

**CITY OF GRAHAM
REGULAR SESSION
TUESDAY, JULY 5, 2011
7:00 P.M.**

The City Council of the City of Graham met in regular session at 7:00 p.m., on Tuesday, July 5, 2011 in the Council Chambers of the Municipal Building located at 201 South Main Street.

Council Members Present:

Mayor Jerry Peterman
Mayor Pro Tem Jimmy Linens
Council Member Jim Albright
Council Member Victor Euliss
Council Member Chip Turner

Also Present:

Chris Rollins, City Manager
Frankie Maness, Assistant City Manager
Aaron Holland, Planner
Kimberly Harris, City Clerk

Absent:

Keith Whited, City Attorney

Mayor Peterman called the meeting to order at 7:00 p.m.

Council Member Turner led the City Council in the Pledge of Allegiance and he then recognized Dr. Ken Hall of First United Methodist Church of Graham who gave the invocation.

CONSENT AGENDA:

Tax Collector Year End Report -

PRELIMINARY REPORT FOR FISCAL YEAR 2010 – 2011

TO: Chris Rollins, City Manager
Graham City Council

FROM: Sandy P. Callahan, Tax Collector

DATE: July 5, 2011

In accordance with N.C.G.S. 105-373(a)(1), I respectfully submit the following Report:

Attached to this Report is a combined list of the persons owning real property whose taxes for 2010 remain unpaid, and persons not owning real property whose personal property taxes for 2010 remain unpaid, along with the principal amount owed by each person.

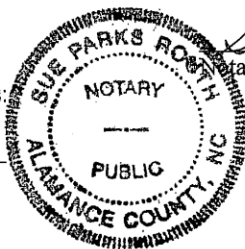
In compliance with the N.C.G.S. 105-373(a)(3), attached hereto is a Report entitled "Settlement for Current Taxes for Fiscal Year 2010-2011" dated June 30, 2011 setting forth my full settlement for all taxes in my hands for collection for the fiscal year 2010-2011.

Further, I hereby certify that I have made diligent efforts to collect the taxes due from the persons listed in such a manner that is reasonably necessary.

Respectfully submitted,

Sandy P Callahan
Sandy P. Callahan, Tax Collector

SWORN TO AND SUBSCRIBED BEFORE ME, this 5th day of July, 2011.

My Commission expires: 2-18-2013
Sue Parks Routh
Notary Public


**2010 END OF YEAR ANALYSIS
COMPARISON TO 2009**

2009 Valuation – 896,202,805 (tax rate .445)
2010 Valuation – 893,869,536 (tax rate .445)

The 2010 Property Valuation decreased by 2,333,269

2009 Levy – 3,991,530.04
2010 Levy – 3,978,667.97

The 2010 Levy decreased by 12,862.07

2009 Collected Taxes (Real & Personal) – 3,821,921.26
2010 Collected Taxes (Real & Personal) – 3,843,180.36

2009 Uncollected Taxes (Real & Personal) – 169,608.78
2010 Uncollected Taxes (Real & Personal) – 135,487.61

2009 Motor Vehicle Taxes collected by Alamance County – 369,487.75
2010 Motor Vehicle Taxes collected by Alamance County – 317,270.97

SETTLEMENT FOR CURRENT TAXES FOR FISCAL YEAR 2010-2011
June 30, 2011

	TOTAL PROPERTY VALUATION	RATE	AMOUNT OF LEVY
TAX LEVY-CITY WIDE	896,914,312	0.445	3,991,089.07
<u>DISCOVERIES:</u>			
CURRENT YEAR & PRIOR YEAR WITH .48 RATE	611,162		2,782.56
<u>DE-ANNEXATION</u>	(1,476,404)		(6,569.99)
<u>PENALTY & ADVERTISING:</u>			1,434.47
<u>ABATEMENTS:</u>	(2,179,534)		(10,068.14)
<hr/>			
TOTAL LEVY FOR YEAR	893,869,536		3,978,667.97
<u>LESS UNCOLLECTED TAX:</u>			
REAL PROPERTY			123,796.64
PERSONAL PROPERTY			<u>11,690.97</u>
			135,487.61
CURRENT YEAR TAXES COLLECTED:			3,843,180.36
PERCENT OF CURRENT YEAR COLLECTED:			96.59%
<hr/>			
TOTAL MOTOR VEHICLE TAXES COLLECTED BY ALAMANCE COUNTY (July 1, 2010 - June 30, 2011):			317,270.97
PERCENT OF CURRENT YEAR COLLECTED: (Vehicle Taxes Only)			87.11

Submitted by: Sandy P. Callahan, Tax Collector

Approval of Minutes - June 7, 2011 Regular Session

Upon Motion by Council Member Turner, second by Council Member Albright, the Council voted to approve the Consent Agenda.

At 7:15 p.m. Mayor Peterman closed the Regular Session to convene the Quasi-Judicial portion of the meeting. He polled the Council to see if anyone had spoken with a citizen regarding the application for a special use permit prior to the meeting. There was no affirmative response.

Recommendations from the Planning and Zoning Board:

Quasi-Judicial Public Hearing Request of Vasant Sejpal (Owner) Special Use Permit for Property Located at 1229 S. Main Street for a Unified Business Development. Property shown on Alamance County Tax Map 6- 13-115 (GPIN#8883257252).

Assistant City Manager Maness presented Council with a letter from the petitioner requesting postponement of the Quasi-Judicial Public hearing for a Special Use Permit for property located at 1229 S. Main Street until August 2011 due to his being called out of town.

Upon motion by Council Euliss, second by Council Member Turner, the Council voted to accept the request of the petitioner to postpone the Quasi-Judicial Public hearing for a Special Use Permit for property located at 1229 S. Main Street until the August 2011 Regular Session Council Meeting. All aye.

Mayor Peterman adjourned the Quasi-Judicial Public Hearing portion of the meeting to present Willie Jones with the Proclamation for the Olympic Trials Boxing. Mr. Jones was present to receive the Proclamation and thanked the Council and the City of Graham for their support.

Proclamation: Olympic Trials Boxing: Willie Jones

Mayor Peterman read aloud and presented Mr. Willie Jones with the following Proclamation:

Proclamation

In Support of Olympic Trial Athlete

Willie Demetrious Jones

WHEREAS, “Willie” Demetrious Jones graduated from Graham High School in 2010; and

WHEREAS, he has been boxing since the age 12 and has become an outstanding athlete and an excellent role model for the youth of Graham and around the country; and

WHEREAS, Willie has many achievements in the sport of boxing to include, but not limited to, the 2011 North Carolina Golden Glove Boxer and 2011 Most Outstanding Male North Carolina Golden Glove Boxer and Tampa Florida's Regional Champion Boxer 2011; and

WHEREAS, in June 2011 Willie competed at the Olympic Qualifying Trials in Colorado Springs, Colorado placing 3rd in the Nation in the 152 Weight Class Division out of 8 contenders; and

WHEREAS, Willie will now go on to compete this August 2011 in Mobile, Alabama at the United States Olympic Trials for Men's Boxing in a double elimination tournament showcasing 8 contenders in each weight division; and

WHEREAS, we should come together in support of this local and American athlete to cheer him in his pursuit of victory at the United States Olympic Trials in August so that when victorious he may continue his dream of representing the United States at the 2011 World Championships in Baku, Azerbaijan in September and ultimately to qualify internationally for the 2012 Olympic games in London.

NOW, THEREFORE, I, Jerry Peterman, Mayor of the City of Graham, on behalf of the City Council and citizens of Graham, do hereby proclaim all to honor, support and cheer on Willie Demetrius Jones in his quest for the Olympic Gold.

This the 5th Day of July, 2011.

Mayor Peterman reconvened the Quasi-Judicial Public Hearing.

Quasi-Judicial Public Hearing Request of Mid-State Magic, Inc. (Rod Cousins, Owner) Special Use Permit for Property Located at Trollingwood Road and Ralph Scott Road (vacant land) for Auditoriums, Stadiums, and Similar Facilities Where Admission is Charged or Organized Athletic Events are Held. Property shown on Alamance County Tax Maps 13-13-2B & Portion of 13-13-2 (GPINS#8894762250 & portion of 8894742981).

The City Clerk swore in City Manager Rollins, Assistant City Manager Maness, City Planner Holland, Jay Guffy and John Lewis.

Assistant City Manager Frankie Maness presented to the Council the following findings of fact proposed by the Planning Department:

- 1) Rod Cousins with Mid-State Magic, Inc applied for a Special Use Permit for a recreational gymnasium complex on May 27, 2011, for a property located off Trollingwood Road and Ralph Scott Road, also identified as Alamance County Tax Map 8894762250 & portion of 8894742981 (Old Tax Map ID: 13-13-2B & portion of 13-13-2).
- 2) The property is approximately 19.14 acres and is located inside the Graham City Limits and municipal water service is available.
- 3) According to the application packet, Mid-State Magic, Inc is proposing a 57,000 square foot facility with multi-purpose fields.

- 4) A Special Use Permit is required for auditoriums, stadiums, and similar facilities where admission or organized athletic events are held.
- 5) The surrounding properties are zoned I-1 (Light Industrial), B-2 (General Business), and R-G (General Residential).
- 6) According to the *City of Graham Growth Management Plan: 2000-2020*, the parcel is located in the Regional Industrial Center & Highway Commercial Recommended Land Development Type and is located in the Hawfields Planning District.
- 7) The City of Graham staff **recommends approval** for the Special Use Permit Request by Rod Cousins with Mid-State Magic, Inc. for a recreational gymnasium complex located off Trollingwood Road and Ralph Scott Road for the following reason(s):
 - The *GMP* encourages the reuse and revitalization of unused or underutilized structures and properties.
 - The *GMP* encourages planning for adequate recreational facilities to serve all parts of the City.

The Staff recommends the following **conditions** as part of the approval of this Special Use Permit request:

- The two parcels shall be combined before construction is completed.
 - All construction shall conform to the City of Graham and NCDOT standards and specifications.
- 8) The City of Graham Planning Board recommended denial 7-0 on June 21, 2011 for the Special Use Permit request.

Mayor Peterman asked what caused the Planning and Zoning Board to unanimously deny this request. Assistant City Manager Maness replied at a hearing for a special use permit, the preponderance of evidence or burden of proof is on the petitioner to prove that they can meet the ordinance. There was no one present to represent the petitioner's request at the June 21, 2011 Planning and Zoning meeting.

Council Member Turner asked if the request was for the exact same project as approved in 2009. Mayor Peterman redirected Council Member Turner's question to be answered later in the hearing.

Mayor Pro Tem Linens inquired as to how much the City currently has invested in the failed 2009 project and whether the City have an opportunity to re-coup any losses. Assistant City Manager Maness responded that there was the purchase of a tract of land at the corner of East Gilbreath Street and East Interstate Service Road and the purchase of an additional portion of land in which some monies could be possibly recouped through the sale of those properties.

Council Member Euliss responded that the City has an investment in the 2009 project through land purchase.

City Manager Rollins clarified that the older textile building located on the property adjacent to the rear of the City's property is currently for sale or lease. He suggested that it may be wise to wait before selling the City's property to see if the buyer of the textile building would be interested in buying back the frontage property. He explained that there is no guarantee that the property in front of the textile building would sale. The City bought the properties for the 2009

Mid-State Magic, Inc. project. Since the original Mid-State Magic, Inc. project did not move forward, City Manager Rollins recommended that in the future that the City should market those properties or possibly look into new business relocation as an incentive for a business coming to the City.

Council Member Albright stated that it was his understanding in 2009 that the purchase of those properties was a good investment even with the possibility of the Mid-State Magic, Inc. 2009 project not working.

Mayor Peterman opened invitation for comments and questions from the floor.

Jay W. Guffy of Davis, Martin, Powell and Associates located at 6415 Old Plank Road, High Point, NC 27265 apologized for missing the June 21, 2011, Planning and Zoning meeting and explained that the reason was a miscommunication in their office. He explained that his specialty is site work and asked if the Council had any questions regarding the site location study.

Council Member Albright mentioned that there were questions regarding lighting and traffic from the June 21, 2011, Planning and Zoning Board meeting that could not be addressed and inquired if lighting and traffic were questions for TRC. Assistant City Manager Maness responded that traffic would predominately be a matter of the North Carolina Department of Transportation and lighting would be addressed by TRC.

John Lewis of New Path Development and Consulting located at 1400 Battleground Avenue, Suite 211, Greensboro, spoke on behalf of Rod Cousins. He thanked the Council for hearing him speak and explained that he had met with Rod Cousins of the non-profit organization Mid-State Magic, Inc. and that their goal is to increase the level of fitness and wellness in the Graham community. He explained that the current proposed facility has been expanded from the scope of the original project and that they did take a look at the original project site on Gilbreath Street. He stated that they are not able to obtain financing for this project if located on the original site because the original site does not fall within a certain census tract required by the financier. Mr. Lewis further explained that the project will be a facility similar to a YMCA facility but without an aquatic center; it would have baseball fields, soccer fields, youth and adult programming. They will offer discounted rates and specialized services for senior citizens including providing transportation. A special use permit is required because the events will require an admission to attend. The tournament events will not be held each weekend, only a hand-full per year.

Council Member Turner asked Mr. Lewis if the use of the new building expands beyond their original plans for property on Gilbreath Street. Mr. Lewis confirmed that they do intend to have an expanded project as the acreage on the current proposed property is 19 acres versus 5 acres on Gilbreath Street.

City Council Member Albright inquired if there would be membership fees to the facility. Mr. Lewis responded that the membership fees would be approximately \$30 per month with a scale for the type of membership such as individual or family.

Mayor Pro Tem asked Mr. Lewis about the anticipated time table for this project until the completion. Mr. Lewis responded that they expect 12 to 14 months.

Council Member Euliss state that it was his understanding, at the time of the original project in

2009, that it was ready to go and all that the City needed to do was purchase the land. He stated that it bothered him that there is a piece of property that the City has been left holding due to the first failed project attempt. He stated that it is his belief that the City should be able to recoup any loss against Mid-State Magic, Inc. He stated that he thinks that if the current project comes to fruition that that will be a very good thing however he did not appreciate how Mid-State Magic, Inc has handled the project. He stated that he has not spoken with any one about this Quasi-Judicial Hearing and would love to see Mr. Henderson Scott be able to sale his land in this current down turned economy.

Mayor Peterman stated that he agreed that the he too believed that that the original project was turnkey and understood that the original project included a senior center, but that the current proposed project has either eliminated the senior center or it will be in line with Haw River.

Mayor Pro Tem Linens stated that anything that had happened with the past Mid State Magic, Inc. project could not have bearing on the Quasi-Judicial hearing tonight. He stated that Mr. Cousins and his company were putting up everything for this project; the City does not have any investment or loss on the original project. The City still retains the land from the original project and he does not believe that the City would experience a loss with land. He stated for the record that if the current project goes forward that it would be great for the City of Graham.

Mayor Peterman stated that it was a good project in the past and is a good project now and that the City is not being asked to put money into the project; it is a zoning issue.

City Manager Rollins stated that he had believed in the previous project on Gilbreath Street and believes in the proposed project before the Council tonight. He clarified that this is zoning matter before the Council and any thoughts or feelings from the original project should not be taken into consideration in a Quasi-Judicial Hearing for a special use permit.

Council Member Albright asked for clarification for what would become of the special use permit if granted for the current project should Mid-State Magic, Inc. not be able to obtain funding. City Manager Rollins replied that a special use permit is good for a 2 year period and Mid-State Magic would be vested to do the project as approved for that 2 year period. After 2 years the property is subject to reverting to original zoning.

Council Member Euliss asked for clarification whether short term special use or special use permit. City Manager Rollins stated it is not a short term special use permit.

Mayor Pro Tem Linens stated that the Planning and Zoning Board recommended denial 7-0 and inquired if this is due to no one being present from Mid-State Magic, Inc. Assistant City Manager Maness responded that there some citizens did address the Planning and Zoning Board regarding traffic.

Mayor Peterman asked if any of those citizens were present at the Council Meeting. No one came forward.

Council Member Euliss stated that Bill Teer was present and would he like to hear comments from him as a representative of the Planning and Zoning Board.

Mayor Peterman asked Mr. Teer to address the Council.

Bill Teer of 1134 Town Branch Road, Graham, NC spoke to Council and stated that at the previous Planning and Zoning meeting that no one from Mid-State Magic, Inc. was present to answer the many, many questions about the shape of the 2 properties. He further stated that he was concerned that rezoning signs were not properly displayed. He stated that it is his opinion that the project is not a good fit for that property and the surrounding businesses.

Mayor Pro Tem Linens asked Mr. Teer if he felt that this request should go back before the Planning and Zoning Board before the Council takes action. Mr. Teer stated that he strongly believes that it should be returned to the Planning and Zoning Board before action is taken.

Council Member Euliss asked who would install the road indicated on a map at the back side of the property. Bill Teer responded that it was his understanding that there is no field work submitted and no discussion about the road work. City Manager Rollins stated that there had not been a field survey on the project

City Manager Rollins stated that the 36' wide road that is identified on the map is in an existing City street which dead ends as shown and is already built with curb and gutter. The road that comes off of that would be a private road and would be responsibility of the owners to build as shown.

Rick Epperson of Weichert Realtors located at 22 Miller Street, Winston Salem, representative of Henderson Scott, addressed Council and stated that he would try to answer any questions. He explained that Mr. Scott was in ill health and could not attend.

Council Member Euliss stated that he would like to have the private road extended through to the rear of the property and would like any traffic concerns addressed as well. He inquired if all grading had been done to specifications. Mr. Epperson responded that there had not been any grading on the site yet and that is a preliminary grading plan for the site as well as a phase I study done.

Mayor Peterman polled the Council for discussion.

Mayor Pro Tem Linens stated that he would like to see Mid State Magic, Inc. be successful at this newly proposed site but he would like to see this go back to the Planning and Zoning Board before the Council takes action.

Assistant City Manager Maness stated that the Planning and Zoning Board would have to take action within 60 days of the application for the special use permit.

Mayor Peterman asked Mr. Lewis if he would be willing to request that the application go back to the Planning and Zoning Board before any action is taken by City Council. Mr. Lewis answered that yes he would be willing to request that it to go back before the Planning and Zoning Board if that is what needs to happen.

City Manager Rollins stated that staff will need to re-advertise and mail letters for the July Planning and Zoning Board meeting. It would return to Council at the August Regular Session meeting.

The Council reached a consensus to send the application by Mid-State Magic, Inc. (Rod Cousins,

Owner) Special Use Permit for property located at Trollingwood Road and Ralph Scott Road (vacant land) for Auditoriums, Stadiums, and Similar Facilities where Admission is charged or organized athletic events are held (Property shown on Alamance County Tax Maps 13-13-2B & Portion of 13-13-2 (GPINS#8894762250 & portion of 8894742981)) back to the July Planning and Zoning Board meeting before being heard again at the August 2, 2011 City Council meeting.

Approve Agreement for the North Carolina Parks and Recreation Trust Fund Project (PARTF Grant) with the City of Graham for a Future Park on Jim Minor Road.

City Manager Rollins presented the Agreement for the North Carolina Parks and Recreation Trust Fund Project (PARTF Grant) with the City of Graham for a Future Park on Jim Minor Road. City Manager Rollins explained that the City was approved for a PARTF Grant. The City obtained a waiver thru the PARTF Grant to apply for a reimbursement on the purchase of the land on Jim Minor Road for the development and construction of a park. The City was awarded \$500,000 with a match from the City of Graham of \$540,000 with the stipulation that construction must begin in 5 years. He advised that staff recommended approval.

Recreation and Parks Director Melody Wiggins was available to answer questions.

Council Member Euliss commended Recreation and Parks Director Wiggins for hard work.

Mayor Pro Tem Linens asked if the City had registered as a vendor. City Manager Rollins stated that that the City had registered as a vendor.

Council Member Albright asked what type of construction would begin within 5 years. Recreation and Parks Director Melody Wiggins advised that the initial construction will most likely be clearing and grading.

Council Member Euliss asked if the Recreation Commission planned to meet to discuss the development phases. Recreation and Parks Director Melody Wiggins responded that there is a completed site plan and once accepted then public meetings with the Recreation Commission will begin. The Staff has requested football and soccer fields to be constructed as the first phase based on the public need for those facilities.

City Manager Rollins asked if the Recreation and Parks Department could apply for another PARTF Grant before construction. Recreation and Parks Director Melody Wiggins responded that to begin construction that the City needed to fulfill its' obligation to the current Grant within in 2 years which meant that the property had to be purchased within 2 years and the City has already done this. Upon acceptance of the Grant and July 1, 2011, the State required an additional stipulation to obtain a second appraisal due to the cost of the property. The City has arranged for the appraisal and once completed it will be submitted to the State for decision on the amount of money that the City will receive. It is the City's goal to receive at least half of its money back.

Mayor Peterman asked about the scope of the project being noted as 36 months in duration. Recreation and Parks Director Melody Wiggins responded that this was the length of time to close on the purchase of the land with this Grant.

Recreation and Parks Director Melody Wiggins recommended that the City apply for another PARTF Grant for \$500,000 before the construction of the soccer and football fields begin.

Council Member Albright stated that he had received questions from a citizen wanting to know if there would be any upgrade to the City's current facilities. Recreation and Parks Director Melody Wiggins responded that upgrading existing facilities is always a priority. She further stated that they had made extra money in concessions and with that money, installed some new fencing at Cook Park. She confirmed that fencing, lighting and playgrounds are areas of priority.

City Manager Rollins stated that this is a multi-faceted project with many years of development of the City.

Upon motion by Council Member Euliss, second by Council Member Turner the Council voted unanimously to approve the Agreement for the North Carolina Parks and Recreation Trust Fund Project (PARTF Grant) for \$500,000 with the City of Graham match of \$540,000 for the acquisition of 115.6 acres on Jim Minor Road for a Future Park.

Recommendation to the Alamance County Board of Commissioners to Re-Appoint Mike Benesch to the City of Graham Planning and Zoning Board – Extra Territorial Jurisdiction Member.

Upon Motion by Mayor Pro Tem Linens, second by Council Member Euliss the Council voted unanimously to recommend to the Alamance County Board of Commissioners to re-appoint Mike Benesch to the City of Graham Planning and Zoning Board – as an Extra Territorial Jurisdiction Member.

Issues Not Included on Tonight's Agenda.

The Mayor went to Issues Not Included on Tonight's Agenda and polled the public and the Council. Not issues were forthcoming.

Mayor Peterman closed the Regular Session portion of the meeting and requested a motion be made to go into closed session.

Closed Session to Consider the City Manager's Annual Review Pursuant to the Terms of N.C.G.S. 143-318-11 (a) (6).

At 8:13 p.m. Council Member Euliss made a motion to go into closed session to consider the City Manager's annual review pursuant to the terms of N.C.G.S. 143-318-11 (a) (6), second by Council Member Albright, all aye.

At 8:45 p.m. Council Member Turner made a motion to end the closed session and reconvene regular session, second by Council Member Euliss, all aye.

Mayor Peterman stated that he gave his high praise for City Manager Rollins and that no action was recommended for his salary.

Council Member Turner advised that the City is blessed to have Chris Rollins and that Mr. Rollins always does the right thing.

Mayor Peterman asked that everyone remember the families of the recently deceased retired employees of the City of Graham, Mr. David Lawson and Mr. Tom Berry.

There being no further business at 8:50 p.m. Council Member Euliss moved to adjourn, second by Mayor Pro Tem Linens, all aye.

Kimberly Harris, City Clerk