

**CITY OF GRAHAM  
SPECIAL SESSION  
TUESDAY, JULY 11, 2017  
7:00 P.M.**

The City Council of the City of Graham met in special session at 7:00 p.m. on Tuesday, July 11, 2017, 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 Griffin McClure  
Council Member Chip Turner  
Council Member Lee Kimrey

**Also Present:**

Frankie Maness, City Manager  
Aaron Holland, Assistant City Manager  
Darcy Sperry, City Clerk  
Frank Glover, Planning Intern  
Ryan Allshouse, Administrative Intern  
Duane Flood, Lieutenant Graham Police Department

Mayor Jerry Peterman called the meeting to order and presided at 7:00 p.m. Council Member Chip Turner gave the invocation and everyone stood to recite the Pledge of Allegiance.

**Consent Agenda:**

- a. Approval of Minutes – June 6, 2017 Regular Session*
- b. Tax Collector Year End Report*
- c. 2016 Outstanding Tax Listing*
- d. Approve Project Quarter Capital Budget Closeout*
- e. Approve D/DBP Water Plant Improvements Capital Project Budget Closeout*
- f. Appoint Robert Parris to the ABC Board. This appointment will fulfill the unexpired term of Larry Brooks*

Peterman asked the Council Members if they would like to pull any of the items from the Consent Agenda. Council Member Lee Kimrey asked to pull items “d” and “f”.

Council Member Turner made a motion to approve items “a”, “b”, “c” and “e” on the Consent Agenda, seconded by Council Member Griffin McClure. All voted in favor of the motion.

Council Member Kimrey asked City Manager to explain the City’s part in the \$2.2 million roadway being built in the Hawfields area. Mr. Maness advised part of the incentive package with Lidl for the distribution center built in the North Carolina Commerce Park (NCCP) was to construct the balance of the roadway that NCDOT started. This connects Trollingwood-Hawfields Road to Governor Scott Farm Road. Mr. Maness added that Graham pays one-third of this cost, splitting it evenly with Alamance County and the City of Mebane and that we were able to secure grant assistance of approximately \$750,000. The City will manage the roadway for three years and then turn the roadway over to NCDOT.

With no further discussion, Council Member Kimrey made a motion to approve item “d”, seconded by Council Member Turner. All voted in favor of the motion.

Council Member Kimrey asked City Clerk Darcy Sperry when the term expires on the ABC Board appointment before them. Ms. Sperry advised this term will expire in 2019.

With no further questions, Council Member Kimrey made a motion to approve item “P”, seconded by Council Member McClure. All voted in favor of the motion.

### **Consider Authorizing Participation to Fund a Federal Drug, Gun & Violent Crimes Prosecutor:**

Mayor Peterman introduced Alamance County Sheriff Terry Johnson, Alamance County District Attorney Pat Nadolski and Alamance County Assistant District Attorney Jenna Early. Mr. Nadolski explained that the Alamance County District Attorney’s Office is seeking financial assistance from Alamance County, the City of Burlington, the City of Graham and the City of Mebane to create a position that will allow a State prosecutor to work as a dually-sworn prosecutor in the U.S. Attorney’s Office for the Middle District of North Carolina. He added that besides saving the community from more crime, this would save local money in the long run because violent offenses require a lot of the paid time for police and lawyers to investigate and prosecute. Repeat offenders demand a lot of these investigations, so it saves money, at least locally, to keep them in prison.

Council Members engaged in a lengthy discussion with Mr. Nadolski about this proposal. Among items discussed were the number of violent crimes committed in Graham in 2016, State and Federal funding for prosecutors, benefits to the citizens of Graham and other municipalities who may be participating in a program of this nature.

Graham Police Lieutenant Duane Flood asked Council for their support on behalf of his department. He informed Council that hardened criminals are not afraid of the State sentences handed out. Lt. Flood stated violent crime is here and we need a way to get criminals off the street.

Council Member Kimrey stated it is difficult for him to go back to the citizens of Graham and ask them to pay for something their tax dollars are already paying for, adding that this issue should be handled at the State and Federal level.

With no further discussion forthcoming, Mayor Peterman made a motion to authorize the City Manager to enter into an agreement with the NC Administrative Office of the Courts (AOC) to fund a Federal Drug, Gun and Violent Crimes Prosecutor and be provided with quarterly statements and an annual review, seconded by Council Member McClure. Ayes: Mayor Peterman, Council Member McClure, Mayor Pro Tem Jimmy Linens and Council Member Turner. Nays: Council Member Kimrey. Motion carried 4:1.

### **Old Business:**

- a. Public Hearing: Disash Business (RZ1701). Request by Frank Longest to rezone property located at 602 East Harden Street from Residential Multifamily R-MF to General Business B-2***

Planning Intern Frank Glover explained that this property is surrounded by two development types; a large multi-family tract and suburban residential across Harden Street. This request is to rezone a portion of the property from R-MF to all B-2. The lot is currently occupied by a duplex. The stated reason for this rezoning request is to “...permit use of the property for any use permitted by right in a B-2 zone.” There is concern for how this property will be served by sewer.

Mayor Peterman informed Council that he lives one block from this rezoning but doesn't feel it will affect his decision. By consensus Council agreed that Mayor Peterman did not have to recuse himself. Following a brief discussion between Council and Staff, Mayor Peterman opened the Public Hearing.

Mr. Frank Longest of the law firm Holt, Longest, Wall, Blaetz & Moseley stepped forward on behalf of the applicant. Mr. Longest stated that there have been some concerns that have come up after the Planning Board gave a favorable recommendation for approval and therefore requested that Council table this item to the August 1, 2017 Council meeting.

Mr. Travers Webb stepped forward and stated that if Council chooses to table this item, it may hold up the closing for a project he is currently working on in the same area.

Mr. Mike Conklin of Johnson Avenue Graham, Mr. Kevin Hinton of 603 East Harden Street Graham and Jan Searls of 526 East Pine Street Graham all stepped forward to share their concerns with this rezoning request. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Council Member Kimrey made a motion to continue the Public Hearing to the August 1, 2017 regularly scheduled meeting, seconded by Council Member Turner. All voted in favor of the motion.

### **Requests and Petitions of Citizens:**

- a. Public Hearing: Petition for Voluntary Contiguous Annexation at Lacy Holt Road (AN1701):***
  - i. Approve Annexation Ordinance***

Assistant City Manager Aaron Holland explained that at last month's Council meeting, Council directed the City Clerk to investigate sufficiency of a petition received as well as set the date for a Public Hearing for this annexation request. The attached petition seeks the Council's approval for an extension of the corporate limits to include the subject property. The area being considered for annexation is the six parcels located off Lacy Holt Road (approximately 3.3 acres). This area is proposed to be within the Lacy Ridge Subdivision. The Annexation Petition was filed while there were two lots in this area, but the developer has subdivided the area into six lots for their first phase of development, as approved by City Council on September 6th, 2016.

With no comments forthcoming, Mayor Peterman opened and closed the Public Hearing. Council Member Kimrey made a motion to approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for the six lots on Lacy Holt Road, seconded by Council Member Turner. All voted in favor of the motion.

**ANNEXATION ORDINANCE**  
**TO EXTEND THE CORPORATE LIMITS**  
**OF THE**  
**CITY OF GRAHAM, NORTH CAROLINA**  
**FOR SIX LOTS ON LACY HOLT ROAD**

**WHEREAS**, the Graham City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

**WHEREAS**, the Graham City Council has by resolution directed the City Clerk to investigate the sufficiency of the petition; and

**WHEREAS**, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall, 201 South Main Street, Graham at 7:00 P.M. on July 11, 2017, after due notice by publication on June 29, 2017; and

**WHEREAS**, the Graham City Council finds that the petition meets the requirements of G.S. 160A-31;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Graham, North Carolina that:

**Section 1.** By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Graham as of July 11, 2017:

ALL of that certain piece, parcel or tract of land lying and being in the City of Graham, Graham Township, Alamance County, North Carolina, and being more particularly described as follows:

BEGINNING AT A NEW IRON PIPE ON THE WESTERN RIGHT OF WAY OF LACY HOLT ROAD, THENCE ALONG SAID RIGHT OF WAY, S 42° 48' 18" W, A DISTANCE OF 554.94' TO A NEW IRON PIPE, THENCE WITH THE NORTHERN RIGHT OF WAY OF KNIGHTDALE DRIVE, S 54° 17' 27" W, A DISTANCE OF 250.20' TO A NEW IRON STAKE, THENCE N 41° 48' 18" W, A DISTANCE OF 608.14 TO A NEW IRN PIPE, THENCE 65° 54' 29", A DISTANCE OF 262.14' TO A NEW IRON PIPE, BEING THE POINT AND PLACE OF BEGINNING AND CONTAINING 3.31± ACRES, (0.0052 SQUARE MILES) AS SHOWN ON SURVEY BY CAROLINA CORNERSTONE SURVEYING, TITLES CORPORATE LIMITS EXTENSIONS OF CITY OF GRAHAM, GATED 05/15/17, JOB# 160512ANNEXATION.

***b. Petition for Voluntary Contiguous Annexation for property located at 1004 Woody Drive (AN1702):***

- i. Approve Resolution Requesting City Clerk to Investigate Sufficiency***
- ii. Approve Resolution Fixing Date of Public Hearing on Question of Annexation***

Mr. Holland explained that the annexation process has multiple steps with this being the first step in the annexation process. He added this petition seeks the Council's approval for an extension of the corporate limits to include the subject property. The area being considered for annexation is a parcel located at 1004 Woody Drive, as well as five adjacent lots (approximately 14.3 acres).

With no comments forthcoming, Council Member McClure made a motion to approve the Resolution Directing the Clerk to Investigate a Petition Received Under G.S. 160A-31 for Property at 1004 Woody Drive, seconded by Mayor Pro Tem Linens. All voted in favor of the motion.

Council Member Turner made a motion to approve the Resolution Fixing Date of Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for Property at 1004 Woody Drive, the date being August 1, 2017. Council Member McClure seconded the motion and all voted in favor of the motion.

***c. Request by Juanita Ray to tap on to the City's water system for property located at 1342 Jimmie Kerr Road***

Mr. Holland explained that on rare occasions, the City of Graham has allowed properties outside the City limits to connect to the water/sewer systems. This is normally reserved for non-contiguous properties while contiguous properties have required annexation. This authorization comes through the Code of Ordinances, Section 13-41. With the extension of the waterline along Jimmie Kerr Road, Ms. Juanita Ray has requested permission to tap onto the City's water line without annexation. At this time, the City does have a garbage truck which operates in the vicinity and the capacity to provide water but not sewer to 1342 Jimmie Kerr Road. Police and Fire currently patrol and respond to Alamance Community College. Ms. Ray's property is considered contiguous to the existing city limits. Mr. Holland advised that Staff has recommended denial for this request.

With Ms. Ray not in attendance at this meeting, Council Members were reluctant to proceed with this request, as some had questions for Ms. Ray. Council Member McClure made a motion to table this item to the August 1, 2017 Council meeting and requested that Staff reach out to Ms. Ray and request she attend the August meeting. Council Member Kimrey seconded the motion and all voted in favor of the motion.

**Recommendations from Planning Board:**

***a. Public Hearing: Watercourse Phase II (CR1703). Request by Kirk Bradley of Eco Watercourse to rezone 14.3 acres in the vicinity of 1000 Woody Drive from General Business B-2, Low Density Residential R-19 and High Density Residential R-9 to Conditional Residential C-R***

Mr. Holland stated this is a request to rezone the subject property from B-2, R-7 and R-18 to C-R, with a proposed use classified as Dwelling, Multi-Family. The project will include nine apartment buildings with 240 residential units, one maintenance building, three garage buildings and an amenity swimming pool complex. He added buildings will be three stories with an eave height of 32'±. The developer is requesting alternative compliance for building spacing as shown on the preliminary site plan. The request is also to add approximately 0.27 acres so that 20 additional parking spaces can be provided for the existing apartments. Access to the site will be provided via Woody Drive and Nelson Lane. Mr. Holland advised that Staff is recommending conditional approval.

A brief discussion between Council Members and Staff ensued. Council Member Kimrey referenced The Graham 2035 Comprehensive Plan and expressed concern with the lack of mixed use the Plan calls for with this request. Mayor Peterman opened the Public Hearing.

Mr. Joe Faulkner of 301 Glenwood Avenue Raleigh stepped forward to address Council on behalf of the applicant. Mr. Faulkner gave a brief overview of the project and fielded questions from Council Members. Mr. Faulkner was asked about buffer areas, the number of apartments, emergency exits, sign location, sidewalks and whether or not the applicant has given any consideration to mixed use commercial development. Mr. Faulkner stated that a monument sign along Harden Street is proposed and added that they would like to change the name of this complex to Waterside. He added that based on the traffic impact analysis prepared on site, it would be very expensive to add commercial development.

Mr. Kirk Bradley of 603 Carthage Street Sanford stepped forward to address Council on behalf of the applicant. Mr. Sanford is one of the managers of Eco Group and stated that they had a great experience with the Watercourse Phase I project and is looking forward to bringing another project to Graham. Council Member Kimrey asked Mr. Bradley what his thoughts are about mixed use development. Mr. Bradley stated that the cost to add commercial to this site is high and he does not see commercial development as a good fit for this particular site.

Ms. Kathy Hall of 1202 Noah Road Graham, Mr. Paul Keller of 410 Stonehedge Drive Graham and Mr. Mike Matteson of 1104 Castle Drive all stepped forward and encouraged Council to deny this request. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Following a brief discussion between Council Members, Council Member Kimrey made a motion that the application be denied, that the application is not fully consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reasons: It does not provide any mixed uses that are designated in our Comprehensive Plan and in Commercial Mixed Use Districts. Being no second, Mayor Peterman stated that the motion dies for lack of a second. Mayor Pro Tem Linens made a motion that the application be approved with the following conditions:

- Two hydrants to be installed on Woody Drive, as requested by Fire Chief
- Landscaping on Nelson Lane to be Type B, to increase buffer from interstate traffic;

And the application is consistent with The Graham 2035 Comprehensive Plan. Council Member Turner seconded the motion. Ayes: Mayor Pro Tem Linens, Council Member Turner, Mayor Peterman and Council Member McClure. Nays: Council Member Kimrey. Motion carried 4:1.

### **First Reading: Code of Ordinances Amendment:**

#### ***a. Amend Code of Ordinances to require Encroachment Permit for Permanent Improvements***

Mr. Holland explained that per Council's directive, Staff has looked at language for Encroachment Permits within the public right-of-way. The City currently has an ordinance that addresses temporary dining within the public right-of-way. What is brought before Council at this meeting is a draft ordinance that would allow for individuals to encroach legally in the City's right-of-way areas within the Central Business District B-1. Mr. Holland advised that Staff's recommendation is to receive input and conduct secondary legal review and to schedule a second reading for August 1, 2017. He concluded by stating this ordinance will require a 4/5ths vote to pass during the first reading.

Council Member Kimrey asked to be recused due to a current project he has on file with the City that may result in direct financial gain. Mayor Peterman made a motion to recuse Council Member Kimrey, seconded by Council Member Turner. All voted in favor of the motion.

By consensus, the remaining Council Members agreed to schedule a second reading of this ordinance amendment. Council Member McClure made a motion to move a second reading of the Ordinance amendment to Chapter 18, Article I., (Streets, Sidewalks, and Other Public Places) of the Code of Ordinances to require an Encroachment Permit for permanent improvements be scheduled for August 1, 2017, seconded By Mayor Pro Tem Linens. All voted in favor of the motion. Without objection, Council Member Kimrey rejoined the Council.

### **Issues Not Included on Tonight's Agenda:**

Mr. Brad Monbie of 625 New Street Graham, Ms. Shannon Craddock, Mr. Denne Craddock and Mr. Craig Cather of 626 New Street Graham and Ms. Katherine Caudell-Graves of 622 New Street Graham expressed concern with a neighbor. Complaints of people living inside a trailer on the property located at 623 New Street and allegations of illegal activity at that same property were brought to Council's attention. Mayor Peterman advised that Staff would look into the allegations.

Ms. Jennifer Talley of 808 Sideview Street Graham stepped forward to express concerns with the Encroachment Agreement as written. City Manager Frankie Maness and Mayor Peterman advised that this was a first reading and Ms. Talley's concerns will be taken into consideration before the second reading on August 1, 2017.

### **Closed Session Pursuant to the Terms of N.C.G.S. §. 143-318-11 (a) (6): to consider the performance of the City Manager and City Attorney:**

Mayor Peterman explained that Council would be going into closed session to review the performance of the City Manager. He added that due to City Attorney Keith Whited being absent from this meeting, Council would review his performance at a later date.

At 10:24 p.m., Council Member Kimrey made a motion to go into Closed Session to Consider the Performance of the City Manager Pursuant to the Terms of N.C.G.S. §. 143-318-11 (a) (6), seconded by Council Member Turner. All voted in favor of the motion.

At 10:38 p.m., Council Members returned from Closed Session and Mayor Peterman reconvened the Regular Session meeting.

Council Members took turns expressing their appreciation for the exceptional job Mr. Maness has done for the City. They stated that they are proud of what Mr. Maness has accomplished his five years as Graham's City Manager and couldn't be more pleased with his performance.

Mayor Peterman made a motion to increase Mr. Maness' salary by 3.4% effective July 1, 2017, seconded by Council Member Kimrey. All voted in favor of the motion.

### **Issues Not Included on Tonight's Agenda (Continued):**

Mr. Maness thanked Council for their support, adding that he is proud of what the City has been able to accomplish. He briefly updated Council on the progress of a secondary access at the Wastewater Treatment Plant.

Council Member Kimrey asked Mr. Maness and Council to consider upgrading technology to allow for the live streaming of meetings. Mayor Peterman stated that we would look into this during next year's budget cycle.

Council Member Turner reminded Council of former Mayor Vic Euliss' funeral to be held on July 13, 2017.

Council Member McClure encouraged Council Members to reach out to former Appearance Commission Chair Elaine Murrin and thank her for her service to that Commission.

Mayor Pro Tem Linens expressed concern with the comments made from the residents on New Street and asked Staff to address those tomorrow. Mr. Maness assured Council that would happen.

At 10:50 p.m. Council Member McClure made a motion to adjourn, seconded by Council Member Turner. All voted in favor of the motion.

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Darcy Sperry, City Clerk