

BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting Minutes
March 12, 2024

A meeting of the Berryville Town Council was held on Tuesday, March 12, 2024 at 7:00 p.m. at the Berryville-Clarke County Government Center in Berryville.

Attendance: Members of the Town Council present: Harry Lee Arnold, Jr., Mayor; Erecka Gibson, Vice Mayor; William Steinmetz, Diane Harrison, Grant Mazzarino, Ryan Tibbens

Absent: No one

Staff present: Keith Dalton, Town Manager; Neal White, Chief of Police; Jean Petti, Deputy Town Manager; Cindy Poulin, Director of Finance and Administration/Treasurer; Christy Dunkle, Community Development Director

Press present: Mickey Powell, Winchester Star

Others present: Tom Frederick, Pennoni Engineering

1. Call to Order

Mayor Arnold called the meeting to order at 7:02 p.m.

2. Pledge of Allegiance

Mayor Arnold requested attendees stand for the pledge of allegiance.

3. Approval of Agenda

Mr. Mazzarino made the motion to approve the agenda as presented. The motion passed by voice vote.

4. Presentations/Awards and Recognitions

Mayor Arnold introduced Ronnie Huff and asked staff to read a resolution (attached) for Mr. Huff, honoring him for his time representing the Town on the Clarke County Parks and Recreation Board. Mr. Huff thanked Mayor Arnold and said he was appointed to the position after Mary Ellen Kerr passed away and had big shoes to fill. Mayor Arnold thanked him for his service to the community.

Chief White introduced new police officer Herbert Hernandez and said the force is fully staffed. Chief White administered the oath of office. Mayor Arnold welcomed Officer Hernandez on behalf of the Town Council.

Mr. Dalton discussed water and sewer rates. He said in 2019, Pennoni completed a rate analysis at which time the systems were reviewed and operating costs determined. Mr. Dalton said after questions at the work session concerning water rates, he asked Tom Frederick, Pennoni Engineering, to attend the meeting to discuss the process and answer any questions Council may have.

Mr. Frederick said that the current documents are a work in progress and that he has worked very closely with Town staff to determine rate recommendations. He said that the water treatment plant was built in 1983 and has served the Town well. He said there is some wear and tear on the facility which should be addressed adding that the goal is good quality drinking water that meets the standards established by the Commonwealth. He discussed long-term issues and described the process by which halo acetic acid enters the water system. Mr. Frederick said Pennoni representatives conducted a comprehensive study of facilities under water, on the shore, in the pipes and pumps, and at the water treatment plant. He said cost estimates were developed and objective assessments were made. He reviewed the financing for the \$12.4 million project stating that Virginia Department of Health (VDH) has made a loan offer and that he is anticipating that United States Department of Agriculture Rural Development (USDA RD) will make an offer in the coming weeks. He discussed the different funding options adding that the interest rate for both loans is below the market rate. Mr. Frederick reviewed the two types of treatment options that were previously discussed and anticipated a four percent annual inflation rate to get through the construction of the facility. He said all of the upgrades would not be possible if the rates did not increase. He said he will continue to work with staff to refine the spreadsheets.

Vice Mayor Gibson asked if the anticipated lack of availability fee revenues effects the financial plan. Mr. Dalton said that an increase in revenues to the funds were needed adding that the financial plan specified one source, the rates, if no availability fees were obtained.

Mr. Steinmetz asked what the difference was between the VDH and USDA RD loans. Mr. Frederick said that the USDA RD loan has a 40-year payment term and has a slightly higher interest rate. He said that the VDH loan would total \$6.3 million loan amount would not cover the cost of the project adding that this loan has a 20-year term. Mr. Dalton discussed the funding options.

Mr. Tibbens discussed the two treatment options and asked about the cost differences between the mixed-media and membrane systems. Mr. Frederick said that the current utility rates would not fund either of the options. Mr. Tibbens referenced the fifth year of the five-year rate study and asked whether there were sufficient funds for the project. Vice Mayor Gibson said the rates would not have covered the project but did get the Town in the position to get the loans. Mr. Frederick referenced the 2019 rate study and said Table. 4.9 goes beyond five years to 2027 adding that the objective was not to fund the entire project, but to grow cash reserves sufficiently in order to qualify for the VDH and USDA RD loans. Mr. Tibbens said he was taken aback by the proposed increases at the work session and concerned about the cost to the consumers. Mr. Dalton said the Town has self-funded the preliminary engineering report, tree clearing, and

engineering services for the water treatment plant project. He discussed requisite reserves for the sewer plant and membrane replacement adding that Town Council preparations have been extraordinary over the years. There was a discussion about the costs of operations and maintenance of the plant and the possible reduction of staffing requirements. Mr. Frederick concurred that staff reduction is possible. Ms. Harrison said the membrane system is more expensive adding that the longer-term loan, having better water quality, and a lower operating cost makes the system worth the price. Mr. Dalton described class 2 and class 3 designations for water treatment plants. He said that emerging contaminants that may be regulated in the future were also considered as part of the recommendation for the membrane system.

Mr. Mazzarino discussed the plant classifications and the possibility of obtaining class 3 status. Mr. Frederick said that request would be submitted and vetted by VDH and can only be determined when the plant is operational. There was a discussion about pre-treatment and saving costs by using less chemicals. Mr. Frederick said that the membrane systems are more forgiving and offer a higher quality of water. Mr. Mazzarino reiterated that the current increases under review were built into the 2019 rate study. Vice Mayor Gibson requested historical data and Mr. Dalton said that information has been collected and will be forwarded to Council members. There was a discussion about the administrative fee proposal. Vice Mayor Gibson said that those rates have not been changed in five years.

5. Public Hearings

No hearings were held.

6. Discussion of Public Hearings

No hearings were held.

7. Citizens' Forum

Mayor Arnold recognized Thomas Brown, Town resident. Mr. Brown said he is the owner of 225 Josephine Street and said he was unaware that the debris from the demolition of the structure contained metal. He wanted to know if, once he removes the metal, he is able to burn the wood from the demolition. Mayor Arnold suggested a meeting on-site with Mr. Dalton and Chief White to make the determination. Mr. Dalton informed Mr. Brown that the matter would be discussed later in the meeting.

Mayor Arnold recognized Susan French. Ms. French said that she learned about the open burn permit issued to the owner of 225 Josephine Street yesterday and that she is speaking on behalf of Mr. Jenkins (229 Josephine Street) and Ms. Richardson (112 Josephine Street) who are seriously concerned about the permit being issued. She said that asbestos was banned in or about 1989 in the United States and that most houses built in the 1970's have some asbestos in them. She said that she, Mr. Jenkins, and Ms. Richardson were shocked and stunned when they learned of the permit being issued. She said it is highly likely that the siding contained asbestos. She said that asbestos spewed into the neighborhood and anyone in that area could have breathed in the asbestos which is a carcinogen. She said it was no secret to the Town that the structure was built

before 1970. She said that Mr. Jenkins believes there may well be asbestos debris on his property and firefighters were all exposed to the asbestos, adding that while she did not have any evidence of asbestos in the burn pile, she had a strong suspicion that it was in the siding of Mr. Brown's structure. She said that typically, the plumbing wrap and flooring contain asbestos and that it was her understanding that the burning occurred on a windy day and that carcinogens were spewed over Josephine City and beyond. She requested an emergency environmental analysis of that site and additional studies if asbestos is detected adding that this is a serious matter to the museum, senior living facility, and residents across the street. She said she plans to file FOIA requests with a number of agencies. She said she spoke to a number of state agencies and to an environmental lawyer earlier in the day and everyone she spoke with confirmed that the structure likely contains asbestos.

Mayor Arnold recognized Tim Sinclair, Town resident. Mr. Sinclair spoke in opposition to the proposed Friant rezoning. He said that that medium-density contiguous to the existing area is not appropriate or near any community resources. He said that the Hermitage and Battlefield Estates subdivisions are near the urban core adding that no children will be walking to school from the proposed neighborhood and would choose to drive which adds to the traffic problem. Mr. Sinclair said the Town has a collector road problem. He said the Friant property does not connect to a main or secondary roads nor is it able to due to its distance from Town and the fact that its boundary is blocked by the railroad and Route 7. He said that Battletown Drive is a narrow, non-VDOT standard street and said that the Berryville Plan states that Battletown Drive has low capacity. He concluded that due to its location, the ability to improve infrastructure in this location is non-existent. Mr. Sinclair stated that there would be an 18% increase in traffic in the Town if the proposed subdivision was constructed and discussed back-ups from the intersection of East Main Street and Route 7. He stated that the only way to mitigate the issue is to allow the 66-unit or 112-unit subdivision which is permitted by current zoning. He recommended rejecting the proposal when they review the request in two weeks.

Mayor Arnold recognized Mary Ivie, Town resident. Ms. Ivie thanked Mr. Frederick for presentation. She said as a retired person on a fixed income, it would be a challenge for her to pay the increase of \$20 per month on her water bill. She said this would be a hardship on a lot of Town residents.

Mayor Arnold recognized Craig Mattice, Town resident. Mr. Mattice said he had concerns about the budget and that he has reviewed the budget highlights. He said he had data concerns and that there was no information on the rate increases. He said he discussed this one year ago and was told that there would be no further rate increases. He said this is unacceptable and this is a burden to low-income residents. He said to recalibrate the allocation of administrative fees adding that he pays more in administrative fees than usage. Mr. Mattice said he does not know the details or how this is going to work. He discussed operating expenses and said he was told there was a glitch in the system for data reporting, adding that the status reports of the ARPA projects are terrible and requested better reporting.

8. Consent Agenda

Mayor Arnold asked for a motion to approve the consent agenda (minutes attached).

Mr. Tibbens made the motion to approve the consent agenda as presented. The motion passed by voice vote.

9. Unfinished Business

Mr. Dalton said that he needed a roll call vote from Town Council for the Resolution to Declare an Intent to Reimburse for the Water Treatment Plant project that was discussed at the February meeting.

Vice Mayor Gibson made the motion that the Council of the Town of Berryville adopt the attached resolution declaring the Council’s intent to reimburse the Town from loan proceeds for expenses incurred prior to securing a loan for the water treatment plant project.

Certificate of Votes

The record of the roll-call vote by the members of the Town Council of the Town of Berryville, Virginia on the foregoing resolution duly adopted by the Town Council upon a rollcall vote at its regular public meeting held on March 12, 2024, as follows:

Name	Aye	Nay	Abstain	Absent
Harry Lee “Jay” Arnold, Jr., Mayor	X			
Erecka L. Gibson, Vice Mayor	X			
William “Willy” Steinmetz	X			
Diane Harrison	X			
Grant Mazzarino	X			
Ryan Tibbens	X			

Dated: March 12, 2024

10. New Business

No items.

11. Council Member Reports

Ward 3 - Mr. Mazzarino discussed efforts by D.R. Horton in Hermitage Phase V to obtain core samples to determine the issues with spalling concrete on a number of the lots. He said he is still being contacted by residents adding that the results will take approximately one month.

There were no other reports.

12. Staff Reports

Nothing was added to the written reports for Public Works, Utilities, Administration and Finance, Police, or Deputy Town Manager.

Community Development

Ms. Dunkle requested that Town Council set a public hearing for a special use permit in order to operate a short-term rental at 116A South Church Street.

Mr. Steinmetz made the motion that the Council of the Town of Berryville set a public hearing to consider an application for a special use permit to operate a short-term rental at the property located at 116A South Church Street for the April 9, 2024 meeting. The motion passed by voice vote.

Town Manager

Mr. Dalton requested that Council extend the deadline for blight abatement compliance at 225 and 114 Josephine Street to May 1, 2024 because he had not given sufficient notice to the property owners.

There being no further discussion, Mr. Mazzarino made the motion that the Town of Berryville require the owners of 225 and 114 Josephine Street to fully comply with approved spot blight abatement plans on or before May 1, 2024. The Council hereby directs the Town Manager to provide notice to each of the property owners and inform them:

- **Of this deadline;**
- **That no further extensions will be granted;**
- **That no additional notice will be provided before the Town takes action to abate identified blight; and**
- **The town will abate the identified blight and file a lien on the respective properties in the amount of the cost of the blight abatement.**

The motion passed by voice vote.

Mr. Dalton discussed the burn permit that was issued to Mr. Brown by the Berryville Police Department. He said the permit was revoked when it was discovered that the material being burned was not wood. He said the Police Department revoked the permit on March 5, 2024.

13. Committee Updates

Budget and Finance

Vice Mayor Gibson made the motion that the Council of the Town of Berryville set a public hearing for its April 9, 2024 meeting to hear public comment on the proposed tax rates for tax year 2024. The motion passed by voice vote.

Community Development

Mr. Tibbens discussed Virginia Commission for the Arts Creative Communities Partnership Grant. He said because his wife was an applicant, he recused himself from the discussion.

Ms. Harrison made the motion that the Council of the Town of Berryville approve the subrecipients for the Creative Communities Partnership Grant as follows:

- **Barns of Rose hill: \$2,500**
- **Main Street Chamber Orchestra, Inc.: \$2,000**

The motion passed by voice vote with Mr. Tibbens abstaining.

Personnel, Appointments, and Policy

There was no report.

Public Safety

Mr. Mazzarino said he would like Council to take action on Section 10-9 of the Code of the Town of Berryville concerning the authority to conduct traffic control during emergency events.

Mr. Mazzarino moved that the Council of the Town of Berryville adopt the attached ordinance amending Section 10-9 of the Berryville Code in order to clarify the personnel who may assist with the direction of traffic. The motion passed by voice vote.

Streets and Utilities

There was no discussion.

14. Closed Session

There was no closed session.

15. Adjourned

Vice Mayor Gibson made the motion to adjourn the meeting. The meeting was adjourned at 8:05 p.m.

Erecka L. Gibson, Vice Mayor

Keith Dalton, Town Manager