

CITY OF CHERRYVILLE  
REGULAR CITY COUNCIL MEETING  
MONDAY APRIL 8<sup>TH</sup>, 2013 @ 7:00 PM  
CHERRYVILLE COMMUNITY BUILDING

Present at the meeting was Mayor Robert Austell, Councilmember's Malcolm Parker, David Kiser, Rick Campbell, and Brian Dalton. Staff that was present, City Manager Ben Blackburn, City Clerk Paige Green, City Attorney Palmer Huffstetler Jr., Police Chief Chad Hawkins, Fire Chief Jeff Cash, Public Works Director Brandon Abernathy, Finance Director Dixie Wall, and EDC Director Richard Randall. Michael Powell was present for media.

Mayor Austell called the meeting to order at 7:00 pm. He welcomed everyone to the meeting, read the rules of the meeting, and asked Rev. Drew Dalton to pray. Everyone remained standing for the Pledge of Allegiance.

MAYOR'S COMMENTS:

Mayor Austell shared with the citizens that he, Ben Blackburn, Dixie Wall and David Kiser had attended Town Hall Day in Raleigh on March 27, 2013. Mayor Austell shared that this meeting in Raleigh was about tax reform and the moving of income tax to sales tax. The City of Cherryville receives about \$267,000.00 a year from the state. City officials wanted to know of any changes and how this will affect our community. The group also met with Kathy Harrington and Kelly Hastings while in Raleigh. Lunch was held with Sharon Edmundson and two of her staff members. Finance Director Dixie Wall was able to meet the staff in the State Treasurer's office that she has been working with over the embezzlement charges. A great meeting was had and at very little cost to the City of Cherryville. It was a day trip.

CITIZENS TO BE HEARD:

Danny York of 302 E. Academy Street approached the podium and expressed his concern about the money that the City of Cherryville was given for sidewalks. He was told by the former City Manager that the City of Cherryville has received the funds for the sidewalks. City Manager Ben Blackburn updates everyone on this by saying that the City of Cherryville had not received any money for sidewalks to date. The City had been awarded the grant but has not received any money yet. Ben, Brandon and Jeff met with DOT April 8, 2013 and were told of some other things they would need to complete in order to get the money. November 1<sup>st</sup> is the deadline for project completion. Danny was concerned that the money had been embezzled.

Ned Costner of 307 E. Academy Street approached the podium and expressed his appreciation for the new Chief of Police. Chief Hawkins was a student of Mr. Costner's and was and still is a bright spot for him in Gaston County. Mr. Costner commended the City Manager on his choice for a new police chief.

ITEM #1 APPROVAL OF THE MINUTES FROM THE PREVIOUS MEETINGS:

Councilmember Parker made a motion to approval the minutes from the previous City Council Meeting held on March 11, 2013 and the previous Work Session Meeting that was held on March 25, 2013. Councilmember Kiser seconded the motion and the vote was unanimous.

ITEM #2 AGENDA APPROVAL/REVISIONS:

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

ITEM #3 PREVIOUS WORKSESSION VOTING UPDATE:

Mayor Austell shared that there were no votes at the work session meeting.

ITEM #4 CHIEF OF POLICE OATH OF OFFICE:

Mayor Austell introduced Chief Chad Hawkins to the citizens and the new chief was sworn in under oath. Chief Hawkins first day as chief of police was March 18, 2013. He received a standing ovation and was welcomed by everyone.

ITEM #5 BUDGET AMENDMENTS:

Finance Director Dixie Wall approached the podium to share with the Mayor and Councilmember's the budget amendments before them. The first budget amendment was for police auto maintenance and repairs. Councilmember Dalton made a motion to amend the budget \$8,162.00 and Councilmember Campbell seconded the motion. Vote was unanimous.

The seconded budget amendment was for the Expansion of Peak Resources Cherryville Facility in the amount of \$240,000.00. These funds were received from the Rural Economic Development Center for funding under the Rural Hope Initiative Program. This grant does require a local match and the CDBG Water Line grant has been approved to serve as the match. Councilmember Kiser made a motion to approve the budget amendment and it was seconded by Councilmember Parker. The vote was unanimous.

ITEM #6 CONSIDERATION OF OFFER TO PURCHASE BB&T BANK BUILDING:

City Manager Ben Blackburn shared that the City of Cherryville had received an offer to purchase the BB&T bank building from Houser Drug of Cherryville. The offer to purchase the building was for \$200,000.00 with \$20,000.00 of earnest money. Ben shared also that he had met with Tim Moss of Houser Drug and discussed some terms of the sale. Some of the concerns include entrances and exits of the building, as well as parking. The parking lot between the BB&T building and City Hall would still remain general parking.

Tim Moss approached the podium and shared his concerns about the City of Cherryville moving forward. Houser Drug is willing and has no issues with sharing the parking. They welcome as many customers as they can get and the parking benefits both City Hall and the new owners of the building. Mr. Moss also expressed his concerns about the building being empty and the cost it has had on the city. Mr. Moss shared that

he and the other owners of Houser Drug want to remain in Cherryville another hundred years. Mr. Moss sees no problems with working out the issues that exist.

Councilmember Dalton shared his appreciation of what Houser Drug means to the community and the face lift they have done on the current building.

Mr. Moss thanked the Mayor and Council for all they do and he understands that the city has taken a hit, but he is ready to see the city move on and some positive to start taking place. Mr. Moss wants to see downtown Cherryville thriving again and he feels like his business moving to the BB&T building would be a start.

Councilmember Parker also thanked Tim Moss and Houser Drug and shared that he had been working with them for some time now trying to get this purchase under way.

Mayor Austell asked the City Attorney if there comments that he would like to make. City Attorney Huffstetler did say that this offer was subject to the upset provisions by the NC General Status. A notice will need to be published in a qualified newspaper and from that date anyone would have the opportunity to increase the bid. An increase bid would have to be a minimum of 5% of the original offer. That process would continue until 10 days pass without a bid.

Mr. Moss also shared that Houser Drug reps are looking forward to meeting with Mr. Ted Alexander of the Historic Preservation Foundation about the BB&T building.

Councilmember Campbell asked if the city would owe any money if the city were to sale this building.

Councilmember Parker made a motion to sale the BB&T building to Houser Drug for \$200,000.00. Councilmember Dalton seconded the motion. City Manager Ben Blackburn asked Council to add the entrances, exits and parking concerns to the motion as well. Councilmember Parker made another motion to add the parking issues to his motion as well as the entrances and exits of the parking lot. Councilmember Dalton seconded the motion and the vote was unanimous.

**ITEM #7 CONSIDERATION OF PARTICIPATION RELEASE OF LIABILITY APPLICATION:**

City Manager Ben Blackburn addressed the Mayor, Councilmember's and citizens with a release of liability agreement. The following is the agreement for consideration:

**PARTICIPANT RELEASE OF LIABILITY  
ASSUMPTION OF RISK AGREEMENT  
\*\*\*READ BEFORE SIGNING\*\*\***

**City of Cherryville Fire Department, 411 east Church Street, Cherryville, NC  
28021**

Participant Name: \_\_\_\_\_

In consideration of being allowed to participate in any way in the program, related events and activities, and use of equipment, riding on vehicle, I the undersigned, acknowledge, appreciate, and agree that:

1. The risk of injury from the activities involved in this program is significant, including the potential for permanent injury and/or death.

2. **I KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS**, both known and unknown, **EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES** or others, and assume full responsibility for my participation.

3. I willingly agree to comply with terms and conditions for participation. If I observe any unusual significant hazard during my presence or participation, I will remove myself from participation and bring such to the attention of the nearest official immediately.

4. I, for myself and on behalf of my heirs, assigns, personal representatives and next of kin, **HEREBY RELEASE, INDEMNIFY, AND HOLD HARMLESS** the City of Cherryville, its officers, officials, agents and/or employees, other participants, sponsors, advertisers, and, if applicable, owners and lessors of premises used to conduct the event (RELEASEES), from any and all claims, demands, losses, and liability arising out of or related to any **INJURY, DISABILITY OR DEATH** I may suffer, or loss or damage to person or property, **WHETHER ARISING FROM THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE**, to the fullest extent permitted by law.

**I HAVE READ THIS RELEASE OF LIABILITY AND ASSUMPTION OF RISK AGREEMENT, FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND SIGN IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.**

X \_\_\_\_\_  
Age: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR PARENTS/GUARDIANS OF PARTICIPANT OF MINOR AGE (UNDER AGE 18 AT TIME OF REGISTRATION)**

This is to certify that I, as parent/guardian with legal responsibility for this participant, do consent and agree to his/her release as provided above of all the Releasees, and, for myself, my heirs, assigns, and next of kin, I release and agree to indemnify and hold harmless the Releasees from any and all liability incidents to my minor child's involvement or participation in these programs as provided above, **EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES**, to the fullest extent permitted by law.

X \_\_\_\_\_ **Date:** \_\_\_\_\_

\_\_\_\_\_  
Parent/Guardian (print)

\_\_\_\_\_  
Parent/Guardian Signature

Emergency phone numbers:

Councilmember Dalton asked who would be responsible for enforcing the agreement. That responsible person would be a city staff member of the department it applies to. Councilmember Kiser made a motion to approve the agreement. Councilmember Campbell seconded the motion and the vote was unanimous.

**ITEM #8 CONSIDERATION TO ENTER INTO CLOSED SESSION PER N.C.G.S. 143-318.11 (A) (1):**

Mayor Austell asked for a motion to enter into a closed session. Councilmember Parker made a motion and it was seconded by Councilmember Dalton. Vote was unanimous.

Councilmember Kiser pointed out the scout troop in the audience. Mayor Austell recognized the troop and Asst. Scout Leader Jim Sherrill approached the podium and shared that he and Asst. Scout leader Dennis Brittain had brought five young men to the council meeting tonight to help them earn a merit badge. The merit badge was for citizenship in the community and is an Eagle requirement. Mayor Austell encouraged the scouts to keep up the good work and to get their Eagle Scout because it would open many doors for them in the future.

Mayor Austell, Councilmember's, City Manager, City Clerk and the City Attorney then enter into closed session in another room.

Mayor Austell, Councilmember's, City Manager, City Clerk, and the City Attorney returned from closed session. Councilmember Kiser made a motion to come out of closed session. Councilmember Campbell seconded the motion and the vote was unanimous.

Mayor Austell shared that the closed session was in reference to the customer service policy and how it relates to over charges and under charges. Some amendments will be made in the future. No decisions were made at this time.

ITEM #9 OTHER BUSINESS:

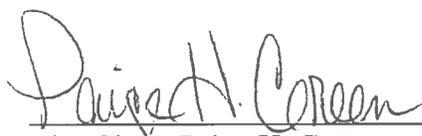
Councilmember Kiser asked where we were with the inmate program. Ben responded by saying the he had spoke to Warren Cook at the Dallas camp and they have two inmates that are ready for work. They also have two more approved for July 1<sup>st</sup>. Councilmember Parker asked where they would be working. Brandon Abernathy said that he would start the inmates at the little league fields because opening day will be Saturday.

Councilmember Campbell shared that opening day for little league will be Saturday April 13, at 9:00 am. He invited and encouraged everyone to come out, watch the kids play ball, eat a hotdog, and buy a brick.

Mayor Austell asked for a motion to adjourn. Councilmember Campbell made a motion to adjourn the meeting and it was seconded by Councilmember Kiser. Vote was unanimous. The meeting adjourned at 9:05 pm.

Adopted this 13<sup>th</sup> day of May, 2013

  
\_\_\_\_\_  
Mayor, Robert Austell

  
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City Clerk, Paige H. Green

