

December 13, 2016

Clarke County Board Of Supervisors
Special Meeting
Main Meeting Room

7:00 p.m.

At a joint session of the Board of Supervisors of Clarke County, Virginia, and Berryville Town Council held in the Berryville Clarke County Government Center, 101 Chalmers Court, 2nd Floor, Berryville, Virginia conducted on Tuesday, December 13, 2016.

Board of Supervisors

Present: Barbara J. Byrd – Russell District; Terri T. Catlett - Millwood / Pine Grove District; Mary L.C. Daniel – Berryville District; David S. Weiss - Buckmarsh / Blue Ridge District; Absent: Bev B. McKay – White Post District

Town Council

Present: Harry Lee Arnold, Jr. – Recorder; Pat Dickinson – Mayor; Erecka Gibson – Ward 3; Allen Kitseiman – Ward 2; Donna McDonald – Ward 1; David Tollett – Ward 4; Absent: None

County Staff

David Ash, Brandon Stidham, Lora Walburn

Town Staff

Keith Dalton, Christy Dunkle, Ann Phillips, Neal White

Clarke County Planning Commissioners

Robina Rich Bouffault, Frank Lee, Gwen Malone

Berryville Main Street / Economic Vitality Committee Present

Christina Kraybill, Patty Maples, Elizabeth Mock, Nathan Stalvey

Press

Cathy Kuehner - The Winchester Star

1) Call to Order

At 6:30 pm, Mayor Dickinson called the Berryville Town Council to order.

Immediately following, Chairman Weiss called the Clarke County Board of Supervisors meeting to order.

Chairman Weiss congratulated Desi Moreland, Town Treasurer, on forty years with the Town of Berryville and expressed admiration for her dedication to citizens and thanks for her service to the community.

At 6:34 pm, Supervisor Daniel joined the meeting.

2) Discussion Berryville Area Plan

Chairman Weiss expressed appreciation to Council for agreeing to meet with the Supervisors. Highlights of his introduction include:

- Berryville is an independent town with its own elected representatives.
- The Town of Berryville and Clarke County have had a good partnership developed over an extended period.
- The Berryville Area Plan was reviewed, with the BADA recommendations, by both bodies in spring 2016.
- The Supervisors would like to discuss the review process, which is set forth in the revised Berryville Area Plan allowing the plan to be updated annually either at the request of citizens or the respective legislative bodies.
- While Council has the right to make decisions and change the plan, the Supervisors expected Council to follow the agreed upon process.
- The Supervisors would like to understand Council's rationale as to why it made decisions to change the BAP as it did and what that means for the future relationship of the Town and County and the process for changing the BAP.

Supervisor Byrd asked what exactly the Town was proposing when it states to the Supervisors the changes it is proposing and why.

Mayor Dickinson asked if the topic pertained to the senior apartments.

Supervisor Catlett said the issue was the process. She stated that the Supervisors thought that by both bodies adopting the BAP that it had established goals and ways to change the plan.

Councilwoman McDonald commented that as a new person on Council, she was used to rotten tomatoes and she was prepared to go out on a limb. She expressed her thoughts as follows.

- Do you know when people procrastinate anything, be it a good thing or a bad thing, you just roll that thing and you procrastinate it. You procrastinate it. You procrastinate it.
- What I have seen is if we did not make this move, again, did not even know that we should have come to discuss. But, if we would have come to discuss, would that have prolonged this project longer than it already had been, which in my mind it's been way long enough. But, that is just me; and that is what I am hearing from the people I talk to in the Town about development around here too.
- Let's get it done. We want stuff here. We don't want to ruin what we have but we want to add to it too.
- My thinking, and I could be totally wrong, God knows I've been wrong a lot of times, my thinking is would we have hindered this project; and would we have drug this dog around for another two years. Would we have drug this around, anything, not just this project.
- Are we hampering ourselves at some times with anything we want to do because we have so many rules. So many hoops to follow through. Not that they are not good hoops. Not that they are not there for a reason.
- But, I don't think what we did is such a horrible thing. Now, people may think differently but that is my value and I've had my say.

Supervisor Catlett stated that she appreciated her comments because it is necessary to know what Council members are thinking and what that means for the bodies moving forward.

Supervisor Byrd commented that Council wanted to move the project forward faster than the process outlined in the BAP.

Councilwoman McDonald responded somewhat on some things. On projects that have been on the plate for a while that have been, for whatever reason before my time, have been shot down and shot down and shot down, for lack of a better word, delayed, for whatever reason, you know, would that have happened, could that . . . Okay, this is a question for you guys, because you know the BADA a lot better than I do . . . would that, could that, have happened, would a project of that caliber, or any project, have been delayed further.

Chairman Weiss responded as follows:

- Referred members to Section IV-3 of the Berryville Area Plan that lays out the process for plan amendment by citizens / stakeholders.

- The Supervisors would have preferred, and what it thought would happen, Council to follow the processing and wait until June 1 or “petitioners shall submit their plan request in writing no later than April 1.” In this case, the applicant could have submitted a request.
- Whether the bodies agree or disagree with changing the limits is not the point.
- The Supervisors thought it had a system in place; and while it could be viewed as a delay, it can also be viewed as a process that protects both the Town and the County and the applicant from arbitrary and capacious decisions.
- Following the process, allows the bodies to withstand legal scrutiny.
- The BAP was reviewed by the previous Council and the Supervisors thought it had a system by which the bodies would work through these discussions.
- Legal challenge is a concern; and while there have not been many legal challenges, the bodies have been successful primarily because of the process followed.

Mayor Dickinson commented that when looking at the process and the dates and the timing the sequence of events and the timing is counter intuitive to the election cycle. So, by having it April 1 and June 1, with elections in May, new members take office in July, it is designed not to let the newly elected members of Council take action for another year. She stated that she believed this was wrong and commented that it were more frequent or more in sync with the election cycle the Council could have followed the process but to wait a whole year . . .

Supervisor Daniel put forth that part of the strength of the planning, as well as the implementation of the plan, makes it somewhat disassociated from the election cycle. She noted that the provisions for amending the BAP were added with the latest revision.

Supervisor Catlett added that elections occur every four years but the BAP allows annual updates.

Councilman Kitselman interjected that the BAP has a five-year review cycle.

Supervisor Catlett clarified that an annual review of requests to amend were now part of the BAP.

Supervisor Byrd said good planning should not be ruled by politics. She opined that the bodies must think of the long-range not what makes persons happy at the moment; the bodies must think of future impact and needs of the whole community.

Recorder Arnold remarked:

- While some citizens do not like policy and procedure, government must have these in place. Further government, just as it expects of its citizens, must abide by the same plan regardless of whether it suits a particular agenda or application.

- He supported the current revision of the BAP, which he deems a good plan that helps both the Town and the County.
- There is a process in place and the bodies should abide by that process.
- If the bodies want to amend the process, follow the process as set forth.
- Delays are not necessarily the fault of government.

Supervisor Daniel commented that in some surrounding jurisdictions plan exceptions are regularly granted rendering a less-than desirable outcome. She said that throughout the BAP review process she had made known her concerns and disagreements with pieces and parts of the plan; but, overall, it was acceptable. She opined that the planning and the process are vitally important for the reasons Chairman Weiss laid out.

Councilwoman McDonald added that she had spoken briefly at one of their Council meetings noting that she was on a lot of chemo; so if she didn't flow right, it was her excuse. Her comments:

- I think any process written as well as this, this is a very well written plan, anything our Town does, anything our citizens say to us, is only a process if we can get along as a county and a town.
- One thing that upset me greatly was something that I read and heard around here that we did not like the County. Who in the name of God asked me if I liked the County? I was born and raised here. Who asked me if I liked the County? No one. I love the County or I'd moved sixty years ago. Well, I wouldn't have moved when I was a baby, well, I might have convinced my mother to move, right? No. The point is, is I like the County. No one said to me Donna, do you like the County? They just arbitrarily linked me in with a committee of people who didn't like the County. We can't work with that mentality. I do not see it happening. I may be wrong but I do not see it happening. I think whether we agree on what happened and we have to change how we do it in the Berryville Area Plan, whether we disagree, whatever, we have to be reasonably able to associate in a reasonable way without these [her sees] goin on around us. I get so tired of the [her sees]. It blows my mind.
- I want the senior housing. Heck, I want a Sheetz. I'm tired of spendin my money in Winchester.
- I don't want to ruin what I grew up with. What I grew up with was better than what we have now. I don't want to ruin that.
- I don't want to halt things either and we need revenue, right. I mean you can get our water and sewer down.
- We need things that we need to talk about what is feasibly right for us. Not saying you don't like the county. That's irrelevant. What if I didn't like the County? What difference is doing your business process make? I ought to be able to sit and do a business process whether I like you or not. But, I love the County.

Chairman Weiss remarked that he was not certain where Councilwoman McDonald had heard these remarks but she had not heard them from the Supervisors. He stated that the Supervisors respected Town Council and respected the process, which is why the Supervisors asked to meet with Council. He said that this was a small community and the Town and County must work together to thrive.

Mayor Dickinson said that she did not see what was passed for senior housing as a huge deviation calling it a minor course correction. She said that Council shuffled around between adding more apartments and reducing the number of single families. She continued that in the grand scheme of the plan this was just a little piece.

Supervisor Catlett asked what Council would do in future when it came to things it considered a small piece.

Mayor Dickinson responded that she did not have plans for development.

Councilwoman McDonald interjected that she thought what she heard the Supervisors asking is before Council makes a move like this can we discuss it. Whether or not we're still going to make the move, most likely, I mean, if we want to, we probably still are; but, we've come to you and discussed it. I think that's what I hear you say.

Supervisor Byrd remarked that lack of communication was why the bodies were meeting tonight.

Councilwoman McDonald continued do we agree with this? Are we going to move forward with this or are we not after we have a discussion with you. Whether or no, I think I hear you guys saying please come to us. Follow discussion before you do whatever you are going to do.

Mayor Dickinson asked if that was what the BADA was for.

Supervisor Byrd concurred.

Mayor Dickinson continued that Council would not go directly to the Board of Supervisors.

Chairman Weiss restated his preference for following the defined process. He opined that it was difficult to separate the item upon which a body was working from the way in which it ought to be worked. He stated that each body makes changes without consulting the other it would hurt the relationship, hurt the planning and open up the bodies to legal problems.

Supervisor Byrd noted that there were 195 dwelling units left for Berryville and more than 678 acres that could be added to the Town of Berryville. She said that there must be good cooperation between the bodies. She opined that the BAP was a professionally done, easy to read and a wonderful document providing a pathway for future development. She further opined that without the BAP our jurisdiction could end up looking like less desirable

neighboring jurisdictions. Supervisor Byrd commented that Clarke County is different; and if the wrong road is taken, things will sour.

Councilman Kitselman added that he was disappointed in Council. He stated that Council voted against the recommendation of the BADA, the Town Planning Commission, all the reviewing citizen commissions disregarding the institutional knowledge. He asked Council to respect the work that goes into governing, the citizens serving on committees, hours of meetings developing the plan. He stated that he hoped the bodies would work together in future instead of listening to other influences.

Supervisor Byrd interjected Clarke County has a reputation for taking its time and doing its homework and doesn't rush, which is what makes it special.

Councilwoman McDonald remarked that Clarke County is special. When she grew up, she grew up in Boyce. Boyce was beautiful.

Supervisor Byrd interjected that Boyce had not changed.

Councilwoman McDonald continued:

- When I grew up, Boyce had a drug store, a malt shop, a store, all that stuff. All that was on main street in Boyce. We can't go back and have the future.
- I understand this process.
- I understand all this work that Allen and you guys have put into this BADA.
- This is what I like coming to the table and talking.
- Do you tell me that if we come up with something that we want to do, you'd sit here and tell me why it's wrong? Don't just say it is wrong. You shouldn't've done it. You tell me why legally we might be in trouble. We might be wrong because sometime if we understand.

Chairman Weiss responded that he was not implying that Council's decision would result in legal issues but more an issue of partnership and concern for the future. He stated that the Board wants to improve Boyce and Berryville and both bodies know the development pressures. He reminded that the bodies are carefully monitored; and if others see a division or process that is not followed, it may provide an opportunity to bring unwanted pressure. He reminded that the BAP had been agreed upon by all parties; but, if the majority of Council now did not want the methodology set forth, for consistency, the bodies must find a new methodology. He urged all members to remember the importance of being consistent particularly newly elected officials.

Mayor Dickinson recapped that the BAP was approved after the election and before the new officials took office. She stated that they were handed the BAP and they had no input in the plan.

Chairman Weiss responded that he hoped the new Council members had been able to provide input during the public comment periods.

Mayor Dickinson remarked that they did have input during the public comment period; however, the portion that they wanted to change was not changed and that was what changed the election that the people wanted it to be different. So, now, we have a plan . . .

Members of the audience, as well as members of the legislative bodies expressed disagreement with the Mayor's statement.

Mayor Dickinson continued that many persons in Berryville with whom she had spoken did not like the direction the Town was taking. She said that senior housing was a huge issue and the apartments were wanted by many in Berryville and Clarke County making it a deciding issue. She said that Council's minor tweak made the senior housing project possible.

Supervisor Byrd urged newly elected officials to take time to learn their territory, to get to know the "playing field," to avoid misconceptions.

Chairman Weiss noted that there were strong opinions and urged members to bring the discussion back to the process so as to find a way forward together.

Councilwoman McDonald said she wanted to add one more quick thing.

- Growing up here, going to college, and all the things she had an opportunity to do, even this recent sickness, that has decided to come back, you know, I've learned a lot. My family has always been, Donna, you ought to be in politics. My mother used to say why aren't you a Philadelphia lawyer. Because I like to learn this stuff.
- I understand things and I know what we did probably, you know, should have been processed a little differently. But, we've had meetings since.
- I don't have an agenda. I've heard time and again that some of us have come in here with an agenda. I am here to tell you, this public body, right now, I do not have an agenda; and I said when I came here; I'm not coming here agreeing with one certain person.
- I'm coming here because I like the people of this Town, especially the ones I grew up with that are still around. Maybe you call us the common people. Maybe you don't see us here.
- You know why you don't see us here because they don't like the arguments that goes on. They are business people. They've got to work night shift work and stuff. They can't come here and hear the argument; and like Mr. Weiss said, you can't be [snickery] about. We've got to get to business here and make the County and Town work together no matter what it takes.
- We've got to be for the people.

- I've heard from a lot of people that you don't see here – a lot of people that I grew up.
- A lot of people in wheelchairs and stuff that need places to go.
- A lot of people that can't shop other places.
- A lot of people that need things.
- They don't want to ruin downtown.
- I can't even get into half the stores downtown anymore just to throw that out there. I can't even get in them unless somebody is with me to help me up a step.
- Think about those changes that need to be made.
- Think about helping the people.
- Think about educating the people.
- Think about making it a place where your County, your folks want to come in.
- Sit here in your meetings and listen to what you are doing and get that educated voice that we've talked about.
- Where are they going to find these documents. Maybe they should know. You guys put it out there. I knew. But, not everybody knows.
- Maybe if there was some nice place then they could come here and not be put down for everything they say.
- Maybe, we could get along.
- We need to look at that folks.
- We need to look at our people out here who want things and the snickering is not getting us anywhere.

Supervisor Byrd remarked that an elected official represents all constituents not just a small group. An elected official needs to be available and needs to learn how constituents think and what they want.

Supervisor Daniel added that every time the Town and County work together the result is doubly as good. She said that this cooperation saves the Town especially. She, too, cautioned about showing signs of division between the bodies. She then asked how she would have known that Council planned to take action to change the BAP for, had she known that a vote was pending before Council, she would have contacted Council members with questions.

Councilwoman McDonald responded that the item in question had been in the minutes for several months.

Chairman Weiss commented that the Board was aware that Council was discussing the issue; but, as stated by Councilman Kitselman, advising agencies had advised against changing the plan.

Mayor Dickinson said, having been a project manager for many years, planning is everything, the plan is nothing. She said the plan is a guide adjusted to fit the reality of the current situation. She opined that the reality of the current situation had changed because the people of Berryville wanted these apartments; therefore, the plan had to be modified to reflect that reality.

Councilman Kitselman stated that the opposite was true in government – the plan is everything. He restated that the plan had just been revised to allow it to react to proposed changes. He stated that a plan was necessary to ensure a good working relationship between County and Town. He continued that the County and Town were famous in the State of Virginia for working together. He reminded that together they built and now share a government center resulting in considerable savings to the taxpayer. He opined that this was the symbol of the past relationship and he would fight to ensure this same relationship in future.

Supervisor Byrd commented that communication is very important and the bodies must talk with one another to know what the other is thinking in order to do good planning. She reminded that there was a time that the Town and County governments did not get along as well; but, now, the bodies work together. She asked members to remember what, and how, the bodies have accomplished.

Supervisor Catlett noted some members had not yet spoken.

Councilman Tollett then added his thoughts.

- Waited six years to see the senior housing project passed.
- There are people on the Town and County side, on Council and the Planning Commission, that don't really like senior housing, many of them in attendance by the sound of things earlier in the meeting.
- Likes senior housing.
- Suggested members visit Mary Hardesty House and talk to the residents and tell them that no more people like them are wanted in the Town and County.

Chairman Weiss interjected that he was not saying that he did not want more senior residents.

Councilman Tollett replied that he knew that but the two issues cannot be separated.

Chairman Weiss responded that the two issues must be separated.

Councilman Tollett opined that during his six years on Council the project had been turned down.

Chairman Weiss said that he respected the Mayor's opinion that it was too long to wait; however, if the bodies do not wait the appropriate time set forth in the plans they are using, the bodies are self-destructing. He opined that six months is not the reason to undo the plan.

Councilman Tollett asked where six months was guaranteed.

Chairman Weiss drew his attention to the appropriate section of the BAP.

Councilman Tollett opined there were persons that could not separate a project from the petitioner asserting that these persons would not pass anything in which a particular petitioner is involved. He further asserted that these persons were on the BADA.

Chairman Weiss acknowledged Mr. Tollett's opinion then stated that the end result of waiting six months and having the same outcome would have kept the process within the framework laid out, would have been more consistent, and more legally defensible in the future. He emphasized that this was his basic point that the Town could have achieved its goals by waiting and staying within the framework.

Councilman Tollett commented that he respected Chairman Weiss' opinion.

Councilwoman McDonald said that if that were the case would it have been appropriate, or just friendly, for the BADA, six years ago or whatever if it were developed, I don't know that, to have said, *"hey, before you make this decision, let's talk about what's in here. Let's come to the table and talk about what's in here."*

Councilman Tollett opined that a better class builder was ready to do the project during the time the BAP was being rewritten and they were instructed to wait until the plan was revised. He said the builder waited but there was no change in the number of allowable units after which the builder pulled out of the project.

Chairman Weiss offered that this is just how representative government works.

Supervisor Daniel said that she was hearing from at least three Council members is that it was not disregard for the plan generally or randomly but it was because of this one project that gave a sense of urgency to this particular provision that some Council members considered a minor change.

Supervisor Byrd summarized that the rush was just for one particular project without thought for future affect.

Recorder Arnold commented that a 60-unit project was approved twice by Council but the applicant was unable to get funding to complete the project. He stated that Council

approved the first time and time ran out with the applicant coming back again for a letter of support, which Council approved. He restated that a 60-unit project that the applicant did not complete was twice approved by Council but now there is a sense of urgency to approve a 120-unit project in a few months. He added that, having twice approved a 60-unit project, Council does support senior housing. He did acknowledge that while he had supported the 60-unit project he did not support the current 120-unit project.

Supervisor Byrd said that elected members must have trust and confidence in the persons with experience and superior knowledge and should respect the decisions of the Planning Commissions, Berryville Area Development Authority and staff.

Councilman Kitselman put forth that he took exception to the characterization that the applicant was the reason that the project was denied. He opined that Council is very fair; and, sometimes an applicant can't follow the rules and the rules are important.

Supervisor Byrd agreed noting that if the rules are not followed the locality winds up in court.

Councilwoman McDonald asked what the County wanted to see generally happen over the next three years in the Town and County.

Supervisor Byrd referenced Berryville Main Street's recent presentation to the Supervisors on its efforts to revitalize downtown. She opined that she wants to see Berryville be a better special place that will pay for itself.

Supervisor Daniel added that Supervisor Byrd was referring to the Berryville Main Street study and plan.

Chairman Weiss said that the bodies are working in partnership to make it better, building more businesses using the expertise of Len Capelli, Director of Economic Development, and the Berryville/Clarke County Joint Committee for Economic Development and Tourism. He opined that both bodies wanted to make the community better and were not far apart in its goals. He asked that if Council wanted to go in another direction that it inform the Supervisors so that the bodies might come together to discuss and work through the process. He concluded that the Supervisors basic message is "include us in the conversation, be thoughtful as to what you are doing, understand, as Allan has said, the work that has gone into what we are doing, and, it may seem odd, but come to us, come to staff and we can be wrong and we will try to move and do things differently to make things work better. But, if we don't follow the stuff we created in the way that we created, we are going to be lost. Then, we can change it. This is the reason that this year of things in it is because we responded, perhaps slowly, to the development community, who said you can't make us wait five years for you to change your plan to allow us or not allow us to do things. So, I'm rather passionate about this." He continued that these things matter and the Supervisors want to be part of the conversation and it wants to work with Council.

Councilwoman McDonald commented that they do matter. When, years and years ago, like I said, I grew up when there wasn't much here. I hate to keep bringing that up but sometimes, historically, you have to. Jay, you were here. I remember coming to some of the Town meetings and the County meetings when the first housing development was talked about being built and because sometimes I'm a forward thinker, I'm thinking, okay, you build it. Go ahead, you build it; because I was against it. But, you all go ahead if you want it, you build it, if that's what you want, you build those houses. Your town and county are never gone to be the same and they haven't been. When you open those gates, you've got to prepare for the parameters and the obstacles and the good and the bad that comes in with it. You just have to. You can't build glorious, glorious houses and invite people in and say, don't, don't, okay, here's your house. You sit here quietly but don't ya have an opinion. Don't you have a thought about what you want your county to be or your town to be. The only way we could ever have had a good Berryville and Boyce was to shut em out. Stand by the Board and people now. I'm teasing.

Supervisor Daniel noted that she lived in Clarke by choice, not birth.

Supervisor Byrd commented that the localities needed to work together for the betterment of the whole area.

Councilwoman McDonald said which is not to say you've not going to be able to do what you think you need to do for your town and your constituents. We're not saying that. We're saying we gonna talk about the repercussions, the good, the bad, the ugly. We're gonna talk about it.

Supervisor Catlett commented on Councilwoman McDonald's question on what the Supervisors wanted for the Town and County opining that most people living here have a passion for the area and are willing to work to make it a better place.

Supervisor Byrd added that the Berryville Area Plan was the road map; and when it is not followed, the bodies become lost.

Supervisor Daniel asked if her representative on Town Council, Erika Gibson, had anything to say on the matter.

Councilwoman Gibson responded that she came to the meeting to listen, to learn and not reply.

Mayor Dickinson asked if there was anything further from Council.

Councilwoman McDonald responded that she could sit here all night. We are not fighting. You see we're not saying "you're wrong don't you have an opinion." We are not saying that; we talking about that. Well, times over; but, you know us, we're talking about things.

Chairman Weiss stated that the Supervisors appreciated the opportunity to meet with Town Council restating that the BADA is the means to discuss and work through such things.

Next Regular Meeting Date

The next regular meeting of the Board of Supervisors is set for Tuesday, December 20, 2016 at 1:00 p.m. in the Berryville Clarke County Government Center, Main Meeting Room, 101 Chalmers Court, Berryville, Virginia.

Adjournment

At 7:25 pm, being no further business, Chairman Weiss adjourned the Board of Supervisors meeting.

Immediately after, Mayor Dickinson adjourned the Berryville Town Council.

ATTEST: December 13, 2016

David S. Weiss, Chair

David L. Ash, County Administrator

Minutes recorded and transcribed by: Lora B. Walburn, Deputy Clerk to the Board of Supervisors