

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
January 10, 2023
7:00 p.m.

Town Council: Present—Harry Lee Arnold, Jr., Mayor; Erecka L. Gibson, Vice Mayor; William Steinmetz; Diane Harrison; Grant Mazzarino; Ryan Tibbens.

Staff: Present--Keith Dalton, Town Manager; Jean Petti, Deputy Town Manager; Paul Culp, Town Clerk; Chief Neal White, Berryville Police Department

Press: Mickey Powell, *The Winchester Star*

1. Call to Order

Mayor Arnold called the meeting to order at 7:00 p.m. and noted Vice Mayor Gibson's new title, changed from Recorder effective January 1 following her reelection in November. He also recognized Mr. Tibbens, elected in November to the Ward 4 seat vacated by Kara Rodriguez and attending his first meeting as a member, and Ms. Petti, whose appointment as Deputy Town Manager had become effective the previous day.

2. Pledge of Allegiance

3. Approval of Agenda

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

4. Presentations, Awards, and Recognitions

Mayor Arnold announced the opening event of the Town's 225th anniversary celebration, scheduled for 2:00 p.m. on January 15 at Johnson-Williams Middle School.

5. Public Hearings

None.

6. Discussion of Public Hearing Items

None.

7. Citizens' Forum

Berryville resident Frank Keene recommended that the Town seek alternative metering methods that would prevent residents watering their lawns from having to pay the same rates for water as they would for uses involving the sewer system. Mayor Arnold explained that the Council had considered this matter but that charges are intended to cover use of the entire system and that the Town cannot isolate particular forms of water usage.

Winchester attorney Susan French, legal counsel for the owner of the blighted property at 112 Josephine Street that had been discussed in numerous previous meetings, said Mr. Dalton had been inconsistent in statements he had made about his inspection of the property and that he had arbitrarily imposed an additional requirement just before the Council voted on the matter in July. She said the stipulations related to chinking and the rear addition to the structure did not meet the legal definition of blight and asked for their removal from the list of requirements.

8. Consent Agenda

The consent agenda comprised the minutes of the December 13 Town Council regular meeting and the December 5 work session.

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

9. Unfinished Business

None.

10. New Business

None.

11. Council Member Reports

Mayor

Mayor Arnold directed the Council's attention to the portion of the agenda packet outlining the 2023 calendar for committee meetings. Mr. Dalton noted difficulties in arriving at a schedule for the Public Safety Committee, and a discussion established the fourth Thursday of each month at 2:00 as the day and time.

Other Members

Mr. Tibbens said Viola Lee of 300 Mosby Boulevard thanked staff for recent information and assistance they provided her. The other members had nothing to report.

12. Staff Reports

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

Town Manager

American Rescue Plan Act of 2021 Update

Mr. Dalton said the Josephine Street water-sewer project would begin next week, with North Church Street likely being the next area to receive attention.

Blight Abatement Update

Ms. Harrison read the attached statement rebutting assertions that arbitrary conduct had been directed at certain property owners and offering one final deadline extension for properties not in compliance with the directives of the Council.

Ms. Harrison moved that the required milestones/schedule portion of the approved spot blight abatement plan for 225 Josephine Street be amended as follows:

**All required permits issued for work on structure by 4/3/23,
All work completed (and required inspections passed) on structure and site by 12/15/23,**

and if the Town Council finds that plan milestones are not met, it will direct the Town Manager to begin enforcement of the approved spot blight abatement plan; and if that enforcement results in the demolition of the dwelling at 225 Josephine Street and the disposal of the materials stored on the property or in the dwelling, it will be because the owner has chosen not to meet plan requirements.

Vice Mayor Gibson ascertained that 15 December 2023 was the original date.

The motion passed by unanimous voice vote.

Ms. Harrison moved that the required milestones/schedule portion of the approved spot blight abatement plan for 112 Josephine Street be amended as follows:

List of repairs to be completed on structure and a schedule for completion of that work provided to the Town manager by 2/6/23,

All required permits issued for work on structure by 4/3/23,

All work completed (and required inspections passed) on structure and site (including removal of debris and trash and stabilization of site) by 12/15/23,

and if the Town Council finds that plan milestones are not met, it will direct the Town Manager to begin enforcement of the approved spot blight abatement plan; and if that enforcement results in the demolition of the dwelling at 112 Josephine Street, it will be because the owner has chosen not to meet plan requirements.

Mr. Tibbens ascertained that the list mentioned is in fact merely a to-do list. Mr. Steinmetz and Ms. Harrison discussed the fact that the owner had communicated regarding the completion of some work on the rear addition, noting that some documentation would be required. Ms. Harrison reminded the Council that the requirement of an engineering report had already been waived because of the cost to the owner.

The motion passed by unanimous voice vote.

Mayor Arnold remarked on an email Ms. French had sent to the Council earlier in the day in which she asserted that the Town had unlawfully conducted business privately via email rather than in public and that only by requesting documents under the Freedom of Information Act had she been able to inform herself about blight matters as they stood in December. Mayor Arnold said that in fact the document she received through her FOIA request had been posted on the Town website and emailed to the news media as part of the Town Manager's staff report in the agenda packet for the December meeting, at which Mr. Dalton said he had nothing to add to that report.

Water Treatment Plant Upgrade

Mr. Dalton said the contract with Pennoni Associates to secure engineering services through commissioning of the new plant had been signed and that various sources for funding plant construction were under consideration, including the U.S. Department of Agriculture. He said he expects \$123,000 to be spent on the project in the current fiscal year.

Mr. Dalton said he expected the treasurer to receive the annual audit report next week, with the auditor probably giving a presentation at the February meeting.

13. Committee Updates

Budget and Finance

Vice Mayor Gibson said the committee would have a budget work session on February 28 at 3:00 p.m., with a budget work session for full Council on March 6 at 3:00 p.m.

Community Development

Mr. Tibbens, the new committee chair, said the special committee planning the celebration of the Town's 225th anniversary might be interested in sponsoring a song contest, with the Town receiving the rights to the winning entry. The Council agreed that the matter should be placed before the 225 Committee.

Personnel

Mayor Arnold noted the need to fill two vacancies on the Tree Board and one on the Planning Commission.

Public Safety

Mr. Mazzarino had nothing to add to the prior discussion of scheduling.

Streets and Utilities

Ms. Harrison said the committee had no pressing business.

14. Closed Session

Mr. Steinmetz thanked Chief White for spending time orienting him to the Town's public safety facilities and activities.

15. Adjourn

The Council adjourned at 7:38 p.m. on a motion by Vice Mayor Gibson

Erecka L. Gibson, Vice Mayor

Paul Culp, Town Clerk

BERRYVILLE TOWN COUNCIL SIGN-UP SHEET

Citizens' Forum

Tuesday, January 10, 2023

7:00 p.m.

Name: _____ **Town of Berryville Resident?**

Frank Keene Yes No

Susan FRENCH Yes No

_____ Yes No

Statement by Council Member Diane Harrison, 10 January 2023

Over two years ago, the Town Council tasked the Town Manager to begin the process of addressing blighted properties in Town due to complaints brought to the town.

In July of 2022 the Town Council approved spot blight abatement plans for four properties.

The Town Manager has informed the Council that two of the four property owners for which the spot blight abatement plans were approved are currently in compliance with their respective plan. I want to take this opportunity to thank the owners of 114 Josephine Street and 12 First Street for their efforts to meet the requirements of the approved plans. Please continue your work and stay in communication with Town staff.

The Town Manager has informed the Council that two of the four property owners for which the spot blight abatement plans were approved are currently not in compliance with their respective plan.

- The owner of 225 Josephine Street has not met the milestone requiring them to secure necessary permits by December 1, 2022. These permits were to have included zoning and possibly building permits for an accessory building if choosing to go this route and a demolition permit for the dwelling. The Town contacted the owner on December 19, 2022 and asked that the milestone be met by January 3, 2023. The required permits were not secured.

The owner visited the office this week and said materials were being removed from the house and was in process of preparing for demolition.

- The owner of 112 Josephine Street has not met the milestone requiring them to provide the Town Manager with a list of improvements that will be made to address the requirements of the approved spot blight abatement plan and a schedule for completion of those improvements. The Town contacted the owner on December 19, 2022 and asked that the milestone be met by January 3, 2023. A comprehensive list and schedule for completion of required work has not been received. Although, work has been done in some areas, the simple requirement of this "to-do list" has not been met.

We received notice that an evaluation of the rear addition/closed in porch was done and it was shown to be stable. That documentation needs to be forwarded to the Town Manager.

I think that it is important to repeat something that I said at the beginning of my remarks and expand on the matter somewhat. In July of 2022 the Town Council approved spot blight abatement plans for four properties. The plans evolved at different points along the way prior to that vote to help with costs to the property owners but to still allow for mothballing or demolition of a property according to building code requirements. Council took into consideration the advice from the ARB and the Planning Commission in their final vote for the plans that were approved. At that point in the process, these plans, developed by the Town Manager, became the approved plans of the Town Council. Let me say that another way, the Town Council approved the spot blight abatement plans, not the Town Manager. While the Town Manager has responsibility for enforcement of the provisions of the approved plan, the Town Council is responsible for the content of the plans. Continued efforts to make this about the Town Manager and to argue with the Town Manager, instead of addressing the Council's requirements serve no one.

I believe the time when the Town Council must take action is fast approaching. The very simple steps that need to be taken to comply with these approved plans need to be completed by the property owners.

I am willing to extend the milestone deadlines for these two properties one last time.

Accordingly, I have two motions to set forth that mean that at the February 2023, April 2023, and January 2024 meetings the Council will determine whether these revised milestones have been met. If the Council determines that the milestones have not been met, then the Council will direct the Town Manager to take action in accordance with the approved plans.

Motion 1

I move that the required milestones /schedule portion of the approved spot blight abatement plan for 225 Josephine Street be amended as follows:

Required Milestones / Schedule

All required permits issued for work on structure by 4/3/23*

All work completed (and required inspections passed) on structure and site by 12/15/23*

*** If Town Council finds that plan milestones are not met, then it will direct the Town Manager to begin enforcement of the approved spot blight abatement plan.**

If that enforcement results in the demolition of the dwelling at 225 Josephine Street, and the disposal of the materials stored on the property or in the dwelling, then it will be because the owner has **chosen** not to meet plan requirements.

Motion 2

I move that the required milestones / schedule portion of the approved spot blight abatement plan for 112 Josephine Street be amended as follows:

Required Milestones / Schedule

List of repairs to be completed on the structure and a schedule for completion of that work provided to the Town Manager by 2/6/23*

All required permits issued for work on structure by 4/3/23*

All work completed (and required inspections passed) on structure and site (including removal of debris and trash and stabilization of site) by 12/15/23*

*** If Town Council finds that plan milestones are not met, then it will direct the Town Manager to begin enforcement of the approved spot blight abatement plan.**

If that enforcement results in the demolition of the dwelling at 112 Josephine Street, it will be because the owner has **chosen** not to meet plan requirements.