

City Council of the City of Carbondale, Illinois
Regular Meeting
July 6, 2004

The City Council of the City of Carbondale, Illinois, held a regular meeting on Tuesday, July 6, 2004, in City Council Chambers of the Carbondale Civic Center, 200 S. Illinois Avenue. Following a meeting of the Local Liquor Control Commission, Mayor Brad Cole called the City Council meeting to order at 7:05 p.m. with the following-named members of the City Council present/absent:

1. Roll Call

Present: Councilman Lance D. Jack, Councilwoman Corene McDaniel, Councilwoman Margaret Flanagan, Councilman Chris Wissmann, Councilman Steven N. Haynes and Mayor Brad Cole

Absent: Councilwoman Sheila Simon

Also present were City Clerk Janet M. Vaught, City Manager Jeffrey W. Doherty and various members of the City's administrative staff.

2. General Announcements and Proclamations

Mayor Cole announced a Special City Council Meeting to be held on Thursday, July 8, 2004, at 5:30 p.m. in the Mayor's Conference Room in City Hall.

Councilman Jack announced that on Tuesday, July 13, there would be a "Second Day Issue" of the R. Buckminster Fuller Stamp at the RBF Dome Home at 407 S. Forest.

Councilman Wissmann announced the 2nd Annual Southern Illinois Ethnic Festival to be held on July 9-10 at the Town Square, which is a great opportunity to hear live music and celebrate the diversity of the community.

Mayor Cole announced that Sara Berkbigler, Executive Director of the Chamber of Commerce, would be leaving that position on July 16 and thanked Berkbigler for her work at the Chamber.

3. Citizen Comments and Questions

Max Grubb, 1120 W. Clayton Road, noted that until the end of June he had served as a member of the Carbondale Information and Telecommunications Commission (CITC), adding that in July he would be leaving Carbondale and moving to Ohio. He had been asked to speak to the Council by the CITC regarding the PEG (public-educational-governmental) channel which, in this case, is Channel 16. Grubb said the CITC advocates the expansion of the current use of Channel 16 or the acquisition of additional access channels when the franchise is renegotiated. He advised that outside consultants or an outside firm which specializes in franchise negotiations be retained, adding that he gave a name of a firm to the City Attorney about three months ago. Grubb said he believes the City needs to take the channel to the next level, adding that he believes the current use of the government channel, while somewhat effective, is

underutilized. He said the arguments are that there is no money and that the City shouldn't be exposed to possible liabilities. Grubb said that there are over 1,000 community access channels across the country and most are being highly utilized by both the government, education and the community. If one does a Google search for community television, there are thousands of websites available that will show what is being done. He added that municipalities have done wonderful jobs in forming partnerships throughout their communities and their regions to utilize these channels. Grubb's position is that the City needs to expand the community channel, adding that there are a variety of models available that would solve the issues of money and liability. He said an active access channel will benefit the community in various ways: (1) as outreach to the community not just by the government but also by civic organizations, schools and other entities; (2) citizen access which would provide the citizens a public forum, something that corporate media cannot or will not provide; (3) it can serve as a community builder and will contribute to the cohesiveness of the community; (4) it would also contribute to the cohesiveness in Southern Illinois, adding that Carbondale does not have to do this on its own. He noted that one of the models that he came across would suggest the interlinking of the various cable systems across Southern Illinois. In addition, he said, Mediacom serves most of the communities throughout the region and the technology is there to interlink them, share resources, share money, and share an organization that would have one basic broadcast system that could be set up to feed the entire community channel system. This would help unite Southern Illinois or at least communicate across the artificial boundaries. Mr. Grubb said the system could be City-run as is done now or there can be a 501(c)(3) organization which he has seen models of. He added that one of the firms that negotiates franchise agreements has negotiated one in which a 501(c)(3) organization would run the channel, would have access to other monies the City cannot provide, would have an avenue in which the community can get involved and would provide the policies that make it safe in regard to liability issues. He said there are also regional models, adding that by sharing resources throughout Southern Illinois there could be a medium in which ideas and concerns can be shared. Grubb said the City could also partner with SIU or John A. Logan, adding that there is a model in Springfield, Illinois, between the City of Springfield and the University of Illinois-Springfield. He encouraged the City to "think outside the box", adding that if Carbondale wants to make the community more cohesive and reach out, he believes the City could expand or add additional channels. He said the entities are already here, adding that one model is in St. Louis where the community radio station runs the access channel under a 501(c)(3) organization. He said he advocates the Council open its mind and think about it, adding that the Carbondale Information and Telecommunication Commission is already thinking about it and would like the Council to provide feedback to them on what the Council would like to pursue.

Cornelius Crane, 407 S. Forest Avenue, followed up on Councilman Jack's announcement about the Second Day Issue of the R. Buckminster Fuller postage stamp on Tuesday, July 13. The RBF Dome Home at 407 S. Forest will be turned into a special post office between 10:00 a.m. and 1:30 p.m. for the purpose of issuing the stamp. The RBF Dome Home NFP will be selling cachets to raise funds for the RBF Dome Home. Parking will be available in various locations throughout the neighborhood.

Dr. M Stalls, 407 N. Robert A. Stalls, inquired about the enforcement of the “weed ordinance”, adding that there is a lot to the left of her property about which she wrote a letter to Mr. Tom Grant. She said the lot is about 155' x 50' and although it has never been cited or posted for overgrowth of grass or weeds, her lot has been posted when she didn't have a chance to mow it before it got too long. She made some phone calls and talked to someone who was very nice but not very helpful so she wrote the letter to Mr. Grant. As of today, nothing has happened about the posting of the lot. However, one of the rotten trees on the lot has fallen over into her yard. She said she is bringing this to the Council to see if the Council can find out about the situation and get some action on it. She said she is not sure who the lot belongs to, perhaps Jackson County, adding that she received a letter a few weeks ago from the County asking if she would like to purchase the property. She does not want to buy the property but does believe it should be maintained just as she has to make sure her property is maintained. Mayor Cole responded that City Manager Doherty will look into this matter and get back to Dr. Stalls.

Patrick Kelly, 403 W. College, addressed the Council as Chair of the Energy and Environmental Advisory Commission (EEAC). Mr. Kelly noted that at its last meeting the EEAC unanimously endorsed a statement concerning mosquito abatement. Kelly said concerns have been brought forward regarding population control of adult mosquitos and the practice of spraying of insecticides throughout the community. The EEAC believes the Carbondale Mosquito Abatement District has made attempts to perform their task while limiting the contact of pesticides in neighborhoods. However, the EEAC believes there is a cooperative approach that could benefit the citizens. Mosquito traps are selective bug killers that use chemicals to attract only mosquitos. Many Carbondale homeowners have already purchased traps. It is the belief of the EEAC that if a great number of traps were deployed throughout Carbondale, the population of mosquitos would be drastically reduced. Kelly concluded by noting that the EEAC suggests that the City pursue bulk purchasing of traps to be resold to interested citizens at a drastically reduced rate. The EEAC believes that by subsidizing the cost of these units for Carbondale's citizens many more will be distributed throughout the community for the benefit of all.

4. Consent Agenda

Presented for Council approval on the Consent Agenda were the following items and corresponding recommendations:

1. Approval of Minutes. Recommendation: Approve minutes of the Regular City Council meeting held on June 15, 2004.
2. Warrant. Recommendation: Approve Warrant #927 for period ended June 8, 2004 (FY 2005) in the amount of \$2,242,670.99. (Exhibit A-7-6-04)
3. Warrant. Recommendation: Approve Warrant #926 for period ended June 8, 2004 (FY 2004) in the amount of \$68,348.67. (Exhibit B-7-6-04)
4. Acceptance of Minutes of Boards, Commissions and Committees. Recommendation: Accept Carbondale Information and Telecommunications Commission of April 21, 2004 and Preservation Commission of May 17, 2004.
5. Action to amend the FY 2005 Capital Improvements Program and approving a Supplemental Motor Fuel Tax Resolution providing for the City's final cost for the

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Illinois Route 13/Striegel Road Intersection Improvements (CIP TS0001). Recommendation: Amend the FY 2005 CIP Program by including the Illinois Route 13/Striegel Road Intersection Improvements (CIP TS0001) in the amount of \$15,204.34 and approve a Supplemental Motor Fuel Tax Resolution in the amount of \$3,363.00. (Exhibit 2004-R-57; Exhibit C-7-6-04)

6. Acceptance of deeds and easements. Recommendation: Accept Dedication of Property for Public Purposes and the permanent easement from Hopewell Missionary Baptist Church for right-of-way along Gum Street and Dedication of Property for Public Purposes from Southern Illinois University for the McLafferty Road water main project and authorize the City Clerk to record the documents.
7. Resolution approving Chapman Estates Subdivision and Subdivision Agreement located at 216 Hunt Road. Recommendation: Approve. (Res. 2004-R-58; Exhibit D-7-6-04)
8. Ordinance annexing .28 acres located at 2401 New Era Road (Cooper Trust). Recommendation: Approve. (Ord. 2004-44; Exhibit E-7-6-04)
9. Illinois Municipal League Legislative Bulletin 2004-15. Recommendation: Accept and place on file.
10. Acknowledgment of the Payment of the National Pollution Discharge Elimination System (NPDES) fees to the State of Illinois under protest. Recommendation: Acknowledge payment of 2004 NPDES permit and sludge fees to the EPA under protest.
11. Appointments to boards and commissions. Recommendation: Concur in appointment of Rick Jackson to the Human Relations Commission through April 15, 2005; reappointment of Rob Taylor to the Liquor Advisory Board through May 1, 2005; and appointment of Elaine Conrad to the Planning Commission through January 31, 2007.
12. Award of purchase of MFT maintenance materials for FY 2005. Recommendation: That the purchase of MFT Maintenance Materials be conditionally awarded pending IDOT's concurrence to Illini Asphalt of Benton for Group A (Bituminous Materials Applied and CA-16 Rock Spread) in the amount of \$41,379.82 and to Dwain Forby Trucking of Makanda for Groups B (CA-10 Rock), C (CA-11 Rock) and D (CA-1 or RR-1 Rock) in the amount of \$13,752.95 and that the purchase of non-MFT maintenance materials be awarded to Dwain Forby Trucking of Makanda for Groups B and C in the amount of \$23,152.00.

Mayor Cole asked if anyone would like any items removed from the Consent Agenda. There was no one who indicated a desire to remove any item.

C. McDaniel moved, S. Haynes seconded, that the Council approve Consent Agenda Items 4.1 through 4.12. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

5. Public Hearings

1. Public Hearing on the Use of Motor Driven Cycles and Motorized Pedalcycles:

The minutes of this public hearing were transcribed separately.

6. General Business

1. Ordinance regulating recovery in Medical Malpractice Suits:

Mayor Cole noted that this item was discussed at the last meeting and failed to pass on a 3-3 tie vote, adding that the ordinance is being presented again in its original form for reconsideration. S. Haynes moved, C. McDaniel seconded, that the Council approve the Ordinance Regulating Recovery in Medical Malpractice Suits.

DISCUSSION: Mayor Cole noted that the item was presented at the last meeting at which time a lengthy discussion ensued. At this time, since it is presented in its original form without adjustments or alternations, he would ask for discussion from the Council but does not know that there is a necessity to take additional comments from the audience because it would just be to reiterate what was stated before. He opened the item for discussion by the Council.

Councilman Jack asked if there is an accurate estimate of the time and money it would cost to defend a lawsuit if the ordinance is passed. City Manager Doherty said the City Attorney would represent the City in Circuit Court, adding that there would be no outside legal fees unless the Council wanted to go in that direction. He added that the City Attorney handles multiple projects on a daily basis, has handled special projects in the past that have come along and he would view this as one of those cases. Councilman Jack said he might bring something else up later.

Councilwoman McDaniel noted that at the last meeting there were quite a few community people that spoke in opposition. She asked if anyone contacted the Mayor or anyone else with suggestions on how the ordinance could be modified or made into something they would be willing to accept. Mayor Cole responded that no one that comes to mind.

Councilwoman Flanagan said that she was not present at the last meeting because business took her out of town. She said that this ordinance would be a law on the books and one of her questions is whether it would solve the problem. She said the ordinance is generally not accepted as legal and is not expected to stand up in court. She said it is proposed to put another law on the books for the purpose of sending a message to Springfield. She said legislators in Springfield have apparently not heard the Council's resolution, adding that the Council has used resolutions for addressing national issues. She also said the legislature has not heard the thousands of Illinois doctors who have appeared at hearings looking for relief so they can continue their work. Ms. Flanagan said she does not want to see the demise of the medical community and wants to do something about it. She added that the ordinance can be passed with the hope that it gets the message across and that the City doesn't fall into litigation and that the fears of liability do not come true. Or, she said, the Council could take a bus to Springfield, picking up other City Councils along the way and stay there until there is a promise of resolution to this plight. Or, she said, the Council can hold a public hearing to ascertain other ideas that might address this issue, adding that the medical defense bar might be able to give ideas or help craft legislation that everyone can support. She said that this is an important issue and that the City must do something. She said her best judgement is that this

ordinance is not the best thing for the Council to do. She asked “if not this, what?” She suggested that the City could self-insure, sue the State for legislative inaction bringing dire consequences on the counties of Southern Illinois, or seek out ideas that can alleviate this severe challenge. She said the City Council should not stop its efforts because it is in stalemate at the Council table, adding that the Council will probably be in stalemate again this evening. Ms. Flanagan said this gives the Council an opportunity to craft and get behind the Mayor, adding to the Mayor that she admires him for crafting this idea. She stated that it is a bold step and with work, some input and with everyone working on something, the Council might be able to draft something that everyone can support. She said she would like to work with the Mayor on this and encouraged the Council to visit the Mayor’s Office to help do something bold. She added that she knew the Marion Council passed the ordinance on the heels of it being introduced by Carbondale’s Mayor, and she believes something must be done because there is enough discomfort with so many of the people in the community about this that she thinks something could be worked out that would satisfy most people. She concluded by stating that she believes the Council is committed to doing that.

Councilman Wissmann said that he has expressed serious reservations about the ordinance both in this venue and others and all of those concerns remain. He said that passage of the ordinance could be a symbolic gesture and not necessarily the symbolism that he would like to project. He said that he is willing to vote for the ordinance tonight, adding that he has spoken with others at the table and has said otherwise. However, in thinking through this and trying to think of a way to address the issue he is willing to vote for it if the Council can, as a Council, in the near future, consider a tangible measure that will insure that patient care will be improved by helping patients receive information necessary to make informed decisions about their medical care. Mr. Wissmann said he has thought about this a lot and thinks regulation of insurance rates is an essential piece of the puzzle. He said asking City staff to draft and enforce such an ordinance is probably beyond what should be asked of them and could be a boondoggle. He said the other components of the puzzle involves physicians remaining honest and open about the mistakes they have made. He said he would like to see Carbondale compile and maintain a list of local physicians who have been disciplined by the Illinois Medical Disciplinary Board and require doctors who have been disciplined to provide written copies of the Illinois Medical Disciplinary Board’s reports to all patients and obtained signed waivers that they have received the reports but still choose to receive care from the doctor in question. Councilman Wissmann said that doctors have come to the Council and said they really need this, but he disagrees. He does not think this ordinance will help them, but if that is what they want he is willing to entertain it provided the doctors give up something in return – if when they make mistakes they disclose that to their patients so patients can know when they go into a doctor’s office whether that doctor has been cited. Then the patient can decide whether they choose to receive care from the doctor or whether they should find a new doctor. Councilman Wissmann said that in 1995 when Colin Powell was approached to run for President, he was asked by a reporter why he didn’t run. Powell’s reply was that people run for political office because they have convictions or values that they like to see represented in legislation and public policy. However, when they get into public office, they realize it is about compromise and sometimes

deciding you are ready to give up a particular value to get something else. Councilman Wissmann said he was ready to let this go because he thinks its value is primarily symbolic but in return he wants a public commitment that the City will look at a physician disclosure ordinance.

Mayor Cole responded to Councilman Wissmann's comment by stating that he thinks that is a good idea and is something that can be considered as a part of trying to insure there are good practices available in Carbondale. He said he agreed wholeheartedly.

Councilman Haynes said he had very little to say on this matter and added that he would like to call the question. Councilman Jack said he would abstain on the vote because he would have liked to have said more.

MOTION: that the Council approve the Ordinance Regulating Recovery in Medical Malpractice Suits. VOTE: Ayes: C. McDaniel, C. Wissmann, S. Haynes and B. Cole. Nays: M. Flanagan. Abstention: L. Jack. Motion declared carried. (Ord. 2004-45; Exhibit F-7-6-04)

2. Ordinance approving Mesirow Financial, Inc., as underwriter and authorizing the issuance of up to \$6,700,000 series 2004 General Obligation Refunding Bonds:

L. Jack moved, M. Flanagan seconded, that the Council approve Mesirow Financial Inc. as bond underwriter and to adopt the Bond Ordinance authorizing the issuance of up to \$6,700,000 Series 2004 General Obligation Refunding Bonds. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Ord. 2004-46; Exhibit G-7-6-04)

3. Ordinance establishing the Special Tax Allocation Fund for the Tax Increment Financing District in Redevelopment Project Area No. 1:

C. Wissmann moved, L. Jack seconded, that the Council adopt an Ordinance to establish a special revenue fund for the Tax Increment Financing District in Redevelopment Project Area No. 1. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Ord. 2004-47; Exhibit H-7-6-04)

4. Approval of the purchase of replacement circuit boards from J.M. Process Systems Inc.:

L. Jack moved, C. Wissmann seconded, that the Council approve the purchase of twelve replacement circuit boards as listed in Jim Swayze's letter dated June 11, 2004, from J.M. Process Systems Inc. of Orland Park, Illinois, in an amount not to exceed \$26,340.00. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

5. Resolution authorizing the City Manager to enter into a Contract for the Purchase of Real Property at the Location of 100 East Walnut and 220 South Washington Street and authorizing the Mayor to accept a deed conveying said property to the City of Carbondale:

C. Wissmann moved, L. Jack seconded, that the Council approve the Resolution authorizing the City Manager to enter into a Contract for the Purchase of Real Property at the Location of 100 East Walnut and 220 South Washington Street and authorizing the Mayor to accept a deed conveying said property to the City of Carbondale. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Res. 2004-R-59; Exhibit I-7-6-04)

6. Ordinance authorizing Budget Adjustments for the increase in the overall Fiscal Year 2005 Budget in the amount of \$764,937.00:

M. Flanagan moved, S. Haynes seconded, that the Council approve the Ordinance authorizing Budget Adjustments for the increase in the overall Fiscal Year 2005 Budget in the amount of \$764,937.00. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Ord. 2004-48; Exhibit J-7-6-04)

7. Award of purchase of replacement telephone systems for the City Hall/Civic Center and Police Department:

C. McDaniel moved, C. Wissmann seconded, that the Council award the purchase of replacement telephone systems for the City Hall/Civic Center and Police Department from Professional Communications Systems of Murphysboro in the amount of \$94,458.00. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

8. Award of purchase of two rubber-tired tractor-loader/backhoes for the Street Maintenance and Water Distribution Divisions:

S. Haynes moved, C. Wissmann seconded, that the Council declare the trade-in equipment, a 1989 JCB Model 1550B Tractor-Backhoe, Serial No. 15T4129/351846/7, City Tag #6952; and a 1993 John Deere Model 310D Tractor-Backhoe, Serial No. TO310DG794892, City Tag #7969 as surplus property; and award the purchase of two rubber-tired tractor-loader/backhoes to Roland Machinery Company of Bridgeton, MO, in the amount of \$113,206.00. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

9. Award of purchase of materials for Grand Avenue Bridge (CIP No. SW0501):

C. McDaniel moved, L. Jack seconded, that the Council award the purchase of materials for the Grand Avenue Bridge (corrugated steel plate arch component),

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CIP No. SW0501 to Energy Culvert Company Inc. of Energy, Illinois, in the amount of \$23,110.84. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

10. Award of purchase of one small pickup truck with extended cab for Water and Sewer Meter Services and one full-size ½ ton heavy-duty 4x4 pickup truck for the Northwest Wastewater Treatment Plant:

C. Wissmann moved, S. Haynes seconded, that the Council declare the 1991 Dodge Utility pickup (VIN #3B7KE23Z1MM037805, City ID #7388) and the 1991 Dodge D150 Pickup truck (VIN #1B7GE16Y5MS281886, City ID #7367) as surplus property and award the purchase of one 2005 model Dodge Dakota Extended Cab pickup truck in the amount of \$17,980.00 and one 2005 Model Dodge Ram 1500 Regular Cab 4x4 pickup truck in the amount of \$25,465.00 to Ward Chrysler Center of Carbondale. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

11. Award of contract for the composition, layout and printing of the Carbondale Communique for FY 2005 and FY 2006:

C. McDaniel moved, S. Haynes seconded, that the Council award the contract for the composition, layout and printing of the Carbondale Communique for FY 2005 and FY 2006 to the Southern Illinoisan of Carbondale in the amount of \$19,827.50. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

12. Ordinance amending Title Two of the City Code as it relates to the number of Class C liquor licenses:

C. McDaniel moved, M. Flanagan seconded, that the Council approve an ordinance amending Title Two of the Carbondale Revised Code as it relates to the number of Class C liquor licenses. VOTE: Ayes: L. Jack, C. McDaniel, M. Flanagan, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Ord. 2004-49; Exhibit K-7-6-04)

7. Council Comments

Councilwoman Flanagan noted that she would be out of town and would miss the September 21, 2004, Council meeting.

Councilman Jack noted that as the Council progressed through the agenda he was throwing out “trivial” questions. He explained that he was doing this to show that the City, our government and the staff acts in a very responsible manner, an efficient manner. He said that without this efficiency, the City would not be able to get the things done that it does. He brings this up because, using his doctor analogy, the City wouldn’t be able to proceed very quickly or far if it didn’t contemplate a remedy to a problem first, if it was just decided to throw a remedy at a situation and see if it works, which seems inefficient. He said the ordinance that was passed at the very beginning of the agenda, if there hadn’t been an “end run” procedure, he would have said it was a

backwards solution. He said that instead of fixing the problem up front and then enacting a solution, instead a car is being built that is known to have many flaws but once it comes off the assembly line, then we'll worry about the problems. Councilman Jack said he just wanted to point out that normally a good job is done at bringing experts together and discussing things before the Council moves forward on them and he thought this would be a better way of approaching this ordinance today.

Councilwoman McDaniel announced that the 24th Spirit of Attucks reunion was held the prior weekend. Next year's reunion will celebrate the Silver Anniversary. She thanked all the sponsors and especially the City of Carbondale for the support that was given for this year's celebration.

8. Adjournment

There being no further business to come before the City Council, the meeting was declared adjourned at 9:07 p.m..

Janet M. Vaught, City Clerk

Approved by the City Council on:
