

CITY OF CHERRYVILLE  
REGULAR CITY COUNCIL MEETING  
MONDAY FEBRUARY 11, 2013 @ 7:00 PM  
CHERRYVILLE COMMUNITY BUILDING

Present at the meeting was Mayor Robert Austell, Councilmember's Malcolm Parker, Rick Campbell, Bryan Dalton and David Kiser. Staff that was present, City Manager Ben Blackburn, City Clerk Paige Green, City Attorney Palmer Huffstetler, Fire Chief Jeff Cash, Interim Police Chief, Public Works Director Brandon Abernathy, Planning & Zoning Director Richard Elam, and Finance Director Dixie Wall. Michael Powell was present from the Cherryville Eagle.

Mayor Austell called the meeting to order at 7:00 pm. He welcomed everyone to the meeting and asked Rev. Wayne Key to say a prayer. Rev. Wayne Key said a prayer and everyone said the Pledge of Allegiance.

Mayor Austell opened the meeting with comments thanking everyone in the community for all the cards, phone calls, and visits that he has received during his recent health problems. Mayor Austell shared that he was a living testimony that there are good people in our community that have taken the time to pray for him and he has felt those prayers. Mayor Austell pointed out that our community was going to get past what we have been through. The sentencing phase of the guilty pleas will be over soon. He shared that many positive things were in the near future with the planning of another budget, and a paving plan. Mayor Austell thanked Mayor Pro Tem Brian Dalton for handling the meetings while he was under the weather.

CITIZENS TO BE HEARD

Walter Ballard of 610 W. Church Street approached the podium with a document in his hand. He asked Mayor Austell if he knew what the document was. Mayor Austell responded by saying he was not able to see it. Mr. Ballard then tossed the document across the table to Mayor Austell. Mayor Austell looked over the document and said that he did know what the document was. Mr. Ballard wanted to know why it took the FBI to come in and clean up this mess. He pointed out that Mayor Austell and Councilmember Campbell had been approached several times and neither of them took the complaints serious enough to do anything about them. Mr. Ballard stated that the police department staff had to work under horrendous working conditions. He shared that some police officers were concerned about pulling citizens over for a reason and standing a chance of getting demoted or losing their job. Mr. Ballard shared that the police department has lost some good officers over this. Mr. Ballard stated that he knew that on more than one occasion police officers had even approached Mayor Austell about the situation at the police department. Mayor Austell stated that, that was not true. Mr. Ballard asked Mayor Austell if Gary Gold had ever approached him, and Mayor Austell said no. Mr. Ballard then asked Mayor Austell if any individuals ever came to him with concerns about the police department. Mayor Austell answered yes. Mr. Ballard asked Mayor Austell if the complaints were coming from drug dealers, or from reputable citizens in the community.

Mayor Austell agreed that individuals have approached him about different issues since he has been in office.

Councilmember Campbell commented that he found out about it in November 2011 after the election. He shared that he was told about some of the police department issues by Councilmember Dalton and Councilmember Parker. Mr. Ballard asked Councilmember Campbell if he was contacted by Mr. Beam and requested to have a meeting at his office. Councilmember Campbell asked if it was about the sunglasses. Mr. Ballard responded by saying it was also about some other issues. Councilmember Campbell said the only thing he ever discussed with Mr. Beam was an issue over sunglasses.

Mayor Austell stated the he has had a number of instances where citizens have approached him about different concerns. Some of these concerns pertained to youth and cannot be discussed. Most of these concerns involve more than one set of parents. Mayor Austell stated that he was completely satisfied with his handling on each and every one of those concerns. Mayor Austell asked Mr. Ballard if he was talking about the tires. Mayor Austell said that he personally called Locke Bell and asked him to review the case. Mr. Bell informed Mayor Austell that there was no case in what he had reviewed. Locke Bell stated that there was nothing to prosecute. Mayor Austell and Councilmember Dalton went to the courthouse several times over this issue. Mayor Austell told Mr. Ballard that it was not the job of the Mayor, but the district attorney's job to decide if charges were to be filed. Mayor Austell shared that the case was put in the right hands.

Mr. Ballard interrupted Mayor Austell by telling him he was taking up part of his 5 minutes. He went on to say that the men involved may not have been involved in more had the Mayor done the right thing. Mayor Austell asked Mr. Ballard to state the point he was trying to make. Mr. Ballard accused Mayor Austell of looking the other way when he knew things were going on that was not right. Mayor Austell asked again for Mr. Ballard to give him the specifics of what he was saying. Mr. Ballard stated the Councilmember Parker visited Mayor Austell at City Hall before he was ever elected about issues at City Hall. Mr. Ballard shared that some people at City Hall were bragging about not having to pay power bills and making extra money on the side. Mr. Ballard stated the Mayor Austell and the former City Manager David Hodgkins said that too many checks and balances were in place and nothing could happen. Mr. Ballard then stated, "Well look what happened." Mayor Austell agreed and pointed out that it happened with nine different Councilmember's that he had served with and two auditors that he had worked with. Mayor Austell said that everyone was looking for it and everyone suspected that something was there. Mr. Ballard asked about an issue with the Methodist Church and why the public never knew about it. Mayor Austell responded by saying he learned about the issue with the church at church. Mayor Austell went on to say that without any involvement from him the city did correct the problem. Mr. Ballard asked how much restitution was made to the church. Mayor Austell did not know. Councilmember Dalton remembered it being \$10,000.00. Mr. Ballard asked if we owe the church free water and sewer for a period of time as well. Councilmember Dalton said that from what he was told the multiplier was wrong on the bill and it was calculated wrong and the church was over charged for a number of years. Mr. Ballard than asked if some were over charge on power bills. He stated that he recently heard that some customers had come in with complaints about being over charged. Mr. Ballard asked Mr. Blackburn if he knew what

he was talking about. Mr. Blackburn responded by telling Mr. Ballard that if he would get him a list he would look into every issue.

Mayor Austell responded by saying that some bad things has taken place. These things were discovered and handled in the best possible way they could be handled. Mayor Austell said that the issues are in the hands of the right people and the guilty people have admitted guilt. Sentencing will be in the next five months or so. Mayor Austell stated that as far as any issue that has crossed his desk pertaining to the police department he would go back and handle is the same and never change a thing. Mayor Austell did say he could not talk about the youth because it was not legal. As far as the tire issue within the police department Mayor Austell says that he knew nothing of it. Mayor Austell shared that he contacted Gary Gold himself and then Locke Bell. Mr. Bell said that there was nothing to prosecute. Mayor Austell told everyone that it was not his job to file charges.

Mayor Austell then asked if any other citizens wished to speak.

Rodney Bowyer of 305 Mark Street approached the podium and wanted to know if the city was still paying Mike Allred or Woody Burgess's retirement. City Manager Ben Blackburn responded to Mr. Bowyer to let him know that on January 10, 2013 Mike Allred resigned and that Woody Burgess was drawing retirement from the NC Local Government System.

Hugh Hudson asked from the crowd about Bonny Alexander's health insurance and retirement.

Mr. Blackburn responded by saying that the issue with Bonny Alexander would be handled later in the agenda.

#### ITEM #1 APPROVAL OF MINUTES

Councilmember Kiser made a motion to approve the minutes from the previous City Council Meeting held on January 14, and the previous Work Session Meeting that was held on January 28. Councilmember Brian Dalton seconded the motion and the vote was unanimous.

#### ITEM #2 AGENDA APPROVAL/REVISIONS

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

#### ITEM#3 PREVIOUS WORK SESSION VOTING UPDATE

Mayor Pro Tem Brian Dalton shared with the citizens that at the previous work session the city council voted on a committee for review of the sewer lateral policy. Members are Dennis Neill, City Manager Ben Blackburn, Councilmember Malcolm Parker, Richard Beam, Public Works Director Brandon Abernathy, Jody Fowler, and Rodney Bowyer will serve as an alternate.

The only other item that was discussed and voted on was the removed of the old clock on the old BB&T building. The amount to repair the clock will be between \$65,000 and \$100,000. The city cannot afford to repair the clock so the clock will be placed in the Historical Museum on Main Street.

#### ITEM #4 JOHN CHAVIS MIDDLE SCHOOL RECOGNITION

Mr. Bryan Denton Principal of JCMS approached the podium and thanked the Mayor and City Council for allowing him to come and shared some good news that is going on in the community. The following students were recognized as students of the month for November, December and January. The students that were recognized were:

November

- 6th: Taryn Jenkins; Maggie Barnes
- 7th: Davonta Martin; Whitney Silver; Dillon Sain
- 8th: Alexis Hunter; Yung Sherrill; Brianna Bearden

December

- 6th: Jacob Paris; Mary Meeks; Jace Brittain
- 7th: Meredith Bowen; Briana McDowell; Owen Kaylor
- 8th: McKenzie Auten; Will Walker; Cassidy Murri

January

- 6th: Abbey Greenway; Payne Wallace; Macie Drum
- 7th: Brittany Crawford; Fallon Gantt; Mary Beth Wyatt
- 8th: Austin Ferguson; Iva Robinson; Zyire Robbs

ITEM #5 JASON WOFFORD – WESTERN NC FIRE FIGHTER OF THE YEAR

Fire Chief Jeff Cash approached the podium and called Jason Wofford and his family up to the podium as well. Chief Cash presented some more good news with the citizens of Cherryville by announcing Jason Wofford as Fire Fighter of the year. Chief Cash shared that the Cherryville Fire Department belongs to the NC State Firemen's Association that represents the 50,000 + fire fighters, both paid and volunteer, here in the state of NC. Three regions make up this area the piedmont, western, and eastern. Cherryville is part of the western district which has about 400 fire departments. Jeff commented on what an asset Jason was to the fire department and the City of Cherryville.

Mayor Austell, City Council and Ben Blackburn congratulated Jason for this accomplishment.

ITEM #6 CONSIDERATION OF PERSONEL POLICY CHANGE ARTICLE VIII, SECTION 1.

City Manager Ben Blackburn addressed the Mayor and City Council with a personnel change that would keep any retiree from the City of Cherryville from receiving any benefits if the retiree is convicted of or pleads guilty to any felony charge. This policy would also be retroactive from the date of the guilty conviction or plea.

Councilmember Dalton added to what Mr. Blackburn had shared with the citizens. Councilmember Dalton wanted everyone to understand that Bonny Alexander did retire from the City of Cherryville because she had worked 25 or more years with the City. This retirement gave Bonny Alexander health care coverage. Due to the fact that she has pled guilty to felony charges, she will no longer receive this benefit from the City of Cherryville. Councilmember Dalton just wanted to make it very clear that Bonny Alexander would no longer receive these benefits and they would be retroactive back to

January 18, 2012 when she pled guilty in federal court. Councilmember Dalton also added that Bonny Alexander was the only employee affected by this change.

Mr. Blackburn wanted to convey to the citizens that the City of Cherryville takes these charges very seriously and the City of Cherryville will do everything they can to seek full restitution in the matter.

Councilmember Campbell made a motion to adopt this change and the motion was seconded by Councilmember Dalton. The vote was unanimous.

#### ITEM #7 DISCUSSION OF GAMING SWEEPSTAKES REFUNDS

Mr. Blackburn addressed the Mayor and Councilmember's about a refund for the gaming sweepstakes. We do have a citizen that is seeking a refund, but the Institute of Government recommends that we do not refund these fees, because it is considered a tax. Taxes cannot be refund.

Councilmember Campbell made a motion to not refund the businesses. Councilmember Dalton seconded the motion and the vote was unanimous.

#### ITEM #8 DISCUSSION OF COMMUNITY BUILDING USE POLICY

Mr. Blackburn asked Mr. Randy Heffner to address the Mayor, Council and citizens about his use of the community building. Mr. Heffner addressed everyone about using the community building and feeding the citizens of the community. The first week they had 20 some citizens and they have had as many as 100 citizens come through. Mr. Heffner is trying to get in a building on Church Street but he has had to address some issues with this building. Until he is able to get in the building he is requested use of the community building for his services.

Mr. Blackburn shared that the City of Cherryville currently does not have a community building policy and one is needed. Mr. Blackburn asked the council to look at a long term use policy for the community building.

Councilmember Dalton asked if there had been any conflicts to date. There has been none.

Councilmember Campbell asked about the liability insurance.

City Attorney Palmer Huffstetler suggested that we may want to look at a waiver for long term use.

Councilmember Dalton made a recommendation for staff to put together a policy for the community building.

Councilmember Parker feels the policy will also apply to the Little Theater.

#### ITEM #9 CONNECT CONSORTIUM APPOINTMENTS

Mr. Blackburn asked the Mayor and Councilmember's to participate in the Connect our Region Program. This program helps towns and city's connect and work through issues that they may have. This program makes communities strong and helps everyone. Mr. Blackburn stated that this connect program will help us to apply for federal grants as well.

Mr. Blackburn asked the Mayor and Councilmember's appoint members to this committee.

This will be tabled to the February Work Session and members will be appointed at that time.

## ITEM #10 OTHER BUSINESS

Mayor Austell asked madam clerk to make sure that the comments that Mr. Ballard made were in the minutes. Mayor Austell shared that in a previous city council meeting Mr. Ballard stated that Mayor Austell was personally responsible for certain people being in jail. Mayor Austell said that he had been blamed for a lot of things but that was the most ridiculous thing he had ever been blamed for. Mayor Austell also wanted to make sure that the minutes reflected that Mr. Ballard had stated that former Cherryville Police Captain Gary Gold had met with the Mayor and told him about corruption in the police department. Mayor Austell also wanted the minutes to reflect that several citizens in a previous City Council meeting heard Mr. Walter Ballard refer to him with a derogatory name. This is also on tape from that meeting. Mayor Austell told Walter Ballard that he has just before crossed the line in more ways than one. Mayor Austell would not repeat what Mr. Ballard had called him.

Councilmember Parker shared that he had been approached by Ms. Connor from the Department of Correction about using inmates in our community. Councilmember Parker feels like this is something that our city could use.

Mayor Austell expressed that the inmates could be very beneficial to our city in many ways. We would be responsible for picking the inmates up and taking them back to the camp.

Ben shared that the inmates will only be with a city employee that has taken a class on managing them. He also shared that these inmates may see in the community if we do decide to participate in this program. No jobs within the city will be taken by inmates. They will basically be extra hands for labor.

Councilmember Dalton shared how the inmates were beneficial when they were used in the past.

Rodney Bowyer asked if the decision for the auditor was made during the budget planning. Mayor Austell told him no, the decision was made at another time. Mr. Bowyer shared that he feels like we should get a new auditor.

Walter Ballard approached the podium again and shared that he wanted to inform Mayor Austell and the Councilmember's of a break in at a commercial building in August. Walter shared that James Beam had told him that he had spoke with Mayor Austell and Councilmember Campbell about this issue three months before the election.

Mayor Austell interrupted Mr. Ballard and told him he was out of order that he had already had his five minutes under citizens to be heard. Mr. Ballard had a seat.

Ben gave an update for the police chief's position. He shared that even though our community had been given a black eye with the recent embezzlement, he had received some very good applicant for the position.

Mayor Austell shared that our community had some good volunteers and a wonderful staff. He expressed that the staff of the City of Cherryville was some of the best. He told the citizens that the staff needed to be recognized for all they do.

Councilmember Dalton shared that he had been setting though the meeting with concerns on his mind that he needed to say to the citizens. Councilmember Dalton said his concerns come from Mr. Ballard's comments earlier in the meeting. He also shared that he was at one time a full time police officer with the Gaston County Police and he is currently on reserves. He went on to say that what had happened with the police department in our city was not the responsibility of the Mayor, or any Councilmember's. The responsibility of the police department and the issues they have faced feel on the police chief. If ever complaint that was received was acted on there would never been any police officer. Councilmember Dalton shared that if a police officer is doing his job then he is going to receive complaints. If a police officer never gets complaints, he may not be doing his job. Councilmember Dalton shared that it was not right for fingers to be pointed at the people that are not responsible. It has happened time and time again and it's not right. The issues were put in the proper hands and they have been dealt with, but it is not the responsibility of any person setting to the left or right of him at the meeting. Councilmember Dalton also expressed that he was tired of hearing about it and tired of taking about it and it was time to move on to something else.

ITEM #11 ADJOURNMENT

Mayor Austell asked for a motion to adjourn the city council meeting. Councilmember Campbell made a motion to adjourn. Councilmember Kiser seconded the motion and the meeting adjourned at 8:00 pm.

Adopted this 11<sup>th</sup> day of March, 2013.

Robert Austell  
Mayor, Robert Austell

Paige H. Green  
City Clerk, Paige H. Green

