

City Council of the City of Carbondale, Illinois
Regular Meeting
July 19, 2011

The City Council of the City of Carbondale, Illinois held a regular meeting on Tuesday, July 19, 2011, in City Council Chambers, 200 South Illinois Avenue. Mayor Fritzler called the meeting to order at 7:02 p.m. with the following members of the Council present/absent:

1. Roll Call

Present: Councilman Lance Jack, Councilman Lee M. Fronabarger, Councilwoman Corene McDaniel, Councilman Chris Wissmann, Councilman Donald D. Monty, Councilwoman Jane Adams and Mayor Fritzler

Absent: None

Also present were City Clerk Rachael E. Keehn, City Manager Allen D. Gill and various members of the City's administrative staff.

2. General Announcements and Proclamations

Mayor Fritzler reminded the citizens of Carbondale that due to the ongoing heat advisory, a cooling center would be available to the public for the next week to two weeks in the Civic Center.

3. Public Hearings and Special Reports

1. Swearing In Ceremony – Carbondale Patrol Officers

Mayor Fritzler administered the Oath of Office to two new Patrol Officers, Katherine Carlson and Brandon Weisenberger

2. Award Presentation to Police Department

Police Chief Jody O'Guinn invited Special Agent Derek Davis of the U.S. Secret Service to the podium. Special Agent Davis presented a plaque to Police Sergeant Kevin Banks and expressed his thanks to the Carbondale Police Department regarding their help with the Brandon Washington bank fraud case.

3. Public Hearing on the proposed vacation of a portion of West Jackson Street lying west of University Avenue

The minutes of this Public Hearing were transcribed separately.

4. Public Hearing on the proposed vacation of the remainder of the north/south alley located between East Fisher Street and East Larch Street, lying just west of North Robert A. Stalls Avenue

The minutes of this Public Hearing were transcribed separately.

5. Public Hearing on a proposed encroachment permit for the alley lying south of 308 South Illinois Avenue

The minutes of this Public Hearing were transcribed separately.

4. Consent Agenda

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

1. Approval of Minutes of the Regular City Council Meeting held on June 20, 2011. Recommendation: Approve.
2. Approval of Warrant for Period Ending: 6/13/2011, FY 2012, Warrant # 1128. Recommendation: Approve in the amount of \$1,029,345.57. (Exhibit A-7-19-2011)
3. Approval of Warrant for Period Ending: 5/2/2011, FY 2011, Warrant # 1127. Recommendation: Approve in the amount of \$1,265,957.65. (Exhibit B-7-19-2011)
4. Appointments and Reappointments to Boards and Commissions. Recommendation: Concur with Mayor Fritzler's recommended appointments of Patricia Keenan to the Human Relations Commission to fill an unexpired term ending April 15, 2012, appointment of Sherry Ratcliffe to the Human Relations Commission to serve as the business community representative, appointment of Sorrel Kunath to the Sustainability Commission to a term to expire May 1, 2014, appointment of Quinlan Monk to the Sustainability Commission to serve as the Carbondale Community High School representative to complete an unexpired term ending May 1, 2012, reappointment of John Stewardson to the Sustainability Commission to a term expiring May 1, 2014.
5. Award of Purchase of MFT Maintenance Materials for FY 2012. Recommendation: Award Group A materials to Illini Asphalt of Benton, IL, Award Group B, C, D and E materials to Dwain Forby Trucking of Makanda, IL, Award Group F materials to Beelman Logistics, LLC of East St. Louis, IL, and Award Group G materials to Marathon Petroleum of Benton, IL.
6. Acceptance of Minutes of Boards, Commissions and Committees. Recommendation: Accept Carbondale Public Library Board of Trustees minutes of May 11, 2011, Carbondale Preservation Commission minutes of May 16, 2011.
7. Resolution Authorizing the City Manager to submit an Application for a Department of Justice, Justice Assistance grant for the Police Department. Recommendation: Approve. (2011-R-40; Exhibit C-7-19-2011)
8. Award of Purchase of Computer Equipment for the Police Department. Recommendation: Approve purchase of three mobile computer systems from Hub-Data 911 of Alameda, CA.
9. Award of Purchase of All Wheel Steer Skid Loader for the Northwest Wastewater Treatment Plant. Recommendation: Approve purchase of Skid Loader from Clark Equipment Company d/b/a Bobcat Company, Government Sales of West Fargo, ND and declare current skid loader damaged in a fire as surplus property.
10. Award of Purchase of Mowing Tractor with Zero Turn Radius and Front Mounted Attachments for the Northwest Wastewater Treatment Plant. Recommendation: Award purchase of mowing tractor to F.B. McAfoos & Company of Benton, IL.
11. Award of Purchase of Trailer Mounted Portable Generator for the Northwest Wastewater Treatment Plant. Recommendation: Reject bid from Leete Generators of Santa Rosa, CA for failure to meet minimum specifications and award purchase to Cummins Mid-South LLC of St. Louis, MO, and declare damaged generator as surplus property pursuant to Section 1-13-3 of the Carbondale Revised Code.
12. Review and Act on the Preservation Commission's Annual Certified Local Government Report for FY 2011. Recommendation: Accept and place on file the Preservation Commission's Annual Report for FY 2011.
13. Ordinance vacating a portion of West Jackson Street lying west of University

- Avenue. Recommendation: Move to adopt Ordinance vacating a portion of West Jackson Street. (2011-30; Exhibit D-7-19-2011)
14. Ordinance Vacating the remainder of the North/South Alley located between East Fisher Street and East Larch Street, lying just west of North Robert A. Stalls Avenue. Recommendation: Move to adopt the Ordinance vacating the remainder of the north/south alley between East Fisher and East Larch) (2011-31; E-7-19-2011)
 15. Removed from Consent Agenda.
 16. Approve the Purchase of Replacement Pump Parts from Sulzer Pumps, Inc., for Cedar Lake Pump Station. Recommendation: Approve purchase of repair parts from Sulzer Pumps, Inc. of Brookshire, TX.
 17. Approve the Purchase of Equipment from Sidener Environmental for Chlorine Room Renovations at the Water Treatment Plant. Recommendation: Approve purchase of repair parts from Sidener Environmental Services of St. Louis, MO.
 18. Resolution Accepting a Grant from the Illinois Housing Development Authority for the Hardest Hit Fund Program and Authorizing the Execution of Grant Documents. Recommendation: Approve Resolution. (2011-R-41; Exhibit F-7-19-2011)
 19. Ordinance Authorizing Acceptance of a Grant from the Illinois Department of Transportation and Approving a Budget Adjustment to Increase the Police Department's FY2012 Budget. (2011-32; Exhibit G-7-19-2011)
 20. Removed from Consent Agenda.

Item 15 was pulled at Mayor Fritzler's request and Item 20 was pulled at Councilman Monty's request.

C. McDaniel moved, J. Adams seconded, that the Council approve Consent Agenda Items 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.16, 4.17, 4.18 and 4.19. VOTE: L. Jack, L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams and J. Fritzler. Nays: None. Motion declared carried

- 4.15 Action on an application for an Encroachment Permit to allow PK's to utilize an existing alley south of 308 South Illinois Avenue as an outdoor patio. Recommendation: Approve Gwen Hunt's request for an Encroachment Permit to utilize existing alley south of 308 South Illinois Avenue as an outdoor patio, with four conditions.

DISCUSSION: J. Fritzler spoke in favor of the encroachment permit. C. Wissmann offered a point of order stating that a motion needed to be made before discussion. D. Monty moved, C. Wissmann seconded, to approve the Encroachment Permit to allow P.K.'s to construct a beer garden. Following Council discussion, the applicant, Eli Lane, 2231 South Illinois Avenue, answered questions from the Council. VOTE: L. Jack, L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams and J. Fritzler. Nays: None. Motion declared carried.

- 4.20 Award of Contract for Sidewalk Improvements, CIP No. SW1201. Recommendation: Award Contract for Sidewalk Improvements to Stone's Concrete Construction, Inc. of Alto Pass, IL.

D. Monty moved, L. Fronabarger seconded, that the Council Award the Contract for Sidewalk Improvements, CIP No. SW1201 DISCUSSION: D. Monty remarked that there was \$80,000 budgeted for sidewalk improvements and \$8,000 for contingency and the bid

was substantially below the budgeted amount at \$65,000. He requested that if Staff knew of other urgently needed sidewalk repairs not included in the Contract, that they consider adding them up to the budgeted amount through a change order mechanism. J. Fritzler acknowledged that there was a prioritized list that Staff will go back and make those changes. J. Adams asked if the City Manager would inform the public how to add a sidewalk to the list requiring repairs. The City Manager said telephone calls, emails and the form published at least once a year in the paper would be accepted. VOTE: L. Jack, L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams and J. Fritzler. Nays: None. Motion declared carried.

5. General Business

5.1 Resolution Commending Lora L. Hurt for Service to the City of Carbondale

After presentation by the Mayor, City Councilmembers and City Manager, Resolution approved by Council's signatures. (Res. 2011-R-39, Exhibit H-7-19-2011)

5.2 Ordinance Amending Titles Five and Eighteen of the Carbondale Revised Code Regarding Vehicles being Towed

C. Wissmann moved, J. Adams seconded, approval of the Ordinance Amending Titles Five and Eighteen of Carbondale Revised Code regarding the towing of vehicles. DISCUSSION: C. Wissmann and L. Jack spoke in favor of the Ordinance and suggested future changes to the next Contract. Barry Spehn, 500 Charles Road #31, had hoped that additional lighting requirements at night would have been added to the changes in the Code and would like to see it added. A gentleman representing Larry's Towing asked the Council to consider the additional costs and potential damage to the towed cars that the added towing lights would cause which could increase their insurance liability. D. Monty addressed Mr. Spehn's concerns by reading the amended language which provides for additional lighting in the event the permanently affixed lighting is obstructed. J. Fritzler added his agreement with C. Wissmann's and L. Jack's comments. VOTE: L. Jack, L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams and J. Fritzler. Nays: None. Motion declared carried. (Ord. 2011-33; Exhibit I-7-19-2011)

5.3 Resolution Authorizing the City Manager to enter into an Agreement with Ameren Energy Marketing (AEM) for the Purchase and Sale of Electricity for City Properties

C. Wissmann moved, L. Fronabarger seconded approval of the Resolution authorizing the City Manager to enter into an Agreement with Ameren Energy Marketing (AEM) for the Purchase and Sale of Electricity for City Properties.

DISCUSSION: J. Adams asked if there were contingencies that would allow the rates to rise and if so what the contingencies are. Mike Ellis of E-Quantum Consulting, LLC stated that the energy price could not rise for the term of the contract, but costs for transmission capacity, ancillary and losses can change based on tariff changes, but those changes must be approved and are overseen by the Federal Energy Regulatory Commission. Don Ursini, Finance Director explained that those represent about twenty percent of the cost of the contract. L. Fronabarger asked about the cost to the City for the consulting services. The

City Manager stated that the cost for the 31-month term would be in the neighborhood of \$5,000. He explained further the benefit received from the consultant would far outweigh the costs. VOTE: L. Jack, L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams and J. Fritzler. Nays: None. Motion declared carried. (Res. 2011-R-42; Exhibit J-7-19-2011)

5.4 Ordinance Amending Title Two of the Carbondale Revised Code Affecting the Licensing of Package Liquor Sales by Creating a New Class C2 License Allowing Sale of Beer and Wine in Grocery Stores

L. Jack excused himself from the dais to avoid the appearance of impropriety. DISCUSSION: D. Monty commented on the balancing act of allowing for a competitive marketplace and having too many liquor stores which can result in significant social problems. He asked for Councilmembers comments on the fee, the age requirement for individuals operating the cash registers where alcohol will be purchased and also the provision in the Carbondale Revised Code which prohibits the sale of alcohol 250 feet from where gasoline is sold. D. Monty proposed fixing the discrepancies between 200 feet in one point of the Code and 250 feet in another section of the Code, by changing it unilaterally to 250 feet. J. Adams commented that the density reports provided to the Councilmembers lumped all liquor license holders together, regardless of type. Her research suggested that the increasing the density of package liquor outlets actually leads to a lessening of alcohol related car accidents. She expressed her favor for allowing grocery stores to sell spirits should they choose to do so. J. Adams suggested creating a wine and beer only sub classification, but also adding spirits to the licenses for which grocery stores can apply. L. Fronabarger views the expansion of liquor sales as economic development for the City. He desired to go through the matrix developed by the City Attorney and come to a consensus on each item. He offered a handout which he developed which would create five different Class C licenses. C. Wissmann discussed technical aspects of the proposed Ordinance. These included the disparity in the suspension of a license for a liquor store versus a grocery store, drawbacks to removing the requirement for a walled division and separate entrance in grocery stores, his desire to require a higher license fee for the proposed class of license, and his desire to have a cap on the C2 license. C. McDaniel expressed her concern at the viewpoint of considering the sale of alcohol as a form of economic development. Her primary concern is children's exposure to alcohol and the City's reputation as a "party city". Robert Weigert, Attorney in Public Relations for Schnuck Markets, read a letter of support in favor of the Ordinance. Paul Mallet from Kroger alluded to the thousands of signatures on petitions in favor of allowing the sale of alcohol in grocery stores. Wendy Hoffman McClanahan representing Warehouse and ABC Liquors presented handouts to the Council regarding predatory pricing. She asked for a referendum on liquor issues to allow the community to speak. Jerry Bradley, 1213 Pumphouse Road, Murphysboro, on Francis Murphy's behalf for the Neighborhood Co-op, asked the Council to approve the removal of some restrictions on grocery stores. Trace Brown, owner of Marketplace Gas Station, asked about the correlation between gas and liquor. Tom Akins of Schnuck Markets, shared some findings of studies and research in support of allowing alcohol sales in grocery stores. Tom Hoffman from Warehouse Liquor Mart asked the Council to keep in mind keeping money local. C. Wissmann compared the idea of seven families having a monopoly on liquor sales versus two or three large corporations having the same monopoly. D. Monty remarked the petitions mentioned beer and wine only, not spirits. J. Adams responded to D. Monty's comment that her discussion with the public often included spirits in addition to beer and wine. Additionally, she

commented on the ownership of liquor stores. L. Fronabarger feels that Carbondale citizens should have the same opportunities as other Illinois citizens. Wendy Hoffman McClanahan returned to the podium to clarify the ownership of Illinois Liquor Mart's stores. Thomas Hoffman also returned to answer a question from the Council. J. Fritzler explained he wants to see fair competition in the market and increases in sales tax revenue.

L. Fronabarger moved, D. Monty seconded, amending Title Two by creating a new Class C2 Liquor License. DISCUSSION: D. Monty proposed amending the Ordinance to change in Section 2-5-17 from 200 to 250 feet in the Ordinance for consistency and Section 2-5-15.B., change the age requirement of sales clerks from 21 to 19 years. L. Fronabarger accepted D. Monty's friendly amendment and C. McDaniel explained that a vote needed to occur on the motion to amend and a vote would then follow for the entire motion as amended, if the amendment passes. A vote to add D. Monty's amendment to the original motion then occurred. VOTE: C. Wissmann, D. Monty, J. Adams, J. Fritzler. Nays: L. Fronabarger, C. McDaniel. Motion declared carried.

J. Adams distributed an amendment to the Council with the intent of allowing the sales of beer wine and spirits and retains a special Class C2 license for grocery stores that wish to sell beer and wine only, in addition to multiple additional amendments to the proposed Ordinance. C. Wissmann asked if the City Attorney had reviewed the item. J. Adams made a motion to amend to expand the Class C1 license to include package liquor stores and grocery stores and to allow grocery stores having a C1 license to have the same exceptions as grocery stores having a C2 license. L. Fronabarger requested clarification and then seconded J. Adams motion to amend the amended proposed Ordinance. DISCUSSION: C. McDaniel requested that in the future, items be provided in advance to allow time to review. Vote: L. Fronabarger, J. Adams Nays: C. McDaniel, C. Wissmann, D. Monty, J. Fritzler. Motion does not carry.

C. Wissmann moved to amend the motion to amend Title Two to include raising the license fee for the proposed C2 license to \$2,250.00, D. Monty seconded the motion. Vote: C. McDaniel, C. Wissmann, D. Monty, J. Fritzler. Nays: L. Fronabarger, J. Adams. Motion declared carried.

C. Wissmann moved to amend the proposed Ordinance to propose a cap of 4 licenses on the new C2 licenses, C. McDaniel seconded the motion. DISCUSSION: L. Fronabarger and C. Wissmann disagreed on the cap level. Vote: C. McDaniel, C. Wissmann Nays: L. Fronabarger, D. Monty, J. Adams, J. Fritzler. Motion does not carry.

C. Wissmann made a motion proposing C2 licenses retain the current requirements for the C1 license for an opaque wall separating alcohol sales and separate entrances, C. McDaniel seconded the motion. DISCUSSION: C. Wissmann noted that the City had grocery stores with liquor licenses in the past and his proposal to maintain the restrictions is for the benefit of the stores as well as the public. C. McDaniel added her support to the motion. L. Fronabarger and J. Fritzler voiced their opposition to the motion. Vote: C. McDaniel, C. Wissmann Nays: L. Fronabarger, D. Monty, J. Adams, J. Fritzler. Motion does not carry.

L. Fronabarger proposed an amendment to the proposed Ordinance modifying the operational hours for sale of alcohol for the C2 license to 7 a.m. until midnight Monday through Saturday and Sunday hours from 11:00 a.m. until 11:00 p.m. J. Adams seconded the motion. DISCUSSION: C. McDaniel inquired about the difference between C1 and C2

hours of operation. D. Monty asked if the ending hour could be at 11:59 p.m., to which L. Fronabarger agreed. Vote: L. Fronabarger, D. Monty, J. Adams, J. Fritzler. Nays: C. McDaniel, C. Wissmann. Motion declared carried.

The City Clerk read the motion with approved amendments for the record. C. Wissmann suggested that a comprehensive document incorporating the amendments could be brought back for a vote the next meeting. L. Fronabarger asked if the question of a cap needed to be considered and D. Monty offered a cap of 8 licenses, which was then brought as a motion to cap the C2 license at eight. L. Fronabarger seconded the motion. No Discussion. Vote: L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty Nays: J. Adams, J. Fritzler. Motion declared carried.

D. Monty remarked that as each of the amendments has been specific and not overly complex, he felt ready to vote on the motion. J. Adams queried where the last amendment would fit into the amended ordinance. City Attorney P. Michael Kimmel stated that it would have to be added as a separate section to the Code. Anne Karayiannis, Carbondale resident, asked how a grocery store would be defined. The City Manager read the definition provided in the proposed ordinance. John Karayiannis, partner of Old Town Liquors, questioned whether minimum sales of 51% of groceries would be required. D. Monty remarked on the impracticality of trying to set requirements for sales of food versus dry goods or alcohol in grocery stores.

C. Wissmann made a motion require that a definition of grocery store include a standard of a minimum of 51% of sales from food items, not including alcohol. C. McDaniel seconded the motion. Vote: C. McDaniel, C. Wissmann Nays: L. Fronabarger, D. Monty, J. Adams, J. Fritzler. Motion fails.

The motion originally made by L. Fronabarger and seconded by D. Monty, as amended, to approve an amendment to Title Two by creating a new Class C2 Liquor License was brought back to the table. No further discussion. VOTE: L. Fronabarger, D. Monty, J. Adams and J. Fritzler. Nays: C. McDaniel and C. Wissmann. Motion declared carried (Ord. 2011-34; Exhibit K-7-19-2011)

5.5 Ordinance Amending Title Two of the Carbondale Revised Code Establishing a Local Liquor Commission and the Makeup of that Commission

C. Wissmann moved to approve an Ordinance Amending Title Two of the Carbondale Revised Code Establishing a Local Liquor Commission and the Makeup of that Commission, J. Adams seconded the motion. No Discussion by Council or the audience. Vote: Ayes: L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams, J. Fritzler. Nays: None. Motion carries. (Ord. 2011-35; L-7-19-2011)

6. Citizens' Comments and Questions

Barry Spehn, 500 Charles Road #31, expressed his thanks to Mr. Baity for his assistance. He recommended changing the policy for disconnection of water services to allow a longer time frame between late payment and terminating service.

Elius Reed, Carbondale, referenced a memo from Administrative Services Director Deborah

McCoy to the City Clerk Rachael Keehn which addressed the City's employment process for construction bidders. He read to the Council from the bidding policy where a Minority Business Participation Committee was required to be established. He asked if such a committee exists. The City Manager stated there was not a standing committee. He then asked if Affirmative Action Reports had been reviewed by the Council from January 2011 to the present. The City Manager replied he would have to look into what reports have been provided and share that information with Mr. Reed.

7. Council Comments

L. Fronabarger expressed his satisfaction at the creation of the Economic Development Coordinator position. C. Wissmann thanked the Council and audience for the healthy and respectful discussion.

8. Closed Meeting

Closed Meeting to Discuss the Appointment, Employment, Compensation, Discipline, Performance or Dismissal of specific employees.

L. Jack moved, J. Adams seconded, that the Council go into a closed meeting to discuss the appointment, employment, compensation, discipline, performance or dismissal of specific employees pursuant to 5 ILCS 120/2(c)(1). VOTE: Ayes: L. Jack, L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams, J. Fritzler. Nays: None. Motion declared carried. Open session recessed at 10:09.

L. Jack moved, C. Wissmann seconded, that the Council return to open session. VOTE: Ayes: L. Jack, L. Fronabarger, C. McDaniel, C. Wissmann, D. Monty, J. Adams, J. Fritzler. Nays: None. Motion declared carried.

9. Adjournment

There being no further business to come before the City Council, the meeting was declared adjourned at 10:42 p.m.

Rachael E. Keehn, City Clerk

Approved by the City Council on:
