

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Regular Meeting
December 8, 2015
7:30 p.m.

Town Council: Present-Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Doug Shaffer; Mary Daniel; David Tollett

Staff: Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Neal White, Chief of Police; Ann Phillips, Town Clerk

Press: Val Van Meter, Winchester Star; Adrian O'Connor, Winchester Star

1. Call to Order

Mayor Kirby called the meeting to order at 7:30 p.m.

2. Pledge of Allegiance

3. Approval of Minutes

Upon motion of Council Member Shaffer, seconded by Recorder Arnold, the minutes of the November 10, 2015 meeting were approved as follows:

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer

Nay – None

Abstain – David Tollett

4. Citizens' Forum

The Mayor recognized George Archibald of 27 West Main Street, Berryville, who referenced the large display ad in the Winchester Star on December 8, 2015, featuring a copy of a letter from Chris Shipe, the President of Enders Fire and Rescue Company. Mr. Archibald said he understood from Mr. Shipe that permission had not been given to use the letter in the ad and that it was fraudulent use of Mr. Shipe's signature by Alton Echols who paid for the ad under his organization called Clarke Accessible Senior Housing. He said he had also spoken with Tom Byrd, Editor of the Winchester Star, about his concerns that the ad was fraudulently placed. In reference to the proposed development by Marlyn Development Corporation and their one-time proffer of \$150,000 for fire and rescue, Mr. Archibald said the developer can afford much more. He suggested that Marlyn should be asked to give \$150,000 per year for five or more years.

Mayor Kirby recognized Sharon Strickland of 312 Early Drive who said the issues surrounding the proposed Marlyn Development have played out in the newspaper and around town. In reference to the proposed text amendment, she read a portion of a letter from Andrew Painter, legal representative for the Marlyn Corporation, as follows:

“This text amendment will permit Marlyn’s proposal to receive the full consideration and proper evaluation of the Town Council that it fairly deserves. Without it, the proposal cannot be adequately reviewed; indeed it cannot proceed. Several Council members have acknowledged both publically and privately that the project makes sense and would provide much-needed benefits for the Town. The Planning Commission and Berryville Area Development Authority have refused to favor Marlyn’s plans, but it is our belief that neither body seriously considered the substance of the proposal, and, of course, the Council is under no obligation to follow their lead.”

Ms. Strickland added this proposal is wonderful and urged the Council to do the right thing.

The Mayor recognized Pat Dickinson of 413 Montgomery Court who requested an end to what she called the filibuster and vote on the text amendment. She said that by waiting for the Planning Commission and BADA to finish the Berryville Area Plan, the Council members were not fulfilling their obligation as elected officials. She compared the delay to the saying in the Veterans Administration “delay until they die.”

Mayor Kirby recognized Robert Larson of 308 Early Drive. Mr. Larson said he had been in town for about 10 years. He asked the Council to look at the issue from the point of view of seniors living in these facilities, and to go along with the additional units.

The Mayor recognized Alton Echols of 400 Custer Court. Mr. Echols said that 20 years ago the Mary Hardesty House was a success. He referenced the ad he had placed in the Winchester Star and read from his response to Enders President Chris Shipe as follows:

“Although each member of the Clarke Accessible Senior Housing and I believe that it was morally, if not legally wrong to cap and limit seniors in Berryville and Clarke County, the ad placed Monday in the Star and previously sent out as a flyer before the public hearings last month again last week before council’s vote tonight was not intended to catch Enders in the middle, nor to re-publish a letter that you did not intend to make public. Since it was addressed to the Town Council, BADA, and Town Planning Commission, I presumed it was public information. Also since it had been in several flyers (sent out after its published date of November 12, 2015) by republishing it in its entirety the letter I believed would speak for itself.”

Mr. Echols referred to a buffer area being necessary, saying that the area designated for warehousing would be better used as multi-family housing to buffer the existing residential areas.

Mayor Kirby recognized Robina Rich Bouffault of Boyce who distributed a sketch of the layout of the proposed project pointing out it was given to staff in August 2015. She said the proposed development completely dwarfs the Mary Hardesty House and the Greenfield assisted living next door. She noted that the engineer spoke of trails and green spaces, but any such features would have to skirt parking lots, storm water ponds, and neighbor’s back yards. She noted the requirement for handling storm water onsite, and asked where the storm water from the new impervious surface would be placed. She asked the Council not to ignore their own procedures, and to listen to the BADA and Planning Commission recommendations. She said if Council precipitously approved a text amendment with little real information, ignoring its own procedures, they would make it possible for future developers to do the same thing. She said an exemption for one legally means an exemption for all and the Town would lose control of its own development.

5. Report of Wilson Kirby, Mayor

A. Mayor Kirby said the local high school had made us proud exceeding past history by winning the state semi-final football game this past Saturday. He said the team will meet a tough foe this coming week when they play Appomattox.

B. The Mayor noted this is the final Council meeting for Council member Mary Daniel who will be resigning to take a seat on the Clarke County Board of Supervisors. He thanked her for her service and wished her success in her new position.

6. Report of Christy Dunkle, Asst. Town Manager for Community Development

A. By consensus a public hearing was set for January 12, 2016, for a text amendment to Article VI, Section 610.2 in order to increase the square footage of a convenience store as an accessory use to automobile service and repair establishments (including gas stations) from 2000 square feet to 5500 square feet in the Business Commercial (BC) zoning district.

B. By consensus a public hearing was set for January 12, 2016, for text amendments to Article V Section 505 Provisions for Appeal in order to conform to Commonwealth of Virginia General Assembled modifications.

C. Ms. Dunkle said the Architectural Review Board had met on December 2, and after the meeting they judged the Holiday Parking Meter Decorating Contest. She said the awards will be given Friday evening.

D. *Marlyn Development Corporation (Francis Nance, Vice President-Development, Agent) is requesting an amendment to the Berryville Area Plan, Chapter 5, Page 14, increasing the number of Older Person Residential multifamily units from 120 to 180 units and reducing the number of Older Person Residential single-family detached and a variety of unit types from 180 to 120 units as identified in Sub-Area 6A of Annexation Area B.*

Recorder Arnold said he wished to clarify information being circulated in Town. He said that Marlyn had proffered \$150,000 for fire and rescue, but a story around Town is that up to \$750,000 will be made available to fire and rescue groups through matching grants. Recorder Arnold said that the grant process is extremely competitive with no guarantee of funding, noting that Enders has applied for two grants this year and both have been turned down. He said he did not want people to be confused about funding, and also did not want to see fund raising efforts hurt because residents may think their donations are not needed. Recorder Arnold further stated that fee for service will not fix the problems with staffing fire and rescue companies. He said the projected \$97,000 annual net income will be split among three fire companies in the county. Recorder Arnold added that he questions the tax information given in literature about the proposed development. He added that he was pleased to hear Mr. Jester, the president of Marlyn Development state that a 60 unit development could be built, and he hopes that Marlyn will return with those plans. He said the rent at Mary Hardesty House is \$870, and with rents in the proposed development slated to \$950 to \$1,150, he is concerned that people on Mary Hardesty's waiting list may not qualify to live in the proposed development. In conclusion, he said he is not opposed to senior housing, and pointed out that he had made the original motion for the earlier 60 unit development on the proposed site.

Mayor Kirby called for a motion on the topic. Council member Tollett moved that the Council of the Town of Berryville approve the following ordinance amending the Berryville Area Plan in order to allow 60 additional multi-family units for a total of 180 units in the Older Person Residential (OPR) Zoning District in Annexation Area B with this matter forwarded to the County Board of Supervisors. Council member Daniel seconded the motion.

AN ORDINANCE AMENDING
CHAPTER V OF BERRYVILLE AREA PLAN

BE IT ORDAINED, by the Council of the Town of Berryville, that Chapter V, Planning Area Analysis, Sub-Area 6A, of the Berryville Area Plan shall be amended as follows:

The proposed Older Persons Residential Zoning district for this sub-area allows a variety of unity types ranging from small lot single family detached to multi-family. The density for this sub-area should be established by the site plan and/or subdivision of the property within the 300 unit limit (with not more than ~~120~~ 180 multi-family units) set for Older Person Residential uses.

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Mayor Kirby opened discussion saying he was disturbed at how the issue has been presented, but that he supports senior housing. He said he has had a difficult time because one man has confused the issue, but he is still in favor of the project, adding that availability fees will help with the debt on the wastewater treatment plant. Mayor Kirby said there had been misuse of information by Mr. Echols, the owner of the site of the proposed development. He said Mr. Echols owes many people an apology: Chris Shipe, the President of Enders Fire and Rescue Company, the members of the bodies to whom the letter was addressed, and all those who received a hand delivered copy of his flyer.

Council member Shaffer said the view from numerous constituents is that the Town Council is against senior housing, adding that this vote does not change the number of units. He said he prefers a variety of housing types including single family cottages rather than putting all the allowed units into institutional multi-family units. He showed a sample of cottage style units with small yards now being marketed in Purcellville.

Council member Kitselman said he would not vote to go against the BADA and the Planning Commission's work and recommendation. He said he is not against senior housing, and did not like being painted with a broad brush regarding the issue.

Council member Daniel said she appreciated the comments of the other Council members, but the only issue in front of Council is the movement of 60 units from single-family to multi-family designation. She said the proposal is similar to the surrounding area and neighbors are in favor of the project. Council member Daniel said she has asked for a year why the number of units is set where it is and what is the impact of changing the number. She said she understands the desire for a variety of housing types, but it is better to have the change now while the plan is being updated.

Council member Tollett said he has been in public service his whole life, and safety is his issue. He said his hesitation regarding the project was fire and rescue, and once Marlyn worked with Enders Fire and

Rescue Company and President Shipe, regarding the proposed proffer, he was convinced to support the project.

The motion failed on the following vote:

Aye – Mary Daniel
Wilson Kirby
David Tollett

Nay – Harry Lee Arnold, Jr
Allen Kitselman
Douglas Shaffer

Absent – None

- E. *Marlyn Development Corporation (Francis Nance, Vice President-Development, Agent) is requesting a text amendment to Section 614.5 of the Berryville Zoning Ordinance in order to increase the number of permitted multifamily units in the Older Person Residential (OPR) Zoning District from 120 to 180 multifamily units, thereby decreasing the number of single family detached, two-family detached, and single family attached units to 120. TA-01-15*

Ms. Dunkle said that staff recommends denial of the text amendment based on the previous vote. **Council member Tollett moved that the Council of the Town of Berryville approve the following ordinance amending Article VI of the Berryville Zoning Ordinance increasing the number of multifamily units from 120 to 180 in the Older Person Residential Zoning District. Council member Daniel seconded the motion.**

AN ORDINANCE AMENDING
ARTICLE VI, SECTION 614.5 CONCERNING THE NUMBER OF
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Older Person Residential, Section 614.5 Maximum Density, of the Town of Berryville Zoning Ordinance shall be amended as follows:

ARTICLE VI

614.5 MAXIMUM DENSITY

A Master Plan shall be submitted with a request for OPR zoning showing a general arrangement of uses and density for the subject property and all adjacent areas intended for OPR uses. The Master Plan shall show that the public service needs are no greater for the OPR uses than the public service needs for the uses planned for that sub-area. The number of average daily vehicle trips generated, the amount of sewage generated, the amount of water used, and demand on emergency services will be no greater with the proposed number of older person residential units and service uses than that generated by the maximum density of uses allowed by a property's land use designation. However, not more than three hundred (300) Older Person Residential units (including not more than **one hundred eighty (180)** multifamily units) shall be allowed in Annexation Area B as shown on approved subdivision plats or site plans.

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The motion failed on the following vote:

Aye – Mary Daniel
Wilson Kirby
David Tollett

Nay – Harry Lee Arnold, Jr
Allen Kitselman
Douglas Shaffer

Absent – None

7. Report of Keith Dalton, Town Manager

A. Mr. Dalton said Mr. Bryant Condrey contacted Council member Mary Daniel and the Town Clerk about a concern regarding the approved minutes of the June 10, 2014, Town Council meeting. Council member Daniel said that Mr. Condrey reported, “It says that I urged the Town to consider a cigarette tax. That is patently false. I urged the Town to consider the negative effects of the cigarette tax on revenue, given that it would be easy for people to buy cigarettes just outside of town. I never urged the Town to consider a tax.” Council member Daniel said that by addressing this matter now, future inquiries will show the correction of Mr. Condrey’s remarks.

B. Mr. Dalton referred to a letter received from the County Board of Supervisors in regard to the completion of Jack Enders Blvd. He said he had provided a draft response letter to Council members, and asked if they would authorize the Mayor to sign the letter. **Council member Shaffer moved that the Council of the Town of Berryville authorize the Mayor to sign the following letter to the Board of Supervisors. Council member Daniel seconded the motion which carried as follows:**

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer
David Tollett

Nay – None
Absent – None

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December, 8 2015

www.berryvilleva.gov

Mr. David Weiss, Chairman
Clarke County Board of Supervisors
101 Chalmers Court
Berryville, VA 22611

Dear David:

We are in receipt of your letter dated 16 November regarding Jack Enders Blvd. The letter in question proposes that the County of Clarke provide a lump sum payment to the Town of Berryville, thus providing the Town with funds improve a section of Jack Enders Blvd. so that it can be accepted into the Secondary Street System.

As you know, Jack Enders Blvd. is designated as a collector street in the Berryville Area Plan (a component of both the Town and County Comprehensive Plans). Completion of this street section from Main Street to Buckmarsh Street is of great importance to this community.

In short, the Town's position regarding Jack Enders Blvd. can be summarized as follows:

- the street must eventually connect to Buckmarsh Street,
- the temporary terminus of the street on the east side of the N&S tracks must be constructed in a manner that accommodates the street's extension west across the N&S tracks (at grade),
- as the developer of the street, the County is responsible for the full cost of completing the street so that it may be accepted in to the Secondary Street System, and
- the work necessary to gain acceptance into the Secondary Street System should be completed as soon as possible.

We suspect that the County's position in this matter mirrors the Town's.

This matter will be placed on the agenda for the next Streets and Utilities Committee meeting. The Committee's deliberations on the matter will begin with an opportunity for the County to address their plans and concerns regarding the completion of Jack Enders Blvd.

We look forward to discussing this matter with you.

Sincerely,

Wilson Kirby
Mayor

Wilson Kirby
Mayor

Harry Lee Arnold, Jr.
Recorder

Council Members

Douglas A. Shaffer
Ward 1

H. Allen Kitselman, III
Ward 2

Mary L.C. Daniel
Ward 3

David L. Tollett
Ward 4

Keith R. Dalton
Town Manager

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C. Mr. Dalton reported that notices have been sent to residents on the newly designated snow emergency routes informing them of the restrictions.

8. Report of H. Allen Kitselman, III – Berryville Area Development Authority Liaison
Council member Kitselman said the BADA will meet on December 16. He said a letter to legislators regarding the signage process and costs is being drafted and will be sent soon. Ms. Dunkle added that pricing for the tourist oriented directional signs will be available soon.

9. Report of Harry Lee Arnold, Jr., - Chair, Budget and Finance Committee
Recorder Arnold had nothing to report.

10. Report of H. Allen Kitselman, III - Chair, Community Improvements Committee
Council member Kitselman said his comments under the BADA report covered this report also.

11. Report of Douglas A. Shaffer – Planning Commission Liaison
Council member Shaffer said the Commission will hold public hearings on the convenience store square footage and spot blight abatement at their meeting on December 15 which was moved because the regular meeting day was too close to the Christmas holiday.

13. Report of Mary L. C. Daniel – Chair Police and Security Committee
Council member Daniel noted that Master Patrol Officer Joey Adams, the longest tenured patrol officer on the force, will be retiring at the end of the month.

14. Report of Wilson Kirby – Chair, Streets and Utilities Committee
Upon motion of Doug Shaffer, seconded by Wilson Kirby, the minutes of the Streets and Utilities Committee meetings of 11/19/2015 and 12/07/2015 were approved.

15. Report of Harry Lee Arnold, Jr. – Chair, Personnel Committee
Upon motion of Wilson Kirby, seconded by Harry Lee Arnold, Jr., the minutes of the Personnel Committee meeting of 11/18/2015 were approved.

Recorder Arnold moved that the Council of the Town of Berryville re-appoint Ronald Huff to the Clarke County Parks and Recreation Advisory Board for a four-year term to begin January 1, 2016 and end on December 31, 2019. Council member Dave Tollett seconded the motion which carried as follows:

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer
David Tollett

Nay – None
Absent -None

Recorder Arnold moved that the Council of the Town of Berryville re-appoint Christina Dunkle to the Clarke County Economic Advisory Committee for a four-year term to begin January 1, 2016 and end on December 31, 2019. Council member Allen Kitselman seconded the motion which carried as follows:

Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer
David Tollett

Nay – None
Absent – None

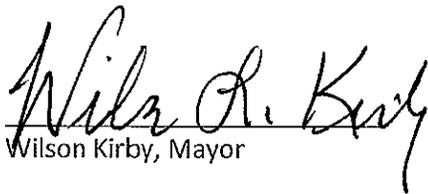
Recorder Arnold moved that the Council of the Town of Berryville appoint Warren Dilandro to the Berryville Area Development Authority to fill an unexpired term ending on June 30, 2018. Council member Allen Kitselman seconded the motion which carried as follows:

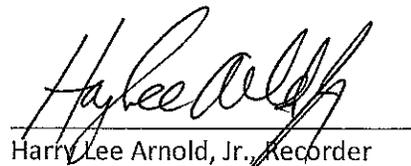
Aye – Wilson Kirby
Harry Lee Arnold, Jr.
Mary Daniel
Allen Kitselman
Douglas Shaffer
David Tollett

Nay – None
Absent – None

16. Adjourn

There being no other business, upon motion of Council member Daniel, seconded by Council member Shaffer, the meeting was adjourned at 8:32 p.m.


Wilson Kirby, Mayor


Harry Lee Arnold, Jr., Recorder

MINUTES
BERRYVILLE TOWN COUNCIL STREETS AND UTILITIES COMMITTEE
Berryville-Clarke County Government Center
Called Meeting
December 7, 2015
9:00 a.m.

Present:

Town Council Streets & Utilities Committee: Wilson Kirby, Douglas Shaffer

Staff: Keith Dalton, Town Manager; Rick Boor, Public Works Director

Other: Alton Echols

Press: None

1. Call to Order

Committee Chairman Kirby called the meeting to order at 9:00 a.m.

2. Discussion: Street Works Priority

Mr. Dalton reviewed draft FY 2017 Street Work Priorities. The Committee discussed Staff's desire to move forward on a pole building at the Public Works site. The Committee and Staff discussed the need for a pole building and the planning required to make sure the site is developed properly.

Discussion: Vehicle Purchases FY 2017

Mr. Dalton reviewed the Staff's draft vehicle purchase/sale proposal for the coming fiscal year. The Committee and Staff discussed the use of the vehicles in each department. Mr. Shaffer discussed lease options with Staff and the Committee.

3. Other

Mr. Dalton asked the Committee if there were any comments on the Snow Removal Plan that had been presented at the last meeting. The Committee agreed with the suggested changes in the plan.

Mr. Dalton provided the Committee with a new draft of the Mailbox Damage Policy. The Committee was satisfied with the progress, and instructed Staff to finalize the policy.

Mr. Dalton provided a copy of the notice that was sent to residents on the newly established Snow Emergency Policies. The Committee discussed how local residents were informed of the changes.

Mr. Kirby said he had been informed that the cul-de-sac at the end of Chamberlain Drive has been completed. Mr. Boor said he will inspect the cul-de-sac.

Mr. Echols said he is unable to reach the Town Manager and the Planner by email, but can get email through to the Town Clerk. Mr. Dalton suggested that Mr. Echols send information regarding bonding issues he has to the Town Clerk, and it will be forwarded to the Town Manager and Planner.

There being no further business, the meeting was adjourned at 9:44 a.m.

