



**REGULAR CITY COUNCIL MEETING
MONDAY NOVEMBER 13TH, 2023 @ 6:00 PM
CHERRYVILLE COMMUNITY BUILDING
W. J. ALLRAN JR. 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 Jr. Council Chambers. Councilmembers Jill Puett, Jon Abernethy, Gary Freeman, and Malcolm Parker were present. City Manager Brian Dalton, City Clerk Paige H. Green, City Attorney Yansea Taylor, Public Works Director Chris J. King, Planning and Zoning Director Richard Elam, Finance Director Dixie Wall, Downtown Director David Day, Asst. Fire Chief Colby Heffner, Fire Chief Jason Wofford, and Police Chief Brandon Hunsucker were also present. Michael Powell with the Cherryville Eagle was present for Media Coverage.

INVOCATION: DR. VINCE HEFNER, FIRST BAPTIST CHURCH:

Dr. Vince Hefner gave the invocation.

PLEDGE OF ALLEGIANCE:

Everyone stood and recited the Pledge of Allegiance.

AGENDA APPROVAL:

Council member Abernethy made a motion to approve the agenda as written. Council member Parker seconded the motion and the vote was unanimous.

APPROVAL OF MINUTES:

Council member Puett made a motion to approve both sets of minutes listed below. Council member Freeman seconded the motion and the vote was unanimous.

CITY COUNCIL REGULAR MEETING OCTOBER 9TH, 2023
CITY COUNCIL WORK SESSION MEETING OCTOBER 31ST, 2023

MAYOR'S COMMENTS:

City Engineer Recil Wright has completed the site plans for the new gym and all contractors have been given this information. City Manager Dalton met this past Thursdays with two of the contractors and results of the bids will be disclosed on future date.

The work on our parks is still in progress. Mr. Sosebee is working on the completion of the pickle ball court at Westgate, paving has been finished there and the parking area will soon be stripped along with fences at the basketball and pickle ball courts. Aaron Moss basketball court is scheduled for completion within the next few weeks and work is being done on the senior little league field to prepare it for the 2024 season.

A new roof has been installed on our Train Depot building. This repair was covered by the city's insurance company. We did receive reimbursement of \$285,000 from the state for the May 16th storm damage. This money will go back into the city's electric fund.

Jerry Twigs met with City Manager Dalton last week to discuss the smoke testing of our sewer lines through the AIA grant our city received. This work should begin within the next few weeks and the city will do its best to notify our citizens when this work begins.

Thanks go out to Ned Yates for the painting of the press box at the Senior Little League Field. This was a huge improvement to this facility and a great enhancement to this area.

The owner of the new Mexican Restaurant that is going in the old Pepperoni Express building, talked with me last weeks and said refurbishment of the building is still going on and he expects the opening will be sometime in early 2024. He is excited for this opening and anticipates a great future here in Cherryville.




Vickie Spurling has been in contact with the county and expects to have the necessary building permits for the Cherry Pit Restaurant soon.

The city elections are history and I want to congratulate Council Member Malcolm Parker and Council Member Janice Hovis for the clean campaigns they ran. Council Member Hovis will be installed at the next council meeting along with myself as Mayor and Jon Abernethy as Council Member for our respective terms.

As we approach the Thanksgiving Season, I want to remind all our citizens how thankful I am for all the accomplishments this council, city manager, city staff and city workers have made in this past year. Please when you see any of them let them know how proud you are of them and of our city.

SPECIAL RECOGNITION OF EMPLOYEE'S FOR YEARS OF SERVICE, MAYOR BEAM:

Mayor Beam recognized the following employees for their years of service:

 GRADY COSTNER	5 YEARS
 GRAYSON STOUT	5 YEARS
 CHRIS HEEDICK	10 YEARS

🍒 STANLEY LABAUCH	15 YEARS
🍒 CINDY PAYNE	15 YEARS
🍒 BENJY STROUPE	20 YEARS
🍒 PATTY HALL	30 YEARS

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):

Mr. Sid Stroupe of 207 W. Academy Street approached the podium to give an update on cherry tree project. Mr. Stroupe shared that a source for the trees has been found in Tennessee and 100 trees have been ordered. The trees are \$160.00 each and are expected to be delivered the first week of December. A contractor had been secured for planting the trees and fertilizing them again in March. The first 30 trees will be planted in the Cherryville Memorial Cemetery.

Mayor Beam asked if citizens can purchase a tree and have them planted by the contractor. Mr. Stroupe shared that committee will be looking into that next summer and that will be the second phase of the campaign. He also went on to say that he and his sister Carol Stroupe have been pruning the cherry trees that have already been planted around Cherryville.

CONSIDERATION OF TERMINATION OF CONTRACT RE: 109 E. MAIN STREET, CITY MANAGER BRIAN DALTON:

City Manager Dalton explained that the city of Cherryville entered into a contract with Cherryville Main Street LLC on July 10, 2023, after a long upset bid process, to purchase 109 E. Main Street, also known as the Cherryville Historical Museum. Mr. Al Putnam filed a lawsuit and the lawsuit has been dismissed at this time but, it was dismissed without prejudice. Because of this Mr. O'Leary or Cherryville Main Street, LLC, is having a hard time getting title insurance. Cherryville Main Street, LLC wishes to cancel the contract because of this issue. Mr. Dalton shared that the city would return the \$20,000 earnest money to Cherryville Main Street, LLC.

Council member Parker asked if the building would be put back on the market. Mr. Dalton stated that the building could always be put back on the market. He explained that if someone made an offer, the council could vote to start the upset bid process again.

City Attorney Taylor shared that this is voluntary and the city of Cherryville is not required to agree to cancelling this contract. She shared that as the sellers we could cure the title issue to make the buyer whole with some more time.

Council member Puett asked if it could be tabled for a later date.

Mr. Dalton shared that attorney Taylor is saying that legally we could make this sale go forward, but with the situation at hand, he recommends that we do not do that.

Mayor Beam asked if the court could change anything and dismiss with prejudice?

Mr. Dalton shared that he forwarded an email to the council from Patrick Flanagan, who represented the city of Cherryville in this matter, and he has sent an email to Mr. Putnam's

attorney about getting this changed to state with prejudice. Mr. Dalton also shared that he does not know the answer yet and how long this could go on.

Attorney Taylor shared that lis pendens is good for six months. So, if the lawsuit is not filed and perfected within six months from the lis pendens, then the lis pendens is cancelled as a matter of statute.

Council member Freeman asked Mrs. Taylor to explain what she is saying in more depth.

Attorney Taylor, "Yes, Sir, so what's happened, the cloud on title is a lis pendens. So, they filed what's called a lis pendens and that preserves their place against the title. So, it relates back to the date that the lis pendens was filed, not when the actual action was filed so, when they filed the lis pendens that becomes the cloud on title lien against the property. A potential lien, then they file a lawsuit and a judgment has to be entered based on that lawsuit and then that judgment relates back to the lis pendens the day the lis pendens was filed. The lis pendens is only good for six months from the date that it's filed, so, if no lawsuit is filed within that six-months, then they would have to file a new lis pendens to preserve a new date and time. And then file a lawsuit and then get a judgment that would relate back to that lis pendens date.

Council member Freeman, "As long as that judgement is without prejudice you can always sue again, can't you?"

Mrs. Taylor, "Yes sir, but only if he did it within those six months, would that lis pendens relate back. After six month he would have to refile and then it would be a new action. The lis pendens needs to be cancelled. They need to terminate the lis pendens, so that's the missing piece."

Mayor Beam, shared concern about being named as an individual. He was concerned about how this would affect him if he wanted to sell his home tomorrow. He wanted to know if there would be a lien on his home.

Mrs. Taylor, "That is certainly something Mr. Flanagan should push the attorney to dismiss. You all are not subject to the personal liability as your role in this capacity. But you're right, mayor, being you still don't want that cloud to have to deal with on any title. So, it would make sense that certainly it should be dismissed. I wasn't Privy to the case, but they certainly can go back and modify that order if that needs to be the case. You can make that request. And also, it wasn't a judge's ruling, right? It was a voluntary dismissal by the defendant. Excused by the plaintiff. Yes, it could have been a judge's ruling, and one can ponder many reasons why they entered the voluntary dismissal as opposed to letting the judge make a ruling.

After more discussion, council member Freeman made a motion to return the \$20,000 earnest money to Cherryville Main Street LLC, and release Mr. O'Leary from the contract to purchase 109 E. Main Street. Council member Parker seconded the motion and the vote was unanimous.

CONSIDERATION OF RESOLUTION SUPPORTING GASTONIA HOUSING AUTHORITY, CITY

MANAGER BRIAN DALTON:

City Manager Dalton shared that this item was discussed at the work session and it simply a formality that we support as far as the apartment complex being built, there will be no financial obligation at all to the city of Cherryville.

Ms. Nancy Paschall, Attorney at Law with Mullen Holland & Cooper P.A., approached the podium to ask for consideration for the resolution supporting Rutherford Crossing housing complex. Below is a narrative for Rutherford Crossing:

Rutherford Crossing, Cherryville

Narrative

The proposed Rutherford Crossing is a new construction family development in Cherryville (Gaston County). Rutherford Crossing will be co-developed by The Woda Group, Inc. and Woda Cooper Development, Inc. part of Woda Cooper Companies, Inc. Based in Columbus, Ohio, Woda Cooper Companies, Inc. is a national leader in the development, ownership, construction, and management of affordable housing.

The development will be comprised of five 3-story buildings totaling 120 units for general occupancy, including 36 one-bedroom, 72 two-bedroom and 12 three-bedroom units. There will be a community building with the management/leasing office, multipurpose space, laundry facility and fitness room. The development will have 12 handicapped accessible units as well as units specifically equipped for sight/hearing impaired.

The planned construction for Rutherford Crossing is a 3-story walk-up design. The design integrates the stacking of like units and providing steel stairs and handrails with concrete step treads to access the multi-storied building. The exteriors of the buildings will have a combination of brick and siding. Brick will surround the foundation for added durability.

The residential units will all have Energy Star qualified LED lighting and appliances, including refrigerator, range, dishwasher, and microwaves, along with energy efficient HVAC systems and water heaters. Kitchens will also be equipped with post formed laminate tops, durable cabinetry, stainless steel sinks and a disposal. Energy Star single hung windows with Low-E, argon filled will be equipped with blinds for added comfort, security and privacy. The property will have more than adequate site lights and camera systems for additional security. Each unit will have LVT flooring and will have pre-wired connections for cable, telephone and internet.

Exterior amenities will include a playground and a covered picnic area with tables and grills. Each unit will have a 16-sf exterior storage closet.

All utilities are available at this site. Tenants will pay for electricity, water and sewer while the owner will pay for trash pickup.

The property is located on West Academy Street, which leads directly into downtown Cherryville, where residents will find numerous shopping opportunities, restaurants, banks, schools and public services. The site is ideal for a multifamily development with safe and easy egress/ingress.

Ms. Paschall, "Mr. Mayor, Council members, thank you for having us tonight. I am Nancy Pascal I represent the Gastonia Housing Authority. I have with me Danny Blackburn, who is a representative from the developer, William Cooper. We're happy to be here and to answer any questions that you may have. We're very excited because this is going to be new construction on West Academy Street and it will be affordable housing. There will be 120 units varying from one bedroom to 3-bedroom units. We will issue tax exempt funding and that would be through bonds and those have been approved by the Gastonia Housing Authority Board of Commissioners, and the City of Gastonia since we are appointed, since our board is appointed by the City of Gastonia has also approved in a tefra hearing, which is what is occurring now, and they will not have any liability for the bonds. The Housing Authority will not have any liability for the bonds, and neither will the city of Cherryville. There are banks and other financing and equity investors that will be buying the bonds. So, I'm happy to answer any questions that you may have. William Cooper is also currently constructing a somewhat similar project in the town of Dallas, and I think they're about six months in and have done the grading work and we are very excited to bring affordable housing to that town as well."

Council member Parker asked what the price range would be for renting an apartment?

Mr. Danny Blackburn, "Well, good evening, mayor and council. I've, you may recall, I was here about two years ago. We went through the rezoning of this property. Now, I've got more gray hair, less hair and more weight. Great questions on the rents that there'll be units that will be for people that earn up to 50% of the area medium income, 60% of the area median income and, 70% of the area medium income that is going to be different rent levels for those units. So, if I take for instance a 2- bedroom unit, it will be for people earning up to 50% and the rent will be \$890.00 per month for the 60 percent, 1000 and for the 70 percent, 1225. And we have different other price ranges for the one-bedroom and for the three-bedroom units as well. The tenants will go through a tenant selection process where they provide their income level, background criminal record, and we go through what you expect just to screen residents. The residents will be reviewed on a yearly basis."

Council member Puett made a motion to approve the resolution to support Rutherford Crossing Apartment Complex. Council member Abernethy seconded the motion and the vote was unanimous. Below is a copy of the resolution:

RESOLUTION PROVIDING APPROVAL OF A MULTIFAMILY HOUSING FACILITY TO BE KNOWN AS RUTHERFORD CROSSING IN THE CITY OF CHERRYVILLE, NORTH CAROLINA AND THE FINANCING THEREOF WITH THE GASTONIA HOUSING

AUTHORITY'S MULTIFAMILY HOUSING REVENUE BONDS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$12,075,000

WHEREAS, the City Council of the City of Cherryville (the "City") met in Cherryville, North Carolina at 6:00 p.m. on the 13th day of November, 2023; and

WHEREAS, pursuant to Section 160D-1311(b) of the General Statutes of North Carolina, the City is authorized to exercise the powers granted to housing authorities under the North Carolina Housing Authorities Law, Article 1 of Chapter 157 of the General Statutes of North Carolina, as amended (the "Act"); and

WHEREAS, Section 157-10 of the Act provides that "any two or more housing authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing (including the issuance of bonds, notes or other obligations and giving security therefor)...a housing project or projects located within the boundaries of any one or more of said authorities" and for such purpose a housing authority "may by resolution prescribe and authorize any other housing authority or authorities, so joining or cooperating with it, to act on its behalf with respect to any or all of such powers"; and

WHEREAS, Rutherford Crossing Limited Partnership, a North Carolina limited partnership (the "Borrower"), has requested that the Gastonia Housing Authority (the "Authority"), a public body and body corporate and politic organized and operating pursuant to the Act, assist the Borrower in financing the acquisition, construction and equipping of a 120-unit qualified residential rental project to be known as Rutherford Crossing and located at 1465 West Academy Street in the City (the "Development"); and

WHEREAS, the Authority desires to issue its multifamily housing revenue bonds in an amount not to exceed \$12,075,000 (the "Bonds"), for the purpose of providing financing to the Borrower for the Development; and

WHEREAS, the City acknowledges that the acquisition, construction and equipping of the Development will satisfy a need for affordable housing within the City, and that the financing of the Development will be in furtherance of the City's purposes, acting as a housing authority, under the Act; and

WHEREAS, the Authority has requested that the City, exercising the powers of a housing authority, agree, in accordance with Section 157-10 of the Act, to cooperate with it in the financing of the Development through the issuance of the Bonds by the Authority, as the issuer, and to authorize the Authority to act on behalf of the City in connection with such financing, and the City desires to do so; and

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), requires that any tax-exempt bonds issued by the Authority for the Development may

only be issued after approval of the plan of financing by the City following a public hearing with respect to such plan; and

WHEREAS, on October 10, 2023, the Authority held a public hearing with respect to the issuance of the Bonds to finance, in part, the Development (as evidenced by the Certificate and Summary of Public Hearing attached hereto) and has requested the City approve the issuance of the Bonds as required by the Code; and

WHEREAS, the City has determined that approval of the issuance of the Bonds is solely to satisfy the requirement of Section 147(f) of the Code and shall in no event constitute an endorsement of the Bonds or the Development or the creditworthiness of the Borrower, nor shall such approval in any event be construed to obligate the City for the payment of the principal of or premium or interest on the Bonds or for the performance of any pledge, mortgage or obligation or agreement of any kind whatsoever which may be undertaken by the Authority, or to constitute the Bonds or any of the agreements or obligations of the Authority an indebtedness of the City, within the meaning of any constitutional or statutory provision whatsoever;

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

1. The proposed housing development consisting of the acquisition, construction and equipping of the Development described above in the City of Cherryville, North Carolina by the Borrower and the issuance of the Authority's multifamily housing revenue bonds therefor in an amount not to exceed \$12,075,000 are hereby approved for purposes of Section 147(f) of the Code and the Act.

2. The City hereby consents to and approves the issuance by the Authority of the Bonds and agrees to cooperate with the Authority and authorizes the Authority to act on its behalf, solely in connection with the issuance of the Bonds for the Development.

3. This resolution shall take effect immediately upon its passage.

Council member Bill Pratt moved the passage of the foregoing resolution and Council member Jon Abbramethy seconded the motion, and the resolution was passed by the following vote:

Ayes: 4 _____

Nays: 0 _____

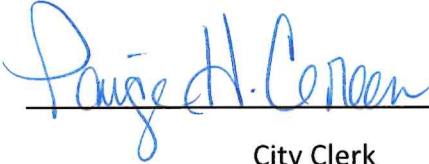
Not voting: 0 _____

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CERTIFICATION

I, Paige Green, City Clerk of the City of Cherryville, North Carolina, DO HEREBY CERTIFY that the foregoing is a true and exact copy of a Resolution adopted by the City Council for the City of Cherryville, North Carolina, in regular session convened on November 13, 2023, and that such proceedings of such meeting are recorded in the minutes of the City Council. Pursuant to state law, a current copy of a schedule of regular meetings of the City Council is on file in my office.

WITNESS my hand and the corporate seal of the City of Cherryville, North Carolina, this the 13th day of November, 2023.



City Clerk

(SEAL)

CONSIDERATION OF INTER-CONNECT CONTRACT AGREEMENT WITH LINCOLN COUNTY, CITY MANAGER BRIAN DALTON:

Mr. Dalton went over the following contract for consideration, between the city of Cherryville and Lincoln County. The contract is for use of the water inter-connect. Mr. Dalton pointed out a few changes that need to be made in the contract and explained each of those to everyone.

After some discussion Council member Abernethy made a motion to table this item until the contract is updated. Council member Freeman seconded the motion and the vote was unanimous. This will be on the December 11 agenda for consideration.

OTHER BUSINESS:

Council member Puett thanked Michael Powell for the media coverage at Beam Intermediate and the Veterans Day Parade.

Mayor Beam asked Police Chief Hunsucker if he could put the radar up on E. Academy Street. He said that he had received a call about cars speeding in that area. Chief Hunsucker will take care of this request.

Council member Freeman, "Speaking of Styers, I have a gentleman who lives in that area constantly complaining to me that he heard that we were going to pave that street."

Mr. Dalton, "We definitely want to pave the street, if you turn on Styers Street off of Hwy. 150 down to the railroad tracks. With that being said, part of the money we were going to receive from selling the museum was going to pay for that. Now we will have to find another way to fund that.

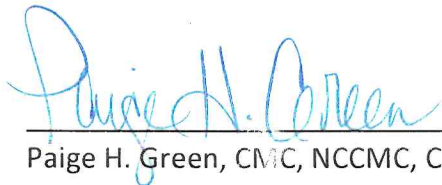
Council member Freeman, "I rode down to Edwards Park Sunday afternoon and it looks great. The only drawback there is that all that stuff we've dumped in the lot next to it, and it's not screened off fenced or anything. We have talked about putting a black screen on that back fence. I hate to complain, you all have done such great work."

Mr. Dalton, "That has been talked about and it will be done."


ADJOURNMENT:

Councilmember Abernethy made a motion to adjourn the meeting. Council member Puett seconded the motion and the vote was unanimous. The meeting adjourned at 6:46 pm.

Adopted this 11th day December 2023.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor

