

**MINUTES**  
**BERRYVILLE TOWN COUNCIL**  
**Tuesday, January 14, 2014**  
**Berryville-Clarke County Government Center**  
**Regular Meeting**  
**7:30 p.m.**

**Town Council:**

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

Absent: None

**Staff:** Keith Dalton, Town Manager; Christy Dunkle, Assistant Town Manager/Planner; Neal White, Chief of Police; Celeste Heath, Town Clerk

**Press:** Val Van Meter, Winchester Star

**1. Call to Order:** Wilson Kirby, Mayor

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

**2. Pledge of Allegiance**

**3. Approval of Minutes**

December 10, 2013

Upon motion by Council member Tollett, seconded by Recorder Arnold, the minutes of the December 10, 2013 meeting were unanimously approved.

**4. Citizens Forum**

Diana Kincannon, representing the Barns of Rose Hill, reported that she has recently re-engaged with the Barns of Rose Hill and that she is excited about the prospects for this year and the years ahead and looks forward to working with the Town Council again.

**5. Report of the Mayor**

**VDOT Traffic Light Project**

The Mayor asked Mr. Dalton to speak about the VDOT traffic light project. Mr. Dalton reported that he and staff met with VDOT regarding VDOT's plans to replace the traffic signal at Church and Main Streets.

Mr. Dalton explained that the planned project, which is expected to last approximately 90 days, will involve the removal of the two support poles located on the northwest and southeast corners of the intersection and the installation of a new pole and mast on the northwest corner. He said that the control box on the northwest corner near Sponseller's Flower Shop will be replaced and pedestrian signals are to be installed at each corner. He noted that the new traffic signals will be controlled by cameras instead of the current sensors in the pavement. He said that this type of control is an advantage for the town.

Mr. Dalton then presented the VDOT plans for the project. He talked about the street cuts that would be necessary for the project.

Mr. Dalton said that VDOT will be in attendance at the Streets and Utilities Committee meeting on January 30th at 7 p.m. and that notice of this meeting will go out in the immediate area of the traffic light and that perhaps the Winchester Star would be willing to do a story about it.

He said that since VDOT believes the project will take 90 days, he and Chief White will coordinate with the contractor about traffic control in order to accommodate traffic flow and parking for customers of local businesses.

Mr. Dalton said that the Streets and Utilities Committee will also discuss a citizen concern about traffic on Page Street.

### Public Works

Mayor Kirby praised Public Works crews for their good work in the adverse conditions of the last ten days. He said that they worked in temperatures around zero to repair a water main break and that the leadership during this time has been excellent.

## **6. Report of Town Manager**

Mr. Dalton reported that the Streets and Utilities Committee has been discussing the parking meter situation in town and that as they continue to work on the matter the Police and Security Committee will be drawn into the discussion.

## **7. Planning and Zoning Matters**

### Action Items – Set Public Hearings

Ms. Dunkle reported that the Planning Commission will hold a public hearing on the following matters at their January 28, 2014 meeting and asked that the Town Council schedule public hearings on the matters for their February 11 regular meeting:

1. David Anderson, Owner (Anderson Control Inc.), is requesting a Special Use Permit in order to operate a professional office at the property located at 105 South Buckmarsh Street, identified as Tax Map Parcel number 14A4-((A))-53, zoned R-2 Residential under Section 202.2(b) of the Berryville Zoning Ordinance.

Ms. Dunkle said that Mr. Anderson has purchased the property located at 105 South Buckmarsh Street in order to operate his office and that professional offices are a use by special permit in the R-2 zoning district.

2. The Berryville Planning Commission is recommending text amendments to the Berryville Zoning Ordinance, Articles II and III, establishing Section 204.1(qq) allowing second story apartments as a use by right and requiring a Special Use Permit for first story storefront and basement apartments by deleting Section 204.2(c) and establishing Section 204.2(h), both in the C General Commercial Zoning District and modifying Section 310.9(a) requiring one off-street parking space for apartments 1,000 square feet or less and two off-street parking spaces for apartments larger than 1,000 square feet.

Ms. Dunkle said that these text amendments would allow second story apartments by right and modify parking requirements in the “C” Commercial District, as discussed at previous meetings.

The Town Council set public hearings on both matters for the February 11, 2014 Town Council meeting.

#### Planner’s Report

Ms. Dunkle reported that the Planning Commission, BADA and BZA did not meet in December.

#### Tourism

Ms. Dunkle presented a memo that she sent to the Clarke County Economic Development Committee requesting that they review a strategic tourism plan that she has developed in response to the recent Hotel Feasibility Study.

### **7. Standing Committee Reports**

a) BADA Liaison – Allen Kitselman

Nothing to add to report.

b) Budget Finance / CIP – Jay Arnold

Recorder Arnold asked for comments on the draft budget calendar by the end of the week.

c) Community Improvements – Allen Kitselman

#### Chickens in Town

Council member Kitselman said at the last meeting this item was left for discussion and public input. Mayor Kirby asked if anyone in attendance would like to speak on the matter.

Bryant Condrey, 203 West Main Street, said that he has received feedback from quite a few people saying this is great but what about quails and ducks? He said that quail and some ducks are quiet. He said he thinks that Section 401 (a)(2) of the draft ordinance presented at the January 8 Police and Security Committee meeting would essentially criminalize the selling of eggs. He said that this would make selling manure from chickens illegal. He said that this is ridiculous and hard to enforce. He said that he doesn’t see that citizens selling products being a problem.

Ms. Daniel said that the document Mr. Condrey is referring to was not a Police and Security Committee document. Mr. Dalton said that the draft was staff’s shot at incorporating regulations regarding chickens into the changes that the Committee already made to Chapter 4 of the Town Code. He said that although it attempted to incorporate Town Council concerns, it was meant as a discussion piece.

Council member Kitselman said that this is the winner for most outreach on any issue he has dealt with on Town Council. He said he had eight positive and two negative

responses. He said that those with negative comments had concerns about smells, cleanliness and vermin.

There was a general discussion of using a sliding scale based on lot size to determine the number of chickens that might be allowed.

Mr. Dalton said that the Council might also want to consider a limit on coop height.

Mr. Dalton noted that Arlington addressed this issue with a 17 member task force that produced a 72 page report as well as a minority report. He also said that in his research another interesting issue related to this came to his attention. He said that the Code of Virginia virtually requires enforcement officers to kill a dog if it is caught in the act of killing livestock. He said he thought that the Town Council should be aware of this part of the State Code. There was a general discussion about the relationship of poultry to other animals.

Ms. Daniel asked how the commercialization issue (i.e. selling eggs and manure) plays into zoning. Ms. Dunkle said that most residential zoning districts require a Special Use Permit for a home occupation. Mr. Dalton said that the question is when an activity becomes a commercial use. He said that certainly a child's lemonade stand is not a commercial activity if it occurs once, but if the activity happened all day, every day, it is a different story.

Council member Daniel asked about public hearing requirements and how the Town Council might proceed with the other minor changes to Chapter 4 of the Town Code that the Police and Security Committee recommended. Mr. Dalton replied that a public hearing is not required to make changes to the Town Code and that the other changes can be made whether the Town Council moves along with the regulations regarding chickens or not.

Recorder Arnold said that he would like to fine tune this before any public comment meeting. He said that he is concerned that first people want to keep chickens and then now they want to keep ducks and quail. He asked what happens when a person can only drink goat milk, will they want to keep goats in town? He said he does not think that a person should be able to sell eggs and that if allowed they should be for personal use only.

Recorder Arnold also asked if this ordinance addresses the free range or caged issue. Mr. Dalton replied that under this draft the chickens could have run of a person's property. There was a discussion of controlling the chickens within a person's property boundaries. Mr. Dalton said that he believes that the Town Council could require caging chickens if they wished. Council member Kitselman asked if the draft ordinance requires that the chickens stay within the setbacks required. Mr. Dalton said that the setbacks in the draft ordinance are for structures involved in chicken keeping.

Council member Shaffer expressed concern about runoff from chicken droppings on properties that are downhill from those keeping chickens. Council member Daniel asked how it would be any different than dog droppings. Council member Shaffer replied that it is much easier to pick up dog droppings.

Recorder Arnold said that he has heard from a few constituents who are not opposed to this but they said they would not want it next door to them. Council member Daniel said that she has gotten more feedback on this issue in the past three weeks than on any other issue in the past except perhaps the high school. She said that most people are okay with the concept but have questions about how it will be regulated. There was a discussion of disposal of manure as well as disposal of dead animals. Recorder Arnold said that it seems that the ordinance needs some more work at the committee level.

Ms. Dunkle said that the Town Council should also consider Homeowners Association (HOA) covenants that may address this use. Mr. Dalton said that it would up to the HOAs to enforce such covenants.

The Mayor recognized Lillian Ledford, 111 Rosemont Circle, who said that in regard to the dog issue, there is a leash law and that if a dog attacks another animal it would be the responsibility of the dog owner.

Mayor Kirby asked if there was further public comment. There was none. Mayor Kirby asked the Town Council how to proceed. After a discussion it was decided to address this issue at the committee level. A joint meeting of the Police and Security and the Community Improvements Committee was set to address this matter on January 28, 2014 at 6 p.m. and report back to the Town Council at their next regular meeting.

#### Community Development Block Grant (CDBG)

Council member Kitselman reported that there was a meeting on the CDBG grant for the Community Plan for the Josephine City neighborhood. He said that the meeting went well. He said that community outreach meeting on the matter will be held on January 23, 2014 at 4 p.m. at the Josephine Street Museum.

#### HB 995

Council member Kitselman informed the Town Council that HB 995 would sunset historic rehabilitation tax credits in 2016 and urged the Town Council to call their legislators and let them know what a valuable tool these tax credits are for renewing downtowns. There was a general discussion of the matter.

d) Planning Commission – Doug Shaffer  
Nothing to add to report.

e) Police and Security – Mary Daniel  
Ms. Daniel said the Committee will meet on February 5, 2014.

Approval of Minutes

January 8, 2014

Upon motion by Council member Tollett, seconded by Council member Daniel, the minutes of the January 8, 2014 Police and Security Committee meeting were unanimously approved.

Council member Daniel reported that the Police Department is now fully staffed.

f) Streets and Utilities – Wilson Kirby  
Nothing to add to report.

g) Personnel / Appointments – Jay Arnold  
Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville re-appointed Mike Brown to the Berryville Planning Commission for a four-year term to commence on January 14, 2014.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Douglas Shaffer David Tollett
Nays:	None
Absent:	None
Abstain:	None

## 10. Adjourn

Recorder Arnold and Council Member Daniel praised the Public Works Department for their quick response to several private water line breaks in town during the frigid weather.

Upon motion by Council member Daniel, seconded by Council member Kitselman and passed, the Council meeting was adjourned at 8:24 p.m.

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Wilson Kirby, Mayor

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Harry Lee Arnold, Jr., Recorder



# Berryville Police Department

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W. Neal White – Chief of Police

## Police and Security Committee Meeting

Minutes

January 8, 2014

**Attendance:** Mary Daniel – Chair, Dave Tollett, Keith Dalton – Town Manager, Neal White – Police Chief, Desi Moreland – Treasurer, Val VanMeter – Winchester Star

The meeting was called to order at 10:05 am by committee chair Mary Daniel.

Mr. Dalton requested that the submitted agenda be modified so that the meeting could be begin with a discussion of retirement benefits for law enforcement officers since Desi Moreland was in attendance. This request was approved, and the meeting began with a discussion on enhanced retirement benefits for law enforcement officers.

Mr. Dalton had provided the committee with results of a study conducted to examine costs associated with providing law enforcement officers enhanced retirement benefits through the LEOS program. The study provided costs associated with the LEOs benefit as well as a Hazardous Duty Alternate Option (HADO). The committee reviewed the prepared cost analysis and was then briefed by Desi Moreland on how these enhanced benefits compared with the current retirement benefits provided by the town.

Mr. Dalton advised that the additional LEOs benefit would cost the town \$42,825.84 annually which roughly equates to funding for half of a full time position and all involved need to recognize such expectations effect on future Police Department staffing. He stated that he wanted this Committee and Council to have advance information as the budgeting process begins for the next fiscal year.

Chair Daniel commented that due to the nature of their work environment, law enforcement officers are prone to have lasting medical concerns after their retirement and that providing this health insurance bridge could make a big difference in the retiree's ability to afford health care. Chair Daniel also noted that the police department does have several employees that are reaching retirement status over the next few years.



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W. Neal White – Chief of Police

Mr. Dalton asked Chief White to explain why the benefit was important for the police department. Chief White distributed a document from the Virginia Legislature which listed all agencies in the State that have the LEOs benefit as of 2010. Chief White pointed out that all State Police employees as well as all Sheriff's Offices are legislatively mandated to provide the benefit.

Mr. Dalton asked the committee for their initial opinion on the benefit so he could begin preparations on how to formulate his budget design. Mr. Tollett stated that he was all for the benefit. Mr. Dalton stated that he would work on a placeholder within the budget discussions based upon the conversation within the committee. Mrs. Moreland stated that she would also contact her VRS representative again to confirm whether more immediate action would be necessary based upon the study conducted which assigned the cost to the benefit.

Chief White then presented his report to the committee. Chief White advised that the department was now fully staffed and that all newly hired officers will be completing their field training this month. The committee was also advised that a recent promotion process had just been completed, and Officer Scott Reagan had been promoted to the rank of Corporal.

Discussions about changes to Town Ordinances began with Chief White explaining revisions to two sections concerning public intoxication with Chapter 13. Sections 13-13 and 13-13.1 had revisions that are necessary in order to be in compliance with the State Code. These items were briefly discussed and then it was decided that they would be included with a comprehensive review of Chapter 13 which is a chapter of miscellaneous offenses which is going to take some time in order to review.

Discussions then centered on a review of Chapter 4 of the Town Code which concerns animals. The chapter had been revised on the assumption that Council was going to enter discussions concerning allowing laying chickens within the town limits for the purpose of household egg production. The revised chapter had incorporated provisions allowing for laying hens and established criteria concerning public health, safety, and welfare.

The next meeting for this committee was set for February 5, 2014 at 10:00 am in the A/B meeting room of the Joint Government Center.



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W. Neal White – Chief of Police

Being no further business, the meeting was adjourned at 11:06 am.

Submitted By: Chief W. Neal White