

**CITY OF GRAHAM
REGULAR SESSION
TUESDAY, MARCH 9, 2021
6:00 P.M.**

The City Council of the City of Graham met in virtual regular session at 6:00 p.m. on Tuesday, March 9, 2021, via livestreaming media.

Council Members Present:

Mayor Jerry Peterman
Mayor Pro Tem Chip Turner
Council Member Melody Wiggins
Council Member Jennifer Talley
Council Member Ricky Hall

Staff Present:

Aaron Holland, Interim City Manager
Darcy Sperry, City Clerk
Bryan Coleman, City Attorney
Nathan Page, Planning Director
Jeff Wilson, IT Systems Manager

Mayor Jerry Peterman called the meeting to order and presided at 6:02 p.m. Mayor Peterman gave the invocation and everyone stood to recite the Pledge of Allegiance.

Consent Agenda:

- a. Approve Minutes – February 9, 2021 Regular Session (Virtual)*
- b. Approve Proclamation Declaring April 30, 2021 as Arbor Day in the City of Graham*
- c. Approve Audit Contract with Stout, Stuart, McGowen & King, LLP*
- d. Adopt Master Plan for the Graham Recreation & Parks Department*
- e. Petition for Voluntary Contiguous Annexation for a 2 acre lot located at 1342 Jimmie Kerr Road (GPIN 8894425247) (AN2101):*
 - i. Approve Resolution Requesting City Clerk to Investigate Sufficiency*
 - ii. Approve Resolution Fixing Date of Public Hearing on Question of Annexation*

Mayor Peterman advised that he would like to pull items “d” and “e” from the Consent Agenda before asking other Council Members if they would like to pull any of the items. Council Member Jennifer Talley asked to pull item “a”.

Mayor Pro Tem Turner made a motion to approve items “b” and “c” on the Consent Agenda, seconded by Council Member Ricky Hall. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Concerning item “a”, Council Member Talley questioned the 200 North Alleyway agreement from last month, asking if the agreement only covered this one alleyway and future agreements would have to come before Council. Interim City Manager Aaron Holland confirmed that to be the case. Council Member Talley also expressed concern that the cost of the agreement was omitted from the minutes. Mr. Holland explained that the costs were part of the approved agreement and upon approval by Council, the agreement is what is referenced.

With no further questions forthcoming, Council Member Hall made a motion to approve item “a” on the Consent Agenda, seconded by Council Member Melody Wiggins. Mayor Peterman polled the Council Members and all voted in favor of the motion.

With regards to item “d”, Mayor Peterman advised that Recreation & Parks Director Brian Faucette had asked that this item be pulled so that he could amend the plan prior to adoption consideration. Mayor Peterman made a motion to postpone item “d” until next month, seconded by Mayor Pro Tem Turner. Mayor Peterman polled the Council Members and all voted in favor of the motion.

With regards to item “e”, Mayor Peterman advised that motion for “e (i)” listed the wrong address. Mayor Peterman made a motion to approve the Resolution Directing the Clerk to Investigate a Petition Received under G.S. 160A-31 for a parcel located 1342 Jimmie Kerr Road, seconded by Council Member Hall. Mayor Peterman polled the Council Members and all voted in favor of the motion. Mayor Peterman then made a motion to approve the Resolution Fixing Date of April 13, 2021, for a Public Hearing on Question of Annexation Pursuant to G.S. 160A-31 for a two acre parcel at 1342 Jimmie Kerr Road, seconded by Council Member Hall. Mayor Peterman polled the Council Members and all voted in favor of the motion.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE
A PETITION RECEIVED UNDER G.S. 160A-31
FOR PROPERTY AT 1342 JIMMIE KERR ROAD (AN2101)**

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 26, 2021, by the Graham City Council; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Graham deems it advisable to proceed in response to this request for annexation.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Graham:

That the City Clerk is hereby directed to investigate the sufficiency of the above described petition and to certify as soon as possible to the City Council the result of her investigation.

**RESOLUTION FIXING DATE OF APRIL 13, 2021 FOR A PUBLIC HEARING ON QUESTION OF ANNEXATION
PURSUANT TO G.S. 160A-31 FOR A 2 ACRE LOT AT 1342 JIMMIE KERR ROAD (AN2101)**

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made; and

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

Section 1. A public hearing on the question of annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC or **by teleconference at 6:00 pm on April 13, 2021.**

Section 2. The area proposed for annexation is described as follows:

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 point in the center of Jimmie Kerr Road, (S.R. No. 1928) and the City of Graham Corporate limits line and corner between Juanita B. Ray heirs and Allison Nicole McCauley, ETAL, said point being located N70° 51' 07" W 30.66 feet from an existing iron pipe in the line between Juanita B. Ray heirs and Allison Nicole McCauley Etal, running thence along the centerline of Jimmie Kerr Road (S.R. 1928) and the existing City of Graham Corporate Limits line the following two (2) courses and distances: (1) N31° 16' 52"E 127.59 feet to a point; (2) N36° 07' 13"E 83.12 feet to a point and corner between Juanita B. Ray heirs and Jay Vance Rogers; running thence along the line between Jay Vance Rogers and Juanita B. Ray heirs the following three (3) courses and distances: (1) S63° 18' 0"E 488.20 feet to an existing iron pipe (iron stake setback in the line in this line 38.94 feet from corner in road); (2) S26° 27'14"W 141.18 feet to an existing iron pipe; (3) N70° 57' 57"W 169.24 feet to an existing iron pipe and being a common corner between Juanita B. Ray heirs, Jay Vance Rogers and Allison Nicole McCauley Etal; running thence along the line between Juanita B. Ray heirs and Allison Nicole McCauley Etal N70° 51' 07"W 315.13 feet to an existing iron pipe; thence continuing N70° 51'07"W 30.66 feet to the POINT OF BEGINNING and containing 2.00 acres (0.003 square miles.)

Section 3. Notice of the public hearing shall be published once in The Alamance News, a newspaper having general circulation in the City of Graham, at least ten (10) days prior to the date of the public hearing.

Adopted this **the 9th day of March, 2021.**

Old Business:

- a. ***Public Hearing: RZ2010 Riverbend Business. Request by G. Travers Webb III to rezone a portion of the property located on East Harden Street from R-MF (Multi-Family Residential) to B-2 (General Business) (GPIN 8884721949)***
- b. ***Public Hearing: CR2006 Truby Apartments. Request by Second Partners, LLC for Conditional Rezoning for multi-family apartments from Light Industrial for property located on (GPIN 8894453334)***

Planning Director advised that on March 5, 2021, the petitioner for items "a" and "b" requested that both items be tabled. Mayor Peterman made a motion to table the Public Hearing for RZ2010 to the next scheduled meeting, seconded by Council Member Hall. Mayor Peterman polled the Council Members and all voted in favor of the motion. Mayor Peterman made a motion to table to Public Hearing for CR2006 to the next scheduled meeting, seconded by Council Member Hall. Mayor Peterman polled the Council Members and all voted in favor of the motion.

c. Second Reading: Amendment to CHAPTER 20, ARTICLE V, PARADES, DEMONSTRATIONS AND STREET EVENTS of the Code of Ordinances

Mr. Holland explained that the requested action is to amend the Code of Ordinances for sections regulating parades, demonstrations and street events. He added that following the repeal of the Parade and Demonstration Ordinance in July 2020, City Council approved new language at their December 2020 meeting. This language addressed deficiencies from the prior ordinance as well as defined guidance for staff to evaluate parades and street events with the formation of a Special Events Committee. It was later determined that the enforcement of this ordinance should be delayed until the conclusion of legal review. Mr. Holland advised that the language was discussed between the attorney from the ACLU and the City's contracted attorney. The contracted attorney addressed language that would make the interpretation clearer. Mr. Holland added that the revised language was presented to Council at their February meeting, but consideration of the language was tabled to this month. He advised that staff recommends approval.

Council Member Talley questioned if we should consider having a member of the business community on the Special Events Committee (Sec. 20-171). She also expressed concern with the last sentence of Sec. 20-176 Appeals which reads: *Should time not permit, the City Manager is authorized to hear and resolve the appeal.* Council Member Talley stated that she had spoken to the City's contracted attorney Tony Biller today, and he stated he was fine with Council taking that out. She asked Council to consider removing that one sentence under the Appeals section and whether business community members should be a part of the Special Events Committee. Mayor Peterman stated that it is not appropriate to call the attorney one on one, as the City gets billed for that. He added that the attorney is giving information to Council Member Talley that the rest of the Council was not privileged to. Mayor Peterman further advised that Council Members need to go through City Attorneys Bryan Coleman or Bob Ward should they wish to speak to Mr. Biller. Mr. Holland advised that the Special Events Committee is made up of City staff, from various departments, in an effort to streamline the application process. Council Members discussed the points made by Council Member Talley, deciding against adding a member from the business community to the committee and directing staff to communicate with business owners when events have been City approved. Council Members were in favor of amending the language in the appeals section. Mayor Peterman opened the discussion to the public.

The following individuals addressed this agenda item with Council Members via the livestream:

Tom Boney-114 W. Elm St. Graham	Carey Griffin-313 Providence Rd. Graham
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With no further discussion forthcoming, Council Member Talley made a motion to approve the Ordinance amending Chapter 20, Article V, by amending Sec. 20-173, 176, 179, and 183, to the Code of Ordinances of the City Of Graham, North Carolina Parades, Demonstrations And Street Events, with striking "*Should time not permit, the City Manager is authorized to hear and resolve the appeal*" from Sec. 20-176. Council Member Hall seconded the motion. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Requests & Petitions from Citizens:

a. First Reading: Temporary Outdoor Sales. Request by Patrick Miller to amend Chapter 8, Article VIII, Sec. 8-345 of the Code Of Ordinances Of The City Of Graham, North Carolina

Mr. Page explained that City Council approved a text amendment at their August 2018 meeting, which approved Temporary Outdoor Sales for up to three days in any seven day period. Mr. Patrick Miller has requested that the City Council re-evaluate this policy, and adopt a revised five days in any seven day period, and permit the same retailer to locate on a lot for those five days. He added the proposal would still require that a retailer completely remove all traces of the temporary outdoor sales at a frequency of no less than once a week. Under these conditions, if the City Council were to desire a tightening of regulations in the future, the “nonconforming uses” would only apply for an additional week after the approval of the new regulation. Because of this, staff feels comfortable that this regulation can be adjusted without a long term negative consequence, if the City Council feels it is necessary to increase restrictions due to unforeseen circumstances in the future.

Prior to any discussion, Council Member Wiggins asked if Council Member Talley needed to be recused, as she believed there would be a financial conflict for Council Member Talley. Mayor Peterman consulted Mr. Coleman, who advised that it would be up to Council to determine if a Council Member needed to be recused. Council Member Wiggins made a motion to recuse Council Member Talley. The motion died for lack of a second. Following a brief discussion about recusal, Council Member Wiggins again made a motion to recuse Council Member Talley, seconded by Mayor Peterman. Mayor Peterman polled the Council Members. Ayes: Council Member Wiggins, Mayor Peterman and Mayor Pro Tem Turner. Nays: Council Member Talley and Council Member Hall. Motion carried 3:2.

Council Member and staff discussed the request and concerns about amending this ordinance were voiced. Various options were discussed, from an ordinance amendment to a relaxation of the ordinance. Council Members agreed that they want to find a way to help business owners during the Covid-19 pandemic. With no further discussion forthcoming, Mayor Peterman opened the discussion to the public.

The following individuals addressed this agenda item with Council Members via the livestream:

Carey Griffin-313 Providence Rd. Graham	Patrick Miller-127 W. Harden St. Graham
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With no further comments forthcoming, Mayor Peterman closed the discussion to the public. Council Members once again expressed concern with temporarily amending an ordinance. Mayor Pro Tem Turner made a motion to deny the Temporary Outdoor Sales request by Patrick Miller to amend CHAPTER 8, ARTICLE VIII, SEC. 8-345 OF THE CODE OF ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA, seconded by Council Member Hall. Mayor Peterman polled the Council Members. Ayes: Mayor Pro Tem Turner, Council Member Wiggins and Council Member Hall. Nays: Mayor Peterman. Motion carried 3:1.

Council Member Hall made a motion that Council Member Talley re-join the meeting, seconded by Mayor Pro Tem Turner. Mayor Peterman polled the Council Members and all voted in favor of the motion. Council Member Talley re-joined the meeting.

Recommendations from Planning Board:

a. Public Hearing: RZ2101 Poplar Industrial. Request by Urias G. Hernandez for rezoning from R-7 Residential High Density to I-1 Light Industrial (GPIN 8874769214)

Mr. Page explained that this is a rezoning request is for a parcel adjacent to the old right-of-way (ROW) for Poplar Street and Webb Avenue where it turns into Elm Street. He added that the property has a previously opened ROW to the south and an unopened ROW to the east. The parcel currently has a narrow access off of Webb Avenue. The stated reason for this rezoning is to permit an Automotive Painting/Body Shop. Mr. Page advised that if the business were to be contained entirely within the business, staff recommends approval for B-2 (General Business District) land use. Staff recommends denial of I-1 due to the adjacent residential uses.

Following a brief discussion between Council Members and staff, Mayor Peterman opened the Public Hearing.

The following individual addressed this agenda item with Council Members via the livestream:

Urias Hernandez-2416 Berkley Rd. Burlington

Mr. Hernandez, the applicant, stated that when he applied for the rezoning, he was not aware that painting was permitted in B-2, and he is in agreement with Mr. Page's recommendation. He added that all painting will be done inside the building. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Council Member Wiggins made a motion that the application be approved with B-2 zoning designation, the application is consistent with The Graham 2035 Comprehensive Plan and that this action is reasonable and in the public interest for the following reasons: The residential character of the existing neighborhood is better suited to a light commercial activity than a light industrial site, in alignment with strategies 1.1.5, 2.3.1 and Policy 3.1.2. Mayor Pro Tem Turner seconded the motion. Mayor Peterman polled the Council Members. Ayes: Council Member Wiggins, Mayor Pro Tem Turner, Mayor Peterman and Council Member Hall. Nays: Council Member Talley. Motion carried 4:1.

b. Public Hearing: RZ2102 Shakori Hills. Request by Walid Nicola for rezoning from R-15 Residential Low Density to R-12 Residential Medium Density (GPIN 8883766151)

Mr. Page explained that this is a request to rezone the subject property from R-15 to R-12. He added that the property is currently wooded. This property was originally approved as a neighborhood in the 1990's, but went through a subsequent development phase in 2006. Mr. Page stated that at this time, the developer is requesting a rezoning to R-12, without a stated reason. The developer had approval in 2006 for an R-15 with open space subdivision. He added that this site is already within Graham's City limits.

With no questions forthcoming from Council Members, Mayor Peterman opened the Public Hearing.

The following individuals addressed this agenda item with Council Members via the livestream:

Walid Nicola-204 Windrift Dr. Gibsonville	Nathan Wiles-849 Rumar St. Graham
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Mr. Nicola, the applicant, advised that he has a nationally known builder who is interested in developing this property. Mr. Nicola was asked about the Jordan Lake rules, density, buffers and the proposed entrance to the property. Mr. Page reminded everyone that this is a straight rezoning and the developer has the right to use anything that was originally approved. With no further comments forthcoming, Mayor Peterman closed the Public Hearing.

Council Member Wiggins made a motion that the application be approved, the application is consistent with The Graham 2035 Comprehensive Plan and that this action is reasonable and in the public interest for the following reasons: Rezoning the property would be in consistence with the Suburban Residential type and furthers policy 3.3.2, and strategy 4.3.1, as put forth by the Graham 2035 Comprehensive Plan. Council Member Hall seconded the motion. Mayor Peterman polled the Council Members and all voted in favor of the motion.

Issues Not on Tonight's Agenda (Public Comment Period):

Ms. Deborah Wagner of 411 Old Farm Road Graham joined the livestream and asked what was being developed behind her property. Following a brief discussion, Ms. Wagner was given Mr. Page's contact information and encouraged to contact him for more information.

Mr. Holland asked Mayor Peterman to consider setting a deadline for Council Members to submit questions they may have for staff following the March 4, 2021 virtual budget meeting. Mayor Peterman set the date of March 15, 2021.

Council Member Hall asked Mr. Holland when the next budget meeting will be. Mr. Holland advised it would be sometime in May.

Council Member Talley announced upcoming events planned for her downtown stage located on E. Elm Street.

Council Member Talley spoke of the upcoming Arbor Day, stating that she has purchased plaques to be placed on trees she has purchased, honoring two of her employees who have passed away. She asked if the City could plant a tree in memory of former Council Member Mickey Cheek, who recently passed away. Council Member Talley sent prayers to Mr. Cheek's family.

Council Member Wiggins advised that there is a tree in memory of Mr. Cheek's daughter planted in Cooke Park and thinks that if the City wanted to plant a tree in memory of Mr. Cheek, we consider planting it near that tree.

Mayor Peterman mentioned the passing of former Council Member Carrie Thompson, noting that Ms. Thompson was Graham's first female Council Member. He stated that if the City is going to plant a tree in memory of Mr. Cheek, we need to plant one in memory of Ms. Thompson as well.

Mayor Peterman announced that Arbor Day festivities will look a little different this year due to Covid-19. He stated that various activities will be held throughout the month, culminating with Arbor Day on April 30, 2021. Mayor Peterman advised that he will let everyone know times for the various activities.

At 8:10 p.m., Mayor Pro Tem Turner made a motion to adjourn, seconded by Council Member Hall. All voted in favor of the motion.

Darcy Sperry, City Clerk