

BERRYVILLE TOWN COUNCIL
Tuesday, April 13, 2010
Berryville-Clarke County Government Center
Regular Meeting
7:30 p.m.

MINUTES

Roll:

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Mary Daniel; Allen Kitselman; Allan W. McWilliams; Lawrence Russell, III

Staff: Keith Dalton, Town Manager; Christy Dunkle, Town Planner/Assistant Town Manager; Desiree Moreland, Treasurer/Assistant Town Manager; Neal White, Chief of Police; Dave Tyrrell, Director of Utilities; Celeste Heath, Town Clerk

Press: Mike Dowling, ClarkeDailyNews.com

1. Call to Order – Wilson Kirby, Mayor
Mayor Kirby called the meeting to order at 7:30 p.m.

Upon motion by Council member Russell, seconded by Council member Kitselman the agenda was unanimously amended to add a Closed Session

2. Public Hearing – Proposed Tax Rates for 2010
Proposed tax rates for the tax year beginning January 1, 2010, on all real property, including real property and tangible personal property of public service corporations, and on all other tangible personal property, including machinery and tools. **The proposed rates reflect a \$.0171 increase in the real estate tax rate and no change to personal property or machinery and tools tax rates.**

- A. \$.116 per \$100 assessed valuation on real estate, including real estate of public service corporations;
- B. \$1.00 per \$100 assessed valuation on tangible personal property except machinery and tools;
- C. \$1.00 per \$100 assessed valuation on tangible machinery and tools.

Mayor Kirby opened the Public Hearing at 7:31 p.m. Ms. Moreland read the Public Hearing notice. Mayor Kirby called for public comment.

Dan Garrett, 303 Archer Court, expressed appreciation for the Town Council carrying out their constitutional duty of setting tax rates. He said that there are still citizens in Berryville who view taxes as the price we pay for doing the common good in providing good roads, clean water, education and public safety. He said that citizens expect the Town Council to lead on what is right for the community and that they should foster business and development in town to do what we need to do and that this budget is our commitment to our common interest.

Upon motion by Council member McWilliams, second by Council member Daniel, the Public Hearing was closed at 7:34 p.m.

3. Public Hearing – Amendment of the Berryville Area Plan

The Berryville Area Development Authority recommends the amendment of the Berryville Area Plan, Chapter V, Planning Area Analysis for Sub-areas 5, 6, and 6A so as to add 15 acres to Sub-area 6A, taking 14 acres from Sub-area 6 and one acre from Sub-area 5, in order to expand the area in the Plan that is devoted to Older Person Residential uses.

Mayor Kirby opened the Public Hearing at 7:35 p.m. Ms. Dunkle read the Public Hearing notice.

Ms. Dunkle explained the proposed amendment is to expand Sub-area 6A of the Berryville Area Plan to include the Greenfield facility and the parcel that was rezoned by Town Council in August 2009 in order to construct the Robert Regan House. She said that the BADA recommended this expansion at their January 2010 meeting. She said that the Board of Supervisors held a public hearing on the matter at their March meeting at which Mr. Echols informed the Board of Supervisors that a proffer that was approved by Town Council at the rezoning of the Regan House parcel had a sunset clause that states that by mutual consent of the owner and the town, the parcel will by Town Council action, revert to the existing B and DR-4 zoning if a building permit is not issued by August 30, 2011.

Mayor Kirby called for public comment.

Alton Echols, 400 Custer Court, said that he is the owner and trustee of the 12.32 acres that is the largest portion of this area. He then referenced the proffers attached to the rezoning of the property noting the “Reversion of Zoning” section that Ms. Dunkle spoke about.

He then said that it is very unlikely that Virginia tax credits will be awarded to the Robert Regan House and that it is premature to put this acreage into OPR zoning until the tax credits are decided upon. He asked the Town Council to table the matter.

Dan Garrett, 303 Archer Court, said that he is an advocate for affordable senior housing and urged the Town Council to do nothing on this matter.

Upon motion by Recorder Arnold, second by Council member McWilliams, the Public Hearing was closed at 7:42 p.m.

**4. Report of Mayor – Wilson Kirby
Presentation – Girl Scout Troop 411**

Girl Scout Troop 411 presented a handmade toddler picnic table to the Town of Berryville for use in Rose Hill Park. The Mayor congratulated the troop on their

accomplishment and said that there will be a formal presentation of the table at Rose Hill Park on Friday, April 23 at 6:00 p.m.

5. Approval of Minutes:

March 19, 2010

Upon motion by Council member Daniel, seconded by Council member McWilliams, the minutes of the March 19, 2010 meeting were unanimously approved with the correction of one typographical error.

6. Citizen's Forum:

Alton Echols, 400 Custer Court, handed out a document entitled "Robert Regan House Projected Water and Sewer Usage and Fee Request" (Attachment 1); a letter dated April 13, 2010 addressed to the Town Council (Attachment 2) and a letter dated October 13, 2009 addressed to the Virginia United Methodist Housing Development Corporation from the Clarke County Building Inspector (Attachment 3). He then suggested lowering availability fees for the Robert Regan House to \$411,600 and referring the matter of the fire access road referenced in the letter from the Building Inspector to the Streets and Utilities Committee of the Town Council.

ROBERT REGAN HOUSE

(Projected Water and Sewer Usage and Fee Request)

I MARY HARDESTY HOUSE USAGE: THOUSAND GALLONS

2010	Jan	6 + 159	=	165
	Feb	5 + 159	=	164
	Mar	6 + 141	=	147
	Apr	5 + 147	=	152
	May	4 + 134	=	138
	June	5 + 142	=	147
	July	4 + 129	=	135
	Aug	5 + 150	=	155
	Sept	4 + 132	=	136
	Oct	5 + 138	=	143
	Nov	4 + 131	=	135
	Dec	4 + 127	=	<u>131</u>

1,748,000 divided by 364 = 4,802 gallons/per day for a 60 unit complex
or 80.04 per day/per unit

- II WATER & SEWER RATIO USAGE – Based on 4802 gallons per day usage for Mary Hardesty’s complex, and a 350 gallons per day allotment for a 5/8” meter (single family) = 13.72 as the Demand Ratio for the proposed 60 unit Robert Regan House.
- III A Demand Ratio of 13.72 times the \$30,000 current cost for a 5/8” Single family Availability Fee gives \$411,600 as the fee suggested for the Robert Regan House.
- IV REDUCTION REQUEST FOR “ROBERT REGAN HOUSE”. If actually based on usage, the 60 unit complex’s water and sewer availability fees are reduced from the \$647, 500 to \$411,600. This \$235,900 reduction in cost of development is very important to a successful project’s budget.

April 13, 2010

Town of Berryville
Mayor Wilson Kirby
Berryville Town Council Members
101 Chalmers Ct.
Berryville, Virginia 22611

Dear Mayor Kirby
Members of Council

The preliminary results from the VHDA 9% Tax Credit reports indicates that the Methodist Housing application submitted for the Robert Regan House is too costly and unlikely to be awarded a reservation for tax credits. Many projects in our non-profit pool submitted lower cost per unit gaining higher scores. We are, however, eligible to resubmit a 4% non-competitive tax credit application for this project, if we can trim our cost to fit the tax credits. Some suggestions proposed for budget cutting that will help us to make a 4% tax credit application successful are:

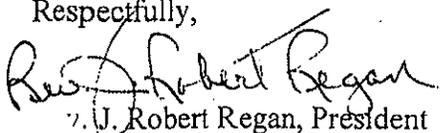
1. Water and Sewer Availability Fees – If based on actual usage, (see attached usage chart) the complex fees could be reduced from the current \$647,500 to \$411,600. A significant reduction in cost of \$235,400.
2. Construct an Entrance from Mosby – Extending Chamberlain Street westward (for 800 feet at \$600 per running foot) will cost \$480,000. If an entrance is constructed on Mosby Blvd. (a Private Driveway to VDOT specifications for 180 feet at \$300 per running foot) the cost is just \$54,000, a substantial savings of \$426,000.

The Virginia Methodist Housing believes that such a joint public/private non-profit partnership between the Town, County and the Methodist Housing will rescue our proposed senior housing project and be mutually beneficial to all respective parties.

If successful, (1) we will be able to develop 60 additional senior apartments to meet the current wait list, (2) the County of Clarke will be the beneficiary of \$8,100,000 in additional tax base (see Mary Hardesty assessment) with more than \$50,000 additional annual revenue, (3) the Town of Berryville will gain a substantial local user paying approximately \$2500 per month to the water and sewer fund plus \$411,600 as a one time payment for Availability Fees; and (5) the Berryville area will gain 60 additional senior households with incomes averaging \$35,000 per year.

In closing, I would like to thank each of you for your continued interest in providing senior housing opportunities within the Berryville area. We ask for a meeting with the Streets and Utilities Committee. Working together, we believe that there may be a way to make a 4% tax credit application successful.

Respectfully,



J. Robert Regan, President
Virginia United Methodist Housing Development Corp.



CLARKE COUNTY BUILDING DEPARTMENT

101 Chalmers Ct.
Berryville, Virginia 22611

1-540-955-5112

FAX: 540-955-5170

October 13, 2009

Virginia United Methodist Housing Development Corp.
Mr. Alton Echols, Agent
400 Custer Ct.
Berryville, Virginia 22611

Dear Mr. Echols:

As you requested, I completed a review of the revised preliminary site plans dated 10/05/2009 (on Engineer's stamp) for the proposed Robert Regan Apartments. The revisions shown for the fire apparatus access road around the perimeter of the building meet the specific requirements in the Virginia Building Code and the Virginia Statewide Fire Prevention Code, Section 503, as long as the proposed access road is designed to support the imposed loads (68,000 pound tandem axle vehicle in an operational position on outrigger jacks supported at four locations on four square foot pads) and has an all weather driving surface. As noted in the letter I sent on September 29, 2009, there will need to be some minor adjustments made to the parking area design to accommodate the maneuvering of large fire apparatus through the parking area and back out of the complex. The parking lot islands will need to be adjusted to maintain the required 50-foot turning radius throughout the parking area.

This review only applies to the fire apparatus access road on the preliminary site plan. The final site plan will need to be submitted and reviewed prior to the issuance of the building permit. At that time a complete review will be completed looking at all aspects of the site including re-reviewing the fire apparatus access road.

I look forward to working with you on this project. If you have any questions, please do not hesitate to contact me at 540-955-5112.

Sincerely,


Gary R. Pope, Clarke County Building Official

cc: David Ash, Clarke County Administrator
Keith Dalton, Manager Town of Berryville
Christy Dunkle, Planner Town of Berryville
Jason Porter, Chief John H. Enders Fire Department

7. Planning and Zoning Matters: Christy Dunkle

Ms. Dunkle reported that the Planning Commission held a meeting on Tuesday, March 23, 2010 at which they elected Doug Shaffer Chair and Bob Ferrebee Vice-Chair. The Planning Commission set a public hearing on the proposed changes to the L-1 and BP zoning districts to allow commercial indoor recreational uses that she spoke about at the last regular Town Council meeting.

Ms. Dunkle reported that the BADA held a work session on Thursday, March 25, 2010 on the high school site plan. At a special meeting on Thursday, April 8, 2010 they recommended Town Council approval of the Clarke County High School site plan with the recommendation that the applicant reduce the number of parking spaces on the site. She said that the dedication and plats for Mosby Boulevard and Coleman Lane were received today.

VDOT Resolution for South Gate Streets

Ms. Dunkle reported that the Virginia Department of Transportation has requested that Town Council pass a resolution in order to add the following streets in the South Gate subdivision into the system of state highways: a portion of Hermitage Boulevard, Litten Court, and Turner Court. She explained that this constitutes the complete development of the South Gate subdivision. She said that as-built drawings were reviewed by VDOT and Town Public Works and Chester Engineers has inspected these streets for compliance. She presented a resolution for Town Council consideration.

Upon motion by Council member Kitselman, seconded by Council member McWilliams the Town Council of the Town of Berryville unanimously adopted the attached Resolution – Addition of New Subdivision Streets, Southgate Subdivision.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Allan McWilliams Lawrence Russell, III
Nays:	None
Abstain:	None
Absent During Vote:	None
Absent During Meeting:	None

**Town of Berryville
Town Council**

**RESOLUTION – ADDITION OF NEW SUBDIVISION STREETS
SOUTH GATE SUBDIVISION**

WHEREAS, the street(s) described on the attached Additions Form LA-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of Circuit Court of Clarke County, and

WHEREAS, the representative for the Department of Transportation has advised this Council that the street(s) meet the requirements established by the Virginia Department of Transportation's Subdivision Street Requirements, and

WHEREAS, the Town and the Virginia Department of Transportation have entered into an agreement on the 28th of December, 1999 for comprehensive stormwater detention, which applies to this request for addition,

NOW THEREFORE, BE IT RESOLVED, the Town Council of the Town of Berryville, requests the Virginia Department of Transportation to add the street(s) described on the attached Additions Form LA-5(A) to the secondary system of state highways, pursuant to §33.1-229, §33.1-82, Code of Virginia, and the Department's Subdivision Street Requirements, after receiving a copy of this resolution and all outstanding fees and documents required of the developer, whichever occurs last in time.

BE IT FURTHER RESOLVED, this Council guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage, and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

Date: April 13, 2010

Moved By: Allen Kitselman

Seconded By: Allan McWilliams

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Allan McWilliams
Lawrence Russell, III

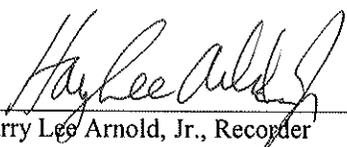
Nays: None

Abstain: None

Absent During Vote: None

Absent During Meeting: None

ATTEST:



Harry Lee Arnold, Jr., Recorder

8. Report of the Town Manager – Keith Dalton

Update on Clarke County High School Project

Council member McWilliams asked if the School Board is in agreement with the reduced parking suggested by the BADA. Mr. Dalton said he isn't sure because the School Board hasn't had a meeting since the BADA meeting.

Ms. Dunkle told the Town Council that Mr. Bob Larson of Early Drive has voiced concerns to her about the fire access road from Early Drive to the proposed Clarke County High School.

Dr. Mike Murphy, Superintendent of Clarke County Schools arrived. Mr. Dalton said that the Town Council had questions about the School Board's reaction to the BADA's suggested reduction in parking spaces at the proposed high school. Dr. Murphy said that the School Board discussed a variety of parking options, including the BADA's suggestion, but that there was concern that reducing parking as suggested would lead to only 30 more parking spaces than are available at the current high school. He said that he is concerned that there will be parking on the residential street if parking spaces are reduced.

Council member McWilliams said that he supports Dr. Murphy's opinion on the parking matter. He said that he thinks that reducing the parking spaces today just puts the burden on the taxpayer in the future. Council member Kitselman noted that the BADA made a suggestion about parking, but it is not a condition of approval. He said that we want to be green but it doesn't make sense to create inadequate parking at the biggest project that Clarke County will see in a long time.

There was a general discussion of parking issues related to the proposed high school.

Mr. Dalton reminded the Town Council that they will hold a Public Hearing on the Final Site Plan for the high school on April 22, 2010 at 7:00 p.m.

Mr. Dalton then presented a Utility Construction Sharing Agreement revised by the town's attorney. He outlined two areas that still need some work but noted that the agreement is at the point where it will go to the School Board's attorney. Mr. Dalton said that he also has plans that are almost ready for bid for the booster station that he will deliver to Dr. Murphy in the morning. He asked the Town Council if they would like to put this item on the agenda for the April 22nd meeting. The Council agreed that the agreement should be addressed at the April 22nd meeting. Dr. Murphy said that the School Board would review the agreement at their April 19th meeting.

Mr. Dalton reported that Rick Boor, Director of Public Works, in reviewing the high school site plan, noted that the town's construction standards allow for water lines to be C909 rather than the ductile iron pipe that is called for in the site plan. He said that this change will save the schools quite a bit of money and that an amendment to the plan is not needed to make this change. He said that a letter noting the change and that locating pegs and wiring will be added to the C909 pipe would be sufficient to make the change.

Mr. Dalton said that a perpetual easement of Mosby Boulevard should be going to VDOT tomorrow.

Dr. Murphy reported that he is working with the Building Inspector on a standard Knox Box for the property so that fire and rescue personnel have immediate access at all of the schools.

Mr. Dalton reported that he and Dr. Murphy had a good meeting with Mr. Howell concerning the entrances off Mosby and the land swap that will be necessary to make the entrances work. He said that Mr. Howell is very community-minded and agreeable to helping. He noted that the subject of the Town Council's closed session at the end of the meeting is land transfers related to the school project.

Wastewater Treatment Plant and Outfall Line

Mr. Tyrrell said that Notices of Award have been sent to R.L. Ryder and Caldwell and Santmyer and that the pre-construction meeting will be held on April 15th. He said that he has secured about 70% of the easements for the outfall line. He said that he has met with VDOT about the entrance to the site.

Mr. Dalton noted that Whitman Requardt has hired Warren Dilandro as the resident engineer for the project.

Barns of Rose Hill

Mr. Dalton said that this project is out to bid and that a mandatory pre-bid meeting is scheduled for April 16th and bids are due on April 29th. He said that the Town Council has a meeting scheduled for May 3rd to discuss award of the contract. He said that the Memorandum of Understanding is in the Town's attorney's hands.

8. Standing Committee Reports:

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

b) Budget Finance / CIP – Jay Arnold

Upon motion by Council member Daniel, seconded by Council member Kitselman the Town Council of the Town of Berryville unanimously adopted the attached Ordinance setting the tax levies for Tax Year 2010 amending the Code of the Town of Berryville, Chapter 16 – Taxation, Article 1 – General, Section 16-1 Annual Assessments valuation of property.

VOTE:

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel

Allen Kitselman
Allan McWilliams
Lawrence Russell, III
Nays: None
Abstain: None
Absent During Vote: None
Absent During Meeting: None

Upon motion by Council member Daniel, seconded by Council member Kitselman the Town Council of the Town of Berryville unanimously set a public hearing on the Fiscal year 2010-2011 Proposed Budget.

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Allan McWilliams
Lawrence Russell, III

Nays: None
Abstain: None
Absent During Vote: None
Absent During Meeting: None

TOWN OF BERRYVILLE
TOWN COUNCIL
AN ORDINANCE SETTING TAX LEVIES FOR TAX YEAR 2010

Date: April 13, 2010

Motion By: Mary Daniel

Second By: Allen Kitselman

BE IT ORDAINED, by the Council of the Town of Berryville, Virginia, that for the tax year 2010 there is hereby levied:

(1) A tax of \$.116 per \$100 assessed valuation on all real estate located within the Town of Berryville, such levy being also applicable to the real estate and tangible personal property of public service corporations;

(2) A tax rate of \$1.00 per \$100 assessed valuation on all taxable, tangible personal property, except machinery and tools, located in the Town of Berryville;

(3) A tax rate of \$1.00 per \$100 assessed valuation on tangible machinery and tools located in the Town of Berryville.

All tax levies shall be due and payable pursuant to the Code of the Town of Berryville, Chapter 16, Article I, Section 16-3.

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Allan McWilliams
Lawrence Russell, III

Nays: None

Abstain: None

Absent During Vote: None

Absent During Meeting: None

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

Date: April 13, 2010

ATTEST: Harry Lee Arnold, Jr.
Harry Lee Arnold, Jr., Recorder

Date: April 13, 2010

c) Community Improvements – Allen Kitselman

Council member Kitselman reported that the Fire House Gallery was named one of the 25 gems of Main Street.

Farmers Market Resolution

Mr. Kitselman explained that the Mayor, Ms. Dunkle and he spoke at a public hearing of the Clarke County Planning Commission at their April 2, 2010 meeting regarding text amendments to their zoning ordinance establishing a definition for “farmers market, seasonal” and proposing that this use be allowed by right in the AOC and FOC zoning districts. He said that they suggested that the Planning Commission table the matter until stakeholder discussions could take place. The Planning Commission voted to recommend approval to the Board of Supervisors. He presented a Resolution for consideration by the Town Council that voices the Council’s concern about the possible dilution of the efforts of the existing Clarke County Farmers Market that is held on Saturday mornings that this action may cause and asking that a committee look at the matter before it is acted upon.

Upon motion by Council member Kitselman, seconded by Council member Daniel the Town Council of the Town of Berryville unanimously adopted the attached Resolution Regarding Farmers Markets and forwarded it to the Clarke County Board of Supervisors.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Allan McWilliams
Lawrence Russell, III

Nays:

None

Abstain:

None

Absent During Vote:

None

Absent During Meeting:

None

Town Council

**RESOLUTION – REVIEW OF PROPOSED COUNTY TEXT AMENDMENTS
CONCERNING FARMERS MARKETS**

WHEREAS, the Town Council recognizes the efforts made through the Comprehensive Plans of the Town and County of Clarke to identify Berryville as the residential, industrial and commercial center of the County, and

WHEREAS, the Town and County have worked closely for many years to coordinate land use decisions and establish policies that enable residents of the community to enjoy a superior quality of life, and

WHEREAS, the Town of Berryville supports the agricultural community, the sale and promotion of local produce and products, the Clarke County Farmers Market and the tradition of the wayside stand as a venue to promote and sell agricultural items, and

WHEREAS, the Town Council believes that having the Clarke County Farmers Market in downtown Berryville promotes walkability, supports community interaction, increases traffic for local businesses and events, and allows for local growers and bakers to sell their products directly to the public, and

WHEREAS, the Town Council has concern as to whether this effort will dilute the Clarke County Farmers Market's fifteen-year effort in creating a successful market in downtown Berryville.

NOW THEREFORE, BE IT RESOLVED, the Town Council of the Town of Berryville, requests the Clarke County Board of Supervisors forward the proposed text amendments defining *farmers market, seasonal* and which allow such markets as a use by right in the AOC and FOC zoning districts to a committee consisting of stakeholders in the community to review the proposed amendments prior to adoption.

Date: April 13, 2010

Moved By: Allen Kitselman

Seconded By: Mary Daniel

VOTE:

Recorded Vote:

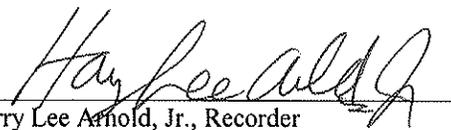
Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Allan McWilliams
Lawrence Russell, III

Nays: None

Abstain: None

Absent During Vote: None

Absent During Meeting: None

ATTEST: 
Harry Lee Arnold, Jr., Recorder

d) Personnel / Appointments – Wilson Kirby
Mayor Kirby said that there is an opening on the Board of Zoning Appeals and called for citizen applications.

e) Planning Commission – Lawrence Russell.
Nothing to add to report.

f) Police and Security – Lawrence Russell.
Nothing to add to report.

g) Streets and Utilities – Wilson Kirby
Mr. Dalton said there will be an informational meeting for residents about the Josephine Street project on April 22nd at 6:00 p.m.

2. Closed Session - Pursuant to Section 2.2-3711.A.3 of the Code of Virginia, 1950, As Amended, for discussion of the disposition or acquisition of real property for the wastewater treatment plant, the wastewater outfall line and Mosby Boulevard projects.

a. Motion to enter Closed Session

It was moved by Recorder Arnold, seconded by Council member McWilliams that the Council of the Town of Berryville enter Closed Session pursuant to Section 2.2-3711.A.3 of the Code of Virginia, 1950, As Amended, for discussion of the disposition or acquisition of real property for the wastewater treatment plant, the wastewater outfall line and Mosby Boulevard projects.

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Allan McWilliams
Lawrence Russell, III

Nays: None

Abstain: None

Absent During Vote: None

Absent During Meeting: None

b. Enter Closed Session

The Town Council entered closed session at 8:36 p.m.

c. Reconvene Open Session

The Town Council reconvened in open session at 9:12 p.m.

d. Certification of Closed Session

**Town of Berryville
RESOLUTION**

MEETING DATE: April 13, 2010

MOTION BY: Mary Daniel

SECOND BY: Allen Kitselman

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 Mary Daniel Allen Kitselman Allan McWilliams Lawrence Russell, III
Nays:	None
Abstain:	None
Absent During Vote:	None
Absent During Meeting:	None



Harry Lee Arnold, Jr., Recorder

Other

Mr. Dalton reported that AT&T has contacted him about re-negotiating their lease at the water tower and that he would be forwarding that information to the Town Council.

Adjourn

There being no further business, on motion by Council member Russell, seconded by Council member McWilliams and passed, the Council meeting was adjourned at 9:16 p.m.



Wilson Kirby, Mayor



Harry Lee Arnold, Jr., Recorder

BERRYVILLE TOWN COUNCIL
Thursday, April 22, 2010
Berryville-Clarke County Government Center
Called Meeting
7:00 p.m.

MINUTES

Town Council:

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Mary Daniel; Allen Kitselman; Lawrence Russell III; Allan W. McWilliams

Staff:

Present: Keith Dalton, Town Manager; Christy Dunkle, Town Planner/Assistant Town Manager; Neal White, Chief of Police; Nancy McGinnis, Recording Secretary

Press:

Present: Val VanMeter, Winchester Star

1. **Call to Order** - Wilson Kirby, Mayor
Mayor Kirby called the meeting to order at 7:00 p.m.

2. Mayor Kirby opened the public hearing on the following matter:

Public Hearing – The Clarke County School Board requests approval of a Site Development Plan for a high school, bounded on the south by West Main Street (Business 7); bounded on the west by Tom Whitacre Circle; bounded on the north by the route of future Mosby Boulevard; and bounded on the east by developed lots in the Battlefield Estates Subdivision on a 44.984-acre parcel indentified as Tax Map Parcel number 14-A-7A, zoned Detached Residential-4 (DR-4).

Mayor Kirby called for public comment.

Robina Rich Bouffault, Chairman Clarke County Public Schools, said that she would like to thank members of the Berryville Area Development Authority, Town Council and Town staff for their hard work and perseverance concerning plans for the new Clarke County High School over the years. She said that with approval of the Site Development Plan tonight the School Board can move forward and begin the bidding process on the project in May, 2010 and perhaps begin construction in the Fall of 2010.

Robert Larson, 308 Early Drive, gave an overview of the content of a letter, dated April 17, 2010, addressed to him from Robina Rich Bouffault, Chair, Clarke County School Board, concerning the proposed path to be constructed connecting Early Drive and the student parking lot of the new high school.

Mr. Larson said that he is concerned that under the terms of the Conditions for Special Use Permit 04-09, Item 5(d), the proposed 8-foot wide path from Early Drive to the high school student parking lot has the potential to develop serious safety, parking and traffic issues particularly for residents on Early Drive. He asked Town Council to rescind their decision to require construction of the path.

Jon Erickson, Urban Engineering, said that the 8-foot wide path was designed in order for Residents of Early Drive to have emergency access from their street to the student parking lot. He said that this is necessary because the street exceeds the maximum cul-de-sac length.

Mr. Dalton responded to Mr. Larson's concerns regarding the 8-foot wide path from Early Drive to the student parking lot of the new high school by commenting that parking issues concerning the Early Drive cul-de-sac could be addressed through "no parking" postings and enforcement. He said that the pathway is on school property and not a public path. He said that the 8-foot wide trail was designed to provide pedestrian and emergency vehicle access to the student parking lot.

There were no further comments.

Ms. Dunkle gave an overview of the construction traffic management plan submitted by Dr. Murphy. She said that the construction entrance will be located off of West Main Street. Ms. Dunkle said that construction traffic for the high school will not be routed through Mosby Boulevard without prior written approval from the Town.

Dr. Michael Murphy, Superintendent of Clarke County Schools, gave an overview of the building elevations submitted with the site plan. He said that the new high school will be a two-story building constructed of two-tone brick with steel support beams. Dr. Murphy gave an overview of the proposed entrance canopy prototype. He described the style of the canopy as modern metal-on-metal with an open construction design.

Mr. Dalton asked if the exterior walls next to the stairwells would be masonry. Dr. Murphy said yes. Dr. Murphy said that the interior of the building will be a very nice open airy design with colors that will pull the eye to activity and designate transition throughout the building. There was a general discussion concerning landscaping around the building.

Ms. Dunkle said that a photometric lighting plan for the entire property has been submitted to Chester Engineering for review and comments. She distributed a detail of the lighting standards to Council members for review.

Ms. Dunkle said that staff requested that the School Board forward a letter to the Town that indicates the use of C909 pipe rather than ductile iron pipe for water lines if they wish to avail themselves of that option. She said that the Town's engineer said that he believes his comments have been addressed and that the Berryville Area Development Authority recommended conditional approval.

Ms. Dunkle said that Ms. Bouffault indicated that the School Board will hold a meeting concerning the fire flow agreement on Friday, April 23, 2010. She said that the Perpetual Right-of-Way Easement plat has been signed by Town staff and forwarded to VDOT for final approval and signatures. She said that the Deed of Easement has been forwarded to VDOT for review and approval.

Upon motion by Recorder Arnold, seconded by Council member McWilliams, the Public Hearing was closed at 7:41 p.m.

Mayor Kirby said that the planning process concerning the new high school has been long and a lot of time has been invested in it over the years. He congratulated Town staff, Clarke County School Board Officials, the engineers and everyone involved for their hard work and perseverance concerning the high school project.

Upon motion by Council member McWilliams, seconded by Recorder Arnold, the Council of the Town of Berryville unanimously approved the Final Site Plan, prepared by Jon K. Erickson of Urban Ltd. dated January 22, 2010 and last revised on April 1, 2010, for a 1,000-student high school on the parcel identified as Tax Map Parcel number 14-A-7A DR-4 Detached Residential-4 on the condition that the Town's consulting engineer and the Town's Assistant Town Manager for Community Development verify the following prior to release of the Final Site plan:

1. all conditions of SUP 04-09 as approved on October 29, 2009, are met
and
2. that either a) an agreement is approved by both the Town of Berryville and the applicant that provides for provision of required fire flow by upgrading the Town's Booster Pump Station or b) the Town of Berryville approves a plan that provides for construction of an on-site improvement to provide required fire flow.

Recorded Vote:

Aye:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Allan McWilliams Lawrence Russell, III
Nays:	None
Abstain:	None
Absent During Vote:	None
Absent During Meeting:	None

3. **Discussion/Action** – Proposed Utility Construction and Cost Sharing Agreement between the Town of Berryville and the Clarke County School Board.

Mr. Dalton said that the latest version of the Fire Flow Agreement and the project plans, specifications and contract documents were submitted to the School Board Office for review on April 15, 2010. He said that comments were requested by April 20, 2010.

Ms. Bouffault said that the School Board's attorney will complete his review and make recommendations at the Clarke County School Board meeting on April 23, 2010 and at a special meeting of the Board concerning fire flow scheduled for April 28, 2010. She said that the School Board is considering an alternative fire flow plan that is less costly.

Mr. Dalton said that Earl Sutherland of Patton, Harris, Rust and Associates (PHR&A) was present. He noted that the fire flow plans were designed by PHR&A, approved by the Virginia Department of Health and are nearly ready for bid. He said that the estimated cost for the project will be \$480,000, with a 10 % contingency.

Mr. Dalton recommended that the Proposed Utility Construction and Cost Sharing Agreement between the Town of Berryville and the Clarke County School Board be added to the agenda for the May 3, 2010 Town Council meeting.

There were no further comments.

4. **Discussion/Action** – Proposed Memorandum of Understanding between the Town of Berryville and the Barns of Rose Hill, Inc.

Mr. Dalton said that the Memorandum of Understanding Between The Town of Berryville and The Barns of Rose Hill, Inc. has been reviewed by the town's attorney. He said that The Barns of Rose Hill Board added item "G" to the agreement. That item incorporates the Memorandum of Understanding into the existing agreement between the Town of Berryville and the Barns of Rose Hill.

Mr. Dalton said that the memorandum describes what each party will do during the project to renovate the two barns located in Rose Hill Park. He said that Stan Kerns, Project Manager for The Barns of Rose Hill, Inc. was present.

Mr. Dalton said that prior to the awarding of the contract funds raised in the amount of \$658,752 will be transferred to the Town by the Barns of Rose Hill, Inc. along with written evidence of the availability of grants as outlined in Items D, 1-5 of the agreement. He said that concerning Item D-1 – the Wilkins Family Foundation \$100,000 Grant, \$50,000 is still outstanding. He said that bids for the project are due on April 29, 2010.

Mr. Dalton suggested that Town Council authorize the Mayor to sign the Memorandum of Understanding after it has been signed by the Barns of Rose Hill.

Upon motion by Recorder Arnold, seconded by Council member Kitselman, the Council of the Town of Berryville authorized Mayor Kirby to execute the attached Memorandum of Understanding Between The Town of Berryville And The Barns of Rose Hill, Inc. once it has been signed by an authorized official of The Barns of Rose Hill, Inc

Recorded Vote:

Aye: Wilson Kirby, Mayor
Harry Lee Arnold, Jr., Recorder
Mary Daniel
Allen Kitselman
Allan McWilliams
Lawrence Russell, III

Nays: None

Abstain: None

Absent During Vote: None

Absent During Meeting: None

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE TOWN OF BERRYVILLE
AND
THE BARNS OF ROSE HILL, INC.
April 21, 2010**

- A. This Memorandum of Understanding between the Town of Berryville and The Barns of Rose Hill, Inc., sets forth their understanding regarding the project to renovate the two turn-of-the twentieth century dairy barns located in Rose Hill Park. Many of the activities noted below in this agreement have been taking place informally for several months. When this agreement is signed by the Town of Berryville and the Barns of Rose Hill, Inc., it will remain in effect until construction project has been completed and all aspects of the project have been closed out and settled.
- B. It is understood that The Barns of Rose Hill, Inc. is a non-profit corporation that has raised funds and obtained grants to pay for the cost of construction to transform the existing two dairy barns ("Barns") into a community arts center and visitors center. The Barns are owned by The Town of Berryville and the contract to perform the construction work will be between The Town of Berryville, as the owner, and the bid-winning general contractor. The Barns of Rose Hill, Inc. and its designated representative will work closely with the Town of Berryville to relieve the Town and its employees from routine management of the project by taking the responsibility to manage the construction and construction finances. The areas of management responsibility of The Barns of Rose Hill, Inc. shall include the following:
1. Manage all pre-construction activities, including liaison with the Virginia Department of Transportation; advertise the projects for bids; set up and facilitate a mandatory pre-bid conference; hold pre-construction meetings with adjoining property owners; manage the bid opening meeting; compile bidder information; communicate to the Town staff and Town Council the lowest responsible and responsive bidder; and secure all required approvals from VDOT to commence construction.
 2. Prepare all construction documents for signatures by the Town of Berryville and the award winning general contractor.
 3. Represent the interest of the Town of Berryville and the Barns of Rose Hill, Inc. in routine construction management matters with the general contractor.
 4. Maintain a log of daily site visits that will include a record of activities taking place, weather, trades/personnel present, and any other activity of significance.
 5. Attend weekly construction meetings to represent the interests of the Town of Berryville and The Barns of Rose Hill, Inc. in the project.
 6. Maintain accurate records related to the contractor's schedule and bring schedule discrepancies to the attention of all interested parties, along with the contractor's plan to bring the project back into compliance with the schedule.
 7. Review all invoices for payment with the project architect and routinely provide the Town Treasurer with a list of approved invoices along with a

breakdown of how the expenses should be allocated between the community arts center and the visitors center.

8. Provide the Town Treasurer with signed and documented release of liens accompanying all invoices.
 9. Provide the Town Treasurer with information necessary to submit invoices to VDOT for reimbursement for the visitors center portion of the project.
 10. Routinely review all construction activities for compliance with the contract documents.
 11. Routinely provide progress reports to the Berryville Town Council.
 12. Maintain a pro-active vigilance with the intent of protecting the Town of Berryville from construction disagreements, lawsuits, or other issues arising from non-compliance with the construction documents.
 13. Immediately inform the Town staff should issues of non-compliance that are not immediately addressed and corrected by the general contractor become known.
 14. Maintain an overview of the project to insure that all required inspections are timely obtained.
 15. Oversee the completion of the project, including all testing, clean-up, site restoration, and full compliance with all construction documents.
- C. It is understood that the Barns are located in Rose Hill Park and are owned by the Town of Berryville. It is also understood that the Town of Berryville has a vested interest in all activities that take place in Rose Hill Park, in addition to the construction activities involving the Barns. The Town of Berryville recognizes the gifts of construction funds raised by the Barns of Rose Hill, Inc. for the project and agrees to support the project in good faith through the following activities:
1. Serve as the sponsor of the Barns project to the Virginia Department of Transportation for the purpose of securing the funds from the enhancement grant EN07-168-123, P101, R201, C501; UPC 87025.
 2. Execute a contract to construct the Barns project with the lowest responsive and responsible bidder in accordance with the guidelines from the Federal Highway Commission and the Virginia Department of Transportation,
 3. Maintain financial records for the project and routinely pay invoices, with available project funds or for charges which are reimbursable, which have been approved for payment by the project architect and the Barns of Rose Hill, Inc.
 4. Communicate with and consider the counsel and advice of The Barns of Rose Hill, Inc. in matters regarding the Barns project, including, without limitation, contract interpretation, compliance, completion, workmanship, and other areas of interpretation that could potentially lead to a disagreement with the general contractor,
- D. With respect to the funding of the Barns project, prior to the awarding of a contract The Barns of Rose Hill, Inc. will transfer to the Town all funds raised and received by The Barns of Rose Hill, Inc. in the approximate amount of \$ 658,752, and

will provide to the Town written evidence of the availability of the following grants for the project:

1. Wilkins Family Foundation: \$50,000 outstanding from \$100,000 grant
2. HUD EDI-SP – Grant #B06SPVA1024: \$168,000 (drawdown grant)
3. American Woodmark Foundation: \$5,000 to be paid on groundbreaking
4. VDOT TEP Visitor Center Grant: \$307,000 (estimated amount after payments to VDOT staff from \$337,000 grant award; a reimbursement grant)
5. Clarke County Government appropriations: \$150,000
 - Total: \$680,000 in additional funding

Grand total funds directly transferred and available as indicated: \$1,338,752

- E.** The Town will maintain separate accounting for the project funds and transactions.
- F.** It is understood and acknowledged that the Town will not be required to approve a bid if the total cost of the project under the bid would exceed the total of funds on hand plus the total amount of the grants.
- G.** Incorporated into this document by reference is the Agreement dated May 22, 2007 between the Town of Berryville and The Barns of Rose Hill.

WITNESS the following signatures and seals:

Date: 4/28/10

TOWN OF BERRYVILLE, VIRGINIA

By: 
Wilson Kirby, Mayor

Date: 4/26/10

THE BARNES OF ROSE HILL, INC.

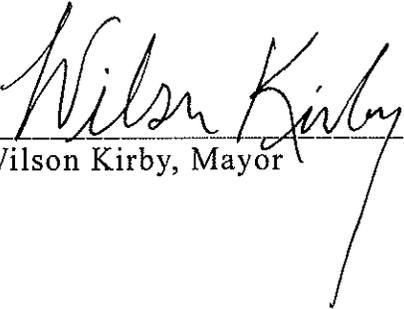
By: 
Diana Kincannon, President

5. **Other**

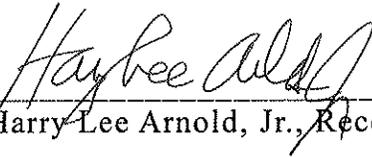
There was no further business.

6. **Adjourn**

Upon motion by Council member Russell, seconded by Council member Daniel and passed, the Council meeting was adjourned at 8:09 p.m.



Wilson Kirby, Mayor



Harry Lee Arnold, Jr., Recorder