

***Proceedings of the Council of the City of Joliet, Illinois  
held on the 6th day of February, A.D. 2006***

PRE-COUNCIL MEETING of the Council of the City of Joliet, Illinois held on Monday, February 6, 2006 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 2 COUNCILMAN TIMOTHY M. BROPHY, COUNCILMAN AT LARGE THOMAS C. GIARRANTE, DISTRICT 4 COUNCILMAN ALEX LEDESMA, 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 JOHN M. MEZERA and CORPORATION COUNSEL JEFFREY S. PLYMAN.

1. Citizens to be Heard

- a. Larry Wiers, Troy School District 30-C Superintendent, re: Requesting City of Joliet Support for the Troy School District 30-C Referendum

Superintendent Larry Wiers said this referendum requesting a 45 cent tax hike for Troy School District's education fund will be the District's 16<sup>th</sup> referendum in 20 years, and he thanked the Mayor and Council for supporting all of them. He said money raised through this tax increase will allow for the staffing of the District's new school for fifth and sixth graders.

It was requested that this item be voted on today.

2. A RESOLUTION Supporting the Troy School District 30-C Referendum Regarding an Educational Fund Tax Rate Increase was presented and read.  
(Council Memo #113-06)

COUNCILMAN SHETINA moved that said Resolution be adopted.

Motion seconded by COUNCILMAN BROPHY.

Motion carried by the following vote:

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

NAYS: NONE.

(RESOLUTION NO. 5720)

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

He first explained Council Memo #83-06 dealing with the Annexation of 416 Algonquin Street.

Mr. James Lopez was present on behalf of the petition.

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The City Manager then explained Council Memo #87-06 dealing with the Annexation and Classification to B-3 Zoning of 13 Parcels on the North Side of Plainfield Road for future commercial use. He said the site will be a traditional commercial center with parking in the front and access from Plainfield Road. He said there will only be one access on Kellogg Street to this property and all existing residential uses will be buffered by decorative fencing, berming and landscaping. He said the annexation agreement will require the developer to petition the City for a future PUD subdivision.

COUNCILMAN TURK arrived at the meeting during the explanation.

The Director of Community and Economic Development said that some of the adjoining property owners between Movies 10 and the proposed annexation will be included in this annexation and they may or may not sell to this developer. He stated that they are interested in the B-3 zoning and the sewer and water. He said the developers have talked about this being a retail development and it may have an office component in it. He said that is subject to change depending on what kind of tenants they get.

COUNCILMAN BROPHY asked if this is just an annexation at this time and the drawings are only a concept.

The City Manager stated that is correct and a Planned Unit Development would come back to the Council and show all the buildings and what they are going to be and what the architecture is on all of those. He stated that there are several items that will be prohibited after a meeting was held with the property owners who live in the area, including package liquor, billiard halls, bowling alleys, car washes, used and new car sales, auto repair, muffler shops, outdoor entertainment, tattoo shops or any sexually oriented businesses. He said that to keep noise down there would be no trash compactor operation or truck idling to the rear of any of the buildings between 11:00 p.m. and 7:00 a.m. He stated that there would be only one access onto Kellogg Street and there would be a decorative wood fence at a minimum of six foot high with masonry pillars installed adjacent to all residential property to the north and to the east of the development.

COUNCILMAN SHETINA asked what the proposed site size is.

The Director of Community and Economic Development stated there are about 21 acres that they have under contract now and again that might grow if some of the other property owners come in with this development.

COUNCILMAN BROPHY asked if this development is under today's guidelines and if anything is approved later it doesn't apply to this.

The Corporation Counsel stated that all of the impact fees that the City currently requires will be imposed on this property. He stated that all of the impact fees that may be imposed in the future that are generally applicable with annexations will also apply to this piece. He stated the development and the design standards that the City has now and may adopt in the future would attach to this property at the time of platting or the time of the planned unit development.

COUNCILMAN BROPHY asked if there are multiple applicants all under this proposed annexation.

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The Director of Community and Economic Development stated that is correct.

COUNCILMAN SHETINA asked what the developer was told about the quality of the buildings.

The Director of Community and Economic Development stated that they told the developer from day one that they would have to be the best possible quality buildings and they have conveyed that to the prospects that have expressed interest in coming to the development. He stated that they are talking about institutional quality buildings with all brick exteriors and the design standards that are in place. He stated that they are also talking about increasing the design standards. He said they have agreed to all of this also.

MAYOR SCHULTZ asked when Route 30 will be widened.

The City Manager stated that they are working on the utility work right now and most of the road work will probably be completed during 2006 and finish up in 2007.

MAYOR SCHULTZ asked when the developer is going to start building.

Mr. Tim Bossy of NEG Properties stated that it is not known yet, but the future tenants they are talking to do not want to open for business until Route 30 is completed. He stated that they would like to try to have it delivered in spring of 2007.

The City Manager then explained Council Memo #97-06 dealing with the Preliminary/Final and Recording Plats of Cherry Hill Business Park West Subdivision.

Mr. Brad Wood of Northern Builders was present on behalf of the petition.

COUNCILMAN UREMOVIC asked if this will come before the Council again before the quality of the buildings is determined.

The City Manager stated that the industrial buildings will go for building permit at this point and this will be the final time that the industrial park will come before the City Council. He said that each of the buildings that will come in will come into the Building Department and through the Planning Department and they will be reviewed for quality on all of those buildings.

COUNCILMAN UREMOVIC asked what the industrial buildings will be used for.

The City Manager stated that they really don't know at this point. He stated that one of the main companies they have been working with is Andrew Corporation. He said that they won't know the final end users until they come back to the City.

The City Manager then explained Council Memo #99-06 dealing with the Final and Recording Plats of Kozielski Estates Subdivision.

Mr. Walter Kozielski was present on behalf of the petition.

The City Manager then explained Council Memo #100-06 dealing with the Recording Plat of Caton Farm and Ridge Road Commercial Subdivision Unit 1.

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He said a nationally known drug store is planned for Lot 1, a bank is planned for Lot 2 and Lot 3 is being planned as a multi-tenant retail strip center.

COUNCILMAN BROPHY stated that there are still other towns where the Walgreen's look a level above what the City is getting. He asked why this is happening.

The Director of Community and Economic Development stated that it is really a style in time meaning that the buildings that are being built are the best they have at the time and then they make changes.

COUNCILMAN BROPHY stated that the Walgreens on Jefferson Street came far after the one in Frankfort and the one in Frankfort is entirely different.

The Director of Community and Economic Development stated that they did have that discussion with the developers and they were told about that. He said that they do have renderings of the Walgreens and they are very cognizant of what the staff is looking for and they have made commitments to that. He stated that they will do the same with the restaurant and other businesses.

COUNCILMAN UREMOVIC stated that he would like to see this again before permits are issued.

The Director of Community and Economic Development stated that they were to come to the next Land Use Committee meeting and they were going to do a full disclosure at the Committee meeting.

COUNCILMAN UREMOVIC asked what would happen if the Land Use Committee doesn't like it.

The Director of Community and Economic Development stated that they can hold the building permit until they find something that they do like.

The City Manager stated that they will go over the items that COUNCILMAN BROPHY has talked about because they have talked about the same items. He stated that they are doing another generation of design standards that would provide for covered walkways with all the strip malls and it would have exactly what COUNCILMAN BROPHY is talking about. He stated that is what the staff is going to ask them to do.

COUNCILMAN BROPHY stated that the City Manager has the ultimate final say on the issuance of a building permit so if the Land Use Committee didn't like it, then it could be held up.

Deputy Liquor Commissioner Jim Greenan then explained Council Memo #152-06 dealing with the Transfer of a Class "C" Liquor License at 2405 Essington Road.

It was requested that this item be voted on today.

3. Transfer of a Class "C" Liquor License at 2405 Essington Road  
(Council Memo #152-06)

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A communication from the Liquor Commissioner regarding the application of Micdan, Inc. (Brenda and Glen Aguilar) d/b/a White Hen Pantry for the transfer of a Class "C" Liquor License at 2405 Essington Road contained his recommendation that the transfer of this license is in the best interest of the City, and therefore, approval is recommended.

COUNCILMAN GIARRANTE moved that the recommendation of the Liquor Commissioner be concurred in.

Motion seconded by COUNCILMAN LEDESMA.

Motion carried by the following vote:

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

NAYS: NONE.

Mr. John Leach then came up to the podium and said that they have 1,050 lots in Cumberland Subdivision that have been developed and they are trying to finish the remaining 100 lots and there haven't been any maintenance bonds reduced from the package. He stated that he has asked Public Works and Utilities to reduce or release some of these. He said that he has brought all the information to Public Works to have them taken care of and nothing has been done as of yet.

The City Manager stated that Mr. Leach knows his engineers need to submit a certified letter after they inspect the property.

Mr. Leach stated that somebody should have told him that.

The City Manager stated that policy has been in force for probably 20 years. He stated that the previous engineer who worked for Leach Homes always knew to do that and submitted the proper paperwork. He stated that every other developer in the City does this except Mr. Leach. He stated that the Public Works Administrator handles this with the City Clerk. He said that Mr. Leach should submit a certified letter to the Public Works Administrator and he then writes a letter to the City Clerk authorizing release and that is how the policy has been for years.

Mr. Leach asked why he was never notified that he was doing it wrong.

Attorney Carl Buck stated that Cumberland South Subdivision was pulled off the agenda and after talking to the Corporation Counsel, it was determined that this was in respect to the maintenance of the detention ponds and how they have been done in the past. He stated that they have been very successful with creating homeowner's associations for those lake area lots. He stated he believes there was some confusion as to whether or not they were actually legal entities that were responsible for maintaining those. He said that he hopes the plat will come before the Council at their next meeting.

The City Manager stated that the City needs to make sure that all of the subdivisions in the City are done the same. He stated that when there are lakes and aerators and areas in front of subdivisions that require a high level of maintenance and areas of the subdivision that are important to all of the people in the subdivision, there needs to be a homeowner's association so that all of the people within the subdivision have some say in how the property is maintained.

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He stated that they also share in the expense of those items, such as the maintenance of the front areas. He stated that the payment for the electrical for the aerator should be spread around the whole subdivision. He said that in three to four years the aerators are going to need to be replaced and you can't take a small number of people and make them pay the \$12,000 for the whole subdivision. He stated that one of the biggest complaints of people in Cumberland Subdivision is that they don't have a homeowner's association. He stated that if they try to start one now they don't have a legal mechanism to get everybody to participate. He stated that this is a new subdivision and they need to have a homeowner's association that is set up like all of the other subdivisions within the City. He stated that is what they have been asked to do.

Mr. Buck stated that it is their intention to create a homeowner's association, but for the lake lots only. He said that it is not necessary to create one for the entire subdivision. He stated that creating homeowner's associations seems to create more problems and more costs for the homeowners. He stated that if the people who buy the lake lots want to pay the fee to buy the lake lot, which is more expensive, and they understand that they are going to be responsible for it, they have a right to do that. He stated that trying to force the builder to create an association that is not going to benefit at least 90% of the people in the subdivision is not fair.

The City Manager stated that the association does benefit everyone because everyone wants to be assured that the aerator is going to be working and the area is going to be mowed. He said that if they as a group would like to make changes to those areas or improve those over time, they then have a legal mechanism to do it. He stated that there is one lake in Cumberland now that is owned by five or six people and they have fenced it off and they have put docks in there and there are kids swimming in it. He said that is not appropriate for this situation which is right in the front of the subdivision. He stated that there needs to be control that is able to be exercised over time by every participating owner within the subdivision. He stated that all of the other subdivisions are set up that way.

Mr. Buck stated that Mr. Leach's subdivisions are different than the large scale builder's and it has been their experience, which has been very successful, that the people around the lake have responsibility for maintaining it and they like it that way. He stated that it is easier to insure and easier to maintain because there is a smaller group of people that are responsible for doing it.

The City Manager stated that it is not easier for the property owners in the entire subdivision later. He said it is much harder later to get an association started and to spread the costs to all of the people. He stated that it is inappropriate to do it that way any more and the City doesn't allow it.

Mr. Buck stated that there is nothing in the City's ordinances or the law that requires this.

The City Manager stated that it has been a policy of the Council for a long time.

Mr. Leach stated that he has never had a homeowner's association. He said associations get started because the people are angry with the home builder. He stated that in Mayfair Subdivision they have 21 lots around the lake and that is the homeowner's association. He said they take care of the lake and they are very happy about it. He stated that it will be the same with the 16 lots around

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the lake in Cumberland South Subdivision – that will be the homeowner's association.

Mr. Buck stated that by the time it gets turned over to the homeowner's association there is already a \$24,000 balance in the bank account to manage the maintenance of the pond. He said that the pond costs \$500 on a maintenance contract for somebody to come in and put the aerator in and take it out and maintain it and it costs \$600 a year in electric. He stated that this does not justify making all of the other homeowners in that subdivision pay for something they are never going to be able to use. He stated that they charge a premium for those lake lots and people understand that when they buy them that is their responsibility.

COUNCILMAN BROPHY stated that the City has had cases where people come to the Council to put an aerator in.

The City Manager stated that they have only been put in where there is an association and the electrical account goes in the name of the association and they handle everything. He stated that it is collected from all of the people in the entire subdivision because it benefits everybody. He stated that homeowner's associations have been the standard for many years and it has only been recently that the aerators have been put in. He said that many subdivisions have the associations, but they have never had the aerators. He stated that if you have things that need maintenance you need to have a homeowner's association.

COUNCILMAN BROPHY asked if there are any unforeseen things that have happened in subdivisions where it makes sense to have a wider homeowner's association.

The City Manager stated that in everything that is done it is absolutely essential that if a group has control over a subdivision amenity, that group be representative of the entire subdivision.

COUNCILMAN BROPHY stated even if a home is not on a lake lot their storm water is still retained there.

The Corporation Counsel stated that about two years ago the Council adopted an ordinance which took the drainage issue and spread it legally across the entire subdivision and made each lot owner financially responsible for the proper operation and maintenance of the detention pond in every subdivision, and that includes the upkeep of the aerators. He stated that he can appreciate their plan, but you still have a break point here where lot owners within the subdivision would be liable under the City ordinances for the proper aeration of the pond. He stated that the lot owners who live on the lake would not have a legal ability to take care of that problem.

Mr. Buck stated that they have a note on their plat that was requested by staff to include a provision on everyone's deed that requires them to maintain the berms and the actual construction of the pond. He stated that the note they have on the plat was only about aerators, mowing and maintenance. He said what they are talking about is the actual ownership and maintenance of the aerator.

The City Manager stated that a good healthy subdivision needs to have controls and those controls and responsibilities need to be shared by everyone in the

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subdivision. He stated that it is not just limited to mowing grass or aerators. He said it also takes in things like neighborhood watches, building and grounds committees and social issues. He stated that there needs to be an entity that the City can deal with for the subdivision. He said that the City needs to be able to call someone representing the subdivision with concerns, as well as having the ability to call the City with their concerns. He stated that there shouldn't be 16 people representing all of the homes in the area and there is no legal binding tie between those people. He said that it makes no sense in this day and age to have a subdivision of this magnitude with all the amenities that it has and all the needs that they have currently not to have a homeowner's association just because Mr. Leach doesn't want to have one.

Mr. Leach stated that the other subdivisions he has don't want associations and he doesn't want to have to tell these people they have to have one either. He stated that he has been asked also to put an aerator in Unit 1 of Cumberland Subdivision that never had an aerator before.

The City Manager stated that they have expressed to the City that they want an association.

COUNCILMAN GIARRANTE asked if Mr. Leach is responsible for putting an aerator in a pond that was in place before the ordinance requiring aerators was passed.

The City Manager stated that he will check into that. He said that some of these subdivisions are so big that it takes ten years to go from Unit 1 to Unit 10 and if policies change along the way, you have different things affecting that subdivision.

COUNCILMAN GIARRANTE stated that if you build the subdivision and develop around the pond before there were requirements for aerators and now he is developing further and the City is asking him to go back and put an aerator in, it doesn't seem fair.

The City Manager stated that he has not seen the request, but he will look into it.

COUNCILMAN SHETINA stated that the City has been doing some aerators where there were ponds, but no aerators. He stated that the City buys the aerator, but the association gets the electrician to hook it up and then pays the expense of operating it.

Mr. Leach stated that they will put in the aerator in Unit 5 and the people who buy on the lake will come up with \$10 a month to pay for the electricity. He said that he is not going to do a 50 lot subdivision and tell people they have to join a homeowner's association because it is not a law in the City.

COUNCILMAN SHETINA stated that the aerators are required now. He stated that in some larger subdivisions where there have been huge water problems in the back lots the City has put in drains and so forth. He said that he did not know that Cumberland had a fence put around one of their lakes and uses it as private property with docks and such. He stated that is not good because none of the other homeowners can use it.

MAYOR SCHULTZ asked the City Manager to get together with Mr. Leach and his attorney to try and resolve these issues.

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Later in the meeting, after Mr. Leach had left, COUNCILMAN SHETINA stated that he has known Mr. Leach for 50 years and he would like the problem with the subdivision bonds that are being held for this subdivision resolved. He also asked about what Mr. Leach owes the City legally and to try to get it worked out.

The City Manager stated that he has spent a lot of time on this and the staff has also.

The Corporation Counsel stated that he had a discussion with Mr. Leach's attorney before the meeting and Mr. Buck understands that under the Subdivision Regulations there has to be some common institutional assurance that common areas will be taken care of over the long term and that it doesn't get dumped on the City. He stated that Mr. Buck did mention a homeowner's association, but he has not given him any of the paperwork. He said he never knew that Mr. Leach had a homeowner's association in any of his subdivisions. He stated that the City has every right to insist that there be appropriate guarantees and legal entities in place so the common areas that the City requires will continue to be there and not become a taxpayer problem.

COUNCILMAN SHETINA stated that he has no problem with that, but he wants to make sure that everyone is on the same page with this and the City is within its legal rights to do what is being done. He stated that he doesn't want to see any more big subdivisions like Mayfair, which has 900 lots with several problems in different parts of the area and it is hard to make a cohesive subdivision out of it.

The City Manager stated that the subdivisions that have no associations are just out of control and they don't know how to respond. He said that the City has to pick all that up and at the first meeting the City tries to get them to form an association. He stated that it is difficult for them to do that after the fact. He said that to let any subdivisions go without an association is a mistake.

The City Manager then explained Council Memo #84-06 dealing with the Annexation of 81.7 Acres at the Northeast Corner of Van Dyke and Arbeiter Roads and the Preliminary Plat of Rock Ridge Subdivision.

Attorney Mike Martin was present on behalf of the petition.

COUNCILMAN UREMOVIC asks who is responsible for the bike trail.

The City Manager stated that the bike trail becomes the responsibility of the City of Joliet just like the sidewalk because the trail was put in instead of the sidewalk.

COUNCILMAN UREMOVIC stated that usually it is 50/50 with the owner participating.

The City Manager stated that this is on City property.

COUNCILMAN UREMOVIC asked if it is going to be blacktop or concrete.

The City Manager stated that all of the bike trails are blacktop to signify that they are bike trails.

COUNCILMAN UREMOVIC asked about the lighting on Arbeiter.

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The City Manager stated that there will be standard lighting on all the major arterial streets and all the interior streets.

COUNCILWOMAN QUILLMAN stated that there is hardly any brick on the front of these homes at all.

The City Manager stated that the pictures in the packet do not necessarily represent the brick requirement for the City. He said that those pictures are the same ones they use for several developments. He stated that the requirement is that 50% of the homes have to have 25% of the front façade covered, which basically means the first floor of the front on every other home. He stated that the staff reviews that as the houses come in.

Mr. Martin stated that one of the important things about this subdivision is that Arbeiter Road curves right now and this will give the City an opportunity to straighten out Arbeiter Road as it leaves Theodore Road and approaches Van Dyke Road. He stated that the developer is making all the Arbeiter Road improvements that were required. He said they are also making Theodore Road improvements and also making VanDyke Road improvements, which includes traffic signals. He said that there is a large sewer interceptor that goes along Arbeiter Road where the subdivision is so they are granting that easement, which will then supply the sewer north for the other developments. He stated that they have also included the new school facilities impact fee and have done everything that the City has asked them to do.

COUNCILMAN BROPHY asked about the exteriors on Theodore, VanDyke and Arbeiter now. He asked if there is a uniform set for berms, easements, etc.

Mr. Martin stated that there is a 35 foot easement for the sewer and that will be landscaped and it might go down to 30 feet at final platting, which is the requirement.

COUNCILMAN BROPHY asked about the berms.

The Director of Community and Economic Development stated that the City's new standard on all of the major arterial roads is that there be a landscaped berm and the fences will have to be on the interior side of the berm. He stated that the berm has to be five foot high.

The City Manager stated that on either side of the entryway there will be a wrought iron fence with brick pillars and a gatehouse. He stated that they also have a homeowner's association.

COUNCILMAN UREMOVIC asked that this be put on the Land Use Committee agenda. He said that he wants to upgrade the ordinance on quality. He stated that he definitely wants more brick.

COUNCILMAN LEDESMA stated that he had a couple of houses built in his district with all siding and no brick. He said he would like to see some brick on every house that is built on the vacant lots from now on.

The City Manager stated that when it is brought to the Land Use Committee, the subject of infill lots can be dealt with.

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COUNCILMAN SHETINA stated that they talked about infill sites recently at a meeting and they will talk about it again.

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

The City Manager explained Council Memo #91-06 dealing with Establishing the 2006 Special Service Area No. 4 – Dixon/Jersey and Council Memo #101-06 dealing with the Levy and Assessment of Taxes for the 2004 Special Service Area No. 12 (Division – Glenwood Extended from Nicholson to Dixon).

The City Manager stated that the staff checked other street projects that involved a school. He said that since 2001 there have been 11 such projects and the schools were all billed zero because they were a school property, which is in accordance with the Neighborhood Improvement Program policy.

COUNCILWOMAN QUILLMAN stated that her concern is that at the end of Nicholson there is a cul-de-sac and the three properties at Nicholson and Jersey, which is part of the University of St. Francis' master plan, is going to be a parking lot. She stated that most of the traffic that will be generated down Dixon and Jersey will be from the University because of their parking lot so that is going to become very busy. She said she does not think it is right that those homeowners should have to pay that for that street because that traffic is going to be generated by the University of St. Francis. She stated if the school does not have to pay, but they are generating the traffic, she doesn't think the neighbors living in that area should have to pay because they are going to be inconvenienced by the extra traffic because there is no other way in or out.

The City Manager stated that the property owners in all of these other areas all have to pay even though there was a school there.

COUNCILWOMAN QUILLMAN stated that they are bigger areas and there are other ways in and out. She said that this is a unique situation with a major parking lot being put in a residential neighborhood. She stated that this is different than any of the other projects that have been done and she is concerned about it.

COUNCILMAN UREMOVIC left the meeting prior to adjournment.

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

COUNCILMAN BROPHY moved that the Council recess to closed session to discuss pending litigation and personnel after which the meeting will be adjourned.

Motion seconded by COUNCILMAN GIARRANTE.

Motion carried by the following vote:

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

NAYS: NONE.

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ARTHUR SCHULTZ  
Mayor

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JANET K. TRAVEN  
City Clerk

Recorded on Tape