

***Proceedings of the Council of the City of Joliet, Illinois  
held on the 15<sup>th</sup> day of December, A.D. 2008***

PRE-COUNCIL MEETING of the Council of the City of Joliet, Illinois held on Monday, December 15, 2008 at 3:30 P.M. in the Council Chambers, Joliet Municipal Building, 150 W. Jefferson Street, Joliet, Illinois.

ROLL CALL

PRESENT: MAYOR ARTHUR SCHULTZ and DISTRICT 4 COUNCILWOMAN SUSIE A. BARBER, DISTRICT 2 COUNCILMAN TIMOTHY M. BROPHY, DISTRICT 5 COUNCILMAN WARREN C. DORRIS, COUNCILMAN AT LARGE THOMAS C. GIARRANTE, COUNCILWOMAN AT LARGE JAN QUILLMAN, DISTRICT 1 COUNCILMAN JOSEPH R. SHETINA, COUNCILMAN AT LARGE MICHAEL F. TURK and DISTRICT 3 COUNCILMAN ANTHONY UREMOVIC.

ABSENT: NONE.

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

1. Presentation of Awards for the Aux Sable Creek Wastewater Treatment Plant

Mr. Chris Olm of Strand and Associates presented the City with the following awards for the Aux Sable Creek Wastewater Treatment Plant project: 2008 APWA (American Public Works Association) Public Works Project of the Year Award, the 2008 ACEC (American Council of Engineering) Engineering Excellence Award and the 2008 APWA Southwest Branch Award.

Superintendent of Plant Operations Harold Harty thanked Mr. Olm for the recognition, Strand and Associates for their consulting work and Williams Brothers and their subcontractors for doing a great job in bringing this project in on budget and on time.

Director of Public Utilities James Eggen said this is a state of the art plant and the entire operations are manned by two people on a normal eight hour shift. He said everything in the plant is automated so it is real smooth and a nice addition to the City facilities.

COUNCILMAN GIARRANTE said that's what happens when you build something 100% union.

The City Manager thanked the Mayor and Council for their support in helping to construct the facility. He said we had tremendous growth in Joliet for a long period and have taken a short hiatus, but we're well prepared for future growth in the Kendall County, Caton Farm Road and Theodore Street corridor.

The City Manager then asked for the Mayor and Council's indulgence in moving several items up on the agenda due to the presence of interested individuals.

The City Manager explained Council Memo #1470-08 dealing with the Designation of Unity Community Development Corporation as a Community Housing Development Organization (CHDO). He said the designation that is being asked is through the hard work of the Neighborhood Services Department

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along with Unity CDC in making sure that the CDC is qualified to handle the designation. He said they will be assisting the City of Joliet in some construction projects for affordable housing.

Mr. Dave Evans of Unity CDC was present to respond to questions.

COUNCILMAN SHETINA said he thinks we're giving up part of our corporate authority and he asked what happens as a result of that. He said he knows that there are some very fine people in the organization but CHDO has been something that we've worked with for a long time, and he asked why we are giving a designation to anybody and why are we giving up that corporate authority.

The City Manager said we're not actually ceding any specific dollar amount through this designation, all we're doing is indicating that Unity CDC is qualified to be the recipient of federal funds that are funneled through the City of Joliet to local organizations. He said should there be projects in the future using HOME funds, that would all come back to the Mayor and City Council for formal approval, but this is a designation that will allow Unity CDC to qualify for some other grants that may be coming their way. He said anything that would be coming through the City of Joliet would come back to the Mayor and City Council. He said there is no specific allocation for funding coming through this particular request.

COUNCILMAN DORRIS asked if this doesn't also give them ability to tap into some Federal funds that come through the County.

The City Manager said he believes Unity CDC has made the same request to the County and is asking the County to designate Unity CDC as a CHDO in unincorporated areas of Will County so it will help them to have that additional designation.

It was requested that this item be voted on today.

2. A RESOLUTION Authorizing the Designation of Unity Community Development Corporation as a Community Housing Development Organization (CHDO) was presented and read.  
(Council Memo #1470-08)

COUNCILMAN DORRIS moved that said Resolution be adopted.

Motion seconded by COUNCILMAN GIARRANTE.

Motion carried by the following vote:

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

NAYS: NONE.

Prior to his vote, COUNCILMAN SHETINA said he feels comfortable with Dave Evans but he still thinks we need to watch that we don't lose any of our own opportunities. He said the City has had a very good response on it and have had good success with it. He said he just wants to make sure we don't eliminate any of those things and he asked the City Manager if he understands it to be that way.

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The City Manager said we've had a good working relationship with Unity CDC. He said we're currently working on a project that will allocate some undeveloped lots for Unity for construction of new housing and that will come back to the Mayor and City Council for formal approval. He said all of the items that we're working on will be coming back to the Mayor and City Council with respect to Unity's request.

Mr. Dave Evans said this is just to enhance and increase the number of affordable housing that could be available in Joliet. He said we're not going to be in competition with the City of Joliet and we're just trying to increase the opportunity for affordable housing.

(RESOLUTION NO. 6214)

The City Manager then explained Council Memo #1531-08 dealing with an Application from Sears Holding Development for a Drive-Thru Permit for the existing K-Mart Store located at the Northwest Corner of Route 30 and Hennepin Drive.

Mr. Steve Sunderland, Ms. Cathy Michalski and Mr. Ray Cavaliere of Sears Holding Development were present on behalf of the request.

Mr. Sunderland stated Sears Holdings wants to undertake a new pilot project in the Joliet facility in the K-Mart site on Plainfield Road which will be one of two pilot sites in the country. He showed a slide presentation on the proposed project which he said is a "marriage between online shopping and bricks and mortar". He said they hope to attract online shoppers to a store where they can pick up merchandise without leaving their cars.

Mr. Ray Cavaliere explained the proposed upgrades and stated it will remain a single story structure with a little over 85,000 sq. ft. with about 20% for a showroom/sales area and the remaining 80% for warehouse storage and processing purchases. He said the drive-thru lane will go where the Kmart Garden Center now is located, and he explained how it would work.

COUNCILWOMAN QUILLMAN asked how long the pilot program is going to last.

Mr. Sunderland said they intend for the site to be in place forever. He said he is already starting to scope out other sites if this were a win-win in six months, but they intend this to be an ongoing operation of something completely new and he doesn't think there is anything out there like this right now.

COUNCILWOMAN QUILLMAN said this is one of two and she asked where the other site is.

Mr. Sunderland said it will be in another Chicagoland area location. He said they are still working through some of the details on it but it is going to be in Chicagoland.

COUNCILMAN BROPHY congratulated Mr. Sunderland and thanked him for choosing Joliet as one of their sites. He said we're happy to have it here. He said regarding the sales tax from either on-line or in-store shopping, do all of those pay the same.

Mr. Sunderland said yes.

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COUNCILMAN BROPHY asked what happens if you are wildly successful and you don't have room for expansion here.

Mr. Sunderland said within this particular site he doesn't think there is a need. He said the ability to house additional items in the box is not going to be a challenge for them here because they are going to be that much broader. He said the other positive we have is we do have a distribution facility within about an hour or so from here which actually has been a wonderful leverage point for us which gives us an even broader assortment, and if things are accelerating at that rate we can actually pull from there and use that transportation arm to fulfill customer needs and expand the assortment.

COUNCILMAN BROPHY asked if there will be any controlled items like alcoholic beverages or prescription drugs.

Mr. Sunderland said they are looking at the pharmacy being maintained but it will be on an almost messenger basis. He said they are looking at more of a fulfillment rather than having a pharmacy on site, but they will still be able to fulfill pharmacy orders.

COUNCILMAN GIARRANTE asked what the estimated cost of this is going to be.

Mr. Sunderland said the cost will be between \$4 and \$5 million.

COUNCILMAN GIARRANTE said he assumes it's going to be local union labor.

Mr. Sunderland said we are preparing to go through the bidding process.

COUNCILMAN TURK said there are about 55 employees now and he asked if they are going to maintain the same employee complement or will there be more or less employees.

Mr. Sunderland said because of the sales potential which we see as higher than the existing K-Mart store, we will actually be looking at around the same number of employees but there will be a higher full-time to part-time ratio. He said it will be more beneficial to the associates.

COUNCILMAN UREMOVIC complimented Mr. Sunderland and his staff on putting this together and said this will provide better customer service for the citizens of Joliet. He asked he would like to take a look at a copy of the research study that they did that he's sure staff reviewed.

COUNCILMAN GIARRANTE said he knows they said they are going to use local union labor, but is there anything that mandates them to.

The City Manager said usually in a situation like this we don't have any incentives that we're providing to the developer that would allow us to condition it like that, but he thinks most development projects that have gone on recently have been mindful of using local labor for construction purposes.

Mr. Sunderland said their intent is to use local.

MAYOR SCHULTZ asked if he could explain the bidding process to him.

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Mr. Sunderland said they have at least 10 general contractors that they will ask for bids and then evaluate from that point.

MAYOR SCHULTZ asked when will they know.

Mr. Sunderland said they'll probably submit this week depending on the vote and they have a walk thru scheduled for this Thursday and they will probably know at least one to two weeks after that.

It was requested that this item be voted on today.

3. Application for Construction of a Drive-Thru Permit for the K-Mart Store Located at the Northwest Corner of Route 30 and Hennepin Drive  
(Council Memo #1531-08)

A communication from the City Manager contained his recommendation that the application for construction of a Drive-Thru Permit for the K-Mart Store Located at the Northwest Corner of Route 30 and Hennepin Drive be approved.

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

Motion seconded by COUNCILMAN TURK.

Motion carried by the following vote:

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

NAYS: NONE.

The City Manager then explained Council Memo #1452-08 dealing with the Preliminary and Recording Plats of Barrister Berm Subdivision and the Zoning Reclassification of 3601 McDonough from I-1 to B-3 Zoning.

Mr. Clay Thurston of Geotech, Inc. was present on behalf of the petition.

The City Manager then explained Council Memo #1453-08 dealing with the Preliminary Plat of Silver Leaf Commercial Subdivision.

Mr. Mike Rogina of Rogina & Associates was present on behalf of the petition.

COUNCILMAN GIARRANTE asked if this has been approved by the FAA also.

The City Manager stated there are no structures that are proposed for this yet, and he believes once they get to the construction part of this then they will be required to satisfy the FAA requirements.

Mr. Rogina said there is a general note on the Preliminary Plat requiring FAA approval prior to any site plan approval, but at this time the product or the architecture is not known.

COUNCILMAN UREMOVIC asked the City Manager if this is the same group doing the residential section.

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The City Manager said no it is not; this is a local development group completely separate from the challenges we've had dealing with the residential component and the berm that parallels McDonough Street.

COUNCILMAN UREMOVIC asked if these changes alter the purpose of this now.

The City Manager said it doesn't. He said this was designated for commercial zoning initially when this first came before the City Council a few years ago and he believes there may have been a Preliminary Plat on it before. He said the intent now is to take the area that was designated for commercial and subdivide it into three separate lots so it is completely separate from the residential project. He said this is not under the same ownership and is coming before the Council separately from anything dealing with residential.

COUNCILMAN UREMOVIC said so instead of one big lot now there are going to be three lots.

The City Manager said three separate lots.

COUNCILMAN UREMOVIC asked what is the advantage to this.

The City Manager said it probably makes it more marketable because it's a little easier to separate the lots in this commercial market where people may be looking for a smaller lot as opposed to a bigger lot for construction purposes.

COUNCILMAN UREMOVIC asked about maintaining the design standards and quality if they are separated.

The City Manager said we still have the design guidelines in effect that will apply to all three lots and even if they come in at separate times, all three will be required to comply with the design guidelines. He said if the question is will there be one unified theme throughout this, he doesn't think that would be a requirement.

The Director of Community and Economic Development said that is not a requirement.

COUNCILMAN UREMOVIC said so now that becomes a disadvantage.

The City Manager said it could be a disadvantage. He said if you're looking for a consistent theme for these three lots then at that point we are probably relinquishing our ability to do that though each one that would come in would still have to comply with design guidelines. He said you might have three different types of architecture that could come in so if you're looking for a harmonious theme throughout all three lots, then that's something we would need to work on before this is approved.

COUNCILMAN UREMOVIC said he doesn't want to complicate this but let's say that we went ahead and let them subdivide this, but yet we still have the ability to say wait a minute before all three are sold, either there's going to be uniformity or not. He said this is just the preliminary plat.

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The City Manager said yes, it will come back for final platting. He said we do have a use restriction on it that limits the uses including no package liquor sales, taverns, nightclubs, 24-hour businesses, kennels, auto service stations, etc. He said it also has a provision that the structures on the three lots would have to meet or exceed the building design for the multi-tenant commercial structure on Caton Farm Road just west of Essington Road that was done by this same developer and that is probably about a 6 or 7 store front unit that is to the west of Grand Prairie School.

COUNCILMAN UREMOVIC said he just wants to make sure our hands aren't tied on this. He said if we're just going to subdivide it that leaves us some latitude and room where we could say we want uniformity and to make sure the quality is maintained and there's not three different separate crazy pieces in there.

The City Manager said we have set as a standard the same type of architecture and façade that was approved for the structure that this developer has on Caton Farm Road. He said if this developer were to sell any one of the three lots or two or more of the lots whoever would be buying it would be subject to these same restrictions, and if the building was not in compliance then we would not approve the issuance of a building permit for it.

COUNCILMAN SHETINA asked who is responsible for the detention pond and will it have aerators.

The Director of Public Works said they have two detention ponds, one to the north of the lots and one to the south and they have already designed those to provide detention for these three lots up to a certain permeability. He said if they go beyond that then they have to provide a little detention on site. He said he knows the detention basin to the north end is actually part of the townhome complex.

COUNCILMAN SHETINA said he wants to know for sure.

The Director of Public Works said we'll check and get an answer.

The City Manager then explained Council Memo #1449-08 dealing with an Amendment to the existing Annexation Agreement and a Variation of Use to Allow an Asphalt Plant for the Austin Tyler Construction Company on Ridge Road just north of Bernhard Road. He said staff is recommending that these items be tabled to the January 6 Council meeting in order to address outstanding issues with the proposal.

Attorney Tom Carey was present on behalf of the petition. He said this has gone through the various hearing stages and the question of tabling the matter came up at the Land Use Committee meeting and he would like to urge the Council to hear this matter now rather than table it. He said all of the questions have been adequately addressed by City staff and he is not aware of any pending issues and they are ready to move forward. He said they have a manufacturer for this plant who is ready to move forward and he believes staff is ready to move forward.

COUNCILMAN SHETINA asked if the tabling was staff generated and what is the effect of that.

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The City Manager said it was his understanding that there were still a lot of outstanding questions that the Council may have had and they possibly needed additional time to review the matter. He said we have met with Mr. Carey and with Mr. Ron Plunk of Allied Landscaping and Mr. Gary Schumel of Austin Tyler and we have reached an agreement in concept as far as all of the land use issues dealing with maintenance of roads, berming, landscaping and those types of issues, so we're prepared to proceed forward if the Council would like to do so. He said we do have some paperwork that we'd have to work on and get before the Council, but if it is the Council's pleasure to proceed we'd be happy to provide that so we'd be ready for tomorrow night.

COUNCILMAN DORRIS said he wants to make it very clear that the City will receive sales tax in this plan, is that correct.

Mr. Carey said that is correct, the sales tax just for the construction would be about \$390,000. He said the City's portion would be about \$60,000.

COUNCILMAN DORRIS said so it would be the recommendation of the staff that we proceed.

The City Manager said yes.

COUNCILMAN DORRIS said and legally for what they've requested there is no legal way or reason to deny it.

The City Manager said staff is recommending approval of the request that has been presented for a preliminary plat which will carve out the ten acres for this site and also require an amendment to an existing annexation agreement to allow for this particular use and it is our recommendation to approve.

COUNCILMAN DORRIS asked if it fits within what we said our east side plan was going to be.

The City Manager said we have designated that area for industrial zoning and it's very close to where the industrial zoning stops and the residential zoning begins at Bernhard Road. He said it's already annexed and already zoned I-1 so it has an industrial designation on it and it already has an industrial use on it. He said it is the yard of the Austin Tyler Company so it has already been put to an industrial use and we see this as being consistent with what that use is. He said because it's a relatively small portion of the 66 acre site, we see that there will be other development opportunities for the remaining 56 acres.

COUNCILMAN DORRIS commented to Mr. Carey that a few years ago he stood there with the Laraway Crossings developer and he challenged the developer with him that when that happened we would get minority participation, and they said that would happen. He said that phone call never came, so he would hope that if there is a way to do some minority participation in this area that there is some way to make that happen.

Mr. Carey said a promise was made that they would look into that and he didn't represent them after that date. He said this property owner has already taken those kind of steps and it will be done here.

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COUNCILMAN BROPHY said he has a couple of questions about the process. He said they went through zoning and planning as required and so is there or is there not a council memo ready with staff recommendation.

The City Manager said there will be one ready if the Council wishes. He said it's already on the agenda for tomorrow night's meeting as a public hearing. He said usually when there is a request to table whether it's coming from the petitioner or from staff we usually just provide the Council with a one page request to table as we did in this particular case because he thought that was the direction this was headed for when we issued the agenda packet on Thursday. He said since then there have been conversations indicating that there may be some interest in taking action tomorrow night and if there is we will have a Council agenda item prepared by tomorrow morning and distributed to the Mayor and Council with documentation that backs up the agreements.

COUNCILMAN DORRIS said he got a call yesterday about the Laraway School District after he received a letter from Board member Larry Peet but he thinks from his understanding that that has been resolved and the trucks won't even go in that direction.

The City Manager said the Laraway School District is fairly removed from this particular location, and we have agreed with the developer that there will be one way in and one way out using Ridge Road to Schweitzer and Schweitzer to Route 53 and that will be part of the agreement, so that would lock in the flow of traffic in and out to make sure that the traffic is not going in areas where it doesn't belong. He said he met with the Road Commissioner from Jackson Township who informed him that he's posted some roads to the south of this facility with weight limits, but he did not do so on Schweitzer Road. He said the agreement we have with the developer is that they would be fully responsible for maintaining Schweitzer from its intersection with Ridge all the way to Route 53. He said there would be an overlay done on Schweitzer before the opening of the facility.

COUNCILMAN UREMOVIC said so the truck traffic issues have already been resolved.

The City Manager said he believes they have, yes.

COUNCILWOMAN QUILLMAN said when this was presented at the Land Use Committee meeting she was under the impression that it was going to be a totally green operation with air control.

Mr. Carey said absolutely, they are under the IEPA and it has to be permitted and allowed by the IEPA before we can begin operation.

COUNCILWOMAN QUILLMAN said she brought that up because she knows there were some questions at the Plan Commission that weren't quite explained to them and she knows that one person voted no because they didn't understand it and thought the air quality would be poor.

Mr. Carey said this will be a state of the art operation which is controlled by the Illinois Pollution Control Board and there are annual checks on it and before it goes into operation, they have to permit it.

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COUNCILMAN SHETINA said we were discussing the upgrading of the road to meet the standards for the weight that they'll carry and we also talked about perpetual care. He asked if that was resolved.

The City Manager said the developer will be required to maintain Schweitzer Road and Ridge Road for that portion that goes from the plant over to Schweitzer until the properties that are adjacent to those roads get developed and we have fully improved, standard roads that we would normally see as part of a new project. He said that could be many years from now or it could be a few years from now, but it is something that this developer understands will be a continuing operation.

COUNCILMAN GIARRANTE said we addressed Schweitzer from Ridge west, what about Schweitzer from Ridge east.

The Corporation Counsel said that road is not currently within the City's jurisdiction.

COUNCILMAN GIARRANTE said so they would not be allowed to use that.

The Corporation Counsel said it is his understanding that the Township will not allow blacktop trucks on that road.

COUNCILMAN GIARRANTE said that would be up to Jackson Township Highway Commissioner Paul Buss to enforce that. He said they are not going to go to Vulcan for their material, they're supposed to go south, and he asked for some information before tomorrow that shows the roads they are going to use when they do go south or when it's delivered here, etc.

COUNCILMAN BROPHY said to be clear, should this be approved, this operation will be using the same roads that every other asphalt carrying truck will be using.

The City Manager said he believes so.

COUNCILMAN BROPHY said so they are not unduly restricted compared to anybody else.

The City Manager said the only restriction will be going to and leaving this particular plant because of the nature of the roads around it. He said the other three plants that are outside but close to the City limits have roads that are close to main arterials so it is relatively easy for them to get in and out. He said in this particular case it is a little bit more removed from Route 53.

MAYOR SCHULTZ asked the City Manager if they will have all of the paperwork ready tomorrow with ample time for the Council to review it and possibly vote on it tomorrow night.

The City Manager said yes.

MAYOR SCHULTZ asked if the City Manager had any questions.

The City Manager said he doesn't have any questions and he's had a series of meetings with Mr. Carey and his clients and he has heard from many other people on this topic and feels comfortable that this is ready to proceed if the

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Council is ready to proceed with it. He said he knows there are a few people in the audience if this is discussed today who would like an opportunity to speak. He said there is a public hearing tomorrow and they can speak today or tomorrow.

MAYOR SCHULTZ asked if anyone would like to speak.

Attorney Tom Phelan said at the ZBA meeting where the variation of use was recommended for denial and at the Plan Commission meeting where the annexation agreement amendment was recommended for approval, there were a number of concerned people in attendance. He said there has been some discussion about the possibility of this being tabled this evening and there are a number of people that are not here that would like to be heard at that public hearing so he would ask that the public hearing be held tomorrow night and that they be given the opportunity to respond.

Mr. Phelan said his client Jo Rita Lesch, who lives right across from this property, is concerned from a standpoint of amending the annexation agreement that originally prohibited this particular use. He said the annexation agreement said in an I-1 zoning you could not have an asphalt plant and that is what is being amended in the agreement. He said Ms. Lesch entered into an annexation agreement with the City with the understanding in her mind that the I-1 would be north of her or adjacent to her and she would be residential. He said this is a particular amendment that in essence puts an I-3 use in an I-1 zoning so they're looking at it as if it's kind of a spot zoning type situation and they would like to express their opinion tomorrow evening.

COUNCILWOMAN QUILLMAN asked how many jobs is this supposed to bring to the area.

Mr. Carey said the operation of the plant is not that labor intensive and there are 3 or 4 regular employees. He said when the plant is in operation there will be truck drivers and the truck drivers are of course union laborers. He said all of the people who are going to build the plant are going to be union laborers and there have been agreements signed on that as well.

COUNCILWOMAN QUILLMAN asked how long it will take to build the plant.

Mr. Carey said about 6 weeks.

Mr. Charlie Hanus, President of Will-Grundy Counties Central Trades and Labor Council, Mr. Willie Sellers and Ms. Burneva McCullum of the Black Contractors Association of Will County, Mr. Peter Passas of Patten Industries and representatives of Local 150 and Local 179 all spoke in support of the asphalt plant.

MAYOR SCHULTZ asked if it takes 6 weeks to build this.

Mr. Carey said this is just part of the process, once the Council sees fit to approve it then there is the industrial performance certificate that has to be applied for so we have to go through all of those kind of assurances so that the City is protected. He said there's probably about another two month process of engineering that has to be completed and we would work with the staff to make sure that it is done according to all of the requirements of the City codes.

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The City Manager said he will have the paperwork made available to the Council early tomorrow and he reminded them that it will take six yes votes to approve what is being requested. He said there will be a public hearing tomorrow evening so if anyone else would like to be heard then they will have that opportunity.

The City Manager then explained Council Memo #1455-08 dealing with the Preliminary, Final and Recording Plats of the Resubdivision of Lot 1 in Drauden Pointe Center, a PUD. He said this has been through a series of approvals going back about 12 years ago and there were a series of restrictions that were imposed on the developer for this parcel and those restrictions are still in effect and are not being changed by what's being requested. He said there has been some discussion regarding a request for a liquor license for one of the stores and that is not part of what is being presented before the Council today. He said there has been some discussion by the developer about the restriction that prohibits a package liquor store from going into the commercial portion. He said that has not been presented to us on a formal basis, it's only been on a conversational basis and if that were to proceed it would have to come back to the Mayor and City Council for formal approval. He said this is just a resubdivision of Lot 1 and staff is recommending its approval. He said there are representatives from the development group present today to address the Council.

Attorney Mike Hansen and Mr. Clay Thurston of Geotech Inc. were present on behalf of the petition.

Mr. Hansen requested approval tonight on this as it's not a public hearing.

COUNCILWOMAN QUILLMAN asked if the Brookside homeowners are aware that we might vote on this today because they might be here tomorrow in opposition.

The City Manager said he doesn't believe that they were informed that we could be taking formal action today.

COUNCILWOMAN QUILLMAN said she would rather wait until tomorrow in case they show up just to give them the benefit of the doubt.

COUNCILMAN GIARRANTE said the only letters he received concerned a liquor store and there is nothing in here about a liquor store.

COUNCILMAN SHETINA said the only response he's had is with respect to the liquor store and the neighbors are of the opinion that that is part and parcel of this and it is not. He said he would normally recommend that we vote on this today but if there are any questions about what we're doing, we should hold it off until tomorrow.

Mr. Hansen said they will be happy to come back tomorrow night.

4. Citizens to be Heard

- a. Kelly Floyd re: Sewer Improvements at 413 Pleasant Street

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Ms. Kelly Floyd said in early October the City graded their alley where her septic tank is located and when they graded it they tore the top of the septic tank off. She said she called the sewer department at the City and they said she needed to talk to the Health Department which she did and they sent her a letter saying she needed to crush and fill her septic tank because it was an abandoned septic tank, but it's not because they've been living there for over 15 years. She said when she first talked to the Health Department they said she can't keep her septic tank there because it's on City property because it's in an alley. She said according to the Health Department, her property is too small to put a septic tank on her yard. She said now she has no alternative but to ask the City to run a sewer line down their street, and she was hoping neighborhood funds could help her out with that because she doesn't have that kind of money. She said Jim Eggen was kind enough to get an estimate to present to Councilman Dorris as far as what it would cost to help do that. She said she is more than willing to pay for a hookup fee or whatever it takes to do it. She said she's been there all of these years and the house is over 80 years old and now they're all of a sudden telling her that their septic tank is illegal.

COUNCILMAN BROPHY said our contractor damaged her property that is in our right-of-way and he asked the Corporation Counsel what happens with a pre-existing situation like that. He asked if that septic tank was built illegally in 1930 or how did it get there.

The Corporation Counsel said it was probably done for the convenience of the property owner at the time. He said the City would have no information that the tank was there, otherwise we probably would have asked for its removal many years ago. He said he doesn't know if it was a situation where the contractor was at fault. He said there is a public service need now.

COUNCILMAN BROPHY asked if the septic still operates.

Ms. Floyd said yes it does.

COUNCILMAN BROPHY said in the least we should try to reach an agreement with her about repair of the top if it needs to be repaired.

Ms. Floyd said there is just plywood laying across the top and barriers in the alley.

COUNCILMAN DORRIS asked if we could put it back in the condition it was and then commit the first round of NIP funds next year to it. He asked if the Health Department will go along with that.

The City Manager said we would have to talk to the Health Department and see if they would be willing to hold off on enforcing its environmental laws on this. He said there is a preliminary cost estimate of a little over \$50,000 to at least make sewer available to the property line.

The Director of Public Utilities said that's correct. He said there are multiple properties out here that don't have either water or sewer and are still on well and septic. He said for whatever reason the 400 block of Pleasant south of McDonough Street was never sewered when improvements were brought into that part of the City years ago. He said right now working with the Health Department he is sure they would back off if there was some direction from the City that we were going to take some action.

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The City Manager said we'll have a follow-up meeting with the property owner and see what we can do about getting it in queue and talk to the Health Department. He said obviously this is all subject to funding but we can certainly see what may be available in future NIP funds for it. He told Ms. Floyd that Mr. Eggen will be in contact with her.

The City Manager then went to the beginning for the agenda to explain the remaining items.

The City Manager advised there was a need to go into closed session to discuss personnel, land acquisition and pending and anticipated litigation.

COUNCILMAN BROPHY moved that the Council recess to closed session to discuss personnel, land acquisition and pending and anticipated litigation at 5:10 p.m. after which meeting will be adjourned.

Motion seconded by COUNCILWOMAN BARBER.

Motion carried by the following vote:

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

NAYS: NONE.

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ARTHUR SCHULTZ  
Mayor

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JANET K. TRAVEN  
City Clerk

Recorded on Tape