

BERRYVILLE TOWN COUNCIL
Tuesday, December 21, 2010
Berryville-Clarke County Government Center
Continued Regular Meeting
3:00 p.m.

MINUTES

Roll:

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Mary Daniel; Allen Kitselman; David Tollett; Lawrence Russell, III

Staff: Keith Dalton, Town Manager; Christy Dunkle, Asst. Town Manager/Planner; Neal White, Chief of Police; Celeste Heath, Town Clerk
Robert Mitchell; Town Attorney

1. Call to Order – Wilson Kirby, Mayor
Mayor Kirby called the meeting to order at 3:02 p.m.

2. Closed Session –Pursuant to Va. Code §2.2- 3711(A)(7) for consultation with legal counsel regarding probable litigation concerning the Joint Government Center HVAC system.

a. Motion to enter Closed Session

It was moved by Recorder Arnold, seconded by Council member Kitselman that the Council of the Town of Berryville enter Closed Session pursuant to Va. Code §2.2-3711(A)(7) for consultation with legal counsel regarding probable litigation concerning the Joint Government Center HVAC system.

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays: None

Abstain: None

Absent During Vote: Mary Daniel

b. Enter Joint Closed Session with the Clarke County Board of Supervisors
The Town Council entered closed session at 3:02 p.m.

Ms. Daniel entered the closed session at 3:25 p.m.

c. Reconvene Open Session

The Town Council reconvened in open session at 3:41 p.m.

d. Certification of Closed Session

Town of Berryville
RESOLUTION

MEETING DATE: December 21, 2010

MOTION BY: Mary Daniel

SECOND BY: Allen Kitselman

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Council of the Town of Berryville, Virginia (Council), 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.

CALLED VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Lawrence Russell, III
David Tollett

Nays: None

Abstain: None

Absent During Vote: None

Harry Lee Arnold, Jr., Recorder

3. Joint Session with Clarke County Board of Supervisors

Mr. Mitchell explained the situation with the Berryville-Clarke County Government Center which was constructed under contract with Brechbill & Helman Construction Company and pursuant to an agreement with Baughan and Baukhages Architects. He explained that the contractor owes the Town and County for liquidated damages because of construction delays.

Mr. Mitchell said that there have been problems with the HVAC system in the building and that an outside engineer was engaged to conduct an evaluation of the system. He said that both boards have been supplied copies of the report that indicates that the problem is primarily a design issue. He said that the report identifies several items that need to be corrected and are the responsibility of the contractor.

Mr. Mitchell said that the agreement that the boards are considering calls for payment of the liquidated damages and repair to the HVAC system by Brechbill and, in turn, payment of outstanding invoices to Brechbill by the Town and County.

He noted that item 5(e) in the agreement may be subject to change because there is some concern as to whether the contractor is responsible for this item. He suggested that authorization to change this item if needed should be left with the Joint Building Committee.

The Clarke County Board of Supervisors unanimously approved the attached Agreement.

Upon motion by Recorder Arnold, seconded by Council member Daniel, the Council of the Town of Berryville approved the attached Agreement with Brechbill & Helman Construction Co., Inc. dated December 21, 2010, subject to the Joint Building Committee having the authority to modify Paragraph 5.e. of the Agreement as to the obtaining and payment for an “as is” air flow test.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Lawrence Russell, III David Tollett
Nays:	None
Abstain:	None
Absent During Vote:	None

Adjourn

Upon motion by Council member Daniel, seconded by Council member Russell and passed, the Council meeting was adjourned 3:49 p.m.

Wilson Kirby, Mayor

Harry Lee Arnold, Jr., Recorder