

**City Council of the City of Carbondale, Illinois
Regular Meeting of October 28, 2014**

The City Council of the City of Carbondale, Illinois, held a regular meeting on Tuesday, October 28, 2014, in City Council Chambers, 200 South Illinois Avenue. Acting Mayor Donald Monty called the meeting to order at 7:32 p.m. with the following members of the Council present/absent:

1. Roll Call

Present: Councilman Lance Jack, Councilwoman Jane Adams, Councilman Lee Fronabarger, Councilwoman Corene McDaniel, Councilwoman Jessica Bradshaw, Councilwoman Carolin Harvey, and Acting Mayor Donald Monty

Absent: None

Also present were City Manager Kevin Baity, City Clerk Jennifer Sorrell, and various members of the City's administrative staff.

2. General Announcements and Proclamations

Acting Mayor Monty announced the annual Veterans Day observance will be on November 11 at 11:00 a.m. at the Veterans Memorial Plaza and he invited attendance by the public.

Councilman Fronabarger announced Murdale's annual Safe Halloween Festival on November 1 where the Park District's Aquatics Committee will have a concession stand. He also announced the first Saluki Basketball game of the season on November 1 at 7:05 p.m. Acting Mayor Monty noted that the Pumpkin Race would also be held on Saturday, November 1, at the Mill Street Underpass. City Manager Baity indicated that there is a costume contest involved with the Pumpkin Race.

Councilwoman Adams announced I Can Read will hold its annual fundraiser on November 8 at the Elks Club, a speaking engagement where Bob Moses will discuss Constitutional Personhood at the Student Center Ballroom on November 12, and a potluck for Green Earth supporters at the Unitarian Fellowship on Saturday, November 1.

Councilwoman McDaniel announced the 2nd annual Veterans Day breakfast at the Eurma C. Hayes Center where Reverend Archibald Mosley will be the guest speaker.

Councilwoman Bradshaw announced a fundraiser benefitting the Good Samaritan House at the Neighborhood Coop on Saturday, November 1, and announced the annual WDBX Ball at the Garden Grove Event Center later that evening.

Councilwoman Adams announced the next meeting of the Downtown Advisory Committee occurring on Wednesday, October 29, 2014, on the topic of Arts and Entertainment beginning at 6:30 p.m. at the Varsity Center for the Arts.

Acting Mayor Monty announced that the proposal for housing development at the Walnut Street Baptist Church did not receive approval of their funding request from the Illinois Housing Development Authority.

3. Citizens' Comments and Questions

Pria, last name unknown, address not provided, asked the Council about an upcoming Ordinance relating to long term stays at local hotels. Acting Mayor Monty responded to the question. She commented on the impact such an Ordinance would have as approximately 40% of the guests which stay at the hotel managed by her husband are long-term guests.

Les O'Dell, Executive Director of the Carbondale Chamber of Commerce, 212 South Mark Court, commented on two Resolutions from the Chamber's Board of Directors, which have been forwarded to the Carbondale City Council. The first Resolution provides nine suggestions to address panhandling and the second Resolution requests amendment of the Zoning Ordinance as it relates to the City's signage and temporary banner regulations. Acting Mayor Monty responded to Mr. O'Dell's comments.

Sandy Litecky, 603 West Walnut Street, commended the Police Department's handling of Cherry and Ash Street disturbances during Unofficial Halloween and urged the City of Carbondale to look at how other college towns handle rowdy parties and events. Acting Mayor Monty responded to Ms. Litecky.

4. Public Hearings and Special Reports

None

5. Consent Agenda

1. Approval of Minutes for the Regular City Council Meeting Held on October 14, 2014. Recommendation: Approve.
2. Approval of Warrant for Period Ending 09/29/2014 FY 2015 Warrant # 1225 in the Amount of \$1,142,048.44. Recommendation: Approve Warrant #1225. (Exhibit A-10-28-2014)
3. Pulled by J. Adams.
4. Award of Contract for Crab Orchard Water District Improvements (WS0803) to Dean Bush Construction for \$375,235. Recommendation: Award the Contract for Crab Orchard Water District Improvements (Area 4-Phase I) to Dean Bush Construction.
5. Resolution Authorizing the City Manager to Execute an Engineering Agreement with RJN Group in the Amount of \$265,355.50 for Continued Work on the City's Sanitary Sewer Inflow and Infiltration Study (SA 1301). Recommendation: Approve the Resolution which authorizes the City Manager to execute an agreement with RJN Group, Inc. of St. Louis, Missouri for professional services. (Resolution 2014-R-44; Exhibit B-10-28-2014)
6. Resolution Adding the Cedar Lake Dam Breach Analysis (WS1505) to the FY2015 Community Investment Program and Authorizing the City Manager to Execute a Professional Services Agreement with Stanley Consultants, Inc. for \$28,770.00. Recommendation: Approve a Resolution adding the Cedar Lake Dam Breach Analysis to the FY2015 Community Investment Program and authorizing the City Manager to execute a Professional Services Agreement with Stanley Consultants, Inc. to perform a Dam Breach Analysis. (Resolution 2014-R-45; Exhibit C-10-28-2014)
7. Ordinance Approving South Hill LLC's Request to Rezone Property Located at 900, 910 and 920 East Walnut Street from R-3, High Density Residential to SB, Secondary Business. Recommendation: Adopt an Ordinance approving the request to rezone a 2.3 acre tract of land located at 900, 910, and 920 East Walnut Street from R-3, High Density Residential, to SB, Secondary Business. (Ordinance 2014-39; Exhibit D-10-28-2014)

C. Harvey moved, C. McDaniel seconded, to approve Consent Agenda Items 5.1, 5.2, 5.4, 5.5, 5.6, and 5.7. VOTE: Ayes: L. Jack, J. Adams, L. Fronabarger, C. McDaniel, J. Bradshaw, C. Harvey, and D. Monty. Nays: None. Motion declared carried.

5.3 Acceptance of Minutes of Boards, Commissions, and Committees

J. Adams remarked on action taken by the Planning Commission, electing not to advance a zoning matter to the City Council, and she requested clarification as to whether the subject might still come

before the Council for consideration. Development Services Director Chris Wallace noted the issue had been brought before the Planning Commission by a fellow Commission member who then withdrew their request for the zoning text amendment.

J. Adams moved, L. Fronabarger seconded, to accept and file the approved minutes from the Police Pension Board of Trustees of September 23, 2014, Zoning Board of Appeals of July 23, 2014, and the Planning Commission of October 1, 2014. VOTE: Ayes: L. Jack, J. Adams, L. Fronabarger, C. McDaniel, J. Bradshaw, C. Harvey, and D. Monty. Nays: None. Motion declared carried.

6. General Business

1. Ordinances Amending the Carbondale-Murphysboro-Jackson County Enterprise Zone Adding Properties in Degognia Township, Adjacent to Southern Illinois Airport, and Adjacent to Walker's Bluff Property

L. Fronabarger moved, J. Adams seconded, to adopt Ordinances amending the original Enterprise Zone Ordinance boundaries by adding properties described and shown in Exhibits A-39, B-39, A-40, B-40, A-41, and B-41. DISCUSSION: D. Monty commented on the enterprise zone as an economic tool and remarked on the timeliness of a matter pertaining to the shipment of grain. J. Bradshaw asked about which governing bodies have considered this matter. Jeff Doherty of Jackson Growth Alliance responded to Ms. Bradshaw. J. Bradshaw provided an explanation for why she opposed the passage of these Ordinances. VOTE: Ayes: L. Jack, J. Adams, L. Fronabarger, C. McDaniel, C. Harvey, and D. Monty. Nays: J. Bradshaw. Motion declared carried. (Ordinances 2014-40, 2014-41, and 2014-42; Exhibits E-, F-, G-10-28-2014)

2. Ordinance Approving a Text Amendment Relative to the NB, Neighborhood Business District

Councilmembers expressed concerns and questioned Staff regarding matters they would like to see incorporated into the Ordinance, changes to certain uses from special use to permitted use, building into the Ordinance certain flexibility for potential developers, as well as suggestions to delay action on this item.

Andy Wallace, owner of the Armory, thanked Staff, the Planning Commission, and citizens who have worked on this issue, noted that at the meeting where this matter had previously been discussed, Mr. Thomas Grant had suggested a standard to control odors which might allow a commercial kitchen as a permitted use as opposed to a special use, and also indicated that he would appreciate allowing low impact manufacturing as a permitted use versus special use. Additionally, he would like more retail uses without having to go through special use protocol.

Thomas Grant, Chair of Planning Commission, 5370 Springer Ridge Road, discussed how the Planning Commission had separated creative and adaptive re-uses for home occupation businesses from those buildings which were constructed as non-residential buildings and the City's residential growth expanded around them. He noted that expanding businesses would be better suited to appropriate zoning. Further, he requested that the City Council consider making commercial kitchens and low impact manufacturing permitted, rather than special, uses.

Sandy Litecky, 603 West Walnut, urged the Council to pass the Neighborhood Business District Ordinance tonight.

Chris Boettcher, co-owner of the Armory, 900 West Sycamore, noted her concerns to have an open and balanced ordinance and expressed her fear of a special use process requiring very specific details. Ms. Boettcher requested Council to allow permitted uses with very specific restrictions. She

remarked that selling electricity back to the grid was prohibited and that wholesale uses are not included under permitted uses. Ms. Boettcher asked if there was a way to allow prohibited actions, such as parking a contractor's vehicles at the Armory during a period of time when a project was underway, when a governmental agency has requested it. Development Services Director Chris Wallace responded to Ms. Boettcher's questions about such temporary uses.

Following comments from the public, the City Council deliberated which uses should be moved to permitted uses from special uses, the process for revising this Ordinance once approved, whether to pass the Ordinance at this meeting or if it should be brought back, what types of properties will be impacted, the fundamental purpose of the Neighborhood Business district, concerns about nonconforming structures and elements of nonconforming structures,

MOTION: J. Adams moved, J. Bradshaw seconded, to adopt an Ordinance approving a text amendment relative to the NB, Neighborhood Business District, with a revision which allows commercial kitchens as a permitted use rather than a special use. **DISCUSSION:** J. Bradshaw requested clarification on applying for multiple uses through a Special Use, to which Development Services Director Chris Wallace responded, and asked if there was a desire to allow low impact manufacturing as a permitted use. L. Jack requested clarification from Mr. Wallace about how specific a Special Use request had to be.

MOTION TO AMEND: L. Jack moved, J. Bradshaw seconded, to amend the motion to include among the permitted uses low impact manufacturing, general retail, except as otherwise listed, and art, music, and dancing schools. **DISCUSSION:** Council debated allowing "retail, general" and what items would be allowed under general retail. Further, there was discussion about allowing renewable energy as a permitted use and whether it was allowed as a primary purpose or only allowing the resale of excess energy which might be produced. Thomas Grant offered clarification on renewable energy generation versus the resale of excess energy. Sandy Litecky noted the rationale behind having art, music, and dance schools as a special use versus a permitted use. **VOTE:** Ayes: L. Jack, L. Fronabarger, C. McDaniel, and J. Bradshaw. Nays: J. Adams, C. Harvey, and D. Monty. **Motion to amend declared carried.**

MOTION: C. Harvey moved, L. Fronabarger seconded, to defer action on the item so that the changes being suggested could be incorporated. **VOTE:** Ayes: L. Jack, L. Fronabarger, J. Bradshaw, C. Harvey, and D. Monty. Nays: J. Adams and C. McDaniel. **Motion to defer declared carried.**

3. Ordinance Amending Title Two (2) of the Carbondale Revised Code as it Pertains to the Regulation of Entertainment Within an Establishment Licensed to Sell Alcoholic Beverages

Councilman Jack excused himself from the discussion of or vote upon this matter as he holds a liquor license. Acting Mayor Monty read the proposed additional paragraph for Title Two, Chapter Five, Section Four.

J. Adams indicated her interest in and provided an explanation for the appropriateness of removing two clauses within the definition of an adult entertainment cabaret, specifically clauses c) and d) from Title Five, Chapter Twelve, Section Two.

MOTION: J. Adams moved, L. Fronabarger seconded, to amend Title Five, Chapter Twelve, Section Two "Adult Entertainment Cabaret" to remove clauses c) and d). **DISCUSSION:** D. Monty questioned City Attorney Mike Kimmel about amending Title Five of the City Code when an amendment for Title Two was the issue on the printed agenda. J. Bradshaw noted her concern pertaining to legislating what patrons can do in liquor establishments and adult entertainment

businesses and indicated that the amendment does not cover all issues needing examination. D. Monty remarked on the possible effects upon adult uses in trying to protect the liquor establishments. City Attorney Kimmel provided clarification on matters which can be considered by the City Council and by the Local Liquor Control Commission, as well as the applicability of adult uses upon all businesses in Carbondale. J. Adams noted historically the enforcement of similar Codes targeted gay establishments and commented that the two clauses referenced do not endanger the safety of the community. C. McDaniel requested clarification of the motion currently being considered. City Attorney Kimmel suggested an option where Council could consider the Ordinance prepared for this meeting amending Title Two and instruct Staff to prepare the requested revisions to Title Five for a subsequent meeting. D. Monty indicated there might be a way to modify the wording without striking it fully from the City Code.

Acting Mayor Monty requested that public comments at this time be specific to the current motion on the floor.

James Smith, 5153 Country Club Road, member of Rock Hill Missionary Baptist Church, asked if this amendment would affect the 1000 foot rule and Acting Mayor Monty stated that the amendment does not pertain to that rule.

Individuals speaking in favor of the motion to amend Title Five Chapter Twelve included members of the V2T2 Cabaret including Nina Hurmis, 515 N. Michaels Street; Falyn Johanne, 607 West Walnut; and Maggie Mosley, 512 N. Michaels.

Anna, no last name provided, West Main Street, suggested that changing the current language might not be the action needed, but rather that the issue was the existence of The Pony Steakhouse and Cabaret. She remarked that there was a clear distinction between The Pony and V2T2 Cabaret and then provided her interpretation of the City Code language being referenced. She further suggested that The Pony Steakhouse and Cabaret be closed or changed and requested feedback from the City Council on her comments. D. Monty and J. Adams responded to her comments.

D. Monty asked about the Council's ability to amend the City Code without having the specific language before them in a drafted Ordinance and about the procedure of how that Code amendment would be handled. City Attorney Kimmel responded.

MOTION: C. Harvey moved, L. Bradshaw seconded, to defer action on 5-12-2 until Staff reviews it and presents the Council with updated language at the November 18 meeting. VOTE: Ayes: J. Adams, L. Fronabarger, C. Harvey, J. Bradshaw, C. Harvey, and D. Monty. Nays: None. L. Jack abstained. Motion declared carried.

MOTION: C. Harvey moved, C. McDaniel seconded, to adopt an Ordinance Amending Title Two (2) of the Carbondale Revised Code as it Pertains to the Regulation of Entertainment Within an Establishment Licensed to Sell Alcoholic Beverages. DISCUSSION: Richard Brizendine, 102 Bobby Street, McClure, Illinois, indicated that he works for the company which operates The Pony Steakhouse and Cabaret, noted that the business has made an investment in the City, intends to be good neighbors, and is currently operating lawfully in the City. VOTE: Ayes: J. Adams, L. Fronabarger, C. McDaniel, J. Bradshaw, C. Harvey, and D. Monty. Nays: None. L. Jack abstained. Motion declared carried. (Ordinance 2014-43; Exhibit H-10-28-2014)

J. Bradshaw suggested that when Staff reviews the language for a Title Five amendment to ensure compatibility with the amendment just passed and inclusion of progressive language.

7. Council Comments

Councilman Fronabarger asked when the Planning Commission might be able to review the Resolution presented by the Chamber of Commerce. Acting Mayor Monty remarked on the time needed to provide public notice prior to considering an amendment to the Zoning ordinance. City Manager Baity indicated it could be considered at the Planning Commission meeting of November 19.

8. Closed Meeting to Discuss the Sale, Purchase, or Lease of Real Property and the Setting of a Price for Sale or Lease of Real Property

L. Fronabarger moved, J. Bradshaw seconded, to hold a Closed Meeting to discuss the Sale, Purchase, or Lease of Real Property and the Setting of a Price for Sale or Lease of Real Property as permitted under 5ILCS 120/2(c)(5) and (c)(6) of the Illinois Open Meetings Act. VOTE: Ayes: L. Jack, J. Adams, L. Fronabarger, C. McDaniel, J. Bradshaw, C. Harvey, and D. Monty. Nays: None. Motion declared carried. Open session recessed at 10:28 p.m.

L. Fronabarger moved, J. Adams seconded, to return to open session. VOTE: Ayes: L. Jack, J. Adams, L. Fronabarger, J. Bradshaw, C. Harvey, and D. Monty. Nays: None. C. McDaniel absent. Motion declared carried. Open session resumed at 11:27 p.m.

9. Adjournment

There being no further business to come before the Council, the meeting was declared adjourned at 11:27 p.m.

Jennifer R. Sorrell, City Clerk

Approved by the City Council on:
