

**MINUTES**  
**BERRYVILLE TOWN COUNCIL**  
**Tuesday, February 12, 2013**  
**Berryville-Clarke County Government Center**  
**Regular Meeting**  
**7:30 p.m.**

**Town Council:**

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

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

**Press:** None

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

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

**2. Amend Agenda**

By consensus, the agenda was amended to move the Closed Session to the end of the meeting.

**3. Report of the Mayor**

Mayor Kirby recognized Josh Roller from Robinson Farmer Cox to present the Town of Berryville's Fiscal Year 2011-2012 Audit. Mr. Roller said that the auditor's opinion was a clean, non-qualified opinion which is the best you can get. He then pointed out some highlights of the audit to the Town Council. He said that there are no Management Letter comments.

**4. Approval of Minutes**

January 8, 2013

Upon motion by Council member Tollett, seconded by Council member Daniel, the minutes of the January 8, 2013 meeting were unanimously approved.

**5. Citizens Forum**

Brian McClemens, 333 East Fairfax Street, said he wanted to follow up on his inquiry last year about the \$25,000 in funding that the Town of Berryville gives to Berryville Main Street (BMS). He said that he went on the BMS web site and presented the Council with some research he did on that site. He contended that the site was inadequately maintained and uninformative. He said that he, as a business owner, did not even know that BMS had a new manager. He said that he would like to see more events like Bike Virginia in town. He said that he would like to see a much more informative BMS web site in exchange for the taxpayer dollars going to BMS and that BMS has to have a better plan for promotion. He said that he has to pay a business license fee based on his gross receipts while businesses on Route 50 pay only \$30 per year.

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

Nothing to report.

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

### **Planning Report**

Ms. Dunkle said that the Planning Commission met on January 22 and discussed unattended clothing donation boxes. She said that they will consider a draft ordinance this month.

She reported that the BADA is working on the Goals and Objectives section of the Berryville Area Plan. She said that the ARB approved two signs at their February 6 meeting.

## **8. Standing Committee Reports**

a) BADA Liaison – Allen Kitselman

Nothing to add.

b) Budget Finance / CIP – Jay Arnold

Ms. Moreland presented a draft budget calendar. The Budget and Finance Committee meeting was set for March 6, 2013 at 9:30 a.m. A Budget Work Session was set for March 20, 2013 at 4 p.m.

c) Community Improvements

Council member Kitselman said that the committee will meet on March 13, 2013 at 11 a.m. He said that the Committee is working with the Farmer's Market to have a successful year and that Berryville Main Street and the Barns of Rose Hill have been invited to the meeting. He said that the Market wants to experiment with how the parking lot is laid out. He said he will bring any proposed changes back to Council for review. Council had no objection to this approach.

d) Planning Commission – Doug Shaffer

Nothing to add to report.

e) Police and Security – Mary Daniel

Minutes, February 6, 2013

Upon motion by Council Member Tollett, seconded by Council member Daniel, the minutes of the February 6, 2013 Police and Security Committee meeting were unanimously approved.

Ms. Daniel said that the Police Department will hold a Bike Rodeo on March 16, 2013 at Berryville Primary. She then asked Mr. Dalton to speak about the proposed Key Box Ordinance.

Mr. Dalton gave the Council an overview of the proposed ordinance. He explained that key boxes are locked compartments that are installed on structures to store keys to provide access by authorized emergency response personnel. He said that the ability to

enter the structure without damaging a door or window reduces costs to property owners and allows the structure to be easily secured when the incident is over.

He said that the 2009 Virginia Statewide Fire Prevention Code requires key boxes “where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes...” He said that in absence of an approved key box brand, a jurisdiction could end up with several key box brands to deal with. The Building Official stated that action by the Town to adopt a specific key box brand would provide him with the ability to require that brand and avoid the possibility of emergency response personnel having to maintain several key box systems. He said that John H. Enders Volunteer Fire Company has adopted KNOX BOX as the key box system they utilize and that there are only a handful of key boxes in use in the Town.

Mr. Dalton presented a draft ordinance 6.2 Key Box Requirement and a resolution adopting KNOX BOX as the approved key box system within the Town of Berryville.

Upon motion by Council member Daniel, seconded by Council member Kitselman, the Council of the Town of Berryville adopted the attached ordinance amending the Code of the Town of Berryville to establish Section 6-2, Key Box Requirement.

VOTE:

Recorded Vote:

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

AN ORDINANCE ADOPTING SECTION 6-2,  
KEY BOX REQUIREMENT ORDINANCE,  
OF THE CODE OF TOWN OF BERRYVILLE

BE IT ORDAINED, by the Council of the Town Of Berryville, that the Code of the  
Town of Berryville, is amended to add Section 6-2 Key Box Requirement as attached.

VOTE:

Recorded Vote:

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

SIGNED: \_\_\_\_\_  
Wilson L. Kirby, Mayor

Attest: \_\_\_\_\_ Date: February 12, 2013  
Harry L. Arnold, Jr., Recorder

## Section 6.2. Key Box Requirement

(a) A key box shall be installed on property when required by the Building Official pursuant to the Virginia Statewide Fire Prevention Code.

(b) Such key box shall meet the requirements of the Virginia Statewide Fire Prevention Code, and shall be installed in a location approved by the Building Official.

(c) Such key box shall be maintained as required by the Virginia Statewide Fire Prevention Code with current keys when a lock is changed or rekeyed.

(d) A violation of the provisions of the Virginia Statewide Fire Prevention Code regarding key boxes shall be subject to a civil penalty of not more than \$100.00 for an initial violation and not more than \$350.00 for each additional violation. Each day during which the violation is found to have existed shall constitute a separate offense; provided, however, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10 day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of \$4,000.00.

State law references -- Va. Code §36-106; Section 506, Virginia Statewide Building Code.

Upon motion by Council member Daniel, seconded by Council member Kitselman, the Council of the Town of Berryville adopted the attached resolution regarding an approved key box program.

VOTE:

Recorded Vote:

Ayes:

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

Nays:

None

Absent:

None

Abstain:

None

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BERRYVILLE  
TO ADOPT KEY BOX SYSTEM**

MEETING DATE: February 12, 2013

MOTION BY: Mary Daniel

SECOND BY: Allen Kitselman

WHEREAS, the Council of the Town of Berryville finds that key boxes can aid first responders to more quickly abate hazards and render assistance to citizens thereby protecting and promoting public safety;

WHEREAS, the Council of the Town of Berryville finds that, in the interest of public safety, emergency responders should only maintain one type/brand of key box access keys within its jurisdiction;

WHEREAS, the Council of the Town of Berryville finds that John H. Enders Volunteer Fire Company has adopted KNOX as their sole key box provider;

WHEREAS, the Council of the Town of Berryville has adopted Section 6-2 of the Berryville Code which provides for adoption of a key box system;

THEREFORE, BE IT RESOLVED, the Council of the Town of Berryville, in accordance with Section 6-2 of the Berryville Code, hereby adopts KNOX as the key box system to be utilized within the Town of Berryville.

VOTE:

Recorded Vote:

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

Nays: None

Absent: None

Abstain: None

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Harry Lee Arnold, Jr., Recorder

Starlings

Mr. Dalton reported that there has been an invasion of starlings in town. He said that staff is working with the USDA about how to handle the situation. He said the birds are feeding in the County then coming to town for warmth. He said the USDA said that the problem will abate in the spring when it warms up. He said that staff will continue to work with the USDA to make a plan for next winter.

Ms. Daniel commended Chief White for his life saving actions on a recent incident.

f) Streets and Utilities – Wilson Kirby

The next committee meeting is February 19, 2013 at 10 a.m.

g) Personnel / Appointments – Jay Arnold

Recorder Arnold said that the Committee is working on recruiting for vacancies.

**8. Closed Session** – The Berryville Town Council entered closed session in accordance with §2.2-3711-A-7, Code of Virginia, in order to consult with staff regarding probable litigation related to the construction of the Wastewater Treatment Plant.

a. Motion to enter Closed Session

It was moved by Council member Daniel, seconded by Council member Shaffer that the Council of the Town of Berryville enter Closed Session in accordance with §2.2-3711-A-7, Code of Virginia, in order to consult with staff regarding probable litigation related to the construction of the Wastewater Treatment Plant.

VOTE:

Recorded Vote:

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

b. Enter Closed Session

The Town Council entered closed session at 7:50 p.m.

Mr. Dalton attended the closed session.

c. Reconvene Open Session

The Town Council reconvened in open session at 8:38 p.m.

d. Certification of Closed Session

**Town of Berryville  
RESOLUTION**

MEETING DATE: February 12, 2013

MOTION BY: David Tollett

SECOND BY: Mary Daniel

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Council of the Town of Berryville, Virginia (Council), 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; and

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:

Recorded Vote:

Ayes: Wilson Kirby, Mayor  
Harry Lee Arnold, Jr., Recorder  
Allen Kitselman  
Mary Daniel  
David Tollett  
Doug Shaffer

Nays: None

Absent: None

Abstain: None

Absent During Vote: None

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Harry Lee Arnold, Jr., Recorder

Town Council took no action on the Closed Session matter.

**10. Adjourn**

Upon motion by Council member Kitselman, seconded by Council member Daniel and passed, the Council meeting was adjourned at 8:40 p.m.

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Wilson Kirby, Mayor

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Harry Lee Arnold, Jr., Recorder