

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
August 14, 2018
7:30 p.m.

Town Council: Present-Patricia Dickinson, Mayor; Harry Lee Arnold, Jr., Recorder; Donna Marie McDonald; Diane Harrison; Erecka Gibson; Kara Rodriguez

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Desiree Moreland, Assistant Town Manager/Treasurer; Neal White, Chief of Police; Dave Tyrrell, Director of Public Utilities; Karen Johnson, Town Clerk

Legal Council: Robert T. Mitchell

Press: Mickey Powell, The Winchester Star

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 McDonald, seconded by Council member Harrison, the agenda was approved as amended.
Aye: McDonald, Harrison, Gibson, Rodriguez, Arnold
Nay: None
Abstain: Dickinson
4. Closed Session
On motion of Recorder Arnold, the Berryville Town Council entered closed session in accordance with §2.2-3711-A-7, Code of Virginia, for consultation with legal counsel and briefings by staff members pertaining to litigation. Council member McDonald seconded the motion.
Aye: McDonald, Harrison, Gibson, Rodriguez, Arnold, Dickinson
Nay: None
Abstain: None

Reconvene

At 7:45 p.m., the members of the Town Council being assembled within the designated meeting place in the presence of members of the public and the media desiring to attend, the meeting was reconvened. **On motion of Council member McDonald, the Council of the Town of Berryville adopted the following resolution certifying it convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with provision of The**

Virginia Freedom of Information Act. Council Member Harrison seconded the motion with a roll call vote as follows:

McDonald – Aye
Harrison – Aye
Gibson – Aye
Rodriguez – Aye
Arnold – Aye
Dickinson – Aye
Nay: None
Abstain: None

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Council of the Town of Berryville, Virginia, has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by this Council that such closed meeting was conducted in conformity with Virginia law,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Council.

Harry Lee Arnold, Jr., Recorder

5. Public Hearing
No hearings scheduled

6. Citizens' Forum
Mayor Dickinson recognized Mary Ivie, Berryville resident. Ms. Ivie said she is a resident of Dorsey Street and would like to make the Town aware of pooling storm water on the streets of Dorsey and Academy extended.

Mayor Dickinson recognized Nathan Stalvey, representing Berryville Main Street. Mr. Stalvey reviewed the most recent activities from Berryville Main Street. Mr. Stalvey recognized new business openings and potential new businesses openings. Mr. Stalvey also recognized upcoming events associated with the Town. Mr. Stalvey thanked Recorder Arnold for his support and hard work with the upcoming Berryville Yard Sales event and the Cruise-In event. Mr. Stalvey thanked the Town for its continued support.

Mayor Dickinson recognized Ms. Cindy Hoffman who witnessed a pedestrian hit by a car on Main Street in Berryville. Ms. Hoffman stated that she has conferenced with Chief White and discussed preventive education for driving safely and slowly in downtown Berryville. Ms. Hoffman thanked the Town for recognizing the need for further citizen education.

Mayor Dickinson recognized Ms. Sharon Strickland, town resident, who thanked Chief White and crew for a wonderful National Night Out and thanked everyone for participating. Ms. Strickland also thanked David Tollett for eight years as Town Councilor.

Mayor Dickinson recognized Mr. Wayne Webb, town resident, who thanked and is proud of Mr. Echols for building the Robert Regan Village. Mr. Webb stated that the water table is very high and drainage is tough with this much rain water. Mr. Webb said that the Town staff and Council has been more helpful than in the past.

Mayor Dickinson asked if there were any other speakers for the Citizens' Forum.

Mr. Rob Pitts, town resident, introduced himself. Mr. Pitts said he recently filled his swimming pool and has a concern that he is being charged for high sewage usage and has asked for a one-time adjustment on his water/sewer bill.

7. Consent Agenda

The Consent Agenda was approved on motion of Council member Harrison, seconded by Council member Rodriguez. The items on the Consent Agenda were:

Minutes of Regular Meeting – 07/10/18

Minutes of Personnel, Appointments, and Policy Committee – 07/11/2018 & 7/17/18

Minutes of Streets and Utilities Committee – 07/17/18

Minutes of Community Development Committee – 7/23/18

Minutes of Public Safety Committee – 7/25/18

Aye: McDonald, Harrison, Gibson, Rodriguez, Arnold

Nay: None

Abstain: Dickinson

8. Report of Patricia Dickinson, Mayor

The attached Resolution of Appreciation of Thanks was presented to former Council member David Tollett. Mr. Tollett was congratulated and thanked for his service by Mayor Dickinson and the current members of Town Council.

Mayor Dickinson said that Mr. Garrett will be giving an update on the Robert Regan Village project under her report. Reverend Dr. Garrett highlighted the benefits of the project to senior residents, Berryville, and Clarke County.

Mayor Dickinson thanked Reverend Dr. Garrett for his advocacy and championing for seniors and senior living housing.

9. Report of Harry Lee Arnold, Jr, Recorder

Recorder Arnold said in July he expressed the need to better communicate and provide information to the citizens regarding water and sewer, specifically how it's billed and how meters

are read. He said the Welcome to Berryville and Town of Berryville Water and Sewer brochures were created. He asked for final comments from Council to be given to staff so a final product can be established by the next Town Council meeting.

10. Report of Christy Dunkle, Assistant Town Manager/Planner

Ms. Dunkle updated the Town Council on the Robert Regan Village project. She said the Berryville Area Development Authority will hold a public hearing for the site plan on September 26, 2018. She said a public hearing needs to be set for the September 11, 2018 meeting for the proffer modifications set forth in the staff report. No objections were made by Town Council. Ms. Dunkle noted there have been several renditions with modifications to the proffers for rezoning originally done in 2009.

11. Report of Keith Dalton, Town Manager

Mr. Dalton noted that a review of amendments were included for the Town Charter and the Town Code, Chapters 1-3. Mr. Dalton requested and received comments from Town Council members and noted there will be a meeting between Mr. Dalton and Mr. Mitchell, the Town attorney, between now and the scheduled Town Council Work Session set for August 20, 2018. Mr. Dalton requested that Town Council provide guidance to assist both he and Mr. Mitchell in preparation for the meeting. Mr. Dalton stated there will be a fair amount of work needed to the documents if the suggestions concerning a restructuring of the Town Council are to be considered.

Mayor Dickinson requested a review of the document since all Town Council members were present. Mayor Dickinson stated that her concern is that if comments are received from the public hearing on the same date as the scheduled vote there will not be adequate time to incorporate those comments into the Charter.

Mayor Dickinson brought to the attention of Town Council, the Charter, Chapter 1 – 1.3. Mayor Dickinson stated that in the past two years we have had challenges finding enough people to serve on committees and one way to alleviate that would be to add another Town Council member. Mayor Dickinson proposed to increase Town Council to five Council Members, a Vice Mayor and a Mayor.

Recorder Arnold stated he would not be in favor of such a change as the current system has worked and that six people and the existing four wards works well. He said he doesn't see establishing an additional ward and splitting up the town again.

Mayor Dickinson stated she has examined other communities including Leesburg, Purcellville, and Edinburg and their Council members serve at large and they do not have wards. She stated that typically a town the size of Berryville is not carved up into wards and everyone is elected at large.

Council member Harrison stated there may be representation from too many people from one side of town if officials were elected at large. She stated she is in favor of retaining the ward system.

Council member Gibson questioned the Mayor's written comment suggesting that the Mayor stay out of the voting process unless there is a tied vote. She stated she doesn't understand why any member of Council would not vote if you are representing the community on decisions being made.

Recorder Arnold stated that Council members are elected by everybody in town and the people would expect all members to vote and be active in voting whether for or against.

Council member Rodriguez stated that she is not in favor of eliminating wards as you often see a high concentration of representation of a particular sector of one community. She said she likes the equal representation of the Town and would not like to see a change in the ward structure at this time.

Council member McDonald stated that she is neither in favor of changing the number of Council members nor modifying the ward structure.

Mayor Dickinson brought to the attention of Town Council, the Charter, Chapter 5 - 5.3. She stated she would like to keep the appointed 2 year term for town officers and not change the term to indefinite. Mayor Dickinson said she would like to see something in the Charter that requires Town Council to perform assessments every two years. She stated she would like the assessments completed on odd number years as oppose to even number of years so that each Council member can take part based on their term.

Mr. Dalton referenced section 4.1 where the Town Manager is appointed for an indefinite term. He noted that amended section 5.3 incorporates the two Assistant Town Managers and makes their terms consistent with the Town Manager's. Mr. Dalton said that all three positions serve at the pleasure of Town Council and can be released at any time.

Council member Harrison said it is important to perform evaluations.

Recorder Arnold stated he was fine with evaluations but not sure it should be added to the Charter.

Council member McDonald stated that she is fine with evaluations but thinks it might be better suited to start with the Personnel Committee and then the matter presented to Town Council.

Council member Rodriguez said her preference is that the Town Manager's evaluation take place by the whole body of Council but some of the other positions can be evaluated by the Personnel Committee.

Council member Gibson said performance evaluations are important and necessary but is unsure that the term is something specifically tied to performance evaluations. She suggested that there be a policy developed that states, aside from the Charter, how performance evaluations are conducted. She said her thought was that Town Council evaluate the Town Manager annually and then the Town Manager be responsible for evaluating direct reports.

Mayor Dickinson proposed a number of changes to the Town Code.

Mayor Dickinson brought to the attention of Town Council, the Charter, Chapter 4 - 4.1. She said she has received a lot of comments from citizens who have expressed concern that the Town Manager did not live within the town limits.

There was further discussion on this matter by Town Council.

Council member McDonald asked Mayor Dickinson for examples of comments by the community regarding the Town Manager’s residency. Mayor Dickinson stated that a comment was made by a citizen about how bright the street lights were and that if the Town Manager lived in town he would understand that.

Mr. Dalton said he would further discuss with Mr. Mitchell the restrictions on residency for the Town Manager and whether a contract could be more restrictive than the Charter.

A Town Council Work Session was set for September 5, 2018 at 3:00 p.m. to discuss the process by which goals and objectives will be communicated to staff based on prior Committee meeting discussions. He said all information from Committee meetings will be given to staff by August 28, 2018. Scheduled adoption notice date was set on September 11, 2018.

- 12. Report of Erecka Gibson - Chair, Budget and Finance Committee
Council member Gibson noted the next Budget and Finance Committee meeting is scheduled for August 23, 2018 at 10:30 a.m.
- 13. Report of Kara Rodriguez - Chair, Community Development Committee
Council member Rodriguez noted the next Community Development Committee meeting is scheduled for August 27 at 4:30 p.m. She stated there will be an additional section added to the agenda titled Business Introductions.
- 14. Report of Donna McDonald – Chair Public Safety Committee
Council member McDonald said there will be a committee meeting on August 22, 2018 at 4:30 p.m. She stated the committee continues to work on garbage and accreditation processes.

Chief White requested input on placement of newly purchased Radar Feedback Signs and data relative to the potential locations.

Town Council discussed the matter and the majority determined that the signs should be located at each entrance coming into the Town.

On motion of Recorder Arnold, the Council of the Town of Berryville, approved the following locations for the installation of radar feedback signs: (All entrances entering into the Town)

- 1. South Bound on North Buckmarsh
- 2. North Bound on South Buckmarsh
- 3. West Bound on East Main
- 4. East Bound on West Main

Council member Rodriguez seconded the motion which carried as follows:
Aye: Harrison, McDonald, Rodriguez, Gibson, Arnold
Nay: None
Abstain: Dickinson

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Recorder Arnold suggested, based on citizens' concerns, starting a conversation with the Streets and Utilities Committee, VDOT and Chief White about reducing the speed zones to 25 mph or 35 mph going westbound after the traffic circle on West Main and going east bound before traffic circle on West Main.

15. Report of Diane Harrison – Chair, Streets and Utilities Committee

Mr. Dalton discussed two Water and Sewer adjustment request appeals that were denied by staff.

Appeal 1: Mr. Rob Pitts

Appeal 2: Ms. Susan Allen

Mayor Dickinson said there was a process established where these types of requests would be presented to the Streets and Utilities Committee and then would review the documentation and make a recommendation to Town Council.

Council member Gibson requested more information on Ms. Allen's situation. Mr. Dalton said Ms. Allen still had a concern about usage based on the initial reading and two rereads of the meter. Mr. Dalton said that Ms. Allen has requested a test of the water meter.

Recorder Arnold said the policy is very clear with regards to filling swimming pools and undetermined water/sewer consumption usage.

On motion of Council member Harrison, the Council of the Town of Berryville, denied the adjustment of the June water/sewer bill for Rob Pitts. Council member McDonald seconded the motion which carried as follows:

Aye: Harrison, McDonald, Rodriguez, Gibson, Arnold

Nay: None

Abstain: Dickinson

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On motion of Council member McDonald, the Council of the Town of Berryville, denied the adjustment of the July water/sewer bill for Susan Allen. Council member Harrison seconded the motion which carried as follows:

Aye: Harrison, McDonald, Gibson, Arnold

Nay: Rodriguez, Dickinson

Abstain: None

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Recorder Arnold questioned Mayor Dickinson about her voting process. Mayor Dickinson stated that the reason she does not vote is that she chooses not to. She stated that if her vote doesn't make a difference then she won't cast a vote. Council member McDonald stated that the voting procedure needs to be addressed soon. Mayor Dickinson said according to Roberts Rules of Order, if you choose not to vote then silence means you agree with the majority. She has asked Mr. Dalton to contact a Parliamentarian to get clarification. Council member McDonald stated that this is blatantly unfair to the other Council members that have to vote. Council member Harrison

stated that it is unfair to the people who vote for elected officials if those officials in turn do not vote.

Mr. Dalton discussed the need to complete Jack Enders Boulevard as a collector road. He stated the estimate for a transportation study is \$40,000. Mr. Dalton said that discussions between Clarke County and the Town are essential to move this matter forward. Recorder Arnold said we need to discuss annexation at the same time. Council member Gibson said that we should be able to find the funding for the transportation study in next year's budget. Town Council agreed that Mr. Dalton should start a conversation with Mr. Ash, Clarke County Administrator.

Mr. Dalton requested approval of a Change Order that would add to the existing contract with W-L Construction and Paving for milling, curb, and paving of Henderson Court for an additional cost of \$37,975. **On motion of Council member Rodriguez, the Council of the Town of Berryville, authorized the issuance of the attached Change Order and authorized the Town Manager to execute any documents related to this action. Council member Harrison seconded the motion which carried as follows:**

Aye: Harrison, McDonald, Rodriguez, Gibson, Arnold

Nay: None

Abstain: Dickinson

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Council member Gibson requested more information on the Streets and Utilities minutes regarding radio read versus touch read meters. Mayor Dickinson said that a fully automated program exists. She stated that step one would be to replace all touch read meters with radio read meters, step 2 would be to place collection and transmission towers in one or two places in the Town where data is electronically transmitted to the billing office and the water treatment plant and step 3 would be to add a module allowing homeowners to have access to the data. Mayor Dickinson said she is continuing to research this project to see if it is a good return on the investment.

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

Recorder Arnold discussed the following appointment and reappointments:

On motion of Recorder Arnold, the Council of the Town of Berryville, recommended that the Clarke County Circuit Court appoint Ryan Tibbens to the Berryville Board of Zoning Appeals to fill the unexpired term of Kara Rodriguez to begin August 14, 2018 and end on December 31, 2020. Council member Rodriguez seconded the motion which carried as follows:

Aye: Harrison, McDonald, Rodriguez, Gibson, Arnold

Nay: None

Abstain: Dickinson

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On motion of Recorder Arnold, the Council of the Town of Berryville, reappointed Gwen Malone to the Berryville Planning Commission for a four year term to begin September 1, 2018 and end on August 31, 2022. Council member Rodriguez seconded the motion which carried as follows:

Aye: Harrison, McDonald, Rodriguez, Gibson, Arnold

Nay: None

Abstain: Dickinson

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On motion of Recorder Arnold, the Council of the Town of Berryville, reappointed Kim Kemp to the Berryville Planning Commission for a four year term to begin August 15, 2018 and end on August 31, 2022. Council member Harrison seconded the motion which carried as follows:

Aye: Harrison, McDonald, Rodriguez, Gibson, Arnold

Nay: None

Abstain: Dickinson

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On motion of Recorder Arnold, the Council of the Town of Berryville, reappointed Susan Godfrey to the Berryville Architectural Review Board for a four year term to begin August 15, 2018 and end on August 31, 2022. Council member Harrison seconded the motion which carried as follows:

Aye: Harrison, McDonald, Rodriguez, Gibson, Arnold

Nay: None

Abstain: Dickinson

Mr. Dalton confirmed the Committee meeting schedule as follows:

Budget and Finance: August 23, 2018 @10:30 a.m.

Community Development: August 27, 2018 @ 4:30 p.m.

Public Safety: August 22, 2018 @ 4:30 p.m.

Streets and Utilities: August 28, 2018 @ 10:30 a.m.

Mr. Dalton confirmed the Town Council Work Session as follows:

Town Council Work Session: August 20, 2018 @ 5:00 p.m.

17. Adjourn

There being no other business, upon motion of Council member McDonald, seconded by Council member Rodriguez, the meeting was adjourned at 11:08 p.m.

Harry Lee Arnold, Jr., Recorder

Karen Johnson, Town Clerk