

# City of Graham

## City Council Meeting Minutes

### January 10, 2023

---



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on January 10, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Bob Ward, City Attorney  
Renee Ward, City Clerk  
Josh Johnson, City Engineer

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Bobby Chin gave the invocation and all stood for the Pledge of Allegiance.

#### 2022 AUDIT PRESENTATION – STOUT, STUART, MCGOWEN & KING, LLP

Patricia Rhodes, Stout Stuart McGowen & King, LLP, stated to Council that her firm works for the City Council but works with the City staff on the audit. She stated that this was the eighth year of the arrangement with Becky Loy of Cobb Ezekiel and Loy, who has worked with City Finance staff to streamline the year-end process and financial statement preparation.

Ms. Rhodes shared an audit had been completed for June 30, 2022. The Audit Opinion Letter stated the preparation of the financial statement was the responsibility of management, the expression of an opinion on the financial statement based on the audit is the responsibility of the auditor, the financial statement was prepared in accordance with GAAP, the audit was performed in accordance with GAAS, Unmodified Opinion, the best and cleanest opinion that can be received.

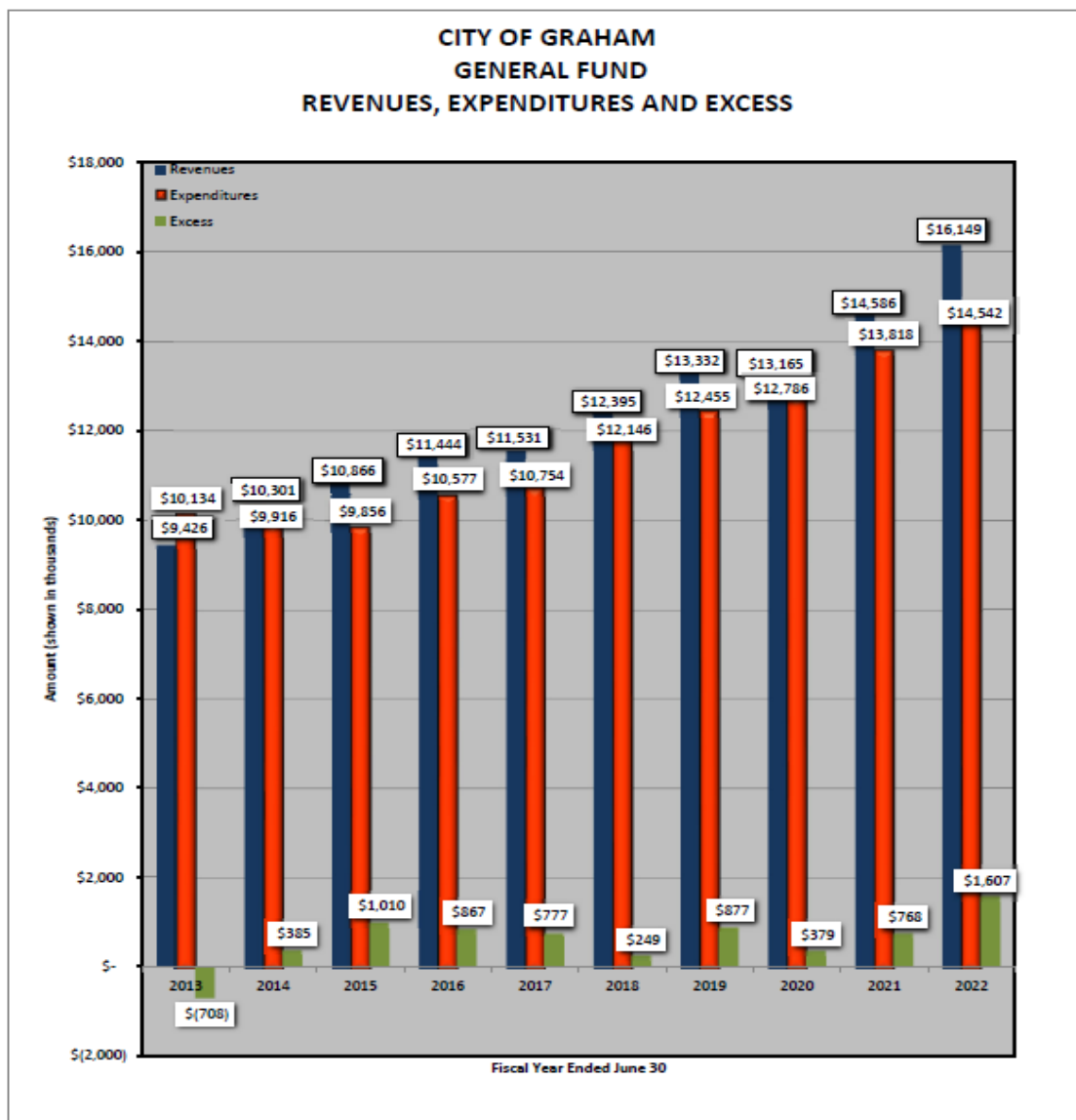
Ms. Rhodes stated that they consider internal control in the audit and were required to report to the Council any material weaknesses or significant deficiencies that come to their attention. She stated nothing came to their attention that they are required to report to Council.

#### Financial Highlights:

- The assets and deferred outflows of resources of the City of Graham exceeded its liabilities and deferred inflows of resources at the close of the fiscal year by \$76,310,277 (net position).
- The government's total net position increased by \$4,819,449, due to an increase in the business-type

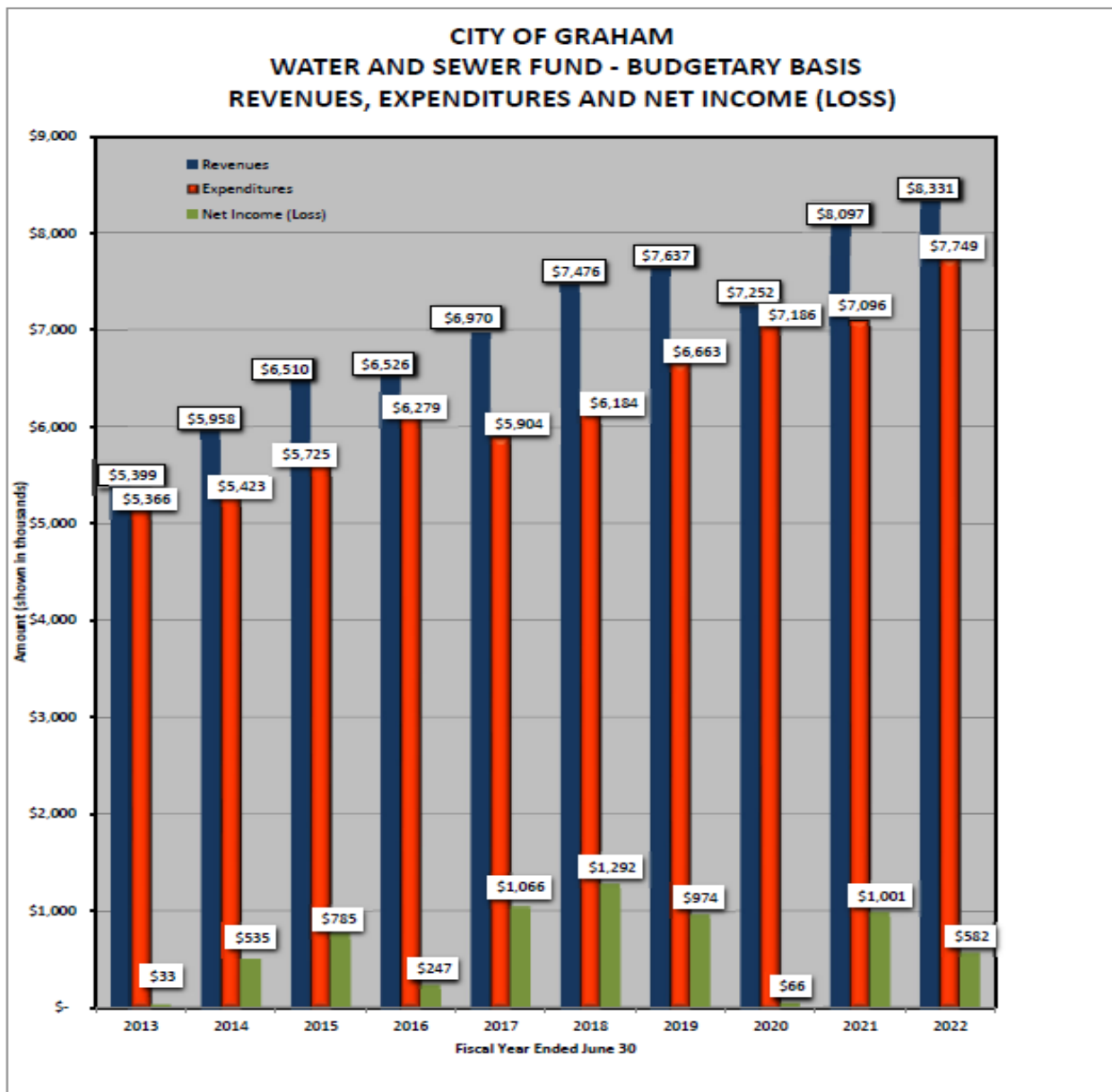
activities' net position of \$3,313,178 and an increase in the government-type activities' net position of \$1,506,271.

- As of the close of the prior year, the City of Graham's governmental funds reported combined ending fund balances of \$16,447,824, an increase of \$1,629,640. Approximately 31% of this total amount, or \$5,166,365, or 69% of total general fund expenditures for the fiscal year.
- At the end of the prior fiscal year, the available fund balance for the General Fund was \$10,083,559, or 69% of total general fund expenditures for the fiscal year. The state average is 50%, the minimum required is 8%, well above 30% the City has determined that the fund balance be maintained.
- The City of Graham's total debt decreased by \$432,297, or 8% during the current fiscal year.
- The water and sewer fund produced an excess of revenue over expenditures in the amount of \$131,621 under budgetary reporting.



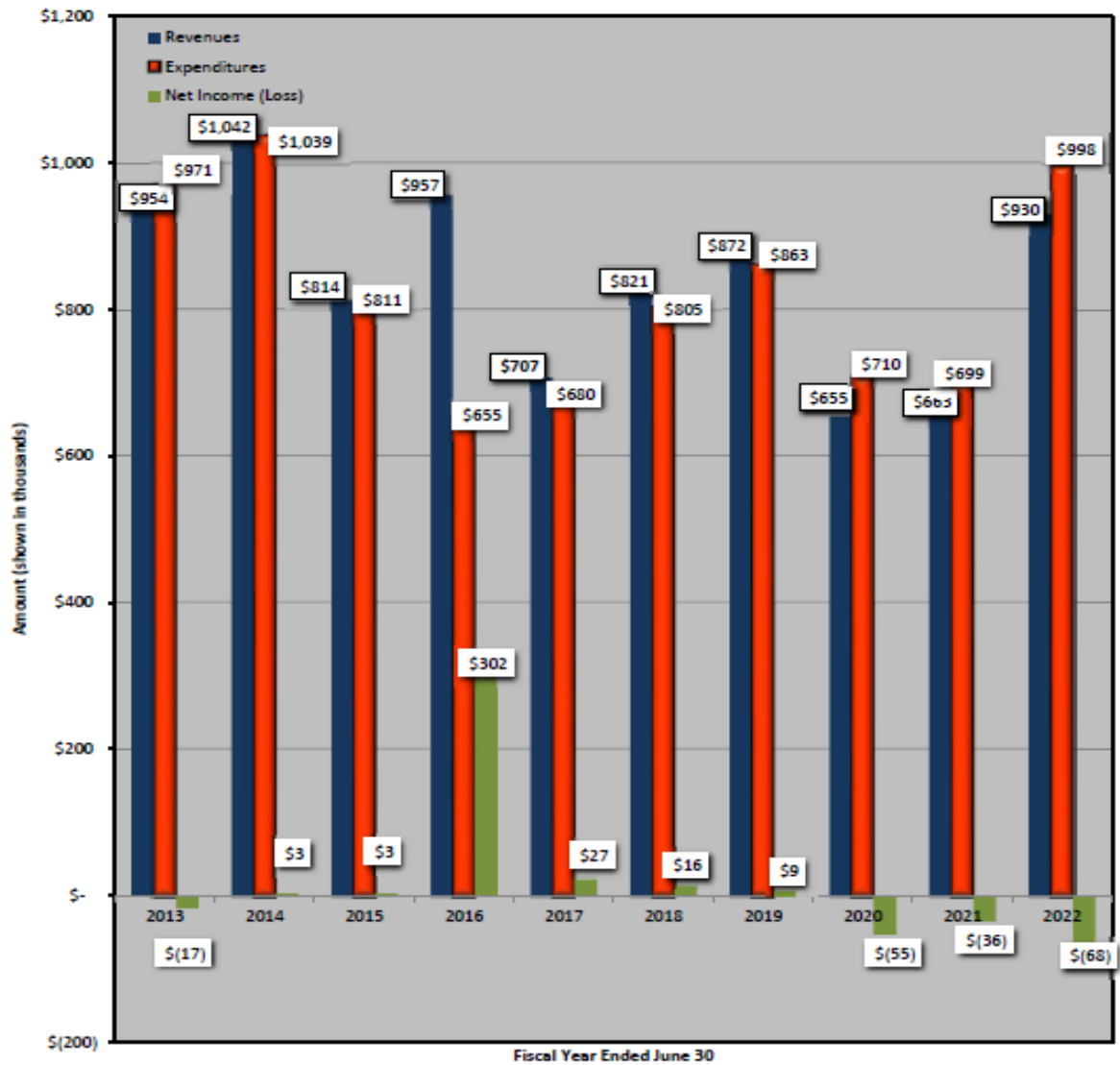
- Revenues exceeded expenditures by \$1,607,000
- Ad Valorem tax revenue up over \$136,000
- Tax Collection remains high at 98.48%
- Local option sales tax up over \$960,000 for the prior year

- Increase in revenue/expenditures of \$839,000
- Overall increase in total revenues of over \$1,500,000 from the prior year
- Overall increase in expenditures of over \$720,000 from the prior year
- City remained within budget for the year



- Revenues exceeded expenditures by almost \$582,000 before transfers
- Overall increase in total revenue of over \$230,000 from the prior year
- Increase in charges for services of over \$690,000 from the prior year
- Connection fees were down over \$380,000 from the prior year
- Increase in total expenditures of over \$650,000 from the prior year
- Decrease in net income of \$419,000

**CITY OF GRAHAM**  
**GARAGE FUND - BUDGETRAY BASIS**  
**REVENUES, EXPENDITURES AND NET INCOME (LOSS)**



- Expenditures exceeded revenues by almost \$680,000
- Increase in revenues of over \$260,000 from the prior year
- Also, an increase in expenditures of almost \$300,000 from the prior year
- Goal of the Internal Service Fund is breakeven
- Increase in loss of \$32,000

CITY OF GRAHAM JUNE 30, 2022					
	2022	2021	2020	Increase/ Decrease	Percentage (%)
<b>General Fund</b>					
Cash and Investments	12,233	10,874	10,833	1,359	12%
Accounts Receivable	2,575	2,607	2,098	(32)	-1%
Accounts Payable	743	757	929	(14)	-2%
Deferred Inflows (Revenues)	234	244	251	(10)	-4%
Unearned Revenue	203	260	298	(57)	-22%
Fund Balance	13,627	12,220	11,452	1,407	12%
Operating Expenses Per Day (Actual)	39,840	37,858	35,031	1,982	5%
Number of Days Available in Cash and Investments Less Current Liabilities	288	267	283	21	8%
<b>Water and Sewer</b>					
Cash and Investments	8,376	10,195	11,246	(1,819)	-18%
Restricted Assets	926	1,391	796	(465)	-33%
Accounts Receivable	1,754	1,119	1,002	635	57%
Fixed Assets	47,270	43,883	44,265	3,387	8%
Liabilities	9,750	11,099	8,287	(1,349)	-12%
Net Position	54,973	51,660	49,122	3,313	6%
Operating Expenses Per Day (Actual)	20,815	19,338	19,374	1,477	8%
Number of Days Available in Cash and Investments Less Current Liabilities	357	466	528	(109)	-23%
<b>Garage Fund</b>					
Cash and Investments	21	138	206	(117)	-85%
Fixed Assets	46	45	52	1	2%
Liabilities	269	328	260	(59)	-18%
Net Position	(96)	(25)	40	(71)	284%
Operating Expenses Per Day (Actual)	2,742	1,994	2,040	748	37%
Number of Days Available in Cash and Investments Current Liabilities	5	61	90	(56)	-92%
<b>Graham Memorial Park</b>					
Cash and Investments	2,617	2,592	2,568	25	1%
Accounts Receivable	4	7	2	(3)	-43%
Fund Balance	2,621	2,599	2,570	22	1%
<b>City-Wide Net Assets - Full Accrual Basis</b>					
Cash and Investments	23,231	23,525	24,145	(294)	-1%
Restricted Cash	3,635	1,665	1,130	1,970	118%
Other Assets and Deferred Outflows	16,851	14,957	9,680	1,894	13%
Capital Assets	66,710	62,994	59,395	3,716	6%
Less - Total Liabilities and Deferred Inflows	34,117	31,650	25,220	2,467	8%
Net Position	76,310	71,491	69,130	4,819	7%

The above shows three years' worth of data including assets, liabilities, fund balance, and useful ratios.

Ms. Rhodes thanked Council for allowing Stout Stuart McGowen & King, LLP to continue as the audit firm for the City of Graham and thanked City staff for their cooperation during the audit.

### CONSENT AGENDA:

City Manager Megan Garner requested that Item g be removed from the Consent Agenda due to DEQ needing to provide appropriate documentation needed for Council to consider this item.

Motion by Mayor Pro Tem Hall to move Item g to the February 14, 2023, City Council meeting agenda for consideration, seconded by Council Member Chin. The motion passed unanimously.

- a. To approve December 13, 2022, regular meeting minutes and December 19, 2022, special meeting minutes.
- b. To approve a street closing request from Together Community Events to close the 100 block of W. Elm Street from 1:00 p.m. to 9:00 p.m. on May 7, 2023, for the Graham Food Truck Rodeo.
- c. To adopt a Resolution of Acceptance of Funds and to approve the Capital Project Ordinance in the amount of \$17,250,000.00, for the 10" water main replacement project.
- d. To approve an amendment to the American Rescue Plan Act (ARPA) Fund Grant Ordinance in the amount of \$7,555.00 for the Graham Civic Center roof and floor repairs.
- e. To approve a Budget Amendment in the amount of \$10,000, for professional services by Cobb Ezekiel Loy & Company, P.A.
- f. To approve a resolution authorizing a funding match in the amount of \$10,000, for the Hawfields Area Corridor Study in conjunction with Burlington-Graham Metropolitan Planning Organization and the North Carolina Department of Transportation.
- g. **Removed from the agenda.** *(To approve an engineering contract with Alley, Williams, Carmen & King for the City's Asset Inventory and Assessments Grant from NCDEQ-Division of Water Infrastructure and to authorize the City Manager and City Attorney to effectuate the engineering contract.)*

Motion by Mayor Pro Tem Hall, seconded by Council Member Parsons to approve the consent agenda excluding item g. The motion passed unanimously.

## **PUBLIC HEARINGS:**

### **ITEM 1: ANNEXATION – 35.43 ACRES – EAST GILBREATH STREET**

City Council considered approving an Annexation Ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 35.43 acres located on East Gilbreath Street.

Assistant City Manager Aaron Holland stated a petition had been received requesting the Council's approval for an extension of the corporate limits to include the subject properties. He stated the area being considered for annexation was located on East Gilbreath Street and contained approximately 35.43+- acres total. He stated water and sewer were located adjacent to the property within the East Gilbreath Street right of way, and the applicants wished to tie onto the City's infrastructure.

The public hearing was opened and there were no comments.

Motion by Mayor Pro Tem Hall, seconded by Council Member Chin, to close the public hearing. The motion passed unanimously.

Motion by Council Member Whitaker, seconded by Mayor Pro Tem Hall to approve the annexation ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 35.43 acres located on East Gilbreath Street. The motion passed unanimously.

**ANNEXATION ORDINANCE  
TO EXTEND THE CORPORATE  
LIMITS OF THE  
CITY OF GRAHAM, NORTH CAROLINA  
FOR a 35.43 -ACRE TRACT OF LAND ON E GILBREATH STREET (AN2206)**

**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 6:00 P.M. on January 10, 2023, after due notice by publication on December 29, 2022; 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 January 10, 2023:

**Legal Description GPIN#: 8883885270 & 8883872722**

Beginning at an existing iron pipe, the southeast corner of AG EHC II (LEN) MULTI-STATE 1, LLC property described in Deed Book 4383, Page 116 as Tract I, and having a North Carolina State Plane Coordinate (NAD 1983/2011) value of North 837569.38 feet, East 1888462.56 feet. Thence N88° 54' 44"W, 268.23' to a nail set in the centerline of East Gilbreath Street (S.R. 2100); thence with the centerline of the aforesaid street N30° 31' 17"W, 464.09' to a nail set; thence N30° 31' 17"W, 405.01' to a nail set; thence leaving East Gilbreath Street N38° 27' 46"E, 360.46' to an existing iron rod; thence N29° 30' 42"W, 98.91' to an existing iron pipe; thence S69° 41' 36"W, 139.66' to an existing iron pipe; thence N31° 14' 30"W, 163.24' to a 5/8" capped iron rod set; thence N54° 00' 20"E, 64.79' to an existing iron rod; thence S89° 44' 19"E, 590.86' to an existing iron pipe; thence S85° 43' 14"E, 570.21' to a 5/8" capped iron rod set; thence continuing S85° 43' 14"E, 75.00' to a point in the centerline of Murphy Branch; thence with the centerline of Murphy Branch the following bearings and distances: S39° 27' 38"E, 6.10'; S16° 47' 10"E, 26.11'; S1° 48' 12"E, 29.66'; S17° 55' 08"W, 32.97'; S9° 39' 11"E, 34.69'; S30° 48' 02"E, 30.89'; S41° 09' 21"E, 32.14'; S45° 15' 25"E, 35.22'; S56° 45' 51"E, 18.28'; N74° 42' 12"E, 18.54'; S36° 37' 10"E, 21.01'; S13° 46' 15"E, 15.38'; S8° 18' 16"W, 24.31'; S1° 23' 01"E, 36.06'; S10° 01' 16"E, 20.63'; S15° 54' 15"E, 19.23'; S38° 01' 16"W, 25.73'; S24° 50' 48"W, 38.07'; S23° 55' 27"W, 31.61'; S16° 36' 41"W, 31.62'; S5° 33' 58"W, 21.44'; S22°

23' 36"E, 13.84'; S56° 53' 58"E, 40.37'; S45° 46' 25"E, 33.15'; S38° 22' 29"E, 35.27'; S25° 03' 47"E, 89.85'; S27° 00' 56"E, 50.46'; S14° 49' 46"E, 46.65'; S20° 40' 37"E, 58.44'; S36° 48' 05"E, 43.36'; S23° 27' 57"E, 28.05'; S6° 02' 25"W, 37.76'; S3° 51' 15"E, 27.86'; S9° 38' 29"W, 34.31'; S1° 18' 05"E, 36.14'; S7° 04' 51"E, 27.64'; S21° 56' 54"E, 25.37'; S48° 25' 16"E, 24.80'; S43° 45' 32"E, 24.42'; S37° 00' 03"E, 19.19'; S0° 39' 05"E, 16.65'; S23° 20' 52"W, 30.16'; S30° 01' 34"W, 25.35'; S50° 41' 06"W, 23.04'; S83° 53' 18"W, 15.99'; N76° 13' 37"W, 30.99'; N84° 23' 10"W, 23.21'; S84° 03' 39"W, 27.65'; S68° 03' 40"W, 30.09'; S50° 48' 27"W, 25.30'; S29° 59' 51"W, 25.43'; S22° 30' 47"W, 24.44'; thence leaving Murphy Branch N87° 42' 17"W, 667.16' to the Beginning, containing 35.43 acres, or 0.0554 square miles more or, less.

## **ITEM 2: PERMANENT ROAD CLOSURE – LEONARD DRIVE**

City Council considered adopting a resolution authorizing the permanent road closure of Leonard Drive.

Assistant City Manager Aaron Holland stated Tony and Michelle Martin were requesting the removal of a proposed roadway that abuts their land on the southern right-of-way of Edgewood Drive. He stated this right-of-way existed only on a plat and had not been constructed.

The public hearing was opened and there were no comments.

Motion by Mayor Pro Tem Hall, seconded by Council Member Chin to close the public hearing. The motion passed unanimously.

Motion by Mayor Pro Tem Hall, seconded by Council Member Whitaker to approve a resolution authorizing the permanent road closure of Leonard Drive.

### **A RESOLUTION ORDERING THE CLOSING OF LEONARD DRIVE**

**WHEREAS**, on the 13<sup>th</sup> day of December 2022, the City Council of the City of Graham directed the City Clerk to publish the Resolution of Intent of the City Council to consider closing Leonard Drive, a public street right-of-way as described in Exhibit A, in the Alamance News once each week for four successive weeks, such resolution advising the public that a meeting would be conducted in the Council Chambers of the Graham City Hall on January 10, 2023; and

**WHEREAS**, the City Council on the 13<sup>th</sup> day of December 2022, ordered the City Clerk to notify all persons owning property abutting Leonard Drive by registered or certified mail, enclosing with such notification a copy of the Resolution of Intent; and

**WHEREAS**, the City Clerk has advised the Graham City Council that adequate notices were posted on the applicable street as required by G.S. 160A-299; and full and complete opportunity for all interested persons to appear and register any objections that they might have with respect to the closing of said street in the public hearing held on January 10, 2023; and

**WHEREAS**, it now appears to the satisfaction of the Graham City Council that the closing of said street is not contrary to the public interest and that no individual owning property, either abutting the street or in the vicinity of the street, will as a result of the closing be thereby deprived of a reasonable means of ingress and egress to his property;



**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Graham that Leonard Drive, as described in Exhibit A, is hereby ordered closed, subject to any reservation of right set forth below and in accordance with G.S. 160-299(c), all right, title, and interest that may be vested in the public to said street are hereby released and quitclaimed to the abutting property owners in accordance with the provisions of G.S. 160A-299.

In accordance with G.S. 160A-299(f), the City hereby reserves all of its right, title, and interest in any utility improvement within the closed street with such reservation extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the City. The City further declares a utility easement being described as:

Situated in the City of Graham, Graham Township, Alamance County, North Carolina.

A public street beginning at a point on the southern right of way of Edgewood Drive, at a bearing and distance of S 42° 25' 30" W and 130.02' from the northernmost corner of Lot 21, thence along with Lot 21, S 47° 34' 03" 125.85' to a 3/4" pipe, then continuing with Lot 21, N 76°03'37" E 155.79' to a 3/4" pipe, thence leaving Lot 21, S 35°30'56" E 63.91' to a 3/4" pipe, corner of Lot 13, thence along lot 13, S 75°08'57" W 109.77' to a 3/4" pipe, thence along Lot 12, S 76°52'36" E 101.18' to a 1" pipe, shared corner between Lots 11 and 12, thence along lot 11, N47°44'43"W 157.99' to a 2" pipe, the northernmost corner of Lot 11, thence along the southern right of way of Edgewood Drive N 42°21'31" 59.92' to the point of beginning. In accordance with G.S. 160A-299(b) any person aggrieved by the closing of this street may appeal the Order to the General Court of Justice within thirty days of its adoption.

The Mayor and the City Clerk are hereby authorized to execute quitclaim deeds or other necessary documents in order to evidence vesting of all rights, title, and interest in those persons owning lots or parcels of land adjacent to the street or alley, such title, for the width of the abutting land owned by them, to extend to the centerline of the herein closed Drive in accordance with the provision of G.S. 160A-299(c).

The City Clerk is hereby ordered and directed to file in the Office of the Register of Deeds of Alamance County a certified copy of this Street Closing Order.

Upon motion duly made by Mayor Pro Tem Hall and duly seconded by Council Member Whitaker, the above resolution was duly adopted by the City Council at a meeting held on the 10<sup>th</sup> day of January 2023, at City Hall.

Upon the call for a vote, the following Council Members voted in the affirmative: Mayor Jennifer Talley, Mayor Pro Tem Ricky Hall, Council Member Joey Parsons, Council Member Bobby Chin and Council Member Bonnie Whitaker.

This the 10th day of January 2023, at 6:00 p.m.

## **NEW BUSINESS:**

### **ITEM 3: VOTING DELEGATE – NCLM BIENNIUM LEGISLATIVE GOALS**

City Council will consider assigning a City of Graham delegate to vote on the proposed North Carolina League of Municipalities 2023-24 Biennium Legislative Goals.

City Manager Megan Garner stated each member municipality was eligible to cast a single vote in the North Carolina League of Municipalities goal-setting process. Each member municipality shall designate one voting delegate who would be responsible for casting the municipality's vote.

She stated the voting delegate would receive voting credentials and instructions to vote on the proposed Legislative Goals package electronically. The Legislative Goals will be shared with the membership electronically following the voting period.

Motion by Council Member Chin, seconded by Council Member Parsons, to appoint Mayor Pro Tem Hall as the voting delegate. The motion passed unanimously.

**Council reviewed the 16 NCLM proposed goals and chose the following ten goals:**

- Expand federal and state resources for affordable housing.
  - Housing affordability is a growing problem across North Carolina, affecting cities and towns of all sizes and people across different income levels.
  - Increasingly, the lack of affordable housing acts as a major impediment to business and workforce recruitment.
  - Ongoing state and federal revenue streams to address housing affordability are extremely limited, with much of the burden for solutions left with cities and towns
- Create an adequate and permanent funding stream for local infrastructure.
  - Infrastructure – including roads, water, sewer, stormwater, parks and beaches – are critical to economic development and job creation.
  - Many cities in the state are growing, creating a constant need for investment to keep pace with population growth; many cities and towns also have aging infrastructure that must be replaced.
  - Creating more permanent funding streams for local infrastructure, such as a dedicated tax source, would allow for better planning to meet needs.
- Extend deadlines for completion of federal infrastructure projects.
  - Current deadlines for the allocation and expenditure of American Rescue Plan Act funding may make more complex infrastructure projects unrealistic.
  - High inflation and worker shortages are leading to higher project costs; extending ARPA and other funding deadlines will spread projects out and may help lower costs.
  - Cities and towns require flexible deadlines to get the best bang for their buck out of this funding.
- Expand state transportation funding streams for the construction and maintenance of municipal and state-owned secondary roads.
  - Current Powell Bill and other state funding are not adequate to address transportation needs, particularly as they affect municipal and state-owned secondary roads.
  - In many cities and towns, major commuting corridors are not receiving the level of investment needed to keep pace with traffic.
  - More investment is needed for these roads if existing residents are to embrace business and residential growth.

- Expand incentives and funding for local economic development.
  - Funding is simply inadequate in many cities and towns to encourage job growth.
  - State grants and incentives are often targeted in ways that fail to assist the areas in greatest need of job creation.
  - Maintaining or expanding funding for film tax credits, major industrial site development, downtown development and renewable energy tax credits helps cities and towns across the state.
- Expand incentives that encourage regionalization of water and sewer, as well as other municipal services, when appropriate.
  - A number of municipal water and sewer systems continue to financially struggle with deferred maintenance needs.
  - These challenges came about largely due to population and job losses in rural areas, leading to an erosion of taxpayer and ratepayer bases.
  - While legislators and municipalities have begun to address these issues with the creation of the Viable Utility Reserve and the use of ARPA funding, state estimates show needs still exceed expenditures by several billion dollars.
- Enhance state systems and resources for local law enforcement officer recruitment, training, and retention.
  - Municipalities across the state are facing law enforcement staffing shortages, in many cases severe shortages.
  - State training resources are limited, and the cost of local law enforcement agencies to send recruits and existing officers to NC Justice Academy locations can be prohibitive.
  - Grant writing assistance is one of several options that might provide better access to the large volume of federal law enforcement grant funding that is available.
- Revise state contracting laws to better protect public entities from the effects of inflation.
  - Labor and materials costs have been rising at a rapid rate, leaving municipalities with few options when project bids and costs exceed expectations.
  - Additional flexibility regarding the contracting process could assist municipalities in protecting taxpayers from inflation and escalating costs.
  - Without contracting law flexibility, projects can be delayed and costs can further increase.
- Update annexation petition thresholds to make voluntary annexations easier to initiate.
  - Voluntary annexation by petition currently requires 100 percent consent from all property owners, a threshold that can be impossible to meet even if a majority of property owners can benefit by utilizing their property for business or residential purposes.
  - Lowering the threshold from 100 percent represents a middle ground that would still reflect the will of property owners but not handicap communities' ability to economically thrive.
  - The ability of a city or town to grow and reflect its urban footprint is vital to its financial health; city services are relied on by residents whether they live in or near municipal boundaries.
- Provide authority to municipal water systems to recoup costs of clean-up from polluters.

- Local municipal water systems are increasingly being looked to for the clean-up of PFAS and other “forever” chemicals found in surface waters.
- State regulators plan to set surface water standards for these chemicals and propose Maximum Contaminant Levels for PFAS chemicals in drinking water.
- To date, cities’ only recourse to try to recoup the cost for utility ratepayers is through the courts.

#### **ITEM 4: ALAMANCE CHAMBER ECONOMIC DEVELOPMENT COMMITTEE – ASSIGNMENT**

City Council will consider assigning an advisor from Council to serve on the Alamance Chamber Economic Development Committee.

City Manager Megan Garner stated the Alamance Chamber was re-introducing the Economic Development Committee, an opportunity to collaborate with economic development partners across the County. She stated this group would be advisory in nature and offer a space for economic development trends, ideas, and happenings across Alamance County to be shared and discussed freely. The committee would also feature a blend of public, private, and non-profit economic development stakeholders.

City Manager Garner shared the public partners would be granted two seats for representation, one administrative, which would be Assistant City Manager Aaron Holland, and one elected official. She stated the meetings are proposed to take place quarterly on the 2<sup>nd</sup> Tuesday at the start of every quarter.

Motion by Council Member Whitaker, seconded by Council Member Chin, to appoint Mayor Talley as the City of Graham’s advisor to serve on the Alamance Chamber Economic Development Committee.

#### **ITEM 5: TRAFFIC SCHEDULE AMENDMENT – RESTRICT PARKING – PEPPERSTONE DRIVE & PINECREST COURT CUL-DE-SACS**

City Council considered amending the traffic schedule to restrict on-street parking along Pepperstone Drive and Pinecrest Court cul-de-sacs between the hours of 7:00 a.m. to 5:00 p.m. excluding weekends and holidays.

Assistant City Manager Aaron Holland stated the Valleyfield Subdivision originally expressed concern to staff and City Council at the March 2022, City Council meeting regarding vehicular passage difficulties due to excess parking along the cul-de-sac on Pepperstone Drive. He stated, as a result, City Council directed staff to monitor and address, when necessary, any parking issues that arose.

Mr. Holland shared that since that time, the Public Works Department had monitored the cul-de-sac for activity, and as a result, staff recommended restricting parking in the Pepperstone Court cul-de-sac and Pinecrest Court cul-de-sac Monday through Friday between the hours of 7:00 a.m. to 5:00 p.m., excluding holidays and weekends to minimize the traverse difficulties of sanitation vehicles, school buses, and other vehicles that may have a wide turn radius.

Mayor Talley asked Mr. Robertson to step forward and report what his findings were regarding the cul-de-sacs.

Public Works Director Burke Robertson stated that Sanitation workers monitored and recorded each time someone was parked in the cul-de-sac in a way that the trash containers could not be picked up or it was difficult to turn around within the cul-de-sac due to parked cars. He stated that out of six cul-de-sacs, there were three where rarely anyone was parked within the cul-de-sac. He stated staff was not recommending parking restrictions with those three cul-de-sacs.

Mayor Talley asked if there were issues with all cul-de-sacs.

Mr. Robertson stated that all cul-de-sacs were a problem when cars were present during trash pickup.

Mayor Talley stated she had received a letter from a resident, Brandy Moya, who lives at 2722 Pepperstone Drive and could not be present at the meeting and asked that the letter be read to Council. Mayor Talley asked the City Clerk to read Ms. Moya's letter.

Ms. Moya's letter stated this complaint was a citizen request from a lady who lived a half mile away from the Pepperstone cul-de-sac and was a personal attack. She asked Council to deny the request to restrict parking.

Tom Boney, Alamance News, asked of all the City of Graham streets if these two cul-de-sacs were the worst places for parking or were other places also reported.

Mayor Talley stated that was her next question and there may not be a problem now in other cul-de-sacs, but in six months, there could be a problem and for policy purposes, restricting parking in all cul-de-sacs may be fair. She asked Mr. Robertson if this was an issue with Public Works in providing services when cars are parked within the cul-de-sacs.

Public Works Director Robertson stated that a compromise of restricted parking during the day when school buses are coming in and out as well as Public Works would be better than saying no parking at all. He stated there were cul-de-sacs with no problems and you would not want to punish them just because there were problems with others.

Mayor Talley stated that Council Member Whitaker and Mayor Pro Tem Hall lived within this subdivision and that needed to be disclosed. She stated per the statute, Council members were obligated to vote except for matters involving the member's own financial interest. She stated that a member was certainly allowed not to vote on something if they felt they could not be unbiased and fair.

Council Member Whitaker stated that she could be objective and fair. She stated she did not want to have a broad rule on parking in all cul-de-sacs and when there was an issue in a particular area, it should be dealt with for that area. She stated she did not live near this area and could be unbiased.

Mayor Pro Tem Hall stated he also lived in the Valleyfield subdivision and had no interest or financial gain. He stated he lived far away from the cul-de-sacs and had no opinion on this issue.

Council Member Chin asked if Council put a restriction on parking, how would it be enforced and if someone was in violation could they be charged with some type of fee.

City Manager Garner stated she was not aware of any fee in the fee schedule that could be used if someone was in violation of blocking a can from being serviced.

Mr. Robertson stated that the Sanitation employees knew the owner's cars and if a different car was blocking a can, they would get out and move it because they did not want to punish the homeowner for a guest who was not aware they were blocking the can from being collected.

Council Member Parsons stated it was not fair to single out one or two areas and would like to see a poll of the neighborhood to get everyone's thoughts.

Mayor Talley stated she did not have a problem with limiting parking to just the cul-de-sacs on Pepperstone and Pinecrest between 7:00 am and 5:00 pm in order to provide services. She stated this would be complaint-driven enforcement.

Mr. Boney raised the issue of Council Members Whitaker and Hall voting on this issue even though they had no financial interest and both should be cautious and prudent to step aside from this vote if the majority of the other three could take action. He stated it did not look right that the first and only place this is being discussed is in the subdivision where two of the five live. He stated that Council should always be transparent and fair.

Mayor Talley stated that it was a coincidence that this issue has been raised and thanked Mr. Boney for his comments. She stated that it took a supermajority to pass anything tonight and if one person did not agree with the motion, it would not pass.

Council Member Whitaker gave an example of a store that she frequents regularly where she knows the owner personally and if that owner was to come before the Council with a request, would she be required to recuse herself because she knows the business owner and frequents that business? She stated it was a dangerous precedent to set and if she could not be unbiased and consider everything levelheaded then she would recuse herself. She stated that how she voted on this item would be the same as any other item and she would not recuse herself.

Mayor Pro Tem Hall stated he felt the same way and he had spoken to legal counsel.

City Attorney Bob Ward stated the statute was clear and if there was a conflict, the member would be prohibited from voting. He stated by not having any financial interest his role was to provide the statute for the Council to decide if any conflicts of interest existed.

Mr. Boney has asked about the supermajority vote on this item.

City Manager Garner stated this was a change in the City's Code of Ordinances, and because it was the first reading, there needed to be a supermajority or 80%, and if not, the item would need to be carried forward to the February meeting where typically three could approve it. She stated you would need four of the five to vote, and if two recused themselves, Council could not meet the supermajority.

Mayor Talley stated that since the notice had not been sent to the third identified cul-de-sac recommended by staff, she asked that staff give notice to all three identified cul-de-sac residents explaining why restrictions are being considered in order for City services to be provided. She stated this would give residents a chance to come to the February meeting and Council would address it at that time.

Motion by Mayor Talley to table Item 5 to the February 14, 2023, Council meeting and send notices to all three identified cul-de-sacs explaining Council would be considering restricting parking from 7:00 am to 5:00 pm, Monday through Friday except holidays and weekends, seconded by Council Member Chin. The motion passed unanimously.

## PUBLIC COMMENT PERIOD

There were no public comments.

## CITY STAFF COMMENTS

Assistant City Manager Holland asked Council to appoint no more than two volunteers to serve on the steering committee for the Comprehensive Plan update. The consensus of the Council was to appoint Mayor Talley and Joey Parsons. Mayor Pro Tem Hall will fill in for Council Member Parsons if he was unable to attend a meeting.

## CITY COUNCIL COMMENTS

Council Member Parsons shared that he had meetings with Fire Chief Cole about a potential fire truck which would need to be discussed at some point. City Manager Garner shared the truck currently in production had already been purchased but there was a used fire truck located in Maine that was a possibility.

Council Member Parsons also mentioned the Cherry Lane Overlay and how Council wanted to pursue directing the Planning Board.

Mayor Talley:

- Asked where we were on the pay plan study. City Manager Garner stated the consultant was scheduled to begin in mid-February.
- Asked about the Comprehensive Plan update. Assistant City Manager Holland stated as soon as the Steering Committee had its members appointed, they were ready to begin.
- Inquired as to the status of the NCDOT grant to update the Pedestrian Plan. Assistant City Manager Holland stated that NCDOT was in the process of beginning the update.
- Asked about having a pre-budget meeting to discuss items and give direction to staff to make sure we are operating as efficiently as we can. City Manager Garner will look at the budget mid-year to see where we are and what our expenditures look like. She suggested holding a budget retreat so Council could share priorities with staff.
- Asked staff to be creative in finding ways to retain employees and encouraging them to remain in employment with the City for an extended period of time.

## ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 8:16 pm.

Renee M. Ward, CMC  
City Clerk

## City of Graham City Council

### Special Meeting Minutes

### February 3, 2023



The City Council of the City of Graham held a Special Meeting on February 3, 2023, at 12 noon in the Council Chamber, City Hall Municipal Building, located at 201 South Main Street, Graham, NC.

#### Councilmembers Present:

Mayor Jennifer Talley  
 Mayor Pro Tem Ricky Hall  
 Council Member Bobby Chin  
 Council Member Joey Parsons  
 Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
 Aaron Holland, Assistant City Manager  
 Renee M. Ward, City Clerk  
 Bob Ward, City Attorney  
 Bryan Coleman, City Attorney

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order and presided at 12:00 noon.

#### NEW BUSINESS:

City Council will consider adopting a resolution for the purchase of a 2023 Peirce Enforcer Mid-Mount Tower Truck for the Fire Department and award a financing contract.

City Manager Megan Garner stated there was a fire truck being considered today and the City did release a request for proposals (RFPs) to various banks for the financing of the fire truck. She stated the last time a fire truck was ordered was significantly cheaper than they are today, given the nature of the market and price increases since Covid. She asked Fire Chief Tommy Cole to come forward to talk about the truck and that she would discuss financing details at the end.

Mayor Talley stated that she had spoken to some of the leadership personnel at the Fire Department and asked if there were any price negotiating with Atlantic to get the very best price.

Fire Chief Cole stated the City was part of the Houston Galveston Area Council (HGAC-Buy), a purchasing alliance, that takes care of the competitive bidding. He stated the (HDAC) goes out on behalf of municipalities and non-profits to secure the best price for fire apparatus. He stated that this was the best opportunity for pricing and was a benefit for local government. He stated there was a pre-pay discount of \$20,000 and with the market we are in currently, trucks are being pushed out three years for custom fire apparatus builds. He stated that Cary had just placed an order with Pierce for a fire truck they will receive in 2026. He stated that because of the three-year wait period, demos and stock trucks have become viable options and those prices have increased as well.



Mayor Talley asked if personnel from the Fire Department looked at the different options on the truck to determine what was needed or if that was done by the Fire Chief.

Fire Chief Cole stated there were people in the fire department who operate ladder trucks in other municipalities and those are the ones who looked at the options and were present to answer questions. He also stated the options on the truck were already determined before the City considered purchasing the vehicle.

Mayor Talley inquired about warranties.

Fire Chief Cole stated all warranties were included in the price and it was basically a turn-key deal with all options included. He shared that placing our name on the truck, graphics, and striping was being done at no extra cost. He stated there should not be anything we need to purchase outside the truck except for some accessory equipment.

Mayor Talley asked Fire Chief Cole to explain the efforts of trying to find a used truck and the one found recently in Maine.

Fire Chief Cole stated that when staff first addressed the need for replacement, they contacted the largest broker in the United States, Brindlee Mountain located in Alabama. A 2012 used truck was found and staff kept a watch on it while trying to find one that was newer in age that would fit our needs. He stated there were limitations on the type of apparatus that will fit in the bay because of the bay height. He shared they traveled to Maine to check out the truck and found that it had been used a lot and was not in bad shape but was also not in the best of shape and had a significant number of miles on it. After Captain Squires inspected the truck, it operated okay but the truck had not been maintained well throughout its life and it was noticeable. Chief Cole stated that his command staff met and decided the truck was not a good fit or safe enough for our firefighters.

Fire Chief Cole stated this was an emergency purchase due to not having an aerial truck in service. He stated it was a gamble every day with the lives of the citizens of Graham if we were to have a fire where an aerial fire apparatus was needed.

Council Member Whitaker asked how soon could we get this truck.

Fire Chief Cole stated because it was already in production it was scheduled for May 2023.

Mayor Talley asked about the warranty and how long was it for.

City Manager Garner stated there was an entire warranty binder that Pierce provides and the following were the main categories; engine – 5 years, body – 50 years, bumper to bumper – 1 year, and paint – 10 years.

Mayor Talley stated the City Manager requested and received several bids. She stated that a revised bid was received from American National, which was the lowest bidder at 4%. She shared if the City was able

to put money into a money market or CD that would earn 3.5%, the City would effectively pay 0.5%, which was the best you could hope for with rates like they are.

Council Member Chin asked if there was training in place before the ladder truck arrives.

Fire Chief Cole stated that personnel were already trained in aerial operations, which have been ongoing for many years. He stated for the new apparatus, Peirce would come in and go over the operations of the truck, which would be incorporated when the truck was delivered.

Mayor Talley asked to explain the things that are broken or wrong with the old truck.

Fire Chief Cole stated the company they use, which specializes in fire trucks, found a hydraulic leak in the swivel of the turn table, which would require the entire turn table to be taken apart for repair. He stated the electronic commutator rings that keeps power to the bucket had multiple cracks and were getting worse. He stated that this was a 1975 model ladder and parts were no longer available. The major concern was the bushing that came out of the base pivot point after the mill fire on Parker Street. He stated the truck was breaking down, unreliable, and unsafe.

Mayor Talley asked what was the cost estimate for repairs to the old truck.

Fire Chief Cole stated anywhere from \$25,000 to \$100,000 if they had to take the ladder assembly completely apart. He stated when the truck had a hydraulic issue in 2019, it had to be taken to Sutphen in Ohio, and cost \$80,000 to get the hydraulic repaired.

Mayor Talley asked if the old truck could be converted into something useful that was marketable.

Fire Chief Cole stated the cab and chassis were a 2005 model that staff had taken good care of and may be valuable to someone. He stated we would have to ask a broker to determine the value and if we could get anything out of selling the truck. He also stated that the truck could not be certified because of the ladder issues and it would still be an issue for anyone else wanting to buy it.

Council Member Parsons stated that the nice thing about the new truck was that the ladder could go below grade or reach down to a point if trying to reach something down a hill.

Mayor Talley asked Mr. Wyatt if he wanted to say a few words.

Mr. David Wyatt, Alamance National Bank, stated they had offices in Mebane, Graham, and Burlington, and appreciated the opportunity to work with Council. He stated his bank was offering something that would work for everyone and he was happy to be part of the project to protect our firemen and the citizens of Graham.

Tom Boney, Alamance News, asked how much the fire truck would cost.

Mayor Talley stated \$1,968,900.00, was the amount being financed for ten years at 0.5%.

Motion by Council Member Whitaker to approve the purchase of a 2023 Peirce Enforcer Mid-Mount Tower Truck and award the financing contract to American National Bank and allow the City Manager and the City Attorney to effectuate all documents, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **RESOLUTION AUTHORIZING THE EXECUTION OF AN INSTALLMENT PURCHASE CONTRACT FOR THE ACQUISITION OF A FIRE TRUCK**

**WHEREAS**, North Carolina General Statute NCGS 143-129 (e)(2) grants the Graham City Council the exception from the public bidding process in cases of special emergency involving the health and safety of the people or their property; and

**WHEREAS**, the City Council has determined that the existing ladder truck has a faulty ladder apparatus that has rendered the same unreliable, and therefore, has determined it is immediately necessary and in the best interest of the citizens of the City of Graham to purchase one (1) 2023 Pierce Enforcer Mid-Mount Tower Truck for the City of Graham Fire Department; and

**WHEREAS**, the fire apparatus will be used to equip the City of Graham Fire Department with a fire apparatus that includes up-to-date and essential emergency equipment that functions properly to protect the safety of our firefighters and citizens; and

**WHEREAS**, the City Council has determined it is in the best interest of the City of Graham to permit the City Manager to move forward with arrangements to take advantage of the current pricing opportunity on the apparatus; and

**WHEREAS**, the City Council has been advised that acceptable, legal financing has been identified by the City Manager and has received a commitment for such financing; and

**WHEREAS**, the City of Graham may purchase the fire apparatus in accordance with NCGS 143-129(e)(3), which authorizes “purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively obtained purchasing services at discount prices to two or more public agencies.”

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, that the City of Graham City Council authorizes the City Manager to enter into a financing contract with American National on behalf of the City of Graham to purchase one (1) 2023 Pierce Enforcer Mid-Mount Tower Truck with the total amount financed not to exceed \$1,968,900.00.

**ADJOURN**

A motion was made by Mayor Talley, seconded by Mayor Pro Tem Hall to adjourn. The motion passed unanimously. (12:49 pm)

---

Renee M. Ward, CMC  
City Clerk

February 3, 2023  
City Council Special Meeting

# City of Graham

## City Council Meeting Minutes

### March 14, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on March 14, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Bob Ward, City Attorney  
Renee Ward, City Clerk  
Josh Johnson, City Engineer

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Rev. Dr. Gary Thorpe, First Baptist Missionary Church gave the invocation and all stood for the Pledge of Allegiance.

#### RECOGNITION: Graham Fire Department Awards

Fire Chief Tommy Cole shared the following 2022 call statistics:

- Total Incidents - 2,241
- Fire Related Calls - 816
- Medical Related Calls - 1,625
- Structure Fires - 23
- Motor Vehicle Accidents - 167
- Cardiac Arrest Calls - 47

Fire Chief Cole recognized members of the Graham Fire Department for awards received for 2022:

#### **2022 Rookie Firefighter of the Year: Firefighter Maison Mayton (Not pictured)**

- Joined in March 2022
- Recent graduate of the ACC Fire Academy

#### **2022 Volunteer Firefighter of the Year: Firefighter Dennis Bullis**

- Joined in February 1979
- Retired with 44 years of service on February 1, 2022
- Served as Treasurer of the GFD Volunteer Firefighter Fund
- Served as Treasurer of the GFD Firefighters Relief Fund



**2022 Career Firefighter of the Year: Fire Fighter Matthew Bradsher**

- Hired in February 2020
- Coordinator of the GFD Fire Explorer Post



**2022 Officer of the Year: Captain Kevin Squires**

- Joined in February 1998
- F/T Engineer with the Morrisville Fire Department



**2022 Chiefs Award:**

- **Chaplain Darryl Peebles**
- Joined in January 2003
- Retiring in 2023 with 20 years of service



**2022 Medical Life Saving Awards:**

**February 2022 successful CPR Save:**

- Fire Fighter Chris Presley
- Fire Fighter Matthew Bradsher

**October 2022 successful CPR Save:**

- Fire Fighter Clay Davis
- Captain Chris Stokes
- Captain Kevin Squires



Mayor Talley, Engineer Bradsher, Fire Fighter Davis, Capt. Stokes, Capt. Squires, Chief Cole

Fire Chief Cole recognized Vic and Joanne Pate. He shared that on February 2, 2023, Mr. Pate suffered a cardiac arrest while driving on the interstate. The Graham Fire Department responded along with Alamance County EMS and the NC State Highway Patrol. Chief Cole arrived on the scene with NCSHP Troopers Caleb



Kirby and John Eberle to find Mr. Pate in his vehicle. He had hit the jersey wall and come to a rest. Troopers Kirby and Eberle forced entry into the vehicle and with the help of Chief Cole, they pulled the patient onto the roadway and began CPR. Graham Engine 10 and Engine 30 arrived and assisted with CPR and Defibrillation. Captain Jason Cook delivered one shock with the AED and Fire Fighters Hasten Watson and Shaun Riley established an airway and continued chest compressions. Mr. Pate was loaded in the ambulance and transported to Alamance Regional Medical Center and then transferred to Duke University Hospital. He was later released to come home where he is recovering. This was the first time Mr. Pate had the opportunity to meet the firefighters and troopers who assisted him.

Chief Cole recognized the following personnel that assisted on this call:

- Trooper Caleb Kirby
- Trooper John Eberle
- Captain Jason Cook
- Captain Michael Quigley
- Firefighter Hasten Watson
- Firefighter Shaun Riley
- Firefighter Rob Patterson

Chief Cole thanked the Pate family for attending and thanked the City Council for allowing the Graham Firefighters and Troopers to be recognized during the meeting.



Mayor Talley, Capt. Cook, Mr. Pate, Ms. Pate, Trooper Kirby, Trooper Eberle, Chief Cole

### **HISTORIC RESOURCES COMMISSION REPORT - HISTORIC PLAQUES** – Chair Zipporah Clark-Baldwin

Chairperson Clark-Baldwin and Commission Member Ms. Chin gave an overview of the process of identifying historic buildings downtown. Ms. Clark-Baldwin shared three quotes received for the cost of bronze plaques to match the ones already on numerous buildings. Ms. Chin stated they would be contacting Walter Boyd to determine the language to be used on the plaques. Ms. Clark-Baldwin stated there were funds for ten plaques and asked for additional funds for ten more plaques.

### **CONSENT AGENDA:**

- a. To approve February 14, 2023, City Council meeting minutes.
- b. To approve a Budget Amendment Ordinance increasing City Council's travel budget from \$4,000 to \$7,000.
- c. To approve the following tax releases in the amount of \$366.48.

Motion by Mayor Pro Tem Hall to approve the foregoing Consent Agenda, seconded by Councilmember Parsons. The motion passed unanimously.

## PUBLIC COMMENT PERIOD

Mr. Jackie Fortner asked to hold a Gospel Concert on May 13, 2023, in the Colonial Hardware parking lot and to close a portion of E. Elm Street for vendors and food trucks. Assistant City Manager Holland provided his email address to be able to assist Mr. Fortner through the application process. Council consensus was to place this item on April 11, 2023, City Council agenda for consideration.

## CITY STAFF COMMENTS

City Engineer Josh Johnson stated the Albright Avenue water line construction project had begun and design work had started for the 10" replacement line from the water plant to downtown.

Assistant City Manager Aaron Holland asked Council to recommend interested persons to serve on the Pedestrian Plan Update Committee. Mayor Talley stated she would like to serve on the committee.

## CITY COUNCIL COMMENTS

Council discussed the proposed NC DOT roundabout at E. Elm and Hardin Streets. Council voiced concerns about trucks being able to make safe turns without intruding on the inside roundabout and whether it would be safe for pedestrians to cross. Mayor Talley stated for the record she did not support the roundabout and would like for staff to have a conversation with NC DOT expressing Council concerns and the possibility of a redesign.

Mayor Talley stated the old Sagebrush restaurant had been renovated and voiced concerns about traffic entering the restaurant. Council discussed how to extend Bruce Turney Road to East Crescent Square Drive. Assistant City Manager Holland stated it would be costly due to having to cross the creek and floodplains.

Mayor Pro Tem Hall asked if staff could look into the placement of a stop light at the intersection of West Gilbreath and Holt Avenue. Correction: Street light at the intersection of W. Gilbreath Street and Holt Street. Staff relayed the street light request to Duke Energy.

Mayor Pro Tem Hall asked Council to consider funding \$6,500 for Alamance County Transportation Authority (ACTA). Mayor Talley stated she was not a supporter of funding ACTA. The Council consensus was to have staff review how ACTA is funded and report back.

## ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 7:47 pm.

Renee M. Ward, CMC  
City Clerk



# City of Graham

## City Council Meeting Minutes

### April 11, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on April 11, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Bob Ward, City Attorney  
Renee Ward, City Clerk  
Josh Johnson, City Engineer

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Pro Tem Hall gave the invocation and all stood for the Pledge of Allegiance.

#### PROCLAMATION: SMALL BUSINESS WEEK

Mayor Talley proclaimed the first of May as Small Business Week in the City of Graham and encouraged all citizens to shop locally. Present to receive the proclamation were: Reagan Gural - Alamance Chamber President/CEO, David Putnam - Alamance Chamber Senior Economic Developer, Kevin Szostak - Alamance Chamber Director of Economic Development Projects, Stephanie Williams - Alamance Chamber Director of Small Business & Entrepreneurial Development, Kelly Roberts – Senior Director of Investor Engagement, and small business owner, Griffin McClure, Green & McClure Furniture.

#### CONSENT AGENDA:

- a. To approve March 14, 2023, City Council meeting minutes.
- b. To approve an audit contract with Stout, Stuart, McGowen & King, LLP, for \$22,500, to audit City of Graham accounts for Fiscal Year 2022-2023.
- c. To approve an agreement between the City of Burlington and the City of Graham to continue the partnership to maintain geographic data, develop GIS services, establish Regional Geographic Information System standards, and adopt a resolution amending the Regional Geographic Information System agreement.

# **RESOLUTION BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA, TO AMEND THE REGIONAL GEOGRAPHIC INFORMATION SYSTEM (ReGIS) AGREEMENT**

**WHEREAS**, Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes authorizes units of local government to enter into contracts or agreements with each other in order to execute joint undertaking; and

**WHEREAS**, on August 14, 2001, the City of Burlington (hereinafter, “City”), and City of Graham, and Town of Elon (hereinafter, “Partners”) entered into a Regional Geographic Information System (ReGIS) Agreement; and

**WHEREAS**, the City and Partners have a continued compelling and mutual interest in developing and maintaining accurate and current electronically-retrievable geographic information about themselves and their extraterritorial planning jurisdictions; and

**WHEREAS**, the City and Partners recognize that at this time, neither Partner can afford to individually develop and maintain efficiently and effectively, a GIS for themselves; and

**WHEREAS**, the City and Partners recognize that the current regional GIS benefits their citizens by improving the efficiency and effectiveness of local government and enhancing the regional economic competitiveness of the individual municipal corporations; and

**WHEREAS**, the City and Partners want to ensure continued cooperation and mutual support for a successful and cost-effective implementation of GIS-related management information systems,

**WHEREAS**, the current ReGIS Agreement will expire at the end of the fiscal year 2022-2023.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA, THAT:**

## **Section 1:**

Item 2 of the Regional Geographic Information System (ReGIS) Agreement — “Duration of Agreement”— be amended to extend the agreement through fiscal year 2026-2027.

## **Section 2:**

This resolution will take effect upon the passage of identical resolutions by all ReGIS Partners.

Adopted this 11th day of April 2023, by the City Council of the City of Graham, North Carolina.

**STATE OF NORTH CAROLINA  
CITY OF BURLINGTON**

## **REGIONAL GEOGRAPHIC INFORMATION SYSTEM (ReGIS) AGREEMENT**

THIS AGREEMENT made and entered into this 11<sup>th</sup> day of April 2023, by and between the CITY OF BURLINGTON, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as “City”), and the CITY OF GRAHAM and the TOWN OF ELON (hereinafter collectively referred to as “Partners”).

**WITNESSETH:**

**WHEREAS**, Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes authorizes units of local government to enter into contracts or agreements with each other in order to execute joint undertaking; and

**WHEREAS**, the City and Partners have a compelling and mutual interest in continuing to develop and maintain accurate and current electronically-retrievable geographic information; and

**WHEREAS**, the City and Partners recognize that the regional GIS will continue to benefit their citizens by improving the efficiency and effectiveness of local government and enhancing the economic competitiveness of the area; and

**WHEREAS**, the City and Partners recognize that at this time neither Partner can afford to individually develop and maintain an entire GIS for themselves; and

**WHEREAS**, the City has committed to maintaining a GIS for its incorporated and extraterritorial area; and

**WHEREAS**, the City and Partners want to continue to ensure cooperation and mutual support for successful and cost-effective GIS-related management information systems.

**NOW, THEREFORE**, be it understood and agreed by City and Partners as follows:

**1. PURPOSE:**

The purpose of this agreement is to continue with the partnership that will maintain geographic data, develop GIS services and establish regional GIS standards.

**2. DURATION OF AGREEMENT:**

This agreement shall be in effect from fiscal year 2023-2024 through fiscal year 2026-2027, providing for an annual cost-sharing arrangement. Any party may terminate its participation in this joint effort by giving six (6) months' written notice to all other parties of its intent to terminate, to take effect commencing with the following fiscal year.

**3. ESTABLISHMENT OF THE JOINT EFFORT:**

Pursuant to N.C.G.S. 160A-461, the governing body of each participating governmental unit must approve this agreement.

**4. APPOINTMENT OF PERSONNEL:**

All GIS personnel working on behalf of the City or the Partners will be hired and appointed by the City.

**5. DUTIES OF PERSONNEL:**

A GIS Administrator will oversee the collection and maintenance of all geographic data within the regional GIS, as well as oversee the development of all GIS-related management information systems. The GIS Administrator will also have primary responsibility for the completion of daily GIS tasks on behalf of the City.

A GIS Specialist will assist in the collection and maintenance of all geographic data with the regional GIS, as well as assisting in the development of GIS-related management information systems. The GIS Specialist will also have primary responsibility for the completion of daily GIS tasks on behalf of the Partners.

The Administrator and Specialist will work together with other appropriate area personnel to develop and enforce GIS standards required for the efficient operation of the regional GIS.

## **6. FINANCING:**

- (a) A GIS Administrator's salary and benefits will be funded wholly by the City.
- (b) Capital improvement costs necessary to the GIS Administrator will be funded wholly by the City.
- (c) A GIS Specialist's salary and benefits will be wholly reimbursed to the City by the Partners according to the following percentages which are based upon the estimated number of parcels within each jurisdiction's corporate limits:

City of Graham	72%	(6,741 parcels)
Town of Elon	28%	(2,367 parcels)

- (d) Capital improvement costs necessary to the GIS Specialist will be wholly reimbursed to the City by the Partners according to the percentages outlined in section 6(c).

- (e) Capital improvement costs necessary for the maintenance or collection of geographic data and the development of GIS services will be funded by the City or reimbursed to the City by the Partners according to the following percentages which are based on the estimated parcels within their respective corporate limits:

City of Burlington	71%	(22,276 parcels)
City of Graham	21%	(6,741 parcels)
Town of Elon	8%	(2,367 parcels)

- (f) Miscellaneous costs (e.g. supplies, travel, memberships) will be divided according to the percentages outlined in section 6(e).
- (g) All apportionment percentages listed in sections 6(c) and 6(e) will be reviewed in March of each year and adjusted annually for the following fiscal year budgetary purposes based on actual parcel numbers.
- (h) The City will bill on a quarterly basis and the partners will make payment on a quarterly basis for their pro rata share of the services covered in this agreement.

## **7. PERSONAL PROPERTY:**

All personal property purchased under this agreement shall be owned by the City and shall be retained by the City upon the expiration or termination of this agreement.

## **8. METHOD OF AMENDING THE AGREEMENT:**

This agreement may be amended with the mutual agreement of all parties hereto.

## **9. METHOD OF TERMINATING THE AGREEMENT:**

This agreement may be terminated by any party giving six (6) months' written notice to all other parties of such intent, to take effect commencing with the following fiscal year.

- d.** To set a date of public hearing for May 9, 2023, to consider extending the corporate limits of the City of Graham for a tract of land totaling 53.90 acres and to direct the City Clerk to investigate the sufficiency of the petition.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**  
**UNDER G.S. 60A-31 OFF MAYFIELD DRIVE**  
**(GPIN: 8882178503) (AN2301)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on April 11, 2023, 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 MAY 9, 2023, FOR A PUBLIC HEARING ON THE**  
**QUESTION OF CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 53.90 +/-**  
**ACRES OFF MAYFIELD DRIVE (AN2301)**

**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.

**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 the annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC, at 6:00 pm on **May 9, 2023**.

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

**Legal Description** GPIN#: 8882178503

BEGINNING AT AN IRON PIPE FOUND LOCATED AT THE MOST SOUTH-EASTERLY CORNER OF THE PARCEL DESCRIBED HEREON, BEING THE TRUE POINT OF BEGINNING, AND HAVING THE FOLLOWING NORTH CAROLINA STATE PLANE COORDINATES: NC NAD 83 N:82751.037 E:1882308.671

THENCE FOLLOWING TWENTY (20) COURSES:

1. SOUTH 66 DEGREES 09 MINUTES 09 SECONDS WEST FOR 433.73 FEET TO AN IRON PIPEFOUND; THENCE 2. SOUTH 65 DEGREES 56 MINUTES 09 SECONDS WEST FOR 29.97 FEET TO AN IRON REBAR SET; THENCE 3. NORTH 40 DEGREES 24 MINUTES 03 SECONDS WEST FOR 91.81 FEET TO AN IRON REBAR SET; THENCE 4. NORTH 83 DEGREES 47 MINUTES 39 SECONDS WEST FOR 107.81 FEET TO AN IRON REBAR SET; THENCE 5. SOUTH 70 DEGREES 33 MINUTES 04 SECONDS WEST FOR 162.59 FEET TO AN IRON REBAR SET; THENCE 6. SOUTH 57 DEGREES 50 MINUTES 40 SECONDS WEST FOR 524.65 FEET TO AN IRON REBAT SET; THENCE 7. SOUTH

40 DEGREES 20 MINUTES 32 SECONDS WEST FOR 281.27 FEET TO AN IRON REBAR SET; THENCE 8. SOUTH 33 DEGREES 24 MINUTES 21 SECONDS WEST FOR 183.51 FEET TO AN IRON REBAR SET; THENCE 9. NORTH 39 DEGREES 22 MINUTES 49 SECONDS WEST FOR 9.69 FEET TO AN IRON REBAR FOUND; THENCE 10. NORTH 39 DEGREES 15 MINUTES 35 SECONDS WEST FOR 199.75 FEET TO AN IRON REBAR FOUND; THENCE 11. NORTH 10 DEGREES 42 MINUTES 17 SECONDS WEST FOR 1838.54 FEET TO AN IRON PIPE FOUND; THENCE 12. SOUTH 88 DEGREES 53 MINUTES 02 SECONDS EAST FOR 131.73 FEET TO AN IRON PIPE FOUND; THENCE 13. SOUTH 01 DEGREES 41 MINUTES 25 SECONDS WEST FOR 131.72 FEET TO A STONE MONUMENT FOUND; THENCE 14. SOUTH 89 DEGREES 23 MINUTES 52 SECONDS EAST FOR 626.58 FEET TO AN IRON PIPE FOUND; THENCE 15. SOUTH 89 DEGREES 31 MINUTES 11 SECONDS EAST FOR 393.59 FEET TO AN IRON REBAR SET; THENCE 16. SOUTH 89 DEGREES 34 MINUTES 18 SECONDS EAST FOR 300.27 FEET TO AN IRON REBAR SET; THENCE 17. SOUTH 89 DEGREES 35 MINUTES 26 SECONDS EAST FOR 199.76 FEET TO AN IRON REBAR SET; THENCE 18. SOUTH 89 DEGREES 31 MINUTES 09 SECONDS EAST FOR 115.39 FEET TO AN IRON PIPE FOUND; THENCE 19. SOUTH 17 DEGREES 02 MINUTES 26 SECONDS EAST FOR 714.51 FEET TO AN IRON PIPE FOUND; THENCE 20. SOUTH 04 DEGREES 44 MINUTES 07 SECONDS WEST FOR 330.98 FEET TO SAID POINT OF BEGINNING. SAID PARCEL CONTAINS 2,348,038 SQUARE FEET OR 53.90 ACRES OF LAND, MORE OR LESS.

- e. To set a date of public hearing for May 9, 2023, to consider extending the corporate limits of the City of Graham for a tract of land totaling 14.717 acres located on Luther Drive and to direct the City Clerk to investigate the sufficiency of the petition.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED  
UNDER G.S. 60A-31 LOCATED OFF MEADOWVIEW DRIVE  
(GPIN: 8873901240) (AN2302)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on April 11, 2023, 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 MAY 9, 2023, FOR A PUBLIC HEARING ON QUESTION OF  
CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 14.717 +/- ACRES OFF  
MEADOWVIEW DRIVE (AN2302)**

**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.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Graham, NC 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, at 6:00 pm on May 9, 2023.

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

**Legal Description GPIN#: 8873901240**

ALL 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 an existing iron pipe in the northwest terminus of Luther Drive, a 50' public right-of-way, said point being the southwest corner of common area of South Meadows Owners Association, Inc, either now or formerly as described in instrument recorded in Deed Book 659, Page 639 and shown on Plat Book 32, Page 144, in the Alamance County Registry, said point also being the following two (2) courses and distances from an existing iron pipe-control point, having NAD 83\2011 coordinates of, Northing = 831,664.2968 and Easting = 1,879,211.0027: (i) South 09 deg. 28 min. 07 sec. West 155.36 feet to an existing iron pipe; (ii) South 07 deg. 19 min. 14 sec. East 325.00 feet; and running thence from the Point of Beginning, along the western terminus of Luther Drive, South 20 deg. 08 min. 20 sec. West 56.36 feet to an existing iron pipe in the southwest terminus of Luther Drive and being the northwest corner of Lot 44, Section Three A of Little Creek Subdivision, either now or formerly as described in instrument recorded in Plat Book 62, Page 114; thence along the western line of Lots 44 and 45 of Section Three A of Little Creek Subdivision and Lots 46-50 and common area of Section Three B of Little Creek Subdivision, either now or formerly as described in instrument recorded in Plat Book 63, Page 102, in the Alamance County Registry, the following five (5) courses and distances: (i) South 34 deg. 18 min. 28 sec. West 385.49 feet to an existing iron pipe; (ii) North 78 deg. 52 min. 53 sec. West 77.92 feet to an existing iron pipe; (iii) South 10 deg. 49 min. 16 sec. East 62.67 feet to an existing iron pipe; (iv) South 79 deg. 00 min. 52 sec. East 29.71 feet to an existing iron pipe; (v) South 01 deg. 09 min. 12 sec. East 120.43 feet to an existing iron pipe in the northwest corner of the common area of Section Three B of Little Creek Subdivision; thence continuing with the western line of the common area of Section Three B of Little Creek Subdivision and the western line of Peter Murphy and Joylynn K. Murphy, either now or formerly as described in instrument recorded in Deed Book 3750, Page 654, in the Alamance County Registry, and having parcel pin. 131642 ("The Murphy Property"), the following three (3) courses and distances: (i) South 00 deg. 52 min. 03 sec. East 42.14 feet to an existing iron pipe; (ii) South 10 deg. 51 min. 03 sec. East 119.08 feet to an existing iron pipe; (iii) South 11 deg. 08 min. 00 sec. East 13.24 feet to an existing iron pipe in the northwest corner of Land Acquisition and Development Services, LLC, either now or formerly as described in instrument recorded in Deed Book 4296, Page 890, in the Alamance County Registry, and having parcel pin. 177785 ("The Land Acquisition and Development Property"); thence with the western and southern lines of The Land Acquisition and Development Property, parcel pin. 177785, the following two (2) courses and distances: (i) South 11 deg. 08 min. 00 sec. East 85.14 feet to a point; (ii) North 83 deg. 03 min. 58 sec. East 210.51 feet to an existing iron pipe in the southwest corner of Lot 10, Section Five of Horseshoe Bend Subdivision, either now or formerly as described in the instrument recorded in Plat Book 66, Page 15 in the Alamance County Registry; thence with the southern line of Lot 10 and Lots 1-3 of Section Five of Horseshoe Bend Subdivision, North 83 deg. 06 min. 22 sec. East 310.46 feet to an existing iron pipe in the northwest corner of Land Acquisition and Development Services, LLC, either now or formerly as described in the instrument recorded in Deed Book 4230, Page 478, in the Alamance County Registry, and having parcel pin. 143795 ("The Land Acquisition and Development Property, parcel pin 143795"); thence with the western and southern lines of The Land Acquisition and Development Property, parcel pin. 143795, the following three (3) courses and distances: (i) South 07 deg. 25 min. 43 sec. East 48.54 feet to a point; (ii) North 79 deg. 21 min. 13 sec. East 74.95 feet

to a point; (iii) South 36 deg. 51 min. 38 sec. East 125.55 feet to a point in the northern line of Clayton Properties Group, Inc., either now or formerly as described in the instrument recorded in Deed Book 3892, Page 251, in the Alamance County Registry, and having parcel pin. 175777 (“The Clayton Properties Group Property, parcel pin 175777”); thence with the northern line of The Clayton Properties Group Property, parcel pin 175777, the following seven (7) courses and distances: (i) North 84 deg. 43 min. 47 sec. West 46.59 feet to a point; (ii) South 35 deg. 02 min. 20 sec. West 85.64 feet to a point; (iii) South 12 deg. 31 min. 58 sec. East 256.88 feet to a point; (iv) South 17 deg. 51 min. 19 sec. East 154.72 feet to a point; (v) South 40 deg. 35 min. 19 sec. West 115.52 feet to a point; (vi) South 85 deg. 34 min. 40 sec. West 148.60 feet to a point; (vii) South 55 deg. 34 min. 38 sec. West 51.18 feet to a point in the northern line of Clayton Properties Group, Inc., either now or formerly as described in the instrument recorded in Deed Book 3892, Page 251, in the Alamance County Registry, and having parcel pin. 177516 (“The Clayton Properties Group Property, parcel pin 177516”); thence with the northern line of The Clayton Properties Group Property, parcel pin 177516 and The Clayton Properties Group Property, parcel pin 130476, North 63 deg. 52 min. 08 sec. West 357.06 feet to a point in the southeast corner of Douglas S. Kimrey and Summer D. Kimrey, either now or formerly as described in the instrument recorded in Deed Book 4007, Page 875, in the Alamance County Registry, and having parcel pin. 131489 (“The Kimrey Property”); thence with the eastern line of The Kimrey Property, the following eight (8) courses and distances: (i) North 21 deg. 09 min. 08 sec. West 215.00 feet to a point; (ii) North 15 deg. 47 min. 08 sec. West 300.00 feet to a point; (iii) North 09 deg. 09 min. 08 sec. West 266.00 feet to a point; (iv) North 11 deg. 07 min. 08 sec. West 220.00 feet to a point; (v) North 75 deg. 49 min. 08 sec. West 200.00 feet to a point; (vi) North 37 deg. 09 min. 08 sec. West 58.00 feet to a point; (vii) North 02 deg. 20 min. 52 sec. East 142.92 feet to a point; (viii) North 44 deg. 50 min. 52 sec. East 529.41 feet to a point in the northwest corner of Shoffner Land and Timber, LLC, either now or formerly as described in the instrument recorded in Deed Book 2512, Page 695, in the Alamance County Registry, and having parcel pin. 131641 (“The Shoffner Land and Timber Property”); thence with the western and southern line of The Shoffner Land and Timber Property, the following five (5) courses and distances: (i) South 17 deg. 55 min. 26 sec. East 79.13 feet to a new iron pipe; (ii) South 07 deg. 19 min. 14 sec. East 223.43 feet to a new iron pipe; (iii) North 82 deg. 45 min. 52 sec. East 50.00 feet to a new iron pipe; (iv) North 07 deg. 19 min. 14 sec. West 164.75 feet to a new iron pipe; (v) North 82 deg. 40 min. 46 sec. East 126.00 feet to a new iron pipe in the western line of Lot 6, Section One-B, South Meadows Subdivision, either now or formerly as described in Plat Book 32, Page 144, in the Alamance County Registry; thence with the western line of Lots 6-9 and common area South 07 deg. 19 min. 14 sec. East 164.94 feet to the Point and Place of Beginning and containing 14.717 acres, more or less, as shown on that certain survey entitled “Meadow Glen” prepared by Borum, Wade and Associates, P.A. dated March 23, 2023.

- f. To approve tax releases in the amount of \$8,229.94.

CITY OF GRAHAM REFUNDS				
APRIL				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR REFUND</u>	<u>REFUND AMOUNT</u>
665817	2022	LIDL US OPERATIONS LLC	CLERICAL ENTRY ERROR BY ALAMANCE CO.	1391.32
665817	2022	LIDL US OPERATIONS LLC	THERE WERE ASSETS DUPLICATED ON FILE	6838.62

Motion by Mayor Pro Tem Hall to approve the foregoing Consent Agenda, seconded by Councilmember Chin. The motion passed unanimously.



## **PUBLIC HEARING:**

### **ITEM 1: REZONING – 1952 EAST WEBB AVENUE – 48-UNIT MULTI-FAMILY**

City Council held a public hearing to consider a request to rezone 1.52 acres located at 1952 East Webb Avenue from R-7, High-Density Residential, to C-R, Conditional Residential, to construct a 48-unit multi-family structure. (Planning Board Recommended Approval)

Assistant City Manager Aaron Holland stated this was a request to rezone 1.52 acres at 1952 E Webb Avenue (GPIN: 8874766479) from R-7, High-Density Residential, to C-R, Conditional Residential, to construct a 48-unit multi-family structure. This rezoning request only encompasses the region that falls within the Graham zoning jurisdiction and City limits. The proposed density is nearly ten units per acre of the total site. The future land use plan states appropriate density in the Downtown Residential zone is 3-6 dwelling units per acre. He stated the developer was proposing one parking space per unit condition on the site. Of the 48 units, 16 will be one bedroom and 32 will be two bedrooms. He stated this property was listed on the Future Land Use Map as Downtown Residential, which are primarily settings for existing and future single-family detached housing but also mentions a desired pattern of a variety of housing choices. He stated the Planning Board recommended approval with the conditions of adding 18 extra parking spaces and providing opaque screening of the building.

Mayor Talley opened the public hearing for comments. The following spoke:

Mr. Steven Brock, applicant, 893 Holly Drive, Annapolis, MD, stated the proposed project would be age-restricted, 55 and older, and income restricted. He stated that he had made an error in the planning meeting stating the siding would be brick and Hardiplank, but because of the expense, the siding would need to be brick and vinyl shake. He stated the parcel covers both Graham and Burlington City limits and the building would be constructed on the Graham side with the entrance on the Burlington side. He stated the planning board asked that a fence be installed along the back border of the building and he asked that this condition be removed due to the cost.

Mayor Talley asked if there were plans for development at the back of the property.

Mr. Brian Wagoner, property owner, 2937 Lowell Drive, Burlington, stated that he has had no contact with the owners of the property located behind his and there were no known plans for development.

Mayor Talley asked about plans for lighting.

Mr. Brock stated it would meet the requirements in the ordinance and Duke Energy would install all lights.

Mayor Talley suggested a fence to prevent cut-throughs and to add motion sensors.

Mayor Talley questioned the vinyl shake and what that would look like.

Mr. Brock stated the vinyl shake looks very similar to Hardiplank and presented a picture of vinyl shake.

Mayor Talley asked about parking spaces required by City ordinance.

Assistant City Manager Holland stated for one-and two-bedroom units, it was required to have 1.5 spaces and the ordinance also addresses federal or government based multi-family, which only required one space. He stated the petitioner was actually providing more parking than was required.

Mayor Talley asked about amenities planned for on-site.

Mr. Brock stated there would be a playground, a gazebo by the pond, raised vegetable garden planters, and benches scattered throughout the site. He stated inside the building there would be a community room with a kitchenette, restrooms, computer room, fitness room, laundry room on two floors, and dedicated storage bins.

Mayor Talley asked Dean Ward, Chair of the Planning and Zoning Board, if the members had any concerns with the project.

Chair Dean Ward stated there were questions about the age 55 and older, which did not restrict pre-teen kids from living there, it just restricted anyone under the age of 55 from being able to rent a unit. He stated the Board had issues with only 48 parking spaces but the applicant was willing to increase the number of spaces. He stated it was a good project for the City.

Mayor Talley asked Mr. Ward what he thought of the vinyl shake siding versus the Hardiplank.

Mr. Ward stated it was just a preference and that the vinyl shake looked really good. He stated either siding would achieve the same thing aesthetically.

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

Council Member Whitaker inquired about having only one elevator. She stated overall it was a good project and that the age limit should be restricted to 55 and older and that no one under the age of 55 should live there.

Mr. Brock stated no one under the age of 55 could lease but if more than two people were on the lease, only one of them had to be 55 or older.

Council Member Chin stated it would be a good project for seniors. He agreed with the additional parking spaces, fencing, and lighting and stated if the siding became a concern of Hardiplank versus vinyl, he suggested prioritizing the conditions based on the Planning Board's recommended conditions. He stated his priority would be additional parking, screening, lighting, and then the siding.

Mayor Pro Tem Hall stated he agreed with Council Member Chin regarding parking, lighting, fencing, and whatever siding they work out.

Council Member Parsons stated he did not have a preference for the lighting as long as it met the City code. He stated he did like having a fence and the additional parking spaces.

Motion by Mayor Talley to approve the rezoning for the reason that this action was reasonable and in the public interest and was consistent with Graham's 2035 Comprehensive Plan and the action supported Policy 4.3.1: Land Use Patterns, Policy 5.1.2: Variety of ownership opportunities, and Policy 5.2.1: Diverse Neighborhood, and to include the Planning Boards recommendation of 18 additional parking spaces, fence

screening along the rear of the property and along the sides to the front side of the building, lighting in the rear area to include motion lights and if Hardiplank was not used to use something similar to the vinyl shake siding as presented. She also asked that the picture of the vinyl shake siding that was presented, be included in the minutes and as a conditional use. Mayor Pro Tem Hall seconded the motion. The motion passed unanimously.

Mayor Talley stated Council preferred the Hardiplank, which was approved in the conditional uses but in the event, they could not use the Hardiplank, Council would allow the vinyl shake siding as presented.

Mr. Brock stated he agreed with the conditions.



### **NEW BUSINESS:**

#### **ITEM 2: SPECIAL EVENT APPLICATION – STREET CLOSING REQUEST – MAY 13, 2023:**

City Council considered approval of a special events application to hold a concert on May 13, 2023, and to close the 100 block of East Elm Street from 12:00 pm to 10:00 pm.

Mr. Jackie Fortner asked if Council had any questions and if there was anything he needed to do.

Mayor Talley stated this was to approve the Big C concert located in downtown Graham with the idea of closing the street due to a lot of pedestrian traffic would be safest.

Motion by Council Member Whitaker to approve the special event application and street closure on May 13, 2023, closing the 100 block of East Elm Street from 12:00 pm to 10:00 pm, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

#### **ITEM 3: APPOINT VOTING DELEGATE – NCLM BOARD ELECTIONS AND BYLAWS:**

City Council considered a delegate to vote in the electronic voting process for the North Carolina League of Municipalities Board elections and to vote on the League's Bylaws on behalf of the City of Graham.

City Manager Megan Garner stated the voting would be electronic similar to the goal-setting session earlier this year, and whoever was appointed, could electronically cast those ballots between the date of April 14 and April 19, 2023. She stated Council would be voting on the slate of the board of directors of the League of Municipalities and any proposed bylaw changes.

Motion by Council Member Chin to appoint Mayor Pro Tem Hall as the voting delegate, seconded by Council Member Whitaker. The motion passed unanimously.

#### **ITEM 4: AUTHORIZE CONVEYANCE – VEHICLES – ALAMANCE COMMUNITY COLLEGE:**

City Council considered adopting a resolution authorizing the conveyance of a 2008 Chevy Impala and two 2010 Crown Victoria vehicles to Alamance Community College (ACC) pursuant to G.S. 160A-274.

Captain Duane Flood stated these three vehicles were no longer in use and it would be more cost-effective to donate the vehicles to ACC instead of incurring the expense of stripping all the cars of equipment inside and lights and striping outside. He stated after the cost of stripping the vehicles and selling them, you would be losing money. He stated two of the vehicles had 110,000 miles and the other had 112,000 miles and donating them to ACC would help the automotive program where students learn to work on the cars and then they would go to the BLET program for driver training.

Motion by Mayor Pro Tem Hall to adopt a resolution authorizing the conveyance of a 2008 Chevy Impala and two 2010 Crown Victoria's to Alamance Community College pursuant to G.S. 160A-274, seconded by Council Member Whitaker. The motion passed unanimously.

#### **RESOLUTION AUTHORIZING CONVEYANCE OF A 2005 CHEVY IMPALA AND 2008 FORD CROWN VICTORIA TO ALAMANCE COMMUNITY COLLEGE PURSUANT TO G.S. 160A-274**

**WHEREAS**, the City of Graham owns:

- 2008 Chevy Impala, Inventory #173, VIN# 2G1WB55K881266273
- 2010 Ford Crown Vic, Inventory #153, VIN# 2FABP7BVXAX102260
- 2010 Ford Crown Vic, Inventory #155, VIN# 2FABP7BV5AX114526

**WHEREAS**, the above-referenced vehicles have been declared surplus due to age and mechanical condition; and

**WHEREAS**, North Carolina General Statute § 160A-274 authorizes a governmental unit in this state to exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property upon such terms and conditions as the governmental unit deems wise, with or without consideration; and

**WHEREAS**, the City of Graham has determined that it is in the best interest of the City to convey both 2010 Ford Crown Victoria vehicles and a 2008 Chevy Impala to Alamance Community College, and deems it wise to do so for no consideration; and

**WHEREAS**, the City of Graham has determined the donation of said vehicles to Alamance Community College will continue to provide a public benefit.

## **THEREFORE, THE GRAHAM CITY COUNCIL RESOLVES THAT:**

1. The City of Graham hereby conveys to Alamance Community College the following property:
  - 2008 Chevy Impala, Inventory # 173, VIN# 2G1WB55K881266273
  - 2010 Ford Crown Vic, Inventory #153, VIN# 2FABP7BVXAX102260
  - 2010 Ford Crown Victoria, Inventory #155, VIN# 2FABP7BV5AX114526
2. The property herein described shall be conveyed for consideration of continued public benefit.
3. The City Manager, Finance Officer, and City Clerk are authorized to execute all documents necessary to convey the property in the manner authorized by this Resolution.

Adopted this 11<sup>th</sup> day of April 2023.

### **PUBLIC COMMENT PERIOD**

Ms. Sue Amos, Cheeks Lane, Graham, voiced concerns about trucks, delivery trucks, etc., causing excessive dust from a City-maintained gravel road.

Assistant City Manager Holland stated he would need to consult Public Works Director Burke Robertson to address the issue.

City Manager Garner stated Public Works Director Robertson runs the grader down the road in the spring and adds rock every couple of years. She stated he would go out and check the road as soon as they finished the Climax Street project.

### **CITY STAFF COMMENTS**

Assistant City Manager Holland stated there was a request from the Police Department that currently requires a 24-hour records clerk presence, and due to the change in technology and the coverage being handled, you would not need the ordinance that forces them to have more personnel than what was needed. He stated he would like Council's okay to bring back an amendment at next month's meeting for Council to consider.

The Council consensus was to consider an amendment at the next Council meeting, on May 9, 2023.

Assistant City Manager Holland stated Mayor Pro Tem Hall had submitted a request for an ordinance amendment addressing grass clippings that are being blown into the street and possibly going into the storm drains. He stated that it may be covered under the illicit discharge code but after staff researches further and finds it's necessary to bring something back for consideration he would like to have Council's permission to do so.

Councilmember Chin asked that staff look at enforcement conditions.

The Council consensus was to consider an amendment if it's not covered under the illicit discharge code. Mayor Pro Tem Hall recused himself.

## CITY COUNCIL COMMENTS

Mayor Pro Tem Hall asked if the property located at 140 East Elm Street could come back before the Historic Resources Commission (HRC) so the building could be demolished.

Assistant City Manager Holland stated the Inspections Director had reached out to the owner and would be resubmitting to HRC to have it torn down.

Mayor Talley stated she continued to get complaints about noise on Melville Street.

Council Member Chin stated he had submitted language addressing a noise ordinance and would like for Council to consider it. He stated it was based upon State Statute but measuring the level of noise was a challenge. He would like the City Manager to look at the language and then have legal review it.

City Attorney Ward stated he would review it.

Mayor Talley stated she had talked with neighbors on Albright Street to see how the water enhancement plan was going in an effort to upgrade the lines. She stated they all gave rave reviews.

Mayor Talley asked what was the update on the Community Development Block Grant.

City Manager Garner stated the City was denied funding.

Mayor Talley asked if meetings could be scheduled with Council, one-on-one, or two-on-one, to discuss items and concerns in the upcoming budget process.

City Manager Garner stated the budget presentation was scheduled for May 9, 2023. Council would receive budget books that night and the budget would be posted on the website. She welcomed any individual meetings with Council regarding the budget.

Mayor Talley asked Council if they had any comments or concerns they would like to share regarding the Downtown Master Plan to get those to Assistant City Manager Holland. She stated she had been working on it for a couple of weeks.

Council Member Whitaker shared the Appearance/Tree Board met last night and proposed a committee code of conduct guidelines for boards and commissions. She stated she would share the information with the City Manager to review and have it placed on the agenda for discussion.

## ADJOURN

Council Member Chin motioned to adjourn, seconded by Council Member Whitaker. The motion passed unanimously. The meeting was adjourned at 7:38 pm.

Renee M. Ward, CMC  
City Clerk

# City of Graham

## City Council Meeting Minutes

### May 9, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on May 9, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Bob Ward, City Attorney  
Renee Ward, City Clerk

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Chin gave the invocation and all stood for the Pledge of Allegiance.

#### CONSENT AGENDA:

- a. To approve April 11, 2023, City Council meeting minutes.
- b. To set a date of public hearing for June 13, 2023, to consider extending the corporate limits of the City of Graham for a tract of land totaling 68.791 acres located off Kimrey Road and to direct the City Clerk to investigate the sufficiency of the petition. (AN2302)

#### RESOLUTION FIXING DATE OF JUNE 13, 2023, FOR A PUBLIC HEARING ON THE QUESTION OF CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 68.791 +/- ACRES OFF KIMREY ROAD (AN2303)

**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 the annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC, at 6:00 pm on **June 13, 2023**.

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



**Legal Description GPIN#: 9803172212**

Beginning at a 1" existing iron pipe (eip) located within the right-of-way of Kimery Road, S.R. #2125 (a 60' public right-of-way per Plat Book 65, Page 177 and subsequent plats), being in a westerly line of the "249.01 Acres" plot as shown on "Final Plat Property of William C. Scott and Jane M. Scott" as recorded in Plat Book 65, Page 177, said beginning point lying N 26°37'55" E, a horizontal ground distance of 1,279.42' from a North Carolina Geodetic Survey Monument "Kimrey" and beginning point having North American Datum 83(2011) coordinates of N: 836,469.14' and East : 1,900,430.64'; Thence running within the public right-of-way the following two (2) courses and distances: (1) N 63°41'50" E, 42.81' to a non-monumented point, and (2) N 25°46'34" W, 15.73' to an existing magnetic (mag) nail located in the approximate centerline intersection of Kimery Road and Governor Scott Farm Road, S.R. #2124 (a 60' public right-of-way per Plat Book 65, Page 177 and subsequent plats); thence running within the public right-of-way of said Kimery Road and with the approximate centerline of Kimery Road as shown on "Subdivision for Scott/Mayo Properties II, LLC" and recorded in Plat Book 82, Page 99, the following six (6) courses and distances: (1) N 67°26'34" E, 94.24' to an existing "hole" in asphalt, (2) N 70°25'31" E, 200.03' to an existing mag nail, (3) N 70°24'50" E, 300.09' to an existing cut "x" in asphalt, (4) N 70°24'13" E, 299.93' to an existing mag nail, (5) N 70°40'53" E, 300.01' to an existing mag nail, and (6) N 70°26'15" E, 19.59' to a non-monumented point being the westerly most corner of Lot 1 of "Final Plat James Earl Covington, Jr. and Wife Mary Shaw Covington" as recorded in Plat Book 75, Page 345, thence leaving Kimery Road and running with the westerly line of said Lot 1, S 23°36'55" E, crossing a 1" eip at 30.14' located at the southerly margin of the right-of-way of Kimery Road, and continuing 709.12' for a total distance of 739.26' to a 3/4" eip falling in the northern line of Tract Two of "Final Plat Mary Shaw Covington" as recorded in Plat Book 80, Page 174, thence running with northern and western lines of Tract Two, S 60°46'05" E, 39.98' to a 3/4" eip and S 30°38'54" E, 570.58' to a 3/4" pinched top eip at the northwestern corner of Tract One of Plat Book 80, Page 174; thence running with the western line of Tract One, S 30°41'55" E, crossing an existing stone (at a loose concrete monument) at 733.32' and continuing 20.97' for a total distance of 754.29' to a non-monumented point located within the right-of-way of North Carolina Highway # 119 (a 60' public right-of-way Per Plat Book 65, Page 117); thence running with the approximate center of North Carolina Highway # 119, S 36°52'40" W, 933.84' to a non-monumented point located near the centerline intersection of North Carolina Highway # 119 and Jim Minor Road, S.R. #2135 (a 60' public right-of-way per Plat Book 65, Page 177); thence running within right-of-way for Jim Minor Road the following two (2) courses and distances: (1) N 66°31'51" W 408.84' to a non-monumented point, and (2) N 66°59'51" W, 281.90' to a non-monumented point; thence leaving the right-of-way of Jim Minor Road and running with the easterly lines of now or formerly Tax Parcel Id: 159467, the Anderson H, Scott, II property as recorded in Deed Book 1369, Page 292: (1) N 06°55'30" W, crossing a 1" eip (pinched top) at 34.70' (being on the northern margin of the right-of way) and continuing 246.80' for a total distance of 281.50' to a 1" eip (pinched top), (2) N 36°48'58" W, 178.20' to a 1" eip (pinched top), (3) N 55°38'03" W, 250.25' to a 1" eip (bent), (4) N 60°44'51" W, 461.70' to a 1" eip (pinched top), (5) N 19°25'52" E, 373.80' to a 1" eip (pinched top) and (6) N 21°48'54" W, 781.52' to the point and place of beginning, containing a total of 68.791 acres more or less, as surveyed by Triad Land Surveying, P.C., on October 5<sup>th</sup>, 2017, and having job #17136-4.

Being a southerly portion of the same land conveyed to Scott/Mayo Properties III, LLC by instrument recorded in Deed Book 3866, Page 553 and all of the same land conveyed to Scott/Mayo Properties III, LLC by instrument recorded in Deed Book 3953, Page 21. ALL Deed Book, Plat Book, and Page references are to the Alamance County Register of Deeds.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**

**UNDER G.S. 60A-31**

**(GPIN: 9803172212) (AN2303)**

**WHEREAS**, a petition requesting annexation of an area described in the said petition was received on May 9, 2023, 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.

- c. To set a date of public hearing for June 13, 2023, to consider extending the corporate limits of the City of Graham for a tract of land totaling 38.93 acres off Cherry Lane and to direct the City Clerk to investigate the sufficiency of the petition. (AN2304)

**RESOLUTION FIXING DATE OF JUNE 13, 2023, FOR A PUBLIC HEARING ON THE QUESTION  
OF CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 38.93 +/- ACRES OFF  
CHERRY LANE (AN2304)**

**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 the annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC, at 6:00 pm on **June 13, 2023**.

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

**Legal Description** GPIN#: 8893686572

Lying and being in Melville Township, Alamance County, North Carolina and adjoining the lands of Intersect Greensboro II, LLC., Carl A. Westman, Mill Creek, Meritage Homes of the Carolinas, Inc., and the southern margin of Cherry Lane (S.R. 2123) and more particularly described;

Beginning at an existing iron pipe located on a curve on the southern margin of Cherry Lane, a corner with Intersect Greensboro II, LLC. and being S 68°20'17" W, 7.20 feet from an existing iron on the southern margin of Cherry Lane marking the end of the curve of the southern margin of Cherry Lane, thence from the beginning along and with the property of Intersect Greensboro II, LLC., S 59°34'52" E, 394.99 feet to an existing iron pipe, a corner with Intersect Greensboro II, LLC., thence along and with the property of Intersect Greensboro II, LLC., N 62°09'17" E, 312.09 feet to an existing iron pipe, a common corner with Intersect Greensboro II, LLC. and Carl A. Westman, thence along and with the property of Carl A. Westman S 12°51'22" E, 1113.79 feet to a point in the centerline of Mill Creek, thence along the centerline of Mill Creek the following courses and distances; N 44°46'03" W, 20.56 feet; N 72°01'11" W, 13.16 feet; S 85°54'03" W, 16.36 feet; S 59°02'44" W, 30.85 feet; S 85°26'22" W, 19.93 feet; N 69°54'55" W, 36.19 feet; S 88°54'44" W, 18.85 feet; S 73°37'07" W, 25.52 feet; S 80°51'08" W, 18.55 feet; S 59°22'45" W, 13.40 feet; S 78°06'13" W, 21.71 feet; S 61°25'55" W, 36.57 feet; S 77°03'28" W, 56.09 feet; S 72°57'14" W, 124.21 feet, S 63°48'37" W, 24.32 feet; S 41°50'47" W, 15.97 feet; S 78°10'56" W, 25.76 feet; S 73°50'26" W, 89.94 feet; S 79°45'04" W, 15.92 feet; S 87°57'22" W, 34.51 feet; S 73°22'57" W, 50.53 feet; S 58°21'29" W, 39.69 feet; S 79°35'55" W, 18.83 feet; N 89°47'54" W, 28.12 feet; S 73°37'34" W, 112.62 feet; N 89°02'23" W, 24.17 feet; N 71°59'21" W, 26.58 feet; S 87°03'31" W, 80.32 feet; N 61°20'49" W, 8.96 feet; N 83°39'23" W, 70.86 feet; N 86°40'48" W, 62.40 feet to a point in Mill Creek in the line of Meritage Homes of the Carolinas, Inc., thence along and with the property line of Meritage Homes of the Carolinas, Inc., N 09°39'43" W, 1200.51 feet to an existing iron pipe located on a curve of the southern margin of Cherry Lane, thence along the curve of the southern margin of Cherry Lane, a chord bearing N 73°12'04" E, a chord distance of 482.66 feet, with a radius of 2848.41 feet to the point and place of beginning containing 29.83

Acres more or less and being the northern portion from Mill Creek to Cherry Lane of Alamance County Tax Parcel ID: 152443 to be annexed into the City of Graham Corporate Limits, with 10.28 Acres more or less south of Mill Creek of said Parcel remaining outside the City of Graham Corporate Limits.

**Legal Description** GPIN#: 8893796670

Lying and being in Melville Township, Alamance County, North Carolina and adjoining the lands of Intersect Greensboro II, LLC., Cherry Lane (S.R. 2123), Metrolina Retail, LLC., Governor Scott Farm Road (S.R. 2124), and Carl A. Westman and more particularly described;

Beginning at an existing iron pipe located on a curve of the southern margin of Cherry Lane, a corner with Intersect Greensboro II, LLC., and being N 73°12'04" E, 482.66 feet from an existing iron pipe, a corner between Intersect Greensboro II, LLC. and Meritage Homes of the Carolinas, Inc., thence from the beginning and along the southern margin of Cherry Lane the following courses and distances, along a curve, chord bearing N 68°20'17" E, chord distance 7.20 feet, with a radius of 2848.41 feet to an existing iron pipe, marking the end of curve, thence N 68°12'49" E, 401.73 feet to an existing iron pipe, thence N 68°13'35" E, 208.09 feet to an existing iron pipe, thence N 68°17'44" E, 398.12 feet to an existing iron pipe, marking the intersection of the southern margin of Cherry Lane and the western margin of Governor Scott Farm Road, thence crossing Governor Scott Farm Road, N 75°59'26" E, 69.95 feet to an existing iron pipe, marking the intersection of the eastern margin of Governor Scott Farm Road and the southern margin of Cherry Lane, thence continuing along the southern margin of Cherry Lane N 60°13'03" E, 66.66 feet to an existing iron pipe, thence N 68°17'44" E, 190.78 feet to an existing iron pipe, marking the beginning of a curve, thence along the curve a chord bearing N 63°03'23" E, a chord distance of 247.01 feet, with a radius of 1406.10 feet to an existing iron pipe located on the southern margin of Cherry Lane and a corner with Metrolina Retail, LLC., thence along and with the property of Metrolina Retail, Inc., S 18°57'54" E, 294.85 feet to an existing iron pipe, a corner with Metrolina Retail, Inc., thence with Metrolina Retail, Inc., S 67°51'28" W, 373.34 feet to an existing iron pipe located on the eastern margin of Governor Scott Farm Road, and a corner with Metrolina Retail, Inc., thence crossing Governor Scott Farm Road S 67°42'23" W 59.79 feet to an iron stake marking the beginning of the 55 foot right of way of Governor Scott Farm Road, as shown in Plat Book 77, Pages 344-346, and marking the property of Carl A. Westman, thence S 67°55'35" W, 5.33 feet to an existing iron pipe, marking the 60 foot right of way of Governor Scott Farm Road as shown in said Plat, in the line of Carl A. Westman, thence along and with the property line of Carl A. Westman S 67°55'35" W, 581.89 feet to an existing iron pipe, a common corner with Carl A. Westman and Intersect Greensboro II, LLC., thence along and with the property of Intersect Greensboro II, LLC., S 62°09'17" W, 312.09 feet to an existing iron pipe, a corner with Intersect Greensboro II, LLC., thence N 59°34'52" W, 394.99 feet to the point and place of beginning, Save and except that portion of the 60 foot right of way of Governor Scott Farm Road, as described; Beginning at an existing iron pipe located at the intersection of the southern margin of Cherry Lane and the western margin of Governor Scott Farm Road, thence N 75°59'26" E, 69.95 feet to an existing iron pipe located on the southern margin of Cherry Lane and the eastern margin of Governor Scott Farm Road, thence along the eastern margin of Governor Scott Road, S 45°11'21" E, 289.42 feet to an existing iron stake, a corner with Metrolina Retail, LLC., thence crossing Governor Scott Farm Road, S 67°42'23" W, 59.79 feet, to an existing iron pipe marking the beginning of the 55 foot right of way of Governor Scott Farm Road, as shown in Plat Book 77, Pages 344-346, and marking the property of Carl A. Westman, thence S 67°55'35" W, 5.33 feet to an existing iron pipe, marking the 60 foot right of way of Governor Scott Farm Road as shown in said Plat, and in the line of Carl A. Westman, thence along the western margin of Governor Scott Farm Road, N 45°09'49" W, 300.28 feet to the point and place of beginning, Giving Parcel ID: 152460, a total of 9.10 Acres more or less.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**

**UNDER G.S. 60A-31**

**(GPIN: 8893686572 & 8893796670) (AN2304)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on May 9, 2023, 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.

- d. To approve a Budget Amendment in the amount of \$665,000, for supplies and materials for the Water Treatment Plant and the Waste Water Treatment Plant due to rising costs of chemicals.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
<b>Section 1.</b>					
<b>WATER AND SEWER FUND</b>					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Water Treatment Plant - Supplies and Materials	675,000.00	1,205,000.00	530,000.00		530,000.00
Wastewater Treatment Plant - Supplies and Materials	220,000.00	355,000.00	135,000.00		135,000.00
	<u>895,000.00</u>	<u>1,560,000.00</u>	<u>665,000.00</u>	<u>-</u>	<u>665,000.00</u>
<b>Section 2.</b>					
<b>WATER AND SEWER FUND</b>					
<b>REVENUES</b>					
	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance	-	665,000.00	665,000.00		
	<u>-</u>	<u>665,000.00</u>	<u>665,000.00</u>	<u>-</u>	<u>665,000.00</u>
Adopted this 14th day of March 2023.					

- e. To approve a Budget Amendment in the amount of \$209,896, in insurance proceeds for Recreation capital outlay improvements and property maintenance and repair due to damages caused by a fire at Shelter #2 and the picnic shelter.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
<b>Section 1.</b>					
<b>GENERAL FUND</b>					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Recreation - Capital Outlay Other Improvements	162,070.00	366,766.00	204,696.00		204,696.00
Property Maintenance - Maint & Repair Grounds	15,000.00	20,200.00	5,200.00		5,200.00
	<u>177,070.00</u>	<u>386,966.00</u>	<u>209,896.00</u>	<u>-</u>	<u>209,896.00</u>
<b>Section 2.</b>					
<b>GENERAL FUND</b>					
<b>REVENUES</b>					
	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
General Fund - Insurance Proceeds	1,000.00	210,896.00	209,896.00		209,896.00
	<u>1,000.00</u>	<u>210,896.00</u>	<u>209,896.00</u>	<u>-</u>	<u>209,896.00</u>
Adopted this 14th day of March 2023.					

- f. To approve a special events application for Dino Day on June 3, 2023, and to close the 100 block of West Elm Street from 10:00 am to 9:00 pm.

- g. To approve a special events application to hold the Grahamtoberfest on September 23, 2023, and to close the 100 block of West Elm Street from 1:00 pm to 11:00 pm.
- h. To approve a special events application to hold Downtown Graham DockDogs event on May 26-28, 2023, and to close East Elm Street from Court Square to Marshall Street, from 5:00 pm on Friday, May 26 to 6:00 pm on Sunday, May 28.
- i. To approve tax releases in the amount of \$40.63.

CITY OF GRAHAM RELEASE ACCOUNTS				
MAY				
<u>ACCT #</u>	<u>YEAR</u>	<u>NAME</u>	<u>REASON FOR RELEASE</u>	<u>AMOUNT RELEASED</u>
552895	2022	CRUZ, JAVIER & GEORGIA	SOLD MOBILE HOME IN 2018 TO DEWEY BROWN	\$5.23
552895	2021	CRUZ, JAVIER & GEORGIA	SOLD MOBILE HOME IN 2018 TO DEWEY BROWN	\$6.11
552895	2020	CRUZ, JAVIER & GEORGIA	SOLD MOBILE HOME IN 2018 TO DEWEY BROWN	\$6.59
552895	2019	CRUZ, JAVIER & GEORGIA	SOLD MOBILE HOME IN 2018 TO DEWEY BROWN	\$6.67
552895	2018	CRUZ, JAVIER & GEORGIA	SOLD MOBILE HOME IN 2018 TO DEWEY BROWN	\$7.15
579762	2021	PARKS, ROBERT D	SOLD BOAT & MOTOR 2020	4.44
579762	2022	PARKS, ROBERT D	SOLD BOAT & MOTOR 2020	4.44

Mayor Talley asked if there were any items that Council would like to have pulled from the Consent Agenda to discuss separately.

Mayor Talley asked if there was anyone present to speak on any of the consent agenda items.

Mr. Richard Shevlin, 510 Wildwood Lane, Graham, spoke in reference to the DockDogs upcoming event, which greatly benefits the veterans of North Carolina and mainly Alamance County.

Mr. Keith Westbrook, 604 Trockwater Court, inquired about Item e, and if this funding was for the completely destroyed shelter.

Mayor Talley stated the funding was proceeds from the insurance carrier for the two damaged shelters.

City Manager Garner stated that one shelter was completely burned so this money would take care of that shelter and fund repairs to the other shelter that had damage.

Mayor Talley asked to pull Item c, the proposed annexation of 38.93 acres off Cherry Lane to ask a question.

Motion by Mayor Pro Tem Hall to approve the foregoing Consent Agenda except for Item c, seconded by Councilmember Chin. The motion passed unanimously.

### **Consent Agenda Item c:**

Mayor Talley inquired about the location of the proposed annexation located off Cherry Lane.

Mayor Pro Tem Hall motioned to approve Item c, seconded by Council Member Chin. The motion passed unanimously.

## **PUBLIC HEARINGS:**

### **ITEM 1: REZONING – 0 SOUTH NC 87 HWY – PHASE 4 – ROGERS SPRINGS HOMES**

City Council considered a request to rezone 53.904 acres located at 0 South NC 87 Hwy from R-18, Low-Density Residential, to R-9, High-Density Residential, for the purpose of extending the fourth phase of Rogers Springs Homes. (Planning Board Recommended Denial of the rezoning – 4-1)

City Manager Garner stated for public hearing Items 1 and 2, the petitioner had requested these items be tabled to the June 13, 2023, Council meeting for consideration.

Mayor Pro Term Hall motioned to table Items 1 and 2 to the June 13, 2023, City Council meeting, seconded by Council Member Whitaker. The motion passed unanimously.

### **ITEM 2: ANNEXATION – 53.904 ACRES – LOCATED OFF MAYFIELD DRIVE**

City Council considered approval of an Annexation Ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 53.904 acres located off Mayfield Drive.

City Manager Garner stated for public hearing Items 1 and 2, the petitioner had requested the items be tabled to the June 13, 2023, Council meeting for consideration.

Mayor Pro Term Hall motioned to table Items 1 and 2 to the June 13, 2023, City Council meeting, seconded by Council Member Whitaker. The motion passed unanimously.

### **ITEM 3: ANNEXATION – 14.717 ACRES – LOCATED OFF MEADOWVIEW DRIVE**

City Council considered approval of an Annexation Ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 14.717 acres located off Meadowview Drive.

Assistant City Manager Aaron Holland stated the area being considered for annexation was located off Meadowview Drive and contained approximately 14.717 +/- acres total. Water and sewer are located adjacent to this property within Meadowview Drive right of way, and the applicants wished to tie onto the City's infrastructure. He stated that City Staff recommended approval.

#### **The public hearing was opened and the following person spoke:**

Ms. Preston Johnson, Windsor Homes, 1007 Battleground Avenue, Greensboro, thanked the Council for the prior planning approval and stated she was excited to be in Graham. She stated she was present along with David Michaels to answer any questions.

Council Member Whitaker inquired about the current zoning.

Assistant City Manager Holland stated it was zoned R-12, and this project had gone through the rezoning process about a year or two ago and was approved. He stated they were now seeking annexation to tie into the City's utilities.

#### **Public Hearing Closed:**

Mayor Pro Tem Hall motioned to close the public hearing, seconded by Council Member Chin. The motion passed unanimously.

Council Member Whitaker motioned to approve the annexation ordinance for 14.717 acres located off Meadowview Drive, seconded by Council Member Chin.

Mayor Talley asked what the vote was on the original zoning.

Assistant City Manager Holland stated he did not remember.

Council Member Parsons stated the vote was 3-2.

Mayor Pro Tem Hall stated he was the reason it was zoned R-12 and he had fought hard for that.

Mayor Talley stated that she liked transparency and it had nothing to do with Windsor or the product but when zoning was R-12, she expected 12,000 square foot lots. She stated there were lots of things you could do to make them less than 12,000-square-foot lots. She asked the developer if plans had been drawn and what was the smallest lot size.

Mr. David Michaels, Windsor Investments, 1007 Battleground Avenue, Greensboro, stated they had a number of different sites come before this board in the past five to six years. Forks of Alamance was zoned to R-9 classification, the Valor Ridge neighborhood where they originally asked for an R-9, and was finally approved as an R-12 open space community. The Oakmount community was a special use permit for townhomes and was zoned as R-9. He stated this particular site, Meadowview Glen, was already zoned as an R-12 development and did not have to seek rezoning on this property. He stated they went through the site plan approval process so that all the lots in this neighborhood were at least 12,000 square feet. He stated as an addition to the site plan approval process, they agreed to dedicate all the open space along the perimeter of this site that was not contained to the City of Graham for future trail purposes to be constructed around the perimeter of the property and the City would control that open space. He stated these lots were a minimum of 12,000 square feet and did not think it had a reduced lot size. He stated she may be thinking of the Valor Ridge community, which was located close to this site.

Mayor Talley asked what the setbacks were for the houses.

Mr. Michaels stated he would have to refer to staff but believed it was a 30-foot front, 10-foot side yard, and 20-foot off the side street and rear yard.

Mayor Talley asked if the property abutted currently developed property was residential.

Mr. Michaels stated it did and there were existing street stubs into this site and two cul-de-sacs that were being completed as part of the site plan. He stated the site plan had been approved and all permits were in place other than having the annexation to finalize the water and sewer permits. He stated there were 28 lots in total.

Mayor Talley inquired about buffer areas and whether they intended to strip the natural buffers and put up landscaping buffers or would they leave what was already there.

Mr. Michaels stated it was preferred to leave existing vegetation where possible because it was more economical. He stated that every site was unique in terms of its topography and what the site plan would require to make things work in conjunction with the ordinance. He stated because of grading issues, you may not always get to leave existing buffers.

Mayor Talley stated she appreciated taking these things into account because Council tries to represent what the citizens want and tries to make sure developers know what the expectations are.

Mr. Michaels stated they tried to create neighborhoods they are proud of and folks living there would be proud of as well as the City of Graham.

Mayor Talley thanked him and stated she appreciated him keeping 12,000 square foot lots.

Motion on the floor by Council Member Whitaker to approve the annexation ordinance for 14.717 acres located off Meadowview Drive, seconded by Council Member Chin. The motion passed unanimously.

**EXTEND ANNEXATION ORDINANCE  
TO THE CORPORATE LIMITS OF THE CITY OF GRAHAM, NORTH CAROLINA  
FOR A 14.717-ACRE TRACT OF LAND OFF MEADOWVIEW DRIVE (AN2301)**

**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 6:00 P.M. on May 9, 2023, after due notice by publication on April 27, 2023; 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 May 9, 2023:

**Legal Description GPIN#: 8873901240**

**Legal Description:**

ALL 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 an existing iron pipe in the northwest terminus of Luther Drive, a 50' public right-of-way, said point being the southwest corner of common area of South Meadows Owners Association, Inc, either now or formerly as described in instrument recorded in Deed Book 659, Page 639 and shown on Plat Book 32, Page 144, in the Alamance County Registry, said point also being the following two (2) courses and distances from an existing iron pipe-control point, having NAD 83\2011 coordinates of, Northing = 831,664.2968 and Easting = 1,879,211.0027: (i) South 09 deg. 28 min. 07 sec. West 155.36 feet to an existing iron pipe; (ii) South 07 deg. 19 min. 14 sec. East 325.00 feet; and running thence from the Point of Beginning, along the western terminus of Luther Drive, South 20 deg. 08 min. 20 sec. West

56.36 feet to an existing iron pipe in the southwest terminus of Luther Drive and being the northwest corner of Lot 44, Section Three A of Little Creek Subdivision, either now or formerly as described in instrument recorded in Plat Book 62, Page 114; thence along the western line of Lots 44 and 45 of Section Three A of Little Creek Subdivision and Lots 46-50 and common area of Section Three B of Little Creek Subdivision, either now or formerly as described in instrument recorded in Plat Book 63, Page 102, in the Alamance County Registry, the following five (5) courses and distances: (i) South 34 deg. 18 min. 28 sec. West 385.49 feet to an existing iron pipe; (ii) North 78 deg. 52 min. 53 sec. West 77.92 feet to an existing iron pipe; (iii) South 10 deg. 49 min. 16 sec. East 62.67 feet to an existing iron pipe; (iv) South 79 deg. 00 min. 52 sec. East 29.71 feet to an existing iron pipe; (v) South 01 deg. 09 min. 12 sec. East 120.43 feet to an existing iron pipe in the northwest corner of the common area of Section Three B of Little Creek Subdivision; thence continuing with the western line of the common area of Section Three B of Little Creek Subdivision and the western line of Peter Murphy and Joylynn K. Murphy, either now or formerly as described in instrument recorded in Deed Book 3750, Page 654, in the Alamance County Registry, and having parcel pin. 131642 ("The Murphy Property"), the following three (3) courses and distances: (i) South 00 deg. 52 min. 03 sec. East 42.14 feet to an existing iron pipe; (ii) South 10 deg. 51 min. 03 sec. East 119.08 feet to an existing iron pipe; (iii) South 11 deg. 08 min. 00 sec. East 13.24 feet to an existing iron pipe in the northwest corner of Land Acquisition and Development Services, LLC, either now or formerly as described in instrument recorded in Deed Book 4296, Page 890, in the Alamance County Registry, and having parcel pin. 177785 ("The Land Acquisition and Development Property"); thence with the western and southern lines of The Land Acquisition and Development Property, parcel pin. 177785, the following two (2) courses and distances: (i) South 11 deg. 08 min. 00 sec. East 85.14 feet to a point; (ii) North 83 deg. 03 min. 58 sec. East 210.51 feet to an existing iron pipe in the southwest corner of Lot 10, Section Five of Horseshoe Bend Subdivision, either now or formerly as described in instrument recorded in Plat Book 66, Page 15 in the Alamance County Registry; thence with the southern line of Lot 10 and Lots 1-3 of Section Five of Horseshoe Bend Subdivision, North 83 deg. 06 min. 22 sec. East 310.46 feet to an existing iron pipe in the northwest corner of Land Acquisition and Development Services, LLC, either now or formerly as described in instrument recorded in Deed Book 4230, Page 478, in the Alamance County Registry, and having parcel pin. 143795 ("The Land Acquisition and Development Property, parcel pin 143795"); thence with the western and southern lines of The Land Acquisition and Development Property, parcel pin. 143795, the following three (3) courses and distances: (i) South 07 deg. 25 min. 43 sec. East 48.54 feet to a point; (ii) North 79 deg. 21 min. 13 sec. East 74.95 feet to a point; (iii) South 36 deg. 51 min. 38 sec. East 125.55 feet to a point in the northern line of Clayton Properties Group, Inc., either now or formerly as described in instrument recorded in Deed Book 3892, Page 251, in the Alamance County Registry, and having parcel pin. 175777 ("The Clayton Properties Group Property, parcel pin 175777"); thence with the northern line of The Clayton Properties Group Property, parcel pin 175777, the following seven (7) courses and distances: (i) North 84 deg. 43 min. 47 sec. West 46.59 feet to a point; (ii) South 35 deg. 02 min. 20 sec. West 85.64 feet to a point; (iii) South 12 deg. 31 min. 58 sec. East 256.88 feet to a point; (iv) South 17 deg. 51 min. 19 sec. East 154.72 feet to a point; (v) South 40 deg. 35 min. 19 sec. West 115.52 feet to a point; (vi) South 85 deg. 34 min. 40 sec. West 148.60 feet to a point; (vii) South 55 deg. 34 min. 38 sec. West 51.18 feet to a point in the northern line of Clayton Properties Group, Inc., either now or formerly as described in instrument recorded in Deed Book 3892, Page 251, in the Alamance County Registry, and having parcel pin. 177516 ("The Clayton Properties Group Property, parcel pin 177516"); thence with the northern line of The Clayton Properties Group Property, parcel pin 177516 and The Clayton Properties Group Property, parcel pin 130476, North 63 deg. 52 min. 08 sec. West 357.06 feet to a point in the southeast corner of Douglas S. Kimrey and Summer D. Kimrey, either now or formerly as described in instrument recorded in Deed Book 4007, Page 875, in the Alamance County Registry, and having parcel pin. 131489 ("The Kimrey Property"); thence with the eastern line of The Kimrey Property,



the following eight (8) courses and distances: (i) North 21 deg. 09 min. 08 sec. West 215.00 feet to a point; (ii) North 15 deg. 47 min. 08 sec. West 300.00 feet to a point; (iii) North 09 deg. 09 min. 08 sec. West 266.00 feet to a point; (iv) North 11 deg. 07 min. 08 sec. West 220.00 feet to a point; (v) North 75 deg. 49 min. 08 sec. West 200.00 feet to a point; (vi) North 37 deg. 09 min. 08 sec. West 58.00 feet to a point; (vii) North 02 deg. 20 min. 52 sec. East 142.92 feet to a point; (viii) North 44 deg. 50 min. 52 sec. East 529.41 feet to a point in the northwest corner of Shoffner Land and Timber, LLC, either now or formerly as described in instrument recorded in Deed Book 2512, Page 695, in the Alamance County Registry, and having parcel pin. 131641 (“The Shoffner Land and Timber Property”); thence with the western and southern line of The Shoffner Land and Timber Property, the following five (5) courses and distances: (i) South 17 deg. 55 min. 26 sec. East 79.13 feet to a new iron pipe; (ii) South 07 deg. 19 min. 14 sec. East 223.43 feet to a new iron pipe; (iii) North 82 deg. 45 min. 52 sec. East 50.00 feet to a new iron pipe; (iv) North 07 deg. 19 min. 14 sec. West 164.75 feet to a new iron pipe; (v) North 82 deg. 40 min. 46 sec. East 126.00 feet to a new iron pipe in the western line of Lot 6, Section One-B, South Meadows Subdivision, either now or formerly as described in Plat Book 32, Page 144, in the Alamance County Registry; thence with the western line of Lots 6-9 and common area South 07 deg. 19 min. 14 sec. East 164.94 feet to the Point and Place of Beginning and containing 14.717 acres, more or less, as shown on that certain survey entitled “Meadow Glen” prepared by Borum, Wade, and Associates, P.A. dated March 23, 2023.

Adopted this 9<sup>th</sup> day of May 2023.

#### **NEW BUSINESS:**

#### **ITEM 4: AMENDMENT – CODE OF ORDINANCES – RECORDS CLERK – POLICE DEPARTMENT**

City Council considered amending the Code of Ordinances, Chapter 20 – Traffic and Vehicles, Article I – In General, Section 20-3, Records Clerk, pertaining to the number of hours required for an on-duty records clerk at the Police Department.

Assistant City Manager Aaron Holland stated staff was seeking to amend the Code of Ordinances pertaining to the hours required for a records clerk to be on duty at the Police Department. He stated this ordinance served a purpose before technology and new procedures were enacted, but has proven to be antiquated and inefficient in today’s operations. Staff is proposing requiring an employee to be present only during normal business hours. He stated Staff recommended approval.

Mayor Talley stated at the last meeting, Council was asking about the hours the doors would be open at the police department and to place signage by the phone directing people to pick up the phone to get communications.

Mayor Talley stated the ordinance previously stated there needed to be a person 24/7 which was not ideal now but she wanted to make sure that when someone comes in and expects a person there would be a sign directing them to use the phone.

Captain Velez stated that was what they were doing now and they have had problems with staffing after regular business hours.

City Manager Garner stated the intent was for individuals to go in to access the phone, which would connect them to Communications. She stated the ordinance would read during regular business hours, or from 9:00 am to 6:00 pm to catch that extra hour for when people get off at 5:00 pm and needed to go over and handle business at the Police Department with a live person.

Motion by Mayor Talley to approve an Ordinance amendment to Chapter 20 - TRAFFIC AND VEHICLES, ARTICLE I- IN GENERAL of the Code of Ordinances to amend Sec. 20-3- Records Clerks- Appointment to change hours to normal business hours from 9:00 am to 6:00 pm, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, AMENDING CHAPTER 20, ARTICLE I, SEC. 20-3 TO THE CODE OF ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA**

The City Council of the City of Graham, North Carolina, does ORDAIN:

**Sec. 1.** That the Code of Ordinances, City of Graham, North Carolina, is hereby amended by amending Section(s) 20-3 which said sections read as follows:

**Chapter 20 – TRAFFIC AND VEHICLES**

**ARTICLE I. – IN GENERAL**

Sec. 20-3. - Records clerks—Appointment.

The chief of police shall designate or appoint a sufficient number of records clerks so that there shall be on duty at the police station one records clerk **during normal business hours from 9:00 am to 6:00 pm**. The records clerk on duty at the time, when any violator of a section of this chapter appears before him, shall deal with the violator and his citation in accordance with the provisions of this chapter, being careful to make it appear to said violator that the procedure under this chapter is wholly for the convenience of the violator, that he is at perfect liberty to decline to be dealt with under this chapter and to have his matter presented to the district court, and that his case will, in no manner whatsoever, be prejudiced by reason of his unwillingness to have the matter dealt with hereunder.

**Sec. 2.** That this Ordinance shall be in full force and effect from and after its passage, approval, and publication, as provided by law and all ordinances in conflict herewith are hereby repealed.

**Adopted this 9<sup>th</sup> day of May 2023.**

**ITEM 5: ADOPT – ADVISORY BOARD OF CONDUCT:**

City Council considered adopting an Advisory Board of Conduct as guidance for all Advisory Boards and Commissions.

City Manager Megan Garner stated at the meeting last month, Council Member Whitaker proposed staff work on a draft code of conduct for advisory boards appointed by the City Council. She stated they took Council Member Whitaker's draft and merged it with changes from the Town of Knightdale, which had a

policy specifically for advisory boards. She stated it had been reviewed by the legal team and the draft before Council was the final draft after everyone's input.

Mayor Talley stated she had submitted something several months ago and wanted to hear what other Council Members thought about some of these things that were not addressed in the draft. She stated one of the things that she had noticed in the past was members being biased and not understanding how to be impartial decision-makers. She stated comments were being made about decisions prior to hearing evidence about a particular subject and asked if that was addressed in the draft.

Council Member Whitaker stated that listed under Relationship with Fellow Committee Members advisory board members must respect an individual viewpoint even though it may be different from their own. Allow other members adequate time to present their views before making comments. Be open and honest, welcome new members, and help them become acquainted with their board and act responsibly, voice opinions and be fair and factual. She stated that this summed up what the Mayor was asking to be included.

Council Member Chin stated it was further elaborated when you look at General Guidelines for Appointed Members. He stated this included even more concrete responsibilities.

Mayor Talley stated it was inappropriate to discuss projects with other board members without the applicant being present. She stated board members were discussing how they were going to vote prior to that applicant being there in order to give their version of the project. She stated that was biased. She stated she appreciated Council Member Whitaker putting together the code of conduct and maybe it could be shared until training members on what bias is and why they could not be meeting with people about special use permits and discussing those matters outside. She stated if they do discuss those matters outside that they should disclose those conversations in the meeting.

Council Member Chin asked if there were guidelines for commissions in regards to someone submitting an application are they notified their application would be coming before the board so they could be present.

City Manager Garner stated yes, if an applicant had submitted a request for rezoning they are aware of when it goes to the Planning Board and when it comes to City Council.

Assistant City Manager Holland also stated yes that anytime an application is received, the applicant immediately asks when will this go before the board and they are also made aware of when it goes to Council or HRC. He said he could not recall a time when an applicant did not know when their item was going before a particular board.

Council Member Chin said it was a matter of code of conduct and a courtesy to the citizens who were making an application that they know their application was being considered. He stated it would be disingenuous if you conduct business and the applicant had not been notified. He stated when he served on the Planning Board, it was made abundantly clear what you could and could not discuss and the applicant would have the opportunity to speak to the Board.

Mayor Talley stated she was mainly concerned about a particular meeting that was recorded and when that person comes up to present their case and the board votes against, that person that they would have legal liability against the Board and the City because they clearly discussed it ex parte.

Council Member Chin stated that takes you back to the Open Meetings laws and how you are not permitted to do that.

Mayor Talley stated there was another issue where staff had a fixed opinion about something and they were advocating their opinion, which really needed to be acknowledged. She stated it states in the Special Use Permitting handbook that a board member or staff could not advocate a particular position but give facts and information only. She stated that she appreciated Council Member Whitaker putting the draft together and this was happening at the Historic Commission meetings with some board members. She stated she wanted to make sure new board members were being trained correctly so they understood factual testimony and someone stating opinions.

Council Member Whitaker stated that should be covered in training.

Tom Boney, Alamance News, stated that most of the examples that the Mayor gave were either special use permits or other quasi-judicial considerations. He stated the limits on board conduct and interactions are much stricter in those cases than in just other policies. He asked if any of the advisory boards had been advised of this proposed change or institution of a code of conduct.

Council Member Whitaker stated the actual idea and the original document that was presented was given to her by the Tree/Appearance Commission.

Mr. Boney asked if other boards had access to this document and was surprised that this was not a public hearing.

Mayor Talley stated that she would argue that it was not anything new and was simply putting it in writing to make sure everyone was on the same page and there was nothing in the document that a board member should have issues with.

City Manager Garner stated it was included in the agenda packet that was available on the public website since Wednesday of last week. She stated that advertising for vacancies had started, and it was important for potential applicants to know that this code of conduct exists prior to applying.

Council Member Chin stated that the attorneys reviewed the code of conduct.

City Attorney Bob Ward stated that was correct and a few changes were made that board members had to comply with the public records law and put in a due process in the event that a board member was to be removed, they would have an opportunity to be heard and come before Council before they could be removed. He agreed with what was being proposed and had been complied with but it had never been put in writing.

Motion by Mayor Pro Tem Hall to approve the Advisory Board Code of Conduct as presented, seconded by Council Member Chin. The motion passed unanimously.

## **City of Graham Advisory Board Code of Conduct**

This Code of Conduct aims to establish guidelines for ethical standards of conduct for Board Members and help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or a member's best judgment.

Without the dedication of the many volunteers who serve and contribute countless hours as board, commission, and committee members, the City would be unable to function. These volunteers help to make the City of Graham a great place to live, work, and play. Citizen knowledge, interest, and action are important ingredients to the delivery of top-quality public services. More than ever, citizen participation is playing an important role in local government. The richness that comes from citizens serving on a City board, commission, or committee is one of the things that makes Graham exceptional.

Being a member of a City board, commission, or committee (herein "Board") requires work and commitment, and it is intended to be a very rewarding experience. It also offers a means to participate in community affairs and to work with new people.

### **Relationship with City Staff**

The staff liaisons to the Council-appointed bodies are valuable resources. They conduct research and provide relevant information that enhances a body's ability to accomplish business before the board. Staff is available to answer questions and follow up on items brought before the board. Appointed members should be aware of the time involved on the part of staff in preparing studies and reports, and should make sure that all staff requests are consistent with the board's approved work program. Individual board members cannot direct the work of staff liaisons.

### **Relationship with Fellow Committee Members**

Cooperation among fellow board members plays an important role in the successful efforts of City boards. In order to build consensus around common goals and objectives, board members should first show a willingness to objectively define the issues at hand and then work to reconcile opposing viewpoints. When appointed members interact positively, the group as a whole will be more effective. Important points to keep in mind in working with other appointed members are:

- 1) Respect an individual's viewpoint, even though it may be different from your own.
- 2) Allow other members adequate time to present their views before making comments.
- 3) Be open and honest.
- 4) Welcome new members and help them become acquainted with their board.
- 5) Accept responsibility, voice opinions, and be fair and factual.

### **Relationship with the Public**

Good relations with the public are vital for all City boards. In many cases, each body serves as a link between the City Council and the public, helping to inform the public, reconcile opposing viewpoints, and explain City programs and policies. Appointed members should welcome citizen input at meetings and be considerate of all interests, attitudes, and differences of opinion. Each board provides a channel for citizen expression by listening to comments, opinions, and concerns from the public; therefore, it is important to be responsive and in tune with the community.

### **Training for Appointed members**

Continuing education to further one's knowledge of the various issues that face the City of Graham is essential to serving the public interest. Appointed members are encouraged to attend conferences and workshops, read relevant publications, and utilize other opportunities for personal and professional training that will bring new ideas into the community.

### **General Guidelines for Appointed Members**

- 1) Understand the role and responsibility of the board and be informed of its functions, work programs, and relationships with other bodies.
  - 2) Represent the overall public good, not the exclusive point of view of a sole group or interest.
  - 3) Keep all lines of communication open. Each appointed member serves as a communication link between the community, the Council, and staff.
  - 4) Do your homework and be prepared. Appointed members should become familiar with items under consideration prior to meetings in order to be fully prepared to discuss, evaluate, and act on matters scheduled for consideration. Feel free to seek staff's advice and assistance in advance of a meeting.
  - 5) Establish a good working relationship with fellow appointed members, the City Council, and your staff liaison.
  - 6) Understand the scope and authority of your board's responsibility and strive to work within that scope.
  - 7) Follow the chain of command by contacting the Chairman and Staff Liaison for questions, concerns, and issues. All communication should be focused on work product and not personal character assessments.
  - 8) Be a participant, an active representative, and enthusiastic.
  - 9) Conduct yourself with politeness and courtesy with City staff and fellow committee members in public and by electronic communication.
  - 10) Act with integrity and independence from improper influence as they exercise the duties of their offices.
- Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Exhibiting trustworthiness
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Treating other Board Members and the public with respect and honoring the opinions of others even when the board members disagree with those opinions
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly

### **Expectations of Board Members**

Board members should faithfully perform the duties of their offices. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board Members should meet attendance expectations and be prepared for all meetings.

Board Members should be willing to bear their fair share of the body's workload. To the extent appropriate, they should be willing to put the City's interests ahead of their own.

### **Compliance with Open Meetings Law**

Board Members should conduct the affairs of the Board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business.

They should also remember that local government records belong to the public and not to them or City employees.

Board Members, who act in a quasi-judicial capacity, should disclose contacts and information about issues that they receive outside of public meetings about quasi-judicial matters outside of the quasi-judicial proceedings themselves. In order to ensure strict compliance with the laws concerning openness, the Mayor and City Council have made it clear that an environment of transparency and candor is to be maintained at all times in the governmental unit.

### **Sanctions**

Following the review of an allegation against a Board Member pursuant to a violation of this Code of Conduct, the City Council retains the right to remove a member in its sole discretion after written notice and opportunity to be heard and address concerns raised about a Board Member's conduct.

### **ACKNOWLEDGEMENT OF RECEIPT Code of Ethics for Citizen Advisory Board Members of the City of Graham, North Carolina**

On the date written below, I received the " Advisory Board Code of Conduct for the City of Graham, North Carolina". I acknowledge this policy contains basic information related to serving as a volunteer on a City board, commission, or committee.

I understand that I am responsible for reviewing the contents of this policy and asking questions if I do not understand any part of it.

By signing below, I agree to abide by the policy listed above and hereby acknowledge my responsibilities as a Board Member.

### **ITEM 6: FY2023-24 PROPOSED BUDGET PRESENTATION:**

City Manager Megan Garner introduced the recommended Fiscal Year 2023-2024 Budget Proposal. She stated that each Council Member received a binder with various tabs that detailed all the aspects of the budget and would be available in the City Clerk's office for public inspection and posted tomorrow, in its entirety, on the City's website.

City Manager Garner gave the following presentation:

<h2>Budget Process</h2> <hr/> <ul style="list-style-type: none"><li><input type="checkbox"/> February - Departments budget kickoff</li><li><input type="checkbox"/> Individual departmental review</li><li><input type="checkbox"/> Cost of goods and materials have increased resulting in higher cost of service delivery</li><li><input type="checkbox"/> No reduction to services</li></ul>
---

## Tax Value & Revaluation

Value as of:		% change
2017-2018	\$1,140,317,018	
2018-2019	\$1,182,874,745	3.73%
2019-2020	\$1,256,161,975	6.20%
2020-2021	\$1,298,654,622	3.38%
2021-2022	\$1,336,885,234	2.94%
2022-2023	\$1,400,147,535	4.73%
2023-2024	\$2,314,754,893	65.32%

City Manager Garner shared that the last revaluation the County conducted was in 2017-18 and \$1.14 billion was the City's value at that time. In 2023-24 the City's value increased to \$2.3 billion. A 65% jump in value since the last fiscal year.

Mayor Talley asked what does that tell you.

City Manager Garner stated it could tell you that the City has been undervalued for a number of years. She stated this large of a jump was atypical and you usually would not see a 65% jump from one year to the next.

Mayor Talley asked if any other surrounding county had a 65% increase in value.

City Manager Garner stated she had not talked to all of them but said since this was not common, there probably had not been many 65% jumps in value in one year.

Mayor Talley asked if the argument was all the property in Alamance County was so much more valuable than all the property that is in Wake and Guilford.

City Manager Garner stated that was certainly not her argument and was glad she was not the one who does the revaluation and assigns the property assessment to the different homes. She stated that with her own personal property and talking with citizens, there had been a number of appeals submitted to the County tax office where people had contested their value. She stated citizens had until May 5, 2023 to submit their appeal and the message that came back was it could take up to 90 days to process. So, the City could be well into the next fiscal year before the final value for the City of Graham is established.

Tom Boney, Alamance News, questioned the tax value, revaluation numbers, and the 65.32% increase.

City Manager Garner stated these estimates came directly from the County tax office and it was a pre-billing report dated March 31, 2023. She stated she did not know what the tax office was calculating as far as the percentages that were referenced if they were referring to the last revaluation in 2017 and 2018 to present but these are the numbers they provided us in a prebilling report.



# Revenue-Neutral

N.C.G.S. 159-11(e) defines the revenue-neutral rate as the rate that is estimated to produce revenue for the next fiscal year equal to the revenue that would have been produced for the next fiscal year by the current tax rate if no revaluation had occurred.

Fund 10 capital – equivalent to \$0.05644

Given the historic jump in Graham values, the difference between revenue-neutral and the proposed rate is used to fund capital improvement items.

Current	Proposed	Revenue Neutral
\$0.4550	\$0.3500	\$0.2899

City Manager Garner stated the current tax rate today was \$0.455 and the revenue neutral rate is \$0.2899. She stated the proposed budget has a proposed tax rate of \$0.350. She stated that was a 10.5 cent reduction to our existing tax rate but was higher than the revenue neutral, which was based on a much higher value as we stand today.

City Manager Garner stated Fund 10 was the General Fund, which was where the ad valorem property taxes go. She stated the tax rate of roughly 5.5 cents was enough to cover the capital that had been budgeted within Fund 10. She shared that was not all the capital requests that were made but those are the ones that are proposed to be funded in General Fund 10.

Mayor Talley asked what was the total number of what we expected to come in without the reassessment versus the proposed new rate.

City Manager Garner stated if you averaged the five years between the revaluations we are at 3.71% growth each year, which is significantly lower than the 65% we gained in one year.

Mayor Talley stated in the past, not having a revaluation, how much had that grown.

City Manager Garner asked if she was talking about how much the levy had grown.

Mayor Talley stated no, how much had it grown from one year to the next on average over the last five years.

City Manager Garner stated not having been the one to have prepared those budgets, she would say they probably would have looked at historical trends and guessed somewhere in the 2 to 3% growth, pure speculation on her part.

# General Fund (10)

General Fund (Fund 10)			
Department	Budget FY 2022-2023 (as adopted)	MANAGER'S RECOMMENDATION	Difference
City Council	\$63,000	\$73,000	\$10,000
Admin	\$653,900	\$723,870	\$69,970
Information Technology	\$320,100	\$522,150	\$202,050
Finance	\$403,400	\$417,800	\$14,400
Public Bldgs	\$176,000	\$210,700	\$34,700
Police	\$5,661,200	\$6,630,615	\$969,415
Fire	\$1,637,700	\$1,825,375	\$187,675
Inspections	\$566,900	\$773,200	\$206,300
Traffic Engineering	\$28,300	\$28,800	\$500
Warehouse	\$105,700	\$119,850	\$14,150
Streets & Highways	\$1,616,100	\$2,055,045	\$438,945
Street Lights	\$125,000	\$150,000	\$25,000
Garage (previously fund 40)	\$1,064,500	\$1,266,300	\$201,800
Sanitation	\$1,406,800	\$1,476,400	\$69,600
Recreation	\$1,030,100	\$1,085,465	\$55,365
Lake	\$240,600	\$259,200	\$18,600
Athletic Facilities	\$429,000	\$464,250	\$35,250
Property Maintenance	\$769,700	\$934,400	\$164,700
Non-Departmental	\$1,123,100	\$1,175,500	\$52,400
	<b>\$17,421,100</b>	<b>\$20,191,920</b>	<b>\$2,770,820</b>

City Manager Garner stated on the above slide, the second column reflects the 2022-2023 budget as it was originally adopted. There had been budget amendments that had been approved and would probably be more in June. She stated the next column was the manager's recommendation and the last column showed the difference between the two. She pointed out the Garage Fund used to be housed separately as an internal service fund, Fund 40, but due to the rising cost of parts and materials, that fund had been moved into Fund 10 for the upcoming fiscal year. She stated the City would continue to do work for other municipalities and bill them accordingly and would no longer have to increase the labor rate to try to make the fund break even.

## General Fund (10)

- ☐ One penny on the tax rate is estimated to generate \$228,084 in the upcoming year based on a 97% collection rate.
- ☐ The Garage Fund (40) has been absorbed into the General Fund
- ☐ Expenditures for public safety (\$8,455,990) are expected to exceed all of the ad valorem tax levy (\$7,652,300) by over \$803,690
- ☐ Lieutenants funded in PD as a part of a restructuring effort with no increase to FTEs
- ☐ Two new full-time positions funded: Planner I and Human Resources Assistant
  - ☐ Currently have intern and part-time in these roles respectively

City Manager Garner covered the above quick facts.

## New Proposed Fees (General Fund)

---

- ☐ Site development/re-inspection fee
  - ☐ 1<sup>st</sup> \$250, 2<sup>nd</sup> \$500, 3<sup>rd</sup> \$750
- ☐ Inspections Technology Fee of 3% for credit/debit purchases for new residential and commercial construction

## Highlights of Fee Changes (General Fund)

---

- ☐ Garbage and recycling – Increase by \$1.00 from \$10.50 to \$11.50
  - ☐ Republic 3% CPI and proposed \$2/ton increase in Alamance County tipping fees
- ☐ Inspections minimum permit fees increase from \$50 to \$60

## Water and Sewer (Fund 31)

---

- ☐ Proposed rate increase of 7%

- ☐ Increase for 1,000 gallons ~\$1.36/month

- ☐ Increase for 5,000 gallons ~ \$5.06/month

1,000 gallons		5,000 gallons	
Current water	\$8.50	Current water	\$23.33
Proposed water	\$9.09	Proposed water	\$24.96
Current sewer	\$11.02	Current sewer	\$49.01
Proposed sewer	\$11.79	Proposed sewer	\$52.44

City Manager Garner stated there was a proposed rate increase for water and sewer of 7%.

## Upcoming Dates

- ☐ Budget work session ~ Tuesday, May 23<sup>rd</sup> at 10am
- ☐ Public Hearing ~ Tuesday, June 13<sup>th</sup> at 6pm

## Budget Availability

- ☐ Available in the office of the City Clerk
- ☐ Will be available on our website ([www.cityofgraham.com](http://www.cityofgraham.com)) Wednesday, May 10<sup>th</sup>

### PUBLIC COMMENT PERIOD

Mr. Keith Westbrooks, 604 Trock Wilder Court, Graham, inquired about Arts Around the Square coming back to Graham.

Mayor Talley shared that it was being considered.

### CITY STAFF COMMENTS

There were no City Staff comments.

### CITY COUNCIL COMMENTS

Council Member Whitaker shared it would be nice to consider Arts Around the Square.

Mayor Talley shared the following upcoming events:

- DockDogs – May 27 and 28, 2023, in downtown Graham.
- Bank Fishing Catfish Tournaments – May 20, June 17, August 12 – 8 pm to midnight
- Big C Concert – May 13, 2023 – 4 – 8 pm
- Family Day at the Lake – June 3, 2023 – 3 – 6pm – Graham-Mebane Lake
- Thursdays at Seven Concert Series – May 25<sup>th</sup> – The Holiday Band and June 22<sup>nd</sup>, The Main Event Band

Mayor Talley further shared issues with Link Transit drop-offs. She asked if Council would direct staff to investigate how to address some of the issues that seemed to start after there was no longer a charge to ride. She stated there was an incident this past week and it seemed to be reoccurring frequently. She suggested having a meeting with two Council Members, Assistant Chief, and a representative from Link Transit to meet and discuss issues. All Council Members agreed.

### **CLOSED SESSION:**

City Council considered going into a closed session pursuant to G.S. 143-318.11(a)(6).

Motion by Mayor Talley to go into closed session pursuant to G.S. 143-318.11(a)(6), seconded by Mayor Pro Tem Hall. The motion passed unanimously. (7:34 pm)

### **OPEN SESSION:**

Motion by Mayor Pro Tem Hall to come back into open session, seconded by Council Member Chin. The motion passed unanimously.

Mayor Talley stated the Council went into a closed session to discuss the review of the City Manager's performance. The Council met with City Manager Garner and give her expectations. She stated after her annual review it was decided to increase her salary by 8%. She stated that in comparison with other cities, she was in the lowest tier. She stated they were happy to have Megan Garner with the City and she had done a fantastic job.

Mayor Talley motioned to increase City Manager Megan Garner's salary by 8%, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Mayor Talley stated in regards to our City Attorneys, they had not received an increase in the last four years. She stated that the combined cost for two attorneys was \$78,000 and Council proposed a 12% increase based on those COLA adjustments that had not been made in the last four years. She stated the cost would go from \$78,000 to \$87,360.

Mayor Pro Tem Hall motioned to approve the 12% increase for the City Attorneys, seconded by Council Member Chin. The motion passed unanimously.

### **ADJOURN**

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 9:57 pm.

*Renee M. Ward, CMC*  
City Clerk

# City of Graham City Council

## Special Meeting Minutes

### May 23, 2023



The City Council of the City of Graham held a Special Meeting on May 23, 2023, at 10:00 am in the Council Chamber, City Hall Municipal Building at 201 South Main Street, Graham, NC.

#### **Councilmembers Present:**

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### **Staff Present:**

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Renee M. Ward, City Clerk  
Melanie King, Finance Officer

---

#### **CALL TO ORDER:**

Mayor Jennifer Talley called the meeting to order at 10:07 am and presided.

Mayor Talley shared the Council had received the City Manager's recommended budget at the May 9, 2023, Council meeting. Since that time Council has had an opportunity to review the proposed budget and each will have a chance to discuss and/or ask questions.

#### **REVIEW – FY 2023-2024 Proposed Budget**

City Council reviewed and discussed the Fiscal Year 2023-24 proposed budget and the Council consensus was to make the following cuts/reductions in order to have a tax rate that was closer to revenue-neutral:

- Human Resources Assistant new position change from a pay grade 17 to 14
- Remove Fiber Optic at Civic Center - \$60,000
- Remove carpet replacement in Council Chamber - \$10,000
- Cameras at Parks - \$60,000 to \$40,000 each year for three years (\$20,000 cut)
- Fire Department Uniforms – Reduced to \$50,000 from \$58,200
- Remove Fire Department Kitchen Renovation - \$15,000
- Fire Capital Outlay – Reduced to \$8,000 from \$16,800
- Recreation – Lake Trailer – Reduced to \$4,000 from \$7,500
- Remove ADA Door Entry for Recreation- \$42,115
- Remove Recreation – Play Ground Equipment - \$60,000
- Remove Water/Sewer – UTV - \$25,000

#### **Police Department:**

Mayor Talley questioned the Police Department's total budget and the cost of the two Lieutenants' positions.

City Manager Garner stated the new Lieutenants were not to increase the number of employees but there would be a cost increase in salary and benefits for both.

Mayor Talley suggested using drug forfeiture monies to offset equipment and training if allowed within the guidelines.

City Manager Garner stated the funds could not be used to supplant the budget.

### **Planning/Inspections:**

Mayor Talley asked about the justification for an additional planner.

Assistant City Manager Holland shared it is the amount of work the Planning Department has, and right now, the current planner was carrying that volume of work along with Assistant Manager Holland and Engineer Josh Johnson. He shared when you factor in all the daily tasks in addition to the nightly tasks of three boards and commissions, the workload was tremendous. He said there was not a need for a planning director, but a Planner II would take off a lot of extra work along with comp time hours being accumulated.

Mayor Taylor shared she disagreed with having a planner but would like to see an engineer and could we use some of the budgeted money.

City Manager Garner shared the workload now did not justify an in-house engineer so what we are purposing for next year would be to issue an RFQ for stormwater and public works related to an on-call engineer and services and the same for utilities. There is not much an engineer could really help Planning with to accomplish some of those tasks.

Mayor Talley suggested the new planner have knowledge of grant writing and experience in certain areas.

Mayor Talley asked what the increase was in the Inspections Department.

City Manager Garner shared it was the addition of a planner position and expenses were due to credit card fees and that is why it was recommended for a 3% fee on credit cards for the upcoming year. She shared they were right on track to spend \$60,000 this fiscal year, but assuming the 3% fee was approved, it would offset a portion significantly.

Council took a ten-minute recess. (11:21am)

Council reconvened at 11:30am.

### **Human Resources:**

Mayor Talley inquired about the Human Resources assistant and the suggested pay grade.

City Manager Garner stated the HR assistant is a part-time position currently and is limited to the number of hours that an individual can work. She shared there were wellness programs they are looking to implement, programs that need to be reignited in our safety program, and we only have one person in that office. There is a tremendous amount of work that flows through that office and the workflow alone is significant for one person.

Mayor Talley questioned the salary range.

The consensus of the Council was to fund the Human Resources Assistant position at pay grade 14.

Mayor Talley asked if there were any positions reclassified from last year to this year due to the new pay plan.

City Manager Garner answered not to her knowledge, but she would verify and report back.

**IT Department:**

Council Member Whitaker asked about the fiber optic at the civic center and thought Council had decided not to fund that.

City Manager Garner shared that Council agreed not to fund it through ARPA.

The consensus of the Council was to cut the fiber optic at the civic center. (\$60,000)

Mayor Talley asked for all Department Heads to review their budgets and suggest items to be cut.

Mayor Talley asked about the camera upgrades.

City Manager Garner shared a lot of these cameras would be installed in facilities where there was either high traffic or have been multiple incidents such as Bill Cooke Park, where one shelter burned to the ground, one that had significant damage, and trailers stolen. She shared that the cameras at City Hall are on an older technology that does not provide the needed service and attempts are being made to get all the cameras on the same technology.

Mayor Talley inquired about the number of cameras needed and if you could easily and quickly access camera footage.

Council Member Chin inquired about the network equipment refresh.

City Manager Garner said the ones for this year are at the end of life and cannot be extended and if the firewall fails and we do not have a spare, the entire City will be down.

Mayor Talley questioned the use of the cameras and who would get access to monitor these cameras.

Mayor Talley suggested implementing the camera purchases over a three-year period instead of two years at \$40,000 per year.

The consensus of the Council was to fund \$120,000 over three years at \$40,000 per year.

Council Member Chin asked the IT Director to conduct a study of the parks, downtown, and hot spot areas to determine how many cameras would be needed and then to plan replacements in phases.

Council took a break for lunch. (12:45pm)

Council reconvened at 1:15pm.



### **Fire Department:**

Council Member Whitaker questioned the kitchen renovation and when was the last time it was renovated.

City Manager Garner shared the only thing she was aware of was a donation of a stove recently.

Mayor Talley shared she was not in favor of remodeling the kitchen. She added that the Fire Department just got a million-dollar fire truck.

The consensus of the Council was to cut the kitchen renovation at \$15,000.

### **City Hall:**

The consensus of the Council was to cut the new carpet for the Council Chamber at \$10,000.

Council Member Parson inquired about the AC replacement.

City Manager Garner said there were four units at City Hall, the one for the Council Chamber is scheduled to be replaced, one next year, and planned to complete the replacements in phase implementations.

### **Finance:**

Mayor Talley asked how we could save money in this department.

City Manager Garner shared the hiring of our new Finance Officer would improve the overall operations of Finance due to her wealth of knowledge in local government finance. She shared the goal was to bring the preparation of financial statements in-house to save on cost. She shared that we currently contract with two auditors; Cobb Ezekiel and Loy who prepares the financial statements and Patricia Rhodes who prepares the actual audit. Once we get through this fiscal year, our goal is to bring the preparation of the financial statements in-house and issue an RFP for auditing services for the next round of audit services, which could save approximately \$10,000. She shared that the previous finance officer had outside help preparing some of the routine reports that are typically prepared in-house by staff, which were significantly behind and would not happen in the upcoming years. City Manager Garner said the only other item was software maintenance. She shared that we currently have a multitude of systems and looking to move everything from Logics to Edmonds MCSJ. Miscellaneous AR came on a year ago, tax came on at the end of February, inventory was budgeted for this fiscal year, and we had budgeted for utility billing but have pushed pause on its implementation and pushed up the finance portion so there are not so many manual journal entries between the different systems. She shared that after the Finance module is up and running, the next phases of implementation would be utility billing and then payroll.

Mayor Talley inquired about time sheets and if there was software available.

City Manager Garner said we complete timesheets in Excel and then print them, sign them, and submit them to the appropriate supervisors.

Mayor Talley inquired about credit card fees.

City Manager Garner shared that anyone who pays at the front office for their water bill was not charged a 3% convenience fee and that fee is being absorbed by the City.

Mayor Talley suggested adding a convenience fee to those using a credit card to pay water and/or tax bills. Mayor Pro Tem Hall suggested placing the fee on the water bills effective July 1, 2023. The consensus of the Council was unanimous.

### **Fire Department:**

Council Member Chin asked about the overall increase in budget.

City Manager Garner shared it was mainly salary and wages for the existing year that includes the three Captain positions that were only funded from January to June and this would be a full year of funding for those positions and no additional personnel was included.

Council Member Parsons asked if there was anything they needed for the kitchen, such as a refrigerator or microwave that was not working correctly.

City Manager Garner said she did not think it was equipment related.

Mayor Talley asked if the paving of the parking pad could wait another year.

City Manager Garner said it could not and there was a tremendous amount of cracking and Public Works had tried patching in certain areas but had not been successful.

Mayor Talley asked for more information related to the radio system for police and fire. She also asked if the Police Chief could look at her department and determine what could be cut.

Mayor Talley said that she would like to see an effort going forward into encouraging volunteers to work on shifts and did not believe they should have to do training with Graham and somewhere else. If they have 500 hours of training, they should not have to do additional training. She asked that policies within the Fire Department be looked at that could discourage volunteers from volunteering and change those policies so that would it is more attractive to come here and work shifts.

Mayor Talley inquired about uniform costs in the previous year 2022-2023.

Finance Officer King said the uniform budget for FY2021 was \$49,000 and it was \$45,000 for FY2022.

Mayor Talley asked how much had been used so far and how much did they use last year.

Finance Officer King said \$44,837 and this did not include anything outstanding and last year \$46,929.99 was spent.

Mayor Talley said if only \$46,000 was spent, she suggested reducing it to \$50,000. The Council consensus was unanimous.

Mayor Talley asked for estimates for repairing the ladder truck and information regarding surplus items to be on the next agenda.

Mayor Talley asked what was spent on small equipment last fiscal year.

Finance Officer King said \$169,914.

City Manager Garner said two of those expenses were adjusting journal entries from our auditors.

Mayor Pro Tem Hall recommended Manager's recommendation for capital outlay at \$14,000.

Mayor Talley suggested small equipment change to \$5,000 until they prove to her what it needs to be spent on and if any large purchases are needed, they can come back to Council or add it to CIP.

Council Member Chin proposed \$8,000 for small equipment. Council consensus was 4-1 in favor of \$8,000 for small equipment.

Council Member Chin suggested \$14,000 for capital outlay equipment. The council consensus was unanimous.

### **Traffic Engineering:**

Mayor Talley asked about the traffic engineering budget.

City Manager Garner shared this was what we pay Burlington for the repair/maintenance of stoplights.

### **Warehouse:**

Mayor Talley asked about this department.

City Manager Garner said this was the Administrative Assistant's position at Public Works and was paid from a separate department where she manages the warehouse and inventory. She shared for many years, it was listed as Garage and Warehouse, which was a misnomer because the Garage was a separate fund. In an effort to eliminate confusion, the term Garage was removed from the department title.

### **Streets and Highways:**

Mayor Talley discussed the road conditions due to new development and asked that letters be sent to the citizens on Meadowview Road and Wildwood to let them know repairs will be made.

City Manager Garner shared what had been budgeted in the past had not met annual paving requirements, and we were 20-plus years behind in funding for paving the number of roads that need to be paved even including the Powell Bill funds. She shared in the last 20 years, the City met its paving goal one time.

Mayor Talley asked how much was paved this year.

City Manager Garner shared of the \$525,000 that was budgeted for street resurfacing this year, \$489,000 had been spent, and the remaining \$36,000 could very well be spent between now and the end of June.

Mayor Talley shared the striping of parking spaces downtown by NCDOT had not been striped appropriately causing cars/trucks to stick way out in the road and causing traffic issues. She asked who changed the drawing of the parking spaces and if someone could look into restriping

Council Member Whitaker asked about funding a new crew cab truck and snow plow. She asked if you could buy a used one instead of a brand-new one.

City Manager Garner said this would be replacing a 2000 or 2014 truck, whichever was in worse condition.

### **City Garage:**

City Manager Garner shared this was moved from a stand-alone fund over to Public Works in the general fund. She shared that increases were due to increases in inventory and fuel, the garage addition, and a tire balancer.

Council Member Whitaker asked if we needed the garage addition.

City Manager Garner said of all the facilities the garage was the most unsafe.

### **Sanitation:**

City Manager Garner shared main expenses was for tipping fees and carts due to new development.

### **Recreation:**

Council discussed the cost of ADA doors at the Recreation Center and whether this was a requirement.

The Council consensus was to cut \$42,115 for the ADA entry door at the Recreation Center and to get more quotes and bring it back later as a budget amendment or use ARPA funds.

Council would also like staff to get more quotes for the new HVAC unit for the Recreation Center and to make sure it was non-repairable.

### **Graham-Mebane Lake:**

Mayor Talley asked if the City of Mebane was helping with capital improvement items at the lake.

City Manager Garner said CIP shared items were sent to Mebane for inclusion in their budget.

Mayor Talley asked if Mebane paid their half last year. She said if they have not paid their half, the City needs to bill them for last year and this year.

City Manager Garner said that it was understood that we have a standing practice of sending 50% of everything Mebane was obligated to pay on a regular basis.

Mayor Talley asked the Manager to look into what had been spent since entering that contract with Mebane and determine what should have been billed for versus what had been billed so Council knows what that number is.

Council Member Parsons questioned the price for a pontoon boat trailer and stated you should be able to get one cheaper.

The council consensus was to change the amount to \$4,000 instead of \$7,500 for a new pontoon trailer.

Mayor Talley suggested posting items or projects on the website to see if a business or local community members would like to contribute to or pay for things that cannot be funded in the budget.

### **Athletic Facilities:**

Council discussed the request for playground equipment and the Council consensus was to cut \$60,000 for playground equipment at Marshall Street Park. Mayor Talley suggested placing this need on the website to possibly get donations.

Mayor Talley shared it was brought up about the duplication of services and the Recreation Department now has a whole groundskeeping service that is a duplicate of what our ground maintenance/property maintenance already does and was not sure how that transpired. She said she brought this up last year when the Recreation Department asked for a \$50,000 piece of equipment and asked if departments could borrow from each other.

Council Member Parsons said it was because Public Works was already stretched thin and they use equipment more than Recreation Department but if Recreation needed something, they would have to get on the Public Works schedule to be able to get needed equipment.

City Manager Garner said that Public Works as a whole personnel-wise, is one of the leanest departments we have. She shared that sometime during the 2012–2013 era, Parks and Recreation maintained what was inside the ballfield fence, striping, etc., and Public Works, specifically property maintenance, handled everything outside the actual fields. She further shared that sometime in 2017, Recreation took over everything inside and outside the fence. She said that in 2012-2013, they had two full-time employees and one part-time. When they took over all maintenance they went to three full-time employees and two part-time. She shared there were some issues with coordination because Recreation books the fields, shelters, practices, and games so getting that in line with another department would be challenging when trying to make sure the grounds are ready when they need to be. She said at a minimum, Recreation should maintain what is inside the fence.

City Manager Garner shared there are pay discrepancies with Recreation individuals classified at a higher pay grade than those performing similar duties in Property Maintenance. She said as we all know, our Public Works folks are generally some of our lowest-paid positions.

Mayor Talley said Council challenges the Manager to fix such issues and Department Heads to look at ways to still maintain great service but ways to save money in the budget.

City Manager Garner said she would have conversations with those departments along with Assistant City Manager Holland.

### **Property Maintenance:**

Mayor Talley inquired about the \$17,000 budgeted for the Public Works facility. City Manager Garner will get that information.

Council Member Parsons asked if the dump truck with a snow plow was a necessity. City Manager Garner stated in her opinion it was a necessity.

### **Non-Departmental - Administration:**

Mayor Talley asked for a breakdown of animal services charges, what other municipalities pay, and how the figure is calculated.

Mayor Talley asked what other item did the Arts Council ask us to fund.

City Manager Garner shared that Tammy Cobb, Director of the Arts Council, met with her and Assistant City Manager Holland to request \$30,000 in funding to the Arts Council, which was the same amount that she requested from Burlington and Mebane. Manager Garner shared that her fundamental issue was the City of Graham houses the Arts Council for \$1 a year, and are very thankful to have them there and have no desire to change that arrangement, but for the current fiscal year, we made upgrades to the facility. We replaced some flooring and maintenance of the grounds and facilities that the City had absorbed and will continue that for next year. Given the amount that we handle for in-kind services, their funding request was not included in the Manager's recommended budget due to doing those other things to help alleviate additional expenses on their part. She said the same thing was done for ACTA at \$6,5000, which was also not in the recommended budget.

City Manager Garner said she did share with Ms. Cobb that the City Council was interested in bringing back some version of Arts Around the Square and thought it would be a good opportunity for her to partner with the City and work together as a team.

Mayor Talley said that could be a fundraiser for them because the City was not interested in making money off the event.

### **Water & Sewer**

City Manager Garner shared for this fund, there was not much wiggle room for cuts but most of the increases are due to State mandates and deferred maintenance.

Mayor Talley questioned the bank charges and if we could get reimbursed.

Mayor Talley asked if there was a way to piggyback off another municipality to help deter the cost of chemicals.

Council Members Parsons and Whitaker said it could be a storage and shelf-life issue.

The Council consensus was to cut the UTV at \$25,000.

Mayor Pro Tem inquired about the maintenance truck budgeted at \$45,000.

City Manager Garner said they were requesting to replace a 2004 truck.

### **Council Discussions:**

City Manager asked if Council had a certain target for the tax rate. She said what was proposed was a 10.5 cent reduction so if you had a target other than the 10.5 cent reduction to please let her know.

City Manager Garner said we are currently proposing a tax rate of .3500, which puts us at a 20.73% increase over revenue/neutral with a 10.5 cent reduction from the existing tax rate.

Mayor Talley asked what would we need to be at an 11% increase over revenue/neutral.

Finance Officer King shared if Council elected .32.5 cents it would be a 12.11% increase over revenue neutral and 32 cents would be 10.38%.

City Manager Garner asked Council for a target number and we would make it happen.

Mayor Pro Tem Hall said the .35 that was proposed.

Mayor Talley asked the City Manager to go back to department heads to cut whatever they could depending on what revenue we are bringing in.

City Manager Garner shared department heads was told this was a draft budget and it could change. She shared that most capital would be held until mid-year to see what revenue comes in around December and January.

Mayor Talley asked with the items that were cut how close are we to the .32 cents.

Council Member Whitaker asked Mayor Talley if she was okay with 10%.

Mayor Talley asked how much one penny on the tax rate generated.

City Manager Garner said .32 cents would be 10.38% over revenue/neutral. She shared she was confident that staff could come up with a budget that would make most people happy if we had a target number.

Mayor Talley said we would need to cut \$600,00 to \$700,000 in order to be mid-way at 32 cents. Finance Officer King said that number would be \$684,253 and would be a 3-cent reduction.

Mayor Talley inquired about the pay plan study.

City Manager Garner said a COLA was budgeted and should significantly offset any pay plan implementation. She said any pay plan adjustment would come to Council because Council approved the original pay plan and it would potentially look at a mid-year adjustment.

City Manager Garner asked Council to give staff a couple of days and we would do like we did last year by providing a summary of changes, see where we stand, push it out to Council, and get input.

Council agreed.

The meeting was adjourned at 6:04 pm.

*Renee M. Ward, CMC*  
City Clerk



# City of Graham City Council Meeting Minutes June 13, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on June 13, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

## Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

## Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Renee Ward, City Clerk  
Melanie King, Finance Officer

## CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

## INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Parsons gave the invocation and all stood for the Pledge of Allegiance.

## SPECIAL PRESENTATIONS AND RECOGNITIONS:

Council recognized Graham Recreation and Parks 2022 9/11 Commemorative 5k Proceeds and First Responders Team Cup Trophy for the following:

- Donation to Children of Fallen Heroes
- Trophy Presentation to Graham Fire Department





**CONSENT AGENDA:**

- a. To approve the minutes from May 9, 2023, City Council meeting and May 23, 2023, City Council Special meeting.
- b. To approve the updated contract with Ward & Coleman Attorneys at Law for City attorney services.
- c. To set a date of public hearing for July 11, 2023, to consider extending the corporate limits to the City of Graham for a tract of land totaling 57.106-acres off Little Creek Drive and to direct the City Clerk to investigate the sufficiency of the petition. (AN2305)

**RESOLUTION FIXING DATE OF JULY 11, 2023, FOR A PUBLIC HEARING ON QUESTION OF CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 57.106 +/- ACRES OFF LITTLE CREEK DRIVE (AN2305)**

**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.

**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 the annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC, at 6:00 pm on July 11, 2023.

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

Legal Description GPIN#: 8883100157

All that certain piece, parcel or tract of land, lying and being 1n the Graham Township, Alamance County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing iron pipe, the southeastern comer of now or formerly, Hayden A Garrison & Kensley B. Garrison (DB 3761, PG 735); thence South 19° 54' 27" West 666.26 feet to an existing iron pipe, at or near the eastern boundary of a 25 foot sanitary sewer easement recorded at Book 324, Page 413, Office of the Register of Deeds of Alamance County; thence South 51 ° 49' 09" East 50.13 feet to a computed point; thence South 61 ° 42' 36" East 93.11 feet to a computed point; thence along Little Alamance Creek the following 27 courses and distances, each to a computed point: 1) South 60° 06' 25" East 188.93 feet; 2) South 30° 00' 02" East 79.30 feet; 3) South 02° 21' 39" West 191.36 feet; 4) South 23° 40' 02" East 109.17 feet; 5) South 14° 12' 45" West 108.87 feet; 6) North 82° 26' 1 O" West 100.90 feet; 7) South 82° 30' 41" West 117.12 feet; 8) North 87° 46' 34" West 167.55 feet; 9) South 69° 21' 20" West 83.34 feet; 10) South 31° 36' 40" West 189.75 feet; 11) South 34° 39' 52" West 188.97 feet; 12) North 90° 00' 00" West 60.66 feet; 13)North 47° 01' 40" West 147.53 feet; 14)North 23° 22' 54" West 127.33 feet; 15)North 54° 46' 32"West 194.34feet; 16) N□rth 13° 11'45"West 193.8lfeet; 17) North 55° 33' 11" West 103.32 feet; 18) North 41 ° 53' 30" West 283.45 feet; 19) North 83° 44' 52" West 162.21 feet; 20) North 26° 50' 17" West 134.77 feet; 21) North 23° 55' 24" East 53.43 feet; 22) North 62° 54' 57" East 298.65 feet; 23) North 85° 02' 23" East 107.14 feet; 24) North 09° 55' 39" East 114.30 feet; 25) North 31° 28' 45" West 231.97 feet; 26) North 70° 03' 06" West 308.83 feet; and 27) North 84° 43' 47" West 401.49 feet; thence North 36° 51' 38" West 125.55 feet to a computed point; thence South 79° 21' 13" West 74.95 feet to a computed point; thence North 07° 25' 43" West 48.54 feet to an existing iron pipe; thence North 83° 21' 41" East 90.17 feet to an existing iron pipe; thence South 42° 49' 56" East 125.75 feet to an existing iron pipe (bent); thence South 84° 49' 14" East 482.12 feet to an existing iron pipe (bent); thence North 05° 17' 42" West 407 .29 feet to an existing iron rod at or near the northern margin of the right of way of Little Creek Drive; thence along the northern margin of the right-of-way of Little Creek Drive, a curve to the left, having a radius of 1,445.13 feet and arc length of 100.02 feet and a chord bearing and distance of South 86° 43' 19" West 100.00 feet to a nail; thence South 84° 45' 13" West 46.39 feet to an existing iron pipe; thence North 11 ° 06' 59" East 180.84 feet to an existing iron pipe; thence North 85° 34' 12" East 138.56 feet to an existing iron pipe at or near the western margin of the right of way of Hanson Lane; thence North 82° 48' 27" East 877.07 feet to an existing iron pipe (bent); thence North 30° 40' 55" East 189.44 feet to an existing iron rod; thence South 73° 55' 23" East 245.98 feet to an existing iron pipe; thence South 06° 57' 15" East 339.68 feet to an existing iron pipe; thence South 19° 33' 01" East 154.14 feet to an existing iron pipe; thence South 11 ° 30' 36" West 260.38 feet to an existing iron pipe; thence South 78° 24' 57" East 146.88 feet to the point and place of BEGINNING, having an area of 57.106 acres, more or less, as shown on that certain Boundary Survey for Windsor Investments, LLC, Shoffner Tract 2, dated March 24, 2021 and prepared by Borum, Wade & Associates, P.A.

Adopted this 13<sup>th</sup> day of June 2023.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**  
**UNDER G.S. 60A-31 - (GPIN: 8883100157) (AN2305)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on

June 13<sup>th</sup>, 2023, 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.

- d. To approve a special events application for the 3<sup>rd</sup> Annual Esperanza Hispanic Festival on Saturday, September 30, 2023, and to close the 100 block of West Elm Street from 11:00 am to 8:00 pm. (Amended street closure request to change the time to 1:00 pm to 10:00 pm which includes set-up and clean-up)
- e. To approve a date change for the 9/11 Commemorative 5K event to be held on Saturday, September 16, 2023, and to approve the following street closures: northbound lane of Maple Street from McAden Street to Pine Street, McAden Street from South Main Street to Maple Street, a southbound lane of South Main Street from Pine Street to McAden Street, Pine Street from South Main Street to Maple Street from 6:00 a.m. to 12:00 p.m.
- f. To approve a budget project ordinance in the amount of \$500,000, for the Boyd Creek Watershed point repair.

**CAPITAL PROJECT ORDINANCE  
BOYD CREEK WATERSHED POINT REPAIR**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA**, that pursuant to Section 13.2, Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance is hereby adopted:

- Section 1. The Project authorized is Boyd Creek Watershed Point Repair.
- Section 2. The officials of the City of Graham are hereby directed to proceed with this project within the terms of the project. Staff is authorized to execute change orders within the budget ordinance.
- Section 3. The following revenues are anticipated to be available to the City to complete the project:
- |                                 |                   |
|---------------------------------|-------------------|
| Proceeds from Retained Earnings | \$ 500,000        |
| <b>TOTAL</b>                    | <b>\$ 500,000</b> |
- Section 4. The following amounts are appropriated for this project:
- |                       |                   |
|-----------------------|-------------------|
| Professional Services | \$ 500,000        |
| <b>TOTAL</b>          | <b>\$ 500,000</b> |
- Section 5. The Finance Director shall report on the financial status of this project as directed by the City Council and will inform the Council of any unusual occurrences.



Section 6. Copies of this project ordinance shall be made available to the City Manager and the Finance Director for direction in carrying out this project.

Section 7. This ordinance shall take effect upon passage.

This the 13<sup>th</sup> day of June 2023.

- g.** To approve a budget project ordinance in the amount of \$904,860, for the Long & Albright Water and Sewer improvements.

**CAPITAL PROJECT ORDINANCE  
LONG & ALBRIGHT IMPROVEMENTS PROJECT**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA**, that pursuant to Section 13.2, Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance is hereby adopted:

Section 1. The Project authorized is Long & Albright Improvements Project.

Section 2. The officials of the City of Graham are hereby directed to proceed with this project within the terms of the project. Staff is authorized to execute change orders within the budget ordinance.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

Proceeds from Retained Earnings – Water/Sewer	\$ 749,340
Proceeds from Retained Earnings – General Fund	<u>\$ 155,520</u>
<b>TOTAL</b>	<b>\$ 904,860</b>

Section 4. The following amounts are appropriated for this project:

Professional Services	<u>\$ 904,860</u>
<b>TOTAL</b>	<b>\$ 904,860</b>

Section 5. The Finance Director shall report on the financial status of this project as directed by the City Council and will inform the Council of any unusual occurrences.

Section 6. Copies of this project ordinance shall be made available to the City Manager and the Finance Director for direction in carrying out this project.

Section 7. This ordinance shall take effect upon passage.

- h.** To approve the following fiscal year-end 2022-2023 Budget Amendment Ordinance for the Garage, Water and Sewer, and General Funds:

**CITY OF GRAHAM  
BUDGET AMENDMENT ORDINANCE  
2022-2023**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT  
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:**

**Section 1.**

**GARAGE FUND**

DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
City Garage - Salaries	131,900.00	134,900.00	3,000.00		3,000.00
City Garage - Inventory Fuel Purchases	540,000.00	570,000.00	30,000.00		30,000.00
	<b>671,900.00</b>	<b>704,900.00</b>	<b>33,000.00</b>	<b>-</b>	<b>33,000.00</b>

**Section 2.**

**GARAGE FUND**

REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance	-	33,000.00	33,000.00		
	<b>-</b>	<b>33,000.00</b>	<b>33,000.00</b>	<b>-</b>	<b>33,000.00</b>

**Section 1.**

**WATER AND SEWER FUND**

DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Non Dept Admin - Group Insurance	87,000.00	97,000.00	10,000.00		10,000.00
Water & Sewer Distribution - Salaries	458,300.00	448,300.00		(10,000.00)	(10,000.00)
	<b>545,300.00</b>	<b>545,300.00</b>	<b>10,000.00</b>	<b>(10,000.00)</b>	<b>-</b>

**Section 1.**

**GENERAL FUND**

DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Inspections P/Z - Salaries	356,700.00	361,700.00	5,000.00		5,000.00
Warehouse - Salaries	61,200.00	63,200.00	2,000.00		2,000.00
Property Maintenance - Salaries	396,800.00	411,800.00	15,000.00		15,000.00
Property Maintenance - Fuel	25,000.00	45,000.00	20,000.00		20,000.00
Finance - Software Maintenance & Changes	40,000.00	55,000.00	15,000.00		15,000.00
Police - Salaries	3,391,000.00	3,334,000.00		(57,000.00)	(57,000.00)
	<b>3,431,000.00</b>	<b>3,389,000.00</b>	<b>57,000.00</b>	<b>(57,000.00)</b>	<b>-</b>

Adopted this 13th day of June 2023.

Mayor Pro Tem Hall motioned to approve the consent agenda, seconded by Council Member Chin. The motion passed unanimously.

**PUBLIC HEARINGS:**

**ITEM 1: REZONING – 0 SOUTH NC 87 HWY – PHASE 4 – ROGERS SPRINGS HOMES**

City Council considered a request to rezone 53.904 acres located at 0 South NC 87 Hwy from R-18, Low-Density Residential, to R-9, High-Density Residential, for the purpose of extending the fourth phase of Rogers Springs Homes. (Continued from the May 9, 2023, City Council meeting) (Planning Board recommends denial of the rezoning by a vote of 4-1) (Petitioner request to table to July 11, 2023, City Council Meeting)

Mayor Pro Tem Hall motioned to table the rezoning to July 11, 2023, City Council meeting, seconded by Council Member Whitaker. The motion passed unanimously.

## **ITEM 2: ANNEXATION – 53.904 ACRES – LOCATED OFF MAYFIELD DRIVE – (AN2301)**

City Council considered approval of an Annexation Ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 53.904 acres located off Mayfield Drive. (Continued from the May 9, 2023, City Council meeting) (Planning Board recommends denial by a vote of 4-1) (Petitioner request to table to July 11, 2023, City Council Meeting)

Mayor Pro Tem Hall motioned to table the rezoning to July 11, 2023, City Council meeting, seconded by Council Member Parsons. The motion passed unanimously.

## **ITEM 3: SPECIAL USE PERMIT – 0 EAST INTERSTATE SERVICE ROAD**

City Council considered a request for a Special Use Permit for Trucking or Freight Terminal, Storage, Repair, Wash, or Stop for property located at 0 E Interstate Service Road. The site is approximately 5.547 acres.

Mr. Matt Wall, Attorney, 3453 Forestdale Drive, Burlington, stated there were potential conflicts realized today that meant some of the witnesses would not be available. He stated due to this being a quasi-judicial hearing, those witnesses would need to be present and available to answer questions. He asked Council to continue to the July 11, 2023, City Council meeting.

Mayor Pro Tem Hall motioned to table the special use permit request for July 11, 2023, City Council meeting, seconded by Council Member Whitaker. The motion passed unanimously.

## **ITEM 4: REZONING – 0 KIMREY ROAD – 68.791 ACRES – UN-ZONED TO I-1, LIGHT INDUSTRIAL**

City Council considered a request to rezone 68.791 acres located at 0 Kimrey Road from Un-zoned to I-1, Light Industrial for the purpose of developing an industrial site in the future. (Planning Board recommended denial of the rezoning 6-0) (Petitioner requests to table to July 11, 2023, City Council Meeting)

Mayor Pro Tem Hall motioned to table the rezoning to July 11, 2023, City Council meeting, seconded by Council Member Chin. The motion passed unanimously.

## **ITEM 5: ANNEXATION – 68.791 ACRES – OFF KIMREY ROAD – (AN2303)**

City Council considered approval of an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 68.791 acres located off Kimrey Road. (Petitioner requests to table to July 11, 2023, City Council Meeting)

Mayor Pro Tem Hall motioned to table the rezoning to July 11, 2023, City Council meeting, seconded by Council Member Whitaker. The motion passed unanimously.

## **ITEM 6: ANNEXATION – 38.93 ACRES – OFF CHERRY LANE – (AN2304)**

City Council considered approval of an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 38.93 acres located off Cherry Lane.

Assistant City Manager Aaron Holland stated the area being considered for annexation was located off Cherry Lane and contained approximately 38.93 acres. He stated water and sewer were located near the property along Cherry Lane, and the applicants wished to tie onto the City's infrastructure. He stated new industrial development generally creates positive tax revenue for the City, and because the public services are being connected at this site, the cost to the City would be minimal.

The public hearing was opened and the following spoke:

Amanda Hodierne, Attorney, 804 Green Valley Road, Suite 200, Greensboro, stated she was present to answer any questions, and this particular parcel had been zoned in Graham's jurisdiction for quite some time. She stated the development plan had come through the TRC process pursuant to the City's regulatory landscape and was seeking annexation as the final piece of the development proposal.

Tom Boney, Alamance News, 114 West Elm Street, inquired about the zoning on a portion of the property requesting to be annexed.

Assistant City Manager Holland stated it was zoned R-18.

Motion by Council Member Whitaker to close the public hearing, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Mayor Pro Tem Hall motioned to approve the annexation ordinance, seconded by Council Member Whitaker. The motion passed unanimously.

**ANNEXATION ORDINANCE  
TO EXTEND THE CORPORATE LIMITS OF  
THE CITY OF GRAHAM, NORTH CAROLINA  
FOR 29.83 ACRES AND 9.10 ACRES TRACTS OF LAND OFF OF CHERRY LANE (AN2304)**

**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 6:00 P.M. on June 13<sup>th</sup>, 2023, after due notice by publication on June 1<sup>st</sup>, 2023; 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 June 13<sup>th</sup>, 2023:



**Legal Description GPIN#: 8893686572**

Parcel ID: 152443

Lying and being in Melville Township, Alamance County, North Carolina and adjoining the lands of Intersect Greensboro II, LLC., Carl A. Westman, Mill Creek, Meritage Homes of the Carolinas, Inc., and the southern margin of Cherry Lane (S.R. 2123) and more particularly described;

Beginning at an existing iron pipe located on a curve on the southern margin of Cherry Lane, a corner with Intersect Greensboro II, LLC. and being S 68°20'17" W, 7.20 feet from an existing iron on the southern margin of Cherry Lane marking the end of the curve of the southern margin of Cherry Lane, thence from the beginning along and with the property of Intersect Greensboro II, LLC., S 59°34'52" E, 394.99 feet to an existing iron pipe, a corner with Intersect Greensboro II, LLC., thence along and with the property of Intersect Greensboro II, LLC., N 62°09'17" E, 312.09 feet to an existing iron pipe, a common corner with Intersect Greensboro II, LLC. and Carl A. Westman, thence along and with the property of Carl A. Westman S 12°51'22" E, 1113.79 feet to a point in the centerline of Mill Creek, thence along the centerline of Mill Creek the following courses and distances; N 44°46'03" W, 20.56 feet; N 72°01'11" W, 13.16 feet; S 85°54'03" W, 16.36 feet; S 59°02'44" W, 30.85 feet; S 85°26'22" W, 19.93 feet; N 69°54'55" W, 36.19 feet; S 88°54'44" W, 18.85 feet; S 73°37'07" W, 25.52 feet; S 80°51'08" W, 18.55 feet; S 59°22'45" W, 13.40 feet; S 78°06'13" W, 21.71 feet; S 61°25'55" W, 36.57 feet; S 77°03'28" W, 56.09 feet; S 72°57'14" W, 124.21 feet; S 63°48'37" W, 24.32 feet; S 41°50'47" W, 15.97 feet; S 78°10'56" W, 25.76 feet; S 73°50'26" W, 89.94 feet; S 79°45'04" W, 15.92 feet; S 87°57'22" W, 34.51 feet; S 73°22'57" W, 50.53 feet; S 58°21'29" W, 39.69 feet; S 79°35'55" W, 18.83 feet; N 89°47'54" W, 28.12 feet; S 73°37'34" W, 112.62 feet; N 89°02'23" W, 24.17 feet; N 71°59'21" W, 26.58 feet; S 87°03'31" W, 80.32 feet; N 61°20'49" W, 8.96 feet; N 83°39'23" W, 70.86 feet; N 86°40'48" W, 62.40 feet to a point in Mill Creek in the line of Meritage Homes of the Carolinas, Inc., thence along and with the property line of Meritage Homes of the Carolinas, Inc., N 09°39'43" W, 1200.51 feet to an existing iron pipe located on a curve of the southern margin of Cherry Lane, thence along the curve of the southern margin of Cherry Lane, a chord bearing N 73°12'04" E, a chord distance of 482.66 feet, with a radius of 2848.41 feet to the point and place of beginning containing 29.83 Acres more or less and being the northern portion from Mill Creek to Cherry Lane of Alamance County Tax Parcel ID: 152443 to be annexed into the City of Graham Corporate Limits, with 10.28 Acres more or less south of Mill Creek of said Parcel remaining outside the City of Graham Corporate Limits.

**Legal Description GPIN#: 8893796670**

Parcel ID: 152460

Lying and being in Melville Township, Alamance County, North Carolina and adjoining the lands of Intersect Greensboro II, LLC., Cherry Lane (S.R. 2123), Metrolina Retail, LLC., Governor Scott Farm Road (S.R. 2124), and Carl A. Westman and more particularly described;

Beginning at an existing iron pipe located on a curve of the southern margin of Cherry Lane, a corner with Intersect Greensboro II, LLC., and being N 73°12'04" E, 482.66 feet from an existing iron pipe, a corner between Intersect Greensboro II, LLC. and Meritage Homes of the Carolinas, Inc., thence from the beginning and along the southern margin of Cherry Lane the following courses and distances, along a curve, chord bearing N 68°20'17" E, chord distance 7.20 feet, with a radius of 2848.41 feet to an existing iron pipe, marking the end of curve, thence N 68°12'49" E, 401.73 feet to an existing iron pipe, thence N 68°13'35" E, 208.09 feet to an existing iron pipe, thence N 68°17'44" E, 398.12 feet to an existing iron pipe, marking the intersection of the southern margin of Cherry Lane and the western margin of Governor Scott Farm Road, thence crossing Governor Scott Farm Road, N 75°59'26" E, 69.95 feet to an existing iron pipe, marking the intersection of the eastern margin of Governor Scott Farm Road and the southern margin of Cherry Lane, thence continuing along the southern margin of Cherry Lane N 60°13'03" E, 66.66 feet

to an existing iron pipe, thence N 68°17'44" E, 190.78 feet to an existing iron pipe, marking the beginning of a curve, thence along the curve a chord bearing N 63°03'23" E, a chord distance of 247.01 feet, with a radius of 1406.10 feet to an existing iron pipe located on the southern margin of Cherry Lane and a corner with Metrolina Retail, LLC., thence along and with the property of Metrolina Retail, Inc., S 18°57'54" E, 294.85 feet to an existing iron pipe, a corner with Metrolina Retail, Inc., thence with Metrolina Retail, Inc., S 67°51'28" W, 373.34 feet to an existing iron pipe located on the eastern margin of Governor Scott Farm Road, and a corner with Metrolina Retail, Inc., thence crossing Governor Scott Farm Road S 67°42'23" W 59.79 feet to an iron stake marking the beginning of the 55 foot right of way of Governor Scott Farm Road, as shown in Plat Book 77, Pages 344-346, and marking the property of Carl A Westman, thence S 67°55'35" W, 5.33 feet to an existing iron pipe, marking the 60 foot right of way of Governor Scott Farm Road as shown in said Plat, in the line of Carl A. Westman, thence along and with the property line of Carl A. Westman S 67°55'35" W, 581.89 feet to an existing iron pipe, a common corner with Carl A. Westman and Intersect Greensboro II, LLC., thence along and with the property of Intersect Greensboro II, LLC., S 62°09'17" W, 312.09 feet to an existing iron pipe, a corner with Intersect Greensboro II, LLC., thence N 59°34'52" W, 394.99 feet to the point and place of beginning, Save and except that portion of the 60 foot right of way of Governor Scott Farm Road, as described;

Beginning at an existing iron pipe located at the intersection of the southern margin of Cherry Lane and the western margin of Governor Scott Farm Road, thence N 75°59'26" E, 69.95 feet to an existing iron pipe located on the southern margin of Cherry Lane and the eastern margin of Governor Scott Farm Road, thence along the eastern margin of Governor Scott Road, S 45°11'21"E, 289.42 feet to an existing iron stake, a corner with Metrolina Retail, LLC., thence crossing Governor Scott Farm Road, S 67°42'23"W, 59.79 feet, to an existing iron pipe marking the beginning of the 55 foot right of way of Governor Scott Farm Road, as shown in Plat Book 77, Pages 344-346, and marking the property of Carl A. Westman, thence S 67°55'35" W, 5.33 feet to an existing iron pipe, marking the 60 foot right of way of Governor Scott Farm Road as shown in said Plat, and in the line of Carl A. Westman, thence along the western margin of Governor Scott Farm Road, N 45°09'49"W, 300.28 feet to the point and place of beginning, giving Parcel ID: 152460, a total of 9.10 Acres more or less.

Adopted this the 13<sup>th</sup> day of June 2023.

Mayor Talley asked Council to move the public comment section before the budget hearing due to several people present to speak.

Mayor Talley motioned to amend the agenda to allow public comments before the budget hearing, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

### **PUBLIC COMMENTS:**

Mr. Mike Farlow, Comtech, 1204 South Main Street, Graham, offered to conduct a cost analysis for the City at no charge to determine if consolidation of a multiple phone system could save the City money. He also requested to offer a free vulnerability scan of the City's network to make the defenses as good as they should be. He stated it was a \$3,000 scan free of charge to test the vulnerabilities of the system.

The Council consensus was to have Mr. Farlow look at the phone system and run a vulnerability assessment and have the City Manager report back the findings.

Mayor Talley asked if Mr. David Michaels would address the issue regarding a tract of land located on Meadowview Drive.

Mr. David Michaels, Windsor Investments, 1007 Battleground Avenue, Greensboro, apologized for misspeaking on lot sizing that was on an approved plan for the Meadowview Glen subdivision. He stated it was a mistake and Windsor Homes had developed a number of sites in the community and wanted to continue to do business in Graham. He stated the 28-lot site averaged 11,416 square feet and was slightly less than the 12,000 he had previously stated. He again apologized for his comments on lot sizes.

Mayor Talley stated there was also a comment about barriers and not taking down all the trees.

Mr. Michaels stated it was their preference to preserve buffers and leave extensive buffers around the site including a dedication of land for a future trail. He stated every site was different and topography had to be taken under consideration, as well as utilities, floodplain areas, and sites that had to be elevated to accommodate houses safely and effectively.

Mayor Talley stated they like developers who do not clear-cut properties but build with the property and with the existing natural habitats. She stated she understood having to cut down trees in order to build a development and no one was criticized for that, but the purpose of open spaces, the ordinance was being misused and misrepresented. She stated it appeared that developers are using the flood plains in areas that are unbuildable in order to get smaller lots. She stated the reason she did not vote for the development, in the beginning, was because she did not agree with misleading the public on lot sizes. She stated that Mr. Michaels assured her that all of the lots were 12,000 square feet lots. She stated that she hoped to get a consensus from Council to rewrite the ordinance for what it was intended.

Mr. Michaels again apologized for misspeaking and that it was not his intent to mislead the Council, Planning Board, or any other group about the intentions of a proposed development. He stated they work extensively with staff to design the site and ensure areas left were open spaces to be accessible from all parts of the cul-de-sacs and to be able to utilize any future trails and access to the stream. He stated this was a 16-acre site with six and a half acres of total open space.

Mayor Talley stated the majority of the open space that was being designated back to the City was in the flood plain and you could not have built on it without flood insurance.

Mr. Michaels stated they could have gone further than they did if we had made every lot 12,000 square feet and pushed the lots further back, closer to the stream, and still be in compliance with the rules, but it did not make sense to do that. He stated they wanted to leave as much of that buffer as possible and still create a site that would be a nice neighborhood, with generous lots, and trees behind the houses, and nothing was going to fall on a house.

Mayor Talley stated one of the provisions for having open space was because developers are under an enormous amount of pressure to take up as much land as they could possibly fit in a square foot, but it was upsetting when the intent of the ordinance was misused. She stated that moving forward, she wanted the City to clarify the ordinance so the intended use and purpose of exchanging lot size and going from R-12 to R-10 that we get something for that other than just floodplain property. She stated the intent was

to have open space located throughout the development and moving forward on future plans you will know what I am looking for.

Mr. Michaels stated that it is common in many different ordinances to try to consolidate development, density stays the same and it consolidates the development for more useable parts of the property and leaves those environmentally sensitive steep slopes and fragile areas out of play, which was a primary goal for every municipality. He apologized for misspeaking and being able to come back to clarify.

Mayor Talley said that even though this was not a public hearing there were people in the audience who would like to speak in regards to this development.

Mr. Peter Murphy, 1933 Meadowview Drive, Graham, resides adjacent to the property in question. He voiced disapproval with lot sizes zoned R-12, being mostly developed under 12,000 square feet. He shared trees were damaged on his property by digging right next to his trees and leaving large pine trees that are subject to fall. He stated that the annexation was the only time this property had come before Council, which was confusing because it was stated at the annexation these would be 12,000 square foot lots and Mr. Michaels had apologized for that misstatement but it was a huge misstatement. He stated the final thing said was that Council would hold him to that. He stated that since that meeting, the property had been developed exactly less than 12,000 square feet. He stated that out of 19 lots, there was only one more than 12,000 square feet, the other 18 was just over 10,000.

Mayor Talley asked if that was correct. She thought six of the 28 were 12,000.

Assistant City Manager Holland stated it was six of the 28 were 12,000 or more.

Mr. Murphy stated just speaking of the sixteen lots next to his house, only one was 12,000 and that was because the utility buffer created it at 12,000 square feet and the rest was 60 feet wide and a house was 40 feet wide. He stated you would only be able to park one car in the street and the streets were narrow. He stated the development ordinance had a requirement that you either have an HOA or a dedication to the City and the City needed to accept that dedication and asked if the City had accepted that dedication.

Mayor Talley stated she had asked the same question and part of the annexation would be accepting the property surrounding there that was the buffer and open space. She stated they did not in order for it to be a trail. She stated her concern was why would anyone want to buy a house with a public trail behind the house. She asked if the City of Graham wanted to accept that designation and the responsibility of maintenance.

Assistant City Manager Holland stated it was a greenway network and was part of the Mountain to the Sea Trail that was located in other subdivisions. He stated those dedications are in other areas, which are natural trails that coincide with the network in conjunction with the County.

Mayor Talley asked where the park was located.

Assistant City Manager Holland stated it was across Rogers Road.

Mayor Talley asked if it was rational for someone to go out trail hiking behind someone's home and why would they not want an HOA to maintain the open space.

Mayor Pro Tem Hall stated the HOA could bar anyone from walking on that trail except for homeowners.

Mayor Talley stated that if she were a homeowner, she would not prefer a public trail behind her house.

Assistant City Manager Holland stated the pedestrian plan identified projects like this and that was the reason for the Mountain to the Sea Trails arrangements in subdivisions adjacent to public facilities. He stated when Windsor was asked to work with the City did not argue when they gave this property to the City. He stated that it could be taken out, but then you would be going against the Pedestrian Plan which encourages these types of arrangements of greenway trails.

Mayor Talley said that she would not go to someone else's subdivision and walk behind their houses. She stated that people would wonder what she was doing in the middle of a natural area walking behind their houses.

Council Member Chin asked if the trails were removed if all the lots have the requisite of 12,000 square feet?

Assistant City Manager Holland stated we would not want to do that because you would then push those properties into floodplains and every single property would have to have floodplain insurance.

Mayor Talley stated that if you did not have it public, they would effectively have 12,000 square feet if it were owned by the HOA.

Assistant City Manager Holland stated it would look the same.

Council further discussed the trails and the location.

Council Member Whitaker asked that since all this was approved under misrepresentation, was this something that could be revoked.

Mayor Talley stated that part of the annexation on the table tonight includes the acceptance of the public area.

Council Member Whitaker stated but it was actually not on there tonight because it was pushed to the next meeting.

Assistant City Manager Holland stated it had been approved.

Council Member Whitaker asked if that approval was revocable due to the misrepresentation.

City Attorney Coleman stated it could not.

Mayor Talley stated there was never anything that came to Council and Council agreeing to smaller lots, it was already zoned R-12 and it was still R-12. She stated what changed was in the annexation and Mr. Michaels making untrue comments on the lot sizes, buffers, and trees. She stated she probably would not have voted for it had she known this designated area surrounded it. She stated there was no one here in opposition and she thought what he was saying was true. She stated that Council could only act on the information they had and if it was incorrect it was incorrect. She stated that she contacted Attorney Bob Ward and said that at a minimum, she wanted Mr. Michaels to address Council for a point of clarification in regards to the annexation. She stated that the Council should have the right whether they would want to accept that designation of open space.

Assistant City Manager Holland stated they agreed to dedicate the space but Council could say they did not want it to be dedicated and you would then need to have Windsor present an updated site plan for TRC to sign off on again but basically removing that dedication off the site plan to be approved without it on there. He stated that would be separate from the annexation and would be through the TRC process.

Mayor Talley asked if there were any other concerns that Mr. Michaels could address. She stated she had been inundated with calls about the trucks on Wildwood and the condition of the road. She stated that City had been working with Windsor about repairing the road.

Mr. Murphy further shared that back in March, he questioned the smaller lots and asked Council to look at the smaller lots. He stated there was no coordination of buffer zones, and the developer had damaged trees on his property by digging right next to his trees and leaving huge pine trees that are subject to falling instead of leaving good hardwoods. He stated he had asked what the homes would look like and they wrote back and said they were still coordinating what exact product they would implement in his neighborhood and how does that happen.

Mayor Talley stated that in strict zoning, they can build anything with any material that they want to build, which was consistent with any municipality. The City cannot decide what product they put up and the only way you can do that was if they came to the City and asked for a conditional rezoning and then the Council could implement stricter guidelines, such as lighting and fencing. She stated that they encouraged developers to do that because it does lend itself to the developer to work with existing neighborhoods. She stated this property was already zoned R-12 and had the right by use of that zoning but was using the open space ordinance in order to be able to reduce the lot sizes. She stated they were not allowed to reduce it to less than 10,000. She stated after this meeting she hoped to have a consensus for staff to look into rewriting that ordinance so it goes back to how it was intended.

Mr. Paul Smart, 556 Little Creek Drive, Graham, voiced displeasure with the subdivision, especially the retention ponds, and asked who would maintain those ponds.

Council Member Whitaker asked if there would be an HOA that would take care of the ponds.

Mr. Michaels shared that the retention ponds are all temporary and were required as erosion control devices by the State of North Carolina to accept all run-off from the site. He stated that dirt had already been brought in to fill those ponds. He shared that hauling was over as it related to this subdivision. He shared that he had been working with City staff to make repairs to the roads and all the retention ponds would be filled in and there would be no permanent structure that would have to be maintained by anyone.

Ms. Chris Ritz, 560 Little Creek Drive, Graham, inquired about how the creek would be maintained.

Mayor Talley shared that the State had very strict erosion control requirements, which was the reason for the retention ponds to prevent erosion.

Mr. Bill Bryant, 1904 Meadowview Drive, Graham, voiced concerns about the roads getting further damaged. He asked what assurance did the City have to guarantee the roads would be repaired.

Assistant City Manager Holland said the road would be repaired and staff would coordinate with Windsor to make certain of repairs.

Mr. Michaels shared they were working with staff and had examined the road and understood why failures occurred in certain places. He stated he would continue to work with staff until the road was put back in good shape.

Mr. Tom Boney stated he was under the impression that an item would be on the agenda through the Planning Department to request an extension on the submission of a façade grant. He said his business had been awarded a façade grant and he had completed the paperwork and would submit it before the end of the fiscal year.

City Manager Garner stated she was not aware of any grants going beyond June 30, with that being the end of the fiscal year that money would roll to fund balance and if Council desired, they could re-appropriate that in the new fiscal year with a budget amendment.

Mr. Boney said they hoped to have the paperwork completed in time for this fiscal year's budget.

#### **ITEM 7: ADOPTION - FY2023-2024 BUDGET**

A public hearing had been scheduled to consider the adoption of the Fiscal Year 2023-24 Budget Ordinance, 2023-24 Pay Plan, and the 2023-24 Rates and Fee Schedule.

Mayor Talley stated that regarding the 2023-24 Pay Plan we are not accepting that in this meeting and would have an opportunity to review the pay plan in detail in an upcoming meeting.

City Manager Megan Garner stated the pay plan before Council's consideration was the pay plan as it stands for this current fiscal year plus the proposed cost of living. She stated in the current fiscal year there were funds allocated for a pay plan study and those are not being incorporated at this time but would be brought to the Council as a separate agenda item for a possible mid-year implementation.

City Manager Megan Garner stated at the May 9, 2023, City Council meeting she introduced the Manager's proposed budget and a budget workshop was held on May 23, 2023. She stated that Council made revisions, the staff made more revisions, and tonight was the budget public hearing for any member of the public who would like to make comments.

Ms. Garner gave the following budget presentation:

Tax Value & Revaluation		
Value as of:		% change
2017-2018	\$1,140,317,018	
2018-2019	\$1,182,874,745	3.73%
2019-2020	\$1,256,161,975	6.20%
2020-2021	\$1,298,654,622	3.38%
2021-2022	\$1,336,885,234	2.94%
2022-2023	\$1,400,147,535	4.73%
2023-2024	\$2,314,754,893	65.32%

The above chart depicts the tax values as provided by Alamance County from the last revaluation in 2017-2018 to the present. She shared there was a huge jump between the current fiscal year and the upcoming fiscal year.

Revenue-Neutral			
N.C.G.S. 159-11(e) defines the revenue-neutral rate as the rate that is estimated to produce revenue for the next fiscal year equal to the revenue that would have been produced for the next fiscal year by the current tax rate if no revaluation had occurred.			
Current	Manager Proposed	Revised	Revenue Neutral
0.4550	0.3500	0.3278	0.2899

Ms. Garner stated this was a revaluation year and the City was required to publish its revenue-neutral rate which was 0.2899 and the current year tax rate was 0.4555. When Council received the budget in May the Manager's proposed budget included a tax rate of 0.35 which was a 10.5 cent reduction but above the revenue-neutral rate of 0.2899. She said that in addition to the revisions that Council made at the work session and staff-initiated changes, the revised budget had a proposed tax rate of 0.3278.

General Fund (10) Summary of Changes	
Total expenditure reduction of \$414,015	
10-4100 – City Council – Reduced the professional services budget by \$8,000. (Staff initiated)	
10-4200 – Administrative – The new HR Assistant position has been reduced to grade 14, resulting in a savings of \$10,000.	
10-4300 – Information Technologies – Removed the Civic Center fiber project from 10-4300-7400, saving \$60,000. The camera project, originally divided into two phases, has been divided into three, resulting in an additional savings of \$20,000 for FY2024.	



10-5000 – Public Bldg & Grounds – Removed the Carpet in Council chamber saving \$10,000.

10-5100 – Police Department – Removed the flooring replacement project in the amount of \$23,400. This item will be funded through ARPA pending Council approval. (Staff initiated)

10-5300 – Fire Department – Reduced the uniforms budget by \$8,200, the small equipment purchases budget by \$8,800, and removed the kitchen remodel of \$15,000 for a total departmental reduction of \$32,000.

10-5600 – Streets and Highways – Reduced the paving budget by \$125,000 and removed \$20,000 for Public Works parking lot repairs. (Staff initiated)

10-6200 – Recreation – Removed the ADA entry door at the Recreation Center in the amount of \$42,115.

10-6210 – Graham Mebane Lake – The pontoon boat trailer budget has been reduced by \$3,500.

10-6220 – Athletic Facilities – Removed the budgeted playground at Marshall Street Park for a savings of \$60,000.

Ms. Garner reviewed the above-stated cuts and reductions totaling an expenditure reduction of \$414,015.

## General Fund (10)

- ☐ Exploratory arts around the square program
- ☐ Deferred maintenance/capital items after reductions equate to over \$1,500,000
- ☐ Mandatory employer retirement contribution increase
- ☐ Funding of two new School Resources Officers (partially offset by ABSS funding)

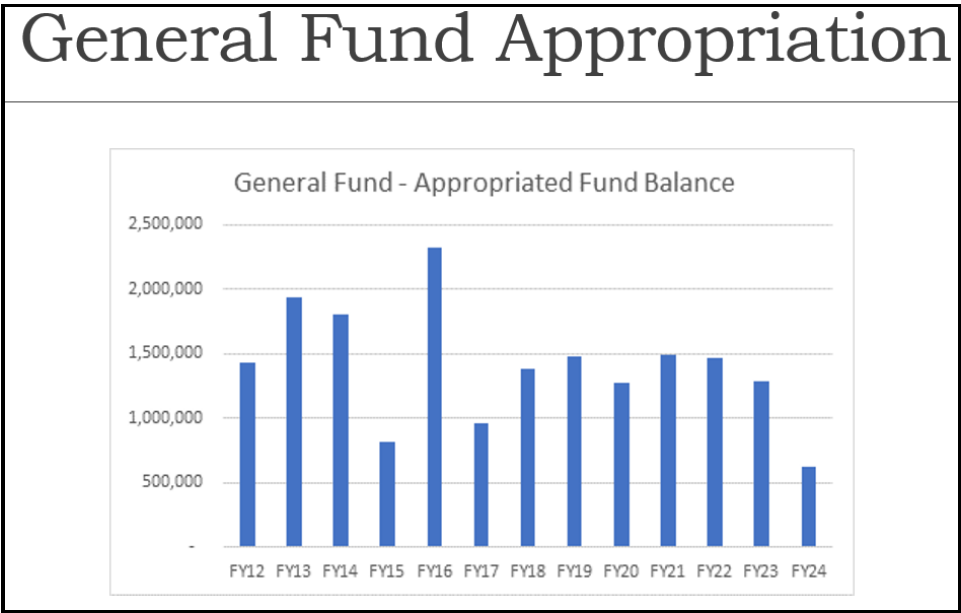
Ms. Garner stated the upcoming budget year funds had been allocated for an exploratory Arts Around the Square program to be funded at \$10,000.

## Fee Schedule Revisions (General Fund)

- ☐ Site development/re-inspection fee\*
  - ☐ 1<sup>st</sup> \$250, 2<sup>nd</sup> \$500, 3<sup>rd</sup> \$750
  - ☐ \*Re-inspection fees can be assessed for jobs not ready for inspection and/or items not corrected on subsequent re-inspections.
- ☐ All processing fees for credit/debit purchases to be passed to customer

Ms. Garner stated revisions to the fee schedule were reviewed at the budget presentation and the budget work session and noted one modification that came from Mayor Talley was to put a note under the site

development re-inspection fee. She shared the intent was not for a money grab but for items where the developer had contacted the City for a re-inspection and none of the items addressed at the initial inspection had been attempted. Also, all debit and credit card fees would be passed to the consumer.



Ms. Garner stated the fund balance appropriation was the amount of money that is moved from your fund balance to your operating fund to balance the budget. She stated they were able to significantly reduce the fund balance appropriation for the proposed fiscal year 2023-2024.

Mayor Talley stated that she felt the City had been dealt a bad hand in regard to this revaluation process. She stated the City of Graham had no input in the schedule of values and how it was determined. She stated that she had concerns when the County referred to changing values based on an aerial fly-by, Google street view, Zillow, and Realtor.com. Mayor Talley expressed concerns with the revaluation and stated never in the history of Graham was there ever this type of increase. She stated the unintended consequence of this revaluation would be gentrification, which means high mortgages, higher property values, and higher taxes. Those are the three things that cause gentrification and the City had all of those. Everyone’s property tax that is sent to escrow their mortgages would go up accordingly. Mayor Talley challenged Council to do what it could to keep the tax rate revenue-neutral. She suggested deferring any new cost items in order to bring down the budget further and using the fund balance in order to be able to bring it down. Mayor Talley stated the fund balance that we did not use this year would carry forward next year but the City Manager did not know what that number would be.

City Manager Garner stated that was correct since the current fiscal year had not been closed out and we would not know until the auditors come on-site and audit the accounts.

Mayor Talley asked if she had a ballpark number that it might be.

City Manager Garner said she did not.

Mayor Talley stated that the difference between where we are now and revenue-neutral was approximately \$800,000. She asked Council about the new positions in the budget and if they should be cut and questioned the COLA amounts in previous years.

Council Member Whitaker stated we were dealt a bad hand by the County and the process of the revaluations, but unfortunately, it is done, and nothing we can do about it now. She stated she thought City Staff had done a great job at trimming the budget and Council had cut as much as they could without cutting services.

Mayor Talley asked what was the difference in the fund balance of what was spent in 2023 and 2024.

City Manager Garner stated in the current fiscal year it was around \$1.6 million appropriated and for the proposed budget we are around \$600,000.

Mayor Talley asked if we left the fund balance where it was last year, which was on the downtrend, how Council felt about that.

Council Member Chin stated if we did that, it would be shortsighted. He stated he had heard comments that we should not be using the fund balance, which the balance used to be higher, and now the philosophy was to use it so we can get to a point to emotionally satisfy folks, but yet we would be doing something that in the long-term would be detrimental to our community.

Council Member Whitaker stated it was robbing Peter to pay Paul.

Mayor Talley said she did not see it like that, but rather it was savings that we did not use that had accumulated.

Council Member Chin commented on the \$84 million that Council was having to spend on the wastewater treatment plant, and had our predecessors not kicked the can down the road, we would not be carrying this \$84 million burden. He stated he thought Council would be failing in their responsibility and there were long-term projects that needed to be addressed such as another water reservoir, Fire Department, one or two substations, and the need to start planning for those. He stated that Council had brought the tax rate from 0.4555 down to less than .33.

Council continued discussions on an amount to be used from the fund balance, funding two new positions, engineer services, and a comparable tax rate.

**The public hearing was opened.**

Motion by Mayor Pro Tem Hall to open the public hearing, seconded Council Member Whitaker. The motion passed unanimously.

Tom Boney, Alamance News, questioned the current percentage of the fund balance and if we knew the answer.

City Manager Garner stated that would be from the last audit because the current year we are in obviously has not closed so that number is subject to change between now and when the audit occurs.

Mr. Boney spoke on the City's fund balance, proposed tax increase, two new positions, the COLA increase, and the City needed to come up with a revenue-neutral budget.

**The public hearing was closed.**

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Chin. The motion passed unanimously.

**Council took a 10-minute recess.**

Motion by Mayor Pro Tem Hall to take a 10-minute recess, seconded by Council Member Chin. The motion passed unanimously.

Motion by Mayor Pro Tem Hall to come back into open session, seconded by Council Member Chin. The motion passed unanimously.

City Finance Officer Melanie King stated according to the audit fiscal year ending June 30, 2022, the available fund balance for the general fund was 69% of total general fund expenditures. She stated the available fund balance for the general fund at the end of the fiscal year 2022 was \$10,083,559.

Council Member Chin asked how much of the budget's proposed fund balance was used.

Finance Officer King stated to the best of her knowledge for the last eleven years the City had an appropriated fund balance each year and had not used it.

Mayor Talley stated that if your City is healthy, it will grow normally as it had for the last ten years so we should be bringing in enough revenue to offset and not put the burden on the individual property tax owner. She asked if we could adopt something now and if we have any budget shortfalls, address it in October when we actually have a better number and all the appeals have been answered. She asked Council if they wanted to adjust the COLA.

Council Member Whitaker did not want to reduce the COLA and stated the City was already having difficulty staying competitive as it is, and if we cut it, we would be cutting off our nose to spite our face.

Mayor Talley asked about the additional planner and the additional HR position and if Council wanted to wait on a planner.

Council Member Whitaker asked how long would you want to wait on a planner, six months or three months.

Mayor Talley stated she believed there would be enough revenue to fund those two positions.

Council Member Chin suggested leaving the two positions unfunded until the results of the pay plan study were received.

Council Member Whitaker asked what could be funded with ARPA funds.

City Manager Garner stated we had about \$379,000, and one substantial capital item in the proposed budget was the garage addition at \$196,000, which would give you close to a penny on the tax rate.

The Council consensus was to leave the HR assistant and a Planner but not fund them until later in the year around September and after the pay plan study.

City Manager Garner asked that Council consider funding the two positions for the upcoming year

assuming the pay plan study which had the HR assistant at a higher pay grade than what Council recommended at a Level 14. She stated we would be asking for a fund balance appropriation to implement the pay plan and if this was the route the Council was taking, she asked Council to consider funding the positions on July 1<sup>st</sup> due to the workload on those departments.

City Manager Garner stated by moving \$200,000 to ARPA and increasing your fund balance appropriation you would be at .3178 if that was where Council wanted to be or if you wanted to be lower, the fund balance appropriation could increase to offset whatever difference you wanted to land.

After further discussions on how to get the budget revenue neutral, the following motion was made:

Mayor Talley motioned to approve the 2023-2024 Budget with the amendment of taking \$200,000 from ARPA funds and increasing the appropriation to fund balance by approximately \$664,000 to get to a revenue-neutral tax rate of .2899 and insure the Arts Around the Square fund of \$10,000 goes specifically for that purpose, and leave the two new positions in the budget, seconded by Council Member Parsons. The motion passed by a 3-2 vote. Council Members Whitaker and Chin voted no.

City Manager Garner asked that Council also approve the 2023-2024 Pay Plan and the 2023-2024 Rate and Fees Schedule.

Mayor Pro Tem Hall motioned to adopt the 2023-2024 Pay Plan and the 2023-2024 Rate and Fees Schedule, seconded by Mayor Talley. The motion passed unanimously.

## Budget Ordinance FY 2023-2024

---

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA:

**Section I.** The following amounts are hereby appropriated in the General Fund for the operation of City Government; its activities and capital improvements for the Fiscal Year beginning July 1, 2023, and ending June 30, 2024, in accordance with the Chart of Accounts heretofore established for the City:

Department	FY 2023-2024
City Council	65,000
Administration	713,870
Information Technology	442,150
Finance	417,800
Public Buildings	200,700
Police	6,607,215
Fire	1,793,375
Inspections	773,200
Traffic Engineering	28,800
Warehouse	119,850
Streets & Highways	1,910,045
Street Lights	150,000
City Garage	1,069,600
Sanitation	1,476,400
Recreation	1,043,350
Lake	255,700
Athletic Facilities	404,250
Property Maintenance	934,400
Non-Departmental	1,175,500
	<b>19,581,205</b>

**Section 2.** It is estimated that the following revenues will be available in the General Fund for the Fiscal Year beginning July 1, 2023, and ending June 30, 2024.

Ad Valorem Taxes	6,387,660
Investment Earnings	105,000
Miscellaneous	674,800
Other Taxes/Licenses	500
Permits/Fees	710,000
Restricted Intergovernmental	892,000
Sales/Services	2,002,000
Unrestricted Intergovernmental	7,563,000
Fund Balance	1,246,245
<b>Grand Total</b>	<b>19,581,205</b>

**Section 3.** The following amounts are hereby appropriated in the Water & Sewer Fund for its operations, activities, and capital improvements for the Fiscal Year beginning July 1, 2023, and ending June 30, 2024, in accordance with the Chart of Accounts heretofore established for the City:

Water and Sewer Billing	724,900
Water and Sewer Distribution	2,650,700
Maintenance & Lift Station	242,350
Water Treatment Plant	3,370,150
Wastewater Treatment Plant	2,040,000
Non Departmental Admin	2,819,500
<b>FUND TOTAL</b>	<b>11,847,600</b>

**Section 4.** It is estimated that the following revenues will be available in the Water & Sewer Fund for the Fiscal Year beginning July 1, 2023 and ending June 30, 2024.

Non-Operating	233,500
Operating	768,100
Other Financing Sources	866,925
Services	9,979,075
<b>FUND TOTAL</b>	<b>11,847,600</b>

**Section 5.** The following amounts are hereby anticipated and appropriated for the City's Special Funds:

	Revenues	Expenditures
FEDERAL DRUG MONIES	100	100
STATE DRUG MONIES	100	100
ARPA LOCAL FISCAL RECOVERY FUND	4,606,605	4,606,605
TRUBY DRIVE REPAIR PROJECT	200,000	200,000
10" WATER MAIN REPLACEMENT	17,250,000	17,250,000
BOYD CREEK PUMP STATION	3,962,000	3,962,000
OLD FIELDS OUTFALL	2,955,000	2,955,000

WWTP UPGRADE	84,649,290	84,649,290
WATER LINE INVENTORY & ASSESMENT	400,000	400,000
BOYD CREEK WATERSHED POINT REPAIR	500,000	500,000
LONG & ALBRIGHT IMPROVEMENTS PROJECT	904,860	904,860
<b>TOTALS:</b>	<b>115,427,955</b>	<b>115,427,955</b>

**Section 6.** There is hereby levied a tax at the rate of \$.2899 per one hundred dollars (\$100.00) of valuation of property as listed for taxes as of January 1, 2023, for the purpose of raising the Revenue listed as “Ad Valorem Taxes” in Section 2. Such rates are based on an estimated total valuation of property for the purposes of taxation of \$2,280,844,564 (100% valuation) with an anticipated collection rate of 95%.

**Section 7.** The City of Graham Capital Improvement Plan 2024-2033 for Water & Sewer Fund and 2024-2028 for all other funds is hereby approved and amended per the appropriations for improvements contained herein. For the purpose of tracking capital items, there shall be a threshold of \$5,000.

**Section 8.** Copies of this Ordinance shall be furnished to the City Manager and the Finance Officer to be kept on file by them for their direction in the disbursement of City Funds.

**Adopted this 13<sup>th</sup> day of June 2023.**

Mayor Talley asked for Council consensus to direct staff to revise the open space ordinance to be more in line with what was intended. All members agreed.

## **NEW BUSINESS:**

### **ITEM 8: AMENDMENT – CODE OF ORDINANCES – SECTION 12-9(c)(6) – UNNECESSARY AND DISTURBING NOISE**

City Council considered amending the Code of Ordinances, Section 12-9(c)(6) – Unnecessary and Disturbing Noise and add Section 12-9(d)(3) Enforcement and Penalties.

Assistant City Manager Holland stated that Council had requested the Attorneys to look into options available to address the noise issues with loud mufflers. He stated the Attorneys looked at it and adjusted the existing language to include Enforcement and Penalties Section 12-9(d)(3).

Council Member Whitaker motioned to approve the amendment of the Code of Ordinances, Section 12-9(c)(6) and adding Section 12-9(d)(3) Enforcement and Penalties, seconded by Council Member Parsons. The motion passed unanimously.

### **AMENDMENT TO GRAHAM CITY CODE SECTION 12-9**

**Section 1. Section 12-9(c)(6)** shall be amended to read:

The use of any automobile, motorcycle, ATV or other motor vehicle of any kind which may be so out of repair, so modified from factory setting or equipment, and/or so loaded or operated in such manner, as to create loud grating, grinding, rattling or other noise caused by and emanating from such vehicle or its operation or which otherwise shall be, create or cause an unreasonably loud or disturbing noise.

**Section 2:** Add a new section **12-9(d)(3)** Enforcement and penalties to read:

Infraction, Violations of Sec. 12-9( c) (6) shall subject the offender to a civil penalty of fifty dollars (\$50.00) and shall be paid within ten (10) days after being cited for violation of this ordinance.

**Section 3:** This amendment shall be effective upon adoption.

Adopted this the 13<sup>th</sup> day of June 2023.

#### **ITEM 9: SURPLUS – 2005 SUTPHEN 85’ TOWER LADDER FIRE TRUCK**

City Council considered approval of a 2005 Sutphen 85’ Tower Ladder Fire Truck as surplus equipment and authorize the City Manager and Fire Chief to advertise the surplus equipment in the appropriate markets.

Mayor Pro Tem Hall motioned to approve a 2005 Sutphen 85’ Tower Ladder Fire Truck as surplus property, seconded by Council Member Whitaker. The motion passed unanimously.

#### **RESOLUTION AUTHORIZING A 2005 SUTPHEN 85’ TOWER LADDER FIRE TRUCK AS SURPLUS PROPERTY IN ACCORDANCE WITH N.C.G.S. 160A-266**

**WHEREAS**, the City of Graham owns a 2005 Sutphen 85’ Tower Ladder Fire Truck; and

**WHEREAS**, North Carolina General Statute § 160A-266 provides that a city may dispose of real or personal property belonging to the city by:

- (1) Private negotiation and sale;
- (2) Advertisement for sealed bids;
- (3) Negotiated offer, advertisement, and upset bid;
- (4) Public auction; or
- (5) Exchange; and

**WHEREAS**, North Carolina General Statute § 160A-266 does not allow for private negotiation of personal property valued at \$30,000 or more for any one item or group of similar items to be exchanged as permitted by N.C.G.S. 160A-271, or to be sold by any method permitted in this article other than private negotiation and sale, except as permitted in G.S. 160A-277 and G.S. 160A-279;

**WHEREAS**, the City of Graham has determined that it is in the best interest of the City to declare its 2005 Sutphen 85’ Tower Ladder Fire Truck surplus.

**THEREFORE, THE GRAHAM CITY COUNCIL RESOLVES THAT** the City Manager, Finance Officer, and City Clerk are authorized to execute all documents necessary to advertise such surplus property in the appropriate markets.

**Adopted this 13<sup>th</sup> of June 2023**

#### **ITEM 10: BOARDS AND COMMISSION APPOINTMENTS**

City Council considered the following appointments to the City’s Boards and Commissions:



**ABC Board – Graham Appointee**

Robert Sykes – Request Reappointment

**Appearance Commission/Tree Board:**

Judy Hall – Request Reappointment

Cheryl Ray – Request Reappointment

**Graham Historical Museum Board**

Chuck Talley - Request Reappointment

Jeanette Beaudry - Request Reappointment

**Graham Housing Authority**

Evelyn Graves-Curtis - Request Reappointment

*Applicants: Robert Sykes, Lisa Kyle Moser*

**Historic Resources Commission**

Jeanette Beaudry – Request Reappointment

**Three Vacancies**

*Applicant: Eddie Mercer*

**Planning Board/Board of Adjustment**

John Wooten – Request Reappointment

Eric Crissman – Request Reappointment

Charles Huffine (Extra-Territorial) – Request Recommendation to Alamance County

*Applicants: Jeanette Beaudry*

**Recreation Commission**

Casey Johnson - Request Reappointment

Brian Cutlip - Request Reappointment

Carmen Larimore – Request Reappointment

*Applicant – Benjamin Beushausen*

Mayor Pro Tem Hall motioned to continue the appointments to the July 11, 2023, City Council meeting and open the application process for HRC and Planning Board, seconded by Mayor Talley. Council Member Whitaker suggested opening the application process for all boards. Council agreed and the motion passed unanimously.

**CITY STAFF COMMENTS**

There were no City Staff comments.

## CITY COUNCIL COMMENTS

Mayor Talley announced the following events:

- Thursday's at Seven was held on June 22nd with the Main Event Band.
- Matt Boswell and Hill Billy Blues Band – Saturday, June Graham Amphitheater.
- Taste of Summer was a huge success and thanked Graham Recreation and Parks.

## ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 9:31 pm.

*Renee M. Ward, CMC*  
City Clerk

# City of Graham

## City Council Meeting Minutes

### July 11, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on July 11, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Renee Ward, City Clerk

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Parsons gave the invocation and all stood for the Pledge of Allegiance.

#### MAYOR ANNOUNCEMENTS:

- Graham Recreation is offering paddle tours on the lake at Graham/Mebane Lake – July 15, 16, and 27, from 9:00am – 11:00am
- Thursdays' at 7:00 concerts
- Every third Saturday – a live band downtown at the Amphitheater
- Balloon Festival – September 8, 9, 10.
- Several local bands – Amphitheater behind Colonial Hardware – July 22 - 2:00 pm – 9:00pm

#### CONSENT AGENDA:

- a. To approve the June 13, 2023, City Council meeting minutes.
- b. To adopt a Resolution accepting the American Rescue Plan (ARP) offer of \$400,000 and to approve an Engineering Contract with Alley, Williams, Carmen & King, Inc., in the amount of \$400,000, to provide engineering and administration services for the City's Asset Inventory and Assessments Grant from NCDEQ-Division of Water Infrastructure and to assist the City with evaluating the drinking water distribution system for compliance with the Lead and Copper Rule Revision.

## **RESOLUTION BY GOVERNING BODY OF RECIPIENT**

**WHEREAS**, the American Rescue Plan (ARP) funded from the State Fiscal Recovery Fund was established in S.L. 2021-180 to assist eligible units of government with meeting their water/wastewater infrastructure needs, and

**WHEREAS**, the North Carolina Department of Environmental Quality has offered American Rescue Plan (ARP) funding in the amount of \$400,000 to perform an Asset Inventory and Assessment study detailed in the submitted application, and

**WHEREAS**, the (City of Graham) intends to perform said project in accordance with the agreed scope of work.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAHAM:**

Graham does hereby accept the American Rescue Plan (ARP) offer of \$400,000.

That the City of Graham does hereby give assurance to the North Carolina Department of Environmental Quality that any Conditions or Assurances contained in the Award Offer will be adhered to.

That Megan Garner (City Manager), and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required by the Division of Water Infrastructure.

Adopted this the 11<sup>th</sup> day of July 2023, at Graham, North Carolina.

- c.** To adopt a resolution authorizing the adoption and maintenance of the portions of Sunfield Drive, Lacy Holt Road, and Kress Drive located within Sections 3 & 4 of the Forks of Alamance subdivision.

### **A RESOLUTION ORDERING THE ADOPTION OF THE PORTIONS OF LACY HOLT ROAD, SUNFIELD DRIVE, AND KRESS DRIVE LOCATED WITHIN SECTIONS 3 AND 4 OF THE FORKS OF ALAMANCE SUBDIVISION**

**WHEREAS**, NCGS §160D-806 and Article VIII, Section 10.339(d)(5) of the City of Graham Development Ordinance provide that City Council may, by resolution, accept offers of public dedication made to the public of lands and facilities for streets, sidewalks, open spaces, and public utilities after verification from the Technical Review Committee that such properties and improvements are in a manner acceptable for acceptance; and

**WHEREAS**, the City of Graham has been provided with an offer of public dedication of lands and improvements of the portions of Lacy Holt Road, Sunfield Drive, and Kress Drive located within Sections 3 and 4 of the Forks of Alamance subdivision, which are described on legally recorded final plats in Plat Book 80, Pages 312 and Plat Book 81, Page 215 of the Alamance County Registry; and

**WHEREAS**, the City of Graham Technical Review Committee has reviewed the land and improvements placed upon them provided as part of the offer of public dedication, and such land and improvements have been found to be in compliance with standards in place for such land and improvements.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Graham, North Carolina, that the offer of public dedication be accepted for those portions of Lacy Holt Road (50-foot public ROW), Kress Drive (50-foot public ROW), and Sunfield Drive (50-foot public ROW), as offered and recorded on the Final Plat for Forks of Alamance Section 3 in Plat Book 80, Page 312 and on the Final Plat for Forks of Alamance Section 4 in Plat Book 81, Page 215 of the Alamance County Registry; and

**SECTION 1.** Terms and Conditions of Acceptance:

1. The developer shall guarantee all materials and workmanship for a period of 12 months from the date of official acceptance by the City Council, as specified under Section 10.339 (d)(5)(c) of the City of Graham Development Ordinance;
2. The acceptance by the City Council shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the city, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities that the city, its agencies, or employees may assert or be entitled to;
3. All rights, privileges, and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the city and any and all benefits derived there from shall inure to the city, its agents, and employees. The acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever; and
4. Acceptance of dedication of lands and facilities shall not obligate the city to construct, install, maintain, repair, replace, extend, improve, build, or operate any public facilities or utilities which are not in existence as of the date of the acceptance of the lands and facilities. Such acceptance shall not obligate the city to construct any main, line, pipe, lateral, or other extension or permit connection to the city's water, sanitary sewer, storm sewer, drainage, or other public utilities systems.

**SECTION 2.** This Resolution shall become effective immediately upon adoption. This the 11th day of July 2023 at 6:00 p.m.

- d. To adopt a resolution authorizing the adoption and maintenance of the portions of Mackenna Drive, Whelen Drive, and Cullens Drive located within Phases 2 & 3 of the Shamrock Valley subdivision.

**A RESOLUTION ORDERING THE ADOPTION OF THE PORTIONS OF MACKENNA DRIVE, WHELEN DRIVE, AND CULLENS DRIVE LOCATED WITHIN PHASES 2 AND 3 OF THE SHAMROCK VALLEY SUBDIVISION**

**WHEREAS**, NCGS §160D-806 and Article VIII, Section 10.339(d)(5) of the City of Graham Development Ordinance provide that City Council may, by resolution, accept offers of public dedication made to the public of lands and facilities for streets, sidewalks, open spaces and public utilities after verification from the Technical Review Committee that such properties and improvements are in a manner acceptable for acceptance; and

**WHEREAS**, the City of Graham has been provided with an offer of public dedication of lands and improvements of the portions of Mackenna Drive, Whelen Drive, and Cullens Drive located within Phases 2 and 3 of the Shamrock Valley subdivision, which are described on legally recorded final plats in Plat Book 81, Pages 78 and Plat Book 81, Page 253 of the Alamance County Registry; and

**WHEREAS**, the City of Graham Technical Review Committee has reviewed the land and improvements placed upon them provided as part of the offer of public dedication, and such land and improvements have been found to be in compliance with standards in place for such land and improvements; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of Graham, North Carolina, that the offer of public dedication be accepted for those portions of Mackenna Drive (50-foot public ROW), Whelen Drive (50-foot public ROW), and Cullens Drive (50-foot public ROW), as offered and recorded on the Final Plat for Shamrock Valley Phase 2 in Plat Book 81, Page 78 and on the Final Plat for Shamrock Valley Phase 3 in Plat Book 81, Page 253 of the Alamance County Registry; and

**SECTION 1.** Terms and Conditions of Acceptance:

1. The developer shall guarantee all materials and workmanship for a period of 12 months from the date of official acceptance by the City Council, as specified under Section 10.339 (d)(5)(c) of the City of Graham Development Ordinance;
2. The acceptance by the City Council shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract or to otherwise reduce or eliminate the rights of the city, its agents and employees against any other party connected with or in any way related to the development of the subdivision and facilities. The acceptance shall not be interpreted as a waiver of any defense or immunities that the city, its agencies or employees may assert or be entitled to;
3. All rights, privileges, and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the city and any and all benefits derived there from shall inure to the city, its agents, and employees. The acceptance of the lands and facilities shall be conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the lands and facilities dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purpose; that the lands and facilities are free and clear of any deed of trust, mortgage, lien or assessments and that the dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such land and facilities against any and all claims and demands whatsoever; and
4. Acceptance of dedication of lands and facilities shall not obligate the city to construct, install, maintain, repair, replace, extend, improve, build, or operate any public facilities or utilities which are not in existence as of the date of the acceptance of the lands and facilities. Such acceptance shall not obligate the city to construct any main, line, pipe, lateral, or other extension or permit connection to the city's water, sanitary sewer, storm sewer, drainage, or other public utilities systems.

**SECTION 2.** This Resolution shall become effective immediately upon adoption. This the 11th day of July 2023 at 6:00 p.m.

Mayor Pro Tem Hall motioned to approve the consent agenda, seconded by Council Member Parsons. The motion passed unanimously.

## **PUBLIC HEARINGS:**

### **ITEM 1: SPECIAL USE PERMIT – 0 EAST INTERSTATE SERVICE ROAD**

City Council considered a request for a Special Use Permit for Trucking or Freight Terminal, Storage, Repair, Wash, or Stop for property located at 0 E Interstate Service Road. The site is approximately 5.547 acres. (Continued from June 13, 2023, City Council meeting.) (Planning Board recommended approval by a vote of 3-2.)

**Assistant City Manager Aaron Holland:** Thank you, Mayor. I will just add this was a tabled item from last month to this month. This is a request for a Special Use Permit for Trucking or Freight Terminal, Storage, Repair, Wash, or Stop for the property located at 0 E Interstate Service Rd. The site is currently vacant. The site is approximately 5.547 acres. The plan would permit up to 122 Trailer Parking Spots. The layout would be accessed off of E Interstate Service Rd. A landscaping buffer has been proposed along the extent of the property. A “type D” buffer is required abutting neighboring properties and “street yard” buffers are required along pieces abutting the street. As you mentioned earlier this is a special use permit request. City Council shall find that all of the six conditions have been met or it shall be denied. The staff has prepared the following draft findings of fact for each of the six conditions. If Council feels to modify any of those they can do so at their will.

1. All applicable regulations of the zoning district in which the use is proposed are complied with.  
*The property is zoned I-1, a Trucking or Freight Terminal, Storage, Repair, Wash, or Stop is permitted only with a special use permit, or a rezoning to Conditional Industrial.*
2. Conditions specific to each use, identified by the Development Ordinance, are complied with.  
*A preliminary site plan showing the location, dimensions, and sites within the development has been supplied. There is a proposed shares ingress/egress with the adjoining property. A traffic impact analysis/study has been provided to the City and NCDOT staff. Neither department has any concerns.*
3. The use will not materially endanger public health or safety if located where proposed and developed according to the plan as submitted.  
*Permitting a truck storage facility on this site will not materially endanger public health or safety.*
4. The use will not substantially injure the value of adjoining property or that the use is a public necessity.  
*Permitting a truck storage facility on this site will not substantially injure the value of the adjoining property.*
5. The location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.  
*The plan is located in an industrial section of Graham and is in general conformity with The Graham 2035 Comprehensive Plan.*

6. Satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.  
*The sketch plan submitted indicates general compliance with these requirements. The Graham TRC will require conformance with the City of Graham Ordinances prior to the issuance of a Certificate of Occupancy.*

**Assistant City Manager Holland:** Staff does recommend as you mentioned earlier. Planning did recommend with a 3-2 vote. I would like to make note that we do have to turn to our attorneys to read another portion of this whole special-use process. So, I will turn it over to the attorney before we go to the applicant.

**City Attorney Bryan Coleman:** Thank you, Aaron. This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decisions. These rules are different from other types of land use decisions like rezoning cases.

The Council's discretion is limited. The Council must base its decision upon competent, relevant, and substantial evidence in the record. It is a decision that must be based on the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion.

This meeting is open to the public. However, participation is limited. Parties with standing have rights to present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the City Council. General Witness testimony is limited to facts, no opinions. For certain topics, this Council needs to hear opinion testimony from expert witnesses. These topics include predictions about impacts on property values and predictions about impacts of increased traffic. Individuals providing expert opinions must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

Inadmissible evidence is deemed objected to:

- Any documentary evidence that is certified or from a recognized professional source will be admitted without authentication.
- Witnesses must swear or affirm their testimony.

At this time, the City Clerk will administer the oath for all individuals who intend to provide witness testimony.

Mayor, you may now poll the Council for any bias or fixed opinions, conflicts of interest, ex-parte communications, or site visits.

**Tom Boney, Alamance News:** Before you proceed any further, my recollection was there was another condition that Planning Board put on the project and I did not hear that one read. Is that not a . . .

**Assistant City Manager Holland:** Yes, so once the Attorney was going to finish his part, I was going to read the conditions that were set forth from Planning Board.



**City Attorney Coleman:** So, anybody that's going to provide testimony, if they could come forward and take the oath.

**Tom Boney:** I guess that my question, again, sorry, Assistant Manager, wouldn't that be appropriate to be stated before the witnesses what the conditions are?

**Assistant City Manager Holland:** I think Council has not questioned anyone that's getting sworn in, they are just getting sworn in right now and then come back to me in case they have any questions for staff.

**Tom Boney:** The question is there's another condition, as I recall from the Planning Board meeting that has not yet been described. Did I remember wrongly?

**Assistant City Manager Holland:** Right, but once the swearing-in has happened it comes back to me before it goes to anyone else. There's no testimony before they ask me any questions. I will go over those conditions before they turn it over to the applicants.

**Matt Wall:** Madam Mayor and members of the Council, my name is Matt Wall, 3453 Forestdale Drive, Burlington, NC. I am not going to be a witness so you will be relieved that I do not need to take the oath. But, we do have three witnesses here; Chad Huffine, Glen Patterson, and Billy Tyler, those will be the three witnesses for the applicant.

**City Clerk Renee Ward:** Okay, if you would please raise your right hand. Do you swear or affirm the testimony you are about to give today is the truth, the whole truth, and nothing but the truth, say I do.  
*(All three stated, "I do.")*

**Mayor Talley:** I have a question. If there are five members on the Planning Board, how did you do a 3-2 vote? I understand three and two make five. My question is Chad is one of the Planning Board members.

**Matt Wall:** He did not participate. There are seven members.

**Mayor Talley:** Okay, so there were five members there, not counting him.

**Matt Wall:** Correct.

**Mayor Talley:** Okay, that's what my question was, okay. So, there were six or seven members there? Six, right?

**Assistant City Manager Holland:** There were six present and seven total on the board.

**Mayor Talley:** Okay

**Assistant City Manager Holland:** The conditions that were recommended by the Planning Board were:

1. Guard house on the property
2. A fencing around the perimeter of the lot to be opaque in nature
3. Add electrical components to the fencing if permissible by the code

**City Attorney Coleman:** I have one or two more things I would like to add here. Any admissible evidence that is deemed objected to, any documentary evidence that is certified or from an expert or from a

recognized professional source will be admitted without authentication and Madam Mayor you may now hold the Council for bias, fixed opinions, conflicts of interest, ex-parte communications, or site visits.

**Mayor Talley:** Has anyone on this Council spoken to or had any outside communication with anyone in regard to this project? *(All Council Members stated no.)*

**Mayor Talley:** I appreciate you so much Bryan but you talk like a lawyer and so I just want to speak in laymen's terms that if anyone is here tonight to talk about this project, and you come up, there are six different items that he spoke about earlier, so if you need your . . . obviously unless you were taking notes you may not know what those six items are. But, basically, we act tonight as kind of a judge and just like in a trial you have evidence that has to be presented, and then that evidence . . . there is certain evidence that we can consider and there is certain evidence that we can't consider. So, if you get up and say I don't like this project or I like that project that's not something we can consider. We have to go based on expert testimony so if you say for instance, we think that this project is going to lower my property value and you are not a certified appraiser or someone that is deemed, you know, to be able to give that kind of expertise or give that opinion then that's something that also this Council . . . it's not that we are not listening to you or that we don't care what you think but you have to be specific in the way that you make your argument that it dresses one of the six issues and if you could just name those off really quick again just the general gist of those six issues and those are the only things that these Council Members can consider in a yes, no vote for agreeing to this project or not agreeing to this project.

**Assistant City Manager Holland:** So, I'm not going to put the response, just the six criteria?

**Mayor Talley:** Yeah, so we have a brochure on this and I always encourage people to read the brochure because its . . . hard to remember it, all the details so to speak.

**Assistant City Manager Holland:** Right, the six criteria:

1. All applicable regulations of the zoning district in which the use is proposed are complied with.
2. Conditions specific to each use, identified by the Development Ordinance, are complied with.
3. The use will not materially endanger public health or safety if located where proposed and developed according to the plan as submitted.
4. The use will not substantially injure the value of adjoining property or that the use is a public necessity.
5. The location and character of the use if developed according to the plan as submitted will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Graham planning area.
6. Satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service entrances and areas, screening, utilities, signs and lighting, and open space.

**Mayor Talley:** The first one is dealing with zoning. The second one dealing that it complies with our development ordinance, the 2035 Plan. The third one is focused on safety. The fourth one being how this would affect the value of properties and surrounding properties. The fifth being is this harmonious with property around the subject property, and six deals with traffic, signs, lighting, and whether this project has presented a plan that is not going to substantially hurt traffic from being able to get in and out of that area and also the signs and lighting to be able to direct traffic where it needs to go. So, if you did not raise your hand earlier to be able to speak because you needed to be sworn in, as we progress if you decide because sometimes people will speak and then you want to respond, so just raise your hand and we will acknowledge you. The first person . . . it's a public hearing for those who have already taken the oath and whoever would like to come forward if you will just raise your hand. Okay, Matt Wall, we will acknowledge you.

**Matt Wall:** Madam Mayor and members of the Council, again my name is Matt Wall, and I am here on behalf of the applicant, Cone Commercial real-estate, who is the respective purchaser of this property under contract and I am an attorney representing the applicant in this permit application. As I said before, I'm not going to be a witness and I'm going to turn it over to Mr. Huffine first but I did want to make a couple of, sort of, opening statements and preparatory comments if I might. One thing I wanted to clarify in the agenda where it was read that the planning board and I know Mr. Ward is here, I think he may recall this and I think Bryan (Coleman) may recall this too, Bryan was at that Planning Board meeting. But, it was approved 3-2. That is correct, but just sort of behind that vote, my recollection is that all of the five voting members of the Planning Board that evening, as to this particular application, did find that the applicant had met its requirements under those six factors. The difference in the two descending votes were that the motion imposed those three conditions which Mr. Holland stated earlier in which are also in your packet from the recommendation of the Planning Board. The three that voted in favor wanted those conditions on and they were approved. The two that voted against the motion, as I recall them saying, that they voted against that motion simply because they didn't think the conditions needed to be applied to this. But, all five of the Planning Board members did in fact indicate that they believed the applicant, that we had met the requirement that we satisfied those six conditions. I just wanted to clarify that and Mr. Ward (Dean) if you disagree please say.

**Dean Ward,** Planning and Zoning Chair: Yes, correct.

**Matt Wall:** Then also, just as another preparatory comment, there was a lot of discussion before this application was even filed, if this needed to be a special use permit process or whether it could be used, this use could be as of right under the existing zoning because there is a separate use that might qualify and it was back and forth, and at the end of the day, after further details about the use and possibly uses of the property it was decided that special use needed to be done. But, I didn't want to clarify that there is no, it's just the way the heading is listed that it's freight terminals storage repair, wash or stop and there are no plans for this to be a repair place or a wash or anything like that. The idea is this property be used merely as storage for trailers and occasionally tractors possibly. As Aaron (Holland) said, the staff does recommend approval and with that, I'm going to turn it over to Mr. Huffine and I would ask that he be qualified in and received as an expert witness. He is a professional engineer. I think you are all probably familiar with him but he has years of experience in his Leads Group PA, an engineering firm that is in the City of Burlington and I think his report and evidence will establish several of those six factors. Then we will have later, you've already seen they have been sworn in, Mr. Glenn Patterson, who is a licensed real estate broker and licensed real estate appraiser. Glenn has done a report on this and we would ask that he be recognized and received as an expert. And then lastly, the representative from Kimely-Horn Engineering Firm that did the traffic memo and I believe you have that in your packets, that traffic thing. The other two I can go ahead and hand, there are some documents to go along with each witness. I'm happy

to hand those up now to the Council. I have the copies to do that or if you want to wait until they each come up in turn or give their evidence. But, I'm happy to submit those, if I may approach, and hand those out, I'm happy to do that. But, Mr. Tyler, Billy Tyler is the representative for Kimely-Horn and he's also a professional engineer we would ask based on his licensing and training and years of experience that he be received as an expert in this matter and he is the representative of the company that did the traffic memo. Does Madam Mayor, the Council have a preference about receiving the written statements of the witnesses in advance or at the time? I'm happy to hand them up now if you would like to have them. You've got the traffic memo I think.

**Mayor Taylor:** Yes, there were some questions about the traffic memo.

**Matt Wall:** Okay, Mr. Tyler is here who can answer those.

**Mayor Talley:** Okay, you can go in any order that you would like.

**Matt Wall:** Okay, well let's go first then with Mr. Huffine and if I may approach.

**Mr. Chad Huffine:** Good evening Council, Mayor Talley, Chad Huffine, 505 East Davis Street, Burlington, NC. I'm the civil engineer for the project. This project was brought to us several months ago with the concept of placing a storage area for rental, long term for tractor trailers specifically the trailers in an overflow from an adjacent industrial parking lot uses in the area. The property was selected based on its proximity to I40 and its ease of access to the industrial park, east and south. The property is surrounded by similar uses. The school bus parking garage, prison camp, all those areas kind of surround the property to the northwest and south and then further east there are some industrial uses. There are no residences in the area adjacent to the property. So, it's a fairly consistent use. It is new to our area in that it is a stand-alone facility where a tractor-trailer driver or truck driver will come, either pick up his trailer with his tractor or store several trailers and switch them out in his service in the area. So, with that, I'll take any questions regarding the consistency with the use, if you have any, if not I'll ask you to receive our document pertaining to the traffic information, or traffic study provided by Kimley-Horn. **(Attachment A)**

**Mayor Talley:** Do you want to answer questions about the traffic study?

**Chad Huffine:** I can take them and if there is something that we need to speak to specifically from the technical portion of the study I'll be glad too. If it's the general concept of the driveway circulation access we would be happy to attempt to answer those until I can't and then I'll ask Billy to come up and help me out.

**Mayor Talley:** What was the period of time that you did that?

**Chad Huffine:** Okay, we will have Billy to come up here and help me out.

**Billy Tyler:** Yes, my name is Billy Tyler, 1008 Kingswood Drive, Chapel Hill, NC, and as he said I am a licensed engineer. It was a question, what is the period of time the traffic study was performed?

**Mayor Talley:** Correct.

**Billy Tyler:** Are you saying when the study was submitted or when did we collect the data for the study?

**Mayor Talley:** You did it for just one day?

**Billy Tyler:** Yes, we did it for just one day which is typical. We collected counts during the morning and afternoon peak hours and I can find some dates for you but does include it in the appendix. But to do it over one day is typical.

**Mayor Talley:** Did a lot of traffic studies, I mean, you can do them for one day, but that's not really a true, in my opinion, a true story of that on a Tuesday, you know what the traffic is there on a Saturday versus a Monday morning or a . . . so.

**Billy Tyler:** So, it is typical across the industry to collect traffic counts for one day in the morning and afternoon peak hours and then we apply several factors within our study that help account for that variability and what we end up actually analyzing and basing our recommendations on are the effectively the 15 most peak minutes of the day. So, we are looking at the most intense 15 minutes of a typical day which should cover most cases on the roadway network.

**Mayor Talley:** But you would agree that the numbers on a Saturday could be very different than the numbers on a Tuesday.

**Billy Tyler:** They could.

**Mayor Talley:** And on this property here, does the, can you show me the intended routes that trucks would be taking to get access to this from the interstate?

**Chad Huffine:** Chad Huffine again, I'm going to help Billy out where we need to help each other out. If you will look at the information we submitted to you, you have truck turning maneuvers that show access onto Interstate Service Road and then from Interstate Service Road to Gilbreath Street should be in the documents submitted to you through staff reviews or I can point to you on the screen.,

**Mayor Talley:** On the screen? Can you pull it up, Aaron?

**Chad Huffine:** If I may, Mayor Talley, I'll bring you a sketch of what you are looking for, if I may.  
**(Attachment B)**

**Mayor Talley:** Sure.

**Chad Huffine:** So, if I may speak while you are reviewing that, two of the major concerns during the planning review process was the access to Interstate Service Road such that a maneuvering tractor-trailer would not encroach into the oncoming traffic in the opposite direction. The other point of interest was at the intersection of Interstate Service Road and Gilbreath Street. Both of those being important maneuvering areas whether the trucks turn right and then turn left and then access Interstate 40 through 54. So, it was determined that most of the truck traffic would move to Interstate Service Road, turn right on Gilbreath Street, turn left again, and then left again on 54 Hwy. Once they reach 54 Hwy they would go north to I40 or they would go south to Cherry Lane and then turn up Cherry Lane and head to Commerce Park. So, all those points, I think were addressed during the staff review. The access to Interstate Service Road was found to encroach onto some existing infrastructure for fire services and the water main. So, the second photo I showed you is the encumbrances at the existing entrance. The entrance was moved further west away from those items and widened to accommodate the larger maneuvers of the tractor-trailer. Therefore, you see a 94-foot curb cut with expanded radii to the right of the driveway or east as you would turn right onto Interstate Service Road and approach Gilbreath Street. **(Attachment C)**

**Mayor Talley:** Can you pull up the aerial street view so we can see the pathway coming down Gilbreath? What did you mean when you said that it was, that it went . . .

**Chad Huffine:** Okay, so when you turn out of the parking lot, that we propose, if you don't make the driveway wide enough, the tractor-trailer driver has to swing out into the opposite lane of travel, so if you were coming towards the prison camp you could get run over by the tractor-trailer driver. So, we made the entrance super wide to have a larger radius on the eastern side so the driver when he's in his truck and leaves, heads east, the tractor and the trailer stay in his lane and do not encroach the other lane. It's only a two-lane road there. In practice, the truck drivers going to drive everywhere, and we on paper have to facilitate the maneuvers to get the tractor-trailers designated (inaudible). That's the reason for the excessively wide point of access.

**Mayor Talley:** So, show Aaron on the, where that is, like right in that area?

**Chad Huffine:** If you turn the aerial layer on it will stick out a lot better. See that grass field where the cursor is?

**Mayor Talley:** Yeah.

**Chad Huffine:** If you see the pin that says Blessed from Above Massage, we have the proposed access just to the west of that pin. So, it is in the bushes just to the west of the pin so that when you turn right in a tractor-trailer you don't go into the land on the other side coming back towards the prison camp. Once you leave the site and you are on Interstate Service Road, make a hard-right turn and then a left turn to approach Gilbreath Street. Both of these maneuvers were a concern that staff reviewed by DOT and by our town engineer. So, we provided the truck maneuvers showing they were able to accomplish their maneuvers without being in the other lane.

**Mayor Talley:** So, it's both the tree, the tree area, all those trees to be cut down, and the open area space, is that right?

**Chad Huffine:** So, the pine thicket to the left of the driveway just under the number 2184, the center of that will be removed. There will be a portion of the existing vegetation that will exist just under the 2184 northwestern corner. Those trees will go away and the grass area to the east of the tag from Blessed from Above Massage that entire area will then be consistent with the whiter grayed-out area that we show you on-site.

**Mayor Talley:** And show me how you are going to get back on the interstate and get off the interstate.

**Chad Huffine:** So, from Gilbreath Street, you would take a right. You would go south just to the GKS, well now it is Cintas Uniform Services, so you are going to turn left onto Woody and you are going to go down Woody Drive until you get to 54 Hwy. That's where the Waffle House is. When you get to that intersection, you are going to either decide to turn left or right. If your destinations are to the south such as Commerce Park or further, Chapel Hill, then you are going to turn right and go south on 45 Hwy. If you are going to access 40-85 then you are going to turn left immediately and then choose your direction at 40. Then I guess if you are going to go into town you would just continue on up 54.

**Mayor Talley:** And if you go the other way?

**Chad Huffine:** If you go south?

**Mayor Talley:** You go down . . .

**Chad Huffine:** Oh, if you, left, if you turn left you've made a bad decision. We modeled the entire system after that right turn.

**Mayor Talley:** What did you just say, that truck drivers go everywhere?

**Chad Huffine:** Truck drivers go everywhere, once.

**Mayor Talley:** Once, at least once. Okay, can you show me where that is Aaron? Go the other way.

**Chad Huffine:** Yeah, if you turn left and go down Interstate Service Road you are going to end up at Hwy 87. Go back to Interstate Service Road at the point of access to the project. So, you are going to turn left on East Interstate Service Road, go through the four-way stop at the school bus garage, EMS is located at the four-way stop, and continue down East Crescent Square Drive until you hit Hwy 87. You are going to go north onto I40-85, you are going to turn right and make your choice if you are going to turn to the left and go south down 87 towards Pittsboro and you'll turn left at the light and head south on 87 Hwy. It would be the same route that I would take if I was driving the activity bus depending on which direction we were playing that night.

**Mayor Talley:** And you say it's for 120 trailers.

**Chad Huffine:** 122 spaces and these are long-term rentals they could come and go once in a day. They could come and go once a week, they can come and go several times a day. So, what our traffic study tried to do was model those conditions at the peak time of the week and I think that was what Billy was trying to comment on. They picked the worst-case scenario and provided that staff review.

**Mayor Talley:** So, they are expecting 250 trips in a day?

**Billy Tyler:** So, because this use is a bit unusual, we collected data at several other facilities similar ones in North Carolina and based on that we showed that there would be approximately . . . and when we matched the amount of trailer spaces that were offered at those to this one we found there would be about 14 trips going into and out of this during the morning peak and about 16 trips going in and out of it in the afternoon peak. And in total, during the day, there would be 134 trips approximately. That's a typical weekday.

**Mayor Talley:** What's a busy day? What would be a Saturday, do they run on Saturday? Do they run seven days a week?

**Chad Huffine:** So, this facility would be operable seven days a week.

**Mayor Talley:** So, when is the busiest day for them with other facilities?

**Billy Tyler:** So, we typically look at things based on the busiest time for our site matched onto the busiest time of the week, which is a weekday morning or afternoon peak. The data we collected for this was on Tuesday, February 28, 2023. Like I said, we collected times during the seven to nine morning peak and a four to six afternoon peak and made our recommendation based on that.

**Mayor Talley:** But my question is, at other facilities how many times are they picking up, I mean they have to have an estimate . . .

**Billy Tyler:** We collected data at other facilities throughout the day and I believe that information is included in the appendix of the traffic memo. So, there were two sites. There were two tables that we included in the appendix. One of which was the table labeled 4710 Chesapeake Drive, and the other one labeled 5035 Old Walker Town Road. These are the two additional facilities that we counted and the data there show the number of trips that were observed on typical weekdays there as well as during the mornings and afternoon peak hours.

**Mayor Talley:** I understand what you are saying when I saw this but my question is what is their peak? I mean if you can pick a Tuesday maybe that's the lowest day of the week that they run. But my question is, what is the highest peak that you are expecting per day, from any of the other facilities?

**Billy Tyler:** So, the peaks that we got here measure the peak of each of these facilities. Like I said, this is a non-standard use and so we took the peak of each of these facilities, used that data to generate an estimate for the proposed facility. So, based on the number of trailer parking spaces, the 14 am trips, 16 pm trips, and 134 daily trips should be the worst case for the proposed facility.

**Mayor Talley:** And this would all be concrete, is that right?

**Billy Tyler:** I believe that's correct.

**Chad Huffine:** It's currently proposed as gravel.

**Mayor Talley:** Gravel. And so, I'm assuming since you are moving forward with this, that the developer is agreeable to a fence, an opaque fence, being one you can't see through and how tall, did they make a recommendation as to how tall the fence was?

**Chad Huffine:** Chad Huffine again, I'll be glad to speak to those conditions or proposed conditions. We took the recommendation back to the developer from Planning Board and asked them specifically what the level of security would be, what their level of interest was in providing access control, and that sort of thing. So, I think on June 12, 2023, we provided a memo to the City indicating a six-foot minimum high gate fence surrounding the property, a windscreen similar to what you see on athletic fields, and what's advertised is 90% opaque supplemented with the required landscape plantings. The access to the facility at the main gate would be a key code similar to the rear gate at Burlington Regional Airport. We interviewed Dan Danieleley to determine the success of the gate and the access and they felt the system worked. He sang praises of the fence company and the manner in which they access their facility through that gate. All those pieces of information were then provided to Cone Commercial Real-estate who gave us the affirmative so that accumulated in the creation of the memo on June 12<sup>th</sup> to give you the idea we were certainly amenable to the security fence, access control, the opaque screening, and the required vegetation.

**Mayor Talley:** And, we will get into the vegetation in a minute. But, the fencing, what materials did you say you were using?

**Chad Huffine:** So, I think in the memo it was a 12-gauge black vinyl-coated chain-link fence. And if you are familiar with most of the athletic parks in the area, the windscreens are attached to those chain-links with little hog rings ever so often through the eyelets that are provided in the windscreen material. They



are secured to the inside of the chain link fence and provide the visual obstruction that the ordinance requires and the conditions you are asking us to provide.

**Mayor Talley:** So, like what they have at the, what they require up at the junkyard that is on 70, they have like a chain-link fence, and then they have the screening connected to it, is that what you are . . .

**Chad Huffine:** Tell me the specific address, I'm thinking more . . .

**Mayor Talley:** All the ones on 70.

**Chad Huffine:** Yeah, Copart has a metal wall almost through its property.

**Mayor Talley:** Oh okay, he has a picture here.

**Chad Huffine:** And in your packet, those items are provided. If you've ever been to Graham Middle School to watch a baseball game during legion seasons, the outfield windscreen is obstructing the view of the bushes and the activity behind the outfield fence. So, that's the idea we have in mind. I think the third, probably the second and third pictures, I think they give you at least a pretty accurate description of what's commercially available and what we would provide.

**Mayor Talley:** Aaron, do you have it, did you put that in the packet?

**Chad Huffine:** I'm going to look and see what I've got that I brought with me.

**Mayor Talley:** Yeah, I know, he said it was in the packet and I don't think it was.

**Council Member Bonnie Whitaker:** Is it normal, is it the norm for these types of storage facilities to have gravel rather than concrete?

**Chad Huffine:** I have been to two personally down 85 between here and Atlanta on a trip in January and they were gravel. If I may, Mayor Talley, I have a copy of that memo. **(Attachment D)**.

**Mayor Talley:** Aaron, can you please pull up the, I believe it's B-grade of the landscaping?

**Chad Huffine:** If I may Mayor Talley. **(Attachment E)**

**Mayor Talley:** Yeah, sure.

**Council Member Bobby Chin:** Mr. Huffine, is this what you are proposing similar to the storage area across from Westgate Triad on Auto Park Drive?

**Chad Huffine:** Can we look at it on the map?

**Council Member Chin:** Yes.

**Mayor Talley:** Aaron, as far as an opaqueness, D, is that the one?

**Assistant City Manager Holland:** D, is minimum landscaping grade, it's typical between that type of use, and less intense uses. If this was adjacent to something residential it would be a much more intense

landscaping requirement but it is of a similar intensity so therefore, it's a very lightweight landscaping requirement.

**Chad Huffine:** If I may add to Aaron's comments. You typically have in the City of Graham Ordinance, A, B, C, and D landscape buffers. Those buffers vary in width from 40 down to 10 feet. So, D would be a consistent landscape buffer between industrial uses.

**Mayor Talley:** I just wanted to, I would not be using this as an example because the number of calls I've gotten from citizens from when CarMax was there, Carvana, whatever, that was, my phone was ringing off the hook. I wouldn't be using this as an example.

**Chad Huffine:** I can say to Councilman Chin, no sir.

**Council Member Chin:** I was referring to the fact that that's a gravel parking lot.

**Chad Huffine:** That is gravel, yes sir. If we could, if we are touring around town, on Google Maps we could go back to the Burton Storage which is across the street and a little more comparable. It's the old SCI building that is shaped like the letter U. So if you will get a street view there at the intersection of East Gilbreath and Woody. If the photographs are current, no, let's go down Woody and see if the dates improve.

**Mayor Talley:** They did have current pictures on there because I saw them.

**Chad Huffine:** All right, let's pause there, please, Aaron. So, Councilman Chin, as opposed to wood, this would be the 90% opaque mesh screening and the contents internal to the light. **(Attachment F)**

**Council Member Chin:** I was just showing the Mayor because she had a question about concrete versus gravel and that parking lot that was over there across from Westgate is a gravel parking lot.

**Chad Huffine:** Thank you, Aaron.

**Assistant City Manager Holland:** Which one, Woody or Gilbreath?

**Mayor Talley:** Woody. I see a lot of electric, not sure if they are necessarily Duke, but I see a lot of big trucks there in that parking area, staging area so to speak. Joey, do you have any more questions for . . .

**Council Member Joey Parsons:** I think one of the conditions was a guard house. You didn't address that when you were . . .

**Chad Huffine:** So, the addition of a guard house or the addition of a keypad-coded entry in the minds of our customers accomplish the same thing. The concern at Planning was security, vagrancy, or whatever might go on. So, we took a trip to see Captain Flood to interview him specifically about occurrences in this area, and to his knowledge, there were none. There is not a lot of activity that there . . .

**Mayor Talley:** There's a whole homeless camp camped out in GFL across the street.

**Chad Huffine:** At this location, there were further items that Officer Flood commented on at the apartments close to Woody Drive and at the adjacent property line to GFL. At this location, the prison camp, and the school bus garage, there were no incidences that he could think of. So, the guard house would then require a full-time employee and that is not something that is in the business model of the plan

for this facility. So, the keypad and gated access, we professionally, and our customer as well, felt that would provide the security that the Planning Board was looking for. And, I'll go ahead and comment on the electrified fence. The opinion of our customer was not a facility they did not want to install.

**Mayor Talley:** I'm sorry, say that again.

**Chad Huffine:** That was a piece of the facility that they did not want to install, I guess for obvious reasons.

**Mayor Talley:** I just think that . . . did you say it was a ten-foot fence, is that right?

**Chad Huffine:** I think we had proposed six. It is the purview of the hearing to add conditions to this if you so desire.

**Mayor Talley:** I think the concern is that it's chain link and even little kids can climb chain link fence and get over it, you know, as far as like a safety thing. There is a campsite, so to speak, in the woods there that GFL has had quite a bit of issue with. I don't know, I mean I can see why there are security and safety concerns for that if you don't have a very good way of keeping people out.

**Chad Huffine:** So, I'd like to say that our perimeter fencing, our locked gates, and our keypad access control is consistent with or better than any of the adjacent properties. We can pull up Woody Drive, we can go down Interstate Service Road, and look at the existing School Bus Garage fencing. You will find chain link fences consistently used throughout. You can certainly propose barbed wire at the top, which provides an additional hazard but it does provide an additional means of security. That is not something that is common in most town ordinances so that's why we did not propose it. Higher fences are often a better deterrent but we did not propose that because it would be inconsistent with what is there already. So, I think at this point the body you all are members of or have the opportunity to provide conditions in addition to what we propose but we are proposing a six-foot chain link fence with a windscreen that meets the opaque requirements and (inaudible) security.

**Council Member Chin:** Would you clarify the use, is it a trailer storage facility?

**Chad Huffine:** If I drive a tractor-trailer and I have two trailers and one tractor and I need a place to put one of my trailers, I'm going to put it here and pay someone a rental fee. When I need to switch trailers, I'll take it to its destination, whether it is full or empty, and I'll retrieve my other trailer and I'll run another route. It could be all of us and one tractor and two trailers or it could be just me and 122 trailers. I don't know the scope of that and neither does the customer. But, that is the philosophy here. The trailer would be dropped, and part of it is an overflow function of the commerce park. Part of it is the location of Graham relative to other points of deposit. So, one tractor could certainly facilitate local runs with multiple trailers between Greensboro and Raleigh in one day. I think that is the idea that is driving Cone Commercial to move to this area.

**Council Member Chin:** So, still a storage area.

**Chad Huffine:** We could call it drop storage.

**Council Member Chin:** Drop storage.

**Chad Huffine:** There are all kinds of vocabulary, but what I would do if I woke up in the morning as a tractor-trailer driver, and I had two trailers and two routes to run, I would go pick up a trailer and take it to

Greensboro, bobtail back to Graham, pick up my other trailer and run it to Raleigh. Bobtail back to Greensboro and pick up my fully loaded trailer and take it to its point of deposit. I'd do the same thing for my destination in Raleigh and back here. If I'm done on that day then I'm going to drive that tractor home and leave my trailers here.

**Council Member Whitaker:** But it is not going to be used for truckers to spend the night, right?

**Chad Huffine:** No mam, this is not a truck stop and this is not an overnight facility in any way geared towards that and I'm sure that's in the lease agreement. We can get that information from Cone Commercial if necessary. But, it is not in any way intended to be a truck stop, overnight, wash, or mechanical facility.

**Council Member Whitaker:** Some of the paperwork said it was not expected to be used for that and that got to my (inaudible) senses.

**Chad Huffine:** I'll clarify that if need be and tell you that's not expected and it is not going to happen.

**Council Member Whitaker:** Okay.

**Mayor Pro Tem Hall:** Is this about the tower that's already on this property, how are you going to get access to it?

**Chad Huffine:** Okay, Councilman Hall, so, the idea would be to provide the tower compound with access to the main gate with (inaudible) code and then double lock the rear gate so that both the property owner and tower compound owner would have access to the tower facility. Much the way we would lock or double lock easements or gated access across easements throughout the town or on other public facilities.

**Mayor Pro Tem Hall:** The property still had a parking lot across the deck (inaudible). I'm sorry, doesn't this property still have a recorded parking lot easement across this property?

**Chad Huffine:** It has an easement, a recorded easement across the parking area, and that easement would continue to exist but it is not in use by the property owner. Through conversations with the property owner that easement could be abandoned if necessary. The parking lot that is there is currently a little asphalt parking lot adjacent to the main entrance to the, I guess it would be the east side of the existing warehouse, and the main concern in that area was not that the parking lot was there but that the water vault and hydrant were there and we wanted to make sure we avoided those. We spoke with Officer Russell or Beau at Graham Fire early on to make provisions to avoid that.

**Mayor Pro Tem Hall:** Aaron if we approve this with the current parking lot, a dirt parking lot, would that deter or diminish the existing building for (inaudible),

**Assistant City Manager Holland:** Would you mind repeating the last part you said, would it diminish the what?

**Mayor Pro Tem Hall:** Would it diminish the property at Rolls Enterprise?

**Assistant City Manager Holland:** I think that would have to be answered by Glenn. If you are talking about it from a monetary viewpoint?

**Mayor Pro Tem Hall:** No, what I'm asking is the people at Rolls Enterprise removed the parking on this property that Chad is talking about, wouldn't that diminish and go against our ordinance for Rolls Enterprise?

**Chad Huffine:** It's the same ownership.

**Assistant City Manager Holland:** It's the same people, so I think it would be one in the same.

**Mayor Pro Tem Hall:** Okay.

**Chad Huffine:** Councilman Hall, for clarification the warehouse is owned by the property seller. They have spoken to their tenants and they will use the other parts of the parking areas that facilitate that building for their use. I understand your question now. So yes, that item has been addressed.

**Mayor Pro Tem Hall:** (Speaking to Mayor Talley) Back when Jerry and them bought this property the grass area out there beside where it says Rolls Enterprise (inaudible) temporary, well there is a big parking lot recorded on the plat. But, what I wanted to know was, is he going to go against our zoning ordinance for them to nullify the parking that is non-existent at this time? Can they do that and still, that building keeps its zoning?

**Mayor Talley:** So, the tree that you have there, are you going to take all those trees down?

**Chad Huffine:** Almost all of them, we have to put street trees back in place of the ones we take out. There's a lot of grade change that occurs in that wooded patch and in order to get the storm drainage to function, that site with the pine thicket on it has to be graded to drain to the east and then there's a perimeter around it that we are planning on leaving outside the functional area, the parking lot. Then that would be supplemented or augmented with additional street tree plantings consistent with the city street yard requirements. That's on that little drawing that I handed up.

**Mayor Talley:** But is that picture accurate that you leave all those tall trees?

**Chad Huffine:** Yes, that's pretty accurate. The center part of the thicket is gone because there are three rows of trailers right there. The perimeter is pretty much going to stay where it is.

**Mayor Talley:** You are aware of our overlay district, right? I know this is not in the overlay district but the intent of the overlay district?

**Chad Huffine:** Yes, mam, I am aware of the overlay districts in the city.

**Mayor Talley:** Aaron, there was an electrical contractor that was right there on Gilbreath Street that had some issues with break-ins there and they had a fence. I remember and recall them saying when they did put something on top of it, what do you call that?

**Chad Huffine:** Barbed wire.

**Mayor Talley:** Yeah, that helped a lot, but then they just cut the chain and didn't go over the fence anymore. They just brought cutters and cut through the chain. Is that, have you heard of any other break-ins over there?

**Assistant City Manager Holland:** I haven't but technology has come a long way over the last decade or so and camera usage is highly recommended. But, again, you know, you have to kind of lean on whatever the property owner and the business owner how they want to protect their property and to what level. Some people will put cameras in every corner, it just depends on the circumstances I suppose.

**Council Member Whitaker:** I think the bottom line is, if someone wants to get in there badly enough anywhere, they will. I mean the fence is a deterrent, I don't think, I'm saying it should be made of something else or that you should put barbed wire up around it, you know, these are all deterrents but if somebody wants to get in, they're going to get in. I mean, that's just been my experience.

**Mayor Talley:** That was a lot of the problem, like if that was a facility making biscuits no one would care to get into the fence, but because they sell very expensive wire and had it actually outside, you know it was like this advertisement, come steal from me, kind of thing. Copper is easy to sell at recycling places and stuff.

**Council Member Whitaker:** I don't think anyone will be trying to steal the tractor-trailer, I don't think.

**Council Member Parsons:** I think it's more concerned about the content of the storage trailers.

**Council Member Whitaker:** Yeah, but if they are locked, again, you know, I would hope they would be.

**Mayor Talley:** Well I think you have done an excellent job but are there any other people that are wanting to speak on this issue tonight?

**Matt Wall:** Mr. Patterson is here to speak on the possibility of any adverse impact on adjoining property values.

**Glenn Patterson:** I'm Glen Patterson, Patterson Appraisal, 885 Cheeks Lane, Graham, what you are getting is pretty much what my notes are that I provided. What I'm here to testify on is whether this proposed use would provide a substantial injury to the value of adjoining properties or abutting properties in the area. My professional opinion is that there is no data to say whether it would affect it positively or negatively on any adjacent properties or anything in the area. The neighborhood, there are about two to three deep adjoining it, is industrial properties so there is no impact that can be measured on any scale that I could find whether it would benefit or harm any properties. The only one I could find locally was the one we have been referencing at 609 Woody Drive. When the Burtons bought that property that if it (inaudible) as code they were using it for truck parking similar to this proposed use. I believe, if I'm right, it was when they leased it to the electrical company that the inside fence which is wood was put into there, but that property itself will change that use from regular industrial to more of a storage and industrial use for their trailers, very similar to this. Again, there was nothing to show any significant change of value based on just that one particular change of use on that property. Again, my opinion is the use of this property does not have any effect on the value of any property whether positive or negative.

**Mayor Talley:** Thank you.

**Glenn Patterson:** Sure.

**Matt Wall:** Madam Mayor, I think that's the evidence for the applicant. You have both oral testimony and written submissions of experts and the proposed findings of fact that Mr. Huffine and also your own staff had submitted. If there are any other questions that you have for us, we will do our best to try and

answer those. We would respectfully submit that the evidence does support that the applicant has met its burden under the ordinance to meet those six findings of fact and that the special use permit should be issued. Thank you.

**Mayor Talley:** Aaron, can you pull up the land use map and show this particular location? It's zoned I-1, is that correct?

**Assistant City Manager Holland:** Yes.

**Mayor Talley:** That orange, can you go down to the key? It talks about, how wide is that road there. I know they said they were going to have to make the driveway really wide in order to not go into that existing lane. That other lane on the other side, is that road like, able to handle heavy truck traffic?

**Assistant City Manager Holland:** Met with NCDOT during TRC and they are satisfied with the proposal that had been submitted to them with the recommended changes.

**Mayor Talley:** What does it say in our code of ordinances in regard to storage of a commercial industrial property? Because I know on the zoning for light industrial, they want that all buffered, they don't want you to be able to see that from the road, that kind of thing.

**Assistant City Manager Holland:** I'm sorry, are you speaking on the development ordinance?

**Mayor Talley:** Uh, uh.

**Assistant City Manager Holland:** Obviously they wanted to be placed in an area of similar use which this basically is. They want the landscaping to be applicable to the surrounding area. So, if you are near a less intense type of use and you are considered to be the heavier of the intensity uses they want to make sure you have enough buffering. But, because this one is adjacent to a similar intensity is why it is calling for such a light landscaping requirement.

**Mayor Talley:** Is there anyone else that would like to speak on this, at this public hearing?

**Tom Boney, Alamance News:** Madam Mayor, I have a question, not testimony on the subject per se. The question goes back to City Council. The question is whether it is an action, a promise, or an expectation. Several years ago, the City heard a zoning request for the Lidle Distribution Center in the industrial park. As a part of that the Mayor, then-Mayor Peterman, elicited and this is part of the question, I'm not sure exactly how precise his promise was but from the Lidle people, prior to Amazon, would not use the exits or entrance through Cherry Lane to get to their facility. That the entrance, used for entering and dealing at the industrial center or industrial park, was solely through Senator Ralph Scott Parkway, which has the entrance off of Trollingwood/Hawfields Road. My question occurs by virtue of the description given by Mr. Huffine, actually twice, that part of the intention is that trucks would turn right down 54 and then turn left onto Cherry Lane to get into the industrial park. That's my question. It could be that everything has been overtaken by events but at some point, there was the assurance, promise, something that Cherry Lane was not going to be used for industrial traffic in and out of the industrial park. I don't know what the status of that is, I know what the status of practice is, but I don't know what the City's if it had any official imprimatur in terms of assurance from, not these applicants, but the applicants for the industrial park was to keep industrial traffic off of Cherry Lane.

**Assistant City Manager Holland:** I think the intent, I was not here during that conversation, I came in right at the end of that but, the intent was to try to keep that traffic from coming down Cherry Lane and stick to that new road. But, Mayor Peterman can't dictate who can come on and off a State road, so it was more or less an acknowledgment by the company that they are going to steer their drivers to utilize the new road versus coming down Cherry. Jerry would not have the right to tell someone that they could not come down a State road. So, that conversation was like that, I hate to do that, but I was not here at that particular time.

**Tom Boney:** Right. Well, that's my underlying question. I'm not sure how much enforceability it had from the outset, but at least rhetorically, at some point, there had been an assurance to residents in that area and otherwise, that Cherry Lane would not be used as an entrance for the industrial park. And, now tonight, twice, it's been mentioned that it specifically would be for potential tractor-trailers from this facility. Swapping out and potentially going there as opposed to again, the original description was that everyone would enter the industrial park through the main entrance off of Trollingwood/Hawfields road onto Senator Ralph Scott Parkway.

**Mayor Talley:** Anyone else from the floor that would like to speak? Can I get a motion to close the public hearing?

**Mayor Pro Tem Hall:** Madam Mayor, I make a motion to close the public hearing.

**Mayor Talley:** Do I hear a second?

**Council Member Chin:** Second.

**Mayor Talley:** All in favor?

**Council:** Aye (*All said, Aye*)

**Mayor Talley:** Okay, I just want to start out by saying that I myself, I speak for myself, very pro-business, try to find solutions, rather than try to tell people why they can't do something. That being said, the way I interpret and read the comprehensive plan and the land use plan is that when you're asking for a special use to be approved and I will read directly from the 2035 Plan; "Develop commercial and residential site design guidelines that enhance community character and appearance to be used with special use permit and conditional rezoning applications." And, in my mind, if you are having, and I said this about the development out near Cherry Lane, the industrial park predates the development, the residential development on Cherry Lane. Whether residents that bought there knew that was an industrial park but certainly their broker or real estate agent should have told them. That being said, there is a way to develop harmoniously with existing neighbors and make sure that noise is not an issue for existing residents when you are going to build, lighting is not going to be an issue, the roads aren't going to be, they are adequate for the additional traffic and that's why I was concerned about the traffic issues here and where all these trucks are going to be coming from. Your own testimony states that taking the wrong turn is not a good thing for tractor-trailers because there are exits off that interstate service lane and GPS takes years to even get people sometimes to even upgrade or update that. I don't have a lot of faith that drivers, tractor-trailer drivers will not go the wrong way. When I looked at this, I always come in with my mind open to hear what you have to say but I have a lot of concerns about safety. I share a lot of concerns the planning board had and even in Cherry Lane if you are going to have to, if everybody put up a buffer, put up a fence I don't want to see that, that does not seem to be consistent with what we should be developing in that area. You know, obviously, the overlay districts, which I was against a lot of opposition champions years ago,



now are the best things we ever did. But, back then they were not so popular, and it is to protect our corridors coming in so that when you are driving down the interstate and you see, I'm sure people are familiar with the hotel there, the old hotel at the Maple Street exit in Burlington and you have all those trailers piled up there for storage with no fencing and no anything. It just does not lend itself to looking harmonious with the existing or safe or just a lot of things. The appearance of that, I think some of the, a lot of the ordinances that we have in place are to tell developers and business owners when they have buildings that they typically want storage in the back, they want it not to be seen, even on light industrial. So, you can't have, you know, equipment that you are working on out front, you can't have storage trailers out front and this entire site from the interstate, up high on a hill, would have this imagery of storage trailers. In my mind, for a special use to kind of go against what would be allowed there, I need to feel like that's improving the area and even your own real estate appraiser said that it will not damage nor will it improve. So, it leads me to feel that I'm not very much in favor of having a storage facility there and then having a lot of fencing around it and security issues and we did not even talk about the lighting. But in my mind, I hope if other council members, because I'm just one Council Member and we all have a vote, that there would need to be some significant lighting there and I think a chain link fence really does not deter any kind of the safety concerns that I have in that area. I think the traffic is an issue in that area as well. I think that is a reason why they are having to make the driveway entrance wider. So, for those reasons, I'm personally not convinced but I will let my other Council Members make their comments and see what their feelings are. Bonnie?

**Council Member Whitaker:** I was just going to ask you (*Mayor Talley*) what are your safety concerns. Are your concerns for the truckers that are going to be using it or the safety concerns for the people that try to break in and break the law? Which ones are we talking about here?

**Mayor Talley:** Well, I just think that a fence is not going to deter people and you have a lot of people that aren't all working for the same company, you just have a lot of truck drivers from all over the country that will be entering that location and without an onsite person, as the planning board recommended, to be running that business, I mean what is going to stop ten tractor-trailer drivers from sleeping there overnight. There's nobody there minding the business. What would stop ten tractor-trailer drivers from staying there overnight? Or taking somebody else's trailer or storage trailer? No cameras, no lighting, none of those things were proposed. I don't know, I just feel like it could be a deterrent and I guess I'm more with staying with what the ordinances are and what the land use is and that if we are going to break that in order for a particular business to go somewhere, it needs to be bringing something and making something better. I think there are reasons for exceptions, but I don't feel like this rises to the level of being able to do that. I mean what we are saying is inconsistent with our overlay district. This particular property isn't in the overlay district but the intent of the overlay district is to protect the corridors, and the visibility from the interstate as people come through that they have something very nice to look at coming into our main hub. I mean the overlay district is to protect the development in that area. This is highly visible from the interstate. Do you want to have a bunch of storage trailers from the interstate?

**Council Member Whitaker:** I think that the intent of the fencing is to hide some of that.

**Mayor Talley:** I totally agree with what you are saying but why are we agreeing to change the rules so we have to hide something behind a fence?

**Council Member Whitaker:** I don't think we are changing the rules, it's already zoned for an industrial one.

**Mayor Talley:** It's not zoned for this purpose that's why a special use permit is required.

**Council Member Whitaker:** Well, I still don't think that it's not in keeping with what's already in the area. I mean I think putting a restriction on them to say you have to have a guard there at all times is you know, certainly not something I agree with. I don't agree with electrifying the fence to keep people out because it's really not to keep people in, it's to keep them out. And then you are going to have somebody, God forbid, some trucker accidentally backs into the fence, and then we have a whole other issue going on. I don't think electrifying the fence is the answer.

**Mayor Talley:** Well, our property, just my personal experience of being beside a place that has tractor-trailer traffic there is a lot of trash and debris, and like if there is something that they want to get rid of, old tires, or whatever, they just leave it. I mean I hate to say that but with no one being there to monitor that, even at a truck stop, I mean, stuff gets dumped, stuff gets left, it's just a maintenance nightmare.

**Council Member Whitaker:** It could happen with any industrial building. I mean, I think that's a risk that . . .

**Mayor Talley:** But, there's no one there.

**Council Member Whitaker:** Well there's not anyone there at any of the other properties either. Not all the time.

**Mayor Talley:** Yes, there is, on Woody Drive, there's always someone there.

**Council Member Whitaker:** At every place?

**Mayor Talley:** I don't know of a place in Graham that we don't have someone there monitoring. Even at the truck stops they have it monitored and they still do it.

**Council Member Whitaker:** Well . . . I guess

**Council Member Chin:** You are trying to change human nature Mayor. I think our discussion is getting to the point we are not trying to dictate to a private citizen who is developing a, making use of land that they own, why are we dictating? If it gets to the point that there's vandalism I'm sure the owner will take steps to correct it. But, we are now second-guessing what's going to happen there. If you drive from exit 145 to 148 and you look to your right you will see everything there that has no screening and such. It's an industrial corridor down I85-40. I mean, you've got where Amazon Locker and Carvana are storing vehicles and trailers and there's no screening on that chain link fence. But I think people recognize it, it's an industrial area. And we are trying to put lipstick on an industrial area. With the fact that they've got, they are going put a key code box, which means the driver was given that code by the business. He says okay, you can use this stop to drop that trailer, especially if it is pulling two trailers, drop one, deliver, and come back and pick up the second one. It's not a key code that is going to be publicly known. Oh, let's go on Google or whatever and say hey, we got a truck stop here let's use it. It's a trailer transfer point and I think we are overthinking its use and trying to define the outcome. That's why it's private property being developed for private industry and if they're in the business of profit, if it starts getting vandalized they will take measures. If that means putting a guard on site, or with all the remote cameras, you put cameras up where it is monitored by one of the security firms. But, when you look at that area it used to be the prison. You've got the EMT service station there, you have the school bus repair there. It's all, it fits right into what's there now.

**Council Member Parsons:** It would actually look better probably than what's there with the screening and vegetation.

**Council Member Chin:** Exactly.

**Council Member Parsons:** Because what's there now does not look good at all.

**Council Member Chin:** Yep.

**Mayor Talley:** What do you think Ricky?

**Mayor Pro Tem Hall:** Well, I think once they come in and cut all them trees down it's going to open all them businesses back there behind them it's going to make them stand out like a sore thumb. I'm not in favor of it.

**Council Member Parsons:** They are not going to cut all the trees down they are going to leave a buffer.

**Mayor Talley:** You can't leave a buffer where there are not any trees now.

**Council Member Parsons:** I mean, under industrial who's to say that Rolls Industry gets bought by somebody and they have a hundred and twenty tractor-trailers and they have the easement to park them there, we have nothing in a conditional thing that could say they can't park there because it's part of their business.

**Mayor Pro Tem Hall:** If they sell Rolls, if they sell the other business . . . (Inaudible)

**Council Member Parsons:** Or if it sold and they put up some other business and they have transfer trucks, they can park those transfer trucks on their business parking lot. I don't think there is anything in I-1 that prevents that. The only thing I know that I-1 is there is for towing, facilities can't store.

**Council Member Chin:** If the truth be told, it is basically a paved parking lot that nothing says it is going to stay that way. Somebody may come and decide, I'm going to buy that land and I'm going to build something on it that's industrial, manufacturing facility.

**Mayor Talley:** I would be more in favor of that than to allow a special use for storage trailers. I just don't see that consistent with our 2035 plan to allow a special use for storage trailers. How is that the highest and . . .

**Council Member Chin:** But it's not long-term storage trailers. It's not like you are going to park it there and leave for a year. It's basically . . .

**Mayor Talley:** Anything that prevents them from leaving it there for a year.

**Council Member Chin:** Well if the person is willing to pay the usage, storage to leave it there. But, I don't think it was intended for long-term storage. Am I correct?

**Matt Wall:** That is correct.

**Mayor Talley:** And there is nothing that prevents coming out for someone to go left at either Gilbreath or on the interstate, is that correct?

**Chad Huffine:** Nodded yes.

**Council Member Chin:** Unless you get DOT to put signage that tractor-trailers can't go left. You know, if there is a weight restriction on that bridge. But as it stands now tractor-trailers do go over that bridge. Truck drivers will find the easiest way to navigate through a community and all it takes is the one time to make a left turn and go on Gilbreath and it's like, nope, not going to do that again. Truck drivers pulling a 48-foot trailer are going to find the easiest way for them to maneuver through a community.

**Mayor Talley:** Well that's why you have so many complaints from residents when they . . .

**Council Member Chin:** Well residents who buy a home near a commercial industry and start complaining I think of residents who buy a home under a flight path into an airport. The airports have been here when you bought, you knew there were airplanes flying overhead. And grant it, truck drivers do make mistakes and drive through residential areas but they don't make a habit of it. I think we are making something complicated when we can't change human nature but at the same time it's a legitimate use of that land and right now it's a naked field. We turn it into a transfer point, it is producing revenue. That revenue is going to get taxed. It's not a money-making venture, they are not going to build it.

**Mayor Talley:** There's no sales tax associated with renting that. Brings in no sales tax does it, Aaron? We don't pay sales tax on rent so the only thing is somebody is already property tax, so there are no additional revenues coming into the City. That's why I guess what I'm saying is, if someone was coming and they were going to build something and they wanted us to approve something that otherwise would not be allowed there, I would be in agreement with it if the citizens and the community were going to benefit somewhat. But I just don't agree with having an overlay, our whole strategy of overlay district is to protect the area.

**Council Member Chin:** Are we going to approve something that produces no revenue in Graham?

**Mayor Pro Tem Hall:** Property tax.

**Mayor Talley:** They are already paying property tax.

**Council Member Chin:** Yes, but does it change the property taxes being paid now, is it as vacant land?

**Mayor Talley:** It's already been reassessed, it's not going to change the value as you heard from their own appraiser. It's not going to increase the value, that's what I'm saying, it's like you're allowing something that they are having to hide with landscaping and fencing and I think there is a higher and better use. The property owner can do what they want but this is not acceptable use standing on its own merit. We have to, I guess my feeling is that what's the point of having a land-use plan and saying in this area you are going to have this, and in this area, you going to have 12,000 square foot lots when every single time when somebody comes up here you make an exception for it. I'm not saying this Council has done that but Councils in the past, seemed like nothing was ever turned down and you know, we just have to be thoughtful in development and what projects we make exceptions for.

**Council Member Chin:** But, you raise a good point if it is not generating and if it's not going to produce any revenue . . .

**Matt Wall:** Madam Mayor, if I might, if you are willing to reopen the public hearing, Mr. Patterson, the real estate appraiser would be willing to give additional testimony about the valuation of this property with the development.

**Mayor Talley:** With what?

**Matt Wall:** With the plan of development for the property and how that would impact the value of that property itself, not the adjoining properties. The special use findings were no adverse effect on adjoining properties. The question that I hear Council discussing now is the valuation of the property to be developed itself. He's willing and able to provide some additional testimony if you want to reopen that public hearing as to that question.

**Mayor Talley:** Sure, do I have a motion to reopen the public hearing?

**Council Member Chin:** I make a motion to reopen the public hearing.

**Mayor Talley:** Do I hear a second?

**Council Member Whitaker:** Second.

**Mayor Talley:** All in favor? (*All said, Aye.*)

**Glenn Patterson:** Again, Glenn Patterson, it has been my observation in my thirty-some years in commercial real estate that if anything is touched on a commercial piece of property it is going to be revalued. So, this piece is sitting there and being mowed, you have trees on it. It's going to be graveled and it's going to be fenced and I would almost put money that it's going to be revalued and revalued considerably because the use is changing for it. You are also going to be bringing in revenue to the property owner, you are bringing in trucks, people who are actually using facilities within the City, whether they are retail facilities, whether it's downtown or whatever. I would say a lot of those folks may not be from around here and they may be using the motels in the area, so you are getting the revenue there off of the commercial aspects of it. But from what I've seen with these kinds of things it's going to get revalued because it's being improved. That's why it gets revalued because it is an improvement. They are not going to drop the value of it because they are starting to use it. It's a different use and the County is going to look at it that way. So therefore, that benefits the City because it is in the City, and you are going to get more taxation on that as well from the real estate side of things.

**Mayor Talley:** But, if there was a development that came there that actually had a building and a use that would be more valuable, correct?

**Glenn Patterson:** Well of course it would.

**Mayor Talley:** Okay, any other comments? I make a motion to close the public hearing. Second?

**Council Member Whitaker:** Second.

**Mayor Talley:** All in favor? Aye. All said aye. So, I just say that we have a finite amount of property and I just, I'm not in favor, I don't believe that they have shown me at least or convinced me at least that this is something that we would want to give an exception to. This particular property several years ago was

being eyed to put up a commercial building, a spec building by Samet. I think, I have not seen any for rent signs or anything like that up there, or for sale signs, or any advertising they have done. I don't know how much advertising they have done but I would imagine someone contacted the property owner and said hey, I'm looking at trying to do this but, again, I think if the property owner, you know, he knows what the acceptable uses are and that's by the zoning and to me if I'm going to make an exception to that I want it to be something that is going to benefit the citizens. I don't believe the value is going to go up a lot with putting gravel down and putting a bunch of storage trailers on it. You can't even tax the equipment. I mean at least with a building you are taxing equipment, you are taxing the building.

**Council Member Chin:** But Mayor you making it sound like the trailers that are going to be parked there are kin to a storage unit like the Cardinal Storage down the road and I don't think that is the intent. It's basically a temporary spot where a line hauler and now that trucks now can haul two trailers. If he's going to make a delivery in Graham, he doesn't want to pull two trailers into the City. He needs a place to drop off one trailer and then deliver the one and come back and pick up the second.

**Mayor Talley:** Can I ask you where another facility is?

**Chad Huffine:** Chad Huffine again Mayor Talley. We would have to do down 85 Hwy into Georgia and I could show you some that are there. It will take me a while to find them on my phone.

**Mayor Talley:** Can Aaron find them?

**Chad Huffine:** I'd prefer to find them first and then give you the address in the interest of time.

**Mayor Talley:** Okay. I just have a real problem with no one there running the facility.

**Council Member Chin:** Again, Mayor, if it starts to develop a trend toward crime the owners are not going to let that, not respond to that. But for us to second guess, yeah you need to put a guard out there right now versus I think business will dictate what's going to happen. If he puts cameras out there, somebody is going to be monitoring the cameras. He's going to pay a security firm or somebody that's going to be monitoring the location. So, though there's no one there it is being watched. At the same time, as a gravel paved area, if somebody comes and wants to build there, it makes it a lot easier to build there than if somebody's built something and they have to knock it down.

**Council Member Whitaker:** I think the intent of 2035 when it talks about improvement, it is an improvement to the actual, what's there now. I don't think it is specific to, it needs to bring this much revenue into the City necessarily. When it says improvement, I look at it like, okay what does it look like now, is this going to be an improvement or is it just going to be not considered an improvement? To me, it is an improvement over what's there right now. I mean, there's nothing there now. Nothing scenic for sure, there's just nothing.

**Council Member Chin:** An industrial site.

**Council Member Whitaker:** Yeah, it's an industrial site and it looks like an industrial site. It just looks like an old abandoned industrial site. That's my opinion.

**Mayor Talley:** I'm sorry we have to do this in the meeting but we are not really allowed in a quasi-judicial hearing to go out and do our own research, we have to do everything in a public forum. It's very difficult to prepare for these kinds of hearings ahead of time.

**Council Member Whitaker:** While he is reading that if I might, under the conformity to the Graham 2035 Comprehensive Plan the planning board mentioned applicable strategies 2.4.3 it says freight corridors. Encourage freight-oriented industrial development to locate where it can maximize access to major freight routes including I-40/85 and state highways which it does that.

**Mayor Talley:** But this is not designated as a freight corridor.

**Council Member Whitaker:** It says it will encourage.

**Mayor Talley:** That's referring to areas that are designated as freight corridors.

**Council Member Chin:** One could make the argument. . .

**Mayor Talley:** Commerce Park.

**Mayor Pro Tem Hall:** You guys have got to remember there is a 200-lot subdivision that is being built on Gilbreath that is going to add a significant amount of car traffic on this road and if a tractor-trailer misses the turn on Woody Road, they are going to Ivey Road which the intersection want support making a left-hand turn.

**Mayor Talley:** Is that the Google street view? Can you go to Google street view, do you have the address? So, to me, they are allowing people who are going to be paying taxes in other states and other counties to come here, use your property, tear up the roads as you see here in this picture, use your property and you receive no, nothing. Taxation is a form of, you are here, you are living here and that's why you are taxed here. But, when you allow someone to come in, they are not employing any people here locally, there not paying any additional property tax as the renter, they are not improving the property and there is road maintenance and trash pick-up that just, I don't know, I just don't see that this is something that is bringing something to Graham in order to make an exception to the existing zoning law to allow that to be here. I mean, I think that it was on a road that was designed for industrial use.

**Council Member Chin:** Well, Madam Mayor, as Council Member Bonnie said, it has access to the interstate whether you go east or west. If we use your argument that you are presenting now, we will not get anything here. But you can make that argument against one of those things . . .

**Mayor Talley:** That's not true, Amazon, Lidle, Wal-Mart, all of these people are paying equipment taxes, property tax . . .

**Council Member Chin:** Because they have a distribution warehouse there.

**Mayor Talley:** They are employing local people, they are paying employment tax, they are paying property tax, they are contributing to their local community.

**Council Member Chin:** The drivers passing through, they have to eat, they have to have a place to stay, they have to fuel their trucks. I mean an indirect way revenue is coming back into the City. Not coming through that piece of land per se, but it is coming back to the City. If anything, its location does minimize the number of miles you are driving to get to the interstate. You think about where Lidle is, they have a further distance to drive, and you have to find an on-ramp. It's a quick, easy service provided to a trucker

to take care of business and then move on. They don't need to stop, they are not going to stop there as if it were a truck stop or rest stop. It's not meant to be a rest stop.

**Mayor Talley:** Who's going to monitor that?

**Council Member Chin:** If you don't have the code you can't get in.

**Mayor Talley:** Right, but if they have a code and they get in to be able to drop off a storage trailer, what's going to stop them from . . .

**Council Member Chin:** Again, it is not for us to judge human nature or change human nature. But if a trucker has a schedule to meet they are not going to waste time. They have requirements and restrictions and it is not meant to be a rest stop. They are going to come in, they are going to take care of business, drop the trailer off, go finish the route, come back, pick up the other trailer, and get out of town.

**Mayor Talley:** Well, whether it will or will not bring value to the City of Graham, I don't think it, on the other six items, I don't think that it complies with the zoning. I definitely don't think that it complies with the 2035 Development Ordinance, a comprehensive plan. I mean the 2035 Comprehensive Plan. I think there are a lot of safety issues. I don't believe it is harmonious with the buildings, the industrial buildings that are around there. We don't have anything like this at all at any of the other intersections and I believe the amount of traffic that it would produce there would be harmful to that area. I think the grade of the road is very similar to . . .

**Council Member Chin:** That's down in Georgia. It's not here.

**Mayor Talley:** Our road here how would it be any different than the road in Georgia? I mean, did you see the road on Wildwood Lane? It looks exactly like this.

**Council Member Chin:** And it is going to get repaired. Madam Mayor, I guess . . .

**Mayor Talley:** I just don't want it to have to cause the taxpayers to have to pay for something in which the developers are contributing nothing to either . . .

**Council Member Whitaker:** DOT roads, right?

**Motion:**

**Mayor Talley:** On Wildwood. Well, I can be, I'm just one vote, so, but I'll make a motion to deny the special use permit at East Interstate Service Road as it is inconsistent with the 2035 Comprehensive Plan, citing that it does not comply with the existing zoning, that there are safety concerns in regards to the fencing, the lighting, access with no person being on the property at any time, that it is not harmonious with the existing industrial building surrounding the property and that it will affect and further cause issues with traffic on the roads there both being Cherry Lane leading to Industrial Park and cutting over back to this facility on Gilbreath Street. And that by the testimony given by the applicant, they stated it would neither injure nor improve the value of the neighboring properties, and that signage would need to be, that they presented no evidence that signage would help in the traffic issues. They presented no evidence to me that signage was part of their plan to be able to meet and address the traffic issues of the tractor-trailers turning left. They also stated there would be no guard or person on the property monitoring the property, and weren't complying with the three conditions that were recommended by the Planning Board. I will cite strategies being 3.2.2 Road Network, 3.2.1 Connectivity, with residential and commercial developments.



(Sorry, I lost my place here.) And in regard to the commercial corridor on page 37 of the 2035 Plan, I will use that as a reference for the motion, seconded by Mayor Pro Tem Hall. All in favor, (*Talley and Hall – Aye*) and all opposed, (*Whitaker and Chin - opposed*).

**Mayor Talley:** You can abstain and it's a yes.

**Mayor Pro Tem Hall:** It is 2 and 2.

**Mayor Talley:** Do you abstain?

**Council Member Parsons:** I'm going to agree with your recommendation Mayor.

**Mayor Talley:** Thank you, motion passes 3-2.

**Tom Boney:** Sorry, what was Mr. Parson's vote?

**Mayor Talley:** He's agreeing to deny. I thank the applicant for coming before the Council. I think you did an excellent job presenting your case. I just think there are a lot of issues with the use there. Thank you for being here.

8:17PM

#### **ITEM 2: REZONING – 53.904 ACRES - 0 SOUTH NC 87 HWY – PHASE 4 – ROGERS SPRINGS HOMES**

City Council considered a request to rezone 53.904 acres located at 0 South NC 87 Hwy from R-18, Low-Density Residential, to R-9, High-Density Residential, for the purpose of extending the fourth phase of Rogers Springs Homes. (Continued from the May 9, 2023, and June 13, 2023, City Council meetings.) (Planning Board recommended denial of the rezoning by a vote of 4-1.) (Petitioner has requested to table this item for the August 8, 2023, City Council meeting.)

Assistant City Manager Holland stated the applicant asked to have this item, along with the annexation, tabled to the August 8, 2023, City Council meeting.

Mayor Pro Tem Hall stated the applicant had moved this forward or kicked the can forward twice on this, and questioned how many times they were going to kick the can before they finally decide. He asked if there was anything in the ordinance that says you can kick the can more.

Assistant City Manager Holland stated Council did not have to accept the request, Council could always move forward with the item itself. He stated the applicant sent a written request to have it tabled.

Mayor Pro Tem Hall motioned to continue the rezoning to August 8, 2023, City Council meeting one more time, but after that, Council would move forward.

Mayor Talley stated she did not know what the reason was for kicking the can.

Assistant City Manager Holland stated they did not give staff a reason.

Mayor Talley stated that she agreed they needed to show up at the next meeting and give a reason as to why they need to continue to keep it on the agenda. She asked Mayor Pro Tem Hall to word his motion that if the applicant asked for another continuance, they still come and be present before Council agrees to another continuance.

Motion by Mayor Talley to continue the rezoning and the annexation request to the August 8, 2023, City Council meeting, and if the applicant wished to request another continuance they would need to be present, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

### **ITEM 3: ANNEXATION – 53.904 ACRES – LOCATED OFF MAYFIELD DRIVE – (AN2301)**

City Council considered approval of an Annexation Ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 53.904 acres located off Mayfield Drive. (Continued from the May 9, 2023, and June 13, 2023, City Council meetings.) (Planning Board recommended denial 4-1 vote.)

Motion by Mayor Talley to continue the rezoning and the annexation request to the August 8, 2023, City Council meeting, and if the applicant wished to request another continuance they would need to be present, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

### **ITEM 4: REZONING – 0 KIMREY ROAD – 68.791 ACRES – UN-ZONED TO I-1, LIGHT INDUSTRIAL**

City Council considered a request to rezone 68.791 acres located at 0 Kimrey Road from un-zoned to I-1, Light Industrial for the purpose of developing an industrial site in the future. (Continued from June 13, 2023, City Council meeting.) (Planning Board recommended denial of the rezoning 6-0.)

Assistant City Manager Holland stated this item was also tabled last month. He stated this was an approximately 68-acre property that was currently un-zoned and the request was to be zoned I-1, Light Industrial for the purpose of developing an industrial site in the future. He stated the property was inside the Employment District's future land use zone. The future land use zone notes that the Employment District is a joint land use area between Mebane, Graham, and Alamance County. The desired pattern for this area is to accommodate a range of employers and provide office space, industrial space, commercial space, institutional space, and residential housing. He stated this request was accompanied by an annexation that would be heard later in the meeting. He stated the Planning Board did recommend denial and staff recommended approval.

Motion by Mayor Pro Tem Hall to open the public the hearing, seconded by Council Member Whitaker. The motion passed unanimously.

Mr. Buddy Seymour, Windsor Commercial, 1007 Battleground Avenue, Greensboro, representing the owners of the property, Scott Mayor Properties, stated this property had been in the family for generations. He stated he was serving as a partner with the developer on some other property adjacent to this located off Governor Scott Farm Road and Senator Ralph Scott Parkway, which is the home of Amazon. He stated he had recently completed another spec building on the back piece of that property at the corner of Governor Scott Farm Road and Kimrey Road. Mr. Seymour stated the intention with this property was to seek entitlement. He stated the goal was to get the property zoned. He stated he had been working with City Staff for seven or eight years and believed this was an excellent opportunity to create an industrial site for a modern Class A, industrial facility. He stated they were primarily a spec developer in the industrial world, meaning they do not have tenants when projects start which was the case on Alamance Ridge I, where Amazon ended up. Mr. Seymour stated this request was for I-1 and was not conditional which was intentional because they did not know what the site plan would look like. He stated they voluntarily held a neighborhood meeting prior to the Planning Board meeting and both the adjacent families attended the

meeting. He stated after conversations, they had made agreements to develop the property in a manner that addressed concerns. He stated they had taken steps to do more than the development ordinance required in order to address the neighbors' concerns.

Mayor Talley discussed the landscaping and that she would like to see more landscaping with larger trees. She asked if Mr. Seymour could share his ideas for the spec building.

Mr. Seymour stated they had looked at the site and concept sketches only to get a sense that this would be a viable site for a variety of uses.

Council Member Whitaker asked why the Planning Board voted 6-0 to deny.

Mr. Seymour stated he was at the Planning Board meeting and it tied 3 to 3, twice.

Council Member Whitaker asked Assistant City Manager Holland what the Planning Board's reservations and concerns were.

Assistant City Manager Holland stated Chairman Dean Ward could probably speak to that better than he could. He stated there were concerns presented by the neighbors as Buddy stated. He stated since then, they had met with several neighbors but were not sure if any were speaking in opposition or not.

Chairman Dean Ward nodded that was correct.

Mayor Talley stated that her impression was the board did not know what was going there and did not think they were necessarily against a project going there but it made people feel more comfortable if a developer actually presented to the City what was going to be there.

Council Member Whitaker stated she knew it was not required unless it is conditional zoning but it was helpful to know what was going to be there.

Mr. Seymour stated it was a challenging business for that reason but he had been doing it for a long time.

Mayor Talley asked if had he thought of doing a conditional use zoning application to bring before the Council to get approved based on what his spec design would be. She stated approving something even if you have to go back and change it and you do not have to back through TRC. She asked Assistant City Manager Holland what percentage could you change in TRC and not have to come back to Council.

Assistant City Manager Holland stated it would depend on the actual change. He stated if it were related to the reorientation of the building or increased parking, you would need to know what level of changes we are talking about changing because it is very minute, and a planner can deviate from what was approved by City Council. He stated in Buddy's case, by him not knowing who was coming there, it would be impossible to know how to illustrate the building or what the orientation would be like. He stated to go through the engineering review before it comes back to Council, any change made you would have to go through the process all over again.

Mr. Seymour stated it was amazing how big companies were looking at doing big projects in very short time frames and they would be excluded from so many opportunities if they knew the process would be like that. He stated that he was intentional about coming without conditions because they are not in a position to know what they are.

Mayor Talley asked if he said he was going to build a spec building if he got the zoning.

Mr. Seymour responded if the other building got leased, they would consider a spec building at that time. He stated the property, once it was entitled, would be marketed, and suspected it would be one of the few sites of this size to satisfy many of the projects that are coming and looking. He stated they would meet the development ordinance standards and would go beyond those. He stated the agreement with the neighbors was to do more than what the development ordinance would call for.

Mayor Talley asked which was what.

Mr. Seymour stated they would build a wood privacy fence along the property line that would be eight feet tall, which was more than what the development ordinance required. He stated they would maintain the buffers along that side to the best of their ability. He stated again, they did not know the configuration and agreed there would be no trailer storage designated against that property line.

Mayor Talley stated that for conditional use, those were designations that everything that been said the Council could put in the requirements for the use of the property and if it was your intent, it would make it easy. She stated when you get straight zoning, the Council could not make you put in the fence or make you have a buffer, but rather, the Council would have to take him at his word.

Mr. Seymour stated he understood and that was what character was all about and that is the way they do business.

Mayor Talley stated she agreed. She asked if there were any other conditions he agreed to.

Mr. Seymour stated they agreed to direct all lighting to a design that there was no light pollution that would affect them negatively. He stated they were intentional about not doing conditional because they are challenging to meet.

Tom Boney, Alamance News, stated Mr. Seymour was being modest in describing the project on this property. He stated that they had in fact submitted a preliminary plan to the City of Graham for a warehouse, spec building, of 788,550 square feet. He stated the Department of Commerce had begun a marketing program to find a tenant of 788,550 square feet in that location. He stated it was not like they may do a little something there, it would be the third largest industrial building in Alamance County or would be if built to the standards that had been submitted. He stated that the area between Kimrey Road and 119 going to Jim Minor Road was in the very early stages a part of the proposed industrial park, the so-called Hawfields area not officially labeled the North Carolina Commerce Park. That triangle is no longer in the Industrial Park; therefore, this property would be entirely Graham's jurisdiction, taxes, and revenue with no sharing, unlike the three-way sharing in the Industrial Park.

Mayor Talley asked if a preliminary plan had been submitted.

Mr. Seymour stated they had not submitted a building to the City for any type of review or approval. He stated they had used plans to respond to economic development requests and that is what those concept plans are used for. He supposed through public information laws, perhaps they are being released but they have not been submitted for any type of review or approval.

Mr. Greg Massey, 3069 South NC 119 Hwy, Mebane, and adjacent property owner, stated they had met with the developer on multiple occasions and would have loved for it to stay as a tree farm but were not naive enough to think that it would stay that way. He stated they were told at the zoning meeting it was very clear-cut with I-1 zoning and would have to follow the current zoning rules. He stated by placing conditions on it as he had in the zoning meeting, the Planning Board's hands were tied and assumed it was the same for Council. He stated the conditions the developer would meet were satisfactory to the neighbors.

Mayor Talley asked what those conditions were for the record.

Mr. Massey stated it was an eight-foot-high wooden fence to run as far along the property as DOT would allow, no designated trailer storage on their side of the property, and exterior lighting in a way that keeps the lighting on the property as much as possible. He stated there would need to be some grading with a retention wall that would meet any requirements the City of Graham had as far as landscaping.

**Public Hearing Closed:**

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

Motion by Mayor Pro Tem Hall to approve the rezoning of 68.791 acres on Kimrey Road from un-zoned to light industrial and that it does further the Graham 2035 Comprehensive Plan and the City of Graham Development Ordinance and was consistent with the Employment District type, Policy 2.4.1 and would allow uses which are likely to attract employment opportunities with the City of Graham, Strategy 2.2.1, seconded by Council Member Chin. The motion passed unanimously.

**ITEM 5: ANNEXATION – 68.791 ACRES – OFF KIMREY ROAD – (AN2303)**

City Council considered approval of an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 68.791 acres located off Kimrey Road. (Continued from June 13, 2023, City Council meeting.)

Assistant City Manager Holland stated this was a request for Council's approval for an extension of the corporate limits to include the subject properties. The area being considered for annexation is located off of Kimrey Road and contains approximately 68.791 acres. Water and sewer are located near the property down Governor Scott Farm Road, and the applicants wished to extend the services to tie onto the City's infrastructure.

Public hearing was opened and no one spoke.

**Public Hearing Closed:**

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Whitaker. The motion passed unanimously.

Motion by Council Member Whitaker to approve the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 68.791 acres located off Kimrey Road, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **ITEM 6: ANNEXATION – 57.106 ACRES – OFF LITTLE CREEK DRIVE – (AN2305)**

City Council considered approval of an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 57.106 acres located off Little Creek Drive.

Assistant City Manager Holland stated the attached petition was a request for the Council's approval for an extension of the corporate limits to include the subject properties. The area being considered for annexation was located off of Little Creek Drive and contained approximately 57.106 – acres. Water and sewer are located near the property along Little Creek Drive, Hanson Lane, and Palmer Drive, and the applicants wished to tie onto the City's infrastructure. He stated staff recommended approval.

Mr. David Michaels, 1007 Battleground Avenue, Greensboro, stated this was a culmination of a zoning case that was heard in May 2021, for the Oakmont Subdivision and was now presenting this for annexation to move forward with water and sewer permits. He stated they had submitted and approved Phase 1 of this site for 42 lots and another site plan to be reviewed by TRC next Monday for the special use portion of a site that was originally 70 townhomes and was now at 69 townhomes.

Mayor Talley asked where was the access to this division.

Mr. Michaels stated it was Palmer and Little Creek and a stub street at Hanson Lane that was worked out with the staff to be a submittal for the townhomes and that road would not connect into this neighborhood.

Mayor Talley asked how to prevent what happened on Wildwood from happening on other streets once it gets started.

Assistant City Manager Holland stated he did not want to say anything that put a negative light on the infrastructure that was in place, but these are City roads that people have a right to use for purposes of conversing up and down. He stated it would be hard to say what would happen.

Mr. Michaels stated they would test Palmer before they started running a lot of traffic on it to understand what condition the road was in before beginning any development work on this site.

Mayor Talley stated at the last Council meeting Mr. Michaels indicated there would be some contribution to repair Wildwood.

Mr. Michaels stated an offer had been made to Mr. Robertson and staff about replacing the asphalt and there were lingering questions about why the road failed and would be having further conversations with management staff. He stated the failures occurred on Wildwood over a utility ditch exclusively and the majority of the route that the trucks were running on to move dirt from Valor Ridge over to Meadowview did not fail. He stated they had agreed to replace four inches of asphalt in the areas that have been marked and failed.

City Manager Garner stated there may have been a miscommunication between Mr. Michael and Mr. Robertson. Mr. Robertson was waiting for Mr. Michael to get back in touch with him and encouraged Mr. Michael to call Mr. Robertson.

Mayor Talley asked how large were the lots.

Mr. Michaels stated there were some townhome lots and this was the R-12 open space option. He stated

that based on the approved site plan, the lots averaged 11,031 square feet.

Mr. Peter Murphy, 1933 Meadowview Drive, Graham, stated this was approved two years ago through a special use permit for townhomes. He stated there were multiple plans out there that were not being shown for Council to see but there were four phases being presented with only two phases completed. He stated the first phase was 38 houses and 32 of those houses were less than 12,000 square feet. He stated phase two had changed with one of the roads being removed and that was with a special use permit that was given at that time and that it needed to be looked at again. He stated phases three and four had not been defined but was asking to annex the entire lot when they had not finished phases three and four. He stated the trail that was being proposed was not part of it and there was no funding. He voiced concerns about all surrounding streets and if they would be damaged during the development.

Mr. Michaels stated the site plan was presented at the zoning hearing two years ago, reviewed by Council, and approved as part of the zoning package. He stated there was a plan on the table and staff continued to review plans as they were presented for the specific phases. He stated that he did not know how many lots were over 12,000 square feet but the project did meet all the criteria for the open space provision in the ordinance and as average lot size was 11,030 square feet.

Mayor Talley asked how many units were being proposed.

Mr. Michaels stated it was originally approved for 179 with 16 to 17 acres of accessible open space.

Mayor Talley asked if there would be an HOA and if they would be responsible for maintaining the open space.

Mr. Michaels stated there would be an HOA and the open space would be designated as a common area and would be under the control of the HOA. He stated the road failure that Mr. Murphy spoke about was due to Spectrum running a cable under the road creating a weak spot and as trucks drove over it the road failed.

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Chin. The motion passed unanimously.

Mayor Talley asked Council Member Parsons what he thought about the annexation and he answered he was not a fan of having less than 12,000 square foot lots.

Mayor Talley stated she did not vote for this rezoning when it came up and if you are going to go in and develop in the middle of an existing neighborhood, you definitely needed to be adhering to the 2035 Comprehensive Plan of being harmonious with the existing neighborhood and trying to make sure the roads and access points are up to code or standards. She stated there had been a lot of pushback from neighbors on Wildwood Lane.

Council Member Whitaker stated the annexation had nothing to do with the size of the lots. She stated we should not hold an annexation over someone's head over something that had already been settled. She stated she did not like the fact that lots were under 12,000 square feet. She stated holding out the annexation would not stop the development from going in.

Mayor Talley stated in order to have septic and water, you would have to have larger lots.

Council Member Whitaker stated Mayor Talley was holding an annexation over someone's head.

Mayor Talley stated she was not holding an annexation over someone's head and to be consistent, she voted against the development to begin with and she would be inconsistent to vote for the annexation. She stated there was nothing there right now and did not see how she could go against all the reasons she did not vote for the project to begin with and then vote for it now. She stated she was trying to represent what the citizens wanted.

Council Member Chin stated that annexation is one matter and the development of the area being annexed was something that would go before the Planning Board when they decided what would be built there. He stated all we doing now is saying we are going to incorporate land into the City. He stated the rezoning was a done deal back in 2021. He stated by not annexing it, we only hurt ourselves with additional revenue from water and sewer.

After further discussions on flood plains and lot sizes, the following motion was made:

Motion by Mayor Talley to deny the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 57.106 acres located off Little Creek Drive, seconded by Council Member Parsons, the motion failed by 2-3 (Mayor Pro Tem Hall, Council Members Whitaker and Chin voted no)

Motion by Mayor Pro Tem Hall to approve the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 57.106 acres located off Little Creek Drive, seconded by Council Member Chin, the motion passed 3-2. (Mayor Talley and Council Member Parsons voted no)

## **NEW BUSINESS:**

### **ITEM 7: BOARDS AND COMMISSION APPOINTMENTS**

City Council considered the following appointments to the City's Boards and Commissions:

#### **ABC Board – Graham Appointee**

Robert Sykes – Reappointed for a term ending 2026

#### **Appearance Commission/Tree Board:**

Judy Hall – Reappointed for a term ending 2026

Cheryl Ray – Reappointed for a term ending 2026

#### **Graham Historical Museum Board**

Chuck Talley – Reappointed for a term ending 2026

James Mullen – Appointed for a term ending 2026

#### **Graham Housing Authority**

Robert Sykes Reappointed (by clerical error)

*(Council will make the corrected appointment at the August 8, 2023, meeting)*



**Historic Resources Commission**

Terry Correia – Appointed for a term ending 2025

Jim Young – Appointed for a term ending 2026

**Planning Board/Board of Adjustment**

John Wooten – Reappointed for a term ending 2026

James Stockert – Appointed for a term ending 2026

Charles Huffine (Extra-Territorial) – Recommendation to Alamance County – term ending 2026

**Recreation Commission**

Casey Johnson – Reappointed for a term ending 2026

Brian Cutlip – Reappointed for a term ending 2026

Carmen Larimore – Reappointed for a term ending 2026

Council Member Chin asked to make a motion to decrease the Historic Resource Commission Board from seven members to five members.

City Attorney Ward stated that in order to reduce the size of a board, a public hearing would be required.

Tom Boney, Alamance News stated that the slate included two spouses of City Council Members.

Mayor Talley stated the Museum board only handles the museum, they receive no money, and no financial input. She stated she was happy to abstain but did not see a conflict.

City Attorney Ward suggested the Council Members abstain from appointing spouses.

**Motion:**

Mayor Talley motioned to appoint the following:

- ABC Board – Robert Sykes
- Graham Housing Authority – Robert Sykes
- Historical Resource Commission – Terry Correia and Jim Young
- Planning Board/Board of Adjustment – John Wooten, James Stockert, Charles Huffines
- Recreation Commission – Casey Johnson, Brian Cutlip, and Carmen Larimore

Seconded by Council Member Chin. The motion passed unanimously.

Motion by Mayor Talley to recuse Mayor Pro Tem Hall from voting on the Appearance/Tree Board, seconded by Council Member Whitaker. The motion passed.

Mayor Talley motioned to appoint the following:

- Appearance Commission/Tree Board – Judy Hall and Cheryl Ray

Seconded by Council Member Chin. The motion passed. (Mayor Pro Tem Hall abstained)

Mayor Talley asked to be recused from voting on the Historical Museum appointment.

Motion by Mayor Pro Tem Hall to appoint the following:

- Graham Historical Museum Board - Chuck Talley and James Mullen

Seconded by Council Member Chin. The motion passed 3-1. (Council Member Parsons voted no) (Mayor Talley abstained)

#### **PUBLIC COMMENTS:**

There were no public comments.

#### **CITY STAFF COMMENTS**

There were no City Staff comments.

#### **ADJOURN**

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 10:18 p.m.

*Renee M. Ward, CMC*  
City Clerk

# City of Graham

## City Council Meeting Minutes

### August 8, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on August 8, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager - Absent  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Renee Ward, City Clerk

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Mayor Talley gave the invocation and all stood for the Pledge of Allegiance.

#### MAYOR ANNOUNCEMENTS:

- Alamance Adventure Race – September 30<sup>th</sup> – 8:00 am – 8:00 pm
- Movies in the Park – Bill Cooke Park – September 2, 9, 16, 23, 30 – 7:30 pm
- Vendors and Food Trucks Expo – Graham Recreation Center – August 26 - 8:00 am – 2:00 pm and August 27 - 3:00 pm – 7:00 pm
- Graham Recreation is offering paddle tours on the lake at Graham/Mebane Lake
- Thursdays' at 7:00 concerts
- Balloon Festival – September 8, 9, 10 – Featuring Bucky Covington – Saturday - 6-8:00 pm

#### RECOGNITION: Vicky Braniff – Recreation and Parks Department Retiree

Mayor Talley and Councilmembers recognized Ms. Braniff for her 20 years of service with the City of Graham.



## **CONSENT AGENDA:**

- a. To approve the July 11, 2023, City Council meeting minutes and to approve and seal the July 21, 2023, Special Closed Session meeting minutes.
- b. To approve the Veterans Day Parade on Saturday, November 11, 2023, and the closure of McAden Street from 9:00 am to 12:30 pm.
- c. To rescind the adoption of an Annexation Ordinance to extend the corporate limits to the City of Graham for an area off Kimrey Road approved on July 11, 2023, due to incorrect property information submitted on the annexation ordinance including the legal description and plat. (AN2303)

### **ORDINANCE RESCINDING ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF CITY OF GRAHAM, NORTH CAROLINA FOR AN AREA OFF OF KIMREY ROAD (AN2303)**

**WHEREAS**, Shugart Enterprises, LLC pursuant to G.S. 160A-31 petitioned the City of Graham to annex certain property off Kimrey Road (AN2303); and

**WHEREAS**, a public hearing on the question of this annexation was held at City Hall, 201 South Main Street, Graham at 6:00 P.M. on July 11, 2023, after due notice by publication on June 1, 2023; and

**WHEREAS**, the City Council upon conclusion of the public hearing adopted an Ordinance annexing 68.791 acres as more particularly set forth in the Annexation Ordinance (AN2303) and recorded in the Alamance County Register of Deeds on July 17, 2023, in Book 4491, Start Page 129 and End Page 130 which is incorporated herein by reference; and

**WHEREAS**, it was subsequently discovered that the property described in said Annexation Ordinance (AN2303) incorporated land that was not zoned into the city of Graham and that was not a part of the original application; and

**WHEREAS**, it appears that the petitioner, Windsor Commercial, had no intention of annexing the added portion as it was a mistake shown when the plat and legal descriptions were created; and

**WHEREAS**, the City Council determined that the additional portion of land included in the legal description and plat caused the annexation application to be invalid and not presented properly before the City Council, the action by the City Council on July 11, 2023, would not be valid as to the annexation of said property described in (AN2302); and

**WHEREAS**, the City Council, therefore, determined that said Ordinance (AN2303) adopted on July 11, 2023, should be rescinded; and

**WHEREAS**, the City Council at a meeting of this body upon notice duly convened on August 8<sup>th</sup>, 2023 in accordance with the Open Meetings Law (G.S. Section 143-318.12) to consider this matter of the rescission of said Annexation Ordinance (AN2303).

**NOW THEREFORE**, the City Council does hereby RESCIND AND REPEAL the action of July 11, 2023, adopting Annexation Ordinance (AN2303); and said action adopting said Ordinance is otherwise of no effect.

The Mayor of the City of Graham shall direct city staff to take all actions required to give full force and effect to this action and shall cause to be recorded in the office of the Register of Deeds of Alamance County, this **ORDINANCE RESCINDING ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF CITY OF GRAHAM, NORTH CAROLINA FOR AN AREA OFF OF KIMREY ROAD (AN2303)**.

**Adopted this 8<sup>th</sup> day of August 2023.**

- d. To set a date of public hearing for September 12, 2023, to consider a contiguous annexation request extending the corporate limits to the City of Graham for a tract of land totaling 64.441-acres located off Kimrey Road and to direct the City Clerk to investigate the sufficiency of the petition. (AN2303)

**RESOLUTION FIXING DATE OF SEPTEMBER 12, 2023, FOR A PUBLIC HEARING ON THE QUESTION OF CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 67.441 +/- ACRES OFF KIMREY ROAD (AN2303)**

**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.

**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 the annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC, at 6:00 pm on September 12, 2023.

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

**Legal Description** GPIN#: 9803172212

Beginning at a 1" existing iron pipe (eip) located within the right-of-way of Kimrey Road, S.R. #2125 (a 60' public right-of-way per Plat Book 65, Page 177 and subsequent plats), being in a westerly line of the "249.01 Acres" plot as shown on "Final Plat Property of William C. Scott and Jane M. Scott" as recorded in Plat Book 65, Page 177, said beginning point lying N 26°37'55" E, a horizontal ground distance of 1,279.42' from a North Carolina Geodetic Survey Monument "Kimrey" and beginning point having North American Datum 83(2011) coordinates of N: 836,469.14' and East : 1,900,430.64'; Thence running within the public right-of-way the following two (2) courses and distances: (1) N 63°41'50" E, 42.81' to a non-monumented point, and (2) N 25°46'34" W, 15.73' to an existing magnetic (mag) nail located in the approximate centerline intersection of Kimrey Road and Governor Scott Farm Road, S.R. #2124 (a 60' public right-of-way per Plat Book 65, Page 177 and subsequent plats); thence running within the public right-of-way of said Kimrey Road and with the approximate centerline of Kimrey Road as shown on "Subdivision for Scott/Mayo Properties II, LLC" and recorded in Plat Book 82, Page 99, the

following six (6) courses and distances: (1) N 67°26'34" E, 94.24' to an existing "hole" in asphalt, (2) N 70°25'31" E, 200.03' to an existing mag nail, (3) N 70°24'50" E, 300.09' to an existing cut "x" in asphalt, (4) N 70°24'13" E, 299.93' to an existing mag nail, (5) N 70°40'53" E, 300.01' to an existing mag nail, and (6) N 70°26'15" E, 19.59' to a non-monumented point being the westerly most corner of Lot 1 of "Final Plat James Earl Covington, Jr. and Wife Mary Shaw Covington" as recorded in Plat Book 75, Page 345, thence leaving Kimrey Road and running with the westerly line of said Lot 1, S 23°36'55" E, crossing a 1" eip at 30.14' located at the southerly margin of the right-of-way of Kimrey Road, and continuing 709.12' for a total distance of 739.26' to a 3/4" eip falling in the northern line of Tract Two of "Final Plat Mary Shaw Covington" as recorded in Plat Book 80, Page 174, thence running with northern and western lines of Tract Two, S 60°46'05" E, 39.98' to a 3/4" eip and S 30°38'54" E, 570.58' to a 3/4" pinched top eip at the northwestern corner of Tract One of Plat Book 80, Page 174; thence running with the western line of Tract One, S 30°41'55" E, crossing an existing stone (at a loose concrete monument) at 733.32' and continuing 20.97' for a total distance of 754.29' to a non-monumented point located within the right-of-way of North Carolina Highway # 119 (a 60' public right-of-way Per Plat Book 65, Page 117); thence running with the approximate center of North Carolina Highway # 119, S 36°52'40" W, 710.07' to a non-monumented point located near the centerline of North Carolina Highway # 119, and falling in the extension of the northerly boundary line of now or formerly Tax Parcel Id: 159501 an additional Scott/Mayo Properties III, LLC, as recorded in Deed Book 3953, Page 21, thence running along the extension line and falling in the northerly boundary line, and continuing with the westerly boundary line of Tax Parcel Id, 159501, the following two (2) courses and distances: (1) N 58°09'52" W, crossing a 3/4" eip at 33.94' and continuing 208.72' for a total distance of 242.66' to a 3/4" eip, and (2) S 37°28'32" W, crossing a 1" eip at 208.76' and continuing 51.96' for a total distance of 260.72' to a non-monumented point located near the centerline of Jim Minor Road, S.R. #2135 (a 60' public right-of-way per Plat Book 65, Page 177); thence running with the approximate center line of Jim Minor Road the following two (2) courses and distances: (1) N 66°31'51" W, 157.55' to a non-monumented point and (2) N 66°59'51" W, 281.90' to a non-monumented point; thence leaving the right-of-way of Jim Minor Road and running with the easterly lines of now or formerly Tax Parcel Id: 159467, the Anderson H, Scott, II property as recorded in Deed Book 1369, Page 292: (1) N 06°55'30" W, crossing a 1" eip (pinched top) at 34.70' (being on the northern margin of the right-of way) and continuing 246.80' for a total distance of 281.50' to a 1" eip (pinched top), (2) N 36°48'58" W, 178.20' to a 1" eip (pinched top), (3) N 55°38'03" W, 250.25' to a 1" eip (bent), (4) N 60°44'51" W, 461.70' to a 1" eip (pinched top), 5) N 19°25'52" E, 373.80 to a 1" eip (pinched top) and (6) N 21°48'54" W, 781.52' to the point and place of beginning, containing a total of 67.441 acres more or less, as surveyed by Triad Land Surveying, P.C., on October 5<sup>th</sup>, 2017, and having job #17136-4.

Being the major portion of the same land conveyed to Scott/Mayo Properties III, LLC by instrument recorded in Deed Book 3866, Page 553.

ALL Deed Book, Plat Book, and Page references are to the Alamance County Registry.

**Adopted this 8<sup>th</sup> day of August 2023.**

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**  
**UNDER G.S. 60A-31 (GPIN: 9803172212) (AN2303)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on August 8, 2023, 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.

- e. To authorize the City Manager and City Attorney to effectuate the on-call engineering services agreement with Alley, Williams, Carmen, & King, WithersRavenel, and Hazen and Sawyer pending legal review.
- f. To approve a resolution adopting the 2023 Water Shortage Response Plan pursuant to NCGS 143-355(I). The State completed its review of the 2023 WSRP for the City's water system and found that it meets the minimum criteria.

#### **RESOLUTION FOR APPROVING WATER SHORTAGE RESPONSE PLAN**

**WHEREAS**, North Carolina General Statute 143-355 (I) requires that each unit of local government that provides public water service and each large community water system shall develop and implement water conservation measures to respond to drought or other water shortage conditions as set out in a Water Shortage Response Plan and submitted to the Department for review and approval; and

**WHEREAS**, as required by the statute and in the interests of sound local planning, a Water Shortage Response Plan for (City of Graham), has been developed and submitted to the (Graham City Council) for approval; and

**WHEREAS**, the (Graham City Council) finds that the Water Shortage Response Plan is in accordance with the provisions of North Carolina General Statute 143-355 (I) and that it will provide appropriate guidance for the future management of water supplies for (City of Graham), as well as useful information to the Department of Environment and Natural Resources for the development of a state water supply plan as required by statute.

**NOW, THEREFORE, BE IT RESOLVED** by the (Graham City Council) of (the City of Graham) that the Water Shortage Response Plan entitled, Graham Water Shortage Response Plan dated March 3, 2023, is hereby approved and shall be submitted to the Department of Environment and Natural Resources, Division of Water Resources.

**BE IT FURTHER RESOLVED** that the (Graham City Council) intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

**Adopted this the 8<sup>th</sup> day of August 2023.**

- g. To approve a resolution authorizing the conveyance of a 2005 Chevy Impala, a 2007 Ford Crown Victoria, and a 2010 Ford Crown Victoria to Alamance Community College pursuant to G.S. 160A-274.

**RESOLUTION AUTHORIZING CONVEYANCE OF A 2005 CHEVY IMPALA, 2007 FORD CROWN VICTORIA, AND 2010 FORD CROWN VICTORIA TO ALAMANCE COMMUNITY COLLEGE PURSUANT TO G.S. 160A-274**

**WHEREAS**, the City of Graham owns;

- 2005 Chevy Impala, Inventory # 138, VIN# 2G1WF52K959348960
- 2007 Ford Crown Victoria, Inventory #172, VIN# 2FAFP71W27X151800
- 2010 Ford Crown Victoria, Inventory #157, VIN# 2FABP7BV3AX11732

**WHEREAS**, the above-referenced vehicles have been declared surplus due to age and mechanical condition; and

**WHEREAS**, North Carolina General Statute § 160A-274 authorizes a governmental unit in this state to exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in the real or personal property upon such terms and conditions as the governmental unit deems wise, with or without consideration; and

**WHEREAS**, the City of Graham has determined that it is in the best interest of the City to convey a 2010 Ford Crown Victoria vehicle, a 2007 Ford Crown Victoria, and a 2005 Chevy Impala to Alamance Community College, and deems it wise to do so for no consideration; and

**WHEREAS**, the City of Graham has determined that donating said vehicles to Alamance Community College will continue to provide a public benefit.

**THEREFORE, THE GRAHAM CITY COUNCIL RESOLVES THAT:**

1. The City of Graham hereby conveys to Alamance Community College the following property:
  - 2005 Chevy Impala, Inventory # 138, VIN# 2G1WF52K959348960
  - 2007 Ford Crown Victoria, Inventory #172, VIN# 2FAFP71W27X151800
  - 2010 Ford Crown Victoria, Inventory #157, VIN# 2FABP7BV3AX11732
2. The property herein described shall be conveyed for consideration of continued public benefit.
3. The City Manager, Finance Officer, and City Clerk are authorized to execute all documents necessary to convey the property in the manner authorized by this Resolution.

**Adopted this 8<sup>th</sup> day of August 2023.**

- h. To approve a Budget Amendment updating the Project Ordinance for an addition to the existing garage at the public works facility in the amount of \$215,000 to be funded by the American Rescue Plan Act project.

**RESOLUTION ESTABLISHING THE BUDGET FOR  
ARPA FUNDS GRANT ORDINANCE**



**WHEREAS**, On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President;

**WHEREAS**, Section 9901 of ARPA amended Title VI of the Social Security Act (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which established the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds);

**WHEREAS**, On June 8, 2021, the City Council of the City of Graham hereby created an American Rescue Plan Act (ARPA) Local Fiscal Recovery Fund.

**WHEREAS**, On August 9, 2022, the City Council of the City of Graham approved \$3,784,134 in projects for the ARPA Local Fiscal Recovery Fund leaving an unencumbered balance of \$1,202,206.

**WHEREAS**, On September 13, 2022, the City Council of the City of Graham approved additional projects amounting to \$69,916 for the ARPA Local Fiscal Recovery Fund leaving an unencumbered balance of \$1,132,290.

**WHEREAS**, On October 11, 2022, the City Council of the City of Graham approved additional projects amounting to \$195,000 for the ARPA Local Fiscal Recovery Fund leaving an unencumbered balance of \$937,290.

**WHEREAS**, On December 19, 2022, the City Council of the City of Graham approved additional projects amounting to \$550,000 for the ARPA Local Fiscal Recovery Fund leaving an unencumbered balance of \$387,290.

**WHEREAS**, On January 10, 2023, the City Council of the City of Graham approved an amendment of \$7,555 to the ARPA Local Fiscal Recovery Fund leaving an unencumbered balance of \$379,735.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM, NORTH CAROLINA**, that pursuant to Section 13.2, Chapter 159 of the General Statutes of North Carolina, the following Project Ordinance is hereby revised to include additional projects:

Section 1. The Project authorizes the use of ARPA Funds.

Section 2. The officials of the City of Graham are hereby directed to proceed with this project within the terms of the project. Staff is authorized to execute change orders within the budget ordinance.

Section 3. The following revenues are anticipated to be available to the City to complete the project:

ARPA Revenue	<u>\$4,821,605</u>
<b>TOTAL</b>	<b>\$4,821,605</b>

Section 4. The following amounts are appropriated for this project at this time:

10" Water Line Replacement	\$3,500,000
GPD Positions Equipment	\$62,101

Vehicles	\$204,033
Fuel Master System Upgrade	\$18,000
Civic Center Repairs – Roof & Floor	\$66,343
Camera at Parks – Entrances	\$11,128
GM Lake – Ramp Renovation	\$195,000
Albright Ave Water Line Replacement	\$550,000
Public Works Building	<u>\$215,000</u>
<b>TOTAL</b>	<b>\$4,821,605</b>

- Section 5. The Finance Director shall report on the financial status of this project as directed by the City Council and will inform the Council of any unusual occurrences.
- Section 6. Copies of this project ordinance shall be made available to the City Manager and the Finance Director for direction in carrying out this project.
- Section 7. This ordinance shall take effect upon passage.

**This the 8<sup>th</sup> day of August 2023.**

- i. To approve a settlement of uncollected Real and Personal Property taxes in the amount of \$114,706.09, for fiscal year 2022-2023.

Mayor Pro Tem Hall motioned to approve the consent agenda, seconded by Council Member Chin. The motion passed unanimously.

### **PUBLIC HEARINGS:**

#### **1. REZONING – 53.904 ACRES - 0 SOUTH NC 87 HWY – PHASE 4 – ROGERS SPRING HOMES**

City Council considered a request to rezone 53.904 acres located at 0 South NC 87 Hwy from R-18, Low-Density Residential, to R-9, High-Density Residential, for the purpose of extending the fourth phase of Rogers Spring Homes.

(Continued from the May 9, 2023, June 13, 2023, and July 11, 2023, City Council meetings.) (Planning Board recommended denial of the rezoning by a vote of 4-1.)

Assistant City Manager Aaron Holland stated this request was to rezone 53.904 acres of property from R-18 (Low-Density Residential) to R-9 (High-Density Residential) for the purpose of extending the 4th phase of Rogers Springs Homes. He stated the property was mostly inside of the Suburban Residential Future Land Use zone while the area near the river made up the Rural Residential area, which cannot be built upon due to it being in the floodway. The Future Land Use Plan notes that principal uses in the Suburban Residential zone predominately are made up of detached single-family homes. The appropriate density for this area is 3-6 dwelling units per acre. The maximum number of

lots/units one could build with 9,000 square feet, according to the Development Ordinance, was 256 +/- . The max lots/units the Future Land Use Plan deemed appropriate at six units per acre was 318 +/- . The Planning Board voted 4-1 recommending denial of the rezoning at its April 18, 2023, meeting.

Mr. Jason Ewing, Land Acquisition Manager for Shugart Homes, introduced Land Development Manager Will Derrickson and Paul Lawler Project Engineer of Bowman Consulting. Mr. Ewing stated this was the extension of the fourth phase of Rogers Springs. He stated the property owner sold an additional 54 acres in February 2021, which was a few months after platting the first phase of Rogers Springs and began selling homes. Mr. Ewing stated that phase three was almost ready to be platted.

The public hearing was opened and the following spoke:

Mayor Talley expressed concerns with lot sizes and suggested a common area or shelter.

Mayor Talley asked why the Planning and Zoning Board denied the request.

Assistant City Manager Holland stated it was due to additional traffic being generated from new homes being added in the area.

Councilmember Whitaker voiced concerns about additional traffic on Rogers Road.

Mr. Peter Murphy, 1933 Meadowview Drive, Graham, spoke in opposition to the rezoning due to noise, adding more homes, and R-9 high-density zoning.

Ms. Janice Holt Cashion, 1820 Lacy Holt Road, Graham, owner of a 25-acre farm, spoke in opposition to the rezoning due to additional traffic on Lacy Holt Road.

Mayor Talley asked if the developers would be open to R-12 conditional rezoning.

Mr. Ewing stated they would be open to conditions, as far as density, that Council was comfortable with. He stated that as long as they were able to build the 84 homes that were planned, they were open to ideas.

Mayor Talley stated that she could not vote for a straight rezoning. She stated she would like to see something recreational in the development. She stated if the developers would come back with a conditional rezoning or a request for R-12 she would be more open to those requests. She stated that was her personal opinion and she only counted as one vote.

Mayor Talley asked if the Council should move forward with a vote or did the petitioner want to withdraw and come back with a new plan.

Mr. Ewing stated they would like to evaluate R-12 zoning requirements and add community amenities and then come back to Council.

The public hearing was closed.

Mr. Ewing stated they would like to withdraw the rezoning request and the annexation request.

Motion by Mayor Talley to accept the withdrawal for Items 1 and 2, rezoning of Phase Four Rogers Springs, and the annexation of 59.9 acres located off Mayfield Drive, seconded by Council Member Whitaker. The motion passed unanimously.

**2. ANNEXATION – 53.90 ACRES – LOCATED OFF MAYFIELD DRIVE – (AN2301)**

City Council will consider approval of an Annexation Ordinance to extend the corporate limits of the City of Graham for a tract of land totaling 53.90 acres located off Mayfield Drive.

(Continued from the May 9, 2023, June 13, 2023, and July 11, 2023, City Council meetings.) (Planning Board recommended denial 4-1 vote.)

Motion by Mayor Talley to accept the withdrawal for Items 1 and 2, rezoning of Phase Four Rogers Springs, and the annexation of 59.9 acres located off Mayfield Drive, seconded by Council Member Whitaker. The motion passed unanimously.

**3. REZONING – MONROE HOLT & LACY HOLT ROAD – 57 ACRES – AMEND EXISTING C-R CONDITIONAL RESIDENTIAL**

City Council considered a request to amend the existing C-R Conditional Rezoning of 57 acres located at Monroe Holt Road and Lacy Holt Road to make changes to the site-specific plan to remove the street tie-in to Tonewood Drive, reconfigure open space, and reduce the number of mail kiosks.

(Planning Board recommended approval of the rezoning 5-0.)

Assistant City Manager Aaron Holland stated this was a request by Leoterra Graham, LLC, and agents to amend the existing Conditional Rezoning to make changes to the site-specific plan by removing the street tie-in to Tonewood Drive, reconfiguring open space, and reducing the number of mail kiosks. The previous conditions were that Wendy Drive would not be connected to the existing street stub-out, but the easements would be given to the City for water, sewer, and other utilities as necessary. Phase 1 of this project had been completed, but this request came from reviewing the phase 2 & 3 plans that showed a removal of the open space area and a question regarding removing the Tonewood Drive street connection. He shared the Planning Board recommended approval 5-0 with the following conditions:

- All previously approved conditions remain.
- Tonewood Drive connection is abandoned.
- Mail kiosks are moved to a centralized location at the front of the development.
- Remove open space and incorporate lots 117 and 125.
- Maneuver the turnaround area on the northern portion of Archer Drive to not be inside of the evergreen plantings and allow lot 85 to be relocated with the potential addition of 1-3 lots.

He stated that staff would like to add if the Council approved the amendment, the process to begin the abandonment of the right-of-way of Tonewood Drive on the other side in the coming months.

The public hearing was opened and the following spoke:

Mr. Vince Townsend, 1A Windy Court, Greensboro, owner of Green Mountain Engineering, stated the owners were happy with the recommendation of the Planning Board to add a lot and reconfigure the turnaround to satisfy a neighbor.

Mayor Talley stated that a shelter would be nice to have in the open space.

Mr. Clay Mize, LeoTerra Graham LLC, stated that deals are made without things such as shelters in mind and he would have to say no. He stated they had no access to the area for a shelter and it had not been figured into the plan. He stated he had heard Mayor Talley loud and clear and that he would be designing more neighborhoods in Graham and promised that everyone would have adequate shelters. Mr. Townsend stated it would be nice if the two cul-de-sacs were connected via a trail but it would put people wandering behind homes and some would not be excited about that.

Mr. Mize stated the trail may be okay because you would not be affecting very many residents.

Mayor Talley again asked if they could do anything in the open space to make it more recreational friendly.

Mr. Mize stated they would agree to a trail system connecting the cul-de-sacs.

Assistant City Manager Holland suggested making the trail a recommendation in order to leave a little flexibility with the connection between the cul-de-sacs in the event the trails could not be constructed in certain areas, the petitioner would not have to come back before Council.

Ms. Janice Holt Cashion, 1820 Lacy Holt Road, Graham, homeowner and landowner, stated concerns about the hammerhead turn-around being relocated off the boundary line and the 30-foot buffer being landscaped for safety when heavy machinery was being used on her farm. She also expressed concern about additional traffic.

Motion by Mayor Talley to close the public hearing, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Motion by Mayor Talley to approve amending the existing C-R conditional rezoning of 57 acres located at Monroe Holt and Lacy Holt Road and that it was consistent with Graham 2035 Comprehensive Plan and the City of Graham Development Ordinance and to include the following conditions:

- All previously approved conditions remain.
- Tonewood Drive connection to be abandoned.
- Mail Kiosks are moved to a centralized location at the front of the development.
- Remove open space and incorporate lots #117 and #125.
- Maneuver the turn-around area on the northern portion of Archer Drive so it is not inside of the evergreen plantings and allow lot #85 to be relocated with the potential addition of 1-3 lots.
- Allow for a lot where the previous easement for Tonewood Drive connected.

- Add an additional lot adjacent to lot #173 where the previous mail kiosks were located.
- The other mail kiosks to the north would be reverted to additional open space.
- The developer will create a trail connecting the two cul-de-sacs located on the eastern side of the development to be used for walking trails with rock screening.
- Fence to be added to the end of Archer Road to discourage pedestrian traffic from traveling into the neighbor's farm area.

Seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **NEW BUSINESS:**

### **4. STREET CLOSURE – PATRIOTS FESTIVAL – SEPTEMBER 16, 2023**

City Council considered approving the Patriots Festival on Saturday, September 16, 2023, and approving the closure of the 100 blocks of East and West Elm Streets and the 100 blocks of North and South Main Streets from 7:00 am to 6:00 pm and the closure of all parking spaces within court square from 12:00 am to 6:00 pm.

Assistant City Manager Holland stated that Staff had discussed internal ideas for a future event and requested to withdraw the request and come back in the future.

### **5. RESOLUTION – EASTERN PIEDMONT NC HOME CONSORTIUM – SUPPORTING LOW-INCOME RESIDENTS**

City Council considered approving a resolution in support of participation in an agreement to join the Eastern Piedmont NC HOME Consortium, which will provide an opportunity for low-income residents of the City to receive benefits from grant funds to be used toward the development of affordable housing.

Mayor Talley stated City Attorney Ward shared that Burlington had pulled out of its existing consortium with Guilford/Greensboro and was now asking the County and others to join the Eastern Piedmont HOME Consortium.

City Attorney Ward stated back in March there was consideration given to withdrawing from the Guilford/Greensboro Consortium to set up another consortium to include Burlington and five other counties along with the municipalities within those counties. He stated that the consortium had been handled by Michael Blair and Matt Reece of the Piedmont Triad Council of Governments and if Council had questions, it would be more appropriate to ask them to come and address Council.

Mayor Talley stated she would like to have more information. She stated Graham did not have a problem with consolidating and working with Burlington on the consortium. She expressed concern if there was a particular piece of property in Graham that would qualify, how Graham would make sure requests were heard or to have input on the board that made decisions on how affordable housing would be funded. Mayor Talley asked if this could be tabled to the next meeting.

Assistant City Manager stated there was an August 15, 2023, deadline.

Mayor Talley stated regardless of the deadline, she did not know enough about it to make an informed decision. She asked if PTCOG could come and speak to the Council.

Assistant City Manager Holland stated he would reach out to the PTCOG and the Council may have to call a special meeting in order to meet the deadline.

## **6. EASEMENT AGREEMENT – DUKE ENERGY – CHERRY CREEK SUBDIVISION**

City Council considered approving an easement agreement for Duke Energy Carolinas, LLC to serve the Cherry Creek Subdivision located off Cherry Lane and to authorize the City Manager and City Attorney to effectuate the agreement.

Assistant City Manager Holland stated Duke Energy had submitted a request to the City of Graham to provide an easement area for overhead and underground lines. The property was located south of the Cherry Creek Subdivision located off Cherry Road. He stated the reason for the agreement was the City-owned property in that vicinity and the easement would allow Duke Energy to work within that space.

Motion by Mayor Pro Tem Hall to approve an easement agreement for Duke Energy to serve the Cherry Creek subdivision and to authorize the City Manager and City Attorney to effectuate the agreement, seconded by Council Member Chin. The motion passed unanimously.

## **7. APPOINTMENT – GRAHAM HOUSING AUTHORITY**

City Council considered making an appointment to the Graham Housing Authority due to a clerical error. The applicants who wish to be considered are Maynard Jeannis and Lisa Moser.

Motion by Mayor Talley to appoint Lisa Moser to the Graham Housing Authority Board, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **PUBLIC COMMENTS:**

Mr. Keith Westbrooks asked if the City was going to have another Arts Around the Square event.

Mayor Talley stated there was \$10,000 to be used towards putting on an Arts Around the Square event. She stated she had applied to the Tourism Board on behalf of the City and was awarded a \$10,000 grant. She shared that they had met with the Arts Council and Recreation staff to encourage the development of an Arts Around the Square and possibly have an event in Spring 2024.

Mr. Westbrook also expressed concern about a citizen mowing his grass and blowing the clippings in the street.

Assistant City Manager Holland stated he understood; however, the ordinance was very hard to enforce by the time our code enforcement was notified. He suggested Mr. Westbrook call immediately when he saw issues such as this.

## CITY STAFF COMMENTS

There were no City Staff comments.

## COUNCIL COMMENTS:

Mayor Pro Tem Hall announced that former Retired Firefighter Ralph Stockard passed away on August 4, 2023, and offered condolences, on behalf of the Council, to the family.

Council Member Chin asked about the Arts Around the Square.

Parks and Recreation Director Brian Faucette stated the Recreation Department had envisioned the 9/11 5K to grow into an “Arts Around the Square.” He shared that it would be really hard to recreate Arts Around the Square, which had more than 250 artist vendors back in the 1980s and 1990s and this past year, Burlington’s Carousel Festival had about 60 vendors.

Mayor Talley shared that downtown businesses and others would be supportive and that the community would be very receptive. She stated there were enough people in Alamance County who really wanted to see the event come back and would offer their services. She asked that the Recreation Department support the event and move forward with something that would be amazing. She also suggested doing a one-day event versus two or three days.

Assistant City Manager Holland stated meetings are set up to continue conversations with stakeholders and the Mayor had asked to be present and there could be another Council Member present for conversations.

Mayor Talley asked about the open space ordinance amendment for the Council to consider. She also asked about changing the overlay language for Main Street.

Assistant City Manager Holland stated the overlay language was being discussed and staff had reached out to the School of Government to get direction on the open space amendment.

Mayor Talley asked staff to revisit and reinstate the Alamance County Historic Commission to handle the National Registry of Historic Places. She stated it was a waste of money to duplicate services.

Assistant City Manager Holland stated he would reach out to the County to see how the City could be a part of that again.

## ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 8:53 p.m.

*Renee M. Ward, CMC*  
City Clerk



# City of Graham

## City Council Meeting Minutes

### September 12, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on September 12, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Renee Ward, City Clerk

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:06 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Parsons gave the invocation and all stood for the Pledge of Allegiance.

#### CONSENT AGENDA:

- a. To approve the August 8, 2023, City Council meeting minutes.
- b. To approve a request for the Alamance Community College Reinhartsen 5K Run/Walk event on November 4, 2023, from 7:00 a.m. to 10:00 a.m. and to close a portion of Jimmie Kerr Road and Cherry Lane pending NC Department of Transportation approval.
- c. To set a date of public hearing for October 10, 2023, to consider a contiguous annexation request extending the corporate limits to the City of Graham for a tract of land totaling 18.132 acres located off Longdale Drive and to direct the City Clerk to investigate the sufficiency of the petition. (AN2306)

#### **RESOLUTION FIXING DATE OF OCTOBER 10, 2023, FOR A PUBLIC HEARING ON QUESTION OF CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 18.132 +/- ACRES OFF LONGDALE DRIVE (AN2306)**

**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 the annexation of the area described herein will be held at the City Hall, 201 S. Main Street, Graham, NC, at 6:00 p.m. on **October 10, 2023**.

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

**Legal Description GPIN#: 8894032541**

A PARCEL OF LAND LOCATED IN GRAHAM TOWNSHIP, ALAMANCE COUNTY, NORTH CAROLINA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A CALCULATED POINT IN THE EXISTING CITY OF GRAHAM CORPORATE LIMITS, SAID CALCULATED POINT BEING IN THE SOUTHERN RIGHT OF WAY OF EAST INTERSTATE 40 AND HAVING NC GRID COORDINATES N: 844,014.38', E: 1,890,583.88' NAD 83/11 AS DETERMINED BY AN ACTUAL GPS SURVEY (COMBINED GRID FACTOR 0.999957312); THENCE PROCEEDING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG AND WITH EAST INTERSTATE 40 A CURVE TO THE RIGHT HAVING A RADIUS OF 5707.96', ARC LENGTH OF 104.42', CHORD BEARING & DISTANCE N 89° 44' 48" E 107.42' TO A CALCULATED POINT, THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG AND WITH EAST INTERSTATE 40 S 89° 42' 48" E 1912.43' TO AN EXISTING NAIL IN POST, SAID NAIL MARKING THE NORTHWESTERN CORNER OF THAT PROPERTY OWNED BY THE CITY OF GRAHAM (DEED BOOK 2016, PAGE 952 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS LEAVING THE SOUTHERN RIGHT OF WAY OF EAST INTERSTATE 40 ALONG AND WITH THE WESTERN LINE OF THE CITY OF GRAHAM PROPERTY S 07° 27' 48" W 715.16' TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHEASTERN CORNER OF THAT PROPERTY OWNED BY SAMMY W. & DEBORAH B. HOLT (DEED BOOK 3455, PAGE 820 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG AND WITH THE NORTHERN LINE OF SAMMY W. & DEBORAH B. HOLT N 85° 49' 14" W 299.57' TO AN EXISTING IRON PIPE, SAID IRON PIPE BEING IN THE EASTERN RIGHT OF WAY OF CAMELOT LANE THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG AND WITH THE EASTERN RIGHT OF WAY OF CAMELOT LANE N 07° 37' 06" E 107.81' TO AN EXISTING BOLT, SAID BOLT MARKING THE SOUTHEASTERN CORNER OF THAT PROPERTY OWNED BY BUELVAS MARVELIS & JULIO AGUILAR (DEED BOOK 3834, PAGE 823 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH BUELVAS MARVELIS & JULIO AGUILAR THE FOLLOWING TWO (2) CALLS, 1) N 07° 37' 49" E 200.44' TO A CALCULATED POINT IN A HICKORY TREE, 2) N 86° 04' 21" W 120.46' TO AN IRON PIPE, SAID IRON PIPE MARKING THE NORTHEASTERN CORNER OF THAT PROPERTY OWNED BY CHRISTOPHER & JENIFER WOLFE (DEED BOOK 2672, PAGE 602 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH THE NORTHERN LINE OF CHRISTOPHER & JENIFER WOLFE N 86° 02' 05" W 107.03' TO AN IRON PIPE, SAID IRON PIPE MARKING THE NORTHEASTERN CORNER OF THAT PROPERTY OWNED BY SHIRLEY P. WILLIAMS (DEED BOOK 3127, PAGE 59 ALAMANCE COUNTY

REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH THE NORTHERN LINE OF SHIRLEY P. WILLIAMS N 86° 08' 50" W 106.96' TO AN EXISTING IRON ROD, SAID IRON ROD MARKING THE NORTHEASTERN CORNER OF A PROPERTY OWNED BY STEVEN M. & RHONDA R. SYKES (DEED BOOK 3765, PAGE 773 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH THE NORTHERN LINE OF STEVEN M. & RHONDA R. SYKES N 86° 08' 55" W 160.01' TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHEASTERN CORNER OF THAT PROPERTY OWNED BY KENDALL H. & ERICA L. GALES (DEED BOOK 3838, PAGE 522 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH THE NORTHERN LINE OF KENDALL H. & ERICA L. GALES N 86° 04' 55" W 160.11' TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHEASTERN CORNER OF THAT PROPERTY OWNED BY DOUGLAS E. & CAROL WILSON (DEED BOOK 450, PAGE 53 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH THE NORTHERN LINE OF DOUGLAS E. & CAROL WILSON N 86° 04' 27" W 106.44' TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHEASTERN CORNER OF THAT PROPERTY OWNED BY L & MV PROPERTIES LLC. (DEED BOOK 4229, PAGE 231 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH THE NORTHERN LINE OF L & MV PROPERTIES LLC. THE FOLLOWING THREE (3) CALLS, 1) N 86° 02' 13" W 93.53' TO A EXISTING IRON PIPE, 2) N 86° 21' 48" W 324.89' TO AN EXISTING IRON PIPE, 3) N 86° 21' 48" W 199.86' TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHEASTERN CORNER OF PROPERTY OWNED BY L & MV PROPERTIES LLC (DEED BOOK 3957, PAGE 743 ALAMANCE COUNTY REGISTRY), THENCE CONTINUING WITH THE NEW CITY OF GRAHAM CORPORATE LIMITS ALONG & WITH THE NORTHERN LINE OF L & MV PROPERTIES LLC. THE FOLLOWING TWO (2) CALLS, 1) N 86° 44' 45" W 27.83' TO A EXISTING IRON PIPE, 2) S 82° 35' 47" W 309.28' TO AN EXISTING IRON PIPE, SAID IRON PIPE BEING IN THE EXISTING CITY OF GRAHAM CORPORATE LIMITS MARKING THE NORTHWESTERN CORNER OF L & MV PROPERTIES LLC., THENCE CONTINUING WITH THE EXISTING CITY OF GRAHAM CORPORATE LIMITS LEAVING THE NORTHERN LINE OF L & MV PROPERTIES LLC. THE FOLLOWING TWO (2) CALLS, 1) N 02° 15' 54" E 188.58' TO A CALCULATED POINT, 2) N 12° 55' 28" E 153.00 BACK TO THE POINT AND PLACE OF BEGINNING, CONTAINING 18.132 ACRES OR 0.0283 SQUARE MILES MORE OR LESS. AS SHOWN ON PLAT ENTITLED "FINAL PLAT OF: CITY OF GRAHAM CONTIGUOUS ANNEXATION MAP", BY THOMAS A. TELLUP, PLS, SUMMIT DESIGN AND ENGINEERING SERVICES PROJECT 20-0235, TO WHICH PLAT REFERENCE IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION OF SAME.

Adopted this the 12<sup>th</sup> day of September 2023.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**

**UNDER G.S. 60A-31**

**(GPIN: 8894032541) (AN2306)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on September 12<sup>th</sup>, 2023, 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.

- d. To approve a Budget Amendment to increase the Federal Drug Monies budget, in the amount of \$30,000, for Professional Services.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2023-2024					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2023-2024 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 7.					
CAPITAL PROJECTS AND OTHER SPECIAL FUNDS REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Federal Drug Fund Balance	-	30,000.00	30,000.00		
	-	30,000.00	30,000.00	-	30,000.00
Section 7.					
CAPITAL PROJECTS AND OTHER SPECIAL FUNDS EXPENDITURES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Federal Drug Funds - Professional Services	-	30,000.00	30,000.00		
	-	30,000.00	30,000.00	-	30,000.00
Adopted this 12th day of September 2023.					

Mayor Pro Tem Hall motioned to approve the consent agenda, seconded by Council Member Chin. The motion passed unanimously.

## **PUBLIC HEARING:**

### **1. ANNEXATION – 67.441 ACRES – KIMREY ROAD – AN2303**

A public hearing had been scheduled to consider an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 67.441 acres located off Kimrey Road.

Assistant City Manager Aaron Holland stated it was discovered that the meets and bounds were incorrect when the Council considered this annexation. He stated the surveyor included property that was not meant to be a part of the annexation request. This annexation is now being brought before the Council with the correct meets and bounds for an extension of the corporate limits for property located off Kimrey Road containing approximately 67.441 acres.

The public hearing was opened and there were no comments.

Motion by Mayor Pro Tem Hall to close the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

Motion by Council Member Whitaker to approve the annexation ordinance to extend the corporate limits to the City of Graham, NC for 67.441 acres located off Kimrey, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF GRAHAM, NORTH CAROLINA FOR A 67.441-ACRE TRACT OF LAND OFF OF KIMREY ROAD (AN2303)**

**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 6:00 P.M. on September 12, 2023, after due notice by publication on August 31, 2023; 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, 2023:

## Legal Description GPIN#: 9803172212

Beginning at a 1" existing iron pipe (eip) located within the right-of-way of Kimrey Road, S.R. #2125 (a 60' public right-of-way per Plat Book 65, Page 177 and subsequent plats), being in a westerly line of the "249.01 Acres" plot as shown on "Final Plat Property of William C. Scott and Jane M. Scott" as recorded in Plat Book 65, Page 177, said beginning point lying N 26°37'55" E, a horizontal ground distance of 1,279.42' from a North Carolina Geodetic Survey Monument "Kimrey" and beginning point having North American Datum 83(2011) coordinates of N: 836,469.14' and East : 1,900,430.64'; Thence running within the public right-of-way the following two (2) courses and distances: (1) N 63°41'50" E, 42.81' to a non-monumented point, and (2) N 25°46'34" W, 15.73' to an existing magnetic (mag) nail located in the approximate centerline intersection of Kimrey Road and Governor Scott Farm Road, S.R. #2124 (a 60' public right-of-way per Plat Book 65, Page 177 and subsequent plats); thence running within the public right-of-way of said Kimrey Road and with the approximate centerline of Kimrey Road as shown on "Subdivision for Scott/Mayo Properties II, LLC" and recorded in Plat Book 82, Page 99, the following six (6) courses and distances: (1) N 67°26'34" E, 94.24' to an existing "hole" in asphalt, (2) N 70°25'31" E, 200.03' to an existing mag nail, (3) N 70°24'50" E, 300.09' to an existing cut "x" in asphalt, (4) N 70°24'13" E, 299.93' to an existing mag nail, (5) N 70°40'53" E, 300.01' to an existing mag nail, and (6) N 70°26'15" E, 19.59' to a non-monumented point being the westerly most corner of Lot 1 of "Final Plat James Earl Covington, Jr. and Wife Mary Shaw Covington" as recorded in Plat Book 75, Page 345, thence leaving Kimrey Road and running with the westerly line of said Lot 1, S 23°36'55" E, crossing a 1" eip at 30.14' located at the southerly margin of the right-of-way of Kimrey Road, and continuing 709.12' for a total distance of 739.26' to a 3/4" eip falling in the northern line of Tract Two of "Final Plat Mary Shaw Covington" as recorded in Plat Book 80, Page 174, thence running with northern and western lines of Tract Two, S 60°46'05" E, 39.98' to a 3/4" eip and S 30°38'54" E, 570.58' to a 3/4" pinched top eip at the northwestern corner of Tract One of Plat Book 80, Page 174; thence running with the western line of Tract One, S 30°41'55" E, crossing an existing stone (at a loose concrete monument) at 733.32' and continuing 20.97' for a total distance of 754.29' to a non-monumented point located within the right-of-way of North Carolina Highway # 119 (a 60' public right-of-way Per Plat Book 65, Page 117); thence running with the approximate center of North Carolina Highway # 119, S 36°52'40" W, 710.07' to a non-monumented point located near the centerline of North Carolina Highway # 119, and falling in the extension of the northerly boundary line of now or formerly Tax Parcel Id: 159501 an additional Scott/Mayo Properties III, LLC, as recorded in Deed Book 3953, Page 21, thence running along the extension line and falling in the northerly boundary line, and continuing with the westerly boundary line of Tax Parcel Id, 159501, the following two (2) courses and distances: (1) N 58°09'52" W, crossing a 3/4" eip at 33.94' and continuing 208.72' for a total distance of 242.66' to a 3/4" eip, and (2) S 37°28'32" W, crossing a 1" eip at 208.76' and continuing 51.96' for a total distance of 260.72' to a non-monumented point located near the centerline of Jim Minor Road, S.R. #2135 (a 60' public right-of-way per Plat Book 65, Page 177); thence running with the approximate center line of Jim Minor Road the following two (2) courses and distances: (1) N 66°31'51" W, 157.55' to a non-monumented point and (2) N 66°59'51" W, 281.90' to a non-monumented point; thence leaving the right-of-way of Jim Minor Road and running with the easterly lines of now or formerly Tax Parcel Id: 159467, the Anderson H, Scott, II property as recorded in Deed Book 1369, Page 292: (1) N 06°55'30" W, crossing a 1" eip (pinched top) at 34.70' (being on the northern margin of the right-of way) and continuing 246.80' for a total distance of 281.50' to a 1" eip (pinched top), (2) N 36°48'58" W, 178.20' to a 1" eip (pinched top), (3) N 55°38'03" W, 250.25' to a 1" eip (bent), (4) N 60°44'51" W, 461.70' to a 1" eip (pinched top), 5) N 19°25'52" E, 373.80 to a 1" eip (pinched top) and (6) N 21°48'54" W, 781.52' to the point and place of beginning, containing a total

of 67.441 acres more or less, as surveyed by Triad Land Surveying, P.C., on October 5<sup>th</sup>, 2017, and having job #17136-4.

Being the major portion of the same land conveyed to Scott/Mayo Properties III, LLC by instrument recorded in Deed Book 3866, Page 553. ALL Deed Books, Plat Books, and Page references are to the Alamance County Registry.

**Adopted this, the 12<sup>th</sup> day of September 2023.**

## **NEW BUSINESS:**

### **2. DEMONSTRATION ORDINANCE – CHAPTER 20 – ARTICLE VI – SECTION 20-171-184 – PARADES, DEMONSTRATIONS AND STREET EVENTS**

City Council considered an Ordinance amendment of Chapter 20, Article VI, Section 20-171-184, Parades, Demonstrations, and Street Events of the Code of Ordinances.

Assistant City Manager Holland stated following the repeal of the Parade and Demonstration Ordinance in July 2020, the City Council approved subsequent new language at its March 2021, meeting to address 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. He stated following the adoption of the ordinance, it was determined that further legal review of this ordinance in conjunction with the NCLM was needed. He stated Mr. Christian Ferlan with Hall Booth Smith, LLC, worked with staff to prepare a revised ordinance updating the language and streamlining the process. As further described, this amendment was to ensure the safe passage of public rights-of-way, and safe and unimpaired enjoyment of public places while encouraging the exercise of the rights to free speech and assembly in the City. He stated Council would not be approving the ordinance tonight because it required another reading and would be scheduled for the next City Council meeting. He stated the ordinance language would be introduced tonight and Mr. Christian Ferlan was present to do so.

Mr. Christian Ferlan stated he was an Attorney at Hall Booth Smith, LLC, in Charlotte and worked for the NC League of Municipalities. He stated he took on the task of Graham's prior Demonstration Ordinance to revise it and put it in a workable state where it could be implemented at the next City Council meeting.

Mr. Ferlan reviewed the revised ordinance and the City Council requested the following to be included or amended:

- 1) Add insurance requirements and review the City's Parks and Recreation special events application to compare with case law.
- 2) Look into the reasonable distance between counter-speech groups.
- 3) Look into a time, place, and manner of restriction for amplification while the City Council is conducting its business and putting restrictions on the use of the space provided on the front lawn of City Hall.
- 4) Verify streets with an average traffic count in excess of 10,000 cars per day are for both City streets and NCDOT streets.
- 5) Look into expanding the three-day turnaround for a road closure for demonstration purposes.
- 6) Look into adding language to Sec. 20-183(c)(2) and (6) to reflect objective factors. Mr. Ferlan stated that it was designed where reasonable minds have to look at the facts and decide.

Mayor Pro Tem Hall motioned to schedule a second reading of an Ordinance amendment to Chapter 20, Article VI, Sec. 20 – 171-184, Parades, Demonstrations, and Street Events at the next meeting (October 10, 2023), seconded by Council Member Whitaker. The motion passed unanimously.

### **PUBLIC COMMENT PERIOD:**

There were no public comments.

### **CITY STAFF COMMENTS**

Assistant City Manager Holland asked the Council to schedule a special meeting to approve a grant addressing Emerging Contaminants. It was decided to hold a special meeting on Wednesday, September 20, 2023, at 12:00 p.m.

Council Member Whitaker asked the Council to approve \$1,500 for the Appearance Commission for fall beautification. Mayor Talley suggested it be added to the special meeting on September 20, 2023.

### **CITY COUNCIL COMMENTS**

#### **Mayor Talley:**

- Balloon Festival was a success – she thanked Bobby Chin, Joey Parsons, and others for all the hard work put into making the event a success.
- Movies in the Park – Bill Cooke Park – September 16, 23, 30 – 7:30 pm
- Graham Recreation is offering paddle tours on the lake at Graham/Mebane Lake
- Thursdays' at 7:00 concerts; September 28-Mason Lovette Band and October 12-Magnificents Band
- Kinfolk Concert – Back Porch Orchestra – September 16<sup>th</sup> and October 21<sup>st</sup> – 7:00 pm – Graham Amphitheater

### **ADJOURN**

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 7:57 p.m.

*Renee M. Ward, CMC*  
City Clerk



**City of Graham City Council  
Special Meeting Minutes  
September 20, 2023  
12:00 p.m.**



The City Council of the City of Graham held a Special Meeting on September 20, 2023, at 12:00 p.m. in the Council Chamber, City Hall Municipal Building, located at 201 South Main Street, Graham, NC.

**Councilmembers Present:**

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

**Staff Present:**

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Renee M. Ward, City Clerk

**CALL TO ORDER:**

Mayor Jennifer Talley called the meeting to order and presided at 12:00 p.m.

**NEW BUSINESS:**

**1. RESOLUTION – EMERGING CONTAMINANTS STUDY**

City Council considered approving the Drinking Water Contaminants Study and the 2023 Water Capital Improvement Plan resolutions.

Assistant City Manager Aaron Holland stated Council had approved the Drinking Water Contaminants Study as part of the 2023-2024 budget. He stated this request was for a grant opportunity and if awarded, it would offset or cover a portion of the cost. He asked the Council to approve the resolutions for staff to submit an application to the State of North Carolina for a grant to aid in the study.

Motion by Mayor Pro Tem Hall to approve the Drinking Water Emerging Contaminants Study and 2023 Capital Improvement Plan resolutions, seconded by Council Member Whitaker. The motion passed unanimously.

**RESOLUTION TO ADOPT AND APPROVE THE  
2023 WATER SYSTEM CAPITAL IMPROVEMENT PLAN**

**WHEREAS**, the City of Graham has developed a water system in and around the City of Graham; and

**WHEREAS**, said municipal water system is operated and maintained by the City of Graham; and

**WHEREAS**, the City of Graham recognizes the need for, and advantage of, maintaining adequate short-term and long-term planning for capital improvements for the water system.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Graham that the 2023 Water Capital Improvement Plan is hereby adopted and approved.

**BE IT FURTHER RESOLVED** that the City Council authorizes staff to update the plan as new information becomes available.

**Adopted this the 19th day of September 2023.**

### **RESOLUTION BY GOVERNING BODY OF APPLICANT**

**WHEREAS,** The City of Graham has a need for and intends to conduct a study in a project described as Drinking Water Emerging Contaminant Study, and

**WHEREAS,** The City of Graham intends to request a State loan and/or grant assistance for the project.

**NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF GRAHAM:**

That the City of Graham, the **Applicant**, will arrange financing for all remaining costs of the project if approved for a State loan and/or grant award.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Graham to make a scheduled repayment of the loan, to withhold from the City of Graham any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That Megan Garner, the **Authorized Representative**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the **Authorized Representative**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, ordinances, and funding conditions applicable to the project and to Federal and State grants and loans pertaining thereto.

**Adopted this the 20<sup>th</sup> day of September 2023, at Graham City Hall, North Carolina.**

---

### **FORM FOR CERTIFICATION BY THE RECORDING OFFICER**

The undersigned duly qualified and acting City Clerk of the City of Graham does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City Council of the City of Graham duly held on the **20<sup>th</sup> day of September 2023**; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 20<sup>th</sup> day of September 2023.

## 2. BUDGET AMENDMENT

City Council considered approving a budget amendment to increase the General Fund-Fund Balance Appropriated budget and the Recreation – Capital Outlay Other Improvements by \$204,696.00 each for damages caused by a fire at Shelter #2. City Manager Garner clarified the City Council approved a similar budget amendment last year; however, the project was not able to be completed and the funding reverted to fund balance. The cost of improvements was covered by insurance proceeds.

Motion by Council Member Chin to approve the budget amendment to increase the General Fund – Fund Balance Appropriated Budget and Recreation – Capital Outlay Other Improvements by \$204,696 each, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
<b>Section 1.</b>					
<b>GENERAL FUND</b>					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Recreation - Capital Outlay Other Improvements	51,000.00	255,696.00	204,696.00		204,696.00
	<b>51,000.00</b>	<b>255,696.00</b>	<b>204,696.00</b>	-	<b>204,696.00</b>
<b>Section 2.</b>					
<b>GENERAL FUND</b>					
<b>REVENUES</b>					
	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
General Fund - Fund Balance	1,246,245.00	1,450,941.00	204,696.00		204,696.00
	<b>1,246,245.00</b>	<b>1,450,941.00</b>	<b>204,696.00</b>	-	<b>204,696.00</b>
Adopted this 20th day of September 2023.					

## 3. APPEARANCE COMMISSION ALLOCATION

City Council considered an allocation in the amount of \$1,500, to the Appearance Commission to be used for beautification.

Motion by Council Member Whitaker to allocate \$1,500 to the Appearance Commission for beautification, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## ADJOURN

A motion was made by Mayor Talley, seconded by Mayor Pro Tem Hall to adjourn. The motion passed unanimously. (12:16 pm)

Renee M. Ward

Renee M. Ward, CMC  
City Clerk

September 20, 2023  
City Council Special Meeting

# City of Graham

## City Council Meeting Minutes

### October 10, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on October 10, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Renee Ward, City Clerk

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:06 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Parsons gave the invocation and all stood for the Pledge of Allegiance.

#### PRESENTATION: WoodmenLife – Kay Teague and Chuck Farrior

WoodmenLife donated 50 American flags to the ALCOVETS to be used in the downtown area.



**PROCLAMATION:** Fire Prevention Week – October 8-14, 2023

Mayor Talley and the City Council recognized Fire Prevention Week in the City of Graham from October 8 - 14, 2023. Mayor Talley urges all citizens of Graham to find and develop a home fire escape plan with all household members and practice it twice a year.



Captain Cook, Mayor Talley, and Fire Chief Cole

**CITY COUNCIL MEETING DATE CHANGE:** The City Council discussed changing the November City Council meeting to November 13, 2023, due to Council Members attending the Alamance Chamber Leaders Retreat.

Motion by Mayor Pro Tem Hall to change the November meeting date to November 13, 2023, seconded by Council Member Chin. The motion passed unanimously.

**CONSENT AGENDA:**

- a. To approve the September 12, 2023, City Council meeting minutes and the September 20, 2023, City Council Special meeting minutes.
- b. To set a date of public hearing for November 13, 2023, to consider a non-contiguous annexation request extending the corporate limits to the City of Graham for a tract of land totaling 7.8 acres located off Sunset Drive and to direct the City Clerk to investigate the sufficiency of the petition. (AN2307)

**RESOLUTION FIXING DATE OF NOVEMBER 13, 2023 FOR A PUBLIC HEARING  
ON THE QUESTION OF NON-CONTIGUOUS ANNEXATION PURSUANT TO G.S.  
160A-58 FOR A 7.8 (+/-) ACRE LOT OFF SUNSET DRIVE (AN2307)**

**WHEREAS**, a petition requesting annexation of the non-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 at 6:00 pm on **November 13, 2023**.

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

**Legal Description:**

Beginning at an Existing Iron Pipe said corner being in the Northern margin of Sunset Drive having a 40' right of way and being the southwest corner of Riverwalk LLC Eather now or formerly as described in instrument deed book 3959 page 0944 in the Alamance County Register of Deeds and having a parcel number 147602 and also being the southeast corner of Salvador Leon either now or formerly as described in instrument deed book 3263 page 017 in the Alamance County Register of deeds and having a parcel number 147600 and also being located North 32 deg. 45 min 11 sec. West with a grid distance of 2221.87 feet from NCGS Monument Conklin Nad 83/ 2011 and having grid coordinates Northing 838739.49 ift and Easting 14889870.40 ift Thence with the corner North 23 deg.45 min. 02 sec. West and a distance of 168.28 feet to an existing iron pipe said point being the north west corner of the before mentioned Salvador Leon and the southern corner of James c. Brown either now or formerly as described in instrument deed book 2568 page 151 in the Alamance County Register of Deeds and having a parcel number 147598 Thence with the corner North 65 deg. 01 min. 33 sec. East and a distance of 99.37 feet to a new iron pipe said pipe being the south east corner of the before mentioned James C. Brown and the south west corner of Keith Dodson either now or formerly as described in instrument deed book 2713 page 205 in the Alamance County Register of deeds and having a parcel number 147613 Thence with the corner North 30 deg. 22 min. 24 sec. West and a distance of 309.46 feet to an existing iron pipe said point being the north east corner of the before mentioned James C. Brown and the north west corner of the before mentioned Keith Dodson and the south eastern corner of Betsy White (Heirs) either now or formerly as described in instrument deed book 473 page 920 in the Alamance County Register of Deeds Thence with the corner North 55 deg. 55 min 10 sec. East and a distance of 41.97 feet to an existing iron pipe said point being the north west corner of the before mentioned Keith Dodson and the south east corner of the before mentioned Betsy White (Heirs) Thence with the corner North 35 deg. 41 min. 06 sec. West and a distance of 69.04 feet to a new iron pipe said point being the most south east corner of the before mentioned Betsy White (Heirs) the most north west corner of the before mentioned Keith Dodson and the south west corner of Amber Meeks either now or formerly as recorded in instrument deed book 3634 page 521 in the Alamance County Register Deeds and having a parcel number 147610 Thence with the corner North 55 deg. 24 min. 01 sec. East and a distance of 795.98 feet to an existing iron pipe said corner being the most north eastern corner of the before mentioned Keith Dodson and the southern corner for Marion Whittemore either now or formerly in instrument deed book 3914 page 213 in the Alamance County Register of Deeds and having a parcel number 147673 and the north west corner of Sandra Whittemore either now or formerly in instrument deed book 772 page 310 in the Alamance County Register of Deeds and having a parcel number 147676 Thence with the corner South 00 deg. 38 min 40 sec. West and a distance of 384.23 feet to an existing iron pipe said corner being the north eastern corner of the before mentioned Keith Dodson and the south west corner of Ray Whittemore Either now



or formerly as recorded in instrument deed book 896 page 348 in the Alamance County Register of Deeds and having a parcel number 152571 and also the north west corner of Kennon Whittemore either now or formerly in instrument deed book 235 page 70 in the Alamance County Register of Deeds and having a parcel number 147675 Thence with the corner South 02 deg. 40 min. 39 sec. West and a distance of 180.21 feet to an existing iron pipe said corner being the south east corner of the before mentioned Keith Dodson and also being the south west corner of the before mentioned Kennon Whittemore and the northern corner of Ricky Apple now or formerly as recorded in the Alamance County Register of Deeds and having a parcel number 147668 Thence with the corner South 64 deg. 06min.51 sec. West and a distance of 334.92 feet to an existing iron pipe said corner being the southern corner of the before-mentioned Keith Dodson and the north west corner of David Wilson now or formerly in instrument deed book 3295 page 275 in the Alamance County Register of Deeds Thence with the corner South 25 deg. 12 min. 50 sec. East and a distance 177.65 feet to a new iron pipe in the northern margin of Sunset Drive Thence South 65 deg. 08 min. 54 sec. West and a distance of 103.00 feet to a new iron pipe Thence with the corner and the northern margin of sunset Drive South 66 deg. 26 min. 14 sec. West and a distance of 200.39 feet to an existing iron pipe and Point and Place of Beginning said property containing 7.84 acres +/-.

**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 10<sup>th</sup> of October 2023.**

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED  
UNDER G.S. 160A-58 FOR PROPERTY OFF SUNSET DRIVE (AN2307)**

**WHEREAS,** a petition requesting annexation of an area described in said petition was received on October 10, 2023, by the Graham City Council; and

**WHEREAS,** G.S. 160A-58 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.

- c.** To approve a budget amendment for a \$75,000 donation given by Friends of Graham Recreation to be used for additional playground pieces.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 1.					
GENERAL FUND					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Capital Outlay Other Improvements	255,696.00	330,696.00	75,000.00		75,000.00
	255,696.00	330,696.00	75,000.00	-	75,000.00
Section 2.					
GENERAL FUND					
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Recreation Donations	5,000.00	80,000.00	75,000.00		75,000.00
	5,000.00	80,000.00	75,000.00	-	75,000.00
Adopted this 10th day of October 2023.					

- d. To approve a budget amendment to increase budgeted Federal Drug Funds by \$20,000 (from \$30,000 to a total of \$50,000.)

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2022-2023					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 1.					
GENERAL FUND					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
Professional Services	30,000.00	50,000.00	20,000.00		20,000.00
	30,000.00	50,000.00	20,000.00	-	20,000.00
Section 2.					
GENERAL FUND					
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance Appropriation	30,000.00	50,000.00	20,000.00		20,000.00
	30,000.00	50,000.00	20,000.00	-	20,000.00
Adopted this 10th day of October 2023.					

- e. To approve tax releases totaling \$2,810.34 and a refund for \$205.55.

Mayor Pro Tem Hall motioned to approve the consent agenda, seconded by Council Member Whitaker. The motion passed unanimously.

## NEW BUSINESS:

### ITEM 1: AMEND CODE OF ORDINANCE – PARADES, DEMONSTRATIONS AND STREET EVENTS

City Council considered amending the Code of Ordinance amendment to Chapter 20, Article VI, Sec. 20-171-184 Parades, Demonstrations, and Street Events.

Christian Ferlan, Attorney, Hall Booth Smith, LLC, Charlotte, NC, reviewed the six changes requested by the Council from the September 13, 2023, City Council meeting.

- 1) Added insurance requirements and reviewed the City's Parks and Recreation special events application to compare with case law. The insurance requirements were added to the Street Events under 20-183(b).



- 2) Looked into the reasonable distance between counter-speech groups. He stated this should be under the discretion of the Police Department and that the distance between the groups had nothing to do with the content of the speech. He stated everyone at a demonstration or an event had the right to hear what was going on and also have the right to speak back. He stated he would not recommend imposing a recommended distance between speech and counter-speech groups and it would be the management of public safety.
- 3) Look into a time, place, and manner of restriction for amplification while the City Council is conducting its business and putting restrictions on the use of the space provided on the front lawn of City Hall. He stated this was reflected in 20-179(d).
- 4) Verify streets with an average traffic count in excess of 10,000 cars per day are for both City streets and NCDOT streets. He stated the main thoroughfares in Graham are the ones with traffic counts over 10,000 per day. He stated that the NCDOT street traffic counts over 10,000 cars per day were North Church Street, Graham-Hopedale Road, West Harden Street, South Main Street, part of West Elm Street, and part of East Harden Street.
- 5) Looked into expanding the three-day turnaround under Section 20-183(d) for a road closure for demonstration purposes. This has been extended for 14 days and the return of the permit application no less than four days before the proposed event was to take place would remain.
- 6) Look into adding language to Sec. 20-183(d)(2) and (6) to reflect objective factors. Mr. Ferlan stated that it was designed where reasonable minds have to look at the facts and decide.

Mayor Talley stated the concern in reference to the ownership of City streets was the interpretation that if the street was not owned by the City it was not considered a City street. She stated if it was considered a State street she wanted to make it clear to everyone that every street in Graham was a City street regardless of whether it was maintained by the State or not and was within the City's full jurisdiction to control road closures.

Mr. Ferlan stated he agreed the City had its general police power and was the motivating factor to enact this ordinance. He stated there could be additional NCDOT requirements for road closures but we could not legislate the DOT.

Mayor Talley stated it was about safety and people in the roadway with over 10,000 cars a day would be difficult to ensure the safety of both people in the cars and pedestrians. She stated having a plan of action and making sure there are proper barriers so that both sides wanting to do a demonstration are safe and not in any danger. She stated those who are not involved in the demonstration and just want to walk on a City street should have the ability to do so safely.

Mayor Talley asked about sound amplification and it was her understanding of the law that it does not affect demonstrations outside of residences, was that correct? Mr. Ferlan stated demonstrations could not be held outside of a private residence. Mayor Talley asked about using sound amplification up until 11:00 or midnight could that be unreasonable?

Mr. Ferlan stated that would go the time, place, and manner under Section 20-184, and you would need a permit to use sound amplification that produces a level of volume greater than 60 decibels and is measured at a distance of 50 or more feet from the source.

Mayor Pro Tem Hall motioned to approve the Ordinance amendment to Chapter 20, Article VI, Sec. 20-171 to 184, Parades, Demonstrations, and Street Events of the Code of Ordinances, seconded by Council Member Chin. The motion passed unanimously.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRAHAM, AMENDING  
CHAPTER 20, ARTICLE VI, BY AMENDING SEC. 20-171 TO 184, TO THE CODE OF  
ORDINANCES OF THE CITY OF GRAHAM, NORTH CAROLINA FOR PARADES,  
DEMONSTRATIONS AND STREET EVENTS**

The City Council of the City of Graham, North Carolina, does ORDAIN:

**Sec. 1.** That the Code of Ordinances, City of Graham, North Carolina, is hereby amended by amending sections numbered 20-171 to 184 which said section is to read as follows:

---

**Sec. 20-171. – PURPOSE; SPECIAL EVENTS COMMITTEE ESTABLISHED**

- (a) Pursuant to the authority granted to the City of Graham by the General Statutes of North Carolina and its general police powers, the City has adopted the following sections in order to provide for the public health, safety, and general welfare in the City, to ensure the free and safe passage of pedestrians and vehicles on the public rights-of-way, and to ensure the safe and unimpaired use and enjoyment of public property in places open to the general public and otherwise to regulate and control the time, place, and manner of activities that would otherwise threaten or impair the public health, safety, and welfare in the City while also encouraging the exercise of the rights to free speech and assembly in the City.
- (b) The city manager shall establish a special events committee from City staff to determine whether or not proposed Parades and Street Events meet the standards established herein as well as all other applicable regulations within the City of Graham and to issue Permits where authorized by this Article. The committee shall designate an employee who shall serve as the point of contact for receiving Parade and Street Event Permit applications and be the conduit for communications with the committee and City Council.

**Sec. 20-172. – PARADE PERMIT REQUIRED**

- (a) The term Parade as used in this section is defined as an assemblage of ten or more persons, or three or more vehicles, participating in any march, ceremony, show, exhibition, or in any procession, promotion, or objection of any kind in or upon the public streets, alleys, parks, or other public grounds in any manner; provided, the term shall not include:
  - (1) “Demonstrations,” etc. as defined in section 20-178;
  - (2) Funeral processions;
  - (3) Any governmental agency acting within the scope of its functions;
  - (4) Bands or marching groups proceeding to an assembly point for participation in a Parade; or
  - (5) Footraces and bicycle races.
- (b) No Parade shall be conducted on the public ways of this city and no person shall inaugurate, promote, or participate in any such Parade unless the Parade is conducted in conformity with the requirements set out herein and unless a Permit has been obtained from the special events

committee. A Parade Permit shall not be required for any Parade consisting of fewer than ten persons or three vehicles.

- (c) It shall be unlawful for any person to conduct or participate in a Parade except in conformance with the provisions of this Article.

#### **Sec. 20-173. – PROCEDURES FOR OBTAINING PERMIT**

- (a) A person seeking issuance of a Parade Permit shall file an application with the special events committee on forms provided by such committee not less than fourteen (14) days nor more than three hundred sixty-five (365) days before the proposed Parade date. The application for a Parade Permit shall set forth the following information:
  - (1) The name(s), if any, of the individual, organization(s), group(s) and/or individual(s) sponsoring or proposing the Parade, unless the individual, organization, or group indicates that it wishes to remain anonymous, in which case no name is required;
  - (2) Contact information for the applicant;
  - (3) The location or locations in the City where the Parade is proposed to take place;
  - (4) The date and hours for which Permit is sought;
  - (5) The name of the person(s) and/or organization(s) applying for the Permit;
  - (6) Whether or not persons below the age of 18 years are expected to participate;
  - (7) The person or persons to be in charge of the activity and who will accompany it and carry the Permit at all times;
  - (8) Contact information for the organization(s), group(s) and/or individuals sponsoring or proposing the Parade, the Permit applicant, and the person to be in charge of the activity;
  - (9) The approximate number of persons and vehicles expected to participate in the Parade and the types of vehicles expected to participate;
  - (10) The dimensions of any floats or other traveling displays; and
  - (11) Any additional, content-neutral information that the special events committee finds reasonably necessary to a fair determination as to whether a Permit should be issued.
- (b) Subject to the requirements of Section 20-183 regarding street closures, to the extent street closure is required or requested for the Parade, upon receipt of an application properly completed and timely filed as hereinabove set out, the special events committee shall review the application as promptly as reasonably possible and shall issue a Permit consistent with the standards of conduct prescribed herein containing all the information stated on the application, noting where modifications or requirements have been made, and signed by the issuing employee. Such Permit shall be issued or denied no later than 4 days before the proposed event.
- (c) The issued Permit may prescribe reasonable requirements necessary for the control and free movement of pedestrian and vehicular traffic, including emergency services, to protect the safety

and property rights of participants and of the general public. The City may assign police officials to be present during the Parade to further designate (reasonably expand or limit) permitted area(s) in furtherance of the ordinance and to protect public safety and order. The special events committee may prescribe reasonable requirements for, or place reasonable conditions on, the permitted Parade activity, to include modifying times, places and routes, in the following instances:

- (1) When adequate provision cannot be made for the safe and orderly movement of the Parade and for other traffic, pedestrian or vehicular, contiguous to its route;
- (2) When the Parade cannot be held without unreasonable interference with the provision of or unreasonable diversion of normal police or fire protection or emergency services to the public;
- (3) The Parade cannot be held without unreasonable interference with the right of property owners in the area to enjoy peaceful and lawful use and occupancy of their property;
- (4) The Parade will require the closing of, or unreasonably restrict the flow of vehicular traffic along a highway under the control of the State. If this is the case, the applicant should obtain permission from appropriate State officials prior to making reapplication for a Parade Permit; or
- (5) The Parade conflicts with other previously scheduled events or activities.

#### **Sec. 20-174. – STANDARDS FOR CONDUCT OF PARADES**

The following standards shall apply to all Parades conducted in the City:

- (a) No Parade or part thereof may be conducted on the streets of the City between the weekday hours of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. unless otherwise expressly authorized by the City Council upon circumstances warranting different hours.
- (b) Every Parade shall follow a route approved by the special events committee. The special events committee shall approve no route that is incompatible with the preservation of public health, safety, and welfare, nor upon streets with average traffic counts in excess of 10,000 cars per day unless expressly authorized by the City Council.
- (c) No one participating in a Parade or proceeding along the route of a Parade shall distribute therefrom any candy, cigarettes, prizes, or favors of any kind.
- (d) No vicious animal whether leashed or unleashed shall participate in or proceed along the route of a Parade.

#### **Sec. 20-175. – REVOCATION OF PERMIT.**

The committee's designated employee may revoke any Permit granted for a Parade if:

- (a) Any participant violates the standards for the conduct of Parades set out herein; or

- (b) Any participant in a Parade fails to comply with the formation, terms, and conditions set out in the application and Permit or fails to comply with the terms of this section.

#### **Sec. 20-176. – APPEAL.**

Any person not satisfied with a Parade, Demonstration, or Road Closure Permit, or otherwise unsatisfied or aggrieved by action taken pursuant to this Article may file a written “notice of appeal” with the city manager no later than five (5) business days from the issuance of such Permit or other action taken pursuant to this Article. Such written notice shall identify the person filing the appeal and shall specify with particularity the facts and basis for the appeal. The City Manager shall forward the appeal to the City Council at the next scheduled City Council meeting should time permit prior to the requested event.

#### **Sec. 20-177 – INTERFERENCE PROHIBITED**

No person shall hamper, obstruct, impede, or interfere with any Parade being conducted under the authority of a lawfully issued Permit. No driver of any vehicle shall drive between the vehicles or persons comprising a Parade when such vehicles or persons are in motion and identifiable as a Parade under this Article.

#### **Sec. 20-178 – DEMONSTRATIONS DEFINED.**

The terms Demonstrate, Demonstration, and Demonstrating, as used herein are deemed to include conduct by “Demonstrators,” *i.e.*, persons participating in pre-planned gathering[s] of ten (10) or more persons, not constituting a parade, convened for a common purpose, including but not limited to a protest, picket, march, rally, public exhibition, or assembly, in or upon the public streets, alleys, parks, or other public grounds that has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic upon the public rights-of-way within the City or that interferes with or has a tendency to interfere with the normal use and enjoyment of any public property in a place open to the general public.

#### **Sec. 20-179 - DEMONSTRATIONS PERMITTED; PERMIT FREE and SPONTANEOUS GATHERING ZONES; WHEN PERMIT IS/IS NOT REQUIRED.**

- (a) Peaceful Demonstrating is permitted in the City provided the same is done in accordance with this Article. Public assembly and Demonstrating in the City shall not be prohibited or prevented based on political, social, or religious grounds or based upon the subject matter or content of the views expressed.
- (b) Except as provided in this subsection, no Demonstrating may be conducted in the public ways of the City and no person may participate in the same unless a Demonstration Permit (“Permit”) has been obtained. A Demonstration Permit is not required:
  - (1) except as provided in subsection (d), in any Permit Free or Spontaneous Gathering zone designated by the City or other governmental agency;
  - (2) for Demonstrations involving less than one hundred (100) people conducted within the fire limits of Downtown Graham, as defined in § 6-31 of the Code of Ordinances; or

- (3) for Demonstrations involving less than seventy-five (75) people conducted outside the fire limits of Downtown Graham; or
  - (4) for Demonstrations convened and conducted in response to breaking news within the previous 36 hours, the group size limitations provided herein shall not apply.
- (c) A Demonstration Permit is required for any Demonstration that:
- (1) would require deviation from the Standards of Conduct for Demonstration Activities set forth within this Article, such as for the closure of streets to vehicular traffic or the use of a sound magnification or amplification device;
  - (2) would involve one hundred (100) or more persons within the fire limits of Downtown Graham;
  - (3) would involve seventy-five (75) or more persons outside the fire limits of Downtown Graham;
  - (4) the Demonstration organizers request the presence of police or medical personnel;
  - (5) the Demonstration will involve the use of sound amplification or magnification equipment as described in Section 20-184;
  - (6) the Demonstration organizers desire to erect temporary structures as part of the Demonstration; or
  - (7) seeks the closure of any public street, subject to the additional requirements under subsection (e) of this Section.
- (d) Except during the time that the City Council is in session, one-half hour before the City Council is in session, and one-half hour after the City Council session has been concluded, a Demonstration Permit Free and Spontaneous Gathering zone is hereby established on the Highway 87 lawn of the City Municipal Building.
- (e) **Demonstration Permit for Demonstrations Requiring Street Closure:** Where a Demonstration requests or requires the closure of any public street, a Demonstration Permit is required. In addition, prior to submitting the Demonstration Permit application described in paragraph (f) of this section, the person(s) applying for the Demonstration Permit must obtain a Road Closure Permit from the City Council and attach the City Council's Road Closure Permit to the Demonstration Permit application. Except as otherwise provided by the laws of this State or the United States, only the City Council may authorize the closure of any public street for a Demonstration in accordance with the provisions of Section 20-183.
- (f) **Demonstration Permit:** Where a Demonstration Permit is required, a person seeking issuance of a Demonstration Permit shall file a written Permit application with the Chief of Police or his/her designated representative not less than seventy-two (72) hours in advance of such Demonstration. Counter-Demonstrators are subject to the same Demonstration Permit requirements as Demonstrators and do not fall within the scope of the Demonstrator's application unless specially acknowledged and authorized in the Police Chief's written Permit. The application for a Permit

shall be on a form prescribed by the Chief and available for download from the Police Department's website, be signed by the applicant(s), and include the following information:

- (1) The name of the individual, organization, or group sponsoring the Demonstration or proposing to Demonstrate, unless the individual or group indicates that it intends to Demonstrate anonymously, in which case no name is required;
  - (2) The contact information for the applicant;
  - (3) The location or locations in the City where the Demonstration proposes to assemble and demonstrate;
  - (4) Whether any deviations, suspensions, or modifications from the City's Standards of Conduct for Demonstration Activities is requested;
  - (5) The date or dates on which the Demonstration is to occur and planned duration (the "Noticed Period");
  - (6) The total number of people anticipated to participate in the Demonstration;
  - (7) Whether the presence of Counter-Demonstrators is anticipated;
  - (8) The name of the person and organization applying for the Demonstration Permit, unless the person or organization indicates that it intends to apply anonymously, in which case no name is required;
  - (9) Whether persons below the age of eighteen (18) years are expected to participate;
  - (10) Whether any sound magnification device will be used during the Demonstration;
  - (11) Telephone contact information for one or more persons organizing or otherwise in charge of the Demonstration so as to facilitate communication with the Police Department during the Demonstration in furtherance of public safety; and
  - (12) If applicable, documentation showing the City Council's authorization of road closures for the Demonstration.
- (g) Within forty-eight (48) hours of receiving a properly completed Demonstration Permit application, the Chief of Police or his/her designated representative shall review the application and, absent grounds to deny the application as specified in this subsection, shall issue a Demonstration Permit signed by the issuing employee. Upon the earlier of the expiration of the Noticed Period or cessation of the Demonstration for more than three (3) hours, the Demonstration Permit expires. Before resumption of Demonstrating, a new Demonstration Permit must be obtained. The Chief of Police or his/her designated representative shall not consider the content of speech in determining whether a Permit will be issued. The Chief of Police or his/her designated representative may deny or revoke a Permit application including the application for a Permit to use sound magnification or amplification equipment, or an issued Permit on any of the following grounds:
- (1) The application for a Permit, including any attachments or required additional submissions, is not fully completed and executed;
  - (2) The application for a Permit contains a material falsehood or misrepresentation;

- (3) The applicant is legally incompetent to contract or to sue and be sued;
- (4) The applicant has on prior occasions damaged City property and has not paid in full for such damage or has other outstanding and unpaid debts to the City;
- (5) A fully executed application for Permit for the same time and place was received prior to the applicant's application, and a Permit has been or will be granted to the prior applicant(s) authorizing uses or activities that do not reasonably permit additional or multiple occupancy of the area where the Demonstration is to take place;
- (6) The Demonstration intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place;
- (7) The Demonstration intended by the applicant is prohibited by law;
- (8) Whether the scope of the Demonstration intended by the applicant would present an unreasonable danger to the health, safety, or welfare of the applicant or individuals in the area or areas where the Demonstration is to take place;
- (9) Whether the applicant has made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior Permits issued to or on behalf of the applicant.

In denying a Permit application or revoking a previously issued Permit, the Chief of Police or his/her designated representative shall immediately notify the applicant or Permit holder of the reason(s) for such denial or revocation.

- (h) Any issued Demonstration Permit may prescribe reasonable requirements or conditions necessary for the control and free movement of pedestrian and vehicular traffic, including emergency services, and to protect the safety and property rights of participants, including Counter-Demonstrators, and of the general public. The City reserves the right and authority to have police officials on the scene to further designate (reasonably expand or limit) Permitted area(s) in furtherance of the ordinance as reasonably necessary for public safety.
  - (1) The Chief of Police may set the starting time, duration, and space between groups; may prescribe the portions or areas of streets, sidewalks or other public places to be used, and may impose such other reasonable requirements as the Chief may prescribe for the control and free movement of pedestrian or vehicular traffic or for the health, safety, and property rights of the participants and the general public, to include the ability of first responders to be able to respond to emergencies.
  - (2) Where a Demonstration Permit applicant seeks a Demonstration Permit for a location subject to a City of Graham Recreation and Parks Department (GRPD) facility rental policy, which would interfere with the renters' exclusive use of the location, the Chief of Police, or designated representative, will attempt to facilitate a compromise. Should compromise not be reached, preference shall be given to the person or group first in time to rent the facility or submit a Demonstration Permit application.



- (i) The failure to obtain a Demonstration Permit where required by this Section shall be punishable as a Class 3 misdemeanor.

#### **Sec. 20-180 – STANDARDS OF CONDUCT FOR DEMONSTRATION ACTIVITIES.**

All Demonstrating and Counter-Demonstrating activities within the City shall adhere to the following standards:

- (a) Demonstrating shall not impede the flow of vehicular traffic on the public ways or portions of the public ways used primarily for vehicular parking. This requirement does not apply to Demonstrations proceeding on the portion of the public ways used for vehicular traffic pursuant to a Road Closure Permit.
- (b) It is unlawful for any person to engage in Demonstrating before or about the residence or dwelling of any individual.
- (c) Demonstrators may carry handheld written or printed placards or signs not exceeding thirty-six (36) inches provided the words used would not tend to incite or produce imminent lawless or violent action when the words are likely to produce such action, or otherwise communicate a threat punishable under N.C.G.S. § 14-277.1.
- (d) The Chief of Police or the Chief's designated agent(s) may in their discretion on an equitable basis allocate space and considerations for Counter-Demonstrators, to include requiring physical separation between Demonstrators and Counter-Demonstrators. The potential or expected presence of Counter-Demonstrators shall not constitute grounds for denial of a Permit application.
- (e) Demonstrations shall be restricted to the use of the outermost half of the sidewalk or other public way nearest the street and shall not at any time nor in any way obstruct, interfere with, or block: persons entering or exiting from vehicles; persons crossing streets or otherwise using the public way; the entrance or exit to any building or access to property abutting the street or sidewalk; a driveway serving any building or abutting property; a temporary encroachment pursuant to Article VII; or pedestrian or vehicular traffic.
- (f) No person observing, engaging in, or assisting in Demonstrating shall bring to or allow to remain in the immediate area of Demonstrating any vicious animal.
- (g) It is unlawful to apply graffiti or paint to, damage, threaten damage to, or deface public property as part of a Demonstration.
- (h) It is unlawful to apply graffiti or paint, damage, threaten damage to, or deface private property as part of a Demonstration, absent the express permission of the private property owner.
- (i) It is unlawful to interfere with the use or enjoyment of public spaces that have been lawfully reserved for purposes unrelated to the Demonstration activity.
- (j) It is unlawful as part of Demonstration activities to intentionally interfere with or address speech to a bridal, marriage, funeral, or other ceremonies or celebrations being conducted in a manner that

tends to incite or produce imminent lawless or violent action when the speech is likely to produce such action, or otherwise communicate a threat punishable under N.C.G.S. § 14-277.1.

- (k) During any declared state of emergency by a governing authority due to a pandemic or epidemic, Demonstrators shall abide by all health and safety requirements applicable to social or other gatherings.
- (l) A violation of the requirements imposed by this Section shall be punishable as a Class 3 misdemeanor.

**Sec. 20-181 – INTERFERENCE WITH DEMONSTRATIONS PROHIBITED; POLICE AUTHORITY TO DISPERSE CROWDS; FAILURE TO LEAVE WHEN ORDERED DECLARED OFFENSE.**

- (a) It shall be unlawful for any person to physically interfere with Demonstrations in the use of the streets, sidewalks, or other public places, or to address at a Demonstration or Demonstrator speech that tends to incite or produce imminent lawless or violent action when the speech is likely to produce such action, or to otherwise communicate a threat punishable under N.C.G.S. § 14-277.1.
- (b) Whenever the free passage of any street or sidewalk in the City shall be unreasonably obstructed by a crowd, whether or not the crowd assembles as a result of or in connection with Demonstrating, the persons composing such crowd shall disperse, move, or move on so the street or sidewalk is no longer obstructed when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse, move, or move on when so directed by a police officer as provided herein or by N.C.G.S. § 14-288.5.
- (c) A violation of this Section shall be punishable as a Class 3 misdemeanor.

**Sec. 20-182 – PROHIBITION OF FIREARMS AND DANGEROUS WEAPONS.**

- (a) It shall be unlawful for any person to possess on or about his person or vehicle any firearm or dangerous weapon of any kind, as defined below, whether exposed or concealed while participating in any Parade or any Demonstration.
- (b) It shall be unlawful for any person present at any Parade or Demonstration or any person upon any street, sidewalk, alley, or other public property within five hundred (500) feet of any Parade or Demonstration, to possess on or about his person or vehicle any firearm or dangerous weapon of any kind, as defined below, whether exposed or concealed.
- (c) For purposes of this Article, the term “dangerous weapon” shall be defined as any device or substance designed or capable of being used to inflict serious injury to any person or property, including, but not limited to: firearms, air guns, BB guns, pellet guns, knives, swords, razors, or other sharp objects with a blade more than three (3) inches in length, metallic knuckles, clubs, blackjacks, nightsticks, dynamite cartridges, bombs, grenades, explosives, molotov cocktails, and sword canes.
- (d) This section shall not apply to the following persons while acting lawfully and within the scope of their duties and authority:
  - (1) Law enforcement officers and emergency personnel; and

- (2) Officers and soldiers of the armed forces and national guard.
- (e) A violation of this Section shall be punishable as a Class 3 misdemeanor.

**Sec. 20-183 – STREET EVENTS AND CLOSURE OF CITY STREETS.**

- (a) The term “Street Event” shall include all organized activity that utilizes or impedes City streets, parking lots, greenways, or public rights-of-way such that the planned closure of one or more streets, parking lots, greenways, or public rights-of-way to all vehicular traffic is requested or is reasonably necessary to assure the safety and convenience of participants and the public based on the time, location or route, and size of the Event. Street Events include, but are not limited to the following:
  - (1) Neighborhood Block Parties: Organized small-scale activity that closes a small, defined number of blocks on a local-service, residential street. These small-scale gatherings are initiated by and are intended to attract only residents who live on or in close proximity to the street being closed. They are not intended for the general public.
  - (2) Footraces or Bicycle Races: Organized activity involving running, biking, walking or other means of transportation, involving three or more participants and utilizing a fixed course that involves the use or obstruction of City rights-of-way, City sidewalks, and greenways.
  - (3) General Events: All organized activity, not constituting a Parade, that has an identifiable location and/or route exclusively or primarily taking place on the portion of one or more public streets, parking lots, greenways, or rights-of-way that is primarily used for vehicular traffic for a specific duration of time. Examples include festivals, performances, markets, parties, tournaments, rallies, Demonstrations, and other similar events.
- (b) Applicants for Road Closure Permits are required to provide a certificate of insurance listing the City of Graham as “additionally insured” and show documentation of comprehensive general liability insurance of at least one million dollars (\$1,000,000).
- (c) It shall be unlawful for any person to conduct or participate in any Street Event except in conformance with the provisions of this Section and unless a Road Closure Permit has been obtained from the City Council. A violation of this Section shall be punishable as a Class 3 misdemeanor.
- (d) Applications for Road Closure Permits shall be made to the City Council on a form supplied by the Council no less than fourteen (14) days prior to the Event. It is encouraged, but not required, that applications for Road Closure Permits be submitted to the City Council on the prescribed form thirty (30) or more days prior to the Event. The applicant must submit the documentation described in (b) with the Road Closure Permit application. The Road Closure Permit application shall be deemed incomplete if the applicant fails to secure and submit documentation of the required insurance. The City Council shall review a properly completed Road Closure Permit application as soon as reasonably possible and, absent grounds to deny the application as specified in this subsection, issue the Road Closure Permit signed by a member of the City Council. Such Road Closure Permit shall be issued no later than four (4) days before the Event is scheduled to take place. The applicant shall be notified of the date and time at which the City Council will meet and review the application and be invited to attend the meeting to receive the City Council’s decision.

If the application is denied, the City Council shall inform the applicant of the reason(s) for such denial and allow the applicant to appeal the denial at that meeting. If the applicant does not attend the meeting and the application is denied, the City Council shall notify the applicant of the denial and the reason(s) therefor immediately following the conclusion of the meeting. The City Council may not consider the content of speech in determining whether to authorize the closure of any public street. A Road Closure Permit may be denied by the City Council based upon only the following criteria:

- (1) The application for a Road Closure Permit, including any attachments or required additional submissions or documentation, is not fully completed and executed;
- (2) The timing of the Event and whether Permit applications for Events have already been submitted for the same date, time, and location that do not reasonably permit the additional occupancy of the later-in-time applicant's desired Event if the earlier applicant's application is approved;
- (3) The location of the Event and whether closing the road(s) requested materially inhibits the flow of traffic and unreasonably threatens public safety based on traffic counts of the road(s) sought to be closed;
- (4) Whether the Event and activities would be in compliance with other applicable laws;
- (5) Whether the level of public resources required to support the Event has been or reasonably will be secured by the event organizer prior to the start of the Event based on the size, time, and location of the Event;
- (6) Whether the Event is sponsored or co-sponsored by a City Department; and
- (7) Whether the Event would be likely to unreasonably disrupt or interfere with the rights of owners and occupiers of property abutting those portions of the street sought to be closed or persons having a right of ingress and egress from abutting property to the portions of the street sought to be closed.

#### **Sec. 20-184 – SOUND MAGNIFICATION AND SOUND PERMITS**

- (a) Sound magnification devices on the public ways of this City shall not be used unless a permit has been obtained, except in a manner consistent with this section. Sound permits may be issued in connection with permits for a Parade, Demonstration, or Street Event
- (b) Except for permitted devices, it shall be unlawful for any Demonstration, Parade, or Street Event to use or operate on or over any street within the City any sound magnification device including, but not limited to, any radio, phonograph, speaker, mechanical loudspeaker, amplifier, siren, public address system, bullhorn, or other similar mechanical device to produce, amplify, intensify, or reproduce sound at a level of volume greater than sixty (60) dB(A) measured from a distance of fifty (50) or more feet from the location from which the sound is emanating when such sound tends to cause an unreasonable disturbance to the peace, health, safety, or welfare of people in the vicinity or the community.

- (c) Reasonable restrictions may be placed on the volume of loudspeakers or other mechanical sound-magnifying devices used pursuant to any permit. Such restrictions shall not be based on the content of the speech to be emitted by the sound magnification device.
- (d) Any such operation of a sound magnification device shall be unlawful unless such loudspeaker or other mechanical sound-magnifying device shall be equipped with a meter by which the power output can be registered and determined, so that the volume may be limited in accordance with the restrictions hereinbefore specified.
- (e) No such equipment or device shall be used or operated on the streets of the City during the period between sunset and 9:00 a.m. Further, no such equipment or device shall be operated to produce magnified sounds along that portion of any street within the block where there is located any school, institution of learning, house of worship, or court, while the same are in session, or where any hospital, funeral home, or undertaking establishment is located, or where a funeral is being conducted at any place.

A violation of this Section shall be punishable as a Class 3 misdemeanor.

### **PUBLIC HEARINGS:**

#### **ITEM 2: ANNEXATION – 18.132 ACRES – LONGDALE DRIVE – PHASE 1 - GRAHAM SPRINGS -AN2306**

A public hearing was scheduled to consider an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 18.132 acres located off Longdale Drive.

Assistant City Manager Aaron Holland stated this petition was a request by the petitioner to have the corporate limits extended for property off Longdale Drive which contained approximately 18.132 acres. He stated the applicant wished to tie onto the City's infrastructure with water and sewer lines located in Phase One of the Graham Springs Subdivision. He stated annexation was required to make this possible. He stated new residential development generally created positive tax revenue for the City, and because the public services are being connected around this site, the cost to the City would be minimal.

The public hearing was opened and the following spoke:

Don Sever, Summit Design and Engineer for the project, stated this was a continuation of the subdivision and that Phase One was currently under construction. He stated this project would extend Woody Drive and Longdale Drive connecting them to Plateau and Camelot.

Motion by Council Member Chin to close the public hearing, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Motion by Mayor Pro Tem Hall to approve the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 18.132 acres located off Longdale Drive, seconded by Council Member Chin. The motion passed unanimously.

**ANNEXATION ORDINANCE TO EXTEND THE CORPORATE LIMITS OF  
THE CITY OF GRAHAM, NORTH CAROLINA FOR AN 18.132-ACRE TRACT OF LAND  
LOCATED OFF LONGDALE DRIVE (AN2306)**

**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 questions of this annexation was held at City Hall, 201 S Main Street, Graham at 6:00 P.M. on October 10, 2023, after due notice by publication September 28, 2023; and

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

**NOW, THEREFORE, BE IT ORDNATED** 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 October 10, 2023:

**Legal Description GPIN#: 8894032541**

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

BEGINNING at a calculated point in the existing City of Graham corporate limits, said calculated point being in the southern right of way of east Interstate 40 and having NC grid coordinates n: 844,014.38', e: 1,890,583.88' and 83/11 as determined by an actual GPS survey (combined grid factor 0. 999957312); thence proceeding with the new City of Graham corporate limits along and with east Interstate 40 a curve to the right having a radius of 5707.96', arc length of 104.42', chord bearing & distance n 89° 44' 48" e 107.42' to a calculated point, thence continuing with the new City of Graham corporate limits along and with east interstate 40 s 89° 42' 48" e 1912.43' to an existing nail in post, said nail marking the northwestern corner of that property owned by the City of Graham (deed book 2016, page 952 Alamance County Registry), thence continuing with the new City of Graham corporate limits leaving the southern right of way of east Interstate 40 along and with the western line of the City of Graham property s 07° 27' 48" w 715.16' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by Sammy w. & Deborah b. holt (deed book 3455, page 820 Alamance County Registry), thence continuing with the new City of Graham corporate limits along and with the northern line of Sammy w. & Deborah b. holt n 85° 49' 14" w 299.57' to an existing iron pipe, said iron pipe being in the eastern right of way of Camelot lane thence continuing with the new city of graham corporate limits along and with the eastern right of way of Camelot lane n 07° 37' 06" e 107.81' to an existing bolt, said bolt marking the southeastern corner of that property owned by Buelvas Marvelis & Julio Aguilar (deed book 3834, page 823 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with Buelvas Marvelis & Julio Aguilar the following two (2) calls, 1) n 07° 37' 49" e 200.44' to a calculated point in a hickory tree, 2) n 86° 04' 21" w 120.46' to an iron pipe, said iron pipe marking the northeastern corner of that property owned by Christopher & Jenifer Wolfe (deed book 2672, page 602

Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Christopher & Jenifer Wolfe n 86° 02' 05" w 107.03' to an iron pipe, said iron pipe marking the northeastern corner of that property owned by Shirley P. Williams (deed book 3127, page 59 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Shirley P. Williams n 86° 08' 50" w 106.96' to an existing iron rod, said iron rod marking the northeastern corner of a property owned by Steven M. & Rhonda R. Sykes (deed book 3765, page 773 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Steven M. & Rhonda R. Sykes n 86° 08' 55" w 160.01' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by Kendall H. & Erica L. Gales (deed book 3838, page 522 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Kendall H. & Erica L. Gales n 86° 04' 55" w 160.11' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by Douglas E. & Carol Wilson (deed book 450, page 53 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of Douglas E. & Carol Wilson n 86° 04' 27" w 106.44' to an existing iron pipe, said iron pipe marking the northeastern corner of that property owned by L & MV Properties LLC. (deed book 4229, page 231 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of L & MV Properties LLC. the following three (3) calls, 1) n 86° 02' 13" w 93.53' to a existing iron pipe, 2) n 86° 21' 48" w 324.89' to an existing iron pipe, 3) n 86° 21' 48" w 199.86' to an existing iron pipe, said iron pipe marking the northeastern corner of property owned by L & MV Properties LLC. (deed book 3957, page 743 Alamance County Registry), thence continuing with the new City of Graham corporate limits along & with the northern line of L & MV Properties LLC. the following two (2) calls, 1) n 86° 44' 45" w 27.83' to a existing iron pipe, 2) s 82° 35' 47" w 309.28' to an existing iron pipe, said iron pipe being in the existing City of Graham corporate limits marking the northwestern corner of L & MV Properties LLC., thence continuing with the existing City of Graham corporate limits leaving the northern line of L & MV Properties LLC. the following two (2) calls, 1) n 02° 15' 54" e 188.58' to a calculated point, 2) n 12° 55' 28" e 153.00 back to the point and place of beginning, containing 18.132 acres or 0.0283 square miles more or less. as shown on plat entitled "final plat of: City of Graham contiguous annexation map", by Thomas A. Tellup, PLS, Summit Design and Engineering Services project 20-0235, to which plat reference is hereby made for a more particular description of same.

**Adopted this, the 10 day of October 2023.**

### **ITEM 3: SPECIAL USE PERMIT AMENDMENT– 0 LITTLE CREEK DRIVE AND 0 BROADWAY DRIVE**

A public hearing had been scheduled to consider a Special Use Permit amendment for a previously approved townhouse development located at 0 Little Creek Drive and 0 Broadway Drive.

**Due to this item being a quasi-judicial hearing, the following minutes will reflect all statements and conversations verbatim.**

**Assistant City Manager Holland:** As you just said this is a previously approved Special Use Permit that the applicant is coming before Council to have an amendment done to the already approved Special Use Permit. The amendment is to remove the Hansen Lane Street connection. The street connection removal will also shift the location of the townhomes themselves and reduce the number of townhome units from 70 to 68. That part of the change did not require City Council approval, it was actually handled by the Staff administratively. The request is specifically for the removal of Hansen Lane. This is a special use

request even though it was an amendment so it does have to go through the quasi-judicial process. I will turn it over to our attorney. The Planning Board did hear this at their prior meeting and moved that all the application criteria were met and could proceed to Council for consideration. I'll turn it over to Bryan,

**City Attorney Bryan Coleman:** All right, thank you, Aaron. I'm just going to read a statement regarding quasi-judicial. This hearing is a quasi-judicial evidentiary hearing. That means it's like a court hearing. State law sets specific procedures and rules concerning how this board must make its decisions. These rules are different from other types of land use decisions like rezoning and other legislative matters. The Council's discretion is limited. The Council must base its decision upon competent material and substantial evidence in the record. It is the decision that must be based on the standards and the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion. This meeting is open to the public. However, participation is limited. Parties withstanding, have rights to present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. General witness testimony is limited to facts. No opinions. For certain topics, this Council needs to hear opinions and testimony from expert witnesses. These topics include predictions about impacts on property values and predictions about impacts on increased traffic. Individuals providing expert opinions must be qualified as experts and provide the factual evidence upon which they base their expert opinions. Note in any miscible evidence is deemed to be objected to. Any documentary evidence that is certified or from a recognized professional source with authentication will be admitted. Witnesses must swear or affirm their testimony. So, at this time, the City Clerk can administer the oath for individuals who intend to provide testimony.

**Mayor Talley:** So, I just want to say what the lawyer just said was and he did a great job. Thank you, Brian, we appreciate you so much. But, this is a public hearing and we don't want to discourage anyone who has come here to speak tonight on this subject matter. We don't want to discourage you in any way to speak. we want to hear from you, but we just have to make you understand that it's, this is, this being a quasi-judicial hearing, things have to be, our decisions have to be based on factual evidence. So, you coming up and saying. well, I don't like this. It's not something a reason that we can deny. Or if you say you like something, it's not a reason that we can approve of a particular request. So, we have kind of a little brochure that we give out to people that are coming to quasi-judicial special use hearings and there's six things that you have to consider and so informing your argument tonight, just take these six items into consideration that all applicable regulations of the zoning district in which the use is proposed are complied with. These are only six things that this Council can consider. So, when you are forming your argument, make sure that you're addressing these six. Conditions specific to each use identified by the Development Ordinance or complied with. So, we have a development ordinance, which is the 2035 plan and basically, there's a lot of information in that plan that, you know, is the use of the property harmonious with the neighborhood. There's a whole list of things that you can go through. I can't enumerate all of them, but there's a lot of information in there that you can base an argument on. The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted. The use will not substantially injure the value of adjoining property, and the use is of public necessity. Five, the location and character of the use if developed according to the plan as submitted, will be in harmony in the area in which it will be located, and in general conformity with the plan of development for the Grand planning area. Six satisfactory provision has been made for the foregoing which applicable vehicle circulation, parking, loading, service entrances, utilities, screening signs, lighting and open space. So, you can base arguments on traffic whether this particular use will be harmonious in the neighborhood as it exists right now and so, just want you to be aware, it's just like when you go to court and you present evidence in front of a judge, there's we act as a judge today in this, in this particular manner. And so, we just need you to frame your comments in that in that way. So, this being a public



hearing, anyone?

**City Attorney Coleman:** Madam Mayor, may I add one more thing?

**Mayor Talley:** Yes.

**City Attorney Coleman:** So, if we have people who want to testify, who aren't witnesses of the parties, which the parties would be the petitioner and the City of Graham. You know, before they can testify the Council is going to have to determine whether they have standing or not. And they have to show special damages, and you all have to make a formal decision as to whether they have standing. So, if it's just general comment. You know, we don't want to, we'd like for them to make that comment, but it might be better if they waited till items not on tonight's agenda. But if they do want to go ahead and talk, you guys will determine where they have standing in or are party to the transaction,

**Mayor Talley:** Okay. So, this is a public hearing for those witnesses who have taken, who would like to make a comment on this particular issue. Please come forward so that the clerk can administer the oath.

**City Clerk Renee Ward:** So, these will be expert witnesses. Okay, if you would raise your right hand. Do you swear or affirm that the testimony you're about to give today is the truth, the whole truth, and nothing but the truth? Say I do. (*All stated I do.*) Okay, I'll need each of you to sign this. You can do it as you speak if you like.

**Mayor Talley:** Okay, is it limited to three minutes?

**Assistant City Manager Holland:** You cannot limit speakers in a quasi-judicial hearing.

**Mayor Talley:** All right. Are you ready to present?

**Attorney Amanda Hodierne:** Yes, ma'am Madam Mayor. Thank you. Amanda Hodierne my address is at 804 Green Valley Road, Suite 200, Greensboro. Can y'all hear me okay? I'm afraid to touch this thing, I don't want it to fall. Thank you. I appreciate y'all's time tonight and thank you, Madam Clerk, Mr. City Manager, and Mr. Attorney for your detailed instructions for the nature of this proceeding. It is certainly not the average type of hearing that we conduct, so I appreciate that. I'm here tonight on behalf of the property owner and the applicant who is the party to this case in that format as property owner and applicant, and that's Windsor Investments LLC. I have with me tonight Mr. David Michaels, representing that group and we're here tonight to ask for a very limited, finite amendment to a previously existing approved special use permit. As you have seen in your staff report, as you'll hear more about tonight, this is a very surgical revision to remove a previously approved connection point in our roadway network. If you'll look. Actually, let's go ahead and do this. May I approach? I'm going to hand out some exhibits. This will help while I'm speaking that way we don't have to wonder. So, if you'll look at Exhibits D&E. Exhibit D is the previously approved site plan associated with this permit. Exhibit E is the TRC pending phase two site plan and that's what's led us here today as we'll hear more about it in a moment. So, as you can see, and you've seen this in your staff report, you see it, this is the 2021 plan before you. But the nature of this request is simply this and only this. We are asking to remove the roadway connection of Hanson Lane. As you heard from Mr. Holland, that is a request that has resulted from the TRC review process of phase two of this currently approved subdivision. Nothing else is before us this evening, so I want to remind you that this type of amendment request is not uncommon. This happens because when we tie entitlement parts of the process to site planning, you know it's different from planning on paper to once we're out in the field with field-collected data and we're actually engineering and moving dirt. So, this is probably

something you've seen and done before, be it in the form of conditional zoning plans or in the form of this more formal special use permit, but that's the nature of development that's tied to pre-engineered approvals. This amendment request does not impact in any way, does not modify, and does not void the validity and the effect of the existing approved special use permit. So, the nature of this analysis tonight is limited to the revision before you. It does not impact or negate any of the previous findings of fact from our 2021 approved special use permit. I want to remind us it's just the townhome aspect of this development that required the special use permit. So that's the only aspect of this subdivision that we'll be talking about tonight and it is allowed in the zoning district here. The zoning district is not in question. The use is not in question. This development for townhomes is already permitted here. Again, the only question is whether or not the specific request to remove this, the Hanson Lane connection meets your findings of fact under the special use permit. As you've heard from your attorney. Unlike the legislative zoning process, this is a quasi-judicial hearing governed by a six-part test you heard about that from the mayor and we'll hear about it a lot tonight. If we as the applicant put forth sufficient evidence which is competent and material for each of these six parts, then the permit must be issued.

I want to pause now and go ahead and introduce our team of experts and get those qualified as experts so that when they come up and offer their credentials and testimony, we'll go ahead and have that done. So, we have tonight, Mr. Gene Mustin. He's with Borum, Wade Engineers. He did our civil design work, all of our engineering work has been a key component of the TRC review process that's previously transpired up until now to get us here tonight and we have Gene who you'll hear from. We have Miss Lisa Lundeen. She's with Exult Engineering. She's our traffic engineer. I want to note that Miss Lundeen was also the traffic engineer back in 2021 that you heard from. So, she's well advised of this of this property, this project, and has been a part of it through its entire art and you'll be hearing from her tonight. And we have Mr. Glenn Patterson of Patterson. Appraisals. He's here to speak to one of the findings of fact. He was also a part of our team back in 2021. So, again, we're pleased to have and actually Gene Mustin, and I'll note, his partner was involved back in 2021. So same engineering firm. So, we've got the exact same players involved, continuity and we all have been well apprised of the situation from 2021 until now.

Another bit of housekeeping I want to go ahead and incorporate into the record all of Staff's comments that Mister Holland gave leading up to this and also the staff report that's in your packet. It's been in the agenda packet. Tonight, as you have read and, in your review, of course, that staff report does echo what I've said tonight in the limited scope of this inquiry, before you limited to the removal of the Hanson Lane connection point, and it does offer findings to each of those, to each of those elements of the six-part test that we've talked about. And then of course, importantly, it does recommend approval. And this is a key component that staff has been through its exhaustive process even more so in this case, because this is an amendment because we've already been through TRC in phase one. This has been looked at a great deal much more so than when we were here back in 2021 and staff is recommending approval. And in fact, played a large role in in getting us here to this point where we asked for this revision. With that, I'd like to go ahead and ask Gene Mustin to come up and speak. I mentioned he's our design engineer. He was involved in our TRC process and before we get into the six-part test, I'd like to offer into the record as evidence an accounting of the TRC review that led to us asking for the removal of this connection point. Mr. Mustin.

**Gene Mustin:** I'm Gene Muston, Borum, Wade Associate Engineers in Greensboro, 621 Eugene Court, Greensboro North. As Amanda mentioned, this project started back in 2021 with my partner, who retired. So, I think he's playing golf and taking care of grandbabies and so I'm here. But we have followed through on this project for Windsor Investment. We do a lot of work for them and the original plan was to connect Hanson Drive or Hanson Lane through. And after we did our designs with field survey data, the designs that we had for the roadway connection that would have run to Little Creek Drive, it was determined that

that particular connection with about 30 feet of fall in there, was just too much to handle for the road grades. That would be the final road grades that would be there. So, we went through a formal TRC process with the City Staff. Most of our reviews when it comes to these types of things are done with Josh (Johnson) and after he reviewed that with our own staff engineer, they made a determination that would probably be better from an engineering standpoint, for safety and engineering guidelines, that it would probably be best to not connect that together. That approval was a discussion with the City Staff and we didn't take the conclusion lightly to just remove the road, but it was based on the determination that the road grade would be too steep to come down there to meet engineering typical standards. And so today we ask for that elimination of that road connection and that would be the only thing I think that we're asking for tonight, the other couple changes are staff level. So that's where we're at tonight and I'll be welcomed to, welcome to ask me any questions, and I will try to respond to you.

**Attorney Hoderne:** I've got a couple of quick questions. When you say Josh, you mean Josh Johnson, member of the TRC panel?

**Gene Mustin:** Josh Johnson. Yes, yes.

**Attorney Hoderne:** And then is it your understanding that pending tonight's hearing, TRC will issue approval of phase two?

**Gene Mustin:** That is my understanding that we have satisfied the rest of the requirements that TRC is issued to us and this would be the last outstanding item, and then at that point in time we could then begin our permitting process. Josh, correct me if I'm wrong. (Josh Johnson nodded yes.) Well, I think that's about it. Thank you. Any questions?

**Mayor Talley:** Picture of the 30-foot fall?

**Gene Mustin:** Do I have a picture of it? I did bring an engineering picture of it. I did. So, this is, yeah, this is a picture of. (Mr. Mustin making marks on the map) So this is the end of Hanson land now and this would be the connection. There is elevation of that. I'm going to write them down actually, so we can read them.

**Attorney Hoderne:** For the record, this will be Exhibit F it's a cross-section of the road topography showing the elevation change.

**Gene Mustin:** So, this is. And I actually probably misspoke. It's probably more about 22 feet, I'm sorry, 22 feet in our road grade coming in would be about 10% plus or minus.

**Mayor Talley:** So, is that grade all the way the entire back part of those townhomes that you have proposed there?

**Gene Mustin:** I didn't follow your question asked.

**Mayor Talley:** Does that does that grade run the width of those townhomes? Or is it just where that road connects?

**Gene Mustin:** Just where the road connects. The rest of the road is designed to meet public standards for your City. That would be the long Little Creek Drive. Hanson is the only one that we had to adjust and remove it was so steep. About 10% coming into an intersection, which is very steep.

**Mayor Talley:** So why? Why would a road have been proposed there, to begin with?

**Gene Mustin:** So, the road connection from Hanson, Hanson Drive was intended to be extended obviously from the way it was constructed in the past, and so when we had the preliminary plan developed Little Creek Drive was stubbed as a road that needed to be connected. Hanson was stubbed as a road that needed to be connected and on the other end, the name of that road is Palmer needed to be connected to. So, we made an effort to try to connect all three together.

**Attorney Hoderne:** And if I could just clarify, Madam Mayor, those were existing stub outs as part of that previous development adjacent to this. So, as you all know, as you sit here, I'm looking at developments we we're always required to stub out to adjacent undeveloped property. So that when that property does develop, connectivity is possible. However, it happens sometimes that that's not possible. Once the engineering is done those stub outs are not able to be achieved.

**Gene Mustin:** That's about this succinct situation. The Hanson Drive elevation and the Little Creek Dr. elevation that's stubbed into the property. We gave a valiant effort to try to connect them through as would be appropriate to do that, but it's just not a safe condition to do it.

**Mayor Talley:** Visual of this? Do you have a visual of it?

**Attorney Hoderne:** The visual is the exhibit. And if I may, it might be helpful here to proceed with the testimony. We have some other witnesses here that can help probably provide some context and detail that you're looking for. And then we can come back to these questions if you still feel like you want to look at the exhibit further.

**Mayor Talley:** Pull up Hanson that Hanson stub out.

**Attorney Hoderne:** It's heavily vegetated at its terminus right now.

**Mayor Talley:** OK, while he's pulling that up you can proceed.

**Attorney Hoderne:** OK, great. Thank you. At this time, I'd like to ask if Josh Johnson, please, who was previously mentioned could? Join us. Do you give your name and address please for the record?

**Josh Johnson:** Josh Johnson, Carmen King, 740 Chapel Hill Rd. Burlington, NC, I'm the contracted City engineer for the City of Graham.

**Attorney Hoderne:** Thank you and can you describe for us what that role entails as it relates to this TRC process that we've talked about tonight?

**Josh Johnson:** As part of TRC I am the engineering representative on TRC, so I'm the primary reviewer for street-grade stormwater, water and sewer in coordination with the department heads, including Burke Robertson as Public Works Director who has designation as reviewing stormwater storm drainage and streets.

**Attorney Hoderne:** Thank you. So, it's your, is it accurate to say your regular role on TRC is to be in this committee and confer with the development community, bringing forth proposals to ensure that they're meeting the City's Code Standards, Ordinance requirements, and regulations for those items that

you just mentioned?

**Josh Johnson:** Yes, ma'am and in consideration with City Ordinances as well as good engineering practices at the same time.

**Attorney Hoderne:** Thank you and did you participate in the TRC review process for this phase two development plan that we're looking at tonight?

**Josh Johnson:** Yes Mam.

**Attorney Hoderne:** Could you tell us about that review process that led to these discussions about the topographical connection at Hansen Lane?

**Josh Johnson:** Yes. So, when we're reviewing it, one of Gene's junior engineers, I think, Kenny's quite older than I am, so it's worthwhile. One of Gene's associate engineers sent us after our first round of comments. I think he sent us some information when he's trying to do the design where he was trying to figure out how to work the grade in order to make it work between Little Creek and Hanson. At that point the distance and difference in elevation between those two is like 31 feet between the elevation at the end of Little Creek and the elevation at the centerline on Hanson. In order to do that, he was going to have to put in without the appropriate vertical curves he was going to have to put in grades and excessive of 10% on Hanson and about 6 1/2 percent on Little Creek. Dr. We would prefer that all of our street grades stay less than 8%. That's for numerous reasons. But in this case, he was asking to use a reduced vertical curve in order to get it to 10%. The issues we have when we use reduced vertical curves or when we have excessive street grades or that we get concerned about pavement slippage, we get concerned about stopping site distance. We get concerned about quite a few different State vegetation stabilization, and maintenance concerns. Burke can talk a little bit about that, I'm assuming you're calling him, okay. And so, we reviewed it. We were concerned about all of those things we're concerned about or on the other side of it, we recognize the fact that it's still the subject, this portion of the subdivision still has connectivity on two sides, both the Palmer and back to Little Creek. And looking at it we felt like it was in the City's best interest to eliminate that. We also wouldn't have the hills and we would not have the one unit or the one set of units sitting on the side of the hill, and so we recommended that back to Kenny, who was the design engineer and we recommended that they explore that option.

**Attorney Hoderne:** Thank you. I'm showing the witness Exhibits D now in your packet, Mr. Johnson, do you recognize this?

**Josh Johnson:** I think I wrote it.

**Attorney Hoderne:** Can you tell the Council what it is, please?

**Josh Johnson:** Yes, that's an e-mail from me to Kenny Marlow with Borum, Wade and copying Burke Robertson, Gene Mustin and David Michaels that we had discussed it and that we were in favor of removing the Hanson Street extension and connection that would eliminate units on a 3333, but that we felt like less of our concern, but in a concern of the applicant which we knew it would be, that he would lose four units, but that he wouldn't have to build as a financial benefit, he would not have to build the road. That we would want a road ends barricade so that we didn't have anybody drive off the end of the road and go down the already, what did you say, another 20 something? The extensive grade going off the end of Hanson Lane at that time.

**Attorney Hoderne:** So, this e-mail is you documenting the process that you just described to the Council about your analysis, your consultation with your colleague and then communicating that to the applicant?

**Josh Johnson:** Yes, and it is the previous emails are the back-and-forth discussion between Kenny and I prior to reviewing it with Burke.

**Attorney Hoderne:** Is there anything else you'd like to add at this time?

**Josh Johnson:** Not that I can think of.

**Attorney Hoderne:** I do have one other question for you. Is it your understanding from your TRC process that this is the last outstanding matter for TRC to approve this phase two cycling?

**Josh Johnson:** Uh, I think it's the last outstanding item, assuming that Kenny moved the dumpster.

**Attorney Hoderne:** That's at the staff level for approval.

**Josh Johnson:** That's correct.

**Attorney Hoderne:** I'd like to call Mr. Burke Robertson, please. You're excused for now, thank you. Can you give us your name and address for the record please?

**Burke Robertson:** I'm Burke Robertson, Public Works Director and I spend most of my time at 105 W Parker St. Graham, NC. 27253.

**Attorney Hoderne:** And can you tell us about your role specifically as it relates to your position on the TRC?

**Burke Robertson:** As a public works director, I review site plans a lot of the same things that Josh reviews, more eyes are better than one, and I also look for sanitation issues, and service issues through (inaudible) zone.

**Attorney Hoderne:** And for the record, TRC is the Technical Review Committee. And did you participate in the TRC process for phase two of the subdivision that we're discussing tonight?

**Burke Robertson:** Yes, ma'am.

**Attorney Hoderne:** Thank you and do you recall the conversations that the previous two witnesses talked about when it was discussed how to handle this difficult elevation change?

**Burke Robertson:** Yes, ma'am. It was. My recommendation was to remove it.

**Attorney Hoderne:** OK, so you're telling to the Council that in these discussions your recommendation was to remove it as well?

**Burke Robertson:** Yes, grades too steep causes too many long-term maintenance issues plus safety issues.

**Attorney Hoderne:** Could you tell the Council a little bit more about this safety and maintenance issue, please?

**Burke Robertson:** Your safety issues, wet pavement, traction, whatever. You're coming down a hill, you got to stop. You can slide and have wrecks at intersections, and trash trucks, especially on wet roads, don't stop really well in winter time. The only nice thing it has is South facing, but it still would have freezing issues that would make it a hazard spot. Due to the grades, no matter how carefully you try to transition it, you wind up at the bottom of the hill.

**Attorney Hodierne:** Do you recognize the email, Exhibit C, that we previously discussed?

**Burke Robertson:** Yes,

**Attorney Hodierne:** Is this an accurate representation of your discussion with Mr. Johnson?

**Burke Robertson:** Yes.

**Attorney Hodierne:** Is there anything else you'd like to tell the Council about you and your colleagues' analysis of this request?

**Burke Robertson:** No.

**Attorney Hodierne:** Have you seen this type of issue before where a stub out or a connection point that maybe would have been nice or that was pre-concentrated by staff was not able to be achieved?

**Burke Robertson:** I've seen some that I wish weren't.

**Attorney Hodierne:** Okay, but none that weren't able to be done.

**Burke Robertson:** They were done before I came here.

**Attorney Hodierne:** Done before you came, okay. Thank you. At this time, I'd like to go ahead and also officially recognize for the record Exhibits A & B. Exhibit A is the staff report from the 2021 special use permit approval that I've referenced tonight. Exhibit B are the minutes from the City Council meeting on May 11, 2021, and that special use permit was previously approved. I've talked tonight about how we have a very narrow inquiry before us. We're only talking about the removal of this connection point, so therefore, I'm going to reference the existing standing valid and very much in effect, aspects of the 2021 approval. So, to the extent that we talk about that item as a historical fact. To offer exhibits A&B into the record. At this point, I'd like to go ahead and talk about the components of the test and speak to those in specificity. So, starting with Element #1, all applicable regulations of the zoning district in which the use is proposed are complied with. So, this is a technical inquiry, it's focused on the zoning district specifically. It's looking at the standards of that zoning district based on the use, things like unit count, lot dimension, lot coverage, and setbacks as such. This is an element of the test that's completely undisturbed by tonight's inquiry. The relocation of our rather the removal of this connection point does not disturb the analysis, the findings of fact and the approval that was found to be that was determined back in 2021. With that said, I will note that your TRC process, that we've already talked about a lot tonight, the one that occurred this year in 2023, for phase two. It does of course, look at those items to ensure that nothing has changed, to ensure that the loss of two units you've heard that staff at its own level, can approve the loss of these units that resulted from this road change. All of that has been reviewed through TRC and the dimension setbacks and lot coverage, all of that is still intact and in compliance with your ordinance. So, I offer as evidence tonight to this point, the staff report for 2023 that Mr. Holland mentioned that's in your packet for tonight's agenda and the testimony and the staff recommendation for approval from your own City

employees and contractors who reviewed element. The TRC review is conclusive evidence of the applicant's compliance with Element #1 of the test.

Element #2, conditions specific to each use identified by the Development Ordinance are complied with. Again, this is another technical and technical inquiry of your test. This time it focuses on any ordinance requirements that stem from the use itself, rather than from the zoning district. So now we're looking specifically at the townhome use. Again, this aspect of the test is completely undisturbed, unaltered, unimpacted by tonight's narrow inquiry. So, I reference Exhibits A & B and the previous existing approval for the special use permit. The townhome uses and its compliance was determined in 2021. It's been reiterated and re-established by the 2023 review and the TRC pending approval and the staff report reflecting that recommendation for approval that's before you tonight.

Element #3, the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted. Now we are going to get into some specific new evidence tonight about this because we are of course requesting a plan change. But before we do that, I do want to note that the removal of the road connection, of course, is specific to that site plan. That site plan revision and we're going to talk about that, but I also want to reenter for the record the testimony from the previous two test elements that I just went over. It's relevant here and is a bit redundant, but it's relevant to this element as well because the whole reason that the ordinance exists is to ensure this exact element right here, we're trying to protect the public health and safety. We're trying to ensure that all of your rules and regulations work as they're supposed to. So, the fact that we've met test one and two is materially evident. And just as important here, when we look at Test #3. It's imperative that we applaud the compliance with the zoning laws and the use laws to this prong of the test. So, I just want to mention that. At this point I'd like to call our traffic engineer expert, Ms. Lisa Lundeen, to discuss the exact implications and findings from her expert opinion on the removal of this connection point.

**Mayor Talley:** Can you show me the other two or maybe Aaron, if you could do that with the other two you talked about?

**Attorney Hodierne:** Okay, I think you've got a cursor here. So if you look to the left-hand side of the yellow circle, that's highlighting where we removed the connection, keep going to the left, you see that's Little Creek and yep, he's showing you that that horizontal connection that goes left to right on your screen, that's where the neighborhood is tying into the existing Little Creek stub that was left there and contemplated to serve this open parcel. Then, if we move over to the other side. This is Palmer Drive and again you see the bold area that he's highlighting there, that's the new part of the road that gets connected up to the north or the top of the screen where the existing Palmer Drive stubs into this neighborhood. So, those are the two connection points previously contemplated that are still the plan and will still be connected to provide access.

**Ms. Lisa Lundeen:** Hi, good evening. My name is Lisa Lundeen and I'm a traffic engineer with Exult Engineering. Our offices are located at 304 F West Millbrook Road in Raleigh.

**Attorney Hodierne:** I'll let you go ahead and just provide your testimony and I'll ask any questions if I need to.

**Lisa Lundeen:** Okay. Exalt Engineering previously prepared a detailed traffic assessment to study the traffic conditions of the roadway network surrounding the proposed site. The purpose of that traffic assessment was to analyze the potential traffic impacts of the development and to identify any roadway improvements necessary to accommodate the site traffic. By comparing the condition and the future of



the development that was not built to a condition in the future, as if the development is built, we were able to determine any necessary roadway improvements for this development. In our analysis, it showed that there was available capacity at the intersection of Rogers Road and Wildwood Lane. The analysis also showed that the existing neighborhood roadway network was expected to . . .

**Mayor Talley:** Say that again. What was that first sentence?

**Lisa Lundeen:** About the analysis results? The analysis showed that there is available capacity at the intersection of Rogers Road and Wildwood Lane. It also showed that the existing neighborhood roadway network is expected to not only accommodate the background growth in our study area, but also accommodate the addition of site trips anticipated with the development. Then, since completion of our traffic assessment, there has been a modification to the site plan to remove the Hansen Lane extension that we're speaking about tonight. That site plan modification does not change the analysis presented in the previously submitted and approved traffic assessment. The change just removes the more indirect route to Wildwood Lane. And this change will not have any adverse impact compared to what has already been studied and approved. There will still be available capacity at the main intersection of Rogers Road and Wildwood Lane and the existing neighborhood roadway network is still expected to accommodate the development site trips.

**Attorney Hoderne:** Thank you, Ms. Lundeen. So, is it an accurate summary to say that your analysis suggests that the two remaining connection points at Little Creek Drive and Palmer Drive are adequate and have sufficient capacity to serve this neighborhood?

**Lisa Lundeen:** Yes.

**Attorney Hoderne:** And you mentioned that the Hansen Lane proposed removed connection point, you called it the indirect route.

**Lisa Lundeen:** Yes.

**Attorney Hoderne:** Could you elaborate on that, please?

**Lisa Lundeen:** Sure, it is out of the three connection points that were the most indirect road to get in and out of the neighborhood.

**Attorney Hoderne:** Does that mean that your analysis would show it to be the perhaps least used, just based on its efficiency of how to get into the neighborhood? Is that what that means?

**Lisa Lundeen:** Yes.

**Attorney Hoderne:** Alright, thank you.

**Mayor Talley:** Can we ask questions?

**Attorney Hoderne:** Yes, however, you want to do it.

**Mayor Talley:** How long of a study did you do? How many days?

**Lisa Lundeen:** How many? Traffic that we collected?

**Mayor Talley:** Yes.

**Lisa Lundeen:** It was over one day.

**Mayor Talley:** One day, what day of the week was it?

**Lisa Lundeen:** I believe it's on a Tuesday.

**Mayor Talley:** How many vehicles did you record on a Tuesday?

**Lisa Lundeen:** I would need to look up that number.

**Mayor Talley:** Do you have a specific time?

**Lisa Lundeen:** We collected traffic during the peak hours, which should be 7:00 am to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. I do have the numbers for Rogers Road. We looked at 125 vehicles on the southbound approach of Rogers Road in the a.m. peak hour and 383 for the northbound approach in the a.m. peak hour.

**Mayor Talley:** So, is that a combined total of those two numbers for that morning?

**Lisa Lundeen:** Yes, for the morning on Rogers Road. Then in the p.m. we collected 211 southbound vehicles on Rogers Road.

**Mayor Talley:** 211?

**Lisa Lundeen:** 211 yes, and 136 on northbound Rogers Road.

**Mayor Talley:** So, almost 1000 cars. Is that right?

**Lisa Lundeen:** Correct.

**Attorney Hodierne:** Of course, as distributed but directionally.

**Mayor Talley:** But, that's only that's only four hours out of the whole day.

**Lisa Lundeen:** Peak hours, yes mam.

**Mayor Talley:** So, it's more than that obviously, more cars than just 1000.

**Lisa Lundeen:** Yes, we do study the peak hours in our analysis as approved by DOT and the City of Graham. We don't study the traffic all day. We only study the worst periods of the day. To quantify our recommended approval.

**Mayor Talley:** You don't do like weekends or anything like that.

**Lisa Lundeen:** We do not, not for a residential development.

**Mayor Talley:** Okay, and do you have an estimate of what the new development, how many cars that would add?

**Lisa Lundeen:** I do, yes. The new development is proposed to add 123 a.m. peak hour trips and 163 p.m. peak hour trips.

**Mayor Talley:** 163, how do come up with that?

**Lisa Lundeen:** Those numbers are generated from the Institute of Transportation Engineers. Trip Generation Manual, which is the national manual used by all traffic engineers.

**Attorney Hodierne:** It's based on land use type and the intensity of that land use.

**Council Member Parsons:** I'm confused, how would more people come home than left? There's 123 in the morning and 116 in the evening.

**Lisa Lundeen:** It's just different times of the day they could be coming home. It's different times of the day. It could be, depending on their, you know, their work schedules, if they're coming home at not the peak hour or leaving not during the typical a.m. peak hour.

**Mayor Talley:** But you've got 70, well, 68 units now under the proposal, and how many bedrooms are in each unit?

**Attorney Hodierne:** Of the townhomes, which is the only thing under inquiry tonight, there are three bedrooms.

**Mayor Talley:** I mean, there's no way, that can't possibly be correct.

**Attorney Hodierne:** Well, and again I would respectfully remind us that the inquiry tonight is not to re-examine the validity of a finding that we already know is approved and has already met this test, it's to establish whether or not removing this one connection point changes the functionality and the integrity of those results. So, that's why we've re-engaged Ms. Lundeen at this time to say, hey, does this change what you came up with? Is that going to overburden those other two connection points? Based on the data that we know already worked before. So, that's the relevancy of how we need to look at this amendment in context. So, that's what that's the scope of what I believe the relevant, what I would suggest to you, the relevant inquiry.

**Mayor Talley:** But the only relevancy here under consideration is traffic, is the road use, is the exits out of the development.

**Attorney Hodierne:** I'm not sure how that's the only relevant question, road use.

**Mayor Talley:** Well, we can't consider any of the other conditions.

**Attorney Hodierne:** Oh, I see what you mean. Right, so, I think the question before you is, does the removal of this connection point change the ability of the road network to be able to adequately serve this? So here we have a qualified expert who looked at that exact question, who looked at those numbers, who looked at the capacity, the carrying capacity of the other remaining connection points, looked at that distribution to decide whether or not it's still functional. And we have to remember, this is going back

again to the historical context, and I point you to the minutes Exhibit B. We talked about this a lot in 2021 and I'm sure you remember, we have to remember that this piece of property was always predetermined and pre-contemplated by things that happened before all of us that these three access points were the only way it was ever going to get served. So that dye has been cast. We know that this is how this property was going to get accessed. So now we're at the point where we know more. We have more field data. We've been, we know that those connection points, you heard all the technical testimony from your own experts and your own staff and contractors that one of those connection points was not feasible based on compliance with City typical standards, policies, its own objectives and requirements for maintenance and safety, and the ability to meet all the engineering variables that have to come together when hen road intersections meet. So, with that being the case, we asked our traffic expert, does this still work? Do these two remaining connection points that were pre-established that we have to deal with, that we were all left to deal with, that's what serves this property, they're public roads, that's how we get in and out here. Is that going to work? And your expert opinion is?

**Lisa Lundeen:** Yes, it will not impact traffic negatively.

**Mayor Talley:** Yeah, that was all my questions.

**Attorney Hodiern:** Okay, thank you and we can certainly come back to this once we get into discussion, if we need to. I would also like to call Gene Mustin back. And while he's coming up here, I'd like Gene to just discuss the rest of the civil design issues that resulted and flowed from once we realized we needed to remove this once that March e-mail decision was made from the conference with the TRC panel. This connection point needed to be removed. I'd like Gene to talk about what results or impact if any of that had on remaining design issues and your ability to still have compliance with the rest of the code regulations.

**Gene Mustin:** Yes, so, the plans that we provide are all designed together. We do grading plans, utility plans, erosion control plans, stormwater management plans, and roadway network plans and we do a lot of things that go into submitting a set of documents to the TRC for their review. They review them with the state ordinances, codes, and statutes that are applicable and also the local codes and statutes that are applicable. And we look at a lot of different things, obviously, things on the table tonight are not things like utility service or whatever because that's not what we're talking about but we are talking about the number of units that are there and the traffic and the roadway connection. And so, there are State Statutes that provide us guidance on what we're allowed to do in order to keep the functionality of a subdivision intact. Given the State Statutes that are available for us to use and the review with the staff is that we still have vehicular circulation that will allow for cars to come in and out, at least at more than one point, we have two. We can meet the code of ordinances that are established for all of our general design criteria that we can submit for our plans to be reviewed. As far as permits go, you know we have not gone through any permitting yet because we are waiting for TRC to be complete, which cannot be complete until we go through this particular issue. But from all indications from staff, they would recommend that we continue with our permitting which goes local and state in order to proceed. We are still waiting on TRC. The vehicular circulation should still be adequate. That's covered basically by the traffic engineer and in this particular case, the developer actually is down two units, so we lost, he has two units less and the roads are still designed for width and for serviceability, as they would be if the road connection was there. I guess you end up with a little more open space on the plan. Yeah, a little more area of green area where we're not having as many units and not having a road connection. So, I don't think that's a negative impact on the environmental permits or whatever we have. And I think that the plan would still be permissible by staff from a zoning standpoint. Setbacks and that kind of stuff and also from an engineering standpoint with our grading and our stormwater management and road grades.

**Attorney Hoderne:** Mr. Mustin, do you recognize the drawing on the screen?

**Gene Mustin:** Yes.

**Attorney Hoderne:** Everyone, this is Exhibit E in your packet. Is this the phase two submitted TRC plan that was developed after the decision from Mr. Johnson and Mr. Robertson?

**Gene Mustin:** I believe it is.

**Attorney Hoderne:** So, that's why we're seeing that Hansen Lane is now stubbed and there's no connection, and that all the townhomes now front on Little Creek.

**Gene Mustin:** Yes, that's right.

**Attorney Hoderne:** Right. So, is it fair to say that this plan reflects the changes, shiftings, and revisions that had to happen once that connection was lost?

**Gene Mustin:** Yes, that is what we design.

**Attorney Hoderne:** And is this TRC approved or has pending approval on?

**Gene Mustin:** I believe that's correct, yes.

**Attorney Hoderne:** So, all aspects of this redesign plan have been through TRC?

**Gene Mustin:** Yes.

**Attorney Hoderne:** Thank you. That takes us to item #4 in our test. That element is useful, not substantially injure the value of adjoining property, or that the use of the public necessity. The prong of this test that we are working under is that it does not injure the value of adjoining property to speak to that element we have our expert, Glenn Patterson.

**Glenn Patterson:** Good evening, Glenn Patterson, Patterson Appraisals, 885 Cheeks Lane, Graham. About my licensing, I am a state-certified general real estate appraiser since 1992. I've been a real estate broker since 1989, graduated from Appalachian State with a major in real estate and urban analysis. In looking at this kind of project, we're trying to get to something specific to analyze if there's an impact that can be figured out. The only one I could find back in the recent past was in Graham and it was approved in an August meeting off of Lacey Holt in the Lacey Farm development. Whichever ones adjacent to that, that Tonewood Drive is in. I believe that one was approved to be the same kind of thing it was agreed not to be an allowable or it wasn't feasible to be built physically. And so, I looked at data in there, didn't find anything that showed one way or the other. Looked around some other municipalities trying to find some other data that I can look back a little further into the market. There was just not much there, so given this situation, it's my opinion it's not going to make an impact detrimental to abutting or adjoining properties.

**Attorney Hoderne:** So, just for the record could you please remind the Council you're finding back in 2021 that you were expanding upon or referencing back when you looked at this inquiry for tonight?

**Glenn Patterson:** Yes, It's the same thing that it wouldn't affect the properties next door adjoining. Thank you.

**Attorney Hodiernne:** Alright, Element #5 of our test, the location and character of the use if developed according to the plan as submitted, will be in harmony with the area in which it is to be located, and in general conformity with the plan of development for the Graham planning area. Again, we have here an element of the test that's unaffected, undisturbed by tonight's amendment request. The elimination of this one roadway connection does not diminish or void the townhome development. Plans in harmony with the area. The general conformity with the development of Graham's planning area as was determined and established with the 2021 Special use permit approval. Again, as evidence for this, I'll direct you to exhibits A&B from 2021, and most importantly, I direct you to the staff report prepared for tonight for the 2023 amendment by your town staff in which they found that they recommend approval for this request and specifically state that it does and is consistent with the Graham 2035 Comprehensive Plan. And just to, for the record, enter in some of the findings of that determination both now and back in 2021. The land use plan calls for suburban residential here that calls for a certain density of three to six units per acre. We're meeting that. It calls for a certain landform which we're meeting with the townhomes. Your 2023 adopted plan calls for housing variety and housing in general. As we all know is a critical issue across the triad and triangle. And so, these are some key features that I'll reiterate and reemphasize tonight for the record that this plan proposal still puts forward even in its amended state before you tonight.

That brings us to the last prong of the test. Satisfactory provision has been made for the following, when applicable, vehicular circulation, parking and loading service entrances and areas, screening utilities, signs, writing and open space. Again, this is site specific. It's a code based technical inquiry. And it's only marginally implicated by tonight's requested amendment to reiterate and reincorporate to this prong of the test some of the previous testimony you've heard. You heard from the traffic engineer expert that this does not impact vehicular circulation based on the existed adequate capacity of the two remaining connection points. We've heard from Mr. Mustin that he's been able to revise the plan. He's presented that revised plan to TRC. It's been approved and its revised state as you see before you and as you've heard from staff, both with Exhibit E from my packet and from the staff report presented to you by staff. So, we have this positive evidence, most significantly from staff your own staff, that this site plan has made the relevant and applicable accommodations for each of these specific elements of your codes and requirements. And again, I'll harken back to test prongs one and two, which also asked us to look at code compliance. I see this number six as a more specific kind of issue-based inquiry into that same broader question, are we meeting the regulations of the Code? Are we able to adequately account for each of these specific items? And the answer is yes. So, with that walk-through of each test with that recounting and reemphasizing of the 2021 validity and current existence of approval, that is still very much in effect tonight and not affected by this amendment request. I would submit to you that the six findings of fact have been met and this special use permit amendment should be issued. This is a limited surgical request. I say again, it does not invalidate those existing approvals and we've presented to you tonight and provided sufficient material competent, relevant evidence before you that establishes the six prongs of the test are still met. And that your code requirements are intact. So, I know that's been a lot of information and so we've got everybody here able to answer questions as we move forward. And I look forward to the discussion. Thank you.

**Mayor Talley:** Amanda, what's the width of the road?

**Attorney Hodiernne:** What's the width of the road, Mr. Mustin?

**Gene Mustin:** 27 feet.

**Attorney Hodiernne:** 27 feet.

**Mayor Talley:** And do you have two car garages at the townhomes?

**Attorney Hodierne:** We have one-car garages and space for one car in front of the garage. We also have a declaration that gets filed. It's probably already been filed for phase one. So, we have an HOA in place. We talked about this back in 2021. And so, the HOA is empowered through that declaration with the authority and ability to address issues, if it becomes an issue with on-street parking. I know that you've alluded to that back when we considered this.

**Mayor Talley:** You're not really making accommodations for on-street parking with a 27-foot road and you've got one-width car driveways with three-bedroom townhouses.

**Attorney Hodierne:** We have two parking spaces per unit and if Mr. Mustin can come back up, I believe we also have some guest parking available. Is that right? If you could come back up to speak to the parking. I believe that there's guest parking. I think we talked about this before. Some overflow parking, could you talk about that? Thank you.

**Gene Mustin:** So, at this point, we have the ability within the development of this plan to provide all of with one car garage. But each driveway can accommodate another two cars. So, we have three cars per unit. That has been accommodated and there are about 1,2,3, - 4,7,8,9. Probably another nine paved spaces that are within the townhome area for additional overflow parking. So, each site should have the ability to park three cars, plus there's, if I counted them correctly, I think it's about 9 additional parking spaces for visitors.

**Attorney Hodierne:** We've also reduced our unit count by two. So, the demand for those overflow spaces have lessened.

**Mayor Talley:** I understand what you're saying, Amanda. And I know you keep saying that over and over, but the reality of it is, is that you put in your drawings for four units to be placed on the road connection that you are saying that you really can't build.

**Attorney Hodierne:** The previous plan had before.

**Mayor Talley:** Right. So, to say that we're not, you're not asking us to give you two more units, when you really if you're not going to put in that road, it eliminates four units. That's really not an argument that you can make that you're giving up to units. You're giving up four units. And then asking us to give you two more units on the other road.

**Attorney Hodierne:** So, I believe my statement and the staff report reflects that it's a net reduction of two units. So, no, we're not trying to stand here and say that it's a reduction of four units. It's a reduction of two and it's a shifting because the four-unit building that you referenced that used to exist along the Hanson Lane connection is no longer there. So, those four units are gone. Two of them are re-picked up if you will, reestablished elsewhere. Two of them are lost.

**Mayor Talley:** But that is an ask.

**Attorney Hodierne:** Actually, it's a staff approved ask that's already been determined at TRC, so it's not part of the request tonight.

**Mayor Talley:** Is that considered in the 10%, Aaron?

**Assistant City Manager Aaron Holland:** So, the reduction that Attorney Hodierne is referencing, that is

a staff-level approval, and the shifting of the units also is a staff-level approval. So, both would qualify. If they were increasing any of them, with the addition of units or anything along those lines, increasing the density that would have to come back before council.

**Mayor Talley:** It's still an ask, though.

**Assistant City Manager Aaron Holland:** Well, that part has already been approved. It's an ask that has already been staff-approved. The only item that's being asked tonight is in reference to the Hanson removal.

**Mayor Talley:** Is the link from the connection there to the other connection at the end, how many feet is that?

**Gene Mustin:** Let me see if I can get that for you. So, from Little Creek to Palmer, is that about what we're asking for? That would be about 1200 feet. (Inaudible) You are talking about from Little Creek Drive all the way to Palmer Drive, the long stretch of Little Creek?

**Mayor Talley:** Our 2035 Plan states as follows, where possible, blocks should be broken up to create street lengths of less than 600 feet between intersections.

**Gene Mustin:** Yes. Okay, so, we have a break in the middle and I believe that is . . . I wish I had a magnifying glass, I can't read my own drawing it is so small. So, we have approximately 1200 feet from the end of Little Creek to Palmer and it's broken up with a stub street to the South in the middle of the drop.

**Attorney Hodierne:** And that's how that requirement is met.

**Mayor Talley:** I'm sorry, could you say that again?

**Gene Mustin:** So, there is about an 1100-foot of 1200-foot dimension between Little Creek Drive and its extension to Palmer Drive and horizontally across the page and in the middle of that midst there is a stub road to the South that will break up the block that will access into future phases of the development, phase three.

**Council Member Parsons:** Can you read that again, please?

**Mayor Talley:** Sure. Where possible, blocks should be broken up to create street lengths of less than 600 feet between intersections. It says it's desirable that automobile parking be located on the street and behind homes with ingress and egress via rear alleys, and that street rights of way, including sidewalks on both sides, with street trees placed 30 to 40 feet intervals with grass swells. There's not going to be any parking on the street. Right?

**Attorney Hodierne:** That's not how this is designed. It's got adequate parking as we've, as you determined with your previous questioning, that there are three spaces for each unit. And of course, we have the overflow parking and then . . .

**Mayor Talley:** How far away from the unit is the overflow parking located?

**Gene Mustin:** So, it's not in one location. It is in different locations as you go through the



development. So, we have spaces that are. . .

**Attorney Hoderne:** So, Mr. Mustin has circled 1,2,3,4,5,6 different spots along the Little Creek horizontal road where there are just little inserts of two to three overflow parking spots.

**Gene Mustin:** Actually, I think I count 12, in total.

**Attorney Hoderne:** So, they're just well distributed along the road, so that if anybody needs a guest overflow spot, it's accessible and they don't have to . . .

**Mayor Talley:** Where is that located on this map?

**Attorney Hoderne:** Okay, so I actually just had some specific information given to me that we've actually added 43. Is that right? 43 spaces from the original plan, in this new plan, so the parking adequacy has been increased significantly.

**Gene Mustin:** So, we have single driveways on the first plan and we have double drives on most all of these, and we have 12 additional parking spaces that are on the plan now.

**Mayor Talley:** You've increased the number of driveways, did you do that on all the three units, 3-bedroom units?

**Attorney Hoderne:** We increased the size of the driveway so that it now can . . .

**Gene Mustin:** We increased the size of driveways on every single ending that we increase the size of the driveways on every single end units. I misspoke. Every single end unit has a double driveway. Interior units have a single driveway, have 12 parking spaces that have been paved and interspersed along the development for additional overflow parking.

**Mayor Talley:** What are the 43 spaces? Is that just the difference between the first plan and the second plan?

**Attorney Hoderne:** There's 43 additional dedicated parking spaces now in this revision than from what you saw in 2021. Those 43 spaces are comprised of additional designated driveway spaces and the overflow additional overflow spaces.

**Mayor Talley:** That, too, is staff-approved, Aaron. Parking is, I mean, not that I dislike having parking, so that if you only have a 27-foot wide road, but . . .

**Assistant City Manager Holland:** What they did was increase the size of their driveway that the townhomes have. So that's adding the ability to have an additional spot that a car can . . .

**Mayor Talley:** I don't dislike it, I'm just concerned that we approve something and that you don't have to go back before Council to get anything changed, I mean to get those kinds of, what other changes were staff approved?

**Assistant City Manager Holland:** I don't have the list here, but in reference, I don't have a list in reference to that. The question of can staff approve someone adding a parking spot to an existing lot, I would think, and I'm just speaking from my perspective, Council would be ecstatic that the developer . . .

**Mayor Talley:** I am happy about that. I just. It was my understanding that if changes were made to the existing subdivision, that has to come before Council.

**Assistant City Manager Holland:** This is not a conditional zoning, a conditional zoning, which is site-specific, is totally different, but this being a special use, it's the use that Council's approving, but there are predetermined, pre-approved administrative approvals that staff can do.

**Mayor Talley:** So, if they had two-car parking, did they go to one-car parking? With staff approval?

**Assistant City Manager Holland:** I would have to read, I mean, I don't have it in front of me currently, but I will have to read to see, but I would assume that any density that would be lessened amount or increase in this case, we would have to consider whether or not that would need to come back to council.

**Attorney Hoderne:** Just to the extent it's helpful, the standard rule of thumb in every jurisdiction is if it increases intensity or diminishes functionality, then you have to come back to council.

**Mayor Talley:** It just opened the concern for me of what else has changed from previous submission to this submission, that's all I was asking about.

**Attorney Hoderne:** Understand, yeah, I understand.

**Assistant City Manager Holland:** Yeah, I think from staff perspective. we're only operating with what City Council has approved us to be able to do. And when I said list there's a there's a list that we have in our ordinance that we can say we can do this. We can't go beyond that. That was my reference to the list.

**Attorney Hoderne:** Okay, we're here as needed to answer further questions. Thank you.

**Mayor Talley:** Yeah, I asked some other people that got more sworn in if you'd like to raise your hand.

Someone asked from the audience to speak (Inaudible)

**Mayor Talley:** Certainly.

**City Attorney Bryan Coleman:** I think this is where they're going to have to be determined, you will have to make a determination as a board as to whether they have standing or not to ask questions. He's got to show special damages that are specific to the removal of the road.

**Mayor Talley:** Okay, if you'd like to come up.

(Inaudible)

**Peter Murphy:** My name is Peter Murphy. I live at 1933 Meadowview Drive. I live two blocks away from this permit that they're putting in for. So, the question that I . . .

**Mayor Talley:** Just hold on just one second. We have to determine whether you have standing to testify at this particular point in the hearing and I just defer to our attorney.

**City Attorney Coleman:** The determination of standing is going to be up to a formal board decision based on whatever information that Mr. Murphy can present that he has suffered special damages because of the removal of Hansen Lane. So. whatever evidence you have to show you have suffered special damages because of the removal of this road.

**Attorney Hodierne:** They have to be particularized, especially distinct to the greater community.

**City Attorney Coleman:** Yeah, basically, it's the central question is has the individual who alleges standing shown that he or she has damages are distinct from those damages to the general public at large.

**Mayor Talley:** So, an example would be like damages to your road that you access your property, that kind of thing.

**Peter Murphy:** No, I have.

**Mayor Talley:** And you seem to be not sure about that, so.

**Peter Murphy:** I just, All I wanted to do is ask some questions for clarity of what the witnesses have brought up, for example. . .

**City Attorney Coleman:** There is. You have to have standing to ask questions.

**Peter Murphy:** Okay, so how do you, how do I get that standing?

**City Attorney Coleman:** You have to show particular damages, particular special damages that are happening to your property caused by the removal of Hanson Road, Hanson Lane.

**Peter Murphy:** Okay, well, you know, I do have.

**City Attorney Coleman:** The board has to determine a formal decision, they'll have to vote as to whether you have standing or not?

**Peter Murphy:** Okay.

**Council Member Chin:** I guess the question I need you to answer is, how are you impacted by the change in closing Hanford Lane where it's not extending down? Hanson Lane.

**Peter Murphy:** Because it's impacting the traffic flow that's going to go directly in front of my house because I'm at the corner of Little Creek and Meadowview Drive and this is taking an access point, one of three access points away, and I will have more vehicle traffic. I will have more pedestrian traffic and it will impact and it also will impact you know my property in other ways. I also have a question on the setup of this is, I've gone through the ordinance, you know, that's in front of us.

**Mayor Talley:** I'm sorry.

**Attorney Hodierne:** Noting for the record for standing.

**Mayor Talley:** So, do we need to make a formal motion?

**City Attorney Coleman:** You guys are making the findings of fact, you're going to make the determination, so he's got to give you guys what you all feel is sufficient evidence that he has a particular damage there and then you'll vote whether or not he has standing.

**Mayor Talley:** So, it's my understanding that the only roads that, just saying that you're going down the

only access is out are going to be Wildwood, Meadowview, which you live on, is that correct Mr. Murphy?

**Peter Murphy:** I live on Meadowview, the corner of Meadowview and Little Creek.

**Mayor Talley:** On Little Creek. Are those the only three ways out?

**Council Member Whitaker:** Palmer.

**Mayor Talley:** Palmer. Okay, there are four ways out. Is that right? Well, really, it's three. It's three ways, but you get, well if you're going to a main road you still have to go down Wildwood, right?

**Council Member Parsons:** Not on Palmer. You go Palmer, you go out Palmer to Ridgecrest, then to Rogers.

**Mayor Talley:** Okay.

**Council Member Parsons:** If you go to Little Creek, you can either do Spring Meadow or Meadowview to Wildwood.

**Mayor Talley:** Like three ways out of the subdivision. Three ways.

**Council Member Whitaker:** No, but they are taking Hanson Lane. They're not going to extend it to Little Creek Drive correct? How is that going to impact, I mean, I don't see. Then they would either have to go out Whisper Ridge to Palmer and then Ridgecrest to Rogers Road. Or they would have to go up to Grandview and go out or over to Grandview and then Spring Meadow and then out to Wildwood. So, I don't really see how it impacts the traffic on Meadowview with that little stretch gone. I don't see how just cutting it out from Whisper Ridge down is going to throw more traffic onto the corner of Little Creek and Meadowview. I mean, maybe I'm not reading that right. Because then they would have to go out. It's right there. And they would have to go out Whisper Ridge to Palmer and out to they would have to go out Grandview to Spring Meadow and out to Wildwood, or they'd have to go out Grandview to Palmer, but they're not going to be coming the other way.

**Council Member Parsons:** That would be if Hanson was connected, if Hanson was not connected, they'll go to Little Creek to one of those three roads. Or back out to Palmer. Either way, they've got to get to Wildwood to get to Rogers Road or Palmer. They can go all the way out to Ridgecrest, but the problem with Palmer is once you come out of the old development into the new development that Keystone built, that's a 25-foot residential narrow road. So that's a very bottlenecked means of digress coming out of there.

**Mayor Talley:** Only 20 foot . . .

**Council Member Parsons:** 25 foot . . . Burke am I correct on that? (Burke shook his head yes)

**Mayor Pro Tem Hall:** I drove this area Saturday and Sunday. If I was coming out of this new subdivision, I'd go up ahead and hit Palmer and go all the way up. That way you'd miss all the traffic going (inaudible). (Inaudible) on top of the hill versus coming down on (inaudible)

**Mayor Talley:** But theoretically, I mean traffic would increase by, you know, by one less connection.

One less option. It's going to increase on any of the other roads. I don't know it's up to the Council. I'll make a motion to allow Mr. Murphy to ask his questions, as I believe that his testimony given that traffic would increase on his road, that being one of the essential six things to consider. Six conditions to consider under Section 10.144 of the Development Ordinance. Do I hear a second to allow him to be able to . . .

**Attorney Hodierne:** I'd have to object to that for the record, for failure to state a particularized damage. That's a general public opinion impact. Just for the record, thank you.

**Mayor Talley:** Okay. You need us to vote on it. Right.

**City Attorney Coleman:** Need you to vote, Yes, mam.

**Mayor Talley:** Can I get a second?

**Council Member Parsons:** I'll second it.

**Mayor Talley:** All in favor?

**Council Member Parsons:** Aye.

**Mayor Talley:** All oppose:

**Council Member Chin:** I

**Council Member Whitaker:** I

**Mayor Pro Tem Hall:** I

**Mayor Talley:** Sorry, Mr. Murphy, I . . .

**Peter Murphy:** All right.

**Tom Boney:** Alamance News, excuse me, what is the vote, Mayor?

**Mayor Talley:** It's three to two. Me and Joey voted in favor of allowing him to be able to ask his questions.

**Peter Murphy:** There's a specific issue with the ordinance. The ordinance, we're being. Somehow someone has to get out here, the ordinance doesn't have anything in it for a very specific . . .

**Council Member Whitaker:** We need to move on, right?

**Attorney Hodierne:** Objection, Mr. Attorney.

**Peter Murphy:** The special . . .

**City Attorney Coleman:** You can, at the end of the items not on tonight's agenda, you are more than welcome . . .

**Peter Murphy:** That's not going to help for this, the special use, the special use . . .

**City Attorney Coleman:** But right now, you're done.

**Peter Murphy:** Yeah, the special use ordinance does not have limited access or limited scope of special use. It does not. There is no, that's written in by the attorney and this whole project has to . . .

**City Attorney Coleman:** That's not admissible, so.

**Mayor Talley:** I'm sorry Mr. Murphy. Is there anyone else who was sworn in that would like to come and speak? If you will state your name and your address and how the closing of Hanson Road in this request under the special use permit affects you.

**Eric Bomhard:** My name is Eric Bomhard. I live at 1813 Springmeadow Drive. I walk on Hanson Drive with my dogs. Okay, my community is predominantly senior citizens.

**Attorney Hodierne:** We need to take a vote on that standing.

**Eric Bomhard:** Never mind, have a good day. *(Left the Council Chamber)*

**Charlie Smith:** Good evening, Mayor and Council Members. I'm Charlie Smith. I live at 616 Whisper Ridge Drive. My property joins off of Hanson. I thank the City Council for the opportunity to speak.

**City Attorney Coleman:** But we've got to figure out if you can speak or not, whether you have particular damages with regards, okay.

**Charlie Smith:** Yes, I think so. I have some facts I'd like to provide to the Council.

**City Attorney Coleman:** Provide the facts that support the damages and vote on it.

**Charlie Smith:** Right, I'll speak plainly, I don't have a law degree.

**Mayor Talley:** You don't have to, Sir.

**Charlie Smith:** You've heard tonight from the developer and the lawyer to ignore and disregard our speech. It is shameful and undemocratic that this special use application can be used to silence the citizens of Graham. Your constituents who pay their taxes and live in the community that will be most affected by this development. I fully agree with the City of Graham, Engineer, and Public Works Director that extending Hanson Lane would be both a safety hazard and an added expense to the City and taxpayers. Hanson Lane should not be an access point. But I question if this application approved in May of 2021, is now valid. Fact one.

**City Attorney Coleman:** You gotta determine whether you, they have to determine whether you have and I'm sorry, I'm sorry, I'm making this complicated but to speak, anybody other than the party to speak has to show they have particular damages. They then determine whether they have standing and then they can ask questions, cross-examine, and have all the rights that the other parties have. But you've got to first determine or express what your damages are.

**Charlie Smith:** Right. Why can't I just speak to the facts? The facts that have been misrepresented. What

occurred back in 2021, and how that's relevant to where we are today. Do I not have a First Amendment right to speak?

**City Attorney Coleman:** Absolutely if . . .

**Mayor Talley:** Every person on this Council wants you to be able to speak to us. Every Council member I can assure you. This particular proceeding is not one that is, you have to go certain rules of evidence and that's why I tried to explain earlier because I try to make sure that the public frames their argument in a way that allows them to be able to have the Council make decisions based on their testimony. So, if you say something and it isn't within these certain rules that I did not make up that the statute determines, North Carolina statutes. It's frustrating for us as well. We want everybody and I think you heard me say earlier, I want everybody to be able to get up and testify. Do you have any evidence that if the road, it's your opinion that you don't want the connection, correct?

**Charlie Smith:** I do not want the connection, but there are other issues that the City Council should hear me out on.

**Mayor Talley:** But, in order to be able to testify in this, you need to speak about how that connection affects you, affects your property in relation to damages if it is allowed versus not being allowed.

Someone from the audience spoke, (inaudible).

**Mayor Talley:** It's just like a court hearing, if you were, you have to follow certain rules of evidence in order to be able to, for this board to be able to find findings of fact. Based on expert testimony or on evidence presented by people who have what's called standing. So, I'm not saying that in my opinion, he owns property there, but you just need to state how having the connection or not having the connection affects your property or you financially in some way.

**Charlie Smith:** All I wanted to do was ask the Council, Section 10.148 of the City Ordinance regards invalidation. And I just wanted to speak plainly to the City Council that, that paragraph says two things that are not being met right now. One is that the original plan that was presented before the City Council in May of 2021, is not the plan. They call it an amendment.

**Attorney Hodierne:** Objection, Mr. Attorney.

**Charlie Smith:** In fact, that's the engineer. The engineer even said tonight, the original plan.

**City Attorney Coleman:** He doesn't have standing. He's got to cease.

**Charlie Smith:** Okay, 24 months, it's been 29 months they haven't broken ground.

**City Attorney Coleman:** Or take a vote.

**Mayor Talley:** Can you talk about how the connection could affect you financially one way or the other?

**Charlie Smith:** It's traffic, the traffic, the traffic is going to be unbearable. The land is not, the land is zoned for R12, medium density. From Whisper Ridge, which is where we live, you know, the engineer said tonight, which I dispute this testimony, he said, point blank, that Hanson Lane was the only section in that topography where you had the extreme grade. That's not true. Think of the logic of that land. It's a

severe slope going all the way down.

**City Attorney Coleman:** You guys need to vote before he keeps testifying.

**Mayor Talley:** Do you, do you believe that an additional 1400 cars coming on the connection for Hanson Drive . . .

**Attorney Hodierne:** Objection Madam Mayor.

**Charlie Smith:** Yes, I also believe that since 2021, they've put another development in of 27 single-family homes that are also going to be using the same road systems.

**Attorney Hodierne:** Objection, irrelevant.

**Mayor Talley:** Let us make a vote first to see if you have standing.

**City Attorney Coleman:** Yeah.

**Mayor Talley:** Is there a motion on the floor to allow Mr. Charlie Smith to have standing and give testimony in this hearing? I make the motion to allow Mr. Charlie Smith to give testimony in this hearing. Do I hear a second?

**Council Member Parsons:** I'll second it.

**Mayor Talley:** All in favor? Aye. All opposed, Aye, Aye, Aye. Sorry. *(Mayor Talley and Council Member Parsons voted in favor. Mayor Pro Tem Hall, Council Member Chin, and Council Member Whitaker voted Nay.)*

**Council Member Parsons:** Madam Mayor, may I say one thing, Sir?

**Someone from the Audience:** Doesn't quality of life count or anything in the legal world?

**Council Member Parsons:** Can I address one thing that you did say? The 24 months on a special use, that has been met, they don't have to necessarily break ground, but they do have to pull permits and continue on with the TRC process and that has been met. Is that what's being questioned? And I think Mr. Holland can back me on that. So, the 29 months that they have been progressively working on the project so that will answer your question.

**Charlie Smith:** That answers one question.

**Council Member Parsons:** Okay.

**Charlie Smith:** The engineering study that was presented, they took data from 2018 traffic patterns of 2018, here we are in 2023. They're adding another development off Little Creek and Luther, which is another 27 homes. All of these cars are going to be competing. It's not Rogers Road. It's getting to Rogers Road that's the issue. They've got to go through Meadowgreen, Meadowview, and Springmeadow, they're all senior citizens. We don't have sidewalks in that neighborhood. So, the point is, if an R12, medium density zoned land that the developer has gone around the law and he's cramming out 177 lots, and it's crazy.



**Council Member Parsons:** And unfortunately that . . .

**Attorney Hodierne:** Objection to the speaker's prior testimony.

**Tom Boney:** Alamance News, Madam Mayor, if I may. I know I can always learn something at these meetings. But I have never seen a special use permit in any jurisdiction in which this issue of damages is a factor that limits people from speaking. I just don't. I just never heard of that before.

**Attorney Hodierne:** 160D 405B.

**Council Member Parsons:** I think because it was previously a quasi-judicial, it has to be quasi-judicial at this time, therefore we have to follow the state statute laws.

**Tom Boney:** I understand that Mr. Councilman I've just never, never heard of that particular qualifier for anybody to speak.

**Attorney Coleman:** Well, they're not witnesses for either party. So, if they're not witnesses and they want to speak, then they have to be determined whether or not they have standing. If it's determined they have standing because they can show special damages with particularity, then they can ask questions. They can have the same rights as the parties.

**Tom Boney:** Well, like I say. I don't know if this is a different interpretation or such a unique situation that it makes it new. But, I have just never seen this kind of limitation on public participation, even on a special use permit. I understand that the Council is free to ignore, be honest, and ignore some of the testimony, but I just don't understand how they are precluded from hearing it in the first place.

**Attorney Coleman:** (showing Tom Boney the state statute and process.) (Inaudible)

**Tom Boney:** Are they not allowed to be a witness opposed to the . . . you said parties, can they not be an opposing party?

**Attorney Coleman:** That's what we're trying to figure out if they're going to be a party, they have to show the standing.

**Tom Boney:** Never seen it before, Mayor. Very unique.

**Mayor Talley:** I made a motion to allow it.

**Tom Boney:** Learn something all the time, but that's a new one.

Someone from the audience is making inaudible comments.

**Mayor Talley:** We can't take testimony from the audience. Is there anyone in the audience that was sworn in that has not spoken yet? Was there anybody else that has sworn, been sworn in? Can I ask how many people here are here on this matter on a different matter? That's who's here on this matter, is that correct? Is there . . . Amanda, could you take the podium for a minute?

**Attorney Hodierne:** Yes, Madam Mayor.

**Mayor Talley:** Are there any other connections, possible connections to send traffic to in exchange for Hanson?

**Attorney Hodierne:** I don't believe so. If we could zoom out, I'll show you why. So, if we keep going, please. Yeah. So, if you look at the significant stream corridor or creek corridor that runs through here. Gene or Mr. Mustin might be able to speak more to this, but this, the only connection points are going to be able to go to the north and then eventually over to the arterials running North and South that come from that. And that's because of the environmental features that essentially hem this area into the South. So, we don't have any stubs to reach out to. If you will, or land to get to by going those other ways and the stream corridor has kind of set that up. So, again, going back to this point of, this has been predetermined and pre-established, and Keystones developed and had to stub out and they did it the way they did it and the others to the north. This access was predetermined to always be these existing stubs. So that's what we're utilizing and we've gotten to that point now where one of those is, as you've heard tonight.

**Mayor Talley:** So, in regards to the additional traffic that would be filtered specifically to Wildwood Lane and areas like that. I've gotten and this has, I didn't get this picture of Wildwood Lane and the condition of the road there in relation to this particular meeting tonight, but it's been several months ago and you know it's been brought up several times. The pictures that we've gotten from Wildwood Lane are pretty damaging.

**Attorney Hodierne:** I'm sorry are you referring to pictures that aren't in evidence tonight?

**Mayor Talley:** Yes.

**Attorney Hodierne:** So, I would not be able to speak to something that I've not had the ability to review or see.

**Mayor Talley:** Have you been out to the property?

**Attorney Hodierne:** Yes, ma'am.

**Mayor Talley:** Have you seen the damage to the roads?

**Council Member Parsons:** They have been repaired.

**Attorney Hodierne:** I would object to, I would not say that I've seen damage. No ma'am.

**Mayor Talley:** Have they patched them?

**Council Member Parsons:** Yeah, they cut them out and put large patches in.

**Mayor Talley:** So, okay, did the developer do that?

**Council Member Parsons:** I think they did the top 4 inches, or did you do the whole thing? I know you were down there quite a bit. I don't know quite, what all y'all did.

**Attorney Hodierne:** I'm not sure what any of that discussion or the picture that was shown was. I'm not sure if there's a question.

**Mayor Talley:** You're welcome to see the picture.

**Attorney Hoderne:** Well, I don't need to if there's a question, I just didn't know.

**Council Member Parsons:** They were repaired and the developer had a . . .

**Mayor Talley:** That's just my general knowledge of Wildwood Lane.

**Council Member Parsons:** They were repaired and the developer did have a pretty large hand in making sure that happened.

**Mayor Talley:** Okay, good. The . . .

**Council Member Parsons:** I have a question, your traffic engineer stated the traffic at Wildwood and Rogers, but nothing was really, I didn't hear anything addressed about the Palmer in Ridgecrest what that would affect, and how it would affect the other streets in the neighborhood. I mean, I know the traffic count on Rogers Road is one thing, but that's kind of irrelevant to the people that live in the neighborhood.

**Attorney Hoderne:** Palmer and Ridgecrest.

**Council Member Parsons:** Yeah, because when you come out of Palmer, you're going to come up to Ridgecrest, and then you're going to turn left on Ridgecrest and right or left on Rogers. More than likely, right because you going to be headed towards town. That is going to be, in my opinion, I'm not an expert witness, but that is going to be the main path of people leaving that neighborhood, because it's not if you . . .

**Attorney Hoderne:** Okay.

**Council Member Parsons:** Because if you come down to Wildwood and Rogers to make a right turn, it is an uphill climb. Pretty significant. So, if you stay on that, but you know nothing was addressed about the impact on Palmer, Ridgecrest, Springmeadow, and Meadowview, it was just the intersection at Wildwood and Rogers. Is there any traffic studies to support, by closing Hanson? How many more people will be going off Palmer? How many more people will be coming to Wildwood? I mean that's a significant determination on how it impacts the neighborhood.

**Attorney Hoderne:** Yes, Sir. I'm going to let the expert come up and answer, but I will reiterate the testimony that I heard that was stated into the record, which was that Hanson is the most indirect, IE the third priority access point in the trip distribution that their study analyzed and therefore you know if you're going to remove one and have to displace those trips, that one's going to be the least impactful one to remove. You are displacing the fewest number of trips because it's being chosen the least. But, so I think she did speak to that. She spoke to the adequacy of the capacity of the remaining Palmer Drive and Little Creek, but I will, I don't want to speak . . .

**Council Member Parsons:** Palmer goes from 31, 27 to where your new development is to 31 in the existing neighborhood to the new development of 25, then back to 31.

**Attorney Hoderne:** The new development of 25?

**Council Member Parsons:** That's the newer, newer part of the development on Palmer, which is . . .

**Attorney Hodierne:** The Keystone, (inaudible).

**Council Member Parsons:** I mean that's a bottleneck.

**Attorney Hodierne:** And unfortunately, that's an existing condition that was already predetermined on this public right of way that we have to connect to. So, I hear you, but it is.

**Council Member Parsons:** I just, my concern is that, is the traffic on that road.

**Attorney Hodierne:** I'll let her speak to that, in addition to what's been on the record.

**Lisa Lundeen:** Sure, so, the capacity of a two-lane roadway is typically about 10,000 to 12,000 vehicles per day. And based on our analysis with the growth in the area, as well as the addition of our site trips we'd only expect to add about 3000 vehicles per day, so that's well below the 10,000 vehicles per day capacity.

**Council Member Parsons:** You're talking about Rogers Road, right? Not the neighborhood. The 25-foot neighborhood road?

**Lisa Lundeen:** Correct. That's a . . .

**Council Member Parsons:** How would that affect the 25-foot neighborhood road?

**Lisa Lundeen:** That is, 10,000 is the capacity for the neighborhood road.

**Council Member Parsons:** It's not. Two cars meeting side by side on a 25-foot road is limiting.

**Mayor Talley:** Especially, I mean if you look at it, there's cars parked on both side of the sides of the road all the time, trailers.

**Council Member Parsons:** They can't park on the 25, period. But they can, I think park on one side of a 27.

**Attorney Hodierne:** I think she's. We'll do this right. The capacities that you're quoting are from what source?

**Lisa Lundeen:** They are from the NCDOT Planning Board.

**Council Member Parsons:** That's for any two-lane road? Regardless of the width of the road?

**Lisa Lundeen:** That is that range that I gave the 10,000 to 12,000 thousand depending on the width of the road. So that lower 10,000 number I believe is a 9-foot lane and the 12,000 number is for 12-foot lanes.

**Attorney Hodierne:** So, to your question, this is I know we all have anecdotal experiences and the things that we bring to the analysis, but this is fact-based evidence in the record that is coming from the expert who knows how to utilize the sources and the modeling for these exact types of analysis.

**Council Member Parsons:** Thank you.

**Mayor Talley:** I have a question for the developer.

**Attorney Hodierne:** We'll need to swear him in, Madam Clerk. You, you mean, Yeah.

**City Clerk Renee Ward:** Do you swear or affirm that the testimony you're about to give today is the truth, the whole truth, and nothing but the truth, say, I do. *(David Michaels said I do)*

**David Michaels:** Thank you. My name is David Michaels, address is 1007 Battleground Avenue in Greensboro, NC.

**Mayor Talley:** Okay, so in regards to tonight's hearing, the only thing that's up for consideration by the Council, because this special use permit was previously approved, is the Hanson connection, is that, would you agree with that statement?

**David Michaels:** Yes.

**Mayor Talley:** If the Council were to agree to no longer require the connection, but request that the developer keep all the other drawings with the addition of the expanded driveways, but get rid of those four lots on the Hanson connection, would the developer be agreeable to that?

**Attorney Hodierne:** We've already lost those lots if I'm understanding your question correctly.

**Mayor Talley:** Well, you're making up two more somewhere else. Is that right?

**David Michaels:** That's correct.

**Mayor Talley:** So instead of going from 70 to 68, would you go from 70 to 66?

**David Michaels:** We're not prepared to offer that now.

**Mayor Talley:** Okay, someone asked. Any other questions, Bonnie? *(Council Member Whitaker nodded no)* Any questions? *(Council Member Chin, no)* Any questions? *(Council Member Parsons, no mam)* *(Mayor Pro Tem Hall, nodded no)*

**Mayor Talley:** I would like to state that I'm always a proponent of people being able to come and, say what they want to be able to say in front of the people that they elect to represent them. I understand that we have certain rules and procedures that we have to go by. But the Council being educated on what information they receive, and what information they have to consider, I think is something that, you know, we need to take into account and so, I find it particularly disturbing to have a developer come and I understand, even when you have someone that doesn't want the connection, which is what the developers are arguing for before the Council. It does lend itself to having some measure of distrust by the public and the existing neighborhoods that are there when you don't want people to testify. But as long as the Council understands what they can and can't consider, I think it's important to allow people the ability to be able to speak. That's just my comment on that. My feeling about . . . I mean, I go to court all the time and people will talk about things that are not relevant and obviously the judge has to step in and ask them to not proceed in order to prejudice, in order not to prejudice the jury or the judge in hearing testimony that they're not allowed to hear. So, we do have to follow certain rules and we appreciate our attorney being

here to try to make sure that some of that is done, but, I do think that our Council members while they want to hear from the public, they also want to follow the rules of law. So, we will continue to try to perfect this process, and I wish anybody that takes the time out of their day to come to speak to any Council that they have the opportunity to be able to do so. My comment about this being suburban residential is that the transportation part it talks about parking being located on the street and that there be sidewalks on both sides of the street and where possible, blocks be broken up every 600 feet. That it would be a pedestrian-friendly design and you would have an area that is allowing for both a mixed-use which I think they have with the different stages here. But the traffic and the transportation concerns me. I, even though the person that testified in regards to the traffic study, I consider them to also accept them to be an expert, but I don't know that studying traffic patterns for four hours a day on a Tuesday would be something that I would accept as being adequate study of how this new development is going to be impacted based on the closure of this additional road. My personal knowledge is of the damage and the existing road conditions that we have there. Which were of concern when this development was approved, and now it's just an additional road access point that would be withdrawn without any number of the units being lowered. I don't know that this is necessarily going to create a pedestrian-friendly design or that it affects the . . . It's a satisfactory, in regards to Section 6, satisfactory provision has been made for vehicle circulation, parking, loading, service entrances, area screening, utilities, signs, lighting, and open space. Or that it would not injure people that have property located there for the increased traffic and then the use would not endanger the public safety for the people that have cars on the road and that sort of thing. I particularly think that roads should be wider based on the number of residents you're going to have going up and down them and an additional 15, or 1000 to 1500 cars in that area could cause some safety issues, particularly in that because of the development the additional development. I'm just one person on the Council, but what is your feeling?

**Council Member Chin:** Madam Mayor, I think the point of order we need to, we have a matter before us, and I think we are getting away from the reason this is a quasi-judicial hearing. We're being asked to consider the proposal by the developer to not extend the road. We're not here to second guess the previous Council that approved it, we can't rewrite it and or undo it.

**Mayor Talley:** I would agree with that.

**Council Member Chin:** We need to address the issue. Yes, we'd like the public to speak. But for such a hearing, we're held to the legal requirements as defined by the state statutes. Your comments would be more appropriate if we were if this was a general open forum and not a quasi-judicial hearing. You know, otherwise, if this was the first time this was brought forward, you all would be allowed to speak.

**Mayor Talley:** A rezoning, public hearing.

**Council Member Chin:** But because it's a special request and it's quasi-judicial, there were six factors that you had to be able to address. One of the six that give yourself standing to talk about what's being proposed. It's not that we don't want to hear you, but there's a time and a place for your comments.

**Council Member Whitaker:** It's not that we don't agree with you either, because I hate that it was ever proved it's a monstrosity. It's . . . but we can't undo what's already been done and that's unfortunate and I hate that. But we do understand. But, we do have a quasi-judicial system we have to go by and as our attorney, you know, read the statute is the statute, unfortunately, so.

**Mayor Pro Tem Hall:** I agree with what Bobby and Bonnie said. You know, we go out of our way every City Council meeting to hear from the public, from the people who put us here. But for this one, this one

is totally outside the norm and requires a great deal of evidence because, if they want to appeal it, it will go to court and that means everybody that is sitting here on Council, plus the witnesses will be summoned to court. That's why we need to dot our Is and cross our Ts.

**Mayor Talley:** Council Member Parsons?

**Council Member Parsons:** I don't have anything else, ma'am.

**Mayor Talley:** I mean, I personally think, even by the testimony given by the petitioner that it will negatively impact other means of access to the property. And I think what you have to consider is that, you know, there's a rule that, you know, if you have over 100 units, this isn't over 100 units, but when you take in the whole different phases, you have to take that into consideration that you need more access points so that you're not just funneling all the traffic onto one particular road. And that's, you know, that's the point of the connectivity. I need to, make a motion for us to close the public hearing, if there's no one else that would like to speak. Do I hear a second?

**Mayor Pro Tem Hall:** I second your motion.

**Mayor Talley:** All in favor of closing the public hearing? (All said Aye) All opposed? (No Nays) And then, you know, what is the developer willing to do in the event that this, what would be the decision, would they just have to move forward with putting the road in if it's voted against?

**Assistant City Manager Holland:** So, I would have to turn to Josh and Burke on that one in the sense that technically, if Council were to deny the request tonight, they technically still have the original one approved. I don't know what negotiations, land-wise, they would be able to do to put the road in to meet the fall acceptability that Josh and Burke had pointed out, but in essence, it will now fall back to the fact that there's an original one already in place.

**Mayor Talley:** So, you know, just to make it clear, we're not here to renegotiate the prior approval from a previous City Council. We're here to just determine whether the connection from Hanson Road should be required by the developer.

**Council Member Parsons:** Yeah, this is just a really awkward thing here, because the road can't be built. I mean the topography of the land; the road can't be built. The neighborhoods approved. It just puts us in a really, in quite a pickle to be honest with you, to try to figure out the best way.

**Mayor Talley:** My opinion is trying to fit a square peg in a round hole.

**Council Member Chin:** Well, the thing is, he took the four townhouses off the ridge, eliminated two, and now that you don't have to extend Hanson down to Little Creek, that's space, is that where you put the extra two townhouses which otherwise would be in the roadway?

**Speaker:** More or less. *(not sure who answered)*

**Council Member Chin:** More or less.

**Mayor Talley:** But they're saving money by not putting the road in, so if.

**Council Member Chin:** That's not who, who are we to question that?

**Mayor Talley:** I understand, I understand that but.

**Council Member Chin:** Our responsibility is to ensure they are complying with our City Ordinances. We're not to be second-guessing them on their saving money or whatever. As private developer that is their decision.

**Mayor Talley:** Yeah, I'm just saying that if we had less development, we'd have less traffic and traffic seems to be the one thing that we're supposed to be considering on this particular request.

**Council Member Chin:** But then you have less development, that means, providing all the services that we've all become accustomed to. You were relying on fewer people to pay the taxes that we will require.

**Council Member Parsons:** I mean, the developments already approved.

**Council Member Chin:** And it's approved.

**Council Member Parsons:** I mean the question is the road can't be built, it's not going to be safe. Is it going to negatively impact Palmer and the other adjacent roads? Yes, it will. So, I guess the question is what do you do because the road can't be built as the land lays but it will negatively, so it's . . .

**Council Member Whitaker:** I mean if you going to . . .

**Council Member Parsons:** You're danged if you do and danged if you don't. If you vote for it, you know it's going to hurt others, some people, but the road can't be built. So, if somebody comes to that stop sign and there's ice on the road and goes over and plows over to some kids in the neighborhood, in the yard across the street. I mean, where do you draw the line? Because that's, you know, negatively impacted and you know somebody that could be injured because of the road.

**Council Member Whitaker:** Well, I understand that the road can't be built, but when this thing was approved, it was approved with another access route, and they've already said they can't provide another route in lieu of Hanson, but they're not doing anything to reduce the traffic.

**Mayor Talley:** There you go. That's what I'm saying.

**Council Member Whitaker:** So, because cutting out two townhomes doesn't really do anything to impact the traffic. So, they've taken away an exit route and an entrance route and offered nothing in return in terms of trying to reduce the impact that taking away that route is going to have. I mean, and that's just my opinion.

**Council Member Parsons:** And you are correct, you are correct.

**Mayor Talley:** I believe that you can put the connection in there, it's just going to be price prohibitive and they don't want to have to pay out that kind of money to be able to put in that kind of a, to make those mitigations and that's fine. You know, but . . .

**Council Member Parsons:** It's safety as much as the . . .

**Council Member Whitaker:** Yeah. I mean, I've driven through that neighborhood a number of times and I will tell you, you know, if people park in the street, there's just not a lot of room to get through there.



**Mayor Talley:** I'm glad they recognized that and added the additional driveway space. I think that was smart on their part to do that because it's hard to market, right?

**Council Member Whitaker:** Yes, that does help. But it doesn't reduce the rate of traffic.

**Mayor Talley:** Correct.

**Council Member Whitaker:** That's what it doesn't do, so. Still got that . . .

**Mayor Pro Tem Hall:** Could you bring your Google map up again?

**Council Member Whitaker:** You still got the same amount of traffic going out, I mean, cutting out two townhomes is . . . that's nothing.

**Mayor Pro Tem Hall:** So, if you look at Hanson now, the amount of traffic going out is not going to change. And if they went up Hanson, they are going to stop at Greenview and going to go over here to Springmeadow and they will go out Palmer. (Inaudible)

**Council Member Parsons:** It is but you are going to increase the traffic coming off of Hanson. You are not going to be able to disperse Whisper Ridge and Grandview, Springmeadow the shorter routes. You are gonna have to loop through other areas.

**Council Member Chin:** When it comes to picking a route to drive, Joey, human nature is purely, is not logical.

**Council Member Parsons:** What's the path of least resistance and they all are going to go Palmer.

**Council Member Chin:** It means drive a little bit further but, I don't have to slow down, you know, drive a little bit further.

**Mayor Pro Tem Hall:** It's actually more because you have to stop at Grandview, turn left or right and then you got to turn again on Springmeadow. Or if you go down to Meadowview it's a straight shot.

**Council Member Parsons:** I agree

**Mayor Pro Tem Hall:** And with Wildwood connecting down in that new subdivision now connects over to 87, that is the best route.

**Council Member Parsons:** It doesn't yet but it's supposed to eventually.

**Mayor Pro Tem Hall:** It does, I drove it.

**Council Member Parsons:** Shannon, Shannon is connected now?

**Mayor Pro Tem Hall:** Yes.

**Motion:**

**Mayor Talley:** I'll just make the motion and you guys can decide yes or no. I make the motion that we

not approve the revision being that the developer offered no concessions in order to mitigate the change that would effectively result in additional traffic on existing roads. That we consider, that I consider that to be not meeting the requirements of Numbers 3, 4, and 6 of the Special Zoning Regulations and that the width of the road was a consideration. I reference Page 37 of the 2035 Plan, Suburban Residential which states that the desired pattern is to have disconnected low-density automobile-oriented patterns and to have connectivity. The automobile being the primary mode of transportation neighborhood should include pedestrian-friendly design with a diverse array of housing around neighborhood centers. It's desirable in these new neighborhoods that automobile parking be located on the street and behind the homes and that where possible the blocks be broken up with links of less than 600 feet between intersections. That new neighborhoods should connect to existing neighborhoods and that the number of units should be taken into consideration under the principle use as it specifically relates to this issue of traffic and how much traffic would be generated even by the testimony given by the expert witness. And that . . . I believe that would negatively impact the other roads which are existing in the neighborhood and wouldn't be harmonious to the existing neighborhood and in general conformity with the Graham 2035 Comprehensive Plan. Do I hear a second?

**Council Member Whitaker:** I second.

**Mayor Talley:** All in favor? *(Talley, Whitaker, and Parsons voted to deny the Special Use Permit request.)* All oppose? *(Chin and Hall voted in favor of the Special Use Permit.)*

Motion passes 3-2 to deny the Special Use Permit.

**Mayor Talley:** It's the desire of the Council, I think to try to allow you to be able to do what you like to do, so hopefully, we'll have additional discussions to try to remediate this at some point. But, I do think you need to take into consideration what impact, closing that connection, is going to have on the existing development. I don't think that we were unreasonable in asking for something to be able to mitigate what those damages would be. Thank you for being here.

#### **ITEM 4: REZONING – STONEHAVEN DRIVE**

A public hearing had been scheduled to consider a request to rezone 19.17 acres located at Stonehaven Drive from R-18, Low-Density Residential to C-R, Conditional Residential for the construction of an 8-lot subdivision. **(Planning Board unanimously recommended approval)**

Assistant City Manager Aaron Holland stated this was a request to rezone 19.17 acres located off of Stonehaven Drive from R-18 (Low-Density Residential to C-R (Conditional Residential) for an 8-lot subdivision. He shared the development's intention was to be serviced entirely by well and septic systems. The development would also be accessed via private roadways. Staff was unable to approve the subdivision as presented due to the fact that the entire subdivision needed to connect to Chartwell Lane which would extend City right-of-way throughout the development, and extend public water and sewer throughout the development. He stated the applicant had requested these items be accepted as adequate conditions to develop the property without the financial constraints of having to pay for a right-of-way and utility extensions. The Planning Board unanimously recommended approval of the request with the condition that Chartwell Lane would not connect to the development.

The public hearing was opened and the following spoke:

Mr. Mike Davis, 4633 Otter Court, Burlington, stated the 19.17 acres was financially landlocked to only be able to put nine lots on it and two that cannot be confirmed if septic will be available for perk test because it is so densely wooded and would like to extend a private drive off of Stonehaven and create eight lots. He stated City water and sewer were financially prohibited from extending utilities just for eight lots with all the requirements. He asked to have discussions about Chartwell regarding the resistance of connecting Chartwell Lane to the development. He stated that they preferred to extend the road off Stonehaven during the construction and then address opening up Chartwell.

Sandra LeFrancois, 973 Stonehaven Drive, spoke in opposition to opening up to Chartwell and would rather have the eight lots coming onto Stonehaven.

Mr. Steven Byrd, 2421 Chartwell Lane, Graham, spoke in opposition to connecting the development to Chartwell and asked that no construction vehicles come through on Chartwell.

Ms. Ramona Kellam, 2333 Lacy Holt Road, Graham, spoke in favor of opening Chartwell for safety reasons to allow emergency vehicles to come into that subdivision.

Mr. Bob Snow, 2431 Knightdale Drive, Graham, spoke about the roads barely meeting State standards with no curbs and no sidewalks. He spoke in opposition to connecting the streets.

Ms. Mary Taylor, 974 Stonehaven Drive, Graham, spoke in opposition to opening the new development to the Valleyfield neighborhood due to safety reasons.

Ms. Xiaoping Johnson, 986 Stonehaven Drive, Graham, spoke in opposition to opening onto Chartwell.

Mr. Tommy Brown, 2408 Whispering Hill Drive, Graham, asked that everyone communicate and decide how to make eight houses work.

Mr. Mike Davis, suggested if Chartwell was opened after the construction, there could be some sort of gate installed for the eight residents.

Council Member Parsons asked the developer his intentions of connecting to Chartwell.

Mr. Davis stated for the convenience and it would make sense. He suggested a remote access gate giving EMS and emergency vehicles the access code.

Mayor Talley stated that it would not make sense to connect a county road to a city road when the county residents do not pay city taxes to help maintain city streets. She stated it would not warrant the connection for eight homes.

Mr. Davis asked the Council to consider not allowing Chartwell to ever be connected.

### **Public Hearing Closed:**

Mayor Talley motioned to close the public hearing, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Mayor Talley motioned to approve the rezoning of 19.17 acres located at Stonehaven Drive from R-18, Low-Density Residential to C-R, Conditional Residential, and that it does further the Graham 2035

Comprehensive Plan and the City of Graham Development Ordinance and is consistent with Policy 4.3.1: Land Use Patterns, Policy 5.1.1: Housing Variety and Policy 5.2.1: Diverse Neighborhood and with the condition that Chartwell Lane would not connect to the proposed development, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

#### **ITEM 5: TEXT AMENDMENT – BOARD OF ADJUSTMENT ALTERNATES**

A public hearing had been scheduled to consider approval of a text amendment allowing the Board of Adjustment Alternates to take the place of a member of the board in the event a member is absent, needs to be recused, or a seat is vacant and pending an appointment for a regular member.

(Planning Board unanimously recommended approval)

Assistant City Manager Aaron Holland stated as the ordinance was currently written, there are limitations as to how Alternates can take the place of a regular Board of Adjustment member who has to recuse himself or is absent. He stated this text amendment would allow for Alternates to be able to sit in for any member whether it is an ETJ member or City member. He stated the Planning Board unanimously recommended approval.

The public hearing was opened and there were no comments.

#### **Public Hearing Closed:**

Mayor Pro Tem Hall motioned to close the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

Mayor Pro Tem Hall motioned to approve the text amendment as written, seconded by Council Member Whitaker. The motion passed unanimously.

#### **PUBLIC COMMENTS:**

Ms. Lucy Gumbodete, 1138 Trollinger Road, Graham, asked the Council to consider allowing a reduction in width for a road to be built into her property.

Assistant City Manager Holland suggested that Ms. Gumbodete meet with Public Works Director Burke Robertson and City Planner Cameron West and have them come back to the Council to see if NCDOT would be willing to put in a State road or if she was able to put in a private road.

#### **CITY COUNCIL COMMENTS:**

Mayor Talley shared a citizen's complaint about the shooting range. She stated the discrepancy seemed to be when the range was supposed to stop shooting which was 9:00 p.m. Mayor Talley stated she did not think stopping all shootings at 9:00 p.m. was unreasonable.

Mayor Pro Tem Hall shared that the shooting range was located in Swepsonville across from the old landfill.

Mayor Talley questioned how it could be turned into a shooting range without coming before the Council. She also asked if she needed to tell the citizen the shooting range would close at 9:00 p.m. and if so, the range should close by 9:00 p.m.

City Manager Megan Garner asked where the 9:00 p.m. closing came from.

Mayor Talley stated it was Ben Edwards and he oversees the range.

City Manager Garner stated it was best if she talked with the Police Department and it would be more appropriate for us to start with the Chief and then talk to some of the other agencies who are using the facility and report that information back to City Council by the end of the week.

Mr. Peter Murphy, spoke in reference to City Ordinance, Section 10.148 Invalidation, regarding a Special Use Permits.

### ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Whitaker. The motion passed unanimously. The meeting was adjourned at 10:43 p.m.

*Renee M. Ward, CMC*  
City Clerk

# City of Graham

## City Council Special Meeting Minutes

### November 13, 2023



The City Council of the City of Graham held a special meeting at 6:00 p.m. on November 13, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Bob Ward, City Attorney  
Renee Ward, City Clerk

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:06 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Chin gave the invocation and all stood for the Pledge of Allegiance.

#### RECOGNITION: Alamance ElderCare

Mayor Talley recognized Alamance ElderCare services for the elderly and their recent move to the City of Graham.



Board Member Kent Kirchin, Executive Director Angela Thompson, and Mayor Talley

## **CONSENT AGENDA:**

- a. To approve the October 10, 2023, City Council meeting minutes.
- b. To approve the Graham Area Business Association's 62nd Annual Christmas Parade on December 2, 2023, and to approve the following parade route street closures: beginning at Parker Street from Sideview to Elm Street, preceding down North Main Street to South Main Street, and ending on McAden Street at Graham Middle School's parking lot. The requested closure of these streets would be from 8:00 a.m. to 1:00 p.m. pending approval by NCDOT for State roads.
- c. To set a date of public hearing for December 12, 2023, to consider a contiguous annexation request pursuant to N.C.G.S. 160A-31 to extend the corporate limits to the City of Graham for a tract of land totaling 53.904 acres for Phase 4, Roger Springs, and to direct the City Clerk to investigate the sufficiency of the petition. (AN2308)

### **RESOLUTION FIXING DATE OF DECEMBER 12, 2023, FOR A PUBLIC HEARING ON QUESTION OF A CONTIGUOUS ANNEXATION PURSUANT TO G.S. 160A-31 FOR 53.904 +/- ACRES (AN2308)**

**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, at 6:00 p.m. on December 12, 2023.

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

#### **Legal Description GPIN#: 8882178503**

BEGINNING AT AN IRON PIPE FOUND LOCATED AT THE MOST SOUTH EASTERLY CORNER OF THE PARCEL DESCRIBED HEREON, BEING THE TRUE POINT OF BEGINNING, AND HAVING THE FOLLOWING NORTH CAROLINA STATE PLANE COORDINATES: NC NAD 83 N:82751.037 E:1882308.671 THENCE FOLLOWING TWENTY (20) COURSES: 1. SOUTH 66 DEGREES 09 MINUTES 09 SECONDS WEST FOR 433.73 FEET TO AN IRON PIPE FOUND; THENCE 2. SOUTH 65 DEGREES 56 MINUTES 09 SECONDS WEST FOR 29.97 FEET TO AN IRON REBAR SET; THENCE 3. NORTH 40 DEGREES 24 MINUTES 03 SECONDS WEST FOR 91.81 FEET TO AN IRON REBAR SET; THENCE 4. NORTH 83 DEGREES 47 MINUTES 39 SECONDS WEST FOR 107.81 FEET TO AN IRON REBAR SET; THENCE 5. SOUTH 70 DEGREES 33 MINUTES 04 SECONDS WEST FOR 162.59 FEET TO AN IRON REBAR SET; THENCE 6. SOUTH 57 DEGREES 50 MINUTES 40 SECONDS WEST FOR 524.65 FEET TO AN IRON REBAR SET; THENCE 7. SOUTH 40 DEGREES 20 MINUTES 32 SECONDS WEST FOR 281.27 FEET TO AN IRON REBAR SET; THENCE 8. SOUTH 33 DEGREES 24 MINUTES 21 SECONDS WEST FOR 183.51 FEET TO AN IRON REBAR SET; THENCE 9. NORTH 39 DEGREES 22 MINUTES 49 SECONDS WEST FOR 9.69 FEET TO AN IRON REBAR FOUND; THENCE 10. NORTH 39



DEGREES 15 MINUTES 35 SECONDS WEST FOR 199.75 FEET TO AN IRON REBAR FOUND; THENCE 11. NORTH 10 DEGREES 42 MINUTES 17 SECONDS WEST FOR 1838.54 FEET TO AN IRON PIPE FOUND; THENCE 12. SOUTH 88 DEGREES 53 MINUTES 02 SECONDS EAST FOR 131.73 FEET TO AN IRON PIPE FOUND; THENCE 13. SOUTH 01 DEGREES 41 MINUTES 25 SECONDS WEST FOR 131.72 FEET TO A STONE MONUMENT FOUND; THENCE 14. SOUTH 89 DEGREES 23 MINUTES 52 SECONDS EAST FOR 626.58 FEET TO AN IRON PIPE FOUND; THENCE 15. SOUTH 89 DEGREES 31 MINUTES 11 SECONDS EAST FOR 393.59 FEET TO AN IRON REBAR SET; THENCE 16. SOUTH 89 DEGREES 34 MINUTES 18 SECONDS EAST FOR 300.27 FEET TO AN IRON REBAR SET; THENCE 17. SOUTH 89 DEGREES 35 MINUTES 26 SECONDS EAST FOR 199.76 FEET TO AN IRON REBAR SET; THENCE 18. SOUTH 89 DEGREES 31 MINUTES 09 SECONDS EAST FOR 115.39 FEET TO AN IRON PIPE FOUND; THENCE 19. SOUTH 17 DEGREES 02 MINUTES 26 SECONDS EAST FOR 714.51 FEET TO AN IRON PIPE FOUND; THENCE 20. SOUTH 04 DEGREES 44 MINUTES 07 SECONDS WEST FOR 330.98 FEET TO SAID POINT OF BEGINNING. SAID PARCEL CONTAINING 2,348,038 SQUARE FEET OR 53.90 ACRES OF LAND, MORE OR LESS.

**RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED**

**UNDER G.S. 160A-31**

**(GPIN: 8882178503) (AN2308)**

**WHEREAS**, a petition requesting annexation of an area described in said petition was received on November 13, 2023, 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.

- d. To appoint Mr. John Harrington to the Historical Museum Advisory Board to fulfill an unexpired term ending June 30, 2024.
- e. To approve a budget amendment to increase budgeted Professional Services in Administration by \$10,000.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2023-2024					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 1.					
GENERAL FUND					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Administration / Professional Services	40,000.00	50,000.00	10,000.00		10,000.00
	40,000.00	50,000.00	10,000.00	-	10,000.00
Section 2.					
GENERAL FUND					
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance Appropriation	1,450,941.00	1,460,941.00	10,000.00		10,000.00
	1,450,941.00	1,460,941.00	10,000.00	-	10,000.00
Adopted this 13th day of November 2023.					



- f. To approve a budget amendment to increase budgeted Wastewater Capital Outlay Equipment by \$50,000.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2023-20204					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 1.					
GENERAL FUND					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Wastewater Treatment Plant / Capital Outlay Equipment	140,000.00	190,000.00	50,000.00		50,000.00
	<b>140,000.00</b>	<b>190,000.00</b>	<b>50,000.00</b>	-	<b>50,000.00</b>
Section 2.					
GENERAL FUND					
REVENUES	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE (DECREASE)
Fund Balance Appropriation	444,625.00	494,625.00	50,000.00		50,000.00
	<b>444,625.00</b>	<b>494,625.00</b>	<b>50,000.00</b>	-	<b>50,000.00</b>
Adopted this 13th day of November 2023.					

- g. To approve tax releases totaling \$51,674.99 and refunds totaling \$5,732.98.

Mayor Pro Tem Hall motioned to approve the consent agenda, seconded by Council Member Chin. The motion passed unanimously.

## PUBLIC HEARINGS:

City Manager Garner directed Council to consider Item 2 rezoning before considering the annexation regarding Sunset Drive.

## 2. REZONING – 7.8 ACRES – SUNSET DRIVE

A public hearing had been scheduled to consider rezoning 7.8 acres at Sunset Drive from R-7, High-Density Residential, and R-18, Low-Density Residential, to C-R, Conditional Residential, to construct a maximum of 42 townhomes.

Assistant City Manager Aaron Holland stated this was a request to rezone 7.8 acres at Sunset Drive from R-7 (High-Density Residential) and R-18 (Low-Density Residential) to C-R (Conditional Residential) to construct a maximum of 42 Townhomes. The site plans to connect to public water and sewer through Sunset Drive. The development plans to have one access point, a private drive connected to Sunset Drive. This project is within the recommended density of 3 to 6 dwelling units/ acre. TRC has noted the piece of land abutting parcel 147609 should be a Type C landscaping buffer rather than the Type D noted on the plans and to show the distances between buildings to ensure the necessary distance requirement is being met. TRC has also required the utilities in the roadways throughout the development to be public and not private and a sidewalk is to be installed along the full frontage of Sunset Drive. The Planning Board recommended approval with conditions that the site plan include the distance between buildings to allow 20 feet separation between buildings, the landscape buffer for the lot line abutting parcel #147609 must be changed from a Type D to a Type C, Water and Sewer are to be public, sidewalks must be installed along the full frontage of Sunset Drive, and no landscape buffer is required along the Duke Energy easement side of the property.

Mayor Talley inquired about the restrictions of landscape buffers along the Duke Energy easement.

Assistant City Manager Holland stated Duke Energy likes to keep the area clear to prevent having to prune tree limbs.

The public hearing was opened and the following spoke:

Amanda Hodierne, Attorney, 304 Green Valley Road, Greensboro, NC, representing Triad Classic Homes, gave the following overview of the proposed project:

## ZONING REQUEST HIGHLIGHTS

- ▶ Conditional Residential Request
- ▶ Site Plan Commitment
- ▶ Maximum of 42 units
- ▶ Internal Sidewalks
- ▶ Open Space with Walking Path and Gathering Gazebo
- ▶ On Site Stormwater Management
- ▶ Project Extends Utility Infrastructure across Hwy 54 via public easements
- ▶ Current Zoning of R-7 is for High Density and would allow over 40 homesites; no site planning approval or public hearings

## TRC REVIEWED SITE PLAN



## NOTEWORTHY PROJECT ELEMENTS

- All 1-Story homes
- Fully maintained exteriors and grounds
- Each home can park 3 cars on site
- Activated Recreational Space throughout and accessible



## COMPREHENSIVE PLAN COMPLIANCE

- ▶ Meets Future Land Use Plan for Suburban Residential
  - ▶ Within Appropriate Density Range of 3-6 units/acre
  - ▶ Compact, walkable and diverse
  - ▶ Connected Community
- ▶ Meets Policy 5.1.1 for Housing Variety
- ▶ Meets Policy 5.2.1 for Diverse Neighborhood

## NEIGHBORHOOD OUTREACH

### TRIAD CLASSIC HOMES

September 18, 2023

Dear Neighbors:

Our company, Triad Classic Homes, LLC, is under contract to purchase three properties located on Hunter Drive and consisting of approximately 7.3 acres, identified as Atlantic Center lots 14760, 14761 and 14762 collectively, the "Properties". We are seeking potential construction within the tract and envision development of a high-quality residential community at these Properties.

To ensure a fair and open development plan, we are applying to the City of Graham to receive the Properties from the existing 10-7 and 10-18 zoning districts (which permit a mix of both high and low density development) to C-1 (Conditional Residential). The granting of our request will ensure we are provided with our plan for an active and well-configured 12-unit residential community. Additionally, C-1 zoning will reduce our project to a specific site plan not otherwise applicable to development of the Properties. We believe our request reflects a reasonable plan for the highest and best use of the Properties and will be an asset to the City of Graham's housing needs.

In order to provide information about our project and respond to any questions that you might have, we will host an in-person neighborhood meeting on Wednesday, September 27 at 7 PM. The meeting will be held at one of our model homes located at 1741 Old Fields Road, Suite 100, NC 27226.

We look forward to hearing your thoughts and questions as we move through the zoning process. Please feel free to contact our project representative, Amanda Hadden, with any questions about this request. Her direct phone number is 336-409-3127, or you can email her at [amanda@triadclassichomes.com](mailto:amanda@triadclassichomes.com).

The Graham Planning Board will meet to consider our request on October 17 at 6:30 PM. You are invited to attend at 101 S. Main Street, Graham, NC. If you do not receive a notice from the City of Graham regarding this matter and wish to participate, please call the Planning Department at 336-578-8700 to request our meeting information.

Sincerely,  
  
 Neil Farris  
 President

- Sent out 17 Letters
- Held Informational Meeting on 9/27/23 in person in Graham
- No one attended
- 2 phone calls

Ms. Whittemore, 1088 Noah Road, Graham, inquired about the tree buffers along Whittemore Road. She asked that the existing trees be undisturbed if possible.

Ms. Donna Whittemore, asked if there would be some type of barrier that would separate her land from the housing development.

Ms. Hodiern stated the goal would be to maintain the mature perimeter with existing trees and vegetation. She stated that in a neighborhood like this, they would not know how far the slopes, cut, and fill would be graded. She stated that whatever was disturbed would be planted back to the rigorous requirements of the City's ordinance, which does not allow small stick trees. Ms. Hodiern also shared the community would be HOA-maintained, has all the required landscaping that the HOA would take care of, and it would be a nice finished product next to the Whittemore's.

Mayor Talley inquired about the retention pond and how much water was expected to be in the pond.

Mr. Gene Mustin, Engineer, stated the bulk of the runoff from the property would be piped into the pond. He stated it would be the size of two or three townhomes and were on average 4-5 feet deep.

Ms. Hodiern stated there are beautification requirements in the City's ordinance for retention ponds and there could not be a water hole in the ground. She stated they had to be fenced for safety and landscaped to be aesthetically pleasing.

Council Member Parsons asked if there would be a fence around the pond for protection.

Ms. Hodiern stated the ordinance required it.

Josh Johnson, Engineer, Alley, Williams, Carmen, and King, Inc., clarified that Graham's ordinance did not require fencing around ponds, it was an option.

Assistant City Manager Holland stated it would be Council's choice to mandate a fence as part of the conditional rezoning.

Mayor Talley expressed concern about flooding on Woody Drive to Ivey Road.

Mr. Johnson stated this would be discharging downstream from Woody Drive and the developer would be required to meet the 100-year predevelopment runoff rate.

Mayor Talley stated she wanted assurance from Mr. Johnson that a bigger problem was not being created with the addition of the new development. She stated she did not want this to be an additional problem with runoff during construction.

Mr. Johnson stated the Council could add as a condition for the property to meet a pre-development runoff rate for the 100-year storm event.

Tom Boney, Alamance News, inquired about the final decision of requiring or not requiring a fence around the retention pond.

Mayor Talley stated the developer was willing to do it if the Council had a majority vote to require it.

Council Member Parsons inquired if the Council was mandating a fence or not.

Mayor Talley asked Engineer Josh Johnson his thoughts on requiring a fence.

Mr. Johnson stated if a fence was built then the pond was no longer a part of the site and is seen like that from a maintenance perspective because they get overgrown. He stated if the fence was being required to keep kids out of the pond, it would not deter them.

Mayor Talley stated that she did not envision a chain link fence but more of a metal fence or wrought iron fence look that is more decorative.

Mayor Pro Tem Hall stated in his subdivision there were two ponds without fences.

Council Member Parsons stated aesthetically and safety-wise was not a lot of benefit and it would hurt the entrance to the property.

Council Member Chin stated if the retaining wall is of a height that warrants a fence, we would hope that you would put one up versus just saying you need to put a fence up.

Mr. Johnson stated that if a wall was required then yes, that would be something easily done.

Council Member Chin stated if you don't put up a fence and somebody falls off it's on them for not taking steps to ensure that someone does not fall off the retention wall if it is that high.

Mayor Talley stated she was inclined to require the fence, and if the developer does not think they need a fence, they could come back to the Council and request that change.

Council Member Chin stated we cannot develop standards or requirements on "what ifs." He stated as a developer, you should take responsibility if you have a retaining wall of sufficient height and somebody falls off or a car goes over, and there was significant damage it would come back on the developer for not taking proper steps. He stated he did not feel City government should be dictating and establishing norms, such as do not climb the fence. He stated the City had enough rules and regulations that they need to put ownership back on the developers and the owners who live there versus the City government dictating responsibilities that fall upon the owner of the property and the developer.

Mayor Talley asked City Attorney Ward if the City of Burlington required fences around retention ponds.

City Attorney Ward stated he was not certain and would have to check with the planning folks.

Mr. Johnson stated Burlington did not require fences around retention ponds.

Mayor Talley asked Assistant City Manager Holland if the Council could place as a condition, that a fence around the retention pond be installed if our City Engineer deems it necessary.

Assistant City Manager Holland stated as long as the applicants are willing to accept that condition, they could move forward with that.

Mayor Talley stated Mr. Johnson had a license, and if anybody wanted to do anything, she would defer to the City Engineer as this is what he said to do, and by all means, go after him.

Mayor Pro Tem Hall motioned to close the public hearing, seconded by Council Member Parsons. The motion passed unanimously.

**Motion:**

Mayor Talley motioned to approve the rezoning of 7.8 acres located off Sunset Drive from R-7, High-Density Residential, and R-18, Low-Density Residential, to C-R, Conditional Residential, to construct a maximum of 42 townhomes, and it was consistent with Graham 2035 Comprehensive Plan and the property would be consistent with the Suburban Residential principal uses and furthers Policy 5.1.1-Housing Variety, Policy 5.2.1-Diverse Neighborhoods, and Future Land Use Plan for this area with the following conditions recommended by the Planning Board:

1. The site plan includes the distance between buildings to allow 20 feet of separation between buildings.
2. The landscape buffer for the lot line abutting parcel #147609 must be changed from a Type D to a Type C for everything except the Duke Energy easement and the property line adjacent to the commercial property behind road one.
3. Water and Sewer are to be public.
4. Sidewalks must be installed along the full frontage of Sunset Drive.
5. No landscape buffer is required along the Duke Power easement side of the property.
6. The runoff will meet the predevelopment rate for the 100-year storm event.
7. The 20-foot buffer will not be clear-cut and replanted but rather the developer will endeavor to keep existing trees that are in that 20-foot buffer, as much as possible, and as approved by the City Engineer.

Ms. Hodierte stated they would like to keep all existing trees in the 20-foot buffer, but without it being engineered and without knowing where cuts and slopes would be, they would not be able to know if they could absolutely keep all existing trees.

Council Member Parsons suggests leaving the trees where possible.

Mayor Talley continued the motion revising condition #7; the developer will endeavor to keep the existing trees in the 20-foot area in as much as possible and as approved by the City Engineer and the City Engineer will determine and work with the developer engineer to determine whether a fence is required along the retention pond and whether the retention wall is also required as a result of the topography of the property, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

**1. ANNEXATION – 7.8 ACRES – SUNSET DRIVE - AN2307**

A public hearing had been scheduled to consider an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 7.8 acres located off Sunset Drive.

The public hearing was opened and no one spoke.

Mayor Talley motioned to close the public hearing, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Council Member Whitaker motioned to approve the annexation ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 7.8 acres located off Sunset Drive, seconded by Council Member Chin. The motion passed unanimously.

**ANNEXATION ORDINANCE  
TO EXTEND THE CORPORATE LIMITS OF THE  
CITY OF GRAHAM, NORTH CAROLINA  
FOR A 7.8-ACRE TRACT OF LAND OFF SUNSET DRIVE (AN2307)**

**WHEREAS**, the Graham City Council has been petitioned under G.S. 160A-58 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 6:00 P.M. on November 13, 2023, after due notice by publication on November 2, 2023; and

**WHEREAS**, the Graham City Council finds that the petition meets the requirements of G.S. 160A-58.

**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-58, the following described territory is hereby annexed and made part of the City of Graham as of **November 13, 2023**:

**Legal Description GPIN#: 8884806770, 8884818184, &8884808737**

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

Beginning at an Existing Iron Pipe said corner being in the Northern margin of Sunset Drive having a 40' right of way and being the southwest corner of Riverwalk LLC Eather now or formerly as described in instrument deed book 3959 page 0944 in the Alamance County Register of Deeds and having a parcel number 147602 and also being the southeast corner of Salvador Leon either now or formerly as described in instrument deed book 3263 page 017 in the Alamance County Register of deeds and having a parcel number 147600 and also being located North 32 deg. 45 min 11 sec. West with a grid distance of 2221.87 feet from NCGS Monument Conklin Nad 83/ 2011 and having grid coordinates Northing 838739.49 ift and Easting 14889870.40 ift Thence with the corner North 23 deg.45 min. 02 sec. West and a distance of 168.28 feet to an existing iron pipe said point being the north west corner of the before-mentioned Salvador Leon and the southern corner of James C. Brown either now or formerly as described in instrument deed book 2568 page 151 in the Alamance County Register of Deeds and having a parcel number 147598 Thence



with the corner North 65 deg. 01 min. 33 sec. East and a distance of 99.37 feet to a new iron pipe said pipe being the south east corner of the before mentioned James C. Brown and the south west corner of Keith Dodson either now or formerly as described in instrument deed book 2713 page 205 in the Alamance County Register of deeds and having a parcel number 147613 Thence with the corner North 30 deg. 22 min. 24 sec. West and a distance of 309.46 feet to an existing iron pipe said point being the north east corner of the before-mentioned James C. Brown and the north west corner of the before-mentioned Keith Dodson and the southeastern corner of Betsy White (Heirs) either now or formerly as described in instrument deed book 473 page 920 in the Alamance County Register of Deeds Thence with the corner North 55 deg. 55 min 10 sec. East and a distance of 41.97 feet to an existing iron pipe said point being the north west corner of the before-mentioned Keith Dodson and the south east corner of the before-mentioned Betsy White (Heirs) Thence with the corner North 35 deg. 41 min. 06 sec. West and a distance of 69.04 feet to a new iron pipe said point being the most south east corner of the before-mentioned Betsy White (Heirs) the most north west corner of the before-mentioned Keith Dodson and the south west corner of Amber Meeks either now or formerly as recorded in instrument deed book 3634 page 521 in the Alamance County Register Deeds and having a parcel number 147610 Thence with the corner North 55 deg. 24 min. 01 sec. East and a distance of 795.98 feet to an existing iron pipe said corner being the most north eastern corner of the before mentioned Keith Dodson and the southern corner for Marion Whittemore either now or formerly in instrument deed book 3914 page 213 in the Alamance County Register of Deeds and having a parcel number 147673 and the north west corner of Sandra Whittemore either now or formerly in instrument deed book 772 page 310 in the Alamance County Register of Deeds and having a parcel number 147676 Thence with the corner South 00 deg. 38 min 40 sec. West and a distance of 384.23 feet to an existing iron pipe said corner being the northeastern corner of the before mentioned Keith Dodson and the south west corner of Ray Whittemore Either now or formerly as recorded in instrument deed book 896 page 348 in the Alamance County Register of Deeds and having a parcel number 152571 and also the north west corner of Kennon Whittemore either now or formerly in instrument deed book 235 page 70 in the Alamance County Register of Deeds and having a parcel number 147675 Thence with the corner South 02 deg. 40 min. 39 sec. West and a distance of 180.21 feet to an existing iron pipe said corner being the south east corner of the before-mentioned Keith Dodson and also being the south west corner of the before-mentioned Kennon Whittemore and the northern corner of Ricky Apple now or formerly as recorded in the Alamance County Register of Deeds and having a parcel number 147668 Thence with the corner South 64 deg. 06min.51 sec. West and a distance of 334.92 feet to an existing iron pipe said corner being the southern corner of the before mentioned Keith Dodson and the north west corner of David Wilson now or formerly in instrument deed book 3295 page 275 in the Alamance County Register of Deeds Thence with the corner South 25 deg. 12 min. 50 sec. East and a distance of 177.65 feet to a new iron pipe in the northern margin of Sunset Drive Thence South 65 deg. 08 min. 54 sec. West and a distance of 103.00 feet to a new iron pipe Thence with the corner and the northern margin of sunset Drive South 66 deg. 26 min. 14 sec. West and a distance of 200.39 feet to an existing iron pipe and Point and Place of Beginning said property containing 7.84 acres +/-.

**Adopted this, the 13<sup>th</sup> day of November 2023.**

### **NEW BUSINESS:**

### **3. STERIGENICS DEVELOPMENT FEES WAIVER REQUEST**

City Council considered waiving the Water and Sewer System Development Fees for Sterigenics installation of a 1,600 linear foot, 8" ductile iron pipe connecting to the existing 12" main alongside Jimmie



Kerr Road and to connect to the existing 6” main along Bakatsias Lane to provide a back-feed supply to the City of Graham Water System.

Assistant City Manager Aaron Holland stated Sterigenics was currently constructing a new 70,000-square-foot facility at their location off Bakatsias Lane. As noted in the letter submitted by the company, the concern for lack of sufficient water supply and pressure to accommodate their fire suppression needs has prompted them to install a new 8” water supply to the facility to address the issue. The new water main and connection to existing infrastructure would ultimately improve the conditions for this development area now and in the future. The cost of the total scope of work is approximately \$550,000.

Mayor Pro Tem Hall motioned to approve the waiver of the water and sewer fees for this project, seconded by Council Member Chin. The motion passed unanimously.

### **PUBLIC COMMENT PERIOD:**

Mr. Keith Westbrooks, 604 Trock Wilder Court, Graham, asked to change the public comment period from the end of the agenda to the beginning.

### **CITY STAFF COMMENTS**

No comments from Staff.

### **CITY COUNCIL COMMENTS**

Council Member Parsons thanked the Graham Fire Department and all the surrounding Fire Departments that helped with a recent fire.

Mayor Pro Tem Hall also thanked the Fire Departments and thanked the citizens who came out and voted for him.

Council Member Chin stated Council needed to do a better job of educating our citizens that when we are talking about developments, they should attend the Planning Board meeting when those developments are initially proposed because that is where your voices can be heard. He stated when the project gets to City Council the train has already started to roll and if you want to influence a developer, you need to speak with them at the Planning Board meeting.

Council Member Whitaker stated the Fire Department did a fabulous job with the fire on Parker Street. She thanked all the voters who came out and voted.

Mayor Talley shared her appreciation for all the firefighters who responded and for the firefighters across the county. She also expressed her appreciation to Recreation Director Brian Faucette who came out at 2:00 am and opened the Recreation Center for those displaced by the evacuation.

### **CLOSED SESSION:**

City Council went into closed session pursuant to the terms of N.C.G.S. 143-318-11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege

between the attorney and the public body, which privilege is hereby acknowledged regarding Cone Commercial Real Estate Investments, LLC vs City of Graham Alamance County Superior Court case number 23CvS1909.

Mayor Pro Tem Hall motioned to go into closed session, seconded by Council Member Chin. The motion passed unanimously.

#### OPEN SESSION:

Mayor Pro Tem Hall motioned to go back into open session, seconded by Council Member Whitaker. The motion passed unanimously.

#### ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed unanimously. The meeting was adjourned at 8:56 p.m.

Renee M. Ward, CMC  
City Clerk

# City of Graham

## City Council Special Open Session Meeting Minutes

### November 30, 2023



The City Council of the City of Graham held a special meeting at 12:30 p.m. on November 30, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker - *Absent*

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Bryan Coleman, City Attorney  
Bob Ward, City Attorney  
Renee Ward, City Clerk - *Absent*

#### NEW BUSINESS:

#### 1. CLOSED SESSION – AQUEOUS FILM FORMING PRODUCT LIABILITY LITIGATION

City Council considered going into closed session pursuant to the terms of N.C.G.S. 143-318-11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged regarding Aqueous Film Forming Products Liability Litigation, US District Court of South Carolina, MDL NO. 2:18-MN-2873; Case NOS. 2:23-CV-03147 and 2:23-CV-03230.

Mayor Pro Tem Hall motioned to go into closed pursuant to the terms of N.C.G.S. 143-318-11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged regarding Aqueous Film Forming Products Liability Litigation, US District Court of South Carolina, MDL NO. 2:18-MN-2873; Case NOS. 2:23-CV-03147 and 2:23-CV-03230, seconded by Council Member Chin. The motion passed unanimously.

#### OPEN SESSION:

Mayor Pro Tem Hall motioned to go back into open session, seconded by Council Member Chin. The motion passed 4-0.

#### 2. ADOPT A RESOLUTION – OPT-OUT – 3M AND DUPONT CLASS ACTION SETTLEMENTS

City Council considered adopting a resolution Opting Out of the 3M and Dupont Class Action Settlements In Re: Aqueous Film Forming Products Liability Products Litigation US District Court of South Carolina.

Mayor Pro Tem Hall motioned to adopt a resolution Opting Out of the 3M and Dupont Class Action Settlements In Re: Aqueous Film Forming Products Liability Products Litigation US District Court of South Carolina, seconded by Council Member Chin. The motion passed 4-0.

**RESOLUTION OPTING OUT OF THE 3M AND DUPONT  
CLASS ACTION SETTLEMENTS  
IN RE: AQUEOUS FILM FORMING PRODUCTS LIABILITY LITIGATION  
US DISTRICT COURT OF SOUTH CAROLINA  
MDL NO. 2:18-MN-2873; CASE NOS. 2:23-CV-03147 AND 2:23-CV-03230**

**WHEREAS**, per- and polyfluoroalkyl substances ("PFAS") are a large group of human-made chemicals, components of which break down very slowly over time and may be linked to harmful effects in humans and animals; and,

**WHEREAS**, thousands of lawsuits relating to PFAS have been combined into multi-district litigation in the U.S. District Court for the District of South Carolina *In re Aqueous Film- Forming Foams Products Liability Litigation* (No. 2:18-mn-2873-RMG) ("MDL"); and,

**WHEREAS**, hundreds of the cases in the MDL were brought by U.S. drinking water providers alleging that PFAS manufacturers, including DuPont de Nemours, Inc. (and companies associated with DuPont) and 3M Company, contaminated the drinking water of those providers; and,

**WHEREAS**, the U.S. District Court for the District of South Carolina has given preliminary approval to separate class-action settlements for MDL defendants DuPont de Nemours, Inc. (and companies associated with DuPont) and 3M Company for drinking water claims ("the DuPont and 3M Settlements"); and,

**WHEREAS**, the City of Graham operates a public water utility with a water treatment plant, the Graham-Mebane Water Treatment processing raw water from the Graham-Mebane Lake watershed; and,

**WHEREAS**, the City of Graham's public water utility is comprised of said water treatment plant and a unified distribution system for the City of Graham and serving neighboring North Carolina municipalities, in whole or in part, including the Town of Green Level, the Town of Swepsonville, and the City of Mebane; and,

**WHEREAS**, the City of Graham is a member of the proposed classes in the DuPont and 3M Settlements because it is a "Public Water System" under the terms of the DuPont and 3M Settlements; and,

**WHEREAS**, the terms of the DuPont and 3M Settlements require class members who do not wish to participate in the settlements to actively opt out to avoid being bound by the terms of the settlements; and,

**WHEREAS**, members of the proposed classes of water providers have until December 4, 2023 to opt out of the DuPont Settlement and until December 11, 2023 to opt out of the 3M Settlement; and,

**WHEREAS**, the DuPont and 3M Settlements include broad releases of future PFAS-related claims; and,

**WHEREAS**, PFAS is known to impact media other than drinking water, including soil, wastewater,

and groundwater, and federal and North Carolina state regulations for PFAS are expected to be enacted in 2024 and beyond; and,

**WHEREAS**, the City of Graham has sampled for PFAS in its active drinking water source in compliance with federal drinking water regulations and, to date, has detected PFAS in those sources; and,

**WHEREAS**, the City of Graham plans to continue to sample its active drinking water sources in 2024 in accordance with new, federally-proposed drinking water standards; and,

**WHEREAS**, the City may incur costs associated with PFAS impacts in the future and more time is needed for the City to gain a better understanding of the scope of future legal, financial, and operational impacts of PFAS; and,

**WHEREAS**, the Graham City Council recognizes the safety of our citizens is paramount to its decision to retaining the rights to ensure those companies that produced PFAS are held financially and legally responsible for all liability for future treatment of the water due to their actions; and

**WHEREAS**, it is in the public interest for the City to preserve any PFAS-related claims the City may have against DuPont, 3M, and other potential defendants until the risks and impacts of PFAS are better understood.

**THEREFORE**, the Graham City Council resolves that the City Manager, and/or outside counsel, F. Paul Calamita, is authorized to file an opt-out notice on behalf of the City of Graham in accordance with the Settlement Agreements.

**Adopted this the 30<sup>th</sup> day of November 2023.**

## **ADJOURN**

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Chin. The motion passed 4-0. The meeting was adjourned at 1:36 p.m.

*Renee M. Ward, CMC*  
City Clerk

# City of Graham

## City Council Meeting Minutes

### December 12, 2023



The City Council of the City of Graham held a regularly scheduled meeting at 6:00 p.m. on December 12, 2023, in the Council Chamber, City Hall Municipal Building located at 201 South Main Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager-*Absent*  
Bryan Coleman, City Attorney  
Renee Ward, City Clerk  
Cameron West, Planner

#### CALL TO ORDER:

Mayor Jennifer Talley called the meeting to order at 6:00 p.m. and presided.

#### INVOCATION & PLEDGE OF ALLEGIANCE

Council Member Parsons gave the invocation and all stood for the Pledge of Allegiance.

#### CERTIFICATION OF ELECTION: City Clerk Renee Ward

City Clerk Ward confirmed the certification of the election held on November 7, 2023, as certified by the Alamance County Board of Elections as follows:

#### Votes for Mayor:

Jennifer Talley 785



City Clerk Ward confirmed that Jennifer Talley was duly elected as Mayor for a two-year term expiring December 2025.

Alamance County Clerk of Court Meredith Edwards administered the oath of office to Mayor Talley.

#### Votes for Council Members:

Ricky Hall	578
Ryan Kluk	359
Chip Turner	422
Bonnie Whitaker	580





City Clerk Ward confirmed that Ricky Hall and Bonnie Whitaker are duly elected as Council Members for a four-year term expiring December 2027.

### **ORGANIZATION OF NEW CITY COUNCIL:**

Alamance County Clerk of Court Meredith Edwards administered the Oath of Office to the newly elected City Council Members Bonnie Whitaker and Ricky Hall.

### **NEW COUNCIL CONVENES – ELECTION OF MAYOR PRO TEM:**

Motion by Council Member Chin to nominate Ricky Hall as Mayor Pro Tem, seconded by Council Member Whitaker. The motion passed unanimously. There were no other nominations.



Alamance County Clerk of Court Meredith Edwards administered the Oath of Office to the newly appointed Mayor Pro Tem Ricky Hall.

### **RECOGNITION:** Ms. Janice Evans – “W.O.M.E.N.” and “Alopecia Social”



Mayor Talley and the City Council recognized Ms. Janice Evans for her efforts in bringing awareness to Alopecia.

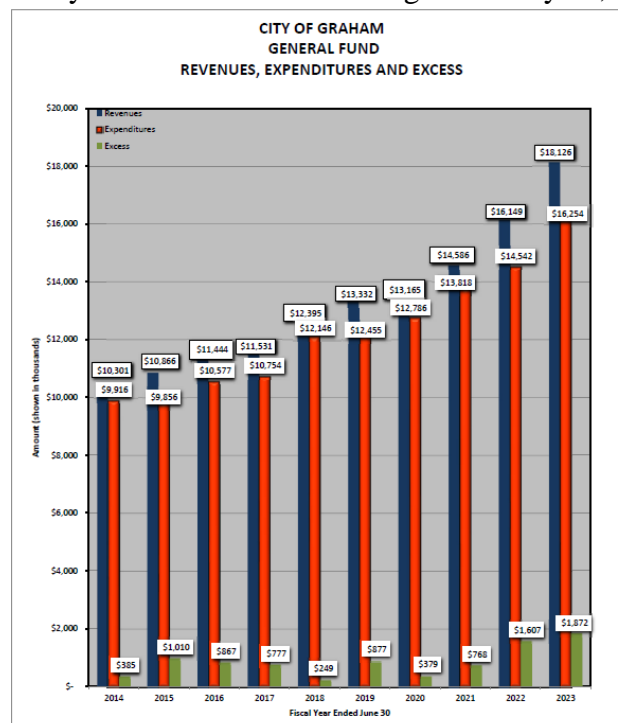
**AUDIT PRESENTATION:** Ms. Patricia Rhodes, Stout, Stuart, McGowen, and King, LLP

Mayor Talley introduced Patricia Rhodes, Stout, Stuart, McGowen, and King, LLP. Ms. Rhodes presented to the Council the 2022-23 Audit Report. During the presentation, Ms. Rhodes informed the Council of the services that her firm provides to the City of Graham as well as the services by Cobb Ezekiel Loy & Company, P.A. Ms. Rhodes stated this was the ninth year of the arrangement where Becky Loy of Loy, Cobb Ezekiel Loy & Company works with the City Finance staff to streamline the year-end processes and prepare the financial statements. She stated they also assist during the year on other accounting matters. Ms. Rhodes stated the audit had been completed for the year ending June 30, 2023, and the audit opinion letter stated that the preparation of the financial statements was the responsibility of management. The expression of an opinion on the financial statements based on the audit was the responsibility of the audit.

Ms. Rhodes stated the audit firm was issuing an unmodified opinion on the financial statements and that was the best and cleanest opinion that could be received. She stated there were no major changes from the prior year and no new governmental accounting standards pronouncements adopted in these financial statements.

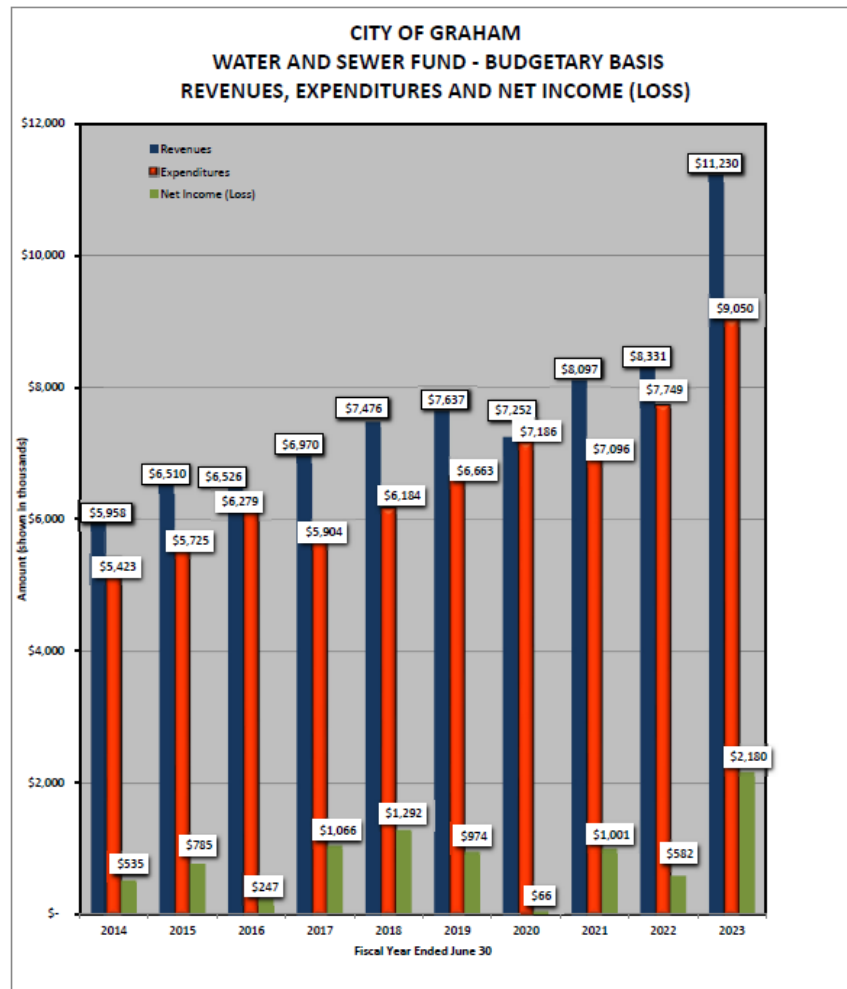
Ms. Rhodes stated the City of Graham was at 66% of the total general fund expenditures. The general fund is normally used to determine the strength of a city. She informed the Council that the state average was 50% and that the State had a required minimum of 8%. She reminded the Council they had a long-standing goal to keep the general fund expenditures at or above 30%.

Ms. Rhodes stated the City's revenues exceeded expenditures in the General Fund by a little over \$1.8 million before any transfers. The ad valorem tax revenue was up over \$300,000 from the prior year. She stated the tax collection rate remained high at 98.02% and the local option sales tax revenue was up over \$475,000 from the prior year. Overall revenues increased over \$2 million from the prior year and overall expenditures did increase a little over \$1.7 million or 12% from the prior year. She stated that even though the expenditures were up, the City remained within the budget for the year, which was a good place to be.

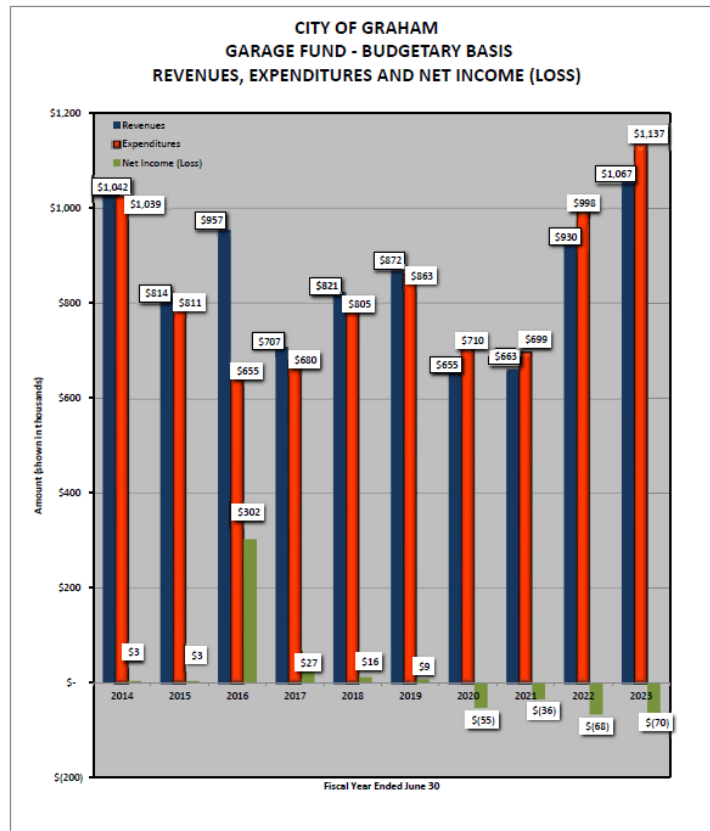




Ms. Rhodes stated in the Water and Sewer Fund the revenues exceeded the expenditures by over \$2.2 million and that was before transfers. She shared there was an overall increase in total revenue of almost \$2.9 million from the previous year. There was an increase in charges for services over \$1.1 million and connection fees increased over \$1.3 million from the prior year. There was an increase in total expenses of a little over \$1.3 million or 17% increase in expenses. There was an increase in revenue over expenditures or net income of \$1.6 million from the prior year.



Ms. Rhodes then reviewed the Garage Fund, which is an internal service fund, that you want to break even. She shared that the Garage Fund had a slight loss of \$70,000, which was a little more than last year which was \$68,000.



Ms. Rhodes ended the presentation with the letter required by her firm's professional standards that communicate overall important highlights to the Council. Ms. Rhodes summarized the letter informing the Council the auditors did not have any problems performing their duties. She stated they had no difficulties or disagreements with management.

Ms. Rhodes stated the City had been extremely busy with many water and sewer capital projects in progress at the end of the year. She shared it was fortunate for the City that there were well-planned financing and grants that have helped fund large projects. She thanked the Council for allowing them to continue auditing the City of Graham; she also thanked city staff for their help throughout the process.

### CONSENT AGENDA:

Mayor Talley asked to be recused on Consent Agenda item b.

Motion by Mayor Pro Tem Hall to pull Item b from the Consent Agenda, seconded by Council Member Whitaker. The motion passed unanimously.

- a. To approve the November 13, 2023, Special Meeting minutes and the November 30, 2023, Special Open Session meeting minutes. To approve and seal the November 13, 2023, Closed Session meeting minutes and November 30, 2023, Closed Session meeting minutes.
- b. To approve tax releases totaling \$37,735.10.
- c. To approve a budget amendment reallocating general fund expenditures for fees no longer paid by the City.

CITY OF GRAHAM					
BUDGET AMENDMENT ORDINANCE					
2023-20204					
BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAHAM THAT					
THE 2022 - 2023 BUDGET ORDINANCE SHALL BE AND IS HEREBY AMENDED AS FOLLOWS:					
Section 1.					
GENERAL FUND					
DEPARTMENT/ACCOUNT	APPROVED	AMENDED	INCREASE	(DECREASE)	INCREASE ( DECREASE)
IT - Telephone & Postage	-	25,000.00	25,000.00		25,000.00
Inspections P/Z - Software Maint & Changes	60,000.00	24,000.00		(36,000.00)	(36,000.00)
Non Departmental - Dental Insurance	-	3,000.00	3,000.00		3,000.00
Non Departmental - Professional Services	120,000.00	128,000.00	8,000.00		8,000.00
	180,000.00	180,000.00	36,000.00	(36,000.00)	-
Adopted this 12th day of December 2023.					
Attest:	Mayor Jennifer Talley				
Renee M. Ward, City Clerk					

d. To approve the following 2024 City Council meeting dates and 6:00 pm meeting time:

January 9	February 13	March 12	April 9	May 14	June 11
July 9	August 13	September 10	October 8	November 12	December 10

Motion by Mayor Pro Tem Hall to approve Consent Agenda Items a, c, and d, seconded by Council Member Chin. The motion passed unanimously.

Motion by Mayor Talley to recuse herself, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

Motion by Mayor Pro Tem Hall to approve Consent Agenda Item b, seconded by Council Member Whitaker. The motion passed unanimously. (Mayor Talley did not vote.)

Motion by Mayor Pro Tem Hall to allow Mayor Talley back to open session, seconded by Council Member Chin. The motion passed unanimously.

## PUBLIC HEARINGS:

### ITEM 1: REZONING – 53.904 ACRES – OFF MAYFIELD DRIVE

A public hearing was scheduled to consider rezoning 53.904 acres from R-18 (Low-Density Residential) to C-R (Conditional Residential) to extend the Fourth Phase of Rogers Springs to construct an additional 92 single-family homes. (Planning Board recommended approval - 7-0)

City Manager Megan Garner stated this was a request to rezone 53.904 acres of property from R-18 (Low-Density Residential) to C-R (Conditional Residential) for the purpose of extending the 4th phase of Rogers Springs to construct an additional 92 single-family homes. The site plans to connect public roadways, water, and sewer through the existing phases of Rogers Springs. The phase 4 project will span across two properties, one which is already zoned R-9 and the remaining area which is being conditionally

rezoned. The property is mostly inside of the Suburban Residential future land use zone while the area near the river makes up the Rural Residential area which cannot be built upon due to it being in the floodway. The future land use plan notes that principal uses in the Suburban Residential zone predominately are made up of detached single-family homes and the appropriate density is 3-6 dwelling units per acre. The development comes in below the appropriate density of 161-318 units. The Planning Board recommended approval with a vote of 7-0 with the conditions that all lots meet the 9,000 square foot requirement, the active open space incorporate a recreational use such as a dog park, gazebo, playground, etc., and install fencing around the open space area if appropriate. She recognized Planner Cameron West if the Council had specific questions.

The public hearing was opened and the following spoke:

Mr. Paul Waller, Bowman Consulting Group, civil engineer for the project working with Shugart Homes. He stated Jason Ewing and Chandler Turpin with Shugart Homes were present to answer any questions.

Mr. Waller stated this was the same project that came before Council in August but withdrew the application based on conversations from that meeting and went back to the drawing board to submit a conditional rezoning request, which had gone through the City's Planning Board last month and received a recommended approval. He reviewed the revised site plan containing 92 lots and the proposed density was 1.6 units per acre. He stated they were proposing 49% open space south of the main development area. He stated there were plans for a dog park with fencing, sidewalk connections to the overall sidewalk network, sitting areas, picnic and playground areas.

Mayor Talley asked how much of the property was in the flood zone.

Mr. Waller stated it was about 24 to 25 acres.

Mayor Talley asked if the proposed density included the property that could not be built on.

Mr. Waller stated that was correct, the 1.6 units per acre included the entire site.

Mayor Talley asked what would be the density if you did not include the unbuildable acreage.

Mr. Waller stated it would be 2.8 units per acre.

Planner Cameron West stated the number of units per acre was a rough estimate using GIS.

Mayor Talley asked when the Council requested the developer come back with zoning to meet in the middle of an R18 and R9, what changes had been made?

Mr. Waller stated the changes made were adjusting some of the lots, and roadway alignments using the R9, Residential Conditional Standards. He stated the lot mix was between 9,000 and 10,000 square feet at 61% and the larger lots were 28% and were 12,000 square feet or larger.

Mr. Chandler Turpin, Shugart Homes, stated as an act of good faith they wanted to commit to building a playground and giving the residents something in the community to use. The open space in Phase Four would be a dog park and the large area would be a playground, and picnic area, and was exploring rather or not to put up a covered picnic structure. He stated there would be sidewalks going to the playground and gathering area and landscaping improvements.

Mayor Talley asked if there were pictures to show what type of houses would be built.

Mr. Jason Ewing, 221 Jonestown Road, Winston-Salem, NC, stated he did not have pictures.

Mayor Talley asked about the setbacks.

Mr. Ewing stated it should be the same zoning setback of a 30-foot front and 8-foot sides.

Mr. Waller stated that the total lot count for all four phases was around 240. Between 9,000 and 10,000 square feet there are 56 lots (61%). Phase four, between 10,000 and 11,000 square feet there are 6 lots (6%). 11,000 and 12,000 square feet there are 4 lots (4%) and then 12,000 and larger there are 26 lots (28%).

Council Member Parsons asked what the road width was on the existing plan.

Mr. Waller stated the road width was 50 feet, drivable road width was 27 feet.

After discussing the size of houses to be built and the width and length of driveways, Mayor Talley shared she was disappointed that there were no changes to the lot sizes that were asked of them at the August Council meeting.

Mr. Ewing and Mr. Waller said they might have misunderstood the overall density.

Council Member Whitaker stated in the August minutes, Mayor Talley asked if the developers would be open to R12 conditional rezoning and the response was to evaluate R12 zoning requirements and add community amenities and then come back to Council. She stated the Council was disappointed that the same plan was being submitted tonight.

Mayor Talley stated the Council was not saying you had to develop at R18, but were trying to meet in the middle and asked the developers to meet the Council in the middle. She stated she was not willing to approve R9 and if the developers were willing to consider R12 with the open space provisions and have some minimum lot sizes under the conditional rezoning. She also asked to keep the dog park, and playground as was presented in Phase 1, she would be open to that.

Mr. Ewing apologized and said there was a miscommunication and if the minutes stated your expectation was R12, the developers were looking at just adding conditions to the R9, so that was their fault.

Mr. Ewing asked if they could add conditions regarding minimum lot width, so they would not have to start all over again like they did in August. He asked if there was a minimum lot width or separation the Council would like to see between the homes. He stated right now the homes were 19 feet apart.

Mayor Talley asked what was the lot width for R12.

Planner Cameron West stated 80 feet with R12 alone and if you consider the open space, it would reduce it to 60 feet.

Mr. Ewing asked if the Council would consider meeting in the middle at a 70-foot minimum lot widths.

Mayor Talley asked if they could do 70-foot lots and still get 70 homes built.

Mr. Ewing stated it would have to be recalculated. He asked if the Council would be willing to accept just a lot width change as a condition rather than going with the square foot lots where we would have to completely redraw the plan and continue it to the next meeting.

Mayor Talley asked Planner Cameron West to send a copy of the revised plan to TRC and if there were any questions to please contact the Council.

Council Member Parson asked when was the phase scheduled to begin.

Mr. Ewing stated plans were to break ground in December 2024.

Mayor Talley motioned to close the public hearing, seconded by Council Member Whitaker. The motion passed unanimously.

Mayor Talley motioned to continue the rezoning (Item 1) and the annexation (Item 2) requests at the January 9, 2024, City Council meeting, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **ITEM 2: ANNEXATION – 53.904 ACRES – OFF MAYFIELD DRIVE - AN2307**

A public hearing was scheduled to consider an Annexation Ordinance to extend the corporate limits to the City of Graham for a tract of land totaling 53.904 located off Mayfield Drive.

Mayor Talley motioned to continue the rezoning (Item 1) and the annexation (Item 2) requests to the January 9, 2024, City Council meeting, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **ITEM 3: SPECIAL USE PERMIT – 616 HOLLOW STREET**

A public hearing was scheduled to consider a Special Use Permit for a group home for property located at 616 Hollow Street. (Petitioner had requested to table this item.)

Motion by Council Member Chin to table the special use permit request to the January 9, 2024, City Council meeting, seconded by Mayor Pro Tem Hall. The motion passed unanimously.

## **PUBLIC COMMENT PERIOD**

There were no public comments.

## **CITY STAFF COMMENTS**

City Planner Cameron West asked if the Planning Board could be on the January 9, 2024, City Council meeting to discuss the process of Special Use Permits.

## CITY COUNCIL COMMENTS

Council Member Whitaker asked if the Council would agree to have staff look into the intersection at Gilbreath and Maple regarding an obscured sight line. She also asked if staff could speak with NCDOT about a possible stop light.

Mayor Pro Tem Hall asked for Council consensus to consider adding the Council to the City's Pay Plan analysis to determine where they stand regarding Council pay compared to other cities in comparable size.

City Manager Megan Garner stated the NC League of Municipalities publishes a salary survey each year and the 2023-2024 data was available and was grouped by peer groups and Graham was in the 10,000 – 24,999 population. She stated she had that data and they could see how Graham compares to our peers and be added to the pay plan.

Mayor Talley stated the salary survey would determine what was fair and consistent across the state.

Mr. Tom Boney, Alamance News, asked what purpose was this.

Mayor Talley stated the council had to decide about salaries every year and since the city was doing a pay plan study, we needed to say if Council should be included or not.

Mr. Boney asked what was the relevance.

Mayor Pro Tem Hall stated so City staff could see that we are considered employees as well.

Mayor Talley stated that the Council was not determining their salary but would like to see what the NC League's salary study revealed and what was recommended for cities of our size.

Mr. Boney asked if the underlying purpose was to give a pay hike to the City Council.

Mayor Talley stated she did not think so and she did not know how it would come out.

Council Member Parsons stated he thought he could speak for the Council and that was not the purpose.

Mayor Talley:

- Come see downtown at Christmas with a trolley ride.
- The arsonists that set three fires had been arrested. She asked if the City could send a bill to the arsonists' parents to get some type of reimbursement and if the Council was okay with the City Manager investigating that request.

**CLOSED SESSION** - City Council will consider going into closed session pursuant to the terms of N.C.G.S. 143-318-11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged regarding Cone Commercial Real Estate Investments, LLC vs City of Graham Alamance County Superior Court case number 23CvS1909.

Motion by Mayor Pro Tem Hall to go into closed session, seconded by Council Member Parsons. The motion passed unanimously.

Motion by Mayor Pro Tem Hall to come back into open session, seconded by Council Member Parsons. The motion passed unanimously.

### ADJOURN

Mayor Pro Tem Hall motioned to adjourn, seconded by Council Member Whitaker. The motion passed unanimously. The meeting was adjourned at 8:14 p.m.

*Renee M. Ward, CMC*  
City Clerk



# City of Graham

## City Council Special Meeting Minutes

### Budget Planning Session

### December 18, 2023

---



The City Council of the City of Graham held a special meeting, Budget Planning Session at 9:00 a.m. on December 18, 2023, at the Graham Civic Center located at 503 McGee Street, Graham, NC.

#### Council Members Present:

Mayor Jennifer Talley  
Mayor Pro Tem Ricky Hall  
Council Member Bobby Chin  
Council Member Joey Parsons  
Council Member Bonnie Whitaker

#### Staff Present:

Megan Garner, City Manager  
Aaron Holland, Assistant City Manager  
Renee Ward, City Clerk  
Melanie King, Finance Officer

Facilitator Rebecca Jackson, UNC School of Government, reviewed the planning session objectives and agenda.

#### **Celebration of Accomplishments/Successes:**

1. Budget at Revenue/Neutral – saved our citizens from additional taxes
2. Growth – planning with purpose – controlling growth
3. Economic Development – industries – new businesses
4. Employee Salaries – efforts to retain employees – make employees feel valued and appreciated
5. Upgraded water system – infrastructure is invisible but important for safe water
6. Firetruck
7. SROs in all schools
8. Received \$17 million from the state for infrastructure for water main replacement
9. Recreation - \$600,000 for downtown improvements with high visibility – crosswalks – flower baskets, etc.
10. Recreation improvements – places to play
11. Financing water treatment plant upgrades and fire truck – smart financing strategies
12. Adding positions to police, fire, and public works – to keep up with growth
13. COPS grant – hiring of six police officers
14. Federal Stimulus funds for improvements

#### **Themes for Success:**

1. Relationships with businesses, stakeholders, and citizens
2. Improvements – change
3. Buy-in from the community
4. Creativity
5. Business knowledge
6. Different perspectives and skills
7. Council relationships, mutual respect and teamwork
8. Accountability

**Why do you serve?**

- Care about the community
- Duty
- Civic duty
- Commitment
- Others asked me to serve

**What are a few things you love about the City of Graham?**

- The quaintness and diversity of our town
- Small-town values
- Sense of history, community, and friendships
- Small-town feel
- Seeing everyone enjoying our community

**Timeline – What were the defining moments that changed/shaped the community?**

- Protest – changed policy
- 1994 - The North American Treaty Agreement was passed and the closing of textile mills
- Company Shops (train station) came to Burlington in 1886
- Broke away from Orange County and became our own town and County Seat in 1851.
- Agricultural
- Major roads and interstates merge into Graham
- Began historic renovations in downtown Graham
- Serving a more diverse community
- Numerous restaurants went to take out more during the pandemic – DoorDash became popular
- Graham/Mebane industrial park – 2015
- One of the most conservative towns – small town and lower taxes, welcoming
- More online digital processes due to the pandemic
- Large businesses surrounding us – Toyota, Battery, car plant

**Visionary Planning – Lead with Vision (externally focused, simple, exciting, big, clear, inspirational) It's where we want to be!**

**Where do you see Graham long-term (3, 5, 10 years)?****Council Member Chin:**

Live performance theater

3-story buildings

A new restaurant at the old Sagebrush

The Nick's building opens for business

New hotel and event center

New fire station

New reservoir

**Council Member Parsons:**

Wastewater plant protecting the environment  
Fire substation  
Expanding Graham Regional Park  
Water lines upgraded with safe water  
Manufacturing jobs

**Council Member Whitaker:**

Historic downtown feel with successful businesses  
Residential without doing away with trees  
Enjoying job growth because of a thriving industry  
Clean healthy water and air  
Feel the heartbeat of the town

**Mayor Pro Tem Hall:**

Clean Drinking water  
Wastewater treatment plant upgrades  
Building out the industrial park  
Growth of more grocery stores  
Universities to study, grow  
Commercial development  
Ability to control residential growth (smart growth)

**Mayor Talley:**

Continue preserving the historic beauty of downtown Graham  
Overlay districts to protect property development  
Building places residents want to live  
Cohesive and high-quality development

**Vision Statement from statements above:**

Environmental protection  
High quality of life – families, elderly, singles, professionals, trades, and skill – to build a community of diversity  
Recreation – people playing  
Great place to work and raise a family  
Thriving private industry and commercial  
Smart growth  
Quality job growth  
Clean, healthy, and safe environment

**What are your goals, two years out, to get you to your vision?**

- **Goal 1:** High-quality organization – retention policy, financial strategies, updated processes, career paths, job satisfaction, benefits packages

- **Goal 2:** High-quality infrastructure – available in strategic areas – visual improvements for downtown-lighting-crosswalks-sidewalks
- **Goal 3:** A well-planned city with a smart growth strategy – ordinances in place – expansion, development
- **Goal 4:** Thriving diverse economy – jobs, recreation, a variety of industries/commercial, available infrastructure, protection of local and small businesses, industrial park improvements, skills, trade strategy (partner with Chamber for marketing)
- **Goal 5:** Beautiful City with a protected environment
- **Goal 6:** High quality of life with opportunities for parks and recreation for all – public art

### **Key Strategic Actions:**

**Goal 1:** Hire a grant consultant to get grants for infrastructure needs.

- Partners or stakeholders?
- Challenges?

**Goal 3:** Hire a City engineer/planning department – process-oriented, skilled

- Resources – budget and finance

**Goal 3:** Revise the Downtown Master plan and Land-Use Plan

- Budget – contract for rewrite

**Goal 3:** Identify areas in the Land Use Plan/ETJ area

**Goal 6:** Explore options to build a sports complex/multi-use complex

- Update the current plan by Alley Williams
- Funding and planning/engineer
- Possible grant to help fund the complex
- See what is available, place under grant hire expertise

**Goal 4:** Community conversation - City support technical or trade skills training – high school students – staff and Council to drive it - workforce

**Goal 4:** Better signage along the interstate to promote and market Graham – work with the Chamber

- Budget Amendment to purchase signs

**Goal 2:** Increase the capacity of the water reservoir

- Review the current Graham/Mebane Lake reservoir to ensure future needs
- Can the current reservoir be expanded to meet future development?
- If not, identify future sites
- Complete Study

**Goal 4:** Activate Economic Development Advisory Board

**Goal 3:** Complete the Comprehensive Plan

- Adopt plan

**Goal 3:** Update Unified Development Ordinance

- Begin the process and bring it back to the Council

**Goal 4:** Recruit a hotel with a convention center, a large grocery store

- Coordinate with the Chamber to actively recruit

**Goal 2:** Fire Station/training facility

- Evaluate the current site or find another site
- Combine police/fire substation

**Top Priorities:**

- Hire a Grant writer
- Hire a City engineer
- Identify areas in ETJ
- Fire/police substation
- Revise the master plan
- Activate Economic Development Advisory Board
- City support for technical training
- City reservoir
- Update UDO