

***Proceedings of the Council of the City of Joliet, Illinois
held on the 3rd day of November, A.D. 2008***

REGULAR MEETING of the Council of the City of Joliet, Illinois held on Monday, November 3, 2008 at 3:30 P.M. in the Council Chambers, Joliet Municipal Building, 150 W. Jefferson Street, Joliet, Illinois.

An Invocation was delivered by Father Chris Groh, St. Mary Nativity Catholic Church, 710 N. Broadway Street, Joliet, Illinois.

Father Groh then led the pledge to the flag.

ROLL CALL

PRESENT: MAYOR ARTHUR SCHULTZ and DISTRICT 4 COUNCILWOMAN SUSIE A. BARBER, DISTRICT 2 COUNCILMAN TIMOTHY M. BROPHY, COUNCILMAN AT LARGE THOMAS C. GIARRANTE, COUNCILWOMAN AT LARGE JAN QUILLMAN, DISTRICT 1 COUNCILMAN JOSEPH R. SHETINA and DISTRICT 3 COUNCILMAN ANTHONY UREMOVIC.

ABSENT: DISTRICT 5 COUNCILMAN WARREN C. DORRIS and COUNCILMAN AT LARGE MICHAEL F. TURK.

ALSO PRESENT: CITY MANAGER THOMAS A. THANAS and CORPORATION COUNSEL JEFFREY S. PLYMAN.

APPROVAL OF MINUTES

COUNCILWOMAN QUILLMAN moved that the minutes of the Pre-Council Meeting of the Council of the City of Joliet, Illinois held on Monday, October 20, 2008 at 3:30 p.m. and of the Regular Meeting held on Tuesday, October 21, 2008 at 6:30 p.m. stand approved as recorded.

Motion seconded by COUNCILMAN UREMOVIC.

Motion carried by the following vote:

AYES: COUNCILWOMAN BARBER, COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN QUILLMAN, COUNCILMEN SHETINA, UREMOVIC and MAYOR SCHULTZ.

NAYS: NONE.

COUNCIL COMMITTEE REPORTS AND AGENDA ITEMS

A. City-County Advisory

COUNCILMAN SHETINA stated they are waiting on the County to set a meeting.

B. Communication, Technology and Information Systems

COUNCILMAN BROPHY stated they haven't had a meeting and they could wait until after the Budget meetings to schedule a meeting unless there is something urgent to discuss.

The City Manager stated there are a few items that are budget related so it may be a good time to work with the Committee and set a meeting and COUNCILMAN BROPHY agreed to set a meeting date.

COUNCILMAN TURK arrived at the meeting at this point.

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C. Public Service

COUNCILMAN TURK stated the Public Service Committee met this morning and reviewed the contracts, change orders, pay estimates and final payments and found them all to be in order and recommended their approval.

D. Water Park

COUNCILMAN GIARRANTE stated he received a report from Park District Director Dominic Egizio but there are no monies outlined in the report because the Park District's fiscal year is not up until the end of April. He said it looks like it's going to be a lot, lot better than last year but they really can't say now because during the winter people buy season passes for Christmas gifts, etc. He said we won't have any final numbers until after April.

There were no other Committee reports.

CONSENT AGENDA

- B. Approve 2008 Neighborhood Improvement Program Modification
No. 13 – Modification to the 2008 Districts 1 and 4 Neighborhood
Improvement Program
(Council Memo #1294-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve the following:

DISTRICT 1 MODIFICATION

- Addition of Hennepin Drive (U.S. 30-Division Street) Overlay Project (\$289,392.00)

DISTRICT 4 MODIFICATIONS

- Addition of 910 Carlyle Drainage Project (\$8,600.00)
- Addition of Williamson Avenue (Collins Street - Royce Avenue) Resurfacing Project (\$51,361.00)

COUNCILMAN GIARRANTE moved that the recommendations of the City Manager be concurred in.

Motion seconded by COUNCILMAN BROPHY.

Motion carried by the following vote:

AYES: COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN
QUILLMAN, COUNCILMEN SHETINA, TURK, UREMOVIC,
COUNCILWOMAN BARBER and MAYOR SCHULTZ.

NAYS: NONE.

APPROVAL OF REGULAR CURRENT BILLS

- A. Regular Payroll – September 20 – October 3, 2008 - \$3,125,495.74
(Council Memo #1297-08)

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Biweekly Payroll Summary Reports of the total cost of regular salaries for the period September 20, 2008 through October 3, 2008 and additions to regular salaries for the period September 12, 2008 through September 25, 2008 including a 2008 Overtime Budget Status Report and a Biweekly Summary of Overtime and Temporary Assignments were accompanied by a recommendation from the City Manager that said Regular Payroll be allowed.

COUNCILMAN SHETINA moved that the recommendation of the City Manager be concurred in.

Motion seconded by COUNCILMAN TURK.

Motion carried by the following vote:

AYES: COUNCILMAN GIARRANTE, COUNCILWOMAN QUILLMAN, COUNCILMEN SHETINA, TURK, UREMOVIC, COUNCILWOMAN BARBER, COUNCILMAN BROPHY and MAYOR SCHULTZ.

NAYS: NONE.

Prior to his vote, COUNCILMAN BROPHY said he thinks the City Manager and the department heads have done a pretty good job with the overtime. He said we're at 91% as of October 3rd and we have another full quarter to go, so we have to keep an eye on that and he voted aye.

ORDINANCES AND RESOLUTIONS

A. ORDINANCES

1. AN ORDINANCE Approving a Recapture Agreement for Watermain Improvements Adjacent to the Cherry Hill West Business Park was presented and read.
(Council Memo #1298-08)

COUNCILMAN SHETINA asked for an explanation.

The City Manager said this is a standard recapture agreement that frequently is approved with developers that extend public utilities to their business park while they run past undeveloped land. He said this one has a little bit of a twist to it in that Duke Realty, which has control of a fairly large piece of property that would be subject to recapture, is also subject to a separate agreement that was done when Duke Realty brought in its property in 2007 under the name Duke Realty Limited Partnership. He said at that point Duke committed to paying 100% of the cost for extending this watermain to Duke's property and then having recapture rights for the intervening parcels. He said what this agreement does is set in motion the construction of the watermain by Northern Builders. He said Duke will be subject to the recapture along with other properties that are in between Northern and the point of origin, and if Duke comes in later on then Duke will take the place of Northern and will pay Northern the full amount of the recapture for the intervening parcels and then Duke will take over the recapture privilege that will be set up by this contract.

The City Manager said staff is recommending approval and there are representatives present today from Northern Builders and from Duke Realty. He said Duke has made a request this afternoon for us to table action on the recapture for two weeks which has to do with a conversation that Duke and Northern were to have several weeks ago that apparently did not occur regarding

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the amount of the recapture that Duke would have to take over. He said it is our position that the number is an accurate number and we felt comfortable with the amount of the project, especially in today's market, and it's our recommendation that you move forward, but he knows that the representatives from Duke and Northern would like to be heard on this matter.

COUNCILMAN SHETINA asked what problem comes from not giving them a couple of weeks.

The City Manager said he thinks it's more of a construction schedule. He said Central Grocers, a premier project that we were thrilled to land because they're moving their corporate headquarters here, is on a very tight schedule. He said to get the watermain in we were trying to make sure the beginning of it happens during the construction season that we're seeing end fairly soon, so it really is just a time sensitive issue and that's why Northern has made this request.

COUNCILMAN SHETINA asked if it is a 12" water line and the City Manager said it is a 12" watermain, correct.

COUNCILMAN SHETINA asked if that isn't going to occur anyway.

The City Manager said it will have to happen, yes. He said he thinks it's a comfort level that Northern wants to make sure it has as far as having the recapture agreement in place because there are several other parcels that will benefit from it and they want to make sure they have the right to recapture part of the \$635,000 that they'll be paying for the water line.

COUNCILMAN SHETINA asked the City Manager what issues are involved between the two parties.

The City Manager said he thinks it's just how much Duke will be subject to paying in the future should Duke develop the site. He said Duke will not have to pay until it's time to develop its site and that obligation will stay dormant until a request for a building permit is made. He said the time sensitive part is the construction season coming to an end soon and that's why Northern has Alberico Construction lined up and ready to go.

COUNCILMAN SHETINA said that shouldn't be our criteria though. He said we're always under the gun about something that's not created by us and he doesn't think that should be the criteria for us to make a decision on something that the two parties are apparently having a problem dealing with. He said he has to assume that whatever staff says that you made a just decision, but it shouldn't be laid in our lap as a crucial element of this, it's a big thing. He said it shouldn't be critical to the point where a two week window is killing this thing and if it is, something's wrong.

The City Manager said he and the Corporation Counsel have been dealing with this recapture agreement for a couple of months and were trying to promote a conversation between Northern Builders and Duke Realty, and he believes Northern Builders made a very good faith effort to try to promote a conversation that would deal with the amount of the recapture. He said it got to the point a few weeks ago where he told Northern that he is willing to bring this to the City Council now to try to move it along. He said we really couldn't let Duke slow us down on the construction of the watermain because Central Grocers is a very important project for us and we did not want to see it slow down. He said he

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knows Northern has certain delivery dates it has to meet for Central Grocers and he didn't feel that Duke was responsive enough to the conversations that we were all having and that's why he brought it forward today.

COUNCILMAN SHETINA asked how serious is Duke's project.

The City Manager said Duke has no project; they have land but they don't have a project. He said it's something that could happen next year or two years from now, it will be based on the marketplace. He said there will be a development by Duke someday and they'll be responsible for paying this recapture amount.

COUNCILMAN SHETINA said we cannot direct the amount of recapture.

The City Manager said we have the right to review it to make sure that it's an accurate number and we've done that. He said based on an engineering review of the number we believe it to be accurate.

Attorney Mike Hansen, who was present on behalf of Duke Realty, stated he came before the Council about a year ago with respect to the development of the Duke property at Mills Road. He said the property has not been developed thus far. He said Duke Realty is in favor of what Northern Builders is doing, i.e. bringing Central Grocers to the City of Joliet. He said one fact as he understands it is that the watermain is already in the process of being constructed and it is going to get completed this year, so it's not the usual situation of we have to pass something today because they've got to get it started and usually that's where it is at this point in order to get it done. He said it's going to get finished and Northern Builders is going to pay for it. He said he feels this is a situation where it appears to him that perhaps Northern and Duke for whatever reason have not been able to get together and see eye to eye. He said they're committed to do something in two weeks.

Mr. Hansen said one big issue is what are these costs going to be. He said when Duke came to the City and the City approved the annexation agreement it was their responsibility under that agreement to bring the waterline to their property at their expense and then to have recapture opportunities. He said now that Northern is going to go ahead of Duke and bring another development to the City, which is good, Northern is going to put in the line and then Northern would get all the recapture in this situation from Duke rather than from all of the property owners. He said remember that Duke, who may have to ultimately pay for this, aren't being given an opportunity to go over that and to work with Northern about those specific costs. He said there certainly is the possibility that maybe they can't come to an agreement in the two week period but he talked about it earlier in the meeting with the Northern representative. He said there's something that's just not right on why this matter can't wait for two more weeks to either get a better agreement with Duke and Northern or it comes back to the Council in its present agreement and he believes the Council will approve the agreement.

COUNCILMAN SHETINA asked how do you respond to the non-participation and conversation on the part of Duke with Northern.

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Mr. Hansen said there is no question that this is a he said/she said as far as what's going on. He said the City is kind of in the middle of this. He said if his client doesn't want to step up to the table and have these meetings and try to work something out and vice versa, then nothing will get accomplished. He said in the meantime in the next two weeks Northern is going to finish building the waterline. He said under normal situations one would think Northern would not have even started the water line and would have come to the City first and gotten the agreement, so they are at risk anyway.

COUNCILMAN SHETINA asked what is their risk.

Mr. Hansen said that this agreement won't get signed and approved and all of a sudden Duke is not going to be under the terms of this agreement and on the hook later on for this payment. He said it's already in their annexation agreement that they have certain obligations if in fact we develop our property.

COUNCILMAN SHETINA asked the City Manager to respond to that.

The City Manager said it hasn't been Mr. Hansen who has been less than diligent. He said the conversation started back in August or September where he encouraged Duke and Northern to meet without lawyers and himself and work out this dollar figure so we could plug it into a standard agreement and bring it back to the Council for formal approval. He said if he's Northern he wants to have the safety net of having a contract in place that obligates Duke to pay its fair share and that's why Northern has pushed this issue. He said we have correspondence and e-mails going back several months now where it appears to him that Duke has not been responsive even though Mr. Hansen has encouraged them to be responsive. He said that's why he had to push this along because they started the watermain and are reluctantly moving ahead because they're spending a lot of money not knowing that they're going to get reimbursed and that's why they're seeking us to push it along and that's why he felt an obligation to Northern. He said Northern has landed two great corporate citizens for us, Andrew and Central Grocers, and he thought at this point he wanted to make sure we took good care of Northern because of their ability to deliver quality developments for us and he felt that we had given Duke adequate opportunity to respond. He said the other thing is the project was bid using plans that been approved by Duke previously. He said there's been no change in the scope of that work and also we're catching things at a very competitive time when the bids are coming in very favorably because of the economy being what it is, so that's why he figured this was a good time to have this go forward. He said he told Northern if they started the project they're doing it at their own risk. He said he knows they would like to get it done before this construction season ends but this is the safety net that they're looking for so they can keep moving forward with it.

COUNCILMAN SHETINA said he doesn't know what our responsibility is but Mr. Hansen has worked with us on a lot of projects and we've been able to take his word on things, and while Northern is near and dear to our hearts and we want that to happen, Duke's also on the table somewhere. He said he doesn't know whether Duke owes money or doesn't owe money but it appears they do have to come up with something in terms of this recapture.

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The City Manager said they won't have to pay anything until they are prepared to develop the Duke property. He said if they don't develop it for 10 years Duke will not have to pay anything to Northern Builders.

COUNCILMAN SHETINA asked if Mr. Hansen understands it that way.

Mr. Hansen said absolutely. He said what he's been trying to understand here is he has not been given a reason himself from the Northern standpoint on why it needs to go ahead and can't wait two more weeks to try and work something out. He said it's his understanding that there are some issues between the parties on the cost of everything. He said Northern is bringing a great development to the City of Joliet. He said they are just requesting two weeks while they continue with what they're doing and the construction and see if we can work this out.

The City Manager said there are representatives here from Northern and Duke if anyone had any questions of them or if they would like to make a comment.

COUNCILMAN GIARRANTE made a motion to table this item for two weeks.

Mr. Sean Spellman of Northern Builders stated they committed in their annexation agreement with the City about 3 ½ years ago to bring water and sanitary sewer about 1 ½ miles down Laraway Road and up Cherry Hill Road to service this part of the parcel. He said their thought was to bring infrastructure to the park because they knew it would be a good thing for the park and obviously for Joliet. He said he would love to wait two weeks but in their mind they have been waiting about 3 months. He said time and money and weather is what they're talking about. He said they made the commitment last week to start this watermain work because they knew they were running out of time and their commitment to their client is to have them in and operational by January 1st. He said this is already a challenge and we may be unlikely to hit that date even if we move forward today. He said their motivation is to get their client in, that's their only motivation.

Mr. Spellman said Duke has agreed to and signed an annexation agreement that obligates them to put in this stretch of watermain. He said a few months ago they submitted to Duke the scope of work that will not change now or ever. He said it's the scope of work that they are obligated to per their current annexation agreement. He said talking with Duke they received six competitive bids, summarized all of them, submitted them to Mr. Thanas and Mr. Plyman and to the City engineers for review. He said they're trying to do the right thing and get this thing moving as quickly as possible. He said they picked the low bidder and he called them last Monday and asked them to start laying out and ordering pipe so we could get a little bit of a head start. He said the principals of his company are not willing to move forward past today at 4 p.m. He said they assumed this would be wrapped up today and wouldn't be a big deal. He said although they have started they will stop today, they don't have a choice, and that will delay their guys getting into the building. He said all they want to do is to get this watermain in. He said if Duke wants to put it in they can put the watermain in.

COUNCILMAN GIARRANTE said he doesn't understand how the delay of two weeks will affect it and he asked why would you quit if this is not acted on today. He said if we tabled this for two weeks he doesn't understand what the big difference is.

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Mr. Spellman said they were supposed to start this work in August or September and then they pushed their subcontractor back to October 1st while working on some agreements with Duke and the City. He said then November came and they still hadn't gotten things wrapped up. He said they're motivated to meet and talk with Duke. He said Duke over the past few months has not been as motivated, not that they're ignoring them, it's just that they don't necessarily have the same time constraints that Northern does in getting this agreement wrapped up. He said the work that's being completed takes about six weeks to complete and once the work is completed it has to be pressured, flushed, chlorinated and pressure tested. He said once that work is complete they can order the pumps for the building that are sized per the pressures and flows they have at the building. He said those pumps need about a month lead time, He said so they're talking about a 10 week time frame which they don't have, they need to be in by January. He said their plan is to be operational the first quarter of next year.

COUNCILMAN BROPHY asked how much time do they need to come to a meeting of the minds.

Mr. Spellman said he's not sure what they're disagreeing on. He said their agreement has always been with the City of Joliet and that's been their partnership with their park and they've done about \$3.5 million infrastructure to their park to come to Joliet. He said he believed it was between Joliet and Duke. He said they're just trying to help facilitate the process.

COUNCILMAN BROPHY asked the City Manager if that's his understanding as well.

The City Manager said yes, ultimately the City Council needs to make a decision as to the amount of the recapture and based on the information we received this is the best number that's available and that the share assigned to Duke is a reasonable number and well within reason of acceptable bid prices that we've been receiving and seeing over the last several months. He said going back through the files there have been many e-mails sent and phone calls made encouraging Duke's cooperation and frankly he didn't see it coming. He said that's when he told the Northern Builders group that he would be willing to recommend this to the Council as is, particularly in light of the fact that there is a local contractor involved who we work with frequently on City contracts who gives us good numbers and he thinks that was a very good number that was presented so that's why he was recommending that we move forward with this today.

COUNCILMAN GIARRANTE said having heard this information and with nobody seconding his motion to table this for two weeks, he rescinds his motion.

Mr. Spellman said just on a scope standpoint we're talking about a mile of watermain. He said it's not 10 miles, but one mile is a lot of work. He said we have no choice, we have to get our client done by January. He said we ordered the watermain and it was delivered to site last week and he told them to start working but our obligation is very minimal. He said all we've done is pay for the pipe right now, then we're going to start the actual construction after we had formal approval so that's where we're at.

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Mr. Hansen said Duke wants to cooperate with the City and get this thing going. He said he doesn't know if there is a way that you could approve it today and put in a paragraph where we come back to the Council in a month and we'll try and meet and let Northern continue with their construction. He said if there are any issues we could bring it back in a month.

COUNCILMAN BROPHY asked if he wanted to leave the calculation open.

The Corporation Counsel said actually we do have a second bite at this apple, you always had it. He said what we're approving today is the recapture contract, not the recapture ordinance. He said so what you're saying today to Northern is go ahead and build the line and we'll spread the cost of the line across all of the benefitting properties. He said we have a bid on the work submitted by Alberico Construction, a local qualified contractor and the cost is reasonable according to our eyes and he believes they're reasonable according to Duke. He said the scope of that work was actually established first by the engineer retained by Duke so everything appears to be in order for the Council to adopt the recapture agreement and let Northern's contractors go on their way. He said then when the work is finished we'll have all of the final bills at that point and then the Council will have to approve the recapture ordinance and that would be based on what actually occurred. He said so if Duke has any issues such as fairness issues or economic issues, they can be presented and then the Council could weigh those and make a decision about what to actually put in the ordinance. He said at this point we're just acknowledging an estimate for that work. He said so what Mr. Hansen wants we can certainly do just by approving it today.

Mr. Hansen said with the recapture ordinance, while he agrees with Mr. Plyman to some extent, he thinks that's maybe a little bit too late, and he wants to have an opener in the agreement where he can come back to the agreement and the recapture ordinance is going to be acted on a little further down the line. He said what he wants to try and recommend is something where Northern can feel that they can go ahead with their construction. He said it depends on Northern meeting with Duke and where all that is going to go which we really don't know at this point in time. He said the City Council would like to get Northern going and see the construction go through so that Central Grocers gets in. He said on the other hand he would like it to be fair with his client because all the cards are on the table from his client's point of view and he doesn't believe that all of the stories you're hearing today from everybody as far as who has been meeting and who has been cooperating are all true. He said it's what can we do here today to get going and then give us an opportunity to pitch in later.

The Corporation Counsel said one difficulty with that is Northern needs to know whether or not it can keep the work moving along and it's asking to be told today. He said if the Council were to vote yes, Northern Builders would rely on that and proceed, so we'd have to be careful that a reopener issue isn't unfair to Northern now that they've stuck their financial neck out and begun to hire contractors and actually do work. He said perhaps the Council could direct staff to meet and consult with Duke regarding any procurement issue or financial issue related to the project, and he thinks this Council knowing the context and background we had today will be receptive to any issue presented to them regarding the ultimate recapture ordinance.

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COUNCILMAN GIARRANTE asked if it's possible we can vote on this tonight so they can go ahead and then you can meet with all parties and if staff comes back with a recommendation that the costs may be more than what's in this and recommends it, then at that time we could vote to do that.

The Corporation Counsel said we could certainly come back with an amendment if Duke presents an issue that the City Manager wants to recommend to the Council. He said this will all move pretty quickly though because it's not a big job and Northern is motivated to get it done. He said we'll have final figures by Christmas time.

COUNCILMAN SHETINA asked when our first budget session is and the City Manager said Wednesday, November 12th.

COUNCILMAN SHETINA said he wants to try and get this shortened up a little bit, and if we can get these parties together within a week and do a one week hiatus on it, we could include a potential vote on this particular issue at the 12th meeting. He said the problem he has right now is he is really mad as a Councilman with this being brought to us after two or three months and now we have a local contractor who is going to look at us like we're a bunch of bad guys because they aren't working. He said we've got Northern who is bringing a great product to us, and we have Mr. Hansen and his people, and apparently they aren't talking, but it's all being brought to us today for us to act under all of the duress, not that we don't do those things because we handle them on a regular basis, but we usually have a little more time to do that. He said if in fact it's going to get to this point it should have come to us earlier and we could have made this happen a little quicker.

Mr. Hansen said he can tell his client that we have to have a meeting this week and if there's an issue he'll bring it back to the Council well before the recapture agreement. He said he's not saying there is an issue and he's not saying you're going to agree to any issues. He said he just wants an opportunity to do that and not stop any project. He said he still doesn't know that what he's being told is correct but he thinks we have to forget about that and move forward.

COUNCILMAN SHETINA asked the City Manager how he interprets that.

The City Manager said he interprets Duke's problem as being self-inflicted. He said he and Mr. Hansen have worked on a hundred projects together and have a lot of respect for each other and he knows when he gets to a point like this it usually means he's lost his patience and that's what's happened in this case with Duke.

Mr. Hansen said he thinks what we're saying is go ahead and approve the agreement, we have the understanding with Tom and Jeff and with Northern and we'll get a meeting this week and attempt to work it out and if we feel there are issues with respect to the agreement it will be back on the Council at the next meeting hopefully for an amendment of the agreement. He said perhaps staff won't agree with that, we don't know yet. He said that way Northern can go ahead with their project and everybody can get started if that's acceptable to the Council.

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2. AN ORDINANCE Approving a Recapture Agreement for Watermain Improvements Adjacent to the Cherry Hill West Business Park was presented and read.
(Council Memo #1298-08)

COUNCILMAN GIARRANTE moved that said Ordinance be adopted.

Motion seconded by COUNCILMAN TURK.

Motion carried by the following vote:

AYES: COUNCILWOMAN QUILLMAN, COUNCILMEN SHETINA, TURK, UREMOVIC, COUNCILWOMAN BARBER, COUNCILMEN BROPHY, GIARRANTE and MAYOR SCHULTZ.

NAYS: NONE.

COUNCILMAN SHETINA asked the City Manager to summarize what these parties are to be doing now.

The City Manager said the City will facilitate a meeting between Duke's principals and Mr. Spellman and we'll try to set that meeting up for later this week and have Duke respond to the numbers that have been submitted to them. He said they can let us know whether those numbers are acceptable to Duke and if they are everything stays as it is and if they aren't, we as a staff will evaluate their complaint with the number and if we think that the complaint is meritorious and that Northern has overestimated what Duke should be responsible for, we will bring that back to the City Council with our recommendation to lower Duke's responsibility.

COUNCILMAN SHETINA said in the final analysis you can as a staff assign the responsibility in terms of the dollars.

The City Manager said yes, we could make that ultimate decision, it's within the City Council's authority to do that. He said if he thinks there is some problem with the number he'll certainly bring that back to the Council.

(ORDINANCE NO. 16341)

3. AN ORDINANCE Declaring the following properties as Public Nuisances and authorizing application to the Circuit Court for demolition, injunction or other relief was presented and read:
416 Columbia Street, 600 Ruby Street, 160 Stone Street and
709 E. Washington Street.
(Council Memo #1299-08)

COUNCILMAN GIARRANTE moved that said Ordinance be adopted.

Motion seconded by COUNCILWOMAN BARBER.

Motion carried by the following vote:

AYES: COUNCILMEN SHETINA, TURK, UREMOVIC, COUNCILWOMAN BARBER, COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN QUILLMAN and MAYOR SCHULTZ.

NAYS: NONE.

COUNCILMAN BROPHY asked what we are going to do with 600 Ruby Street over the long term.

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The Director of Community and Economic Development stated that property was fire damaged about a month ago and we've had constant problems with it. He said it was first built as a service station and in recent years it gravitated to auto repair with overnight and beyond storage of motor vehicles which have been spilling over on the public sidewalk and blocking visibility, and as you know, we have had many complaints. He said the owner has come in and said he wishes to rebuild. He said he believes there is an owner who leases it to somebody else and we've told the owner we're going to have a public hearing and they would need a special use permit to do auto repair now with probably a lot of conditions if we even agree to go along with it. He said the long term viability of the property is questionable and he doesn't know what else we could use it for. He said he doesn't think it would go residential or that it could be a fast food restaurant. He said that really is up to the owner to decide that. He said the last two or three operators that have done auto repair have caused somewhat of a nuisance in the neighborhood so we have put them on firm notice that it's not going to be automatically granted to them, it will have to go through public hearing.

COUNCILMAN GIARRANTE asked if they are operating out of there now.

The Director of Community and Economic Development said no, it's completely vacant at this time.

COUNCILMAN GIARRANTE said after the fire he went by there and they had wooden doors on it and it looked like they were operating out of it.

The Director of Community and Economic Development said he doesn't believe they are. He said the Director of Inspections has been out there and he will have him go out there and check again.

(ORDINANCE NO. 16342)

4. AN ORDINANCE Repealing a Variation of Use to Allow the Continuation of an Existing Neighborhood Tavern, Accounting Office and Upper Level 7-Unit Apartment Located at 619-629 N. Hickory Street was presented and read. (#1990-100)
(Council Memo #1300-08)
(ORDINANCE NO. 16343)

5. AN ORDINANCE Repealing a Variation of Use to Allow Extended Hours for the Existing Neighborhood Tavern Located at 619-629 N. Hickory Street was presented and read. (#1992-49)
(Council Memo #1300-08)
(ORDINANCE NO. 16344)

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6. AN ORDINANCE Approving a Variation of Use to Allow a Neighborhood Grocery Store in an R-4 District Located at 619-629 N. Hickory Street subject to the following conditions was presented and read: 1) That the petitioner vacate all residential uses from the first floor storefront area and that the use of the first floor storefront space be limited to non-residential use in the future; 2) That any new first floor use shall obtain specific approval from the Zoning Board of Appeals and the City Council; 3) That the previously-approved petitions 1990-100 and 1992-049 be repealed; 4) That off-street parking for 6 cars remain in the future; 5) That the structure not be expanded in the future; 6) That the hours of operation shall not exceed 6 a.m. – 10 p.m., 7 days per week; 7) That the owner shall participate in the City Landlord Training/Tenant Screening program (related to the upper level apartments); and 8) If the required conditions are not completed within the specified time period or adhered to, this matter shall be scheduled for an administrative hearing. (#2008-54/Dist. #4)
(Council Memo #1300-08)
(ORDINANCE NO. 16345)

COUNCILWOMAN QUILLMAN said there is a grocery store two blocks to the north of this and she asked why do we need another one in the neighborhood.

The City Manager said there really isn't a process for us to evaluate the need for a service that's provided to a neighborhood. He said we do have that authority if we want to look into that and we have done that recently with the payday loan stores where we saw an abundance of those facilities. He said that had a little different connotation to it because of the history of some of the operations. He said this one seemed like a use that fit into that neighborhood and into that building that has had previous commercial activity so we did not approach it from the perspective that this would over saturate that neighborhood with a grocery store use.

COUNCILWOMAN QUILLMAN said it was previously a tavern and there were issues there.

The City Manager said yes.

COUNCILWOMAN QUILLMAN asked if the same owner had it.

The City Manager said it's the same owner but the tavern may have been operated by someone else. He said he doesn't know any of the personal history on that.

COUNCILWOMAN QUILLMAN said she has a problem with a grocery store business in the middle of a residential neighborhood where within two blocks there is another grocery store.

The City Manager said he thinks part of the problem is the structure itself, it was built clearly as a commercial facility on the first floor and then residential on the second floor. He said it would be hard to convert to all residential and when you look at the pictures you'll see it doesn't really lend itself very well to a residential

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development on the first floor.

COUNCILWOMAN QUILLMAN said there used to be small businesses in those little buildings like Accountant Don Cordano who was there for many years.

The City Manager said these were old traditional neighborhood businesses in the old neighborhood. He said we'd probably not find these in the old neighborhoods anymore and he thinks what we're trying to do is accommodate the owner and allow him to get a productive use out of the building without having to tear it down and build residential.

COUNCILWOMAN QUILLMAN said her problem is that on Western Avenue as you come into the Cathedral Area there is a grocery store there and it has become a hang out and she's concerned that this will also become a hang out. She said definitely we should repeal the liquor license, there should not be a tavern in a residential neighborhood but she doesn't think it should be a grocery store either.

COUNCILMAN GIARRANTE asked if they are going to sell liquor at the grocery store.

The City Manager said there has been no request for a liquor license.

MAYOR SCHULTZ said their liquor license was revoked, they had a murder in there.

COUNCILWOMAN QUILLMAN said yes they did with the same owner.

COUNCILMAN UREMOVIC asked if the Building Department has gone through this thoroughly. He said he doesn't see Dave Mackley's signature on here. He said what he'd like to see in the future is a punch list that says all of these things have to be done before you get this variation.

The City Manager said that's a good recommendation for us to follow on all requests for variations and we'll make sure we give you a report on it.

The Director of Community and Economic Development stated the violations were corrected.

The City Manager said the first condition says it requires that all violations noted by Neighborhood Services would be abated within 3 months and those violations have been corrected already. He said it was a Neighborhood Services inspection which probably focused on the residential part of it. He said if Dave Mackley's office hasn't seen the building we will have them do that. He said we should do that as a matter of course to make sure anything coming through for a variance would have a building inspection component too.

COUNCILMAN UREMOVIC said he thinks those violations should be listed so we know everything's been done correctly and up to date.

The City Manager said if the Council were to entertain approving this we would certainly be more than pleased to add as a condition that it be given a top to bottom inspection by the Building Department and not be allowed to move forward until all violations, if any, are found to be brought into compliance.

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COUNCILMAN GIARRANTE said he doesn't know if this is a good spot for a grocery store. He said he knows way back when they had about 8 grocery stores in about a 10 square block area in his neighborhood. He said what recourse do we have if in fact this passes and there are problems there.

The Corporation Counsel said he believes our standard condition would apply that if the property becomes a nuisance that the variation would be subject to revocation and that's something we include in all our variation documents. He said apart from that just like any other property in the City we would have the standard enforcement powers to bring lawsuits or inspection or administrative hearing proceedings against the property owner. He said when you look at a variation request like this in a way you're saying ok, this property is suited for a limited commercial use which is a grocery store and any other use for the first floor would have to come back to the City Council. He said you make that judgment and then you send the property on its way and you do have the additional protection that if it is a nuisance there is a potential revocation process, but in the end you have to rely on law enforcement and code enforcement like you would anywhere else in the City, variation or not.

COUNCILMAN SHETINA asked if the petitioner was present and he asked if the apartments were occupied.

City Planner Barb Newberg stated there are seven apartments upstairs and all are occupied.

COUNCILMAN SHETINA asked what the apartments rent for.

Mr. Uriel Rojas, owner of the property, stated they rent from \$450 up to \$700 a month. He said there is one two bedroom apartment and the rest are single bedroom.

COUNCILMAN SHETINA said so you have cash flowing enough to keep the building going. He said it's a 8,400 sq. ft. building and if somebody came along and wanted to knock the building down for the lot which is 9,200 sq. ft., there is no way in the world that lot is worth any where near or close to what the building is in its existing use. He said he has a good cash flow. He said he understands COUNCILWOMAN QUILLMAN is concerned about the competition and he doesn't know whether that's good or bad, and if it doesn't work you're going to lose a tenant. He said he personally prefers to see him get a chance to cash flow a little bit more. He said he would recommend that we approve this. He said he doesn't know if it makes any sense that the ability to operate the grocery store run with the person running the business, or should it run with the building, what should it do.

The Corporation Counsel said under the law variations run with the land, the rules are a little different with a special use permit and a unique type of property use but with variations it runs with the land.

COUNCILMAN SHETINA said so we can't revoke it once we put it on.

The Corporation Counsel said any reasonable condition can be imposed on a variation if it's within the scope of the ordinance.

COUNCILMAN SHETINA asked if there is a way that we can revisit this in a year.

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The Corporation Counsel said you could have it rescheduled for five years, that's been done in several other cases.

COUNCILMAN SHETINA asked if we can look at it in another year and pull it if they're having problems and roughing up the neighborhood.

The Corporation Counsel said the quick answer is yes, there are a lot of different ways to get at that. He said one we've used in the past is to have it automatically referred to the Zoning Board of Appeals a year from now for staff to make a report and then let the ZBA make a recommendation about any further action that should be taken by the City Council.

COUNCILMAN SHETINA said he would incorporate that into the motion and ask for an approval based on that particular circumstance.

Mr. Rojas said there is a grocery store two blocks away but the reason he's trying to open a store here is because he is not getting anything out of the empty space. He said the apartments give him some revenue but it's not enough.

COUNCILMAN SHETINA said you're doing a good job. He said this would help you no question about it. He explained to Mr. Rojas that he is asking the Council to look at this a year from now and if things are going ok, fine.

COUNCILMAN BROPHY said he had a question for staff about the density. He said we're doing something that's quite unique here as far as the units per acre and we're reducing the allowed off-street parking which we wouldn't allow for any new building or any conversion of a building. He said the lot is barely big enough for a single family home and we already have seven units on it. He said asking for a reduction in off-street parking doesn't seem to make sense, is there not room there for the twelve.

Ms. Newberg said we're not reducing the twelve, the twelve stays for tenants but she has never seen them fully occupied. She said the thought is much like the grocery store to the north, these people park and go into the store and then they're gone. She said it's not long-term parking and we thought the on-street parking would suffice so as a technicality we are asking for the six because that six would be required for the grocery store and we simply don't have it off-site, it's on-street parking.

COUNCILMAN BROPHY asked how many spaces would we require in a new retail building of 8,400 sq. ft.

Ms. Newberg said we would require six for the grocery store plus the twelve for the seven apartments.

COUNCILMAN BROPHY said so it would be a total of 18 spaces for this on a new site with setbacks and all other kinds of retention, etc.

The City Manager said let's assume this is a vacant piece of land and he asked how many parking spaces would be required if we built a grocery store that occupied 8,400 sq. ft.

Ms. Newberg said one space for every 200 sq. ft.

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COUNCILMAN SHETINA said 40 some odd spaces, that's what we would require.

COUNCILMAN BROPHY said we're granting him quite a break if we honor the variations and it's precedent setting. He asked the Corporation Counsel if it is or not.

The Corporation Counsel said if you get an identical case and this is one of your previous decisions, sure.

COUNCILMAN BROPHY asked if the list of potential uses is limited for this landlord or not. He said there are plenty of 9 to 5 quiet uses. He said there was an accounting firm in there at one time.

Ms. Newberg said a beauty salon would be one, there are a lot of uses and they would all have customers that would need to park. She said the on-street parking is available and it's convenient.

COUNCILMAN BROPHY said it's very typical for the area and this neighborhood. He said he just wants to point out what we're doing here and the exception that we're making. He said when somebody builds something new we've got setbacks and retention and parking and all kinds of requirements and if we were to honor this it would be quite a concession.

COUNCILMAN SHETINA asked Mr. Rojas if he understands what we're talking about here and Mr. Rojas said yes. He said he wants him to know that he's going to be revisited in a year to see if everything is going ok. He said he moves to approve this based on that recommendation.

MAYOR SCHULTZ asked how much it is going to cost him to convert that into a grocery store.

Mr. Rojas said he figures about \$30,000 to \$35,000.

The City Manager asked Mr. Rojas if he has a tenant ready to go in as a grocery store operator or is he going to operate it himself.

Mr. Rojas said he is going to operate it with his daughter-in-law and four granddaughters who are 16 to 18 years old.

COUNCILMAN UREMOVIC asked if a building permit would be taken out for this.

The City Manager said yes, a building permit would be required. He asked Mr. Rojas if he is going to occupy all three store fronts or just one.

Mr. Rojas said for now just the one on the corner and he has already fixed up the one next to it for maybe a beauty salon.

COUNCILWOMAN QUILLMAN asked if this isn't setting a bad precedent for future people that want to do businesses in the neighborhoods. She said she remembers the bed and breakfast that wanted the variance on Western Avenue in a residential neighborhood and we denied that because that was going to open the door for other potential businesses in that neighborhood.

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The Corporation Counsel said he believes that whether it's a bad precedent or a good precedent, it's a land use judgment. He said you have these mixed use buildings that are turn of the century type buildings that had viable commercial, street level spaces and the decision is what do you do with them. He said they can't reasonably be converted into residential units so that's why you entertain other commercial. He said the challenge is how do you restrict any impact from the commercial use so it doesn't affect nearby residential properties and that's where the conditions that you have in the recommendation come into play. He said so yes there is a potential precedent and yes there is a potential effect and that's why you try to devise limiting conditions in your approval ordinance if you're willing to undertake it at all.

COUNCILWOMAN QUILLMAN said she doesn't think it's a good idea.

COUNCILMAN SHETINA said he would like to call his motion for a vote.

COUNCILMAN GIARRANTE moved that said Ordinances be adopted with the following added condition to approval of the Variation of Use for the Operation of a Grocery Store: "That this matter shall be referred to the Zoning Board of Appeals in one year to ascertain whether the grocery store and the property have been operated and maintained in such a manner so as to constitute a nuisance. If the Zoning Board of Appeals makes such a finding this ordinance shall be subject to amendment or repeal."

Motion seconded by COUNCILMAN UREMOVIC.

Motion carried by the following vote:

AYES: COUNCILMEN TURK, UREMOVIC, COUNCILWOMAN BARBER, COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN QUILLMAN, COUNCILMAN SHETINA and MAYOR SCHULTZ.

NAYS: COUNCILWOMAN QUILLMAN voted no on Ordinance No. 16345.

Prior to his vote, COUNCILMAN TURK said he thinks there's another convenience store a couple blocks north of there and he has never received any complaints about it. He said he thinks it's all in the management. He said he's sure all of the residents in the area were notified of the hearing and no one spoke in opposition to the petition so he votes aye.

The City Manager said just so we're clear with Mr. Rojas, it would just be the corner unit for the grocery store and the middle unit now is some kind of storage. He said the third unit did not have any kind of use designated for it, and he told Mr. Rojas if he has another business that he wants to bring into that unit it would have to come back to the Council for approval. He said this is not a blanket approval for any other kind of commercial operation in that third store front. He said he just wanted to make sure that was the Council's understanding and that Mr. Rojas understood that too.

Prior to his vote, COUNCILMAN UREMOVIC said in a year this will be brought back to staff under COUNCILMAN SHETINA'S recommendation. He said this is just a variation, not a blanket zoning change so all changes will come back to us.

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The City Manager said it is not a re-zoning of the property for commercial uses. He said it will remain R-4 Zoning and a year from now the property will be presented to the Zoning Board of Appeals for basically a status check and if the ZBA believes that there is a need for review by the Council because problems exist it will be referred back to the Council for repeal or modification. He said chances are staff will know about that and we'll do that on our own and we probably wouldn't need ZBA direction on that but we'll have it up in a year and make sure that there is compliance.

COUNCILMAN UREMOVIC said along the way building permits will be taken out for renovation.

Ms. Newberg said the Will County Health Department also will be brought in to insure health code laws.

Prior to her vote, COUNCILWOMAN BARBER voted aye with the recommendation that we will revisit it in one year.

Prior to her vote, COUNCILWOMAN QUILLMAN asked if it will only come back to the Council if the Zoning Board wants it to.

The City Manager said it will either be the Zoning Board of Appeals if they see a need for it to come back or the staff. He said obviously with the attention that this one has received any type of problem that may be created and Mr. Rojas is not responsive we will be bringing it back to the Council for consideration of a repeal or some kind of modification.

COUNCILWOMAN QUILLMAN said it takes a long time to get that repeal doesn't it.

The Corporation Counsel said under the ordinance there is a nuisance procedure that at any time if the property is thought to be a nuisance then we can bring it to the Council. He said what COUNCILMAN SHETINA suggested is a scheduled reconsideration at the Zoning Board level to see if they would recommend that the use be continued.

COUNCILWOMAN QUILLMAN said if they don't recommend it then we'll never see it again.

The Corporation Counsel said not unless the business is operated improperly. He said right now if you were to approve this and a year from now there were no complaints of inappropriate management of the property then it would not come back to the Council unless you as an elected Councilperson wanted to bring the matter to the full body. He said but what COUNCILMAN SHETINA suggested was a scheduled reconsideration and that would be whether it was operated properly or not. He said but even before then if we have signs of trouble we can bring it to you right away.

COUNCILWOMAN QUILLMAN said a grocery store is much better than a tavern of course, however there is a grocery store two blocks up the street so she doesn't understand how he's going to get any business. She asked if there were going to be liquor sales at the store.

The City Manager said they have not applied for a liquor license.

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Mr. Rojas said a lot of people go to the other store and they complain because they're walking with little kids and it's a busy street and they have a hard time crossing the street to go to the store so they asked him to open this store here so they don't have to cross the street.

COUNCILWOMAN QUILLMAN said she thinks we're setting a bad precedent. She said she understands about land use and everything. She said she votes yes to the repeal but she has to vote no to allow the grocery store.

Prior to his vote, MAYOR SCHULTZ wished him good luck and voted aye.

B. RESOLUTIONS

1. A RESOLUTION Authorizing the Approval of the 2009 Action Plan (Annual Update of the Consolidated Plan) was presented and read.
(Council Memo #1305-08)

COUNCILMAN SHETINA asked for an update on this item.

The City Manager said this document outlines the goals and objectives for the use of Federal funds for housing and community development needs in 2009 and is a basis for receiving funding from HUD for the Community Development Block Grant and HOME Investment Partnership Programs. He said staff is recommending its approval. He said they have also posted the plan itself on-line for public viewing.

COUNCILMAN BROPHY said he would like to make a minor correction to the plan that he also served on the ranking committee. He said he serves on both the leadership and the ranking committee.

The City Manager said he'll make that change.

COUNCILMAN BROPHY moved that said Resolution be adopted.

Motion seconded by COUNCILMAN SHETINA.

Motion carried by the following vote:

AYES: COUNCILMAN UREMOVIC, COUNCILWOMAN BARBER,
COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN QUILLMAN,
COUNCILMEN SHETINA, TURK and MAYOR SCHULTZ.

NAYS: NONE.

(RESOLUTION NO. 6197)

2. A RESOLUTION Accepting the Dedication of Right-of-Way for an Alley Located North of Caton Avenue, West of Raynor Avenue was presented and read.
(Council Memo #1306-08)

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COUNCILMAN TURK moved that said Resolution be adopted.

Motion seconded by COUNCILMAN GIARRANTE.

Motion carried by the following vote:

AYES: COUNCILWOMAN BARBER, COUNCILMEN BROPHY, GIARRANTE,
COUNCILWOMAN QUILLMAN, COUNCILMEN SHETINA, TURK,
UREMOVIC and MAYOR SCHULTZ.

NAYS: NONE.

(RESOLUTION NO. 6198)

3. A RESOLUTION Approving an Intergovernmental Agreement between the County of Will and the City of Joliet for a Retaining Wall at the Northwest Corner of South Briggs Street with Spencer Road - 2008 was presented and read.

(Council Memo #1307-08)

COUNCILMAN BROPHY moved that said Resolution be adopted.

Motion seconded by COUNCILMAN TURK.

Motion carried by the following vote:

AYES: COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN QUILLMAN,
COUNCILMEN SHETINA, TURK, UREMOVIC, COUNCILWOMAN
BARBER and MAYOR SCHULTZ.

NAYS: NONE.

Prior to his vote, COUNCILMAN SHETINA asked who is paying for that.

The City Manager said that is being paid for by the developer of the Spencer Road Industrial Park.

(RESOLUTION NO. 6199)

4. A RESOLUTION Determining the Amount of Money Estimated to be Necessary to be Raised by Taxation for Tax Year 2008 (General Tax Levy) and Setting a Public Hearing Thereon was presented and read.

(Council Memo #1308-08)

(RESOLUTION NO. 6200)

5. A RESOLUTION Determining the Amount of Money Estimated to be Necessary to be Raised by Taxation for Tax Year 2008 for the City of Joliet Special Service Area No. 1996-14 (Joliet City Center) and Setting a Public Hearing Thereon was presented and read.

(Council Memo #1308-08)

(RESOLUTION NO. 6201)

A communication from the City Manager contained his recommendation that the Mayor and City Council take the following actions: 1) Adopt said Resolutions; 2) Authorize the publication of the Truth in Taxation legal notices in the Herald News and Ledger Sentinel; and 3) Set December 2, 2008 as the date for the public hearings on the proposed estimated tax levies.

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COUNCILMAN GIARRANTE moved that said Resolutions be adopted and the recommendation of the City Manager be concurred in.

Motion seconded by COUNCILMAN TURK.

Motion carried by the following vote:

AYES: COUNCILMAN GIARRANTE, COUNCILWOMAN QUILLMAN,
COUNCILMEN SHETINA, TURK, UREMOVIC, COUNCILWOMAN
BARBER, COUNCILMAN BROPHY and MAYOR SCHULTZ.

NAYS: NONE.

Prior to his vote, COUNCILMAN SHETINA said he's assuming we're projecting an equalized assessed valuation.

The City Manager said yes.

COUNCILMAN SHETINA said with regard to our assessed valuation we didn't have a lot of housing construction but we had quite a bit of commercial. He said in light of the fact that you can't really reduce much of that in terms of property tax appeals and because you're working with a 3 year period we should be able to be pretty close on this assessed valuation. He asked what staff says about that.

The City Manager said we're confident that the numbers that are presented in the Council Memo are accurate based on information that the Director of Management and Budget has received from the Will County Supervisor of Assessments and the Kendall County Clerk's office. He said they are still showing a projection of increase in assessed valuation and that's a lot of that construction that took place in 2004 and 2005 finally hitting the tax rolls. He said we all know what's gone on in 2008 in the economy and that property values have lowered but what we have here is good news in that a lot of the trends that we saw for the 15 – 16 year period continued on in 2004, 2005 and 2006 and now it's resulting in our EAV continuing to go up. He said 2 or 3 years from now he thinks we'll see a spike going the other direction because of what happened in 2008.

COUNCILMAN SHETINA said but right now we should be pretty close.

The City Manager said that's correct so this will help us. He said we're confident these numbers are accurate; it does give us some room though should the final numbers that come in towards the end of the year show a little bit of a change, we've got it. He said one thing that COUNCILMAN SHETINA asked about was the tax rate itself and if you look at the fifth line from the bottom the Administration is proceeding with the assumption that the City Council would like to have that held at the \$111.00 that you held it to last year and that's the recommendation that we'll be bringing to you in the budget that will be distributed at the end of this week.

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BIDS AND CONTRACTS

A. Award of Contracts

1. Award of Contract for Snow Plowing of Municipal Lots for 2008/2009 Winter Season
(Council Memo #1314-08)

A report on five bids received for the above contract was accompanied by a recommendation from the City Manager that the Mayor and Council award the contract to Trizzino Construction in the amount of \$28,100.00.

2. Award of Contract for the 2010 Mason Avenue Storm Sewer Project – 2008 Neighborhood Improvement Program
(Council Memo #1315-08)

A report on four proposals received for the above contract was accompanied by a recommendation from the City Manager that the Mayor and Council award the contract to Len Cox & Sons in the amount of \$6,295.00.

3. Authorization to Approve a Professional Services Agreement for Leak Detection Services – 2008 - 2009
(Council Memo #1316-08)

A report on three proposals received for the above contract was accompanied by a recommendation that the City Manager be authorized to enter into an agreement with M E Simpson Co., Inc. for an amount not to exceed \$49,240.00.

4. Authorization to Purchase Flow Meter Equipment
(Council Memo #1317-08)

A communication from the City Manager contained his recommendation that the Mayor and Council award the purchase of four ISCO Model 2150 flow meters to Gasvoda & Associates in the amount of \$13,026.00.

COUNCILWOMAN QUILLMAN asked for an explanation.

The City Manager said the City is in the process of doing an in-house evaluation of the sanitary sewer system throughout the City and the studies have been cost effective in the past. He said we have four meters right now and we are purchasing another four meters from Gasvoda & Associates for \$3,256.50 per unit for a total cost of \$13,026.00.

The Director of Public Utilities said we're continuing an on-going study of the sewer system out in the Rt. 59 corridor to try and determine where the excess flows are coming in during wet weather periods and the purchase of these meters are more cost effective than to rent them. He said renting is an option but due to the number of locations we have to measure the flow and we have to get the flow at a simultaneous rain event to try to determine where the flow is coming from. He said they determined that it is better to purchase these meters and then we have them for future use.

COUNCILWOMAN QUILLMAN asked how much money will we save.

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The Director of Public Utilities said the rental on these is \$663.00 per unit per month and since this is on an on-going basis this will be more cost effective for us to buy them.

COUNCILWOMAN QUILLMAN asked if he had a figure.

COUNCILMAN BROPHY said they'll pay for themselves in 5 ½ months, owning versus leasing.

The City Manager said this request is coming to you as part of our conversation that we had a few weeks ago regarding the problem at Clare and Bronk and a few other areas where we need to get a handle on our problem and we thought that this would be a wise expenditure at this point to try to locate the infiltration. He said we know that is a longer term project and we'll be bringing to you a shorter term solution. He said he and the Director of Public Utilities are meeting with Clark Dietz on Monday to go over a proposal that they have put together for us to help us with that part of the project but this will help us because we know we have a lot of infiltration on the far west side and we need to find out where it's coming from.

COUNCILWOMAN QUILLMAN asked if four are enough, do we need more.

The Director of Public Utilities said we'll have a total of eight right now and as we start gathering data we may come back in the future and get more but right now we think eight is a good number.

COUNCILMAN UREMOVIC said in regards to this flow study, will you also be able to identify the trunk line that comes down Bronk Road and how big is that and is it able to service the subdivisions that are north of it.

The City Manager said that's what we've asked Clark Dietz to help us with. He said the problem is the infiltration of storm water into the sanitary sewer system. He said we saw that during the September 12th weekend when we had the 6 ½" rain and all of that water went in and the result was the problem we had at Clare and Bronk and a couple of other locations in the City. He said we really do need to identify where the water infiltration is coming from and these four meters will help us do that. He said as part of that the consultant will be helping us to look at the entire system to see where we need to have upgrades. He said there are several options out there and we're trying to find the most cost effective one.

5. Authorization to Purchase a Garden Tractor for the Parking Division
(Council Memo #1318-08)

A report on three proposals received for the above contract was accompanied by a recommendation from the City Manager that the Mayor and Council award the contract to H & R Pump Company Inc. in the amount of \$5,673.00.

6. Authorization to Award a Contract to Administer Mandatory Annual Fire Department Physicals
(Council Memo #1319-08)

The City Clerk noted that this item was taken off the agenda.

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COUNCILMAN GIARRANTE moved that the recommendations of the City Manager be concurred in.

Motion seconded by COUNCILMAN TURK.

Motion carried by the following vote:

AYES: COUNCILWOMAN QUILLMAN, COUNCILMEN SHETINA, TURK, UREMOVIC, COUNCILWOMAN BARBER, COUNCILMEN BROPHY, GIARRANTE and MAYOR SCHULTZ.

NAYS: NONE.

B. Amendments, Change Orders and Payments:

1. Approve Change Order No. 2 and Payment No. 7 and Final for the City Hall Roof Rehabilitation Project
(Council Memo #1324-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Change Order No. 2, a deduction in the amount of \$2,370.00 and Payment Estimate No. 7 and Final in the amount of \$62,206.00 on behalf of Elens & Maichin Roofing and Sheet Metal.

COUNCILMAN SHETINA asked if we are all done in the Council Chambers with the roof and the interior to this point.

The City Manager said yes. He said there won't be any carpet or seat changes. He asked the Director of Human Resources to explain what is left.

The Director of Human Resources said they have a little bit more work to do. He said some of the lights aren't hooked up yet but for the most part it's 99.9% finished.

2. Approve Change Order No. 1 for Installation of Entryway Landscape Improvements at Gougar Road and Route 6
(Council Memo #1325-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Change Order No. 1 in the amount of \$24,640.00 on behalf of Allied Landscaping.

3. Approve Change Order No. 4 and Payment Estimate No. 7 for the Belmont/Elizabeth/Irving Roadway Improvements Project – 2008 Neighborhood Improvement Program
(Council Memo #1326-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Change Order No. 4, a deduction in the amount of \$975.00 and Payment Estimate No. 7 in the amount of \$7,035.59 on behalf of P.T. Ferro Construction.

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4. Approve Final Payment for the Marion/Chicago Street Parking Lot Sign Post Repair
(Council Memo #1327-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Payment Request No. 1 and Final in the amount of \$11,000.00 on behalf of Len Cox & Sons.

5. Approve Change Order No. 6 and Payment Request No. 5 for the 2008 Plant Mix Contract
(Council Memo #1328-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Change Order No. 6 in the amount of \$289,980.98 and Payment Request No. 5 in the amount of \$184,641.04 on behalf of P.T. Ferro Construction.

6. Approve Change Order No. 1 and Payment Request No. 1 and Final for the Dr. Rao Bike Path Improvements Project - 2008
(Council Memo #1329-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Change Order No. 1 in the amount of \$2,533.80 and Payment Request No. 1 and Final in the amount of \$64,472.50 on behalf of D Construction Inc.

7. Approve Change Order No. 4 and Payment Request No. 4 and Final for the Western Avenue Greenway Improvements Project - 2007
(Council Memo #1330-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Change Order No. 4 in the amount of \$2,957.80 and Payment Request No. 4 and Final in the amount of \$2,957.80 on behalf of Allied Landscaping.

8. Approve Change Order No. 1 and Payment Estimate No. 2 and Final for the Westminster Road Sanitary Sewer Replacement and Storm Sewer Extension Project - 2008
(Council Memo #1331-08)

A communication from the City Manager contained his recommendation that the Mayor and Council approve Change Order No. 1, a deduction in the amount of \$6,262.80 and Payment Estimate No. 2 and Final in the amount of \$22,227.60 on behalf of J.S. Alberico Construction.

9. Approve Change Order No. 1 and Payment No. 1 and Final for the Purchase of Water Meters
(Council Memo #1332-08)

A communication from the City Manager contained his recommendation that the Mayor and Council take the following actions: 1) Approve Change Order No. 1 in the amount of \$4,000.00 on behalf of H&D Waterworks; and 2) Approve payment of Purchase Order No. 96598 in the amount of \$28,800.00.

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COUNCILMAN TURK moved that the recommendations of the City Manager be concurred in.

Motion seconded by COUNCILMAN UREMOVIC.

Motion carried by the following vote:

AYES: COUNCILMEN SHETINA, TURK, UREMOVIC, COUNCILWOMAN BARBER, COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN QUILLMAN and MAYOR SCHULTZ.

NAYS: NONE.

MAYOR AND COUNCIL COMMENTS:

COUNCILMAN SHETINA thanked Engineer Greg Ruddy, Public Works Director Jim Trizna and Director of Inspections Dave Mackley for the work they did in the Mirage Subdivision. He said we had problems in several rear yards and they have been out there time and time again trying to get some water problems resolved. He said a couple of the folks had physical handicaps and it was causing problems for them. He said we tried to work with the contractor and we did get some things done with the contractor by not letting him have any more permits for any purpose whatsoever and he thanked the staff for the work they've done in that area.

COUNCILWOMAN QUILLMAN said since the Cass Street bridge has been out the light at Jackson Street is red as you're going west when the other two are green which hampers the traffic flow. She said they can't go on the green light because the third one is red and traffic is all backed up. She asked if there is any way they can look at that and check the timing on that.

The Director of Public Works said they'll take a look at it. He said technically the designated detour route is Ruby Street but most people in the area know this is another route.

COUNCILWOMAN QUILLMAN said exactly, they know the shortcut and it's getting backed up.

COUNCILMAN BROPHY asked the Director of Public Utilities if he got any comments from the folks on the 1000 block of Westminster. He said he's only heard good things, and what we have done seems to have succeeded and the mystery backup in that one basement has stopped.

The Director of Public Utilities said he thinks they've identified the problem. He said this summer they replaced the sanitary sewer on the 900 and 1000 block of Westminster and identified a sag in the line that was most likely the cause of the problem for the sewer backups and with the replacement of that line they've eliminated that problem. He said he hasn't had any complaints.

COUNCILMAN BROPHY said good, that's one more dry basement.

COUNCILMAN GIARRANTE said tomorrow is Election Day and he reminded everyone to get out and vote.

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CITIZENS TO BE HEARD

A. Dwight Bendel re: Commuter Parking on York Avenue

Mr. Dwight Bendel commented on the commuter parking on York Avenue. He said the street is totally filled and the lot is half empty. He said he has property at 21 Osgood and they block him in so he can't get in and out of his commercial yard. He said there is also a small public housing project and the people leave to take their children to school and when they get back there is nowhere for them to park. He said this has been going on for a year and they have talked with the police to see what can be done. He said people drive at high speeds and children are waiting for the bus and he asked if they could check into the situation.

COUNCILMAN GIARRANTE asked if he was saying that commuters don't park in the parking lot.

Mr. Bendel said the commuters use the parking lot once the street is full.

COUNCILMAN GIARRANTE asked if we could put signs saying no parking from 6 a.m. to 8 a.m. or something like that.

The City Manager said he spoke with Mr. Bendel a couple of months ago and since then he has taken a few rides down there to see what is going on early in the morning and late in the afternoon. He said usually Mr. Bendel's place hasn't been blocked when he's gone by even though he's sure it probably does happen. He said he was there this morning checking it out. He said commuter parkers seem to find free parking wherever it may be. He said he has asked the staff to take a look at the parking situation on York. He said actually the free parking extends all the way over to Eastern Avenue by Jacob Henry Mansion and people are willing to walk 5 or 6 blocks even during bad weather to save a dollar a day. He said it's something he would like staff to take a shot at addressing long-term. He said they will be bringing a few things back to the Council on how we handle that on-street parking that currently is free. He said it's a legitimate complaint and we need to attack this more from a comprehensive perspective rather than just one block at a time.

COUNCILMAN BROPHY said metering would be expensive in capital and equipment. He said why don't we issue neighborhood permits to those who live and work there and give out fines for those who don't have that local permit.

The City Manager said he has asked staff to give him as many options as they can and the neighborhood permit parking issue is always out there. He said we have a couple of spots where that's currently going on and it works. He said it's an additional enforcement requirement but it does work. He said we'll look at this one but we're going to need a little more time and we'll certainly come back with some kind of solution.

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ADJOURNMENT

COUNCILMAN BROPHY moved that the Council recess to closed session to discuss personnel, land acquisition and potential litigation at 4:56 p.m. after which the meeting will be adjourned.

Motion seconded by COUNCILMAN GIARRANTE.

Motion carried by the following vote:

AYES: COUNCILMEN TURK, UREMOVIC, COUNCILWOMAN BARBER,
COUNCILMEN BROPHY, GIARRANTE, COUNCILWOMAN
QUILLMAN, COUNCILMAN SHETINA and MAYOR SCHULTZ.

NAYS: NONE.

ARTHUR SCHULTZ
Mayor

JANET K. TRAVEN
City Clerk

Recorded on Tape