

City Council of the City of Carbondale, Illinois  
Regular Meeting  
June 1, 2004

The City Council of the City of Carbondale, Illinois, held a regular meeting on Tuesday, June 1, 2004, in the City Council Chambers of the Carbondale Civic Center, 200 S. Illinois Avenue. Mayor Brad Cole called the meeting to order at 7:00 p.m. with the following-named members of the City Council present/absent:

1. Roll Call

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

Absent: None

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 expressed appreciation to the staff of the City's Emergency Operating Center for tracking the severe storms that have passed through the area during the past couple of weeks and issuing the warnings necessary to save lives and property.

Mayor Cole thanked City Clerk Janet Vaught for arranging Monday's Carbondale Memorial Day Services and Cemetery Sexton Gary Hefler and the Public Works staff for doing a good job in cleaning up Woodlawn Cemetery in the wake of the storms.

3. Citizen Comments and Questions

Timothy Donohue, 307 S. Graham #1, stated that the report on motorized scooters that was presented to the Council by the City Attorney two weeks ago had several inconsistencies and contradictions. He outlined some of the points he believed were inconsistent. Donohue again asked for a public hearing on the issue of motorized scooters. Mayor Cole responded that staff is reviewing the proposal submitted by Donohue and that a public hearing on the issue will be held in July when the full Council is present.

4. Consent Agenda

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

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1. Approval of Minutes. Recommendation: Approve minutes of the Regular City Council meeting, the Public Hearing on an Annexation Agreement with Holly Immel and Wendell Keepper for Whippoorwill Glen Subdivision and the Public Hearing on the proposed vacation of Kenneth Road right-of-way located within the Sunny Acres East - Third Plat Subdivision, all held on May 18, 2004
2. Warrant. Recommendation: Approve Warrant #922 for the period ended May 10, 2004, in the amount of \$2,438,098.47. (Exhibit A-6-1-04)
3. Warrant. Recommendation: Approve Warrant #923 for the period ended May 10, 2004, in the amount of \$628,342.86. (Exhibit B-6-1-04)
4. Acceptance of Minutes of Boards, Commissions and Committees. Recommendation: Accept Library Board of April 14, 2004; Planning Commission of May 5, 2004 and Preservation Commission of April 19, 2004.
5. Illinois Municipal League Legislative Bulletins 2004-12 and 2004-13. Recommendation: Accept and place on file.
6. Ordinance adopting the Prevailing Rate of Wages of Laborers, Mechanics, and other Workers Employed in Public Works as Certified by the Illinois Department of Labor. Recommendation: Approve. (Ord. 2004-39; Exhibit C-6-1-04)
7. Acceptance of Motor Fuel Tax Audit No. 67 for period May 1, 2002 and ending on April 30, 2003. Recommendation: Accept and place on file.

Mayor Cole asked if anyone would like any items removed from the Consent Agenda. No items were removed.

S. Hayes moved, S. Simon seconded, that the Council approve Consent Agenda Items 4.1 through 4.7. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried.

5. Public Hearings

1. Public Hearing on Annexation Agreement with Gerald R. and Hway Young Dunn for 5.74 acres located at 3686 and 3698 South Illinois Avenue:

The minutes of this public hearing were transcribed separately.

2. Public Hearing on the Proposed Vacation of a east/west alley right-of-way between North Washington/North Marion Streets and East Birch/East Chestnut Streets:

The minutes of this public hearing were transcribed separately.

6. General Business

1. Resolution authorizing the City Manager to execute a contract for the purchase of real property from James E. and Marcia B. Sinnott and Resolution appropriating \$528,647 in Motor Fuel Tax Funds for land acquisition and construction for the Grand Avenue/Wall Street Intersection Improvements, CIP ST9901:

M. Flanagan moved, S. Simon seconded, that the Council approve the Resolution authorizing the City Manager to execute a contract with James E. and Marcia B. Sinnott for the purchase of real property (260 square feet) for the Grand Avenue/Wall Street Intersection Improvements (CIP ST9901) in the amount of \$10,000 and approve the Resolution which appropriates \$528,647 in Motor Fuel Tax funds for the Grand Avenue/Wall Street Intersection Improvements (CIP ST9901) for land acquisition and construction costs for the project. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried. (Resolutions 2004-R-48 and 2004-R-49 respectively; Exhibits D-6-1-04 and E-6-1-04 respectively)

2. Resolution approving Arbor Hill Subdivision and Subdivision Agreement located at 3686 and 3698 South Illinois Avenue:

C. Wissmann moved, S. Haynes seconded, that the Council adopt the Resolution approving the subdivision plat and subdivision agreement for Arbor Hill Subdivision. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried. (Resolution No. 2004-R-50; Exhibit F-6-1-04)

3. Ordinance approving an Annexation Agreement between the City of Carbondale and Gerald R. and Hway Young Dunn for Arbor Hill Subdivision at 3686 and 3698 South Illinois Avenue:

S. Simon moved, C. Wissmann seconded, that the Council approve the Ordinance authorizing the execution of an Annexation Agreement between the City of Carbondale and Gerald R. and Hway Young Dunn for Arbor Hill Subdivision at 3686 and 3698 South Illinois Avenue. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried. (Ord. 2004-40; Exhibit G-6-1-04)

4. Ordinance vacating the East/West Alley Right-of-Way between North Washington/North Marion Streets and East Birch/East Chestnut Streets:

C. Wissmann moved, S. Haynes seconded, that the Council adopt the Ordinance vacating the east/west alley right-of-way between North Washington/North Marion Streets and East Birch/East Chestnut Streets. DISCUSSION: In response to Council inquiry, Bishop Hugh E. Cawthon said he had been unable to discuss this matter with Ms. Howard. He believes that Ms. Howard will have no problem getting in and out as she has always done. He said they are not asking to vacate the entire alley, but only about 150 feet from Marion Street west. They only want to vacate enough of the alley to have proper parking and to redevelop the property with a ramp. They do not want to interfere with Ms. Howard's access. Bishop Cawthon added that he believes their project will enhance Ms. Howard's property because the alley at the Washington Street end is terrible, containing tree limbs and debris, and that something should be done to clean up that property. Mayor Cole asked if there would be enough room for what the church is proposing that would still allow access. Public Works Director Ed Reeder said the alley is 15 feet wide and if it is vacated, the Tolivers will receive 7½ feet. He cannot say whether there will be enough room for access down the alley portion owned by the church because there are cable and telephone lines along the north side of the alley. Senior Planner Bob Mahrt noted that the church is 2 feet from the alley, which gives them 9½ feet for their project; however, there is also a 4' setback in that zoning district. Bishop Cawthon said they are wanting to build a drive-through canopy. Mr. Mahrt said there would not be enough room based on what Bishop Cawthon has described unless they move the canopy closer to Marion Street. In response to Councilwoman Simon's inquiry, Mr. Mahrt said a letter was received this afternoon from Ms. Gibson who had transferred the property to her daughter, Angela Brown, who lives in Texas. Ms. Gibson and Ms. Brown are not in favor of vacating the property. The Toliver's also contacted Planning Services this afternoon; the Tolivers support vacating the right-of-way and wish to place a modular home on their property. In response to Councilman Wissmann's inquiry, Bishop Cawthon said there is no other location at the church where he can place a handicapped ramp or drive-through canopy. Councilwoman Flanagan asked if Bishop Cawthon might consider amending the request for vacation at the point where the church property ends rather than extending it westward into the portion of the alley adjacent to the Howard property. Bishop Cawthon said he would be agreeable to amending their request to go only as far west as the point of Ms. Howard's property. Councilman Jack asked how the alley will end, whether it will have a fence, a structure, any outlet, etc.. Mr. Mahrt said he assumed that it would end at the

church's parking lot but that he had not seen any plans so couldn't say for sure. Ms. McDaniel asked for clarification on whether there will be enough room for the church to do what it is wanting to do if half the vacated alley goes to the church and half the alley goes to the Tolivers. Mayor Cole responded that there would not be enough room for access all the way through from Marion to Washington, adding that if the alley is vacated there would be no guarantee of access all the way through from Marion Street. He noted that the Bishop seems agreeable to vacating the alley only to the Howard property, so if the portion of the alley adjacent to the Howard property is not vacated, Ms. Howard would have access to her property off of Washington Street. In response to Councilwoman Flanagan's inquiry, Bishop Cawthon said a car would enter the drive off of Marion and would exit through the parking lot west of the Church onto Birch Street. AMENDMENT TO MOTION: A friendly amendment was suggested by Seconder Haynes which would approve the vacation of the east-west alley right-of-way between North Washington/North Marion and East Birch/East Chestnut from the easternmost property line of Ms. Howard to Marion Street. The friendly amendment was accepted by Motioner Wissmann. FURTHER DISCUSSION: Councilwoman Flanagan noted that this would allow Ms. Howard to access the back of her property from the portion of the alleyway which comes off of Washington Street. Bishop Cawthon agreed. Councilman Wissmann asked staff if since the legal description was going to be changed if it would be better to bring this vacation ordinance back to a future meeting. Mayor Cole said the Council can take action at this meeting and the legal description can be prepared and amended to the ordinance. Councilwoman Simon noted that change to the length of the vacation would not change Ms. Howard's concerns about lack of access to her property from the Marion side. She said that although she is sure that no one is opposed to the church building an accessible ramp, she asked if Bishop Cawthon would be willing to wait and see if he could work things out with Ms. Howard in a way that would be agreeable to everyone. Bishop Cawthon said he believed it was already worked about because Ms. Howard still has access to her property and the church's plans will not interfere with her getting in or out of her property. He believes if Ms. Howard was present at this meeting she would consent. Councilwoman Simon said she would like to have heard whether Ms. Howard prefers to come in from one side rather than the other. AMENDED MOTION: That the Council adopt the Ordinance vacating the east/west alley right-of-way between North Washington/North Marion Streets and East Birch/East Chestnut Streets from the easternmost property line of Ms. Howards to Marion Street. VOTE ON AMENDED MOTION: Ayes: C. Wissmann, S. Haynes, L. Jack, C. McDaniel, M. Flanagan and B. Cole. Nays: S. Simon. Motion declared carried. (Ord. 2004-41; Exhibit H-6-1-04)

Mayor Cole asked that Bishop Cawthon and the Church make every effort to reach out to Ms. Howard and explain what will be taking place and work with staff to accommodate whatever needs anyone has in this process. Bishop Cawthon said that he thought there would be no problem and assured the Mayor that he would personally contact Ms. Howard.

5. Resolution approving and Resolution denying a Special Use Permit to allow a Professional Office in an RR, Rural Residential District, at 2845 and 2887 South Illinois Avenue:

S. Haynes moved, C. Wissmann seconded, that the Council adopt the Resolution approving the Special Use request to permit a professional office in an RR, Rural Residential District, for property at 2845 and 2883 South Illinois Avenue. DISCUSSION: Applicant Andy Marcec was present to answer questions. He noted that PMCL is not modifying any existing buildings but is only placing an additional modular structure on property they already own. AMENDMENT TO MOTION: Mayor Cole went through the four conditions that were proposed for inclusion in the resolution; Council members indicated that they supported inclusion of all four conditions in the resolution approving the special use. Motioner Haynes and Seconder Wissmann agreed to the friendly amendment to include all four conditions. AMENDED MOTION: That the Council adopt the Resolution approving the Special Use request to permit a professional office in an RR, Rural Residential District, for property at 2845 and 2883 South Illinois Avenue with the following conditions: (1) the special use shall be limited to professional office for use by PMCL or similar professional consulting business. A change in use from this specific type of office use will require public hearing before the Planning Commission and City Council approval as a new special use; (2) the proposed office building shall be located behind the existing single unit dwelling that has been converted into office space, which is located at 2845 South Illinois Avenue, as depicted in the applicant's preliminary site plan; (3) the special use shall require site plan approval for all existing and proposed facilities on the subject property; and (4) construction of additional structures on the subject property, or substantial addition to the existing structures, will require a new public hearing before the Planning Commission and City Council approval as a new special use. FURTHER DISCUSSION: With respect to the drainage issues brought forward at the Planning Commission meeting, Applicant Marcec assured the Council that they will work with Ms. Morris to reach some amicable solution on the drainage issue. VOTE ON MOTION: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried. (Res. 2004-R-51; Exhibit I-6-1-04)

6. Ordinance approving and Resolution denying Campus Colonial LLC request to rezone property at 1401 W. Chautauqua Street from R-1-8, Low Density Residential to PUD, Planning Unit Development with a maximum Land Use Intensity number of 3.5:

After presenting the item, City Manager Doherty presented a memo noting that the lot does not meet the minimum lot size for approval of the rezoning to a PUD District. The memo recommended that the rezoning request be denied because it does not meet the minimum lot size that the City Code sets forth for a Planned Unit Development District.

S. Haynes moved, S. Simon seconded, that the Council adopt the Resolution denying the request to rezone 1401 W. Chautauqua Street from R-1-8, Low Density Residential to PUD, Planned Unit Development with a maximum Land Use Intensity number of 3.5. DISCUSSION: Applicant Bruce Chrisman acknowledged the new information, adding that he is open to looking at other ways of cleaning up the eyesores, improving the neighborhood, and redeveloping the property that might be amenable to the neighborhood. Mr. John Muller and Attorney Charles Hines, residents of the neighborhood, spoke in opposition to the rezoning and in opposition to any future rezoning that might bring student rentals to the neighborhood. Mayor Cole offered the use of his office to assist the applicant and the neighborhood in coming to some kind of agreement. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried. (Ord. 2004-R-52; Exhibit J-6-1-04)

7. Council Comments

Councilman Wissmann thanked Mayor Cole for his offer to get Mr. Chrisman, Mr. Swanson and the neighborhood together to try to work things out and encouraged everyone to take the Mayor up on the offer. He said he hopes something can be worked out that will be amenable to everybody, adding that it will require a compromise from everyone. He also thanked the Chrismans for their patience and flexibility and commended them on their efforts to improve these properties.

Councilman Jack noted a sense of deja vu, reminding everyone that a similar situation occurred in another neighborhood when the Chrismans were trying to develop a property. However, a compromise was reached in that neighborhood and both the developer and the neighborhood ended up happy with the outcome in that area. He said if everyone comes to the table with open minds the same thing is possible in the Chautauqua Street neighborhood.

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Mayor Cole said he would like to present more of a civics lesson. He noted that one applicant had an item discussed early in the agenda yet is still present at the meeting, whereas others come and go often before the Council meeting is over. He said the Council wants people to participate in their government, adding that is why Carbondale has open meetings when a lot of other communities do not. He also noted that the meetings are televised and replayed so that people can see what happens. He said the Council wants people to participate, to get along, and to be able to work through things. He said that if there is a problem, he would encourage people to come to Council members and see if the problem can be solved in advance. He asked that the dividing lines not be drawn, that one side not be against the other. He asked that people not get up and leave as soon as something happens. He asked that people participate in the process, adding that it can be a positive thing. He said this is not to say anything about anyone who has had to leave or has gotten up to leave, but added that it is so much easier when everyone participates.

8. Closed Meeting

S. Simon moved, M. Flanagan seconded, that the Council hold a closed meeting to discuss the appointment, employment, compensation, discipline, performance or dismissal of specific employees of the public body, collective negotiating matters, the purchase or lease of real property or the setting of a price for sale or lease of property owned by the City and to conduct the semi-annual review of closed meeting minutes pursuant to 5 ILCS 120/2(c)(1), (2), (5), (6) and (21). VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried. Open session recessed at 8:37 p.m.

M. Flanagan moved, S. Haynes seconded, that the Council return to open session. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried. Open session resumed at 10:27 p.m.

S. Haynes moved, M. Flanagan seconded, approve the minutes of the closed meetings held on August 12, September 16, October 21, November 4 and December 16, 2003; and January 6, February 9 and April 6, 2004, and declare that the need for confidentiality still exists in the minutes of closed meetings held on January 3, March 21 and December 19, 1995; April 16, June 18, July 30, August 20, October 29 and December 17, 1996; and January 21, March 4, April 25, May 20 and October 7, 1997; and January 20, February 3, March 3, March 17, June 9, July 7, August 18, September 1, September 15, October 20, November 3, November 17 and December 15, 1998; January 19, February 16, March 2, and May 4, July 27, September 7, September 21, and November 2, 1999; January 4, January 18, February 1, May 2, June 27, November 7 and November 21, 2000; January 2, January 16, May 1, May 22, July

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24, September 18, October 2, November 6, and November 27, 2001; January 8, February 5, March 5, April 10, April 16, May 21, June 25, July 9, July 15, July 23, August 13, September 3, October 15, October 29, and November 19, 2002; January 7, February 18, March 4, March 18, April 30, May 13, June 17, July 8, July 22, August 12, September 16, October 21, November 4 and December 16, 2003; and January 6, February 9 and April 6, 2004. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried.

9. Adjournment

Prior to adjournment, Mayor Cole asked if Council members would be available for a Special City Council meeting on Friday to adopt an ordinance regarding the New Era Road project. C. Wissmann moved, S. Haynes seconded, that the Council hold a Special Meeting on Friday, June 4, at 8:00 a.m. in the Mayor's Conference Room in City Hall to adopt an ordinance authorizing the execution of Quit Claim Deeds for the New Era Road project. VOTE: Ayes: C. Wissmann, S. Haynes, L. Jack, S. Simon, C. McDaniel, M. Flanagan and B. Cole. Nays: None. Motion declared carried.

There being no further business to come before the City Council, the meeting was declared adjourned at 10:33 p.m..

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Janet M. Vaught, City Clerk

Approved by the City Council on:

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