

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Called Meeting
December 5, 2022
3:00 p.m.

Town Council: Present--Harry Lee Arnold, Jr., Mayor; Erecka L. Gibson, Recorder; Diane Harrison; Kara Rodriguez. Absent—Grant Mazzarino. Ward 1 currently vacant.

Staff: Present—Keith Dalton, Town Manager.

Also present: William Steinmetz and Michael Bell, applicants for vacant Ward 1 seat.

Media: Mickey Powell, *The Winchester Star*

1. Call to Order

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

2. Approval of Agenda

Mayor Arnold invited a motion to approve the agenda.

Recorder Gibson moved to approve the agenda. The motion passed by unanimous voice vote.

3. Closed Session

Recorder Gibson moved that the Council of the Town of Berryville enter closed session for discussion, consideration, and interviews of prospective appointees to the Town Council in accordance with §2.2-3711-A-1 of the Code of Virginia. The motion passed by unanimous voice vote, and the Council entered closed session at 3:01 p.m.

4. Open Session

The Council returned to open session at 4:40 p.m.

Recorder Gibson moved that the Council of the Town of Berryville adopt the **attached resolution certifying the closed session. The motion passed by unanimous roll-call vote.**

Ms. Harrison moved that the Council of the Town of Berryville adopt the **attached** ordinance making an appointment to fill the unexpired term of Donna Marie McDonald as the Ward 1 representative on the Council. The motion passed by unanimous voice vote.

Mr. Dalton then read the ordinance.

5. Adjourn

The Council adjourned at 4:45 p.m. by unanimous roll-call vote on a motion by Recorder Gibson.

Town of Berryville
Town Council
MOTION TO ENTER CLOSED SESSION

Date: December 5, 2022

MOTION BY: Gibson

SECOND BY:

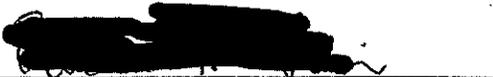
I move that the Council of the Town of Berryville enter closed session for discussion, consideration, and interviews of prospective candidates for appointment to the Town Council in accordance with §2.2-3711-A-1 of the Code of Virginia.

VOTE:

Aye: Unanimous voice vote

Nay:

Attest:



Erecka L. Gibson, Recorder

BERRYVILLE TOWN COUNCIL

MOTION

CLOSED SESSION RESOLUTION

DATE: December 5, 2022

MOTION BY: *Gibson*

SECOND BY: *—*

I move that the Council of the Town of Berryville adopt the following resolution certifying it 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:

Resolution

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,

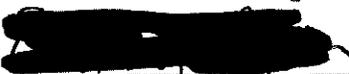
NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii)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

VOTE:

Aye: *Unanimous roll-call vote*

Nay:

Absent/Abstain:

ATTEST:  _____

Erecka L. Gibson, Recorder

An ordinance appointing a Ward 1 Representative to the Town Council to fill the unexpired term of Donna Marie McDonald

Be it ordained, by the Council of Town of Berryville, that in accordance with §3.5 of the Charter of the Town of Berryville and § 24.2-228 of the Code of Virginia, the Council hereby appoints William Steinmetz to fill the unexpired term of Donna Marie McDonald as the Ward 1 representative on the Council with such term to begin on December 8, 2022 and expire on December 31, 2023.

VOTE:

Recorded Vote:

Ayes: *Unanimous voice vote.*

Nays:

Absent:

Abstain:

Absent During Vote:

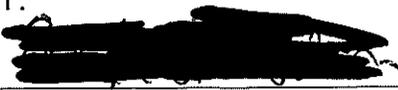
SIGNED



Harry Lee Arnold, Jr., Mayor

Date: December 5, 2022

ATTEST:



Erecka L. Gibson, Recorder

Date: December 5, 2022

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
December 13, 2022
7:00 p.m.

Town Council: Present—Harry Lee Arnold, Jr., Mayor; Erecka L. Gibson, Recorder; William Steinmetz; Diane Harrison; Grant Mazzarino; Kara Rodriguez.

Staff: Present--Keith Dalton, Town Manager; Cynthia Poulin, Treasurer; Christy Dunkle, Community Development Director; Paul Culp, Town Clerk; Chief Neal White, Berryville Police Department

Press: Mickey Powell, *The Winchester Star*

Also present: Councilman-elect Ryan Tibbens; Matt Bass, Clarke County Board of Supervisors; Lindsey Watson, Director of Government Affairs, Rappahannock Electric Cooperative

1. Call to Order

Mayor Arnold called the meeting to order at 7:00 p.m. and welcomed Mr. Steinmetz, who was appointed to the Council on December 5, effective December 8, to complete the unexpired term of Donna McDonald, who had resigned on October 26 for health reasons.

2. Pledge of Allegiance

3. Approval of Agenda

Recorder Gibson moved to approve the agenda. The motion passed by unanimous voice vote.

4. Presentations, Awards, and Recognitions

At Mayor Arnold's request, the clerk read the **attached** resolution honoring Mrs. McDonald, who died shortly after leaving office in October.

Ms. Harrison moved that the Council of the Town of Berryville approve the resolution honoring the life of Donna Marie McDonald. The motion passed by unanimous voice vote.

Ms. Watson, by prior invitation, addressed the meeting, introducing herself and briefly citing figures on the size of Rappahannock Electric Cooperative's membership and service area, which she said was the second-largest in the United States. She said the co-op is working to determine the causes for supply-chain problems, and said in response to a question from Mr. Mazzarino that these difficulties

and inflation were contributors to an expected 4 percent residential rate increase in 2023. She said the co-op is working on matters related to broadband, indoor agriculture, and infrastructure upgrades, and encouraged the Council to communicate with her regularly.

5. Public Hearings

None.

6. Discussion of Public Hearing Items

None.

7. Citizens' Forum

Winchester attorney Susan French, legal counsel for the owner of the blighted property at 112 Josephine Street that had been discussed in multiple previous meetings, said the Council needed the services of an attorney. She said one of the documents she had obtained via a request for records under the Freedom of Information Act had contained verbiage from Mr. Dalton advising the Council of the need for a closed session to discuss possible litigation, which she said assumed to be a reference to a civil rights suit on behalf of her client, which Ms. French said is a government matter and not something she can bring about. Ms. French also said the scheduling of the November Council meeting on Election Day and its rescheduling for the following week had been handled in a manner indicating an insufficiency of legal acumen.

8. Consent Agenda

The consent agenda comprised the minutes of the November 9 Town Council regular meeting rescheduled from the previous day and the November 15 continuation of that meeting.

Recorder Gibson moved to adopt the consent agenda as presented. The motion passed by unanimous voice vote.

9. Unfinished Business

Town Council Policies

Mr. Dalton directed the Council's attention to the agenda packet, which included a set of policies adopted by the Council since 2016 to govern a variety of situations and activities. He said the upcoming change of Recorder Gibson's title to vice mayor, the appointment of a new Ward 1 representative, and the recent election of Mr. Tibbens suggested a timely reappraisal of the documents, which he said he was presenting to the Council with suggested revisions. Recorder Gibson ascertained that the policies would be redistributed to the Council after completion of the revisions.

Recorder Gibson moved that the Council of the Town of Berryville adopt the **attached** policies and that the new policies become effective on January 1, 2023 and supplant all previous versions on that date. The motion passed by unanimous voice vote.

10. New Business

None.

11. Council Member Reports

Mayor

Mayor Arnold said he had done the honors at the annual lighting of the Christmas tree. He thanked Berryville Main Street and everyone who volunteered, and added that the Christmas parade had been a success.

Recorder

Recorder Gibson had nothing to add.

Ward 1

Mr. Steinmetz said he was pleased to be on the Council.

Ward 2

Ms. Harrison said she was pleased that the anticipated Josephine Street water-sewer project would begin in January. She said the program for banners honoring veterans was approaching readiness, and congratulated Wild Hare Cidery on the opening of its tasting room.

Ward 3

Mr. Mazzarino welcomed Mr. Steinmetz to the Council.

Ward 4

Ms. Rodriguez, having not sought reelection and participating in the final meeting of her term on the Council, delivered the **attached** statement.

Mayor Arnold noted that the 225th anniversary of the founding of Berryville would occur in 2023, with a birthday party scheduled for January 15 at Johnson-Williams Middle School. He recommended visiting the Facebook page devoted to the anniversary.

12. Staff Reports

Nothing was added to the written reports for Public Works, Utilities, Police, Administration and Finance, or Community Development.

Mr. Dalton said the Josephine Street water-sewer project would begin on January 16 and that notices would be mailed to residents within a day or two, having already been posted on the Town website and the County Facebook page.

13. Committee Updates

Budget and Finance

Recorder Gibson noted that changes on the Council were resulting in new committee assignments. She said the committee would have a budget work session on February 28, with a budget work session for full Council on March 6.

Community Development

Ms. Rodriguez, chair of the committee, initiated a discussion of the agenda materials on plans to make improvements to Hogan's Alley via a grant Berryville Main Street had received from the Virginia Main Street/Virginia Department of Housing and Community Development. She said she and Ms. Dunkle had met with Michelle Marino of BMS to discuss the matter and that a vote by Council was needed for the project to proceed.

Ms. Marino said the area is heavily used and that the project plan was relatively simple, calling for benches, planters, a plaque honoring longtime Town Manager John Hogan, and a better surface for pedestrians. Mayor Arnold said the remembrance of Mr. Hogan was needed. Ms. Harrison recommended that the benches be equipped with a bar or arm in the middle to prevent people from lying down and sleeping on them.

Ms. Rodriguez asked Mr. Dalton if the alley would require any repair before commencement of the project, which must be finished by May 31, 2023. Mr. Dalton suggested the possibility of budgeting for new asphalt, drainage improvements, and improvements to the sidewalk along Main Street directly in front of the alley. Ms. Dunkle noted that any changes to the alley must allow for access by Public Works personnel.

Ms. Rodriguez moved that the Council of the Town of Berryville approve the proposed improvements to Hogan's Alley. The motion passed by unanimous voice vote.

Personnel

Mayor Arnold noted the need to fill two vacancies on the Tree Board and that a Planning Commission appointment would necessary to fill a seat soon to be vacated by either Mr. Steinmetz or Mr. Tibbens.

Public Safety

Mr. Mazzarino, assuming the chairmanship of the committee after Ms. McDonald's departure, said it would meet on December 19 at 3:00 p.m.

Streets and Utilities

Ms. Harrison said the committee had no pressing business.

17. Closed Session

Mayor Arnold invited a motion for the Council to enter closed session. Recorder Gibson made the **attached** motion, which passed by unanimous voice vote, and the Council entered closed session at 7:38 p.m.

The Council resumed open session at 8:27 p.m. Recorder Gibson read the **attached** motion certifying the closed session.

18. Adjourn

The Council adjourned at 8:30 p.m. on a motion by Ms. Rodriguez.

Erecka L. Gibson, Vice Mayor

Paul Culp, Town Clerk



**A RESOLUTION OF THE COUNCIL OF THE TOWN OF BERRYVILLE
HONORING THE LIFE OF DONNA MARIE McDONALD**

**WHEREAS Donna Marie McDonald was born in Clarke County, Virginia, on October 3, 1956;
and**

**WHEREAS she was happily married to Lewis Allen McDonald from October 14, 1978 until
his death on August 21, 2019, and**

**WHEREAS Mr. and Mrs. McDonald were the proud parents of Erin, whom they raised in
Berryville; and**

WHEREAS Mrs. McDonald worked for Clarke County Social Services as a case worker; and

**WHEREAS Mrs. McDonald served with energy and distinction on the Berryville Town
Council from July 1, 2016 until October 26, 2022; and**

**WHEREAS Mrs. McDonald as the chair of the Town Council Public Safety Committee was a
tireless advocate for law enforcement; and**

**WHEREAS Mrs. McDonald carried out her duties as a Council Member with heartfelt
dedication to the needs and concerns of the people of her ward and of Berryville; and**

WHEREAS in all aspects of her life she emphasized the love of God and service to others;

**NOW, THEREFORE, BE IT RESOLVED that the Council of the Town of Berryville honors Donna
Marie McDonald for her many contributions to the community.**

By order of the Town Council this 13th day of December, 2022.

Harry Lee Arnold, Jr., Mayor

Erecka L. Gibson, Recorder



TOWN COUNCIL POLICIES

Compiled 12/01/22

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Town Council Policies

Electronic Participation In Meetings from Remote Locations

2016-01

Approved 7/16

Amended 4/20 &

Except as provided hereinafter, Town public bodies do not conduct meetings wherein the public business is discussed or transacted through telephonic, video, electronic, or other communication means where the members are not physically assembled.

I. Quorum Physically Assembled

A member of a Town public body may participate in a meeting through electronic communication means from a remote location that is not open to the public:

1. if, on or before the day of a meeting, the member notifies the Mayor or Chairman that he or she is unable to attend the meeting due to because of an emergency or personal matter and identifies with specificity the nature of the emergency or personal matter, and the public body
 - a. approves the member's participation by a majority vote of the members present at a meeting and
 - b. records in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated.

In deciding whether or not to approve a member's request to participate from a remote location, the public body shall not consider the identity of the member making the request or the matters that will be considered or voted on at the meeting.

If a member's participation from a remote location is disapproved, such disapproval will be recorded in the minutes with specificity.

Such participation by a member shall be limited each calendar year to two meetings or 25 percent of the meetings of the public body, whichever is fewer; or

2. if a member notifies the Mayor or Chairman that he or she is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the public body records this fact and the remote location from which the member participated in its minutes.

A member may participate in a meeting by electronic means pursuant to this section only when:

- a quorum of the public body is physically assembled at the primary or central meeting location; and

- the public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

II. Quorum Not Physically Assembled

The public body may meet by electronic communication means without a quorum physically assembled at one location when the Governor has declared a state of emergency in accordance with Va. Code § 44-146.17, provided

- the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location, and
- the purpose of the meeting is to address the emergency.

If it holds a meeting pursuant to this section, the public body shall

- give public notice using the best available method given the nature of the emergency contemporaneously with the notice provided members of the public body;
- make arrangements for public access to the meeting;
- make available to the public, at the time of the meeting, agenda packets and all materials, unless exempt, that will be distributed to members of the public body and that have been made available to the public body's staff in sufficient time for duplication and forwarding to all locations at which public access will be provided;
- record minutes of the meeting; and
- record in the minutes votes taken by name in roll-call fashion.

For any meeting conducted pursuant to this section, the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held, shall be stated in the minutes of the meeting. In addition, at such meetings the public body will make available to the public a public comment form prepared by the Virginia Freedom of Information Advisory Council.

III. Reporting

If the public body meets by electronic means, it shall make a written report of the following to the Virginia Freedom of Information Advisory Council and the Joint Commission on Technology and Science by December 15 of each year:

- the total number of electronic communication meetings held that year
- the dates and purposes of the meetings

- a copy of the agenda for each meeting
- the number of sites for each meeting
- the types of electronic communication means by which the meetings were held
- the number of participants, including members of the public, at each meeting location
- the identity of the members of the public body recorded as absent and those recorded as present at each meeting location
- a summary of any public comment received about the electronic communication meetings
- a summary of the public body's experience using electronic communication meetings, including its logistical and technical experience

IV. EXCEPTIONS

Nothing in this policy shall prevent the Council from acting in accordance with special provisions of emergency declarations of the President of the United States or the Governor of Virginia and determinations of the Council made in accordance with said declarations. Where provisions of this policy conflict with such emergency declarations, the provisions of said declaration of the President or Governor made in accordance with said declarations shall apply.

Legal Ref.: Code of Virginia, 1950, as amended, §§ 2.2-3708, 2.2-3708.1, 2.2-3710.

Town Council Policies

Code of Conduct

2016-02

Approved:8/16
Amended:

The Mayor, ~~Town Recorder~~ Vice Mayor, and Councilors representing the four wards, hereinafter recognized as "the Council," acknowledge the following Code of Conduct. This Code of Conduct shall apply to The Council during all meetings, including committees, ~~or~~ and sub-committees while members are representing the Town of Berryville in any way, and while they are in contact with town staff.

1. The Council will treat fellow councilors, citizens, staff, employees, and committee members with respect, and will not make accusatory or disparaging remarks at official Council or committee meetings.
2. Members of the Council, as individuals, have no legal authority outside the meetings of the Council.
3. Members of the Council will not give direction to any Town staff. Any request for action will be submitted to the Town Manager for consideration by the Council if necessary.
4. The Council will forward any citizens' complaints to the Town Manager. If any issue matter cannot be resolved by the Town Manager, he or she may forward it to the Council for a resolution.
5. The Council will forward any concerns about employees or staff to the Town Manager. Concerns about the Town Manager will be forwarded to the Mayor, ~~Town Recorder~~ Vice Mayor, and Chairman of the Personnel Committee.
6. The Council will forward any concerns about a fellow Councilor to the Mayor. Complaints involving the Mayor will be directed to the ~~Town Recorder~~ Vice Mayor. The Mayor and/or ~~Town Recorder~~ Vice Mayor will work to resolve any concerns.
7. The Council will not discuss any matter with the public that has been presented to the Council in closed session.
8. The Council recognizes that documents related to Town business, including all electronic transmittals sent or received in the performance of their duties as a Town Councilors, are subject to the requirements of the Freedom of Information Act.
9. To ensure the highest standards of respect and integrity during public meetings, The Council should:
 - A. Use formal titles. The Council should address the Council members such as Mayor, ~~(Town) Recorder~~ Vice Mayor, or Mr., Mrs., or Ms., followed by the individual's last name.
 - B. Be respectful of others and their opinions, and allow for the debate of issues.

- C. Honor the role of the presiding officer in maintaining order and equity, and respect the his/her efforts to focus discussion on current agenda items.
- D. Refrain from engaging the citizens in dialogue during public comments or hearings. For clarification purposes, the Council may ask the person speaking for additional information when they that person makes a presentation.

If by affirmative vote of the majority of the Council a Councilor is deemed to be in violation of the Code of Conduct, the Councilor shall receive a warning from the Mayor or Town-Recorder: Vice Mayor.

If a Councilor is found to be repeatedly in violation of the Code of Conduct, the Council may, by an affirmative vote of a majority of the Council, officially censure that Councilor.

Town Council Policies

Photography, Video Recording, and Audio Recording of Town Meetings 2016-03

Approved: 9/16

Amended:

Purpose:

Meetings of Town public bodies are intended to allow the public bodies to conduct public business in an open and transparent fashion. The Town may record public meetings for its purposes, and the public, including news media, may record meetings as allowed by law. This policy is to provide direction to Town officials regarding how Town recordings will be utilized, disseminated, and destroyed. The policy is also to provide direction to the presiding officers of public meetings regarding how recording and photography may occur during public meetings.

Policy:

A. Recording by Town Officials

All public Meetings of the Town Council, Planning Commission, Berryville Area Development Committee, and Board of Zoning Appeals, except duly constituted closed meetings held in accordance with the Code of Virginia, will be recorded. Committee meetings, except duly constituted closed meetings held in accordance with the Code of Virginia, may be recorded if either the Committee Chair or Town Manager determine that doing so is desirable.

The Meeting recordings may be used by the member of the Town staff responsible for preparing the minutes of the meeting. The Meeting recordings shall be destroyed after the meeting minutes have been approved by the public body; provided, however, if the recording it is determined by an affirmative vote of a majority of the membership of the public body that the a recording is of an enduring historically significant nature or describes the current function or organization of the Town's major administrative units, then the recording shall be considered a permanent record pursuant to the Virginia Public Records Act and shall be retained. The destruction of all recordings shall comply with the Virginia Public Records Act. Recordings that are the subject of a Freedom of Information Act request shall be retained in accordance with applicable requirements.

B. Recording of meetings and photography by the public

A member of the public may audio- or video-record or photograph the Town's public meetings. The public's recording activities may not disrupt the meeting. Disruptions would include noise, supplemental lighting (not approved in advance by the presiding officer), flash photography (not approved in advance by the presiding officer), or blocking the view of other members of the public. No person may position equipment or

personnel in a manner that the presiding officer deems an obstruction to emergency egress or to accessibility by for handicapped individuals.

Procedures:

A. Recording Meetings

The Town staff person tasked with taking minutes notes for the meeting will begin recording prior to the meeting being called to order and end recording upon meeting adjournment. When a public body enters a closed meeting, the recording will be stopped and recording will resume just prior to the presiding officer announcing that the public body has re-entered open session.

B. Equipment Failures

If during a meeting it is discovered that the recording device is not functioning properly, then the staff member recording the meeting will immediately notify the presiding officer of the problem. If the recording device can be made to function or if a backup recording device is available, then the remainder of the meeting will be recorded. Otherwise the meeting will proceed without being recorded. If it is discovered after a meeting that the recording device failed to record the meeting, then the staff member responsible for preparing meeting minutes will notify the presiding officer and the Town Manager of the problem.

Town Council Policies

Legal Advice/Opinion

2017-01

Approved: 4/17

Amended:

Purpose:

The Town Council utilizes attorneys, as needed, to provide legal support to the Town. The Town Council establishes this policy to provide cost-control measures and to ensure that any advice/opinion received from legal counsel is accessible to all members of the Council.

Policy:

- I. Except as provided in Section II of this Policy, below, the Town Manager will work closely with legal counsel and will seek advice/opinion in a manner consistent with the following:
 - A. The Town Manager is authorized to seek and receive legal advice/opinion as the Town Manager deems necessary to provide timely legal advice to the Town Council and staff as they conduct their duties. The Town Manager will utilize the Town's legal counsel in a cost-effective manner and in accordance with this Policy.
 - B. Any individual member of Town Council may seek legal advice/opinion by either:
 - a. Requesting that the Town Manager seek advice/opinion. The Town Manager may either:
 - i. Seek and receive the advice/opinion and provide information on the advice/opinion to the Town Council in accordance with this policy, or
 - ii. Request that the Town Council determine whether it will direct him/her to seek and receive the advice/opinion and provide information on the advice/opinion to the Town Council in accordance with this policy.
 - or
 - b. Requesting that the Town Council direct the Town Manager to seek and receive an opinion and that the Town Manager provide information on the advice/opinion to the Town Council in accordance with this policy.
 - C. Upon receipt of advice/opinion requested by the Town Council or member thereof, the Town Manager will provide the Town Council with a synopsis of the advice/opinion. The synopsis will be provided in a manner the Town Manager determines to be in the best interests of the Town. The Town Manager will also make any written advice/opinion available for review by Town Council members. The Town Council member may read and review

the advice/opinion with the Town Manager, but the advice/opinion may not be copied and shall not leave the Town Manager's possession.

- II. Any Town Council member who determines that legal advice/opinion should be sought regarding the employment status or discipline of the Town Manager must request that the Mayor and Recorder Vice Mayor seek the advice/opinion.
 - A. Upon receiving such a request, either the Mayor or Recorder Vice Mayor may either:
 - a. Seek and receive the advice /opinion and provide information on the advice/opinion to the Town Council in accordance with this policy,
or
 - b. Request that the Town Council determine whether it will direct the Mayor or Recorder Vice Mayor to seek and receive the advice/opinion and provide information on the advice/opinion to the Town Council in accordance with this policy.
 - B. Within 30 days of the receipt of advice/opinion requested by the Town Council or member thereof, the Mayor or Recorder Vice Mayor will share the opinion with the Town Council in a duly constituted closed session.
- III. The Town Council may at any time, at its own discretion, determine what legal advice/opinion may be made a public document provided that such a determination is not inconsistent with law. Otherwise legal opinions will remain exempt from disclosure as allowed by law.

Town Council Policies

Requests for work product

2018-01
Approved 4/18
Revised

Purpose:

To ensure that individual Town Council member requests to Town staff for work product align with the goals of the majority of the Council.

Policy:

Requests for Town staff work product such as information, research, reports, data, and project files by individual Council members shall be presented to the Town Manager. NOTE: This policy does not apply to responses to FOIA requests made by individual Council members.

The Town Manager will review requests and determine whether fulfilling the request would have an adverse effect on staff's ability to complete tasks for which they are responsible. The Town Manager will either fulfill the request or inform the Council member that the request may not be fulfilled or not fulfilled in a timely manner.

If the Town Manager determines that a task may not be fulfilled or not fulfilled in a timely manner, then he/she shall forward the request and determination to the Council.

Procedures:

Any Requests of an ~~from~~ individual Council member to Town staff for information, research, reports, data, projects, etc. (excluding FOIA requests by individual Council members) work product shall be presented to the Town Manager.

The Town Manager will review the request and evaluate whether fulfilling the request within ten business days would have a significant adverse effect on staff's ability to complete tasks for which they are responsible.

The Town Manager will notify the requesting Council member that:

- ∴ the request will be fulfilled within ten business days,
- ∴ the request will be fulfilled, but the time required to do so will exceed ten business days (estimated time of request fulfillment provided), or
- ∴ the request cannot be fulfilled with placing undue strain on Town operations.

If the Town Manager informs the requesting Council member that the request will be fulfilled, but the time required to fulfill the request will

exceed ten business days and the Council member has no objection to the proposed schedule, then no further action is required.

If the Town Manager informs the requesting Council member that the request will be fulfilled, but the time required to fulfill the request will exceed ten business days and the Council member objects to the proposed schedule, then the Town Manager will forward the matter to the Council for review at their next regular session.

If the Town Manager informs the requesting Council member that the request can't be fulfilled without placing undue strain on Town operations and the requesting Council member objects to the determination, then the Town Manager will forward the matter to the Council for review at their next regular session.

~~If the Town Manager determines that responding to the request would have a significant adverse effect on the work-flow of Staff, the Town Manager shall refer the request to Council for Council to determine if the requested work-product should be provided, and, if so, a schedule for responding to the request.~~

Town Council Policies

Budget Contingencies

2018-02

Approved 5/18

Revised

Purpose:

~~The purpose of The Budget Contingency~~ This policy is to be established to serve as a guideline and general approach to:

- Responding to unanticipated significant revenue shortfalls.
- Providing funding for unanticipated, non-recurring, expenditures that cannot be absorbed within the operating budget.
- Providing temporary funding for an unanticipated increase in operations or maintenance that cannot be absorbed within the operating budget.

Policy:

~~Expenditures drawn from contingency funds shall require prior approval from the Town Manager. Notice of such action will be presented to the Town Council at their next monthly meeting.~~

The Council will set budget contingencies in the general, water, and sewer funds of will be at least 3 percent of total operating requirements.

Procedure:

The Town Manager shall include at least a 3 percent contingency for the general, water, and sewer funds in his/her proposed budget. On the basis of an assessment of expenditure risk for the upcoming fiscal year, the Town Manager may recommend a higher level of contingency and include such recommendation in the proposed budget.

~~The Town Council holds final authority upon approval of~~ will determine the contingencies that will be budgeted and appropriated for the general, water, and sewer funds when it approves the annual budget.

Expenditures drawn from contingency funds shall require prior approval from the Town Manager. The Treasurer will provide notice of such action to the Council will be presented to the Town Council at its next monthly meeting.

Town Council Policies

Social Media

2019-01

Approved 3/19
Amended:

I. INTERNAL POLICY

A. Purpose

This document defines the social media and social networking policy for the Town of Berryville (Town) to address the fast-changing landscape of the Internet and the way the Town and its elected and appointed officials reach a broader audience.

This policy is intended to ensure that official social media and social networking use complies with applicable law.

B. Applicability

This policy shall apply to:

- Use of personal social media sites (including social networking and Web 2.0) by Town officials and employees, hereinafter referred to as Personal Social Media Site (see Section C below);
- Use of social media sites (including social networking and Web 2.0) by elected and appointed officials on which they utilize their Town Titles and discuss Town-related business, hereinafter referred to as Elected/Appointed Officials' Social Media Sites (see Section D below);
- Use of approved official Town social media sites (including social networking and Web 2.0) by Town employees, hereinafter referred to as Town Social Media Site (See Section E below).

C. Use of Personal Social Media Sites by Town Officials and Employees

All Town officials (elected or appointed) and employees may have Personal Social Media sites on which they do not use their titles and do not discuss Town-related business. These sites should remain personal in nature and be used to share personal opinions or non-work-related information.

Town officials and employees shall not use their titles or Town e-mail accounts or passwords in conjunction with a Personal Social Media Site.

If a Town official or employee decides to comment or post about Town business on his or her Personal Social Media Site, then it is recommended that the official or employee use a disclaimer such as: "The postings on this site are my own and do not reflect or represent the opinions or positions of the Town of Berryville."

D. Use of Elected/Appointed Officials' Social Media Sites

Town Elected and Appointed Officials may maintain Elected/Appointed Officials' Social Media Sites on which they utilize their Town titles and discuss Town business.

All Town-related communication through Elected/Appointed Officials' Social Media Sites shall be maintained and archived in accordance with the provisions of this policy and applicable law and should remain professional in nature and content.

Elected/Appointed Officials' Social Media Sites should not be used to conduct private commercial transactions or engage in private business activities.

Officials should be mindful that their use of Elected/Appointed Officials' Social Media Sites is subject to the Virginia Freedom of Information Act (FOIA). The Elected/Appointed Official is responsible for maintaining his/her site in a manner consistent with law.

Officials are encouraged to use a disclaimer such as: "The postings on this site are my own and do not represent the opinions or positions of the Berryville Town Council or Town of Berryville" on their Elected/Appointed Officials' Social Media Sites.

E. Publishing Content on Town Social Media Sites

Only individuals authorized by the Town Manager may publish content to a Town Social Media Site.

All posts or comments made on behalf of the Town shall conform to this policy and guidelines provided by the Town Manager.

Town Social Media Sites shall not be used for political purposes, to conduct private commercial transactions, or to engage in private business activities.

Town employees should be mindful that inappropriate use of Town Social Media Sites can be grounds for disciplinary action. If social media, Web 2.0, and other social computing technologies are used for official Town business, then the entire site, regardless of any personal views, is subject to best-practices guidelines and standards, including but not limited to the FOIA.

F. Social Media Site Approval and Content Archiving

All Town Social Media Sites shall be (1) approved by the Town Manager, (2) published using approved social networking platform and tools, (3) administered by the Town Clerk or other official designated as administrator by the Town Manager, and (4) archived in a manner that conforms to the requirements of FOIA and other applicable legal requirements.

The content of all Town Social Media Sites shall be archived in accordance with applicable law and the requirements of this policy.

All Town Officials who maintain Elected/Appointed Officials' Social Media Sites shall report them to the Town Manager and the Town Clerk immediately upon activation of the sites. The Elected/Appointed Official responsible for the site shall provide the Town Manager and Town Clerk with any and all information required for the archiving regimen approved by the Town Council. The content of such sites shall be archived in accordance with applicable law.

G. Oversight and Enforcement

Employees representing the Town on Town Social Media Sites must maintain a high level of ethical conduct and professional decorum. Failure to do so is grounds for revoking the privilege to post on Town sites, and for disciplinary action.

Information must be presented following professional standards for good grammar, spelling, brevity, clarity, and accuracy, and should avoid jargon, obscure terminology, or acronyms.

Town employees shall recognize that the content and messages they post on Town Social Media Sites are public and may be cited as official Town statements. Social media, Web 2.0, or other social computing technologies shall not be used to circumvent other Town policies or requirements.

Town employees representing the Town through Town Social Media Sites

may not publish information that includes:

- violations of local, state, or federal Law.
- sexually explicit content.
- confidential information.
- copyright violations.
- profanity or derogatory content or comments.
- partisan political views.
- commercial endorsements or spam.
- other content designated as prohibited by the Town.

H. Records Retention

Town Social Media Sites and Elected/Appointed Officials' Social Media Sites contain communications sent to or received by the Town, and such communications are therefore public records subject to the Virginia Freedom of Information Act. These retention requirements apply regardless of the form of the record (for example, digital text, photos, audio, and video).

The department or official maintaining a site shall preserve records pursuant to a relevant records retention schedule for the required retention period in a format that preserves the integrity of the original record and is easily accessible. Furthermore, retention of social media records shall fulfill the following requirements:

- Social media records must be captured with a frequency and in a fashion that will minimize potential loss of data due to deletion and/or changes on the social networking site.
- Social media records must be archived in a manner that preserves the context of communications, including conversation threads, to ensure completeness and availability of relevant information when records are accessed.
- Social media records must be indexed on the basis of specific criteria such as date, content type, and keywords to ensure that records can be quickly located and produced in an appropriate for distribution (e.g. PDF).
- FOIA Officers shall have access to all social media public records.

I. Cooperation with Other Organizations

Nothing in this policy shall be construed to prevent the Town from working with another party, such as the County of Clarke, to provide a social media presence, provided that legal requirements, including archiving, are met.

II. EXTERNAL POLICY

The following guidelines shall be displayed to users on all Town Social Media Sites or made available by hyperlink. Further, it is recommended that the following guidelines be displayed to users on all Elected/Appointed Officials' Social Media Sites or made available by hyperlink.

Moderation of Third-Party Content

This site serves as a *limited public forum*, and all content published is subject to monitoring. User-generated posts will be rejected or removed from view when the content:

- is off-subject or out of context.
- contains obscenity or material that appeals to the prurient interest.
- contains personal identifying information or sensitive personal information.
- contains offensive terms that target protected classes.
- is threatening, harassing, or discriminatory.
- incites or promotes violence or illegal activities.
- contains information that reasonably could compromise individual or public safety.
- advertises or promotes a commercial product or service, or any entity or individual.
- promotes or endorses political campaigns or candidates.

Public Records Law

Town Social Media Sites and Elected/Appointed Officials' Social Media Sites are subject to the Virginia Freedom of Information Act. Any content maintained in a social media format related to Town business, including communication posted by the Town and communication received from citizens, is a public record.

Town Council Policies

Requests for Service or Receipt of Concerns

2020-01
Approved 2/20
Revised

Purpose:

To establish policies and procedures for responding to public concerns and requests for service.

Town Council members will from time to time receive requests for service, expressions of concerns, and complaints from citizens. It is vital that these matters be addressed in a manner that is effective, efficient, timely, transparent, and respectful of the Town Manager's responsibilities to the entire Town Council and his/her role as the Town's Chief Administrative Officer. This policy is adopted to standardize the process by which these matters are communicated to the Town Council and staff. Further, the policy addresses how Town Council, Town Council members, and staff will work toward resolution of these matters and communicate with citizens in this regard.

Policy:

Upon receipt of a citizen request for service, expression of concern, or complaint, members of the Town Council shall notify the Town Manager (and designee if it is known the Town Manager is known to be unavailable) and Town Clerk.

The Town Manager shall acknowledge receipt of the concern, investigate the matter, take action as deemed appropriate, notify the citizen in question, and inform the Town Council of the actions taken (if any). While it is expected that the Town Manager may consult with individual Town Council members while reviewing a matter and working toward resolution, Town Council members should permit the Manager to perform his/her duties without interference.

Any Town Council member who is dissatisfied with the Town Manager's actions in the matter shall forward his/her concerns to the Town Manager. The Town Manager shall respond to the member in question. If any Town Council member remains dissatisfied with the resolution of the matter, then it should be forwarded to the appropriate standing committee chair for discussion at the next regularly scheduled Town Council meeting, at which time the Town Council will determine whether the Town Manager will be directed to take additional or different action in the matter.

Procedure:

Upon receipt of a citizen request for service, expression of concern, or complaint, members of the Town Council must:

Forward the following information (at a minimum) to the Town Manager and the Town Clerk in writing:

- Name of concerned citizen,
- Concerned citizen's contact information (preferably an email and cell phone number if available), and
- A detailed description of the concern expressed.

Note: If matter is deemed an emergency, then the Council member shall, as appropriate, advise the citizen to call 911 (fire, EMS, electrical lines down, or other eminent risk to life) or 955-1234 (water breaks, sewer blockages, street conditions, and the like) and call the Town Manager (or designee if it is known the Town Manager is known to be unavailable) on his/her cell phone, prior to providing written notice of the concern.

Note: If the concern expressed involves conduct of the Town Manager, then the matter shall be forwarded to the Personnel, Appointments, and Policy Committee chair, who shall notify the Town Council and address the matter with the Town Manager. After speaking with the Town Manager, the chair shall report his/her findings to the Town Council, and if necessary refer the matter to the Committee. The Committee may refer the matter to the full Town Council if this is deemed appropriate. Upon completion of review of the matter, the chair will provide appropriate follow-up to the citizen who contacted the Town Council member.

Upon receipt of such information from a Town Council member, the Town Manager must:

- Acknowledge receipt of the concern to the Town Council member in question and provide a copy of the acknowledgement to the rest of the Town Council.
- Investigate the matter (either personally or by staff) and:
 - o Take appropriate action to address the concern; or
 - o Notify the citizen in question of the Town's actions, planned action, or why the Town will not take action, including referrals if necessary; and
 - o Inform the Town Council regarding the matter's disposition.

Any Town Council member dissatisfied with the actions taken must detail his/her concerns in writing to the Town Manager. The Town Manager shall respond to the member in question (copy provided to the Town Council). If any Town Council member remains dissatisfied with the resolution of the matter, then the matter shall be forwarded to the appropriate standing committee chair for discussion at the next regularly scheduled Town Council meeting, at which time the Town Council will determine whether the Town Manager will be directed to take additional or different action in the matter.

Town Council Policies

Motions and Voting

2020 -02

Approved 7/20
Revised

Purpose:

To establish policies and procedures for Council voting.

This policy is established in accordance with §2-21 of the Berryville Code. In accordance with that section, matters not addressed by rules of procedure adopted by the Council are governed by the current edition of Robert's Rules of Order.

Policy:

It is vital to the operations of the Town that any member of the Council be able to place a matter before the body for a vote. Therefore no second is required to place a motion before the Council for a vote. Similarly, the member who made the motion may withdraw, amend, or permit amendment of a motion prior to the vote.

Each member of the Council shall vote on all motions before the Council, unless a member has been duly recused from the matter. Members not recused shall vote on motions by either voting "Yes" if supporting the motion, "No" if opposing the motion, or "Abstain" if choosing not to support or oppose the motion.

The Council will take action by voice vote, a show of hands, or roll-call vote, in accordance with the provisions of this policy and applicable law.

If the outcome of a voice vote cannot be determined or is in doubt, then any member may request that the presiding officer call for a show of hands or conduct a roll-call vote.

Once a motion is on the floor, the presiding officer shall call for discussion of the motion. Discussion on a motion may be ended when no members respond to the presiding officer's query as to whether there is any more discussion, or a majority of members assembled approve a motion to call the question (subsidiary motion).

Procedure:

Motions

When making a motion, a member should state the motion as clearly and succinctly as possible. Members making a motion shall begin by saying: "I move that the Council ..."

Members are encouraged to provide the Council and the Town Clerk with a written copy of complex or lengthy motions.

Votes

The Council will conduct its business by means of voice votes, a show of hands, or roll-call votes. All motions will be acted upon by use of voice vote unless:

- another form of voting is required by law in a particular instance,
- a member requests another form of voting prior to the vote, or
- in the opinion of any member of the Council the results of the vote were inconclusive.

Voice vote

When conducting a voice vote on a matter in accordance with this policy, the presiding officer shall:

- state the motion as it was moved.
- state "All in favor of the motion say Yes."
- state "All opposed say No."
- state "All abstaining say Abstain."
- announce the vote count and outcome.

Show of hands

When conducting a vote by a show of hands on a matter in accordance with this policy, the presiding officer shall:

- state the motion as it was moved.
- state "All in favor of the motion raise your hands until I have counted the votes."
- state "All opposed to the motion raise your hands until I have counted the votes."
- state "All abstaining from the vote on this motion raise your hands until I have counted the votes."
- announce the vote and outcome.

Roll-call vote

When conducting a roll-call vote on a matter in accordance with this policy, the presiding officer shall:

- state the motion as it was moved.
- direct the Town Clerk to perform the roll call vote.
 - o The Town Clerk will call for votes in the following order:
 - Ward 1 Council Member
 - Ward 2 Council Member
 - Ward 3 Council Member
 - Ward 4 Council Member
 - [REDACTED] Vice Mayor
 - Mayor
- Announce the results of the vote.

Town Council Policies

Council Members Conducting Business with the Town

2020 -03

Approved 7/20
Revised

Purpose:

To establish reporting requirements for when Town Council members, businesses owned wholly or in part by Town Council members, or businesses for which Council members are employed conduct business with the Town.

This policy is established to augment requirements contained in the Code of Virginia, Berryville Code, and the Town of Berryville Procurement Policy Manual.

Policy:

When Town Council members, businesses owned wholly or in part by Town Council members, or businesses for which a Council members work do business with the Town, the Town Manager shall cause the Treasurer to provide the following to the Council:

- Annually
 - o An explanation of relationship and types of items/services received.
 - o Any contract or agreement entered into by the parties.
 - o Offering, notice of award, and other pertinent documents. If utilizing cooperative procurement, include cooperative organization's documentation.

- Monthly
 - o Amount spent in the preceding month (listing of transactions [brief description and amount] and total).
 - o Total spent in fiscal year to date.

Procedure:

Required annual reports will be filed with the Council at the regular Council meeting in July of each year and made a part of the meeting minutes. The initial annual report will be filed with the Council at its regular meeting on September 9, 2020.

Required monthly reports will be filed with the Council at each regular Council meeting and made a part of the meeting minutes. If the Council does not hold a regular meeting within a given month, then the report will be filed with the Council at the next regular Council meeting.

Town Council Policies

Reserves

2021- 01

Approved: 6/8

Purpose:

The Town Council creates reserves in all three funds (general, water, and sewer). These reserves are self-encumbered to enable the Council to equalize revenue shortfalls, pay for unexpected expenses, and pay for planned projects and purchases.

This policy is intended to structure the Town's reserves in a manner that prepares for the scenarios enumerated above in a manner that is transparent and easily accessed by the public.

Because the reserve funds are self-encumbered, the Council reserves the right to utilize these funds at any time as it deems appropriate, provided that such use conforms to the laws of the Commonwealth of Virginia and the Town of Berryville.

Policy:

I. Reserve Policy and Fund Reserve Specifics

The Town Council establishes this policy in order to provide a framework for self-encumbering funds to meet the Town's needs. These funds are encumbered to enable the Council to equalize revenue shortfalls, pay for unexpected expenses, and pay for planned projects and purchases.

The Council will establish a Fund Reserve Specifics document in which it outlines the purpose of reserves and the amount encumbered in each reserve.

During the annual budget review and approval process and at other times it deems necessary, the Town Council will review this policy and the Funds Reserve Specifics to determine whether the Town's needs are met.

II. Use of Reserved Funds

Reserved funds may, in accordance with applicable provisions of law and the procedures contained in this policy, be expended as specifically enumerated within an approved budget or as needed during a budget year when the need for the funds was not expected.

III. Reporting

The Treasurer will provide the Council with regular reports regarding the status of reserved funds.

Procedure:

I. Reserve Policy and Fund Reserve Specifics

As a part of the annual budgeting process, the Budget and Finance Committee of the Town Council will review this policy and the Fund Reserve Specifics and recommend any changes that it determines appropriate to the Town Council.

The Town Council will review the Fund Reserve Specifics as a part of its budget preparation and review. The Fund Reserve Specifics will be included in the approved budget document.

Changes may be made to the Fund Reserve Specifics at any time by an affirmative vote of the majority of the Council duly assembled.

II. Use of Reserve Funds

Reserve funds to be expended in a given year may be budgeted and appropriated as a part of a budget or budget amendment. The reserve to be used will be shown as a revenue and the project for which the funds will be used will be shown as an expense.

Reserve funds may be utilized within a budget year at the discretion of the Town Manager, provided that:

- a. the threshold requiring the advertisement of a budget amendment is not met and
- b. a full accounting of the expenditure or proposed expenditure is provided to the Council for review at its next regularly scheduled meeting.

Reserve funds may be utilized within a budget year at the discretion of the Council, provided that the use is approved by an affirmative vote of the majority of the Council duly assembled, and all budget amendment advertising requirements are met, if applicable.

III. Reporting

The Treasurer will provide the Council with an up-to-date account of reserves as a part of the Treasurer's monthly Town Council meeting packet report.

STATEMENT BY COUNCIL MEMBER KARA RODRIGUEZ

December 13, 2022

Four and a half years sure goes fast and there are a few groups of people I wanted to recognize before I hang up my council shoes for the time being.

I want to thank the residents of Ward 4 and throughout the Town for allowing me to be your representative for the last four-and-a-half years, whether you voted for me or not, or even lived in Town on May 1, 2018, back when you could still vote for any Town Council seat on the ballot. It has truly been an honor to be allowed to have a voice on some very important decisions the Council has made during this term, and I've always intended my vote to be representative of the best interests and desire of those in my Ward, and not my own personal opinions. I appreciate those who offered their feedback in whatever form that came, and even those who challenged me and vehemently disagreed with me. It has all been impactful.

I also want to thank the Town staff. What you all are able to do with very little support in terms of manpower, on a relatively small budget for a Town that is growing, is quite impressive. I think some members of the administrative staff have been unfairly criticized over the years, and I just want you to know I see the incredible amount of work that you do with often little fanfare, the many hats you wear and the balls you juggle, and you do it all with a love for this Town, whether you live within Town limits or not. Berryville is very lucky to have you.

To my colleagues on Council, you are some of the greatest people I've ever had the pleasure to work with. I've really enjoyed getting to know you all and working through some very important matters for Berryville. We have done some great work for the Town and that's not been because of any particular council member's personal agenda, but of our collective will to do what is best for the Town, and what is needed to provide the quality of life and services Town residents and businesses expect. I thank you all for continuing to serve and I'll be watching...because even though I won't be on the dais with you, I'm still a voter.

Lastly, the most important constituents in Berryville for me are my children. They are the reason I ran and the reason I serve. Even though they had very strong feelings about my need to attend so many meetings, I hope they will embrace the principle of putting service above self, and treating your community as an extension of your own family. While there was a healthy narrative spun by some detractors during my campaign about my ability to serve the Town as a mother of three children, I want them to know that I didn't get my work done in spite of them, but because of them. My desire to make their hometown thrive drove every decision I made, and will continue to influence how I get involved.

My final point, to anyone who has ever questioned your ability to serve in spite of your age, race, gender, experience, how stretched thin you are, or any other qualifier, there is always room for your voice at the table, so never hesitate to speak up, or to serve.

BERRYVILLE TOWN COUNCIL

MOTION

CLOSED SESSION RESOLUTION

DATE: December 13, 2022

MOTION BY: *Gibson*

SECOND BY: *[Signature]*

I move that the Council of the Town of Berryville adopt the following resolution certifying it 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:

Resolution

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.

VOTE:

Aye: *Unanimous roll-call*

Nay:

Absent/Abstain:

ATTEST: _____

Erecka L. Gibson, Recorder

Town of Berryville

Town Council

MOTION TO ENTER CLOSED SESSION

Date: December 13, 2022

MOTION BY: *Gibson*

SECOND BY: *_____*

I move that the Council of the Town of Berryville enter closed session in accordance with §2.2-3711-A-29 of the Code of Virginia, to discuss award of a public contract involving the expenditure of public funds.

VOTE:

Aye: *Unanimous roll-call*

Nay:

Attest: _____

Erecka L. Gibson, Recorder