

**REGULAR MEETING OF THE
GRAHAM CITY COUNCIL
October 6, 2009
7:30 P.M.**

The City Council of the City of Graham met in regular session at 7:30 p.m. on Tuesday, October 6, 2009 in the Council Chambers of the Municipal Building located at 201 South Main Street.

Council Members Present:

Mayor Jerry Peterman
Mayor Pro Tem Linens
Council Member Jim Albright
Council Member Victor Euliss
Council Member Jennifer Talley

Also Present:

Chris Rollins, City Manager
Frankie Maness, Asst. City Manager
Aaron Holland, Planner
Keith Whited, City Attorney
Martha Johnson, Acting City Clerk

Council Members Absent:

None

Mayor Peterman called the meeting to order at 7:30 p.m. He then gave the invocation.

CONSENT AGENDA:

SEPTEMBER 2009 TAX RELEASES AND REFUNDS.

APPROVE FEE SCHEDULE FOR CEMETERY.

APPROVAL OF MINUTES: SEPTEMBER 1, 2009 – REGULAR SESSION.

Upon Motion by Council Member Euliss, second by Mayor Pro Tem Linens, motion carried unanimously by the Council.

REQUEST AND PETITIONS OF CITIZENS:

Petition and Annexation Request of Ollie M. Boswell for property at 1428 E. Harden Street, GPIN#8883995209.

Asst. City Manager Maness stated this was a voluntary contiguous Annexation which basically means it is connected to the City of Graham city limits. The property already has city water and sewer and since it is adjacent to the City limits we require they become part of the City through the Annexation process. Asst. City Manager Maness said the Annexation process is asking Council to adopt two Resolutions. The first being to charge the City Clerk to investigate the sufficiency of the petition. The second being to set a date for the Public Hearing which would be the next Council meeting in November. The Staff recommends approval.

Upon Motion by Council Member Euliss, second by Council Member Albright the Council voted unanimously to adopt the resolution directing the clerk to investigate the sufficiency of the petition.

Upon motion by Council Member Euliss, second by Mayor Pro Tem Linens the Council voted unanimously to adopt the resolution setting the public hearing for the next meeting, November 3, 2009.

Petition and Annexation Request of Charles Whittemore (B&C Grocery) for property located on 942 E. Harden Street, GPIN#8884718112.

Asst. City Manager Maness said this Annexation is the very same process and almost the exact same situation just in a different location on East Harden Street. This is currently just outside the city limits and is also a voluntary contiguous Annexation with the same two Resolutions required to be adopted. The Staff recommends approval.

Council Member Talley asked why they were requesting Annexation. Asst. City Manager Maness replied there was consideration for future development and reuse for that property. Council Member Talley asked what they wanted on that property and Asst. City Manager replied they currently have City water and sewer and with the use they are proposing they desire to be in the city limits in order to have Police protection.

Upon Motion by Council Member Euliss, second by Council Member Albright the Council voted unanimously to adopt the resolution directing the clerk to investigate the sufficiency of the petition.

Upon motion by Mayor Pro Tem Linens, second by Council Member Albright the Council voted unanimously to adopt the resolution setting the public hearing for the next meeting, November 3, 2009.

2009- 2010 BUDGET ORDINANCE AMENDMENT- WATER & SEWER FUND:

Asst. City Manager Maness said last fiscal year the Council approved the appropriation of funds from the letter of credit funds the City obtained from the Old Fields development to complete the sewer lines. The current owner had requested that adjustments be made to that sewer line so we were unable to get the work done before the close of the fiscal year. So therefore we are asking for a very similar budget amendment to appropriate the balance of the funds we have remaining to bring into the current budget so we can complete the sewer line that is remaining at the Old Fields subdivision. Asst. City Manager Maness stated these are not City funds; these are funds we retained from the developer.

Upon motion by Council Member Euliss, second by Mayor Pro Tem Linens the Council unanimously voted to approve the requested amendment.

2009-2010 BUDGET ORDINANCE AMENDMENT – GENERAL FUND:

Asst. City Manager Maness explained the amendment was two-fold for an Edward Byrne Memorial Justice Assistance Grant (JAG) program that was awarded to our Police

Department, which is part of the Stimulus Funding. The first grant is for \$53,018 and will

be used to purchase one patrol vehicle, some in-car video equipment and protective vests for the Special Response Team. The second grant is for \$12,885 and will be used for additional in-car video equipment. Asst. City Manager Maness said this requested amendment would bring funds into the current budget so the Police Department may expend.

City Manger Rollins stated to the Council that this was the grant they approved in which the Police Department filed for in the previous budget that was going to program Graham with Burlington and a few other agencies in which the grant was awarded.

Upon Motion by Council Member Albright, second by Mayor Pro Tem Linens the Council voted unanimously to approve the Amendment.

AMEND CITY OF GRAHAM CODE OF ORDINANCES CHAPTER 8.
ARTICLE I. SECTION 8-3. INDIRECT SOLICITATION OF ALMS.

City Manager Rollins stated the amendment would delete the wording prohibiting the soliciting of alms and replace it with the proposed solicitation ordinance.

Mayor Pro Tem Linens asked if the Fire Department would be exempt and City Manager Rollins said they are not the way it is written. There would need to be a change in the way it is written to allow the Fire Department or any other nonprofit organization to do that. Mayor Pro Tem Linens asked if they could do it on private property and City Manager Rollins said that it could be done. Mayor Peterman and Council Member Euliss both were not happy about the amendment as written.

Mayor Peterman stated it is a Consensus of the Council to have City Attorney Whited to make changes to the proposed Ordinance and to table this item and bring it back at the next City Council Meeting on November 3, 2009.

ADD CITY OF GRAHAM CODE OF ORDINANCES CHAPTER 8. ARTICLE I.
SECTION 8-8. PUBLIC URINATION AND DEFECATION PROHIBITED.

City Manager Rollins said the Police Department has had an issue with the lack of a City Ordinance dealing with this issue. It was proposed to delete the title "Reserved" in Section 8-8 and changing the title to Public Urination and Defecation Prohibited.

Mayor Peterman said there is nothing in our Ordinances that they could charge them with. This will give the Police Department a rule to stop someone if they saw this happening.

Upon motion made by Council Member Euliss, second by Mayor Pro Tem Linens the Council voted unanimously to add this Ordinance.

AMEND CITY OF GRAHAM CODE OF ORDINANCES SECTION 7-155 –
PARKING PROHIBITED AT ALL TIMES:

Harden Street (East), north side, ~~from Main to Marshall Street and from Marshall Street east one hundred fifty (150) feet:~~

Delete: from Main to Marshall and from Marshall Street east one hundred Fifty (150) feet

Add: from Main Street to East Elm Street.

Harden Street (East), south side, ~~from Main Street to Marshall Street and from Marshall Street east two hundred fifty seven (257) feet:~~

Delete: from Main to Marshall and from Marshall Street east two hundred Fifty seven (257) feet.

Add: from Main Street to East Elm Street.

Council Member Talley stated this parking change is needed, Mayor Pro Tem Linens agreed with her. Mr. Thomas Johnson of 419 Oneida Street spoke and said that if you live within the city limits of Graham, if you have a driveway or garage that is where you should park. He sees problems with this every day.

Upon motion by Council Member Albright, second by Council Member Talley the Council voted unanimously to amend the Code of Ordinances.

DISCUSS REQUIRED SPILLWAY REPAIRS AT THE GRAHAM-MEBANE LAKE:

City Manager Rollins said we have discussed the spillway at the lake many times in the past. The joint material in the spillway is failing. This has been repaired several times and every time the joint material is replaced, it only lasts four to five years. It appears the slabs were constructed twice the size they should be. This goes back to originally when the dam was designed, it was to be only half the width that it currently is. Late in the process when the City was taking bids to build a dam, in order to save money, the slabs were made bigger and they didn't need to be that big. The slabs of concrete are contracting and expanding more than they need to be and the joint material normally used in spillways is not designed to handle that much contraction and expansion and it fails.

City Manager Rollins stated Alley Williams has done an engineer's estimate to redo the joints and the cracks on the spillway. The cost would be for the City of Graham \$225,875.00 and for the City of Mebane would be \$112,337.50. What we are asking from the Council is permission to go ahead and take bids on this project. City Manager Rollins explained that this is very specialized work and only a few companies in North Carolina do this work. We would like to take informal bids and hopefully come back next month before the City Council and ask for approval to move ahead with this project while the lake levels are down and the conditions are right.

Mayor Pro Tem Linens asked if this material could be used year round. City Manager

Rollins replied that none of the materials we need to use there should be applied in the winter time. The spillway needs to be dry, the water levels need to be down two to three feet and the conditions are right at this time.

Council Member Albright asked if we are in the fourth or fifth year for repair and City Manager Rollins said we are actually beyond that. He also wanted to know what we were spending and City Manager Rollins said it was approximately \$100,000 the last time and that was using totally different material and was the slab only, not including the walls.

Council Member Albright wanted to know if there was any life expectancy on this and City Manager Rollins said the materials we have used in the past have seen a two year window. What is down now has been approximately twenty two months. Council Member Albright asked if this sealant wasn't approved would we have to pay out \$100,000 for just maybe only two years.

Council Member Euliss said if the prices are brought together before the next meeting we should have a called meeting. City Manager Rollins agreed with him.

Mayor Peterman said the Council would have a called meeting if necessary.

APPROVE ENGINEERING CONTRACT FOR THE AMERICAN RECOVERY & REINVESTMENT ACT 2009 (ARRA) LOAN FOR SOLAR POWERED MIXERS:

Assistant City Manager Maness said the Council talked last month about the Stimulus funds for the Mixers at the water tank at the middle school and the intake at the Water Plant. The contract before you is from Kavanaugh Engineer Firm from Winston Salem, North Carolina is for \$5000.00. It is largely for administration, bidding and preparation of contract documents. The staff recommends approval of the contract.

Council Member Talley questioned the contract on page three concerning the professional liability limit only being \$5000.00 and the termination of service fee of \$500.00. She asked Attorney Whited if we should agree to that. City Manager Rollins suggested we strike over under Professional Liability "Our liability for this project will be limited to \$5000. Upon request, a certificate of insurance can be provided as proof of coverage". Also under Termination of Services strike through "This project has a minimum termination fee of \$500.00". City Manager Rollins said we owe them for only the work that was done and nothing else.

Upon motion by Council Member Euliss, second by Council Member Talley the Council voted unanimously to approve the contract with the stipulated changes.

APPROVE CITY OF GRAHAM PARTICIPATION IN THE NC DEFERRED COMPENSATION PLAN (457 PLAN).

City Manager Rollins said that a few months ago the City Council approved a similar agreement with Prudential Insurance Company to handle the City's 401k plan we participate in, which the City and the employees contribute to the plan. In the years past the City has allowed the employees to participate in a 457 plan. That 457 plan has been administered through the International City County Management Association. The City

makes no contribution to this plan, only the employee. City Manager Rollins feels like it makes sense to allow employees to have the option to participate. City Manager Rollins stated we are asking the Council to approve this agreement to allow the City employee to be in the Prudential 457 Plan. The main difference between the 401K and the 457 is if the employee is retired, they can start getting their money regardless of age.

Upon motion made by Mayor Peterman, second by Mayor Pro Tem Linens the Council voted unanimously to approve participation in the NC Deferred 457 Plan.

DISPOSAL OF SURPLUS REAL PROPERTY ON SOUTH MAIN STREET & MOORE STREET.

Assistant City Manager Maness said the City has some excess property at the corner of S. Main Street and Moore Street. The State made the connection at Ivey Road and the City participated in the project by acquiring the right of way. Part of one of the parcels was unneeded. According to Assistant City Manager Maness there has been interest from the adjacent property owners to purchase the property. We are seeking from Council tonight to officially declare the property surplus and authorize the Staff to dispose of the property via upset bid, which will advertise any offers in the paper. Once the process is over we will return to Council with the highest offer and ask Council to consider accepting the offers.

Upon motion made by Council Member Euliss, second by Council Member Talley the Council voted unanimously to declare property surplus and authorize disposition.

ISSUES NOT INCLUDED ON TONIGHT'S AGENDA.

Steven West of 108 E. Harden Street is here because he recently found out the property at 118. E. Harden Street (beside his residence) is going to be an all steel building erected by Family Dollar Store. Mr. West is asking Council to consider extending the Overlay District and looking at provisions that would outline certain façades and signage that would be the same as the current zoning with the downtown district. Mr. West would like to give a flyer to the area residents and business owners gathering their opinions and present this at the next City Council meeting.

Mayor Peterman said they did meet with the builder and he is within his zoning restrictions. They discussed items with the builder concerning additional planting and drop lighting so you will not wake up to lights flashing.

City Manager Rollins stated the builder has submitted a full set of plans and has asked for a building permit and he assumed we would receive that shortly.

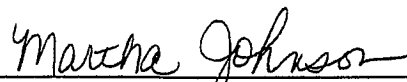
The second item was addressed by Teresa Byrd of 306 Holt Avenue Graham, North Carolina. She said she had been before the Council several years ago about the same parking problem on both sides of the street. The problem is the garage next to her property is six inches from the street. The neighbors park their vehicles on the street in front of their driveway, which is directly across from her driveway. She has almost hit children, other cars and the garage. Ms. Byrd said emergency vehicles would not be able to get in

her driveway. Mayor Peterman asked the Council members to visit the property before the meeting next month and he asked Teresa Byrd to come back to the next meeting.

City Manager Rollins mentioned the note concerning Graham Recreation & Parks along with the Graham Rotary Club sponsoring a 5k run Saturday November 7, 2009 starting at 9:00 a.m. Also he said there will be a ribbon cutting October 15, 2009 at 10:00 a.m. at Mega Plumbing on West Elm Street.

Council Member Talley said she appreciated everyone who participated in the BBQ Cook off this weekend. A lot of people came and had fun. She just wanted to say thanks.

Council Member Albright made a motion to adjourn, seconded by Council Member Euliss.



Martha Johnson, Acting City Clerk