

**CITY OF GRAHAM
REGULAR SESSION
TUESDAY, MAY 7, 2019
7:00 P.M.**

The City Council of the City of Graham met in regular session at 7:00 p.m. on Tuesday, May 7, 2019, in the Council Chambers of the Municipal Building located at 201 South Main Street.

Council Members Present:

Mayor Jerry Peterman
Mayor Pro Tem Lee Kimrey
Council Member Chip Turner
Council Member Griffin McClure
Council Member Melody Wiggins

Also Present:

Frankie Maness, City Manager
Aaron Holland, Assistant City Manager
Darcy Sperry, City Clerk
Bryan Coleman, City Attorney
Nathan Page, Planning Director
Mary Faucette, Downtown Development Coordinator
Duane Flood, Police Lieutenant

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

Consent Agenda:

- a. Approve Minutes – April 2, 2019 Regular Session*
- b. Approve Tax Releases & Refunds*

CITY OF GRAHAM RELEASE ACCOUNTS				
MAY				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
536340	2018	PORTER, WILLIS INC	BUSINESS MOVED TO FLORIDA	10.74

CITY OF GRAHAM REFUNDS				
MAY				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR REFUND</u>	<u>REFUND AMOUNT</u>
181428	2017	SHEVLIN, RICHARD	SOLD JET SKI	1.46
181428	2018	SHEVLIN, RICHARD	SOLD JET SKI	1.38

- c. Approve Amending the Traffic Schedule to reflect the addition of a stop sign at the intersections of Ward Street and McBride Street as well as Providence Road and Oakley Street*
- d. Approve Public Private Parking Lease Agreement with Graham Presbyterian Church*
- e. Approve Request from Bryan Hagood to close the north and south side of West Elm Street from Maple Street to the first turnaround in the island past the Criminal Courts Building on May 27, 2019 from 9:30 a.m. to 1:00 p.m. for the Annual Memorial Day Ceremony*

Mayor Peterman asked Council Members if they would like to pull any of the items from the Consent Agenda. Mayor Pro Tem Lee Kimrey asked to pull item “c” while Council Member Melody Wiggins asked to pull item “d”.

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

Mayor Pro Tem Kimrey inquired about the proposed stop signs at the intersection of Ward Street & McBride Street. He made mention of these proposed signs being located about 300 feet from an existing four way stop intersection. Police Lieutenant Duane Flood advised this proposed signage will make this a three way stop and the hope is it will slow drivers down.

Mayor Pro Tem Kimrey made a motion to approve item “c” on the Consent Agenda, seconded by Council Member Chip Turner. All voted in favor of the motion.

Council Member Wiggins pointed out a discrepancy between what was included in the agreement versus what the on-site signage reads. The agreement states parking is available Monday - Saturday, however the sign at the location says Monday – Friday. Staff advised that the sign will be changed to reflect what is in the agreement. Mayor Pro Tem Kimrey asked staff who maintains the parking lot and who makes the decision as to when repairs may be needed. Staff advised that the Public Works Department is responsible for maintenance and repairs.

Council Member Wiggins made a motion to approve item “d” on the Consent Agenda, seconded by Council Member McClure. All voted in favor of the motion.

Old Business:

a. East Interstate Service Road Property:

- i. Accept offer to purchase of \$264,703 submitted by Martin Properties ACNC, LLC for surplus property*

City Manager Frankie Maness explained that the City conducted an upset bid process and the process had concluded for this surplus property on East Interstate Service Road. He informed Council that the prevailing bid was for \$264, 703 and that staff recommends acceptance of this offer.

Following a brief discussion between staff and Council with regards to this property’s assessed value of \$250,000, Council Member McClure made a motion to accept the offer of \$264,703 submitted by Martin Properties ACNC, LLC for surplus City property on East Interstate Service Road, more particularly described as GPIN #8884402904, Parcel ID: 146703 and authorize the City Manager, City Attorney and City Clerk to effectuate the sale. Council Member Turner seconded the motion and all voted in favor of the motion.

b. Quasi-Judicial Public Hearing: Kronbergs Campground (SUP1901). Application by Chuck Talley for a Special Use Permit to permit a Commercial Campground with up to 75 Recreational Vehicle spots upon site (GPIN 8894743697)

Mayor Peterman reminded everyone that this Quasi-Judicial Public Hearing was continued from last month. Planning Director Nathan Page explained that the applicant had been in contact with staff but that there had not been sufficient time for staff to review the operation and maintenance agreement put forth by the developer. After consulting with the developer, staff recommends Council continue this until next month's meeting.

Council Member McClure asked for confirmation that this was the third month we have continued this item. Mayor Peterman confirmed.

Mayor Peterman opened the Quasi-Judicial Public Hearing and without any comment forthcoming, closed the Quasi-Judicial Public Hearing. Mayor Pro Tem Kimrey made a motion to continue this hearing until June 4, 2019, seconded by Council Member McClure. All voted in favor of the motion.

Requests & Petitions from Citizens:

a. Request from Jason Cox for Consideration of a City Sponsored Life Safety Improvements Program

Mr. Jason Cox of 200 North Main Street stepped forward to address the Council. He stated that he believes there is significant need for a City program to address fire protection systems and elevators. It is his opinion that higher uses of existing buildings downtown will continue to be prevented without meaningful investments to address these key needs.

Council Members and Mr. Cox briefly discussed some sort of program that would offer an incentive to accommodate an up fit to a building in the downtown area. Mentioned might be City provided water and sewer taps. Council Member McClure wants to make sure that if the City does decide to move forward with developing a program, it has a level of transparency.

Downtown Development Coordinator Mary Faucette stepped forward to inform Council that she has been researching the Downtown Associate Community Program. Through this research she has found that there are already established incentive programs throughout the state that we can carbon copy. Mrs. Faucette added that she believes that such a program would be a great benefit to our City. Council Members asked Mrs. Faucette if there was any one program she favored. Mrs. Faucette stated she like the City of Salisbury's program and went on to highlight some of the elements of that program.

Mr. Tom Boney of the Alamance News stepped forward and expressed concern that incentives aren't offered equally throughout the City. City Manager Frankie Maness explained that this is more than economic development. He advised that fire prevention/safety is equally, if not more important to the City.

With no further comments forthcoming, Mayor Peterman asked for consensus to have staff look into this further and bring back a proposal for Council to consider. Consensus was given.

Recommendations from Planning Board:

- a. Public Hearing: Lacy Acres (RZ1901). Request by Penny Sekadlo to rezone property located on Chartwell Lane and Stonehaven Drive from R-18 to R-9 (GPIN 8872465865, 8872469418, 8872562422)***

Mr. Page explained that this is a request to rezone the subject property from R-18 to R-9. The property is currently vacant, wooded, and under cultivation.

Council Members and staff briefly discussed the recorded Valleyfield and Woodshire Estates subdivision site plans and the number of dedicated public right-of-ways on those recorded documents. Mr. Page advised that there are five recorded dedicated public right-of-ways that give access to adjacent property. This proposed rezoning would use one of the five to give access to this property being considered for rezoning. Mr. Page was asked to explain what R-12 with open space means. He explained that Valleyfield is zoned R-12 with open space and that allows for lots to be a minimum of 10,000 square feet instead of the 12,000 square feet that R-12 requires as long as there is preserved open space. He added that the majority of lots in Valleyfield do not meet R-12 zoning. The width for the lots being proposed with this rezoning and subsequent subdivision request would be the same as the majority of lots in Valleyfield.

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

Mr. Garrick Sevilla of 3700 Lychan Parkway Durham, Mrs. Carla Sevilla of 1015 Pinehurst Drive Chapel Hill and Ms. Penny Sekaldo of 9220 Fairbanks Drive Raleigh stepped forward to address Council. Mr. Seville identified himself as the attorney for this proposal. He informed Council that the Planning Board did not provide a reason for denial, yet he believed this proposal does follow the City's Comprehensive Plan. He advised that Glenwood Homes accepted feedback from neighboring residents. Taking into consideration the concerns voiced, his group went back to the drawing board and came up with an alternative plan, R-12 with open space. Mr. Sevilla asked Council to approve the application as presented and/or rezoning it to the alternative R-12. He further asked that his group have the opportunity to come back to Council with a revised R-12 subdivision plan should Council feel that R-12 would be appropriate for this property.

Council Members asked about linear feet for roadways being proposed, who would be responsible for damage to existing roadways during the construction phase, proposed open space and buffer area with the R-12 plan. Ms. Sekaldo advised that the linear feet of roadway proposed for R-9 is approximately 7,000 linear feet and with R-12 zoning it would be approximately 6,000 linear feet. Additionally, she advised that in her experience as an engineer, all contractors repair damage that they do to roads. Ms. Sekaldo advised that the R-12 request included 15 of the 57 acres would be open space, amounting to approximately 26%. She added that there is a 30 foot buffer being proposed to back up to the Valleyfield subdivision.

Council Member Wiggins asked Mr. Page if Council was able to consider R-12 at this meeting when the application submitted requests R-9. Mr. Page advised that the application before us is for R-9 rezoning. He added that the discussion about the subdivision, open space and road lengths are all subdivision questions and not rezoning questions. He reiterated that the application before us is R-9.

Mr. Boney expressed some confusion as to whether or not the original request was being changed from R-9 to R-12 with open space. Mayor Peterman stated that the applicant is giving Council the option to consider both. Mr. Boney questioned whether or not the applicant has formally requested R-12 with open space.

The following individuals expressed various concerns with the rezoning request and encouraged Council to deny the request:

Tom George – 2498 Whispering Hills Drive	Dr. David Johnson – 986 Stonehaven Drive
Xiaoping Johnson – 986 Stonehaven Drive	Marie Toney – 2517 Covington Loop
Bonnie Whitaker – 2456 Greenview Drive	Leah Duell – 2412 Chartwell Lane
Patrick Morefield – 2705 Pepperstone Drive	Jonathan Holt – 2305 Lacy Holt Road
Jonathan Miller – 2419 Pepperstone Drive	Nicholas Elinski – 2447 Pepperstone Drive
Jeff Barnt – 2456 Pepperstone Drive	Warren Linehan – 2420 Chartwell Lane
Steven Boles – 2410 Pepperstone Drive	Sandra LeFrancois – 973 Stonehaven Drive
Mary Taylor – 974 Stonehaven Drive	San Lamb – 2407 Pepperstone Drive
Randy Taylor – 974 Stonehaven Drive	Judy Hall – 2501 Pepperstone Drive
Jim Trenner – 2622 Pepperstone Drive	Seth Garrepy – 2451 Pepperstone Drive
Tom Balchin – 2361 Knightdale Drive	Richard Terrell – 910 Stonehaven Drive
Jerome Naylor – 2345 Knightdale Drive	Danny Simmons – 2405 Whispering Hills Drive
Steven Byrd – 2421 Chartwell Lane	Bob Snow – 2431 Knightdale Drive

Phyllis Holt of 3928 Yount Court Burlington stepped forward to address Council. She advised that she owns one of the parcels being considered for this rezoning request. She provided Council with a brief history of the property and the development that has occurred over the past several years. She encouraged Council to approve the rezoning request.

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

Mayor Peterman and Council Member Turner stated that the residents who spoke against this rezoning have an excellent point. Mayor Peterman further stated that the property is going to be developed and that he doesn't believe the residents are against the development of the property, but rather against the ins and outs of the property.

Mayor Pro Tem Kimrey spoke of the dedicated right-of-ways and how any growth is going to create an increase in traffic. Mayor Pro Tem Kimrey addressed some of the concerns about stormwater runoff voiced by the residents, stating that this developer would have to meet stricter guidelines than Valleyfield and Woodshire developers did when they were developed. He added that it is Council's responsibility to protect the interests and safety of the citizens while at the same time look forward to the future.

Council Member Turner stated that the roads built in Woodshire were built to a much different standard than roads today. He added that this new development will create about 900 cars per day and believes that dump trucks going in and out of the development will tear up the streets. Mayor Pro Tem Kimrey countered that by stating that development of any kind creates additional traffic.

Council Member McClure stated that he started with believing that R-12 is in keeping with Valleyfield, but he would not have Valleyfield do all of the heavy lifting with traffic. He stated that the access point is empathetical to Woodshire. He further added that while the right-of-way was built into this, so was the R-18 zoning. He stated that the zoning was indicative of the area. He added that while he started in the camp of R-12, he is now more in the R-15 rezoning as a compromise. Council Member McClure stated that he is a fan of growth and density, but a bigger fan of smart growth.

Council Member Wiggins stated that with every development the City has had, they have heard the same concerns heard tonight, traffic and safety. She added that those things are heard by the Technical Review Committee before they come back to the Council. She mentioned that when the Valleyfield subdivision was being proposed, there was a room full of people opposing that development as well. She stated she does have some concern for Woodshire.

Mayor Peterman stated that we would be dumping traffic onto a small County road, as Woodshire is not in the City limits. Mayor Pro Tem Kimrey advised that it is the responsibility of the Department of Transportation to accommodate our growth, much like it is the school system's responsibility to accommodate our growth.

Mayor Pro Tem Kimrey pointed out that we currently have an R-12 up against R-18 property. He wanted to point out that in terms of costs for services we provide, subdivisions generally are not cost effective for the City of Graham. He asked Mr. Page to confirm that in most cases, R-9 or even greater concentration is break even for the City. Mr. Page agreed with that statement. Mr. Page stated that while repaving the first portion of Pepperstone Drive, it was determined that value we received from those homes would never repay what it cost to pay for repaving the portion of street in front of those homes. Mayor Pro Tem Kimrey stated that unfortunately, we are charging taxes at today's rate, but repaving costs are in the future. He added that revenue we generate from most subdivisions is not where we look for money. Those areas providing positive revenue to the City would be industrial growth, commercial growth and even multi-family growth. Mayor Pro Tem Kimrey responded to Council Member McClure's mention of R-15 by stating that you cannot develop an R-15 subdivision and have it make money and certainly not an R-18 with City services. He stated that this is not about money, but rather about bringing people into the City who can contribute to our community.

Council Member McClure asked Mayor Pro Tem Kimrey if he were in favor of R-9. Mayor Pro Tem Kimrey stated he was in favor of R-12, to which Council Member McClure pointed out that Mayor Pro Tem Kimrey just stated that R-12 is not profitable to the City. Mayor Pro Tem Kimrey countered that subdivisions being unprofitable to the City doesn't mean that those additional residents aren't contributing in other ways to our community. He added that as you bring more people to the City, those people will be engaged in the City and get goods and services here in the City. The City can see a benefit other than just tax revenue. Council Member McClure stated that he believes this area is development heavy.

Council Member Wiggins reminded everyone that this land is going to sell and have development on it at some point.

Mayor Peterman stated that he is not against growth and again referenced the concerns voiced by Woodshire residents when Valleyfield developed. He asked Mr. Maness if there is an alternative way to access this property. Mr. Maness stated there has to be available land and as it stands now, it would be tough to find other access.

Mayor Pro Tem Kimrey questioned setting precedent if Council should say that you can't use the dedicated public right-of-ways for future development. He wants to make sure Council remains fair and consistent.

Mayor Peterman asked City Attorney Brian Coleman what the ramifications to the City would be if Council did not approve this request and the developers decide to sue the City. Mr. Coleman deferred to Mr. Page. Mr. Page advised that if Council should vote this down, the consistency statement needs to be complete and state why the denial was in alignment with The Graham 2035 Comprehensive Plan and quote how the denial was in alignment with The Graham 2035 Comprehensive Plan.

That document would then be able to be challenged in court and would need to match that plan. Mayor Peterman asked Mr. Page if any of the citizens have given Council a defensible action should this not be approved. Mr. Page referenced Department of Transportation standards with traffic counts, adding that arguments heard tonight pertain to the subdivision plan and not the rezoning request.

Mayor Pro Tem Kimrey made a motion that the application be approved to R-12 rezoning as requested tonight, the application is consistent with The Graham 2035 Comprehensive Plan and this action is reasonable and in the public interest for the following reasons: Rezoning this property would be consistent with Policy 3.3.2 and Strategy 4.3.1 of The Graham 2035 Comprehensive Plan. Council Member Wiggins seconded the motion. Ayes: Mayor Pro Tem Kimrey and Council Member Wiggins. Nays: Mayor Peterman, Council Member Turner and Council Member McClure. Motion failed 3:2.

Council Member Wiggins made a motion that the application be approved with the R-9 as submitted and that the application is consistent with The Graham 2035 Comprehensive Plan. The motion failed to receive a second and therefore dies. Staff recommended that Council should have a motion that passes, even if that motion is to dismiss the application presented.

Mayor Peterman made a motion that the application be denied and that the application is not fully consistent with The Graham 2035 Comprehensive Plan. Council Member McClure seconded the motion. Ayes: Mayor Peterman, Council Member McClure and Council Member Turner. Nays: Mayor Pro Tem Kimrey and Council Member Wiggins. Motion carried 3:2.

b. Public Hearing: Lacy Acres (S1901). Request by Penny Sekaldo to approve a Major Subdivision for up to 165 single family residences (GPIN 8872465865, 8872469418, 8872562422)

Mayor Peterman stated that this request is no longer valid.

Mr. Sevilla stepped forward and stated that with the R-9 and R-12 requests being denied, this project would not be permissible under the current zoning. Ms. Sekaldo stated that she has advised her clients, Glenwood Homes, the current zoning is not feasible with public utilities to continue with the project. She further added that to deny them access to existing right-of-ways is turning land planning on its ear. Mrs. Sevilla stated that she has been in the building business for several years and this is the first time she has been denied with existing right-of-ways in place and with R-12 next door. She also added that their R-12 request is less dense than what the Comprehensive Plan calls for. Ms. Sevilla went on to say that they did everything they could to try and align this project with what the Comprehensive Plan calls for. She stated that safety and community are her number one priorities.

Mr. Eric Crissman of 208 Albright Avenue Graham stepped forward and asked Mayor Peterman what paragraph(s) of The Graham 2035 Comprehensive Plan did Mayor Peterman use during his motion for the rezoning request. Mayor Peterman advised that there can be differing interpretations of the plan. Mr. Crissman expressed concern and questioned why the plan is used at all if there can be differing interpretations.

Mr. Boney stepped forward and expressed concern that it is the majority who determine what is and is not consistent with the Comprehensive Plan. He also expressed concern about the notification process during rezoning requests and/or changes.

Approve Agreement to Operate Burlington Animal Shelter & Pet Adoption Center:

Mr. Maness explained that since 2002, the City of Graham has participated in the programs associated with the Animal Shelter. Mr. Maness gave a brief overview about how the costs used to be divided up between municipalities within and including Alamance County. The new formula being proposed will mirror the sales tax revenue formula and staff recommends approval.

A general discussion between Council Members and staff regarding shelter policies, shelter services and overall responsibility ensued. Mr. Maness advised that euthanasia is down, intake is down and positive outcomes is up. Council Members thanked Mr. Maness for all of the work he has done with helping to ensure that the cost breakdown is fair for all parties.

Mr. Crissman stepped forward and spoke of the positive outcome he has personally had using shelter services.

Issues Not on Tonight's Agenda:

Council Member Wiggins reminded everyone that the Historic Museum Ribbon cutting is Thursday, May 9, 2019. She also commended the Recreation staff for a recent grant they received. Lastly, she presented a summary of a meeting held with a few volunteer board members and staff regarding the overall operation and training of our current volunteer board members. Council Member Wiggins recommended that Council Members consider creating a task force to look into how volunteer members are trained and appointed. Mayor Peterman asked that this request be put on next month's agenda.

Mr. Maness presented Council Members with a copy of his recommended budget for fiscal year 2019-2020. He informed Council that a doodle poll will be forthcoming to find a date that works for all for a budget workshop.

Mayor Peterman congratulated former City employee Jerry Hughes for his recent North Carolina Lottery win.

At 10:18 p.m. Mayor Pro Tem Kimrey made a motion to adjourn, seconded by Council Member McClure. All voted in favor of the motion.

Darcy Sperry, City Clerk