

MINUTES
BERRYVILLE TOWN COUNCIL
Tuesday, December 11, 2012
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; Christy Dunkle, Assistant Town Manager/Planner; Neal White, Chief of Police; Celeste Heath, Town Clerk

Press: Val Van Meter, Winchester Star

1. Public Hearings:

a. Loudoun Propane, (Dale Schulz, President, Agent), is requesting a Special Use Permit in order to operate a Petroleum Bulk Station and Terminal (NAICS 424710) per Section 612.4(m) of the Town of Berryville Zoning Ordinance on the property located at 535 Jack Enders Boulevard, identified as Tax Map Parcel number 14-7-7 zoned BP Business Park. SUP 12-03

Mayor Kirby opened the Public Hearing at 7:30 p.m. Council member Kitselman recused himself from the Public Hearing and left the room at 7:30 p.m. There was no public comment. The Public Hearing was closed at 7:31 p.m. Council member Kitselman returned to the room at 7:31 p.m.

b. AT&T proposes amendment of 2001 lease in order to increase the number of antenna that may be installed from six to nine. The leased property is known as the northwest elevated water tank located at 201 Tom Whitacre Circle.

Mayor Kirby opened the Public Hearing at 7:32 p.m. There was no public comment. The Public Hearing was closed at 7:33 p.m.

2. Call to Order: Wilson Kirby, Mayor

Mayor Kirby called the regular meeting to order at 7:33 p.m.

3. Approval of Minutes

November 13 and 28, 2012

Upon motion by Council member Shaffer, seconded by Council member Kitselman, the minutes of the November 13 and 28, 2012 meeting were unanimously approved.

4. Citizen's Forum

There was no citizen comment.

5. Report of the Mayor

Mayor Kirby thanked Commissioner of Revenue Donna Peake for a great Christmas Parade and reported that the Christmas tree lighting in Rose Hill Park was well attended. He reported that he judged a dance contest at the Social Graces Dance Studio in Berryville and thoroughly enjoyed it.

6. Planning and Zoning Matters

Action Item – Public Hearing – Loudoun Propane, (Dale Schulz, President, Agent), is requesting a Special Use Permit in order to operate a Petroleum Bulk Station and Terminal (NAICS 424710) per Section 612.4(m) of the Town of Berryville Zoning Ordinance on the property located at 535 Jack Enders Boulevard, identified as Tax Map Parcel number 14-7-7 zoned BP Business Park. SUP 12-03

Council member Kitselman recused himself and left the room.

Ms. Dunkle reported that the Planning Commission held a public hearing on this matter at their October 23, 2012 meeting and recommended that the Town Council approve the Special Use Permit. She said that this type of business is highly regulated and that there was thorough review of the proposed development by the building and fire departments. She said that Public Hearing notices were published in the Winchester Star on November 27 and December 4, 2012 and that adjacent property owners were notified. She said that one adjacent property owner attended the Planning Commission public hearing and expressed concerns about the project.

Upon motion by Council member Tollett, seconded by Recorder Arnold, the Council of the Town of Berryville approved the Special Use Permit at the property located at 535 Jack Enders Boulevard, identified as Tax Map Parcel number 14-7-7, zoned BP Business Park in order to operate a wholesale propane distribution business (Petroleum Bulk Station and Terminal NAICS 424710) under Section 612.4(m) of the Town of Berryville Zoning Ordinance.

VOTE:

Recorded Vote:

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

Council member Kitselman returned.

Planning Report

Ms. Dunkle said that there was no Planning Commission meeting in November and that three Planning Commissioners will attend certified Planning Commissioner training.

Ms. Dunkle reported on a proposed Eagle Scout project that grew out of questions from Bike Virginia participants about the trees in Rose Hill Park. She explained that the Eagle Scout would like to add small identifying signs to the trees with QR code links to internet descriptions of the trees. She said that the ARB will review the signage and then the project will be brought to the Town Council for review.

Northern Shenandoah Valley Regional Hazard Mitigation Plan Update

Jill Keihn from the Northern Shenandoah Valley Regional Commission updated the Town Council on the Regional Hazard Mitigation Plan. She said that jurisdictions must have adopted plans in order to qualify for FEMA funding. There was a discussion about the timing of adoption of the updated plan. She said that Ms. Dunkle has been instrumental in helping to develop this plan as the Berryville representative on the planning group and that a plan would come before Town Council when completed.

Unattended Clothing Donation Facilities

Ms. Dunkle said that the Planning Commission reviewed a draft ordinance regarding unattended clothing donation facilities at their October meeting and asked her to continue to discuss the ordinance with other localities. She said that she will have an ordinance for the Town Council to review after it has gone back to the Planning Commission for review.

Letter of Support - School Travel Plan for the Safe Routes to School Program

Ms. Dunkle explained that the Virginia Safe Routes to School (SRTS) program is funded by the Federal Highway Administration and administered by VDOT. The program aims to create sustainable local SRTS programs and supports programs and projects that enable and encourage walking and bicycling to and from school specifically for K-8 grade levels.

She said that the Town has partnered with the Clarke County Schools on a number of safety programs, which she outlined. She asked the Town Council to approve a motion supporting the School Travel Plan and authorize the Mayor to sign a pledge of support.

Upon motion by Council member Daniel, seconded by Council member Tollett, the Council of the Town of Berryville agreed to support the School Travel Plan for the Safe Routes to School program and thereby authorize the Mayor to sign the pledge of support.

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

6. Report of Town Manager

Drainage on Lincoln Avenue

Mr. Dalton reported that he and Council member Daniel met with Mr. Braithwaite on site and that staff met with an engineer from View Engineering on site. He said that the engineer is reviewing several items including the effect that extending the concrete channel may have on adjacent property owners and how much it will cost to develop plans to bid out the project, if plans are required. The Mayor suggested that the Town Council wait for the engineer's report and then send the matter to the Streets and Utilities Committee.

Update of Mosby Boulevard

Mr. Dalton reported that the project is complete with the exception of lighting which has been held up because of the demands that Hurricane Sandy created.

Amendment to the AT&T Water Tank Lease

Mr. Dalton said that in 2001 the Town and Triton PCS entered into a lease to permit Triton to install cell antennas on the northwest elevated tank. In 2006 the permissible number of antennas increased from three to six and rent was increased by \$200 per month. He said that the lessee is now requesting an increase in antennas from six to nine. He noted that the new monthly rent would be \$2,579.67. He said that the plan for the new configuration is now in being reviewed the Town's engineers.

Upon motion by Council member Daniel, seconded by Council member Kitselman, the Council of the Town of Berryville approved the amendment of the 2001 Water Tank Site Lease Agreement between the Town of Berryville and Triton PCS (as amended in 2006) in order to permit up to nine antenna to be installed on the northwest tank with a rental increase of \$200 per month. The Town Council authorized the Town Manager to finalize the Lease Agreement, including the attachment of necessary exhibits, with the Lessee and authorized the Town Manager to execute said lease on behalf of the Town Council subject to final engineering review of the plans. The Town Council reiterated that all installation costs are to be borne by the applicant.

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

7. Standing Committee Reports

a) BADA Liaison – Allen Kitselman

Nothing to add to report.

b) Budget Finance / CIP – Jay Arnold

Nothing to add to report.

c) Community Improvements – Allen Kitselman

The next committee meeting is January 2, 2013 at 11 a.m.

d) Planning Commission – Doug Shaffer

Nothing to add to report.

e) Police and Security – Mary Daniel

The next committee meeting is January 2, 2013 at 10 a.m.

f) Streets and Utilities – Wilson Kirby

Nothing to add to reports.

g) Personnel / Appointments – Jay Arnold

Nothing to add.

10. Adjourn

Upon motion by Council member Daniel, seconded by Council member Tollett and passed, the Council meeting was adjourned at 8:08 p.m.


Wilson Kirby, Mayor


Harry Lee Arnold, Jr., Recorder

MINUTES
BERRYVILLE TOWN COUNCIL
Friday, December 28, 2012
Berryville-Clarke County Government Center
Called Meeting
1:00 p.m.

Roll:

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; David Tyrrell, Director of Utilities; Celeste Heath, Town Clerk

Press: Val Van Meter, Winchester Star

1. Call to Order: Wilson Kirby, Mayor
Mayor Kirby called the meeting to order at 1:00 p.m.

2. 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 legal counsel and staff regarding probable litigation related to the construction of the Wastewater Treatment Plant.

a. Motion to enter Closed Session

It was moved by Recorder Arnold, seconded by Council member Tollett 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 legal counsel and 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 Allen Kitselman David Tollett Doug Shaffer
Nays:	None
Absent:	None
Abstain:	None
Absent During Vote:	Mary Daniel

b. Enter Closed Session

The Town Council entered closed session at 1:01 p.m.

Mr. Dalton, Ms. Moreland, Mr. Tyrrell and Robert Mitchell, legal counsel attended the closed session.

Council member Daniel entered the closed session at 1:02 p.m.

c. Reconvene Open Session

The Town Council reconvened in open session at 2:06 p.m.
d. Certification of Closed Session

**Town of Berryville
RESOLUTION**

MEETING DATE: December 28, 2012

MOTION BY: Mary Daniel

SECOND BY: Dave Tollett

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:

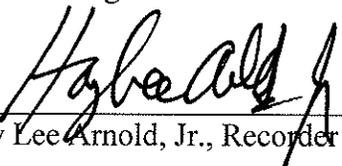
Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Allen Kitselman
Mary Daniel
David Tollett
Doug Shaffer

Nays: None

Absent: None

Abstain: None

Absent During Vote: None



Harry Lee Arnold, Jr., Recorder

The Mayor recognized Mr. Mitchell to speak on the subject of the closed session. Mr. Mitchell explained that certain claims have been filed by Caldwell and Santmyer, the contractor for the wastewater treatment plant. He said that these claims are subject to dispute resolution under the contract. He said that mediation was unsuccessful and that arbitration has been scheduled for February.

Mr. Mitchell said that in the meantime negotiations have been ongoing to try to resolve the issues in order to avoid the risk and cost associated with arbitration. He said that Caldwell and Santmyer has filed four claims in the total amount of \$829,000 and that staff has negotiated to settle those claims for \$250,000. He recommended that the Town Council approve the settlement agreement and authorize the Town Manager to execute the agreement if Caldwell and Santmyer accepts the agreement.

Mr. Dalton asked if a time frame should be established for a response from Caldwell and Santmyer. Mr. Mitchell said that establishing a deadline for a response is advisable.

Upon motion by Council member Daniel, seconded by Recorder Arnold, the Council of approved the agreement between the Town of Berryville and Caldwell and Santmyer Inc. regarding settlement of claims on the wastewater treatment plant project and authorized the Town Manager to execute the agreement on behalf of the Town of Berryville if Caldwell and Santmyer accepts and executes the agreement before January 4, 2013.

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

10. Adjourn

Upon motion by Council member Kitselman, seconded by Council member Daniel and passed, the Council meeting was adjourned at 2:15 p.m.


Wilson Kirby, Mayor


Harry Lee Arnold, Jr., Recorder