

The minutes of the January 14, 2020 regular session of the Berryville Town Council were approved in the February 11, 2020 regular session via the following motion:

Council member Rodriguez made a motion that the Council of the Town of Berryville approve the minutes of the January 14 meeting with clarification that in the mayor's report it was stated that Mr. Arnold had been indicted when in fact he had been issued a summons by state police to appear before the court to answer charges of malfeasance. Council member Harrison seconded.

Roll call vote as follows:

McDonald: Nay

Harrison: Aye

Gibson: Aye

Rodriguez: Aye

Arnold: Abstain

Dickinson: Aye

The motion passed.

**MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
January 14, 2020
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: Present--Keith Dalton, Town Manager; Greg Jacobs, Assistant Town Manager/Treasurer; Christy Dunkle, Assistant Town Manager/Planner; Paul Culp, Town Clerk; Chief Neal White, Berryville Police Department

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

Mayor Dickinson asked for a change in the order of agenda items so attendees who wished to discuss the Second Amendment could do so early in the meeting instead of waiting for the Town Manager's report. She requested that the discussion be placed immediately after the consent agenda.

Council member Harrison moved to relocate the discussion of the Second Amendment from the Town Manager's report to a position immediately following the consent agenda. Council member Rodriguez seconded.

Roll call vote as follows:

McDonald: Nay

Harrison: Aye

Gibson: Aye

Rodriguez: Aye

Arnold: Aye

Dickinson: Aye

The motion passed.

4. Presentations, Awards, and Recognitions

Josh Roller of Robinson, Farmer, and Cox gave a presentation on the independent auditors' financial report on the Town of Berryville for fiscal year 2019, copies of which had been provided to Council in advance of the meeting.

New Clarke County Administrator Chris Boies introduced himself and said he looked forward to the County and Town working together on matters including land-use plans and economic development. He said Town and County had worked together often in the past, and complimented Town staff.

Mayor Dickinson announced the annual Four Chaplains memorial service to be hosted by the Lloyd Williams Post 41 of the American Legion.

5. Public Hearings

No public hearings were scheduled.

6. Discussion of Public Hearing Items

There being no public hearing, no discussion occurred.

7. Citizens' Forum

Town resident Dan Jones spoke about Article 1, Section 13 of the Virginia Constitution. He said the Virginia Constitution provides for a citizen militia as a protection against tyrannical governments at all levels. He said arms-bearing is of supreme importance in securing liberty, and asked Council to follow the County's example in resisting a political party and executive branch that he said will not stop at infringing the right to bear arms.

Clarke County resident Greg Mauzy said he works in Berryville and conducts business in the Town daily. He urged Council to consider the motion on the agenda and join with other jurisdictions in presenting a unified front to the government in Richmond.

Berryville resident Richie Blick asked that Council support the Second Amendment. He cited the number of signatures and social media followers indicating such support in the community. He said the Emergency Protective Order system is defective and neglectful of due process, and that the mental health system is in need of revision.

Berryville resident Todd Sauers said he is retired from the military and had chosen residence in Virginia instead of Maryland because a small number of Maryland counties were bringing legal changes to pass for the entire state, but that Virginia is now on the same path. He said small enclaves of opposition to firearms were imposing their will on the rest of the state. He said enforcement of red-flag laws provides insufficient due process. He asked that Council members to listen to everyone and vote as their constituents wish. He said the bill currently before the Assembly would cause the rights of some people to be denied by the opinions of others.

Berryville resident Paul Matte said he had lived in New York State, where concealed-carry permits are in danger of significant curtailment, and that Virginia is now following the same pattern as New York, with urban areas unduly affecting policy for non-urban areas. He said the right to self-defense is fundamental and that firearms are analogous to insurance policies.

Berryville resident Van Armacost read from the United States Constitution and urged Council to vote in favor of the resolution supporting the Second Amendment.

Berryville resident Joseph Lynn urged Council to vote for the resolution supporting the Second Amendment.

Jason Gimble said he was moving away from Clarke County the following day because his First Amendment rights had been violated inasmuch as he had been ordered out because of political differences. He said it should not be necessary even to discuss Constitutional verbiage against infringement of the right to bear arms, which he said is clear. He said wrongdoers always acquire firearms and cited the recent Texas shooting as an example of a responsible gun owner overcoming an irresponsible one.

David Smith said police cannot arrive instantly when residents are in danger and that residents must have the means to protect themselves and their children while awaiting the police.

Barry Lewis said the bill in the Assembly is supposed to promote public safety but that it punishes law-abiding citizens who are kept safe by having firearms. He said he was interested only in defense of self, family, and property. He asked Council to vote to make Berryville a Second Amendment sanctuary city.

Ruth Schakowski said she had lived in Berryville for ten years, having moved to Virginia twenty years ago because of problems in California. She related her experience of police telling her to acquire a firearm in circumstances in which her life was in danger. She said she finds it incomprehensible that Virginia would circumscribe her ability to protect herself and her family. She said the grandfather provisions in the current bill would not help future generations, and asked that Council consider the resolution.

Clarke County resident Stacy Smith said a distant government is attempting to curtail the rights of rural residents. She compared this with Seattle, which she said dictates to the entirety of the state of Washington. She asked Council to support the resolution.

Josiah Allway said it is a law of nature and nature's God that the prey has a right to defend itself against the predator. He said Jesus had told his disciples to carry weapons for self-defense. He said crime has increased in Australia since the imposition of firearms restrictions there and that he believed similar results would occur in Clarke County and in the United States.

8. Consent Agenda

Mayor Dickinson invited a motion to approve the consent agenda comprising the minutes of the December 10 regular meeting of Council.

Council member McDonald asked whether members of Council are permitted to place items on the consent agenda as well as being permitted to remove items. She said she wished to place on the consent agenda a vote on the Second Amendment resolution in the present meeting. The mayor explained the difference between the agenda and consent agenda. Council member McDonald said Council should proceed to a vote in the present meeting.

Council member Rodriguez moved that the Council of the Town of Berryville approve the consent agenda. Council member Gibson seconded the motion.

Roll call vote as follows:

McDonald: Aye

Harrison: Aye

Gibson: Aye

Rodriguez: Aye

Arnold: Aye
Dickinson: Aye

The motion passed.

Council having agreed at the beginning of the meeting to conduct its discussion of the Second Amendment at this juncture, Mayor Dickinson directed Council's attention to Mr. Dalton's summary of the issue in the agenda packet, which was accompanied by two resolutions: a sample Second Amendment sanctuary town resolution and a draft resolution in support of the Second Amendment based on a resolution adopted by Clarke County on January 6.

The mayor suggested that the resolution be read aloud, to be followed by discussion and a decision on whether to vote on it in the present meeting. There being no objection from Council, the mayor directed the Town Clerk to read the attached resolution. The Council agreed to discuss the resolution before proceeding to a motion.

Recorder Arnold said he would support as written the resolution based on the County resolution.

Council member Harrison read a statement in which she explained that she would vote no on either resolution. She said Council did not have the power to give what was being asked of it and that a sanctuary city resolution is contrary to Council's oath to uphold the law, including the Constitutions of the United States and Virginia. She said support of a sanctuary resolution would imply that members of Council condone breaking the law when they or the citizens disagree with it. She said protests and the court system provide lawful avenues for opposing laws enacted by the Assembly. She said the resolution supporting the Second Amendment is being confused and/or misrepresented by various groups as a sanctuary resolution, the intent of which is to provide a sanctuary for disobedience of the laws, and that she therefore could not in good conscience support either resolution. She urged citizens to use legal mechanisms for voicing their views while still upholding the law.

Council member McDonald said she would support the resolution not in order to appease any person or group but because infringement of Constitutional rights in one area could lead to infringements in other areas. She said she would have preferred to see Council member Harrison's statement in advance and that addition of material not included in the agenda packet by any Council member is unfair. She said she would vote in favor of the resolution as a matter of protecting Constitutional rights.

Council member Gibson asked Council member Harrison to clarify her reference to two resolutions. Council member Harrison explained that there were two and that the resolution based on the County resolution and the sanctuary resolution were not the same but were nonetheless being linked by the public and treated as a unit in data and the shaping of public opinion. She said she could not support a resolution until the two are recognized and treated as separate.

Council member Gibson said she hoped for the development of common-sense laws to prevent gun violence. She explained that from childhood she had viewed firearms negatively and that her father, who had a record of suicide attempts and threatened violence, had committed suicide seventeen years ago with a gun he should not have been allowed to purchase. She said she would like to spare other people trouble of this nature but that she would not allow her personal view to impede her approval of the resolution.

Mayor Dickinson said it is necessary to recognize that people of different backgrounds and experience have different relationships with and views of firearms, citing as an example a relative-by-marriage from Manhattan whose viewpoint differed from that of her own family. She said it is impossible to know the contents of other people's hearts and minds, so choices about who may own firearms are difficult. She said she believes that a suitable approach to mental health issues and societal pressures and norms would be more effective than red-flag laws in preventing gun violence. She commended the County resolution and clarified that it is not a sanctuary city resolution but rather is a plea to state and federal legislators not to proceed with the intended legislation. She cited sanctuary cities for illegal immigrants and the non-enforcement of recreational marijuana laws by another state—perhaps Maryland—as examples of the law being flouted, and said the proposed Virginia legislation could be used to create a great deal of damage. She said she therefore would support the resolution.

Council member Rodriguez said she takes her oath of office seriously and that she also takes seriously the overwhelming support of the resolution she has heard from citizens. She said she would be happy to vote in favor of it. She urged interested parties to contact their state legislators and make their views known.

Recorder Arnold clarified that the sanctuary resolution had been provided by a citizen while the Town had worked closely with the County on the resolution under discussion, which had also been vetted by the Town Attorney, who also serves as County Attorney. He said it serves its purpose well without advancing the idea of sanctuary.

Recorder Arnold moved to adopt the resolution as presented on pages 66, 67, and 68 of the agenda packet. Council member Rodriguez seconded.

Roll call vote as follows:

McDonald: Aye

Harrison: Nay

Gibson: Aye

Rodriguez: Aye

Arnold: Aye

Dickinson: Aye

The motion passed.

Mayor Dickinson asked for a recess at 8:32 p.m.

The Council reconvened at 8:40 p.m.

9. Unfinished Business

There was no unfinished business.

10. New Business

There was no new business.

11. Council Member Reports

Council member McDonald having expressed misgivings in December about always being the first member to give her report, the customary order was again modified.

Ward 2:

Council member Harrison had nothing to report from her ward.

Ward 3

Council member Gibson had nothing to report from her ward.

Ward 4

Council member Rodriguez said the most prominent issue among her constituents was the recent pyrotechnic startling-abatement efforts by the police department, which the Town had pursued after residents complained about property damage and health-and-safety concerns due to an unprecedented number of birds. She said she had received a large amount of adverse comment on the abatement measures and wished for Council to discuss the matter and see whether the Public Safety Committee would want to address it.

Mayor Dickinson said she had received many emails also. She said measures against the birds are necessary for public health and that she agreed with Mr. Dalton regarding pyrotechnics being the least destructive approach. She asked whether the Public Safety Committee would take up the matter.

There was a lengthy discussion of best practices concerning multiple forms of wildlife, and of whether intervention should be the responsibility of the Town or of residents with or without professional assistance.

Council member McDonald, chair of the Public Safety Committee, said the police officers had done what they thought was right. Mayor Dickinson explained that Mr. Dalton had instructed them to do what they did. Council member McDonald recommended that residents address the problems themselves. She said the problems were only occasional and that she adamantly opposed adding a bird policy to the Town Code and the burdens of the police chief and town manager. She said Council should fulfill other goals before pursuing new projects.

Council member Harrison said a large flock of robins had been adversely affected by the starling abatement procedures, and recommended development of a general policy.

Council member Rodriguez noted a remark by Mr. Dalton in a telephone conversation that dirt-moving in developments could lead to a variety of problems with wildlife.

Council member Gibson recommended taking action where property damage is at issue, and a policy defining when action should be taken.

Council member Rodriguez asked Mr. Dalton how long it would take him to draft some guidelines and whether he would consult a wildlife expert or veterinarian. He said he would do so but that he wished first to complete the revision of Chapter 8 of the Town Code dealing with refuse disposal, and the request for proposal for trash removal services.

Mr. Dalton said staff should suspend its wildlife management efforts if Council does not support them, and that staff needed guidance on that point in the present meeting. He said the Town has been engaging in starling management for at least 35 years and that in recent years it has devoted even more effort to lawful management of vultures, a protected species. He said it is difficult to see how attenuation can be considered detrimental to an invasive species if it is permissible for a protected one. He said staff is not insisting on conducting abatement procedures but that citizens are restricted in the measures available to them, inasmuch as the use of firearms and aerial fireworks is prohibited in town, and that the Town has the obligation at least to discuss its responsibility to assist them. He said staff should have immediate clear guidance regarding whether its efforts should be discontinued, suspended pending further inquiry, or allowed to proceed. Mr. Dalton also said that asking people to address the problem privately is not unreasonable but that private action can lead to enforcement problems.

Recorder Arnold said some residents had expressed appreciation of the Town's efforts and that other matters are more pressing than the development of a wildlife policy.

Council member Rodriguez said it was acceptable to wait but that a broad wildlife policy is needed. She said that for now the disruption of birds should be discontinued.

The consensus of Council was that bird disruption should be discontinued until further notice.

The discussion of wildlife management being concluded, Mr. Dalton noted that land disturbance on the Shenandoah Crossing and Fellowship Square developments had begun that day, and asked for patience with concerns about activities on those sites. There was a discussion of the disposal of debris on those sites, particularly trees.

Ward 1

Council member McDonald said the Town needs a larger police presence and should hire an additional officer. Mayor Dickinson recommended discussing the matter at the next meeting of the Public Safety Committee. Council member McDonald said it had already been placed on the agenda.

Recorder

Recorder Arnold had nothing to report.

Mayor

Mayor Dickinson read a prepared statement (attached) addressing Recorder Arnold's report in the December 10 regular meeting and Council's finding, in association with that report, that she had violated Council's Code of Conduct.

Council member McDonald insisted on speaking at the conclusion of the mayor's report, expressing annoyance with the practice of delivering remarks not included in the agenda packet. She defended Recorder Arnold's actions and described practical benefits of Town police vehicles being serviced by Recorder Arnold's business, Berryville Auto Parts, rather than in Winchester. She asked for a ban on the use in Council meetings of documents not included in the agenda packet.

12. Staff Reports

Public Works

Nothing was added to the written report submitted to the Council. Council member Harrison asked about repair of the Josephine area pump station, referencing towels and rags entering the collection system. She asked whether source potential exists to prevent recurrence. Mr. Dalton said that in some cases the source of undesirable materials is easily determined, in which case the Town addresses the matter with those responsible. He said that otherwise the Town tries to educate the public about the importance of not flushing non-flushable items. He said he likely would direct public information specifically to the houses in the affected area. He said the maintenance schedule for pump stations is regular and well-suited to heading off problems, and that in better-configured pump stations there are mechanisms for screening out undesirable materials but that the pump station under discussion is not so configured. He said he has inquired about modification and has been

advised that this likely is not possible and that public education is the best approach to addressing the problem.

Council member Harrison asked about a water main break in the area of a recently replaced main on Rice Street. Mr. Dalton said the break was in an older section of pipe.

Public Utilities

Nothing was added to the written report submitted to Council.

Police Department

Chief White had nothing to add to his written report.

Community Development

Ms. Dunkle directed Council's attention to the portion of her report addressing the proposed street-renaming in the final phase of the Hermitage subdivision because changes in stormwater management regulations had necessitated a reconfiguration of the subdivision, noting that Mayor Dickinson had expressed concern about inconvenience and cost to current residents affected by the change. She said the three-way stop recommended by the Berryville Area Development Authority did not seem optimal to her, and asked whether Council would like to solicit public comment before deciding to approve or disapprove. Mr. Dalton concurred regarding the three-way stop.

There was a discussion of where precisely the renaming would occur, how traffic patterns could best be managed, and the inconvenience and expense to residents. Mayor Dickinson said the reconfiguration had been caused by the developer trying to squeeze in another lot. Ms. Dunkle said this was not the case, that the Department of Environment Quality had changed regulations in a manner that necessitated the reconfiguration, that it had been necessary for the developer to reduce the number of lots, and that the final first yield was decreased from the preliminary plat originally approved.

Recorder Arnold expressed concern about the possibility of a mid-block address change creating confusion for emergency services and postal personnel.

Mr. Dalton said neither the Town nor the developer had planned the changes under discussion, and said staff needed guidance from Council regarding what process to follow. He concurred with Recorder Arnold's concerns about emergency services. There was a discussion of getting professional opinions about how to proceed, including input from VDOT and emergency services dispatchers. Mr. Dalton said staff would consult emergency services personnel.

Mayor Dickinson said the developer should be asked to reconfigure the subdivision, and there was a discussion of possible reconfigurations. Mr. Dalton said the subdivision plan had been approved and

that Council could request that the developer adjust it, but that he was not optimistic about the request being granted. Mayor Dickinson said there had been no mention of the address change at the time the plan was approved. Ms. Dunkle said the final plat had not yet been submitted but that it conforms to all regulations in the subdivision ordinance. Mr. Dalton said this would permit its final approval by the Planning Commission and Berryville Area Development Authority. Ms. Dunkle recommended consultation with VDOT before engaging in further discussion in Council.

Council member Gibson said safety should trump all other concerns.

Council member McDonald said the issue is a minor one in comparison with other issues facing Council. She recommended that residents consult Ms. Dunkle and Mr. Dalton with their concerns and that Council allow staff discretion to do whatever is necessary.

There was a discussion of what type of notice residents would receive in preparation for the address changes.

Administration/Finance

Mr. Jacobs explained that the Town needed to open three new bank accounts: two to handle the in-and-out transactions for online payments and one for contributions to the police department.

Council member Gibson made a motion that the Council of the Town of Berryville authorize the treasurer to open three new bank accounts: two to handle the in-and-out transactions for online payments and one for contributions to the police department. Council member McDonald seconded.

Roll call vote as follows:

McDonald: Aye

Harrison: Aye

Gibson: Aye

Rodriguez: Aye

Arnold: Aye

Dickinson: Aye

Town Manager

Mr. Dalton explained staff's objectives for the new CivicClerk agenda-creation platform.

13. Committee Updates

Budget and Finance

Council member Gibson said the committee would not meet in January but would have a budget work session on February 25 at 10:30 a.m.

Community Development

Council member Rodriguez said the committee would meet on January 27 at 3:00 p.m. and hoped to be able after that to bring Council the request for proposal for a branding and marketing study. She said branding was to be addressed first.

Personnel, Appointments, and Policy

Recorder Arnold said action was needed on the reappointment of Ronnie Huff to the Clarke County Parks and Recreation Advisory Board, Mr. Huff's term having expired on December 31, and the reappointment of Ms. Dunkle to the Clarke County Economic Development Committee.

Recorder Arnold moved that the Council of the Town of Berryville recommend to the Clarke County Board of Supervisors that Ronnie Huff be reappointed to a four-year term on the Clarke County Parks and Recreation Advisory Board. Council member Rodriguez seconded.

Roll call vote as follows:

McDonald: Aye

Harrison: Aye

Gibson: Aye

Rodriguez: Aye

Arnold: Aye

Dickinson: Aye

The motion passed.

Recorder Arnold moved that the Council of the Town of Berryville recommend that the Clarke County Board of Supervisors reappoint Christy Dunkle to a four-year term on the Clarke County Economic Development Committee. Council member Rodriguez seconded.

Roll call vote as follows:

McDonald: Aye

Harrison: Aye

Gibson: Aye

Rodriguez: Aye

Arnold: Aye

Dickinson: Aye

The motion passed.

Council member Rodriguez asked whether the committee would be ready in its 9:00 a.m. January 28 meeting to discuss the process of hiring a deputy town manager. Mr. Dalton said he would like the opportunity to do so.

Mayor Dickinson said she had contacted the University of Virginia and Shenandoah University to see whether a classification and compensation study discussed by the committee might be conducted by students as an academic project. She said this would be a way to acquire a study of professional caliber at the cost of a small stipend and expenses, with minimal expenditure of staff time. She asked that this be added to the committee agenda. Mr. Jacobs said he had explored other options in consultation with other jurisdictions and would share them in the upcoming committee meeting.

Public Safety

A discussion established that the committee would meet on January 27 at 1:00 p.m. to discuss trash disposal. Council member McDonald said committee members must study Chapter 8 of the Town Code, which addresses that topic, and decide on how to direct Mr. Dalton and Chief White.

Streets and Utilities

A discussion established that the committee would meet on January 28 at 1:30 p.m. Mayor Dickinson said she wished to add to the agenda a discussion of the closure of Byrd Avenue and access to businesses on Station Road. She said she also said she wanted to discuss the recent accident in which a vehicle crashed into the True Value Hardware, and the possible installation of a barrier or signage on Jack Enders Boulevard to prevent similar driver error in the future.

Recorder Arnold expressed approval of the new street lights downtown. Council member Harrison said some of them might require adjustment to alleviate excessive brightness. Mr. Dalton said Ms. Dunkle is working on the lighting pilot.

Other

Mr. Dalton noted that a work session was scheduled for February 3 at 3:00 p.m. to discuss trash removal services.

14. Closed Session

There was no closed session.

15. Adjourn

Mayor Dickinson requested a motion to adjourn.

Council member Rodriguez moved to adjourn, seconded by Council member Gibson. The motion passed by consensus at 10:21 p.m.

Harry Lee Arnold, Jr., Recorder

Paul Culp, Town Clerk

BERRYVILLE TOWN COUNCIL SIGN-UP SHEET

Citizens' Forum

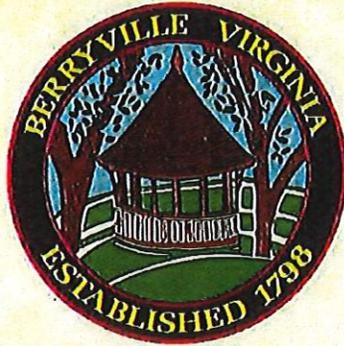
Tuesday, January 14, 2020

7:30 p.m.

Name:

Town of Berryville Resident?

| | | |
|--------------------|--------------------------------------|-------------------------------------|
| x Dan Jones | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| + Greg Maury | <input type="radio"/> Yes | <input checked="" type="radio"/> No |
| x Richie Blick | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| x Todd Sowers | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| + Paul S. Mathe | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| + VAN ARMAROST | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| + Joseph LYNN | <input checked="" type="radio"/> Yes | <input type="radio"/> No |
| x Jason Gimble | <input type="radio"/> Yes | <input type="radio"/> No |
| x David Smith | <input type="radio"/> Yes | <input type="radio"/> No |
| x Barry Lewis | <input type="radio"/> Yes | <input type="radio"/> No |
| x Ruth Scharkowski | <input type="radio"/> Yes | <input type="radio"/> No |
| x Stacy Smith | <input type="radio"/> Yes | <input type="radio"/> No |
| x Josiah Allway | <input type="radio"/> Yes | <input type="radio"/> No |
| _____ | <input type="radio"/> Yes | <input type="radio"/> No |



**Resolution of the Berryville Town Council Expressing Its Intent to Uphold and
Defend the Constitution of the United States and the Constitution of the
Commonwealth of Virginia**

WHEREAS, the Constitution of the United States, including the Bill of Rights, forms the foundation of our nation and the rule of law; and

WHEREAS, the Bill of Rights enumerates certain inherent citizens' rights, such as "the freedom of speech," "the right of the people peaceably to assemble, and to petition the government for a redress of grievances," "being necessary to the security of a free state, the right of the people to keep and bear arms," "the right of the people to be secure in their persons, houses, paper, and effects, against unreasonable searches and seizures, "nor be deprived of life, liberty, or property, without due process of law; and

WHEREAS, the members of the Town Council each pledged a solemn oath to uphold these laws, which reads, "I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent

upon me as a member of the Berryville Town Council according to the best of my ability, (so help me God); and

WHEREAS, the Town Council of Berryville, Virginia, has only those powers granted to it by the General Assembly and Article VII of the Virginia Constitution; and

WHEREAS, the Second Amendment of the United States Constitution states, “A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed.”; and

WHEREAS, Article I, Section 13, of the Constitution of Virginia provides “that a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defense of a free state, therefore, the right of the people to keep and bear arms shall not be infringed”; and

WHEREAS, the right of the law-abiding citizens of Berryville to keep and bear arms for the purpose of lawful self-defense and hunting pursuant to the rights bestowed upon them by the Second Amendment of the United States Constitution and Article I, Section 13 of the Constitution of Virginia is a part of the fabric of this Town and must be respected and upheld; and

WHEREAS, certain legislation that has or may be introduced in the Virginia General Assembly, and certain legislation which has or may be introduced in the United States Congress could have the effect of infringing upon the right of law abiding citizens to keep and bear arms, in violation of the Second Amendment to the United States Constitution and Article I, Section 13 of the Constitution of Virginia; and

WHEREAS, the Berryville Town Council wishes to express its deep commitment to the right of the citizens of Berryville to keep and bear arms; and

WHEREAS, the Berryville Town Council wishes to express opposition to any law that would unconstitutionally restrict the rights of the citizens of Berryville to keep and bear arms.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Berryville:

That the Town Council hereby expresses its intent to uphold and defend the Constitution of the United States and the Constitution of the Commonwealth of Virginia; and

That the Town Council urges the Virginia General Assembly and the United States Congress not to adopt or enact any law that would infringe on the right to keep and bear arms in violation of the Second Amendment; and

That the Town Manager is directed to cause true copies of this resolution to be forwarded to the Town's representatives in the Virginia General Assembly and the United States Congress and to the Governor of Virginia.

Adopted this 14th day of January, 2020

ATTEST



Harry Lee Arnold, Jr., Recorder

Mayors Report

January 14, 2020

Let me begin by clarifying that I am not an attorney and, therefore am not offering a legal opinion.

Last month Mr. Arnold accused me of wrongdoing. As stated in the Town Council meeting minutes of December 10, 2019; "Recorder Arnold said that Mayor Dickinson, after receiving the determination of the Commonwealth's Attorney that no conflict of interest existed, had continued to promote the idea that he had a conflict."

A conflict of interest is a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity. The Virginia Conflict of Interest Act was enacted so that the standards of conduct for such officers and employees may be uniform throughout the Commonwealth. The Conflict of Interest Act states that "No person elected or appointed as a member of the governing body of a county, city or town shall have a personal interest in any contract with his governing body." However, the Conflict of Interest Act goes on to establish some exceptions to this prohibition. For the Town of Berryville a person on Town Council can do business with the town provided no single transaction exceed \$500 and the total of all transactions in a given year not exceed \$5,000. These limitations can be expanded provided there is a contract with the town that was secured via competitive bidding.

I refer you to the Commonwealth's Attorney's opinion in which she states that Mr. Arnold does have a conflict of interest and then goes on to explain how he can avoid being in violation of the Conflict of Interest Act. Mr. Arnold tried to mislead this council and the people of Berryville when he stated that he did not have a conflict of interest. His conflict of interest has never been in doubt – not by me, not by many of the citizens of Berryville, and, as expressed in her opinion, not by the Commonwealth's Attorney.

The very foundation of Mr. Arnold's accusations against me are unfounded and simply not true.

I have been open and honest in my concerns about Mr. Arnold's conflict of interest and financial dealings. As you may recall, it was for this reason that in 2016, I told Council I would not appoint Mr. Arnold to the Budget and Finance Committee. For me there was never any doubt that a conflict of interest exists. What was of concern to me was whether or not Mr. Arnold had violated the conflict of interest act.

In 2017 after attending a Virginia Municipal League conference and learning more about the conflict of interest act, I was concerned that Mr. Arnold might be in violation. I could have come back to council and openly accused Mr. Arnold of possible wrongdoing. However, I decided that it would be more appropriate to advise Mr. Arnold to seek an opinion from the Commonwealth's Attorney on the matter. On October 11, 2017, I sent Mr. Arnold an email with my suggested course of action.

On October 23, 2017, less than two weeks after my email, Mr. Arnold formally requested the Commonwealth's Attorney provide him with an opinion on "whether it is a conflict of interest for departments of local government to purchase goods or receive services in exchange for money from your business, Berryville Auto Parts while you serve as the Recorder on the Berryville Town Council. "

Based on Mr. Arnold's request to the Commonwealth's Attorney, I think it reasonable to assume that he perceived my email as a helpful suggestion and not as a threat.

In her opinion the Commonwealth's Attorney went on to state that "In order to understand this issue completely, I sought information from the Town Manager Keith Dalton and Chief of Police Neal White." She goes on to state that "I have reviewed the Town of Berryville's Purchasing Policy, a spreadsheet showing expenditures to BAP since 2000 and the Clarke County contract with Berryville Auto Parts for vehicle maintenance since Berryville Auto Parts extends the same terms to the Berryville Police Department."

Nowhere in the Commonwealth's Attorney opinion does she reference a contract between the Town of Berryville and Berryville Auto Parts. In my view, extending the terms of one contract to another customer is not the same as having a contract with that customer. But remember, I am not an attorney and I am not offering a legal opinion.

The Commonwealth's Attorney's opinion stated that she had reviewed the dollar amount of the transactions since 2013 using the spreadsheet provided to her by the town manager. She states "it appears as though many of the individual purchases from Berryville Auto Parts do not exceed \$500. However, the aggregate sales are close to, and in some years, have exceeded \$5,000. Therefore, the answer to your query is the only way for the contracts between the town of Berryville and Berryville Auto Parts to be permissible is ... if the aggregate annual sales exceed \$5,000 that they arose as a result of a sealed bid." The Commonwealth's Attorney never mentions or references a contract between the Town of Berryville and Berryville Auto Parts. If the town manager had provided the Commonwealth's Attorney with a spreadsheet of transactions why did he not provide her with a copy of a contract? Is there a contract?

For nearly four years I have expressed my concerns about Mr. Arnold's Conflict of Interest both publicly in Town Council meetings and privately via email with Mr. Arnold. Throughout this time, Mr. Arnold has refused to acknowledge my concerns or provide information that would clarify his situation.

Mr. Arnold may have been able to resolve all concerns if he had reported to Town Council that he had been awarded a contract with Clarke County via competitive bidding and that he had extended the terms of this contract to the Berryville Police Department. Mr. Arnold chose to remain silent.

Mr. Arnold may have been able to resolve all concerns if he had responded to my email of October 11, 2017. Mr. Arnold chose to remain silent.

Mr. Arnold may have been able to resolve all concerns if he had made public the Commonwealth's Attorney's opinion of October 23, 2017. Mr. Arnold chose to remain silent.

Mr. Arnold may have been able to resolve all concerns if he had responded to my email of April 28, 2018. Mr. Arnold chose to remain silent.

And now, after more than two years he decides that my emails are threatening. If Mr. Arnold felt threatened by my emails why did he wait until now to express concern? It seems to me that Mr. Arnold's accusations against me are not the result of my emails or actions but are in retaliation for the State Police finding credible evidence that he violated the Conflict of Interest Act and then charging with him on multiple counts of violating the Act.

As I have stated previously; I do not know anyone in the Virginia State Police organization and have never contacted them regarding this or any other issue.

In our Council December meeting minutes it is reported that Mr. Arnold stated that I had provided to the public and an association of citizens inaccurate information of an accusatory and defamatory nature without any investigation by Council occurring, and that I had threatened him via email saying I would make his Conflict of Interest public.

I challenge Mr. Arnold to specify what information I provided to the public that was untruthful, accusatory or defamatory and to whom the information was shared. Mr. Arnold cannot provide this information because it does not exist.

Previously I sought the counsel of two individuals in the community whose opinions I value. Those meetings were private and dealt not with Mr. Arnold's apparent conflict of interest act violations but with how I might best address the matter. I do not consider these two conversations to constitute 'the public' nor do I consider our conversations to be sharing information that was accusatory or defamatory.

I have tried to address this matter with sensitivity. I have tried to not publicly disparage Mr. Arnold's reputation. As my emails attest, I have tried for some time to get Mr. Arnold to take my concerns seriously and to make his financial dealings with the town transparent. It was Mr. Arnold's actions, not mine, that ultimately resulted in his being indicted by the Virginia State Police.

I believe the course of action taken by the group of concerned citizens was appropriate. It means that there are Berryville residents who are paying attention. They read the meeting minutes and the agenda packets. And having reviewed the information that was available to them, they saw reason to be concerned. Just as a responsible citizen should do, they reported their concerns to me and to the state police. The state police did what they are expected to do, they investigated. Their investigation led them to the conclusion that there was sufficient credible evidence to indict Mr. Arnold. The courts then did what they are supposed to do and they adjudicated the matter. This is how our system is supposed to work. I played no part in this series of events.

If Mr. Arnold had been transparent in his dealings with the town then the citizens would not have had cause for concern. If the citizens had not had cause for concern they would not have contacted the state police and the state police would not have investigated. If the police had not found sufficient and credible evidence of wrongdoing they would not have indicted. If Mr. Arnold had not been indicted then the courts would not have had to get involved. Mr. Arnold brought this on himself. He and he alone is responsible for the series of events that led to his indictment.

We must never attach blame, criticize or discourage citizens from paying attention. When citizens are not involved and governing bodies operate in secret then we create an unhealthy environment. Look around you at our neighbors. The misdeeds of the Front Royal Economic Development Authority have ruined lives and destroyed a community's faith in their elected officials. If even one person on the Town Council or the Board of Supervisors or a concerned citizen had asked questions then this situation might have been avoided. And it isn't just our governing bodies where secrecy and a lack of attention can create issues. The VFW and American Legion in Winchester, the VFW in Front Royal and our very own Clarke County Ruritan have each had disastrous outcomes because people were not paying attention and because those who were in responsible positions did not ask questions.

I applaud our citizens for their actions. I applaud them for not ignoring this situation. Given the information available to them it is only reasonable that they reached the conclusion they did. And that the State Police came to the same conclusion is a testament to Mr. Arnold's lack of transparency in his financial dealings with the town. All of this could have been avoided if Mr. Arnold had responded to my concerns and made his financial dealings with the town transparent.

Last month Mr. Arnold included in his complaint against me a memo from Town Council dated April 6, 2018. This memo is completely irrelevant to Mr. Arnold's complaint and only serves to provide further evidence that Mr. Arnold's actions were intended to be a personal attack under the guise of a code of conflict violation. His actions are inexcusable.

Finally, I would like to address the manner in which Mr. Arnold brought his complaint to Town Council. It was a matter of several months between my last email to Mr. Arnold and his complaint against me. There was ample time for him to include his accusation and request for action in the published Town Council agenda. By not making his accusation and his request for action public he denied me and the people of Berryville the opportunity to know what actions were being considered by Council. He denied the public the right to know.

Mr. Arnold chose not to be open and transparent in his dealings, but instead he deliberately launched a sneak attack. I can only assume he chose this path so that he could control the conversation and so I would not have the opportunity to prepare a response. In my view a sneak attack is a cowardly thing and should not be tolerated. I would ask that the Personnel Appointments and Policy Committee establish a policy regarding extemporaneous agenda changes, but then, I don't expect that my request would be considered as Mr. Arnold is chair of that committee.

This concludes the mayor's report.

BERRYVILLE TOWN COUNCIL PUBLIC SAFETY COMMITTEE
Berryville-Clarke County Government Center
MINUTES
January 27, 2020

A meeting of the Berryville Town Council Public Safety Committee was held on Monday, January 27, 2020 at 1:00 p.m. in the Berryville-Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance:

Members of the Committee present: Donna McDonald, Chair; Diane Harrison; Mayor Pat Dickinson

Council member also present: Recorder Jay Arnold

Staff present: Keith Dalton, Town Manager; Greg Jacobs, Assistant Town Manager/Treasurer; Neal White, Chief of Police; Paul Culp, Town Clerk; Heather DeHaven, Finance Clerk

Press present: Mickey Powell, The Winchester Star

1. Call to Order

Chair McDonald called the meeting to order at 1:00 p.m.

2. Approval of Agenda

Mr. Dalton requested a change to the agenda in order to discuss the agenda packets themselves and to allow Mr. Jacobs, Ms. DeHaven, and Chief White to give their reports early in the meeting and return to other duties as needed.

Mayor Dickinson moved to approve the revised agenda, seconded by Ms. Harrison. The motion passed by consensus.

3. New Business

Mr. Dalton asked whether the committee would agree to staff saving time and paper by not producing extra copies of the agenda packets for members who do not bring their hard copies to meetings. Mayor Dickinson said this is acceptable if a copy is made available for members of the public. There was a discussion of how the packets are assembled and printed.

Police Department Update

Chief White said the department had made more arrests in 2019 than in 2018 and that it had also received more animal complaints. He said there had also been an increase in narcotics activity. He said the department had been tracking mental health calls more closely since May of 2019, that the number was high even though the figures were not for an entire year, and that the trend was continuing in 2020. He said the department had responded to three overdoses in 2020, one of them fatal.

Mr. Dalton said these developments should be taken into account in the Town's budgeting process.

Chair McDonald said the Town should add another officer in whatever capacity Chief White and Mr. Dalton think best for the safety of the community. She said the community is growing, that constituents are asking for more enforcement, and that the department is placed under excessive strain when even one officer must be absent from work. Mr. Dalton said these matters are under consideration and will be taken into account in the proposed budget.

Mayor Dickinson said there is a need for more community policing and environmental policing. She suggested that some of the mental health matters might be dealt with by entities other than the police.

Chief White said the department is bound by the legislature, which he said seems inclined toward options that would increase the responsibility of police departments. There was a discussion of mental health procedure and possible solutions.

4. Unfinished Business

Garbage, Refuse, and Recyclables Collection

Chair McDonald said she had contacted town managers and clerks in other jurisdictions and that all are facing similar problems in dealing with trash disposal. She said all of them expect costs to rise, and noted several different billing procedures in use by other jurisdictions.

Request for Proposal for Collection Service

Mr. Dalton said the Town is currently using its final extension of the current offering on trash and recycling collection and that it expires at June's end. He said he would like for Council to approve an invitation to bid in March and have a new contract in place by May 12. He explained that Mr. Jacobs and Ms. DeHaven had been altering the current agreement to make it more suitable for future use. Mr. Jacobs described it as overly verbose, and Ms. DeHaven said there is a need to eliminate redundancy and to be explicit about what the Town considers essential and what it would like to have in addition to the essentials.

Mr. Jacobs said Council's revision of Chapter 8 of the Town Code would have bearing on these issues, citing as an example whether toters should have addresses on them. Mr. Dalton said he would prefer a contract that makes property owners responsible for decals on bins. There was a brief discussion of RFID tags as an option.

There was a discussion of the desired length of the contract. Mr. Dalton expressed an interest in a three-year contract with one-year extensions. Ms. DeHaven said state law allows for up to ten years, though a five-year maximum is the norm. Mr. Dalton said Council must decide this. Ms. Harrison said a long-term contract with an effective escape clause would be desirable, with a three-year contract and three one-year extensions being suitable.

Mr. Dalton said Council must discuss Chapter 8 in its work session on February 3 at 3:00 p.m.

Chair McDonald asked whether the Town should expect to pay more under its new contract than it does at present. Mr. Dalton said it is not possible to be sure, citing as possible factors the rates having been adjusted last year; low fuel prices; and full employment leading to a worker-friendly labor market. He noted that the Town handles its own tipping fees and said that recycling tipping fees are likely to be more volatile.

Ms. Harrison said another provider might be able to do better because it would dispose of recyclables in Frederick County and not at its own site. Mayor Dickinson suggested treating recycling as a separate matter. Mr. Dalton said the Town and the provider must agree on a particular slate of recyclables. Ms. Harrison said the Town must make sure the enumerated goods are in fact recycled.

Chapter 8 of Town Code

Mr. Dalton explained for the press and members of the public in attendance why the Code needs revision. He said that as written it applies to a now-outdated rear-load procedure involving multiple sanitation workers on a truck, while current procedure utilizes one worker and a truck with an automated arm, with higher weight limits now being possible. He said Mayor Dickinson had previously introduced as topics for discussion the number of toters allowable for certain types of occupancy, use of dumpsters at certain occupancies under the Town contract, and use of dumpster screens. He explained that Council had been working on this for almost four years and that the Town needs to award a new contract on May 12 because the end of the fiscal year is approaching. He said Council will address the matter in its February 3 work session, that staff is working on an invitation to bid, and that the proposed Code revisions and new policies would fill gaps and alleviate vagueness in the older documents.

There was a discussion of which types of containers were appropriate for different types of users, of who would own them, how many a user would have, and what charges would be involved.

Mayor Dickinson said that as a matter of fundamentals it is necessary to establish at the outset who gets trash pickup, who doesn't, and what limits are placed on the permissible amount.

Chair McDonald said residents will complain that they should not have to pay anything beyond the taxes they pay already. Mr. Dalton said one alternative would be to add a charge to utility bills, which should lead to a tax reduction. Mayor Dickinson added that such a measure might at least eliminate the need for a tax increase if revenue is needed elsewhere.

Mayor Dickinson noted that with water and sewer services, people pay for what they actually use. She said it would be possible to include a minimum level in taxes and add an extra charge for extraordinary services. She recommended providing services to residents and requiring commercial entities to make their own arrangements. Ms. Harrison concurred. Mayor Dickinson said the Town does not need to be in the trash business, and said that if Council can agree on a basic philosophy, it can accomplish the needed revisions quickly.

There was a discussion of how a residential user should be defined and which categories of occupancies would receive basic service. Chair McDonald suggest using business licenses as a defining tool. Mayor Dickinson said possession of a business license would not necessarily exclude an occupancy from being considered residential.

There was a discussion of how a commercial entity should be defined. Mayor Dickinson suggested that the Town allow small business owners to continue with Town service if they pay for it. Ms. Harrison said this would help keep pickup schedules uniform.

The committee agreed that Mr. Dalton's code revisions should be based on the core philosophy established by the above discussion.

There was further discussion of how to define a residence. Mr. Dalton said it is impossible to cover everything and that some interpretation will be necessary.

Mr. Dalton said the Code revisions must address the compliance period for dumpster enclosures. The committee agreed that it had decided on a one-year period.

There was a discussion of temporary dumpsters, enclosure specifications, and the difference between businesses and industries.

There was a discussion of how to relate zoning ordinance changes to Chapter 8.

There was a discussion of toter dimensions and of when toters must be removed from the curb.

Mr. Dalton directed the committee's attention to Code revisions addressing appliance disposal and related safety concerns.

There was a discussion of the maximum allowable number of toters at a given occupancy.

There was a discussion of whether rates for residents and business/industrial entities should be uniform.

There was a discussion of totter screening and bases.

Mayor Dickinson asked Mr. Dalton to consider treatment of restaurants as a separate category.

Chief White directed the committee's attention to the Code's stipulation that Council makes policy but the Town Manager is responsible for procedure.

5. Other

There was no other business.

6. Closed Session

There was no closed session.

7. Adjourn

Chair McDonald requested a motion to adjourn. Mayor Dickinson so moved, with Ms. Harrison seconding. The motion passed by consensus and the meeting adjourned at 2:40 p.m.

BERRYVILLE TOWN COUNCIL COMMUNITY DEVELOPMENT COMMITTEE
Berryville-Clarke County Government Center
MINUTES
January 27, 2020

A meeting of the Berryville Town Council Community Development Committee was held on Monday, January 27 at 3:00 p.m. in the Berryville-Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance:

Members of the committee present: Chair Kara Rodriguez, Diane Harrison, Donna McDonald

Staff present: Keith R. Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Paul Culp, Town Clerk

Also present: Clarke County Director of Public Information Cathy Kuehner

1. Call to Order

Chair Rodriguez called the meeting to order at 3:00 p.m

2. Approval of Agenda

Ms. McDonald moved for approval of the agenda as submitted, seconded by Ms. Harrison. The motion passed by consensus.

3. Unfinished Business:

Branding and Marketing

Ms. Dunkle said that in working on a request for proposal for a branding and marketing study she had consulted Ms. Kuehner, who has recently overseen the County's website redesign and social media presence, and that she had shared with the committee her notes from that discussion. Ms. Kuehner asked the committee members where they are in the process. Chair Rodriguez said the Town Council had voted for a branding and marketing study as a goal for the current fiscal year and that Ms. Harrison had suggested that branding be tackled first. Chair Rodriguez said the Town also needs to redesign its website at some point.

Ms. Kuehner explained that a brand is a promise and is related to what a product evokes. She said Berryville itself and its government are not identical, and asked which is to be promoted. She asked what Council's focus, mission, and vision are.

Ms. Harrison asked how the Town and its government could be kept separate, considering Berryville's small size. She said a Google search for Berryville brings up the government as the first hit. She said the Town needs a teaser to make it seem like a desirable place.

Ms. Kuehner said the Town must be realistic about what it is and that its brand promise must be true. She warned that breaching a brand promise would rapidly lead to a negative and extensive word-of-mouth reaction. She recommended establishing a brand and then proceeding to a mission statement. She suggested compiling a list of things to celebrate and not focusing on what the Town does not have. She stressed the need to manage expectations and not over-promise.

There was a discussion of Berryville's and Clarke County's decision to remain small and of how this imposes certain limits. Mr. Dalton noted that all choices bring drawbacks and that the Town needs to highlight the positive results of its decisions. He noted that far-seeing choices in the 1960s and '70s had led to the area's current desirable qualities, with the Town, the County, and Boyce deciding together how to grow in their own way. He said Berryville's authenticity as a small town is meaningful. There was a discussion of the advantages that had accrued as a result of carefully controlled growth. Ms. McDonald said extensive conservation easements had helped prevent excess growth.

Mr. Dalton said the Town had long considered wayfinding signage inspired by the character of the community and had set aside funds for this purpose, but that it was unsure what sort of design would be sensible. He said such a design should be integrated into the Town website and should be a primary manifestation of its brand. He asked Ms. Kuehner what she would recommend as a path to that point.

Ms. Kuehner said the Town must decide what it is and the direction it wants to take. Chair Rodriguez said an external opinion would be helpful. Ms. Kuehner said the ability to articulate a mission and vision would give a graphic designer what s/he would need to help establish the Town's identity.

Ms. Dunkle suggested that most of the local amenities are associated with the County but that Berryville receives most of the attention, which then benefits the County. Ms. McDonald said separation of Town and County interests is not desirable.

The committee agreed to report to the full Council its recommendation to proceed with branding. Ms. Dunkle said she would incorporate her report into that recommendation.

B. Playground/Park Update

Mr. Dalton had little to add to his written report. He said more engineered wood fiber would be added to the site soon and that there was some painting to be done in addition to installation of the new shade structure. Chair Rodriguez said people are pleasantly surprised by the rapidity of the work.

The discussion returned briefly to branding and marketing. In response to a question from Ms. McDonald, Ms. Dunkle noted that a plan must be broad enough not to be unduly affected by political changes occurring as a result of Berryville holding elections every two years.

4. New Business

There was no new business.

5. Other

The committee agreed to meet again on March 23 at 3:00 p.m.

6. Closed Session

There was no closed session.

7. Adjourn

Chair Rodriguez invited a motion to adjourn. Ms. McDonald so moved, with the meeting adjourning by consensus at 4:00 p.m.

BERRYVILLE TOWN COUNCIL PERSONNEL, APPOINTMENTS, AND POLICY COMMITTEE
Berryville-Clarke County Government Center
MINUTES
January 28, 2020

A meeting of the Berryville Town Council Personnel, Appointments, and Policy Committee was held on Tuesday, January 28, 2020 at 9:00 a.m. in the Berryville-Clarke County Government Center, located at 101 Chalmers Court in Berryville, Virginia.

Attendance:

Members of the Committee present: Recorder Jay Arnold, Chair; Erecka Gibson; Kara Rodriguez

Staff present: Keith R. Dalton, Town Manager; Paul Culp, Town Clerk

1. Call to Order

Chair Arnold called the meeting to order at 9:00 a.m.

2. Approval of Agenda

Ms. Gibson made the motion to approve the agenda, seconded by Ms. Rodriguez. The motion passed by consensus.

3. Unfinished Business

Town Manager Review Process

Mr. Dalton directed the committee's attention to the review/process schedule and review surveys included in the agenda packet.

Mr. Dalton noted that the schedule calls for two reports relatively close together, at mid-year and end of year. There was a discussion of precise dates.

Ms. Rodriguez suggested adding to "goals and objectives" something specific to areas for improvement. There was a discussion of when to undertake this portion of the evaluation, such as before budgeting. Ms. Gibson noted that the review cycle need not be tied to the fiscal year.

Ms. Rodriguez said she would prefer to see the first evaluation completed before the new deputy town manager is hired, as the results could influence how responsibilities are apportioned between Mr. Dalton and the new deputy. She said this would be useful for closing gaps in the execution of tasks.

Mr. Dalton ascertained from the committee that "goals and objectives" should be rephrased as "organization goals and objectives" and "position goals and objectives."

Recorder Arnold said the process is a new one and recommended using the suggested schedule and adjusting later as necessary. The committee concurred.

There was a discussion of how to bring the matter to the whole Council. The committee agreed that a closed session would not be necessary to discuss the process. Recorder Arnold said he would address the matter in his report to Council.

There was a discussion of whether to use numerical ratings or verbiage in the performance assessment. The committee agreed on numerical ratings.

4. New Business

New Assistant Town Manager Position

Mr. Dalton explained that he envisioned the new assistant town manager as a second-in-command to substitute for him when he is away, as human resources director, as a layer of management over the finance director, and as an adviser to the Town Council. He directed the committee's attention to the current organizational chart and to his draft of a revised chart.

There was a discussion of whether "deputy" or "assistant" should be used in the title of the new position.

There was a discussion of whether the revised chart reflected the intended reporting structure Mr. Dalton had described, and of possible adjustments, especially with regard to human resources matters. Mr. Dalton said he would explore ways to clarify the structure, noting that he intended for the deputy town manager's only direct report to be the finance director.

Ms. Rodriguez said it is important to be sure the new deputy manager does actually reduce the town manager's burdens. Mr. Dalton said that as town manager he needs more time and freedom to consider long-range planning and the direction of the organization, and that he would like to be less reactive and better able to prevent problems rather than just responding to them.

Mr. Dalton and Ms. Gibson discussed the possibility of a chart reflecting a dual reporting structure.

Ms. Rodriguez asked what is to be done with funds that had already been set aside for the new position but would not be spent in the current fiscal year. Mr. Dalton said he would prefer that they be returned to the general fund reserve. He noted that if the Town Council wanted to do something else with the funds, they could be used for salary adjustments or improvement of the amphitheater. Ms. Gibson concurred regarding the advisability of returning the funds to the general fund as a reserve.

Ms. Gibson expressed a desire to see a P-card change as it relates to the finance director. Mr. Dalton concurred.

Ms. Gibson said Council should remain flexible about the job description for the new position and allow Mr. Dalton to make decisions about the deputy town manager's responsibilities.

Mr. Dalton noted that the Town Charter provides for the town manager, not the Town Council, to hire the deputy manager. There was a discussion of whether Council was to be consulted in the latter stages of choosing among likely candidates. Ms. Gibson said Council must heed the Charter.

Ms. Rodriguez suggested that Council meet with the final two or three candidates and make a recommendation to Mr. Dalton. Recorder Arnold said that in this scenario differences of opinion between Council and Mr. Dalton would be awkward. Both Recorder Arnold and Ms. Gibson said the town manager must be permitted to do his job.

Mr. Dalton said the process as stipulated by the Charter permits quicker action and that he possibly could make the hire by May. Recorder Arnold said the sooner the better.

Mr. Dalton said he would make some revisions to the schedule and job description for forwarding to Council. He asked whether approval of the job description is to be considered part of Council's creation of the position as stipulated by the Charter. Recorder Arnold said Council should comment on Mr. Dalton's job description draft but must not bog down the process. The committee concurred.

Review of Full List of Appointments

There was a brief discussion of a list of appointed officials and the expiry dates for their terms in office, which had been provided by Mr. Culp. The committee agreed to begin at its next meeting the discussion of reappointments for appointees whose terms will soon expire.

Mr. Dalton described how the relationship between Barns of Rose Hill and the Town's representative had developed. He said he had discussed with the town attorney a transition to that representative being a non-voting liaison and that he would share the suggested changes with the committee in the future.

5. Other

Recorder Arnold asked whether the Personnel Committee or the Budget and Finance Committee would be responsible for the compensation survey discussed by Council in recent months. Mr. Dalton said it is not a budget item until July and will be a staff responsibility unless staff receives direction to the contrary. Ms. Gibson said the new deputy town manager could do it. There was a discussion of the advantages of this, including the survey process being a good opportunity for the new deputy manager to learn the organization.

6. Closed Session

There was no closed session.

7. Adjourn

Recorder Arnold invited a motion to adjourn. Ms. Gibson so moved, with Ms. Rodriguez seconding and the committee adjourning by consensus at 10:28 a.m.

BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
MINUTES
January 28, 2020

A meeting of the Berryville Town Council Streets and Utilities Committee was held on Tuesday, January 28 at 1:30 p.m. in the Berryville-Clarke County Government Center located at 101 Chalmers Court in Berryville, Virginia.

Attendance:

Members of the committee present: Diane Harrison, Chair; Mayor Pat Dickinson

Staff present: Keith R. Dalton, Town Manager; Christy Dunkle, Town Planner; Neal White, Chief of Police; Paul Culp, Town Clerk

Press present: Mickey Powell, Winchester Star

1. Call to Order

Chair Harrison called the meeting to order at 1:30 p.m.

2. Approval of Agenda

Mayor Dickinson asked for a re-ordering of agenda items and for the addition of discussion about Byrd Avenue matters and Treadwell Street sewer repairs. The agenda as amended was approved by consensus.

3. Unfinished Business

Street Light Pilot

Ms. Dunkle described three street lights that have been installed on or near East Main Street as part of the Town's Street Light Pilot Program. She also described changes made to other street lights for maintenance purposes. There was a discussion of the characteristics of some of the lights.

Ms. Dunkle also introduced a set of questions to be used in a survey that staff intends to post on the Town website in order to assess public reaction to the lighting changes. There was a discussion about rewording and refinement of the suggested survey questions. Ms. Dunkle and Mr. Dalton indicated that staff would like to post the survey as soon as possible and keep it active for one month, with results being made available to the Town Council at its March regular meeting.

There was a discussion about future improvements on Crow Street.

Ms. Dunkle provided her development update at this point in the meeting. See below under new business.

Stormwater Preliminary Engineering Reports

Mr. Dalton noted that the Town Council had budgeted funds in FY19 and FY20 to review stormwater damage problems in the northwest part of Town, on Town Run, and in the Virginia Avenue area.

Mr. Dalton provided some details about two draft scopes included in the agenda packet, and noted particular problems to be abated. He said it is especially important that work on Town Run not create problems downstream.

Mr. Dalton noted that Council had reviewed drafts in September and had directed staff to finalize scopes of work for the committee's review, which he said ought to proceed quickly in order that the work might be completed in the current fiscal year.

Mr. Dalton explained that much of Town Run is maintained by property owners and that Council must decide whether to obtain an easement or continue with the current system. Mayor Dickinson asked what property owners can do, and Mr. Dalton said they can keep the run clear. He said the Town at present can assist with significant obstructions but cannot go beyond clearing debris, while the proposed work might permit going beyond this with suitable permitting. There was a discussion of the need to communicate with residents. Mr. Dalton noted that the Town talks to homeowners who do not keep the run sufficiently clear and that the Public Works Department inspects the area when significant storms are expected.

Chair Harrison asked about the possibility of sending letters, pamphlets, and yearly reminder cards. Mr. Dalton said this would be feasible.

The committee agreed to forward the matter to the full Council.

4. New Business

Development Update

Ms. Dunkle informed the committee of the following:

- Construction is underway on Robert Regan Village, with substantial completion expected by August 2020.
- Clearing activity is underway for Shenandoah Crossing. Utility work on Petal and Page Streets was scheduled to begin in the present week.
- Review of construction plans for Fellowship Square is complete and construction plans executed.
- Review of construction plans for Hermitage Phase V is underway.

Mayor Dickinson asked when final approval for Hermitage will occur, and Ms. Dunkle said this is not yet known.

Intersection of East Main Street and Jack Enders Blvd.

Mr. Dalton said staff has received citizen complaints about sight distance and trucks straying from their lane, and an expression of concern by a member of Council that there is no sign other than pavement markings and a stop sign to inform drivers that they must stop and turn either left or right. He said the suggestion was for a sign informing drivers to this effect, and that the concern had been expressed in light of the recent incident in which a vehicle did not stop at the stop sign and consequently plunged into the hardware store.

Mayor Dickinson said the lighting at the intersection is insufficient and that the street markings are obscured by rain. Chair Harrison noted that the driver in the aforementioned accident had been inebriated at the time and that such incidents have not occurred before, even though the intersection has always been as it is now. She said the installation of a sign would be a significant encroachment on certain businesses at that location. Mr. Dalton said remediation is a VDOT matter and that he is dubious about the proposition because many other intersections are similar.

Byrd Avenue

Mayor Dickinson said a large crane often blocks Station Road for long periods, preventing egress from the industrial park. She said there are now multiple businesses where formerly there was only one, and asked why Byrd Avenue continues to be gated.

Chair Harrison said she had heard that residents of Byrd Avenue disliked excess traffic on the narrow street where there are no sidewalks. She said changing it now might be dangerous. Mayor Dickinson said she sees few pedestrians there and does not believe there would be any danger. She suggested opening the street to vehicles other than trucks. Chair Harrison said residents must be allowed to voice their concerns about a proposed change.

Ms. Dunkle said problems could occur on Main Street, Church Street, and Station Road if Byrd becomes a pass-through.

Two members of the public, Chris McInturff and Melanie Harp, addressed the meeting from the visitors' seating area. They expressed concern about the time needed to move the crane in an emergency during daylight hours. They said they would like for standard procedure to allow emergency-services providers to use Byrd Avenue in the daytime. There was a discussion of an automated gate. Mr. McInturff said the owner would be willing to install such a gate.

Chair Harrison said residents must be suitably notified in any case.

Mr. Dalton said he would need to discuss the matter with Chief White, emergency dispatch, and fire-and-rescue services providers.

Chief White said it would be necessary first to talk to Trowbridge about the procedural changes. He also noted that opening the gate could set a precedent and that there was another gated entrance to the site from Josephine Street.

Mr. Dalton said staff must explore options and return to the committee with its findings. The committee agreed to consider the matter again in the future.

Treadwell Street Sewer Problems

Mayor Dickinson noted that sewer lines deteriorate, making it necessary to go under the street to access the main, and said that each homeowner's responsibility should end at the property line.

Mr. Dalton said the liability for the Town associated with such a change would be very great. He said that sometimes a blockage is pushed along instead of being removed, which makes the determination of responsibility difficult.

Mayor Dickinson asked whether it would be possible to notify homeowners to resolve problems before paving occurs. Mr. Dalton said such notice occurs when there are known problems but more could be done. He noted that conflicts could occur because of timing and multiple contractors working in the same vicinity.

Chair Harrison said the Town's current practice is not unusual.

Mr. Dalton said staff can provide notices if Council so desires.

5. Other

No other business came before the committee.

6. Closed Session

There was no closed session.

7. Adjourn

The meeting adjourned by consensus at 2:54 p.m.

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Work Session
February 3, 2020
3:00 p.m.

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

Staff: Present--Keith Dalton, Town Manager; Greg Jacobs, Assistant Town Manager/Treasurer; Paul Culp, Town Clerk; Chief Neal White, Berryville Police Department; Heather DeHaven, Finance Clerk

Press: Mickey Powell, The Winchester Star

1. Call to Order

Mayor Dickinson called the meeting to order at 3:00 p.m.

2. Approval of Agenda

Mayor Dickinson invited a motion to approve the agenda.

Council member Gibson moved to approve the agenda, seconded by Council member Rodriguez. The motion passed unanimously by consensus.

3. Unfinished Business

There was no unfinished business.

4. New Business

Garbage, Refuse, and Recyclables Collection

Mr. Dalton explained that for many years the Council's Public Safety Committee had been responsible for review of the Town Code. He said that three years ago it had begun discussing the need for revision of Chapter 8 for three reasons: 1) In its current form it reflects refuse collection techniques involving multiple sanitation workers placing waste in a truck rather than the contemporary automated system that allows a higher container-weight limit; 2) There are concerns about the number of toters in commercial areas and two dumpsters in commercial areas covered by the Town contract; and 3) There are concerns about the aesthetics of container/dumpster storage areas and the escape of litter from those areas.

Mr. Dalton said the Town's waste-disposal contract will expire soon, and the Town must issue a request for proposal (RFP) by March. He said revised regulations ought to be in place before this occurs and would entail repeal and replacement of Chapter 8 as well as changes to zoning ordinances related to dumpsters and solid waste. He said the Public Safety Committee wishes to protect public health, manage resources optimally, and curtail dispersion of litter from container storage areas.

Mr. Dalton said the revisions would empower the town manager to address unlawful accumulation of trash; require approval of dumpsters by a zoning administrator; require screening of all dumpsters; require business/commercial, institutional, and multi-family entities using totes or other containers instead of dumpsters to screen those containers; and establish requirements for waste collection conducted by parties other than the Town.

Mr. Dalton said that for the sake of flexibility the Code should be kept lean and relatively general, with policy addressing specifics such as establishment of standards for preparation and placement of waste materials for collection; for issuance of containers and charges for containers beyond the standard number issued; and siting of enclosures. He said some people who currently receive Town service would no longer do so and would need to make their own arrangements, and that new regulations would govern providers other than the Town.

Mr. Dalton said the proposed changes would affect residential users as follows: Totes issued beyond a standard allotment would carry a monthly fee; no multi-family users would automatically receive service, and any such use would require a monthly fee; and the amount of yard waste collected would be limited. He said the established container allotment for residents would be one tote and one recycling bin.

Mr. Dalton said commercial/business and institutional entities would not automatically receive Town service, which would require a monthly fee if they choose to receive it; that dumpsters must be screened; and that any such property with more than two totes or containers must screen them.

There was a discussion of how far the committee had gone in determining the number of containers allowed. Mr. Dalton said he had endeavored to interpolate the will of the committee from multiple meetings over an extended span of time.

Mr. Dalton then reviewed the proposed timetable, which called for a public input session on March 10 followed by prompt issuance of the RFP, initiation of a review of planning and zoning provisions by the Planning Commission, award of bid by May 12, and Code/policy provisions taking effect concurrently with the new contract on July 1.

Council member Rodriguez asked whether the committee had considered lidded containers for recycling, and Council member Harrison asked if such containers could be included in the RFP. Mr. Dalton said this would be possible. Mayor Dickinson said such containers could create problems for residents of townhouses and suggested that they be optional.

There was a discussion of totter sizes. Mr. Dalton said it would be helpful to inform the public about ways to manage waste products efficiently in order to make such materials more compact.

Council member Gibson asked who currently pays for pickup. Mr. Dalton said no one pays collection fees to the Town, but many business/commercial, industrial, and multi-family entities are on their own for waste collection services, while some have received Town service, and the revisions are intended to create uniformity in this area. He said the Town offers service to all single-family and attached-residential entities.

There was a discussion of how "apartment" is to be defined.

There was discussion of two business/commercial entities that have Town service, why this is the case, and how that would change under the Code/policy revisions.

There was a discussion of whether it is equitable for people to pay taxes into the Town's general fund and also pay for trash pickup.

There was a discussion of what constitutes a business and of who actually pays for trash pickup—residences or business owners—in the case of multi-family entities.

There was a discussion about whether to create a separate trash fund analogous to the water/sewer fund.

There was a discussion of how many totters various types of businesses use.

There was a discussion of which multi-family entities receive Town service and which do not.

There was a discussion of people being taxed for services that do not benefit them directly, such as childless people paying taxes to support schools.

Mayor Dickinson said conditions change over time and that it is necessary to solve problems as they are currently and not as they were in the past. She said business owners should be allowed to decide what is best for them. Agreeing, Recorder Arnold said that trash removal is a part of doing business.

There was further discussion of what constitutes a business. Council member Rodriguez said the committee had defined different categories of waste. Mayor Dickinson said the committee still needed to refine definitions related to multi-family entities by locating verbiage governing those entities in such a way as to achieve a clear separation from that governing single-family residences. She said she would not be opposed to having a separate utility fund for trash but that the Town would need to decrease taxes elsewhere to offset it.

Council member Gibson said that if the Town limits totes, it must keep the waste-disposal company from picking up anything beyond that. Mayor Dickinson and Mr. Dalton said he has developed a plan to manage this.

There was further discussion of why an apartment is considered a business.

There was a discussion of enforcement challenges in dealing with times and days of trash collection for businesses that make their own trash-removal arrangements.

There was a discussion of tote limits and businesses that cannot site dumpsters, of the possibility of community dumpsters, and of problems associated with them.

There was a discussion of problems associated with multiple companies operating on different schedules or possibly creating congestion by collecting trash at the same time.

A discussion established that any business using a dumpster would be on its own for trash removal, as is the case currently.

There was further discussion of how apartments handle trash-removal costs.

Responding to a discussion about collection times and tote/container clutter, Mr. Dalton suggested that uniformity of collection times could be achieved by requiring businesses to use Town service and pay for it. He said having other haulers handling anything other than dumpsters would detract from uniformity of service. Council member McDonald concurred. Council member Harrison suggested allotting each business in C District one tote free of charge on Town service and requiring it to use Town service unless the business has an approved dumpster, with an option to pay for more as needed, up to a limit of five.

There was a discussion of the boundaries of the geographic area in question and of particular businesses therein, and an agreement to proceed along lines suggested by Council member Harrison.

There was a discussion of container-screening requirements with dumpsters or with two or more totes. Mr. Dalton said screening is desirable for aesthetic reasons and to prevent diffusion of litter. Council agreed to clarify that the objective was to keep containers out of sight by whatever means, such as in a garage, and not necessarily to require new structures.

There was a discussion of the need to clarify whether property owners or residents are responsible for screening.

There was a discussion of the characteristics of different types of containers, including lidded containers to help prevent dispersion of litter.

There was a discussion of home-based businesses being treated as residences.

There was a discussion of the one-year compliance period for screening to begin on the date the new regulations become effective, and of the cost of compliance.

There was a discussion of the number of totes to be issued. Council member Rodriguez suggested allotting two lidded recycling bins free of charge rather than one, if the Town continues to use small open bins, so as not to de-incentivize recycling. Mayor Dickinson said there should be no charge for having recycling bins but that lidded recycling totes would tempt users to place trash overflow in recycling containers. Mr. Dalton said unlimited recycling and limited trash collection would lead to people putting trash overflow in recycling containers, resulting in contractors rejecting loads of recyclables because of contamination. Council member Harrison suggested allowing one large lidded container or three small unlidded ones. Council decided on a maximum issue of one lidded recycling tote or three bins.

Council member Rodriguez suggested an insert in water/sewer bills to notify the public of a public input session on trash disposal, should Council have one.

Mayor Dickinson said the timetable suggested by Mr. Dalton was too aggressive and that Council's recommendations as discussed in the present meeting likely could not be ready for presentation in the February 11 regular meeting of Council. Mr. Dalton said trash collection would have to be the top priority.

Mayor Dickinson said a public input session would be essential.

There was an inconclusive discussion of when to have a public input session. Recorder Arnold asked whether it would be possible to issue the RFP before finishing revisions to the Code. Mr. Dalton said it would be necessary to know who gets what type of service in order to provide precise numbers to contractors and that revisions after issuance of the contract would be arduous. Ms. DeHaven said it would be possible to add a clause permitting revision after acceptance of the contract. Mr. Dalton expressed skepticism about all necessary input and discussion occurring in time to avert this. He said staff would prepare an RFP based on the current version of Chapter 8 and present it to Council for further discussion of details.

There was additional discussion of when one or more public input sessions would be possible. Mr. Dalton recommended that Council set a deadline for completion of its deliberations. Recorder Arnold noted that the current contract cannot be extended and that prompt action by Council is necessary. Ms. DeHaven said the Town must know its direction by early May. Mr. Dalton said the possibility of a new contractor increases the urgency. Mayor Dickinson and Ms. DeHaven noted potential problems in the collection and re-issuance of containers as one contract ends and another begins.

Mayor Dickinson said another work session would be necessary before presenting the Code and policies to the public. There was a discussion of when this would be possible. She cautioned against the Town having to revise its figures more than once after awarding the new contract.

Mr. Dalton praised Ms. DeHaven's efforts on the new RFP.

5. Other

No other business came before Council.

6. Closed Session

There was no closed session.

7. Adjourn

Mayor Dickinson requested a motion to adjourn.

Council member Harrison moved to adjourn, seconded by Council member Gibson. The motion passed by consensus at 5:03 p.m.

Harry Lee Arnold, Jr., Recorder

Paul Culp, Town Clerk