



REGULAR CITY COUNCIL MEETING
MONDAY SEPTEMBER 13, 2021 @ 6:00 PM
WILLIAM J. ALLRAN COUNCIL CHAMBERS
CHERRYVILLE COMMUNITY BUILDING
106 S. JACOB ST. CHERRYVILLE, N.C. 28021

The Honorable Mayor H.L. Beam called the meeting to order in the William J. Allran Council Chambers. 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 Captain Brian Doolittle, Public Works Director Brandon Abernathy, Finance Director Dixie Wall, and Planning & Zoning Director Derrick Mackey were also present. Michael Powell of the Cherryville Eagle was present for media coverage.

INVOCATION: PASTOR DR. BILL LOWE, FIRST PRESBYTERIAN CHURCH:

Pastor Dr. Bill Lowe was unable to attend so Rev. Will Upchurch of the First Presbyterian gave the invocation.

PLEDGE OF ALLEGIANCE:

Everyone stood and recited the Pledge of Allegiance.

AGENDA APPROVAL:

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

APPROVAL OF MINUTES:

Councilmember Puett made a motion to approve the following minutes from previous meetings:

- CITY COUNCIL MEETING AUGUST 9, 2021
- CITY COUNCIL CLOSED SESSION MEETING AUGUST 9, 2021
- CITY COUNCIL RESCHEDULED WORK SESSION MEETING AUGUST 30, 2021
- CITY COUNCIL RESCHEDULED CLOSED SESSION MEETING AUGUST 30, 2021

Councilmember Abernethy seconded the motion and the vote was unanimous.

MAYOR'S COMMENTS:

Due to our extremely large agenda tonight, I will dispense with the usual Mayor's comments and go straight to our lengthy agenda.

I would however wish to thank Mayor Pro-Tem Jill Puett for standing in for me at the 911 Remembrance Ceremony this past Friday and the backing in ceremony for the city's new fire truck later the same morning. I was unable to attend these events due to a reoccurring back injury that placed me in the bed for several days.

With this much needed rest, muscle relaxers, pain killers, and a brace I am feeling a lot better and we will now move to the next item on tonight's agenda.

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)

Mr. Michael Foess, Managing Member of Montrose, LLC. approached the podium to say that he would like to support the zoning text amendment.

SPECIAL RECOGNITION OF CHERRYVILLE'S DIXIE YOUTH GIRLS ANGELS ALL-STAR SOFTBALL TEAM, 2021 WORLD CHAMPIONS, MAYOR H.L. BEAM:

Mayor Beam recognized Cherryville's 2021 World Champion Dixie Youth Girls Angels All-Star Softball Team with the following resolution:



RESOLUTION HONORING CHERRYVILLE'S DIXIE GIRLS ANGELS ALL-STAR SOFTBALL TEAM, 2021 WORLD CHAMPIONS

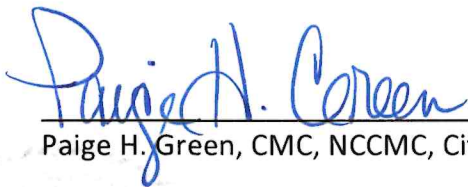
WHEREAS, the Cherryville Dixie Girls Angels All-Star Softball team was one of only three teams who represented the state of North Carolina in the 2021 Dixie Softball World Series in Moncks Corner, South Carolina, July 24 – July 27, 2021.

WHEREAS, the NC Dixie Girls Angels All-Star Softball team won the 2021 Dixie World Series with a record of 4-0 and won the double elimination tournament while playing teams from Moncks Corner, South Carolina, Saluda, South Carolina, Florida and Georgia.

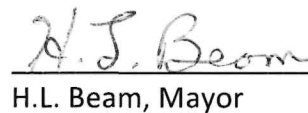
WHEREAS, the 2021 NC Dixie Girls Angels All-Star Softball team consists of Jenny Brown, Georgia Cruise, Blair Culberson, Zoe Culberson, Addy Morehead, Darrah Beam, Avery Price, Haylee Lynch, Chaslyn Montgomery, Katelyn Huffman, Addison Pruitt and Mary Ellis Upchurch

NOW, THEREFORE, BE IT RESOLVES THAT, I, H.L. Beam, Mayor and City Council hereby congratulate Coaches Matthew Anthony (Head Coach), Wes Culberson (Assistant Coach), Dustin Morehead (Assistant Coach) and all the members of the Cherryville Dixie Girls Angels All-Star Softball teams for representing Cherryville and North Carolina in the 2021 Dixie Softball World Series.

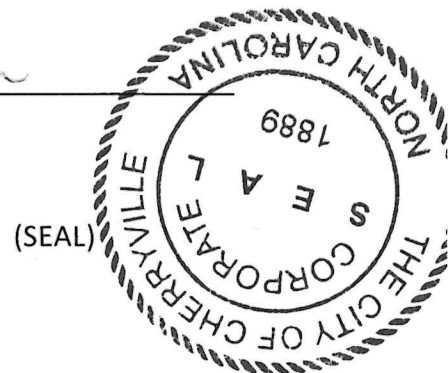
Adopted this 13 day of September 2021.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor



PROCLAMATION RE: CONSTITUTION WEEK 2021, MAYOR H.L. BEAM:

Mayor Beam presented the Daughters of the American Revolution (DAR) with the following Proclamation:



**PROCLAMATION
CONSTITUTION WEEK 2021**

WHEREAS: September 17, 2021, marks the two hundred and thirty-fourth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS: It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

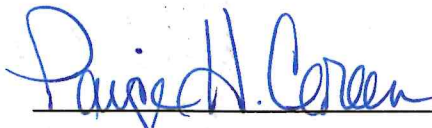
WHEREAS: Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE I, Henry L. Beam by virtue of the authority vested in me as Mayor of the City of Cherryville in the state of North Carolina do hereby proclaim the week of September 17 through 23 as


CONSTITUTION WEEK

AND, ask our citizens to reaffirm the ideals of the Framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Cherryville to be affixed this 13 day of September of the year of our Lord two thousand twenty one.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor



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

Mayor Beam recognized the following employee for his years of service to the City of Cherryville:

Ned Yates

5 Years

Parks and Recreation

SPECIAL RECOGNITION OF CAPTAIN NATHAN BOWMAN, WESTERN NC ASSOCIATION OF FIREFIGHTER'S FIRE OFFICER OF THE YEAR AWARD, PRESIDENT OF NCAFF, TODD MCMURRAY:

Mr. Earl Withers approached the podium to recognize Captain Nathan Bowman winner of the Western Fire Officer of the Year Award. Mr. Mr. Todd McMurray presented Captain Bowman with his award. Mr. Withers shared that Captain Bowman is a dedicated employee to the Cherryville Fire Department and has a "can do" attitude. He also shared that Captain

Bowman has a drive to succeed and is an excellent example to the younger members of the department.

SPECIAL RECOGNITION OF DEPARTMENTS FOR OUTSTANDING SAFETY AND HEALTH EFFORTS, MAYOR H.L. BEAM:

Mayor Beam recognized the following departments for outstanding safety and health for 2020:

Police Department	First Year Silver
Fire Department	9 th Consecutive Year Gold

SPECIAL RECOGNITION OF FINANCE DIRECTOR DIXIE WALL, ELECTRICITIES RISING STAR AWARD, MAYOR H.L. BEAM:

Mayor Beam recognized Finance Director Dixie Wall for receiving the Electricities Rising Star Award. The **Public Power Rising Star Award** recognizes an up-and-coming leader who has less than 10 years of experience and who, in that relatively short period, has made significant and sustained contributions to the electric utility industry and to public power specifically. Mayor Beam shared that Dixie was nominated for improving the city's electric system by implementing technology that will be helpful for citizens. Mayor Beam also pointed out that Dixie is very dedicated to the City of Cherryville and the citizens.

PROCLAMATION RE: 2021 FIRE PREVENTION WEEK, MAYOR H.L. BEAM:

Mayor Beam read the following proclamation recognizing 2021 Fire Prevention Week:



2021 Fire Prevention Week Proclamation

WHEREAS, the City of Cherryville is committed to ensuring the safety and security of all those living in and visiting our city; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires killed more than 2,770 people in the United States in 2019, according to the National Fire Protection Association® (NFPA®), and fire departments in the United States responded to 339,500 home fires; and

WHEREAS, smoke alarms sense smoke well before you can, alerting you to danger in the event of fire in which you may have as little as 2 minutes to escape safely; and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

WHEREAS, City of Cherryville residents should be sure everyone in the home understands the sounds of the alarms and knows how to respond; and

WHEREAS, City of Cherryville residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

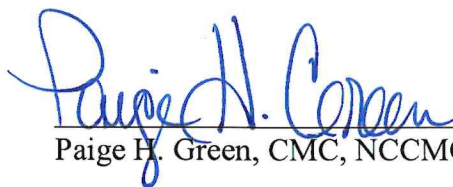
WHEREAS, City of Cherryville residents will make sure their smoke and CO alarms meet the needs of all their family members, including those with sensory or physical disabilities; and


WHEREAS, City of Cherryville first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, City of Cherryville residents are responsive to public education measures are better able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2021 Fire Prevention Week theme, “Learn the Sounds of Fire Safety,” effectively serves to remind us it is important to learn the different sounds of smoke and carbon monoxide alarms.

THEREFORE, I, H.L. Beam III, Mayor of the City of Cherryville, do hereby proclaim October 3–9, 2021, as Fire Prevention Week throughout this state, and I urge all the people of Cherryville to “Learn the Sounds of Fire Safety” for Fire Prevention Week 2021.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor



RESOLUTION RE: 2021 PUBLIC POWER WEEK, MAYOR H.L. BEAM:

Mayor Beam read the following resolution recognizing 2021 Public Power Week:



**Resolution Promoting NC Public Power During
Public Power Week, October 3-9, 2021**

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

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

WHEREAS, many of North Carolina's public power cities and towns have been electric providers for more than 100 years;

WHEREAS, public power meets the electric needs of 40 million Americans, almost 15 percent of electricity consumers;


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,

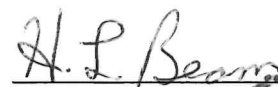
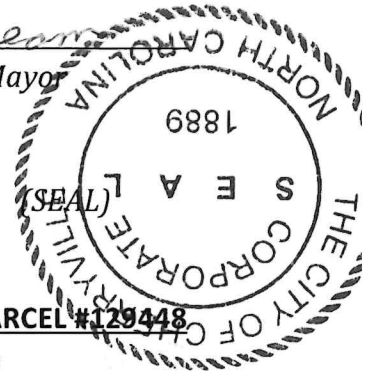
WHEREAS, North Carolina's public power utilities are dependable institutions that provide excellent service and a commitment to community; now, therefore be it

RESOLVED, that the week of October 3-9, 2021, is Public Power Week, a week to promote North Carolina's public power cities and towns for their contributions to their communities;

BE IT FURTHER RESOLVED, that NC Public Power communities join with all public power systems in the United States in this celebration of public power.

Adopted this day of 13 September 2021.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor


**PUBLIC HEARING RE: REZONING CLASSIFICATION RE: 114 CONE STREET GIS PARCEL #129448
FROM B-2 TO R-O, PLANNING & ZONING DIRECTOR DERRICK MACKEY:**

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

Planning & Zoning Director Derrick Mackey approached the podium to share that William B. Stroupe and Brian Dalton have applied for a zoning classification change for 114 Cone Street. The request is for the zoning to change from B-2 to R-0. Mr. Mackey stated that all surrounded residents had been notified and he has not received any comments from anyone.

Mayor Beam asked if any citizen would like to speak and no one did.

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

After some discussion, Mayor Beam read the state of consistency and all members of council agreed to the following:



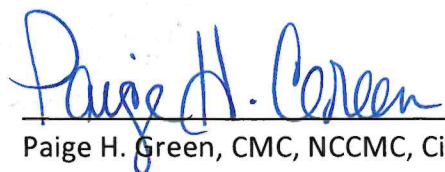
STATEMENT OF CONSISTENCY


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: **September 13, 2021** to consider Rezoning **114 Cone Street (Parcel ID# 129448)**. 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 13 day of September 2021.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor



Councilmember Parker made a motion to rezone the property located at 114 Cone Street from B-2 to R-0. Councilmember Abernethy seconded the motion and the vote was unanimous.

PUBLIC HEARING RE: ZONING ORDINANCE TEXT AMENDMENT, PLANNING & ZONING
DIRECTOR DERRICK MACKEY:

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

Planning & Zoning Director Derrick Mackey approached the podium and asked for consideration the following application to amend text in section 6 of the zoning ordinance. The amendment would allow a single-family cluster use under a Special Use Permit. Mr. Mackey held a meeting with the Planning & Zoning Board members who approved the amendment unanimously. Mr. Mackey explained that this amendment was vital for the Howell Stroupe property (AKA Stroupe Acres) moving forward. Below is a copy of the text amendment:



City of Cherryville

Application to Amend the Text of the Zoning Ordinance

To: City of Cherryville City Council

The Cherryville Zoning and Planning Office respectfully request that the Cherryville City Council, adopt a Zoning Code text amendment for a Single Family Cluster to be used under Special Use Permit.

Proposed Text Amendment to allow Single Family Cluster Designation.

This will allow a more efficient design.

6.2.2 R-15 Residential District

...residences and, except as provided in section 6.5, the minimum lot ...

(strike last sentence of this section)

6.2.3 R-12 Residential District

This district is established to provide for single-family and two-family residences. Except as provided in section 6.5, the minimum lot size for single family lots is 12,000, and the minimum lot size for two-family lots is 18,000 square feet. Public water and sewer are required in the R-12 district. Certain other uses are allowed or maybe allowed on a conditional basis.

6.2.4 R-9 Residential District

This district is established to provide for single-family and two-family residences. Except as provided in section 6.5, the minimum lot size for single-family lots is 9,000 square feet and for two-family lots is 12,000 square feet. Public sewer and domestic water are required in the R-9 district. Accessory residences are allowed on a conditional basis. Other uses are allowed or maybe allowed on a conditional basis.

Section 6.5 Cluster Development.

There are circumstances where a better community can be achieved by concentrating development on portions of the site most suitable for development; leaving undeveloped land, which can be left in its natural state or developed into open space amenities to serve the community. Such development patterns typically require less street and utilities per unit than conventional development; thus saving both initial costs and long-term maintenance costs. To facilitate such a more sustainable development pattern, cluster development is allowed as a conditional use in accordance with the following requirements.

6.5.1 Basic Requirements: Cluster development shall meet all of the following criteria:

- a. Minimum Acreage: The minimum area of a cluster development shall be 10 acres.
- b. Conditional Use: Cluster development requires a conditional use permit. As part of the conditional use approval, a schematic master plan shall be provided which shall show the intended layout, density, and the arrangement of roads, lots, and open space. Minimum proposed open space improvements shall be indicated on the master plan.
- c. Dimensional requirements: All cluster developments shall meet the City of Cherryville Subdivision Regulations, but are exempt from the subdivision ordinance and the zoning ordinance requirements relating to layout, minimum lot size, property line setbacks and street frontage. Minimum lot requirements are:

MINIMUM SINGLE FAMILY LOT REQUIRMENTS

Zoning	Area	Width	Setback	Side yard	Rear yard	Open Space
R-40	20,000	70'	25'	8'	30'	50%
R-15	10,000	70'	25'	6'	25'	33%
R-12	8,000	60'	25'	5'	25'	33%
R-9	6,000	50'	20'	5'	25'	33%

MINIMUM TWO FAMILY LOT REQUIREMENTS

Zoning	Area	Width	Setback	Side yard	Rear yard	Open Space
R-12	12,000	70'	25'	6'	25'	33%
R-9	9,000	60'	25'	6'	25'	33%

d. Additional requirements:

- 1) Public sewer and water are required.
- 2) Minimum rear yards along exterior boundaries of development shall be increased by 10'.
- 3) Street trees shall be required on each side of the street at a minimum average spacing of 50' on center.
- 4) Minimum 4' wide sidewalks shall be required. Cul-de-sacs require sidewalk on one side only.


6.5.2 Dedication and Maintenance of Common Open Spaces

- a. **Covenant Restrictions:** The common open space land shall be jointly owned in common by the owners of the dwelling units/lots in the development. Covenants for mandatory memberships in an association, setting forth the owner's rights and interests, shall be included in the deed for each lot.
- b. **Use of Common Open Space:** The common open space shall be permanently restricted to recreation, conservation or agricultural purposes. Structures accessory to non-commercial recreational, conservation or agricultural uses may be erected on the common open space. Utilities serving the development and measures intended to enhance water quality may be on common open space.
- c. **Restrictions on Common Open Spaces:** Common open spaces shall be shown on the final record plat with notation that indicates that:
 - 1) Common open space shall not be used for additional residential units.
 - 2) A part or all of the common open spaces may be dedicated for acceptance by the City for operation as a municipal recreation facility.
- d. **Developer Responsibility for Common Open Space Maintenance:** The developer or sub-divider shall maintain control of such open space(s) and shall be responsible for their maintenance until at least 50% but not more than 85% of the lots/units are sold.
- e. **Phased Dedication of Common Open Space:** The minimum percent of common open space recorded on each record plat shall be such that the total percent of open space dedicated at any one time is approximately equal to the percent of total lots recorded.

Adopted this 13 day of September 2021.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor

Mayor Beam asked if anyone would like to speak.



Mr. Michael Foess, Managing Member of Montrose, LLC Huntersville, approached the podium to say that he would like to support the zoning text amendment. Mr. Foess shared that this change will allow a great partnership between the City of Cherryville and a partner in creating a high quality neighborhood. Mr. Foess stated that by grouping the smaller lots together there will be less infrastructure for maintenance and it adds area for public use such as greenways, parks and active open spaces. Mr. Foess shared that because this development will be under a Special Use Permit that there will be a lot of dialog between the developer, the planning board, the city council, and city staff for a quality neighborhood.

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

After some discussion, Councilmember Abernethy made a motion to approve the zoning text amendment to section 6 of the Zoning Ordinance. Councilmember Freeman seconded the motion and the vote was unanimous.

PUBLIC HEARING RE: REZONING CLASSIFICATION GIS PARCEL #131030 FROM R-40 TO R-12, PLANNING & ZONING DIRECTOR DERRICK MACKEY:

Councilmember Parker 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 Ms. Veda Jackson of, 815 J.C. Dellinger Rd., has filled out an application asking to have property that she owns rezoned from R-40 to R-12. The land is undeveloped and has no assigned addresses. The GIS Parcel ID#'s are 131030 and 131031. Mr. Mackey stated that the rezoning would make the lots on this property smaller. Mr. Mackey stated that all surrounded residents were notified and a meeting was held with the Planning and Zoning Board. Property owners abutting Mrs. Jackson's property did come to the planning & zoning meeting with concerns. Mr. Mackey explained that Ms. Jackson answered any questions that the citizens had and she explained to them the type of housing development that would be on the property. The Planning and Zoning Board voted unanimously to bring to the councilmembers for consideration.

Mayor Beam asked if any citizens would like to speak. No one did.

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

After some discussion, Mayor Beam read the state of consistency and all members of council agreed to the following:



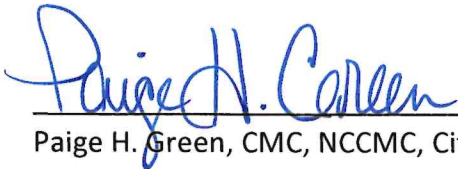
STATEMENT OF CONSISTENCY

**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: **September 13, 2021** to consider Rezoning **GIS Parcel ID# 131030 & 131031 (No Address Assigned)**. After the Public Hearing and discussion of the rezoning, the Council draws the following CONCLUSIONS:

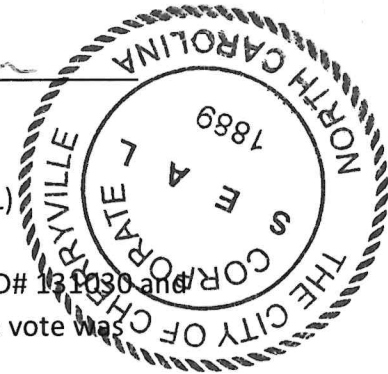
1. It is the Council's CONCLUSION that, the proposed rezoning **IS/IS NOT** consistent with the City of Cherryville Land Use Plan adopted in August 2012.
2. The Council finds the proposed rezoning **IS/IS NOT** reasonable and **IS/IS NOT** in the public interest. This conclusion is based on the following:

Ordered this 13 day of September 2021.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor

(SEAL)



Councilmember Parker made a motion to approve the zoning to GIS Parcel ID# 131030 and 131031 from R-40 to R-12. Councilmember Puett seconded the motion and the vote was unanimous.

SPECIAL RECOGNITION OF THE CHERRYVILLE WATER PLANT STAFF RE: STATE RECOGNITION, MAYOR H.L. BEAM:

Mayor Beam recognized the Cherryville Water Plant staff for winning the N.C. Area Wide Optimization Award or the AWOP Award. The N.C. Division of Water Resources has honored 64 water treatment plants for surpassing federal and state drinking water standards in 2020 and the Cherryville Water Plant was one of those honored.

CONSIDERATION OF REVISED COVID POLICY, CITY MANAGER/FIRE CHIEF JEFF CASH:

City Manager/Fire Chief Jeff Cash asked for consideration on the following Covid Policy:

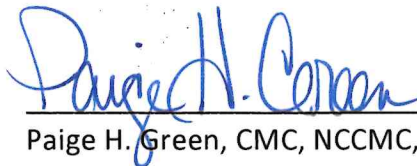


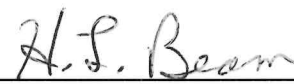
COVID-19 Vaccination Incentives

As an incentive to encourage employees to receive the COVID-19 vaccine, we will offer 24 hours of paid vacation time. The employee will be able to use this time off at the discretion of their direct supervisor. To receive this time, employees will follow the guidelines below:

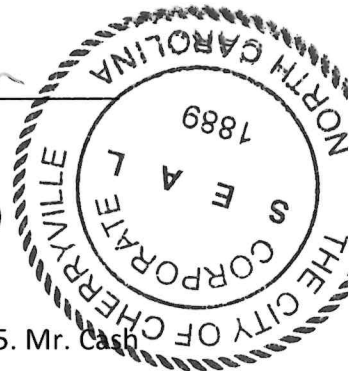
- ❖ If an employee has already been fully vaccinated, proof in the form of their vaccination card or letter must be given to Paige Green or Jeff Cash to receive their 24 hours of time off.
- ❖ If the employee gets fully vaccinated within 60 days of the adoption of this policy and provides proof to Paige Green or Jeff Cash, they shall then receive their 24 hours of time off.

Adopted this 13 day of September 2021.


Paige H. Green, CMC, NCCMC, City Clerk


H.L. Beam, Mayor

(SEAL)



Mr. Cash asked to change the number of days to get the vaccine from 60 to 75. Mr. Cash explained that it could take as many as 75 days to get the vaccine.

After some discussion, Councilmember Abernethy made a motion to approve the Covid Policy allowing employees 75 days to acquire the vaccination. Councilmember Puett seconded the motion and the vote was unanimous.

CONSIDERATION TO APPROVE ARPF (AMERICAN RESCUE PLAN FUNDS) FOR WASTEWATER TREATMENT PLANT GENERATOR, CITY MANAGER/FIRE CHIEF JEFF CASH:

Mayor Beam stated that there was no discussion of the wastewater treatment plant needing a generator at the work session.

City Manager/Fire Chief Jeff Cash asked for consideration on approving the funds for a Wastewater Treatment Plant generator. Mr. Cash explained that Finance Director Dixie Wall could give the numbers on what the actual cost will be. Mr. Cash shared that he and Mrs. Wall both feel 100% this, is a fundable item for ARP funds. He also shared that all guidelines will need to be followed in order to make this purchase. Mr. Cash explained that the generator at the wastewater treatment plant is down and has been down for months. The plant superintendent Larry Wright needs the generator should there be a power outage. Mr. Cash assured council that the funds would be approved because the generator is tied to water and sewer infrastructure.

Mrs. Wall approached the podium to share that the generator will be approximately \$94,000. Mrs. Wall shared that she will be asking for approval for every project on the list below. Mrs. Wall explained that CAT is a vendor that is through Source Well and Source Well will do a national bid process, which covers the Davis-Bacon Act. Many vendors will bid and Source Well works out the details. Mrs. Wall added that Source Well is a national company that the City of Cherryville can use for bidding.

Mr. Cash shared that the US Treasury Department approves of Source Well.

Mayor Beam, "My concern is, that me and the councilmembers were given the ARPF list and told to pick out our top 10 items, and at the last work session we discussed the Black Rock project and we approved that project. Now we are being asked to approve a generator."

Mrs. Wall, "Some items on the ARPF list are questionable."

Mayor Beam, "I just need to know what determines where we spend the money, will it be coming from you or the city manager or is the council going to decide?"

Mrs. Wall, "I can send you the compliance guide and what the US Treasury puts out, and you can see how you can fit it in. There is a lot of information to look through to find out if it is eligible or not, and by all means, I am not saying you all cannot pick out projects."

Mayor Beam, "I've got no problem I know that it is on there and we knew we could do all of them down to West Gate Park, I just was wondering what procedures we were going to go through. I did not know if you were going to present them to us and we were going to vote then or, will they be presented for us to discuss and decide if we want to spend that money."

Mrs. Wall, "I can do either way."

Mayor Beam, "Of course if they are out and they need it right away that would be an emergency item that would need to be added."

Mrs. Wall, "I was under the impression that this was an emergency repair."

Mr. Cash, "This is a mandated issue."

Mayor Beam, "So the state says they have to have the backup?"

Mr. Cash, "I am going to go out on a limb with a personal opinion of all the blogs I have been on and the meetings. Dixie and I have set through multiple, seems like hundreds of zoom about

this, from my estimation, and don't hold me to this, it is strictly my educated guess, that only 10 or 12 of the items will be eligible if that many. Many are not going to qualify."

Mrs. Wall, "I am on a group with the School of Government helping smaller municipalities with a check list and filing because some municipalities only have part time finance directors."

Councilmember Parker, "If these items are not going to qualify why were they put on the list for us to consider?"

Mr. Cash, "The rules had not been decided at that point, we had only received the interim rules and the final rules have not been distributed by treasury yet. It was a wish list based on what we were hearing. We just did not have the information from the treasury department at the time and as of this day September 13 we still don't have final guidance."

Councilmember Puett, "You said this piece of equipment that is down there, is a piece they have had but it has been down how long?"

Mr. Cash, "Probably six months but we have not had the money in the budget."

Mayor Beam, "I think he said we bought the last generator in 1983 and it was only guaranteed for twenty years. It has served its lifetime. Considering that it is mandated that we have that back-up, I was thinking that maybe we should look into it further and discuss it more but if its mandated I don't think we have that much of a choice. We are going to have to go ahead and vote on that tonight."

Mrs. Wall, "I am sure Larry can give you something stating that he has to have that generator to run the pumps or what have you because I go off the department heads."

Mr. Cash, "I made the decision to bring it before you tonight before we start getting fined. I felt like we needed to bring it to you tonight and in the future we will bring everything to a work session. This has been hanging over our heads for months."

Mayor Beam, "I don't have any problem with it. We have to comply with state mandates."

Councilmember Parker, "How long has it been down?"

Mr. Cash, "I'm guessing about six months."

Councilmember Parker, "And it is just now brought to our attention?"

Mr. Cash, "Well we have had emergency plans. We can get emergency generators from emergency management brought in for emergencies within a few hours' notice. We had it covered."

Mayor Beam, "Just like gas powered?"

Mr. Cash, "They actually pull them with a trailer or we can go pick them up. They have a cash of emergency equipment stashed in Albemarle and all I got to do is make a phone call and it is on its way to Cherryville or we can go pick it up, We had contingency plans but the state is not going to accept that. They want us to have an in place generator just like the water plant does, like city hall does, the fire department and the police department."

Councilmember Parker, "I don't have any reason not to vote for this but, it is an expensive item that was thrown on us at one time. From this point on, I would just like to ask that any other approvals on this money that it brought before the Council to discuss before it is approved."

Mr. Cash, "I will take full responsibility for the expediency of this one and in the future they will all come to the work session."

Mayor Beam, "Yes the work session and then we can turn right around at the council meeting and approve it."

Mrs. Wall, "This was in the 2020 – 2021 budget but it got cut because we thought the ARP money would cover it."

Councilmember Puett, "At the next work session, how hard would it be to look back at the budget and see what all got cut and what all the departments are needing and bring those so we can look at what is needed to see if there is anything else to approve."

Councilmember Abernethy, "Just so we can research things on this list so we can see if there are others that can be approved."

Mayor Beam, "Or at least be able to discuss them together so that in an open meeting we need to let others know we know what we are discussing and what the items are."

Mr. Cash, "Like I said I take full responsibility for the expediency of this one and we will do that in the future."

After much discussion, Councilmember Parker made a motion to approve the purchase of a new generator for the wastewater plant. Councilmember Freeman seconded the motion and the vote was unanimous.

Below is an updated ARP list:

**American Rescue Plan (ARP) - \$1.78 Million
Staff Recommended Priority List
June 14, 2021**

- West Church (Hwy 150 West Water Line) – \$1,200,000 - Bond
- Main Street to Peak Resources Water Line - \$1,000,000 - Bond
- Sewer Line to Ballard Pump Station - \$1,000,000 - Bond
- ~~Black Rock – \$200,000~~ **Approved August 30, 2021**
- Police Department Facility Repairs (Roof & Plumbing) - \$66,000
- Police Department Evidence Storage Building - \$17,000
- Body Cams (Police) - \$18,000
- Planning/Zoning Software - \$12,000
- Lawn Mower (Recreation) - \$12,000
- Storage Building (Recreation) - \$10,000
- **Generator (Wastewater Plant) - \$93,000**

- Roof at Ballard Pump Station (Wastewater Plant) - \$20,000
- Raw Water Pump (Water Plant) - \$20,000
- Water Plant Road - \$50,000
- High Service Pump (Water Plant) - \$65,000
- Little League Parking Lot - \$60,000
- ADA at City Hall - \$600,000
- Westgate Park - \$350,000
- Splash Pad - \$350,000
- ADA City-Wide
- **Water Plant Elevator Repairs**
- **Water Plant Tank Maintenance**
- **Wastewater Treatment Pump Station Bridge**

**UPDATE RE: COVERAGE FOR VOLUNTEERS ON CITY PROPERTY, CITY MANAGER/FIRE CHIEF
JEFF CASH:**



CITY OF CHERRYVILLE VOLUNTEER WAIVER, RELEASE AND INDEMNITY

Name of Volunteer (please print): _____

Address: _____ Phone: _____

Volunteer Activity: _____

Dates/Location of Volunteer Activity: _____

I, the undersigned volunteer, desire and agree to volunteer for the City of Cherryville in the volunteer activity described above. I further understand and agree as follows:

1. I am donating my time and services without any compensation and shall at no time be considered an employee or independent contractor of the City of Cherryville and the City of Cherryville will not provide insurance coverage for me;

2. I know of no reason, medical or otherwise, that would prevent me from performing the tasks required to participate in this volunteer activity;

3. I assume all risks of participating in this volunteer activity and full responsibility for my conduct and actions, including any injury to myself or others or damage to property that may result while volunteering, and I understand that the City of Cherryville is not responsible for conditions that I create myself or those created by other volunteers or participants;

4. I, binding my heirs, executors, administrators and assigns, hereby agree to release, hold harmless and indemnify the City of Cherryville, its officers, officials, employees, agents and volunteers from and against any and all loss, damage, expense or cost (including attorney's fees) of any kind for injuries (including property damage, personal injury, disability and death) arising out of this volunteer activity, whether caused by the negligence of the City of Cherryville or otherwise.

I _____ (and parent/legal guardian if volunteer is under age 18) have carefully read this release and understand and agree with all of its terms and conditions.

_____	_____
SIGNATURE OF VOLUNTEER	DATE
_____	_____
SIGNATURE OF VOLUNTEER	DATE

OTHER BUSINESS:

Mayor Beam shared that the Cherryville Country Club is having an issue with the geese and they have asked if they would be allowed to take care of the problem themselves but shooting the birds. Police Chief Cam Jenks shared that he has amended the ordinance below to allow this. Below is the amended Section 20-4 Use of weapons or missiles ordinance for consideration:



Sec. 20-4. Use of weapons or missiles.

- a) *Discharge.* It shall be unlawful for any person to discharge a firearm, or bow and arrow or hurl any missile of any kind within the city limits of the city.

b) *Exceptions.* The prohibition set forth in subsection (a) of this section shall not apply to the following:

1. Cherryville Golf and Country Club for the purpose of abating nuisance geese so long as the following requirements are met:

i. Shall only be allowed during open goose hunting season.

ii. A firearm shall not be fired within 500 feet of a dwelling or roadway.

iii. Only bird shot fired from a shotgun shall be used.

iv. All wildlife laws and regulations shall be followed.

v. May only be performed by current employees of Cherryville Golf and Country Club.

vi. The Cherryville Police Department shall be notified when any abatement of geese occurs on the property.

c) *Possession.* Except as provided in subsection (c) of this section, all persons are prohibited from possessing weapons as defined in G. S. 14-269 in city-owned nonresidential buildings as defined in G. S. 14-54(c), their appurtenant premises and parks.

d) *Exceptions.* The prohibition set forth in subsection (b) of this section shall not apply to the following persons:

- 1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons.
- 2) Civil officers of the United States while in the discharge of their official duties.
- 3) Officers and soldiers of the militia and the National Guard when called into actual service.
- 4) Sworn law enforcement officers.
- 5) County animal control officers.
- 6) Employees of the city, a utility company or a contractor to the city, may possess tools approved by their employer so long as such tools are not used as a weapon.

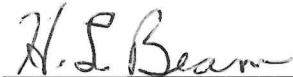
- 7) Persons possessing a written permit from the Chief of Police to possess weapons for ceremonial purposes on funerals.
- e) *Posting of notice.* A conspicuous notice shall be posted at each entrance to any property set forth in this section, indicating that possession of weapons or carrying a concealed handgun is prohibited. This indication may be given by use of the approved symbol.
- f) *Penalty for violation.* Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-11.
- g) *Weapons declared contraband.* Weapons possessed in violation of this section are hereby declared to be contraband. The Chief of Police or his designee shall hold such weapon for disposal pursuant to court order. In the absence of any court order, the weapon shall be destroyed. (Code 1973, § 14-14; Ord. of 9-12-94; Ord. of 12-11-95)

Cross References: City declared bird sanctuary, § 6-1.

State Law References: Authority to regulate, restrict or prohibit the discharge of firearms, G. S. 160A-189.

Adopted this 13 day of September 2021.


 Paige H. Green, CMC, NCCMC, City Clerk


 H.L. Beam, Mayor



Councilmember Abernethy made a motion to amend Section 20-4 Use of weapons or missiles ordinance. Councilmember Puett seconded the motion and the vote was unanimous.

City Manager/Fire Chief Jeff Cash will be out of town and not at the October 11 meeting. Councilmember Puett stated that City Clerk Paige Green could lead the meeting in October in the city managers absence.


Councilmember Parker shared that Duke Energy lost the lawsuit regarding coal ash and they will have to reimburse the customers. Councilmember Parker asked if Electricities had made any decisions about reimbursing customers because REA will be reimbursing their customers \$4.00 for every 1,000 kw used.

Mrs. Wall shared that she will have a rate committee meeting on October 5 at 10:00 and will know more then. Mrs. Wall will update later once she gets more information.


ADJOURNMENT:

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

Adopted this 11 day of October 2021.



Paige H. Green, CMC, NCCMC, City Clerk



H.L. Beam, Mayor



