



**REGULAR CITY COUNCIL MEETING
MONDAY SEPTEMBER 12, 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, Public Works Director Brandon Abernathy, Police Chief Cam Jenks, Police Lt. Brandon Parker and Police Captain Brian Doolittle were also present. No media coverage.

INVOCATION: PASTOR SCOTT HOMESLEY, ST. JOHN'S LUTHERAN CHURCH:

Pastor Scott Homesley 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 Puett seconded the motion and the vote was unanimous.

APPROVAL OF MINUTES:

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

CITY COUNCIL REGULAR MEETING AUGUST 8, 2022

CITY COUNCIL SPECIAL WORK SESSION MEETING AUGUST 23, 2022

MAYOR'S COMMENTS:

After several emails and telephone calls, I am happy to announce that CSX work crews have finished upgrades to all railroad crossings in need of repairs within our city limits. There have been problems at many of our crossings and at this time, it is nice to see the repairs are complete.

CONSIDERATION OF RESOLUTION RE: PUBLIC POWER WEEK OCTOBER 2-8, 2022:

Councilmember Freeman read the following resolution for Public Power Week:



PROCLAMATION RECOGNIZING PUBLIC POWER WEEK, OCTOBER 2-8 A WEEK-LONG CELEBRATION OF CITY OF CHERRYVILLE YEAR-ROUND SERVICE.

WHEREAS, public power is a crucial component of cities and towns across North Carolina, contributing to the overall health of communities by providing reliable electricity, excellent local service, and prompt restoration; and

WHEREAS, North Carolina's more than 70 public power cities and towns are among more than 2,000 across the country; and

WHEREAS, many of North Carolina's public power cities and towns have been electric providers for more than 100 years, assisting their communities through boom times as well as pandemics and economic downturns; and

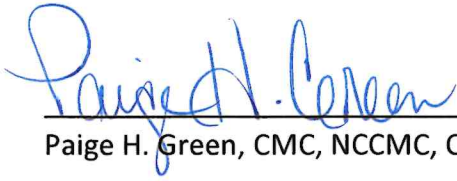
WHEREAS, public power meets the electric needs of 49 million Americans, who make up almost 15 percent of electricity consumers; and

WHEREAS, North Carolina's public power utilities are valuable community assets that contribute to the well-being of the community and provide economic development opportunities; and

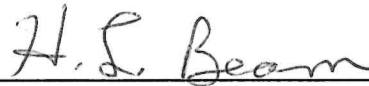
WHEREAS, North Carolina's public power utilities are dependable institutions that are committed to providing excellent service; and

WHEREAS, the City of Cherryville recognizes Public Power Week and commends the public power cities and towns across our state for their outstanding contributions to our communities;

NOW, THEREFORE, the City of Cherryville hereby proclaims October 2-8, 2022, as "PUBLIC POWER WEEK" in City of Cherryville and commends its observation to all citizens.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor

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 CITY CLERK AT THE MEETING BEFORE THE MEETING BEGINS. IF YOU WISH TO SPEAK ON A MATTER WHERE A PUBLIC HEARING IS BEING HELD, YOU WILL HAVE A CHANCE TO DO SO DURING THE PUBLIC HEARING AND DO NOT NEED TO SIGN UP):

No citizens spoke.

CONSIDERATION TO SET A DATE FOR 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:

Planning & Zoning Director Blackburn 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.

Councilmember Parker made a motion to set the date of October 10, 2022 for a public hearing. Councilmember's Puett and Abernethy both seconded the motion.

CONSIDERATION TO SET A DATE FOR 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:

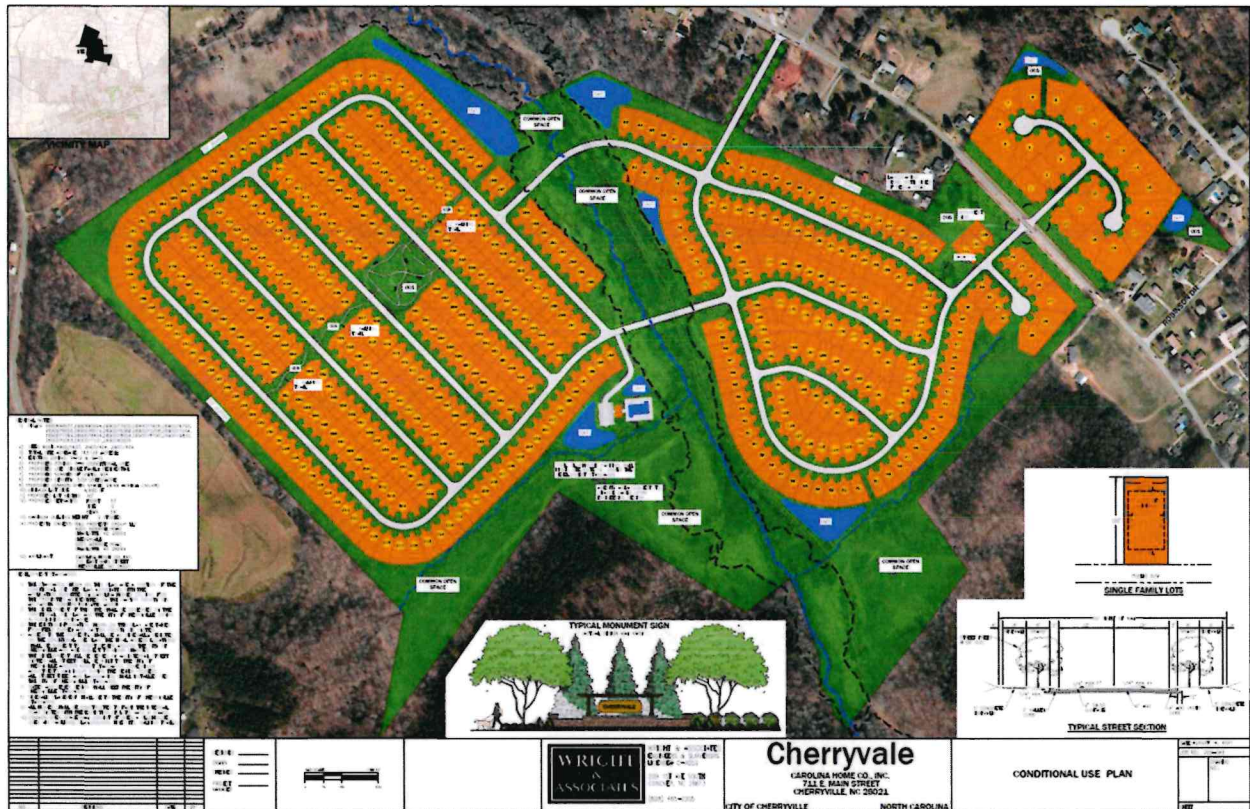
Planning & Zoning Director Blackburn shared that owner/applicant Mr. A. Patel contacted him on Thursday, June 30, 2022 regarding the property listed above located at 1407 E. Main Street Cherryville, NC 28021 further identified as Parcel ID# 215920. The owner is requesting a Zoning Map Amendment from 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.

Councilmember Puett made a motion to set the date of October 10, 2022 for a public hearing. Councilmember Abernethy seconded the motion and the vote was unanimous.

CONSIDERATION TO CONTINUE OF PUBLIC HEARING RE: REZONING FROM R-40, R-15, & R-12 TO R-9 CLUSTER DEVELOPMENT FOR PROPERTY LOCATED ON REQUA RD., (GASTON COUNTY PID #'S 158390, 203081, 158391, 203082, 203074, 203083, 203075, 203084, 203076, 203085, 203077, 203086, 203078, 203087, 203078, 203088, 203080, AND 203089) PLANNING & ZONING DIRECTOR ALEX BLACKBURN:

Councilmember Abernethy made a motion to enter back into the continued public hearing regarding Cherryvale’s rezoning. Councilmember Puett seconded the motion and the vote was unanimous.

Planning Director Alex Blackburn explained that he did receive an updated map of the area and a copy was shared with Mayor Beam and Council. He went on to say that this project is pending the NCDOT report and several others agencies that will have to approve this before the final plat is rendered.



Mayor Beam stated that it has been agreed to that the parcels identified as ID #'s 203082, 203083, 203084, 203085, 203086, 203087, and 203088 will remain zoned as R-12 with the addition of the Conditional Zoning District (CZ) as shown on site rendering lots 1-22.

To the west of Requa Road, parcels 203074, 203075, 203076, 203077, 203078, 203079, 203080, 203081, 158391, and 158390 will be granted the rezoning request of R-9/Cluster (CZ) for the proposed development as shown on the site plan provided on September 12, 2022.

Side Yard Setbacks for the R-9 Cluster parcels have been mutually agreed upon by City Council and the Applicant(s) to be extended from the required five (5) foot distance from property line to six (6) foot from side property line.

The Applicant(s) have provided a fifty (50) foot landscaping berm along both sides of Requa Road to extend from the Right of Way and included access to the Stormwater Control Measures found throughout the property.

Mayor Beam asked if any citizens would like to be heard. The following citizens spoke expressing their concerns about traffic, turning lanes, and speeders: Roy Hair of 1100 Requa Rd., and Kim Costner of 1226 Requa Rd. Developer Robert Johnson spoke about the turning lane and how the turning lane would actually be on the property being developed and would not affect anyone's property.



STATEMENT OF CONSISTENCY

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

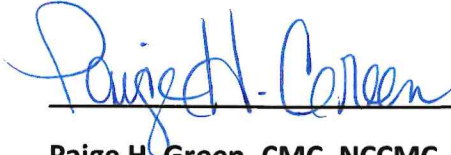
The Cherryville City Council, held a Public Hearing on: August 8th, 2022 and continued to September 12th, 2022 to consider Rezoning Parcel's # 158391, 158390, 203074, 203075, 203076, 203077, 203078, 203079, 203080, 203081, 203082, 203083, 203084, 203085, 203086, 203087, 203088, 203089. After the Public 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.

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:

Ordered this 12th day of September, 2022



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor

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

Mayor Beam read the Statement of Consistency and all agreed to the following marked above. Councilmember Abernathy made a to approve the Statement of Consistency and approve the rezoning from R-40, R-15, and R-12 to R-9 Cluster Development, for property located on Requa Rd., also known as Cherryvale. Councilmember Puett seconded the motion and the vote was three (3) for, and one (1) opposed. Councilmember Parker opposed.

CONSIDERATION TO AMEND THE CITY FEE SCHEDULE TO ADD ENGINEERING REIMBURSEMENT FEE, PLANNING & ZONING DIRECTOR ALEX BLACKBURN:

Planning Director Alex Blackburn asked for consideration for the following amendment to the fee schedule:

Please see the proposed amendment to the Zoning Fee Schedule as presented below. All proposed additions/changes are marked in **RED**.

Zoning Fees effective July 1, 2022: (Amended _____, 2022)

Fence Permit:	\$25
Residential Single/Two Family Dwelling:	\$100
Residential Multi-Family Dwelling:	\$200
Residential Remodel/No Expansion:	\$50
Residential Addition:	\$75
Accessory Use:	\$50
Accessory Structure (Residential):	\$25 (12'x12' or less) \$50 (more than 144 Square feet)
Driveway Permit:	\$25 (Single/Two Family Dwelling) \$50 (Subdivision Entrance)

Commercial Change of Use:	\$100
Commercial Building:	\$250 (Less than 1,000 square feet)
(* plus applicable City Engineering Fees)	\$350 (1,001-5,000 square feet)
	\$450 (5,001- 10,000 square feet)
	\$450 (10,001+ square feet plus \$50 per additional 10,000 square feet)
Zoning Verification Letter:	\$25
Temporary Use Permit:	\$25
Site Evaluation Form:	\$10
Minor Subdivision:	\$50
Cell Tower:	\$3,500
<u>Sign Permits:</u>	
Free Standing Signs:	\$50
Wall Signs:	\$50
Temporary Signs:	\$15
<u>Board of Adjustment Requests:</u>	
Variance Application:	\$350
Appeal Application:	\$350
Mobile Home Hardship:	\$350
<u>City Council & Planning Board Request:</u>	
Zoning Map Amendment:	\$350
Zoning Text Amendment:	\$350
Subdivision Review:	\$350 (* plus applicable City Engineering Fees)

Subdivision Approval:

\$350 (* plus applicable City Engineering Fees)

*Engineering Cost Billed Monthly During Project. To be applied to all Site Plans that involve infrastructure installations. Engineering services to cover: Potable Water, Sanitary Sewer, Storm Drainage, Curb and Gutter, Streets, and Sidewalk Facilities.

**Balance of above fees due prior to approval.

Councilmember Puett made a motion to approve the amended fee schedule. Councilmember Parker seconded the motion and the vote was unanimous.

CONSIDERATION TO APPROVE INTERLOCAL AGREEMENT WITH CLEVELAND COUNTY RE: WATER INTERCONNECTION, CITY MANAGER BRIAN DALTON:

City Manager Dalton asked for consideration for the following Interlocal Agreement with Cleveland County for a water interconnection. Mr. Dalton explained that this interconnection would not cost the City of Cherryville anything but it would be very beneficial for Cherryville to have in place should there be another drought. Below is the agreement:



NORTH CAROLINA

CLEVELAND COUNTY

**INTERLOCAL AGREEMENT FOR ADMINISTRATION OF NORTH CAROLINA
DEPARTMENT OF ENVIRONMENTAL QUALITY – DIVISION OF WATER
INFRASTRUCTURE S.L. 2022-74 APPROPRIATED PROJECT**

This Agreement entered into this the 12 of September, 2022, by and between the CITY OF CHERRYVILLE, a North Carolina Municipal Corporation, Party of the First Part, hereinafter referred to as "Cherryville" or "City", 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" or "District",;

WITNESSETH:

WHEREAS, the North Carolina General Statutes § 160A-460-464 refers to interlocal cooperation which is authorized for any unit of local government, and details of such contracts or agreements are detailed and explained therein; and,

WHEREAS, Cherryville and CCW worked together to obtain funding for the CCW-Cherryville Interconnection Project pursuant to Session Law 2022-74 and Cherryville has been awarded a \$3,000,000 grant from the State of North Carolina through the NC Department of Environmental Quality for the Cherryville-CCW Interconnection Project; and,

WHEREAS, CCW currently owns, operates and maintains waterlines at/near the Cleveland/Gaston County line along Tobe Bridge Road, Old Post Road, and Paul Beam Road and will upgrade and extend said lines to complete a dual interconnection with the City of Cherryville to deliver water from CCW to the City of Cherryville and to receive water from the City of Cherryville; and,

WHEREAS, Cherryville currently owns, operates and maintains waterlines at and along West Academy Street and will upgrade and extend said lines to complete a dual interconnection with CCW to deliver water from the City of Cherryville and to receive water from CCW; and,

WHEREAS, Cherryville and CCW wish to partner to complete the joint CCW-Cherryville Interconnection Project totaling \$3,000,000 grant funds; and,

WHEREAS, it serves the mutual benefit and convenience of Cherryville and CCW to enter into this Interlocal Agreement with the other party to better utilize the assets and abilities of each party for their mutual benefit and for the public good; and,

NOW, THEREFORE, in consideration of the mutual benefits provided for each Party, and in cooperation with the NC General Statutes each party hereby agree as follows:

1. OBLIGATIONS OF THE CITY

- A. Cherryville shall transfer to and pay CCW, with the NC Department of Environmental Quality grant funds, reimbursements as requested and prepared by CCW.
- B. Cherryville will cooperate fully and assist CCW by whatever means may be necessary or available in the execution of each party's duties and obligations under this Agreement.

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.

8. LIABILITY AND INDEMNIFICATION

Nothing contained in this agreement shall be construed to impose upon CCW any responsibility for or liability arising out of its management and construction of the Interconnection Project in and around the project limits as defined or in association with the Interconnection Project. In the event that any third party shall attempt to hold CCW or its agents, employees, officers, or assigns responsible in any way for the development of the project in any manner, including, but not limited to legal action or claims of any kind, Cherryville hereby agrees to hold CCW harmless and indemnify it for any and all costs or liabilities associated therewith, including, but not limited to, judgments, court costs, and attorney fees.

IN WITNESS WHEREOF, the City of Cherryville has caused this agreement to be executed in duplicate 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

By: H. L. Beam

H.L. Beam, Mayor

Dated: _____

Attest:

Paige H. Green

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.

By: _____

Title: _____

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

By: _____

Donald O. Melton, Chairman

Dated: _____

Attest:

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.

By: _____

Title: _____

Date: _____

Councilmember Abernethy made a motion to approve the Interlocal Agreement with Cleveland Counter for a water interconnect. Councilmember Freeman 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:

City manager Dalton explained that the following resolution does need to be adopted in order to move forward with the application for funding for the Cleveland County water/City of Cherryville interconnection project. Below is a copy of that resolution:



A RESOLUTION AUTHORIZING SUBMISSION OF AN APPLICATION FOR FUNDING FOR THE CLEVELAND COUNTY WATER/CITY OF CHERRYVILLE INTERCONNECTION PROJECT FOR S.L. 2022-74 APPROPRIATED PROJECTS

WHEREAS, Session Law 2022-74 Appropriated Funds to various entities via ARP funding, and
WHEREAS, the City of Cherryville and Cleveland County Water have need for and intend to improve its drinking water treatment works by completing an interconnection between the two public water supply systems, and
WHEREAS, the City of Cherryville intends to accept the funding amount of \$3,000,000 in appropriated funds for the design, construction and completion of the project.

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CHERRYVILLE:

That the City of Cherryville, the Applicant, will arrange for the construction and completion of the project in conjunction with Cleveland County Water.

That Brian Dalton, City Manager, the Authorized Official, and successors so titled, is hereby authorized to execute and file an application on behalf of the Applicant with the State of North Carolina for the appropriated funds in the construction of the project described above.

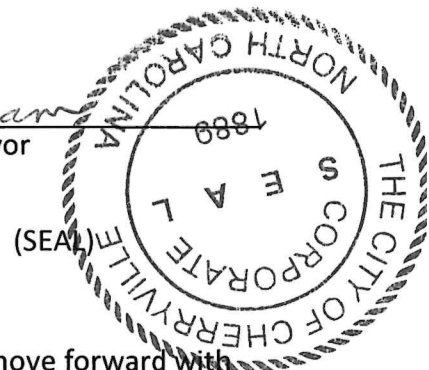
That the Authorized Official, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the Applicant has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 12 of September 2022.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor



Councilmember Freeman made a motion to approve the resolution to move forward with the Cleveland County water interconnection. Councilmember Puett seconded the motion and the vote was unanimous.

CONSIDERATION OF CITY FINANCIAL STATEMENT ENDING JULY 2022, CITY MANAGER BRIAN DALTON:

City Manager Brian Dalton went over the financial statement ending July 31, 2022. Below is a copy of the financial statement that was reviewed:

the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.

Councilmember Parker made a motion to enter into a closed session. Councilmember Abernethy seconded the motion and the vote was unanimous. The closed session began at 7:03 pm.

Mayor Beam and Council returned to the regular meeting at 7:08 and reported that no action was taken.

OTHER BUSINESS:

Mayor Beam asked Council to change the work session meeting time to 6:00 through November 2022 for Councilmember Freeman. He also asked that all, future work session meetings be held in the council chambers.

Councilmember Freeman made a motion to change the September 27, October 25, and November 29, work session meetings to 6:00 pm and to change all future, work session meetings to the council chambers. Councilmember Parker seconded the motion and the vote was unanimous.

Councilmember Abernethy thanked Mayor Beam for getting the CSX railroad crossing repaired.

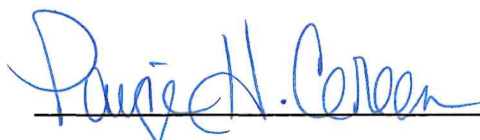
Councilmember Puett asked Mr. Dalton to get in touch with the NC Department of Transportation and ask them if they could please clean the curbing on Hwy. 150 West from St. John's Lutheran Church down. The grass is covering Hwy. 150 and rainwater cannot flow to the storm drains.

Councilmember Parker thanked Mr. Dalton for getting air conditioning back in the post office.

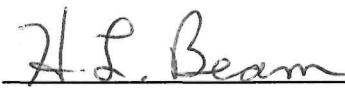
ADJOURNMENT:

Councilmember Parker made a motion to adjourn the meeting. Councilmember Abernethy seconded the motion and the vote was unanimous. The meeting adjourned at 7:20 pm.

Adopted this 10 day of October 2022.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor



