

**RESOLUTION 05-15
MAYOR AND COUNCIL
THE TOWN OF FOREST HEIGHTS**

A RESOLUTION AUTHORIZING A REQUEST TO CONTINUE THE STATE'S EXISTING ESTABLISHMENT OF A SCHOOL ZONE ALONG OXON HILL ROAD (MD 414) AT OR NEAR JOHN HANSON MONTESSORI SCHOOL, AND FURTHER REQUESTING THE STATE HIGHWAY ADMINISTRATION TO PERMIT THE TOWN'S RIGHT TO ASSUME GOVERNMENTAL CONTROL AND JURISDICTION FROM PRINCE GEORGE'S COUNTY OVER THE PLACEMENT, OPERATION AND MAINTENANCE OF EXISTING PORTABLE SPEED MONITORING SYSTEMS SITUATED NEAR SAID SCHOOL

Introduced By: Mayor Jacqueline Goodall

WHEREAS, the Town of Forest Height is a self-governed, home rule municipal corporation having been incorporated in 1949 by the General Assembly of Maryland, pursuant to Chapter 142, Acts of 1949, as ratified by the qualified voters on April 19, 1949, and is governed by its own laws and Charter with respect to local affairs; and

WHEREAS, the John Hanson Montessori School ("JHMS") is a public PK-8 school of approximately 450 students that encourages individual growth through unique teaching methods developed by Dr. Maria Montessori having frontage along MD 414, which is considered a secondary road on the State system with a functional classification of urban principal arterial having two travel lanes in each direction with a two-way left turn lane but no medians, a posted speed limit of 30 MPH, sidewalks on both sides and an unsignalized crosswalk situated just east of the school property; and

WHEREAS, the Town Council of the Town of Forest Heights, Maryland, enacted an ordinance that became effective on October 21, 2009, as codified in Section 15.6 of the Town Code, that governs the use of speed monitoring systems within designated school zones in the Town, and permits the Town Council, by resolution, following reasonable notice to the public and a public hearing, to establish a school zone on any road under the Town's jurisdiction or with permission of the county or State Highway Administration ("SHA") on any county or state road within one-half mile of a school; and

WHEREAS, the County Council enacted a similar ordinance (CB-37-2009) that became effective on November 3, 2009 authorizing the use of speed monitoring systems to regulate traffic within Prince George's County; and

WHEREAS, except in certain situations not applicable to this Resolution, as stated in Md. Ann. Code, LG Art., §4-111, legislation such as ordinances or resolutions, enacted by the governing body of Prince George's County do not apply in a municipality if either conflicts with

legislation of the municipality enacted under a state grant of legislative authority provided by public general law or the municipal charter; and

WHEREAS, pursuant to Md. Ann. Code, TR Art., §21-809(b), the Town has what the Office of Attorney General of Maryland has described as “a right of first refusal to be responsible for placing a speed camera...” at a particular location whereby said provision more specifically states that, “[b]efore a county may use a speed monitoring system on a state highway at a location within a municipal corporation, the county shall 1.) obtain the approval of the SHA, 2.) notify the municipal corporation of the SHA’s approval of the speed monitoring system at that location, 3.) and grant the municipal corporation 60 days from the date of the county’s notice to the municipal corporation to enact an ordinance authorizing the municipal corporation instead of the county to use a speed monitoring system at that location; and

WHEREAS, pursuant to Md. Ann. Code, TR Art., §21-803, subject to the consent of SHA with regard to a state highway, a municipality has the additional right to establish maximum speed limits on any highway “in its jurisdiction” including municipal, county or state highways, based on an engineering and traffic investigation and subject to certain statutory restrictions; and

WHEREAS, the Town and the County are parties to a Memorandum of Understanding for Jurisdictional Police Services (the “MOU”) dated October 3, 2011, whereby the Forest Heights Police Department (“FHPD”) in addition to enjoying exclusive jurisdiction in enforcing Town ordinances, the FHPD has primary jurisdiction shared with the County Police in answering calls for service that originate in the Town and is further primarily responsible for investigating all crimes and incidents, including violations of the Maryland Vehicle Law, except for certain felonies, whereby the County Police has agreed to assume follow up investigative responsibilities for those more serious crimes as enumerated in said MOU; and

WHEREAS, said MOU further states that “[t]he Town Police and the County Police have jurisdiction for all calls-for-service at any school facility located within the Town... [and] both departments, if requested by the school, may conduct outreach and educational programs which are agreed upon by and with school officials,” and

WHEREAS, on Friday, January 6, 2012 at about 7 a.m., two adults, who later died from their injuries, were struck by an eastbound car while standing in the center turn lane attempting to cross the highway in the 6200 block of Oxon Hill Road, and

WHEREAS, on or about February 7, 2012, the County Chief of Police wrote the Assistant District Engineer of SHA requesting permission to place automated speed enforcement cameras at 6360 Oxon Hill Road in a school zone for the “John Hanson French Immersion School” [sic] and further stated that “[t]his area experiences speeding vehicles and motor-vehicle accidents, including a hit-and-run accident that killed two pedestrians this year;” and

WHEREAS, according to a site assessment study conducted by the Traffic Group, Inc. dated March 9, 2012, the average daily traffic on MD 414 near JHMS was 24,500 with 90% of westbound traffic exceeding the posted speed limit (including more than 30% who exceed by 11 MPH or more) and over 30% of eastbound traffic exceeding the speed limit (including more than 15% who exceed by 11 MPH or more); and

WHEREAS, on or about May 23, 2012, the SHA (District 3) Utility Engineer granted a Permit Application for Automated Speed Enforcement Systems in School Zones on State Highways (Permit SHA-3-PG-0523-12) to Prince George's County to operate portable units along MD 414 in said school zone (See Exhibit A - Location Map of Existing School Zone) as shown on the approved plans; and

WHEREAS, the Town Council passed Annexation Resolution 02-2015 on January 21, 2015 to become effective on or after March 7, 2015, which includes within the annexation area all of Oxon Hill Road abutting the Forest Heights Baptist Church property frontage (Parcel 327) and extending east beyond said school (Parcel 206) to near the intersection of Livingston Road; and

WHEREAS, the Town Council finds that CB-37-2009, should it be maintained after the effective date of said annexation resolution as currently implemented, would conflict with the Town's primary police jurisdiction in regulating traffic and ensuring pedestrian safety within the Town, and would further conflict with Section 15.9 of the Town Code in terms of the County's continued placement and deployment of speed monitoring systems at locations within the Town's boundaries otherwise approved and designated by the Mayor and Town Council including such systems to be operated by the Town in the existing school zone established by SHA near JHMS; and

WHEREAS, the Town Council further finds that it is the intent of the General Assembly of Maryland to afford municipalities with the paramount right to use, relocate or de-activate speed monitoring systems along state highways within school zones in the Town's jurisdiction in order to effectively and efficiently regulate vehicular traffic and promote pedestrian safety according to community standards or local discretion; and

WHEREAS, the Mayor and Town Council find that an excessive number of vehicles continue to exceed the posted speed limit on Oxon Hill Drive (MD 414) in the vicinity JHMS; and

WHEREAS, the Mayor and Town Council wishes to discourage speeding at the aforementioned location in order to protect the students attending the school and others from the dangers posed by vehicles travelling at excessive speeds; and

WHEREAS, the Mayor and Town Council further finds, as proven elsewhere in the Town, that the installation of speed monitoring cameras is an effective means of discouraging

speeding and the dangers attendant to speeding activity posed to children, other vehicle operators and pedestrians in the area; and

WHEREAS, assuming the use and effectiveness of said cameras as situated, the Mayor and Town Council does not currently desire to alter the speed limit on Oxon Hill Road for the school zone at JHMS.

NOW THEREFORE BE IT RESOLVED, that, a public hearing having been held upon reasonable notice to the public, a school zone with speed monitoring systems as previously established and properly designated by appropriate signage, as depicted on Exhibit 6 of Permit SHA-3-PG-0523-12 attached hereto and incorporated by reference herein and any amendment thereto, is to be continued, transferred, operated, governed and maintained by the Town;

AND BE IT FURTHER RESOLVED, that the Mayor or her designee is hereby authorized to carry out the intent of this Resolution including but not limited to preparing, submitting and signing documents, authorizations, agreements or applications on behalf of the Town in order to obtain a modification, amendment or addendum to Permit SHA-3-PG-0523-12 or a substitute permit naming the Town as the successor permittee in lieu of the County;

AND BE IT FURTHER RESOLVED, and ordered that upon obtaining the necessary approvals and cooperation of the SHA, the Mayor or her designee shall publish notice of the location of the said speed-monitoring systems to be controlled and operated by the Town, on the Town's website and in a newspaper of general circulation in the Town, and the Chief of Police shall coordinate with the vendor and the PGCPD to prepare all required logs, calibration checks, certificates, inspections and program adjustments necessary to implement this Resolution;

AND BE IT FURTHER RESOLVED, that expenses, if any, for the above described speed camera site and any associated replacement signage, if any, shall be appropriated and paid for from Line Item 7217 Street Signs/Crosswalk Painting of the FY 2015 Budget; and

AND BE IT FURTHER RESOLVED, that notice of the time and place of any regular or special meetings to consider this resolution or conduct a public hearing thereon shall be made by publishing notice of the meeting or hearing on a bulletin board or sign posted in or near the lobby of the Municipal Building that can be readily seen by the public without actually entering said building;

AND BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon passage to the fullest extent possible, however, the effective date of this Resolution is further conditioned by or subject to the effective date of Annexation Resolution 02-2015 and the validity thereof, unless the effective date of said annexation resolution is duly proclaimed or resolved to be repealed, suspended or delayed in taking effect by the Mayor and/or Council in accordance with State or local law.

PASSED this ___ day of March 2015.

APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland

<u>ROLL CALL VOTE</u>	<u>YEA/NAY/ABSTAIN/ABSENT</u>
GOODALL	<u>YEA</u>
KENNEDY II	<u>YEA</u>
STONER	<u>YEA</u>
BARNES	<u>YEA</u>
MUHAMMAD	<u>YEA</u>
SMITH-BARNES	<u>YEA</u>
MANN	<u>YEA</u>

ATTEST:

THE MAYOR AND COUNCIL OF THE
TOWN OF FOREST HEIGHTS, MARYLAND

Signature on file

Bonita C. Anderson, Town Clerk

Signature on file

By: _____
Jacqueline Goodall, Mayor

Signature on file

By: _____
Cynthia Mann, Council President

CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 2nd day of March, 2015 with 7 Aye votes and 0 Nay vote the aforesaid Resolution 05-15 passed, and that pursuant to Resolution 80-13, the time and place of meeting and/or hearing for this Resolution was posted on a bulletin board or sign posted in or near the lobby of the Municipal Building that could be readily seen by the public without actually entering said building

Signature on file

Bonita Anderson, Town Clerk

Exhibit A - (Location Map of Existing School Zone for John Hanson Montessori School)