

## COUNCIL- MANAGER FORM

***Proceedings of the Council of the City of Joliet, Illinois  
held on the 3<sup>rd</sup> day of May, A.D. 2010***

PRE-COUNCIL MEETING of the Council of the City of Joliet, Illinois held on Monday, May 3, 2010 at 3:30 P.M. in the Council Chambers, Joliet Municipal Building, 150 W. Jefferson Street, Joliet, Illinois.

ROLL CALL

PRESENT: MAYOR PRO-TEM TIMOTHY M. BROPHY and DISTRICT 4 COUNCILWOMAN SUSIE A. BARBER, 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: MAYOR ARTHUR SCHULTZ.

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

The City Manager 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 #314-10 dealing with an Intergovernmental Agreement with Joliet Junior College for the Expansion of the Joliet City Center Campus and an Agreement for the City to Acquire the property commonly known as the White Store at 235 N. Chicago Street.

JJC President Gena Proulx, Interim Vice President of Administrative Services Frank Zeller, Trustee Robert Wunderlich and Attorney David Ruttle were present to respond to questions.

The City Manager advised that this proposal is for the City to acquire the White Store from the Turk family for \$550,000 and immediately sell the property to JJC for \$480,000. He said the \$70,000 difference would be covered by the probable dedication of Webster Street back to the City. He said the entire JJC downtown campus will be redeveloped to include the Renaissance Center, the eventual demolition of the old hotel and a new structure, and the White Store property would be incorporated in that facility. He said the long term goal is to bring 300 to 400 students to downtown Joliet every day, and this will help accomplish that.

COUNCILMAN SHETINA asked about the costs.

The City Manager said the cost for acquiring the White Store from the Turk family is \$550,000. He said the property has been appraised at \$480,000, and there's a provision in state law that controls community colleges in Illinois that precludes them from acquiring property for more than the appraised value. He said the City has stepped in to serve as the intermediary so we can acquire the property for \$550,000 and then turn around that same day and sell it to JJC for \$480,000. He said there's a \$70,000 difference there, and we will receive our consideration for that at a later date when Webster Street is dedicated to the public as a street. He said the value of that dedication is about \$70,000 based on square footages, so we feel that this is a balanced equation as far as the economics of the agreement. He said the real benefit for the City is the opportunity to have the campus expanded and to bring new students to

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downtown Joliet, and we think with all of our efforts in developing the multi-modal transportation center, there's going to be a great opportunity for a reverse commuting student to get to JJC in the near future.

MAYOR PRO-TEM BROPHY asked if we intend to actually use the roadway that's being dedicated.

The City Manager said JJC is going through an RFP process right now for developers to come in and create a new campus for them in downtown Joliet, and no final decisions have been made. He said this agreement keeps that option open.

MAYOR PRO-TEM BROPHY expressed his concerns about providing for safe and accessible handicapped parking if that street is opened.

The City Manager said there will be full compliance with the accessibility parking requirements under state and local code. He said the bigger issue on parking is where do 300 or 400 students park, and that is something that is part of the RFP process where JJC has asked for the proposers to indicate how parking will be handled.

COUNCILWOMAN QUILLMAN asked what was the original appraisal of the property.

The City Manager said \$480,000.

COUNCILWOMAN QUILLMAN asked why we are paying \$70,000 more than the appraisal.

The City Manager said it's frequent that property is acquired for values higher than the appraised value, especially when it's being acquired by the adjacent property owner. He said in this particular case, a negotiated process went on with the property owners and that was something that was done before the City got involved, and once we got involved, we asked if the \$550,000 figure could be reduced any further, and the answer was no, the family was at its bottom price. He said had we not gone up to \$550,000, then this deal would probably not be happening and we would not have an opportunity for the college to have a front door on Chicago Street which we are trying to make the main thoroughfare through downtown Joliet again.

COUNCILWOMAN QUILLMAN asked who else would buy that property as it's been for sale for quite a while.

The City Manager said there is actually someone else out there who wants it, and we would like to get it before that person gets it, because he thinks the price will go way up then. He said the concept is to bring the culinary arts department and the hospitality management department to downtown Joliet and part of this includes developing a classroom that is set up with a kitchen. He said it would be a theater style classroom so there will be great opportunities not only for the students, but for community members that want to take cooking classes. He said it will also be wired for potential television opportunities, so there will be a real good opportunity for the award winning, nationally renowned culinary arts department to become even better known in the U.S., and we saw this as an absolute win-win for not only the college, but also for the City.

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COUNCILMAN UREMOVIC said this ties in also with other components within downtown like the Rialto and others.

The City Manager said it does, and the goal has been to open up Chicago Street at the Courthouse to make sure that we develop a great experience for someone getting off I-80, coming directly into town and not having to make that T-intersection decision at the Courthouse. He said visitors would come downtown and have the Rialto on the right, JJC on the left, the museum a block away and Harrah's a block and a half away, so it would be just a nice thoroughfare for us to have and having the front door of the college right there on Chicago Street we think adds a great value.

COUNCILMAN GIARRANTE asked if Webster Street is going to go through to Ottawa Street.

The City Manager said there is no definite plan for Webster Street at this point; more than likely it will be opened up, so we would have to have a dedication of that back.

COUNCILMAN GIARRANTE said this is a good step in getting people down here again.

The City Manager said to get 300 or 400 college students down here every day is going to be a big boost for us, especially for the small businesses that rely on foot traffic. He said with the college's presence, he thinks it helps open up other doors for people who are considering opportunities downtown.

Attorney David Ruttle explained the legal restrictions imposed on JJC by the Illinois Community College Board in acquiring a piece of property and why they need the City's assistance. He said JJC was negotiating with the owners of the property who had a offer that was substantially more than the \$550,000, and they agreed to lower it to \$550,000 basically as their way of showing their concern for the City itself, but they couldn't go below that.

Mr. Ruttle advised that pre-closing activities and expenses will be paid for by JJC, including an environmental assessment, an ALTA survey and title insurance. He said in regard to the design of the property, we indicated right from the very beginning that we would cooperate with the City and get the City's input with respect to what this building is going to look like. He said we went out with an RFP and have received a number of proposals back for a design-build project and today those were limited to a short list of four. He said by May 18-19 we would like to have the final presentations from the four finalists on a concept plan, present those to the college and make a decision as to which one we like along with input from the City.

JJC President Gena Proulx said previous to the White Store coming on the market, during the updating of the master plan, we anticipated that we were going to have to relocate our current City campus operations to what we call temporary or swing space. She said we thought we were going to have to do that because we wanted to take the Sheraton building down and we were going to rebuild on that site. She said the relocation at a new facility using the White Store site is going to save us relocation costs which were estimated at the time of the master plan in 2007-2008 at \$1.1 million, and that's why we're so excited about this. She said when we move into the new facility, our plans are to take the Sheraton building down and use the site for parking. She said with this plan we have assured success for both JJC and the City.

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Dr. Proulx said at the City Center campus, services include the Community and Economic Development program, Will County Workforce Services, an adult basic education programs and a GED program. She said last year we had 100 graduates in the GED program, and we need those 100 graduates to continue their education in the degree area at Joliet Junior College. She said they are the future workforce, and we are astutely aware that we are under-serving the east side of Joliet, so part of our reasoning here is we want to enhance our academic offerings to get those GED students through the pipeline and into the workforce.

Dr. Proulx said in spring of 2010, our City Center campus had 743 students, and the purchase of the Chicago Street property is going to allow us to expand those numbers. She said we're going to relocate our culinary arts program and our hospitality program to the site for the primary reason of bringing activity to the City, but more importantly, allowing our programs to take advantage of the beautiful Renaissance Center. She said in spring 2010, the culinary arts program had 634 part-time and full-time students, and that's 634 that will be added to the 700-plus students that were there in the spring. She said the hospitality management program in the spring had 384 students. She said we are talking about a major impact on the City in terms of student enrollments, and culinary arts expects to expand its program as a result of the relocation by 200 students, and the hospitality program is expected to expand by another 100 students. She said we think this is a win-win for both of us and we're pretty excited about the project.

Mr. Bob Nachtrieb of the Historic Preservation Commission said the White Store is one of the oldest buildings remaining in Joliet and he would hope that possible ways to re-use and keep the building were looked into. He said that would have been very nice for the history of Joliet.

MAYOR PRO-TEM BROPHY asked what the source of funding is for the \$70,000.

The City Manager said the General Corporate Contingency Fund.

It was requested that these items be voted on today.

1. AN ORDINANCE Approving an Intergovernmental Agreement with Joliet Junior College for the Expansion of the Joliet City Center Campus was presented and read.  
(Council Memo #314-10)  
(ORDINANCE NO. 16639)
2. A RESOLUTION Approving a Real Estate Purchase Agreement for the Acquisition of 235 N. Chicago Street (White Store) was presented and read.  
(Council Memo #314-10)  
(RESOLUTION NO. 6373)

COUNCILMAN DORRIS moved that said Ordinance and Resolution be adopted.

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Motion seconded by COUNCILWOMAN BARBER.

Motion carried by the following vote:

AYES: COUNCILWOMAN BARBER, COUNCILMEN DORRIS,  
GIARRANTE, TURK and MAYOR PRO-TEM BROPHY.

NAYS: NONE.

ABSTAIN: COUNCILWOMAN QUILLMAN, COUNCILMEN SHETINA and  
UREMOVIC.

3. ProSource Financial – Presentation of Semi-Annual  
Report on City of Joliet Health Care Plan

Mr. Phil Algozino, Vice President of Pro-Source Financial, the firm providing consulting and brokerage services for the City's health insurance program, gave a detailed analysis of the City's health care plan and identified some of the trends, projections and claim utilization that the City has been experiencing for both active and Medicare employees for the period October 2008 through February 2010.

Mr. Algozino said there is no doubt that the City's expenses, claim costs and utilizations are going up.

COUNCILMAN SHETINA asked if that has to do with pricing or incidences of claims.

Mr. Algozino said it's a combination of everything and it's not attributed to just one particular thing, but there is a high utilization within the group.

MAYOR PRO-TEM BROPHY said one of the main reasons we contracted with ProSource were the reduced expenses, and it looks like the administrative fees are running about \$52,000 a month, and that works out to \$600,000 a year. He asked what the annual contract is.

Mr. Algozino said ProSource is paid a flat monthly fee. He said the administration costs are the raw net costs that the City pays to Blue Cross/Blue Shield of Illinois who is the City's administrator of the plan. He said that consists of the adjudication of claims, communications, delivery, disease management, etc. He said there are zero commissions or compensation to anybody in the administration fee.

MAYOR PRO-TEM BROPHY said but in that prior period that wasn't the case.

The City Manager said in the prior period October 2008 through September 2009, the monthly fee for administration was running about \$92,000, that's what we were paying Blue Cross/Blue Shield, and part of that fee included the prior arrangement that we had. He said looking at October of 2009 through the present, the administrative fee is down to \$52,000 a month, so it's about \$40,000 less per month, and if that is multiplied by 12 that's about the contract price that we were paying previously.

Mr. Algozino said he did an analysis of how the City compares to other organizations, and it showed that the average deductible nationally is \$634, and the City's new imposed deductible is \$250. He said the national average deductibles starting in 2006 have escalated every single year and cost sharing has been passed on to the insured. He said people are trying to keep benefits in force, and the only way to do that is cost sharing measures. He said

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companies and organizations just can not assume that liability any more, it's just a fact of life. He said the City of Joliet is much more generous than the average organization out there as it relates to deductible sharing with its insured members.

Mr. Algozino said as far as premium contributions, the national average for annual premium contributions is \$806 for single and \$3,470 for family, and the City's contribution is \$1,300 for both.

MAYOR PRO-TEM BROPHY asked if the difference in premiums is due to the fact that our plan is slightly better than average.

Mr. Algozino said yes.

COUNCILWOMAN QUILLMAN asked Mr. Algozino what other services he provides to the City.

Mr. Algozino said everything that he has committed to in his contractual agreement with the City has already been delivered. He said we have built the City in record time a benefit website of which every employee has 24 hour 7 day a week access to not just their benefit information, but details and service forms and links to every carrier and vendor that the City has and it gets a lot of hits.

Mr. Algozino said when he took over, education was a very big concern, and in a seven day period he personally conducted 36 employee benefit education meetings at all of the City facilities. He said his firm has also assisted with COBRA administration, HIPAA certification and employee communication hand out materials. He said they also engage employees on a daily basis through the customer service representatives within their office, and he means daily.

COUNCILWOMAN QUILLMAN said so they would take care of any problems with a claim.

Mr. Algozino said if they are having an issue, every employee has a dedicated account manager, and we've had to get involved with several. He said we engage employees and their dependants on a regular daily basis.

COUNCILWOMAN QUILLMAN said the reason she asked that is because someone was hired to take care of that here, but ProSource offers that service.

Mr. Algozino said yes, but employees and retirees are going to go initially to where their relationship is, which is within the human resource staff, and that's not going to stop, but if we can take a certain percentage of those off of their desk, which is what we encourage the employees or insured members to do, that was our goal with that, and they are taking advantage of that. He said they are always going to go to the person that they have eye to eye contact with, there's no way to avoid that.

COUNCILWOMAN QUILLMAN said so if there is a claim issue and it's not getting paid because of a lot of paperwork and rhetoric, she can call him.

Mr. Algozino said yes.

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Police Sergeant Lindsey Heavener, President of the Police Supervisor's Association, said he sat on the health care committee that was involved in the selection of ProSource to provide this service. He said it was a pleasure to see Phil here today and have him providing information, not only to the Council but to the citizens and the employees. He said he's seen more out of him than he saw out of the last provider, Mr. Manner, in 20 years, and we're paying him about 400% less than we paid the last guy, and that change was initiated by the unions on the health care committee.

Sgt. Heavener said one thing that wasn't addressed and needs to be pointed out here, and greatly skews these numbers, which he has yet to see, is the fact that when we went to this plan in October, the deductibles and the premiums didn't kick in until January 1, 2010, and he's sure these expense numbers are going to be greatly skewed due to the fact that all the people on this plan probably ran to the doctor before January 1 before the deductibles kicked in. He said as much as he appreciates Phil coming in, he doesn't think we can actually take into account these numbers, and he thinks we're going to need a whole year under ProSource and probably two to compare how expenses are doing over the next couple of years versus the two or three years prior with the previous provider.

Sgt. Heavener said his question to the Council and the City Manager is, as a member of this health care committee, and he is speaking for the other committee members at this point, he is a little perplexed that we weren't contacted and involved in these meetings. He said when we finalized this deal he specifically asked the City Manager and Ken Mihelich that we sit down and review these throughout the year so we can have an idea and report back to our employees. He said we recognize that we have a stake in this too, and we can be used to send a message to our employees to say hey take it easy, let's keep these costs in control, because we don't want to be back to the bargaining table in another couple of years. He said it would have been nice for us to be a part of this, be notified, and get some of this information, and he would hope in the future that we would be included in this.

MAYOR PRO-TEM BROPHY confirmed that this item was on the Pre-Council agenda. He said he wanted to thank Lindsey and when we do budgeting next year we should probably ignore the fourth quarter aberration and just focus on the 2010 real experience, so that's probably a good point. He said there are a lot of firms in the private sector that do use employee participation and goal setting for health care, so it's probably something we should look at.

The City Manager thanked Mr. Algozino for all of the work that his firm has done. He said we saw these numbers about a week and a half ago and we wanted to make sure we got these to the Council in a timely manner; it was not an omission or an intention of ours to not include the unions in this conversation. He said the actual presentation is about 2 hours long and we didn't think that would be appropriate for a Pre-Council meeting, but we'll schedule one with the six bargaining units so they can hear the same thing. He said all of this is public information, nothing is confidential, and we'll continue keeping it that way. He thanked the six unions for their participation in the process a year ago, we made a lot of progress and he thinks we'll see some cost savings, but the message we're hearing from Phil is there will be some price increases too, and we just hope the savings keep up with the increases.

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COUNCILWOMAN QUILLMAN asked the City Manager if he hired this middle man person to take care of some of these claims for the City. She said she voted against filling the position, and she asked if a go to person was hired. She said she asked specifically that night when it came up for a vote if ProSource offers that service, and the City Manager said no, and they do offer it.

The City Manager said actually he doesn't think he said no, he said Vicki Kehl-Gans, who has been the Risk Manager for the last 25 years, handles matters here. He said a lot of people go directly to Vicki and Vicki engages Blue Cross/Blue Shield or whoever else is involved to try and resolve the matter. He said Phil's firm is a new source that we now have. He said to say that they would be the exclusive source, he doesn't think that that's something that Phil's firm signed up for. He said we still need to have someone on staff. He said we haven't hired anybody yet but last week it was narrowed down to two people and he believes a decision will be made fairly soon. He said that person does much more than just handle claims that are filed by employees regarding health care. He said this person also manages our worker's compensation caseload and has been involved with the property/casualty liability insurance. He said if he thought we could do without that position, he would be the first one to say let's not fill it, but that is one of two positions that he thought we needed to fill out of the other 105 that we've kept vacant for the last year and half, so his recommendation is to still keep that position filled.

Mr. Algozino said it would be literally impossible for any firm to manage that outside of the City without the coordinated efforts of an internal person. He said the City is a very large organization that has a lot of employees and insurance commands a lot of attention. He said his job is to ease those efforts and try to save time and get a higher level of service to the insured members.

COUNCILWOMAN QUILLMAN said she has an issue right now with a claim and she is handling it herself through the insurance company and the hospital, so there is no middleman.

Mr. Algozino told her to call him direct and he will work with her.

COUNCILWOMAN QUILLMAN said that's what she is saying, we don't need the person here.

Deputy Liquor Commissioner Dan Campus then explained Council Memo #342-10 dealing with the Issuance of a Class "F" Liquor License to Our Lady of Mt. Carmel Roman Catholic Church at 205 E. Jackson Street.

It was requested that this item be voted on today.

4. Issuance of a Class "F" Liquor License at 205 E. Jackson Street  
(Council Memo #342-10)

A communication from the Liquor Commissioner regarding the application of Our Lady of Mt. Carmel Roman Catholic Parish d/b/a Our Lady of Mt. Carmel Roman Catholic Church for the issuance of a Class "F" Liquor License at 205 E. Jackson Street contained his recommendation that the issuance of this license is in the best interest of the City, and therefore, approval is recommended.

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

Motion seconded by COUNCILMAN UREMOVIC.

Motion carried by the following vote:

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

NAYS: COUNCILMAN DORRIS.

The City Manager then explained Council Memo #313-10 dealing with Amending the Joliet Liquor Code in Connection with Beer Gardens to Allow for Longer Hours. He said this would create two new license categories, one that would allow licensees that hold a Class O permit to operate beer gardens until midnight on every day of the week, and the other would allow licensees that hold a Class O permit to operate beer gardens until the closing time established by their liquor license, which could be 2 a.m. or 3 a.m. depending on what type of license they have.

The Corporation Counsel further explained that for the new license categories, a vote would have to be taken by the Council for approval. He said currently once the Council issues a liquor license to a location, the Mayor can then go ahead and authorize a beer garden to open until 10 p.m. or 11 p.m., depending on the location and the day of the week, and that would not change. He said the new categories would have to come back to the Council if the business owner would like to extend their hours beyond that.

MAYOR PRO-TEM BROPHY asked what the process would be for requesting extended hours.

The Corporation Counsel said all new license applications would first go to the Mayor as Liquor Commissioner, and then it would come with a recommendation to the Council for approval. He said the Mayor could still deny the permit and that would be the end of the matter. He said business owners would have the right to appeal that decision with the State, but as far as the City decision, it could be made at the Mayoral level.

COUNCILMAN UREMOVIC said so this establishes the structure at this time; it does not give anybody additional hours or a different license, nothing at all.

The Corporation Counsel said right, this modifies the rules to give the Council and local bar owners a little more flexibility, but it's incumbent upon the bar and restaurant owners to step forward, make the request, go through a public hearing process controlled by the Mayor's office, and the Mayor then makes a recommendation to the full Council.

MAYOR PRO-TEM BROPHY said and they pay an additional fee.

The Corporation Counsel said there are additional fees for the new license categories. He said a current beer garden license is \$400, the midnight license would be an additional \$400, and the full license would be \$400 on top of that, so if a business was approved for the full license, it would cost \$1,200 per year.

COUNCILMAN UREMOVIC said the one thing that is supposedly driving this was an increase in revenue. He said he doesn't see the numbers here and he asked if staff can tell him what those would be. He said the dollars generated

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would be minimal, and he wants to make sure everyone understands this is not going to solve any kind of financial problems the City might have.

The City Manager said he thinks what is driving this more than revenue for the City is revenue opportunity for the existing establishments that have an outdoor patio where they serve alcohol. He said the key factor in this ordinance is giving the Council the discretion to look at the location, look how close it is to residential or how far away it is, look at what kind of parameters the owners put into play like possible noise muffling walls and those kinds of things, and that is what the Council will get to consider when owners appear before them and ask for the privilege of extending their outdoor license.

COUNCILWOMAN QUILLMAN asked about the license based upon the hours of operation and how late that is.

The Corporation Counsel said the latest closing hour now is 3:00 a.m. on Friday and Saturday nights for businesses that have purchased the extra hour license. He said if the location is licensed to go until 2:00 a.m. or 3:00 a.m., then their beer garden could operate until 2:00 a.m. or 3:00 a.m., so when that business owner comes in, that's going to be part of the consideration that needs to be discussed with the Mayor and full City Council.

COUNCILWOMAN QUILLMAN said she thought it was stated before that we couldn't discriminate, so if everyone came in and wanted a full license no matter where they were located, we would have to grant it, because if we thought they were too close to residential and we said no, but we granted it to someone else who was further away, would that be discriminatory.

The Corporation Counsel said no, it would not be discriminatory because what the ordinance does is establish various ground rules for approving these types of licenses.

COUNCILWOMAN QUILLMAN asked if we could vote no if it was close to residential.

The Corporation Counsel said it would be based on the facts of that particular application. He said the applicant could appeal the decision to the State who has the authority to reverse a local decision. He said one of the things they could base their decision on would be whether or not we're inconsistent in how we apply our standards. He said we do have spacing limits currently and so we've already established what the minimum distance needs to be between beer gardens and residential zoning districts, but those standards have to be applied to each individual property. He said these beer gardens already are located beyond the minimum distance unless they were grandfathered, and so if they were grandfathered and they came in for a license enhancement, we might be able to say it's too close, or we'd look at other unique facts germane to that application that separates it from other types of businesses.

COUNCILWOMAN QUILLMAN said say we granted a full license until 3 a.m. and then there are a lot of issues with neighbors, what's our recourse then.

The Corporation Counsel said one thing that is written into this ordinance is that if the business owner is convicted of disturbing the peace, disorderly conduct or some type of nuisance offense related to the operation of the business or the beer garden, then that would be grounds for taking away the beer garden license.

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COUNCILWOMAN QUILLMAN said but a lot of times it's not a public nuisance, people are just outside in the night air having a drink and talking and laughing, but at night voices do carry and echo and it does become loud and disturbing to the neighbors, and that's her concern. She said it may not be a public nuisance and people are just having a good time, but that is disturbing to people who live within 300 ft. of it.

The Corporation Counsel said he thinks the Council needs to factor that into their decision making on this proposal that to take away a license they have granted there needs to be some licensee misconduct. He said if there's a situation that really does cause a problem in the neighborhood, 9 times out of 10 it's going to relate to something wrong happening on the property, some degree of mismanagement. He said an outdoor operation could be operated as well as anything, and if it's too close to a conflicting use, there's going to be a problem.

COUNCILMAN GIARRANTE said that's one of the problems he had, this says "convicted". He said he understands that three people can't call in and the beer garden license is taken away, but he doesn't think we can go to the other extreme and have them be convicted of disturbing the peace, there's got to be some middle ground in there to protect the owner, but also protect the people.

The Corporation Counsel said what we're trying to do is mimic a procedure we already have in State law and in our liquor code for all liquor licenses, and what that is, certain criminal acts disqualifies a person from holding a license. He said what would happen here is if there is some sort of complaint or misdemeanor related to the beer garden that wasn't disorderly conduct or didn't result in a conviction, the Mayor would still have the authority to penalize the licensee. He said the Mayor could hold a liquor hearing, and if they find the conduct is severe enough, they could enter a fine or a suspension, and in really dire cases the license can be revoked. He said what we're doing with these disturbing the peace and disorderly conduct offenses is making that an absolute pre-condition to even holding the license in the first place. He said the Mayor would still be able to penalize misconduct and this is an additional protection for the City.

COUNCILMAN GIARRANTE asked what about an individual who has a business and no previous misconduct and can get his extra license, and he's operating, and some people don't like the idea, and they call and complain about it.

The Corporation Counsel said if that person is convicted of one of these offenses in a court, that person could lose their license.

COUNCILMAN GIARRANTE said that's the point, maybe these people don't want to go to court and bring this person up on charges, but yet he is creating a disturbance of the peace. He asked what recourse do they have other than having to go to court and go through all that rigamarole.

The Corporation Counsel said that's where we are now with a lot of these types of nuisance cases. He said these problems are reported to the Mayor's office and the Mayor's office today can hold a hearing and penalize the licensee if he has either an admission of responsibility by the bar owner or if he has evidence produced by these neighbors at the liquor hearing that misconduct has occurred, or if the neighbors don't want to get involved and want to remain anonymous, the Mayor then would have to have some sort of law enforcement

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surveillance that would substitute for the neighbors in that case. He said someone has to testify at a liquor hearing.

COUNCILMAN GIARRANTE said so the Mayor could send a police officer or someone from his office out there to determine whether it is a violation.

The Corporation Counsel said yes.

COUNCILMAN GIARRANTE said the second problem he has with this, all of these businesses are eligible for this and some of these are really close to residential. He said before someone can get an "O" license they have to be so far from the residents. He said he understands it has to come back to the Council for a vote, but he thinks maybe we should just eliminate some of these right off the bat, because some of these aren't going to fly.

MAYOR PRO-TEM BROPHY said they may not even apply.

COUNCILMAN GIARRANTE said so they should just come in and be voted on on a case by case basis.

The Corporation Counsel said he thinks staff wanted to give the Council information and let them decide what is appropriate for the later hour licenses considering where they are located. He said our current minimum is 275 feet from a residence, and some are closer than that because they're grandfathered, but not many.

COUNCILMAN GIARRANTE said so an owner could come in and be 400 feet away from the neighbors, and we could vote to give him the extended hours, and if he causes problems, then the Mayor could take it away from him, or does this Council take it away.

The Corporation Counsel said no, it goes back to the Mayor. He said all of the new licenses would have to be issued to businesses that already hold a beer garden permit and some of those are within 275 feet, and he thinks it's appropriate that if one of those businesses applies for the midnight or full license, he thinks the fact that they're grandfathered and under the 275 feet, that's highly relevant to making a decision, and he thinks the State would respect whatever the Council did on that. He said the example of the 400 foot distance would satisfy our current requirement so it would be approvable; it would be approvable now with a base Class "O" permit. He said if there were any problems after approval, the Mayor could do a lot of things, like fine, suspend or revoke based on cause, or if there is a prosecution in court for a noise nuisance type of offense, that could permanently disqualify the business.

COUNCILMAN SHETINA said the Illinois Liquor Control Commission still trumps the City, does it not. He said if the Mayor makes a decision, they can overturn it any way they want to.

The Corporation Counsel said they have to have appropriate cause, but yes.

COUNCILMAN SHETINA said we had a property on Jefferson Street on the near west side and it took two or three years to get the place closed and it was blatant. He said there were all kinds of problems there and we could never get it worked out, even though we tried. He said he's not going to support anything that gives somebody who is sitting across the street from a tavern the right to stay open until those kind of hours. He said he doesn't think it's a wise idea to

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give any licenses in neighborhoods. He said the only way we can overcome this is to stop it in the beginning so it doesn't go to the State and they can't overturn it or trump it. He said if there is an outdoor license in a neighborhood, 10 p.m. is late enough. He said we need to stop it before it gets to the Illinois Liquor Commission because they will overturn us every time.

COUNCILMAN GIARRANTE said along those lines on how hard it is to revoke it because of the State, can we issue the extended hours with a probationary period that if they do cause problems the Mayor could pull it without going to the State.

The Corporation Counsel said no, there is a State right that once the license is issued, there is State level review if a business owner wants to appeal a decision.

COUNCILMAN GIARRANTE said what we should do when someone applies for the extended license is to make sure we do advertise it to give the neighbors who might object a chance to talk about it.

COUNCILMAN TURK asked what the penalty is for an establishment that has music out there and there are complaints.

The Corporation Counsel said the City can issue a ticket with a maximum fine of \$750 if it went to court, \$150 if the citation was issued as a compliance ticket. He said over and above that the Mayor's office has the ability to impose fines of up to \$1,000, and in appropriate cases, suspend a license or a permit. He said the beer garden permit could be suspended for up to six months. He said in really severe cases the license could be revoked.

COUNCILMAN SHETINA said all of which can be overturned by the Illinois Liquor Control Commission.

The Corporation Counsel said that's correct.

COUNCILMAN TURK said according to Illinois law, are beer gardens non-smoking even though they're outside.

The City Manager said the smoking ban that was passed that was effective January 1, 2008 applied just to indoor space only, so he does believe it is allowed.

COUNCILWOMAN QUILLMAN asked if staff has looked at other municipalities to see what their ordinances are because there are a lot of older towns that have neighborhood establishments to see what they have in place and see what issues they have before we go forward with this.

The City Manager said we can do that. He said he thinks what we're seeing in other towns is a promotion of outdoor eating and drinking areas, especially those that are trying to create restaurant and bar destination areas. He said certainly in downtown and in other areas we would like to promote that, but we can certainly check and see what other towns do.

COUNCILWOMAN QUILLMAN said she is sure this problem isn't unique to Joliet and other municipalities have struggled with it as well which is why she would like to see what their history has been and how they have dealt with issues and if they did have someone violate the noise issue, how they dealt with

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that and if their Council voted the license down, was it overturned by the State of Illinois and how hard and difficult was it.

MAYOR PRO-TEM BROPHY said so to summarize, he wanted to remind everyone again why he brought this up. He said there will be some direct and indirect benefits. He said directly we will receive additional permit fees and sales taxes. He said he gets a lot of complaints in his district about people out late right next door, one resident is next to another and that's where most of his complaints come from. He said very rarely does he get a complaint about a beer garden operation, so he thinks we are talking about a lot of exceptions here, and he thinks we have to talk about the rule, and 99% of these places are treating this as a serious business venture and are concerned about their longevity, so they won't want to risk their own operation. He said he has had complaints about the fact that some license holders may be fronting for someone else, and he asked how we can control that.

The Corporation Counsel said our ordinance deals with that very specifically with the original licensing; if the business entity or any of its principals are disqualified, the partnership can't hold the license.

MAYOR PRO-TEM BROPHY said he wanted to mention the indirect benefits which are hard to measure but are simple quality of life things. He said he thinks some people do travel out of town to different places to enjoy outdoor dining, and there are employment opportunities that may occur to some of the folks that can stay later and work longer and earn more tips and so on, and most of them do live locally. He said he brought it up only out of duty to the citizens that he represents that challenged us to find every possible stone to turn over for additional revenue for the City besides looking at taxes, so this is one that he thinks has some win-win possibilities, and while it has the costs that are inevitable, he thinks we can manage those. He said he thinks it's a wise move to make, and talking to people in the last month or two, 99 out of 100 people shrug their shoulders and say it's a no-brainer, why not.

COUNCILWOMAN QUILLMAN said Mayor Pro-Tem Brophy mentions quality of life, and that's the issue here, quality of life for those people who live very close to these establishments that want the beer garden, because they would be disturbing their quality of life as well.

MAYOR PRO-TEM BROPHY said we'll have the opportunity to hear from business owners, and again, only 3 of these establishments on this list are in a residential zone, and only 5 are under the 275 ft. limit, so we may be talking about hypothetical situations that are very remote. He said we'll talk about it tomorrow night and if the Council wishes to act upon it at that time, we'll do so.

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

MAYOR PRO-TEM BROPHY said he would like to see the details regarding Council Memo #325-10 dealing with Awarding a Contract for the Rehabilitation of 1024 Barthelme Avenue for \$148,000.00. He said he is disturbed about the lack of bids; it doesn't make any sense.

The City Manager said we were getting 7 or 8 bids on these contracts, and unfortunately, most of the people bidding were not meeting the City's qualifications, so we've gone to a pre-qualification process and it resulted in two bids coming in this time. He said the contract is still below the projected cost of

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the contract but that's a good point and we'll look at that to make sure we're still getting the best price for this work.

COUNCILMAN UREMOVIC said there's been a request to release the last executive session minutes, and he asked if that can be done.

The City Manager said the Council reviews those minutes twice a year and then votes on what can and can't be released, and we're probably nearing that time period now. He said we'll bring those items we're recommending for release to the Council and if there's still a need for confidentiality we'll ask to keep those confidential, but at some point all executive session minutes must be released whenever the need for confidentiality no longer exists.

COUNCILMAN UREMOVIC said so if there's no sensitive information it can be released.

The City Manager said that's correct.

COUNCILMAN UREMOVIC asked if we can release the last couple of meetings.

The Corporation Counsel said he hasn't seen the minutes yet, but normally if the subject matter of the closed session is still an on-going situation, we don't release those.

COUNCILMAN SHETINA moved that the Council recess to closed session at 5:20 p.m. to discuss personnel, collective bargaining, land acquisition and pending or threatened litigation after which the meeting will be adjourned.

Motion seconded by COUNCILMAN TURK.

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

NAYS: NONE.

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ARTHUR SCHULTZ  
Mayor

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JANET K. TRAVEN  
City Clerk

Recorded on Tape