue until the next budget year.

Mayor Dickinson inquired when numbers would be needed for the next budget. Mr. Dalton replied they will be needed in a couple of months. The Mayor said the Council will look at the issue again in January.

Recorder Arnold said the budget numbers need to be studied and a decision on a tax increase needs to be made before proceeding on such a project. The Mayor said the issue will be brought up again in January.

5. Discussion – Committee Assignments

Recorder Arnold said Council member McDonald had mentioned the workload and he feels he is not doing his part. He said he needs to jump in and help because there are many things going on. He said nearly every committee member has multiple assignments. He said he is on one committee, the Personnel Committee. He said he asks the Council to appoint him to the Budget and Finance Committee at the November meeting. The Mayor said that according to the Town Code, it is the Mayor who appoints the committees. Council member Kitselman said the rule has never been used to sideline the Mayor's political opponents, and he thinks that is what is happening. Mayor Dickinson said anyone wishing to serve on a committee should come see her. Recorder Arnold said he thinks this should be a Council decision. The Mayor quoted the Town Code. Council member Kitselman said the Mayor does not have any more power than anyone else on Council. The Mayor referenced the Code. Council member Kitselman questioned the Mayor about appointing herself to every committee. Mayor Dickinson responded that she did not write the code. She said she would discuss committee assignments, but would not do so in the current meeting. Recorder Arnold said he wished to be on the budget and finance committee. The Mayor said she would take the request under consideration.

Recorder Arnold said that Ms. Gibson had recently stepped down as the Chair of the Personnel Committee. He said that he is currently on the committee and wishes to be appointed Chair of that Committee so that all Council members have equal chair assignments. The Mayor said she would discuss the matter outside of the current meeting. Council member Kitselman asked why the meeting was called a work session. Mayor Dickinson responded that this is an appointment the Mayor makes, and she thought it was inappropriate to discuss the matter in an open meeting.

Recorder Arnold noted that he was appointed to work on the MOU with the County on Economic Development and Tourism. He said the Economic Development Advisory Committee which the Mayor has planned is a duplicate and with staffing being short, he feels the committee is unnecessary. The Mayor said the committee had been created on a motion passed by Council, and if it is to be reconsidered, that should be addressed at the November meeting. Recorder Arnold suggested the Council members review the MOU and asked the Council for support on rescinding the motion creating the Committee.

Recorder Arnold referenced the Town Administration Policy Committee which requires three members of Council and Town Staff. He said he will ask the Council to rescind the motion on this committee also. He added that any policies needing review can be sent to the appropriate Committee already staffed and in existence. He said he sees no reason to staff another committee with the workload. Council member McDonald thanked Recorder Arnold for stepping forward and said she appreciated the experienced members being willing to serve. Council member Gibson said as Chair of the Budget and Finance Committee, she was not opposed to Recorder Arnold being the third committee member.

6. Discussion – Recording Policy

Recorder Arnold said the Council had voted to have a recording policy in order to assist the Clerk with the minutes. He said it was clearly stated that the recordings would be destroyed after the minutes were approved by the Council. Recorder Arnold said the Mayor's request for copies of the files has circumvented what the Council approved. The Mayor stated that she wished to have copies of the files before they are destroyed every month. Council member Kitselman said Council should re-visit the policy. Recorder Arnold said he would prepare to move to rescind the recording policy at the November meeting.

7. Discussion – Assisted Living Facilities

Recorder Arnold said he is concerned about the number of assisted living facilities in Town. He said he wants the Council to look at the existing facilities and any zoning for future facilities. He requested that Council send the matter to the Planning Commission for study and recommendation to Council regarding whether the Town has enough or needs more such facilities which, he said, place a burden on fire and rescue services. The Mayor said there are only three assisted living facilities in the County. Council member Kitselman and Recorder Arnold noted that all three are in Town. The Council discussed the Meridan facility, containing 65 beds, which is currently in the works and noted it would not be affected by any change.

8. Adjourn

There being no other business, upon motion of Council member Tollett, seconded by Council member McDonald, and passed unanimously, the meeting was adjourned at 4:15 p.m.


Harry Lee Arnold, Jr., Recorder


Ann W. Phillips, Town Clerk