

City Council of the City of Carbondale, Illinois
Regular Meeting
October 16, 2007

The City Council of the City of Carbondale, Illinois, held a regular meeting on Tuesday, October 16, 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, Councilman Joel Fritzler, Councilwoman Corene McDaniel, Councilwoman Mary Pohlmann, Councilman Chris Wissmann, Councilman Steven Haynes and Mayor Brad Cole

Absent: None

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

2. General Announcements and Proclamations

Councilman Wissmann announced that the American Civil Liberties Union would be holding a forum and screening the film "Busted: A Citizen's Guide to Surviving Police Encounters" at the Lesar Law Building on Thursday, October 18, at 7:00 p.m..

Mayor Cole announced that the official Trick or Treat hours have been set for Wednesday, October 31, from 5:00 to 8:00 p.m.. The "Pumpkin Patrol" will also be out in the neighborhoods to assist trick or treaters and help make sure the neighborhoods remain safe.

3. Citizen Comments and Questions

Dr. Carolyn Snyder of Carbondale Community Arts invited the City Council and the public to visit the New Harmonies exhibit, "New Harmonies Celebrating American Roots Music", at the University Mall through November 10th. Dr. Snyder also thanked the Mayor and City Council for their support of Carbondale Community Arts.

Ed Van Awken, 1009 West Sycamore, expressed concern about the quality of life and the economic viability of Carbondale inner city neighborhoods, opining that the City is not doing its fair share in these neighborhoods. He said there is inadequate citizen participation in the process, adding that the essence of democracy is the citizens right to speak at the podium. He said the problems of the neighborhoods will never be cured until there is additional talking from the podium and a consensus emerges. He also questioned giving SIUC \$20 million, adding that if the \$20 million was spent correctly it could result in Carbondale becoming a world-class city with a vibrant quality of life in the inner city neighborhoods. He said the quality of life in the community will soar when everyone can agree on solutions through a true consensus.

4. Public Hearings and Special Reports

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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 October 2, 2007.
2. Warrant. Recommendation: Approve Warrant #1020 for the period ended September 24, 2007, (FY 2008) in the amount of \$959,379.50. (Exhibit A-10-16-07)
3. Acceptance of Minutes of Boards, Commissions and Committees. Recommendation: Accept Human Relations Commission of September 10, 2007.
4. Appointments and Reappointments to Boards and Commissioners. Recommendation: Concur in appointment of Roland Person to the Library Board through June 30, 2008 and reappointment of Sandra McCurry to the Library Board through June 30, 2010.
5. Resolution approving a request by M. Allen Arnold for a Special Use Permit to allow living quarters for a person employed on the premises in an AG, General Agriculture, District at 105 and 131 Arnold Lane. Recommendation: Approve. (Res. 2007-R-63; Exhibit B-10-16-07)
6. Ordinance changing the status of an Annexed Area to Allow the Sale of Alcoholic Liquor. Recommendation: Approve Ordinance changing status of Ponce Property from "Dry" to "Wet". (Ord. 2007-37; Exhibit C-10-16-07)
7. Obligation Retirement Resolution for the Street Improvement Program. Recommendation: Approve. (Res. 2007-R-64; Exhibit D-10-16-07)
8. Illinois Municipal League Legislative Bulletin 2007-23. Recommendation: Accept and place on file.
9. Resolution approving the Transfer of Retirement Service Credits for City Employees. Recommendation: Approve. (Res. 2007-R-65; Exhibit E-10-16-07)
10. Removed from Consent.

Mayor Cole asked if any Council members would like any items removed from the Consent Agenda. Councilman Jack asked that Item 5.10 be removed.

L. Jack moved, M. Pohlmann seconded, that the Council approve Consent Agenda Items 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8 and 5.9. VOTE: Ayes: L. Jack, J. Fritzler, C. McDaniel, M. Pohlmann, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

- 5.10. Resolution authorizing the City Manager to execute an Intergovernmental Agreement with the Carbondale Public Library regarding Police Protection and Enforcement

L. Jack moved, C. Wissmann seconded, that the Council approve the Resolution authorizing the City Manager to execute an intergovernmental agreement with the Carbondale Public Library regarding Police protection and enforcement. DISCUSSION: Lloyd Rich, 705 N. Carico, asked how loitering would be defined. The City Manager noted that the City does not strictly define loitering so the determination would be made based on the policies set by the Carbondale Public Library. VOTE: Ayes: L. Jack, J. Fritzler, C. McDaniel, M. Pohlmann, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Res. 2007-R-66; Exhibit F-10-16-07)

6. **General Business**

1. Ordinance amending Title Two (2) of the Carbondale Revised Code as it relates to Alcoholic Liquor, the Definition of Alcoholic Liquor and Regulating Alcoholic Liquor on Control Premises

M. Pohlmann moved, C. Wissmann seconded, that the Council approve the ordinance and the proposed amendments to Title 2 with one additional amendment in Section 2-4-7.G to change the date of July 1, 2008, to January 1, 2008. DISCUSSION: Councilwoman Pohlmann noted that under the Smoke Free Illinois Act, all establishments will be required to be smoke free effective January 1, 2008. As a result, no liquor licensee could be considered as having voluntarily made their premises smoke free after that date. Mayor Cole noted that the amendment being proposed by Councilwoman Pohlmann was not part of the proposed ordinance and should be sent to the Liquor Advisory Board before Council acts on it. VOTE: Ayes: J. Fritzler, M. Pohlmann and C. Wissmann. Nays: L. Jack, C. McDaniel and B. Cole. Present: S. Haynes. Motion declared defeated due to lack of majority vote. Mayor Cole noted that the item suggested by Councilwoman Pohlmann would be sent to the Liquor Advisory Board.

C. Wissmann moved, J. Fritzler seconded, that the Council approve the proposed ordinance as presented in the agenda item. VOTE: Ayes: L. Jack, J. Fritzler, C. McDaniel, M. Pohlmann, C. Wissmann and B. Cole. Nays: None. Present: S. Haynes. Motion declared carried. (Ord. 2007-38; Exhibit G-10-16-07)

2. Authorization to Submit a Single Family Owner-Occupied Rehabilitation Grant Application

S. Haynes moved, C. McDaniel seconded, that the Council authorize the City Manager to submit an application to the Illinois Housing Development Authority for Single Family Owner-Occupied Rehabilitation Program. DISCUSSION: Ed Van Awken suggested the City apply for a OSLAD (Open Space Land Acquisition and Development) grant and other types of grants which would benefit the community at large. VOTE: Ayes: L. Jack, J. Fritzler, C. McDaniel, M. Pohlmann, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried.

3. Ordinance establishing a Single Family Housing Conversion Program for the Purpose of Increasing Owner Occupancy in the City of Carbondale and a Budget Adjustment Providing Funds for the Single Family Housing Conversion Program

L. Jack moved, C. McDaniel seconded, that the Council approve an Ordinance establishing a Single Family Housing Conversion Program for the purpose of increasing owner occupancy in the City of Carbondale and approve a Budget Adjustment transferring \$25,000 from the General Fund fund balance to the General Fund Support Services Division.

DISCUSSION: In response to Councilman Fritzler's inquiry, City Manager Doherty said if someone buys a house and receives a grant, then the house is sold to another owner and converted back to rental within the 10 year period, the City would require the owner of record at the time it is converted to rental to repay the grant. The City Manager noted that the covenant goes with the property so any new owners purchase

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the property subject to the obligation to maintain the owner-occupied status for the ten-year period. Councilman Wissmann agreed with \$25,000 as start-up money for the grant project. Councilman Wissmann also expressed initial support of a suggestion made by Radine Paper to stipulate that the grant money be used for capital improvements in the home, adding that it should not be hard to document that the \$5,000 has been spend on improvements. Mayor Cole responded that part of the idea of not restricting the use of the funds was because a new home buyer may wish to use the funds as part of a down payment. In response to Councilwoman McDaniel's inquiry, the Mayor said that a family currently living in a rental home would qualify for the grant if they chose to purchase the home.

Mayor Cole invited public comments.

Greg Shubertowski, Box 903, Carbondale, asked a number of questions concerning the program. City Manager Doherty said that rental properties are documented through the rental registration process, that there will be no participation by the City in marketing the property, that single-family homes that are rental properties in R1, R2 and R3 zoning districts would be eligible and the ordinance places no restrictions on how the \$5,000 can be used.

Radine Paper, Murphysboro, suggested that conditions be placed on how the \$5,000 is used, adding that the money should be used to put the house into better condition. She did not agree with the idea of using the money as part of a down payment. Mayor Cole noted that the purpose of this program is to help people achieve home ownership, adding that the presumption that the money should be used to fix up the home assumes that there are problems with the rental home which may not be the case.

Clara McClure, 1204 West Hill Street, asked if the houses will have to be up to Code before the grant money is awarded and how the initial five applicants will be selected to receive the initial \$25,000 being budgeted. Mayor Cole said the program will initially be on a first-come, first-served basis but the City can make adjustments if needed. City Manager Doherty noted that a home inspection would be required.

Ed Van Awken, 1009 West Sycamore, said the program being proposed is not part of basic City services, adding that the \$20 million given to SIUC should have been spent on the basics. He also said the City should not be interfering in free enterprise.

Mayor Cole noted that the program is purely voluntarily and does nothing but provide an incentive to persons who may wish to buy a rental home and convert it to owner-occupied.

Councilman Haynes asked if a person would be eligible to apply for both this grant and SFOOR grant. City Manager Doherty responded that there is nothing in the proposal which would prohibit a person from applying for both grants.

Councilman Fritzler suggested that before the City approves a \$5,000 grant for a house that there be some assurance that the house is brought up to codes. City Manager Doherty noted, however, that although the house may not initially meet Code requirements, the \$5,000 incentive may be providing the funds to allow the purchaser to fix the home. Mayor Cole said it could be incorporated into the agreement that the home must be inspected.

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VOTE ON MOTION that the Council approve an Ordinance establishing a Single Family Housing Conversion Program for the purpose of increasing owner occupancy in the City of Carbondale and approve a Budget Adjustment transferring \$25,000 from the General Fund fund balance to the General Fund Support Services Division. VOTE: Ayes: L. Jack, J. Fritzler, C. McDaniel, M. Pohlmann, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. (Ord. 2007-39; Exhibit H-10-16-07)

4. Discussion on Rental Licensing Fees Proposal

City Manager Doherty noted that this issue was discussed at the City Council meeting of October 2nd, has been placed on this agenda for further discussion and that action will be scheduled for November 6th. Mayor Cole noted that all written comments that have been received have been distributed to City Council members. He noted that the goal of this program and the program discussed in the previous agenda item is to have quality housing for Carbondale residents.

Councilman Wissmann stated that he has heard disagreement with the proposed reinspection fee, adding that he might agree with the suggestion that a citation be issued if the property does not meet codes upon a second reinspection.

Councilman Jack expressed concern about the flat \$35 fee per rental. He supported the idea of grading properties, with those receiving a higher grade being reinspected less often. He said there needs to be more discussion and involvement within the community in trying to finding a solution, adding that there is likely to be a hybrid system that would be a little more fair across the board.

Mayor Cole noted that one suggestion had been that if a property passes inspection the first time and no follow-up inspections are required, that the property owner would only have to pay the first year and would not have to pay again during the second and third years. The fee would not be assessed until the fourth year when the property is again scheduled for inspection. City Manager Doherty agreed that this would provide an incentive and keep the properties on the three-year inspection cycle.

Councilman Fritzler expressed concern with the fact that inspections are done every three years but the \$35 fee has to be paid every year, resulting in an actual \$105 fee per inspection. He said he also believes the fees will be passed along to the renters. He expressed interest in the method used by Macomb where there is one fee for the building and an additional fee for each additional apartment, adding that perhaps the fee could be based on square footage.

Councilwoman Pohlmann agreed that the burden of the costs should be borne by those that require more inspections. She also agreed with giving incentives and said that commending landlords who are doing a good job is something that she would support. She also agreed with the idea of grading properties and suggested that the grades be placed on the website. Councilman Jack agreed, noting that a comprehensive database that could be accessed by the public through the website would be very helpful. Mayor Cole noted that the City recently purchased software that could make this possible, adding that other types of software and database programs are also available.

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City Manager Doherty expressed concern with grading of properties because of the subjectivity of grading, the time it would take away from actual inspections and the possibility of lawsuits.

Councilwoman McDaniel stated that although she does not believe the \$35 fee is too high, her concern is the potential abuse of the program by the fee being passed along in total to each of the renters rather than being divided equally among the renters. She said that consideration should be given to waiving the inspection of properties built after a certain date, adding that if there are problems with a two- or three-year-old unit, the renters can request an inspection.

Mayor Cole noted that the most controversial part of the program seems to be the fee, not the policy of inspections, adding that the goal is to meet the 3-year inspection cycle for every rental unit. To accomplish the three-year inspection cycle for all rental units, additional inspectors are required and the City has to come up with the additional resources to offset the additional expenses. Mayor Cole noted that some have suggested that the City's property tax be reinstated to pay for this program but he does not support that suggestion.

Mayor Cole invited comments or questions from the public.

Elius Reed, 2012 South Illinois Avenue, expressed concern that the fee will be passed along to the tenants. He commended the Mayor and Council for allowing public comments on this issue.

Jane Adams, 702 West Cherry, expressed concern about the quality of housing in which the students live. She suggested that the fee be set at \$35 but that the program and the amount of the amount be revisited in three years after hard data on how many apartments, the age of the apartments, etc., has been compiled. She also advocated the certification of all inspectors at the highest level possible.

Beth McKay, 1200 East Grand, a student at SIU, said that rental units need to be inspected more often, adding that inspections every three years is not often enough.

Meredith Rhoads, Executive Director of the Carbondale Chamber of Commerce, said that a poll of the membership revealed that the members do not believe that the ordinance in its current form is the most effective way to regulate the safety and quality of rental properties. She said the Chamber believes that further discussion should take place in an attempt to develop an improved method of accommodating more frequent inspections where necessary. If requested, the Chamber would facilitate such discussions.

Donald Monty, 418 Giant City Road, noted that the reinspection fee will make landlords take their reinspections more seriously and not delay repairs, adding that citations and court appearances are a good way to delay the process. He suggested another possibility would be to suspend or revoke a license if a property has repeated violations and does not come into compliance adding, however, that this would result in problems for the tenants. With respect to grading properties, each grade would depend on who is doing the grading and may create claims of favoritism. However, a database could be accessible which shows hard facts such as number of violations, citations issued, etc.. He agreed with the program as proposed.

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Radine Paper of Murphysboro suggested that the neighborhoods be surveyed for deteriorating housing and if it is found that such housing is rental, that those houses be targeted before anyone else. She also recommended that the costs of the expanded program be covered by the increase in the sales tax rather than through additional fees.

Greg Shubertowski, Box 903, Carbondale, said that most of the City Codes are petty, are not health hazards and should not be written up as violations. He also said that Code inspectors need to be certified. Shubertowski believes that additional inspectors are not needed and suggested that tenants be given a list of what to look for when they rent.

George Sheffer, 2909 Alveria Drive, noted that although there may be no charge for inspections now, they are not free because everyone pays for them one way or another. He said a primary concern is safety and needs to be addressed, but emphasized that the community needs to work together to solve the problem, including landlords, renters, students and the City. Sheffer suggested that more study be done and that the people be brought together to come up with ideas.

Ed Van Awken, 1009 West Sycamore, noted that if the primary focus is safety, he has entered owner-occupied homes that are also unsafe; as a result, he would think that both rental and owner-occupied homes should be inspected. He talked about the command approach versus the market approach, noting that the proposal for a rental licensing fee would be the command approach but generally the speakers and the Chamber advocate the market approach. He suggested that the City create an atmosphere in the City into which people will want to move and will want to maintain their houses, adding that there needs to be additional park land and green space.

Sandy Litecky, 603 West Walnut and President of the Arbor District, noted that she is a landlord and that she supports the \$35 licensing fee per year. She also noted that the purpose of the inspections is to assure the rental properties are meeting minimum codes so that the tenants can live in a safe environment. She suggested that the City try this program for a few years and then reevaluate it.

Clara McClure, 1204 West Hill, spoke in support of the program and the addition of more inspectors. She said the fee is a small amount and is well worth it.

Jon Sauser, 1101 East Grand and owner/manager of Aspen Court, noted that his properties are new and very well cared for, adding that he should not be burdened with these additional costs because some other landlords do not take care of their properties. He said the landlords need to be more responsible and take care of the problems in their properties to save the time and costs of inspections and reinspections.

Jeff Woodruff, 601 East Campus, said he has been a property manager since 1969 and served on the property licensing task force many years ago. He said landlords were promised at that time that if they agreed to rental inspections that there would be no fee. He said that if rental units need to be inspected for safety, then private homes and commercial structures should also be inspected for safety. Woodruff said he would welcome the chance to discuss this issue with other landlords, renters and the City to come up with other ideas that everybody can agree upon.

Mayor Cole noted that a number of written comments had been received on this matter and would be made a permanent part of the record.

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Councilman Wissmann noted that students and other renters who have experienced problems with their rental units can always call Building and Neighborhood Services to request an inspection. He said he believes the State of Illinois has a “repair deduct act” and suggested that students utilize the free services of the Student Legal Assistance office if they experience problems in getting problems corrected. Councilman Wissmann noted that this will be discussed again on November 6th which gives people a change to get together to talk about this matter and come up with possible alternatives.

Councilman Fritzler said that some speakers have suggested that the market should make the correction but noted that the market approach may work in some instances but not in all. He also noted that right now everyone is now paying for the inspections through their sales taxes whether or not they own rental property, adding that implementing a fee will make it fairer for everyone in the community.

City Manager Doherty noted that the proposal has been designed to be simple yet effective and recoup the costs of the inspection program.

Mayor Cole thanked persons who participated in this discussion and noted that the proposal will be brought back for City Council consideration on November 6th. There was no action taken on this item.

7. Council Comments

8. Closed Meeting

C. Wissmann moved, L. Jack 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, the purchase or lease of real property for use by the public body, the setting of a price for sale or lease of property owned by the public body, and litigation, when an action against, affecting or on behalf of the public body is probable or imminent or has been filed and is pending before the court pursuant to 5 ILCS 120/2(c)(1), (c)(5), (c)(6) and (c)(11). VOTE: Ayes: L. Jack, J. Fritzler, C. McDaniel, M. Pohlmann, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. Open session recessed at 9:42 p.m..

C. Wissmann moved, J. Fritzler seconded, that the Council return to open session. VOTE: Ayes: L. Jack, J. Fritzler, C. McDaniel, M. Pohlmann, C. Wissmann, S. Haynes and B. Cole. Nays: None. Motion declared carried. Open session resumed at 10:42 p.m..

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 10:43 p.m..

Approved by the City Council on

Janet M. Vaught, City Clerk