

**MINUTES**  
**BERRYVILLE TOWN COUNCIL**  
**Berryville-Clarke County Government Center**  
**Regular Meeting**  
**May 9, 2017**  
**7:30 p.m.**

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

**Staff:** Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Desiree Moreland, Assistant Town Manager/Treasurer; Neal White, Chief of Police; David Tyrrell, Director of Public Utilities; Ann Phillips, Town Clerk

**Press:** Cathy Kuehner

1. Call to Order

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

2. Pledge of Allegiance

3. Approval of Agenda

**On motion of Council member Tollett, seconded by Council member Gibson, the agenda was approved unanimously.**

4. Public Hearing

The first four items for public hearings were treated as a single topic for the purposes of the public hearing.

- a. *An amendment to Chapter 9 Future Land Use and the Future Land Use Map of the Berryville Comprehensive Plan to modify future land uses from DR-2 Residential to Open Space Residential (OSR) on the parcel identified as 14-((A))-10. Rezoning of a portion of this parcel through expansion of the OSR District is currently under consideration.*
- b. *William Genda, Owner, is requesting a rezoning of a portion of one lot located at 16 Rosemont Manor Lane, identified as Tax Map Parcel number 14-((A))-10 consisting of 1.0 acre of additional Open Space Residential (OSR) Zoning from Detached Residential-2 (DR-2) zoning. RZ 01-17*
- c. *An amendment to the Zoning Map of the Town of Berryville reconfiguring the zoning of one parcel on Rosemont Manor Lane to include additional Open Space Residential (OSR) zoning from Detached Residential-2 (DR-2) zoning.*
- d. *William Genda, Owner, is requesting authorization to expand Special Use Permit SUP 02-09 uses per Section 503.1(c) of the Berryville Zoning Ordinance in order to increase activities related to the Country Inn use on the parcel identified as Tax Map Parcel number 14-((A))-10 within the Open Space Residential (OSR) Zoning District.*

The public hearing speakers were:

William Genda, the applicant, explained his plans for adding a larger reception center on the property at the Historic Rosemont Manor. He said his current reception center has a small capacity and he wishes to be able to house larger gatherings while keeping noise away from the adjacent neighborhood in an enclosed structure, saying that currently larger parties are held in tents on the property. He added that he will keep the smaller reception area for flexibility.

There being no further speakers, the public hearing was closed.

- e. *Proposed amendment to Section III of the Schedule of Water and Sewer Fees and Charges, which became effective on June 24, 2015, in order to reduce the per unit water availability fee for Multi-Family units from 90% of the Single-Family Residential rate to 80% of the Single-Family Residential rate. Currently, the Single-Family Residential rate is \$5,250 therefore the Multi-Family rate is \$4,725. If the proposed amendment is adopted the Multi-Family per unit rate would be reduced to \$4,200.*

The public hearing speakers were:

George Ohrstrom, Town property owner, read a prepared statement (attachment A) in opposition to lowering the availability fee prior to the fee schedule being studied.

Maria Esparolini, Town resident, read a letter from William Steinmetz asking the Council not to reduce the fees for a developer. She said that the Mayor and Council members Gibson and McDonald ran on a platform of lowering water and sewer fees and taxes. She said that by lowering the rate for multi-unit developers, the Council was taking money out of the pockets of all the other Town residents. She asked the Council to honor the commitments made when running for office and not give the developer a tax break.

Lonnie Grimes, Town resident, said he was reiterating the earlier comments. He asked the Council to let the availability fee study go forward. He said the developer says he wants to help the Town, but is hurting the Town by asking for cuts.

Jean Paul Wrye, Town resident, said that the cash incentive of \$525,000 is very high and that a study should be done before deciding to give the incentive. He suggested that perhaps a rebate is due to the single family home owners.

Barry Nicholson, Town resident, said he was a Council member for 10 years and served on the Planning Commission adding that he knows more about this issue than many of the Council members. He said the Council is doing something foolish and irresponsible by voting on something before studying the issue. Mr. Nicholson said that the County and the Town have worked together for many years and now that is not happening and it is tearing the fabric of the whole community. He asked the Council not to vote before studying the issue.

Anne Caldwell, County resident, read from a prepared statement (attachment B) in opposition to the reduction of the availability fee.

Dot Rohde, Town resident, said she was adding her voice to those of the previous speakers in opposition to the amendment of the water and sewer fee for multi-family housing. She said water and sewer costs are high, have not gone down, and are shared by all the residents of the community. Ms. Rohde said that this is the price of living in a small community. She said a gift to one member of the community on the backs of all the others is ludicrous and defies the responsibility of the Council who represent her.

Dan Garrett, Town resident, read from a prepared statement (attachment C) in favor of the reduction of the availability fee. Mayor Dickinson noted the speaker's time was up. Mr. Garrett appealed for more time saying the applicant had not spoken yet. Mayor Dickinson said there was no application for a change in fees. Mr. Garrett concluded his remarks.

Bradly Braithwaite, Town resident, said the developer's poor budgeting is not the problem of the Town's people, and that it is inappropriate to make a sales pitch to a government entity.

Robina Bouffault, County resident, said she is on the County Planning Commission and on the board of the Shenandoah Area Agency on Aging. She referenced the previous speaker's comments about the 120 unit project not being built unless the fee is reduced by \$63,000 and said that it sounds like blackmail. She said giving an exception to one person smacks of cronyism and conflict of interest, and is against the best interests to the Town and County.

William Genda, Town property owner, said the water bill at Rosemont is high. He said he is in favor of the senior housing units, and with the extra money coming in a cost analysis can be done and maybe everyone's rates can be lowered.

Alton Echols, Town resident, said he is the owner of the property and not the developer of the property. He said the 80% rate is still unfair for multi-family housing, and is used to keep out multi-family housing. He said that the Town needs to get the capacity of water use up or rates will continue to rise. He said many people have tried to kill his project over the years.

There being no further speakers, the public hearing was closed.

*f. Proposed Budget for Fiscal 2018*

The public hearing speakers were:

Harold Rohde, Fire Chief of John H. Enders Fire Company & Rescue Squad, thanked the Council for the consideration of a budget increase in the stipend to Enders Fire & Rescue and the budget line item for creation of a capital improvements equipment account. He said he was glad the Council appreciates hard work and understands the value of the service provided by the Enders organization.

There being no further speakers, the public hearing was closed.

**6. Approval of Minutes**

**The minutes of the Town Council meeting of April 11, 2017, were approved unanimously on a motion by Council member Tollett and seconded by Council member Gibson.**

7. Citizens' Forum

The speakers were as follows:

Daniel Garrett, Town resident, said he hears a refrain that favoritism is being shown to one developer. He said that Mr. Echols is not the developer, he is the land owner and there are others who are the developers. He said the decision on the \$63,000 tonight will set a precedent in that the new residents will be making up that difference in taxes and he asked the Council to do the right thing.

Harold Rohde, Town resident, expressed appreciation for the Public Works crews for quickly repairing a water line break that he had reported.

Jean Paul Wrye, Town resident, said \$20,000 spent studying the fee schedule would be better spent than the \$63,000 in reduced fees which he referred to as a bit of a bluff. He urged the Council members to take their time and not be blackmailed by scary words.

Alton Echols, Town resident, said that the three minute speaking time during the public hearing allowed him only enough time to scratch the surface of his topic. He said that workforce apartments are part of the issue also. He said the Town is unaffordable for most home buyers because of the availability fees. He said this public hearing was about exclusionary zoning and excessive tap fees.

Barry Nicholson, Town resident, said that Mr. Echols' remarks about taxes are incorrect. He said that the general fund and water and sewer revenues are in different funds, and that taxes were not raised because of water and sewer. He said that Mr. Echols is a smart man and often badgers Councils, and if he does a good job, he gets paid with the money coming from the rest of the residents.

Stephen Lily, Town resident, provided an analogy referring to the capacity of the Town water system. He said that running the system at lower capacity uses fewer resources.

8. Report of Patricia Dickinson, Mayor

Mayor Dickinson noted the Tree Board identified in the Town zoning ordinance and briefly described its charter. She proposed the following slate of appointees for the Tree Board:

Julie Abrera, Bryant Condrey, and Kara Rodriguez each to a four year term  
Kathy Birch and Sharon Strickland each to a two year term

The Council discussed the Tree Board. The Mayor said that since there were no objections, the slate of appointees was confirmed.

Mayor Dickinson discussed the Memorial Day celebration scheduled for Sunday, May 28.

The Mayor clarified her position on her voting ability following a newspaper article after a previous Council meeting. She said that she is entitled to vote as a member of the Council according to the Town charter. She said parliamentary procedure indicates that the Chair has a duty to maintain the appearance of impartiality but may vote when his or her vote will affect the outcome. She said that while she may choose not to vote when her vote will not affect the outcome, she still has the right to vote.

9. Report of Harry Lee Arnold, Jr, Recorder

Recorder Arnold had nothing to report.

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

Ms. Dunkle noted the motions included with the information from the public hearings held earlier in the meeting.

Recorder Arnold moved that the Council of the Town of Berryville approve the Future Land Use Map Amendment to align with the attached rezoning exhibit allowing the expansion of the Open Space Residential zoning district on the parcel identified as Tax Map Parcel number 14-((A))-10. Council member Kitselman seconded the motion which carried as follows:

- Aye: McDonald, Kitselman, Gibson, Tollett, Arnold
- Nay: None
- Abstain: Dickinson
- Absent: None

Council member Gibson moved that the Council of the Town of Berryville approve the rezoning request as identified on the attached exhibit, increasing the Open Space Residential (OSR) zoning district by 1.0 acre on the parcel identified as Tax Map Parcel number 14-((A))-10. Council member Kitselman seconded the motion which carried as follows:

- Aye: McDonald, Kitselman, Gibson, Tollett, Arnold
- Nay: None
- Abstain: Dickinson
- Absent: None

Recorder Arnold moved that the Council of the Town of Berryville approve an amendment to modify the Zoning Map in order to expand the Open Space Residential zoning district on the parcel identified as Tax Map parcel number 14-((A))-10 as reflected on the attached rezoning exhibit. Council member Kitselman seconded the motion which carried as follows:

- Aye: McDonald, Kitselman, Gibson, Tollett, Arnold
- Nay: None
- Abstain: Dickinson
- Absent: None

Council member Gibson moved that the Council of the Town of Berryville approve the expansion of special permit uses under SUP 02-09 in order to expand Country Inn activities within the Open Space Residential (OSR) zoning district on the property identified as Tax Map Parcel number 14-((A))-10. The original conditions set by Council will apply to the expanded uses. Recorder Arnold seconded the motion. He noted that this is an occasion that shows why the special use permit is so important because it allows the Council to retain the ability to have oversight of activities on the site. The motion carried as follows:

- Aye: McDonald, Kitselman, Gibson, Tollett, Arnold
- Nay: None
- Abstain: Dickinson
- Absent: None

Ms. Dunkle reviewed her staff report included in the agenda packet.

11. Report of Keith Dalton, Town Manager

Mr. Dalton noted a draft agenda for the June 5 work session has been distributed for review.

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

The minutes of the May 8, 2017, meeting were approved.

Ms. Gibson noted that the auditors who conducted the Internal Controls audit will present the final audit report at the June 13 Council meeting.

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

The minutes of the April 24, 2017, meeting were approved.

Ms. McDonald said the Committee had discussed the upcoming painting of the water tanks. Mr. Dalton noted the current water equipment testing saying it is simulating the conditions that will exist when the water tanks are each out of service for the scheduled painting. He said the project will continue over the next 18 months and has been budgeted over the next five years. The Council and staff discussed the color palette and the options for adding text to the northwest elevated tank. It was agreed that final mock ups will be distributed to the Council with a decision required by the next Council meeting to meet the contractor's deadline.

14. Report of David Tollett – Police and Security Committee

The minutes of the April 27, 2017, meeting were approved.

Council member Tollett noted the Skyline Regional Criminal Justice Academy has been officially chartered. He said the next Committee meeting will be May 24, 2017.

The meeting was recessed for five minutes.

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

The minutes of the Committee meeting of April 25, 2017, were approved.

Mayor Dickinson noted the item in the Committee minutes in reference to whether to issue an RFP or use the currently contracted engineer for review of the availability fee schedule. The minutes state that Mr. Dalton would request Council's direction on the desired way to proceed at the present Town Council meeting. Mr. Dalton said that Pennoni's services are already procured and they could proceed with the review under the current contract, or the Town could issue an RFP. Ms. Gibson asked if Pennoni had supplied an estimated cost of the review. Recorder Arnold said he did not think it was right to get an estimate from Pennoni and then put out an RFP on the job, adding that Pennoni is already the Town's contractor and it may affect future work. Mayor Dickinson said the matter is two faceted: the engineering piece and the financial analysis. She said the RFP would allow the Town to know exactly what it is requesting, what the deliverables are, and whether a firm can do both tasks, or whether different firms would be needed to do both. Recorder Arnold said that before issuing an RFP, it should be determined if the current contractor can do both tasks. He said it appears that some Council members did not like what the current engineer had said and so want to go outside to get a different view. Mayor Dickinson said that was not her motivation, and that she equates it to the recent RFP process for the financial audit that was clearly defined and priced. Mr. Dalton noted that if the current engineer is used, a work order process and a scope of work would be established. Mr. Dalton said that Pennoni was a large firm, and he thought they could do the entire review process. Mr. Tyrrell, Director of Public Utilities, agreed, and said he would be very surprised if Pennoni could not complete the full review process. Mayor Dickinson said this is not typical engineering work, and asked if there was a

scope of work when Pennoni was originally contracted. Mr. Dalton said that the contract was for general engineering services, and that he recalled that Mr. Sutherland of Pennoni had noted that the firm routinely conducts availability fee schedule reviews.

Recorder Arnold said the Town is using Pennoni to review all the projects coming before the Council and it doesn't make sense that Pennoni is not good enough to use for a water and sewer fee study. Mayor Dickinson said that she is casting no aspersions on Pennoni, but that she thinks an RFP is an appropriate approach. She said she wants the Council to be clear on the scope of work, the deliverables, and the price of the work. Recorder Arnold said that Pennoni should be asked if they can do the work. Council member Gibson said that she was in favor of Pennoni being asked if they can do the work. Council member Kitselman said an RFP would elongate the process of getting the review done, and added that \$20,000 has been budgeted. Recorder Arnold said the study may cost more than \$20,000. Mayor Dickinson asked Council member McDonald if she had an opinion. Council member McDonald had no opinion on the matter adding she was satisfied with Mr. Sutherland's previous visit.

The Mayor provided a summary of the consensus of Council saying that the first step is to create a scope of work with deliverables defined, then send it to Pennoni and inquire if they can do the work, and if they can complete the work not to exceed \$20,000. Recorder Arnold asked that the scope of work be sent back to Council before being sent to Pennoni.

Mayor Dickinson said the Committee is reviewing the option of solar powered crosswalk signs under a VDOT revenue sharing agreement and an agreement with the school board.

Mayor Dickinson introduced the topic of water and sewer availability fees. Recorder Arnold yielded the floor to Council member McDonald at the Mayor's request since Council member McDonald had made the original motion concerning reduction of the multi-family rate. Council member McDonald recapped her actions at the previous Council meeting. She said she had made the motion regarding reducing the rate from 90% to 80% on multi-family housing units. She said everyone wanted to send the matter for public hearing. She said the public hearing was held during this meeting, and the motion was to come back to the Council now.

Recorder Arnold said the senior housing project has already been approved, and this vote will not affect the project. He said if the Council does nothing at all, it does not stop the project. He said the project would only be stopped if the developer or the owner of the land decided not to move forward. Recorder Arnold said the majority of Council had gone against the Berryville Area Plan by raising the number of multi-family units and removed the special use permit requirement. He said the project was ready to go and then the proffers had to be changed by Council, and then it was ready to go again, and now the availability fees are too high. He said the Streets and Utilities Committee raised the idea of lowering the fees by \$525,000. Recorder Arnold said the Council keeps hearing about the tax revenue generated by the project, but in reading the Patz Study, it appears the revenue increase will be in the \$33,000 range. He continued saying that nothing is stopping this project, and it could have been built adding that it had previously been approved in 2009 but was not built then.

Recorder Arnold noted the \$150,000 proffer saying that it had been offered freely and was never sought or negotiated by Council. He said now it is being brought up and Council is being told that Enders will not get the money if the fee reduction is not approved.

Recorder Arnold referenced the expected availability fees of \$686,000 for the 120 unit senior housing project and said that revenue would go into the water and sewer funds, and would not be divided among the residents or lower water and sewer rates.

Recorder Arnold said after hearing the public speak, the residents want the study to be done before Council votes on the rate change. He said the housing project has been approved and can move forward. He added that \$63,000 will not make or break this project. He said the rates were public when the project was applied for, and that when Marlyn Corporation had applied earlier, the availability fees had never been cited as a problem. He concluded saying he was not in favor of this reduction happening before the fee schedule is studied.

Council member Kitselman said he agreed with Recorder Arnold and the many public speakers heard earlier. He said reducing the rate will compound the really bad precedents that have been set in dealing with this project. He said if the Council votes for this, it will be lowering rates for a specific project for a specific developer, which he compared to a hole big enough to drive a Mack truck through for future developers. Council member Kitselman said this would be encumbering future Councils with precedent and begged the Council not to set such a precedent. He urged the Council to follow the proper process and wait for the study before voting on the matter. He said he understands that some members of Council think the 120 unit project is a good project, but that the Council members must look past this project and do their jobs responsibly and not set a precedent for future generations.

Council member Tollett noted the current structure and the mandate to build the waste water treatment plant and the resulting debt service. He said the Town's sum total water and sewer availability fees are the most expensive in the valley for residential, and the current structure discourages economic development because of the expensive larger meter sizes for larger water users, adding that the challenge in setting rates after the study will reflect the Council's philosophy related to growth. He questioned whether or not the Council wants to encourage economic development and broaden the tax base. Council member Tollett said he did not believe he had adequate information in order to move on the fee reduction issue, and that taking action now would probably mean the issue would have to be addressed again after the study. He concluded by saying that the question of where the Council wants the Town to go in the future needs to be resolved before the new fee schedule is set. He suggested that the members discuss the issue at a work session to determine priorities on where the Town should go in reference to growth, tax relief, and broadening the tax base.

Mayor Dickinson asked if Council member McDonald wanted to speak. Council member McDonald said she was ready to vote on the motion.

Council member Gibson said she has received phone calls and has listened. She said looking at the water and sewer fees should have been done before the Council was asked to approve the senior housing project so that the issues could be addressed separately. She said she has a hard time believing that \$63,000 will make or break this project. She said when the issue came up, a lot of methodology was provided and the figure used was always 80%, so she is not sure why the Town uses 90%. She said she can't pick a side, and that the issue has not been approached the right way. She said she needs to know why the Town uses 90%. Council member Kitselman asked if that is why the study was being done. Council member Gibson said for this vote she would have to abstain. Council member Kitselman asked if she would feel that way even in the face of setting a precedent. He asked again about the study. Council member Gibson said the study was being done for all the rates, not just the multi-family rate, and that she would have to abstain.

Council member McDonald said that the Pennoni engineer said the average norm is 80% and there is no clear decision on why the current number is 90%. She said her main concern is the Council is stonewalling, and the vote needs to happen. She said she was delighted by all the comments during the hearing, and the vote needs to be called.

Mayor Dickinson said she wished to clarify some of the facts that had been swirling around and the intentions that had been attached to those facts. She said there were two previous attempts to build the senior housing project: the first time the availability fee schedule called for the fee to be set by the meter size, and the second time, the fee was set per unit but the Council had instructed Mr. Dalton to work with the developer to come to an agreement to set the fees. She said the 37% capacity is overlooked, and she does not think the Council should make a decision to punish or profit from an individual. She said the water and sewer plants are a huge fixed cost and the only way to reduce costs is to add users. She said since the 90% rate went into effect, no multi-family units have been built, adding that this is evidence that the Town rates are too high. She said the individual needs to be taken out of the equation and Council should ask what needs to be done for the Town. Mayor Dickinson said she would like to see the rate changed today but understands the hesitation because she doesn't know whether 80% or 90% is a good number and the issue is complex. She said she reluctantly would wait for the study but that it will cost the Town in the long run. She said if the Council jeopardizes the senior housing project, the Town will be losing increased capacity, a significant amount of availability fees, and significant amount of usage fees. She added that she hopes the senior housing project can move forward without a change in the availability fees.

Council member McDonald said she is not reluctant to move ahead and vote and make a decision. She said she does not see putting off the decision any longer in hopes of getting someone to tell the Council something new. She said the 120 unit project keeps getting pushed back and soon will be pushed right out.

The Mayor said that a motion is needed before a vote can be taken.

Recorder Arnold asked to discuss before the motion was made. He said he takes exception to Council member McDonald's use of the word stonewalling because it is not the case. He said the Council approved the project based on what it was faced with. He said the applicant wanted 120 instead of 60, and Council approved it. He said the applicant wanted no special use permit, and the Council approved that, and the applicant wanted to change the proffers and the Council approved that. Recorder Arnold said now the issue of availability fees has come up. He said that the builder and or the developer knew the availability fee rates from the beginning of the project. He disagreed with the notion that Council has caused any delay in the project.

Recorder Arnold noted that Council member Kitselman has expressed concern over voting on the issue. He said he appreciated the passionate speech from Council member Tollett, and Council member Gibson spoke similarly. He said if no motion is made then no vote has to be taken and no one has to abstain.

Council member McDonald said she would like to take a vote. Mayor Dickinson said that a motion was needed before the vote. Council member McDonald moved that the Council of the Town of Berryville adopt the revised Schedule of Water and Sewer Fees and Charges Effective May 10, 2017. Mayor Dickinson said hearing no second, the motion could not move forward.

16. Report of Harry Lee Arnold, Jr. – Chair, Personnel Committee

The minutes of the Committee meeting of April 25, 2017, were approved.

Recorder Arnold moved that the Council of the Town of Berryville recommend to the Clarke County Circuit Court the appointment of Margaret Barthel to the Town of Berryville Board of Zoning Appeals for a five-year term ending May 9, 2022. Council member Kitselman seconded the motion which carried unanimously on a voice vote.

Recorder Arnold moved that the Council of the Town of Berryville recommend to the Clarke County Circuit Court the appointment of Wilson Kirby to the Town of Berryville Board of Zoning Appeals for a five-year term ending June 12, 2022. Council member Kitselman seconded the motion which carried unanimously on a voice vote.

Recorder Arnold moved that the Council of the Town of Berryville recommend to the Clarke County Circuit Court the appointment of Gwen Malone to the Town of Berryville Board of Zoning Appeals for a five-year term ending May 9, 2022. Council member Kitselman seconded the motion which carried unanimously on a voice vote.

Recorder Arnold moved that the Council of the Town of Berryville re-appoint Leland E. Williamson, Jr., to the Berryville Architectural Review Board for a four-year term to commence July 1, 2017, and ending June 30, 2021. Council member Kitselman seconded the motion which carried unanimously on a voice vote.

Recorder Arnold noted that when the Board of Directors of Barns of Rose Hill was established, positions were placed on the Board as liaisons to both the Town Council and the County of Clarke. He said former Mayor Wilson Kirby served in this capacity. **Recorder Arnold moved that the Council of the Town of Berryville appoint Donna Marie McDonald to the Board of Directors of the Barns of Rose Hill as liaison to the Town for a three year term ending May 8, 2020. Council member Gibson seconded the motion which carried unanimously on a voice vote.**

17. Adjourn

There being no other business, upon motion of Council member Tollett, seconded by Council member Kitselman, the meeting was adjourned at 9:53 p.m.

---

Harry Lee Arnold, Jr., Recorder

---

Ann W. Phillips, Town Clerk

Remarks submitted by George Ohrstrom at the May 9, 2017 Town Council meeting

Madam Mayor, Members of the Council.....

My name is George Ohrstrom and I appreciate the chance to come voice my opinion on this issue. Although I speak as a private citizen tonight; I should let you know that I'm the Chair of the Clarke County Planning Commission, a member of the Berryville Area Development Authority (The BADA) , and also a member of the Clarke County Easement Authority. I know a fair amount about local planning efforts in both Berryville and Clarke County, and I've become concerned as I've watched some recent dubious decisions by the "new" town administration.

We, the members of the BADA and town and county staff, spent the last few years re-doing the Berryville Area Comprehensive Plan, and I'd like to think we did a pretty good job. I know that because we all thought it was a bad idea to give up all housing options in favor of senior multi-family apartments, we have been tarred with the brush of being anti Senior housing, but I don't think that's really very accurate. We did think it was a bad idea to turn Berryville into a predominately Senior town just as it would be stupid to exclude any population demographic. We need a vibrant community with all age groups represented; and we need a choice of housing stock for all groups.

I will tell you ,however, what is a REALLY BAD idea in any kind of Planning context, and that is to change rules "on the fly" in order to facilitate one particular proposal or one particular developer. That is what has been going on here for the last year; commonplace good planning practices like Special Exception Permits that allow local Planning bodies to make sure proposals match Comprehensive Plans have been abandoned in favor of "by right" rules that eliminate oversight entirely.

We've all seen this happen in other jurisdictions around here, and the results have ruined some pretty nice communities. I see the powers that be are now suggesting a reduction in the water and sewer fees in order to lower development costs for a specific project, even though the Town Council has included the cost of a study of these fees in its next budget cycle. That strikes me as truly irresponsible. Why not let the study happen and find out what the real effects are of changing the fees? Any change now will certainly effect the tax rates that fund the water and sewage activities in Berryville, and I believe the town is still paying for the last upgrades to the system.

Please stop changing rules on the fly, and go back to the careful and deliberate Planning practices the town and county had in place. Remember that Berryville and Clarke County have been a model throughout our Commonwealth of an effective Planning partnership between town and County entities. Other jurisdictions have wondered how we were able to keep our 30 year cooperation vibrant. Let's not lose it now; and Please remember that everything one does sets a precedent.

400 Riverview Farm Lane  
Bluemont, Va 20135  
May 9, 2017

Berryville Town Council  
Berryville, Va 22611

To Town Council Members:

I am opposed to the current proposal to reduce the availability fees for multifamily housing, prior to the already scheduled technical evaluation of same, for the following reasons.

1. The members of the Town Council represent all the citizens of Berryville, not just one citizen who has the only multifamily project currently in the works.
2. This proposal will effectively result in a financial gift to one citizen, ultimately paid for by the remainder of Berryville taxpayers.
3. Voting yes on this proposal will perpetuate and exaggerate any alleged ethical lapses of catering to one developer on Town Council decisions.
4. A yes vote would make a mockery of local government planning, regulations, and financial prudence, setting a disastrous legal precedent.

Please vote no on this proposal.

Sincerely yours,

A handwritten signature in cursive script that reads "Anne Caldwell".

Anne Caldwell

### Comments on Public Hearing to set Multi-family accessibility fees at 80% of Single Family Units

The long-term dream of providing affordable housing for seniors in Berryville, that I and many others including many of you on Council have advocated, is very close to reality, notwithstanding some recent uncertainty over rising interest rates and the status of tax credits with the new administration in Washington. Last month I indicated to you that a builder, who the land owner and I have been in discussions for some time, indicated that the change to the 80% rate for multi-family units could potentially make the project financially feasible.

Our current fee schedule for multi-family units patterned after Fairfax County was set at 89% of the single family rate [although Fairfax County was 80%]. Frederick County recently set its rate at 80%. Our current fee is \$4,725 per unit. We have requested that you reduce that fee to \$4,200 per unit. That is a reduction of \$63,000. Let me put that figure in perspective. This change would provide a total of \$686,000 in accessibility fees to the town for the 120-unit project. To disallow this request is not a matter of \$63,000, but risks the loss of \$686,000 if the project is not built.

For \$63,000 do you want to risk \$686,000? In addition, why would you want to walk away from a proffer to the town of \$150,000 for emergency services? It is illegal for a town to require such proffers. But Mr. Echols has freely offered such to you, and you would want to walk away from such a gift?

The fiscal impact studies provided to you previously by the developer Marlyn Corporation and the Patz group show that this project would bring tax revenues of \$65,200 to the town and \$216,000 to the County. My question to you as Town Councilors and County Supervisors is: do you want to walk away from \$281,200 in tax revenues per year? Tonight we're not talking about a give-way of \$63,000. What we're actually describing is walking away from \$967,000 the first year this project is built and \$281,000 in taxes every year after. If I had more than 3 minutes tonight I'd be happy to also talk about ongoing user fees from these residents; added consumers to town businesses; desirable growth controlled and confined to specific areas; not to mention the unexpected gifts and graces of people who choose to live in this community.

It's not worth \$63,000 to jeopardize all that!

A final reminder to you from the Virginia Code on Affordable Housing:

- Mandates “the designation of areas and implementation of measures for the construction, rehabilitation and maintenance of affordable housing.” ¶15.2-2223.
- Mandates “cooperation in undertaking housing projects” including “making exceptions from building regulations and ordinances” and to “do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects.” ¶36-6.

What we ask of you tonight is not a handout – not a give-away – but a simple request consistent with the Sate Code, fiscally prudent by every conceivable measure, and significant in helping the town of Berryville meet its financial obligations.

Rev. Dr. Daniel L. Garrett, 9 May 2017

**BERRYVILLE TOWN COUNCIL**  
**Budget & Finance Committee**  
**Monday, May 8, 2017**  
**Berryville-Clarke County Government Center**  
**10:30 a.m.**

**MINUTES**

**Roll:**

**Town Council:**

Present: Erecka Gibson, Chair; Patricia Dickinson

**Staff:** Keith Dalton, Town Manager; Desiree Moreland, Treasurer; Ann Phillips, Town Clerk

**Others:** Betsy Hedrick and Melissa Brohan of PB Mares via telephone

**Press:** None

1. Call to Order

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

2. Discussion – Internal Audit of Cash Disbursements and Procurement

Ms. Gibson stated that she was pleased with the product and thanked PB Mares for their work. She also thanked Town staff for the time and effort spent on the internal audit. She provided a few minor corrections to the draft audit report document.

Ms. Dickinson requested clarification of a few items in the report. She noted that the review revealed no unauthorized purchases. She inquired about the next steps in auditing as recommended by the PB Mares staff.

Ms. Gibson proposed having the Town Manager and Treasurer review the audit report and then draft a response addressing the recommendations in the audit. Ms. Dickinson agreed and added that she foresees the Budget & Finance Committee writing finance policies to present to the full Council.

The committee discussed increased costs in meeting the recommendations in the audit report as well as adding money to the budget to fund having PB Mares adjust the document after staff has made changes in policy and procedure. PB Mares staff recommended that if any further audits be completed they should be payroll, year-end close, and budget preparation.

It was agreed to ask Town Council members to provide any comments to the Town Manager by May 31, and that PB Mares would supply bound copies of the final report by June 8 for inclusion in the agenda packet for the June 13 Town Council meeting. PB Mares staff confirmed their attendance at the June 13 Town Council meeting to present the final audit report.

PB Mares staff left the meeting.

The Committee and staff continued discussing costs of addressing the recommendations in the audit report. Mr. Dalton noted that he is not in favor of the Town Procurement Policy being changed so as not to be in accord with the State Procurement Policy. He said that it is more cost effective and safer for the Town policy to mirror the State policy.

3. Adjourn

There being no further business, the meeting was adjourned at 11:35 am.

**MINUTES**  
**BERRYVILLE TOWN COUNCIL**  
**COMMUNITY IMPROVEMENTS COMMITTEE**  
**Berryville-Clarke County Government Center**  
**Regular Meeting**  
**May 22, 2017**

**Committee members:** Present- Donna Marie McDonald, Chair; Allen Kitselman

**Staff:** Keith Dalton, Town Manager; Christy Dunkle, Planner; Ann Phillips, Town Clerk; David Tyrrell, Director of Public Utilities

**Press:** None

**Others:** None

1. Call to Order

Chair McDonald called the meeting to order at 7:00 p.m.

2. Approval of Agenda

The agenda was approved with two additions.

3. Discussion- Water Tank Color Selection

The Committee and staff discussed the paint color options for the elevated water tanks, as well as the additional cost for adding graphic text to the northwest tank and the source of funding the additional cost. The Committee agreed to forward to the Council the choice of 'Warm Sun' for the elevated tanks and the choice of 'Red' for the optional text on the northwest tank.

4. Discussion – Conservation District – Josephine Street

The Committee and staff discussed the idea of an historic conservation overlay district for Josephine Street. Ms. Dunkle noted that the Town Historic District does not have design guidelines, saying that they should be developed before the creation of an additional district. Mr. Kitselman said it was time to start a conversation about the subject.

Ms. McDonald said she was concerned about the proposed pavilion on the lot owned by the Josephine Improvement Association, and what the project might become. Ms. Dunkle said the matter was still in the review process, and that she has explained the permitting process to the Habitat for Humanity representative.

5. Discussion – Livery Stable

The Committee and staff discussed the Town owned livery stable behind 23 East Main Street. It was agreed that Mr. Kitselman will provide an update at the next committee meeting on the recommended scope of services that should be included in the RFP for the engineering review.

6. Discussion – Landscaping on Page Street

Ms. McDonald said she is the president of the HOA for the neighborhood on Page Street, and referenced a project that enclosed an open ditch on Page Street. She asked who owned the median. Mr. Dalton said there had been a revenue sharing project between VDOT and the Town to improve the median area in question. He stated that the right of way was owned by the Town. Ms. McDonald said her HOA

wants to propose that the Town provide funds for materials such as plants and mulch if the HOA will agree to provide the labor to maintain the area. Mr. Dalton suggested the HOA send a letter of proposal to the Town Council. Mr. Kitselman said there may be some objection to the Town providing funds to one neighborhood over another.

7. Adjourn

There being no further business, the meeting was adjourned at 7:55 p.m.

**MINUTES**  
**BERRYVILLE TOWN COUNCIL**  
**POLICE AND SECURITY COMMITTEE**  
**Berryville-Clarke County Government Center**  
**Regular Meeting**  
**May 24, 2017**  
**9:00 a.m.**

**Committee members:** Present- Dave Tollett, Chair; Pat Dickinson

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

**Press:** None

1. Call to Order

The meeting was called to order at 9:02 a.m. by Committee Chair Tollett.

2. Approval of Agenda

The agenda was approved as presented. It was agreed to re-arrange the order of the agenda items since Chief White had been delayed and Ms. Dunkle had to leave early for another meeting.

3. Update – Refuse Collection

Mr. Dalton provided an update noting his three days of riding along with the refuse contractor. He said he is working on some ideas for improvements in the system to clarify the once a week versus twice a week collection service customers. Ms. Dickinson said that perhaps the whole downtown area could be twice a week to simplify the process.

4. Discussion – Berryville Code Chapter 4 – Laying Hens

The Committee and staff discussed the issue. Ms. Dunkle said the proposal is a bad idea and will add an extra layer of enforcement for the police and planning departments.

Ms. Dickinson said the issue is one of quality of life and presented the applicable code from the City of Staunton which she said was simple and called for no additional zoning.

Chief White said the code needs to be specific enough to enforce, adding that if it is too general it causes problems for his officers.

Mr. Dalton said that allowing chickens will likely cause neighbors to disagree and the Town will be caught in the middle, and added that with restrictive covenants in some neighborhoods, the only solution for a homeowner objecting to a neighbor's chickens would be through the courts.

Ms. Dickinson said the only affected area will be the older homes downtown, and the younger people buying those homes want to have chickens.

Mr. Tollett said that he wished to have comments from all the Council members before proceeding.

5. Discussion - Berryville Code Chapter 10 – Article II

The Committee and staff discussed the vehicle license tax sticker. Chief White said he is reviewing the issue of retaining or eliminating the decal sticker.

Chief White reviewed the proposed changes to Article II.

6. Other

Chief White noted that one officer will graduate from the academy on May 25, 2017.

7. Adjourn

There being no further business, the meeting was adjourned at 10:12 a.m.

**BERRYVILLE TOWN COUNCIL**  
**Streets and Utilities Committee**  
**Tuesday, May 23, 2017**  
**Berryville-Clarke County Government Center**  
**12:00 p.m.**

**MINUTES**

**Town Council:**

Present: Patricia Dickinson, Chair; David Tollett

**Staff:** Keith Dalton, Town Manager; Rick Boor, Director of Public Works; Dave Tyrell, Director of Public Utilities; Chrtisty Dunkle, Planner; Ann Phillips, Town Clerk

**Press:** None

**Others:** None

1. Call to Order

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

2. Approval of Agenda

The agenda was approved as presented.

3. Update – Public Works Department

Mr. Boor provided an update on the spring paving projects.

Mr. Dalton noted that there are funds remaining under VDOT secondary reimbursement and that staff is reviewing two drainage projects that may be completed with those funds.

Mr. Boor said that sidewalk repair is planned on Hermitage Blvd., Henderson Court, and Josephine Street.

Mr. Boor said an RFP will be issued for construction of the building planned at the Public Works complex. Mr. Dalton said that staff had wanted to make changes in the site plan, but since new engineering would be required for the changes, the existing plan will be used.

Mr. Boor provided an update on the sewer rehabilitation projects.

4. Update – Utilities Department

Mr. Tyrrell said the Community Improvements Committee had selected a color scheme with optional graphic text to forward to the Town Council. He noted that the Town is using an existing publicly procured contract to obtain the services. The Committee and staff discussed the costs, and Mr. Dalton said the cost breakdown appears in the CIP portion of the proposed FY 18 budget.

Mr. Dalton said that he has begun work on the scope of services for the water and sewer availability fee schedule review, and that he should have it ready for the Council to review in July.

5. Update - Planning

Ms. Dunkle updated the Committee on the Safe Routes to School sidewalk project saying that construction should begin on June 12.

6. Update – VDOT Issues

Mr. Dalton said that School Superintendent Dr. Chuck Bishop has said that the School Board is generally in favor of the revenue sharing project for three crosswalks as proposed by the Town, but has concerns about the one located at Main and Lincoln. The Committee and staff discussed the crosswalks and signage. Mr. Dalton noted that he will ask the Council to authorize him to finalize the projects with Dr. Bishop.

Mr. Dalton noted that Recorder Arnold has suggested that crosswalk signage should be added to the crosswalk at the Washington Square Apartments on Main Street also. The Committee and staff discussed radar signs with speed readouts.

The Committee and staff discussed East Main Street and Mr. Dalton said that a sketch has been sent to VDOT.

The Committee and staff discussed the recent speed study conducted east of Battletown Drive on Main Street.

7. Other

Mr. Tollett inquired about the recent water equipment testing being conducted in preparation for the storage tanks being taken out of service for the scheduled painting. Mr. Tyrrell and Mr. Dalton provided an overview of the procedures that will be followed during the painting process. Mr. Dalton said that some residents will experience reduced water pressure while each of the tanks is out of service. He noted that one at a time, each tank will be out of service for three to four months. Mr. Dalton added that water service will be maintained, but that residents will definitely notice a change in the water pressure.

8. Adjourn

There being no further business, the committee adjourned at 1:05p.m.