

30 Miles Per Hour

The following streets are typical residential collector streets without significant street geometry problems. The recommended safe operating speed on typical residential collector streets is 30 mph:

Cisco Road

Dover Street

London Road, between Bellview Road and West Chapel Road

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Pinecroft Road

Rock Hill Road, between Sweeten Creek Road and West Chapel Road

South French Broad Avenue, between Choctaw Street and Livingston Street

Wolfe Cove Road

West Chapel Road, between Hendersonville Road and London Road

The following street is a residential arterial street that is maintained by the North Carolina Department of Transportation. The NCDOT has made a request to the City to pass a concurring ordinance to make the speed limit 30 mph.

Brevard Road (N.C. 191), from the westbound I-240 exit ramps, northward to US 19-23 Business in Asheville

The ordinance also includes several changes that are necessary to take out obsolete references to streets and clean up other errors.

The Engineering Department requests that City Council approve the ordinance amending these speed limit changes.

ORDINANCE BOOK NO. 19 – PAGE

E. ORDINANCE NO. 2857 - ORDINANCE PROHIBITING TRUCK TRAFFIC ON VARIOUS CITY STREETS

Summary: The consideration of an ordinance to prohibit through truck traffic on additional residential streets.

The Traffic Engineering staff has conducted field reviews and collected data on the streets listed below. These streets are residential streets that are not appropriate for truck traffic. Alternative roadways exist that are more appropriate for truck traffic.

1. Beaucatcher Road
2. College Street, between Beaucatcher Road and US-70 (College Street)
3. Mineral Springs Road, between Shaft Street and Beaucatcher Road
4. Montana Avenue
5. St. Dunstons Road

The Engineering Department requests that City Council approve the ordinance prohibiting trucks on various residential streets.

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F. ORDINANCE NO. 2858 - ORDINANCE CREATING ADDITIONAL SCHOOL ZONES ON SEVERAL STREETS IN THE CITY

Summary: The consideration of an ordinance to create additional school zones on several streets in the City.

The Traffic Engineering staff has performed the necessary traffic analysis and field review to determine locations for this school zone. For some of the streets listed below, the North Carolina Department of Transportation (NCDOT) has indicated that they plan to pass the school speed ordinances. The City Council must pass concurring ordinances in order for this process to be completed. The following streets have been identified for school speed zones during the times when students typically go to and leave school:

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- T.C. Roberson High School – 25 mph between the hours of 7:30 a.m. and 8:30 a.m. and between the hours of 2:00 p.m. and 4:00 p.m. on school days.
 - Springside Road – between Springside Park and Overlook Road.
 - Overlook Road – between Briarcliff Drive and Long Shoals Road.
 - Long Shoals Road – between Overlook Road and a point 300 feet east of Miami Circle.
- Asheville Catholic School. Beaverdam Road (SR 2230) – 25 mph between Temple Avenue and a point 0.05 mile north of Culvern Street between the hours of 7:30 a.m. and 8:15 a.m. and between the hours of 2:45 p.m. and 3:30 p.m.
- Haw Creek Elementary School. New Haw Creek Road (SR 2032) – 25 mph between a point 0.18 mile north of Beverly Road and a point 0.38 mile north of Beverly Road, between the hours of 7:30 a.m. and 8:15 a.m. and between the hours of 2:15 p.m. and 3:00 p.m.

The Engineering Department requests that City Council approve the ordinance adding the above school zones.

ORDINANCE BOOK NO. 19 – PAGE

G. ORDINANCE NO. 2859 - BUDGET AMENDMENT TO SUPPORT THE SOCIAL WORK AND POLICE PARTNERSHIP GRANT PROJECT

Summary: The consideration of a budget amendment appropriating local matching funds in support of the Social Work and Police Partnership grant for the project's second year.

This amendment will provide the local match of \$13,850 required for the second year of this grant funded project. The purpose of the project is to reduce family violence issues contributing to chronic juvenile runaway behavior.

The source of the local match is revenue received from North Carolina's Office of the State Treasurer pursuant to N. C. Gen. Stat. sec. 105-113.105, Unauthorized Substances Taxes.

City staff recommends adoption of the budget amendment.

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H. RESOLUTION NO. 01-154 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A SEWER

EASEMENT AT LIVINGSTON STREET PARK

Summary: The consideration of a resolution authorizing sewer easement at Livingston Street Park.

During the summer, a sewer line that ran across Nasty Branch on or near the edge of Livingston Street Ballfield failed. Some emergency maintenance returned it to barely functional condition, but MSD has determined that that section of the line needs to be replaced in order to effect a satisfactory and lasting repair. In order to avoid demolishing a bridge, the new line is proposed to be located slightly further within the park boundary. It will be buried. Parks and Recreation staff have reviewed the proposed new location, and confirm that it will not interfere with the City's use of the park. MSD is requesting both a temporary construction easement and a permanent easement.

Adoption of the resolution is recommended.

RESOLUTION BOOK NO. 26 – PAGE 468

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I. RESOLUTION NO. 01-155 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR OCTOBER 23, 2001, ON THE QUESTION OF VOLUNTARY ANNEXATION OF PROPERTY KNOWN AS BRAESIDE, SECTION 6 OF BILTMORE PARK

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Mayor Sitnick said that members of Council have been previously furnished with a copy of the resolutions and ordinances and the Consent Agenda and they would not be read.

Vice-Mayor Cloninger moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Worley and carried unanimously.

III. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR A TELECOMMUNICATIONS TOWER TO BE LOCATED AT 740 TUNNEL ROAD, ASHEVILLE, N.C.

At the request of City staff, this public hearing will need to be postponed until further notice and advertisement.

B. PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO EXEMPT AGRICULTURAL USES FROM ZONING REGULATION, DEFINE ANIMAL FEEDING OPERATION, ADD RESEARCH AND TECHNOLOGY PRODUCTION AS A PERMITTED USE IN CERTAIN BUSINESS DISTRICTS AND TO ELIMINATE LEVEL III SITE PLAN REVIEW OF INDUSTRIAL USES

ORDINANCE NO. 2860 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO EXEMPT AGRICULTURAL USES FROM ZONING REGULATION AND TO DEFINE ANIMAL FEEDING OPERATION

Mayor Sitnick opened the public hearing at 5:30 p.m.

Planning & Development Director Scott Shuford said that this is the consideration of an ordinance to amend the Unified Development Ordinance (UDO) to exempt agricultural uses from zoning regulation, to define confined animal feeding operation, to add research and technology production as a permitted use in certain business districts, and to eliminate level III site plan review of industrial uses. This public hearing was

advertised on September 28 and October 5, 2001.

The proposed ordinance amendment would make several small changes in the UDO in an effort to address several small issues that have been identified by the staff and the public. These changes, though minor, will make it easier to undertake a variety of business activities in the City of Asheville and its jurisdiction while protecting the public interest. The proposed changes and the impacts of each change are described below:

- Exemption of bona fide agricultural uses from zoning regulation. This amendment codifies the City's existing approach to regulation of bona fide agricultural uses. An agricultural use recognized as such for tax purposes would be exempt from all zoning regulations. In order to be recognized as a bona fide agricultural use, the use would have to meet minimum acreage, income, and production standards. Confined animal feeding operations would not be exempt from zoning regulation.

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- Confined animal feeding operations are defined as operations where the animal (or poultry) is confined inside a building for at least 60% of its life with waste products collected from the building and treated either on-site or off-site. Operations of this type can produce adverse environmental impacts and therefore would not be exempt from zoning regulation.
- Research and technology production uses are identified as permitted uses in several business districts. As our economy changes, we find that most high tech production activities do not create the type of adverse impacts typically associated with manufacturing and production activities. Research and technology production is often carried out in conjunction with retail operations. The proposed change would permit research and technology production uses in the Community Business II and higher intensity business districts, providing more opportunities for the location of businesses of this type.
- Elimination of the requirement that large industrial development projects be subject to the level III site plan review process. The level III site plan review process requires projects with potential community wide impacts to be reviewed and approved by City Council as conditional uses. Requirements already in place for industrial development projects would ensure that any impacts of these developments would be mitigated and industrial zones are located in areas that minimize the potential for such impacts. Elimination of this requirement would ensure that the City is committed to proactive economic development.

The proposed amendments would address issues that have come to staff's attention during the extension of the City's extraterritorial jurisdiction area and through discussions with persons involved in economic and industrial development. In presenting these amendments, the staff is being responsive to the reasonable needs of the community.

At their August 23, 2001, meeting, the Planning and Zoning Commission voted 6 to 0 to recommend approval of the wording amendment. The Planning and Development staff recommends approval of the wording amendment.

Upon inquiry of Councilwoman Bellamy, Mr. Shuford gave examples of industrial developments that would not be receiving Level III site plan review. He said that there would still be public input through the Technical Review Committee (TRC) process. Public notice will still be given to the surrounding property owners and they would have the opportunity to come to the TRC Committee to make comments. He said even though the City cannot put conditions on the developer above what the ordinances require, the developer could take into account comments made by the public at that meeting.

Mr. Shuford responded to questions/comments from Council, some being, but are not limited to: what other districts are industrial development projects allowed in, what requirements are already in place that will ensure that the impact of industrial development projects would be mitigated, what is the appeal process for

the developer if the TRC denies the project because it doesn't meet requirements, and describe the notification process for public comment.

Councilman Peterson noted that even though City Council has approved several conditional use permits, the Council has been able to approve them with conditions. With the elimination of the Level III City Council approval of industrial uses, the Council will not have the ability to place conditions on the project they feel will protect neighboring properties or enhance the project.

Councilman Peterson suggested the elimination of Level III review of industrial uses be voted on separately and it was the consensus of Council to do that.

Mr. Shuford suggested Council take action on the other amendments and refer the elimination of Level III review back to Planning staff to resolve some issues. He will then bring

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this issue back to the Council unless it requires Planning & Zoning Commission consideration first.

Councilman Worley asked Mr. Shuford to include in his report back to Council if there are

any differences between the current Level III process and what we can impose as a conditional use in conditional use zoning.

With regard to the amendment to add research and technology production as a permitted use in certain business districts, Mayor Sitnick said that research can imply all kinds of things, like bio-research, bio-technology, and voiced concern over the possibility of incompatible intermingling of certain research opportunities. Mr. Shuford said there are separate environmental rules for those types of uses that would cover them in no matter what zoning district they might be in, but suggested this text amendment be excluded from the ordinance before Council to be reported on at a separate date as well.

Mayor Sitnick closed the public hearing at 5:55.m.

Mayor Sitnick said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Cloninger moved to adopt Ordinance No. 2860 to exempt agricultural uses from zoning regulations and adopt the definitions of "confined animal feeding operations" and "research and technology production uses." This motion was seconded by Councilwoman Bellamy and carried unanimously.

Vice-Mayor Cloninger moved that amendments to add research and technology production as a permitted use in certain business districts and to eliminate Level III review of industrial uses be postponed indefinitely until either Planning staff brings a report back to Council or the Planning & Zoning Commission makes their recommendation if changes are made by City staff. This motion was seconded by Councilman Worley and carried unanimously.

ORDINANCE BOOK NO. 19 – PAGE

IV. UNFINISHED BUSINESS:

V. NEW BUSINESS:

A. ORDINANCE NO. 2861 - BUDGET AMENDMENT FOR THE NEXT PHASE OF THE CIVIC CENTER PROJECT

RESOLUTION NO. 01-156 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HEERY INTERNATIONAL INC. FOR PROGRAMMING, FUNDING ANALYSIS AND PARTIAL SCHEMATIC DRAWINGS FOR THE CIVIC CENTER

City Engineer Cathy Ball said that this is the consideration of (1) a budget amendment, in the amount of \$175,000 from private contributions and a transfer of \$85,000 from Contingency, for contract with Heery International Inc. for next Civic Center phase; and (2) a resolution authorizing the City Manager to sign a contract with Heery International Inc. for programming, funding, and partial schematic design of the Civic Center.

In January 2001, City Council contracted with Heery International, Inc. to perform the architectural feasibility study for the Civic Center. This architectural study determined that the

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existing site should be utilized by renovating the arena, restoring the Thomas Wolfe Auditorium to a Great Hall and constructing a new performing arts center east of the arena.

The next step in the process is to complete the programming, funding, and partial schematic design for the project. In an effort to create a name for the entire complex, staff has developed the acronym of HEART District. HEART stands for Historic Entertainment, Arts and Recreation Triangle.

In an effort to keep the project moving, the Civic Center Task Force asked Heery to provide a proposal for completing the programming, funding, and partial schematic design of HEART District. Their proposal has been provided for your review.

The Task Force unanimously voted to move forward with this phase of the project on October 2, 2001. They are recommending that City Council approve a contract with Heery International, Inc. in the amount of \$260,000 to complete this phase of the work.

The Task Force has received a donation in the amount of \$175,000 to pay for this work. The additional \$85,000 would come from the City's contingency fund.

The consideration of a resolution authorizing the City Manager to sign a contract with Heery International, Inc., and an associated budget amendment.

Upon inquiry of Councilman Peterson, Ms. Ball said that the \$260,000 is for renovating the arena, restoring the Thomas Wolfe Auditorium and constructing a new performing arts center east of the arena. She said that because all three pieces fit together, it was very difficult for them to break down the costs for each of the three projects. She said Heery noted that the programming is not as much for the arena and the Thomas Wolfe Auditorium because it is an existing building.

At the request of Councilman Worley, Ms. Ball explained that all three pieces fit into a business plan so the deliverable on will be a business plan and that document will be used to secure additional funding, possibly go to the state for funding, etc.

Mayor Sitnick stressed that the Council fully intends to seek revenue sources from everywhere and anywhere they can. That process has already started as seen by the pledge by the Suzanne Marcus Collins Foundation donation of \$175,000. In addition, the Council has recently adopted a facility fee at the Civic Center which is a wonderful mechanism to spread the burden for the needs of the building.

Councilman Worley said a lot of questions have been raised about the seating capacity and seating arrangement in the arena portion and the programming piece will enable us to determine exactly what this

community wants and be certain that can be accomplished in a way that is satisfactory to the entire community and satisfactory to the events.

At the request of Councilman Peterson, Ms. Ball explained that Heery could have looked at only studying the performing arts center as a stand-alone. But one of the issues they brought up during those discussions was for instance, a restaurant. It's hard to program a restaurant that wouldn't be used by all three facilities. If you had a restaurant that you could build above the arena, it could be used by the performing arts center. Maybe the facility itself would be located in the arena, but the use could be shared by all three buildings. Their concern is that you would limit revenue potential.

Mayor Sitnick said that members of Council have been previously furnished with a copy of the ordinance and resolution and they would not be read.

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Vice-Mayor Cloninger moved for the adoption of Ordinance No. 2861. This motion was seconded by Councilwoman Bellamy.

Councilman Peterson said that the arena renovations do not have the support from the public or the members of the legislative delegation. However, he felt that there is support in the community for the performing arts center. He would be willing to move ahead on the performing arts center, but he doesn't think it is a good use of funds with regard to the arena, given the lack of support.

Councilman Hay said that we have a comprehensive plan and each piece relates to the other. It makes no economic sense and certainly no design sense not to relate each one to the other. For example, the conceptual plan uses the arena floor connected to the new renovated Thomas Wolfe Auditorium, which is also connected to the new performing arts center, which is all joined by restaurants, etc. It is truly all one facility. To look at them one at a time makes no financial sense at all. The Future of the Civic Center Task Force is firm in seeing it all done together because they feel that is the best product. He also thought that the \$175,000 pledge, which is meant to move them along on the entire project, could not be recharacterized as just being dedicated to the performing arts center. He has not heard from the legislative delegation that they are not interested in renovating the arena. What he's heard from them is for us to show them a plan and how it all fits together with funding mechanisms independent upon what the legislature might be considering. What we will be presenting to them is a funding plan that has the financial support of a lot of people who want to see it happen.

When Councilwoman Bellamy asked if we can take two separate actions with regard to the budget amendment – one being accepting the \$175,000 pledge and one taking \$85,000 from the contingency fund. Councilman Hay explained that the \$175,000 pledge from Mr. Collins is a pledge made if the City moves forward now with the recommendations of the Future of the Civic Center Task Force. If we don't adopt the report then the pledge doesn't stand.

Mayor Sitnick said that she has clearly heard that the community does want the City to move forward.

Councilman Worley pointed out that it will cost \$25 Million to rebuild within the existing shell of the arena. A comparable arena at a new location would cost estimated \$40 Million, plus site preparation cost and parking which would be an additional \$10 Million.

Councilman Hay also noted that the two anchor tenants in the Civic Center (hockey and basketball) also favor the rebuilding within the existing Civic Center.

Mr. Mickie MaHaffey said that there are a lot of residents in Asheville that are struggling to pay their water bills and there are more critical needs of taxpayers other than rebuilding the Civic Center.

Councilman Hay didn't want to lose the perspective that if we do nothing and don't have a plan, then we must spend \$15 Million now to keep the Civic Center open. Keeping it open still gives us an obsolete facility and we then lose many of the revenue generating events there and the deficit continues to build.

Mr. Fred English spoke in opposition to this and felt that it will end up costing \$75-80 Million when it is finally built.

Ms. Susan O'Neil asked Council to make a concerted effort to endorse a higher minimum wage and a living wage for the new jobs they say will be brought to Asheville.

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Mayor Sitnick encouraged the private business sector to pay living wages.

Upon inquiry of Councilman Peterson, City Manager Westbrook said that he does have the authority to transfer certain funds from the General Fund Contingency, however, he always gets that approval from Council first. He said that the General Fund Contingency for this Fiscal Year started out at \$300,000 and during the budget process City Council made some adjustments to \$150,000. He believed Council made one transfer out of it but he didn't recall what that transfer was.

In response to Councilman Peterson, Councilman Hay said that the project can be phased in, but the legislative support is not being asked for the arena itself, it's being asked for the overall complex. He said that it is conceivable that, depending on how the funding comes together, we can phase the project in one at a time.

The motion made by Vice-Mayor Cloninger and seconded by Councilwoman Bellamy carried on a 5-1 vote with Councilman Peterson voting "no."

ORDINANCE BOOK NO. 19 – PAGE

Vice-Mayor Cloninger moved for the adoption of Resolution No. 01-156. This motion was seconded by Councilman Worley and carried on a 5-1 vote with Councilman Peterson voting "no"..

RESOLUTION BOOK NO. 26 – PAGE 472

B. RESOLUTION OFFERING CONSTRUCTION LOANS FOR IN-FILL NEW HOUSING CONSTRUCTION FROM THE HOUSING TRUST FUND PROGRAM

At the request of City staff, this matter was pulled from the agenda and will be brought before Council at a future date.

VI. OTHER BUSINESS:

A. CLAIMS

The following claims were received by the City of Asheville during the period of September 21-27, 2001: Communication Ser. (Parks & Recreation), Susan Roemisch (Streets), John T. Davidson (Streets), Arlington T. Bridges (Streets) and Virginia Fortune (Police).

These claims have been referred to Asheville Claims Corporation for investigation.

B. LAWSUITS

The City filed a Complaint on October 1, 2001, in the matter of City v. William Griffin Porter as a Complaint for money owed for parking tickets. Also the City filed a Complaint on October 1, 2001, in the matter of the City v. Mark Christian McClure as a Complaint for money owed for parking tickets. Both matters will be handled in-house.

The City was served with a Complaint on October 4, 2001, by Robert Daryl Fisher, and wife Kimberly Hall Fisher and, Ronald E. Sneed, Guardian Ad Litem for Parker Daryl Fisher. The nature of the proceedings is compensatory damages for alleged birth defects and other medical problems due to presence of carbon monoxide level incident in Municipal Building during renovations. This matter will be handled by outside attorneys.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A. COMMENTS BY FRED ENGLISH

Mr. Fred English briefed Council on a trip he made in which he drove 2,800 miles going through very small towns and very large towns. His point was that they all had Wal-Mart Superstores and Asheville should have allowed that store to be located in Asheville when they applied for a permit.

B. COMMENTS BY MICKIE MAHAFFEY

Mr. Mickie MaHaffey voiced concern over the renegotiation of the water agreement and the necessary time restraints and focus on the negotiations necessary by Mayor Sitnick and Councilman Worley.

C. CLOSED SESSION

At 6:45 p.m., Vice-Mayor Cloninger moved to go into closed session to consider the qualifications, competence, performance, character, or fitness of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(3); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(2). This motion was seconded by Councilman Worley and carried unanimously.

At 7:13 p.m. Councilman Worley moved to come out of closed session. This motion was seconded by Councilwoman Bellamy and carried unanimously.

VIII. ADJOURNMENT:

Mayor Sitnick adjourned the meeting at 7:13 p.m.

CITY CLERK MAYOR
