

CITY OF CHERRYVILLE

CITY COUNCIL WORK SESSION

MONDAY JANUARY 27, 2014 @ 3:00 PM

CHERRYVILLE FIRE DEPARTMENT TRAINING ROOM

Present at the meeting, Honorable Mayor H.L. Beam, Councilmember's Jill Puett, David Kiser, Brian Dalton and Malcolm Parker. Staff that was present, City Manager Ben Blackburn, City Clerk Paige Green, City Attorney Palmer Huffstetler Jr., Public Works Director Brandon Abernathy, EDC Director Richard Randall, Planning & Zoning Director Richard Elam, Detective Mark Stout, and Chief Jeff Cash. Michael Powell was present for media coverage.

ITEMS FOR DISCUSSION/ACTION:

CONSIDERATION OF RESOLUTION RECOGNIZING THE 2013 CHERRYVILLE HIGH SCHOOL FOOTBALL TEAM FOR THEIR ACCOMPLISHMENTS, BEN BLACKBURN:

City Manager Ben Blackburn addressed Mayor Beam and the Council with a resolution to honor the Cherryville High School Football Team for their accomplishments in the 2013 season. This Resolution will be presented to the Coach and the team at the February 10, 2014 City Council meeting.

RECOGNITION OF LT. NEAL GUNTER FOR RECEIVING THE 2014 WESTERN NC ASSOCIATION OF FIREFIGHTERS , FIRE OFFICER OF THE YEAR AWARD, CHIEF JEFF CASH:

Chief Jeff Cash shared that Lt. Neal Gunter has received the 2014 Western NC Association of Firefighters, Fire Officer of the Year award. Lt. Gunter will be recognized at the February 10, 2014 City Council Meeting.

CONSIDERATION OF TWO MEMBERS TO CHAMBER OF COMMERCE BOARD OF DIRECTORS AS PER THE CHAMBER'S BY-LAWS, RICHARD RANDALL:

EDC Director Richard Randall shared the following with the Mayor and Councilmembers:

The Cherryville Chamber of Commerce Board of Directors is made up of a total of 13 members; six being elected by the Chamber and six being appointed by the City Council. The terms are for 3 years each and are staggered, requiring the election or appointment of 4 new members each year (2 each annually for the Chamber and City, respectively). As you know, the City Council also directly appoints a councilmember to serve as a liaison to the Chamber Board annually.

Each year, the Chamber's Nominations Committee, in order to fill the four new Board positions, identifies individuals that possess the skills and attributes, several of which are indicated below, that are conducive to the Cherryville Chamber of Commerce Program of Work:

- ❖ They have taken an active interest in participating in Chamber programs and events in the past
- ❖ They have demonstrated the skills/talents necessary to assist in promotion of the Chamber and community
- ❖ They have the time to commit to board meetings, committee meetings, and Chamber functions and events
- ❖ They have demonstrated an interest and engagement in community issues and welfare
- ❖ They are members in good standing of the Cherryville Chamber of Commerce

However, 2014 will pose an unusually significant challenge for the Chamber. With the retirement of staff member Diana Beam, the Board of Directors has realized that it must step up and be ready to assist, at least temporarily, in some of the operations of the Chamber as a new staff member is transitioned into the position.

For that reason, the Chamber Nominations Committee is proposing that the Chamber and City respectively reelect and/or reappoint the four Board members whose terms expired at the end of 2013. Such a move has never been considered before, but it was determined that continuity is of utmost importance as the new staff person, whomever that may be, is acquainted with the varied responsibilities of the job.

Consequently, the Chamber Board has accepted the Nominations Committee's recommendation and reelected to new 3-year terms (2014-2016) the following Chamber-elected Board members whose terms ended December 31, 2013:

- ❖ Sandy Cunningham of Cunningham Insurance Agency
- ❖ Cheryl Mikell of Peak Resources - Cherryville

Accordingly, we are hereby requesting that the City Council accept the Nominations Committee's recommendation, as well, by reappointing to new 3-year terms (2014-2016) the following Council-appointed Board members whose terms ended at the end of December, 2013:

- ❖ Deborah Brown of Cherryville Public Warehouse
- ❖ Pete Craft of Cherryville-Stamey Funeral Home

Please note that these individuals have expressed their willingness to continue as members of the Board of Directors.

This will be placed on the Agenda for the February 10, 2014 City Council meeting.

PUBLIC HEARING RE:

ZONING MAP AMENDMENT FROM R-9 (SINGLE & TWO FAMILY RESIDENTIAL) TO GMC (GENERAL MANUFACTURING & COMMERCIAL) FOR A VACANT PARCEL AT 101 HICKS STREET (GASTON COUNTY PID #129120)

CONDITIONAL USE PERMIT FOR OUTDOOR STORAGE OF BOATS & RECREATIONAL VEHICLES ON A VACANT PARCEL AT 101 HICKS STREET (GASTON COUNTY PID #129120)

AMENDMENT TO SECTION 5.1 OF THE ZONING ORDINANCE TO INCLUDE A NEW SECTION, 5.1.2 (C) THAT RELATES TO LAWN CARE SERVICES, RICHARD ELAM

Planning & Zoning Director Richard Elam addressed Mayor Beam and the Council asking for a zoning amendment from R-9 to GMC for a vacant parcel at 101 Hicks Street. At the regular meeting held on December 16, 2013 the Planning Board made a motion recommending to the City Council to grant the rezoning request for this parcel. This will be placed on the agenda for the February 10, 2014 City Council meeting.

Mr. Elam also addressed Mayor Beam and the City Council with a Conditional Use Permit for outdoor storage of boats and recreational vehicles on a vacant parcel located at 101 Hicks Street. Mr. Elam explained that all property owners adjacent to the property at 101 Hicks Street will receive notice of this request for rezoning. Mr. Elam also explained the steps that Council would need to take at the February 10, 2014 City Council meeting.

Mr. Elam addressed Mayor Beam and the City Council explaining to them that on January 21, 2014 the Planning Board members had a meeting on amending the ordinance that relates to lawn care services. After thirty minutes of discussion with staff, attorneys and the input from those in the audience, the Planning Board chose not to take any action on this matter but to forward it to the City Council for their action. Three options were available per the Zoning Ordinance which are 1. Adoption of the amendment(s) as written, or 2. Adoption of the amendment as revised by the Planning Board, or 3. Rejection of the amendment.

Mayor Beam opened the floor for discussion of this matter giving anyone present the option to speak. Mayor Beam explained that the Planning Board has met twice on this matter and he and the Council have not been made aware of any details. Mayor Beam wanted to hear both sides of this issue.

Mr. Elam addressed Mayor Beam and the Councilmembers and shared that Chesley Walls Attorney Mr. Doug Arthurs was proposing that Section 5.1 of the Zoning Ordinance be amended to include lawn care services as a Customary Home Occupation subject to the following restrictions:

A lawn care service business in one that provides services in locations away from the business operator's property. While most of the actual landscape activity occurs off site, the business owner's property may be utilized for equipment storage, parking, material storage and a building or buildings for storage. In the R-40, R-15, R-12, R-9 and R-O zoning districts, each dwelling shall be restricted to a maximum of 2 riding lawn mowers, and no more than 1 employee vehicle shall be parked on the premises at any time. Additionally, in these particular zoning districts, no agricultural products, including but not limited to feed, mulch, lime, or seed, shall be sold or stored on the premises.

Mayor Beam shared that this is basically a neighborhood dispute and now both parties have attorneys. Mayor Beam asked both parties if they had tried to talk this over and settle this among themselves or did both just get attorneys. He explained that he would like to see the neighbors work it out if they could and not involve the City.

Mr. Rodney Pope of 603 Vista Drive shared that they do not want the ordinance changed at all, they want it to be enforced. Mr. Pope shared that they cannot move their home. Mrs. Pope shared

that they were not breaking any laws and they want to be able to live peacefully in their home but they are not able to do that right now.

Mayor Beam asked if either attorney would like to speak.

Chesley Wall's Attorney Doug Arthurs was present along with Travis Page. Travis passed out a copy of the current ordinance to the Mayor and Councilmembers. Mr. Arthurs explained that in the City of Cherryville the only place to have a business related to agricultural work is in the GMC. He explained that there is very little GMC in Cherryville. He currently has nine other complaints against nine other businesses being ran in residential areas. Mr. Elam told Mr. Arthurs that he will not act on these unless there is a complaint. Mr. Arthurs shared that if the ordinance stays the same then the other nine businesses should be ordered to stop just as Mr. Walls was. Mr. Arthurs shared that this is not a fight between two neighbors, it's a deficiency in the City's Zoning Ordinance. He went on to say that the only place you can have a business to mow grass is in the GMC District. Mr. Arthurs is asking the City to add this to the ordinance by placing it in the Customary Home Occupation Section. Mr. Arthurs stated that currently if you own one lawn mower and you mow someone's grass for money you are in violation.

Mayor Beam asked if this was Mr. Walls only source of income. Mr. Arthurs stated that it is his only source of income.

Mr. Walls shared that his set of circumstances last year were very different. He had many friends and family members helping him last years and he is very thankful.

Councilmember Puett asked Mr. Walls if he was going to store supplies like mulch, pine needles, or fertilizer at his home.

Mr. Walls commented that he would not be storing supplies at his house and he never has. The supplies that he has had at his house he has used on his own landscaping.

Ms. Nancy Paschall Attorney for Mr. & Mrs. Pope addressed Mayor Beam and the Councilmembers. She shared that the Planning Board has looked at this matter before and determined that a business was being ran out of Mr. Walls home. She also stated that Mr. Wall's employees come and go along with multiple trailers and front end loaders at Mr. Wall's location. Ms. Paschall pointed out the Mr. Arthurs shared that there would be nine more complaints filed. She also pointed out that those nine complaints were all coming from Mr. Walls. She shared that the City is not experiencing a lot of neighbors complaining. Ms. Paschall asked the Mayor and Councilmembers to keep in the fore front of their minds that the zoning regulation that is in place has worked fine for many years except when there has been a business in a residential neighborhood. Ms. Paschall shared that the Pope's have tolerated this issue for some time due to the fact that Mr. Wall's wife was ill. Ms. Paschall asked that the proposed amendment that was handed out by Mr. Arthurs not be changed at all. She pointed out that the proposed amendment does not meet the requirement of the ordinance. Ms. Paschall shared that nothing needed to be changed with the ordinance but the zoning violation against Mr. Wall's needs to be upheld. Ms. Paschall shared that the planning board could not make a decision because that do not feel comfortable in changing the ordinance. It has now been sent to the City Council and Ms. Paschall feels like is would cause more controversy to change the ordinance.

Mayor Beam asked why this complaint has come up suddenly when he has been in business for seven years at this residence.

Mr. Pope spoke up and stated that he made a complaint four years ago and Mr. Walls move his equipment behind his house and nothing was ever done. The business grew and it is now ten times bigger than it was. Mr. Pope pointed out the Mr. Wall's has a contract with the City of Cherryville and the employees have increased. Mr. Pope said that Mr. Wall's has obtained permits illegally for the items he has in storage. Mr. Pope stated that it is not a neighbor dispute, it the fact that a business is being ran in a residential neighborhood. Mr. Pope asked why the City of Cherryville would change an ordinance for one person. He stated that he has had many businesses and he rented a building for them, he did not run them out of his house. He also stated that if you can't afford the building for the business than don't be in business.

Councilmember Dalton asked staff how other municipalities handle this. He shared that he does not feel this is a customary home occupation.

Mr. Arthurs spoke up and shared that he felt this business was best suited under customary home occupation because it is not addressed anywhere else in the ordinance.

Mayor Beam shared that there will not be a decision today. The public hearing will be held on February 10, 2014 @ 7:00 at the Cherryville Community Building.

Councilmember Kiser asked if staff had any other recommendations.

Councilmember Dalton has a walk behind mower at his house and he wants to know how this ordinance will affect him. He has the same type of mower that most contractors use.

Mr. Elam shared the following recommendation from staff:

STAFF RECOMMENDATION

Definitions to be added to Part 4, Section 4.1

Definitions of Specific Terms and Words

“Lawn Care Services (small)” An accessory use business that provides services in locations away from the business operator’s residential property. This accessory use business shall only be allowed in **R-40, R-15, R-12, R-9, and R-Q Zones**. Parking associated with this use shall only take place in the driveway or garage. An accessory building shall be used for storage of the riding mower and any other hand held equipment such as a leaf blower, push mower, shovel(s), rake(s), and/or weed eater(s). No more than one (1) vehicle, one (1) trailer, one (1) riding mower shall be used in connection with this use at any time. No detached trailer or other equipment shall be parked in the street at any time. No products or equipment, including but not limited to feed, mulch, lime, or see, shall be sold or stored on the premises. Hours of operation shall be between 8 a.m. & 8 p.m. This use shall not be considered a Customary Home Occupation nor shall any employees be allowed with this accessory use business.

“Lawn Care Services (large)”: A business with more than one (1) vehicle, more than one (trailer), more than one (1) riding mower, and one (1) or more employees, that provides lawn care services in locations away from the business operator’s residential property. While the actual services occur off site, the

property may be utilized for equipment storage, parking, material storage and an accessory building for storage. This business **shall only be allowed** to be located on parcels Zoned **GMC** (General Manufacturing and Commercial) and **B-3** (General Business). This service may also be located on parcels Zoned **R-40** (Rural Residential) that are two (2) or more acres in size.

STAFF RECOMMENDATION

PERMITTED USES/SERVICES BY RIGHT TO BE ADDED TO THE FOLLOWING SECTIONS

Section 7.1 R-40 Rural Residential District

7.1.1 Permitted Uses:

20. Lawn Care Services (large) Parcel must be two (2) acres or larger

Section 7.10 B-3 General Business District

7.10.1 The following uses are permitted by right:

Services

SS. Lawn Care Services (large)

Section 7.12 GMC - General Manufacturing and Commerce District

7.12.1 Permitted Uses:

The following uses are permitted by right:

B. Agricultural equipment, sales and service

1. Lawn Care Services (large)

Councilmember Dalton asked Mr. Elam to find out how other Municipalities handle this type of situation.

City Manager Ben Blackburn shared with Mayor Beam and the Councilmember's that they have many options when it comes to making a decision on this matter. They can vote for the proposed amendment, leave the amendment the same, or Council can propose an amendment only if it's more restricted.

CONSIDERATION TO SET A PUBLIC HEARING REGARDING AN AMENDMENT TO THE CITY OF CHERRYVILLE ZONING ORDINANCE TO PART 15, BOARD OF ADJUSTMENT, RICHARD ELAM

Mr. Elam shared with Mayor Beam and the Council that a Public Hearing needed to be set regarding amendments to the Zoning Ordinance. This is basically house cleaning that the State is requiring us to do. Mr. Elam shared that anytime there is an amendment to an ordinance a public hearing has to be held.

OTHER BUSINESS

Mayor Beam shared that the City of Cherryville has received notice that Bonny Alexander will be sentenced February 28th, at 11:00 am.

City Manager Ben Blackburn shared that Jennifer Hoyle's sentencing date has not been set at this time. The probation office is still conducting her presentencing assessment. They will let us know when that date is set.

Mayor Beam shared that maybe the sentencing will give the community some closure.

Councilmember Kiser asked about the BB&T building and the status on it. Mr. Blackburn shared that the building is structurally sound and a sprinkler system is needed for safety. Mr. Blackburn shared that the City needs to be considering what steps they want to take with the building. Do we want to do some upgrades or put it back on the market?

Mayor Austell shared that he had received an anonymous suggestion about what can be done with the building.

Councilmember Parker feels like Houser Drug should have first option at buying the building if they are still interested.

Councilmember Dalton shared that we need to get it off our books and move on. He is ready to negotiate any anytime.

Chief Cash commented that the third floor would need to be closed off and not used.

Councilmember Parker shared that he would like to see the clock put back up. Mayor Beam shared that he is aware of someone that is willing to get the clock repaired and put back up. Councilmember Dalton shared that it was taken down because of a safety issue. Councilmember Dalton asked if the clock can be put back up and it be safe.

Chief Cash shared that when the clock was taken down it was because it was seen as a safety issue but once it was taken down they realized that the building would have fell down before the clock would have fell. It was very secure on the BB&T building. Chief Cash shared that he feels like the company that looked at the clock was trying make some money. He also shared that some money was taken up to have the clock repaired but it turned out to be a much more expensive project than anticipated.

Councilmember Kiser asked about the July 4th celebration and if we were planning on having it. Mr. Blackburn commented that part of the funds for this will come out of this year's budget and the other half will come out of next year's budget. Councilmember Dalton shared that we need to look into getting a band that does not cost so much because he is not in favor of spending that amount of money. Chief Cash shared that the band usually runs around \$3,200.00. He also commented that the bands that we use have contracts. Approximately \$4,000.00 for the fireworks. Chief Cash commented that he also needs an answer so that his license to shoot the fireworks does not expire. Mayor Beam shared that we have some good bands in our area that we can use. Chief Cash explained that we rent the stage and sound system for the band. Councilmember Dalton commented that Cherryville has the potential to make some money or break even on this event. Chief Cash shared that a beer garden would be the most productive thing the City could do. It has been done at other festivals around us and money has been made. Chief Cash shared that we need to get a band booked as soon as possible because most of the big bands are already booked. Chief Cash shared that this festival was originally held to show case Cherryville. He also shared that the Chamber handles the vendors and have made very little on it. Councilmember Puett commented that this could benefit the Small Town Main Street as well. Mr. Blackburn shared that it has been his experience that towns should steer clear of beer gardens and let a club or organization sponsor it because of the liability.

Much discussion was held about the July 4th event and there will be more.

ADJOURNMENT

Councilmember Dalton made a motion to adjourn the work session meeting. Councilmember Parker seconded the motion and the vote was unanimous. The meeting adjourned at 4:30 pm.

Adopted this 10th day of February, 2014

H. L. Beam III

Mayor, H.L. Beam III

Paige H. Green

City Clerk, Paige H. Green

(SEAL)