

City Council of the City of Carbondale, Illinois
Regular Meeting
April 3, 2007

The City Council of the City of Carbondale, Illinois, held a regular meeting on Tuesday, April 3, 2007, 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 Lance Jack, Councilwoman Sheila Simon, Councilwoman Corene McDaniel, Councilman Joel Fritzler, Councilman Chris Wissmann, Councilman Steven Haynes 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 asked for a Moment of Silence in honor and recognition of Corey Williams, a Carbondale Community High School student who tragically died of a lightening strike on Thursday, March 29th. Mayor Cole reminded everyone to tune into 1620AM for severe weather information and to listen for the warning sirens during severe weather.

Mayor Cole proclaimed April 2007 as "Child Abuse Prevention Month" in the City of Carbondale. Councilman Wissmann noted that the 8th Annual Child Abuse Prevention observance will take place on Saturday, April 28, from 1:00 to 3:00 p.m. at the University Mall. The observance is subtitled "Turning Choices Into Change".

Mayor Cole administered the Oath of Office to new Police Officer Adam Boyd.

3. Citizen Comments and Questions

There was no one in the audience who indicated a desire to speak during this portion of the agenda.

4. Public Hearings and Special Reports

1. Public Hearing on Proposed FY 2008 City Budget

The minutes of this Public Hearing were transcribed separately.

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 March 20, 2007, as corrected.

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2. Warrant. Recommendation: Approve Warrant #1004 for the period ended March 12, 2007, in the amount of \$1,049,680.21. (Exhibit A-4-3-07)
3. Acceptance of Minutes of Boards, Commissions and Committees. Recommendation: Accept Fire Fighters Pension Board of Trustees of December 12, 2006; Library Board of Trustees of February 14, 2007 and Preservation Commission of January 8, 2007.
4. Illinois Municipal League Legislative Bulletins 2007-07 and 007-08. Recommendation: Accept and place on file.
5. Resolution approving Bond Volume Cap Allocation for 2007 Qualified Mortgage Bond Program. Recommendation: Approve. (Res. 2007-R-17; Exhibit B-4-3-07)
6. Resolution authorizing the City Manager to Execute a Testing Service Agreement with the Illinois Department of Transportation for the Wall Street Improvements (CIP No. ST0401), MFT Section 05-00120-00-WR. Recommendation: Approve. (Res. 2007-R-18; Exhibit C-4-3-07)
7. Removed from Consent.
8. Ordinance authorizing the Execution of a Sewer Easement Grant to Olympic Industries, Inc. Recommendation: Approve. (Ord. 2007-08; Exhibit D-4-3-07)
9. Removed from Consent.

Mayor Cole asked if any Council members would like any item removed from the Consent Agenda. Councilman Jack asked that Items 5.7 and 5.9 be removed.

S. Simon moved, C. McDaniel seconded, that Consent Agenda Items 5.1, 5.2, 5.3, 5.4, 5.5, 5.6 and 5.8 be approved. VOTE: Ayes: L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

5.7 Resolution approving the Final BPL, Planned Business, Development Plan for Shoppes at University at 1275 East Main Street

S. Simon moved, L. Jack seconded, that the Council adopt the Resolution approving the BPL Development Plan for Shoppes at University, 1275 East Main Street. VOTE: Ayes: L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Res. 2007-R-19; Exhibit E-4-3-07)

5.9 Resolution authorizing the City Manager to execute an Engineering Agreement with Asaturian Eaton and Associates, P.C. for Engineering Services for Tennis Courts at Carbondale Community High School District No. 165

L. Jack moved, C. Wissmann seconded, that the Council approve the Resolution authorizing the City Manager to execute a contract with Asaturian Eaton and Associates, P.C. of Carbondale for engineering services for the design of eight (8) tennis courts located on Carbondale Community High School District No. 165 property for a fixed fee of \$15,500.00. DISCUSSION: Bob Eaton of Asaturian Eaton answered questions concerning the proposal, noting that the cost includes fencing and lighting. City Manager Doherty noted that CCHS is paying for the lighting. VOTE: Ayes: L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Res. 2007-R-20; Exhibit F-4-3-07)

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6. General Business

1. Resolution commending Public Works Director Edward A. Reeder for Service to the City of Carbondale

After the resolution was read in full, S. Simon moved, C. Wissmann seconded, that the Council approve the Resolution commending Ed Reeder for service to the City of Carbondale. VOTE: Ayes: L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Res. 2007-R-16; Exhibit G-4-3-07)

2. Resolution Approving a Request by Joyce Fligor, Number One Land Trust, for a Special Use Permit to Extend an Existing 150' Wireless Communication Facility (WCF) Tower to a Height of 199' in a BWA, Wholesale and Automotive, District at 301 N. Illinois Avenue

S. Haynes moved, L. Jack seconded, that the Council adopt the Resolution approving the request by Joyce Fligor, Number One Land Trust, for a Special Use Permit to extend an existing WCF tower to a height of 199' in a BWA, Wholesale and Automotive, District at 301 N. Illinois Avenue with the following conditions: 1) The special use will allow the applicant to extend the existing 150' WCF to a height of 199'; and 2) the base of the support structure will be buffered by the existing 8 foot high opaque fence in lieu of required landscaping. The fence is to remain intact. VOTE: Ayes: L. Jack, S. Simon, C. McDaniel, J. Fritzler, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Res. 2007-R-21; Exhibit H-4-3-07)

3. Ordinance amending Title Eleven of the Carbondale Revised Code by Adding a New Chapter Five and Enacting a Carbondale Smoke Free Restaurant and Liquor Establishment Ordinance

L. Jack moved, C. Wissmann seconded, that the Council adopt the Ordinance amending Title Eleven of the Carbondale Revised Code by adding a new Chapter Five and enacting a Carbondale Smoke Free Restaurant and Liquor Establishment Ordinance.

DISCUSSION: Councilman Jack said although he was originally in opposition to a smoke free ordinance, he felt this was a good compromise. Councilman Wissmann said his objections to a smoking ban are well documented and remain, but this proposal seems to be a reasonable compromise. He said he had some amendments that he would like to propose after public input. Councilman Fritzler suggested that no action be taken on this ordinance until it is determined what the State of Illinois is going to do with the proposed State smoke-free legislation. He also noted that he would like to suggest amendments to the proposed ordinance. Councilwoman McDaniel said she also had some concerns about the proposed ordinance, but is in favor of smoke-free. Councilwoman Simon said she is pleased that those originally in opposition to smoke-free have listened to the people of Carbondale who favor smoke-free. She reiterated Councilman Fritzler's notation that a State law may be passed which is different than the proposed ordinance and would supercede that ordinance, adding that State law mandates a fifteen-foot zone away from doors.

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Mayor Cole invited comments from the audience. Miriam Link Mullison, 1007 Briarwood, Administrator of the Jackson County Health Department stated that this is a public health issue and it is the obligation of government to protect workers and the public from the dangers of secondhand smoke. She noted the Illinois Senate had approved the Illinois Smoke Free Act and it is likely to be passed. She advocated a comprehensive smoke free ordinance which would protect all workers and encouraged the expansion of the ordinance to a larger audience. Ann Karayiannis, one of the owners of Pinch Penny Pub Inc. and a resident of Carbondale, spoke in opposition to the ordinance, stating that there is a difference between prohibiting smoking in a restaurant and prohibiting smoking in a bar atmosphere. She talked about the financial and security ramifications if the bars are required to go smoke free, adding that some students have said they will transfer to another university if the City goes smoke free. She envisions rampant house parties if smoking is prohibited in bars. She also stated that if the ordinance is passed, it should include private clubs. Anthony Hamelin, 402 E. Snider, spoke in opposition to the ordinance. He noted that many SIU students smoke, adding that if Carbondale becomes boring the students will leave. Martha Cropper, 437 Murphy Street, Murphysboro, noted that smoke free ordinances are based on scientific studies but there is no validated scientific study which shows a reduction in revenues for bars or restaurants that go smoke free. She added that it has been scientifically documented that inhaled second hand smoke is as much or as more dangerous than smoking. She stated she applauds this ordinance but would encourage the Council to make the ordinance more comprehensive.

Seeing no other audience members who wished to address the Council, Mayor Cole invited Council comments. Councilwoman Simon said although the ordinance is far from perfect it is a first step toward protecting some workers. She asked about conflicts of interest that were questioned at a prior Council meeting. City Attorney Berkbigler said his opinion is that neither Councilman Wissmann or Councilman Haynes have a conflict of interest. Councilman Wissmann suggested that Class E license holders be removed as an exemption. He also suggested that the effective date be when Williamson and Jackson Counties and home rule municipalities within those counties adopt smoke free ordinances which are no less restrictive. Councilman Fritzler suggested that the smoke free boundary from doors be changed from five feet to fifteen feet. He also suggested that buildings with multiple businesses and/or multiple tenants not be exempt. Councilwoman McDaniel agreed that the smoke free distance be increased from five feet to at least fifteen feet. She asked about the waiver of the liquor license fee for establishments who voluntarily go smoke free; Mayor Cole responded that if the ordinance was passed, the fee waiver would be prorated for six months for restaurants. Councilwoman McDaniel also expressed concern about the amount of the fine and asked if the ticket would be written to the smoker or the proprietor. Mayor Cole noted that the fine would be between \$50 and \$750. Councilman Jack stated that the ticket should be written to the smoker. Police Chief Ledbetter said tickets would be handled the same as underage consumption, with tickets written to the smoker, to the business owner, or to both. Councilman Jack said it should be the smoker who is punished. Councilman Haynes said he did not abstain in November due to a business conflict. He was upset by a letter that was sent to him as an African American describing the effects of second-hand smoke on African Americans, adding that the organization that sent him the letter was using race to achieve its goal. He said to be segregated in this way was wrong and he would not make decisions on issues based on the color of his skin.

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Mayor Cole conducted a straw poll of Council members on the suggested amendments to the proposed ordinance. A majority of Council members agreed with changing the five foot boundary to fifteen feet. There was not agreement on adding multiple businesses and/or multiple tenants to the businesses that must go smoke free. The Council was divided on the elimination of the exemption for Class E establishments. The Council was not agreeable to changing the effective date to when Williamson County, Jackson County and home rule communities within those counties pass smoke free ordinances. Based on the straw poll, it was agreed that the ordinance should be amended only in Section 11-5-4 to prohibit smoking within fifteen (15) feet of an enclosed area where smoking is prohibited.

Councilwoman McDaniel said she was disappointed because she would rather see a comprehensive ordinance rather than picking and choosing who can allow smoking and who cannot. Councilman Jack said he brought this compromise forward because the people he talked with felt they were most affected by smoking in bars and restaurants.

Michael Heck, 31 Pinewood, addressed the Council concerning the conflict of interest by Councilman Wissmann, specifically with respect to Attorney General's Opinion 95-006. City Attorney Berkbigler stated again that there is no statutory or common law conflict for Councilman Wissmann.

Mayor Cole said he believes smoke free regulation is a market issue and should be enacted state wide rather than locally. He added that the smoke free ordinance is one more restriction on business and does not provide for a level playing field for businesses throughout the area. He also noted that there are differing opinions on this issue and, as such, it should also be understood that Council members are also entitled to have differing opinions.

VOTE ON REVISED MOTION to adopt the Ordinance amending Title Eleven of the Carbondale Revised Code by adding a new Chapter Five and enacting a Carbondale Smoke Free Restaurant and Liquor Establishment Ordinance with a revision to Section 11-5-4 to prohibit smoking within fifteen (15) feet of an enclosed area where smoking is prohibited. VOTE: Ayes: L. Jack, S. Simon, C. McDaniel and C. Wissmann. Nays: J. Fritzler and B. Cole. Present: S. Haynes. Motion declared carried. (Ord. 2007-09; Exhibit I-4-3-07)

4. Resolution establishing an Economic Development Incentive Program for New Automotive Franchise Dealerships

L. Jack moved, C. McDaniel seconded, that the Council approve the Resolution establishing an economic development incentive program for new automotive franchise dealerships and approve the agreement between the City of Carbondale and Ward Chrysler Center and to authorize the City Manager to enter into an agreement with Ward Chrysler Center for an economic development incentive in the amount of \$50,000.

DISCUSSION: Mayor Cole noted that he met with representatives of the other dealerships and agreed to work on ideas for incentives that would assist them. Councilwoman Simon noted that the agreement still did not address some of the concerns brought up at a prior meeting such as an equal opportunity requirement and

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a requirement that the dealership remain in town for a certain period of time. She also noted the sale of Kia automobiles might not result in an increase in sales tax but may only be an exchange in selling one type of vehicle for another type of vehicle, adding that there should be a documented increase in total sales of new cars which corresponds with the number of Kias sold. She also noted that the Kia dealership has already arrived in Carbondale so there doesn't seem a need to spend \$50,000 to bring in the dealership. Mayor Cole noted that his discussions with the dealership were based on the net increase in new car sales, adding that if Kias were previously being purchased outside the City limits instead of some other model or make and are now being purchased inside the City limits, there should be a net increase inside the City. Councilman Wissmann said the Kia dealership might capture revenue that might not have come into Carbondale and, instead, have gone to dealerships outside of Carbondale that sell other types of foreign cars. He said that although there is no dealer opposition at this meeting, he could also see this as corporate welfare. Councilman Fritzler said that he felt it did not make sense to award a \$50,000 incentive after-the-fact to a dealership that had already committed to Carbondale and had already arrived. Councilman Jack agreed that the resolution and agreement should include a minimum amount of time that the dealership is required to remain in town. Council members agreed that the agreement should be modified to add a three-year requirement to remain in town. Councilman Haynes asked if used car dealerships should be included; Mayor Cole reiterated that the other dealerships will be working on an incentive program to assist existing dealerships that will be proposed to the City at a later date. In response to Mayor Cole's inquiry, City Manager Doherty said the City staff recommends adoption of the program.

VOTE ON REVISED MOTION: to approve the Resolution establishing an economic development incentive program for new automotive franchise dealerships and approve the agreement between the City of Carbondale and Ward Chrysler Center and to authorize the City Manager to enter into an agreement with Ward Chrysler Center for an economic development incentive in the amount of \$50,000 as amended to include a requirement that the dealership has to stay in Carbondale at least three years. VOTE: Ayes: L. Jack, C. McDaniel, S. Haynes and B. Cole. Nays: S. Simon, J. Fritzler and C. Wissmann. Motion declared carried. (Res. 2007-R-22; Exhibit J-4-3-07)

5. Discussion on FY 2008 Budget and Five Year Community Investment Program Budget

The Council reviewed the individual projects included Five Year Community Investment Program budget. Suggestions for possible amendments to the proposed CIP budget were as follows:

PB0801 (Solar Panels at E.C. Hayes Center): Councilwoman Simon noted this was a project discussed by the Energy and Environmental Advisory Commission, adding that with grant funding this project could pay for itself. She suggested that this project be considered separately at the next meeting for possible inclusion in the upcoming fiscal year budget rather than remaining in the unfunded/future section.

SP0801 (Amtrak Screening): Mayor Cole noted that the wall will be painted as public mural and will be visible from Illinois Avenue and the train station, blocking the view of rental housing along Washington Street. He added that the project is supported by Carbondale Community Arts. Council Members Simon and Fritzler asked that this be voted upon separately at the next meeting.

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SP0701 (Infrastructure Improvement Grant): Councilman Jack said there should be higher priority for infill development rather than new development. City Manager Doherty affirmed that the CIP project includes only the \$5,000 grants for lots in new subdivisions. Councilman Jack suggested that the \$3,500 grant for infill lots be considered by the Council for inclusion in the budget.

SS0801 (Valley Road Storm Drainage): Linz Brown questioned how the drop off on the edge of the paving is going to be handled. The City Manager said the staff would look at it and get back with him. Brown also asked that the portion of the project scheduled for FY 2010 be moved to FY 2009 and the portion scheduled for FY 2009 be moved to FY 2010. The Council was agreeable to this change.

Sidewalks: Mayor Cole asked about possible development of a sidewalk either on the north or south side of Walnut Street east of Giant City Road to assist those children walking to the high school. City Manager Doherty noted that this would be an IDOT project and that the sidewalk would probably have to be placed on private property because of the open ditches. He said staff would take a look at the situation. Councilwoman Simon also expressed concern about the condition of sidewalks on West Mill around the Carbondale Towers. Councilman Jack also asked that staff look at the sidewalks around Southern Illinois Regional Social Services (SIRSS) on East College, including the bridge east of the Police Department.

Traffic Signals: Sandy Litecky, 603 W. Walnut, asked that the Council take a look at a flashing yellow or something to address the pedestrian crossing situation on West Mill Street between Forest and Rawlings. Elizabeth Lewin, 105 S. Rod Lane, asked if there was going to be a signal at Grand Avenue and Lewis Lane; the City Manager said at this time a signal was not warranted. Ms. Lewin asked that the Council keep it under consideration.

Following the completion of the review of the Five-Year Community Investment Program and due to the lateness of the hour, Mayor Cole suggested that discussion on the FY 2008 budget be delayed until a Special Meeting to be called sometime prior to the regular meeting of April 24th at which the budget is scheduled to be approved. The Council agreed.

7. Council Comments

8. Adjournment

There being no further business to come before the City Council, the meeting was declared adjourned at 11:52 p.m..

Janet M. Vaught, City Clerk

Approved by the City Council on:
