

**CITY OF GRAHAM
REGULAR SESSION
TUESDAY, SEPTEMBER 6, 2011
7:00 P.M.**

The City Council of the City of Graham met in regular session at 7:00 p.m., on Tuesday, September 6, 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
Keith Whited, City Attorney
Kimberly Harris, City Clerk

Absent:

None.

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

Mayor Pro Tem Linens led the City Council in the Pledge of Allegiance and he then gave the invocation.

CONSENT AGENDA:**August 2011 Tax Releases and Refunds.**

CITY OF GRAHAM REFUNDS						
SEPTEMBER						
ACCT#	YEAR	RECEIPT	NAME	RE/FE	REASON FOR REFUND	AMOUNT REFUNDED
435604	2009	4948	MASSEY, DANIEL D	RE	PROPERTY DOUBLE ASSESSED BY ALA CO	105.30
435604	2010	4979	MASSEY, DANIEL D	RE	PROPERTY DOUBLE ASSESSED BY ALA CO	105.30
602157	2011	5543	NATIONAL MUSIC SERVICE INC	FP	EQUIPMENT NO LONGER IN GRAHAM	1.32
114964	2011	4620	RICHARD LEVERNE LLOYD	FP	NO MOTOR ON BOAT	2.16

TOTAL REFUNDS 214.08

CITY OF GRAHAM
#RELEASE%ACCOUNTS

SEPTEMBER

ACCT#	YEAR	RECEIPT	NAME	RE/PP	REASON FOR RELEASE	RELEASED
63508	2011	6361	RENEWTEL ELECTRONICS	PP	OUT OF BUSINESS FOR 2011	52.34
63508	2011	6362	RENEWTEL ELECTRONICS	PP	OUT OF BUSINESS FOR 2011	6.19
125033	2011	3727	HOLT JEFFREY SEAN	PP	PROPERTY LISTED IN PERSON COUNTY	61.75
125033	2011	3728	HOLT JEFFREY SEAN	PP	PROPERTY LISTED IN PERSON COUNTY	3.25
129150	2011	7056	SMITH JOSEPH MARVIN JR	PP	PROPERTY LISTED IN CARTERET COUNTY	86.49
221999	2011	4872	MARTIN EMMETT WESLEY	PP	SOLD BOAT	3.39
221999	2011	4873	MARTIN EMMETT WESLEY	PP	SOLD BOAT	1.45
431519	2011	1092	BUNTING GREGORY FORREST	PP	SOLD BOAT	14.52
482936	2011	2996	GGAA LLC	PP	OUT OF BUSINESS FOR 2011	29.27
482936	2011	2997	GGAA LLC	PP	OUT OF BUSINESS FOR 2011	126.84
501111	2011	6804	SHANNON WILLIAM ALLEN	PP	PROPERTY LISTED IN CITY OF BURLINGTON	5.28
501951	2008	4232	JONES ROBERT R	PP	SOLD BOAT MOTOR	2.20
501951	2008	4233	JONES ROBERT R	PP	SOLD BOAT MOTOR	1.54
501951	2009	4226	JONES ROBERT R	PP	SOLD BOAT MOTOR	1.88
501951	2009	4227	JONES ROBERT R	PP	SOLD BOAT MOTOR	1.33
501951	2010	4247	JONES ROBERT R	PP	SOLD BOAT MOTOR	1.48
501951	2010	4248	JONES ROBERT R	PP	SOLD BOAT MOTOR	1.11
525862	2011	4241	JUST DESSERTS ON COURT SQUARE	PP	OUT OF BUSINESS FOR 2011	101.17
525862	2011	4242	JUST DESSERTS ON COURT SQUARE	PP	OUT OF BUSINESS FOR 2011	62.91
525862	2011	4243	JUST DESSERTS ON COURT SQUARE	PP	OUT OF BUSINESS FOR 2011	1.55
564236	2011	5668	NC DISTRICT CHURCH OF NAZARENE	RE	CHURCH EXEMPT	93.83
579902	2011	4838	MARBY ANTHONY	PP	SOLD BOAT	14.32
596193	2011	4924	MASSEY PEGGY TINGEN	RE	PROPERTY DOUBLE ASSESSED BY ALAMANCE CO	104.12
596498	2011	7478	SWINK ROBERT F	PP	SOLD BOAT	3.43
596498	2011	7479	SWINK ROBERT F	PP	SOLD BOAT	1.74
597522	2011	4284	KELLY JOSHUA ALLEN	PP	ADJUSTED VALUE OF BOAT	2.74
597522	2011	4285	KELLY JOSHUA ALLEN	PP	ADJUSTED VALUE OF BOAT	5.91

TOTAL RELEASES 792.03

8/31/2011

Approval of Minutes - August 2, 2011 Regular Session

Request by the First United Methodist Church to Close Market Street Between Main Street and Marshall Street for Annual Fall Festival on Saturday, October 22, 2011 from 7:00 A.M. and 8:00 P.M.

Upon Motion by Council Member Turner, Second by Council Member Euliss the Council voted unanimously to approve the Consent Agenda. All aye.

Approve Amendment to the Agreement with Hazen and Sawyer, P.C. for Engineering Services at the Waste Water Treatment Plant.

City Manager Rollins presented the request to approve the amendment to the agreement with Hazen and Sawyer, P.C. for Engineering Services at the Waste Water Treatment Plant. He explained that the amendment is for engineering and construction administration services for the first phase improvements to the Wastewater Treatment Plant related to the Alkali Feed System. He stated that Hazen and Sawyer, P.C. submitted the request for the amendment to the original agreement and that the funds for engineering and construction were appropriated in the 2011-2012 Water Plant operating budget and approved by the City Council.

Council Member Albright requested clarification on the Basis of Compensation City Manager Rollins explained that there is a cost ceiling and that services rendered would not exceed that amount.

Upon motion by Council Member Albright, second by Mayor Pro Tem Linens the Council voted to approve the Amendment to the Agreement with Hazen and Sawyer, P.C. for Engineering Services at the Waste Water Treatment Plant. All aye.

Approve the Haw River Trail Memorandum of Understanding Renewal.

Recreation and Parks Director Melody Wiggins presented the request to approve the Haw River Trail Memorandum of Understanding Renewal and explained that this is a 10 year renewal of the original 5 year agreement signed in 2006. She explained that a quarter of the portion of the designated Mountain to Sea Trail which runs through Alamance County is completed with only one access opened in Graham.

Upon motion by Council Member Turner, second Mayor Pro Tem Linens, the Council approved the Haw River Trail Memorandum of Understanding Renewal. All aye.

Discuss Waiver of Brush Fees for Storm Damage Cleanup During the Month of September.

City Manager Rollins explained that due to the damages from last week's storms and the extensive amount of brush necessary to clean-up that the Staff recommends that the City's charges for brush cleanup be suspended for the entire month of September. He explained that there are still a lot of trees down. He advised Council that the brush truck was currently out of service but should be up and running in a week's time.

Mayor Pro Tem Linens said he had heard many positive comments from citizens on the cessation of brush fees during storm cleanup.

Council Member Albright stated he fully supported the cessation of charges for brush pick-up from the recent storm's damage.

Upon Motion by Council Member Euliss, second by Council Member Albright, the Council voted to approve the cessation of brush pick-up fees for storm damage clean-up during the month of September. All aye.

Discuss a Joint Project with the City of Graham, United Way and Habitat for Humanity for a City Owned Playground on Private Property located at Ben Court.

Robin Wintringham, Executive Director, Habitat for Humanity of Alamance County spoke to Council and thanked them for the opportunity to present the idea of installing a playground in the subdivision that was developed by Habitat for Humanity located on Ben Court. She explained that the opportunity came through the United Way *Make a Difference Day* Program and an individual from a North Carolina owned playground equipment company. The playground is ready for purchase, installation and ready for use this fall. If approved, it would be installed Saturday, October 22, 2011 on *Make a Difference Day* by United Way volunteers, funded by Habitat for Humanity and the United Way, then deeded to the City of Graham for maintenance and insurance purposes to be enjoyed by the community of Graham.

Mayor Peterman polled the Council for any questions.

Council Member Euliss asked for clarification on the extent of the City's involvement, participation and liability. City Manager Rollins explained that the park would be located on the vacant lot between the old and the new parts of the subdivision. The proposed lot is located where it was previously approved to make a road connection between the old and new subdivisions. The United Way and the Habitat for Humanity are proposing to build a playground of the same quality materials and construction as the City would build, therefore meeting the City's safety standards. He stated that once the playground was completed, they would deed the property to the City of Graham and the City would maintain this playground the same as the other City owned playgrounds. He clarified that the liability would be the same as all of the playgrounds the City currently owns and would not be a great deal of expense added. He explained that the City will have to inspect, mow and weed eat the property.

Mayor Pro Tem Linens requested clarification of the size of the lot for the proposed playground. Ms. Wintringham responded that the lot is a rectangular-shaped, quarter acre sized lot.

Council Member Albright inquired if lighting would be installed. Ms. Wintringham responded that there will not be lighting installed. Council Member Albright asked if she could provide an approximate value for this equipment and land. Ms. Wintringham responded that the equipment value is approximately \$30,000.00 along with the value of the land being donated by Habitat for Humanity as well as the grading of the lot.

Mayor Peterman asked if people from Enfield will be able to come over and use the playground. Ms. Wintringham stated that the park will be for everyone in the Community and that the playground equipment is designed for children between the ages of 5 and 12 with a few special things for the younger set.

Council Member Albright asked would people have to walk thru residential yards to access the park. Ms. Wintringham responded that the park could be accessed from Ben Court or Enfield.

Mayor Peterman asked if anyone from the floor would like to speak regarding this matter. No one was forthcoming.

Upon motion by Mayor Peterman, second by Council Member Turner the Council voted to approve the joint project with the City of Graham, United Way and Habitat for Humanity.

Resolution Approving Condemnation of Property on East Elm Street for Sidewalk Construction.

Assistant City Manager Maness presented the Resolution Approving Condemnation of Property on East Elm Street for Sidewalk Construction. He explained that there were 4 Resolutions before the Council seeking approval for condemnation on 6 properties along East Elm Street and properties that adjoin Elm Street. He explained that it is necessary for the City to acquire additional right of ways to construct a sidewalk. The sidewalk along Elm Street is considered a high property sidewalk due to schools and being a major thoroughfare in Graham. Since March of 2011, City staff has attempted to acquire easements from 22 properties. He stated that 6 of the 22 properties have not responded to final letters or all exhausted effort to acquire easements. With approval of the Resolutions, the condemnation process known as Imminent Domain will

begin with compensation being offered by the City to each of the 6 property owners. The offers made to the property owners are based on the tax values of the property for both temporary and permanent easements. City Attorney Whited will assist staff with the Imminent Domain process.

Council Member Albright asked for confirmation that Imminent Domain will still compensate the land owners. Assistant City Manager Maness replied that compensation is part of the Imminent Domain process for easements.

City Attorney Keith Whited pointed out that the City would not be "taking" the property from the owners but instead, through the easements, the City takes the "use" of those properties where the sidewalk will reside. The temporary easements that are obtained will go away after the construction of the sidewalk is completed.

City Council Member Turner asked how much additional right of way is the City trying to obtain. Assistant City Manager Maness responded that it can vary depending upon the topography of the land but in most cases the easements are only a couple of feet which includes room for maintenance work on the sidewalks. He explained that in one section of the future sidewalk the bank will have to be tapered requiring additional right of way footage.

Council Member Euliss asked if the properties be returned to the owners in as-good or better shape when the City completes the sidewalk installation. Assistant City Manager Maness replied that the goal of the City is to leave owners with their properties in as close to existing condition as possible though some things, such as a tree in the way, would have to be removed. The City will re-seed the construction areas of the property upon completion as well.

City Manager Rollins stated that a property owner may have a grade on a property that the State will require the City to fix. Council Member Euliss replied that when the City takes someone's property when exercising Imminent Domain, he does not believe that it is in the City's best interest to put a different grade for drainage on someone's property if the property owner doesn't like it. City Manager Rollins responded that the City does not have a choice as this is mandated by the State. Council Member Turner responded that there is a legal obligation to put the fall back to the natural lay of the land according to NCDOT's specifications. Council Member Euliss responded that it would be property enhancement if the City improved preexisting bad drainage.

Mayor Pro Tem Linens asked if the owners of the properties listed in the Resolutions had refused the easements. Assistant City Manager Maness replied that staff has spoken with at least one owner from each of the properties and there are difficult scenarios where there are multiple out of state owners or are not able to get in touch with all of the parties. He stated that 3 separate letters went out to each property owner, as well as personal visits and phone calls.

Mayor Pro Tem Linens asked if these easements will devalue the owner's properties. Assistant City Manager Maness replied that it is hard to say but staff believes that the Public Interest outweighs personal interest therefore the City is seeking Imminent Domain. Some citizens would like to have the sidewalk and some have spoken that they would rather not have the sidewalk.

Mayor Pro Tem Linens stated that he is cautious when it comes to Imminent Domain.

City Manager Rollins stated that the City has not received a lot of opposition to the sidewalk.

Starting the condemnation process does not mean that the City has completed negotiations. The City would like to settle with all parties, if that does not happen by the time of filing, the City will be required to put the money offered for the easements with the Alamance County Clerk of Courts office. The owner may call at any time after the City files for Imminent Domain, before it goes to court and offer to settle without having to go forward with the official condemnation process. Once the City has filed for Imminent Domain the City may begin the process for construction on this project. The City hopes that none of these will go to court but instead that the property owners will come together to settle.

Mayor Pro Tem Linens asked if the other 16 properties included in this project had been compensated for the easements. City Attorney Whited replied that all of the property owners have agreed to the easements. City Manager Rollins stated that the City has written agreements with the other property owners and are working towards having a closing date set.

Council Member Turner asked if the City has a date to begin construction. City Manager Rollins replied that the monies are allocated in this year's budget and NCDOT has allocated money for the project. So with the Council's approval of the Resolutions Approving Condemnation of Property on East Elm Street for Sidewalk Construction, the City would begin accepting bids for construction through the winter months and begin construction in the spring.

Mayor Pro Tem Linens stated that this process is very similar to the process of obtaining easements for water and sewer lines. City Manager Rollins responded that that was correct.

Mayor Peterman asked if anyone from the floor would like to come forward and speak on this matter. No one was forthcoming.

Upon Motion by Council Member Turner, second by Mayor Pro Tem Linens the Council voted to adopt the Resolution Approving Condemnation of Property on East Elm Street for Sidewalk Construction. All aye.

Issues Not Included on Tonight's Agenda.

Penny Wood, 2608 Trail Three, Burlington NC addressed City Council and expressed her disappointment with the leadership of the City of Graham due to a recent Internal Investigation by Graham Police Department in response to a complaint filed against Police Officer Ryan Young. Ms. Wood stated that she was present to see the behavior of Officer Young which she considered to be threatening, demanding, disrespectful, and irate. She advised that she felt that the Police Department should have communicated with her and kept her informed of the results of its investigation.

Mayor Pro Tem Linens asked Ms. Wood what she is requesting the Council to do in this matter. Ms. Wood responded that she wanted Officer Young to lose his job.

City Manager Rollins stated that personnel matters are confidential and not a public matter. He stated that internal investigations of employees by the Police Department are not public record. He advised that he would speak with the Chief of Police and review the internal investigation

file. He explained that he could not open the investigation file for Ms. Wood to review because personnel records are confidential.

Mayor Peterman thanked Ms. Wood for coming this evening and explained that the City Council cannot, by law, discuss personnel matters and that the Council is not aware of the details in this matter. He stated that Officer Young is a fine, decorated officer for the City of Graham. He assured Ms. Wood that the City Manager would review the Police Department's internal investigation file.

Council Member Euliss stated that he was angry with the City of Graham CALEA certified Police Department for not communicating with Ms. Wood about the results of Officer Young's investigation.

Kenneth Evans 515 Ivey Road, Graham addressed City Council stating that he would like for the City of Graham to put something in the newspaper about littering and come up with a City of Graham fine for littering. He would like the newspaper ad to say that the City of Graham will not put-up with littering. He explained that he picks up 4 bags worth litter in Graham every week. Kenneth stated that he had 500 signatures on a petition. Mr. Evans did not submit the petition to the Council.

Council Member Euliss stated that he thinks that we should take a picture of the person who is caught littering and put it in the newspaper along with a copy of their ticket and their check paying their fine to the State. He closed with stating that he would like to see enforcement for littering from the City of Graham.

Mayor Pro Tem Linens stated that he believes that Graham Police Officers would issue a ticket if they saw the person while littering. He suggested that if each one of the 500 persons who signed Kenneth's petition would donate an hour of their time to clean up Graham that it would be a solution.

Mayor Peterman stated that he was at a meeting with the person in charge of "The Big Sweep" and it is their goal to become more active in Alamance County and the City of Graham. "The Big Sweep" is scheduled for October 1, 2011 but they will not be in Graham this year.

City Manager Rollins stated that he wanted to speak about "The Big Sweep" and the opportunity that the City has before them to clean up Graham. It would be great to get a group of volunteers, citizens of Graham as well as City employees, to go out once a quarter or once a year to clean-up litter. Little Alamance Creek is listed as having a pollution problem in part due to the litter that accumulates from all over the City. The Council reached a consensus for the City to work with the State in cleaning up Little Alamance Creek.

City Manager Rollins reminded Council of the upcoming Let Freedom Ring event in Graham as well as the ribbon cutting for the Alamance County Court House renovation. The United Way is planning their Community Event in Graham on Friday, October 7, 2011.

City Manager Rollins advised Council that the City of Graham is in the process of working with the City of Burlington on the recycling program. City of Burlington contracted with the TFC for recycling services and the contract was written so that other cities, including Graham, could piggy-back onto that contract. The City of Graham renewed that contract last year for 1 year beginning in July. He explained that if the City of Graham wants to terminate that contract, it must do so in January 2012 due to the 6 month cancellation notice requirement. Burlington is planning to go out and take bids from now until January for the recycling program proposing a 96 gallon roll-out container. Throughout the State, NCDENR has conducted a study which shows that Cities who switch from the bin pickup to the roll-out container generally see a 30 to 50% increase in participation. The City will be looking at those bids with the option to piggy-back bid.

City Manager Rollins stated that the State banned TV's and computers from landfills in July 2010. The City is still having problems with people putting out TV's. He advised that he would be meeting with the director of Public Works to address this problem.

Council Member Euliss stated he liked that idea of the 96 gallon recyclable container.

Council Member Euliss advised that he was upset that Ms. Wood was not happy with the investigation and that they feel like it was not done right. He stated they he had spent 11 years on the Criminal Justice Commission and has seen how other Cities handled these types of situations. He addressed Ms. Wood and stated that it is not the Council's place to get involved in these matters but that his position as a Council Member is that he is perturbed that Ms. Wood did not receive an answer earlier even if she did not like the answer received. He stated that it is his personal opinion that two of the former police chiefs would have handled this matter to their liking or disliking a lot sooner than it has been resolved.

Council Member Turner advised that several citizens have approached him requesting that the City install the 96 gallon recyclable containers.

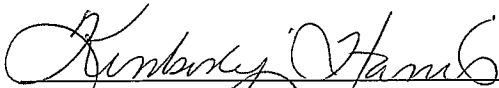
Council Member Albright stated that he is looking forward to the park on Ben Court.

Council Member Albright addressed Ms. Wood stating that this was the first he had heard of the incident and like Council Member Euliss, he too, was perturbed that she did not receive an earlier response.

Mayor Pro Tem Linens stated that as Council Members they are sometimes faced with things that they would personally like to see done but from a legal standpoint are not able to address. He apologized for an individual acting-up or getting upset. He explained that he, like everyone, has been upset before and sometimes when emotions are involved a person is not them self. He closed by saying that justice may be served in the long run; patience will be met with a situation having been worked-out and lessons learned.

Mayor Peterman apologized to Ms. Wood and stated that he hopes she receives a resolution that meets with her approval.

There being no further business, at 8:17 p.m. Council Member Albright moved to adjourn, followed by Mayor Pro Tem Linens, all aye.



Kimberly Harris, City Clerk