

**BERRYVILLE TOWN COUNCIL**  
**Tuesday, June 8, 2010**  
**Berryville-Clarke County Government Center**  
**Regular Meeting**  
**7:00 p.m.**

**MINUTES**

**Roll:**

**Town Council:**

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

Absent: 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:** Ed Leonard and Mike Dowling, ClarkeDailyNews.com; Becky Lane, Winchester Star

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

Mayor Kirby called the meeting to order at 7:04 p.m.

Mr. Dalton asked that a consultation with the town's attorney regarding a contract with the Barns of Rose Hill be added to the Closed Session motion.

Upon motion by Council member Kitselman, second by Council member Daniel the agenda was amended to add consultation with the town's attorney regarding a contract with the Barns of Rose Hill to the Closed Session motion.

**2. Closed Session** - Pursuant to Section 2.2-3711.A.3 of the Code of Virginia, 1950, As Amended, for discussions related to acquisition of property for the treated wastewater outfall line and consultation with the town's attorney regarding a contract with the Barns of Rose Hill.

a. Motion to enter Closed Session

It was moved by Recorder Arnold, seconded by Council member Kitselman 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 discussions related to acquisition of property for the treated wastewater outfall line and consultation with the town's attorney regarding a contract with the Barns of Rose Hill.

**VOTE:**

Recorded Vote:

Ayes:

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



**Public Hearing** – The Town Council will consider adoption of a resolution, pursuant to Virginia Code §15.2-1903(B), to authorize acquisition by the Town, by condemnation or other means, temporary construction and permanent sewer easements on the properties of (1) Philip S. Shenk and Mark W. Shenk (Tax Parcel 15-A-13), and (2) William F. Carl, Jr. and Beth L. Carl (Tax Parcel 15-A-17C) for the location of an underground treated wastewater transmission line as a part of the Town wastewater treatment system, and to authorize acquisition by the Town, by condemnation or other means, the property of Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40) for use for the location of the underground treated wastewater transmission line and related facilities and access.

Mayor Kirby opened the Public Hearing at 7:42 p.m. Mayor Kirby read the Public Hearing notice (Attachment 1). Mayor Kirby recognized the town’s attorney, Robert Mitchell to explain the matter.

Mr. Mitchell said that these matters come before the Town Council because it is necessary to upgrade the wastewater treatment plant and because it is necessary to construct a new wastewater outfall line.

Mr. Mitchell explained that the wastewater outfall line is located along Route 7 excepting one site. He said that it is an underground transmission line and that on most of the properties involved the line runs along the property line. He said that the easement on the Frye property runs through the middle of the property to the river to provide regular access to the discharge point.

Mr. Mitchell said that the Code of Virginia states that if the location of the discharge point renders the Frye property uneconomically viable then the Town must acquire the entire property. He noted that the Code of Virginia authorizes the Town to acquire property that is outside of town.

He said that bona fide, good faith offers have been made for all of the needed acquisitions and that offers are based on appraisals obtained by the Town.

Mr. Mitchell said that a Public Hearing is required before condemnation. He explained that the process of condemnation for water and sewer utilities is under what the State Code calls a “quick take” meaning that once the certification of condemnation is filed the easement or property is immediately acquired.

Mayor Kirby then called for public comment.

William Carl said that he is here because negotiations on his property broke down. He said that he was led to believe that there would be access to water via a tap and that he requested that his fence be moved so the line would be outside the fence. He said that he was supposed to get a letter on these matters but didn’t receive the letter until this week. He said he understands that the easement can be taken but that he hopes that the Town will properly negotiate with him.

Ron Frye said that he thinks that the appraisal of his property is low and that he is not willing to sell for the price that has been offered and that he believes that the “quick take” is meant for an emergency. He said the property is appraised by the County at \$77,000 and that he will sell the property for \$75,000 and that all he wants is a fair price.

Upon motion by Council member McWilliams, seconded by Recorder Arnold, the Public Hearing was closed at 7:53 p.m.

**b. Public Hearing** - The Berryville Planning Commission is recommending the following text amendments to the Town of Berryville Zoning Ordinance:

- Amendment of Article I, Section 102 of the Berryville Zoning Ordinance in order to establish a definition for “Recreation, Commercial Indoor”.
- Amendment of Article VI, Section 609 Industrial (L-1) District of the Berryville Zoning Ordinance in order to establish Section 609.3(l) “Recreation, Commercial Indoor” as a use by Special Permit.
- Amendment of Article VI, Section 612 Business Park (BP) District of the Berryville Zoning Ordinance in order to establish Section 612.4(l) “Recreation, Commercial Indoor” as a use by Special Permit.

Mayor Kirby opened the Public Hearing at 7:54 p.m. Mayor Kirby read the Public Hearing notice (Attachment 1).

There was no public comment.

Upon motion by Council member Daniel, seconded by Council member Kitselman, the Public Hearing was closed at 7:55 p.m.

**BERRYVILLE TOWN COUNCIL  
PUBLIC HEARING NOTICE**

The Berryville Town Council will hold the following public hearing at 7:30 p.m., or as soon after as this matter may be heard, on Tuesday, June 8, 2010, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the following:

1. The Town Council will consider adoption of a resolution, pursuant to Virginia Code §15.2-1903(B), to authorize acquisition by the Town, by condemnation or other means, temporary construction and permanent sewer easements on the properties of (1) Philip S. Shenk and Mark W. Shenk (Tax Parcel 15-A-13), and (2) William F. Carl, Jr. and Beth L. Carl (Tax Parcel 15-A-17C) for the location of an underground treated wastewater transmission line as a part of the Town wastewater treatment system, and to authorize acquisition by the Town, by condemnation or other means, the property of Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40) for use for the location of the underground treated wastewater transmission line and related facilities and access.
2. The Berryville Planning Commission is recommending the following text amendments to the Town of Berryville Zoning Ordinance:
  - Amendment of Article I, Section 102 of the Berryville Zoning Ordinance in order to establish a definition for "Recreation, Commercial Indoor".
  - Amendment of Article VI, Section 609 Industrial (L-1) District of the Berryville Zoning Ordinance in order to establish Section 609.3(l) "Recreation, Commercial Indoor" as a use by Special Permit.
  - Amendment of Article VI, Section 612 Business Park (BP) District of the Berryville Zoning Ordinance in order to establish Section 612.4(l) "Recreation, Commercial Indoor" as a use by Special Permit.

Additional information may be obtained about Item #1 by calling David Tyrrell at 540/955-1099.

Regarding Item #2 - Copies of the applications, amendments, and maps may be examined at the Berryville Planning Office, Berryville Clarke County Government Center, 101 Chalmers Court, Second Floor, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Assistant Town Manager Christy N. Dunkle at 540/955-1099.

Any person desiring to be heard regarding the above matter should appear at the appointed time and place. Written copies of statements at public hearings are requested but not required.

The Town of Berryville does not discriminate against disabled people in admission or access to its programs and activities. Accommodations will be made for disabled people upon prior request.

By order of the Town Council  
Keith R. Dalton, Town Manager

**3. Report of the Town Manager**

Action on Public Hearing on Property Acquisition for Outfall Line

Mr. Dalton presented motions regarding the first public hearing should the Town Council desire to take action on the matters.

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville hereby issues a Certificate of Deposit for the sum of One Thousand Five Hundred Ninety-Four Dollars and Eighty-One Cents (\$1,594.81), to be filed with the Circuit Court of Clarke County, Virginia, said sum to be payable by the Town pursuant to an order of the Circuit Court for the condemnation of a temporary construction easement and a permanent sewer easement on the property of Philip S. Shenk and Mark W. Shenk (Tax Parcel 15-A-13) located in Clarke County, and that the Mayor be authorized and directed to sign the Certificate of Deposit, and that the Town Treasurer countersign the Certificate of Deposit for the availability of funds.

VOTE:

Recorded Vote:

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

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Mayor was authorized to execute all documents on behalf of the Town and the Town Council necessary or appropriate and related to the condemnation of a temporary construction easement and permanent sewer easement on the property of Philip S. Shenk and Mark W. Shenk (Tax Parcel 15-A-13).

VOTE:

Recorded Vote:

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

Upon motion by Recorder Arnold, seconded by Council member Daniel the Council of the Town of Berryville adopted the attached Resolution regarding the property owned by

Philip S. Shenk and Mark W. Shenk (Tax Parcel 15-A-13).

VOTE:

Recorded Vote:

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

Nays: None

Abstain: None

Absent During Vote: Lawrence Russell, III

Absent During Meeting: Lawrence Russell, III

Council member Daniel said that this resolution sets out the need for the easements and properties in order to build the outfall line. She said that the Town Council hears what the property owners are saying and that this doesn't mean that negotiations cannot continue.

RESOLUTION

WHEREAS, the Town has approved an upgrade to the Town wastewater treatment plant and construction of a new sewer outfall line as a part of the Town's wastewater treatment system; and

WHEREAS, temporary construction and permanent sewer easements ("Sewer Easements") for said outfall line are required on the property owned by Philip S. Shenk and Mark W. Shenk (Tax Parcel 15-A-13), as set forth on the plats of Bradley T. Riggleman, Land Surveyor, on file in the office of the Director of Utilities; and

WHEREAS, a bona fide but ineffectual offer to purchase the Sewer Easements from the owner has been made; and

WHEREAS, it is necessary for the Town to construct the outfall line for the providing of public sewer service; and

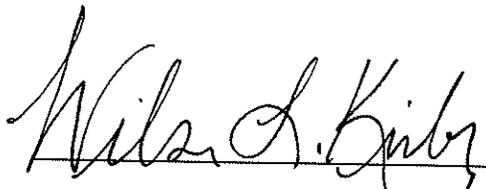
WHEREAS, the Town may need to institute condemnation proceedings to acquire the Sewer Easements; and

WHEREAS, this property is located in the Clarke County Agricultural and Forestal District.

NOW, THEREFORE, be it RESOLVED:

(1) That the Town Council approves the public use of the Sewer Easements for a sewer outfall line as a necessary part of the Town's wastewater treatment system; and

(2) That the Town Council directs the acquisition of the Sewer Easements by condemnation or other means, upon approval by the Clarke County Board of Supervisors pursuant to Virginia Code §15.2-4313.

  
Wilson L. Kirby, Mayor

  
Harry Lee Arnold, Jr., Recorder

Upon motion by Council member Daniel, seconded by Council member Kitselman the Council of the Town of Berryville hereby issues a Certificate of Deposit for the sum of One Thousand Nine Hundred Ninety Dollars and Thirty Cents (\$1,990.30), to be filed with the Circuit Court of Clarke County, Virginia, said sum to be payable by the Town pursuant to an order of the Circuit Court for the condemnation of a temporary construction easement and a permanent sewer easement on the property of William F. Carl, Jr. and Beth L. Carl (Tax Parcel 15-A-17C) located in Clarke County, and that the Mayor be authorized and directed to sign the Certificate of Deposit, and that the Town Treasurer countersign the Certificate of Deposit for the availability of funds.

VOTE:

Recorded Vote:

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

Nays: None

Abstain: None

Absent During Vote: Lawrence Russell, III

Absent During Meeting: Lawrence Russell, III

Upon motion by Council member Daniel, seconded by Council member Kitselman the Mayor was authorized to execute all documents on behalf of the Town and the Town Council necessary or appropriate and related to the condemnation of a temporary construction easement and permanent sewer easement on the property of William F. Carl, Jr. and Beth L. Carl (Tax Parcel 15-A-17C).

VOTE:

Recorded Vote:

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

Nays: None

Abstain: None

Absent During Vote: Lawrence Russell, III

Absent During Meeting: Lawrence Russell, III

Upon motion by Council member Daniel, seconded by Council member Kitselman the Council of the Town of Berryville adopted the attached Resolution regarding the property owned by William F. Carl, Jr. and Beth L. Carl (Tax Parcel 15-A-17C).

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor  
Harry Lee Arnold, Jr., Recorder

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

RESOLUTION

WHEREAS, the Town has approved an upgrade to the Town wastewater treatment plant and construction of a new sewer outfall line as a part of the Town's wastewater treatment system; and

WHEREAS, temporary construction and permanent sewer easements ("Sewer Easements") for said outfall line are required on the property owned by William F. Carl, Jr. and Beth L. Carl (Tax Parcel 15-A-17C), as set forth on the plats of Bradley T. Riggleman, Land Surveyor, on file in the office of the Director of Utilities; and

WHEREAS, a bona fide but ineffectual offer to purchase the Sewer Easements from the owner has been made; and

WHEREAS, it is necessary for the Town to construct the outfall line for the providing of public sewer service; and

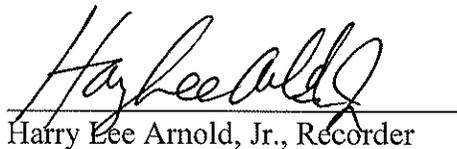
WHEREAS, the Town may need to institute condemnation proceedings to acquire the Sewer Easements; and

NOW, THEREFORE, be it RESOLVED:

(1) That the Town Council approves the public use of the Sewer Easements for a sewer outfall line as a necessary part of the Town's wastewater treatment system; and

(2) That the Town Council directs the acquisition of the Sewer Easements by condemnation or other means.

  
Wilson L. Kirby, Mayor

  
Harry Lee Arnold, Jr., Recorder

Upon motion by Council member Daniel, seconded by Council member McWilliams the Council of the Town of Berryville hereby issues a Certificate of Deposit for the sum of Fifty Six Thousand Dollars (\$56,000.00), to be filed with the Circuit Court of Clarke County, Virginia, said sum to be payable by the Town pursuant to an order of the Circuit Court for the condemnation of the property of Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40) located in Clarke County, and that the Mayor be authorized and directed to sign the Certificate of Deposit, and that the Town Treasurer countersign the Certificate of Deposit for the availability of funds.

VOTE:

Recorded Vote:

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

Nays: None

Abstain: None

Absent During Vote: Lawrence Russell, III

Absent During Meeting: Lawrence Russell, III

Upon motion by Recorder Arnold, seconded by Council member McWilliams the Mayor was authorized to execute all documents on behalf of the Town and the Town Council necessary or appropriate and related to the condemnation of a temporary construction easement and permanent sewer easement on the property of Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40).

VOTE:

Recorded Vote:

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

Nays: None

Abstain: None

Absent During Vote: Lawrence Russell, III

Absent During Meeting: Lawrence Russell, III

Upon motion by Council member Daniel, seconded by Council member Kitselman the Council of the Town of Berryville adopted the attached Resolution regarding the property owned by Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40).

VOTE:

Recorded Vote:

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

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

RESOLUTION

WHEREAS, the Town has approved an upgrade to the Town wastewater treatment plant and construction of a new sewer outfall line as a part of the Town's wastewater treatment system; and

WHEREAS, a portion of the outfall line, together with related facilities and access, are required to be located on the property owned by Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40), as set forth on the plats of Bradley T. Riggleman, Land Surveyor, on file in the office of the Director of Utilities; and

WHEREAS, the required location of the outfall line and related facilities and access may leave the owners with an uneconomic remainder of the property if the Town only acquired easements for the outfall line and related facilities and access; and

WHEREAS, a bona fide but ineffectual offer to purchase the property from the owner has been made; and

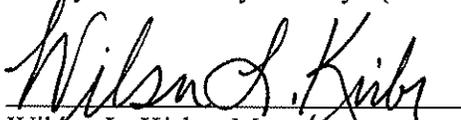
WHEREAS, it is necessary for the Town to construct the outfall line for the providing of public sewer service; and

WHEREAS, the Town may need to institute condemnation proceedings to acquire the Sewer Easements; and

NOW, THEREFORE, be it RESOLVED:

(1) That the Town Council approves the public use of the property of Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40) for the location of a sewer outfall line and related facilities as a necessary part of the Town's wastewater treatment system; and

(2) That the Town Council directs the acquisition of the property of Ronald G. Frye and Kathryn S. Frye (Tax Parcel 16-A-40) by condemnation or other means.

  
Wilson L. Kirby, Mayor

  
Harry Lee Arnold, Jr., Recorder

Mr. Mitchell said that there was a typographical error in the second motion regarding the Frye property.

Upon motion by Council member Daniel, seconded by Recorder Arnold, the second motion regarding the Frye property was amended to delete the words "a temporary construction easement and permanent sewer easement on".

VOTE:

Recorded Vote:

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

Update on High School

Mr. Dalton said that there are three outstanding issues that are being worked on: the deed of easement between the Town, the School Board and VDOT; the agreement between the Town, the School Board and Paul Howell and the water line construction and cost sharing agreement between the Town and the School Board. He said the town's attorney on the matter got a version of these items to him last night and they have been distributed to the council and the School Board. He said that the Council might consider having another meeting to discuss these items.

The Mayor recognized Robina Bouffault from the Clarke County School Board. She suggested a joint meeting on these matters as soon as possible. Mayor Kirby said that he is in favor of a joint meeting. Recorder Arnold asked what a joint meeting would accomplish and how would it work. Council member Daniel said that she would not want to hold up staff and attorney work on these items trying to set up a joint board meeting.

The Town Council then set a special meeting for June 23, 2010 at 5:00 p.m., inviting the School Board to attend if necessary.

Barns of Rose Hill Update

Mr. Dalton reported that this project is stalled at the state level but if something moves along he would like to ask the Council to address it at the June 23 meeting. The Town Council agreed by consensus to address the Barns of Rose Hill project at their June 23, 2010 meeting if necessary.

AT&T Lease

Mr. Dalton presented the current water tower lease agreement and the offer made by AT&T. He said that this is the third time that the Council has been asked to amend this agreement. He said that as he understands it the Town Council is being asked to reduce

the rent on the site to help AT&T out. He said that they are asking for a 60 month rent reduction and for changes in the escalation frequency as well as the ability to increase the number of antenna on the tower at any time.

He said that Mike Healy of Blackdot Wireless, representing AT&T would like to speak to Council about this request via telephone.

Mr. Healy then explained that this rate reduction is being asked for to help AT&T maintain their competitive edge. He then went over the proposed lease terms.

Mayor Kirby thanked Mr. Healy for his time and the phone call was disconnected.

There was a general discussion of the matter and it was tabled for further discussion.

**5. Approval of Minutes:**

April 13, 2010

Upon motion by Council member McWilliams, seconded by Council member Kitselman, the minutes of the April 13, 2010 meeting were approved.

April 22, 2010

Upon motion by Recorder Arnold, seconded by Council member McWilliams, the minutes of the April 22, 2010 meeting were approved.

May 3, 2010

Upon motion by Council member Daniel, seconded by Council member Kitselman, the minutes of the May 3, 2010 meeting were unanimously approved.

May 11, 2010

Upon motion by Council member McWilliams, seconded by Council member Daniel, the minutes of the May 11, 2010 meeting were unanimously approved.

May 25, 2010

Upon motion by Council member McWilliams, seconded by Recorder Arnold, the minutes of the May 25, 2010 meeting were unanimously approved.

**6. Citizen's Forum:**

Bill Overbey, 126 Rosemont Circle said that every year the VFW and the American Legion sponsor a Memorial Day service in Rose Hill Park and asked the Town Council to consider purchasing a public address system for use in the park. He said he was speaking as a private citizen, not for the organizations that he mentioned.

**7. Report of the Mayor**

Mayor Kirby said he wanted to express his appreciation and thankfulness for Bugs McWilliams service. He thanked Mr. McWilliams for the leadership and wisdom he has provided to the Town Council and stated that he learned a lot from him.

Mr. McWilliams wished Mr. Tollett the best and offered his help at any time and that it was a pleasure to work with the Town Council and Town staff.

**8. Planning and Zoning Matters: Christy Dunkle**

Action Item – Text Amendments –Recreation, commercial indoor use

Ms. Dunkle reported that the Planning Commission recommended that the Town Council approve the text amendments to the Berryville Zoning Ordinance as presented at the Public Hearing.

Upon motion by Council member Daniel, seconded by Council member Kitselman the Council of the Town of Berryville approved the attached ordinance amending Article I, Section 102, of the Berryville Zoning Ordinance establishing a definition for “recreation, commercial indoor”.

VOTE:

Recorded Vote:

Ayes:

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

Nays:

None

Abstain:

None

Absent During Vote:

Lawrence Russell, III

Absent During Meeting:

Lawrence Russell, III

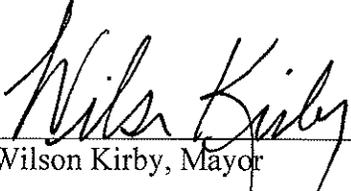
AN ORDINANCE AMENDING  
ARTICLE I, SECTION 102, SPECIFIC TERMS,  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article I, Section 102 Specific Terms, of the Town of Berryville Zoning Ordinance shall be amended as follows.

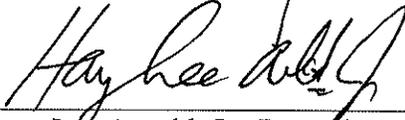
**SECTION 102**

**(6/10) recreation, commercial indoor** – A sports or activity facility either open to the general public for a fee or for members and their guests, located in an enclosed building or structure designed to accommodate gatherings for athletic, training, recreational purposes, games, martial arts, and the like. Office, retail sales and rentals, food service and other uses commonly established in such facilities and related parking shall be permitted as ancillary uses and shall not occupy more than 5,000 square feet of gross floor area (not including storage) on any one lot and shall not exceed twenty-five (25) percent of total floor area for the site. The areas dedicated to ancillary uses must be indicated on an approved site plan.

SIGNED:

  
\_\_\_\_\_  
Wilson Kirby, Mayor

ATTEST:

  
\_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

Upon motion by Council member Daniel, seconded by Council member Kitselman the Council of the Town of Berryville approved the attached ordinance amending Article VI, Section 609, of the Berryville Zoning Ordinance establishing Section 609.3(1), "recreation, commercial indoor," as a use by Special Permit.

VOTE:

Recorded Vote:

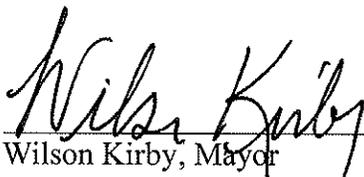
Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Allan McWilliams
Nays:	None
Abstain:	None
Absent During Vote:	Lawrence Russell, III
Absent During Meeting:	Lawrence Russell, III

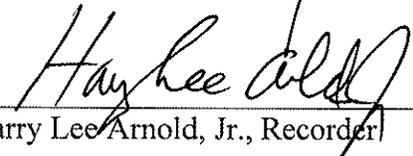
AN ORDINANCE AMENDING  
ARTICLE VI, SECTION 609, L-1 INDUSTRIAL DISTRICT,  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Section 609.3, of the Town of Berryville Zoning Ordinance shall be amended as follows.

**SECTION 609.3**

**(6/10) (l) Recreation, commercial indoor**

SIGNED:   
Wilson Kirby, Mayor

ATTEST:   
Harry Lee Arnold, Jr., Recorder

Upon motion by Council member Daniel, seconded by Council member Kitselman the Council of the Town of Berryville approved the attached ordinance amending Article VI, Section 612, of the Berryville Zoning Ordinance establishing Section 612.4(1), "recreation, commercial indoor," as a use by Special Permit.

VOTE:

Recorded Vote:

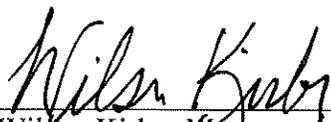
Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Mary Daniel Allen Kitselman Allan McWilliams
Nays:	None
Abstain:	None
Absent During Vote:	Lawrence Russell, III
Absent During Meeting:	Lawrence Russell, III

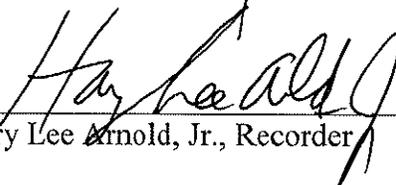
AN ORDINANCE AMENDING  
ARTICLE VI, SECTION 612, BP BUSINESS PARK DISTRICT,  
OF THE TOWN OF BERRYVILLE ZONING ORDINANCE

BE IT ORDAINED, by the Council of the Town of Berryville, that Article VI, Section 612.4, of the Town of Berryville Zoning Ordinance shall be amended as follows.

**SECTION 612.4**

**(6/10) (l) Recreation, commercial indoor**

SIGNED:   
Wilson Kirby, Mayor

ATTEST:   
Harry Lee Arnold, Jr., Recorder

AN ORDINANCE AMENDING  
THE BERRYVILLE AREA PLAN

WHEREAS, the Berryville Area Plan is established to protect the health, safety and welfare of the community;

WHEREAS, in 1997, the Berryville Area Plan was amended to:

- a) state, as a policy, that a total of 300 units of older person residential housing was allowed in the Berryville Annexation Area, with not more than 120 of those units being multi-family;
- b) establish an approximate 3.5 acre Sub-area 6A, which encompassed Mary Hardesty House apartments and Heritage Day Care Center, with the understanding that it would be expanded to include other uses devoted to older person related uses as it was determined appropriate;

WHEREAS, in 1998, the Town annexed the approximate 3 acre parcel west of Mary Hardesty House that had been developed as the Mayfair assisted living facility (currently Greenfield) and zoned the parcel Older Person Residential (OPR), however Sub-area 6A was not expanded;

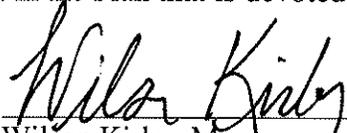
WHEREAS, in 2009, the Berryville Town Council approved the rezoning of 12 acres located west and north of the Greenfield property to Older Person Residential (OPR), however Sub-area 6A was not expanded;

WHEREAS, the applicant for the above 12 acre rezoning stated that the 1995 amendment of the Berryville Area Plan that permitted older person residential uses was sufficient basis for this rezoning; however the 1995 amendment was done to enable the original development Mary Hardesty House and the Board of Supervisors and Town Council deleted this 1995 amendment in 2009;

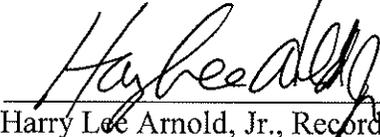
WHEREAS, expanding Sub-area 6A to include the 15 acres that have been zoned Older Person Residential (3 acres for Greenfield and 12 acres owned by Ketoclin Land Company) would make the land use policies of the Berryville Area Plan and approved zoning consistent;

NOW THEREFORE BE IT ORDAINED THAT, the Berryville Area Plan, Chapter V. Planning Area Analysis for Sub-areas 5, 6 and 6A and one acre from Sub-area 5, in order to expand the area in the Plan that is devoted to Older Person Residential uses.

SIGNED:

  
\_\_\_\_\_  
Wilson Kirby, Mayor

ATTEST:

  
\_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

Action Item – Berryville Area Plan Amendment

Ms. Dunkle stated that the Town Council held a public hearing on this matter at their April 13, 2010 meeting and that the County Board of Supervisors approved the amendment of the Berryville Area Plan at their April 8, 2010 meeting. She said that this modification would bring the Berryville Area Plan up to speed on what is on the ground now.

Upon motion by Recorder Arnold, seconded by Council member McWilliams the Council of the Town of Berryville approved the attached ordinance amending Chapter V of the Berryville Area Plan.

VOTE:

Recorded Vote:

Ayes:

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

Nays:

None

Abstain:

None

Absent During Vote:

Lawrence Russell, III

Absent During Meeting:

Lawrence Russell, III

### Banner across Main Street

Ms. Dunkle said that there has been discussion concerning the cost of VDOT's Land Use Permit (\$100 for each permit issued). She said that VDOT staff has indicated that they are looking into blanket municipal Land Use Permits which would not be prohibitive to those who may want to conduct parades and install banners such as this. Ms. Dunkle then spoke briefly about how to regulate a banner program, possibly using the ARB as reviewing authority.

### Bypass Signage

Ms. Dunkle explained that the Integrated Directional Signing Program (IDSP) was developed to provide Virginia motorist service businesses, attractions, tourist destinations and other specific points of interest with a single contact if they desire to have their location identified on a road sign along the state controlled and maintained roadway system. She said that the program is administered by Virginia Logos for VDOT. She then presented some drawings of what such signs might look like. She said she has been in touch with Virginia Logos and that the approximate cost would be about \$4400 per assembly and could be shared by organizations in town. Mr. Dalton said that perhaps the Industrial Development Authority could be involved in the discussion.

The matter was sent to the Community Improvements Committee for study and recommendation to the full Council.

### **9. 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

Nothing to add to report.

d) Personnel / Appointments – Wilson Kirby

A committee meeting was set for June 23, 2010 at 4:00 p.m.

e) Planning Commission – Lawrence Russell.

Nothing to add to report.

f) Police and Security – Lawrence Russell.

### Action Item – 219 Josephine Street

Chief White said that he had a citizen complaint about unlawful accumulation of trash and weeds at 219 Josephine Street. He said that he sent a letter of compliance to the property owner on May 12, 2010. He said that the property owner responded to the letter but did not indicate that action would be taken to remedy the situation. He asked the Town Council to authorize him to send a Final Notice of Violation to the property owner.

Upon motion by Council member Kitselman, seconded by Council member Daniel the Council of the Town of Berryville directed the Chief of Police to send a Final Notice of Violation of Section 13-32 of the Berryville Town Code to the owners of 219 Josephine Street requiring compliance within 15 days.

VOTE:

Recorded Vote:

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

There was general discussion of these types of property situations. Council member Kitselman asked the Chief if he believed that this situation is a threat to public health. Chief White said that he believes that it is because the accumulation of trash and weeds is harboring vermin.

Upon motion by Council member Kitselman, seconded by Council member Daniel the previous motion was amended to read:

“The Council of the Town of Berryville directed the Chief of Police to send a Final Notice of Violation of Section 13-32 of the Berryville Town Code to the owners of 219 Josephine Street requiring compliance within 15 days because the state of the property is a threat to public health.”

VOTE:

Recorded Vote:

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

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