CITY OF CHERRYVILLE
CITY COUNCIL WORK SESSION
APRIL 29, 2013 @ 5:00 PM
CHERRYVILLE FIRE DEPARTMENT
TRAINING ROOM

Present at the work session, Mayor Robert Austell, Councilmember's Campbell, Parker, Kiser and Dalton. Staff that was present, City Manager Ben Blackburn, City Clerk Paige Green, City Attorney Palmer Huffstetler Jr., Finance Director Dixie Wall, Public Works Director Brandon Abernathy, and Police Chief Chad Hawkins. Media present, Michael Powell with the Cherryville Eagle.

Mayor Austell called the work session meeting to order at 5:00 pm welcoming everyone in attendance. Mayor Austell apologized for the work session having to start at 5:00 due to a death in his family. He then turned the meeting over to City Manager Ben Blackburn.

ITEM #1 DISCUSSION OF AUDIT CONTRACT, MR. LEON COLLIS, COLLIS AND ASSOCIATES.

Mr. Blackburn introduced Mr. Leon Collis of Collis and Associates, CPAs, P.C. Mr. Blackburn has talked with Mr. Collis and his associates about the auditing needs for the City of Cherryville. Currently Mr. Collis and his firm perform audits for seven different municipalities in Gaston County. Together his firm has over forty years of experience in auditing. All contracts are to be approved by the North Carolina Local Government Commission and the Commission must also approve the invoices submitted by the firm and all local governments in the state. The firm is also familiar with auditing requirements for governments, including that standards contained in Government Auditing Standards, issued by the Comptroller General of the United States. They are also familiar with the single audit standards for governments which expend over a certain amount of federal and/or state grants within a year.

Mr. Collis and his firm will make every effort to complete the audit report and financial statements by October 31, and to present them at the November regular City Council Meeting. This proposal is based on the assumption that all records are in satisfactory order for the audit to be performed without delays.

The proposal for the year ending June 30, 2013 was $27,000, with an additional $1,000 if a single audit is required. This fee will include preparation of the annual financial statements. This price also includes up to three Cherryville Audit Committee meetings.

After hearing from Mr. Collis and his son Rob, several Councilmember's had questions for the firm. Mayor Austell and the Councilmember's were please with what had been discussed and will vote on this at the May 13, 2013 regular City Council Meeting.

ITEM #2 CHERRYVILLE LITTLE THEATER, TERRY FISHER AND CONNIE FOX

Terry Fisher and Connie Fox addressed the Mayor and Council with concerns about the Little Theater. Some of the concerns were the HVAC unit. Making repairs to the systems, drainage problems inside especially the backstage toilets, outside drainage problems on the Elm Street side, the ceiling in the lobby having water damage and the front door closures do not work.

Mr. Fisher and Ms. Fox expressed their gratitude to the city on behalf of the little theater. Mr. Fisher expressed that it is wonderful for a town our size to have such a facility. He understands that money is tight right now but these issues need to be addressed. Currently one HVAC unit needs $800.00 worth of work on it and the Little Theater board is willing to meet the city in the middle and pay $400.00 of the cost. The theater has a play that starts this week and will last until Sunday. The city will try to make all repairs as soon as possible. Mayor Austell asked Brandon to have Murray Beam Jr., look at the drainage problem outside and see if we could get that corrected.

Councilmember Dalton asked if compressors in AC units are getting burned up because the city power flickers. Brandon did agree it can be hard on units, but some of these units in question are just old. Mayor Austell asked Brandon to consult Electricities and determine if something can be done to correct this problem.

ITEM #3 DISCUSSION OF MEMORIAL DAY/WORK SESSION FOR MAY, PAIGE GREEN

City Clerk Paige Green addressed Mayor Austell and the Council stating that the next work session will also be Memorial Day and the city offices will be closed for that holiday. Council discussed a budget planning meeting also for May. Councilmember Campbell suggested moving the work session to May 28th and also a budget planning meeting that same day. The meeting will start at 9:00 am at the Cherryville Fire Department Training room. Councilmember Dalton made a motion to hold these meetings on May 28th, 2012 and it was seconded by Councilmember's Campbell, Kiser and Parker. Vote was unanimous.

ITEM #4 CONSIDERATION OF CUSTOMER SERVICE POLICY CHANGE, BEN BLACKBURN

Ben addressed the Mayor and Council with a change to the customer service policy as it relates to billing. Everyone was given a copy of the policy and the change was high lighted. It reads, 1) from that period of time in which the customer was notified, in writing by the city. 2) And the City Manager, in his/her discretion may extend that period of time for collection of the undercharge from the customer whenever extenuating circumstances occur. Councilmember Campbell stated that he could not go along with what the policy says according to the changes they were given. He feels like the policy should state from the period of time that the problem was corrected in billing. He also feels like the customer in question was notified at the time of correction. Councilmember Dalton asked why the city would correct a billing issue and not notify the customer. Mayor Austell shared that when a customer is over charged, the clock starts ticking when the problem is realized and corrected. Credits are given for twenty four months to customers that over pay. Mayor Austell feels like twenty four should apply to

overcharges or under charges. Mayor Austell stated that we have got to be fair to all customers, we cannot change the policy for one customer. Mayor Austell expressed concern for the customers that had been over charged and he feels like there should be no difference in the time of payment for over charges or under charges.

Councilmember Dalton shared that one of the reasons that he decided to run for City Council was because he felt like he had been cheated by the city. He wanted to share his thoughts about his experience and he could because he can talk about his own bill. Councilmember Dalton received a bill in December 2010 and it was the highest bill he had ever received for utilities. When he questioned the bill he was told that he had been under billed for the past several months for water. Councilmember Dalton was told that something had happened to his water meter but the problem had been corrected. Councilmember Dalton stated that his bill in October 2010 had a water usage of 500 gallons but the minimum that all customers pay for is up to 2,000 gallons. He knew that he had used more water than that. Then in November he was bill for only 100 gallons of water but paid the minimum for 2,000 gallons of water. Again he knew that he had used more water than that. He talked to Mr. Hodgkins about this and asked why he was being billed for 14,000 gallons. Mr. Hodgkins explained that the city had to manually figure his bill because there was a problem with the water meter. Councilmember Dalton pointed out the fact that he had already paid for 2,000 gallons for October and November and that 4,000 of the 14,000 should not have been on his bill. Councilmember Dalton feels like the city should take responsibility when the customer is not notified at the time of the problem. He stated that the city should not hide a problem. Mayor Austell feels like the customer should only pay for what they use and you would have his vote to get credit for that over charges. However that does not change his feelings about the 24 month consideration in the rule.

Councilmember Parker shared that he had received a bill for his restaurant that went up $1,100.00 in one month. He complained to the city and the city sent Electricities out to do an energy audit on his business. Councilmember Parker stated that the report showed that there was no way Electricities could justify his bill being that high. He did pay the bill after talking to David Hodgkins.

Mayor Austell stated that every customer should be notified but it still does not change the fact that the customer owes for the usage. Mayor Austell explained the circumstances that the city was facing at that time with employee's being fired and employees changing positions. Mayor Austell feels like the policy should apply to all customers. Councilmember Dalton stated that the policy should say from the time the customer is notified. Mayor Austell shared that the city was going through a lot at the time this problem was realized.

Councilmember Kiser stated that we are talking about two different situations. The policy change would be made for moving forward but the situation at hand would be discussed in closed session. Mayor Austell explained that we have had thirty seven customers that we owed credits to. The city has given the credits to thirty seven or more customers that have been over charged. These customers have only received a credit for two years back. Mayor Austell went on to say that now we have a customer that received a big big break in electricity and the fact that they were notified or not does not change the fact that they owe the money. Mayor Austell also stated that consideration may be given to a customer in a business like a drug store but we cannot do that, we have got to

be consistent with all customers. Mayor Austell explained that the two years is in place to protect both the customer and the city. Councilmember Dalton did say the change in the policy would be the policy moving forward. He stated that currently the policy reads that if the city over charge a customer the customer can only come back on the city two years, but if we under charge a customer we can go back on the customer three years. Councilmember Dalton feels like we are holding our citizens and customers to a higher standard than we are holding ourselves to. He went on to say that ultimately it is the responsibility of the city to notify the customer when an issue to discovered. He stated that it is the responsibility of the city to send out bills that are correct. Councilmember Dalton stated that the policy should be two years either way. Mayor Austell responded by saying that in a perfect world it should be that way, but the thirty seven customers that are on the list are paying because of city errors. Councilmember Campbell asked if we notified the thirty seven customers of billing issues. Mayor Austell stated that they were notified because we owed these customers credits and they saw the credit on their bill. They were credited back 24 months. Mayor Austell also mentioned that there is a church in town that had an issue with their water meter where they were over charged since 2000. The city only credited them back 24 months. Councilmember Dalton wanted to know how long this church had been complaining about their bill. Mayor Austell asked Paige and she replied back several months. Mayor Austell asked the Council how they felt about the billing issue where a customer was not notified because employees were fired, and the customer was using a tremendous amount of electricity and not being charged properly. Councilmember Dalton stated that the employee that made the correction on the bill is still employed with the city. He wanted it understood that she is still employed and she should take the responsibility for this customer being notified as well, that it should not just be the people that have been fired from the city. Mayor Austell responded by saying yes she is still employed with the city and it was passed from her hands to the person that was suppose to handle it. Mayor Austell stated that responsibility also falls on the customer. Councilmember Dalton agreed and said that if he got a bill for ten dollars he would know that something was wrong with his bill. Councilmember Campbell asked Councilmember Dalton if he got a bill for thirty five dollars would he not realize something was wrong. Councilmember Dalton then asked Councilmember Campbell what the total was for all the accounts for this customer. Councilmember Dalton said that he would only look at the total of all the bills and he would not think that anything was wrong. He feels like most people will think nothing was wrong because most people are not going to look at the bills individually but at the total. Councilmember Campbell stated that if got a bill at his house and the bill went from thirty five dollars to twelve hundred dollars he would know that there was a problem. Councilmember Dalton shared that he serves on the stewardship committee at his church and when he looks at those bills he only looks at total of all the bills combined. Mayor Austell stated that the city has had one customer in sixteen years that has been under charged. He went on to say that now the city has a good staff and we have back up as to what is entered into the computer and not only one person enters it in anymore. Mayor Austell said that he could not see us having this problem moving forward; however it does affect one customer at this time. Mayor Austell said that he would never agree to making an eight month adjustment for a customer that received as much electricity as this customer did. Mayor Austell stated that it is not costing this customer any more now than

it would have if they had been notified. He stated that if we give this customer eight months than it is creating a policy that is not consistent for everyone. Mayor Austell shared that there would be a closed session later to discuss one customer and if this change is made it will affect them. Palmer shared that if the Council decided to make this change, than it would be his recommendation that the city make the change effective to handle cases that occur prior to the current date. To make this change effective three years before now. He does not recommend we make this change and then later in the closed session meeting carve out a special exception for one customer. Palmer stated that this one customer is not any different than any customer that may surface in the future that was undercharged in the previous three years. Palmer stated that if a change is made today the effective date should be April 29, 2010 and there will be no need for a closed session. Councilmember Dalton shared that just to keep things from getting muddy maybe the policy should have an effective date of May 1, 2013 and go from that point forward. Councilmember Kiser thought that the discussion was about the policy going forward. Palmer suggested that we need to treat everyone equally and Councilmember Dalton agreed, and said that this change should only affect any customers going forward. Mayor Austell asked Councilmember Dalton if he wanted to put that in the form of a motion and he stated that he wanted to hear what Palmer had to say about it first. Palmer responded by say that it depends on what they are planning on doing in the closed session and he does not agree with carving out an exception for one customer that is no different then any other customer. Mayor Austell said that he is for that change as long as it does not affect the one customer that is in question. Mayor Austell feels that there is no need for a closed session now that this has been discussed. Mayor Austell also wanted to recommend that the City Manager write a letter to the customer in question and let them know that they need to get with the City Manager and workout a payment plan to pay back the 24 months that is due. Mayor Austell went on to say that before this change the customer would have to pay back what was due in 24 months and this customer would need more than 24 months to pay this back because it would cause a hardship. Councilmember Dalton agreed they would not be able to pay it back in 24 months. Mayor Austell said the customers pay back could be extended due to the volume of money. Ben will include a $15,000 limit in this policy, that if the customers pay back is more than $15,000, they can workout payback plan with the city. Councilmember Dalton asked what would happen if we had a resident that has been undercharged, how will the payback be handled. Councilmember Parker suggested $15,000 limit for business's and a $5,000 limit for residential. Ben suggested leaving it up to the City Manager's discretion. Councilmember Dalton stated that the city pays the City Manager a lot of money to make these decisions and they need to trust the decisions that he makes. Mayor Austell asked if everyone agrees to let the City Manager write a letter to the customer letting them know that they owe for 24 months and they need to get with the city to make payment arrangements. Councilmember Dalton stated that we need to move forward with the letter because this needs to be put to bed and we need to move on. Councilmember Kiser asked if there would be a closed session. Mayor Austell did not feel the need for a closed session because the issue at hand had been discussed and what ever would have been decided in a closed session would have been announced afterwards. Councilmember Campbell expressed that that first part of the policy does need to be changed. Councilmember Campbell made a motion to change the first part of the policy to read –

from that period of time in which the problem is corrected. No second for the motion. Councilmember Dalton made a motion to accept the policy as written and give the City Manager discretion for payment arrangements. Ben stated that if the customer does not agree with his decision they always have the option of going to Council for any relief. Councilmember Dalton feels like this is what staff is recommending and he is supporting that because that is what the City Manager gets paid for. Councilmember Kiser asked how this impacts the customer being discussed. City Manager Blackburn agreed with Attorney Palmer Huffstetler that the policy needs to be uniform that if we are going to address the customer that is facing this charge it has to be fair to every customer. Councilmember Dalton asked Attorney Huffstetler if he was recommending going back to the date of April 29, 2010. Mr. Huffstetler responded by saying he would make the effective date three years back from the date the policy is made effective. There is a three year statue of limitations. Mr. Huffstetler stated that is makes the policy effective three years back charging the customer for 24 months. Mayor Austell expressed that he was for the change as long as the 24 months stays in the policy. Councilmember Dalton stated that the 24 months stays in and has never been the question. City Manager Blackburn asked Councilmember Dalton if this was part of his motion and he answered yes. Councilmember Parker seconded the motion and the vote was unanimous.

ITEM #5 DISCUSSION OF COG CONTRACT REGARDING MINIMUM HOUSING, BEN BLACKBURN

Mr. Blackburn addressed the Mayor and Council sharing with them some concerns from citizens about minimum housing issues within the corporate city limits of Cherryville. This contract is so that CCOG can handle the more detailed issues with these houses. Councilmember Dalton asked where the two houses are at. Mayor Austell stated that this contract is for a specific location. Mayor Austell stated that every year council budgets for 2 or 3 houses to be torn down but a contract never came back with these houses. If the money has been in the budget then the city moved forward with the issues. Mayor Austell also shared that maybe it had not been handled right in the past and maybe there should be a contract with each house. Mr. Blackburn wanted to make the Mayor and Council aware of this contract. Mayor Austell asked Mr. Huffstetler if a vote was needed to accept this contract. Mr. Huffstetler responded by saying it is on the agenda so why not. Mayor Austell feels like if the houses have been budgeted then we should move forward.

ITEM #6 CONSIDERATION TO ENTER INTO CLOSED SESSION.

A closed session was no longer necessary.

OTHER BUSINESS

Councilmember Campbell asked Mr. Blackburn to please make sure everyone received a copy of the new policy change. Mr. Blackburn will see that everyone gets a copy.

Councilmember Kiser asked Mr. Blackburn to go over exactly what he plans on doing for item #6 before we adjourn the meeting. Mr. Blackburn responded that he will draft a letter to the customer that has been affected detailing the amount owed and the bases for it in a 24 month period, however the city will entertain setting down with this customer

and working out an installment plan if deemed necessary on their part. Mr. Blackburn also stated that he will keep the Mayor and Council update with any discussion that may take place. Councilmember Kiser wanted to make sure everyone was on the same page with what would take place. Everyone agreed. Councilmember Dalton said that the plan sounded good and this matter did need to be resolved. The final decision was to include the one customer that has been grossly under charged to benefit by the extended pay back plan through a letter notifying them that they are expected to pay 24 months back.

Councilmember Parker asked about a sewer run over that happened on Howell Street. He asked if we had taken care of the problem and did we need to report this. Brandon did report that it had been taken care of and we were within our limits as far as reporting goes. The blockage was clear and everything is flowing fine. All report requirements have been taken care of.

ITEM #7 ADJOURNMENT

Mayor Austell asked for a motion to adjourn. Councilmember Kiser and made a motion to adjourn and it was seconded by Councilmember Dalton. Vote was unanimous. The work session meeting adjourned at 6:25 pm.

Adopted this 13th day of May, 2013

Robert Austell
Mayor, Robert Austell

Paige H. Green
City Clerk, Paige H. Green

SEAL

Mayor Austell and City Manager Ben Blackburn called City Attorney Palmer Huffstetler the next day after the meeting as to sending written notification. Mr. Huffstetler stated changing the charges on a bill itself would stand up in court as written notification. However, the Mayor said he believed more specific information was desired by Council on future changes to charges or after the one that currently exist. It was agreed on future corrections the specific amount owed and the dates covering the back charges would be listed. The Council was consistent in agreement of billing the current under charged customer for 24 months.