

City Council of the City of Carbondale, Illinois
Public Hearing on Proposed Vacation of the Alley Located
South of East Fisher Street between North Conner Street and North Robert A. Stalls Avenue
July 5, 2005

The City Council of the City of Carbondale, Illinois, held a public hearing on Tuesday, July 5, 2005, in the City Council Chambers, 200 S. Illinois Avenue, for the purpose of soliciting comments on the proposed vacation of the alley located south of East Fisher Street between North Conner Street and North Robert A. Stalls Avenue. Mayor Cole called the public hearing to order at 7:07 p.m. with the following-named members of the City Council present/absent:

Present: Councilman Steven Haynes, Councilman Lance D. Jack, Councilwoman Sheila Simon, Councilwoman Corene McDaniel, Councilman Joel Fritzler, Councilman Chris Wissmann 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.

Development Services Director Beth Ponce noted that Sorrell Gillespie had requested to vacate a portion of the alley located south of East Fisher Street between North Conner Street and North Robert A. Stalls Avenue. The alley right-of-way is platted but the alley is undeveloped. Mr Gillespie owns property adjoining a portion of the alley to the east and is requesting the vacation to facilitate the development of affordable single-family housing. Ms. Ponce said that City staff reviewed the request and initially recommended that if the Council desires to vacate the alley that the entire north-south alley be vacated. All of the owners of the property that adjoins the alley have been notified of the public hearing. Staff has been contacted by one adjoining property owner at 1040 North Robert Stalls Avenue. He has requested that a portion of the north end of the alley not be vacated. Staff therefore recommends that only the portion of the alley as requested by Mr. Gillespie be vacated at this time. If the alley is vacated, the property will revert to the adjoining owners located in the subdivision from which the alley was originally platted. The north-south alley would be divided equally between the abutting owners to the east and west.

Ms. Ponce noted that Illinois Compiled Statutes require that a public hearing be held prior to taking any action on vacating public right of way. The statutes require that a notice of the public hearing be published at least 15 days prior to the public hearing. The notice was published on June 19, 2005 and contained a description of the entire alley. Carbondale Revised Code requires an affirmative vote of 2/3 of the Council present with at least four votes to vacate a street or alley right of way. Options regarding the vacation request are considered later on the Council agenda. The Council has the option of vacating the entire alley, vacating a portion of the alley or denying the vacation request. Ms. Ponce said it is recommended that the City Council conduct the public hearing for the proposed vacation of the alley located south of East Fisher Street between North Conner Street and North Robert Stalls Avenue.

Mayor Cole invited comments or questions from the public. There was no one who indicated a desire to speak. Mayor Cole repeated his invitation for comments or questions from the public.

Ms. Verna Roseman, 412 E. Larch, said that the alley being discussed is right at her house, adding that there is a drainage ditch in there. She said she had talked to Mr. (Tom) Grant about closing the ditch but she hasn't heard from him yet. She asked if it is mandatory that it be kept open. Mayor Cole said he didn't think he

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could provide an answer to her regarding the ditch at this time, and asked Ms. Roseman if she had any comments regarding the vacation of the alley. He asked if Ms. Roseman would like to see the alley remain open. Ms. Roseman said she wants to see the alley closed, but said that she is not in a position to close it because would take quite a bit of dirt and rock to fill the ditch. She said for quite a few years the water has drained from the homes into the ditch, causing water to stand in her back yard towards the ditch. Mayor Cole asked Ms. Roseman if her question relates to the drainage ditch that goes along the alleyway. Ms. Roseman said yes, adding that the ditch is in the alley. Mayor Cole asked if Ms. Roseman had a statement in favor of or in opposition to the alley or if Ms. Roseman's concern is just with the ditch. Ms. Roseman said her concern is with the ditch and the alley. She said she has been keeping the alley clean throughout the years even though it belongs to the City. She said years ago the City used to keep both the ditch and the alley clean, but it quit all of a sudden so she has been maintaining it herself. She said she doesn't think it is right for her to pay for what the City should do.

Mayor Cole asked Public Works Director Ed Reeder to come forward to clarify the situation with the alley and the ditch. Mr. Reeder said the ditch or swale that starts at Larch Street starts in the alley and once it gets behind Ms. Roseman's house it is west of the alley that is proposed to be vacated. He added that he does not know of any easements in the ditch itself so the ditch is on private property and is the responsibility of the private property owners to maintain.

Ms. Roseman asked if only the part of the alley at the Gillespie property is going to be vacated. Mr. Reeder responded that since opposition was received the only section now proposed to be vacated is that portion requested by Mr. Gillespie. The north and south end will not be vacated so the areas Ms. Roseman is talking about will still be alleys. Mayor Cole reiterated that the proposed vacation of the alleyway is currently only that which is adjacent to the Gillespie property, not any portion of the alley on the north or south ends. He said the portion to be vacated is in the center as shown on the overhead map.

Ms. Roseman said she is concerned with the alley itself, adding that the alley is right at her house and she cannot let the weeds grow up. She said she has to pay to have the weeds cut. Mayor Cole asked if Ms. Roseman was speaking in opposition to vacation of the alley. Ms. Roseman said no, asking who is supposed to take care of it and adding that she should not have to take care of it because it doesn't belong to her. However, she said, she has been taking care of it for years. Mayor Cole asked Mr. Reeder to address Ms. Roseman's issue. Mr. Reeder said although it is a platted alley it has never been opened and is heavily grown. He added that the just past Ms. Roseman's house to the north the growth gets heavier all the way to Fisher Street. Mayor Cole asked whose responsibility it would be to maintain the alley. City Manager Jeff Doherty said it would be the adjoining property owners responsibility to maintain it.

Ms. Roseman said at the end of the alley there are trees and weeds that have grown up. Mayor Cole noted that the alleyway is the responsibility of the adjoining property owners to maintain so it would be Ms. Roseman's responsibility to maintain the portion of the alley that adjoins her property. Ms. Roseman asked again why she should maintain the alley. Public Works Director Reeder said that although it is a platted alley it is not an open alley so it is no different than having to maintain the front of her property, adding that 9' of the alley would be Ms. Roseman's to maintain. He said that he agrees with Ms. Roseman that the alley north of the street next to Ms. Roseman's house has grown up, adding that it has blackberries, large trees, etc.. He added that if anyone every wanted to open the alley it would be costly to do so. Mr. Reeder asked if Ms. Roseman is on the east or west side of the ditch; Ms. Roseman said the west. Mr. Reeder added she has done well in maintaining that portion of the alley, noting that it is obvious that Ms. Roseman has mowed it in the past. Ms. Roseman said you don't want weeds growing up right next to the house so you have to do something. Mr. Reeder said that the alley will still be there because the City is not going to vacate it at this time. Mayor Cole concurred, adding that the request is just to vacate the portion of the alley that is adjacent to the Gillespie property. Mayor Cole noted that staff will be asked to be in contact with Ms. Roseman to clarify any other questions she may have after this meeting.

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Mayor Cole asked if there was anyone else who wished to speak during the public hearing.

Ms. Pauline Dixon, 1017 North Conner, said she lives in back of the Gillespie property. She asked if the portion to be vacated was just the portion where Gillespie's property starts and ends, but not all the way to Fisher Street. Mayor Cole confirmed that this was the request. Ms. Dixon asked if the rest of the alley could be vacated if she wanted it to be vacated. Mayor Cole said the public hearing is regarding the proposed vacation of the alleyway and the request is for the portion of the alleyway immediately adjacent to the Gillespie property. There was to be consideration of vacating the entire alleyway but there was concern from some of the other property owners so the only proposal being recommended tonight is the portion of the alleyway adjacent to Gillespies. Mayor Cole noted that at a future date there could be another public hearing on the vacation of the remainder of the alleyway. Ms. Dixon said that her property goes almost all the way to Fisher Street, adding that there is one lot on the west side that keeps her property from going all the way to East Fisher. Mayor Cole asked Ms. Dixon if she would like to see the entire alley vacated. Ms. Dixon said if they're going to vacate a portion of the alley, she would like to see it all done. Mayor Cole said that her request will then be brought back at another public hearing for discussion on vacation of the rest of the alleyway. Ms. Dixon said thank you.

Ms. Kelli Jackson, 1712 W. Sunset, said she was the granddaughter of Pauline Dixon who lives on Conner Street. She said they would also like clarification on something other than just the vacation of the property adjacent to the Gillespie area. She said it looks like the alleyway from her grandmother's property all the way to Fisher Street will be open, but the area that is right behind where the proposed development will take place causes them to be concerned about privacy issues. She said there is a line of trees that at this time of the year is full of leaves which creates some natural privacy. However, she said, when the houses get developed they are concerned about being able to see the back of people's homes and the noise that invariably develops. She said that the people that are going to live in the homes that are going to be built will probably also be concerned about privacy issues. She said that if there is consideration of vacating the alley to accommodate these developments they would also like consideration to be made for a fence so it would be a win-win situation for everyone. Mayor Cole said that the Development Services office would get in contact with Ms. Jackson about her concerns. Ms. Jackson said thank you.

Mayor Cole noted that the Council is in the public hearing to discuss the proposed vacation of the alleyway located south of East Fisher Street between North Conner Street and North Robert A. Stalls Avenue. He noted he has called four times for public comments, had three speakers come to the podium, with one speaking in opposition to the requested vacation, one speaking in favor and one requesting additional information.

There being no further comments or questions at this hearing, Mayor Cole declared the public hearing closed at 7:20 p.m.

Janet M. Vaught, City Clerk

Approved by the City Council on:
