



**REGULAR CITY COUNCIL MEETING  
MONDAY OCTOBER 10, 2022 @ 6:00 PM  
CHERRYVILLE COMMUNITY BUILDING  
W. J. ALLRAN COUNCIL CHAMBERS  
106 S. JACOB ST. CHERRYVILLE, N.C. 28021**

The Honorable Mayor H.L. Beam called the regular scheduled meeting to order at the community building in the William J. Allran Council Chambers. Councilmember's Jill Puett, Gary Freeman, Jon Abernethy, and Malcolm Parker were present. City Manager Brian Dalton, City Clerk Paige H. Green, City Attorney Palmer Huffstetler Jr., Planning & Zoning Director Alex Blackburn, Wastewater Superintendent Larry Wright, Finance Director Dixie Wall, Downtown Director David Day, Fire Chief Jason Wofford, and Police Chief Cam Jenks were also present. Michael Powell was present for media coverage.

**INVOCATION: MRS. JEANNA SPIKER, MT. ZION BAPTIST CHURCH:**

Mrs. Jeanna Spiker gave the invocation.

**PLEDGE OF ALLEGIANCE:**

Everyone stood and recited the Pledge of Allegiance.

**AGENDA APPROVAL:**

Councilmember Abernethy made a motion to approve the agenda as written. Councilmember Freeman seconded the motion and the vote was unanimous.

**APPROVAL OF MINUTES:**

Councilmember Puett made a motion to approve three sets of minutes. They are as follows:

- A. CITY COUNCIL REGULAR MEETING SEPTEMBER 12, 2022
- B. CITY COUNCIL CLOSED SESSION MEETING SEPTEMBER 12, 2022
- C. CITY COUNCIL SPECIAL WORK SESSION MEETING AUGUST 23, 2022

Councilmember Parker seconded the motion and the vote was unanimous.

**MAYOR'S COMMENTS:**

**WHEREAS**, there are approximately 700,000 veterans in the State of North Carolina, with over 350 of them being in the City of Cherryville; and

**WHEREAS**, Veterans continue to serve their community in the American Legion, Veterans of Foreign Wars, church groups, civil service; and

**WHEREAS**, approximately 200,000 service members transition to civilian communities annually; and

**WHEREAS**, an estimated 20% increase of service members will transition to civilian life in the near future; and

**WHEREAS**, studies indicate that 44% to 72% of service members experience high levels of stress during transition from military to civilian life; and

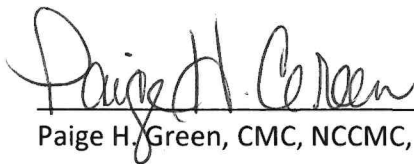
**WHEREAS**, Active Military Service Members transitioning from military service are at a high risk for suicide during their first year after military service; and

**WHEREAS**, the City of Cherryville City Council appreciates the sacrifices our United State Military Personnel made while defending freedom and believes accord them, specific recognition in appreciation of their service and to demonstrate the honor and support they have earned;

**NOW THEREFORE BE IT RESOLVED**, with designation as a Green Light for Military Service City, Cherryville hereby declares from November 7, 2022 through November 14, 2022 a time to salute and honor the service and sacrifice of our men and women in uniform transitioning from Active Service; and

**BE IT FURTHER RESOLVED**, that in observance of Operation Green Light, the Cherryville City Council encourages its citizens in patriotic tradition to recognize the importance of honoring all those who the immeasurable sacrifices helped to preserve freedom by displaying a green light in a window of their place of business or residence.

Adopted this 10 day of October 2022.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor

**CONSIDERATION OF A PUBLIC HEARING RE: REZONING FROM B-1 (CENTRAL BUSINESS DISTRICT) TO R-0 (RESIDENTIAL OFFICE) 109 S. JACOB STREET (GASTON COUNTY PID #129868) PLANNING & ZONING DIRECTOR ALEX BLACKBURN:**

Councilmember Puett made a motion to enter into a public hearing regarding the rezoning of 109 S. Jacob Street. Councilmember Parker seconded the motion and the vote was unanimous.

Planning & Zoning Director Blackburn shared that he met with an applicant regarding the potential uses allowable for the current zoning designation of the Central Business District (B-1). Property owners inquired about the possibility of having the existing structure remodeled to its original use as a Single Family Dwelling as it was when constructed in 1918. City Staff and the

applicant agreed that the Residential Office (R-O) zoning designation would be the more fitting zoning designation for the intended use of the property and its existing structures. A completed application for a Zoning Map Amendment was submitted on July 8, 2022. The subject property is currently abutted on the South and Eastern sides by the R-O zoning district. To the North and West, properties are zoned as B-1. The Planning Board reviewed the rezoning request at their regular scheduled July 18, 2022 meeting and they approved the request.

Mayor Beam asked if any citizens would like to speak on this matter. No citizens spoke.

Councilmember Parker made a motion to exit the public hearing. Councilmember Abernethy seconded the motion and the vote was unanimous.

Mayor Beam then read the following statement of consistency:



## STATEMENT OF CONSISTENCY

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### CITY OF CHERRYVILLE REQUIREMENT OF SECTION 19.1.10 OF THE CITY OF CHERRYVILLE ZONING ORDINANCE

The Cherryville City Council, held a Public Hearing on: October 10, 2022 to consider Rezoning 109 S. Jacob Street, Parcel #129868. After the Public Hearing and discussion of the rezoning the Council draws the following CONCLUSIONS:


1. It is the Council's CONCLUSION that, the proposed rezoning **IS / IS NOT** consistent with the City of Cherryville Land Use Plan adopted in August 2012.

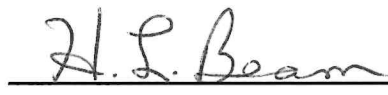
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2. The Council finds the proposed rezoning **IS / IS NOT** reasonable and **IS / IS NOT** in the public interest. This conclusion is based on the following:

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**Ordered this 10<sup>th</sup> day of October 2022**

  
\_\_\_\_\_  
Paige H. Green, CMC, NCCMC, City Clerk

  
\_\_\_\_\_  
H.L. Beam, Mayor

After some discussion, Councilmember Parker made a motion to approve the rezoning of 109 S. Jacob Street from B-1 to R-0. Councilmember Puett seconded the motion and the vote was unanimous.

**CONSIDERATION OF A PUBLIC HEARING RE: REZONING FROM B-3 (GENERAL BUSINESS DISTRICT) TO R-9 (SINGLE AND TWO-FAMILY RESIDENTIAL) 1407 E. MAIN STREET (GASTON COUNTY PID #215920) PLANNING & ZONING DIRECTOR ALEX BLACKBURN:**

Councilmember Abernethy made a motion to enter into a public hearing. Councilmember Freeman seconded the motion and the vote was unanimous.

Planning & Zoning Director Blackburn shared that owner/applicant Mr. A. Patel contacted him on Thursday, June 30, 2022 regarding the property listed above located at 1407 E. Main Street Cherryville, NC 28021 further identified as Parcel ID# 215920. The owner is requesting a Zoning Map Amendment from the current designation of the General Business District (B-3) to that of the Single and Two-Family Residential (R-9) zoning district. At this time, the applicant is proposing that the property would be more suitable for a duplex considering the amount of time it has been vacant as a business (formerly Papa John's Pizza). The Planning Board reviewed the rezoning request at their regular scheduled July 18, 2022 meeting and they did not approved the request.

Mayor Beam asked if any citizens would like to speak on this matter. No citizens spoke.

Councilmember Puett made a motion to exit the public hearing. Councilmember Abernethy seconded the motion and the vote was unanimous.

Mayor Beam then read the following statement of consistency:



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## STATEMENT OF CONSISTENCY

### CITY OF CHERRYVILLE REQUIREMENT OF SECTION 19.1.10 OF THE CITY OF CHERRYVILLE ZONING ORDINANCE

The Cherryville City Council, held a Public Hearing on: **October 10, 2022** to consider Rezoning 1407 E. Main Street, **Parcel #215920**. After the Public Hearing and discussion of the rezoning the Council draws the following CONCLUSIONS:

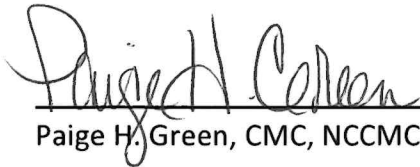
3. It is the Council's CONCLUSION that, the proposed rezoning IS / IS NOT consistent with the City of Cherryville Land Use Plan adopted in August 2012.

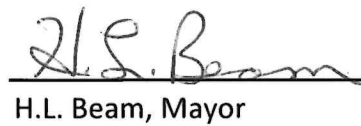
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4. The Council finds the proposed rezoning IS / IS NOT reasonable and IS / IS NOT in the public interest. This conclusion is based on the following.

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**Ordered this 10<sup>th</sup> day of October 2022**

  
Paige H. Green, CMC, NCCMC, City Clerk

  
H.L. Beam, Mayor

After some discussion, Councilmember Abernethy made a motion to deny the rezoning of 1407 E. Main Street from B-3 to R-9. Councilmember Puett seconded the motion and the vote was unanimous.

**CONSIDERATION OF RESOLUTION RE: AUTHORIZATION OF FUNDING FOR THE CLEVELAND COUNTY WATER INTERCONNECTION PROJECT, CITY MANAGER BRIAN DALTON:**

Mr. Dalton asked for consideration for the following resolution. He explained that a resolution was approved on September 27, and this is the same resolution but the resolution before them, includes phone numbers for contacts with Cleveland County water and the City of Cherryville.

NORTH CAROLINA

CLEVELAND COUNTY

**INTERLOCAL AGREEMENT FOR INSTALLATION, OPERATION  
AND MAINTENANCE OF A WATER SYSTEM  
INTERCONNECTION ALONG WEST ACADEMY STREET  
BETWEEN CLEVELAND COUNTY WATER AND THE CITY OF  
CHERRYVILLE**

This Agreement entered into this the 10th of October, 2022, by and between the CITY OF CHERRYVILLE, a North Carolina Municipal Corporation, Party of the First Part, hereinafter referred to as "Cherryville", and CLEVELAND COUNTY WATER, a Sanitary District organized under the laws of the State of North Carolina, Party of the Second Part, hereinafter referred to as "CCW".

WITNESSETH:

WHEREAS, Cherryville and CCW jointly will install a project referenced as the Cherryville-CCW Interconnection project along West Academy Street near the Cherryville Corporate limits; and

WHEREAS, due to the funding provided pursuant to S.L 2022-74, both CCW and Cherryville desire to install and maintain an interconnection for Cherryville to utilize and receive potable water service from CCW and for CCW to utilize and receive potable water service from Cherryville, and both CCW and Cherryville are ready, willing, and able to provide potable water service to the other party under certain terms and conditions; and,

WHEREAS, the upgraded facilities will consist as follows:

- Adequate easement for facilities at or near Gaston tax parcel ID 130325 or parcel 130326
- Dual Meter vault and associated appurtenances to include a new six-inch (6”) meters and appropriate backflow devices to protect both systems at the master meter vault
- SCADA communications link between the master meter and the West Academy elevated water storage tank for the benefit of CCW
- SCADA communications link between the master meter and the Mary’s Grove elevated water storage tank for the benefit of Cherryville

WHEREAS, it serves the mutual benefit and convenience of Cherryville and CCW to enter into this Agreement to better utilize the assets and abilities of each party for their mutual benefit and for the public good and protection of health and welfare.

NOW, THEREFORE, in consideration of the mutual benefits provided for each Party, Cherryville and CCW agree as follows:

1. OBLIGATIONS OF CHERRYVILLE

- A. Cherryville will cooperate fully and assist CCW by whatever means necessary or available in obtaining the necessary easement for the anticipated dual meter vault improvements. CCW will be responsible for any financial considerations in obtaining the necessary easement.
- B. Cherryville will review and approve the plans, and specifications of the meter vault design and connection

methods designed by a duly licensed North Carolina Professional Engineer in accordance with the North Carolina Public Water Supply Permitting Process.

- C. Cherryville shall notify CCW to open and utilize the connection between CCW and Cherryville. Notification shall be given as follows: 1) During normal business hours via telephone at the CCW Administrative Offices (704) 538-9033 or 2) After normal business hours via telephone at the CCW WTP (704) 538-9034
- D. In the event of water restrictions in accordance with CCW water shortage response plan, Cherryville shall be required to abide by and institute the same water restrictions during use of the interconnection. If the interconnection between CCW and Cherryville is not in use, then said water shortage response plan restrictions shall not apply to Cherryville.
- E. The rate charged to CCW from Cherryville during use of the interconnection shall be the reciprocal Governmental Rate adopted by CCW in affect at the time.

## 2. OBLIGATIONS OF CCW

- A. CCW will manage, oversee, and direct, by hiring duly licensed Professional Engineers in the State of North Carolina, for all aspects of the design and permitting of the water interconnection and connection between the Cherryville and CCW public water supply system.
- B. CCW shall notify Cherryville to open and utilize the connection between Cherryville and CCW. Notification shall be given as follows: 1) During normal business hours via telephone at the Cherryville WTP (704) 435-1738 or 2) After normal business hours via telephone at the Cherryville Police Department (704) 435-1717
- C. In the event of water restrictions in accordance with the Cherryville water shortage response plan, CCW shall be required to abide by and institute the same water restrictions during use of the interconnection. If the interconnection between Cherryville and CCW is not in use, then said water shortage response plan restrictions shall not apply to CCW.
- D. The rate charged to Cherryville during use of the interconnection shall be the duly adopted Governmental Rate adopted and amended from time to time by CCW.

The current rate is \$2.03 per 1,000 gallons as of the effective date of this agreement. CCW commits to notify Cherryville in writing a minimum of six (6) months in advance of any change or increase to the CCW adopted governmental rate schedule.

### 3. OBLIGATIONS OF BOTH PARTIES

- A. There shall be no tap or connection charges applicable to this dual meter interconnection owed by either party to the other party.
- B. CCW and Cherryville shall be jointly responsible upon completion of construction and for the life of the metering vault and equipment, all operation and maintenance costs in accordance with standard practice. Should either party desire for either meter located in the dual interconnection pit to be calibrated, tested or replaced, then each party shall share equally in the costs of such action of calibration, testing or replacement.
- C. Upon completion of the interconnection project, CCW shall own, operate, and maintain as part of its public water supply system all infrastructure up to the metered point of delivery of potable water from CCW to Cherryville, and Cherryville, likewise, shall own, operate, and maintain as part of its public water supply system all infrastructure up to and including the metered point of delivery of potable water from Cherryville to CCW.

### 4. AMENDMENTS

This Agreement contains the entire agreement along with Exhibit A (Meter Pit Layout) attached hereto and understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, inducements, and conditions, express or implied, oral, or written, of any nature whatsoever with respect to the subject matter hereof. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof.

### 5. TERM

This Agreement shall commence on the day in which it is signed by the final Party and exist for the life of the water system interconnection and master meter equipment. If any party shall seek to terminate this Agreement, they shall do so only after having given the other parties ninety (90) days written notice, said notice to be given by certified mail return receipt requested to the address of the parties as stated herein.



## 6. ENTIRE AGREEMENT

This document including any Exhibits contains the entire agreement of the parties and there are no verbal terms or other written terms or provisions hereof which are not contained in this document. The paragraph headings or titles herein are for convenience only and constitute no part of the terms of this agreement.

## 7. NOTICES

All notices provided for herein and all documents and payments exchanged between the parties shall be provided to as follows:

City of Cherryville  
Attn: City Manager  
116 S. Mountain St.  
Cherryville, NC 28021

Cleveland County Water  
Attn: General Manager  
PO Box 788  
Lawndale, NC 28090

## 8. FORCE MAJEURE

The term "force majeure" as used in this contract shall mean acts of God and any event or effect that cannot reasonably be anticipated or controlled. In any case in which by reason of "force majeure" either party is rendered unable wholly or in part to carry out its obligations to the other party. The obligation of the party giving such notice, in so far as it is affected by "force majeure" shall be suspended during the continuance of the inability claimed, but no longer.

## 9. LIABILITY AND INDEMNIFICATION

Nothing contained in this agreement shall be construed to impose upon CCW or Cherryville any responsibility for or liability arising from the operations of the meter or metering equipment and water interconnection between the parties. If any third party shall attempt to hold CCW or Cherryville or its public officials, employees, contractors, heirs or assigns responsible in any way for the meter or metering equipment and interconnection in any manner, including, but not limited to, legal action, both parties hereby agrees to hold the other party harmless and indemnify it for any costs or liabilities associated therewith, including, but not limited to, judgments, court costs, and attorney fees.

## 10. CITY OF CHERRYVILLE AUTHORITY

The authority of the officials of the City of Cherryville to execute this Agreement is evidenced by the authority given on \_\_\_\_\_ in Resolution No. \_\_\_\_\_.

## 11. CCW AUTHORITY

The authority of the officials of the Cleveland County Water to execute this Agreement is evidenced by the authority given on \_\_\_\_\_ in Resolution No. \_\_\_\_\_.

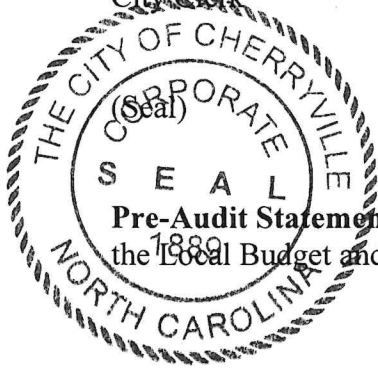
IN WITNESS WHEREOF, the City of Cherryville has caused this agreement to be executed in duplicate originals by its Mayor and attested by its Clerk. Each party with its Corporate Seal hereto affixed on the date and year so indicated.

**CITY OF CHERRYVILLE**

H.L. Beam Date 11/14/2022  
H.L. Beam  
Mayor

**ATTEST:**

Paige H. Green Date: 11/14/2022  
Paige H. Green, CMC NCCMC  
City Clerk



**Pre-Audit Statement:** This instrument has been pre-audited in the manner required by the Local Budget and Fiscal Control Act.

\_\_\_\_\_  
Dixie Wall  
Finance Director  
Date: \_\_\_\_\_

**APPROVED AS TO FORM**

\_\_\_\_\_  
Palmer E. Huffstetler, Jr.  
City Attorney  
Date: \_\_\_\_\_

IN WITNESS WHEREOF, Cleveland County Water has caused this agreement to be executed in duplicate by its Chairman of the Board of Commissioners and Secretary. Each party with its Corporate Seal hereto affixed on the date and year so indicated.

**CLEVELAND COUNTY WATER**

\_\_\_\_\_ Date \_\_\_\_\_  
Donald O. Melton  
Chairman

**ATTEST:**

\_\_\_\_\_ Date: \_\_\_\_\_  
Bill Cameron  
Secretary

(Seal)

**Pre-Audit Statement:** This instrument has been pre-audited in the manner required by the Local Budget and Fiscal Control Act.

\_\_\_\_\_ Date: \_\_\_\_\_  
Ginger Fern, CPA  
Finance Director

**APPROVED AS TO FORM**

\_\_\_\_\_ Date: \_\_\_\_\_  
Timothy K. Moore  
Cleveland County Water Attorney

Councilmember Parker made a motion to approve the resolution regarding, authorization of funding for the Cleveland County Water Interconnection Project. Councilmember Puett seconded the motion and the vote was unanimous.

**CONSIDERATION OF CITY FINANCIAL STATEMENT ENDING AUGUST 31, 2022, CITY MANAGER BRIAN DALTON:**

Mr. Dalton went over the financial statement.

**OTHER BUSINESS:**

Mayor Beam shared the following:

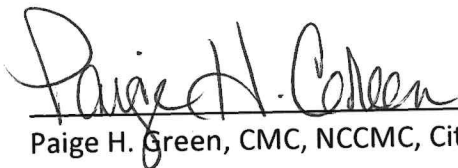
Water—Have You Ever Wondered? The average person uses over 100 gallons of water at home each day. Here are some tips to reduce the amount you use.


1. Fix leaky faucets and plumbing joints. A leaky faucet can waste up to 20 gallons of water per day.
2. Don't run the hose while washing your car. Use a bucket of water and a quick hose rinse at the end.
3. Install water-saving shower heads or flow resistors.
4. Run only full loads in the washing machine and dishwasher.
5. Shorten your showers. Even one or two minute reduction makes a big difference.
6. Use a broom instead of a hose to clean driveways and sidewalks.
7. Capture tap water. While you wait for hot water to come down the pipes, catch the flow in a watering can to use later on house plants or your garden. These are just a few tips to save on household water use.

**ADJOURNMENT:**

Councilmember Abernethy made a motion to adjourn the meeting. Councilmember Freeman seconded the motion and the vote was unanimous. The meeting adjourned at 6:38 pm.

Adopted this 14 day of November, 2022.

  
Paige H. Green, CMC, NCCMC, City Clerk

  
H.L. Beam, Mayor

