

Worksession

Present: Mayor Charles R. Worley, Presiding; Vice-Mayor R. Carl Mumpower; Councilwoman Terry M. Bellamy; Councilman Jan B. Davis; Councilman Joseph C. Dunn; Councilwoman Diana Hollis Jones; Councilman Brownie W. Newman; Interim City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

CONSENT AGENDA:

Community Meeting – May 31, 2005

At the suggestion of the City Manager, it was the consensus of City Council to not hold the May 31, 2005, community meeting due to budget issues and water negotiations.

2003-04 Annexation Areas Sanitary Sewer System Improvement Project

Summary: The consideration of a resolution authorizing the City Manager to sign a contract with Wheeler Construction Company, Inc., in the amount of \$ 132,950.25, for the project known as 2003-2004 Annexation Areas Sanitary Sewer System Improvements.

This project consists of the installation of approximately 1,200 linear feet of eight-inch diameter sanitary sewer line and related appurtenances.

The Engineering Department received and publicly opened three bids on Thursday, April 28, 2005, at 2:00 p.m. Three bids were received from Wheeler Construction, Hobson Construction and Huntley construction in the amounts of \$ 132,950.25, \$ 133,436.00 and \$ 199,872.75, respectively. After a thorough review of the bid documents by the Engineering Department and the Office of Minority Affairs, Wheeler Construction Company, Inc., was found to be the lowest responsible bidder with a total bid of \$ 132,950.25.

The project will be financed with monies from Capital Improvements Fund.

Wheeler Construction Company, Inc., has performed several projects of this nature in the past in a satisfactory manner.

The construction time for this project is identified as 120 calendar days in the contract documents. The contractor will be required to pay the sum of \$250.00 as liquidated damages for each and every calendar day that he shall be in default after the time stipulated in the contract.

Considerations of adopting a resolution authorizing the City Manager to execute this contract are as follows:

- The execution of this contract will allow the City to meet the requirements for sanitary sewer system service improvements, as established in the 2003 and 2004 Annexation Areas Plan of Services;
-
- The bid amount of \$ 132,950.25 for the construction of the 2003-2004 Annexation Areas Sanitary Sewer System Improvements Project is equitable, as compared to the engineer's estimate of \$ 135,528.00 and recent construction cost data on projects of the same nature;

-2-

- Extension of the sanitary sewer system enhances the environmental quality of the area to be served and prevents water quality problems.
-
- The only foreseeable disadvantage of adopting a resolution authorizing the City Manager to execute this contract is the temporary land disturbance along the proposed sanitary sewer construction corridor.

Construction of this sewer line is in line with goal # 1 under the Natural and Built Environment focus area of the Strategic Operating Plan of the City of Asheville.

Staff recommends that City Council adopt a resolution authorizing the City Manager to execute a contract with Wheeler Construction Company, Inc., in the amount of \$132,950.25, for the 2003-2004 Annexation Areas Sanitary Sewer System Improvements Project.

Alcohol at the Rockin' the Mountains Fundraiser

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Rockin' The Mountains fundraiser at Jake Rusher Park.

The Rotary Clubs of Arden and Biltmore have requested, through the Asheville Parks and Recreation Department, that City Council permit them to serve beer and/or unfortified wine at the Rockin' The Mountains fundraising event to be held on Saturday, June 11, 2005, at Jake Rusher Park, formerly known as Royal Pines Park in Arden. The proceeds of this event will go for additional park amenities and beautification projects. This is the second year that these clubs have held this co-sponsored event.

The Asheville Parks and Recreation Department recommends approval of the resolution allowing possession and consumption of malt beverages and/or unfortified wine at the Rockin' The Mountains fundraiser at Jake Rusher Park.

Changes to Speed Limits on Various Streets and Through Truck Prohibitions

Summary: The consideration of an ordinance to enact or change speed limits and enact through truck prohibitions on specific city streets.

The streets listed below have been identified for speed concerns or truck concerns by residents, City boards and commissions, City Council, the Asheville Police Department, Transportation Services Division staff, or other City staff. Transportation Services Division staff has conducted field reviews of street geometry and conditions and/or speed studies. Streets with requests for truck prohibitions have been reviewed for appropriateness. The Police Department supports these recommendations.

Through Truck Prohibitions

The following streets are residential streets on which it is recommended that through trucks be prohibited, with the exception of Page Avenue. Page Avenue was not designed to accommodate large vehicles.

1. Maxwell Street, between Broadway and Chestnut Street
2. Overbrook Road, between Tunnel Road and Governors View Road
3. Page Avenue, between Battery Park Avenue and Battle Square
4. Springside Road, between Hendersonville Road and Overlook Road
5. Sunset Terrace, in its entirety

-3-

6. Woodlink Road, in its entirety

15 Miles Per Hour

The following streets are narrow residential streets with extreme street geometry problems, including severe and frequent crests and curves, and heavily used on-street parking. These streets warrant a significantly lower speed limit than the typical 25 mph. The recommended safe operating speed on these streets is 15 mph:

1. Dundee Street, in its entirety

20 Miles Per Hour

The following streets are narrow residential streets with street geometry problems or business district streets. NCDOT has adopted a matching speed limit on Biltmore Avenue. Street geometry problems on residential streets include frequent crests and curves. The recommended safe operating speed on these streets is 20 mph:

1. Biltmore Avenue (US 25), between Hilliard Avenue and Aston Street (NCDOT)
2. Cane Street, in its entirety

3. College Street, between Charlotte Street and Valley Street
4. Sweetspire Ridge, in its entirety

25 Miles Per Hour

Most of the following streets are typical local residential streets without significant street geometry problems. The appropriate speed limit for typical local residential speeds is 25 mph. Cedar Street and Wood Avenue are collector residential streets with character and geometry warranting lower than typical collector speed limit. Roberts Street is a mixed-use street warranting a speed limit higher than a typical business district street but lower than a typical collector street. The recommended safe operating speed on these streets is 25 mph:

1. Allen Street, between State Street and Haywood Road
2. Altamont View, in its entirety
3. Burton Street, between Haywood Road and Florida Avenue
4. Carrier Street, between Sulfur Springs Road and Baker Place
5. Cedar Street, between Wood Avenue and Fairview Road
6. Courtland Avenue, in its entirety
7. Dortch Avenue, between Hillside Street and Mount Clare Avenue
8. Druid Drive, between Patton Avenue and Mitchell Avenue
9. East Maple Drive, between New Haw Creek Road and the dead end
10. East Oakview Road, in its entirety
11. Gashes Creek Road, between Azalea Road and the dead end
12. Haw Creek Circle, in its entirety
13. Klondyke Avenue, in its entirety
14. Lakeside Drive, between Old Haywood Road and Appalachian Way
15. Langwell Avenue, in its entirety
16. Mann Road, in its entirety
17. Maple Drive, between Old Haw Creek Road and New Haw Creek Road
18. McDade Street, in its entirety
19. Morningside Drive, in its entirety
20. Old Stone Gate Place, in its entirety
21. Olmsted Drive, between Dearborn Street and Columbine Road
22. Pressley Road, in its entirety

-4-

23. Racquet Club Drive, between Hendersonville Road and Boddington Court
24. Rhododendron Place, in its entirety
25. Roberts Street, between Craven Street and Lyman Street
26. Samayoa Place, in its entirety
27. Senator Reynolds Road, in its entirety
28. Trinity Chapel, between New Haw Creek Road and Old Haw Creek Road
29. West Maple Drive, between Old Haw Creek Road and Hillview Road
30. Wilmington Street, in its entirety
31. Winthrop Road, in its entirety
32. Wood Avenue, between Cedar Street and end of City maintenance

30 Miles Per Hour

The following streets have features that warrant operating speeds less than the typical collector street speed limit of 35 mph. These features include residential character, narrow widths, and roadside obstructions. The recommended safe operating speed on these streets are 30 mph:

1. Azalea Road, in its entirety
2. Florida Avenue, between Burton Street and Patton Avenue
3. Gerber Road, in its entirety

4. Hill Street, between Montford Avenue and US 19-23-70
5. London Road, between Bellview Road and West Chapel Road
6. Lyman Street, between Riverside Drive and Amboy Road
7. Pinecroft Road, in its entirety
8. River Hills Road, in its entirety
9. Riverside Drive, between Interstate 240 and Lyman Street
10. Royal Pines Drive, in its entirety
11. Shelburne Road, in its entirety
12. Spooks Branch Road, in its entirety
13. State Street, in its entirety

- The Engineering Department requests that City Council approve the ordinance amending these speed limit and through truck prohibition changes.

Traffic Engineer Anthony Butzek responded to Councilman Newman regarding how truck traffic will be affected on Maxwell Street.

In response to Vice-Mayor Mumpower, there was a brief discussion about the criteria used for lowering or raising speed limits on streets, in particular Kimberly Avenue, which current speed limit is 25 mph.

Mr. Butzek responded to various questions/comments from Council, some being, but are not limited to: does the speed limit posted have an influence on how people drive; is pedestrian traffic factored into determining speed limits; and what is the cost of signs.

Vice-Mayor Mumpower felt that the City needs to approach enforcement with enthusiasm.

Mr. Butzek said that prior to this issue coming back to Council for formal consideration on June 14, 2005, he would provide information relative to the speed limit on Kimberly Avenue, including a report from the Police Department regarding enforcement.

New Street Name – Regan Lane

-5-

Summary: The consideration of a resolution approving Regan Lane as the name for a new street located off Downing Street.

Staff has reviewed the proposed name and found no conflicts that would impede emergency service response. The primary purpose of establishing a name for any new street is to facilitate emergency response. Staff researched the street data and has determined that this name is not duplicated. A street name was necessary to facilitate specific street name and numbers for new structures. It would be impractical, and due to the existing street numbers, impossible to address the new structures from Downing Street without causing emergency response delays.

- Pro:

- The street will be utilized to access six new homes. Assignment of specific addresses, utility connection, and potential emergency response will be enhanced with specific the street name.

- Con:

- There are no negative affects of for assignment of Regan Lane to this new street.

- Asheville City Council has directed staff to validate levels of emergency services provided for our citizens through the City's Strategic Operating Plan. Within the City of Asheville Strategic Operating Plan section on Critical Services and Infrastructure: Goal 3 – Strong City and County Partnerships; Objective 1 – Review and validate the levels of critical emergency services provided throughout the city; Task 3 – Review and validate the levels of critical emergency services provided throughout the city.

- Staff recommends adoption of the resolution accepting Regan Lane as new street name.

Contract for Professional Services

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional services contract with McGill Associates, P.A.

The Water Resources Department has requested a low interest state loan in the amount of \$1,775,000.00 and has approximately \$700,000.00 in unused state grant funds for infrastructure improvements.

The Water Resources Department requires a professional engineering firm to prepare the necessary documentation required by the state and appropriate professional engineer civil designed water plans for a project on US 1923 (low interest low request) and to complete the Critical Needs Phase III water system improvement projects. McGill Associates, a local engineering firm has previously worked on the preliminary design and scope of these projects. This contract is to formalize the completion of the project and to prepare all documentation required by the State of North Carolina concerning funding and reimbursement for these projects with the cost of these professional services to be \$157,000.00. Funds are available in the current water budget for this expenditure.

PROS:

- These projects will enhance the water system and help create a connection to the Canton, N.C., water system.

-6-

CONS:

- There are no cons to these projects, water pressure will be increased and the US 19/23 corridor area will enhance the development potential of an area in the county that currently does not have a water line.

City staff recommends City Council approval of the City Manager signing contract agreement with McGill Associates in the amount of \$157,000.00.

Ms. Rebecca Guggenheim, Executive Assistant with the Water Resources Department, responded to questions from Councilman Newman regarding the replacement water line. She said that she would provide Council with a list of the critical needs projects.

Application with the N.C. Dept. of Crime Control & Public Safety for Radio Towers to Implement VIPER Communication System

Summary: The consideration of a resolution ratifying the City Manager's actions in applying for a grant from the N.C. Dept, of Crime Control and Public Safety to construct radio towers to implement the VIPER communication system.

The N. C. Dept. of Crime Control and Public Safety, through the Governor's Crime Commission, has money available to local governments in order to have its radio system VIPER compliant. The City of Asheville entered into an agreement with the State of North Carolina through the N.C. Dept. of Crime Control and Public Safety for the purchase and installation of VIPER compliant radios for the Fire and Police Departments with endorsement of the Asheville City Council in January 2005. This grant is to construct towers to implement the VIPER system enhancing communication ability and improving interoperability.

The towers and VIPER system will allow emergency responders to communicate with each other and other state agencies involved in an incident with Asheville and in many areas across North Carolina. The towers and VIPER system will allow personnel in Asheville to communicate with our personnel or responding personnel to us in other areas of the State.

The City of Asheville will not receive these funds; instead, we are authorizing the State of North Carolina to spend the \$1.5 Million on our behalf. Therefore, no budge amendment is necessary.

Asheville City Council has directed staff to validate levels of emergency services provided for our citizens through the City's Strategic Operating Plan. Within the City of Asheville Strategic Operating Plan section on Critical Services and Infrastructure: Goal 3 – Strong City and County Partnerships; Objective 1 – Review and validate the levels of critical emergency services provided throughout the city; Task 3 – Review and validate the levels of critical emergency services provided throughout the city.

PROS:

- The towers would allow the Asheville Fire and Rescue Department to take advantage of the information and technology that is available to us and allow us to apply it virtually every day.

- The enhanced communication potential would increase effectiveness during emergencies.
- The ability to communicate from Asheville to our personnel or responding mutual aid is and invaluable service.
- If the grant is approved, 100% of the funds, would be supplied by through the N.C. Dept. of Crime Control and Public Safety.

-7-

CONS:

- Staff is not aware of a negative consequence to this grant.

City staff recommends City Council approve the resolution ratifying the City Manager's actions in applying for the grant with the N.C. Dept. of Crime Control and Public Safety.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place these items on the next formal City Council agenda.

GATEWAY CORRIDORS

Planning & Development Director Scott Shuford said that City Council has made gateway planning and improvement a critical piece of its Strategic Operating Plan. He said that Planning staff retained an intern over the past six months to prepare a gateway inventory and strategies for gateway improvement.

Mr. Wade Luther of Clemson University then reviewed with Council a presentation summarizing his work. He said that the study is being developed as required by the Center City Plan and the City Council Strategic Operating Plan as a means for improving downtown development and to determine ways in which improvements can benefit the changing conditions that are occurring in the neighboring downtown urban core.

The objectives of the gateway corridor study was to (1) tie neighborhoods together; (2) strengthen community identity; (3) unify roadway improvements; (4) enhance and encourage new downtown development; and (5) make downtown development more attractive to the private sector.

He reviewed each study area, which included Patton Avenue, College Street, Merrimon Avenue/Broadway Street, I-240 and Biltmore Avenue.

The goals of the study include (1) develop a welcoming environment entering the City; (2) create an identity that complements the identity of the Central Business District; (3) reflect the aesthetics of the downtown urban core; (4) encourage economic growth and development in an urban form consistent with smart growth initiatives and the Center City Plan; (5) create a pedestrian-friendly environment; (6) encourage multi-modal transport; and (7) promote urban development at key gateway parcels.

General recommendations include infill redevelopment; proper land uses; traffic study and roadway design; streetscape plan, proper landscaping and signage; multi-modal transport; and Amendment One. He felt the recommendations of the study will foster economic growth and quality development for the gateways and the Central Business District as a whole through enhancing the built environment with infill redevelopment and by creating a pedestrian realm that encourages economic activity and supports multi-modal transport.

Staff recommends that the City Council receive the gateway corridor study and provide any desired direction.

Councilman Davis felt that, in the short-term, more trash receptacles are needed in the western corridor.

-8-

In response to Councilwoman Bellamy, Planning & Development Director Scott Shuford said that staff will be bringing forward to Council an ordinance that would essentially say that if you are developing in the Central Business District, your Level III threshold goes away if you able to comply with the Downtown Design Guidelines. In addition, the Downtown Commission is

reviewing the Central Business District regulations and will be bringing forward some suggested changes that will help with the voluntary compliance issue.

Mr. Shuford said that this study is intended to set the groundwork for further efforts. Over the next few months, one staff effort will be to develop a project development financing plan that we will bring to Council that will include a funding source from the Amendment One authority.

Upon inquiry of Councilwoman Jones, Mr. Shuford explained Amendment One and said that he would send Council a memo outlining the tax increment financing.

It was the consensus of Council to accept the report and instruct staff to move forward in finding ways to carry out the corridor plan, e.g. ordinance revisions or other mechanisms.

CONVERSION OF COLLEGE STREET AND PATTON AVENUE TO TWO-WAY

Traffic Engineer Anthony Butzek said that this is consideration of an ordinance converting the downtown one-way pair of College Street and Patton Avenue back to two-way operation.

A traffic study commissioned by the City in 2001 concluded that the conversion to two-way traffic is feasible and would not significantly degrade traffic operations. Levels of service remained generally similar to conditions under one-way operation with the full implementation of the conversion, including several minor geometric improvements. This study, conducted by Kimley-Horn and Associates, analyzed traffic conditions in the downtown area, recommended improvements for two-way operation, and estimated costs for conversion.

The conversion from one-way to two-way would be done to support the economic vitality of downtown and increase pedestrian safety. It is generally felt that one-way streets have the ability to move more traffic, while two-way streets are more conducive to economic vitality. Two-way streets also avoid the confusion to motorists that one-way streets create, allowing for more direct routes of travel. This is especially important in Asheville as downtown is a tourist destination. Two-way streets would result in slower traffic movement, and slightly increased congestion. The idea that congested downtown streets keep people away is generally obsolete, with current wisdom dictating that slower traffic is representative of economic vitality. Many cities are converting their one-way streets back to two-way, as traffic conditions permit.

Generally, downtown merchants have expressed support for two-way streets. Representatives of several buildings, including the Biltmore Building and the BB&T Building, have expressed concern over the potential conversion.

College Street and Patton Avenue are currently proposed to be converted to two-way east of Biltmore Avenue/Broadway to facilitate traffic movement consistent with the Pack Square Plan. In order to pursue conversion of the remainder to the west (to Coxe Avenue), and to request State funding to perform necessary replacement of the signals on Biltmore Avenue/Broadway at Patton Avenue and College Street, staff requests approval of the conversion by City Council.

Summary of PM peak-hour operational differences between levels of service (LOS):

-9-

Intersection	One-way LOS	Two-way LOS
College & Spruce	B	B
College & Market	A	A
College & Broadway	B	B
College & Lexington	B	B
College & Haywood	B	B
Patton & Coxe	C	C
Patton & Haywood	A	A
Patton & Lexington	B	B
Patton & Biltmore	C	C
Patton & Market	B	*

The conversion requires modification to or replacement of eight traffic signals (six City and two State) along the corridor, and allows for removal of three others (Haywood & Battery Park, Patton & Haywood, Patton & Market). These replacements comprise most of the costs associated with the conversion. Replacement of all eight signals with decorative poles is estimated to cost \$1.05 million. Modification to the City's six signals could serve two-way traffic on a temporary basis at an estimated cost of \$100,000. Geometric modifications to the streets for two-way traffic are estimated at \$125,000, about half of which will be done as part of Pack Square.

Staff proposes that Council allocate approximately \$250,000 per year over the next four budget years in order to facilitate the necessary geometric modifications and replacement of traffic signals.

Pros

- Expected economic benefits for downtown
- Reduced traffic speeds downtown (pro for downtown) and improved pedestrian safety
- Consistency with Pack Square plans
- Support by many downtown merchants

Cons

- Costs
- Reduced traffic speeds downtown (con for drivers)
- Concerns from some downtown office buildings

This project meets several of Council's strategic goals and objectives:

- Planning Goal #2, Objective A, Task 2: Leverage outside funding to achieve multiple transportation goals where possible.
- Planning Goal #2, Objective B, Task 1: Determine opportunities for managing traffic demand through changes to commuting patterns and transportation modes, land use patterns, signalization improvements, etc.

Staff recommends City Council support the two-way plan and authorizing staff to pursue State funding and phased implementation of the two-way conversion as budgets permit.

Upon request of Councilman Davis, Mr. Butzek said that he would be happy to furnish Council with a map outlining the conversion and visual aids when this matter comes back to Council for approval on June 14, 2005.

Mr. Butzek responded to various questions/comments from Council, some being, but are not limited to: was this a staff initiated plan; what happens and what are the costs if we don't make the conversion; how long has the streets been one-way and why; is this conversion linked

-10-

to the pedestrian plan; will the traffic signals need replacing in the near future if nothing is done at this time; would the conversion have an impact on emergency vehicles; will it take longer to drive from one end of the downtown to the other; what would be the expected economic benefits for downtown; will there be any loss of parking spaces; how much property tax dollars come from the Central Business District; and what other groups have reviewed this conversion plan.

Councilman Davis was concerned about not creating too much of an obstacle course in the downtown area to slow traffic because customers may feel it is easier to go somewhere else for basic shopping.

Mr. Butzek pointed out that the entire conversion could be done for approximately \$250,000. He additional costs come from the replacement of the traffic signals that staff is also recommending.

When Vice-Mayor Mumpower asked if Council should consider a special tax for the Central Business District since this project seems devoted to them. City Manager Westbrook said that normally what a special use tax is used for are other kinds of improvements, such as a uniform sidewalk streetscaping, not passing traffic.

Upon inquiry of Vice-Mayor Mumpower, Planning & Development Director Scott Shuford said that he would provide Council with information from other cities where this type of change took place and what type of rewards were had from an economic development standpoint. In addition he would provide Council with specific indications from the stakeholders who have reviewed this plan.

City Engineer Cathy Ball said that we may want to consider is asking the N.C. Dept. of Transportation to take over those streets once we have made the decision to go with the two-way conversion. We could then ask for additional funding from them in order to support putting in the decorative poles. She said that staff will research that and bring it back to Council at the June 14 meeting.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place this item on the June 14, 2005, formal City Council agenda.

ANIMAL CONTROL ORDINANCE

- Assistant City Attorney Curt Euler said that this is the consideration of an ordinance amending the existing animal control ordinance.

- The Asheville Police Department is seeking to improve public safety and the humane treatment of animals by reviewing and updating the animal control ordinance. Many of the amendments are technical in nature.

The following are the major revisions to the ordinance:

- City Council will have to decide between adopting a differential licensing or fertile animal permit scheme:

A. Differential licensing fees for fertile and unfertile dogs, Sec. 3-5 Annual Registration for Dogs

-11-

1. Annual registration for spayed/neutered dogs will be less than that for fertile dogs.
2. Owner must provide proof of sterilization when initially registering a dog
3. The Fees and Charges Committee will set the annual fertile and unfertile license fees.

B. The Fertile Animal Permit

1. The owner of a fertile animal will have to pay the City a one-time \$100.00 permit fee to keep a fertile animal within the City.
2. The City will only enforce this section if the Animal Control Officer is investigating another violation of the ordinance.
3. If the owner is found to have a fertile animal without a permit, the fine is \$200.00
4. If the owner gets the animal spayed or neutered within 30 days of the issuance of the fine, the City will waive the fine.

- Waiver of Registration Fees for licensed service dogs and working law enforcement dogs
- Fine structure has been amended –Appendix B

- A. There is a cap on the amount of fines a person may receive before it is turned over to debt collections
- B. The fine will accrue monthly, not weekly

- Specific regulations placed on the tethering of an animal, Sec. 3-12 Animal Care

- A. Restraint must be at least 15 feet in length
- B. Restraint shall not become tangled or prevent the dog from moving freely or having access to food, water or shelter.

- Changes providing more agreement with state law, such as the requirement to immediately report an animal bite to the Police Department, Sec. 3-13 Animal Bite

- Adoption of fertile animals in public prohibited, Sec. 3-12 Animal Care

- Prohibits the giving away of animals as a prize. Sec. 3-12 Animal Care

- Selected serious offenses made Criminal, Sec. 3-20 Penalties

- A. Interference with Animal Control Officer, Concealment of Animal, Sec. 3-8
Inspection, Interference or Concealment
- B. Animal Fighting, Sec. 3-12 Animal Care
- C. Failure to report an animal bite, Sec. 3-13 Animal Bite
- D. Failure to comply with an order of seizure, Sec 3-30 Seizure and Disposition of

Animals

- Clarified definition of terms, Sec. 3-4 Definitions
 - A. *Bona fide farm*: use of one's real property for a farming business or enterprise, zoned or grandfathered for agricultural use; must comply with all applicable federal, state and local laws.
 - B. *Exotic pet*: any animal that is not classified as domesticated, livestock or a wild animal; does not include feral animals.
- 12-
- C. *Feral animal*: an animal of a species normally domesticated that has reverted back to a wild state.
 - D. *Fowl*: any bird traditionally associated with sport, farming or production; including but not limited to poultry and game birds.
- Added definitions of humane care and treatment, sufficient water, sufficient food and sufficient shelter, Sec. 3-4 Definitions
 - A. *Humane care and treatment*: maintaining an animal in an appropriate, sanitary environment. Humane care and treatment also considers the age, size, health problems, hardiness and other characteristics of the individual animal in daily care to prevent avoidable harm and suffering.
 - B. *Sufficient food*: the provision of food of sufficient quantity and quality to insure property growth or maintenance of body weight appropriate to the age and species of the animal.
 - C. *Sufficient shelter*: a structure which consists of least three sides, a floor and a roof and adequate in size and design to preserve the animal's body heat and protect the animal from the elements.
 - D. *Sufficient water*: access to a constant supply of water that is clean, fresh, and visibly free of debris and organic material, or provided at suitable intervals for the species, and not to exceed 24 hours at any interval.
 - Lessened the 150-foot minimum distance that permitted livestock, fowl and exotic pets are allowed to be from adjacent households, Sec. 3-36 Permit for keeping
 - A. No person shall keep livestock and chickens and fowl within 100 feet of any household other than that of the owner of the animal, chicken or fowl.
 - Numerous technical changes have been made to the wording of the ordinance for consistency and clarity and in order to make it easier to read.

The animal control ordinance was last revised on September 10, 2002. In an effort to meet public expectations and insure the most up to date ordinance possible, the Asheville Police Department began a review of the ordinance in late 2003. Consistent with City Policy, the Asheville Police Department sought input from organizations such as the Asheville Humane Society, the American Kennel Club, and other local animal welfare groups. In addition, the City held a public forum on May 4, 2005, for citizens to give input.

Pros:

- The fertile animal permit and the restrictions on adopting fertile animals in public locations are steps towards reducing the number of unwanted animals in the City.
- The new fine structure will be more equitable to citizens.

Cons:

- There will be a significant increase in time spent on each Animal Control call for service to enforce the fertile animal permit. This will reduce time spent on handling other Animal Control matters.
- The City will need to create new fields in the Animal Control database to keep track of the fertile animal permits. In addition, there will be significant additional staff time needed to deal with the citations and possible waiver of fines (this includes both Customer Service staff as well as Animal Control staff).

City staff recommends approval of the ordinance amending the existing Animal Control ordinance.

Mr. Euler, along with Ms. Brenda Sears, Animal Control Officer, responded to various questions and comments from Council, some being, but are not limited to: what are the statistics of regarding the number of impounded animals from the City, specifically euthanized (1,333), adopted (280) or returned to owners (495); what is involved with a Dept. of Agriculture license and how much is that type license; what is the adoption rate at the animal shelters; what is the cost to the City to pick up and take an animal to the shelter; what is the cost to spay/neuter; how will this ordinance be enforced; can existing personnel handle the changes; will this ordinance be enforced in the extra-territorial jurisdiction area; and are there subsidies/grant monies available to help with the cost of spaying/neutering.

Mr. Euler explained that this ordinance this is a good step in trying to regulate and reduce the number of unwanted pets by making sure that the pets adopted are spayed or neutered before being turned over to the new owners, as opposed to getting vouchers where there is not a lot of control as to what happens later.

Vice-Mayor Mumpower felt this ordinance would adversely impact the ability of people to facilitate adoption of pets. He particularly pointed out that there is a person who, on a regular basis, sets up in front of Earth Fare and has made an enormous effort to find homes for cats and dogs. He wondered what might be some possibilities (permit or voucher) to allow those types of people to continue to try to facilitate adoptions.

Ms. Sears felt there isn't any reason to make any exceptions to animals going home fertile. She stressed how one fertile animal could negate the work for an entire adoption day just by reproducing. She stressed that we need to be consistent in upholding the standards throughout our entire community. She did point out that the fertile animal regulations (spaying/neutering or a permit) are required for both dogs and cats.

Upon inquiry of Vice-Mayor Mumpower, Ms. Sears said that if the transaction is taking place on city property in a public area, then that is what transactions would be impacted. People can give away pets all day at their private homes. She said that it would be unlawful for a person to sell or trade an animal, unless they are licensed by the Department of Agriculture, in a public venue.

There was considerable discussion about good humanitarian efforts. Ms. Sears said the easy solution would be to have people take the animals to the animal shelter or humane society. They are the professionals at evaluating the adoptability of animals and they will never refuse to take an animal.

Vice-Mayor Mumpower asked staff to meet with people who have a deeper understanding of this issue and see if there is a way to not create an administrative nightmare, but doesn't punish the people who are trying to compassionately affect animals.

Councilwoman Jones asked that an exception to the spaying and neutering requirement be made for service dogs in training.

Mr. David Long, Director of Animal Control for Buncombe County, responded to various questions from Council and recommended Council adopt the spaying/neutering ordinance.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place this item on the next formal City Council agenda.

-14-

BOARDS AND COMMISSIONS:

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Barbara Marlowe to the Civil Service Board.

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint Leesa Gibbs to the Firemen's Relief Fund.

Regarding the sunset date of June 30, 2005, for the Sustainable Economic Development Strategic Plan Implementation Task Force, it was the consensus of City Council to invite the Chairman in to give City Council a report of their activities and their recommendation on whether to extend the term of the Task Force.

ADJOURNMENT:

Mayor Worley adjourned the meeting at 5:49 p.m.

CITY CLERK

MAYOR