

**City Council of the City of Carbondale, Illinois**  
**Regular Meeting**  
**September 5, 2006**

The City Council of the City of Carbondale, Illinois, held a regular meeting on Tuesday, September 5, 2006, in 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 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.

**2. General Announcements and Proclamations**

Mayor Cole announced that the City had observed Monday, September 4, as Labor Day and that all refuse collection routes would be pushed back one day as a result of the holiday.

City Manager Doherty introduced Kevin Baity, the new Assistant City Manager for Economic Development.

**3. Citizen Comments and Questions**

Steve Miller, 701 West Main Street, expressed concern about a ferocious dog that lives down the street from him. He asked that the City better control and regulate these types of dogs. He said that he believes there has to be multiple complaints on the dog before something can be done and he thinks there must be a better way to make the situation safer.

Vince Kelley, 413 North Oakland, suggested that Wall Street be renamed after Martin Luther King Jr. and that Willow Street be renamed after Rosa Parks so that the Eurma C. Hayes Center would be located on Rosa Parks Way. He also suggested that Willow Street be continued across the railroad tracks.

**4. Public Hearings**

**5. 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 August 15, 2006.
2. Warrant. Recommendation: Approve Warrant #988 for the period ended July 31, 2006, (FY 2007) in the amount of \$1,624,331.18. (Exhibit A-9-5-06)

**City Council of the City of Carbondale, Illinois - September 5, 2006**

3. Warrant. Recommendation: Approve Warrant #989 for the period ended August 14, 2006, (FY 2007) in the amount of \$1,935,401.47. (Exhibit B-9-5-06)
4. Acceptance of minutes of boards, commissions and committees. Recommendation: Accept Energy and Environmental Advisory Commission of June 15, 2006; Library Board of Trustees of July 12, 2006; Planning Commission of July 19, 2006; and Preservation Commission of July 17, 2006.
5. Removed from Consent.
6. Approval of Budget Adjustment to Provide for Purchase of Satellite Telephones for EMS and Repairs to Outdoor Weather Sirens. Recommendation: Approve an Ordinance authorizing a budget adjustment for an increase in the overall Fiscal Year 2007 Budget for the purchase of emergency management supplies, serves and repairs for Carbondale Emergency Management Services. (Ord. 2006-47; Exhibit C-9-5-06)
7. Award of contract to repair Cedar Lake Main Spillway. Recommendation: Award contract to Doug Eubanks Construction of Sesser in the amount of \$9,600.00.
8. Award of contract for Lift Station Control Modifications (Kent Drive, U.S. 51 North, Pine Lake, Golf course, Bradford Pear). Recommendation: Approve budget transfer from the Southeast Wastewater Treatment Plan to Sewage Lift Stations in the amount of \$7,343.00 and award the contract for Vandevanter Engineering Company of Fenton, Missouri, in the amount of \$23,740.00
9. Appointments and reappointments to Boards and Commissions. Recommendation: Appoint Tess Helgren as the CCHS representative to the Energy and Environmental Advisory Commission through May 1, 2007 and reappoint Councilman Chris Wissmann as the ex-officio member of the Information and Telecommunications Commission through June 30, 2009.
10. Illinois Municipal League Legislative Bulletin 2006-20. Recommendation: Accept and place on file.
11. Removed from Consent.
12. Resolution approving First Corner Subdivision and Subdivision Agreement located at 1525 North Reed Station Road. Recommendation: Approve. (Res. 2006-R-43; Exhibit D-9-5-06)
13. Ordinance approving First Corner, LLC request to rezone 6.06 acres of land located at 1525 N. Reed Station Road from SB, Secondary Business, to BPL, Planned Business. Recommendation: Approve. (Ord. 2006-48; Exhibit E-9-5-06)
14. Removed from Consent.
15. Resolution approving the Final BPL, Planned Business, Development Plan for Wood Office building at 1257 East Walnut Street. Recommendation: Approve. (Res. 2006-R-44; Exhibit F-9-5-06)
16. Approval of 2007 Calendar of City Council meetings. Recommendation: Approve.

Mayor Cole asked if any Council members would like any item removed from the Consent Agenda. Councilwoman Simon removed 5.14. Councilwoman McDaniel removed 5.11. Councilman Haynes removed 5.5.

J. Fritzler moved, S. Simon seconded, that the Council approve Consent Agenda items 5.1, 5.2, 5.3, 5.4, 5.6, 5.7, 5.8, 5.9, 5.10, 5.12, 5.13, 5.15 and 5.16. VOTE: Ayes: S. Haynes, L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann and B. Cole. Nays: None. Motion declared carried.

**City Council of the City of Carbondale, Illinois - September 5, 2006**

- 5.5. Accept award of Gang Resistance Education and Training (GREAT) Program Grant, approve a Budget Adjustment to the Police Department's FY 2007 Budget, and authorize the City Manager to execute an agreement with the Boys and Girls Club for Professional Services

S. Haynes moved, C. McDaniel seconded, that the Council accept the GREAT Program Grant from the U.S. Department of Justice, Bureau of Justice Assistance, approve a budget adjustment to the Police Departments' FY 2007 budget in the amount of \$98,092, and authorize the City Manager to execute an Agreement for Professional Services between the City of Carbondale and the Boys and Girls Club of Carbondale for GREAT Grant programming. DISCUSSION: In response to Councilman Haynes' inquiry, Interim Chief Ledbetter said that the Boys and Girls Club was selected as the recipient of a portion of the grant funds because they met all the criteria. Councilman Haynes suggested that Attucks Community Services also be considered for future grant funding. VOTE: Ayes: S. Haynes, L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann and B. Cole. Nays: None. Motion declared carried.

- 5.11 Notice of Exception to Formal Contract Procedures Regarding the Emergency Repair of the Fire Department Aerial Apparatus

C. McDaniel moved, C. Wissmann seconded, that the Council accept the notification of emergency purchase for repair of the Fire Department Aerial Apparatus and place it on file. DISCUSSION: In response to Councilwoman McDaniel's request, Fire Chief John Michalesko provided an explanation of how communities respond to calls for mutual aid. Charles Howe, 848 East Pleasant Hill Road, suggested that the Coal Belt Association put money aside to help pay for future events such as this. VOTE: Ayes: S. Haynes, L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann and B. Cole. Nays: None. Motion declared carried.

- 5.14 Ordinance approving the City of Carbondale's request to rezone 5.5 acres from LI to BPR for property located along the west side of South Washington Street from East College to Veterans Plaza

S. Simon moved, L. Jack seconded, that the Council adopt the Ordinance approving the request to rezone the 5.5 acres from LI, Light Industrial, to BPR, Primary Business District. DISCUSSION: In response to Councilwoman Simon's inquiry, Development Services Director Beth Ponce explained how the property is expected to develop, adding that it will be more compatible to the downtown area if the property is developed as BPR rather than as industrial. VOTE: Ayes: S. Haynes, L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann and B. Cole. Nays: None. Motion declared carried. (Ord. 2006-49; Exhibit G-9-5-06)

**6. General Business**

1. Public Input and Council Discussion of Mediacom Franchise Agreement

Randy Hollis and Dale Haney of Mediacom were present to answer questions. Mayor Cole stated there would be no formal action taken at this meeting, noting that the purpose of this agenda item was to offer an opportunity for public comments regarding the proposed franchise agreement with Mediacom. He invited public comments.

## City Council of the City of Carbondale, Illinois - September 5, 2006

Jak Tichenor, Vice Chair of the Carbondale Information and Telecommunications Commission, noted that CITC members James Wall and Carolyn Snyder were also in attendance at this meeting. Tichenor indicated he and the other members of the Commission are available to answer questions, noting that the emphasis of the CITC has centered on instituting a public access channel. Tichenor said the CITC is interested in assuring that a framework for a public access channel is put into place, adding that if a not-for-profit organization comes forward to operate and produce programming for the channel, the CITC would like very much to see that happen. He said the negotiations with Mediacom have been cordial and constructive and agreed with Mayor Cole's statement that the franchise presented at this meeting is a draft document and that there are still issues to be addressed. Tichenor also recognized former CITC member Linz Brown, adding that Brown has been instrumental in bringing issues to the attention of the Commission including additional points that could be worked into the agreement.

Linz Brown, former member of the Carbondale Information and Telecommunications Commission, urged the Council to pursue the formation of a public access channel. He noted that the City did not take advantage of the opportunity to get funding for a public access channel through the last franchise agreement. He urged the Council to begin planning as soon as possible for the implementation of a public access channel including a full discussion, a survey of cable customers, weighing of pros and cons, etc.. He noted that there is nothing in the proposed agreement which sets forth these steps and urged the Council to include these provisions in the new franchise agreement.

David Coracy, 19 Sunset Drive, noted that he was speaking on behalf of Carbondale Community Arts. Coracy spoke in support of development of a public access channel, adding that such a channel would give their community organization and other organizations an opportunity to present themselves and give the Carbondale community knowledge on what is going on in the community. In addition, it would give Carbondale Community Arts a forum for the community to gain knowledge and appreciation of the arts.

Mayor Cole said he was initially critical of the current Mediacom contract, especially the length of the contract and the number of residents needed before an extension of service was required. He said that a repeated concern was also customer service, noting that customer service has improved greatly over the past couple of years. He expressed his thanks to Mediacom for being of great assistance in addressing the problems that have been brought to the City from customers. Mayor Cole then invited comments or questions from Council members.

Councilwoman Simon distributed regulations from the Federal Code of Regulations which had been provided to her by Linz Brown. She agreed with Mr. Brown's suggestion that these regulations be considered for inclusion in the franchise, noting that the regulations deal primarily with customer service issues. Councilwoman Simon asked how the Council should most appropriately plan for the public access channel. City Manager Doherty said discussions at the CITC have shown that effort, planning and organization will be required to get a public access channel up and running and then continue to monitor it. He noted that the draft franchise agreement contemplates a not-for-profit organization operating the public access channel where a board will control and monitor the programming quality and content rather than the City of Carbondale performing that function. Once the organization is up and running, then the equipment

## City Council of the City of Carbondale, Illinois - September 5, 2006

could be obtained, a studio location could be selected to do programming, etc.. The agreement provides that at the point when the City and this other organization is ready to begin programming on the channel, Mediacom would be notified and would make the channel available. Councilwoman Simon asked if there was someone on City staff would be responsible for promoting the creation of the not-for-profit corporation. City Manager Doherty said there is no one on staff who is a dedicated media person, adding that there are no resources to do so unless the City Council adjusts its priorities and provides funding. He said at the present time it would be a function of the Information and Telecommunications Commission working with the City Manager's Office.

Councilman Jack said that he believes a seven-year contract is too long, adding that with the changes in telecommunications happening so quickly, the City would not want to be restricted by a seven-year contract. He said that in the provisions for the PEG channel, Section 13.3 seems too restrictive especially related to programming that is repeated. Also, the prior franchise provided for \$50,000 in capital for the public access channel, but Section 13.5 leaves the amount blank. City Manager Doherty noted that the amount will be impacted by a number of variables, such as the type of equipment for the public access channel and the type of equipment used in City Council Chambers. The City Manager said he is working on this now and that the numbers will be included in the final version of the franchise agreement. City Manager Doherty noted that the capital costs would be paid to the City by Mediacom but would be passed along to the subscribers through the monthly bills, spread out over the length of the agreement. Councilman Jack said that he believed all the utilities - not just Mediacom - should be paying more for the privilege of using the City's rights-of-way and public property.

Councilman Haynes said that because of the rapidly-changing technology he also believes that seven years is too long for the agreement. In addition, he would also like to see the dollar amounts filled in. Councilman Haynes asked if the publicly-listed phone number will be a local phone number or an 800 number in Kentucky that will be rerouted to a local office. City Manager Doherty responded that the 15 year term in the prior contract was much too long and although seven years has been discussed for the upcoming contract, he believes that Mediacom would be amenable to a 5-year contract. He said additional discussions could take place on this issue. City Manager Doherty also said the publicly-listed phone number would be an 800 number sent to a central call center and problems/complaints would be forwarded to the appropriate local technicians based on whether the problem is related to cable, high-speed internet, etc..

Councilman Wissmann noted that he is the ex-officio member on the Carbondale Information and Telecommunications Commission and has an opportunity review both the current agreement and the proposed draft agreement, adding that the newest draft is moving in the right direction. He said in terms of the customer service provisions provided by Councilwoman Simon, those provisions were provided earlier to the City Attorney's Office for possible inclusion in the agreement. With respect to the dollar amounts, Councilman Wissmann noted that one needs to consider what type of public access channel will be offered - all the way from a fully-functioning studio with cameras to a DVD player which runs DVDs produced by the public. He said it needs to be decided what can be done and what is realistic for Carbondale. With respect to the term of the contract, Councilman Wissmann noted that the Telecommunications Act of 1996 is undergoing a major rewrite in Congress. Some of the proposals will not benefit the City, especially related to public access, collection of taxes and use of public rights of

## City Council of the City of Carbondale, Illinois - September 5, 2006

way. He said a longer contract may lock in some provisions that are better for the City of Carbondale. Councilman Wissmann also noted the benefit of public access, especially for a college town with very good cinema and photography and radio/television departments, adding that finding creative outlets for those classes is very difficult. He said public access would open the door for the community to see the work of students, professors and others. Councilman Wissmann emphasized that it will be up to the public to step up and become a part of it, help create it, produce material, and fund it.

Mayor Cole agreed with Councilman Wissmann's statement that there will probably be some very significant changes coming through Congress on the telecommunications front over the next few years.

Councilman Fritzler thanked Linz Brown for the information he has provided over the years related to the activities of the Information and Telecommunications Commission and suggested that Mr. Brown to continue on the Commission. Mayor Cole noted that Mr. Brown did not seek reappointment to the Commission.

Councilwoman McDaniel complimented Mediacom for its improvement in customer services over the past few years. She said she looks forward to the implementation of the public access channel and is happy with the draft contract except that she would like to see the dollar amounts filled in. She said she would also prefer a five-year contract rather than the seven-year contract.

Mayor Cole noted that negotiations on the franchise agreement have been ongoing for about two years. He also noted that the relationship with Mediacom has been friendlier and more responsive than in the past and he thanked Mediacom for the work they have done to make the relationship better. The Mayor then reopened the floor for public comments.

Linz Brown commended Mediacom for its investment in Carbondale, particularly with its investment into fiber optics. Mr. Brown said in the current contract the provision for \$50,000 for capital investment for public access made no reference to passing that cost along to the customers and that is one of his concerns about the proposed agreement. He feels the \$50,000 included in the prior contract was a cash contribution and that Mediacom should be asked if they would be willing to invest in the community. Mr. Brown said he is also concerned that there are no provisions in the agreement for the upgrade of equipment or operations of the current education/government channel. He referenced a report that he said was accepted by the CITC and sent to the Council regarding that channel. Mr. Brown also advocated the incorporation into the proposed contract the governmental regulations distributed by Councilwoman Simon, adding that the regulations include primarily minimum standards on customer service issues. Mr. Brown also reminded the Council that the Carbondale Information and Telecommunications Commission passed a resolution recommending that the City establish a public access channel and urged the Council to establish a plan of action. With respect to the federal legislation, he said that the legislation is expected to provide money for public access. He said that since the big issue is how to finance the channel the Council may want to invite people who are involved with successful public access channels to meet with City representatives.

## City Council of the City of Carbondale, Illinois - September 5, 2006

Jack Tichenor said that he had initially thought five years was an appropriate term for the contract. However, after speaking with representatives from the Evanston public access channel and given the current regulatory situation in Washington and the competitive pressures on the cable providers, it was decided that the City should hang on to what it has for as long as it can and the seven year term was suggested. With respect to the \$50,000 provided for in the current franchise, Mr. Tichenor said he did not believe there was anything in the current franchise which precluded the carrier from passing along that cost to the customers. He noted that \$50,000 is “a drop in the bucket” compared to what would now be needed to provide public access, adding that it may amount to hundreds of thousands of dollars. He said there are also other ways of generating funding for public access channels and said that the CITC will work with the City Manager to try to come up with a final figure. With respect to how much involvement the City should have with the public access channel, he urged the Council to proceed with caution because the City probably does not want oversight on what goes out over the public access channel. Mr. Tichenor added that he also agrees with the minimum standards as presented by Mr. Brown and concurred that the Council may wish to consider adding those to the agreement. He also noted that representatives from the Evanston public access channel are willing to come and meet with the Council to describe how its channel is operated.

There being no further comments from the Council or public, Mayor Cole noted that comments from this meeting will be incorporated into further discussions on the agreement. The issue will be brought back for final determination by the City Council at a future meeting.

### 2. Request from Keith Spires for Amendment to the City Code regarding Adult Entertainment

Mayor Cole asked if Keith Spires was in attendance at this meeting; Mr. Spires was not in attendance. The Mayor noted that if the Council takes no action on this item, the current City Code restrictions on Adult Use establishments and entertainment in licensed liquor establishments would be maintained. Mayor Cole called for a motion three times. There was no motion on this item; no formal action was taken.

### 7. Council Comments

There were no Council comments.

### 8. Closed Meeting

S. Simon moved, C. Wissmann seconded, that the City Council hold a closed meeting to discuss pending or imminent litigation pursuant to 5 ILCS 120/2(c)(11). VOTE: Ayes: S. Haynes, L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann and B. Cole. Nays: None. Motion declared carried. The open session of the City Council meeting recessed at 8:28 p.m..

Following the closed meeting, S. Simon moved, L. Jack seconded, that the Council return to open session. VOTE: Ayes: S. Haynes, L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann and B. Cole. Nays: None. Motion declared carried. Open session resumed at 8:46 p.m.

**City Council of the City of Carbondale, Illinois - September 5, 2006**

There was no formal action taken as a result of the closed meeting.

**9. Adjournment**

There being no further business to come before the City Council, the meeting was declared adjourned at 8:47 p.m..

Approved by the City Council on:  
\_\_\_\_\_

\_\_\_\_\_  
Janet M. Vaught, City Clerk