

**BERRYVILLE TOWN COUNCIL**  
**Monday, May 3, 2010**  
**Berryville-Clarke County Government Center**  
**Called Meeting**  
**1:00 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; Neal White, Chief of Police; Celeste Heath, Town Clerk

**Press:** Mike Dowling, ClarkeDailyNews.com; Becky Lane, Winchester Star

1. **Call to Order** – Wilson Kirby, Mayor  
Mayor Kirby called the meeting to order at 1:00 p.m.
2. **Discussion/Action** – Review of bids for Barns of Rose Hill renovation project and determination on a recommendation to VDOT.

Mr. Dalton said that the Memorandum of Understanding between the Town and the Barns of Rose Hill has been signed by both parties. He said that the bid opening for the project was held on April 29<sup>th</sup>, 2010 and that there were four bidders. He said that H&W Construction had the apparent low bid of \$1,259,553.25, including all alternates. He said that the bid has been reviewed and H&W Construction is apparently responsive and responsible.

Mr. Dalton said that the first step in the process of awarding the contract is for the Town Council to recommend to VDOT the award of the contract to H&W and authorize the Mayor to sign a letter evidencing that recommendation.

Mr. Dalton explained that the DBE goal of 4% was not met by the low bidder, although they provided all of the required DBE documentation in the bid. He recommended that the motion to authorize the Mayor to sign the letter to VDOT also allows the Mayor to amend paragraph four of the letter if the DBE information changes.

Mr. Dalton said that the Town Council has been provided with a memo from the Barns of Rose Hill that evidences that they are comfortable with the bid.

Upon motion by Council member Kitselman, seconded by Council member Daniel the Town Council of the Town of Berryville unanimously recommended to the Virginia Department of Transportation the award of the Barns of Rose Hill project to H&W Construction.

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

Mr. Kitselman noted that the date in paragraph 1 of the letter to VDOT should be April 29, 2010, not May 29, 2010.

Upon motion by Council member Kitselman, seconded by Council member Daniel the Town Council of the Town of Berryville authorized the Mayor to sign the attached letter evidencing that the Council recommends that the Virginia Department of Transportation award the Berryville-Clarke County Visitors Center project to H&W Construction.

Further the Council authorizes the Mayor to amend paragraph 4 concerning DBE goals, should additional information be forthcoming from the contractor.

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

May 3, 2010

Mr. Gregory A. Whirley, Acting Transportation Commissioner  
Virginia Department of Transportation  
1401 East Broad Street  
Annex Building, Third Floor  
Richmond, VA 23219

Reference:

Project Number EN07-168-123, P101, R201, C501; UPC 87025  
Project Name: Berryville-Clarke County Visitor Center  
Locality: Town of Berryville

Dear Commissioner Whirley:

Bids were received for the above-referenced project on <sup>April</sup> May 29, 2010. The bids were opened publically in the Main Meeting Room of the Berryville-Clarke County Government Center by Keith R. Dalton, Berryville Town Manager. The apparent low bidder was H&W Construction of Winchester, VA with a bid of \$1,259,553.25 (Base Bid + Total Alternates).

On May 3, 2010, the Council of the Town of Berryville voted to recommend to VDOT the award of the project to H&W Construction. As such, we request that you approve the award.

The project was duly advertised and four (4) bids were received. As evidenced by the low bid, the project cost does not exceed \$ 2,000,000. Further, the lowest bid did not exceed the Engineer's Estimate submitted to your department.

The DBE goal of four (4) % was not met by the apparent low bidder. All necessary Commonwealth of Virginia Department of Transportation DBE documentation was provided by the apparent low bidder and has been attached to this letter.

Enclosed with this cover letter are:

- Bid Tabulation of all bids received
- Copy of the low bidder's submittal including the required VDOT forms and DBE documentation

Commissioner Whirley  
May 3, 2010  
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Thank you very much for your consideration of our request. Please feel free to contact me if you have any questions. I can be reached at 540.955.1099.

Sincerely,

Wilson Kirby  
Mayor

Cc: Town Council  
Keith Dalton  
Ed Carter  
Diana Kincannon  
Christy Dunkle

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

Mr. Dalton presented the April 28, 2010 School Board Meeting packet that included the School Board's revisions to the Utility Construction and Cost Sharing Agreement (Attachment 1) and e-mails from Robina Bouffault (Attachment 2). He also directed the Council's attention to the Utility Construction and Cost Sharing Agreement that the Town Council saw on 4/22/2010 and forwarded to the School Board (Attachment 3).

Mr. Dalton said that the School Board revisions to the Utility Construction and Cost Sharing Agreement are a significant change to the agreement that the Town Council sent to the School Board. He said that the School Board revisions involve a redesign of the planned upgrade to the booster pump station as well as the addition of a pledge by the Town to meet a continuous water pressure of 60 psi. He said that the School Board's revisions also include a change to how bids would be examined, changes to how the agreement might end and changes to how cost reimbursement would be handled that includes a pledge of Town availability fees. Mr. Dalton said that there are quite a few other changes to the agreement and it has been sent to the town's legal counsel for review.

The Mayor recognized Robin Bouffault of the Clarke County School Board. She said that this revised agreement is an attempt to work out a mutually acceptable agreement and that it is still being worked on by the Board's and the Town's attorneys.

The Mayor reminded Ms. Bouffault that this agreement has to be approved before the site plan for the high school can be released. He said that it would seem to be time consuming to re-design the fire flow plan when the PHR&A plan that was done for the School Board is already in place. Ms. Bouffault said that the Special Use Permit states that the PHR&A plan or any comparable plan can be used and that the School Board wished to use a comparable plan if it is more cost efficient.

She then spoke about the Flowtronix system that the School Board is investigating.

The Mayor reiterated that the site plan cannot be released until this agreement is in place. Ms. Bouffault argued that point. Council member Kitselman asked why the School Board would delay the high school project when the PHR&A plan is ready to hit the street today. Council member Daniel said that this item was added to the agenda of this called meeting because the Council wished to help the School Board get the project out to bid. She said that since there is no final Utility Construction and Cost Sharing Agreement, there is nothing for the Council to vote on.

Ms. Bouffault asked if it is the Town Council's intent to block this project until this agreement is signed. Council member Daniel said that fire flow is one of the most important elements, especially for a school full of children. Council member Kitselman asked why all of the changes to the agreement were thrown in at the last minute when the

School Board knew that the site plan could not be released without this agreement. Council member McWilliams said that he made the motion that stipulated that this agreement has to be in place before the site plan is released and that the School Board knows this is the case.

Mayor Kirby said that it is not the Town Council's intent to hold up this process but it is their intent to enforce the conditions of the Special Use Permit. He said that the Council cannot take any action today. Council member Kitselman said that the Council is at this called meeting to accelerate the process and that there is a clear path forward with the PHR&A plan and that he believes the cost difference between the two plans will be negligible.

The Mayor asked Mr. Dalton to read the motion approving the high school site plan from the April 22, 2010 meeting. Mr. Dalton read the following, noting that it was unanimously approved:

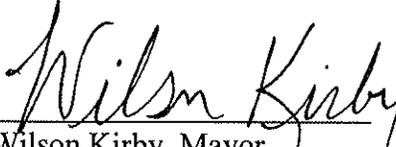
**“Upon motion by Council member McWilliams, seconded by Recorder Arnold, the Council of the Town of Berryville unanimously approved the Final Site Plan, prepared by Jon K. Erickson of Urban Ltd. dated January 22, 2010 and last revised on April 1, 2010, for a 1,000-student high school on the parcel identified 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.”**

The Mayor said that at this point all that the Town Council can do is wait for the attorney's to collaborate on a mutually acceptable agreement

#### **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 1:29 p.m.

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

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

**BERRYVILLE TOWN COUNCIL**  
**Tuesday, May 11, 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; Becky Lane, Winchester Star

1. **Call to Order** – Wilson Kirby, Mayor  
Mayor Kirby called the meeting to order at 7:33 p.m.

2. **Public Hearing** – Proposed 2010-2011 Budget  
Mayor Kirby opened the Public Hearing at 7:33 p.m. Ms. Moreland read the Public Hearing notice (Attachment 1). Mayor Kirby called for public comment. There were no public comments.

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

3. **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.

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.

**VOTE:**

Recorded Vote:

Ayes:

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

## 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 their matter may be heard, on **Tuesday, May 11, 2010**, in the Main Meeting Room, Second Floor, of the Berryville/Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia to consider the proposed Fiscal Year 2010-2011 Budget as follows:

	FY 2010-2011	
	BUDGET SUMMARY	
	ADOPTED	PROPOSED
<u>Resources and Revenues</u>	FY 2009-2010	FY 2010-2011
<b>GENERAL FUND</b>		
Fund Balance	\$ 298,423.80	\$ 470,548.15
Revenue from Local Sources	\$ 1,762,769.00	\$ 1,668,392.00
Revenue from State Sources	\$ 455,549.00	\$ 443,782.00
Revenue from CIP Loan	\$ -	-
<b>Total</b>	<b>\$ 2,516,741.80</b>	<b>\$ 2,582,722.15</b>
<b>WATER FUND</b>		
Fund Balance	\$ 286,210.10	\$ 447,083.35
Revenue from Local Sources	\$ 765,100.00	\$ 684,100.00
Availability Fees	\$ -	-
Revenue from CCSB	\$ -	240,000.00
<b>Total</b>	<b>\$ 1,051,310.10</b>	<b>\$ 1,371,183.35</b>
<b>SEWER FUND</b>		
Fund Balance	\$ 1,760,008.90	-
Revenue from Local Sources	\$ 1,175,100.00	\$ 1,045,100.00
Revenue from State Sources	\$ -	-
Revenue from WQIF Grant	\$ -	5,000,000.00
Revenue from CIP Loan	\$ 8,000,000.00	\$ 6,200,000.00
<b>Total</b>	<b>\$ 10,935,108.90</b>	<b>\$ 12,245,100.00</b>
<b>TOTAL RESOURCES AND REVENUES</b>	<b>\$ 14,503,160.80</b>	<b>\$ 16,199,005.50</b>
<b>Expenses and Reserves</b>		
<b>GENERAL FUND</b>		
Maintenance and Operational	\$ 2,257,396.00	\$ 2,274,663.00
Debt Service	\$ 121,476.00	\$ 121,476.00
Capital Reserves and Expenses	\$ 25,000.00	\$ 72,850.00
Contingency	\$ 112,869.80	113,733.15
<b>Total</b>	<b>\$ 2,516,741.80</b>	<b>\$ 2,582,722.15</b>
<b>WATER FUND</b>		
Maintenance and Operational	\$ 622,302.00	\$ 624,467.00
Debt Service	\$ 140,893.00	\$ 137,893.00
Capital Reserves and Expenses	\$ 257,000.00	\$ 577,600.00
Contingency	\$ 31,115.10	31,223.35
<b>Total</b>	<b>\$ 1,051,310.10</b>	<b>\$ 1,371,183.35</b>
<b>SEWER FUND</b>		
Maintenance and Operational	\$ 385,338.00	\$ 448,188.00
Debt Service	\$ 89,504.00	\$ 89,504.00
Capital Reserves and Expenses	\$ 10,441,000.00	\$ 11,642,998.60
Contingency	\$ 19,266.90	24,409.40
<b>Total</b>	<b>\$ 10,935,108.90</b>	<b>\$ 12,245,100.00</b>
<b>TOTAL EXPENSES AND RESERVES</b>	<b>\$ 14,503,160.80</b>	<b>\$ 16,199,005.50</b>

Copies of the full proposed budget may be examined at the Berryville Town Office, Berryville Clarke County Government Center, 101 Chalmers Court, Berryville, Virginia during regular business hours. Additional information may be obtained by calling Assistant Town Manager/Treasurer Desiree Moreland 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 Beryville 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

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

- b. Enter Closed Session  
The Town Council entered closed session at 7:36 p.m.
- c. Reconvene Open Session  
The Town Council reconvened in open session at 8:05 p.m.
- d. Certification of Closed Session

**Town of Berryville  
RESOLUTION**

MEETING DATE: May 11, 2010  
MOTION BY: Mary Daniel  
SECOND BY: Allan W. McWilliams

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,

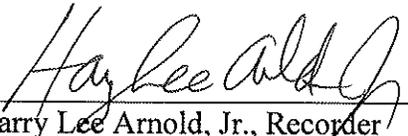
NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) 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

**4. Approval of Minutes:**

March 25, 2010

Upon motion by Council member McWilliams, seconded by Council member Kitselman, the minutes of the March 25, 2010 meeting were approved with Ms. Daniel abstaining.

March 31, 2010

Upon motion by Council member McWilliams, seconded by Council member Russell, the minutes of the March 31, 2010 meeting were unanimously approved.

**5. Citizen's Forum:**

There were no citizen comments.

**6. Report of the Mayor**

Mayor Kirby advised that there will be two town board vacancies, one on the Planning Commission and one on the Board of Zoning Appeals and called for citizen applications for those positions.

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

Ms. Dunkle said that the Planning Commission recommended that the Town Council set Public Hearings on three text amendments regarding Recreation, Commercial Indoor Use as follows:

- 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.

By consensus, the Town Council set Public Hearings on the matters for their next regular meeting on June 8, 2010.

**Bond Release - Darbybrook**

Ms. Dunkle reported that Brookfield Homes is requesting the release of three bonds for the Darbybrook (Formerly Apple Glen) subdivision as follows: Apple Glen II Public Improvements (\$19,400); Apple Glen II Erosion and Sediment Control (\$1,850); Apple

Glen Phase I Surety Bond (\$9,235).

She said that the streets in this subdivision were brought into the state system in October of 2008 and that the bonds were reduced to the above amounts by Town Council at the February 2009 meeting. Ms. Dunkle recommended release of the bonds upon the recommendation of the Town's engineers and reported that Public Works found no outstanding issues with the project.

Upon motion by Council member Daniel, seconded by Council member Kitselman the Council of the Town of Berryville approved the release of the following bonds currently held for the Darbybrook Subdivision (formerly Apple Glen) including Apple Glen II Public Improvements (\$19,400); Apple Glen II Erosion and Sediment Control (\$1,850); Apple Glen Phase I Surety Bond (\$9,235).

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

**Bond Reduction - Southgate**

Ms. Dunkle reported that D.R. Horton is requesting a reduction of the \$1,334,700.00 public improvements bond for the Southgate subdivision. She said that the streets in Southgate were brought into the state system in April of 2010. She reported that Chester Engineering has reviewed the request and recommended reducing the bond to \$133,400.00 as a guarantee against faulty materials and workmanship. The Public Works Director has found no outstanding issues with the project.

Upon motion by Council member McWilliams, seconded by Council member Kitselman the Council of the Town of Berryville approved the request to reduce the public improvements bond for the Southgate Subdivision from \$1,334,700.00 to \$133,470.00 per Chester Engineering recommendation.

VOTE:

Recorded Vote:

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

**10. Report of the Town Manager – Keith Dalton**

Update on Clarke County High School Project

Mr. Dalton said that work on the fire flow agreement is moving along. He said that the School Board met on May 10 and approved a draft revised agreement (Attachment 2) that the town’s attorney has begun to review. He said that two minor issues were identified by the town’s attorney and himself and they are addressed by markup on pages 1 and 3 of Attachment 2.

Council member Daniel asked if the \$15,000 in soft costs includes the \$6,000 taken up by PHR&A costs. Mr. Dalton said, no, those are two separate items. Ms. Daniel asked if engineering costs are separate from legal and administrative costs. Mr. Dalton said that is correct. Ms. Daniel asked if he thought that \$15,000 was a good estimate. Mr. Dalton said that it is a good estimate based on the available information, but the agreement did acknowledge this is in fact an estimate.

Upon motion by Council member Kitselman, seconded by Council member McWilliams, the Council of the Town of Berryville approved the attached Utility Construction and Cost Sharing Agreement (as marked up) and authorized the Town Manager to execute the agreement on behalf of the Town. Said approval shall expire if the agreement is not executed by the Clarke County School Board representative by June 11, 2010.

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

Mr. Dalton said that Ms. Dunkle sent a letter to the School Board encapsulating the still outstanding issues regarding the final site plan.

Mayor Kirby recognized Robina Bouffault of the Clarke County School Board. She said that the outstanding issue regarding the entrance for Howell and the Town property has not been resolved because the School Board doesn’t yet know what VDOT wants them to do.

Revised Draft approved by the School Board on May 10th, 2010

UTILITY CONSTRUCTION AND COST SHARING AGREEMENT

THIS UTILITY CONSTRUCTION AND COST SHARING AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2010, (the "Agreement") by and between the Town Council of Berryville, Virginia, a body politic and corporate (hereinafter referred to as the "Council") and the Clarke County School Board (hereinafter referred to as the "Board"). The Council and the Board hereinafter referred to individually as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the Council approved the Board's application for Special Use Permit 04-09 and Preliminary Site Plan on October 29, 2009 (the "SUP") to construct the new Clarke County Public High School (the "School") on Tax Map Parcel 14-A-7 & 7A (the "School Property") which is located within the corporate limits of the Town of Berryville (the "Town");

WHEREAS, the Town's existing fire flow system is unable to provide adequate fire flow to support the proposed School, and Condition 15 of the SUP requires the Board to provide adequate fire flow to the School as follows:

15. Fire flows. The Applicant shall provide required fire flow demand on the site in accordance with Town of Berryville Construction Standards and Specification Manual dated June 2009, by completing improvements prepared by the Clarke County School Board's engineer and approved by the Virginia Department of Health in a Waterworks Construction Permit made effective on 11/27/07 (permit # 205207), as it may be modified to accommodate development of the Property as permitted hereby or in accordance with such other plan providing comparable service as may be approved by the Town. The Applicant shall conform any such design to the requirements for Water Distribution Systems incorporated into the Town's Construction Standards and Specification Manual dated June 2009.

WHEREAS, during the final site plan review process, the Council and the Board determined that it is in the best interests of both Parties for the Town to manage, construct and maintain the improvements to the water system and for both Parties to share equally in the cost of managing and constructing the water system improvements in accordance with the terms of this Agreement;

WHEREAS, the Council has determined that the water system must be improved on the Town Property in accordance with plans which were previously prepared by the Board's consultant and approved by the Virginia Department of Health pursuant to Waterworks Construction Permit # 205207, as amended, ~~excepting the 3,700 feet of 12 inch line which was included in the original permit but is no longer needed~~ (the "Improvements");

WHEREAS, both Parties agree and warrant to the other Party that they have the authority to enter into and comply with the terms and conditions of this Agreement.

→ including the elimination of

NOW, THEREFORE, in consideration of the agreements and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Council and the Board agree as follows:

#### Article I – Construction

1.1 The Board acknowledges that the Improvements meet the requirements necessary to provide fire flow capacity to the School Property and the Town acknowledges that the Improvements meet the Town's design requirements.

1.2 The Town, in its sole and absolute discretion, is responsible for the management, design, construction and maintenance of the Improvements, including but not limited to: obtaining and amending any and all necessary permits; entering into and amending construction contracts; and testing and maintenance of the Improvements and the System.

1.3 The Town, in its sole and absolute discretion, is responsible for: 1) preparing bid documents and for the construction of the Improvements on the Town Property and the adjacent right of way; and 2) selecting and awarding the construction contract to the contractor of its choice.

1.4 The Town is not responsible for any construction or improvements on the School Property.

1.5 It is understood and agreed by the Parties that the Board shall have no ownership interest in or operational responsibility for the System or the Improvements and that the System and Improvements are and shall remain the property of the Town.

#### Article II – Cost Sharing

2.1 The shared cost for constructing the Improvements includes: design and engineering fees; permit fees; the preparation and execution of bid documents; construction costs; inspection costs; and legal and administrative fees associated with the Improvements. The current estimated cost for constructing the Improvements is \$480,000.00, which includes a ten percent (10%) contingency amount. The Town will be responsible for the full cost of finalizing the construction plans and specification and preparing bid and contract documents for the Improvements (the "Documents") up to \$10,000. If the cost of the Documents exceeds \$10,000, the additional costs will be shared equally between the Town and the Board. An estimate of the amount of legal and administrative costs and permit fees is \$15,000 [fifteen thousand dollars] ("soft costs").

2.2 The Town and Board are each responsible for fifty percent (50%) of the total cost for constructing the Improvements, including the soft costs, per Article II, Section 2.1, provided that such costs do not exceed the amount specified in paragraph 2.7 below. Prior to the Town entering into a construction contract for the Improvements, the Board shall pay the Town its fifty percent (50%) share of the bid cost plus a ten percent (10%) contingency (the "Board's Share") within thirty (30) business days of the request by the Town.

2.3 Upon receipt, the Town shall place the Board's Share in a separate interest bearing account along with the Town's proportionate 50% share of the total cost of the Improvements (the "Town's Share"). The Town shall provide the Board with monthly reports on the use of the funds in the account. Within thirty (30) business days of completion and acceptance of the Improvements by the Town, the

Town shall equally distribute all remaining funds in the account with interest to the Board and to the Town's general fund.

2.4 If the lowest responsive and responsible bid selected by the Town exceeds \$480,000.00, the Town shall notify the Board within ten (10) business days of being informed of the increase in costs. The Town shall provide the Board with all documentation associated with the increase in costs. Within ten (10) business days of being notified of the increase in costs for the Improvements, the Board and the Town may either: 1) agree to split the increase in costs equally; or 2) terminate this Agreement. If the Board agrees to the increase in costs, the Board shall pay the Town its pro rata share within thirty (30) business days.

2.5 The Town agrees to complete the Improvements within eighteen (18) months of receiving payment of the Board's share of the total cost of the Improvements.

2.6 The Town shall have absolutely no responsibility or obligation to enter into the construction contract with the selected bidder until the Town has received the full fifty percent (50%) payment by the Board.

2.7 The Town and the Board agree that the accepted bid, any engineering cost exceeding \$10,000, the 10% contingency, and the estimated of Soft Costs, shall be the Not to Exceed Amount. Accordingly, once a contract for construction has been entered into based on that accepted bid amount, if the Town seeks any additional contribution from the Board beyond the Board's 50% Share of the Not to Exceed Amount, the Town shall have the burden of showing that these additional costs were reasonable and necessary for the construction of the Improvements.

Deleted: and  
Deleted: plus

Article III – General Provisions

3.1 The foregoing recitals are incorporated herein and made a part of the Agreement.

3.2 It is understood and agreed by the Parties that no modification of this Agreement shall be allowed for any reason except by the mutual written agreement of all Parties, executed by their respective duly authorized representatives.

3.3 It is understood and agreed by the Parties that all obligations of the Council and/or the Town and/or Board shall cease upon the material breach of this Agreement by the other party, at the election of the non-material breaching party.

3.4 It is understood and agreed by the Parties that by entering into this Agreement, the Council in no way represents that the School Property or any portion thereof will be rezoned to any particular zoning district or that any use other than that approved by the SUP will be approved.

3.5 It is understood and agreed by the Parties that: 1) the Town will operate the Improvements in accordance with the manufacturer's specifications and Town procedures; and 2) this Agreement does not limit or restrict the Town's obligation and responsibility to operate and use the Fire Flow System and Improvements as necessary to protect the health, safety and welfare of the Town's residents.

IN WITNESS WHEREOF, the Town Council of the Town of Berryville, Virginia, has caused this Agreement to be signed by Keith Dalton, Town Manager and attested to be:

COUNCIL

Attest:

\_\_\_\_\_  
Clerk to the Town Council

\_\_\_\_\_  
Keith Dalton  
Town Manager

IN WITNESS WHEREOF, the School Board of the Clarke County, Virginia, has caused this Agreement to be signed by Robina Rich Bouffault, Chairman and attested to be:

CLARKE COUNTY SCHOOL BOARD

Attest:

\_\_\_\_\_  
Clerk of the School Board

\_\_\_\_\_  
Robina Rich Bouffault  
Chairman

Mr. Dalton said that he would like the entrance to Town property directly across from the school entrance, but the Howell entrance location has not been determined. He said that this issue must be addressed in order for the final site plan to be released.

There was a discussion with Ms. Bouffault about a well crafted easement that would suffice until VDOT approves both of the entrances. There was a general discussion of the details regarding the entrances. Mr. Dalton said that because the School Board is waiting for word from VDOT about the details of the entrances there is a reasonable reason that they can't address the issue at this point and that he believes that the Town's and the School Board's attorneys can craft language to address this.

Mayor Kirby asked what the Town Council can do to help move the high school project along. Mr. Dalton said that it would be helpful if the Town Council will authorize staff to work on outstanding issues and set a meeting after the next School Board meeting to approve any agreements.

By consensus, the Town Council authorized staff to work with the School Board on outstanding issues with the High School project and called a Town Council meeting for May 25, 2010 at 7:30 p.m.

Mr. Dalton said that he may also present some items regarding the outfall line at the May 25 meeting if the Town Council so wishes.

#### Wastewater Treatment Plant and Outfall Line

Mr. Dalton reported that both projects are under way.

#### Barns of Rose Hill

Mayor Kirby recognized Stan Kerns of the Barns of Rose Hill. Mr. Kerns explained that the bid paperwork was sent to VDOT and their Civil Rights Division. He said that it appears that the apparent low bidder did not meet the 4% Disadvantaged Business Enterprise (DBE) goal and this puts VDOT approval of the bid in jeopardy. He said that the apparent low bidder can ask for a hearing with VDOT and if the outcome is not in their favor the project must be re-bid.

#### Blackdot Wireless for AT&T

Mr. Dalton reported that AT&T is asking for a reduction in rent for their tower lease. He said that staff will take a look at their offer and make a recommendation at the next regular Town Council meeting.

#### Other

Mr. Dalton said that there have again been issues raised about accessibility at the Town's polling place at the Episcopal Parish Hall. Council member Russell said that he heard several concerns from residents about the issue in 2008. Mr. Dalton said that the Town Council brought these concerns to the Registrar's attention in 2008.

Recorder Arnold said that he has also heard from citizens about this issue. He said that there is only one handicapped parking space and that this year he heard concerns about the steps leading to the polling place and about the lack of parking. Recorder Arnold requested that staff send a letter to the Registrar about these concerns. Council member McWilliams agreed that the Electoral Board should address these concerns.

Recorder Arnold suggested that perhaps the basement of the Parish Hall could be used since access is better there. The Mayor said that he has also been approached with similar concerns and that he met with the Electoral Board after the 2008 election and was advised against trying to move the polling place. He said that perhaps the basement would be a good option.

Upon motion by Recorder Arnold, seconded by Council member Russell, the Council of the Town of Berryville authorized the Town Manager to contact the Electoral Board by letter explaining the Town Council's concerns about accessibility at the Town's polling place and asking for a reply.

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

**8. Standing Committee Reports:**

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

b) Budget Finance / CIP – Jay Arnold

Upon motion by Recorder Arnold, seconded by Council member Daniel the Council of the Town of Berryville adopted the proposed Budget for Fiscal Year 2010-2011, an approved copy of which shall be incorporated into and become a part of the Official Minutes of this meeting, and further, that all funds as set forth in the approved budget shall hereby be appropriated for Fiscal Year 2010-2011.16 – Taxation, Article 1 – General, Section 16-1 Annual Assessments valuation of property.

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

Account Number	Account Description	Final 10-11 Budget
<b>GENERAL FUND REVENUES</b>		
100-3000000-0000	FUND BALANCE FORWARD	\$ 470,548.15
100-3110101-0000	CURRENT REAL ESTATE TAXES	\$ 607,000.00
100-3110102-0000	DEL REAL ESTATE TAXES	\$ 2,500.00
100-3110201-0000	UTILITY REAL ESTATE TAXES	\$ 8,300.00
100-3110301-0000	CURRENT PERS PROP TAXES	\$ 100,000.00
100-3110302-0000	DEL PERS PROP TAXES	\$ 3,000.00
100-3110401-0000	MACHINERY & TOOLS	\$ 155,000.00
100-3110601-0000	TAX PENALTIES	\$ 1,000.00
100-3110602-0000	TAX INTEREST	\$ 2,500.00
100-3120101-0000	LOCAL SALES TAX	\$ 140,000.00
100-3120201-0000	CONSUMER UTILITY TAX	\$ 190,000.00
100-3120300-0000	BUSINESS LICENSE	\$ 130,000.00
100-3120402-0000	PEPCO FRANCHISE FEES	\$ 24,500.00
100-3120501-0000	AUTO LICENSE	\$ 90,000.00
100-3120601-0000	BANK FRANCHISE TAXES	\$ 90,000.00
100-3121101-0000	MEALS TAX	\$ 80,000.00
100-3130307-0000	ZONING & SUBDIVISION FEES	\$ 10,000.00
100-3140101-0000	COURT FINES	\$ 27,500.00
100-3140102-0000	PARKING METER FINES	\$ 2,725.00
100-3150101-0000	INTEREST ON DEPOSITS	\$ 35,000.00
100-3150201-0000	RENTAL OF PROPERTY	\$ 15,600.00
100-3150205-0000	WATER TANK SITE LEASE	\$ 26,750.00
100-3160703-0000	PARKING METERS	\$ 8,000.00
100-3161502-0000	SALE OF PUBLICATIONS	\$ 100.00
100-3189905-0000	SALE OF SURPLUS	\$ 1,000.00
100-3189999-0000	PPTRA	\$ 209,917.00
100-3190102-0000	RECOVERED COSTS - CLARKE CO FOR JG CTR	\$ 32,000.00
100-3190203-0000	REIMBURSABLE FEES	\$ 5,000.00
100-3220107-0000	ROLLING STOCK TAX	\$ 1,632.00
100-3220108-0000	599 LAW ENFORCEMENT GRANT	\$ 77,650.00
100-3240102-0000	FIRE FUND PROGRAM	\$ 8,000.00
100-3240301-0000	VDOT ROAD MAINTENANCE	\$ 25,000.00
100-3240302-0000	LITTER CONTROL GRANT	\$ 1,500.00
100-3410201-0000	MISCELLANEOUS REVENUES	\$ 1,000.00
	<b>TOTAL GENERAL FUND REVENUES</b>	<b>\$ 2,582,722.15</b>

<b>WATER FUND REVENUES</b>		
501-3000000-0000	FUND BALANCE	\$ 447,083.35
501-3150102-0000	INTEREST ON INVESTMENTS	\$ 14,000.00
501-3160110-0000	TREATMENT FEES	\$ 645,000.00
501-3160111-0000	DELINQUENT ACCT PENALTIES	\$ 25,000.00
501-3160112-0000	SECURITY DEPOSITS	\$ 100.00
501-3160113-0000	AVAILABILITY CHARGES	
501-3160114-0000	CONNECTION CHARGES	
501-3160115-0000	METER FEES	
501-3160120-0000****	INCOME CCSB	\$ 240,000.00
	<b>TOTAL WATER FUND REVENUES</b>	<b>\$ 1,371,183.35</b>
<b>SEWER FUND REVENUE</b>		
502-3000000-0000	FUND BALANCE FORWARD	
502-3150101-0000	INTEREST INCOME	
502-3160110-0000	TREATMENT FEES	\$ 1,045,000.00
502-3160112-0000	SECURITY DEPOSITS	\$ 100.00
502-3160113-0000	AVAILABILITY CHARGES	
502-3410402-0000	WQIF GRANT FUNDS	\$ 5,000,000.00
502-3410401-0000	SEWER CIP LOAN	\$ 6,200,000.00
	<b>TOTAL SEWER FUND REVENUES</b>	<b>\$ 12,245,100.00</b>
	<b>TOTAL REVENUES ALL FUNDS</b>	<b>\$ 16,199,005.50</b>
<b>GENERAL FUND EXPENSES</b>		
<b>TOWN COUNCIL</b>		
100-4011100-1111	EXPENSE COMPENSATION	\$ 18,900.00
100-4011100-5540	TRAINING	\$ 1,900.00
100-4011100-5699	LOCAL CONTRIBUTIONS	\$ -
100-4011100-5800	MISCELLANEOUS	\$ 1,000.00
100-4011100-5810	DUES	\$ 2,250.00
100-4011100-6017	TOWN CODE SUPPLEMENTS	\$ 3,000.00
100-4011100-6018	STATE CODE SUPPLEMENTS	\$ 250.00
		<b>\$ 27,300.00</b>
<b>TOWN CLERK</b>		
100-4011200-1114	SALARIES/WAGES/TNCLK	\$ 37,580.00
100-4011200-5540	EDUCATION/TRAINING	\$ 1,000.00
100-4011200-5810	DUES	\$ 180.00
		<b>\$ 38,760.00</b>
<b>TOWN MANAGER</b>		
100-4012110-1112	COMPENSATION	\$ 115,000.00
100-4012110-5510	MILEAGE	\$ 100.00
100-4012110-5540	TRAINING	\$ 1,000.00

100-4012110-5810	DUES	\$ 500.00
		<b>\$ 116,600.00</b>
	<b>LEGAL SERVICES</b>	
100-4012210-3150	PROFESSIONAL SERVICES	\$ 40,000.00
		<b>\$ 40,000.00</b>
	<b>PERSONNEL</b>	
100-4012220-2100	SOCIAL SECURITY	\$ 71,605.00
100-4012220-2210	RETIREMENT	\$ 85,645.00
100-4012220-2300	HEALTH INSURANCE	\$ 132,710.00
100-4012220-2400	LIFE INSURANCE	\$ 7,675.00
100-4012220-2600	UNEMPLOYMENT INSURANCE	\$ 740.00
100-4012220-2700	WORKER'S COMPENSATION	\$ 15,625.00
		<b>\$ 314,000.00</b>
	<b>INDEPENDENT AUDITOR</b>	
100-4012240-3120	CONTRACTUAL SERVICES	\$ 14,000.00
		<b>\$ 14,000.00</b>
	<b>TOWN TREASURER</b>	
100-4012410-1113	COMPENSATION	\$ 76,400.00
100-4012410-5306	SURETY BONDS	\$ 300.00
100-4012410-5540	TRAINING	\$ 2,500.00
100-4012410-5810	DUES	\$ 225.00
100-4012410-6015	AUTO DECALS	\$ -
		<b>\$ 79,425.00</b>
	<b>FINANCE/ACCOUNTING</b>	
100-4012430-1113	COMPENSATION	\$ 38,720.00
100-4012430-5540	TRAINING	\$ 450.00
		<b>\$ 39,170.00</b>
	<b>CENTRAL ADM/PURCHASING</b>	
100-4012530-3320	MAINTENANCE CONTRACTS	\$ 32,600.00
100-4012530-3501	NEWSLETTER	\$ 6,000.00
100-4012530-3600	ADVERTISING	\$ 5,000.00
100-4012530-5210	POSTAGE	\$ 10,000.00
100-4012530-5230	TELECOMMUNICATIONS	\$ 8,000.00
100-4012530-5540	TRAINING	\$ 1,000.00
100-4012530-5810	DUES	\$ 1,000.00
100-4012530-6001	OFFICE SUPPLIES & EQUIPMENT	\$ 16,500.00
		<b>\$ 80,100.00</b>
	<b>RISK MANAGEMENT</b>	
100-4012550-5304	BLANKET EXCESS LIABILITY	\$ 12,670.00

100-4012550-5305	AUTOMOBILE INSURANCE	\$ 8,890.00
100-4012550-5307	VARISK-2	\$ 3,445.00
100-4012550-5308	SEMI-MULTI PERIL INS	\$ 18,538.00
100-4012550-5800	INSURANCE DEDUCTABLES	\$ 3,000.00
		<b>\$ 46,543.00</b>
	<b>ENGINEERING SERVICES</b>	
100-4012600-3140	ENGINEERING SERVICES	\$ 7,500.00
		<b>\$ 7,500.00</b>
	<b>ELECTIONS</b>	
100-4013100-1125	ELECTION OFFICIALS	\$ 500.00
100-4013100-6001	ELECTION SUPPLIES	\$ 1,000.00
		<b>\$ 1,500.00</b>
	<b>PUBLIC DEFENDER</b>	
100-4021500-3150	PUBLIC DEFENDER FEES	\$ 400.00
		<b>\$ 400.00</b>
	<b>POLICE DEPARTMENT</b>	
100-4031100-1139	COMPENSATION	\$ 449,780.00
100-4031100-3110	MEDICAL EXAMINATIONS	\$ 500.00
100-4031100-3190	PROFESSIONAL SERVICES	\$ 400.00
100-4031100-3310	REPAIR & MAINTENANCE	\$ 10,000.00
100-4031100-3320	MAINTENANCE CONTRACTS	\$ 5,400.00
100-4031100-5230	COMMUNICATION EQUIP/SER	\$ 3,515.00
100-4031100-5540	TRAINING	\$ 15,000.00
100-4031100-5810	DUES	\$ 1,000.00
100-4031100-5815	COMMUNITY RELATIONS	\$ 950.00
100-4031100-6001	OFFICE SUPPLIES	\$ 2,000.00
100-4031100-6008	GASOLINE & OIL	\$ 19,380.00
100-4031100-6010	POLICE SUPPLIES	\$ 10,400.00
100-4031100-6011	UNIFORMS	\$ 2,850.00
		<b>\$ 521,175.00</b>
	<b>TRAFFIC CONTROL</b>	
100-4031300-5699	COUNTY CONT/CROSSING GD	\$ 5,000.00
		<b>\$ 5,000.00</b>
	<b>EMERGENCY SERVICES</b>	
100-4031400-5699	CONTRIBUTION/CC CENT ALRM	\$ 2,000.00
		<b>\$ 2,000.00</b>
	<b>VOLUNTEER FIRE DEPARTMENT</b>	
100-4032200-5699	CONTRIBUTION/JHEVFD	\$ 25,000.00
100-4032200-5707	FIRE FUND PROGRAM	\$ 8,000.00
		<b>\$ 33,000.00</b>
	<b>RESCUE SERVICES</b>	
100-4032300-5699	PROFESSIONAL SER EMT"	\$ 62,300.00

		\$ 62,300.00
	<b>CORRECTION &amp; DETENTION</b>	
100-4033200-5550	CONFINEMENT OF PRISONERS	\$ 250.00
		\$ 250.00
	<b>PUBLIC WORKS ADMINISTRATION</b>	
100-4041100-1140	COMPENSATION	\$ 32,870.00
100-4041100-3110	MEDICAL EXAMS	\$ 400.00
100-4041100-3310	VEHICLE REP & MAINTENANCE	\$ 4,750.00
100-4041100-5110	ELECTRICITY	\$ 3,000.00
100-4041100-5120	FUEL OIL/HEAT	\$ 3,800.00
100-4041100-5230	TELEPHONES	\$ 3,000.00
100-4041100-5540	TRAINING	\$ 700.00
100-4041100-6001	OFFICE SUPPLIES	\$ 100.00
		\$ 48,620.00
	<b>HWYS, STS BRIDGES &amp; SDWLKS</b>	
100-4041200-1183	COMPENSATION	\$ 98,875.00
100-4041200-3310	EQUIPMENT MAINTENANCE	\$ 12,000.00
100-4041200-3315	SIDEWALK MAINTENANCE	\$ 7,600.00
100-4041200-3316	STREET SIGN MAINTENANCE	\$ 1,425.00
100-4041200-5425	NORFOLK/SOUTHERN R-O-W'S	\$ 240.00
100-4041200-6007	MATERIALS & SUPPLIES	\$ 4,750.00
100-4041200-6008	GASOLINE & OIL	\$ 19,000.00
100-4041200-6011	UNIFORMS	\$ 2,375.00
		\$ 146,265.00
	<b>STREET LIGHTS</b>	
100-4041320-5110	ELECTRICITY	\$ 80,000.00
		\$ 80,000.00
	<b>SNOW REMOVAL</b>	
100-4041330-6007	MATERIALS & SUPPLIES	\$ 20,000.00
		\$ 20,000.00
	<b>PARKING METERS &amp; LOTS</b>	
100-4041340-6007	MATERIALS & SUPPLIES	\$ 1,425.00
		\$ 1,425.00
	<b>STREET &amp; ROAD CLEANING</b>	
100-4042200-6007	MATERIALS & SUPPLIES	\$ 4,750.00
		\$ 4,750.00
	<b>REFUSE COLLECTION</b>	
100-4042300-3220	CONTRACTUAL SERVICES	\$ 179,805.00
100-4042300-6225	RECYCLING SERVICES	\$ 74,350.00

		<b>\$ 254,155.00</b>
	<b>REFUSE DISPOSAL</b>	
100-4042400-3800	FCO LANDFILL CHARGES	\$ 20,000.00
		<b>\$ 20,000.00</b>
	<b>GENERAL PROPERTIES</b>	
100-4043200-3310	REPAIR & MAINTENANCE	\$ 6,175.00
100-4043200-5110	ELECTRICITY	\$ 6,000.00
100-4043200-5120	FUEL OIL/HEAT	\$ 4,950.00
100-4043200-6007	MATERIALS & SUPPLIES	\$ 1,425.00
100-4043200-6017	CHRISTMAS LIGHTS	\$ 1,425.00
		<b>\$ 19,975.00</b>
	<b>BUILDING SERVICES</b>	
100-4064200-3200	CONTRACTURAL SERVICES/23 E MAIN	
100-4064200-5110	ELECTRICITY	\$ 48,000.00
100-4064200-5120	NATURAL GAS/HEAT	\$ 12,000.00
100-4064200-5130	WATER/SEWER	\$ 2,000.00
100-4064200-7113	JGC-COMPENSATION	\$ 10,000.00
100-4064200-7115	SHARED EXPENSES PAID TO CLARKE CO	\$ 8,500.00
		<b>\$ 80,500.00</b>
	<b>PARKS &amp; RECREATION</b>	
100-4071310-3160	CONTRACTURAL SER/JN BLUE	\$ 1,500.00
100-4071310-5699	CONTRIBUTION/CCP&R	\$ 5,000.00
100-4071310-6017	CHRISTMAS LIGHTS	\$ 450.00
100-4071310-6018	ROSE HILL IMPROVEMENTS	\$ 2,500.00
		<b>\$ 9,450.00</b>
	<b>PLANNING</b>	
100-4081100-1155	COMPENSATION	\$ 99,075.00
100-4081100-3190	PROFESSIONAL SERVICES	\$ 20,000.00
100-4081100-3500	PRINTING	\$ 1,500.00
100-4081100-5510	MILEAGE	\$ 500.00
100-4081100-5540	TRAINING	\$ 1,000.00
100-4081100-5810	DUES	\$ 500.00
100-4081100-6001	OFFICE SUPPLIES	\$ 400.00
100-4081100-6012	PUBLICATIONS	\$ 400.00
		<b>\$ 123,375.00</b>
	<b>BOARD OF ZONING APPEALS</b>	
100-4081400-1110	EXPENSE COMPENSATION	\$ 500.00
100-4081400-5540	TRAINING	\$ 500.00
		<b>\$ 1,000.00</b>
	<b>ECONOMIC DEVELOPMENT</b>	
100-4081500-5699	DBI/ECO DEV PROF SERVICES	\$ 25,000.00
		<b>\$ 25,000.00</b>
	<b>PLANNING COMMISSION</b>	

100-4081600-1111	EXPENSE COMPENSATION	\$ 6,000.00
100-4081600-5540	TRAINING	\$ 750.00
100-4081600-5810	DUES	\$ 250.00
		<b>\$ 7,000.00</b>
	<b>B'VILLE AREA DEV AUTHORITY</b>	
100-4081700-1111	EXPENSE COMPENSATION	\$ 2,500.00
100-4081700-5540	TRAINING	\$ 250.00
100-4081700-5810	DUES	\$ 125.00
		<b>\$ 2,875.00</b>
	<b>ARCHITECTURAL REVIEW BOARD</b>	
100-4081800-5540	TRAINING	\$ 250.00
		<b>\$ 250.00</b>
	<b>REVENUE REFUNDS</b>	
100-4092000-5800	MISCELLANEOUS	\$ 1,000.00
		<b>\$ 1,000.00</b>
	<b>CAPITAL PROJECT</b>	
100-4094100-8000	GOVERNMENT CENTER	\$ -
		<b>\$ -</b>
	<b>CAPITAL OUTLAY</b>	
100-4094200-8231	POLICE CRUISERS	\$ 56,000.00
100-4094200-8225	POLICE WORKSTATION	
	POLICE PORTABLE RADIO	
100-4094200-8208	REPLACEMENTS****	\$ 8,850.00
100-4094200-8339	SALT BOX /SNOW PLOW	
100-4094200-8353	F350 PICK-UP	
100-4094200-8362****	SERVICE WEAPONS	\$ 8,000.00
		<b>\$ 72,850.00</b>
	<b>CONTINGENCY</b>	
100-4094300-5800	CONTINGENCY	\$ 113,733.15
		<b>\$ 113,733.15</b>
	<b>DEBT SERVICE</b>	
100-4095000-9110	CIP PRINCIPAL	\$ 121,476.00
100-4095000-9120	CIP INTEREST	
		<b>\$ 121,476.00</b>
	<b>General Fund Operational</b>	<b>\$ 2,274,663.00</b>
	<b>General Fund Debt Service</b>	<b>\$ 121,476.00</b>
	<b>General Fund Cap Proj &amp; Outlay</b>	<b>\$ 72,850.00</b>
	<b>General Fund Contingency</b>	<b>\$ 113,733.15</b>
	<b>TOTAL GENERAL FUND EXPENSES</b>	<b>\$ 2,582,722.15</b>

<b>WATER FUND EXPENSES</b>		
<b>PERSONNEL</b>		
501-4012220-1140	COMPENSATION	\$ 32,870.00
501-4012220-2100	SOCIAL SECURITY	\$ 21,690.00
501-4012220-2210	RETIREMENT	\$ 25,945.00
501-4012220-2300	HEALTH INSURANCE	\$ 40,200.00
501-4012220-2400	LIFE INSURANCE	\$ 2,325.00
501-4012220-2600	UNEMPLOYMENT INSURANCE	\$ 225.00
501-4012220-2700	WORKER'S COMPENSATION	\$ 8,015.00
501-4012220-3145	PROFESSIONAL SERVICES	\$ 4,500.00
501-4012220-3170	MISS UTILITY	\$ 400.00
501-4012220-3320	MAINT CONT/HANDHELD	\$ 1,092.00
501-4012220-5210	POSTAGE	\$ 3,000.00
501-4012220-6001	OFFICE SUPPLIES	\$ 500.00
		<b>\$ 140,762.00</b>
<b>TREATMENT</b>		
501-4012222-1147	COMPENSATION	\$ 150,450.00
501-4012222-2830	CERTIFICATION FEES	\$ 600.00
501-4012222-2840	STATE CONNECTION FEES	\$ 3,500.00
501-4012222-2850	LAB TESTING	\$ 13,000.00
501-4012222-3110	MEDICAL EXAMS	\$ 200.00
501-4012222-3145	PROFESSIONAL SERVICES	\$ 25,000.00
501-4012222-3210	SLUDGE REMOVAL	\$ 21,000.00
501-4012222-3310	REPAIR & MAINTENANCE	\$ 33,000.00
501-4012222-3510	CONSUMER CONFIDENCE RPT	\$ 1,100.00
501-4012222-5110	ELECTRICITY	\$ 44,000.00
501-4012222-5120	FUEL/OIL HEAT	\$ 7,500.00
501-4012222-5230	TELEPHONES	\$ 3,300.00
501-4012222-5540	TRAINING	\$ 3,000.00
501-4012222-5690	DISCHARGE PERMIT RENEWAL	\$ 1,200.00
501-4012222-5810	DUES	\$ 1,000.00
501-4012222-6001	OFFICE SUPPLIES	\$ 1,000.00
501-4012222-6004	LAB SUPPLIES	\$ 3,500.00
501-4012222-6005	JANITORIAL SUPPLIES	\$ 200.00
501-4012222-6008	GASOLINE & OIL	\$ 4,400.00
501-4012222-6011	UNIFORMS	\$ 300.00
501-4012222-6014	TOOLS	\$ 200.00
501-4012222-6019	SAFETY EQUIPMENT	\$ 500.00
501-4012222-6020	PERSONAL EQUIPMENT	\$ 250.00
501-4012222-6025	CHEMICALS	\$ 27,000.00
		<b>\$ 345,200.00</b>
<b>DISTRIBUTION &amp; MAINTENANCE</b>		
501-4012224-1183	COMPENSATION	\$ 71,530.00
501-4012224-3330	LINE REPAIR & MAINTENANCE	\$ 47,500.00
501-4012224-6007	MATERIALS & SUPPLIES	\$ 14,250.00
501-4012224-6019	SAFETY EQUIPMENT	\$ 475.00

501-4012224-6030	NEW SERVICE SUPPLIES	\$ 4,750.00
		<b>\$ 138,505.00</b>
	<b>CAPITAL OUTLAY</b>	
501-4094200-8360****	HANDHELD METER READER REPLACEMENT	\$ 2,600.00
501-4094200.8115	PAINT GROUND RESERVIOR-RESERVE	\$ 50,000.00
501-4094200-8119	CLEAR WELL EXPANSION-RESERVE	
501-4094200-8120	GENERATOR-RESERVE	\$ 45,000.00
501-4094200-8144	WATER LINE UPGRADES	
501-4094200-8361****	WATER LINE UPGRADES/TREADWELL & E MAIN	
501-4094200-8354	PICK-UP (50%)	
501-4094200-8355	WATER VALVE INSERTION	
501-4094200-8365****	UPGRADE WATER BOOSTER FACILITY	\$ 480,000.00
		<b>\$ 577,600.00</b>
	<b>CONTINGENCY</b>	
501-4094300-5800	CONTINGENCY	\$ 31,223.35
		<b>\$ 31,223.35</b>
	<b>DEBT SERVICE</b>	
501-4095000-9114	WACHOVIA/TAXABLE/PRINCIPL	\$ 25,137.00
501-4095000-9116	CIP PRINCIPAL	\$ 83,715.00
501-4095000-9124	WACHOVIA/TAXABLE/INTEREST	\$ 9,670.00
501-4095000-9126	WACHOVIA/NONTAX/INTEREST	\$ 19,371.00
501-4095000-9130	ADMINISTRATION	\$ -
		<b>\$ 137,893.00</b>
	<b>Water Fund Operational</b>	<b>\$ 624,467.00</b>
	<b>Water Fund Debt Service</b>	<b>\$ 137,893.00</b>
	<b>Water Fund Cap Proj &amp; Outlay</b>	<b>\$ 577,600.00</b>
	<b>Water fund Contingency</b>	<b>\$ 31,223.35</b>
	<b>TOTAL WATER FUND EXPENSES</b>	<b>\$ 1,371,183.35</b>
	<b>SEWER FUND EXPENSES</b>	
	<b>PERSONNEL</b>	
502-4012220-1114	COMPENSATION	\$ 32,870.00
502-4012220-2100	SOCIAL SECURITY	\$ 12,350.00
502-4012220-2210	RETIREMENT	\$ 14,775.00
502-4012220-2300	HEALTH INSURANCE	\$ 22,890.00
502-4012220-2400	LIFE INSURANCE	\$ 1,325.00
502-4012220-2600	UNEMPLOYMENT INSURANCE	\$ 130.00
502-4012220-2700	WORKER'S COMPENSATION	\$ 5,025.00
502-4012220-3145	PROFESSIONAL SERVICES	\$ 2,500.00
502-4012220-3320	MAINT CONT/HANDHELD	\$ 1,638.00
502-4012220-5210	POSTAGE	\$ 4,500.00
502-4012220.6001	OFFICE SUPPLIES	\$ 500.00

		<b>\$ 98,503.00</b>
	<b>TREATMENT</b>	
502-4012222-1147	COMPENSATION	\$ 143,130.00
502-4012222-2830	CERTIFICATION FEES	\$ 300.00
502-4012222-2850	LAB TESTING	\$ 25,000.00
502-4012222-3145	PROFESSIONAL SERVICES	\$ 15,000.00
502-4012222-3310	REPAIR & MAINTENANCE	\$ 30,000.00
502-4012222-5110	ELECTRICITY	\$ 75,000.00
502-4012222-5230	TELEPHONES	\$ 1,500.00
502-4012222-5540	TRAINING	\$ 3,500.00
502-4012222-5690	DISCHARGE PERMIT RENEWAL	\$ 1,500.00
502-4012222-5810	DUES	\$ 500.00
502-4012222-6001	OFFICE SUPPLIES	\$ 1,000.00
502-4012222-6004	LAB SUPPLIES	\$ 3,500.00
502-4012222-6005	JANITORIAL SUPPLIES	\$ 200.00
502-4012222-6008	DIESEL FUEL	\$ 1,500.00
502-4012222-6011	UNIFORMS	\$ 300.00
502-4012222-6014	TOOLS	\$ 200.00
502-4012222-6019	SAFETY EQUIPMENT	\$ 1,000.00
502-4012222-6020	PERSONAL EQUIPMENT	\$ 300.00
502-4012222-6025	CHEMICALS	\$ 100.00
		<b>\$ 303,530.00</b>
	<b>DISTRIBUTION &amp; MAINTENANCE</b>	
502-4012224-1183	COMPENSATION	\$ 69,530.00
502-4012224-3310	EQUIPMENT MAINTENANCE	\$ 950.00
502-4012224-3330	REPAIR & MAINTENANCE	\$ 9,500.00
502-4012224-6007	MATERIALS & SUPPLIES	\$ 4,750.00
502-4012224-6019	SAFETY EQUIPMENT	\$ 475.00
502-4012224-6030	NEW SERVICE SUPPLIES	\$ 950.00
		<b>\$ 86,155.00</b>
	<b>CAPITAL OUTLAY</b>	
502-4094200-8360****	HANDHELD METER READER REPLACEMENT	\$ 3,900.00
502-4094200-8134	SEWER COLLECTION SYSTEM REHABILITATION	\$ 70,000.00
502-4094200-8354	PICK-UP (50%)	
502-4094200-8356	SEWER CHEWER REHAB	
502-4094200-8411	CAPITAL RESERVES	\$ 369,098.60
		<b>\$ 442,998.60</b>
	<b>CONTINGENCY</b>	
502-4094300-5800	CONTINGENCY	\$ 24,409.40
		#REF!
		#REF!
	<b>CAPITAL PROJECTS</b>	
502-4095000-8001	OUTFALL LINE	\$ 1,200,000.00
502-4095000-8002	WWTP UPGRADES	
502-4095000.8003	NEW WWTP	\$ 10,000,000.00

c) Community Improvements – Allen Kitselman

Council member Kitselman said that the Main Street banner project needs to get back on the front burner. Ms. Dunkle said that she has talked to VDOT about this. Council member Kitselman said that the idea of local merchants and organizations joining together to approach VDOT about a signage package is beginning to come together. Recorder Arnold asked if anybody has talked to VDOT about this idea. Ms. Dunkle said that she has filled out the applications but there is a \$2,000 maintenance fee for each sign.

d) Personnel / Appointments – Wilson Kirby

Nothing to add.

e) Planning Commission – Lawrence Russell.

Nothing to add to report.

f) Police and Security – Lawrence Russell.

Chief White reported that the annual bicycle helmet give-away took place at last Saturday's Farmer's Market. He said that most of the 125 helmets that were bought with the Virginia Department of Health grant funds were given away. Mr. Dalton thanked Chief White and Ms. Dunkle for their hard work on this project.

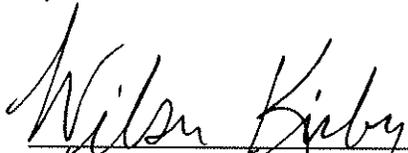
g) Streets and Utilities – Wilson Kirby

Recorder Arnold noted that he saw VDOT sweeping the streets.

Council member McWilliams complimented the Public Works Department and all town employees for their work. He said that Public Works does an outstanding job of snow removal, park maintenance and brush removal (which is a great service.) He said that he appreciated that Town employees use their personal time to do community projects. He said that it has been a privilege to work with an excellent town staff.

**Adjourn**

There being no further business, on motion by Council member McWilliams, seconded by Council member Daniel and passed, the Council meeting was adjourned at 8:55 p.m.

  
Wilson Kirby, Mayor

  
Harry Lee Arnold, Jr., Recorder

**BERRYVILLE TOWN COUNCIL**  
**Tuesday, May 25, 2010**  
**Berryville-Clarke County Government Center**  
**Called Meeting**  
**7:30 p.m.**

**MINUTES**

**Roll:**

**Town Council:**

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

**Staff:** Keith Dalton, Town Manager; Joel Fordyce, Sergeant; Celeste Heath, Town Clerk

**Press:** Mike Dowling, ClarkeDailyNews.com; Becky Lane, Winchester Star

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

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

**2. Discussion/Action** – Agreement/Easements – Clarke County School Board

Mr. Dalton said that the attached letter to Robina Bouffault dated May 19, 2010 (Attachment 1), led to the School Board having their attorney draft a 12 page agreement (Attachment 2) and several deeds of easement (Attachment 3) and a plat (Attachment 4) submitted by the Clarke County School Board for Town Council review.

He said that the issues that he sees with this submission are as follows:

1. It is premature to have sheet 2 of 5 of the plat that show the vacation of the easement for the 1920 water and sewer line. He said that the easements for the new line should first be established before the old easements are vacated.
2. It is not clear to whom or for what the ingress-egress easement is shown on sheet 3 of 5.
3. On page 2 of the Deed of Easement states that the Town is responsible for maintenance of the walking trail, which is not the case.

Mr. Dalton said that he talked to John Erickson, the School Board's engineer today and he said that as far as issue 1 and 2, above, the School Board, for ease of execution, wants one document that contains all of the easements and executes all of the vacations. Mr. Dalton said that Mr. Erickson suggested that the School Board could execute the document and the Town could hold it until the work is complete. Mr. Dalton said that he would like to talk to the Town's attorney about the matter before advising the Town Council on it.

He said that the Deed of Easement must be written to conform to the Special Use Permit conditions and meet the Town's needs. He said that the Deed of Easement has been sent back to the Schools Board's attorney through the Town's attorney and that they will be

working on crafting a mutually agreeable Deed of Easement that should be back to him in a few days.

Mr. Dalton asked if the Town Council will allow him to send comments to the Town's attorney regarding the Deed of Easement that results from the two attorneys' collaboration before the Town Council sees the initial draft. Mayor Kirby said that he would like to see Mr. Dalton work with the Town's and School Board's attorneys to bring a final Deed of easement back to the Town Council. By consensus, the Town Council agreed that Mr. Dalton should work with the attorneys to create a final Deed of Easement.

Mr. Dalton then spoke about the Agreement in Attachment 2. He first commended the School Board for getting the process moving. He said the agreement addresses the cost differential between installation of the required 8-inch water line and the 12-inch water line that the Town has requested. He said the Agreement also addresses the Howell and Town property access to Mosby Boulevard and is meant to make sure that these properties are not cut off from access to the road. He said that the Agreement must also be written to conform to the Special Use Permit conditions and meet the Town's needs.

Mayor Kirby commented that he read the agreement and paragraphs 19 and 20 don't make sense to him. Mr. Dalton said he agreed and that it appeared that some of that language seems to have made it in from another document.

Mr. Dalton also said that he believes the maintenance split in paragraph 19 is unfair to Mr. Howell. Council member Daniel asked if Mr. Howell has seen this agreement. Mr. Dalton said that Dr. Murphy got a copy of the agreement to Mr. Howell. Dr. Murphy confirmed that and that he also spoke to Mr. Howell on the phone. Mr. Dalton said that the standard to which the road will be built must be approved before maintenance costs can be determined.

Mayor Kirby asked if this agreement might be finalized so that Council can take action on it at the June 8 meeting. Mr. Dalton said that is the goal. Council member Daniel asked that Mr. Dalton keep the Town Council updated as the work with the attorneys progresses.

Mr. Dalton said that there are three issues he intends to tackle with the Town's attorney in the morning: (1) In addressing VDOT comments, how much detail of the temporary entrance must be shown on the site plan?, (2) Can the vacations and the easements that were discussed earlier be on one document?, and (3) Should there even be an easement for the walking path because the Special Use Permit only requires that public access is allowed to the path?

Mayor Kirby recognized Dr. Mike Murphy, Superintendent of the Clarke County Schools who thanked the Town Council for calling a meeting on this matter. He said that he was shocked to receive the exhaustive VDOT comments today. He said that Mr. Dalton is correct that the walking path maintenance issue should be resolved. He said the major

VDOT comments all come back to temporary entrance #3, but that he feels confident that VDOT has the funds to build out Mosby Boulevard and that construction of that entrance may be avoided. He said that he believes considering putting the easements and vacations in one document is worth considering. Dr. Murphy reported that the project is going out to bid on June 9.

Mr. Dalton spoke briefly about the Mosby Boulevard project. He asked Dr. Murphy if, in light of the fact that at last count it looked like VDOT was short \$325,000 for the Mosby Boulevard project, the School Board or the Board of Supervisors has considered funding that amount to avoid building the temporary entrance. He mentioned that this approach had been suggested on several occasions by Mr. Lineberry of VDOT. Dr. Murphy said that he thinks that some of the VDOT cost estimates for Mosby Boulevard are high anyway.

Mayor Kirby told Dr. Murphy that the Town Council looks forward to helping the School Board get the high school project underway.

**Adjourn**

There being no further business, on motion by Council member Daniel, seconded by Council member McWilliams and passed, the Council meeting was adjourned at 7:52 p.m.

  
Wilson Kirby, Mayor

  
Harry Lee Arnold, Jr., Recorder

Town of Berryville  
Berryville-Clarke County  
Government Center  
101 Chalmers Court Suite A  
Berryville, VA 22611



[T] 540/955-1099  
[P] 540/955-4524  
[E] info@berryvilleva.gov

www.berryvilleva.gov

May 19, 2010

Ms. Robina Rich Bouffault, Chair  
Clarke County School Board  
309 West Main Street  
Berryville, VA.22611

VIA e-mail

Dear Ms. Bouffault:

Following are comments on easement plats for the Clarke County High School. Please be advised that we will need to receive and review the easement language that will accompany these plats prior to final approval.

1. Vacations should be included on a separate document as indicated in SUP 04-09 condition 17 which states the following:  
The Town agrees to vacate all unused utility easements on the Property upon the Applicant's dedication and completion of the utility easements and facilities required shown on the Preliminary Site Plan and required by these conditions of approval.  
While we have reviewed the proposed vacations on this submission, the vacation plat shall be submitted after construction and acceptance of the proposed utilities.
2. Under the notes on page 1, item number 2, typographical errors "...strip of land formerly known as Coleman's Lane..." In addition, the last update of the Flood Insurance Rate Map was September 2007.
3. On pages 3 and 4, the dedications will need to be made to both the Town and VDOT. Each dedication identified on the plat will need to clearly identify the recipient of each dedication and the signatures on the document will need to reflect representatives from these entities.
4. On page 3, there is an "Ingress/egress easement" created. What is the purpose of this easement and to whom would it be dedicated?

Wilson Kirby  
Mayor

Harry Lee Arnold, Jr.  
Recorder

*Council Members*

Lawrence Russell, III  
Ward 1

H. Allen Kitselman, III  
Ward 2

Mary L. Daniel  
Ward 3

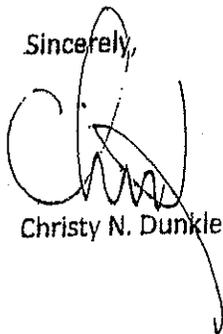
Gail Smith  
Ward 4

Keith R. Dalton

5. Please confirm that the sewer easement on the north side of the parcel at the Early Drive termination is sufficient for the depth of the proposed sewer facility.
6. There is a water line that ends at the terminus of Early Drive. Does there need to be a dedication for this utility or is VDOT okay with this condition?

This concludes our list of comments; however future submittals may generate additional comments. Please submit the dedication paperwork at your earliest convenience. Should you have additional questions, please feel free to contact me at 955-4081 or [planner@berryvilleva.gov](mailto:planner@berryvilleva.gov).

Sincerely,



Christy N. Dunkle

Cc: Mayor Kirby  
Town Council  
Michael F. Murphy, Ed.D.  
Michael Hobert, Chair, Clarke County Board of Supervisors  
Allen Kitzelman, Chair, Berryville Area Development Authority  
Keith Dalton  
Dave Tyrrell  
Rick Boor  
Chuck Johnston  
Jon Erickson  
Jeff Lineberry  
Rick Travers  
Ken Wire

AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, by THE SCHOOL BOARD OF CLARKE COUNTY, VIRGINIA, (hereinafter referred to as the "School Board") and THE TOWN COUNCIL OF THE TOWN OF BERRYVILLE, VIRGINIA, (hereinafter referred to as the "Town"), and PAUL R. HOWELL, (hereinafter referred to as "Howell"), together referred to as "the Parties."

WITNESSETH

WHEREAS, on October 29, 2009, the Town granted a Special Use Permit to the School Board for the purpose of constructing a new Clarke County High School, and

WHEREAS the Town imposed certain conditions on such Permit requiring the School Board is required to install a 12" water line instead of an 8" water line, provided that the Town timely pays the cost differential between the costs of constructing an 8" line and the aforesaid 12" line; and

WHEREAS the Town further imposed certain conditions on such Permit requiring the School Board to provide permanent points of vehicle access and a VDOT approved temporary entrance from West Main Street in the vicinity of Tom Whitacre Circle, situate on property owned by the Town, until such time as a second permanent entrance is constructed off completed Mosby Boulevard, and

WHEREAS, a portion of the right-of-way required for access to the High School may be required from Howell, and

WHEREAS, the School Board has agreed to grant easements to Howell and to the Town for access to Mosby Boulevard for entrance in the general location of the common property boundary between their properties and the School Board property as further provided herein, and to grant

Howell and the Town easements for connection to public sewer and water service, and to enter into a joint maintenance agreement for access and utility improvements within such easements; and

WHEREAS, the Parties desire to enter into an agreement for the foregoing in accordance with the terms and conditions of the Special Use Permit,

NOW THEREFORE, IN CONSIDERATION of the mutual promises and covenants herein the receipt and sufficiency of which are hereby conclusively acknowledged, it is agreed as follows:

### AGREEMENT WITH RESPECT TO COST SHARING OF WATER LINE OVERSIZING

1. The School Board shall design a 12" water line in the place of an originally proposed 8" water line, to be constructed from the Town's public water supply system located on Parcel bearing Tax Map Number 14-A-6 in the Land Records of Clarke County, to its intersection with the existing Town water line on West Main Street in the Town, and in the 20' Waterline Easement dedicated to the Town in connection with the approval of a Final Site Plan for the High School.

Prior to commencing construction of the relocated line, the School Board shall obtain estimates for the cost of construction of both an 8" and a 12" water line in order to fairly determine the aforesaid cost differential.

3. The School Board shall present a written request for payment of or reimbursement for, the increase in the cost of the water line attributable to its oversizing in conformance with the Special Use Permit. The Town shall promptly advise the School Board whether it agrees with the cost attributable to such oversizing.

4. If the Town agrees with the aforesaid cost, it shall pay the agreed sum to the School Board, which shall apply such sums to the construction of water line, or it shall reimburse the School Board in that sum, if the School Board has already paid the cost of installation thereof.

5. If the School Board and the Town disagree on the cost differential, the School Board and the Town shall jointly select a neutral and independent third party to review their disagreement. The Parties agree to be and shall be bound by the third party's determination as to the proper amount of the differential to be paid and the Town shall forthwith make such payment or reimbursement as the case may be.

6. The aforesaid water line shall be installed by the School Board and accepted by the Assistant Town Manager prior to disconnecting the existing line, and all service interruptions must be coordinated with and approved by the Assistant Town Manager.

7. In accordance with the Special Use Permit, the relocated line shall be completed, inspected, and accepted by the Assistant Town Manager prior to the issuance of a Certificate of Occupancy for the High School.

#### AGREEMENT WITH RESPECT TO ACCESS TO THE HIGH SCHOOL

8. The School Board shall provide three permanent points of vehicular access as required by the Special Use Permit. **Entrance Number 1** shall be located on West Main Street to provide bus access as shown on the Final Site Plan. **Entrance Number 2** shall be constructed at the terminus of existing Mosby Boulevard to the north of the new High School as shown on the Final Site Plan. **Entrance Number 3** shall be constructed on West Main in the vicinity of Tom Whitacre Circle.

9. The School Board is required by the conditions of the Special Use Permit to construct

and use a VDOT-approved temporary entrance at Entrance Number 3 until Mosby Boulevard is finally constructed. In order to construct such a temporary entrance, upon request of the School Board, the Town agrees that it shall expeditiously grant the School Board, or VDOT, as may be then appropriate, permanent or temporary easements or other suitable rights-of-way over adjacent Town property if rights of ingress and egress, or for utilities or temporary construction work are required over that property for the construction of any portion of such temporary entrance.

10. The Town agrees to grant to VDOT temporary construction easements, permanent utility easements, or for right-of-way that portion of the adjacent property belonging to the Town that may be required for the construction of Mosby Boulevard, generally in the location depicted on the Preliminary Site Plan.

11. Howell agrees, upon request of the Town, the School Board, or VDOT, as may be then appropriate, to grant easements for utilities, ingress and egress, and temporary construction work as may be required over the Howell property for the construction of the temporary entrance to the High School, generally in the location depicted on the Preliminary Site Plan.

12. If Mosby Boulevard is not completed by VDOT from its present terminus to West Main Street by October 29, 2014, the School Board shall construct a permanent entrance at Entrance Number 3 in accordance with VDOT and Town Standards. Such construction shall be completed and inspected and approved by VDOT and the Town not later than October 29, 2016.

13. The Town Council may authorize issuance of a Certificate of Occupancy for the High School without a temporary entrance at Entrance Number 3, if the Council determines that Entrance Number 2 will be completed in a timely manner.

**GRANT OF CERTAIN EASEMENTS TO HOWELL AND THE TOWN AND  
AGREEMENT FOR JOINT MAINTENANCE THEREOF**

14. In order to assure their rights of access to West Main Street, and to public utilities to be constructed with the new High School, the School Board agrees to grant to Howell and the Town, and the Town agrees to grant to Howell, easements across their respective properties to provide for reasonable access to Mosby Boulevard, or for a temporary entrance that the School Board may construct in accordance with the Condition 10 of the Special Use Permit, and each of the aforesaid agrees to grant such temporary and/or permanent easements as are necessary for Howell and the Town to connect to public sewer and water on and across School Board property.

15. Such easements shall initially be granted as temporary floating easements until VDOT approves final plans for Mosby Boulevard that include the location of such points of access and utility crossings. When those locations shall have been so determined, the Parties shall execute further instruments as may be necessary to grant permanent easements to the Town and Howell for the purposes set forth in this section of the Agreement, and shall vacate any temporary easements that shall have been granted in accordance herewith.

16. The easements provided for hereby shall be granted along the boundary line of the Howell and Town properties between the westernmost corner of the School Board property and West Main Street, and a point approximately 600 feet from West Main Street as shown on the Preliminary Site Plan. Permanent easements shall be located as provided above.

17. The Parties further desire make mutually suitable arrangements for the joint maintenance of access and utilities that may be constructed within the easements and other rights-of-

way granted on or over School Board property or the properties of the owners of those Parcels bearing Tax Map #s 14-A-5 (Howell) and 14-A-6 (the Town), and their heirs, successors and assigns. The Parties desire not only to provide each other with access to their respective properties during and after the School Board's construction of a temporary and/or permanent entrance from West Main Street in the vicinity Entrance Number 3, but to agree as to the sharing of costs associated with the maintenance of any access or utilities located within those rights-of-way.

18. The Parties therefore agree that they shall share equally by thirds in the costs of ongoing maintenance of the access and utility lines that Howell or the Town may establish in the foregoing easements, subject to the limitations set forth herein. The Parties shall share equally any and all reasonable costs associated with the maintenance, repair, repaving, or replacement of any improvements that may have been constructed within the access and utility easements granted hereunder.

19. Notwithstanding the foregoing, each of the Parties shall be responsible, without any contribution from the other, for the maintenance, repair, or replacement of any sidewalks, walkways, curbs, or gutters located on each Party's respective property adjacent to but not within the access or utility easements.

20. It being the intention of the Parties to provide for the sharing of costs only of normal service extensions of utilities, and for such access as Howell and the Town require to Mosby Boulevard once open for use, no Party shall bear joint responsibility for the installation, repair, maintenance, or operation of any driveway, road, or utility extension servicing its property if such access way or utility is accepted into either a Town or State public system for continued operation

and maintenance of such access or utilities.

21. Before commencement of any repairs within the said easements or rights-of-way, the Parties shall agree in writing upon the scope of such repairs and shall select a mutually agreeable and properly licensed contractor to perform such repairs, at a price acceptable to all Parties. No Party may unreasonably withhold, condition, or delay approval of any repairs or of any contractor or a contract price for performance of such repairs. The Parties shall jointly and severally enter into a written contract for the Repairs with a contractor on such terms and conditions as agreed to by all of the Parties and the consent of each Party thereto may not be unreasonably withheld. Each Party shall pay to the contractor his or her pro-rata share of all sums due to said contractor in accordance with the terms of such contract.

22. Should any Party be required to pay any contractor more than that Party's share of the costs of any repairs because of the failure of any other Party to pay for its share of such costs, the paying Party shall have the right to seek contribution from the non-paying Party for the non-paying Party's share of the costs so paid by the paying Party, plus an additional 10% for costs of administration and all costs incurred by the paying Party in seeking contribution from the non-paying Party, including, but not limited to, attorney's fees. In no event shall consequential damages be available to any Owner under this Agreement.

23. Alternatively, and upon written consent of all Parties, they may agree that any one of the three Parties shall undertake to perform an agreed upon scope of repairs, and undertake to engage a contractor therefor, upon the other Parties' agreement to pay their equal share of the costs thereof upon demand by the Party so performing or contracting the work.

24. The rights created by this Agreement are appurtenant to the specific properties to which they relate and may not be transferred, assigned or encumbered except as an appurtenance to such property. For the purpose of each such right, the property benefited by the same will constitute the dominant estate and the Lot burdened by the same will constitute the servient estate. Each covenant contained in this Agreement: (a) is made for the direct, mutual and reciprocal benefit of each other property; (b) creates a mutual equitable servitude on each property in favor of each other property; (c) constitutes a covenant running with the land; and (d) will inure to the benefit of each Party and each Parties heirs, successors, assigns and mortgagees (including trustees under any deeds of trust).

25. Upon conveyance of any property, the grantee, by accepting such conveyance, will thereby become a new Party hereto and thereby become bound by this Agreement, and this instrument shall run with the land. Upon such conveyance, the conveying Party will be released from any further obligation under this Agreement arising after such conveyance. Each Party shall, within five business days from receipt of the written request of any conveying Party, execute and deliver any appropriate documents or assurances to evidence such release, so long as no obligation of the conveying Party is outstanding. In no event shall any outstanding obligation of any Party constitute a lien upon any property, except as may constitute a judgment lien should judgment be obtained under this agreement for non-payment of obligations created hereby.

26. This Section of this Agreement may be terminated, modified, extended, or amended only upon the express written agreement of all of the Parties.

MISCELLANEOUS

27. Notwithstanding any provision of this Agreement to the contrary, the terms and conditions of the Special Use Permit shall control in the event of a conflict.

28. The Parties agree to timely execute such other and further documents, including deeds of easement or other grants of right-of-way, necessary to effectuate the purposes of this Agreement, and their consent thereto shall not be unreasonably withheld.

29. This Agreement shall be recorded in the Land Records of Clark County, and indexed in the names of each Party hereto.

(SIGNATURES APPEAR ON FOLLOWING PAGES)

**DRAFT**

WITNESS the following signatures and seals:

SCHOOL BOARD OF CLARKE COUNTY,  
VIRGINIA

\_\_\_\_\_  
Robina Bouffault, Chairman

STATE OF \_\_\_\_\_  
COUNTY/CITY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me in my aforesaid jurisdiction by Robina Bouffault, Chairman of the School Board, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Registration No.: \_\_\_\_\_

**DRAFT**

TOWN COUNCIL OF THE TOWN  
OF BERRYVILLE, VIRGINIA

STATE OF \_\_\_\_\_  
COUNTY/CITY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me in my aforesaid jurisdiction by  
\_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Registration No.: \_\_\_\_\_

**DRAFT**

PAUL R. HOWELL

\_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY/CITY OF \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me in my aforesaid jurisdiction by Paul R. Howell, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

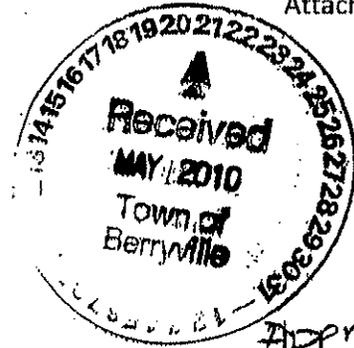
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Registration No.: \_\_\_\_\_

**DRAFT**

PREPARED BY:  
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.  
Glen Park I  
4310 Prince William Parkway, Suite 300  
Prince William, VA 22192



APPROX  
2:30 PM

School Board of Clarke County, Virginia  
Tax Map No. 14-A-7A & 14-A-7

PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION

DEED OF EASEMENT

THIS DEED OF EASEMENT ("Deed") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2010, by and between SCHOOL BOARD OF CLARKE COUNTY, VIRGINIA, a body corporate and politic (the "School Board") (to be indexed as Grantor); and the TOWN OF BERRYVILLE, VIRGINIA, a body corporate and politic, (the "Town") (to be indexed as Grantee).

WITNESSETH:

WHEREAS, the School Board is the owner of certain real property situated in the Town of Berryville, Clarke County, Virginia, identified with Clarke County Tax Map Numbers 14-A-7A and 14-A-7 (collectively, the "Property"), as shown on the plat attached hereto and incorporated herein by reference, dated May 10, 2010, as last revised, and entitled "Final Plat Showing Dedication of Easements on the Land of School Board of Clarke County, Virginia Tax Map #14-A-7A Tax Map #14-A-7", prepared by Jon K. Erickson, Land Surveyor, Urban, Ltd. (the "Plat"), being that property acquired by the School Board by deeds recorded in Deed Book 501 at Page 353 and in Deed Book 501 at Page 357, both among the land records of Clarke County, Virginia (the "Land Records"); and

WHEREAS, it is the desire and intent of School Board to create, grant and convey various easements to the Town, as set forth more fully on the Plat.

NOW, THEREFORE, THIS DEED WITNESSETH that in consideration of the premises and the sum of ONE DOLLAR (\$1.00), cash in hand paid, the receipt and sufficiency of which is hereby acknowledged, the School Board does hereby create, grant and convey to the Town for storm drainage purposes (including the installation, operation, maintenance and repair of storm sewers and drainage facilities), various storm drainage easements shown and designated as such

on the Plat. The Town will exercise reasonable care to protect the owner's property from damage or injury occasioned in the enjoyment of the easements and rights herein granted, and to promptly repair said property or reimburse the owner for any property damaged beyond repair. The owner shall have no right, title, interest, estate or claim whatsoever in or to any of the storm sewers and drainage facilities installed by virtue hereof, which shall be operated, maintained and repaired by the Town. This dedication is made in accordance with the statutes made and provided thereof.

THE DEED FURTHER WITNESSETH that in consideration of the premises and the sum of ONE DOLLAR (\$1.00), cash in hand paid, the receipt and sufficiency of which is hereby acknowledged, the School Board does hereby create, grant and convey to the Town for the installation, operation, maintenance and repair of works and systems for the transmission or distribution of raw or treated water and the collection or conveyance of raw or treated sanitary sewage therein, various waterline and sanitary sewer easements shown and designated as such on the Plat. The Town will exercise reasonable care to protect the owner's property from damage or injury occasioned in the enjoyment of the easements and rights herein granted, and to promptly repair said property or reimburse the owner for any property damaged beyond repair. The owner shall have no right, title, interest, estate or claim whatsoever in or to any of the works and systems installed by virtue hereof, which shall be operated, maintained and repaired by the Town.. This dedication is made in accordance with the statutes made and provided thereof.

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the sum of ONE DOLLAR (\$1.00), cash in hand paid, the receipt and sufficiency of which is hereby acknowledged, the School Board does hereby grant and convey to the Town a temporary construction easement shown and designated as such on the Plat. Said easement shall allow the Town to enter upon the Property which is the subject of the easement for construction, grading, filling, removal of debris, removal or deposit of earth and other activities relative to the installation of sanitary sewer lines and facilities on property adjacent to the easement. Said easement shall be null and void at such time the sanitary sewer lines are installed and any security posted with the Town to guarantee the completion of the installation of the sanitary sewer lines and facilities has been released.

THIS DEED FURTHER WITNESSETH that in consideration of the premises and the sum of ONE DOLLAR (\$1.00), cash in hand paid, the receipt and sufficiency of which is hereby acknowledged, the School Board does hereby grant and convey to the Town a trail easement

shown and designated as such on the Plat. This easement shall be for purposes of pedestrian access only, and shall not constitute a public road or right of way. The fee simple title holder of any land contained within said easement shall be responsible for the maintenance thereof, except the Town shall be responsible for the maintenance of any trails constructed and installed therein.

This Deed of Easement is in accordance with the statutes made and provided in such cases; with the approval of the proper authorities of the Town of Berryville, Virginia, as shown by the signatures affixed to this Deed and the Plat attached hereto, and is with the free consent and in accordance with the desire of the School Board, sole owner and proprietor of the land embraced within the bounds of the Property.

(SIGNATURES AND ACKNOWLEDGEMENTS ON FOLLOWING PAGES)

WITNESSES the following signatures and seals:

SCHOOL BOARD OF CLARKE COUNTY, VIRGINIA,  
a body corporate and politic

By: \_\_\_\_\_  
Robina Bouffault, Chairman

COMMONWEALTH OF VIRGINIA  
COUNTY/CITY \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
2010, by Robina Bouffault, as Chairman of the School Board of Clarke County, Virginia, a body  
corporate and politic, on its behalf.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

Registration Number: \_\_\_\_\_

(SIGNATURES AND ACKNOWLEDGEMENTS CONTINUE ON THE FOLLOWING PAGE)

ACCEPTED PER CODE OF VIRGINIA, SECTION 15.2-1803

TOWN OF BERRYVILLE, VIRGINIA,  
a body corporate and politic

By: \_\_\_\_\_  
Wilson Kirby, Mayor

COMMONWEALTH OF VIRGINIA  
COUNTY/CITY \_\_\_\_\_, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2010, by Wilson Kirby, as Mayor of the Town of Berryville, Virginia, a body corporate and  
politic, on its behalf.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

Registration Number: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney

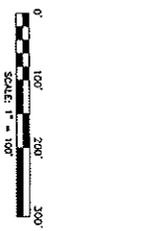
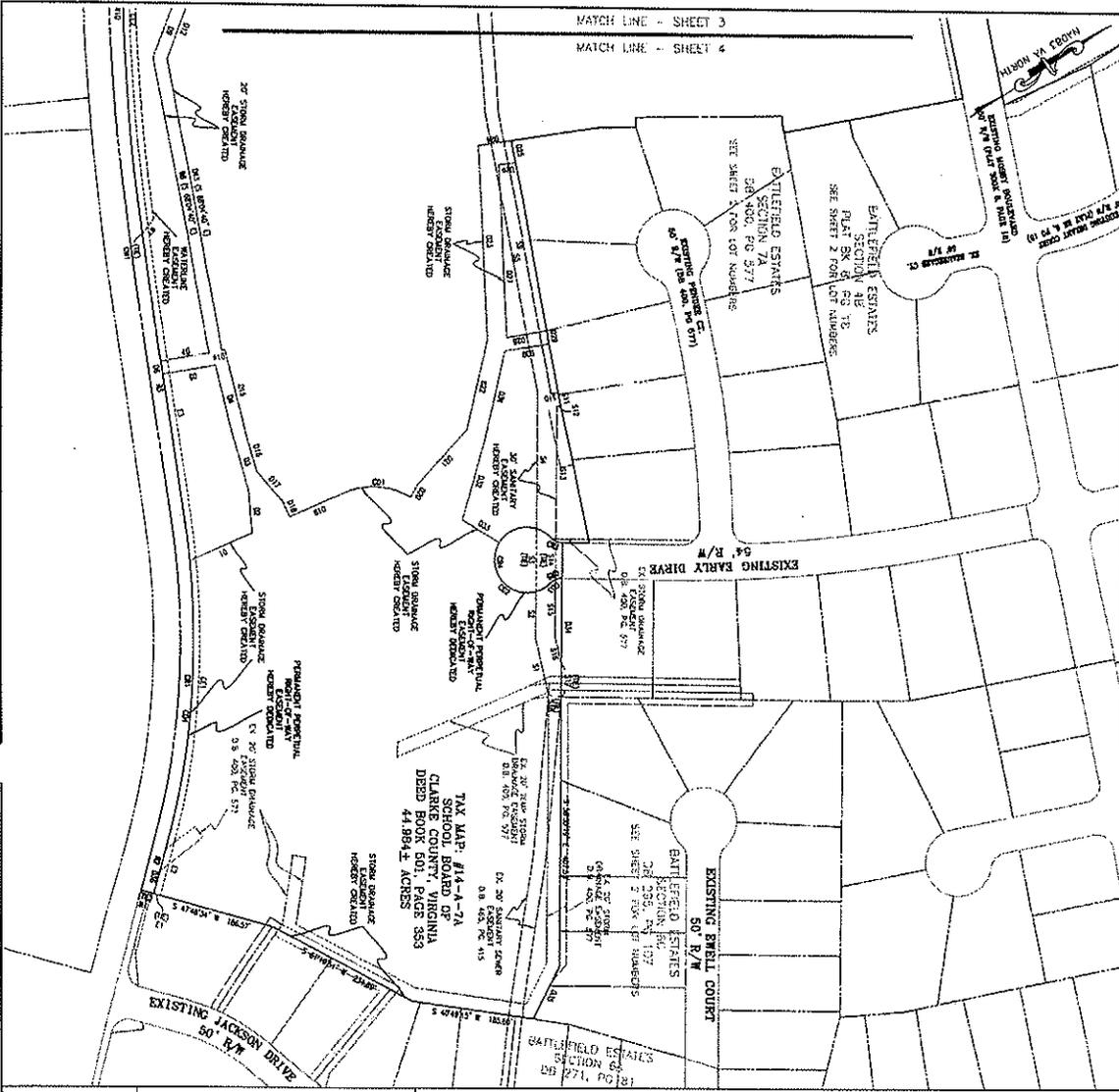
\_\_\_\_\_  
Date

{P0157289.DOC / 1 On-site Easements 006629 000002}









NOTE: SEE SHEET 5 FOR LINE AND CURVE TABLES

FINAL PLAN SHOWING  
DEDICATION AND VACATION OF EASEMENTS  
ON THE LAND OF  
**SCHOOL BOARD OF  
CLARKE COUNTY VIRGINIA**  
TAX MAP #14-A-2A  
DEED BOOK 501, PAGE 353  
TOWN OF BERRYVILLE  
CLARKE COUNTY, VIRGINIA  
DATE: MAY 10, 2010  
SCALE: AS SHOWN



