

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; City Manager James L. Westbrook Jr.; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

**CONSENT AGENDA:**

**Towing of Illegally Parked Vehicles, Junked Motor Vehicles or Abandoned Vehicles**

Summary: The consideration of an ordinance amending Chapter 19 of the Asheville City Code allowing the city manager or his or her designee to tow illegally parked vehicles, junked motor vehicles or abandoned vehicles in the City of Asheville.

There are several vehicles in the parking garages that are abandoned. They need to be removed. This amendment gives the City Manager or designee the ability to remove vehicles which are abandoned or impeding traffic flow in city garages and parking lots, or vehicles illegally parked in a fire lane or commercial loading zone.

The advantage of this to the City is that vehicles which have been abandoned may be removed, freeing up parking spaces for the paying public, and increasing safety in fire lanes, and increasing the ability to load or unload for commercial businesses.

The disadvantages are that the person whose vehicle has been towed may not feel that he or she should have been towed.

City staff requests that City Council approves the ordinance amending Chapter 19 of the Asheville City Code allowing the city manager or his or her designee to tow illegally parked vehicles, junked motor vehicles or abandoned vehicles in the City of Asheville.

Upon inquiry of Councilwoman Jones, Transit Services Director Bruce Black explained the City's current policy.

Mr. Black responded to Councilwoman Bellamy about the notification procedure.

**Amendment to Allow Gates & Doors to Open onto a City Street or Sidewalk**

Summary: The consideration of an amendment to Section 16-7 of the City Code to allow gates and doors to open onto a City street or sidewalk under certain specified conditions.

Since 1965, Section 16-7 of the City Code prohibits persons from erecting or maintaining any gate or door which opens outwardly on any street or sidewalk. Throughout the City of Asheville, there are numerous instances whereby gates or doors open outwardly on the street or sidewalk. This amendment is intended to provide flexibility to the strict prohibition by allowing gates or doors to open outwardly onto a City street or sidewalk if there is compliance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities.

Pros:

- Provides flexibility to allow consideration for present day situations
- Public safety remains number one priority

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Cons:

- Adds additional time to review process

City staff recommends adoption of the ordinance amendment to allow gates and doors to open onto a City street or sidewalk under certain specified conditions.

**Strategic Plan Update**

Summary: As committed to by City staff at which time that the Asheville City Council formally passed the Strategic Operating Plan, this update is for the various staff tasks outlined within the document.

This multi-year plan document outlines seven (7) key focus areas that City Council has identified as critical to the overall long-term positive growth and vibrancy of the Asheville community. Within those seven key focus areas, 45 goals and 94 operational tasks are identified. Timeframes were identified for each of the tasks. This report outlines staff progress in the third 90 days after adoption of this plan for those tasks with timeframes conducive to this fiscal year.

Pros: City Council will continue to receive quarterly updates to insure city staff is progressing as directed by City Council.

Cons: None noted.

No formal action is required. City Council may provide direction as necessary for tasks as appropriate.

Initiated by Councilman Davis, there was a brief discussion about the vacant economic development position. It was the consensus of Council to discuss the Chamber of Commerce's outside agency funding request for the Economic Development Coalition and the City Manager's request to fill the vacancy of Economic Development Director at the end of this formal agenda.

Upon inquiry of Councilman Davis, Assistant City Manager Jeff Richardson said that Council will need to review the Strategic Plan during the upcoming budget worksessions to determine if it is meeting their long-term or immediate needs and give direction to re-direct staff so that the budget resources can be aligned for future years. City Manager Westbrook also said that Council asked to revisit the Strategic Plan every other year and that should be done at their retreat or similar occasion.

Councilman Davis requested that future Strategic Plan updates be given to Council several days prior to the update being placed on the worksession agenda, in order to give Council additional time within which to review it.

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

## **RIVER DISTRICT**

Planning & Development Director Scott Shuford updated City Council on where the City is with the redevelopment of the River District area.

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He said that the River District (1) contains 873 acres – much larger than the CBD; contains properties located on both sides of the French Broad and Swannanoa Rivers; has 27% of the District is in the Floodway; and has 47% of the district is in the 100-Year Floodplain.

The River District contains a wide variety of land uses and is fairly well-served by roads and other infrastructure, although the main corridor is flood-prone. The City has adopted a plan – the Wilma Dykeman Riverway Master Plan – for improving the area and the transportation corridor.

The Dykeman Plan promotes economic revitalization of River District; promotes environmentally-sensitive redevelopment; and calls for a reconfigured and redesigned road – the Wilma Dykeman Riverway – to serve the area.

- Other plans for the River District include (1) Mountain Housing Opportunities has purchased the Depot Street block that contains the Glen Rock Hotel; (2) City Council will consider rezoning this block to Urban Place District; and (3) MHO's plans call for a mixed-use 125 unit project on 2 acres.

- He explained the redevelopment planning: (1) The Rural Center has provided the City with a \$20,000 planning grant to study the Biltmore Village area of the River District; (2) Up to \$700,000 of implementation money may follow this grant; (3) For Biltmore Village proper, we will concentrate on steps needed to protect and rehabilitate historic structures; (4) For nearby areas, we will focus on redevelopment of underutilized property using current development standards and to implement the Dykeman Plan; (5) The City may seek an additional Rural Center planning grant to study another area or areas of the River District; and (6) We could be eligible for additional implementation money as well.

- He then explained the roadway planning: (1) The City has obtained \$600,000 to prepare some design and development plans for the Wilma Dykeman Riverway; (2) We will try to establish the Riverway as a high priority project on the TIP (Transportation Improvement Program); (3) The City of Asheville is attracting national and international attention; (4) The success of the Downtown is beginning to spread; and (5) City plans and Smart Growth policies promote River (re)development.

- He said that recent floods have identified problems in the types of land uses we allow in our floodplains: hazardous materials ended up in our rivers as flooding occurred; and residential areas were isolated by flooding. Certain uses need to be prohibited or better controlled in the River District.

He said that recent development has created new development pressure in the River District. Flood damage has created new opportunities for redevelopment. Development standards need to help implement the Urban Riverfront Plan. Development standards need to reflect best management practices and promote conservation of key features.

He said that with these issues in mind, City staff has identified several categories of redevelopment goals: financial incentives, regulatory incentives, environmental design, and Infrastructure and safety.

Financial incentives provide (1) financial incentives to adaptively reuse existing buildings, especially historic ones; and (2) financial incentives to spur private redevelopment in accordance with Wilma Dykeman Plan.

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Regulatory incentives provide (1) regulatory incentives to relocate buildings from floodway and to elevate or flood-proof buildings in flood plain; and (2) regulatory incentives to spur private redevelopment in accordance with Wilma Dykeman Plan.

Environmental designs include (1) Create new greenway and park areas; (2) Promote redevelopment that meets "best management practices" for environmentally-sensitive design; and (3) Address stormwater volume and quality through regional solutions.

Infrastructure and Safety include (1) Relocate roads and associated infrastructure from floodway, where both feasible and appropriate; and (2) Buy-out private property in floodway.

The next steps are to (1) Secure grant(s); and (2) Develop draft ideas to share with: RDDRC, RiverLink, Property owners, Planning and Zoning Commission, City Council, and The Rural Center; (3) Obtain approval of the plan; and (4) Move forward with implementation steps: Financial incentives, Regulatory incentives (including rezoning), development & design standards, property acquisition, and infrastructure construction.

Mr. Shuford responded to various questions/comments from Council, some being, but are not limited to: how does this plan coincide with the Greenway Plan; what is the status of the greenway path on the Super Wal-Mart site; and are we looking to apply for more FEMA grants to buy out some of the River District property.

#### **PETITION FOR ZONING STUDY FOR THE WESTERN PORTION OF SARDIS ROAD**

Director of Development Services Joe Heard said that this is the consideration of a request from property owners for a zoning study for properties along the western end of Sardis Road, near the intersection with Sand Hill Road.

Section 7-7-2 of the Unified Development Ordinance (UDO) provides property owners with a method to petition City Council to authorize a zoning study for property not entirely owned by them. The Code requires that at least 51% of property owners in the area join the request and, in this case, the percentage has been reached. The petition process does not require City Council to ask staff to undertake the zoning study; it only requires that Council consider the request.

The area included in the petition is described on the Map #1. In the staff's opinion, this area does not contain all relevant property that should be examined in a zoning study. If Council directs that staff analyze the zoning of this area, then it is recommended that the area be expanded to the proportions illustrated on the Map #2 including all of the CB-II zoned area.

The request is prompted by the petitioners' belief that much of the current development in this area does not comply with the standards for development (particularly restrictions on car sales lots and parking location requirements) in the Community Business II (CB-II) district. The petitioners would prefer a zoning designation of Commercial Industrial (CI) to maximize the number of allowed uses, bring most of the current development into conformity, and allow for future development standards to be more consistent with the current development pattern.

Pro –

- The zoning study would enable the issue about the appropriate zoning of this neighborhood to be decided by City Council.

Con –

- The study will consume limited staff resources that could be devoted to other projects.

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Planning & Development staff is presently involved with projects such as annexation coordination, development review, neighborhood planning, and other special studies to implement Council's strategic plan goals. Performing a zoning study for the Sardis Road area would require some of these other duties to be reprioritized. If City Council desires the requested rezoning study be performed, then staff recommends that the study encompass the larger area described in Map 2.

Upon inquiry of Councilman Davis, Mr. Heard explained what is involved in a zoning study.

After a brief discussion, it was the consensus of Council to instruct Planning staff to provide the following information to Council via memo: (1) is there a time sensitive nature of the zoning study relative to the petitioners; (2) what is the effect of the zoning study might have on the Planning Department's current work program; and (3) a doable timeframe to perform the zoning study that doesn't interfere with the current work program.

Councilwoman Jones want to make sure that the applicants understand that if a zoning study is undertaken, the results of that study might result in a different zoning classification than they requested.

Mayor Worley asked that the record show that City Council received

this information and instructed the City Manager to place this item on an appropriate formal City Council agenda.

## **TRAFFIC CALMING**

- Traffic Engineer Anthony Butzek said that this is information pertaining to historic traffic enforcement data and recent traffic calming projects.

### **Traffic Enforcement:**

The following provides an historical summary of traffic enforcement activities, including:

- 1) Traffic Arrest data
- 2) Traffic crashes reduction efforts
- 3) Amount of time spent on traffic enforcement activities

#### **1) Traffic Arrest data**

- APD arrest data go back 16 years from 1989 to 2004. These were categorized as being either 'traffic-related' or 'other' types of arrests. Based on this data the number of traffic-related arrests has increased each year by an average of 98 arrests per year. The 95% confidence interval for this rate of increase is between 72 and 123 arrests per year. As such, this average increase can be considered to be statistically significant, and we can conclude that traffic-related arrests have generally increased over the last 16 years. It is also notable that year 2004 is appreciably higher than all other years.

The graph below shows the increasing trend of traffic-related arrests by year. The second chart below and associated graph shows the counts, for each year, of 'traffic' arrests and 'other' arrests, as well as UCR population data.

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## 2) Traffic crashes reduction efforts

An ongoing effort is in place wherein Patrol will select specific roadways and intersections that are known to have relatively high numbers of traffic crashes. Once selected, they work to reduce the number of crashes by at least 5%. To help achieve this goal there is an increase in traffic enforcement activities in these areas. Patrol also works with traffic engineering and NCDOT to enhance red light timing cycles, intersection configurations, signs, and might also employ simple solutions like having shrubbery trimmed by public works. The following represent the results of these activities, based on six-month time intervals.

### Last half of 2002 compared to First half of 2003:

Central: from 7 to 2 crashes, 71% reduction (Patton Ave from Clingman to Grove St)

East: from 5 to 1 crashes, 80% reduction (US 70 at Crockett Ave)

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North: from 22 to 9 crashes, 59% reduction (Merrimon Ave at Edgewood, E Chestnut, and Hillside)

South: from 5 to 7 crashes, 20% increase (US 25 at Mills Gap Rd)

West: from 2 to 3 crashes, 50% increase (N Bear Creek from Johnston Blvd to Deaverview Rd)

Overall: from 41 to 22 crashes, 46% reduction

### First half of 2003 compared to Last half of 2003

Central: from 10 to 4 crashes, 60% reduction (Biltmore Ave and Patton Ave)

East: from 27 to 25 crashes, 7% reduction (Fairview Rd and I-240)

North: from 50 to 48 crashes, 4% reduction (Merrimon Ave between Claremont Ave and Edgewood Rd)

South: from 50 to 44 crashes, 12% reduction (Hendersonville Rd from Thompson St to Lula St)

West: from 180 to 175 crashes, 3% reduction (US 19/23 from Regent Park Blvd to NC 63)

Overall: from 317 to 296 crashes, 7% reduction

### Last half of 2003 compared to the First half of 2004

Central: from 2 to 5 crashes, 150% increase (College St from N Oak to Spruce St)

East: from 7 to 8 crashes, 14% increase (US 70 at Riceville Rd)

North: from 65 to 39 crashes, 40% reduction (Merrimon Ave at Gracelyn, Larchmont, Edgewood, Chestnut)

South: from 16 to 25 crashes, 56% increase (Hendersonville Rd from Thompson St to Lula St)

West: from 9 to 8 crashes, 11% reduction (N Louisiana Ave at Kmart/Bi-Lo entrances, just north of Patton Ave)

Overall: from 99 to 85 crashes, 14% reduction

**The aggregate change for the above time periods is from 457 to 403 crashes, an overall 12% reduction.** A new 10-month cycle will be utilized for future assessments, the next one being for the period 8/1/03-5/31/04 compared to 8/1/04 to 5/31/05. Currently selected locations are: Central (I-240 EB, Smoky Park Bridge to Charlotte St), East (US 70 at Tunnel Rd), North (Merrimon Ave from Edgewood to Dunwood), South (Sweeten Creek at Mills Gap, and West (Patton Ave and Louisiana Ave).

To represent the overall citywide trend, the counts of crash-related calls for service are shown below for available years. It is important to note that the new OSSI CAD system was put in place 3/11/03, and probably does a far better job of excluding duplicate calls for service that relate to the same accident. As can be seen below, the counts using the new system are appreciably lower than counts from the old system.

<u>Year</u>	<u>Count</u>	<u>Source</u>
1999	7,941	old CAD
2000	8,149	old CAD
2001	8,162	old CAD
2002	8,191	old CAD
2003	6,699	mostly new CAD
2004	6,846	new CAD

## 3) Amount of time spent on traffic enforcement activities

During Fiscal Year 2003-2004 APD spent about 47,000 hours traveling to and servicing all calls for service. Approximately 13,000 of these hours were in response to traffic-related calls for service. Thus, about  $13000/47000 = 27\%$  of Patrol's active time is committed to traffic-related activities.

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### Traffic Calming:

#### **Completed projects**

South French Broad (phase 1 of 2), Florida/Dorchester, Caribou, Wyoming, Gracelyn/Ottari – 3.3 miles, \$97,000

Murdock/Ridgelawn/Wellington (in progress) – 1.5 miles, \$82,000

#### **Projects Under Design**

Kenilworth Road – 1.3 miles, est. \$80,000  
Redwood Forest (from Riverbend) – 0.96 miles, \$65,000 max private funds  
Shiloh (from Appeldoorn) – 2.3 miles, \$84,000 max  
Biltmore Park (HOA project) – 2.7 miles, est. \$65,000 private funds

### **Planned Projects**

Grove Park neighborhood (from GPI) – 3.4 miles, est. \$200,000 private funds

### **Likely Future Projects**

Governors View/Arco (from Riverbend UV) – 1.3 miles, \$25,000 max private funds  
South French Broad (phase 2 of 2) – 0.5 miles  
Cedar Street and Wood Avenue – 0.7 miles

### **Costs and Needs**

The engineer's estimate for the most recent project was about \$77,000 per mile of traffic calming. The most recent bid for same was about \$114,500 per mile. We believe the engineer's estimate is reasonable, and that the contractor's bids were excessive due to lack of local competition, particularly in the asphalt industry.

At this time, we have not prioritized future projects beyond Kenilworth Road. We have requests for traffic calming on about 300 street segments in the City, totaling about 100 miles of streets. The streets which appear to be most impacted by existing traffic, based on measured traffic volumes and measured speeding are:

- Cedar Street and Wood Avenue, 0.74 miles
- South French Broad Avenue (Phifer to Livingston), 0.47 miles
- Kimberly Avenue and Edwin Place, 1.65 miles
- Montford Avenue, 0.89 miles
- Edgewood Road (north), 0.36 miles
- School Road East, 0.52 miles
- Chestnut Street, 1.12 miles
- Bear Creek Road, 0.73 miles
- London Road, 0.70 miles
- Burton Street, 0.56 miles
- Hanover Street, 0.50 miles
- State Street, 1.00 miles
- Forest Hill Drive (Wyoming to Biltmore), 0.23 miles
- Westwood Place, 0.70 miles
- Shelburne Road, 0.67 miles

These total to 10.84 miles. In addition, there are many more residential streets on which traffic volumes are relatively low, but speeding is particularly prevalent, including Cisco Road, Michigan Avenue, and Riverview Drive.

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### **Pros of traffic calming**

- Speeding is reduced
- Need for enforcement is reduced
- Quality of life is improved for residents of streets
- Can include aesthetic enhancements to support community

### **Cons of traffic calming**

- Costs for installation
- Costs of maintenance
- Some opposition to measures (typically a minority of residents)

Regarding the City Council's Strategic Operating Plan, traffic calming supports an efficient transportation system by managing traffic demand in neighborhoods.

Councilman Dunn expressed concern with the \$77,000 per mile amount and the time delay for emergency vehicles

Councilman Newman felt that with the resources that we have available, we may need to focus our traffic calming towards more pedestrian safety in key areas, i.e., around playgrounds.

Discussion surrounded the different technology for traffic calming and how the fine money is distributed.

Councilman Dunn was interested in looking at the use of technology as a way of traffic calming.

Councilwoman Jones felt it was important to have community involved if a decision is reached to use different technology in traffic calming.

When Councilwoman Bellamy asked how many police officers are dedicated to traffic enforcement, Police Chief Hogan said that all police officers play a role in traffic enforcement. Twenty-five to twenty-seven percent of our time is spent on traffic enforcement in addition to one officer dedicated in each district to the traffic safety of that district.

It was the consensus of Council to instruct staff to report back to Council of alternative ways to use technology in traffic enforcement.

## **UDO AMENDMENT REVIEW**

- City Attorney Oast said that this Unified Development Ordinance amendment is being brought before City Council in order that staff may respond to questions Council may have prior to the public hearing, which has been scheduled on May 24, 2005. He advised Council that it would be inappropriate for Council to receive comments from the public at this worksession.

### **Establishing Conditional Zoning**

- City Attorney Oast said that this is the consideration of an ordinance to amend the Unified Development Ordinance by adopting conditional zoning (and repealing conditional use district zoning) as a land use approval process.

Conditional or Special Use District (CUD) zoning has been authorized in North Carolina since the mid 1960's. Asheville adopted CUD zoning as part of the UDO in 2000. Despite the benefits of flexibility that CUD zoning provides, its legal and theoretical underpinnings –

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bifurcating the legislative rezoning from the quasi-judicial conditional use permit – have always been difficult to apply in practice.

In 2001 and 2002, the North Carolina Court of Appeals in two cases (review denied by the Supreme Court) approved the use of "conditional zoning." Conditional zoning is essentially the same practically and conceptually as CUD zoning in that it is a rezoning based on a site specific development plan, and the applicant is bound by the conditions in the ordinance. Legally, however, it collapses what was an awkward two-step process into a single process.

One important difference for the Planning and Zoning Commission and City Council is that the conditional zoning process requires no specific findings. Decisions should still be based on sound land use guidance principles, however, and this is set forth in the proposed ordinances. It may help to think of conditional zoning as adopting a set of development regulations (building height, setback, etc.) and applying them to a single property or group of properties, creating a single use classification. Procedurally, the process is much less complicated than CUD zoning. The process for appealing a conditional zoning ordinance into the courts would be different as well.

Under the proposed ordinance, the application process would be mostly unchanged from the current process for CUD zoning – requiring that the owner be the applicant, that a site specific plan be submitted, and that the uses be specified. Also under the proposed ordinance, conditional zoning is not available for classifications such as Urban Village, where a site plan is already required.

The current CUD zoning process would be eliminated for future use. Any CUD zoning designations established by this process, however, would continue to be governed by the CUD ordinance.

History / Prior Actions: After adding the reference to the conditional use standards in Sec. 7-16-2 to Sec. 7-7-8(d)(5), the Planning and Zoning Commission unanimously recommended adoption of the proposed ordinance.

#### Considerations:

- streamlined process at Planning & Zoning/Council level, and in courts
- increased flexibility in zoning
- less administrative time required to process applications, administer ordinance
- less vulnerability to judicial challenge
- susceptible to over use

City staff recommends City Council amend the Unified Development Ordinance (UDO) by adopting conditional zoning (and repealing conditional use district zoning) as a land use approval process.

City Attorney Oast responded to various questions/comments from Council, some being, but are not limited to: how will protest petitions be affected; will more conditional zoning requests be applied for; how many cities in North Carolina use this type zoning and are

they satisfied with the process; what is the reason behind repealing the conditional use district zoning; and are there any hidden risk factors.

City Attorney Oast said that he would include language in the ordinance that it be used for firm development proposals and revise the Code references in Section 7-7-8 (c) (6).

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At the request of Councilman Newman, City Attorney Oast said that when this ordinance is brought before Council for formal action, the Planning & Development Director will provide Council with examples of minor modifications that can be approved by him. Councilman Newman asked that City Council be apprised of any minor modifications made by the Planning & Development Director.

Mayor Worley asked that the record show that City Council received this information and instructed the City Manager to place this public hearing on the appropriate City Council agenda.

#### **CHAMBER OF COMMERCE – ECONOMIC DEVELOPMENT COALITION**

Discussion surrounded the role of the City's vacant Economic Development position; the relationship with the Chamber of Commerce and the next \$100,000 commitment for their new building; and the Economic Development Coalition's outside agency request for \$75,000.

City Manager Westbrook said that the City's policy is to not recruit and that is the role for the Chamber of Commerce. He explained why the City's Economic Development Director position is distinctly different than the work of the Chamber of Commerce.

Councilman Newman felt the City's economic development policy needed to be reviewed.

Vice-Mayor Mumpower felt the role of the City's Economic Director should be expanded and strengthened for a stronger sense of substance.

Councilman Bellamy said that the City contributes financially to the Economic Development Commission and we are only allowed one voting member. She felt that if the City is "paying" for that seat, we need to be sure that they are meeting our needs and our expectations.

The majority of Council was in favor of the City Manager hiring the City's Economic Development Director.

It was the consensus of City Council to discuss these items with the Chamber of Commerce at their quarterly meeting on May 10, 2005.

#### **SPECIAL MEETING**

Councilwoman Bellamy moved to schedule a special meeting on Tuesday, April 26, 2005, at 8:00 a.m. at the Renaissance Hotel in downtown Asheville, for the purpose of participating in the mediation regarding termination of the water agreement. It is anticipated that City Council will go into closed session for a significant part of that meeting, pursuant to the attorney-client privilege exception, in order to consult with the City's attorneys. This motion was seconded by Councilwoman Jones and carried on a 6-1 vote, with Vice-Mayor Mumpower voting "no."

#### **BOARDS AND COMMISSIONS:**

It was the consensus of City Council to instruct the City Clerk to prepare the proper paperwork to appoint W. E. Lack to the Civic Center Commission, to fill the unexpired term of Sylvia Farrington until June 30, 2005, and then a full three-year term until June 30, 2008, or until his successor is appointed.

It was the consensus of City Council to instruct the City Clerk to arrange interviews for the following individuals for a vacancy on the Film Commission: Mary Trimarco and Donna Daniels.

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#### **ADJOURNMENT:**

Mayor Worley adjourned the meeting at 6:25 p.m.



CITY CLERK

MAYOR