

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

Town Council:

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

Staff: Keith Dalton, Town Manager; Desiree Moreland, Assistant Town Manager for Finance and Administration; 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. Approval of Minutes

October 8, 2013

Council member Daniel asked that the minutes reflect the fact that she recused herself from the discussion of parking at 19 West Main Street (Crow Street parking lot).

Upon motion by Recorder Arnold, seconded by Council member Kitselman, the minutes of the October 8, 2013 meeting were approved as amended with Council member Tollett abstaining.

3. Citizens Forum

There was no public comment.

4. Report of the Mayor

The Mayor said that the Town, County and the Town Council should be proud of Council member Daniel because she ran a professional campaign for state delegate. He said that it is unfortunate that a lot of untruths were printed about her by her opposition and that he is very proud of the honest effort she put forth.

The Mayor said that November 11, 2013, Veterans Day, was a great day in the Town of Berryville. He said that he first enjoyed a breakfast honoring veterans at Greenfield Senior Living where he handed out certificates to residents who are veterans. He said that at 11 a.m. he attended a great Veterans Day celebration at the Government Center. He said to top the day off, he attended a fantastic program of patriotic music at the Barns of Rose Hill featuring the Clarke County Community Band.

The Mayor reported that he attended the kickoff ceremony in Winchester for the Salvation Army's holiday season collection. He noted that the kettle located in Berryville is one of the highest grossing locations.

5. Report of Town Manager

Crow Street Parking Lot Agreement

Council members Daniel and Kitselman recused themselves from the discussion and left the dais.

Mr. Dalton said that this matter was discussed at the last Town Council meeting and the Town Council authorized him to work on a revised agreement. He then presented that revised agreement. He said the main revisions are to identify maintenance responsibilities and to clarify who may close the parking lot and what sort of closure notice is required.

Mr. Dalton said that the owners of 11 West Main asked that Section 12 (*This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their successors and assigns*) be removed from the agreement. He said that he and the Town's attorney agree that this section should remain. He said that this matter as well as how to deal with insurance for the parking lot need to be ironed out with all of the parties.

Upon motion by Recorder Arnold, seconded by Council member Tollett the Council of the Town of Berryville authorized the Town Manager to move forward with final negotiations on the Crow Street Parking Agreement with the Mayor approving the final version of the agreement.

VOTE:

Recorded Vote:

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

Rose Hill Park Rules

Mr. Dalton said that several changes have been proposed for the draft of Section 13-36 Regulation of use and conduct in Rose Hill Park that was reviewed by the Town Council at their October meeting.

He then outlined those proposed changes:

- At the suggestion of Council member Shaffer, park hours may be extended by the Town Council or the Town Manager.
- At Recorder Arnold's suggestion, no vehicles will be permitted in the park unless authorized by the Town Manager and driving or parking on the walkways is prohibited.
- Language regarding use of the playground equipment was loosened to merely give notice that it is intended for children ages 12 and under.

Upon motion by Council member Tollett, seconded by Council member Daniel, the Council of the Town of Berryville adopted the attached ordinance amending the Code of the Town of Berryville to repeal and reenact Sec. 13-36. - Regulation of use and conduct in Rose Hill Park., as attached.

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

AN ORDINANCE DATED NOVEMBER 12, 2013
REPEALING AND REENACTING SEC. 13-36. - REGULATION OF USE
AND CONDUCT IN ROSE HILL PARK.

BE IT ORDAINED, by the Council of the Town Of Berryville, that the Code of the Town of Berryville, is amended to repeal and reenact Sec. 13-36. - Regulation of use and conduct in Rose Hill Park., as attached.

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

SIGNED: _____
Wilson L. Kirby, Mayor

Attest: _____ Date: November 12, 2013
Harry L. Arnold, Jr., Recorder

Sec. 13-36. - Regulation of use and conduct in Rose Hill Park.

It shall be unlawful for any person or persons to violate the following regulations which shall be posted pertaining to the use and the behavioral conduct of any such person or persons in Rose Hill Park.

- (a) No trespassing from dusk until dawn. Hours may be extended by the Town Council or Town Manager as the need arises.
- (b) No alcoholic beverages or glass containers.
- (c) No bare feet.
- (d) Playground equipment is intended for use only by children 12 years old or younger.
- (e) Do not use equipment when it is wet.
- (f) No, pushing, shoving or other dangerous play
- (g) Do not use equipment improperly.
- (h) No camping.
- (i) No building of fires except in park grills designed for food preparation, or for the purposes of special ceremonies with permission from the Town Manager.
- (j) No relic hunting or use of metal detectors or similar devices.
- (k) No littering.
- (l) Waste from domestic animals must be immediately collected and disposed of properly.
- (m) No skateboarding.
- (n) No hunting or discharge of firearms, fireworks, explosives, bow and arrows, slingshots, or similar weapons and devices. This section does not preclude the firing of military salutes as a part of an event authorized by the Town.
- (o) No vehicles are permitted in the park unless authorized by the Town Manager or designee. Driving over or parking on walkways or picnic table pads is prohibited.
- (p) The Town of Berryville is not responsible for injuries. This area to be used with adult supervision only.

Any person violating any provision of this section shall be guilty of a Class 4 misdemeanor.

(Ord. of 10-13-87)

Cross reference— Penalty for Class 4 misdemeanor, § 1-11.

State law reference— Similar provisions, Code of Virginia, § 15.2-1800 & § 15.2-1806

6. Planning and Zoning Matters

Planning Commission

Ms. Dunkle reported that the Planning Commission continues to discuss text amendments to Section 204 of the Zoning Ordinance to allow certain apartments as a use by right. The Planning Commission will also review a Special Use Permit application for a professional office on South Buckmarsh Street.

Berryville Area Development Authority

Ms. Dunkle reported that the BADA will review a Special Use Permit application for the Virginia United Methodist Housing 60-unit development for older persons at their November 20 meeting because staff did not receive a site plan before their October meeting.

Architectural Review Board

Ms. Dunkle reported that the ARB met to review several signs on November 6 and that they will meet on December 4 to judge the Holiday Parking Meter Contest.

Northern Shenandoah Valley Regional Commission

Ms. Dunkle said that she attended a work session on October 11 to set some goals and priorities for the NSVRC. She said she has been working with NSVRC and County staff on a Community Development Block Grant through the Virginia Department of Housing and Community Development for a planning grant for the Josephine City Community Plan.

Ms. Dunkle explained that the Commonwealth is changing stormwater regulations and that the NSVRC has secured a grant to help with local ordinance revisions. She said that the changes are a moving target at this point but it is great to have the region working together to understand the changes. Mr. Dalton said that eventually we are going to have to adopt new local stormwater regulations when the Commonwealth settles on their regulations and staff just wanted the Town Council to be aware that this is going on.

7. Standing Committee Reports

a) BADA Liaison – Allen Kitselman
Nothing to add to the report.

b) Budget Finance / CIP – Jay Arnold
Nothing to add.

c) Community Improvements – Allen Kitselman
Council member Kitselman asked the Town Council's blessing to send the attached letter to the Farmers Market. The Town Council agreed.

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November 12, 2013

Mr. Kimber Herron
Ms. Geo Derick
Via e-mail

Dear Kimber and Geo:

On behalf of the Berryville Town Council, I would like to congratulate you on the 2013 Clarke County Farmers Market season. After speaking with vendors and witnessing the increase in visitors, it appears that the Market had a wonderful year full of new and long-time vendors and new opportunities.

We look forward to working with you on building on your success from this year for next season. The CCFMA is a valuable asset to our downtown and our entire community. Let's plan on scheduling a Community Improvements Committee meeting over the winter to discuss ways to enhance and continue to grow the Market.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Kitselman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Allen Kitselman
Berryville Town Council, Ward 2
Chair, Community Improvements Committee

Cc: Town Council
Celeste Heath, Town Clerk, via e-mail

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

Council member Kitselman reminded the Council about the Christmas tree lighting and parade.

Council member Shaffer asked about the status of the sidewalk upgrade on Swan Avenue. Ms. Dunkle said that according to VDOT, the project is in progress and has been through the Transportation Board and is now under review at the Safe Routes to Schools office.

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

e) Police and Security – Mary Daniel
Nothing to add to report.

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

g) Personnel / Appointments – Jay Arnold

Planning Commission Appointment

Recorder Arnold reported that the Personnel Committee met and interviewed Debbie Zimmerman for appointment to the Planning Commission. He said that the Committee recommends her appointment.

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville appointed Debbie Zimmerman to the Berryville Planning Commission for a four year term to commence on November 12, 2013.

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

VMLIP Disability Plan/Adoption of Joint Powers Association Agreement

Recorder Arnold said that he sat in on meetings with Town employees regarding the changes to leave programs and the disability plan and that the reaction was positive. He said that because the Town Council opted out of the Virginia Local Disability Program it must establish comparable disability coverage. He said that Town staff is recommending the Virginia Municipal League Insurance Programs (VMLIP) as the alternative plan because it addresses leave plan adjustment as well as provides the required disability insurance.

Ms. Moreland said that in order to participate in the VMLIP the Council needs to adopt a Joint Powers Association Agreement.

Upon motion by Recorder Arnold, seconded by Council member Tollett, the Council of the Town of Berryville adopted the attached Ordinance approving a Joint Powers Association Agreement (ATT 1) which allows the Town of Berryville to participate in the VMLIP Single Leave Program as an alternative to the Virginia Local Disabilities Program.

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

Town of Berryville
AN ORDINANCE DATED NOVEMBER 12, 2013
Approving Joint Powers Association Agreement

WHEREAS, Virginia political subdivisions are authorized by law to provide group life insurance, accident and health insurance and other employee benefits programs for their officers and employees; and

WHEREAS, Virginia Code §15.2-1300 provides that any power, privilege or authority exercised, or capable of being exercised by a political subdivision in the Commonwealth of Virginia may be exercised and enjoyed jointly with any other political subdivision of the Commonwealth having a similar power, except where express statutory procedure is otherwise provided for the joint enterprise; and

WHEREAS, said Code section authorizes two or more political subdivisions to enter into agreements with one another for such joint action and to appropriate funds and sell, lease, give or otherwise supply such property, personnel or services therefore as legally empowered to furnish; and

WHEREAS, the Virginia Public Procurement Act (the “Procurement Act”) exempts from its competitive sealed bidding and competitive negotiation requirements (the “Requirements”) the joint procurement by public bodies, utilizing competitive principles, of insurance purchased through member associations under the conditions set forth in the Procurement Act; and

WHEREAS, members of Virginia Local Government Insurance Association (the “Association”) are Virginia political subdivisions who have executed the Joint Powers Association Agreement, a copy of which is attached to and made part of this Resolution (the “Joint Powers Agreement”); and

WHEREAS, members of the Association may procure insurance through the Association; and

WHEREAS, insurance products purchased through the Association are more cost effective than those purchased through alternative means; and

WHEREAS, the procurement of insurance should be effectuated as provided in the Joint Powers Association Agreement, in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements; and

WHEREAS, it appearing to the Town Council of the Town of Berryville that the procurement of insurance pursuant to the Joint Powers Agreement is otherwise in the best interests of the Town of Berryville

NOW, THEREFORE, BE IT HEREBY ORDAINED that:

- (1) Competitive sealed bidding and competitive negotiation for the procurement of insurance are not fiscally advantageous to the public because of the administrative and economic advantages of procuring such insurance through the Association.
- (2) The procurement of insurance pursuant to the Joint Powers Agreement is hereby approved.
- (3) The Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the Town of Berryville are hereby authorized and approved.
- (4) The Mayor is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the Town of Berryville in substantially the form presented to this meeting.
- (5) The payment obligations of the Town of Berryville pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefore by the Town Council.
- (6) This Ordinance shall take effect immediately upon its adoption or passage.

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

SIGNED: _____
Wilson L. Kirby, Mayor

Attest: _____ Date: November 12, 2013
Harry L. Arnold, Jr., Recorder

Repeal and Re-Enactment of the Town of Berryville Employee Handbook

Mr. Dalton reported that the Personnel Committee met on October 30 to review the disability benefit option and proposed changes to the Employee Handbook. He said that the Committee recommended adoption of the newly revised handbook. He said that Sections 303 Annual Leave and 307 Sick Leave were most extensively changed in order to equalize leave benefits in light of the disability plan changes. He said that the handbook was also edited for typographical and formatting errors and some language was changed to conform with current personnel regulations.

Upon motion by Recorder Arnold, seconded by Council member Shaffer, the Council of the Town of Berryville adopted the attached Town of Berryville Employee Handbook (ATT 2) effective at midnight on December 31, 2013. The Town Manager is authorized to make changes to correct typographical or formatting errors before December 31, 2013.

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

Approval of Minutes

Upon motion by Mayor Kirby, seconded by Recorder Arnold the minutes of the October 21, 2013 and October 30, 2013 Personnel Committee meetings were unanimously approved.

8. Adjourn

Upon motion by Council member Daniel, seconded by Recorder Arnold and passed, the Council meeting was adjourned at 8:04 p.m.

Wilson Kirby, Mayor

Harry Lee Arnold, Jr., Recorder