



REGULAR CITY COUNCIL MEETING
MONDAY JANUARY 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 meeting to order at the community building in the W.J. Allran Council Chambers. Councilmember's Jill Puett, Gary Freeman, Malcolm Parker, and Jon Abernethy were present. City Manager Brian Dalton, City Clerk Paige H. Green, City Attorney Palmer Huffstetler Jr., Planning & Zoning Director Derrick Mackey, Public Works Director Brandon Abernathy, Downtown Director David Day, and Finance Director Dixie Wall, Fire Chief Jason Wofford, and 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 gave recited the Pledge of Allegiance.

AGENDA APPROVAL:

Councilmember Puett made a motion to approve the agenda as presented. Councilmember Parker seconded the motion and the vote was unanimous.

APPROVAL OF MINUTES:

Councilmember Abernethy made a motion to approve the minutes of the December 13, 2021 regular meeting. Councilmember Puett seconded the motion and the vote was unanimous.

MAYOR'S COMMENTS:

"My comments will be as brief as possible due to the extensive agenda we will be dealing with tonight.

At the December meeting of the Gaston-Lincoln-Cleveland Metropolitan Planning Organization, I was honored to be elected unanimously as Vice Chairman of this organization

for the next two years. This organization makes recommendations concerning all forms of transportation for the three counties of Gaston, Lincoln, and Cleveland. Members of this board are County Commissioners, Mayors, and Council Members of all cities and municipalities of these counties as well as administrative staff members of the board. Cherryville Mayor Pro-Tem Jill Puett serves as an alternate on this board also. I am honored that this is the first time that a member of our city has been chosen for this office. The next meeting for this board will be on January 27.

City Manager Dalton and I have met several times to discuss city related concerns and the city's budget for the coming year. We also met this past Thursday with our audit committee to discuss items pertaining to the past year's audit.

Two vehicles were sold that had been placed on Gov deals. Payments for the vehicles were received prior to releasing them to the buyers.

City Manager Dalton and I had a three-way conversation with Mr. T.C. Homesley in regards to the disposition of the land donated by the Homesley family at the corner of Main Street and Mulberry Street. This will be addressed by the city later.

This coming Wednesday afternoon I will be attending the Cherryville Historical Museum meeting along with City Manager Dalton and Museum Liaison Council Member Malcolm Parker."

PRESENTATION OF PLAQUE TO FORMER CITY MANAGER/FIRE CHIEF JEFF CASH, MAYOR H.L. BEAM:

Mayor Beam presented Jeff Cash with a plaque and thanked him for his three years of service as city manager/fire chief.

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):

None.

PRESENTATION OF AUDIT, YEAR ENDING JUNE 30, 2021, MR. ROBERT ADAMS, MANAGING PARTNER, BUTLER & STOWE:

Mr. Robert Adams approached the podium and gave the following report on the audit that ended June 30, 2021:

1) Introduction

Robert Adams, Partner/Sheila Thornton, Managing Partner

We met with the audit committee- appointed by the City Council of Cherryville on Thursday January 6 to review the audited financial statements for the year ended June 30, 2021, We'd like to share the highlights of that meeting with the full Council tonight. Before beginning, we'd like to thank the audit committee members for their input - chairman Jon Abernethy, Mayor Beam, staff members Brian Dalton and Dixie Wall and volunteers Pam Harris and Scott Harrill.

2) Audit opinion

Our opinion on the financial statements for the year-end was a clean opinion, which means:

- a. The City has met the audit requirements of the North Carolina General Statutes.
- b. The financial statements represent the financial status of the City at June 30, 2021.

3) Financial highlights

- a. The City ended the year with combined assets exceeding the liabilities by \$20,361,000.
- b. The City received funding of the voter-approved bonds and recorded the receipt of \$3,653,000 in the General Fund and \$5,944,000 in the Water & Sewer Fund.
- c. The unassigned fund balance of the General Fund was \$1,080,621. This represents funds available to the Council without restriction. This is an increase of \$298,000 over the prior year.
- d. The two enterprise funds, Electric and Water & Sewer, had a combined income of \$524,027 for the year ended June 30, 2021.

4) Challenges and opportunities for the City and City Council

We discussed with the audit committee the challenges for the City Council in coming fiscal years, which include budgeting and cash flowing the debt service for the bonds. In addition, the funds provided by the bonds and the funds received under the federal stimulus programs, the Cares Act and the American Rescue Plan, will create additional audit requirements for the Council to consider.

The improvements to the City's infrastructure and other funding opportunities made possible by the Cares Act and American Rescue Plan will provide the City and the City Council with great opportunities to improve the City and enhance the lives of its citizens.

5) Closing/Questions

Butler & Stowe appreciates the opportunity to provide our audit services to the City of Cherryville and we thank the Council for their support. Thanks to Dixie Wall for her efforts during the audit process. We will now take any questions.

CONSIDERATION OF BUDGET AMENDMENTS, FINANCE DIRECTOR DIXIE WALL:

Finance Director Dixie Wall approached the podium to ask for consideration for the following budget amendments:



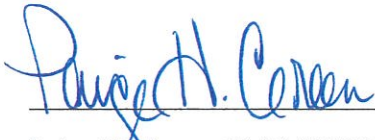
2021-2022 BUDGET AMENDMENT

BE IT ORDAINED by the City Council of the City of Cherryville:

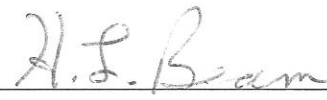
Section 1. The 2021-2022 Budget Ordinance of the City of Cherryville adopted on June 14, 2021 is amended by increasing and decreasing the following appropriations due to the award of the State Capital and Infrastructure Fund Directed Grant.

<u>REVENUES</u>		<u>Increase</u>	<u>Decrease</u>
10.3412.2620	Administration – Grants	\$ 422,800	
 <u>EXPENDITURES</u>			
10.6120.6900	Recreation – Grants (Storage/Mower)	\$ 22,800	
10.6120.6900	Recreation – Grants (Westgate Park	\$ 350,000	
10.4120.6900	Administration – Grants (Local Grant)	\$ 50,000	

Section 2. This ordinance is effective upon its adoption this January 10, 2022.

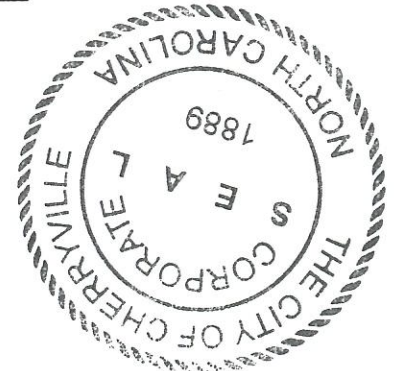


Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor

(SEAL)



2021-2022 BUDGET AMENDMENT

BE IT ORDAINED by the City Council of the City of Cherryville:

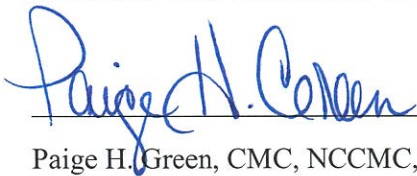
Section 1. The 2021-2022 Budget Ordinance of the City of Cherryville adopted on June 14, 2021 is amended by increasing and decreasing the following appropriations due to carryover from FY 2021, grants, donations and insurance reimbursement received to date.

<u>REVENUES</u>		<u>Increase</u>	<u>Decrease</u>
10.3412.8500	Insurance Reim-GF	\$ 4,824	
10.3431.2620	Police – Grants	\$ 3,968	
10.3431.3350	Police– Donations	\$ 134	
10.3493.3350	CMSP – Donations	\$ 22,500	
10.3412.9900	General Fund – Fund Balance	\$ 126,552	
30.3720.2620	Electric – Grants	\$ 5,000	
31.3713.8500	Insurance Reim - Water/Sewer	\$ 83,448	

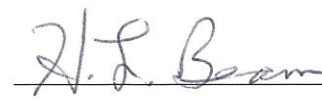
EXPENDITURES

10.4140.3530	Public Works – Auto Maint/Repair	\$ 3,142	
10.4310.3530	Police – Auto Maint/Repair	\$ 1,682	
10.4310.6900	Police – Grants	\$ 3,968	
10.4310.6930	Police - Donations	\$ 1,284	
10.4930.6930	CMSP - Donations	\$ 67,950	
10.4740.4400	Cemetery-Contract Services	\$ 6,250	
10.6120.6930	Recreation – Donations	\$ 73,702	
30.7200.6900	Electric –Grants	\$ 5,000	
31.7130.3520	Water/Sewer- Equipment Maintenance	\$ 83,448	

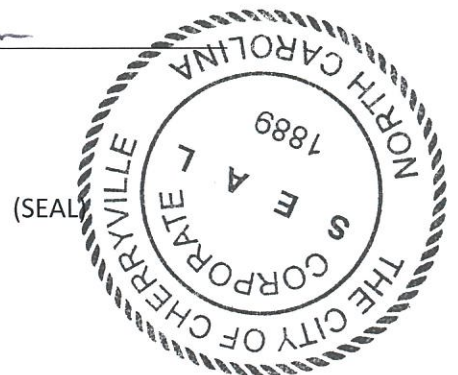
Section 2. This ordinance is effective upon its adoption this January 10, 2022.



 Paige H. Green, CMC, NCCMC, City Clerk



 H.L. Beam, Mayor



Councilmember Parker made a motion to approve both budget amendments. Councilmember Freeman seconded the motion and the vote was unanimous.

CONSIDERATION OF APPOINTMENTS TO THE ARCHITECTURAL REVIEW BOARD, MAIN STREET

CHAIR DONNA BARRINGER:

Main Street Director David Day approached the podium to ask for consideration for appointments to the Architectural Review Board. Ms. Barringer was out of town. The following appointments were presented for consideration:

The ARB bylaws require the Chairperson from the Cherryville Main Street make the nominations to the city council. These are 3-year terms, and can be re-nominated after the term is complete.

This year's Nominations:

Doug Blackburn - January 2022 - December 2024	2nd Term for Doug Blackburn
Vickie Spurling - January 2022 - December 2024	2nd Term for Vickie Spurling
Bess Thornburg - January 2022 - December 2024	2nd Term for Bess Thornburg
Scott Beam - January 2022 - December 2023	1st Term for Scott Beam (replacing and finishing Chad Cash's term)

Term still current:

Stan Bumgarner - January 2021 - December 2023	1st Term for Stan Bumgarner
Tim Moss January - 2020 - December 2022	1st Term for Tim Moss

Chair Recommendation:

Donna also recommends that Vickie Spurling be selected as chairperson for this Architectural Review Board Chairperson. She has been the chair for 3 years and has done an outstanding job.

Councilmember Freeman made a motion to appoint the following appointments for Doug Blackburn, Vicki Spurling, Bess Thornburg, and Scott Beam and Vicki Spurling as chair. Councilmember Abernethy seconded the motion and the vote was unanimous.

UPDATE ON PIEDMONT LITHIUM, MAYOR H.L. BEAM:

Mr. David Klanecky, COO of Piedmont Lithium approached the podium to give an update. Mr. Klanecky shared that Piedmont Lithium has been very involved in the community and would like to be more involved moving forward. Mr. Klanecky shared that Piedmont Lithium has hired a consultant to do an economic impact study project that he will be presenting at the Gaston County Commissioners meeting on January 11, 2022. The study will show the job impact that Piedmont Lithium will bring to the area, as well as the economic activity that is generated

with their operation and how it affects surrounding operations such as restaurants, grocery stores, or other jobs that could come to Gaston County. This study will also be online as well as many questions that citizens are asking about Piedmont Lithium. Mr. Klanecky invited everyone to visit the web site.

Mr. Klanecky shared that Piedmont Lithium submitted their state mining permit back in August and had a public hearing in November where they received good comments from the public. They are now working with the Division of Energy, Mineral, and Land Resources (DEMLR) towards gaining the state permit and everything looks very promising at this point.

Mr. Klanecky also shared that many meetings have been held around Gaston County concerning utilities. The discussions will continue and as more information is available, they will update Cherryville and bring us into the discussions.

Mayor Beam thanked Mr. Klanecky for the update and stated that Cherryville is available to furnish water and sewer to Piedmont Lithium. Mayor Beam reminded Mr. Klanecky that we are much closer than Gaston County and our rates are much cheaper.

Councilmember Freeman asked Mr. Klanecky what the possibility would be of annexing Piedmont Lithium into the city limits.

Mr. Klanecky shared that that has not be considered yet and they would have to get their legal representation involved to answer that question but would be happy to discuss later.

UPDATE ON CITY PURCHASING CARDS (“P” CARDS), CITY MANAGER BRIAN DALTON:

City Manager Brian Dalton shared that some months back the council approved the use of “P” cards. Mr. Dalton shared that not all department heads, have taken advantage of using this benefit. Mr. Dalton stated that currently some kinks are being worked out, but anytime a “P” card is used finance will know who has used the card and what was purchased.

Councilmember Freeman asked if council could receive a report showing the difference in spending before the “P” cards and after.

Mr. Dalton shared that a report will be provided to council.

CONSIDERATION TO SET A DATE FOR A PUBLIC HEARING RE: SPECIAL USE PERMIT FOR GIS PARCEL #129707 126 W. MAIN STREET, PLANNING & ZONING DIRECTOR DERRICK MACKEY:

Planning & Zoning Director Derrick Mackey approached the podium and asked for consideration to set a date for a public hearing regarding 126 W. Main Street. Cherryville Main Street, LLC has applied for a special use permit for the property that is currently zoned B-1. Cherryville Main Street, LLC is asking that the long-term vacant property located at 126 W. Main Street be rezoned for the entire building to be residential.

Councilmember Puett made a motion to set a public hearing date for February 14, 2022 for consideration in this matter. Councilmember Abernethy seconded the motion and the vote was unanimous.

CONSIDERATION OF CONTINUED PUBLIC HEARING RE: 1404 SHELBY HWY. (GIS PARCELS 160116, 160117, 160120, 216819 & 305089) REZONING FROM R-40 TO CU R-9, CU RMF, & B-2, PLANNING & ZONING DIRECTOR DERRICK MACKEY:

Councilmember Puett made a motion to enter into a public hearing concerning the rezoning of 1404 Shelby Hwy. Councilmember Abernethy seconded the motion and the vote was unanimous.

Planning & Zoning Director Derrick Mackey approached the podium to share the following background on the rezoning:

Background

- On October 18, 2021, the Cherryville Planning Board held a public hearing to review the proposed development from Montrose LLC, Michael Foess. The Board did not provide a recommendation on the proposed development.
- On November 8, 2021, the Cherryville City Council voted to continue the public hearing. The developer was asked to make some modifications to the plans.
- On December 14, 2021, the Cherryville City Council voted to continue the public hearing to take into consideration recent changes to the development proposal. The rezoning was re-advertised for public hearing on January 10, 2022.
- The purpose of the hearing today is to consider rezoning the subject properties per the application provided to the City of Cherryville.
- The City Council is being asked to:
 - Approve/Disapprove/Modify the rezoning to CU R-9 Cluster, CU RMF, and B-2 or continue the hearing.

Site Description and Adjoining Properties

The property is vacant, heavily wooded and accessed from a Shelby Highway/Highway 150. The property is bisected by several streams and the topography is gently rolling. The property is generally bounded to the west by Doc Wehunt Road and to the east by Brown Road. Surrounding properties include rural land, single family residential, and commercial uses along Highway 150. The property is currently zoned by Cherryville as R-40.

Land Use Plan

The Cherryville Future Land Use Map indicates that this area should be general business along Shelby Highway (Highway 150), rural preservation on the west side of the property, rural residential through the center of the site, and traditional residential/two-family residential for the northern portion of the site. Rural preservation is intended for low-density residential uses and limited small-scale commercial or industrial uses suited to blend with rural environments. Equestrian subdivisions are encouraged. Rural residential is intended for residential densities that do not need public water and sewer. Traditional single/two-family residential is for smaller to medium side lots. The future land use plan does not indicate attached housing for this area. Attached housing can be used as a buffer land use between detached homes and non-residential development when well designed.

Transportation

Shelby Highway/Highway 150 is considered a major thoroughfare by the Gaston-Cleveland-Lincoln Metropolitan Planning Organization (GCLMPO) and is identified as a bicycle on road corridor in the Comprehensive Transportation Plan and as a bike-pedestrian project in the 2045 Metropolitan Transportation Plan.

Proposed Request

The applicant proposes to develop the property for up to 386 single family residential detached homes, 104 townhomes and 5.3 acres of commercial property (490 dwelling units total). For the detached homes, the lots will be a minimum of 50' wide. Street access would be from Shelby Highway/Highway 150, via two connections. Improvements to Shelby Highway have not been addressed, however a binding traffic impact analysis has been added to the development conditions, with improvements that are phased based on the development phases and final NCDOT permits. Street stub outs are proposed to several adjacent properties.

The site plan draws a donut hole around a single family residential property owned by Joe Millwood. The existing driveway to this residence would become a public street into the site. Streets for the single family residential section will be public and private streets are noted for the townhome area. Homeowner association responsibilities have not been addressed. Street diagrams have been included. Public water and sewer are required for this development and will be installed by the developer and maintained by the City of Cherryville.

Mr. Mackey explained that that City of Cherryville contracted Centralina Council of Government (COG). They are experts in helping municipalities with subdivisions. COG suggested that several conditions be put in place before considering this plan. Below is a list of conditions that have been met by Montrose LLC:

Updates to Development Conditions For January 10, 2022
Total homes – 490 total dwelling units with up to 386 detached and 104 single family attached.
Single family detached front setback increased to 22' to avoid cars parking on sidewalk.
Added additional 30 feet buffer to residents of Eaker Circle
Added 100 feet buffer to Pecan Ridge Farm (Mr. Gunnel's farm)
Added active open space requirements, (Note E.9 and Sheet RZ-2)
Added permanent gate to Eaker Circle with Knox Box lock to restrict to emergency access only
Added Residential Architectural Requirements (Notes I.1 through I.6)
Added typical roadway cross sections (Sheet RZ-2)
Added sample residential elevations (Sheet RZ-3)
Updates to Development Conditions For December 6, 2021

Total homes – 490 total dwelling units with up to 120 single family attached (reduced from 674 total and up to 204 single family attached)
Residential Care Facilities and Yard sales removed as uses
Two-car driveways added for all residential (increased from one-car driveways)
Thirty (30) foot tree save area adjacent to Eaker Circle lots
One hundred (100) foot tree save area adjacent to Gunnel farm
Added street trees on every single family detached lot and every fifty (50) feet along common open space and sides of corner lots
Sidewalks installed along Hwy 150 and on one side of all residential streets.
Added open space amenity maintenance language (City or HOA).
Added options for open space amenities but not quantified.
Traffic impact analysis included (notes H.1 and H.2). DOT will conducts this study.
Gate will be installed at Eaker Circle to prevent construction traffic from using access.

Issues to Consider

Residential

- Adequate buffering for townhomes that back up to public streets is needed. If not addressed here, this issues should be addressed in the subdivision phase.
- Representative elevations are representative only. Materials are not limited, but conditions do dictate a mix of two materials on the front façade, roof materials and pitch.

Infrastructure

- There is a conflict between the conditions for street width and the graphics displayed. For all residential and commercial street sections, staff recommends a minimum of 34' face of curb to face of curb to mirror residential collector street standards outlined by NCDOT ([NCDOT Subdivision Roads Minimum Construction Standards, rev July 2020](#)).
- Open access to Eaker Circle is fundamental to safety and access principles for this many homes. If open access to Eaker Circle is required by the traffic analysis, there will be two conflicting conditions (one that notes emergency access only and one that notes that all requirements of the traffic analysis be constructed). To alleviate this issue, consider adding a phrase to the traffic analysis condition that “construction of improvements required by the study will occur unless in direct conflict with a written condition herein.”
- Add a condition to note that “all other specifications and general provisions shall be met as required by the City of Cherryville Ordinances” (this is required regardless, but adding the condition provides clarity for future property owners, developers and builders).

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

Councilmember Parker shared that he spoke with Mr. Feoss before the meeting and Mr. Feoss has also agreed to increase the distance between the homes from 10 feet to 12 feet.

Mayor Beam stated that the developer has agreed to every condition that the City of Cherryville has requested.

Councilmember Abernethy made a motion to approve the proposed rezoning stating it is consistent with the City of Cherryville Comprehensive Plan, which recommends residential growth in this area. In light of the new transportation corridors and expected growth, the Board considers an affirmative vote to be reasonable and in the public interest. Councilmember Puett seconded the motion and the vote was unanimous.

Mayor Beam shared that there is an ordinance in the agenda package to annex the Stroupe Acres property into the city limits. Below is a copy of that ordinance:



AN ORDINANCE TO ANNEX CERTAIN CONTIGUOUS AREAS TO THE CITY OF CHERRYVILLE, NORTH CAROLINA

(Stroupe Acres)

WHEREAS, the City Council has been petitioned under N.C.G.S 160A-58.1 as amended, to annex the area described herein; and

WHEREAS, THE City Council has by resolution directed the City Clerk to investigate the sufficiency of said petition; and

WHEREAS, the City Clerk has certified the sufficiency of said petition and a public hearing on the question of this annexation was held at the Cherryville Community Building at 6:00 p.m. in the W.J. Allran Chambers on the 10 day of January 2022, after due notice by publication in the Cherryville Eagle on Wednesday November 3, 2021; and

WHEREAS, the City Council does hereby find as a fact that said petition meets the requirements of N.C.G.S. 160A-58.1, as amended, namely (i) the area described herein meets all of the standards set out in N.C.G.S. 160A-58.1 (ii) the petition bears the signatures of all the owners of real property within the area proposed for annexation; (ii) the petition is otherwise

valid; (iv) the public health, safety, and welfare of the inhabitants of the city and the area proposed for annexation will be best served by the annexation;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Cherryville, North Carolina;

Section 1. By virtue of the authority granted by N.C.G.S. 160A-58.1, as amended, the following describe territory is hereby annexed and made part of the City of Cherryville as of the 10 day of January 2022:

See Exhibit A attached hereto for a metes and bounds description of the subject tract

Section 2. Upon effective date, the above description territory and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the City of Cherryville and shall be entitled to the same privileges and benefits as other parts of the City of Cherryville. Said territory shall be subject to municipal taxes according to N.C.G.S. 160-A-31(e).

Section 3. The Mayor of the City of Cherryville shall cause to be recorded in the office of the Register of Deeds of Gaston County, and in the office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 hereof, together with a duly certified copy of this ordinance. Such map shall also be delivered to the Gaston County Board of Elections, as required by N.C.G.S. 163-288.1.

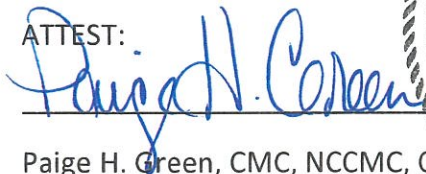
Adopted this 10 day of January 2022.

Effective Date: July 1, 2022



H.L. Beam, Mayor

ATTEST:



Paige H. Green, CMC, NCCMC, City Clerk



APPROVED AS TO FORM:

Palmer Huffstetler Jr., City Attorney

Councilmember Puett made a motion to approve the annexation ordinance to annex Stroupe Acres into the city limits. Councilmember Parker seconded the motion and the vote was unanimous.

CONSIDERATION OF PROCLAMATION FOR SCHOOL CHOICE WEEK, MAYOR H.L. BEAM:

Councilmember Freeman read the following Proclamation for School Choice Week 2022:



CITY OF CHERRYVILLE SCHOOL CHOICE WEEK

WHEREAS, all children in Cherryville should have access to the highest-quality education possible; and,

WHEREAS, the City of Cherryville recognizes the important role that an effective education plays in preparing all students in Cherryville to be successful adults; and,

WHEREAS, quality education is critically important to the economic vitality of the City of Cherryville; and,

WHEREAS, the City of Cherryville is home to a multitude of high quality public and nonpublic schools from which parents can choose for their children, in addition to families who educate their children in the home; and

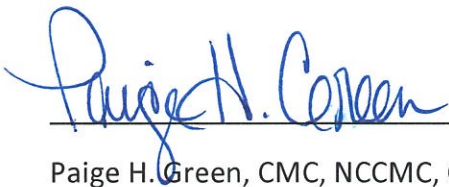
WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and,

WHEREAS, the City of Cherryville has many high-quality teaching professionals in all types of school settings who are committed to educating our children; and,

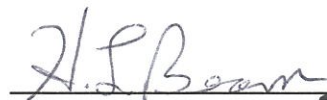
WHEREAS, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options;

NOW, THEREFORE, I, Henry L. Beam, Mayor of Cherryville, do hereby recognize January 23 – January 29, 2022 as City of Cherryville School Choice Week, and I call this observance to the attention of all of our citizens.

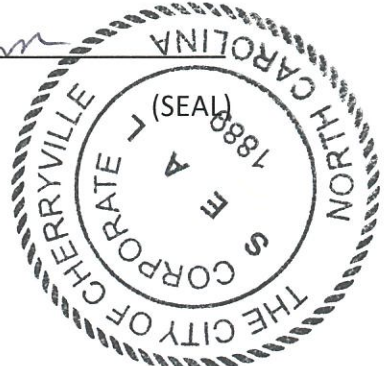
Adopted this 10 day of January 2022.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor

The seal of the City of Cherryville, North Carolina, is circular. It features the text "THE CITY OF CHERRYVILLE" around the top and "NORTH CAROLINA" around the bottom. In the center, it says "SEAL" and "1881".

CONSIDERATION OF RESOLUTION TO BEGIN UPSET BID PROCESS ON CITY OWNED LOT LOCATED ON W. MAIN STREET(CORNER OF W. MAIN ST. AND S. MULBERRY ST.), CITY MANAGER BRIAN DALTON:

City Manager Brian Dalton shared that Cherryville Main Street LLC., has made an offer to the City of Cherryville to purchase the City owned lot on the corner of W. Main St., and S. Mulberry St. Cherryville Main Street, LLC., submitted an offer of \$30,000 and \$1,500.00 earnest money will be paid if the offer is considered for the upset bid process.

Mr. Dalton explained that there is a sewer lateral that runs through this property and there are two town homes in the 100 block of S. Mulberry St., and the two town homes at 115 and 117 W. Main St. that feed into the sewer lateral. Mr. Dalton explained that with the infrastructure improvements on Main Street the two town homes at 115 and 117 W. Main Street will now be able to hook onto the sewer lateral on Main Street. This will remove them from the sewer lateral on the vacant lot. Mr. Dalton stated that if the City of Cherryville were to sell this lot, we would need to run a sewer lateral extension from Main Street to the two town homes on Mulberry Street. The future of the vacant lot will be a parking lot and if the town homeowners on Mulberry were to have a sewer issue, they would have the right to dig up the parking lot to repair the problem. Mr. Dalton shared that having the sewer lateral extension would solve this issue.

Mayor Beam stated that if there are no upset bids and the offer is accepted, then the City of Cherryville would need to install the extension soon.

Mr. Dalton responded saying that he has talked to realtor Vicki Spurling and the developer is in no hurry to pave the lot to make a parking lot.

Mayor Beam asked if the City would profit enough off the sale of the lot to pay for the sewer lateral extension.

Mr. Dalton shared that the sewer lateral extension will cost approximately \$20,000. He went on to say that the City of Cherryville had plans to make the vacant lot a parking lot for more parking downtown and Mr. O'Leary plans to do the same. Mr. Dalton stated that this was a win win for the City of Cherryville.

Councilmember Freeman asked about the existing oak tree on the corner of the lot.

Mayor Beam shared that the Homesley family did not put any stipulations on the lot.

Realtor Vicki Spurling responded that trees usually destroy parking lots and parking lots cost a lot of money. She also shared that she did not even notice the tree on the corner and has not discussed this with Mr. O'Leary.

Mr. Dalton shared that he and Mayor Beam spoke with Mr. T.C. Homesley about the lot, and he had talked to his sister Ms. Shirley Smith. The siblings agreed that anything that made Cherryville a better place they supported.

Councilmember Abernethy made a motion to approve the resolution and move forward with the upset bid process. Councilmember's Freeman and Puett seconded the motion and the vote was unanimous. Below is the resolution:



**RESOLUTION AUTHORIZING UPSET BID PROCESS FOR LOT ON W.MAIN STREET
(CORNER OF W. MAIN ST. & S. MULBERRY ST.)**

WHEREAS, the City of Cherryville owns the lot on W. Main Street and

WHEREAS, North Carolina General Statute 160A-269 permits the city to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the City of Cherryville has received an offer to purchase the property described above, in the amount of \$30,000, along with a commitment to construct and maintain a parking lot on the subject property, submitted by Cherryville Main Street LLC; and

WHEREAS, Cherryville Main Street LLC has paid the required five percent (5%) deposit on their offer;

THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRYVILLE RESOLVES THAT:

1. The City Council authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute § 160A-269.

2. The city clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer, and shall state the terms under which the offer may be upset.

3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the city clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the city clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

4. If a qualifying higher bid is received, the city clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the City Council.

5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer. Said bid must also agree to the same commitment to construct and maintain a parking lot on the subject property.

6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent

(5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The city will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The city will return the deposit of the final high bidder at closing.

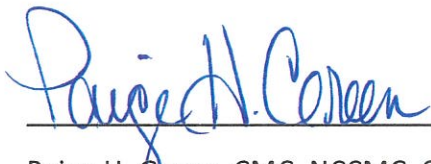
7. The terms of the final sale are that

- the City Council must approve the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed, and
- the buyer must pay with cash at the time of closing.

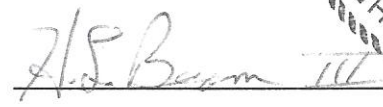
8. The city reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted. The appropriate city officials are authorized to execute the instruments necessary to convey the property to Cherryville Main Street LLC.

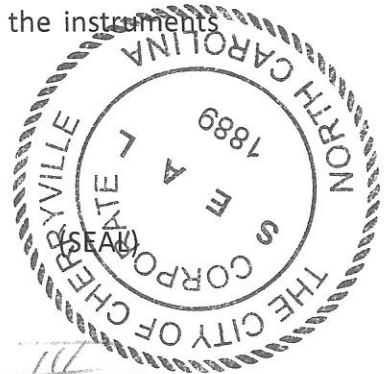
Adopted January 10, 2022.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam III, Mayor



City Clerk will run the following legal ad in the Cherryville Eagle to begin the upset bid process:



PUBLIC NOTICE

SALE OF CITY PROPERTY

An offer of \$30,000, along with a commitment to construct and maintain a parking lot on the subject property, has been submitted for the purchase of certain property owned by the City of Cherryville, more particularly described as follows:

Vacant lot located at the intersection of the eastern edge of the right of way for South Mulberry Street and the southern edge of the right of way for West Main Street. The legal description is as follows:

Located, lying, and being on the south side of West Main Street in the City of Cherryville, Cherryville Township, Gaston County, North Carolina, adjoining the lands of W. H. Houser, S. S. Mauney and others, and being more particularly described as follows:

BEGINNING at a stake on W. H. Houser's line, and runs with his line N 15 W 15 poles to a stake on the south side of West Main Street; thence with the said street S 73 W 151 feet to an iron stake; thence S 15 E 15 poles to an iron stake on old line; thence with old line N 68 E 151 feet to the **BEGINNING**, same being **Lot 1** of the **Carroll heirs division**.

Being the full contents of that property shown in Book 279 at Page 240 of the Gaston County Registry, **LESS AND EXCEPT** five (5) parcels previously conveyed by deeds duly recorded in the Gaston County Registry.

Being designated as Tract A on an unrecorded survey prepared by Donald S. Miller, Registered Land Surveyor, dated July 8, 1992.

Being the full contents of PID 129790 in the Gaston County Tax Office.

For title reference see Book 4885 at Page 260 and Book 4885 at Page 256 of the Gaston County Registry.

Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the City Clerk, at City Hall, 116 S. Mountain Street Cherryville, N.C. 28021 by 5:00 P.M., February 7, 2022. At that time, the city clerk shall open the bids, if any, and the highest qualifying bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

A qualifying higher bid is one that raises the existing offer to an amount not less than \$32,450.00. Said bid must also agree to the same commitment to construct and maintain a parking lot on the subject property.

A qualifying higher bid must be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The City will return the deposit of the final high bidder at closing or apply said deposit towards the purchase price.

The buyer must pay cash at closing.

The City Council must consider approval of the final high offer before the sale is closed, which it will do within 30 days after the final upset bid period has passed. The city reserves the

right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

Further information may be obtained at the office of the city clerk, City Hall, 116 S. Mountain Street, Cherryville, N.C. 28021 or at telephone 704-435-1709 during normal business hours.

OTHER BUSINESS:

Councilmember Freeman asked if there was anything, the City of Cherryville could do to help Jerry Sanders and the issue he is having with water run-off in his back yard. The water issue is coming from the pavement behind him where the Missionary Methodist Church is building a new facility.

City Manager Dalton shared that the city took rock out to Mr. Sanders to help with the water issue he is having. Mr. Dalton also shared that the city has suggested that Mr. Sanders have some dirt brought in and sod planted to help slow the storm water.

Mayor Beam shared that when the appointments for Council were approved in December, he did not realize that the Electricities Board could have two alternates. Mayor Beam shared that City Manager Dalton needed to be appointed because he needs to be involved, but he would also like to appoint Brandon Abernathy as the second alternate.


Councilmember Freeman made a motion to appoint Brandon Abernathy as a second alternate to the Electricities Board. Councilmember Abernathy seconded the motion and the vote was unanimous.

ADJOURNMENT:

Councilmember Parker made a motion to adjourn the meeting. Councilmember Abernathy seconded the motion and the meeting adjourned at 7:28 pm.

Adopted this 14 day of February 2022.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor

