

**CITY OF GRAHAM  
REGULAR SESSION  
TUESDAY, AUGUST 1, 2017  
7:00 P.M.**

The City Council of the City of Graham met in regular session at 7:00 p.m. on Tuesday, August 1, 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  
Keith Whited, City Attorney  
Ryan Allshouse, Administrative Intern  
Jeff Prichard, Graham Police Chief  
Ben Edwards, Graham Police Sergeant

Mayor Jerry Peterman called the meeting to order and presided at 7:00 p.m. Everyone stood to recite the Pledge of Allegiance.

**Consent Agenda:**

***a. Approval of Minutes – July 11, 2017 Special Session***

Mayor Peterman explained that City Clerk Darcy Sperry had brought to his attention that in the first sentence, the word “regular” should read “special” and therefore made a motion to amend the minutes, seconded by Council Member Chip Turner. All voted in favor of the motion.

Council Member Griffin McClure made a motion to approve the Consent Agenda with the change, seconded by Council Member Turner. All voted in favor of the motion.

**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 Director Nathan Page explained that this is an application to rezone property that currently has a duplex on it from Residential Multifamily R-MF to General Business B-2. He added that the stated reason for the request is to permit use of the property for any use permitted by right in the B-2 zone.

Council Member Lee Kimrey asked if anyone knew when this property had been rezoned to R-MF. Mr. Page stated that he believed it to be in the early 1980’s.

With no further comments forthcoming, Mayor Peterman opened the Public Hearing.

Mr. Frank Longest, attorney for the applicant stepped forward to address Council. Mr. Longest presented a slideshow to Council showing various pictures of the subject property and those surrounding it.

Mr. Longest stated that with all current and new proposed residences in this area, he and his client felt this is prime commercial property. He added that his client has been in discussion with various potential buyers, but that it would be premature to discuss until the property is rezoned.

Mayor Peterman advised that he does live across the street from this property but felt that he did not need to be recused, to which Council agreed. Council Members asked Mr. Longest about the current septic system serving the property and the duplex that is currently there. Additionally, Council Members asked Mr. Page what type of business could go in B-2. Mr. Page reminded Council that anything Mr. Longest might say with regards to what might potentially go into that property is not legally binding. He stated it would be easier to read what couldn't go there versus what could and proceeded to read that list.

Mr. Kevin Hinton of 603 East Harden Street, Mr. Arnez McDaniel of 526 Ward Street, Ms. Jan Searls of 526 East Pine Street, Mr. Travers Webb of 619 East Harden Street and Ms. Jennifer Talley of 808 Sideview Street expressed concern with this rezoning request. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Council Member Kimrey asked Mr. Page to read the definition of the Highway 54 Overlay District. Additionally, he spoke of site readiness and referenced The 2035 Comprehensive Plan's call for mixed use development in this area. Mayor Peterman stated that this property is one of Graham's most historic homes, having once been owned by Mr. Tom Zachary. He expressed concern with line of sight should Council approve this request. Council Member McClure asked Staff about spot zoning, the time table for the applicant to reapply if the rezoning should be denied and the current septic system. Council Member Turner inquired about NCDOT driveway cuts.

With no further discussion forthcoming, Council Member Kimrey made a motion that the application be approved, the application is consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reason: It fits The Comprehensive Plan and provides the start of mixed commercial use in this district. Mayor Pro Tem Jimmy Linens seconded the motion. Ayes: Council Member Kimrey and Mayor Pro Tem Linens. Nays: Mayor Peterman, Council Member McClure and Council Member Turner. Motion failed 3:2.

Council Member McClure made a motion that the application be denied, 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 reason: Existing zoning reflects the Plan. Council Member Turner seconded the motion. Ayes: Council Member McClure, Council Member Turner and Mayor Peterman. Nays: Mayor Pro Tem Linens and Council Member Kimrey. Motion carried 3:2.

***b. Second Reading Code of Ordinances Amendment: Amend Code of Ordinances to require Encroachment Permit for Permanent Improvements***

Assistant City Manager Aaron Holland explained this is the second reading of a text amendment to the Code of Ordinances. He added that the City currently does not have language that allow uses permanent in nature to be placed within the public right-of-way of the central business district (B-1) other than for temporary purposes as described in Article VII of the Code of Ordinances- *Downtown Outdoor Displays, Dining and Other Temporary Encroachment*.

Mr. Holland stated that this ordinance amendment would require any interested party in the B-1 district who wishes to encroach within the right-of-way with a use permanent in nature to obtain an Encroachment Permit from the City Manager or his designee.

The Encroachment Permit will provide the permit-holder permission to use a specific portion of the right-of-way until and Encroachment Permits will be revocable at any time in the interest of public safety. Mr. Holland advised that Staff does recommend approval.

Mr. Holland advised Council that concerns raised by Ms. Talley at last month's meeting had been addressed with Ms. Talley and he passed out a list of those concerns to Council. Mayor Peterman asked if Ms. Talley's concerns had been settled. Mr. Holland stated that Staff had met with Ms. Talley and believed some of her concerns had been resolved.

Council Member Kimrey informed Council that he does have a direct financial interest in this and asked to be recused. Council Member Turner motion to recuse Council Member Kimrey, seconded by Mayor Pro Tem Linens. All voted in favor of the motion.

Mayor Peterman opened the discussion to the floor. Ms. Talley expressed concern that when spoke to Staff, she felt everyone was on the same page and wanted the same outcome, however, she does not agree with what is put on paper. She stated that City Attorney Keith Whited agreed with her earlier in the day that some of the language needs addressed. She is concerned about the lack of an appeal process and the insurance requirements in the proposed language. Ms. Talley asked for the Ordinance to contain language that allows for the City Council to hear an appeal. Ms. Talley expressed concern with current encroachments and how they will be handled going forward.

Following a brief discussion between Council Members and Staff, Mayor Pro Tem Linens made a motion to table this item and recommended that Staff looks into language that addresses an appeal process, insurance regulations and keeping current encroachments as is. Council Member Turner 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***

City Manager Frankie Maness reminded Council that this request was discussed last month and tabled to this month to determine whether or not we would allow a water connection to a property that is contiguous to the City without annexation. Mr. Maness advised that historically speaking, we require our contiguous properties to annex into the City to access City services. He added that the applicant is requesting that she be able to tap into the City's water distribution line without annexation into the City.

Council Members discussed with Mr. Maness costs, other available City services and whether or not we can require annexation if all services are not available. In this particular case, Mr. Maness advised that all services are available with the exception of sewer at this time. He stated that we have plenty of properties within the City limits that currently are not tied into our sewer system.

Mr. Craig Robertson of 412 Springwood Avenue Gibsonville stepped forward on behalf of the applicant. He advised that the applicant is his mother-in-law. He explained that three years ago, Ms. Ray lost her home in a fire. The water system the contractor installed after the fire is pumping in red, gritty water. Ms. Ray does not want to be annexed into the City.

Mr. Maness asked Council Members to consider what has been done in the past and how this decision might affect future growth. Council Members agreed that they would be setting a dangerous precedent if they approve this request.

Council Member Kimrey made a motion to permit the property at 1342 Jimmie Kerr Road to tap City of Graham water lines upon a valid petition for annexation 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 for property located at 1004 Woody Drive (AN1702):***

***i. Approve Annexation Ordinance***

Mr. Page explained that 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). He added that the annexation process has multiple steps. Following a public hearing, approval of the Annexation Ordinance is the final step for Council in the annexation process.

With no comments forthcoming, Mayor Peterman opened and closed the Public Hearing. Council Member McClure made a motion to approve the Annexation Ordinance to Extend the Corporate limits of the City of Graham, North Carolina, for the parcels consisting of 14.3 acres including 1004 Wood Drive, seconded by Mayor Pro Tem Linens. All voted in favor of the motion.

**ANNEXATION ORDINANCE  
TO EXTEND THE CORPORATE LIMITS  
OF THE  
CITY OF GRAHAM, NORTH CAROLINA  
FOR PROPERTY AT 1004 WOODY DRIVE (AN1702)**

**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 August 1, 2017, after due notice by publication on July 20, 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 August 31, 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:

COMMENCING AT A POINT, SAID POINT BEING PUBLISHED IN THE NATIONAL GEODETIC SURVEY AS "CASTLE" (PID: DG7052) AND HAVING NC GRID COORDINATES OF NORTHING: 841,524.06' & EASTING: 1,890,628.36'; THENCE N79°22'08"W A GRID DISTANCE OF 2737.34' TO A 5/8" IRON REBAR FOUND 0.1 FEET, ABOVE THE ADJACENT GRADE; SAID IRON LYING ON THE NORTHERN MARGIN OF WOODY DRIVE (NCSR 2106) HAVING A 60 FOOT PUBLIC RIGHT OF WAY, BEING THE SOUTHWESTERN MOST CORNER OF LUTHER SHOFFNER FAMILY, LLC PROPERTY AND A COMMON CORNER WITH ECO WATERCOURSE, LLC AND SAID IRON REBAR IS HEREBY KNOW AS THE POINT OF BEGINNING.

THENCE FROM THE SAID POINT OF BEGINNING ALONG THE COMMON LINE WITH ECO WATERCOURSE, LLC N43°06'17"W FOR A DISTANCE OF 266.17 FEET TO A 5/8" IRON REBAR FOUND; THENCE, N 07°32'57"W FOR A DISTANCE OF 76.82 FEET TO AN IRON REBAR FOUND; THENCE, N07°21'21"W FOR A DISTANCE OF 381.74 FEET TO AN IRON REBAR FOUND; THENCE, N 37°09'58"W FOR A DISTANCE OF 103.90 FEET TO AN IRON REBAR FOUND, SAID IRON LYING ON THE SOUTHERN RIGHTS OF WAY TO INTERSTATES 40 AND 85; THENCE ALONG THE MARGIN OF NELSON DRIVE, AN INTERSTATE SERVICE ROAD, N 52°39'37" E FOR A DISTANCE OF 462.29 FEET TO AN IRON PIPE FOUND; THENCE, N 52°41'54"E FOR A DISTANCE OF 324.71 FEET TO A NORTH CAROLINA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY DISK; THENCE, N 53°49'19" E FOR A DISTANCE OF 143.56 FEET TO A NORTH CAROLINA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY DISK, SAID DISK BEING AT THE INTERSECTION OF NELSON DRIVE AND WOODY DRIVE; THENCE, S 61°39'56"E FOR A DISTANCE OF 74.91 FEET TO A NORTH CAROLINA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY DISK, SAID DISK LYING ON THE NORTHERN MARGIN OF WOODY DRIVE(NCSR 2106); THENCE ALONG WOODY DRIVE, S 00°44'50"W FOR A DISTANCE OF 18.58 FEET TO A CONCRETE RIGHT OF WAY MONUMENT FOUND; THENCE S 00°44'50"W A DISTANCE OF 221.35 FEET TO A ¾"

IRON PIPE FOUND; THENCE, S 01°38'34"W A DISTANCE OF 329.90 FEET TO A 5/8" IRON REBAR FOUND; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 799.52 FEET A CHORD BEARING OF S14°00'13"W FOR A DISTANCE OF 201.73 FEET TO A 5/8" IRON REBAR FOUND; THENCE WITH A CURVE TO THE RIGHT HAVING A RADIUS OF 799.52 FEET A CHORD BEARING OF S36°23'38"W FOR A DISTANCE OF 418.33 FEET TO AN IRON PIPE SET; THENCE, S 51°30'31"W FOR A DISTANCE OF 22.28 FEET TO AN IRON PIPE SET, SAID IRON BEING THE COMMON CORNER WITH JODY B. CHILDERS PROPERTY ; THENCE, S 51°30'33"W FOR A DISTANCE OF 65.16 FEET TO AN IRON PIPE SET; THENCE, S 51°49'33"W FOR A DISTANCE OF 64.88 FEET TO IRON PIPE FOUND; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 3,265 FEET A CHORD BEARING OF S50°36'17"W FOR A DISTANCE OF 97.03 FEET TO AN IRON REBAR FOUND, SAID IRON BEING THE POINT AND PLACE OF BEGINNING, HAVING AN AREA OF 623,063 SQUARE FEET, 14.304 ACRES MORE OR LESS.

**Section 2.** Upon and after August 31, 2017, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Graham and shall be entitled to the same privileges and benefits as other parts of the City of Graham. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

**Section 3.** The Mayor of the City of Graham shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory described in Section 1 above, together with a duly certified copy of this Ordinance. Such a map shall also be delivered to the Alamance County Board of Elections, as required by G.S. 163-288.1.

**Adopted this, the 1<sup>st</sup> day of August, 2017.**

## **Recommendations from Planning Board:**

### ***a. Public Hearing: Subdivision Exemptions (AM1705): Updating the definition of a subdivision as required by the North Carolina General Assembly***

Mr. Page advised that the North Carolina General Assembly has changed the definition of a Subdivision to be more in line with recent court decisions. As the General Assembly writes our enabling statutes, we must adopt their new definition. Mayor Peterman opened the Public Hearing and with no comments forthcoming, he closed the Public Hearing.

Council Member Kimrey made a motion that the text amendment be approved, the text amendment is consistent with The Graham 2035 Comprehensive Plan and that this action is reasonable and in the public interest for the following reasons: It brings us into compliance with current law. Council Member Turner seconded the motion and all voted in favor of the motion.

### ***b. Public Hearing: Floodplain Regulations (AM1706). Updating the article and adopting new maps as required by the Federal Emergency Management Agency***

Mr. Page explained that the Federal Government draws the floodplain maps and if we don't adopt their new maps on or before November 17, 2017, it is likely that flood insurance for those who have it would increase significantly. Mr. Page advised that the Planning Board had not yet seen a draft of this, as the Federal Government was late in getting it to Staff.

Following a brief discussion between Council and Staff, Mayor Peterman opened the Public Hearing. With no comments forthcoming, he closed the Public Hearing.

Mayor Pro Tem Linens made a motion to table this item, seconded by Council Member Turner. All voted in favor of the motion.

### **Resolution Amending Water Agreement with Town of Swepsonville:**

Mr. Maness stated that a few years ago, we renewed our contract with Swepsonville to provide water for the town. This proposed resolution would increase the current 200,000 gallons of water per day to 300,000 gallons. He stated that the City of Graham has ample capacity to provide this and that Swepsonville needs this to have the ability to grow.

Council Members and Staff briefly discussed contractual obligation history and water pressure and the flushing of hydrants program.

Mayor Pro Tem Linens made a motion to adopt the Resolution Amending the Water Service Utility Contract with the Town of Swepsonville, seconded by Council Member Kimrey. All voted in favor of the motion.

### **Governor's Highway Safety Program Grant:**

#### ***a. Approve Resolution***

Administrative Intern Ryan Allshouse stated the action before Council is to adopt a Resolution allowing the City to enter into contract with the Governor's Highway Safety Program to create a dedicated traffic enforcement unit. He further explained that as the County seat and with the close proximity to I-40, I-85, as well as NC-49, NC-54, and NC-87, Graham experiences a high volume of traffic on a daily basis. The Graham Police Department (GPD) has no special unit or traffic enforcement team to address the growing traffic. Alamance County is ranked 26th within the state in the number of fatal crashes; we have experienced an increase of crashes causing injury, as well as an increase in young drivers (15-24 years of age) involved in crashes. The Graham Police Department is seeking funds to create a dedicated traffic enforcement unit to focus on reduction of young driver crashes, occupant injuries and speed related crashes in the City of Graham and surrounding areas. This unit will work closely with the Burlington Police Department as well as the Alamance County Sheriff's special operations unit and other agencies as deemed necessary. All county Law enforcement agencies supports GPD and their efforts to make the streets safer. The City of Graham is required to appropriate \$19,574.00 or 15%, as a match to the \$110,921.00 in Federal funding through the Governor's Highway Safety Program to cover the personnel and direct costs in establishing a dedicated highway safety unit. The City of Graham is required to maintain the personnel in subsequent years with declining support from the grant. Year two will require a 30% match, year three will require a 50% match while year four and beyond is 100% the responsibility of the City. No budget amendment is required and Staff recommends approval.

Graham Police Sergeant Ben Edwards fielded questions from the Council. Council Members inquired about the definition of a dedicated traffic enforcement unit, availability of quarterly reports and what happens when funds are no longer available. Council Members wanted assurance that this officer would patrol all City streets and not just highways. Sergeant Edwards said this will be an experienced officer and the officer will cover all of Graham's streets and highways.

Council Member Turner made a motion to adopt the Resolution allowing the City of Graham to enter into contract with the Governors Highway Safety Program, seconded by Mayor Pro Tem Linens. All voted in favor of the motion.

**RESOLUTION TO ENTER INTO CONTRACT WITH THE  
GOVERNOR'S HIGHWAY SAFETY PROGRAM**

WHEREAS, The Graham Police Department has completed an application contract for traffic funding:  
and

WHEREAS, The City of Graham has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED by the City of Graham in open meeting assembled in the City of Graham, North Carolina, this 1<sup>st</sup> day of August, 2017 as follows:

1. That the project referenced above is in the best interests of the Governing Body and the general public; and
2. That B.T. Edwards (Sergeant) is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$110,921.00 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$19,574.00 as required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in an open meeting by

### **Emergency Personnel Radios:**

#### ***a. Approve Budget Ordinance Amendment***

Police Chief Jeff Prichard explained that in 2009 the City of Graham joined the State Viper system for the 800 MHz radios that are currently being used by emergency personnel. These radios have been on the street now for approximately eight years and their transmitting signals are starting to deteriorate. Chief Prichard shared two stories involving officers who recently called for backup and the radio signal failed to transmit to Central Communications. He said they are requesting funds to be appropriated for new dual band radios for both the Police and Fire Departments.

Council Members expressed some concern with this coming up so soon after it was not funded by Council in the FY 2017-2018 Budget. Chief Prichard stated that during the budget cycle they did not have enough information from the vendor by the time this current budget was presented to Council. Mr. Maness stated that due to the recent radio failures, he is concerned for officer safety. Council Members and Staff discussed bulk purchase pricing, the advantages of purchasing versus leasing along with the warranty period for the radios.

Mayor Peterman made a motion to approve the 2017-2018 Budget Ordinance Amendment to appropriate funds to purchase portable and mobile radios for Police and Fire Departments, seconded by Council Member Kimrey.

BE IT ORDAINED BY THE CITY COUNCIL of the City of Graham that the 2017 - 2018 Budget Ordinance shall be and is hereby amended as follows:

<b>Section 1: General Fund Expenditures</b>		
	APPROVED	AMENDED
10-5100-7400 Capital Outlay	154,000	509,000
10-5300-7400 Capital Outlay	30,000	175,000
<b>Section 2: General Fund Revenues</b>		
10-3900-0000 Fund Balance	842,500	1,342,500
This the 1 <sup>st</sup> day of August, 2017.		

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

Mr. Craig Cather of 626 New Street stepped forward and thanked Council and the Police Department for responding to his concerns aired at last month's Council meeting. Mr. Cather said that the neighbor whom he made reference to last month has cleaned up his act a little, but feels problems still exist. He is concerned that this individual is being shown preferential treatment by the Police Department. Mayor Peterman assured Mr. Cather that was not the case.

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

Mayor Peterman explained that Council would be going into closed session to review the performance of the City Attorney.

At 9:59 p.m., Mayor Pro Tem Linens made a motion to go into Closed Session to Consider the Performance of the City Attorney Pursuant to the Terms of N.C.G.S. §. 143-318-11 (a) (6), seconded by Council Member McClure. All voted in favor of the motion.

At 10:13 p.m., Council Member Turner made a motion to reconvene the regular meeting, seconded by Council Member McClure.

Council Members stated that they are pleased with the job Mr. Whited has been doing for the City and would like to extend Mr. Whited's employment. They agreed that they like having the attorney accessible during the week and feel that the part time arrangement agreed upon last year is working well for everyone.



Mayor Peterman made a motion to increase Mr. Whited's salary from \$48,425.52 to \$50,000 and make it retroactive to June 25, 2017. Council Member Turner seconded the motion and all voted in favor of the motion.

Mr. Whited thanked Council for their support and said it is his pleasure to serve the City of Graham.

Council Member McClure asked Council to pay attention to the corridor and wayfinding sign projects that Elon has instituted. He stated that Burlington is about to do the same and he urges this Council to consider doing the same in the next six months as he feels Graham has one of the best downtown areas around. Mayor Peterman asked that Staff provide a report to Council as to how our temporary wayfinding signs are doing.

Mayor Peterman asked that everyone keep former Mayor Vic Euliss' family in their prayers.

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