



REGULAR CITY COUNCIL MEETING

MONDAY MAY 10, 2021 @ 6:00 PM

CHERRYVILLE COMMUNITY BUILDING

106 S. JACOB ST. CHERRYVILLE, N.C. 28021

The Honorable Mayor H.L. Beam called the meeting to order. Councilmember's Jill Puett, Gary Freeman, Malcolm Parker, and Jon Abernethy were present. City Manager/Fire Chief Jeff Cash, City Clerk Paige H. Green, City Attorney Palmer Huffstetler Jr., Police Lieutenant Brandon Parker, Public Works Director Brandon Abernathy, Finance Director Dixie Wall, Planning & Zoning Director Derrick Mackey, and Downtown Director David Day were also present. Michael Powell of the Cherryville Eagle was present for media coverage.

INVOCATION: PASTOR ZACK CHRISTY, FIRST UNITED METHODIST CHURCH:

City Manager Jeff Cash 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 Parker seconded the motion and the vote was unanimous.

APPROVAL OF MINUTES:

Councilmember Freeman made a motion to approve the minutes from the April 12 city council meeting, and the May 1 work session & budget session meeting. Councilmember Abernethy seconded the motion and the vote was unanimous.

MAYOR'S COMMENTS:

On Saturday May 1st, following our regular work session, the city council members met with city clerk Paige Green, Finance Director Dixie Wall, and City Manager Jeff Cash to discuss the city's budget for the coming year. We began around 8:30 am and finished around 1:30 p.m.

only stopping for a brief time for lunch. The formal budget will be presented to council and our citizens sometime next month.

This past Thursday, at First Presbyterian Church of Cherryville, I was privileged and honored to give the welcoming address and prayer for the 70th annual National Day of Prayer for our city. A good group was on hand, and many prayers were offered up at this event.

The N.C. Department of Transportation sent me the following email entitled "May is Motorcycle Awareness Month-Spring Mowing" The "Green Ice" Initiative and I would like to share it with our citizens at this time.

Though you would think grass clippings to be harmless, they are actually quite dangerous to pedestrians, bicyclists, motorcyclists, and our local environment. If kept on your lawn they serve as a great fertilizer, keeping nutrients on your property. When in the streets they easily wash fertilizer and pesticides into local watersheds that could be harmful, especially to the lakes and streams where you fish or let your dog swim. The clippings are quite slick and when they end up on roads can pose as a life-threatening hazard to motorcyclists. If an incident were to occur on your property, you could be liable for civil damages, if someone is injured due to your actions. With that, I urge you to protect your community by keeping your grass clippings off the street.

Our city as early as last year, issued an ordinance to prohibit grass clippings from entering our streets. We will be enforcing this ordinance with warnings and fines, for those found in violation of this ordinance. Remember to keep our streets clean.

In closing: Earlier today I attended Carolina Care Center to read a proclamation declaring National Nursing Home week beginning May 9 through May 15, 2021.

This concludes your Mayor's comments for this evening.

SPECIAL PRESENTATION OF THE NORTH CAROLINA LONG LEAF PINE AWARD, HONORABLE MAYOR H.L. BEAM:

Mayor Beam presented former Mayor Robert Austell with the Long Leaf Pine Award.

CONSIDERATION OF PROCLAMATION FOR NATIONAL POPPY DAY, MAYOR PRO TEM JILL PUETT:

Mayor Pro Tem read the following proclamation in recognition of National Poppy Day:



The Office of the Mayor

May 10, 2021

Expressing support for the designation of the May 28, 2021,

As "National Poppy Day" in honor of our fallen.

American Legion Unit 100 submitted the following proclamation; which was referred to the office of Mayor H.L. Beam for review.

PROCLAMATION

Expressing support for the designation of May 28, 2021 as "National Poppy Day" in Cherryville and recognizing the importance of honoring those that have worn our nation's uniform; and

WHEREAS, poppies are worn and displayed as a symbolic tribute to our fallen and the future of living veterans and service members; and

WHEREAS, at the end of World War I, The American Legion adopted the poppy as a symbol of freedom and the blood sacrificed by troops in wartimes; and

WHEREAS, The use of the poppy symbolically comes from the poem In Flanders Fields, which movingly begins, "In Flanders Fields the poppies blow, between the crosses, row on row," referring to the poppies that sprang up in the churned earth of battlefields across Belgium and France where soldiers died fighting; and

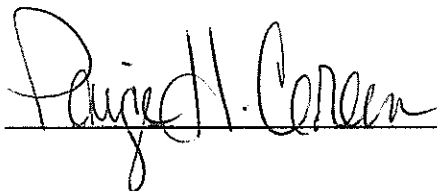
WHEREAS, The American Legion Family has long utilized the red poppy as its official flower, symbolizing the blood shed by those who have served in our U.S. Military. and The American Legion and American Legion Auxiliary, expand the meaning and symbolism of the poppy, mirroring the manner in which the poppy is symbolically showcased in England and Canada in celebratory fashion on their Remembrance Day, also known as Armistice Day and Poppy Day; and

WHEREAS, wearing a poppy will unite citizens from across the country who decide to show their patriotism; and

WHEREAS, May 28, 2021 would be an appropriate date to designate as "National Poppy Day"

Now, therefore, be it Resolved, that the Office of the Mayor

- (1) Supports the designation of May 28, 2021 as "National Poppy Day; and
- (2) Encourages all citizens, residents, and visitors in Cherryville to join in observing this day to honor every service member who has died in the name of liberty, freedom and democracy while also showing their support for living veterans, service members and their families.





**CONSIDERATION OF PROCLAMATION FOR NATIONAL POLICE MEMORIAL WEEK, HONORABLE
MAYOR H.L. BEAM:**

Mayor Beam read the following proclamation in recognition of National Police Memorial Week:



**PROCLAMATION
NATIONAL POLICE MEMORIAL WEEK
MAY 9 – 15, 2021**

WHEREAS, In 1962, President John F. Kennedy signed a proclamation which designated May 15 as Peace Officers Memorial Day and the week in which that date falls as National Police Memorial Week. Currently, tens of thousands of law enforcement officers from around the world converge on Washington, DC to participate in a number of planned events which honor those that have paid the ultimate sacrifice; and

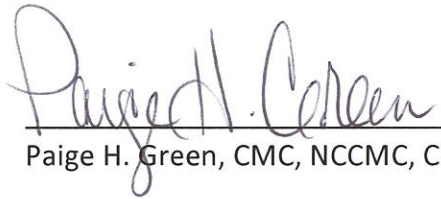
WHEREAS, Our law enforcement officers are the guardians of life and property; defenders of the individual right to be free; warriors in the battle against crime; and are dedicated to the preservation of life and property; and


WHEREAS, The City of Cherryville honors the valor, service, and dedication of all Police Officers, and publicly salutes the service of each and every one of our own Cherryville Police Officers;

NOW, THEREFORE, BE IT RESOLVED, That the Mayor and City Council of the City of Cherryville hereby proclaims May 9 – 15, 2021 as Police Week in the City of Cherryville, and call upon all our citizens to make every effort to express appreciation to these men and women who are willing to sacrifice their lives, if necessary, to guard us and our loved ones against all who would violate the law; and

BE IT FURTHER RESOLVED, That we invite all citizens to reflect and remember all officers who have lost their lives in service. These men will forever be remembered for their ultimate sacrifice.

Adopted this 10 day of May 2021


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor
(SEAL)

CITIZENS TO BE HEARD: CITIZENS THAT WISH TO SPEAK MAY DO SO BY COMING TO THE PODIUM AND STATING YOUR NAME AND ADDRESS BEFORE YOU SPEAK. COMMENTS WILL BE HELD TO 5 MINUTES PER PERSON. (PLEASE SIGN UP WITH THE CLERK AT THE MEETING BEFORE THE MEETING BEGINS):

None.

PUBLIC HEARING RE: REZONING FOUR GIS PARCELS (PIN #'S 130320, 219066, 130314, & 130318) FROM GMC & R-9 TO RMF., PLANNING & ZONING DIRECTOR DERRICK MACKEY:

Mayor Beam asked for a motion to enter into a public hearing. Councilmember Puett made a motion to enter into a public hearing. Councilmember Freeman seconded the motion and the vote was unanimous.

Planning & Zoning Director Derrick Mackey approached the podium to share that the Planning Board met on April 19 at 6:00 pm and voted five to one to approve the rezoning of 1444 W. Academy Street. Mr. Mackey shared that the Mr. Denis Blackburne, Senior Vice President of Woda Companies, is available for any questions that Mayor Beam or Council may have. Mr. Mackey also shared that he has not received any comments from abutting property owners.

Mayor Beam asked if any citizen would like to speak on the rezoning. No one spoke. Mayor Beam then asked for a motion to exit the public hearing. Councilmember Parker made a motion to exit the public hearing. Councilmember Puett seconded the motion and the vote was unanimous.

Mayor Beam then asked Council to consider the Statement of Consistency below:



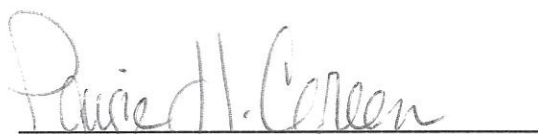
STATEMENT OF CONSISTENCY

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


The City Council of the City of Cherryville held a Public Hearing on Monday May 10, 2021 to consider Rezoning Parcel ID's #130320, 219066, 130314 and 130318, located at or about 1444 W. Academy Street, Cherryville, NC. 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's **ARE / ARE NOT** consistent with the City of Cherryville's Land Use Plan adopted in August 2012.
2. The Council finds the proposed rezoning's **ARE / ARE NOT** reasonable and **ARE / ARE NOT** in the public interest. This conclusion is based on the following:

Ordered this 10 day of May 2021.



Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor

(SEAL)

Councilmember Freeman made a motion to approve the Statement of Consistency as written above. Councilmember Puett seconded the motion and the vote was unanimous.

CONSIDERATION TO SET A DATE FOR A PUBLIC HEARING RE: FY 2021 – 2022 PROPOSED BUDGET, CITY MANAGER JEFF CASH:

City Manager Cash asked for consideration in setting a date for a public hearing regard the approval of FY 2021 – 2022 proposed budget.

Councilmember Abernethy made a motion to set a public hearing for Monday June 14, 2021 for consideration of the proposed FY 2021 – 2022 budget. Councilmember Freeman seconded the motion and the vote was unanimous.

CONSIDERATION OF AMENDING THE CITY OF CHERRYVILLE'S GOLF CART POLICY, HONORABLE MAYOR H.L. BEAM:

Mayor Beam asked that the Golf Cart Policy be amended once again. Mayor Beam shared that Councilmember Parker watched a golf cart cross Hwy. 150 while pulling a baby stroller.

Councilmember Parker shared that he is afraid someone is going to get hurt. Councilmember Parker asked that council consider adding a line to the policy that states nothing can be pulled by a golf cart. Below is a copy of the policy for consideration:



Chapter 28

TRAFFIC AND VEHICLES

ARTICLE II. OPERATION OF GOLF CARTS ON PUBLIC STREETS AND ROADS

Sec. 28-49 Liability Disclaimer.

The establishment of a golf cart ordinance is necessary to address the interests of public safety. Golf carts, are not designed or manufactured to be used on public streets, roads and highways, hereinafter "road(s)," and the City of Cherryville in no way advocates or endorses their operation on roads. The adoption of this Ordinance is not to be relied upon as a determination that operation on roads is safe or advisable if done in accordance with this Ordinance. All persons who operate or ride upon carts on roads do so at their own risk and peril and must be observant of and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. The City of Cherryville has no liability under any theory of liability for permitting carts to be operated on roads under special legislation granted by the State Legislature. Any person who operates a cart must procure liability insurance sufficient to cover the risks involved in using a cart on the roads of the City of Cherryville.

Sec. 28-50 Purpose.

The purpose of this ordinance shall be to establish a Golf Cart Ordinance within the City of Cherryville to promote the health, safety and welfare of persons operating cart(s) within the City of Cherryville and to protect the safety of their passengers and other users of roads.

SEC. 28-51 Definitions.

For the purpose of this section, the following words and phrases shall have the following meanings.

1. Golf Cart: A vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 MPH. G.S. 20-4.01(12b).
2. Driver's License: A valid license issued to operate a motor vehicle issued by North Carolina or any other state.

3. Financial Responsibility: Liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.
4. Operator: Only persons over 16 years of age and holding a valid driver's license may operate a golf cart on roads.

Sec. 28-52: Rules and Regulation.

This ordinance is to establish guidance in the interest of public safety. Golf carts hereinafter:

1. Golf carts shall not be operated on or alongside a public road or street with a posted speed limit greater than 35 miles per hour.
2. Golf carts are prohibited from traveling on Highway 150 (East and West Church Street), Highway 274 (North and South Mountain Street), and Hwy 279 (E. Main Street between Rudisill Street and Dick Beam Road.) However, golf carts are permitted to cross over Highway 150 (East and West Church Street) and Highway 274 (North and South Mountain Street) as long as the crossing occurs at a lighted traffic control device (i.e. stoplight).
3. Golf carts may cross a road with a posted speed limit greater than 35 mph. However, once this segment of road has been transversed, the golf cart is still required to travel only on or alongside a roadway with a speed limit of 35 mph or less. Golf cars must cross in a manner that is the most direct route in order to decrease crossing distance, i.e. no riding along a road or crossing at an angle.
4. Any person who operates a golf cart must be responsible for all liability associated with operation of the golf cart and must have liability insurance coverage which will cover the use of a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.
5. Any person who operates a golf cart must be at least sixteen (16) years of age or older. No person may operate a golf cart unless that person is licensed to drive upon the public streets, roads and highways of North Carolina and then, only in accordance with such valid driver's license. Golf cart operators must carry their driver's license on their person at all times while operating a golf cart on public roads.

6. Any person who operates a golf cart on public streets and roads must adhere to all applicable State and local laws, regulations and ordinances, including but not limited to those banning the possession and use of alcoholic beverages, and all other illegal drugs. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.
7. The operator of the golf cart shall comply with all traffic rules and regulations adopted by the State of North Carolina and the City of Cherryville which governs the operation of motor vehicles.
8. An operator may not allow the number of people in the golf cart at any one time to exceed the maximum capacity specified by the manufacturer. The operator shall not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags.
 - a. In no instance shall a golf cart be operated at a speed greater than 20 miles per hour. No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions.
9. Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.
10. Golf carts must park in designated spaces or in such a manner that multiple golf carts can utilize the same space. All parking rules and limits apply. No parking on sidewalks is allowed.
11. Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a rear triangle reflector of the same type required by North Carolina law.
12. Golf carts without lights may be operated only during daylight hours. Golf carts meeting the requirements set forth below may operate between sunup to 11:00 p.m.
 - a. Golf carts having two (2) operating headlights, one on each side of the front of the golf cart and two (2) operating tail lights, one on each side of the rear of the cart, all four (4) lights must be visible from a distance of 500 feet; and

- b. If a mechanical turn signal indicator is not installed, then hand signals are required for turns.
13. The Chief of Police, or his designee, may prohibit the operation of golf carts on any street, road or highway if it is determined that the prohibition is necessary in the interest of safety.
14. During an emergency situation or at a special event, any police officer supervising or controlling traffic may direct that golf carts be operated on or upon other locations.
15. Golf Carts are prohibited from towing or pulling any items behind them while in operation on any roadway.

Sec. 28-53: Registration, Inspection and Fee Prior to Usage.

1. All golf carts must complete a golf cart registration application and submit it to the City of Cherryville for approval. Before driving on public roads, the operator of a golf cart must have a valid issued registration.
2. Each owner must have proof of ownership, and liability insurance, and a completed Waiver of Liability, releasing the City of Cherryville from liability that may arise as a result of operation of a golf cart inside the City of Cherryville. These documents must be in the golf cart at all times while in operation on public roads.
3. All golf carts must meet the requirement or minimum standards of safety equipment as set forth above in this ordinance.
4. All golf cart operators must present a valid driver's license while operating a golf cart on a public road.
5. The registration sticker shall be valid for no more than one (1) year and must be visible on a golf cart operated on a public road. Cherryville Police Department will conduct registration and inspections at an appointed time and date for a fee of \$25, which must be renewed annually.
6. Lost or stolen permit/stickers are the responsibility of the owner and must be replaced before the golf cart is operated on a public road.

Sec. 28-54: Enforcement.

Violation of the provisions of this Ordinance shall constitute an infraction in accordance with Chapter 20 of the North Carolina General Statutes, and are subject to a fine and penalties of up to \$250.00, and the loss of operating privileges for up to six (6) months. However, operating a golf cart under the influence of an impairing substance (i.e. alcohol or drugs) on a public road or highway is not a violation of this article, but a violation of state law, and is punishable as provided therein.

Violation Fines and Penalties:

- 1. First Offense \$50 Fine
- 2. Second Offense \$100 Fine
- 3. Third Offense \$200 Fine and loss of operating privileges for at least 30 days.
- 4. Fourth Offense \$250 Fine and loss of operating privileges for at least 6 months.

In the event that the operator of the golf cart is a juvenile, the owner of the golf cart may be charged for such violation.

In the event that any fines have not been collected prior to an annual registration, the fines may be added to the registration fee.

Golf Carts Prohibited on the Following Streets:

Any street, road or highway with a speed limit greater than 35 mph.

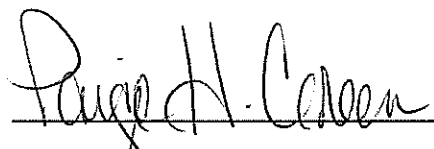
Hwy. 279 (E. Main St.) between Rudisill Street and Dick Beam Road.

Hwy. 274 (North and South Mountain Street) (can cross at a lighted traffic control device)

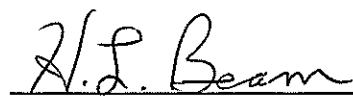
Hwy. 150 (East and West Church Street) (can cross at a lighted traffic control device)

Sec. 28-55 Effective Date.

Adopted this 10 day of May 2021.



 Paige H. Green, CMC, NCCMC, City Clerk



 H.L. Beam, Mayor



Councilmember Parker made a motion to add Golf Carts are prohibited from towing or pulling any items behind them while in operation on any roadway to the Gold Cart Policy. Councilmember Abernethy seconded the motion and the vote was unanimous. Effectively immediately.

City Manager Cash shared that he has talked to Police Chief Cam Jenks and his department will start writing warnings if you are in violation of this policy. They plan to educate the citizens for 30 days and then they will start issuing fines.

CONSIDERATION TO RENAME THE CHERRYVILLE HISTORICAL MUSEUM BUILDING AFTER MS. BARBARA YOUNT RUDISILL, HONORABLE MAYOR H.L. BEAM:

Mayor Beam shared that Councilmember Parker has requested that the Cherryville Historical Museum building been name after Ms. Barbara Yount Rudisill. Councilmember Parker filled out the application for consideration.

Councilmember Parker made a motion to approve naming the Cherryville Historical Museum building after Ms. Barbara Yount Rudisill. Councilmember Puett seconded the motion and the vote was unanimous.

OTHER BUSINESS:

City Manager Cash shared that the selling of the bonds will be on May 18 and the closing of the bonds will be June 3.

Mr. Cash also shared that the work session is scheduled for May 25, 2021 at the Cherryville Fire Department.

Councilmember Freeman asked for an update on the trees on the corner of E. Academy Street and Oak Street. Mr. Freeman had asked at the work session if the City of Cherryville could take the tree down before it falls. Public Works Director Brandon Abernathy shared that the tree is not in the right-of-way and if the city touched the tree, the city would be claiming responsibility for that tree. The North Carolina League of Municipalities has advised the City of Cherryville to stay off, of private property and not accept responsibility for trees that are on private property. Councilmember Freeman asked what the city could do and Mr. Abernathy shared that if the trees are considered, a public safety danger, by a public safety officer then the city can take the trees down. Mr. Abernathy shared that if the public's health or safety is in danger, then the trees could be considered a public safety danger. Mr. Abernathy shared that if the city takes the trees down then it is setting a prescience and all citizens will want trees taken down.

Councilmember Freeman responded by saying, that the tree on the corner is leaning toward a transformer, utility lines, and a house, so why could it not be consider a public safety danger?

Mr. Abernathy responded that the tree would need to be deemed in danger of causing bodily injury, death to an individual or someone on the street, before the city could cut it. Mr. Abernathy shared that if the city goes on private property without any kind of right-of-way and

take a tree down, then we are telling all citizens that we are in the tree business and the City of Cherryville will cut your tree even though we do not have a right-of-way protecting us to cut.

Councilmember Freeman asked Mr. Abernathy if he considered the tree a hazard if it is leaning toward a house.

Mr. Abernathy responded by saying as long as somebody will deem the tree a public safety hazard, the City of Cherryville will take full responsibility, and added that the owner of the tree could come back on the City of Cherryville and say that we cut down their \$10,000 tree. Mr. Abernathy shared that regardless if the tree is leaning or not, it is not the city's tree to cut, and the city would have to prove that the tree is a safety hazard.

City Manager Cash shared that if the City of Cherryville would like to pursue, he recommends that we hire an arborist to determine if the tree is a safety hazard.

Mr. Abernathy shared that the City of Cherryville hired an arborist two years ago and the arborist said that the trees are healthier than they look. Mr. Abernathy shared that the arborist was Mr. Philbeck from Gastonia who is a licensed arborist.

Councilmember Puett asked about the tress on the same property that fell this past week causing damage to utility lines. Mr. Abernathy shared that the high winds took those trees down and they did cause some damage.

Mayor Beam asked Councilmember Freeman if he would like to pursue the arborist, Tracy Philbeck. Councilmember shared that we should pursue getting another opinion on the trees.

Mr. Cash shared that Finance Director Dixie Wall would want three quotes.

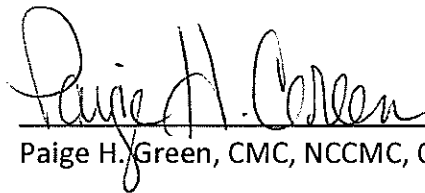
Mayor Beam shared that the Council could give direction to the Public Works Director to move forward on this matter.


Mr. Cash shared that we would not be able to get another opinion until after July 15, once the new budget is in place.

ADJOURNMENT:

Councilmember Parker made a motion to adjourn the meeting. Councilmember Puett seconded the motion and the vote was unanimous. The meeting adjourned at 6:45 pm.

Adopted this 14 day of May 2021.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor

