

Request for City Council Action

Date:

Agenda Section: General Business No. 6	Originating Department: City Manager's Office			
Item: Resolution Affirming the Principles of Federalism and Civil Liberties. No. 6.2				
<p>Background</p> <p>At the January 20, 2004 regular meeting of the City Council, representatives of the Southern Illinois Libertarian, Shawnee Green Party, the Peace Coalition of Southern Illinois and the American Civil Liberties Union requested the City Council adopt a resolution urging the United States Congress to repeal the USA PATRIOT Act, an acronym for "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism." Informally, a majority of City Council members expressed support to have a resolution placed on the Council agenda.</p> <p>The USA PATRIOT Act was passed by Congress and signed into law by President Bush following the September 11, 2002 terrorist attack on the World Trade Center. The USA PATRIOT Act gives federal officials greater authority to track and intercept communications for law enforcement and foreign intelligence purposes, to combat corruption of U.S. financial institutions for foreign money laundering purposes, and to close our borders to foreign terrorists and to detain and remove those within our borders. Further, the act creates new crimes, new penalties, and new procedures for use against domestic and international terrorists.</p> <p>Opponents to the USA PATRIOT Act claim that the act threatens fundamental rights and civil liberties guaranteed by the First, Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution.</p> <p>Attached is information regarding the act including material provided to the City Council at its January 20, 2004 meeting and the Report for Congress regarding the USA PATRIOT Act as prepared by the Congressional Research Service Library of Congress.</p>				
Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
Council Action: Motion by _____ 2nd by _____ to _____				

Also attached is a Resolution Affirming the Principles of Federalism and Civil Liberties that provides for the City Council's support of the United State's Campaign against terrorism; the City Council's Commitment to the United States Constitution and respective state constitutions; the urging by the City Council for the President to review, revise and rescind executive orders and policies adopted since the terrorist attacks that limit or compromise the liberties guaranteed by the Constitution and the Bill of Rights; the urging by the City Council for Congress to amend the USA PATRIOT Act to restore and protect the nation's fundamental and inalienable rights and liberties; that the City Council supports the "Freedom to Real Protection Act of 2003" that would reinstate legal standards for libraries and bookstores and the "Protecting the Rights of Individuals Act" which would require a court order before conducting electronic surveillance; that the City Council supports the sunset of key provisions of the USA PATRIOT Act and increased Congressional oversight over the role of agencies responsible for enforcing the law; and that the City Council calls on Congress, the Department of Homeland Security and other related agencies to partner with cities to protect our hometowns while simultaneously preserving the liberties of Americans.

The resolution is based on a model provided by the National League of Cities.

Recommended Action:

The resolution is provided for Council consideration. There is no staff recommendation on this matter.

RESOLUTION NO. 2004-R-

A RESOLUTION AFFIRMING THE PRINCIPLES OF FEDERALISM AND CIVIL LIBERTIES

WHEREAS, the Carbondale City Council believes there is no inherent conflict between national

security and the preservation of liberty, and affirms its strong support of the rights of Americans to be

both safe and free; and

WHEREAS, the Carbondale City Council recognizes the Constitution of the United States as our nation's charter of liberty, and the Bill of Rights enshrines the fundamental and inalienable rights of America, including the freedoms of speech, religion, assembly, privacy; and

WHEREAS, the Carbondale City Council has a distinguished record of upholding the Constitution, and the Bill of Rights, and safeguarding the freedoms and rights of American residents; and

WHEREAS, on September 11, 2001, terrorists from abroad attacked the United States by commandeering four commercial airliners, and destroyed the World Trade Center in New York, significantly damaged the Pentagon, and caused a jetliner crash resulting in significant civilian casualties; and

WHEREAS, the terrorist attack was an attack on a nation that is home to a diverse population and plunged the nation into deep concern regarding its national security and vulnerability to future attacks; and

WHEREAS, the Carbondale City Council condemns all terrorist acts wherever occurring; and

WHEREAS, the Carbondale City Council believes that efforts to prevent and respond to acts of terrorism require extensive coordination, cooperation, and accountability among the federal,

state, and local levels; and

WHEREAS, the Carbondale City Council recognizes that protecting our citizens against future terrorist attacks requires the federal government to aggressively pursue potential terrorists but these efforts to combat terrorism should not disproportionately infringe on the essential civil rights and liberties of the people of the United States; and

WHEREAS, the prevention of future terrorists attacks is a critical national priority, but it is equally important to preserve the fundamental civil liberties and personal freedoms embodied in the Bill of Rights over 200 years ago, and which have been preserved through a constant vigilance against periodic threats to its principles; and

WHEREAS, in response to the terrorist attacks, on October 26, 2001, the United States Congress passed, and President Bush signed into law, the USA PATRIOT Act, an acronym for “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism,” by a Senate vote of 98-1 and a House of Representatives vote of 357-66; and

WHEREAS, the Carbondale City Council believes that a number of provisions of the USA PATRIOT Act threaten fundamental rights and civil liberties, including:

§Section 213 which permits law enforcement to perform searches with no one present and to delay the notification of the search of a citizen’s home;

§Section 215 which permits the FBI Director to seek records from bookstores and libraries including books of patrons based on minimal evidence of wrongdoing and prohibits librarians and bookstore employees from disclosing the fact that they have been ordered to produce such documents;

§Section 218 which amends the “probable cause” requirement before conducting secret searches or surveillance to obtain evidence of a crime;

§Sections 215, 218, 358, and 508 which permit law enforcement authorities to have broad access to sensitive mental health, library, business, financial, and educational records despite the existence of previously adopted state and federal laws which were intended to strengthen the protection of these types of records;

§Sections 411 and 412 which give the Secretary of State broad powers to designate domestic groups as “terrorist organizations” and the Attorney General power to subject immigrants to indefinite detention or deportation even if no crime has been committed; and

§Sections 507 and 508 which impose an unfunded mandate on state and local public universities who must collect information on students that may be of interest to the Attorney General.

WHEREAS, municipal governments’ budgets across the nation are strained and these added duties constitute unfunded mandates on cities police departments, libraries, universities, etc. that cities cannot financially absorb; and

WHEREAS, new legislation has been drafted entitled the Domestic Security Enhancement Act (DSEA) (also known as PATRIOT II) which contains numerous new sweeping law enforcement and intelligence gathering powers, many of which are not related to terrorism, and which would severely dilute, if not undermine, many basic constitutional rights; and

WHEREAS, in response to the threats against civil liberties embodied in certain provisions of the PATRIOT Act, legislation has been introduced in the House and Senate that would roll back certain provisions of the PATRIOT Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE, ILLINOIS, AS FOLLOWS:

SECTION 1. That the Carbondale City Council supports the United States' campaign against terrorism, but the Carbondale City Council affirms its commitment to the United States Constitution and respective state constitutions; and

SECTION 2. That the Carbondale City Council urges the President and executive branch members to review, revise, and rescind executive orders and policies adopted since the terrorist attacks, that limit or compromise the liberties guaranteed by the Constitution and the Bill of Rights;

SECTION 3. That the Carbondale City Council strongly urges the United States Congress to amend the PATRIOT Act in order to restore and protect our nation's fundamental and inalienable rights and liberties;

SECTION 4. That the Carbondale City Council supports the "Freedom to Read Protection Act of 2003" that would reinstate legal standards for libraries and bookstores and the "Protecting the Rights of Individuals Act" which would require a court order before conducting electronic surveillance;

SECTION 5. That the Carbondale City Council supports the sunset of key provisions of the PATRIOT Act and increased Congressional oversight over the role of the agencies responsible for enforcing the law;

SECTION 6. That the Carbondale City Council calls on Congress, the Department of Homeland Security, and other related agencies to partner with cities to protect our hometowns while simultaneously preserving the liberties of Americans.

SECTION 7. That this Resolution be spread at length upon the minute records of the City Council of City of Carbondale, Illinois.

This Resolution is hereby adopted at a regular meeting of the City Council of the City of Carbondale, Illinois, on the 3rd day of February, 2004.

APPROVED

Brad Cole, Mayor

ATTEST:

Janet M. Vaught, City Clerk

APPROVED AS TO LEGALITY AND FORM:

Deborah Nelson, City Attorney